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10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF SAN DIEGO**

12 ANTHONY SHAMRELL, DARYL
13 RYSDYK, and JEFFREY MUSE,
14 Individually and on Behalf of All Others
15 Similarly Situated,

16 Plaintiffs,

17 v.

18 APPLE, INC.,

19 Defendant.

Case No.: 37-2013-00055830-CU-PL-CTL

Class Action

Fourth Amended Class Action Complaint

Jury Trial Demanded

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22 [REDACTED VERSION]
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1 Plaintiffs Anthony Shamrell, Daryl Rysdyk, and Jeffrey Muse, individually and on behalf
2 of all others similarly situated, by their undersigned counsel, allege the following upon personal
3 knowledge as to their own acts and upon information and belief as to all other matters, which
4 allegations are likely to have evidentiary support after the opportunity for further investigation
5 and discovery.

6 **NATURE OF THE ACTION**

7 1. Plaintiffs bring this action against defendant Apple Inc. on behalf of all California
8 citizens who purchased one or more iPhone 4, 4S or 5 smartphones from Apple or a third-party
9 retailer, from June 24, 2010 to the present, and whose sleep/wake (power) button stopped
10 working or worked intermittently.

11 2. A defect in the iPhone 4, 4S and 5 smartphones causes the power button on the
12 phones, which Apple calls the sleep/wake button, to become inoperable or stuck, rendering the
13 phones unsuitable and unfit for their intended use and purpose (“the power button defect”).

14 3. [REDACTED]
15 [REDACTED]

16 4. The iPhone is immensely important to Apple. The iPhone is Apple’s most popular
17 product and accounts for more than half of Apple’s reported profits. Apple chose to launch these
18 iPhones, despite knowing the devices contained power buttons that would malfunction at higher
19 than normal rates. Instead of ensuring the defect was identified and repaired prior to launch,
20 Apple released these expensive phones to unsuspecting California consumers.

21 5. Plaintiffs and Class Members suffered injury in fact and a loss of money or
22 property from Apple’s conduct in designing, manufacturing, and selling defective iPhone 4, 4S
23 and 5 smartphones.

24 **THE PARTIES**

25 6. Plaintiff Anthony Shamrell is an individual and citizen of the State of California.
26 In late October 2011, Mr. Shamrell purchased a new 32GB Apple iPhone 4S for \$299.00 from a
27 third-party retailer in Moreno Valley, California. Mr. Shamrell experienced the power button
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1 defect, and his iPhone malfunctioned before the device's one-year express warranty expiration.
2 The power button defect began to manifest in Mr. Shamrell's iPhone around August 2012. Mr.
3 Shamrell's iPhone intermittently malfunctioned until its power button became completely
4 inoperable around January 2013. When the power button defect manifested, Mr. Shamrell was
5 unable to use the power button or carry out any iPhone functions that use the power button. Mr.
6 Shamrell was unaware of the power button defect before purchasing an iPhone 4S. Had Apple
7 disclosed the defect, Mr. Shamrell would not have purchased his iPhone 4S at the price he paid.
8 Mr. Shamrell provided Apple with reasonable notice of the defect and provided Apple with the
9 opportunity to cure before initiating this action. Apple refused to remedy the defect. At the time
10 of purchase Mr. Shamrell was aware the purchase of his iPhone 4S came with an express
11 warranty. Plaintiff Shamrell relied on this warranty and it formed part of the basis of the bargain
12 for his purchase.

13 7. Plaintiff Daryl Rysdyk is an individual and citizen of the State of California. On
14 December 10, 2012, Mr. Rysdyk purchased a new 64GB Apple iPhone 5 from a third-party
15 retailer in San Diego, California. Mr. Rysdyk experienced the power button defect prior to the
16 expiration of the express warranty that accompanied his iPhone 5. The power button defect
17 began to manifest intermittently beginning in late September or early October 2013 and
18 continued to manifest intermittently until the button became completely inoperable on or about
19 January 2014. When the defect manifested, Mr. Rysdyk was unable to use the power button or
20 carry out any iPhone functions that use the power button. Mr. Rysdyk was unaware of the power
21 button defect prior to his purchase of the iPhone 5. Had Apple disclosed the defect, Mr. Rysdyk
22 would not have purchased his iPhone 5. Mr. Rysdyk provided Apple with reasonable notice of
23 the defect and provided Apple with the opportunity to cure before initiating this action. Apple
24 refused to remedy the defect. At the time of purchase Mr. Rysdyk was aware the purchase of his
25 iPhone 5 came with an express warranty. Plaintiff Rysdyk relied on this warranty and it formed
26 part of the basis of the bargain for his purchase.

1 8. Plaintiff Jeffrey Muse is an individual and citizen of the State of California. Mr.
2 Muse purchased a new Apple iPhone 4 from a third-party retailer on or about October 2010. Mr.
3 Muse experienced the power button defect before the express warranty expired on his iPhone 4.
4 When the defect manifested, Mr. Muse was unable to use the power button or carry out any
5 iPhone functions that use the power button. Mr. Muse was unaware of the power button defect
6 prior to purchasing the iPhone 4. Had Apple disclosed the defect, Mr. Muse would not have
7 purchased his iPhone 4. Mr. Muse provided Apple with reasonable notice of the defect and
8 provided Apple with the opportunity to cure before initiating this action. Apple refused to
9 remedy the defect. At the time of purchase Mr. Muse was aware the purchase of his iPhone 4
10 came with an express warranty. Plaintiff Muse relied on this warranty and it formed part of the
11 basis of the bargain for his purchase.

12 9. Defendant Apple Inc. is a California corporation doing business in California and
13 throughout the United States. Apple's principal place of business is in Cupertino, California.
14 Apple designed, tested, manufactured, marketed, distributed, and sold the iPhone 4, 4S and 5
15 smartphones throughout California and the United States.

16 **JURISDICTION AND VENUE**

17 10. The Court has jurisdiction over this action under Article VI, § 10 of the California
18 Constitution and Section 410.10 of the California Code of Civil Procedure. Jurisdiction is also
19 proper under Business & Professions Code §§ 17200 *et. seq.*

20 11. Apple maintains its principal place of business in California. Jurisdiction is proper
21 because Apple purposely availed itself of the privilege of conducting business activities in
22 California and because it maintains systematic and continuous business contacts with this State,
23 and has many thousands of customers who are California citizens and who do business with
24 Apple in this State. The proposed Class is composed only of California citizens and Apple is a
25 California resident.

26 12. Venue is proper in this Court pursuant to California Code of Civil Procedure §
27 395.5 and Civil Code § 1780, in that this action arises from an offer or provision of goods
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1 intended primarily for personal use, a substantial portion of the transactions at issue in this action
2 took place in this County and Apple does substantial business in this County.

3 **FACTUAL ALLEGATIONS**

4 13. Since June 2010, Apple has marketed, distributed, and warranted iPhone 4
5 smartphones throughout California. Apple likewise has marketed, distributed and warranted
6 iPhone 4S and 5 smartphones throughout California since October 2011 and September 2012,
7 respectively.

8 14. The iPhone 4, 4S and 5 smartphones have defects that are latent and/or inherent
9 within the phone itself. As a result of defects in workmanship and/or materials, the power button
10 malfunctions and becomes completely inoperable. The power button defect existed at the time
11 the phones were sold, during the warranty period and during the useful life of such phones. The
12 existence of the power button defect was unknown to California consumers at the time of
13 purchase.

14 15. The power button defect is an inherent and/or latent defect of the iPhone 4, 4S and
15 5 smartphones that is substantially certain to result in malfunction during the useful life of the
16 phones.

17 **A. The iPhone 4, 4S and 5 Smartphones**

18 16. On or about June 24, 2010, Apple began distributing and selling the iPhone 4
19 throughout California. At that time, it was the fourth generation of Apple's popular iPhone series
20 of smartphones. On or about October 14, 2011, Apple began distributing and selling the iPhone
21 4S version of the iPhone. The iPhone 4S is Apple's fifth generation version of the iPhone.

22 17. On or about September 21, 2012, Apple began distributing and selling the iPhone
23 5 smartphone. The iPhone 5 is Apple's sixth generation version of the iPhone.

