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15  
 16 **UNITED STATES DISTRICT COURT**  
 17 **NORTHERN DISTRICT OF CALIFORNIA**  
 18 **SAN JOSE DIVISION**

19  
 20 In re iPhone Application Litigation

Case No. 10-cv-5878 LHK (PSG) (Lead)  
 10-cv-5881-LHK  
 11-cv-0407-LHK  
 11-cv-0700-LHK

21  
 22  
 23 The Honorable Lucy H. Koh

24 iPhone Plaintiffs' Group Notice of Motion and  
 Memorandum of Points and Authorities in  
 25 Support of the Consensus Recommendation for  
 Entry of an Order Appointing Kamber Interim  
 26 Class Counsel and an Executive Committee

1 **NOTICE OF MOTION AND MOTION FOR APPOINTMENT OF CLASS COUNSEL**

2 To all parties and their counsel of record:

3 PLEASE TAKE NOTICE THAT, on April 5, 2011 at 2:00pm, or as otherwise ordered by  
4 the Court, Plaintiffs Jonathan Lalo, Dustin Freeman, Jared Parsley, Cole Parr, Precious Arrington,  
5 Daniel Rodimer, Arfat Adil, Emili Clar, Jerod Couch, Barbara Davis, Matt Hines, Diego Lopez,  
6 Aaron Mulvey, Anna M. Ruston, and Gena Terry (the “iPhone Plaintiffs’ Group”) hereby moves  
7 the Court for an order appointing Scott A. Kamber of KamberLaw, LLC as Interim Class  
8 Counsel, pursuant to Fed. R. Civ. P. 23(g)(3); with an Executive Committee comprised of Robert  
9 K. Shelquist of Lockridge Grindal Nauen P.L.L.P. and Jeremy R. Wilson of Wilson Trosclair &  
10 Lovins; and William M. Audet of Audet & Partners, LLP as plaintiffs’ liaison counsel.

11 This motion is based upon this Notice of Motion and Motion, the Memorandum of Points  
12 and Authorities contained herewith, the Declaration of Scott A. Kamber, the Declaration of  
13 William Audet, and the Declaration of Jeremy Wilson and all of the documents in the record,  
14 along with any oral argument the Court may later request.

15  
16 Respectfully submitted,

17 KAMBERLAW, LLC

18 By: s/Scott A. Kamber  
19 On Behalf of Lalo Plaintiffs, et al,

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1 Plaintiffs Jonathan Lalo, Dustin Freeman, Jared Parsley, Cole Parr, Precious Arrington,  
2 Daniel Rodimer, Arfat Adil, Emili Clar, Jerod Couch, Barbara Davis, Matt Hines, Diego Lopez,  
3 Aaron Mulvey, Anna M. Ruston, and Gena Terry represented by the law firms KamberLaw,  
4 LLC, KamberLaw, LLP, Parisi & Havens LLP, Wilson Trosclair & Lovins, Fears Nachawati,  
5 Audet & Partners LLP, the Law Office of Joseph H. Malley and Lockridge Grindal Nauen  
6 P.L.L.P. (the “iPhone Plaintiffs’ Group”) have self-ordered and respectfully recommend to the  
7 Court the agreed upon leadership structure pursuant to the Court’s March 15, 2011 Order . Based  
8 upon prior experience and the needs of this litigation, the supra-majority agreed structure  
9 recommended herein is as follows: Interim Class Counsel of Scott A. Kamber of KamberLaw,  
10 LLC, with an Executive Committee consisting of Robert K. Shelquist of Lockridge Grindal  
11 Nauen P.L.L.P. and Jeremy R. Wilson of Wilson Trosclair & Lovins; and Liaison Counsel of  
12 William M. Audet of Audet & Partners, LLP.  
13  
14

15 **I. INTRODUCTION**

16 On March 15, 2011, this Court consolidated the four related class action cases, and  
17 interalia, ordered plaintiffs counsel to:

18 [U]se their best efforts to self-organize and recommend to the Court counsel to serve  
19 as Interim Class Counsel under FRCP 23(g). Such recommendation shall be  
20 submitted to the Court with papers supporting the qualifications for such Interim  
21 Class Counsel within ten days of the entry of this Order. Any Plaintiff may oppose  
22 such recommendation by filing an opposition within ten days of notice of  
23 consolidation of their case or the filing of said recommendation, whichever is later

