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DIVERSIFIED LEGAL SERVICES, INC

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on behalf of himself and all others  
similarly situated

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER CORSI, on behalf of  
himself and all others similarly situated,

Plaintiff,

v.

APPLE, INC.,

Defendant.

**E-Filing  
Filed**  
JUL 28 2010

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
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**CV 10-03316** FILE BY FAX

Case No. \_\_\_\_\_

COMPLAINT FOR EQUITABLE  
RELIEF AND DAMAGES

CLASS ACTION

**PVT**

JURY TRIAL DEMANDED

1 Plaintiff, Christopher Corsi ("Plaintiff" or Mr. Corsi"), on behalf of himself  
2 and all others similarly situated, alleges as follows:

3 INTRODUCTION

4 1. This complaint arises out of Defendant, Apple, Inc.'s ("Defendant" or  
5 "Apple"), practice of unjustifiably denying warranty claims for certain iPhone and  
6 iPod products based on externally located "Liquid Submersion Indicators," which  
7 are small, chemically sensitive pieces of paper (akin to Litmus paper) that change  
8 color when exposed to moisture.

9 2. It is common for manufacturers of cell phones and hand-held electronic  
10 devices to place Liquid Submersion Indicators inside the devices in order to indicate  
11 when liquid has penetrated the device and potentially caused damage not covered  
12 by warranty. When an internal Liquid Submersion Indicator evidences that liquid  
13 has penetrated the device and contacted internal components, the manufacturer  
14 may determine that the device has been damaged by liquid and deny warranty  
15 claims. Most typically, a Liquid Submersion Indicator is placed inside the battery  
16 compartment under the battery, where it is internal to the phone and protected  
17 from ambient moisture but still relatively easily accessible. When a device is  
18 presented for a warranty claim, the service center employee can easily open the  
19 battery compartment and remove the battery to examine whether the Liquid  
20 Submersion Indicator suggests that liquid entered the device, which may invalidate  
21 a warranty claim.

22 3. The Apple iPhone and iPod, however, are not designed with a user  
23 replaceable battery. Further, they are designed in a way that makes opening them  
24 difficult and time consuming. Unlike most hand-held electronics, it requires a  
25 skilled technician to access the internal components of the iPhone and iPod.

26 4. Since the iPhone and iPod were designed in a manner that makes  
27 accessing internal components difficult and time consuming, in addition to placing  
28 using Liquid Submersion Indicators on the *inside* of the devices, Apple placed

1 Liquid Submersion Indicators on the *outside* of the device. On Plaintiff's phone, the  
2 iPhone 3G, for example, external Liquid Submersion Indicators are located on the  
3 charging port and in the headphone jack.

4 5. Unfortunately, the placement of these Liquid Submersion Indicators  
5 on externally exposed surfaces makes them unreliably sensitive to ordinary ambient  
6 moisture, humidity, sweat, and other moisture, even when the devices are used in  
7 their intended and expected manner. These external sensors frequently change  
8 color, even though no liquid contact has occurred and no liquid has ever entered the  
9 device or caused damage.

10 6. When consumers present defective iPhones and iPods for warranty  
11 claims, Apple's service technicians have relied solely on these external Liquid  
12 Submersion Indicators to deny warranty claims without examining internal Liquid  
13 Submersion Indicators and regardless of whether any actual damage from liquid  
14 contact ever occurred. Rather than take the time to examine the internal Liquid  
15 Submersion Indicators, Apple's service technicians simply examine the external  
16 Liquid Submersion Indicators and deny warranty coverage if any one of the  
17 external Liquid Submersion Indicators has changed color. Because of the external  
18 placement, however, that policy results in numerous warranty claims being  
19 improperly denied when no liquid damage has ever occurred.

20 7. Apple's warranty disclaims coverage for damage caused by contact  
21 with liquid, but externally located Liquid Submersion Indicators are a completely  
22 unreliable means of determining whether such damage has occurred. Accordingly,  
23 Plaintiff brings claims on behalf of himself and all others similarly situated for  
24 damages and injunctive relief.

25 PARTIES

26 8. Plaintiff is a resident and citizen of Medford, New Jersey.  
27  
28



1 substantial part of the acts, events, or omissions giving rise to Plaintiff's claims  
2 were performed in Santa Clara County.

3 GENERAL ALLEGATIONS

4 13. The iPhone is an internet and multimedia-enabled "smartphone"  
5 designed and marketed by Apple. Apple introduced the original iPhone for sale in  
6 the United States in or about June 2007. Since then, Apple has introduced various  
7 models of the iPhone, which it has sold at prices ranging from \$99 to \$499,  
8 depending on, *inter alia*, the features and storage capacity of the device, and  
9 whether the cost is subsidized as a result of entering into a contract for wireless  
10 services from the exclusive provider of those services, AT&T, Inc. ("AT&T").

11 14. Due to an exclusive partnership between Apple and AT&T, the iPhone  
12 is configured to function only with the wireless services provided by AT&T. To  
13 activate and use all the iPhone's features, consumers must enter into a two-year  
14 contract with AT&T for wireless services.

15 15. Apple also designs, markets, and sells the iPod touch throughout the  
16 United States. The iPod touch is virtually identical to the iPhone in design,  
17 manufacture, and features, except for those features that pertain to the iPhone's  
18 telephonic capabilities. Apple sells the iPod touch at prices ranging from \$199 to  
19 \$399, depending on, *inter alia*, their features and storage capacity.

20 The Standard Warranty and Extended Warranty

21 16. When consumers purchase Class Devices, they are advised by Apple  
22 and its agents—in the written material that accompanies the product, on the Apple  
23 official website and other sites and locations where Class Devices are sold—that the  
24 cost of Apple's standard one-year limited warranty (the "Standard Warranty") is  
25 included in the purchase price. Consumers are also told that the Standard  
26 Warranty protects Class Devices "against defects in materials and workmanship  
27 under normal use."  
28

1           17. The terms of the Standard Warranty obligate Apple to "either (a)  
2 repair the hardware defect at no charge, using new parts or parts equivalent to new  
3 in performance and reliability, (b) exchange the product with a product that is new  
4 or equivalent to new in performance and reliability and is at least functionally  
5 equivalent to the original product, or (c) refund the purchase price of the product."

6           18. Apple also offers consumers the opportunity to purchase the  
7 "AppleCare Protection Plan" for Class Devices, which Apple markets as providing  
8 "comprehensive coverage" under an extended warranty for two years from the date  
9 of original purchase (the "Extended Warranty"). The Extended Warranty may be  
10 purchased for the iPhone for an additional \$69.00 and for the iPod touch for an  
11 additional \$59.00. The terms of the Extended Warranty obligate Apple to repair or  
12 replace Class Devices if there is a defect in materials or workmanship during the  
13 coverage period.