24 18. Because these are the fourth, fifth, and sixth generations of the iPhone, Apple is
25 intimately aware of the products' design and manufacturing capabilities and limitations, and thus
26 based on its manufacturing processes, design capabilities and pre-launch product testing knew of
27 the power button defect described herein.

1 **B. The power button defect in iPhone 4, 4S and 5 smartphones**

2 19. As a result of a defect in materials and/or workmanship the power button becomes
3 more and more difficult to depress and/or becomes completely inoperable. The power button
4 defect is common across the iPhone 4, 4S and 5 smartphones. The power button defect manifests
5 itself identically or substantially the same across all three of the iPhones. The internal structure
6 and construct of the power button and flex cable are identical or substantially the same in the
7 iPhone 4 and 4S. [REDACTED]

8 [REDACTED]
9 20. In many instances the power button defect manifests intermittently prior to the
10 expiration of the express warranty and then fails completely just outside the warranty period.
11 Because many people experience the defect intermittently before the expiration of the warranty,
12 these customers may not connect these intermittent problems with a defective power button,
13 these customers might not seek warranty service or repairs, allowing Apple to effectively shift
14 the cost of repairs to consumers or forcing consumers to purchase a new or refurbished iPhone.

15 21. [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 22. [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 23. [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

26 24. [REDACTED]
27 [REDACTED]

1 **C. The Power Button Defect is Material and Renders the iPhone Unmerchantable**

2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]

7 26. When the power button defect manifests rendering the power button inoperable, it
8 leaves consumers without the ability to power their phone on or off, reboot their phone, lock
9 their phone or send their phone to sleep mode—even if directed by authorized personnel to do so
10 (*i.e.*, on airplanes, in hospitals and courthouses). The defect prevents or materially inhibits
11 consumers from receiving critical software updates and can decrease battery life, which could
12 leave the user with a non-functioning cellphone. A functioning power button is essential to the
13 function of an iPhone 4, 4S and 5 smartphone.

14 27. The user manual and technical specifications for the iPhone 4, 4S and 5
15 demonstrate the critical nature of the power button. The user manual and technical specifications
16 state the power button is to be used to correct a number of malfunctions with the iPhone
17 including, when the iPhone “isn’t working right” or when an app will not close. Apple instructs
18 users to restart the iPhone by pressing and holding the power button. The power button defect
19 renders consumers unable to fix these problems leaving them with a disabled and non-
20 functioning smartphone.

21 28. The power button defect is so prevalent and widespread that many companies
22 offer replacement parts intended to repair the power button defect in the iPhone 4, 4S and 5
23 smartphones. Dozens of YouTube videos discuss the problem and offer do-it-yourself fixes.
24 Collectively, these videos have been viewed well in excess of one million times. Unfortunately,
25 the “do-it-yourself” fixes not only can void the applicable warranty, but are extremely difficult
26 (involving dozens of steps) and require various specialized tools, parts, and technical skills the
27 average California consumer cannot reasonably be expected to possess.

1 29. Neither Plaintiffs nor any other reasonable consumer would have purchased an
2 iPhone 4, 4S or 5 smartphone at the prices they did had they been aware of the power button
3 defect. Moreover, as iPhone 4, 4S and 5 smartphones are the only phones possessing this defect,
4 such phones would not pass without objection in the trade or industry.

5 **D. Apple’s Knowledge of the Power Button Defect**

6 30. [REDACTED]
7 [REDACTED]
8 [REDACTED]

9 31. [REDACTED]
10 [REDACTED]

11 [REDACTED] The EFFA is a post-market surveillance program Apple utilizes on all newly released
12 devices to monitor for any problems. This process begins immediately upon launch and calls for
13 all iPhones returned for any problem to be “captured” and returned to Apple for immediate
14 analysis.

15 **a. iPhone 4 (released June 24, 2010)**

16 32. [REDACTED]
17 [REDACTED]

18 33. [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 34. On June 24, 2010, Apple released the iPhone 4 to California consumers without a
23 solution to the power button failures and without disclosing to consumers the existence of the
24 defect.

25 35. [REDACTED]
26 [REDACTED]

1 [REDACTED]

2 after [REDACTED]

3 36. [REDACTED]

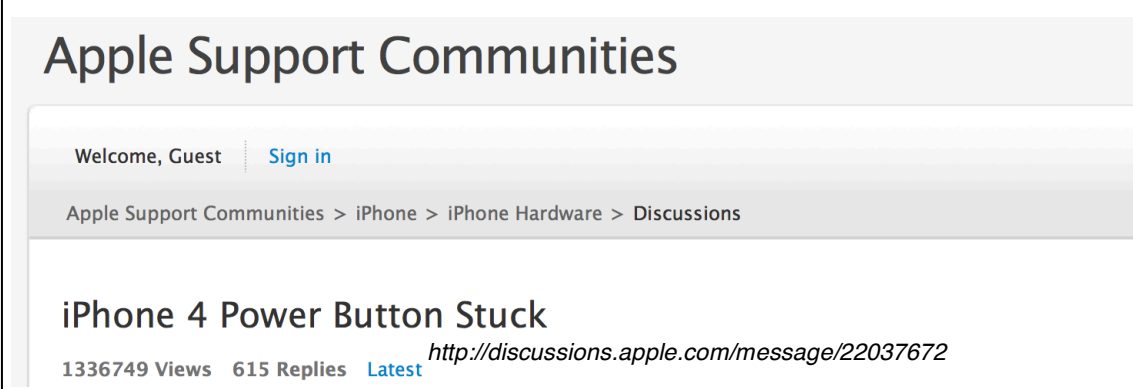
4 [REDACTED] Apple shipped it with a known defect.

5 37. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 38. Numerous threads concerning complaints from consumers about the power button
9 on their iPhone 4 appear on the forums. This includes a single thread on Apple Support
10 Communities Forum, entitled “iPhone 4 power button stuck,” which attracted more than 1.3
11 million views.



19 39. The first threads discussing power button failures on the iPhone 4 began
20 appearing on or about January 2011.

21 40. Typical of the complaints to Apple is the following on January 8, 2011
22 concerning the iPhone 4:

23 Out of the blue today the power/lock button on my iPhone 4 became completely
24 unresponsive. It doesn't seem to be jammed and it actually seems to be loose and
25 a bit wiggly. Now I can't restart my phone and I can't lock it. I was wondering if
26 this was a common problem with other iPhone 4 units and what would be the best
27 way to go about getting it fixed.

28 Another consumer responded:

1 just had this happen with my iPhone 4. Its a physical failure of the button, so
2 taking into the genius bar in the am to have the phone swapped out. Poor
3 mechanical design or early production faulty parts is my guess. My 3G phone had
4 zero problems after a lot more use (bought the 4 in Sept last year). In the quest to
5 make this phone look slick it appears durability has been sacrificed. Phone had
6 not been damaged from dropping or other impact. The power button should last
7 much longer than the estimated user ownership period.

8 41. Consumers complained Apple service personnel refused to acknowledge the
9 defect:

10 I too have a stuck/broken power button on my Iphone 4 that I purchased new at an
11 official ATT store. After reading this thread, I went to the Apple retail store at
12 Barton Creek mall in Austin to see if they could fix it. The employees at the
13 Genius bar were not helpful at all so I politely asked for the manager. I then spoke
14 with the manager named Phil who said since his Iphone 4 works, there is no
15 defect or anything and he couldn't help me. "Well my Iphone 4 power button
16 works" is the exact response I got, no joke. He says anything posted on these
17 Apple forum threads hold no value and pretty much gave me the worst customer
18 experience I've had in recent years. I am currently in the process of making a
19 video to post online showcasing this common issue with the stuck Iphone 4 power
20 button for all to see. Consider this the last Apple product I will ever buy or
21 recommend to anyone.

22 **b. iPhone 4S (released October 14, 2011)**

23 42. The same defects that caused the power button failures on the iPhone 4 caused the
24 power button failures on the iPhone 4S. [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 43. [REDACTED]

28 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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c. iPhone 5 (released September 21, 2012)

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1 52. [REDACTED]

2 [REDACTED]

3 53. Prior to the time of the sale of iPhone 4, 4S, and 5 smartphones, Apple failed to
4 disclose to Plaintiffs, to Class Members, or to authorized resellers who sold these phones to
5 California consumers, these devices contained defective power buttons.