24 Dkt. 36. Following this Court’s Order, several calls amongst and between the counsel took place  
25 to discuss structure and leadership issues. As outlined in the declarations of Mr. Kamber and  
26 Mr. Audet, a call involving counsel representing each of the consolidated complaints was called  
27 to reach a consensus. (Kamber Decl. ¶¶ 19, 20; Audet Decl ¶¶ 6, 7). During that call, several  
28 firms made an argument for a co-lead structure and suggested that their respective firm be  
considered for the title and role of ‘lead’ class counsel. However, as the discussions ensued, the

1 signatory counsel realized that they all shared a common perspective that KamberLaw as a single  
2 lead would serve the best interests of their clients and the Class. Plaintiffs efforts to “self-  
3 organize” were successful: three of the four cases representing 15 of 16 plaintiffs and seven of  
4 the nine participating Plaintiffs’ law firms agreed to recommend to the Court the appointment of  
5 a single, lead Interim Class Counsel under FRCP 23(g), with an Executive Committee consisting  
6 of representatives from each of the other filed cases.<sup>1</sup> This recommendation was not only  
7 democratically created in an open forum, but also resulted in a geographically representative  
8 structure with firms that can each assist the efficient and effective litigation of the Action.

10         The agreed structure was specifically tailored to the unique facts and issues associated  
11 with In re iPhone Application Litigation (the “Action”) and the specific strengths of the counsel  
12 herein recommended to serve the Class. The Action involves the invasion of privacy,  
13 misappropriation and misuse of personal information, and the interference of the operability of  
14 the plaintiffs and putative class members’ mobile devices. The successful litigation of this  
15 Action not only requires an investigation of the technical issues involved in Apple’s actions, but  
16 an understanding of ongoing developments in the technological advancements that demand  
17 proficient review and adaptation as they emerge. These are the very privacy and technology  
18 issues that are at the core of KamberLaw, LLC’s practice, and the reason why the supra majority  
19 agreed to recommend the Court appoint Mr. Kamber and his firm as sole lead counsel. *See*  
20 Declaration of Scott A. Kamber (“Kamber Decl.”), Exhibit A-1.

23         After extensive research into the facts and law, KamberLaw, LLC and KamberLaw, LLP  
24 (“KamberLaw”) filed the first class action case in this court. KamberLaw is comprised of the

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26 <sup>1</sup> Plaintiff Anthony Chiu’s counsel, Jeffrey Westerman of the Los Angeles office of Milberg,  
27 LLP is the only plaintiff’s counsel to ‘object’ to the proposal, based on his position that his firm  
28 be lead or co-lead. (Kamber Decl. ¶¶ 27-30). Despite his position, the iPhone Plaintiffs’ Group  
have no objection to Mr. Westerman serving on the Executive Committee if the Court desires to  
have that firm in the leadership structure.



1 lawyers, both in California and New York, most capable of addressing the unique issues  
2 presented by the cases and of bringing it to a successful resolution. Significantly, KamberLaw’s  
3 unique and necessary expertise in this area gained it unanimous support of the iPhone Plaintiffs’  
4 Group to serve as the sole lead counsel in this action. (Kamber Decl. ¶ 27).

5  
6 This Action requires expertise in technology so that a focused litigation plan may be  
7 adopted to maximize efficiencies and reduce the threat of duplication, waste, and delay.

8 KamberLaw understands this and offers both a streamlined leadership structure as well as a  
9 strategy uniquely suited to meet the complexities of these cases. Moreover, KamberLaw has  
10 worked efficiently in the past with each of the proposed members of the Executive Committee,  
11 and Liaison Counsel, and will be able to assign tasks based on the strength of each member.  
12 (Kamber Decl. ¶¶ 16-24).

13  
14 Ultimately, this Court’s decision rests rest on what matters most: protecting the interests  
15 of the putative class members as proscribed in Rule 23(g). As detailed below (and in the  
16 accompanying declaration), KamberLaw is the leading firm in the country dedicated primarily to  
17 the prosecution of Internet privacy and security class actions. (Kamber Decl. at ¶ 2). Internet  
18 privacy and technology is not a sidelight to a securities or antitrust class actions for KamberLaw.  
19 As detailed in the declaration of Kamber, the Kamberlaw firm has litigated and (and more  
20 importantly) *successfully resolved* some of the largest technology class actions in the country,  
21 including numerous privacy cases against industry giants such as Facebook, ATI, Sony  
22 Entertainment, Yahoo!, Microsoft, NetFlix, Tagged, Adzilla, and NebuAd, among others.  
23 (Kamber Decl. at ¶ 7).