14           19. The Standard Warranty applicable to Plaintiff's iPhone excludes  
15 coverage for "damage caused by accident, abuse, misuse, flood, fire, earthquake, or  
16 other external causes."

17           20. Apple has included similar language in the exclusion provision of the  
18 most recent versions of the iPhone and iPod Extended Warranties. The damage-  
19 exclusion provisions of the Standard Warranty and Extended Warranty are  
20 collectively referred to herein as the "Liquid-Damage Exclusion."

21   The Liquid Contact Indicators

22           21. In a document titled "iPhone and iPod: Water damage is not covered  
23 by warranty" (a copy of which is attached hereto as Exhibit A), Apple depicts the  
24 location of the external Liquid Submersion Indicators that are located in the  
25 headphone jack in all Class Devices, and in the dock-connector housing of the  
26 iPhone 3G and iPhone 3GS.

27           22. Apple represents to consumers that the purpose of the external Liquid  
28 Submersion Indicators is to enable Apple to determine "whether liquid has entered

1 the device[,]” and that Liquid Submersion Indicators are designed not to be  
2 triggered by humidity and temperature changes that are “within the product’s  
3 environmental requirements described by Apple.” Exhibit A at 1. Apple also states  
4 that “[c]orrosion, if evident, leads to the irreversible deterioration or degradation of  
5 metal components and may cause the device to not work properly.” *Id.* at 2.

6 23. Plaintiff is informed and believes that Apple’s corporate policy has  
7 been that Apple personnel must refuse warranty coverage to consumers who seek a  
8 repair or replacement of a Class Device if its external Liquid Submersion Indicator  
9 has been triggered. Plaintiff is also informed and believes that, in accordance with  
10 Apple corporate policy, Apple personnel represent to consumers that if the external  
11 Liquid Submersion Indicator on their Class Device has turned pink or red, it has  
12 been submersed or immersed in liquid, which renders the Standard Warranty and  
13 the Extended Warranty void.

14 24. Plaintiff is informed and believes that, in actuality and contrary to  
15 what Apple represents to consumers, Apple is aware that external Liquid  
16 Submersion Indicators cannot be relied upon to establish with any reasonable  
17 degree of certainty that a Class Device has even been exposed to (much less  
18 damaged by) liquid. Plaintiff is informed and believes that independent testing has  
19 demonstrated that Liquid Submersion Indicators can be triggered by, among other  
20 things, cold weather and humidity that are within Apple’s technical specifications  
21 for the Class Devices.

22 25. Plaintiff is also informed and believes that the Liquid Submersion  
23 Indicators are designed and marketed by 3M for use *inside*, not outside, of electronic  
24 devices. Plaintiff is informed and believes that, especially when used externally,  
25 Liquid Submersion Indicators can be triggered by other types of moisture that  
26 should not cause damage in any event—such as a palm that becomes sweaty after a  
27  
28

1 work-out, and other small amounts of moisture to which the devices would be  
2 exposed during ordinary, foreseeable use.<sup>1</sup>

3 26. In addition to the external Liquid Submersion Indicators, Class  
4 Devices contain *internal* Liquid Submersion Indicators, whose purpose is to assist  
5 Apple service personnel in verifying whether those devices have actually been  
6 damaged due to liquid spills or submersion. Plaintiff is informed and believes that  
7 the presence of actual damage by liquid spills or submersion can be verified by,  
8 *inter alia*, having a technician open the Class Device's outer cover to inspect the  
9 internal indicators and the internal components for actual damage caused by  
10 submersion or immersion in liquid (e.g., inoperable circuitry as a result of  
11 corrosion).

12 27. Plaintiff is informed and believes that Apple's corporate policy has  
13 been that Apple personnel are to refuse warranty coverage under the Standard and  
14 Extended Warranties whenever an *external* Liquid Submersion Indicator has  
15 turned red or pink, without attempting to verify actual damage by examining the  
16 *internal* Liquid Submersion Indicators or by conducting an inspection to determine  
17 whether Class Devices have actually been damaged by a liquid spill or submersion.

18 28. Further, Plaintiff is informed and believes that, in the rare event that  
19 a persistent consumer can persuade Apple personnel to inspect a Class Device for  
20 actual liquid spill or submersion damage, Apple's corporate policy is to deny  
21 warranty coverage, even when internal Liquid Submersion Indicators do not  
22 indicate contact with moisture.

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26 <sup>1</sup> Apple recently revised the document that comprises Exhibit A by changing  
27 the name of the Liquid Submersion Indicator to the "Liquid *Contact* Indicator."  
28 (Emphasis added.) A copy of the new version of the document titled "iPhone and  
iPod: Water damage is not covered by warranty" is attached hereto as Exhibit B.





1           33. On November 5, 2009, shortly after it ceased functioning, Plaintiff took  
2 his iPhone to the local Apple store in Marlton, New Jersey, for warranty repair or  
3 replacement. The Apple representative advised Plaintiff that his iPhone's warranty  
4 was void because an external Liquid Submersion Indicator had been triggered.

5           34. Plaintiff explained that his iPhone had not been immersed in liquid.  
6 He insisted that the representative open the phone to examine the internal  
7 components to confirm that the phone had not been damaged by liquid.

8           35. Since Plaintiff steadfastly insisted, the Apple representative opened  
9 the phone and confirmed that no internal Liquid Submersion Indicator had turned  
10 pink and that there was no evidence of liquid ingress. Nevertheless, the Apple  
11 representative refused to honor Plaintiff's warranty due to Apple's policy of denying  
12 warranty coverage based on the single external Liquid Submersion Indicator which  
13 had turned pink.

14           36. After further discussion, the Apple representative offered to sell  
15 Plaintiff a replacement iPhone at a discounted price, provided he relinquish his  
16 existing iPhone as a "trade in"—i.e., without compensation. Accordingly, Plaintiff  
17 purchased a replacement iPhone 3G and "traded in" his existing phone.

18           37. Plaintiff's experience with Apple is typical of the experience other  
19 owners of Class Devices have had with Apple, whose conduct has forced consumers  
20 to bear the cost of repairing or replacing devices that Apple should have provided,  
21 and should be providing, free of charge under the Standard Warranty and the  
22 Extended Warranty.

23           38. By virtue of the foregoing conduct, including, but not limited to, the  
24 enforcement of Apple's corporate policies and its misrepresentations and omissions  
25 of material facts about the true nature, purpose, and accuracy of the external Liquid  
26 Submersion Indicators, the right to coverage under the Standard Warranty and the  
27 Extended Warranty is rendered illusory. As a result of Apple's improper application  
28 of the Liquid-Damage Exclusion, Apple sells Class Devices with the intent to

1 exclude them from the warranty coverage Apple promises consumers it will  
2 provide—even when consumers pay extra for Extended Warranty coverage—simply  
3 because their Liquid Submersion Indicator has been triggered, without any attempt  
4 by Apple to verify whether the Class Devices actually have been damaged as a  
5 result of submersion or immersion in liquid.