6 **E. Apple Fails to Remedy the Power Button Defect**

7 54. Instead of remedying the power button defect, Apple continued to sell defective
8 iPhone 4, 4S and 5 smartphones to unsuspecting consumers. It is unlawful to sell a product with
9 a material defect, recognize it is defective, fail to have an available repair, continue to sell the
10 phone without disclosing the defect, and then leave consumers with no recourse by asserting the
11 phones are outside the warranty period.

12 55. Worse, consumers who tried to make warranty claims were provided an
13 ineffective response since consumers received a refurbished iPhone 4, 4S or 5 smartphone with
14 the same defect. By replacing defective iPhones with another iPhone containing the same power
15 button defect and informing customers the problem was solved, Apple created the perception that
16 they had fixed the power button defect.

17 56. [REDACTED]

18 [REDACTED] ton

19 [REDACTED]

20 57. [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 58. Apple failed to disclose the power button defect because of the potential damage
24 to Apple's reputation and the costs associated with replacing the millions of defective iPhones.

25 [REDACTED]

26 [REDACTED]

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1 59. Apple’s iPhone 4, 4S and 5 smartphones are more expensive than competitor’s
2 products. Apple charges more for its products because Apple represents its iPhones are of
3 superior quality and reliability than similar smartphones manufactured by competitors. California
4 consumers have been willing to pay more for Apple smartphones, but in return expect Apple
5 iPhones to be of high quality in materials, workmanship and design. The iPhone 4, 4S and 5
6 smartphones fail to meet these expectations due to the power button defect.

7 60. [REDACTED]

8 [REDACTED]
9 [REDACTED]
10 **F. Useful Life**

11 61. The power button defect is substantially certain to manifest itself during the useful
12 life of the iPhone 4, 4S and 5 smartphones.

13 62. The useful life of the power button on the iPhone 4, 4S and 5 is substantially
14 greater than the one year, which is the express warranty period for the iPhone 4 and 4S, and the
15 original warranty period for the iPhone 5. [REDACTED]

16 [REDACTED]
17 63. Apple provides software (iOS) updates for iPhone series that Apple stopped
18 selling more than one year before. As of February 2014, Apple was still creating and sending
19 operating system updates for its iPhone 3GS, which first entered the market on June 9, 2009.
20 Apple’s iOS 7.1 updates of March 10, 2014, provided software updates for all iPhone 4 and later
21 devices. Apple released the iPhone 4 in June 2010. By providing iOS updates for iPhones many
22 years old, Apple demonstrates its expectation that these devices will have a useful life beyond
23 one year.

24 **G. The Unnoticed iPhone 5 Power Button Replacement Program**

25 64. On April 25, 2014, ten months after the initial complaint in this matter was filed,
26 and six months after the complaint was amended to add claims on behalf of iPhone 5 consumers,
27 Apple announced the “iPhone 5 Sleep/Wake Button Replacement Program,” which offers iPhone
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1 5 owners with defective power buttons the opportunity to have Apple replace the power button
2 on their iPhone 5 free of charge, and granted a limited express warranty extension for an
3 additional year from the date of purchase. The limited warranty extension applies to the power
4 button defect.

5 65. [REDACTED]

6 [REDACTED]
7 66. [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 **CLASS ACTION ALLEGATIONS**

14 67. Plaintiffs bring this class action claim pursuant to the California Code of Civil
15 Procedure § 382 and California Civil Code § 1781, on behalf of themselves and all others
16 similarly situated.

17 68. Plaintiffs bring these claims on their own behalf, and on behalf of the following
18 class (the “Class”):

19 All California citizens who purchased one or more iPhone 4, 4S or
20 5 smartphones from Apple or a third-party retailer, from June 24,
21 2010 to the present, and whose sleep/wake (power) button stopped
working or worked intermittently.

22 Excluded from the Class are: (1) Apple, its officers and directors at
23 all relevant times, members of their immediate families and their
24 legal representatives, heirs, successors, or assigns, any entity in
25 which Apple has or had a controlling interest; (2) Counsel for
26 Plaintiffs; and (3) the Judge and other officers of the Court
27 presiding over this matter.
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1 69. Plaintiffs reserve the right to amend or modify the Class definition in connection
2 with a motion for class certification or with the results of discovery. This class action is properly
3 brought as a class action for the reasons set forth herein.

4 70. The Class is so numerous that joinder of individual members of the proposed
5 Class is impracticable. The Class includes hundreds of thousands of persons geographically
6 dispersed throughout California. The precise number and identities of Class Members are
7 unknown to Plaintiffs, but are known to Defendant and can be ascertained through discovery,
8 namely by using Apple's sales records, warranty records, and other information.

9 71. Plaintiffs do not anticipate any difficulties in this litigation's management as a
10 class action, and the action will accrue substantial benefit to members of the Class. The Class is
11 ascertainable, and there is a well-defined community of interest in the questions of law and/or
12 fact, since the rights of each Class member were infringed or violated in similar fashion based
13 upon Defendant's misconduct. Notice can be provided through records maintained by Apple
14 through a combination of mailed and electronic notice and publication, the cost of which is
15 properly imposed upon Defendant.

16 72. Questions of law or fact common to the Class exist as to Plaintiffs and Class
17 Members, and these common questions predominate over any questions affecting only individual
18 members of the Class, and answering these questions will determine at one time Apple's liability
19 for the conduct alleged herein. Among the common questions of law and/or fact are the
20 following:

21 (a) whether Defendant made any warranties regarding its sale of iPhone 4,
22 4S and 5 smartphones;

23 (b) whether Defendant breached any express or implied warranties relating
24 to iPhone 4, 4S and 5 smartphones;

25 (c) whether Defendant violated applicable consumer protection laws by
26 selling the iPhone 4, 4S and 5 with the power button defect without disclosing its existence;

27 (d) whether the power button defect is a latent and/or inherent defect:
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- 1 (e) the appropriate nature of class-wide equitable relief; and
2 (f) the appropriate measure of monetary relief to award to Plaintiffs and the
3 Class.

4 73. Apple engaged in a common course of conduct giving rise to legal rights sought
5 to be enforced by Plaintiffs and the Class. Individual questions, if any, pale in comparison to the
6 numerous common questions, which predominate.

7 74. Plaintiffs were unaware at the time they purchased their iPhone 4, 4S and 5
8 smartphones they contained defective power buttons, they experienced the defect, have been
9 unable to have the defect cured prior to the initiation of this action despite demand for it to
10 happen, and would not have engaged in the transactions in question at the prices they paid if
11 Defendant had disclosed the true facts. The injuries sustained by Plaintiffs and Class Members
12 flow, in each instance, from a common nucleus of operative facts based on Defendant's conduct.
13 Moreover, the defenses, if any, which will be asserted against Plaintiffs' claims will likely be
14 typical of the defenses that will be asserted against the Class Members' claims.

15 75. Plaintiffs will fairly and adequately protect the interests of the Class Members.
16 Plaintiffs have no interests materially adverse to or that irreconcilably conflict with the interests
17 of the Class Members and have retained counsel with significant experience in the prosecution of
18 class actions and complex litigation, including consumer litigation, and who will vigorously
19 prosecute this case.

20 76. A class action is superior to other available methods for the fair and efficient
21 group-wide adjudication of this controversy, and individual joinder of all members of the Class
22 is impracticable, if not impossible because of the number of Class Members geographically
23 dispersed throughout the State of California. Moreover, the cost to the California court system of
24 such individualized litigation would be substantial. Individualized litigation would likewise
25 present the potential for inconsistent or contradictory judgments and would result in significant
26 delay and expense to all parties, with multiple courts adjudicating virtually identical lawsuits. By
27 contrast, the conduct of this action as a class action presents fewer management difficulties,
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1 conserves the resources of the parties and Court, protects the rights of each Class Member and
2 maximizes recovery to them, thus accruing substantial benefits to the parties, absent Class
3 Members and the Court.

4 77. Apple has acted on grounds generally applicable to the entire Class, thereby
5 making final injunctive relief or corresponding declaratory relief appropriate with respect to the
6 Class as a whole.

7 **First Cause Of Action**

8 **Consumers Legal Remedies Act, Civil Code §§ 1750 *et seq.***

9 78. Plaintiffs incorporate all the above allegations by reference as if fully set forth
10 herein.