24  
25 Each proposed member of the Executive Committee provides significant assistance and  
26 adds significant experience and resources to the litigation. Furthermore, as recommended by the  
27 Manual for Complex Litigation, the Committee is not only democratically created, but is  
28

1 geographically representative as well. *See* Manual for Complex Litigation (4<sup>th</sup>) Section 21.272

2 **II. ARGUMENT**

3  
4 Prior to class certification, courts may appoint interim class counsel under Federal Rule  
5 of Civil Procedure 23(g)(3). Interim class counsel is generally appropriate “[i]n cases . . . where  
6 multiple overlapping and duplicative class actions have been transferred to a single district for  
7 the coordination or pretrial proceedings.” *In re Air Cargo Shipping Servs. Antitrust Litig.*, 240  
8 F.R.D. 56, 57 (E.D.N.Y 2006). Appointment of interim class counsel “clarifies responsibility for  
9 protecting the interests of the class during precertification activities, such as making and  
10 responding to motions, conducting any necessary discovery, moving for class certification, and  
11 negotiating settlement. *See* MANUAL FOR COMPLEX LITIGATION § 21.11 (4th ed. 2004) (the  
12 “Manual”); *see also* Rule 23 Practice Commentary (“pre-certification discovery, dispositive  
13 motions, or settlement negotiations . . . may have a critical bearing on the interests of the putative  
14 class members” and often necessitate the appointment of interim lead counsel.)

15 This was recognized by the Court in its March 15, 2011 Order which coupled the above-  
16 requirements of Rule 23(g) with the preference for “self-ordering“ In a number of cases, where  
17 almost all of the plaintiffs counsel agree to a leadership structure, and all firm’s have the  
18 opportunity to have representation in the leadership structure, as is the case here, then Court’s  
19 generally recognize the concept of ‘self-ordering’. Manual for Complex Litigation (4<sup>th</sup>) Section  
20 21.272. Where, as here, every firm with a filed case has had an opportunity to participate in the  
21 creation of the leadership structure and have representation in some capacity in the litigation, the  
22 Court should defer to the self-order concept. *Id.* Indeed, as long as the proposal for leadership is  
23 fair, proposes qualified class counsel, has opportunities for representation for all firms and no  
24 ‘side deals’ have been reached to achieve the goal of self ordering, then the efforts of plaintiffs  
25 counsel to coordinate amongst themselves is something that is to be encouraged. *Id.* at § 10.22.  
26 In this case, no ‘promises’ or undisclosed deals have been reached with respect to the  
27 prosecution of the case or ‘horse trading’ for positions, then the self ordering should be given  
28 significant deference. In this situation, it was not simply a “majority” wins, but instead, a

1 proposal that allowed all four cases to be represented, with all firms agreeing to the one lead  
2 counsel concept, with the exception of the one firm that refused to cede its ambitions for the  
3 benefit of the Class.

4 Attorneys appointed to serve as interim class counsel “must fairly and adequately  
5 represent the interests of the class.” Fed. R. Civ. P. 23(g)(4). Deciding which counsel best  
6 meets this test requires that the Court consider: (i) the work counsel has done in identifying or  
7 investigating potential claims in the action, (ii) counsel’s experience in handling class actions,  
8 other complex litigation, and claims of the type asserted in the action, (iii) counsel’s knowledge  
9 of the applicable law, and (iv) the resources counsel will commit to representing the class. Fed.  
10 R. Civ. P. 23(g)(1)(A); *see also* Advisory Committee Notes to the 2003 Amendments,  
11 Subdivision (g). All factors should be considered by the Court. *See* Advisory Committee Notes  
12 to the 2003 Amendments to Fed. R. Civ. P. 23(c)(2)(B). Additionally, the Court may “consider  
13 any other matter pertinent to counsel’s ability to fairly and adequately represent the interests of  
14 the class.” Fed. R. Civ. P. 23(g)(1)(B). In this regard, courts evaluate whether proposed interim  
15 class counsel have worked cooperatively with opposing counsel and the court, and whether  
16 counsel commands the respect of colleagues. *See Manual* § 10.224.