6 39. On December 7, 2009, Plaintiff sent Defendant a letter pursuant to the  
7 California Legal Remedies Act ("CLRA"), Cal. Civ. Code § 1750, *et seq.*, alleging  
8 that Defendant had engaged in unfair methods of competition and unfair or  
9 deceptive acts or practices under Section 1770 of the CLRA and, further, that  
10 Defendant had violated express and implied warranties. Mr. Corsi demanded, on  
11 behalf of himself and all others similarly situated, that Defendant cease its  
12 unlawful conduct and reimburse Mr. Corsi and all others similarly situated.  
13 Despite Mr. Corsi's efforts, he has been unable to resolve these issues through  
14 informal means. Plaintiff's Declaration pursuant to Cal. Civ. Code § 1780(d) is  
15 attached hereto as Exhibit C.

16 40. Defendant's unfair and unlawful denial of warranty claims is  
17 widespread, as is evident from, *inter alia*, numerous consumer complaints, news  
18 stories, internet reports, and from the fact that, subsequent to Plaintiff's December  
19 7, 2009 CLRA letter, two other plaintiffs filed similar lawsuits. On January 29,  
20 2010, plaintiffs Meghan White and Joseph Pennington filed a complaint for  
21 declaratory and injunctive relief in the California Superior Court. On April 15,  
22 2010, after also sending a CLRA letter, Charlene Gallion filed a complaint for  
23 damages and declaratory and injunctive relief in this Court.

24 41. Plaintiff brings this action on behalf of himself and all others similarly  
25 situated for the purpose of obtaining a judicial declaration that the manner in  
26 which Apple applies the Liquid-Damage Exclusion to the Standard Warranty and  
27 the Extended Warranty is unconscionable and violates the public policy of the State  
28 of California, and obtaining an order enjoining Apple from continuing to implement

1 and enforce the policies that lead to its improper application of the Liquid-Damage  
2 Exclusion; to recover the sums Plaintiff and members of the proposed Class have  
3 expended on repair and/or replacement of Class Devices as a result of Apple's  
4 improper application of the Liquid-Damage Exclusion; and to provide cost-free  
5 repair to members of the proposed Class who were denied warranty coverage as a  
6 result of Apple's improper application of the Liquid-Damage Exclusion and have yet  
7 to repair or replace their Class Devices.

#### 8 STATUTES OF LIMITATION

9 42. Any applicable statutes of limitation have been tolled by Apple's  
10 knowing and active concealment of the information it possessed about the true  
11 nature, purpose and characteristics of the external Liquid Submersion Indicators it  
12 installs on Class Devices, the true nature and scope of its Standard and Extended  
13 Warranties, and by its false and misleading representations with respect to its  
14 application of the Liquid-Damage Exclusion. Apple has kept Plaintiff and the  
15 members of the proposed Class ignorant of vital information essential to the pursuit  
16 of these claims, without any fault or lack of diligence on their part. Plaintiff and  
17 members of the proposed Class could not reasonably have discovered this  
18 information or what Apple knew about any of the issues and facts described herein.

19 43. Apple was, and is, under a duty to disclose the true nature, purpose,  
20 and characteristics of the external Liquid Submersion Indicators installed in Class  
21 Devices and the true nature, scope, and coverage of its Standard and Extended  
22 Warranties. Despite that duty, Apple knowingly, affirmatively, and actively  
23 concealed the facts alleged herein, and the concealment is ongoing. Because, *inter*  
24 *alia*, Apple took steps to conceal such information, Plaintiff and members of the  
25 Class did not discover and could not have discovered these facts through the  
26 exercise of reasonable diligence.

27 44. Based on the foregoing, Apple is estopped from relying on any statutes  
28 of limitation in defense of this action. The causes of action alleged herein did or will

1 accrue only upon discovery of the facts alleged herein and Apple's fraudulent  
2 concealment thereof.

### 3 CHOICE OF LAW

4 45. This Court properly can and should apply California law to all of the  
5 claims and issues asserted herein. Certification of the Class under the laws of the  
6 State of California is appropriate because:

7 (a) Apple is a corporation conducting substantial business in and from  
8 California;

9 (b) Apple's principal place of business and corporate headquarters are  
10 located in California;

11 (c) Decisions regarding Apple's representations and omissions regarding the  
12 Class Devices were made in and from California;

13 (d) Apple's marketing, promotion activities and literature, as well as its  
14 warranties, are coordinated at, emanate from and/or are developed at its  
15 California headquarters;

16 (e) The statutory consumer protection claims asserted in this Complaint  
17 may be appropriately brought on behalf of California and out-of-state Class  
18 members; and

19 (f) A significant number of Class members reside in California.

### 20 CLASS ALLEGATIONS

21 46. Plaintiff brings this class action pursuant to Federal Rule of Civil  
22 Procedure 23 and, to the extent applicable, the provisions of and California Civil  
23 Code section 1781, on behalf of himself and all other persons similarly situated.

24 47. The Class that Plaintiff seeks to represent is defined as follows: All  
25 persons who reside in the United States who (a) currently own a Class Device that  
26 is covered by the Standard Warranty or the Express Warranty; and/or (b) own or  
27 once owned a Class Device as to which Apple denied warranty coverage for repair or  
28 replacement because an external Liquid Submersion Indicator had been triggered.

1           48. Plaintiff also seeks to represent a subclass that includes each member  
2 of the proposed Class described in Paragraph 47, above, who is a "consumer," as that  
3 term is defined by California Civil Code section 1761(d), or who purchased "goods" or  
4 "consumer goods," as those terms are defined by California Civil Code sections 1761(a)  
5 and 1791(a), respectively (the "Consumer Subclass").

6           49. Excluded from the Class and Consumer Subclass are the following:

- 7           a. Apple, its subsidiaries, affiliates, officers, directors, and  
8 employees;
- 9           b. counsel, and the immediate families of counsel, who represent  
10 Plaintiff in this action;
- 11           c. the judge presiding over this action; and
- 12           d. jurors who are impaneled to render a verdict on the claims  
13 alleged in this action.

14           50. Plaintiff is informed and believes that the proposed Class comprises  
15 millions of members. The Class is, therefore, so numerous and geographically  
16 dispersed that joinder of all members in one action is impracticable.

