

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

AVI KOSCHITZKI, on Behalf of Himself and all  
Others Similarly Situated

Plaintiff,

- against -

APPLE INC. and AT&T MOBILITY LLC,

Defendants.

Civil Action No. 08 Civ. 4451 (JBW) (VVP)

**DECLARATION OF JAMIE A. LEVITT  
IN SUPPORT OF DEFENDANT APPLE  
INC.'S MOTION TO DISMISS**

I, Jamie A. Levitt, hereby declare, pursuant to 28 U.S.C. 1746:

1. I am an attorney admitted to practice in the State of New York and before this Court, and Partner of the law firm of Morrison & Foerster LLP.

2. I submit this declaration in support of Defendant Apple Inc.'s Motion to Dismiss.

3. Attached as Exhibit A hereto is a true and correct copy of Apple's One (1) Year Limited Warranty as well as the Important Product Information Guide included in iPhone 3G boxes, which incorporates the terms of Apple's One (1) Year Limited Warranty.

4. Attached as Exhibit B hereto is a true and correct copy of the Amended Complaint, dated August 25, 2008 in *Smith v. Apple Inc.*, Case No. CV-08-AR-1498-S (Northern District of Alabama) and Memorandum Opinion and Order Granting In Part Defendant's Motion to Dismiss, dated November 4, 2008.

5. Attached as Exhibit C hereto is a true and correct copy of the Amended Complaint in *Koschitzki v. Apple Inc. and AT&T Mobility LLC*, Case No. 08 Civ. 4451 (JBW)

(VVP), filed by Plaintiff Avi Koschitzki (“Koschitzki”) on November 12, 2008 in the United States District Court of the Eastern District of New York.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 24<sup>th</sup> day of November, 2008, in New York, New York.

/s/ Jamie A. Levitt  
Jamie A. Levitt