17 **A. KAMBERLAW HAS THE NEAR-UNANIMOUS SUPPORT OF THE**  
18 **PLAINTIFFS AND THEIR COUNSEL FOR APPOINTMENT AS**  
19 **INTERIM LEAD COUNSEL.**

20 The proposed leadership of KamberLaw has the support of the majority of  
21 plaintiffs’ counsel. Each of the firms of the proposed Executive Committee (and the Milberg  
22 firm) had expressed an interest in serving as a colead counsel with KamberLaw. Nonetheless,  
23 with the exception of one firm, all of the firms readily agreed that the case would be best  
24 litigated with one lead class counsel and a representative committee structure. Plaintiffs’ counsel  
25 recognize that appointing KamberLaw as lead, with the other firms appointed as members of an  
26 Executive Committee, provides the best option for prosecuting this Action in an efficient and  
27 skilled manner. (Kamber Decl. at ¶¶ 25-31). Everyone on the plaintiffs leadership call  
28 essentially recognized that KamberLaw has demonstrated its leadership ability in numerous  
technology and privacy actions and that the class would be best served with the appointment of

1 that firm as lead class counsel. *Id.* All the firms that support this structure also trust that  
2 KamberLaw will allow members of the Executive Committee the opportunity to contribute to the  
3 case in an equitable manner. *Id.*

4 **B. KAMBERLAW'S UNDERSTANDING OF THE RELEVANT**  
5 **TECHNOLOGY ISSUES, AND LITIGATION STRATEGY BEST**  
6 **SATISFY THE STANDARDS OF RULE 23(g)(1)(A) GOVERNING THE**  
7 **APPOINTMENT OF INTERIM CLASS COUNSEL.**

8 The factors set forth under Rule 23(g)(1)(A)(i) – (iv), as well as other considerations,  
9 namely, KamberLaw's past experience and in depth understanding of the relevant technology  
10 issues, favor its appointment as interim class counsel. Given the nature of the case, KamberLaw  
11 offers an enhanced understanding of the legal claims and knowledge of the applicable law.  
12 Moreover, KamberLaw has performed extensive work identifying and investigating the relevant  
13 claims, was the first to file an action, was responsible for the drafting, building consensus and  
14 submission of the proposed consolidation and case management order and is prepared to commit  
15 whatever resources are necessary to protect the interests of the putative class. Further, by  
16 building near unanimous support of plaintiffs and their counsels, KamberLaw has demonstrated  
17 that it is well-respected by its peers and has the ability to work well and build consensus, skills of  
18 paramount importance to the successful and efficient litigation on behalf of the Class.

19 **1. KamberLaw and the Firms of the Executive Committee Have a**  
20 **Demonstrably Superior Understanding of the Complex Technology**  
21 **Issues at the Heart of these Cases.**

22 **a. *The Class Action and Technology Experience of KamberLaw***

23 Of the considerations set forth in Rule 23(g)(1)(A), perhaps the most important in this  
24 case are found in subsections (ii) and (iii): counsel's experience in handling class actions, other  
25 complex litigation, and claims of the type asserted in the action, and counsel's knowledge of the  
26 applicable law, respectively. KamberLaw enjoys a superior expertise regarding the relevant  
27 legal and technology issues and led by Scott A. Kamber, KamberLaw has extensive experience  
28 litigating high profile technology and privacy cases. (Kamber Decl. ¶¶ 4-7).

KamberLaw has served as lead counsel in numerous high-profile cases before this Court.  
United States District Judge Richard Seeborg recently observed, "The attorneys of KamberLaw

1 have made a showing that they possess experience and expertise in the areas of consumer  
2 privacy and technology matters and have professionally represented the interests of the Class in  
3 this matter." *Lane v. Facebook*, Findings of Fact, Conclusions of Law, and Order Approving  
4 Settlement (Case No. C09-104 RAJ, Dkt. 123, Mar. 17, 2010). In prior class action cases like  
5 this instant Action, KamberLaw has a proven track record in obtaining particularly favorable  
6 results. Kamber Decl, Exhibit A-1. In several high profile cases, KamberLaw secured very  
7 successful early settlements that were promptly approved by the Court. (*Id.*) Even before  
8 founding KamberLaw, Mr. Kamber had litigated legal claims of first impression that have  
9 required fresh approaches to litigation and resolution such as *Wormley v. Geocities* (believed to  
10 be one of the earliest internet privacy cases to reach class resolution almost ten years ago and *In*  
11 *re ATI Tech HDCP Litig.* (one of the first cases to address the interpretation of standards for high  
12 definition in computers as presented in advertisements) (Kamber Decl., Ex. A-1).