17           51. Apple has acted with respect to Plaintiff and members of the proposed  
18 Class in a manner generally applicable to each of them. There is a well-defined  
19 community of interest in the questions of law and fact involved, which affect all  
20 Class members. The questions of law and fact common to the Class predominate  
21 over the questions that may affect individual Class members, including the  
22 following:

- 23           a. whether the external Liquid Submersion Indicators produce  
24 false-positive results;
- 25           b. whether the external Liquid Submersion Indicators are designed  
26 to produce false-positive results;
- 27           c. whether and when Apple knew the external Liquid Submersion  
28 Indicators produce false-positive results;

- 1           d.     whether the representations Apple has made about the nature,  
2 purpose, and accuracy of the external Liquid Submersion Indicators are false;
- 3           e.     whether Apple was, and is, under a duty to disclose information  
4 about the true nature and purpose of the external Liquid Submersion Indicators;
- 5           f.     whether Apple intentionally withheld, failed to disclose, and/or  
6 intentionally concealed information about the external Liquid Submersion  
7 Indicators;
- 8           g.     whether relying on the external Liquid Submersion Indicators to  
9 treat the Standard Warranty and the Extended Warranty as void is unconscionable  
10 under the circumstances alleged herein;
- 11           h.     whether Apple has breached its Standard and Extended  
12 Warranties by denying coverage when an external Liquid Submersion Indicator is  
13 triggered without verifying that Class Devices have actually been damaged by  
14 submersion in liquid;
- 15           i.     whether Apple is subject to liability for common-law fraud;
- 16           j.     whether Apple is subject to liability for violating the Consumers  
17 Legal Remedies Act ("CLRA"), Cal. Civ. Code §§ 1750-1784;
- 18           k.     whether Apple's conduct has violated the Unfair Competition  
19 Law ("UCL"), Cal. Bus. & Prof. Code §§ 17200-17209;
- 20           l.     whether Apple's conduct has violated the False Advertising Law  
21 ("FAL"), Cal. Bus. & Prof. Code §§ 17500-17536;
- 22           m.     whether Apple has been unjustly enriched as a result of its  
23 fraudulent conduct, such that it would be inequitable for Apple to retain the  
24 benefits conferred upon it by Plaintiff and the Class;
- 25           n.     whether Plaintiff's claims satisfy the criteria for class  
26 certification;
- 27           o.     whether compensatory or consequential damages should be  
28 awarded to Plaintiff and members of the proposed Class;

1 p. whether punitive damages should be awarded to Plaintiff and  
2 members of the proposed Class;

3 q. whether restitution should be awarded to Plaintiff and members  
4 of the proposed Class; and

5 r. whether other, additional relief is appropriate, and what that  
6 relief should be.

7 52. Plaintiff's claims are typical of the claims of all members of the Class  
8 he proposes to represent in this action.

9 53. Plaintiff will fairly and adequately represent and protect the interests  
10 of the Class, and does not have interests that are antagonistic to or in conflict with  
11 those he seeks to represent.

12 54. Plaintiff has retained counsel who have extensive experience in the  
13 prosecution of class actions and other forms of complex litigation.

14 55. In view of the complexity of the issues and the expense that an  
15 individual plaintiff would incur if he or she attempted to obtain relief from a large,  
16 transnational corporation such as Apple, the separate claims of individual Class  
17 members are monetarily insufficient to support separate actions. Because of the  
18 size of the individual Class members' claims, few, if any, Class members could  
19 afford to seek legal redress for the wrongs complained of in this Complaint. A class  
20 action is superior to all other methods of adjudicating these issues.

21 56. The Class is readily definable, and prosecution as a class action will  
22 eliminate the possibility of repetitious litigation and will provide redress for claims  
23 too small to support the expense of individual, complex litigation. Absent a class  
24 action, Class members will continue to suffer losses, Apple's violations of law will be  
25 allowed to proceed without a full, fair, judicially supervised remedy, and Apple will  
26 retain sums received as a result of its wrongdoing. A class action will provide a fair  
27 and efficient method for adjudicating this controversy.

28





1 the Liquid-Damage provisions of those agreements are unduly oppressive, particularly  
2 when considered in light of the parties' grossly unequal bargaining power.

3 63. Apple has refused Plaintiff's demands made in his CLRA letter and,  
4 therefore, an actual controversy has arisen and now exists between Apple and  
5 Plaintiff and the proposed Class. Accordingly, Plaintiff hereby requests a judicial  
6 declaration of the rights and duties of the parties with respect to each of the  
7 foregoing issues in controversy, including, but not limited to, an order declaring (a)  
8 that Apple, as the proponent of the Liquid-Damage Exclusion, bears the burden of  
9 establishing that the Liquid-Damage Exclusion justifies a finding that a Standard  
10 Warranty or an Extended Warranty is void as a result of a Class Device actually  
11 being damaged by submersion or immersion in liquid based solely on a triggered  
12 external Liquid Submersion Indicator, regardless of the underlying problem with  
13 the Class Device; (b) that a triggered external Liquid Submersion Indicator is not  
14 (and was not) a sufficient basis on which to invoke the Liquid-Damage Exclusion  
15 unless a physical inspection of the Class Device establishes that it was actually  
16 damaged by submersion or immersion in liquid; and (c) that if Apple cannot  
17 establish that a Class Device was actually damaged, the coverage period applicable  
18 to that Class Device is tolled from the date on which Apple denied coverage based  
19 on a triggered external Liquid Submersion Indicator until the date on which owners  
20 of those Class Devices receive notification that Apple's invocation of the Liquid-  
21 Damage Exclusion was not valid.

22 **SECOND CLAIM FOR RELIEF**  
23 **(Breach of Warranty)**

24 64. Plaintiff realleges and incorporates by reference the allegations set forth  
25 in each of the preceding paragraphs of this Complaint.

26 65. Apple's Standard and Extended Warranties state, in relevant part,  
27 that they protect Class Devices "against defects in materials and workmanship  
28 under normal use." The terms of the Standard and Extended Warranties obligate

1 Apple to "either (1) repair the hardware defect at no charge, using new parts or  
2 parts equivalent to new in performance and reliability, (2) exchange the product  
3 with a product that is new or equivalent to new in performance and reliability and  
4 is at least functionally equivalent to the original product, or (3) refund the purchase  
5 price of the product." Apple's Standard Warranty and Extended Warranty are  
6 express warranties under California law.

7 66. The purchase price of Class Devices includes the Standard Warranty  
8 described herein, which is part of the basis of the bargain. Apple sells the Extended  
9 Warranty to Class members for an additional fee.

10 67. Apple breached and continues to breach its express warranties by  
11 engaging in the conduct alleged herein.

12 68. Plaintiff timely provided Apple with written notice of its breaches of  
13 warranty by certified mail, and thereby provided Apple with an opportunity to correct  
14 or otherwise rectify the problems alleged herein before this Complaint was filed.  
15 Apple did not avail itself of that opportunity.