11 79. Plaintiffs assert this count individually and on the Class’s behalf under California
12 Civil Code § 1781.

13 80. The Consumers Legal Remedies Act (“CLRA”) was enacted to protect consumers
14 against unfair and deceptive business practices. The CLRA applies to Defendant’s acts and
15 practices because it covers transactions involving the sale of goods to consumers.

16 81. The iPhone 4, 4S and 5 smartphones are “goods” under California Civil Code
17 § 1761(a).

18 82. Apple is a “person” under California Civil Code § 1761(c).

19 83. Plaintiffs and Class Members are “consumers” under California Civil Code
20 § 1761(d).

21 84. Plaintiffs and Class Members engaged in “transactions” under California Civil
22 Code § 1761(e), including the making of and performance and execution of an agreement to
23 purchase an iPhone 4, 4S and 5 smartphone or the presentation of iPhone 4, 4S and 5
24 smartphones for repair or replacement of the defect at issue.

25 85. Apple’s unfair and deceptive business practices were intended and did result in
26 the sale of the iPhone 4, 4S and 5 smartphones, a defective consumer product.

1 86. Apple engaged in unfair and deceptive practices by misrepresenting or failing to
2 disclose the inherent and/or latent defect in the iPhone 4, 4S and 5 smartphones to Plaintiffs and
3 Class Members. These acts are in violation of the following provisions of the CLRA:

4 (a) in violation of Section 1770(a)(5), Apple represented the iPhone 4, 4S and
5 5 smartphones have characteristics, uses and benefits that they do not have;

6 (b) in violation of Section 1770(a)(7), Apple represented the iPhone 4, 4S and
7 5 smartphones are of a particular standard, quality or grade when they are not;

8 (c) in violation of Section 1770(a)(14), Apple represented the transaction
9 conferred or involved rights, remedies, or obligations which it did not have or involve; and

10 (d) in violation of Section 1770(a)(16), Apple represented the subject of the
11 transaction has been supplied in accordance with a previous representation when it has not.

12 87. The iPhone 4, 4S and 5 smartphones suffer from an inherent and/or latent
13 defect—the power button defect—that is substantially certain to result in malfunction during the
14 useful life. For the Plaintiffs, the power button defect malfunctioned not only during the useful
15 life, but during the one-year express warranty period.

16 88. Apple had a duty to disclose the power button defect in the iPhone 4, 4S and 5
17 smartphones because:

18 (a) Apple had exclusive knowledge of material facts not known to Plaintiffs
19 or the Class Members, *i.e.*, the iPhone 4, 4S and 5 smartphones contained an inherent and/or
20 latent defect; and

21 (b) Apple actively concealed material facts from Plaintiffs and the Class
22 Members, *i.e.*, the iPhone 4, 4S and 5 smartphones contained an inherent and/or latent defect
23 and Apple failed to disclose this to California consumers.

24 89. Apple was under a duty to disclose the existence of the power button defect.
25 Apple failed to disclose to Plaintiffs or Class Members that the iPhone 4, 4S and 5 smartphones
26 contained a defective power button. Defendant Apple had exclusive knowledge of material facts,
27 *i.e.*, the iPhone 4, 4S and 5 smartphones contained an inherent and/or latent defect that is, and
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1 was, substantially certain to result in malfunction during the useful life. This material fact was
2 unknown to Plaintiffs and the Class Members at the time they purchased their iPhone 4, 4S and 5
3 smartphones.

4 90. Apple actively concealed the existence of the power button defect in the iPhone 4,
5 4S and 5 smartphones from Plaintiffs and California consumers. Apple knew of the existence of
6 the defect via [REDACTED] warranty data, complaint
7 data, post-market surveillance of these products and field data, among other internal sources of
8 aggregate information about the power button defect.

9 91. Apple also actively concealed the defect by replacing defective iPhone 4, 4S and
10 5 still under warranty with another iPhone containing the exact same defect and informing
11 customers the problem was solved. This perpetuated the public perception that the power button
12 defects were isolated, unique cases.

13 92. Apple concealed the defect from customers by misleading customers into thinking
14 there was no power button defect. For example, Apple advised customers: (1) this was a rare
15 occurrence or the first time this problem has been observed, (2) they weren't pressing the button
16 hard enough or, (3) the power button failure was the result of the phone being dropped.

17 93. Apple's failure to disclose the power button defect is a material fact because had
18 Plaintiffs and the Class Members known of the inherent and/or latent defect in the iPhone 4, 4S
19 and 5 smartphones they would not have purchased the phones at the prices they did, if at all.
20 Plaintiffs, Class Members and other reasonable California consumers would deem a defect in the
21 power button a material issue that would impact whether they would purchase the product and at
22 what price.

23 94. The power button defect can prevent or materially inhibits users from
24 downloading critical software updates, result in diminished battery life and prevent users from
25 powering down their phones, which Apple recognized as material and significant.

26 95. Apple knew of the existence of the power button defect before the release of the
27 iPhone 4 in June 2010, the iPhone 4S in October 2011 and the iPhone 5 in September 2012.

1 96. [REDACTED]

2 [REDACTED]

3 97. [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 98. [REDACTED]

8 [REDACTED]

9 99. Apple's remedy to the defective iPhone 4, 4S or 5 smartphone is to provide the
10 consumer with another defective iPhone 4, 4S or 5 smartphone or to offer the consumer to
11 purchase a rebuilt iPhone 4, 4S or 5.

12 100. Plaintiffs, the Class and other California iPhone consumers had a reasonable
13 expectation the useful life of the iPhone's power button would be well in excess of one year. As
14 a direct and proximate result of Apple's conduct, Plaintiffs and Class Members suffered damage.
15 Plaintiffs and Class Members are entitled to seek injunctive relief, court costs and attorney fees,
16 and other relief the Court deems proper.

17 101. Pursuant to California Civil Code § 1782, Plaintiffs' counsel sent Apple a CLRA
18 demand letter via certified mail on behalf of Plaintiffs and Class Members who purchased the
19 iPhone 4, 4S and 5, to which Defendant failed to provide the relief demanded in a timely manner.
20 Plaintiffs therefore seeks actual and punitive damages as well as any other relief the Court deems
21 proper on behalf of Class Members who purchased the iPhone 4, 4S or 5.

22 **Second Cause of Action**

23 **Breach of Express and Implied Warranty**

24 102. Plaintiffs incorporate all the above allegations by reference as if fully set forth
25 herein.

1 103. Apple sold the iPhone 4, 4S and 5 smartphones in its regular course of business.
2 Plaintiffs and Class Members purchased the iPhone 4, 4S and 5 smartphones. Such phones are
3 goods.

4 104. Defendant made promises and representations in an express warranty provided to
5 all consumers, which became part of the basis of the bargain between Plaintiffs, Class Members
6 and Defendant. Defendant gave these express warranties to Plaintiffs and Class Members
7 through the issuance of its written warranty accompanying its iPhone 4, 4S and 5 smartphones.
8 *See Exhibit A, incorporated herein by reference.*¹

9 105. Defendant expressly warranted to California’s general public, including Plaintiffs
10 and Class Members, these phones were effective and free from defects in materials and
11 workmanship. *See Exhibit A.* The “power button defect” of the iPhone 4, 4S and 5 smartphones
12 is a defect or nonconformity covered by Apple’s express warranty.

13 106. Plaintiffs were aware of the express warranty included in the purchase of their
14 iPhone 4, 4S and 5, respectively. The express warranty and its representation the phones would
15 be effective and free from defects in materials and workmanship were relied upon by Plaintiffs
16 and formed part of the basis of the bargain for the purchase of the iPhone 4, 4S and 5.

17 107. By placing such products into the stream of commerce, by operation of law
18 including Section 2314 of the California Commercial Code, Apple also impliedly warranted to
19 Plaintiffs and Class Members that these phones were of merchantable quality (*i.e.*, a product of a
20 high enough quality to make it fit for sale, usable for the purpose it was made, of average worth
21 in the marketplace, or not broken, unworkable, contaminated or flawed), would pass without
22 objection in the trade or business, and were free from material defects, and reasonably fit for the
23 use for which they were intended.