13 KamberLaw also has the in-house technological background necessary to lead the instant  
14 litigation, and its attorneys have extensive experience in the areas of technology from both the  
15 public and private sectors as well as law firms and in-house corporate experience. For example,  
16 Mr. Stampley, a former New York Assistant Attorney General, has substantial experience in  
17 security and privacy compliance, and brings a unique perspective to the prosecution of the  
18 instant action. While working in the Office of the Attorney General of New York State, Mr.  
19 Stampley litigated numerous landmark Internet privacy and security consumer protection cases.  
20 (Kamber Decl., Ex. A-1). These prosecutions required Mr. Stampley to successfully coordinate  
21 with other state attorneys general, the Federal Trade Commission, and served as liaison to  
22 industry and consumer advocacy organizations. (Kamber Decl., ¶ 11, Ex. A-1). He personally  
23 conducted investigations, discovery, litigation, and settlement negotiations that required creative  
24 research and a thorough understanding of Internet technologies and standards in the context of e-  
25 commerce business models. (Kamber Decl. ¶¶ 11-13, Ex. A-1).

26 The KamberLaw attorneys have also advised clients on managing, mitigating, and  
27 remediating compliance risk associated with information security and privacy practices in the  
28 context of e-commerce businesses and major corporate information technology programs.

1 (Kamber Decl., ¶15). They have also developed Internet applications, performed information  
2 security audits and have been responsible for defining and reviewing the criteria and terms of  
3 engagement for application code audit and information security audit engagements. And been  
4 invited to speak and quoted by privacy commissioners and other senior privacy officials in the  
5 United States and abroad. (Kamber Decl. ¶ 15).

6  
7 c. *The Proposed Members of Executive Committee will serve the*  
8 *class and provide additional support and resources to the*  
9 *litigation*

10 Proposed executive committee member Lockridge Grindal Nauen P.L.L.P. has been  
11 continuously active in class action and other complex litigation since its founding in 1978.  
12 Lockridge Grindal Nauen P.L.L.P. has extensive experience in antitrust, securities,  
13 environmental, employment, health care, commercial, intellectual property and  
14 telecommunications law. The firm's clients include agri-businesses, business enterprises, banks,  
15 local governments, trade and industry associations, real estate developers, telecommunications  
16 providers, health care professionals, casualty insurers, publishers and authors, and a major  
17 computer manufacturer and retailer. Robert K. Shelquist has tried to class actions to verdict and  
18 has been appointed to lead, executive committee, and PSC positions in a number of cases

19 Jeremy Wilson is a founding partner of Wilson Trosclair Lovins, PLLC and well-versed  
20 in the area of internet privacy and technology. Based out of Dallas, Texas, Mr. Wilson has built  
21 a nationwide practice in the area of class actions. Most recently, Mr. Wilson served as co-lead  
22 counsel in a phone application privacy case involving the Ringleader ad network, a settlement of  
23 this matter is pending before the Southern District of New York. See Declaration of Jeremy  
24 Wilson and attached firm resume.

25  
26 Finally, William M. Audet, founding partner of Audet & Partners, llp, a San Francisco  
27 Bay Area law firm, has the expertise, resources, experience and qualifications to serve as  
28 plaintiffs liaison counsel. See Declaration of William M Audet (and attached CV and resume).