16 69. Plaintiff and proposed Class members have been and continue to be  
17 damaged by Apple's breach of its express warranties because Plaintiff and Class  
18 members have paid for repairs to Class Devices or have spent money to buy  
19 replacement Class Devices that should have been covered by Apple. Furthermore,  
20 as a result of Apple's breach of its express warranties, Plaintiff and Class members  
21 have suffered damages in an amount to be determined at trial.

22 70. Therefore, Plaintiff and the other Class members are entitled to legal  
23 and equitable relief against Apple, including damages, specific performance,  
24 rescission, restitution, attorneys' fees, costs of suit, and other relief, as appropriate.

25  
26 **THIRD CLAIM FOR RELIEF**  
**(Fraud)**

27 71. Plaintiff realleges and incorporates by reference the allegations  
28 contained in preceding paragraphs of this Complaint.

1           72. At all times relevant herein, Apple made misrepresentations of  
2 material fact to Plaintiff and the Class regarding: (a) the true nature, purpose, and  
3 accuracy of the external Liquid Submersion Indicators; (b) the scope,  
4 characteristics, and availability of coverage the Standard Warranty and the  
5 Extended Warranty; and (c) the reasons for denying Plaintiff and the Class he  
6 proposes to represent coverage under its Standard and Extended Warranties,  
7 including, but not limited to advising Plaintiff and members of the Class that their  
8 Class Devices had been damaged by liquid spill or submersion, when they had not.  
9 Apple knew those representations were false when it made them.

10           73. Apple has also concealed material facts from Plaintiff and the Class,  
11 including the following:

12           a. that the external Liquid Submersion Indicators do not  
13 accurately indicate that Class Devices have been damaged as a result of liquid spills  
14 or submersion in liquid when they have not;

15           b. that because the external Liquid Submersion Indicators are not  
16 reliable indicators of actual damage, Class Devices whose external Liquid  
17 Submersion Indicators have been triggered must be inspected by persons with  
18 expertise in conducting such inspections for the purpose of determining whether the  
19 problems for which consumers seek warranty coverage constitute damage caused by  
20 a spill or submersion in liquid; and

21           c. that Apple equipped Class Devices with external Liquid  
22 Submersion Indicators and uses their false-positive readings to avoid its obligations  
23 under its Standard and Extended Warranties.

24           74. Apple had a duty to disclose these facts, regardless of the existence of  
25 privity (*see, e.g.,* Cal. Civ. Code § 1711), by virtue of (a) Apple's exclusive knowledge  
26 about the reason it equipped Class Devices with external Liquid Submersion  
27 Indicators, the reliability of those indicators, its intention to rely on the false-positive  
28 results provided by those indicators to void its Standard and Extended Warranties,

1 and its awareness that Plaintiff was not reasonably likely to discover these facts; (b)  
2 Apple's active concealment of those facts from Plaintiff and members of the Class (by,  
3 *inter alia*, making false representations about the nature, purpose, and accuracy of  
4 the external Liquid Submersion Indicators, the nature and scope of Apple's obligations  
5 under its Standard and Extended Warranties, and the reasons for denying warranty  
6 coverage, and by enforcing a policy by which consumers are prohibited from recording  
7 or witnessing physical inspections of Class Devices); and (c) Apple's statutory and  
8 common-law obligations to disclose material information to the consumers of Class  
9 Devices, as alleged herein. Plaintiff would have acted differently if Apple had  
10 disclosed this information to Plaintiff and allowed him to make a fully-informed  
11 decision before he purchased his original iPhone.

12 75. Apple's misrepresentations of material fact are uniform and the facts  
13 Apple has concealed from consumers are similarly material and uniform.

14 76. Apple made the misrepresentations of material facts and omitted the  
15 material facts alleged herein intentionally and/or recklessly, with the intention that  
16 Plaintiff and members of the Class he proposes to represent rely on them. Plaintiff  
17 and the proposed Class relied on Apple's misrepresentations and would have acted  
18 differently had the omitted facts been disclosed.

19 77. As a proximate result of Apple's misrepresentations and concealment  
20 and suppression of material facts, Plaintiff and the proposed Class have sustained  
21 damages by, *inter alia*, (a) paying more for Class Devices than they would have paid if  
22 Apple had not misrepresented and concealed the facts alleged herein; and (b) being  
23 forced to pay for the repair or replacement of Class Devices while those devices were  
24 covered by a Standard or Extended Warranty as a result of Apple's fraudulent refusal  
25 to honor its obligations under those agreements.

26 78. Because Apple engaged in the conduct alleged herein deliberately and  
27 with willful and malicious intent, Plaintiff and the proposed Class are entitled to an  
28

1 award of punitive damages. The total amount of damages suffered by Plaintiff and  
2 the Class will be proved at trial.

3  
4 **FOURTH CLAIM FOR RELIEF**  
5 **(Unfair and Deceptive Acts and Practices**  
6 **in Violation of the Consumers Legal Remedies Act)**

7 79. Plaintiff realleges and incorporates by reference the allegations set forth  
8 in each of the preceding paragraphs of this Complaint.

9 80. This claim for relief is brought pursuant to the CLRA. Plaintiff is a  
10 "consumer," as that term is defined by Civil Code section 1761(d), because he bought  
11 his iPhone for personal, family, or household purposes.

12 81. Plaintiff and members of the Consumer Subclass have engaged in a  
13 "transaction" with Apple, as that term is defined by Civil Code section 1761(e).

14 82. The conduct alleged in this Complaint constitutes unfair methods of  
15 competition and unfair and deceptive acts and practices for the purposes of the CLRA,  
16 and were undertaken by Apple in transactions intended to result in, and which  
17 resulted in, the sale of goods to consumers.

18 83. By engaging in the conduct alleged in this Complaint, Apple has violated  
19 subdivisions (a)(2), (a)(5), (a)(7), (a)(9), (a)(14), and (a)(19) of California Civil Code  
20 section 1770 by, *inter alia*, misrepresenting and falsely advertising that the price of  
21 Class Devices includes one year of coverage "against defects in materials and  
22 workmanship under normal use" under the Standard Warranty and that the  
23 Extended Warranty extends that coverage to two years without disclosing Apple's  
24 policy of deeming warranty coverage void if a Liquid Submersion Indicator was  
25 triggered, regardless of whether the Class Device in question had actually been  
26 damaged by exposure to liquid.