24 108. Defendant breached all applicable warranties because the iPhone 4, 4S and 5
25 smartphones suffer from a latent and/or inherent defect that causes the power button to become

26 ¹ The express warranty for all iPhone models is identical.
27
28

1 inoperable, rendering the phones unfit for their intended use and purpose. The power button
2 defect is an inherent and/or latent defect that is substantially certain to manifest itself during the
3 useful life of the iPhone 4, 4S and 5 smartphones. This defect substantially impairs the use and
4 value of the iPhone 4, 4S and 5 smartphones.

5 109. The latent and/or inherent defect in the iPhone 4, 4S and 5 smartphones existed
6 when the phones left Defendant's and their authorized resellers' possession and were sold to
7 Plaintiffs and the Class Members. The defect was undiscoverable to Plaintiffs and the Class
8 Members at the time of purchase of the iPhone 4, 4S and 5 smartphones.

9 110. To the extent any of the iPhone 4, 4S and 5 smartphones were not purchased
10 directly from Apple but rather from authorized Apple resellers, the sellers of these goods were
11 not intended to be the ultimate consumers of the iPhone 4, 4S and 5 smartphones and were
12 merely a pass through entity. Plaintiffs and the Class were the intended, ultimate consumers of
13 the iPhone 4, 4S and 5 smartphones. As such, the warranty agreements accompanying the phone
14 were designed and made expressly for the benefit of the ultimate consumers only (*i.e.*, the
15 Plaintiffs and the Class). As a result, pursuant to California Civil Code § 1559, Plaintiffs and the
16 Class may enforce the implied warranties irrespective of whether they purchased their iPhone 4,
17 4S and 5 smartphone directly from Apple or from an Apple authorized reseller.

18 111. Plaintiffs and others have performed all warranty pre-conditions required of them
19 in terms of paying for the goods at issue. Because Plaintiffs did not purchase their iPhone 4, 4S
20 and iPhone 5 smartphones directly from Apple, and instead purchased from third-party retailers,
21 Plaintiffs are not required to provide Apple with notice of a breach of warranty. Despite not
22 being required to do so in order to bring a claim for breach of warranty, Plaintiffs provided
23 Defendant with reasonable notice of the power button defect, Apple's breach of the warranties,
24 and an opportunity to cure the defect prior to the initiation of this action. Apple failed to repair
25 the devices, offer to take any remedial measure to repair the devices, or otherwise provide
26 appropriate relief.

1 112. Apple’s written express warranty does not state that a consumer must provide
2 Apple with notice and opportunity to cure during the warranty period. The sections of the Apple
3 warranty setting out the consumers obligations under the warranty (“Your Responsibilities”) and
4 “How to Obtain Warranty Service,” does not require consumers provide Apple notice of the
5 breach and opportunity to cure within the warranty period. Neither of these sections impose such
6 an obligation on a consumer.

7 113. For Plaintiff Rysdyk, the terms of his iPhone 5 express warranty was two-years
8 from the date of purchase for problems with the power button. Apple extended the warranty for
9 an additional year from the date of purchase for individuals with “affected” iPhone 5 devices
10 with potentially defective power buttons. Plaintiff Rysdyk provided Apple notice of the defect
11 and an opportunity to cure within this extended warranty period. Apple refused to repair the
12 device.

13 114. Apple’s “cure” to date has been to provide consumers who return their defective
14 iPhone 4 and 4S smartphones to Defendant’s authorized resellers during the warranty period
15 with replacement phones suffering from the same defect. For those individuals who return a
16 defective iPhone outside the express warranty period, Apple offers no remedy to consumers who
17 attempt to return their defective smartphone. Defendant’s responses to the defect have
18 perpetuated an endless cycle of futility for Plaintiffs and Class Members, leaving them without
19 any meaningful relief.

20 115. Defendant’s breaches of warranty caused Plaintiffs and Class Members to suffer
21 injuries, including the inability to turn the phone on and off, as well as paying for defective
22 products and entering into transactions they would not have entered for the consideration paid
23 but for Apple’s acts.

24 116. As a direct and proximate result of Defendant’s breaches of warranty, Plaintiff
25 and Class Members have suffered damages and continue to suffer damages, including economic
26 damages in terms of the difference between the value of the phones as promised and the value of
27

1 the phones as delivered. Additionally, Plaintiffs and Class Members either have or will incur
2 economic damages at the point of repair in the form of the cost of repair or replacement.

3 117. As a result of the breach of these warranties, Plaintiffs and Class Members are
4 entitled to legal and equitable relief against Apple.

5 **Third Cause of Action**

6 **Violation of the Song-Beverly Act, Cal. Civ. Code §§ 1791 *et seq.***

7 118. Plaintiffs incorporate all the above allegations by reference as if fully set forth
8 herein.

9 119. This cause of action is brought under the Song-Beverly Consumer Warranty Act,
10 California Civil Code §§ 1791 *et seq.* Plaintiffs and Class Members are “buyers,” Apple’s iPhone
11 4, 4S and 5 are “consumer goods,” and Apple is a “retailer” and “manufacturer” within the
12 meaning of this Act.

13 120. Plaintiffs purchased their iPhone 4, 4S and 5 new at retail in the State of
14 California.

15 121. By placing its iPhone 4, 4S and 5 smartphones in the stream of commerce, Apple
16 impliedly warrants that its defective iPhones are reasonably fit for the use for which they were
17 intended. Apple also provided express warranties that the iPhones were effective and free from
18 defects in materials and workmanship. *See* Exhibit A. The “power button defect” of the iPhone 4,
19 4S and 5 smartphones is a defect or nonconformity covered by Apple’s express warranty.

20 122. Apple’s iPhone 4, 4S and 5 smartphones are not merchantable. In breach of its
21 implied warranty, the power button on the iPhone 4, 4S and 5 smartphones fails rendering the
22 smartphones unmerchantable.

23 123. Apple’s iPhone 4, 4S and 5 smartphones were not reasonably fit for their intended
24 use when they left defendant’s control and entered the market.

25 124. The power button defect in Apple’s iPhone 4, 4S and 5 smartphones was not open
26 or obvious to consumers nor was the existence of the defect disclosed to Plaintiffs or the Class
27 prior to their purchase of their iPhone.

1 125. As a result, Plaintiffs and proposed Class members have been damaged and will
2 continue to be damaged, in, *inter alia*, the amount they paid to purchase and replace Apple’s
3 iPhone 4, 4S and 5 smartphones.

4 126. Pursuant to California Civil Code § 1794, Plaintiffs and proposed Class Members
5 are entitled to damages under the Song-Beverly Consumer Warranty Act, including, *inter alia*,
6 reimbursement in the amount they paid to purchase Apple’s unmerchantable iPhone 4, 4s and 5
7 smartphones.

8 **Fourth Cause of Action**

9 **Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301 *et. seq.***

10 127. Plaintiffs incorporate all the above allegations by reference as if fully set forth
11 herein.

12 128. Plaintiffs assert this Count individually and on behalf of the proposed Class.

13 129. Apple’s iPhone 4, 4S and 5 smartphones are “consumer products” within the
14 meaning of the Magnuson-Moss Act, 15 U.S.C. § 2301(1).

15 130. Apple is a “supplier” and “warrantor” within the meaning of the Magnuson-Moss
16 Act, 15 U.S.C. §§ 2301(4)-(5).

17 131. Apple impliedly warranted to Plaintiffs and to Class Members the iPhone 4, 4S
18 and 5 smartphones were of merchantable quality and fit for the ordinary purposes for which the
19 smartphones are used.

20 132. Apple has breached and refused to honor its implied warranty. Defendant
21 breached its implied warranty as the iPhone 4, 4S and 5 smartphones were not of merchantable
22 quality and failed to perform as reasonably expected.

23 133. The express warranty issued by Apple to Plaintiffs and Class Members is a
24 “written warranty” within the meaning of the Magnuson-Moss Act, 15 U.S.C. § 2301(6).

25 134. Apple made promises and representations in an express warranty provided to all
26 consumers, which became part of the basis of the bargain between Plaintiffs, Class Members and
27

1 Defendant. Defendant gave these express warranties to Plaintiffs and Class Members through the
2 issuance of its written warranty accompanying its iPhone 4, 4S and 5 smartphones.

3 135. Apple expressly warranted to California’s general public, including Plaintiffs and
4 Class Members, these phones were free from defects in materials and workmanship. *See* Exhibit
5 A. The “power button defect” of the iPhone 4, 4S and 5 smartphones is a defect or
6 nonconformity covered by Apple’s express warranty.