1 As noted in his firm's resume, Audet & Partners, LLP has been appointed to leadership positions  
2 in California state and federal courts, and in other courts through-out the United States. Mr.  
3 Audet was admitted to the California state bar over 25 years ago and has long standing ties to the  
4 San Francisco Bay Area legal community and is familiar with the Local Rules of this Court  
5 based on his many years of litigation (and two years of clerking for two different federal judges)  
6 in this District.  
7

8 **2. KamberLaw's Expertise in Technology Cases Allows it to Tailor a**  
9 **Litigation Strategy to Meet the Complexities Presented by the**  
10 **instant litigation in a Collaborative Manner.**

11 KamberLaw offers leadership tailored to the issues most pressing in the litigation.  
12 (Kamber Decl. ¶ 24). For example, as mentioned above, technology lawsuits have a different  
13 focus from other major class action litigation. Whereas in antitrust, securities, and mass tort  
14 cases the principal objective is to obtain money damages on behalf of a group of aggrieved  
15 companies or investors, the thrust of a technology lawsuit like this case is to achieve a  
16 meaningful solution to the Defendant's offending business practices. (Kamber Decl. ¶ 24). As a  
17 result, in this case, each day that passes without a confirmed reform of Apple's conduct marks  
18 another day the putative class is subjected to its offending conduct. (Kamber Decl. ¶ 24).  
19 KamberLaw understands and appreciates that protecting the putative class here requires a  
20 mechanism through which it can be assured that Apple has ceased improperly collecting the class  
21 members' personal information and that such conduct, to the extent already cured, will not  
22 resume in the future. (Kamber Decl. ¶ 24).

23 Likewise, KamberLaw's lawyers have the expertise to ensure that the discovery process  
24 is managed in a meaningful and efficient manner. (Kamber Decl. ¶¶ 12, 13, 19). KamberLaw's  
25 attorneys have shown they understand the need to evaluate the computer code used in the  
26 collection of personal information, the process Apple uses in its UDID application, and to  
27 analyze the development protocols and processes that Apple used. (Kamber Decl. ¶ 22).

28 Building upon their specialized focus on technology cases in the consumer context,  
KamberLaw has the ability to work with the firms of the proposed Executive Committee to

1 formulate a litigation strategy aimed at bringing about the necessary revisions to Apple's  
2 business practices without delay. (Kamber Decl. ¶¶ 16-24). KamberLaw has worked  
3 successfully with the proposed Executive Committee on resolving other technology disputes, and  
4 is familiar with each committee members's work in class actions and other areas of law..  
5 KamberLaw, if appointed Interim Class Counsel, will remain committed to including other  
6 plaintiffs' counsel in substantive roles, as necessary, while minimizing duplicative work.

7 **3. KamberLaw's Attorneys Satisfy the Considerations of Rule**  
8 **23(g)(1)(A).**

9 Rule 23(g)(1)(A)(i) and (iv) requires the Court to also consider the work counsel has  
10 done in identifying or investigating potential claims in the action and the resources counsel will  
11 commit to representing the class. KamberLaw has done significant work to identify and  
12 investigate the claims in this litigation.

13 While no one case has advanced substantively in this litigation, KamberLaw has sought  
14 to evaluate the claims made in each of the cases filed to date and to prepare for the potential  
15 hurdles to recovery faced by the putative class. (Kamber Decl. ¶¶ 16-24). KamberLaw's  
16 lawyers have done significant research into the defenses Apple is likely to raise. *Id.* Using that  
17 legal and factual research in conjunction with the public information available, KamberLaw has  
18 vetted the claims already made in the various actions, and is prepared to begin work on a master  
19 consolidated complaint. (Kamber Decl. ¶ 22).

20 Further, KamberLaw's efforts included expert forensic analysis of devices and the data  
21 flows involved in this matter. In addition, KamberLaw has invested significant resources in  
22 developing the expert resources necessary to demonstrate and quantify the economic value to  
23 consumers of their personal information at issue in these cases. Based on these preliminary and  
24 ongoing investigative efforts, KamberLaw has acquired valuable information in the nature of  
25 confirmatory discovery that, as in all our cases, positions us to engage in assertive litigation with  
26 an economy of discovery effort or, on the other hand, well-informed mediation. (Kamber Decl. ¶  
27 22).

28 Scott Kamber personally contacted plaintiffs' counsel in each of the three subsequently  
filed actions shortly after their respective filing and service of their complaints in order to