27 84. In actuality, and unbeknownst to Plaintiff and members of the proposed  
28 Class, Apple's Standard and Extended Warranties were (and are) illusory. By selling  
Class Devices with an illusory Standard Warranty and by selling Extended Warranty

1 coverage that is equally illusory, Apple has represented, and continues to represent,  
2 that Class Devices and the Standard and Extended Warranties that pertain to them  
3 have characteristics, uses and benefits, or qualities that they do not have, and that  
4 they are of a particular standard, quality, or grade, when they are not, in violation  
5 of Civil Code section 1770, subsections (a)(2), (a)(5) and (a)(7).

6 85. By engaging in the conduct alleged above, Apple has also advertised, and  
7 continues to advertise, goods with the intent not to sell them as advertised, in  
8 violation of California Civil Code section 1770(a)(9). Additionally, Apple has violated  
9 and continues to violate subsections California Civil Code section 1770, subsections  
10 (a)(14) and (a)(19), by engaging in the conduct alleged herein, including, but not  
11 limited to, inserting a Liquid-Damage Exclusion provision in its Standard Warranty  
12 and its Extended Warranty that is unconscionable as applied under the circumstances  
13 alleged herein; by voiding its Standard Warranty and its Extended Warranty in an  
14 unconscionable manner; by failing to disclose that Apple does not intend to honor the  
15 terms of its Standard Warranty and its Extended Warranty if an external Liquid  
16 Submersion Indicator is triggered; and by representing that the sale of Class Devices  
17 and the sale of the Extended Warranty policies conferred rights and remedies,  
18 which they did not.

19 86. Plaintiff seeks an order awarding actual damages and, because Apple  
20 engaged in the conduct alleged herein deliberately and with willful and malicious  
21 intent, punitive damages. The total amount of damages suffered by Plaintiff and the  
22 Class will be proved at trial.

23 87. Pursuant to Section 1782 of the CLRA, Plaintiff provided Apple with  
24 written notice of its violations of the CLRA by certified mail, and thereby provided  
25 Apple with an opportunity to correct or otherwise rectify the problems alleged herein  
26 before this Complaint was filed. Apple did not avail itself of that opportunity.

27 88. Plaintiff also seeks an order enjoining Apple from violating the CLRA  
28 by continuing to rely on the external Liquid Submersion Indicators as a basis for

1 denying Standard and Extended Warranty coverage for Class Devices without  
2 confirming that Class Devices have actually been damaged by submersion or  
3 immersion in liquid, and from making false representations regarding the nature,  
4 characteristics, and scope of its Standard and Extended Warranties, and that a  
5 triggered external Liquid Submersion Indicator is sufficient to void applicable  
6 warranties.

7 89. In addition, Plaintiff seeks an order extending the warranty on all Class  
8 Devices pursuant to California Civil Code section 1780, subdivisions (a)(2) and (a)(5)  
9 by tolling the coverage period applicable to that Class Device from the date on  
10 which Apple denied coverage based on a triggered external Liquid Submersion  
11 Indicator until the date on which owners of those Class Devices receive notification  
12 that Apple's invocation of the Liquid-Damage Exclusion was not valid.

13 **FIFTH CLAIM FOR RELIEF**  
14 **(Unlawful, Fraudulent, and Unfair Business Practices**  
**in Violation of the Unfair Competition Law)**

15 90. Plaintiff realleges and incorporates by reference the allegations set  
16 forth in each of the preceding paragraphs of this Complaint.

17 91. By committing the acts and practices alleged herein, Apple has  
18 engaged in the following unlawful, fraudulent, and unfair business practices in  
19 violation of the UCL:

20 a. **Unlawful Conduct:** As a result of engaging in the conduct  
21 alleged in this Complaint, Apple has violated the UCL's proscription against  
22 engaging in unlawful conduct by virtue of (i) its fraudulent and deceitful conduct in  
23 violation of California Civil Code sections 1709 through 1711; (ii) its violations of the  
24 Consumers Legal Remedies Act, California Civil Code sections 1770(a)(5), (a)(7),  
25 (a)(9), (a) (14), and (a)(19); (iii) its violations of the False Advertising Law,  
26 California Business & Professions Code sections 17500 through 17536; and (iv) by  
27 breaching its warranties.

28



1           b.     **Fraudulent Conduct:** Apple has violated the UCL's proscription  
2 against fraud as a result of engaging in the fraudulent and deceitful conduct alleged  
3 herein.

4           c.     **Unfair Conduct:** Apple has violated the UCL's proscription  
5 against unfair conduct as a result of engaging in the conduct alleged in this  
6 Complaint.

7           92.    Defendant's acts and practices were intended to deceive and/or are  
8 likely to deceive Class members and the public and thus constitute a fraudulent  
9 business practice.

10          93.    Defendant intended for Plaintiff and Class members to rely on its  
11 misrepresentations, and Plaintiff and Class members consequently did rely on  
12 Defendant's misrepresentations.

13          94.    Apple's violations of the UCL continue to this day. As a direct and  
14 proximate result of Apple's violations of the UCL, Plaintiff and members of the  
15 Class were injured in fact and lost money or property. Plaintiff has suffered injury  
16 in fact and been damaged in that, *inter alia*, he paid more for his Class Devices than  
17 he would have had Apple not represented that their purchase price includes the  
18 Standard Warranty and paid for a replacement iPhone because Apple refused  
19 Plaintiff's request that it provide him with a cost-free repair or replacement  
20 pursuant to the Standard Warranty.

21          95.    The injuries suffered by Plaintiff and Class members are greatly  
22 outweighed by any potential countervailing benefit to consumers or to competition.  
23 Nor are they injuries that Plaintiff and Class members should have or could have  
24 reasonably avoided.

25          96.    Pursuant to Section 17203 of the UCL, Plaintiff and the Class seek an  
26 order that (a) enjoins Apple from continuing to rely on the external Liquid  
27 Submersion Indicators as a basis for denying Standard and Extended Warranty  
28 coverage; (b) requires Apple to honor the terms of its Standard and Extended

1 Warranty policies; (c) enjoins Apple from continuing to make false representations  
2 regarding the characteristics and scope of its Standard and Extended Warranties,  
3 and the nature, purpose, and accuracy of external Liquid Submersion Indicators; (d)  
4 compels Apple to extend warranty coverage (i) by tolling the coverage period from  
5 the date on which Apple denied coverage based on a triggered external Liquid  
6 Submersion Indicator until the date on which Plaintiff and the Class; and (ii) by  
7 adding the amount of coverage that remained as of the date of tolling (*e.g.*, if six  
8 months of warranty coverage remained as of the date on which Apple denied  
9 coverage, six months of coverage would remain as of the date on which judgment is  
10 entered in favor of Plaintiff and the proposed Class); (e) requires Apple to make full  
11 restitution of all moneys wrongfully obtained from its violations of the UCL, as  
12 alleged in this Complaint; and (f) requires Apple to pay Plaintiff's and the Class's  
13 attorney fees and costs.

