

**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](http://www.apple.com/support/iphone/service/battery) and [www.apple.com/support/iphone/service/faq](http://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](http://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](http://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

## Declaration of Lance Kunnuth

### Exhibit A

# iPhone Out-of-Warranty Battery Replacement Program Frequently Asked Questions

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### 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. Be sure to follow these instructions for optimizing life span and battery life before submitting your iPhone for battery replacement.

### 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 are subject to local tax. Service may not be available if your iPhone has been damaged due to accident or abuse. 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. Please do not send any accessories with your iPhone.

### 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.

All quoted prices are in US dollars.

**Support**

Visit the Apple Store online (1-800-MY-APPLE), visit a retail location or find a reseller.

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Declaration of Lance Kunnuth

Exhibit B

iPhone Search Tips

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iPhone Bluetooth Headset

iTunes

iTunes Store

# iPhone Service: Frequently Asked Questions

## Repair

1. How can I tell if my iPhone needs service?
2. How do I get my iPhone serviced?
3. Can I get my iPhone serviced outside the U.S?
4. How long will my iPhone service take?
5. Will the data on my iPhone be preserved?
6. How do I check the status of my iPhone service request?

## Warranty

1. How long is my iPhone covered by Apple's warranty?
2. How can I tell if my iPhone is in-warranty?
3. How much will my in-warranty service be?
4. What kind of activities will void my warranty?
5. Can I extend service coverage on my iPhone beyond the warranty?
6. Does Apple warranty cover my iPhone service?
7. My iPhone warranty has expired. What are my service options?

## AppleCare Service Phone

1. I'm concerned about not having a phone while my iPhone is being repaired. What are my options?
2. What are the charges and fees related to the AppleCare Service Phone?
3. Can the service phone be sent to me?
4. Will I be given an iPhone as the AppleCare Service Phone or will I be given a different type of phone?
5. I just sent the AppleCare Service Phone to Apple and forgot to transfer the SIM card back to my repaired iPhone. I need a SIM card for my iPhone. What do I do?
6. I just returned the AppleCare Service Phone to Apple and forgot to transfer the SIM card back to my repaired iPhone. I need a SIM card for my iPhone. What do I do?
7. Will I be able to load my content from my iPhone to the AppleCare Service Phone?
8. Can I move my new and updated contacts and content from the AppleCare Service Phone to my iPhone?
9. Will I have to activate my AppleCare Service Phone?
10. I have an 8 GB iPhone. Will my AppleCare Service Phone also be an 8 GB model?
11. My AppleCare Service Phone was misplaced or damaged. What do I do?
12. How long may I rent the AppleCare Service Phone? What if I don't return my AppleCare Service Phone on-time?
13. What if I return my AppleCare Service Phone late?
14. Can I return the AppleCare Service Phone to an Apple Store or AT&T store after I am notified that my iPhone has been repaired?

## Accessories

1. One of my iPhone accessories isn't working. Can I order a replacement?

### 1. How can I tell if my iPhone needs service?

Visit our iPhone support site for helpful troubleshooting information. If you have reviewed the articles on the website and you're still not sure whether your iPhone requires service, you can contact Apple technical support or take your iPhone to your local Apple retail store for diagnosis. **Note:** There may be a fee for diagnostic service.

### 2. How do I get my iPhone serviced?

Take your iPhone to an Apple retail store near you or contact Apple technical support.

### 3. Can I get my iPhone serviced outside the U.S.?

No, service for eligible repairs is only available in the United States of America.

### 4. How long will my iPhone service take?

The repair process normally takes three business days.

### 5. 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. Please do not send any accessories with your iPhone.

### 6. How do I check the status of my iPhone service request?

You can check the status of your iPhone service at any time on our easy service status website.

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### 1. How long is my iPhone covered by Apple's warranty?

Apple's Limited Warranty for iPhone covers your iPhone for one year. Warranty service for eligible repairs is available at no charge for twelve months from the date of original retail purchase ("date of purchase").