1 informally coordinate efforts prior to the determination of leadership. To that end, Kamber  
2 personally coordinated communications with defendants, including discussions regarding  
3 extensions of time to respond to the complaints. These efforts served the efficient administration  
4 of justice by not requiring responses from any defendant to the outstanding four complaints. .  
5 (Kamber Decl. ¶¶ 25-26). KamberLaw also suggested to other counsel and then prepared the  
6 initial draft of the consolidation and case management order that was eventually entered by the  
7 Court on March 15, 2011. KamberLaw obtained consent of all plaintiffs counsel to the language  
8 and then worked to shepherd the documents through all the defendants that had been served in  
9 any of the three actions. KamberLaw was able to accomplish this without duplication of efforts  
10 by the different plaintiffs' firms. The entry of this Order we believe sets forth the operative  
11 timeframe to take the case through the pleadings phase and also insure the timely  
12 recommendation of Interim Class Counsel by requiring all Plaintiffs' counsel to seek to self-  
13 organize and put forward a single recommendation for Interim Class Counsel. *Id.*

14 Further demonstrating the importance of efficiency to KamberLaw, after the Courts'  
15 entry of the March 15, 2011 Order, KamberLaw engaged in extensive discussions with the  
16 proposed members of the Executive Committee as to threshold issues regarding the consolidated  
17 amended complaint so that if the Court follows the recommendation submitted herewith, the  
18 plaintiffs will be able to comply with the dates for filing ordered by the Court. Each of the firms  
19 that support KamberLaw's appointment has acceded voluntarily to its efforts to coordinate prior  
20 to appointment of lead to limit the duplication of efforts. (Kamber Decl. ¶ 22). If appointed by  
21 this Court as lead counsel, KamberLaw will continue to commit the resources necessary to  
22 advance this litigation and obtain relief for the putative class and assign work equitably among  
23 all plaintiffs counsel and in a manner that maximizes litigation advantages at the lowest possible  
24 cost. Thus, KamberLaw meets the requirements of Rule 23(g)(1)(A)(i).

25 Likewise, KamberLaw will continue to commit significant resources to advancing this  
26 litigation and obtaining effective relief for the putative class in satisfaction of Rule  
27 23(g)(1)(A)(iv). (Kamber Decl. ¶ 19). KamberLaw has already demonstrated a willingness to  
28 expend the resources to properly prosecute these actions and represent the interests of the

1 putative class, including working with experts in investigating the technology issues. (Kamber  
2 Decl. ¶ 19). As evidenced by their history of successful casework, KamberLaw is prepared to  
3 devote the resources necessary to advance this litigation through all phases—motion practice,  
4 discovery, class certification, and trial. More importantly, KamberLaw has the experience  
5 required to strategically implement those resources in an efficient manner that maximizes the  
6 likelihood of recovery for the class.

7           Accordingly, KamberLaw meets each of the requirements of Rule 23(g)(1)(A). Above  
8 and beyond those considerations, KamberLaw has developed and presented a litigation strategy  
9 designed to reduce costs while maximizing efficiencies. As a consequence, this Court should  
10 appoint KamberLaw as interim class counsel.

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1 **III. CONCLUSION**

2 In this case, KamberLaw has demonstrated that it is best equipped to serve as lead  
3 counsel in this litigation with the assistance of the proposed Executive Committee of and  
4 Lockridge Grindal Nauen and Wilson Trosclair Lovins.. KamberLaw has substantial and  
5 substantive knowledge and experience and the support of the majority of plaintiffs and plaintiffs'  
6 counsel. KamberLaw's attorneys understand the relevant technology implications and have the  
7 resources to see the case through to a successful resolution in a more efficient manner. By  
8 building the support of 16 of the 17 plaintiffs and their counsels, KamberLaw has further shown  
9 that it is well-respected by its peers and has the ability to work well and build consensus, skills of  
10 paramount importance to the successful and efficient litigation on behalf of the Class.

11 For the foregoing reasons, the Movants respectfully submits that the Court appoint Scott  
12 Kamber of KamberLaw, LLC as interim class counsel under FRCP 23(g) on behalf of the  
13 proposed class.

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15 Date: March 25, 2011

Respectfully submitted,

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1 **CERTIFICATE OF SERVICE**

2 I, David Stampley, an attorney, hereby certify that on March 25, 2011, I caused the above  
3 ***iPhone Plaintiffs' Group Notice of Motion and Motion for Approval of the Recommendation***  
4 ***of Lead Class Counsel***, by causing true and accurate copies of such documents to be  
5 electronically filed and transmitted to counsel of record through the Court's CM/ECF electronic  
6 filing system.

7  
8 Dated: March 25, 2011

KAMBERLAW, LLC

9  
10 By: s/David Stampley  
11 One of the attorneys for plaintiffs and  
12 proposed interim class counsel  
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