14  
15 **SIXTH CLAIM FOR RELIEF**  
(Violation of the Magnusson-Moss Warranty Act, 15 U.S.C. §§2301-2312)

16 97. Plaintiff realleges and incorporates by reference the allegations set  
17 forth in each of the preceding paragraphs of this Complaint.

18 98. The Class Devices are consumer products under 15 U.S.C. §2301(1).

19 99. Plaintiff and other Class members are consumers under 15 U.S.C.  
20 §2301(3).

21 100. Defendant is a supplier and warrantor under 15 U.S.C. §2301(4)-(5).

22 101. The Standard Warranty and Extended Warranty are written  
23 warranties under 15 U.S.C. §2301(6).

24 102. Apple breached and continues to breach its express warranties by  
25 engaging in the conduct alleged herein.

26 103. In its capacity as warrantor, any attempt by Apple to limit its express  
27 warranties in a manner that would exclude coverage of the defective Class Devices  
28 is unconscionable and any such effort is null and void.

1 104. As a direct and proximate result of Apple's conduct, Plaintiff and the  
2 Class are entitled to legal and equitable relief against Apple including damages,  
3 specific performance, a declaration that Apple breached its written warranties,  
4 attorneys' fees, costs of suit and other relief as appropriate.

5 SEVENTH CLAIM FOR RELIEF  
6 (Breach of Implied Covenant of Good Faith and Fair Dealing)

7 105. Plaintiff realleges and incorporates by reference the allegations set  
8 forth in each of the preceding paragraphs of this Complaint.

9 106. Plaintiff and Class members entered into agreement to purchase the  
10 Class Devices or otherwise were under contractual privity with Apple as a result of  
11 the express warranties described herein.

12 107. The Standard Warranty and Extended Warranty contracts are subject  
13 to the implied covenant that Apple would conduct business with Plaintiff and Class  
14 members in good faith and would deal fairly with Plaintiffs and Class members.

15 108. Apple breached those implied covenants by abusing its discretion in  
16 the performance of the warranty contracts or by intentionally subjecting Plaintiff  
17 and Class members to a risk beyond which they would not have reasonably  
18 contemplated at the time of purchase.

19 109. Apple also breached the implied covenant of good faith and fair dealing  
20 by not placing terms in the contracts and/or warranties that conspicuously stated to  
21 Plaintiff and Class members that warranty coverage would be denied solely on the  
22 basis of external Liquid Submersion Indicators, regardless of whether or not the  
23 Class Devices had actually been damaged by flooding or submersion.

24 110. As a direct and proximate result of Apple's breach of its implied  
25 covenants of good faith and fair dealing, Plaintiff and Class members have been  
26 damaged in an amount to be determined at trial.

27

28

1 **EIGHTH CLAIM FOR RELIEF**  
2 **(False and Misleading Advertising in Violation of**  
3 **California Business & Professions Code § 17500, et seq.)**

4 111. Plaintiff realleges and incorporates by reference the allegations set  
5 forth in each of the preceding paragraphs of this Complaint.

6 112. Defendant's acts and practices as described herein have deceived  
7 and/or are likely to deceive members of the Class and the public.

8 113. By its actions, Apple is disseminating uniform advertising concerning  
9 its products and services, which, by its nature, is unfair, deceptive, untrue, or  
10 misleading within the meaning of California Business & Professions Code § 17500,  
11 et seq. Such advertisements are likely to deceive, and continue to deceive, the  
12 consuming public for the reasons detailed above.

13 114. The false, misleading, and deceptive advertising described above that  
14 Apple disseminated continues to possess the likelihood to deceive in that Apple has  
15 failed to disclose the true nature, purpose, and accuracy of the external Liquid  
16 Submersion Indicators for the Class Devices.

17 115. In making and disseminating the statements alleged herein, Apple  
18 should have known its advertisements were untrue and misleading in violation of  
19 California Business & Professions Code § 17500, et seq. Plaintiff and the Class  
20 members based their decisions to purchase the Class Devices in substantial part on  
21 Defendant's misrepresentations and omissions of material facts. The revenues to  
22 Apple attributable to products sold in those false and misleading advertisements  
23 amount to millions of dollars for these products. Plaintiff and the Class were  
24 injured in fact and lost money or property as a result.

25 116. Defendant intended for Plaintiff and Class members to rely on its  
26 misrepresentations and Plaintiff and Class members consequently did rely on  
27 Defendant's misrepresentations.  
28

1           117. The misrepresentations and non-disclosures by Apple of the material  
2 facts detailed above constitute false and misleading advertising and therefore  
3 constitute a violation of California Business & Professions Code § 17500, *et seq.*

4           118. As a result of Apple's wrongful conduct, Plaintiff and the Class request  
5 that this Court enjoin Apple from continuing to violate California Business &  
6 Professions Code § 17500, *et seq.* Such conduct is ongoing and continues to this  
7 date. Plaintiff and the Class are therefore entitled to the relief described below as  
8 appropriate for this Claim for Relief.

9                                   NINTH CLAIM FOR RELIEF  
10                                   (Unjust Enrichment)

11           119. Plaintiff realleges and incorporates by reference the allegations set  
12 forth in each of the preceding paragraphs of this Complaint.

13           120. By engaging in the conduct described in this Complaint, Apple has  
14 been unjustly enriched by, *inter alia*, (a) its sale of the Class Devices at inflated  
15 prices due to the ostensible inclusion of a one-year Standard Warranty; (b) the sale  
16 of Extended Warranties; (c) avoiding the costs associated with complying with the  
17 Class Devices' Standard and Extended Warranties; (d) charging consumers to repair  
18 Class Devices while those devices were covered by its Standard and/or Extended  
19 Warranties; (e) selling consumers replacement Class Devices while those replaced  
20 devices were covered by Standard and Extended Warranties; and (f) requiring  
21 consumers to "trade in" their iPhones without providing them with any  
22 compensation for it.

23           121. As a proximate result of Apple's conduct, Apple obtained secret profits  
24 by which it became unjustly enriched, at Plaintiff's and the Class members'  
25 expense. Under the circumstances alleged herein, it would be unfair for Apple to  
26 retain the profits it has unjustly obtained at the expense of Apple and the Class.

27           122. Accordingly, Plaintiff seeks an order establishing Apple as a  
28 constructive trustee of the profits that served to unjustly enrich Apple, together

1 with interest during the period in which Apple has retained such funds, and  
2 requiring Apple to disgorge those funds to Plaintiff and members of the proposed  
3 Class in a manner to be determined by the Court.