### 2. How can I tell if my iPhone is in-warranty?

Apple's Limited Warranty for iPhone covers your iPhone for one year from the date of original purchase. Apple's Limited Warranty begins on the date that the iPhone was originally purchased. To determine your warranty coverage, enter the serial number of your iPhone in the "About Your Support Coverage" section on the Apple Support site. Apple may need to examine your proof of purchase document to verify your iPhone's warranty status. **Note:** Warranty starts on the date of purchase.

### 3. How much will my in-warranty service be?

Warranty service for eligible repairs is available at no charge for twelve months from the date of purchase. After you return your defective iPhone, Apple will examine the iPhone to confirm that the failure is covered by Applewarranty.

### 4. What kind of activities will void my warranty?

Apple's Limited Warranty for iPhone excludes coverage for damage resulting from accident, unauthorized service and unauthorized modifications. Please review the warranty for further details.



Apple reserves the right to refuse service on iPhones that are outside their warranty period if damage has occurred due to accident, abuse, misuse or unauthorized modifications. In such event, Apple will return your original iPhone to you without performing service, and may hold you responsible for diagnostic fees. See Apple's Repair Terms and Conditions for details.

**5. Can I extend service coverage on my iPhone beyond the warranty?**

The AppleCare Protection Plan for iPhone will extend the hardware repair coverage to up to two years from the original purchase date of the iPhone. The AppleCare Protection Plan for iPhone must be purchased while the iPhone is covered under Apple's One-Year Limited Warranty for iPhone.

**6. Does Apple warranty cover my iPhone service?**

If Apple provides service under warranty, the terms of the warranty and applicable provisions of law will cover defects in materials and workmanship that arise during the warranty or 90 days after iPhone service, which ever provides longer coverage for you. If iPhone service is provided outside of warranty, Apple warrants that the repaired iPhone will be free from defects in material and workmanship for ninety (90) days from the date of the iPhone service.

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**7. My iPhone warranty has expired. What are my service options?**

Apple offers two service options for iPhones that are no longer within warranty. If your iPhone requires service only because the battery's ability to hold an electrical charge has diminished, Apple will replace your battery for a service fee of \$79, plus \$6.95 shipping and handling.

If you own an iPhone and it requires service for any other reason, Apple will repair your iPhone for the service fee listed below, plus \$6.95 for shipping and handling.

Model Type	Price
4GB	\$199
8GB	\$249

All fees are in US dollars and are subject to local tax. Service may not be available if your iPhone has been damaged due to accident or abuse. Please see Apple's Repair Terms and Conditions for further details.

**1. I'm concerned about not having a phone while my iPhone is being repaired. What are my options?**

You have three options to minimize the impact of not having a phone while your iPhone is being repaired:

1. You can make an appointment with a Mac Genius at an Apple Store. If the Mac Genius determines that the iPhone has a hardware issue requiring service, you will receive an immediate replacement.
2. If you have another GSM cell phone available, you can put the SIM card into your other phone and use the other phone until their iPhone is repaired or replaced.
3. Apple can provide an AppleCare Service Phone while your iPhone is being repaired. The rental charge for the AppleCare Service phone is \$29. For more details please review the iPhone Rental Terms And Conditions.

**2. What are the charges and fees related to the AppleCare Service Phone?**

Rental Charge	\$29 + applicable taxes	Customer will prepay Apple for rental of the AppleCare Service Phone
Equipment Replacement Value	\$399 + applicable taxes	A reserve against the Customer's credit card equal to this value will be taken and will be applied against any damage to or loss of the AppleCare Service Phone or other payments due Apple.
Late Rental Fee	\$50	Additional rental fee that will be incurred if the customer returns the AppleCare Service phone after the end of the rental period and is received by Apple within ten (10) days after the end of the Rental Period.

**3. Can the service phone be sent to me?**  
 AppleCare Service phones are available to customers via Apple technical support at the time service is being arranged.

**4. Will I be given an iPhone as the AppleCare Service Phone or will I be given a different type of phone?**  
 AppleCare Service Phones are iPhones, so you can enjoy the use of an iPhone with all of your data while your iPhone is being repaired.

**5. I just sent my iPhone to Apple for repair and forgot to transfer the SIM card to the AppleCare Service Phone. What do I do?**  
 Please contact your local AT&T store to obtain a new SIM card. As Apple cannot guarantee that your SIM will be returned from the repair center, please explain to the AT&T representative that you lost your SIM card. The AT&T representative can transfer the proper account information to a new SIM card that you can use in your AppleCare Service Phone and then put back into your phone once it's returned from being repaired.

