

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JOSE TRUJILLO, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

APPLE COMPUTER, INC., a California
corporation and AT&T MOBILITY LLC, a
Georgia corporation,

Defendants.

CASE NO.: 07-CV-04946

Judge Kennelly

**DECLARATION OF LANCE KUNNUTH IN SUPPORT OF APPLE'S MOTION FOR
SUMMARY JUDGMENT**

I, Lance Kunnuth, declare as follows:

1. I am employed by Apple Inc ("Apple"). In that capacity, my responsibilities include AppleCare web content and design for the iPhone. I make this declaration in support of Apple's Motion for Summary Judgment in the above-captioned matter. I have personal knowledge of the facts stated in this declaration and I could and would testify competently to them if called upon to do so.

2. Support pages were uploaded to the Apple website for the iPhone on June 29, 2007. Specifically, both www.apple.com/support/iphone/service/battery and www.apple.com/support/iphone/service/faq were uploaded and accessible to the public on Apple's website from June 29, 2007 to the present.

3. The webpage www.apple.com/support/iphone/service/battery contains Frequently Asked Questions (FAQ) regarding the iPhone Out-of-Warranty Battery Replacement Program, including the following information:

What is the iPhone Battery Replacement Program?

If your iPhone requires service only because the battery's ability to hold an electrical charge has diminished, Apple will repair your iPhone for a service fee of \$79, plus \$6.95 shipping. . . .

How much does it cost to participate in the program?

The program costs \$79, plus \$6.95 shipping. The program cost is \$85.95 per unit. All fees are in US dollars and subject to local tax. . . . Please review Apple's Repair Terms and Conditions for further details.

Will the data on my iPhone be preserved?

No, the repair process will clear all data from your iPhone. It is important to sync your iPhone with iTunes to back up your contacts, photos, email account settings, text messages, and more. Apple is not responsible for the loss of information while servicing your iPhone and does not offer any data transfer service. . . .

How long will service take?

The repair process normally takes three business days. See the iPhone Service FAQ for information about getting an AppleCare Service Phone for you to use with all of your data while your iPhone is being repaired.

4. A true and correct copy of this webpage as it existed on the date of this declaration is attached hereto as Exhibit A. While the formatting of this page may have been modified since it was originally uploaded on June 29, 2007, the above-quoted text in paragraph 3 has been included at all times.

5. The webpage www.apple.com/support/iphone/service/faq contains answers to Frequently Asked Questions (FAQ) about the iPhone repair process and the iPhone warranty, as well as questions about AppleCare Service Phones. From the time it was originally uploaded on June 29, 2007, until November 2007, this Service FAQ disclosed the availability and cost of AppleCare Service Phones as follows:

If I need to have my iPhone repaired, will I be able to borrow an iPhone to use?

Apple can provide an AppleCare Service Phone for you to use with all of your data while your iPhone is being repaired. The service fee for the AppleCare Service phone is \$29. For more details please review the iPhone Rental Terms and Conditions.

6. While the precise wording of the Service FAQ was changed in November 2007, it has at all times disclosed the availability and \$29 cost of AppleCare Service Phones for rental while a customer's unit is being repaired. A true and correct copy of this webpage as it existed on the date of this declaration is attached hereto as Exhibit B.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed at Cupertino, California on December 7, 2007.

/s/ Lance Kunnuth

Lance Kunnuth