4 PRAYER FOR RELIEF

5 WHEREFORE, Plaintiff, on behalf of himself and all others similarly  
6 situated, prays for relief in this Complaint as follows:

7 1. For an order certifying that the action may be maintained as a Class  
8 action, on behalf of the proposed Class, the Consumer Subclass, and any other  
9 subclass(es) the Court may deem appropriate and appointing Plaintiff to represent  
10 the Class and Consumer Subclass and his counsel as Class counsel;

11 AS TO THE FIRST CAUSE OF ACTION

12 2. For a judicial declaration pursuant to Federal Rule of Civil Procedure  
13 57 that (a) Apple's limitation of warranty coverage on the Class Devices violates the  
14 public policy of the State of California for the reasons set forth in California Civil Code  
15 sections 1667 and 1668, and that such a limitation is unconscionable because the  
16 warranty agreements at issue in this lawsuit are contracts of adhesion, and because  
17 they are unduly oppressive, particularly when considered in light of the parties'  
18 radically unequal bargaining power; (b) that a triggered external Liquid Submersion  
19 Indicator is not (and was not) a sufficient basis on which to invoke the Liquid-  
20 Damage Exclusion unless a physical inspection of the Class Device establishes that  
21 it was actually damaged by submersion or immersion in liquid; and (c) that if Apple  
22 cannot establish that a Class Device was actually damaged, the coverage period  
23 applicable to that Class Device is tolled from the date on which Apple denied  
24 coverage based on a triggered external Liquid Submersion Indicator until the date  
25 on which owners of those Class Devices receive notification that Apple's invocation  
26 of the Liquid-Damage Exclusion was not valid;

27

28

1

AS TO THE SECOND CAUSE OF ACTION

2

3 3. For an order providing Plaintiff and the proposed Class with legal and  
4 equitable relief against Apple, including damages, specific performance, restitution,  
5 attorneys' fees, costs of suit, and other relief as appropriate;

5

AS TO THE THIRD CAUSE OF ACTION

6

7 4. For an award of monetary damages, including, but not limited to,  
8 compensatory, incidental and consequential damages commensurate with proof at  
9 trial for the acts complained of herein;

9

10 5. For an award of punitive damages in an amount consistent with  
11 applicable statutes and precedent;

11

AS TO THE FOURTH CAUSE OF ACTION

12

13 6. For an order awarding damages pursuant to California Civil Code  
14 section 1780(a)(1);

14

15 7. For an order pursuant to California Civil Code section 1780(a)(2)  
16 enjoining Apple from continuing to rely on the external Liquid Submersion  
17 Indicators as a basis for denying Standard and Extended Warranty coverage for  
18 Class Devices without confirming they have actually been damaged by submersion  
19 or immersion in liquid, and from making false representations regarding the  
20 nature, characteristics, and scope of its Standard and Extended Warranties and the  
21 Liquid Submersion Indicators on Class Devices;

21

22 8. For an order pursuant to California Civil Code section 1780,  
23 subdivisions (a)(2) and (a)(5), requiring Apple to extend the warranty on all Class  
24 Devices by tolling the coverage period applicable to that Class Device from the date  
25 on which Apple denied coverage based on a triggered external Liquid Submersion  
26 Indicator until the date on which owners of those Class Devices receive notification  
27 that Apple's invocation of the Liquid-Damage Exclusion was not valid;

27

28 9. For an order awarding restitution pursuant to California Civil Code  
section 1780(a)(3);

1           10. For an order awarding punitive damages pursuant to California Civil  
2 Code section 1780 (a)(4);

3                                   AS TO THE FIFTH CAUSE OF ACTION

4           11. For an order (a) enjoining Apple from continuing to rely on the  
5 external Liquid Submersion Indicators as a basis for denying Standard and  
6 Extended Warranty coverage; (b) requiring Apple to honor the terms of its Standard  
7 and Extended Warranty policies; (c) enjoining Apple from continuing to make false  
8 representations regarding the characteristics and scope of its Standard and  
9 Extended Warranties, and the nature, purpose, and accuracy of external Liquid  
10 Submersion Indicators; (d) compelling Apple to extend warranty coverage (i) by  
11 tolling the coverage period from the date on which Apple denied coverage based on a  
12 triggered external Liquid Submersion Indicator until the date on which Plaintiff  
13 and the Class is right to coverage is determined and (ii) by adding the amount of  
14 coverage that remained as of the date of tolling (e.g., if six months of warranty  
15 coverage remained as of the date on which Apple denied coverage, six months of  
16 coverage would remain as of the date on which judgment is entered in favor of  
17 Plaintiff and the proposed Class); (e) requiring Apple to make full restitution of all  
18 monies wrongfully obtained from its violations of the UCL, as alleged in this  
19 Complaint; and (f) requiring Apple to pay Plaintiff's and the Class's attorney fees  
20 and costs;

21                                   AS TO THE SIXTH CAUSE OF ACTION

22           12. For an order providing Plaintiff and the proposed Class with legal and  
23 equitable relief against Apple, including damages, specific performance, restitution,  
24 attorneys' fees, costs of suit, and other relief, as appropriate;

25                                   AS TO THE SEVENTH CAUSE OF ACTION

26           13. For an order providing Plaintiff and the proposed Class with legal and  
27 equitable relief against Apple, including damages, specific performance, restitution,  
28 attorneys' fees, costs of suit, and other relief, as appropriate;



1

AS TO THE EIGHTH CAUSE OF ACTION

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14. For an order enjoining Apple from continuing to violate California Business & Professions Code § 17500, *et seq.* and other relief, as appropriate;

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AS TO THE NINTH CAUSE OF ACTION

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15. For an order compelling Apple to provide restitution of the amounts by which it has been unjustly enriched by, *inter alia*, (a) its sale of Class Devices at inflated prices due to the ostensible inclusion of a one-year Standard Warranty; (b) the sale of Extended Warranties; (c) avoiding the costs associated with complying with the Class Devices' Standard and Extended Warranties; (d) charging consumers to repair Class Devices while those devices were covered by Standard and/or Extended Warranties; (e) selling consumers replacement Class Devices while those devices were covered by Standard and Extended Warranties; and (f) requiring consumers to "trade in" their iPhones without providing them with any compensation.

15

AS TO ALL CAUSES OF ACTION

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16. For an award of attorneys' fees;

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17. For an award of costs;

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18. For an award of pre- and post-judgment interest on any amounts awarded; and

20

19. For any and all other relief the Court deems just and appropriate.

21

DEMAND FOR JURY TRIAL

22

Plaintiff and the proposed Class demand a jury trial in this action for all the causes of action so triable.

24

DATED: July 28, 2010

25

SHEPHERD, FINKELMAN,  
MILLER & SHAH, LLP

26

By: 

27

~~Rose F. Luzon (SBN 221544)~~

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on behalf of himself and all others similarly  
situated