7 136. Although notice is not required for the underlying express and implied warranty
8 claims, the Plaintiffs did provide Apple with reasonable notice of the breaches and Apple was
9 afforded a reasonable opportunity to cure its breaches of warranty. As alleged above, Defendant
10 had ample notice of the power button defect, but failed to remedy the situation.

11 137. As a direct and proximate result of Apple’s conduct, Plaintiffs and the Class have
12 suffered injury and damages in an amount to be determined at trial. Plaintiffs and the Class are
13 entitled to recover damages, consequential damages, specific performance, diminution in value,
14 costs, attorney fees, rescission, and other relief as authorized by law.

15 **Fifth Cause of Action**

16 **Violation of California’s Unfair Competition Law**
17 **Business & Professions Code §§ 17200 *et seq.***

18 138. Plaintiffs incorporate all the above allegations by reference as if fully set forth
19 herein.

20 139. Defendant’s business acts and practices complained of were centered in, carried
21 out, effectuated and perfected within or had their effect in the State of California, and injured all
22 Class Members.

23 140. Since June 2010, and continuing thereafter through and including the date of
24 filing of this complaint, Apple committed acts of unfair competition, as defined by Section
25 17200 *et seq.* of the California Business and Professions Code by engaging in the acts and
26 practices specified above.

1 141. This claim is instituted pursuant to Sections 17203 and 17204 of the California
2 Business and Professions Code to obtain equitable monetary and injunctive relief from Apple for
3 acts and practices, as alleged herein, that violated Section 17200 of the California Business and
4 Professions Code, commonly known as the Unfair Competition Law.

5 142. Apple’s conduct, as alleged herein, violated Section 17200. The acts, omissions,
6 misrepresentations, practices and non-disclosures of Defendant constituted a common continuous
7 course of conduct of unfair competition by means of the commission of unfair, fraudulent or
8 unlawful business acts or practices within the meaning of California Business and Professions
9 Code, §§ 17200 *et seq.*

10 143. Apple engaged in “unlawful” business acts and practices by:

11 (a) breaching applicable warranties;

12 (b) violating the Consumers Legal Remedies Act, California Civil Code
13 §§ 1750 *et seq.*;

14 (c) violating the Magnuson Moss Warranty Act, 15 U.S.C. §§ 2301 *et seq.*;
15 and

16 (d) violating the Song-Beverly Consumer Warranty Act, California Civil
17 Code §§ 1792 *et seq.*

18 144. Defendant engaged in “unfair” business acts and practices by, among other things:

19 (a) engaging in conduct where the utility of such conduct, if any, is
20 outweighed by the gravity of the consequences to Plaintiffs and the Class considering the
21 reasonably available alternatives, based on legislatively declared policies not to sell defective
22 products in the market;

23 (b) engaging in conduct that is immoral, unethical, oppressive, unscrupulous,
24 or substantially injurious to Plaintiff and the Class;

25 (c) engaging in conduct which causes substantial injury to consumers, which
26 injury is not outweighed by any countervailing benefits to consumers or competition, and which
27 consumers could not reasonably have avoided; and

1 (d) engaging in conduct tethered to violations of legislative provisions of the
2 CLRA, Song-Beverly Act, Magnuson-Moss Warranty Act, and the California Commercial
3 Code.

4 145. Specifically, Defendant engaged in “unfair” business acts and practices by selling
5 the iPhone 4, 4S and 5 smartphones that contained defects that cause the power button to
6 malfunction and become inoperable, then only offering to replace them with similarly defective
7 phones or no relief at all. Defendant also engaged in unfair business acts and practices by
8 entering into or being obligated to honor express and implied warranties, which it refuses to
9 honor.

10 146. Defendant engaged in “deceptive” or “fraudulent” business acts and practices by,
11 among other things, failing to disclose:

12 (a) the existence of the power button defect in the iPhone 4, 4S and 5 to
13 Plaintiffs and Class Members when Apple knew of the existence of the defect prior to the
14 launch of each product in California and prior to each Plaintiffs’ iPhone purchase; and

15 (b) the existence of the power button defect in the iPhone 4, 4S and 5 was a
16 material fact.

17 147. Had Plaintiffs and the Class Members known of the power button defect in the
18 iPhone 4, 4S and 5 smartphones they would not have purchased the phones at the prices they did,
19 if at all.

20 148. As a result of Defendant’s fraudulent conduct, Plaintiffs and members of the
21 Class spent money on iPhone 4, 4S and 5 devices that they would not otherwise have spent.

22 149. As such conduct is or may well be continuing and on-going, Plaintiffs and each of
23 the Class Members are entitled to injunctive relief to prohibit or correct such on-going acts of
24 unfair competition, in addition to obtaining equitable monetary relief.

25 150. Plaintiffs and Class Members used Apple’s products and had business dealings
26 with Defendant either directly or indirectly as described above. The acts and practices of
27 Defendant have caused Plaintiffs and Class Members to lose money or property by being
28

1 overcharged for and paying for the defective phones at issue. Such loss was the result of the
2 above acts of unfair competition and Apple's misconduct in violation of the laws set forth above.
3 Plaintiffs and Class Members are therefore entitled to seek recovery of such amounts. Such
4 injury occurred at the time such monies were paid. Plaintiffs has suffered injury in fact and lost
5 money or property as a result of such acts and practices as set forth in detail above.

6 151. Defendant unjustly benefitted by the acts of wrongful conduct and unfair
7 competition described above. Plaintiffs and the Class Members are accordingly entitled to
8 equitable relief including restitution and/or restitutionary disgorgement of all revenues, earnings,
9 profits, compensation, and benefits that may have been obtained by Apple as a result of such
10 business acts and practices, pursuant to the California Business and Professions Code §§ 17203
11 and 17204.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs and Class Members pray for judgment against Defendant as
14 follows, as is applicable for the appropriate causes of action set forth above:

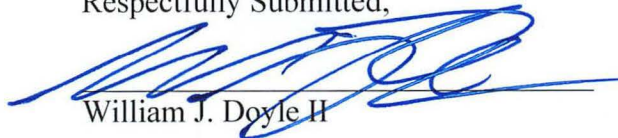
- 15 A. declaring this action to be a proper class action pursuant to California Rule of
16 Civil Procedure § 382 and California Civil Code § 1781;
- 17 B. awarding Plaintiffs and Class Members all proper measures of damages, including
18 compensatory and exemplary damages and any pre- or post-judgment interest to
19 which they are entitled;
- 20 C. awarding injunctive relief pursuant to the Consumer Legal Remedies Act, Civil
21 Code §§ 1750 *et seq.*;
- 22 D. awarding equitable relief including restitution and/or restitutionary disgorgement
23 of all revenues, earnings, profits, compensation, and benefits that may have been
24 obtained by Apple as a result of such business acts and practices;
- 25 E. awarding Plaintiffs' reasonable costs and attorney's fees; and
- 26 F. granting such further and other relief this Court deems appropriate.
- 27

1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs, individually and on behalf of all others similarly situated, demand a trial by
3 jury on all issues so triable.

4
5 DATED: January 28, 2015

6 Respectfully Submitted,

7 
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22 *Attorneys for Plaintiffs and the proposed class*

Exhibit A

View Warranty version 09/12/2012 - 03/27/2013

Your Hardware Warranty

IMPORTANT: BY USING YOUR iPhone, iPad or iPod PRODUCT YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THE

APPLE ONE (1) YEAR LIMITED WARRANTY ("WARRANTY") AS SET OUT BELOW.

DO NOT USE YOUR PRODUCT UNTIL YOU HAVE READ THE TERMS OF THE WARRANTY.. IF YOU DO NOT AGREE TO THE TERMS OF THE WARRANTY, DO NOT USE THE PRODUCT AND RETURN IT WITHIN THE RETURN PERIOD STATED IN APPLE'S RETURN POLICY (FOUND AT www.apple.com/legal/sales_policies/) TO THE APPLE OWNED RETAIL STORE OR THE AUTHORIZED DISTRIBUTOR WHERE YOU PURCHASED IT FOR A REFUND.