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**6. I just returned the AppleCare Service Phone to Apple and forgot to transfer the SIM card back to my repaired iPhone. I need a SIM card for my iPhone. What do I do?**  
 Please contact AT&T to obtain a new SIM card as Apple cannot return a SIM card that has been left in an AppleCare Service Phone. Please explain to the AT&T representative that you lost your SIM card. The AT&T representative can transfer the proper account information to a new SIM card that you can use in your iPhone.

**7. Will I be able to load my content from my iPhone to the AppleCare Service Phone?**  
Yes, simply sync your AppleCare Service Phone with your computer using iTunes. All of the data that you synced from your iPhone to iTunes will now sync to the service phone for you to use.

**8. Can I move my new and updated contacts and content from the AppleCare Service Phone to my iPhone?** Yes, simply sync your repaired iPhone with your computer using iTunes. Any data that you synced from your service phone to iTunes will now sync with your newly repaired iPhone.

**9. Will I have to activate my AppleCare Service Phone?**  
No, there is no need to activate the AppleCare Service Phone. Simply transfer the SIM card from your iPhone to the AppleCare Service Phone and you will be able to make and receive calls. Then connect it to iTunes to sync your info, ringtones, music, photos, podcasts, and videos to the service phone.

**10. I have an 8 GB iPhone. Will my AppleCare Service Phone also be an 8 GB model?**  
Yes, Apple will issue you an 8GB model.

**11. My AppleCare Service Phone was misplaced or damaged. What do I do?**  
Please refer to Apple's iPhone Rental Terms And Conditions.

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**12. How long may I rent the AppleCare Service Phone? What if I don't return my AppleCare Service Phone on-time?**

If you arranged to receive the AppleCare Service Phone through an Apple Retail Store, the Rental Period ends five (5) days after the Apple Retail Store notifies you that your serviced iPhone is ready for pickup. You must deliver the AppleCare Service Phone to the Apple Retail Store before the Rental Period ends to avoid incurring a non-return charge of \$399 dollars, plus applicable taxes ("Equipment Replacement Value"). If you fail to deliver before the end of the Rental Period, but deliver within ten (10) days thereafter, Apple will retain \$50 as an additional rental charge and the remainder of the Equipment Replacement Value will be credited to your credit card.

If you arranged to receive the AppleCare Service Phone through an Apple Contact Center, the Rental Period ends seven (7) days after shipment by Apple to you of your serviced iPhone, or if you fail to deliver your iPhone to Apple for Service, the Rental Period ends ten (10) days after shipment by Apple to you of the AppleCare Service Phone. You must ship the AppleCare Service Phone in the packaging provided so that Apple receives it before the Rental Period ends to avoid incurring the Equipment Replacement Value charge. If you fail to deliver before the end of the Rental Period, but deliver within ten (10) days thereafter, Apple will retain \$50 as an additional rental charge and the remainder of the Equipment Replacement Value will be credited to your credit card.

**13. What if I return my AppleCare Service Phone late?**

If you return the AppleCare Service Phone late, you may incur a late rental fee as additional rental. Please refer to the [iPhone Rental Terms And Conditions](#).

 **Support**

Visit the Apple Store online or with an Apple Retail Store to purchase a new iPhone or iPod touch.

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**14. Can I return the AppleCare Service Phone to an Apple Store or AT&T store after I am notified that my iPhone has been repaired?**  
If you received your AppleCare Service Phone by mail, you will return the service phone to Apple in the same box in which you receive your repaired iPhone. Simply follow the instructions provided in the box to return the service phone to Apple.

If you took your iPhone to an Apple Store location for repair and received your AppleCare Service Phone at the Apple Store, you may exchange the service phone for your repaired iPhone at the Apple Store.

AT&T stores do not accept the return of AppleCare Service Phones.

**1. One of my iPhone accessories isn't working. Can I order a replacement?**  
Yes. Please visit the Apple Store to find the accessory that you need.

All quoted prices are in US dollars.

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