**Apple One (1) Year Limited Warranty – iOS
For Apple Branded Product Only**

HOW CONSUMER LAW RELATES TO THIS WARRANTY

THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE (OR BY COUNTRY OR PROVINCE). OTHER THAN AS PERMITTED BY LAW, APPLE DOES NOT EXCLUDE, LIMIT OR SUSPEND OTHER RIGHTS YOU MAY HAVE, INCLUDING THOSE THAT MAY ARISE FROM THE NONCONFORMITY OF A SALES CONTRACT. FOR A FULL UNDERSTANDING OF YOUR RIGHTS YOU SHOULD CONSULT THE LAWS OF YOUR COUNTRY, PROVINCE OR STATE.

WARRANTY LIMITATIONS SUBJECT TO CONSUMER LAW

TO THE EXTENT PERMITTED BY LAW, THIS WARRANTY AND THE REMEDIES SET FORTH ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REMEDIES AND CONDITIONS, WHETHER ORAL, WRITTEN, STATUTORY, EXPRESS OR IMPLIED. APPLE DISCLAIMS ALL STATUTORY AND IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES AGAINST HIDDEN OR LATENT DEFECTS, TO THE EXTENT PERMITTED BY LAW. IN SO FAR AS SUCH WARRANTIES CANNOT BE DISCLAIMED, APPLE LIMITS THE DURATION AND REMEDIES OF SUCH WARRANTIES TO THE DURATION OF THIS EXPRESS WARRANTY AND, AT APPLE'S OPTION, THE REPAIR OR REPLACEMENT SERVICES DESCRIBED BELOW. SOME STATES (COUNTRIES AND PROVINCES) DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY (OR CONDITION) MAY LAST, SO THE LIMITATION DESCRIBED ABOVE MAY NOT APPLY TO YOU.

WHAT IS COVERED BY THIS WARRANTY?

Apple Inc. of One Infinite Loop, Cupertino, California, U.S.A. 95014 ("Apple") warrants the Apple-branded iPhone, iPad or iPod hardware product and accessories contained in the original packaging ("Apple Product") against defects in materials and workmanship when used normally in accordance with Apple's published guidelines for a period of ONE (1) YEAR from the date of original retail purchase by the end-user purchaser ("Warranty Period"). Apple's published guidelines include but are not limited to information contained in technical specifications, user manuals and service communications.

WHAT IS NOT COVERED BY THIS WARRANTY?

This Warranty does not apply to any non-Apple branded hardware products or any software, even if packaged or sold with Apple hardware. Manufacturers, suppliers, or publishers, other than Apple, may provide their own warranties to you - please contact them for further information. Software distributed by Apple with or without the Apple brand (including, but not limited to system software) is not covered by this Warranty. Please refer to the licensing agreement accompanying the software for details of your rights with respect to its use. Apple does not warrant that the operation of the Apple Product will be uninterrupted or error-free. Apple is not responsible for damage arising from failure to follow instructions relating to the Apple Product's use.

This Warranty does not apply: (a) to consumable parts, such as batteries or protective coatings that are designed to diminish over time, unless failure has occurred due to a defect in materials or workmanship; (b) to cosmetic damage, including but not limited to scratches, dents and broken plastic on ports; (c) to damage caused by use with another product; (d) to damage caused by accident, abuse, misuse, liquid contact, fire, earthquake or other external cause; (e) to damage caused by operating the Apple Product outside Apple's published guidelines; (f) to damage caused by service (including upgrades and expansions) performed by anyone who is not a representative of Apple or an Apple Authorized Service Provider ("AASP"); (g) to an Apple Product that has been modified to alter functionality or capability without the written

permission of Apple; (h) to defects caused by normal wear and tear or otherwise due to the normal aging of the Apple Product, or (i) if any serial number has been removed or defaced from the Apple Product.

IMPORTANT RESTRICTION FOR IPHONE AND IPAD SERVICE.

Apple may restrict warranty service for iPhone and iPad to the country where Apple or its Authorized Distributors originally sold the device.

YOUR RESPONSIBILITIES

YOU SHOULD MAKE PERIODIC BACKUP COPIES OF THE INFORMATION CONTAINED ON THE APPLE PRODUCT STORAGE MEDIA TO PROTECT THE CONTENTS AND AS A PRECAUTION AGAINST POSSIBLE OPERATIONAL FAILURES.

Before receiving warranty service, Apple or its agents may require that you furnish proof of purchase details, respond to questions designed to assist with diagnosing potential issues and follow Apple's procedures for obtaining warranty service. Before submitting your Apple Product for warranty service you should maintain a separate backup copy of the contents of its storage media, remove all personal information that you want to protect and disable all security passwords.

DURING WARRANTY SERVICE THE CONTENTS OF THE STORAGE MEDIA WILL BE DELETED AND REFORMATTED. APPLE AND ITS AGENTS ARE NOT RESPONSIBLE FOR ANY LOSS OF SOFTWARE PROGRAMS, DATA OR OTHER INFORMATION CONTAINED ON THE STORAGE MEDIA OR ANY OTHER PART OF THE APPLE PRODUCT SERVICED.

Following warranty service your Apple Product or a replacement device will be returned to you as your Apple Product was configured when originally purchased, subject to applicable updates. Apple may install system software updates as part of warranty service that will prevent the Apple Product from reverting to an earlier version of the system software. Third party applications installed on the Apple Product may not be compatible or work with the Apple Product as a result of the system software update. You will be responsible for reinstalling all other software programs, data and information. Recovery and reinstallation of other software programs, data and information are not covered under this Warranty.

Important: Do not open the Apple Product. Opening the Apple Product may cause damage that is not covered by this Warranty. Only Apple or an AASP should perform service on this Apple Product.

WHAT WILL APPLE DO IN THE EVENT THE WARRANTY IS BREACHED?

If during the Warranty Period you submit a valid claim to Apple or an AASP, Apple will, at its option, (i) repair the Apple Product using new or previously used parts that are equivalent to new in performance and reliability, (ii) replace the Apple Product with a device that is at least functionally equivalent to the Apple Product and is formed from new and/or previously used parts that are equivalent to new in performance and reliability, or (iii) exchange the Apple Product for a refund of your purchase price.

Apple may request that you replace certain user-installable parts or Apple Products. A replacement part or Apple Product, including a user-installable part that has been installed in accordance with instructions provided by Apple, assumes the remaining term of the Warranty or ninety (90) days from the date of replacement or repair, whichever provides longer coverage for you. When an Apple Product or part is replaced or a refund provided, any replacement item becomes your property and the replaced or refunded item becomes Apple's property.

HOW TO OBTAIN WARRANTY SERVICE?

Please access and review the online help resources described below before seeking warranty service. If the Apple Product is still not functioning properly after making use of these resources, please contact an Apple representative or, if applicable, an Apple owned retail store ("Apple Retail") or AASP, using the information provided below. An Apple representative or AASP will help determine whether your Apple Product requires service and, if it does, will inform you how Apple will provide it. When contacting Apple via telephone, other charges may apply depending on your location.

Online information with details on obtaining warranty service is provided below.

WARRANTY SERVICE OPTIONS

Apple will provide warranty service through one or more of the following options:

(i) Carry-in service. You may return your Apple Product to an Apple Retail or AASP location offering carry-in service. Service will be performed at the location, or Apple Retail or an AASP may send your Apple Product to an Apple Repair Service ("ARS") location to be serviced. Once you are notified that service is complete, you will promptly retrieve the Apple Product from the Apple Retail or AASP location, or the Apple Product will be sent directly to your location from the ARS location.

(ii) Mail-in service. If Apple determines that your Apple Product is eligible for mail-in service, Apple will send you prepaid waybills and if applicable, packaging material, so that you may ship your Apple Product to an ARS or AASP location in accordance with Apple's instructions. Once service is complete, the ARS or AASP location will return the Apple Product to you. Apple will pay for shipping to and from your location if all instructions are followed.

(iii) Do-it-yourself (DIY) parts service. DIY parts service allows you to service your own Apple Product. If DIY parts service is available in the circumstances, the following process will apply.

(a) Service where Apple requires return of the replaced Apple Product or part. Apple may require a credit card authorization as security for the retail price of the replacement Apple Product or part and applicable shipping costs. If you are unable to provide credit card authorization, DIY parts service may not be available to you and Apple will offer alternative arrangements for service. Apple will ship a replacement Apple Product or part to you with installation instructions, if applicable, and any requirements for the return of the replaced Apple Product or part. If you follow the instructions, Apple will cancel the credit card authorization, so you will not be charged for the Apple Product or part and shipping to and from your location. If you fail to return the replaced Apple Product or part as instructed or return a replaced Apple Product or part that is ineligible for service, Apple will charge your credit card for the authorized amount.

(b) Service where Apple does not require return of the replaced Apple Product or part. Apple will ship you free of charge a replacement Apple Product or part accompanied by instructions on installation, if applicable, and any requirements for the disposal of the replaced Apple Product or part.

(c) Apple is not responsible for any labor costs you incur relating to DIY parts service. Should you require further assistance, contact Apple at the telephone number listed below.

Apple reserves the right to change the method by which Apple may provide warranty service to you, and your Apple Product's eligibility to receive a particular method of service. Service will be limited to the options available in the country where service is requested. Service options, parts availability and response times may vary according to country. You may be responsible for shipping and handling charges if the Apple Product cannot be serviced in the country it is in. If you seek service in a country that is not the original country of purchase, you will comply with all applicable import and export laws and regulations and be responsible for all custom duties, V.A.T. and other associated taxes and charges. Where international service is available, Apple may repair or replace Apple Products and parts with comparable Apple Product and parts that comply with local standards.

LIMITATION OF LIABILITY

EXCEPT AS PROVIDED IN THIS WARRANTY AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, APPLE IS NOT RESPONSIBLE FOR DIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY BREACH OF WARRANTY OR CONDITION, OR UNDER ANY OTHER LEGAL THEORY, INCLUDING BUT NOT LIMITED TO LOSS OF USE; LOSS OF REVENUE; LOSS OF ACTUAL OR ANTICIPATED PROFITS (INCLUDING LOSS OF PROFITS ON CONTRACTS); LOSS OF THE USE OF MONEY; LOSS OF ANTICIPATED SAVINGS; LOSS OF BUSINESS; LOSS OF OPPORTUNITY; LOSS OF GOODWILL; LOSS OF REPUTATION; LOSS OF, DAMAGE TO, COMPROMISE OR CORRUPTION OF DATA, OR ANY INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE HOWSOEVER CAUSED INCLUDING THE REPLACEMENT OF EQUIPMENT AND PROPERTY, ANY COSTS OF RECOVERING, PROGRAMMING, OR REPRODUCING ANY PROGRAM OR DATA STORED IN OR USED WITH THE APPLE PRODUCT OR ANY FAILURE TO MAINTAIN THE CONFIDENTIALITY OF INFORMATION STORED ON THE APPLE PRODUCT.

THE FOREGOING LIMITATION SHALL NOT APPLY TO DEATH OR PERSONAL INJURY CLAIMS, OR ANY STATUTORY LIABILITY FOR INTENTIONAL AND GROSS NEGLIGENT ACTS AND/OR OMISSIONS. APPLE DISCLAIMS ANY REPRESENTATION THAT IT WILL BE ABLE TO REPAIR ANY iOS DEVICE UNDER THIS WARRANTY OR REPLACE THE APPLE PRODUCT WITHOUT RISK TO OR LOSS OF INFORMATION STORED IN THE APPLE PRODUCT.

SOME STATES (COUNTRIES AND PROVINCES) DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

PRIVACY

Apple will maintain and use customer information in accordance with the Apple Customer Privacy Policy available at www.apple.com/legal/internet-services/privacy.

GENERAL

No Apple reseller, agent, or employee is authorized to make any modification, extension, or addition to this Warranty. If any term is held to be illegal or unenforceable, the legality or enforceability of the remaining terms shall not be affected or impaired. This Warranty is governed by and construed under the laws of the country in which the Apple Product purchase took place. Apple or its successor in title is the warrantor under this Warranty.

ONLINE INFORMATION

More information of the following is available online:

International Support Information

Authorized Distributors

Apple Authorized Service Providers support.apple.com/kb/HT1937 | support.apple.com/kb/HT1434

Apple Retail Store

Apple Support and Service

Apple Complimentary Support

WARRANTY OBLIGOR FOR REGION OR COUNTRY OF PURCHASE

Region/Country of Purchase

Apple

Address

Americas

| | | |
|--|---|--|
| Brazil | Apple Computer Brasil Ltda | Rua: Leopoldo Couto Magalhães Júnior, nº 700, 7º andares, São Paulo, SP, Brasil 04542-000 SAC: 0800-761-0880 https://www.apple.com/br/support |
| Canada | Apple Canada Inc. | 7495 Birchmount Rd.; Markham, Ontario, Canada; L3R 5G2 Canada |
| Mexico | Apple Operations Mexico, S.A. de C.V. | Prolongación Paseo de la Reforma #600, Suite 132, Colonia Peña Blanca, Santa Fé, Delegación Álvaro Obregón, México D.F., CP 01210, Mexico |
| United States and Other Americas Countries | Apple Inc. | 1 Infinite Loop; Cupertino, CA 95014, U.S.A. |
| Europe, Middle East and Africa | | |
| Russian Federation | Limited Liability Company Apple Rus | 5 Petrovka Street, Berlin House Business Center, 107031, Moscow, Russian Federation |
| Turkey | Apple Teknoloji ve Satış Limited Şirketi | FSM Mahallesi Poligon Caddesi Buyaka 2 Sitesi No:8, Blok No.2 (C Blok) Kat:18 34471 Ümraniye İstanbul, Turkey |
| All Other Countries | Apple Distribution International | Hollyhill Industrial Estate Hollyhill, Cork, Republic of Ireland |
| Asia Pacific | | |
| Australia; New Zealand; Fiji, Papua New Guinea; Vanuatu | Apple Pty. Limited. | PO Box A2629, Sydney South, NSW 1235, Australia Tel: 133 622 |
| Hong Kong | Apple Asia Limited | 2401 Tower One, Times Square, Causeway Bay; Hong Kong |
| India | Apple India Private Ltd. | 19th Floor, Concorde Tower C, UB City No 24, Vittal Mallya Road, Bangalore 560-001, India |
| Japan | Apple Japan Inc. | 6-10-1 Roppongi, Minato-ku Tokyo 106-6140, Japan |
| Korea | Apple Korea Ltd. | 3901, ASEM Tower; 159, Samsung-dong, Gangnam-Gu; Seoul 135-798, Republic of Korea |
| Afghanistan, Bangladesh, Bhutan, Brunei, Cambodia, Guam, Indonesia, Laos, Singapore, Malaysia, Nepal, Pakistan, Philippines, Sri Lanka, Vietnam | Apple South Asia Pte. Ltd. | 7 Ang Mo Kio Street 64 Singapore 569086 |
| People's Republic of China | Apple Computer Trading (Shanghai) Co. Ltd. | Room 1815, No. 1 Jilong Road, Waigaoqiao Free Trade Zone, Shanghai 200131 China |

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|-------------------------------|-------------------------------------|--|
| Thailand | Apple South Asia (Thailand) Limited | 44th Floor, Room No. HH4401-6, The Offices at Central World, 999/9 Rama 1 Road, Pathumwan, Pathumwan, Bangkok 10330 Thailand |
| Taiwan | Apple Asia LLC | 19F., No.1, Songzhi Rd., Xinyi Dist., Taipei City 110, Taiwan |
| Other Asian Pacific Countries | Apple Inc. | 1 Infinite Loop, Cupertino, CA 95014, U.S.A. |

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Warranty Selector

Warranty Information

Additional Legal Rights for Consumers

For consumers, who are covered by consumer protection laws or regulations in their country of purchase or, if different, their country of residence, the benefits conferred by Apple's One Year Limited Warranty are in addition to all rights and remedies conveyed by such consumer protection laws and regulations, including but not limited to these additional rights.

For further information on rights provided by consumer law, please click here.

Non-branded Apple products / Third Party Products

Apple's One Year Limited Warranty does not apply to products that are not Apple-branded, even if packaged or sold with Apple products. Non-Apple branded products may have the benefit of a manufacturer's warranty provided by the product manufacturer – please see your product box and literature for details.

Warranty Obligor for Region or Country of Purchase

A worldwide list of companies obligated under Apple's Limited Warranty. [Learn more](#)