

## **Declaration Attachment 10**

KING & FERLAUTO, LLP  
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Thomas M. Ferlauto, SBN 155503  
Attorneys For: Plaintiff Mark Musin

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

In re APPLE iPhone 4 PRODUCTS  
LIABILITY LITIGATION

) Master File No. 5:10-md-02188-RMW

) CLASS ACTION

This Document Relates To:

ALL ACTIONS.

) DECLARATION OF THOMAS M. FERLAUTO  
) ON BEHALF OF KING & FERLAUTO, LLP IN  
) SUPPORT OF AN AWARD OF ATTORNEYS'  
) FEES AND EXPENSES TO NON-LEAD  
) COUNSEL

) DATE: n/a

) TIME: n/a

) CTRM: The Honorable Ronald M. Whyte

I, THOMAS M. FERLAUTO, declare as follows:

1. I am a member of the firm of KING & FERLAUTO, LLP. I am submitting this declaration in support of my firm's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action, pursuant to the Court's order of August 10, 2012.

2. The firm is counsel of record for plaintiff MARK MUSIN. Our firm was not appointed lead counsel in this consolidated MDL. I have not ever been paid or reimbursed any fees or expenses in this case as of the filing of this document.

3. The identification and background of my firm and its partners is attached hereto as Exhibit A.

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4. The following information regarding the firm's time and expenses is taken from time and expense printouts prepared and maintained by my firm in the ordinary course of business. I am the attorney who oversaw and/or conducted the day-to-day activities in the litigation and who reviewed these printouts (and backup documentation where necessary or appropriate). The purpose of these reviews was to confirm both the accuracy of the entries on the printouts as well as the necessity for and reasonableness of the time and expenses committed to the litigation. As a result of these reviews, reductions were made to both time and expenses either in the exercise of billing judgment or to conform to the firm's guidelines and policies regarding certain expenses such as charges for hotels, meals, and transportation. As a result of these reviews and adjustments, I believe that the time reflected in the firm's lodestar calculation and the expenses for which payment is sought are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the litigation.

5. The total number of hours spent on this litigation by my firm is 23.5. The total lodestar amount for attorney/paraprofessional time based on the firm's current rates is \$9,400.00. The hourly rates shown below are the usual and customary rates charged for each individual. A breakdown of the lodestar is as follows:

NAME	HOURS	RATE	LODESTAR
Thomas M. Ferlauto, Partner	23.5 hours	\$400.00	\$9,400.00

6. My firm seeks an award of \$1,139.45 in expenses which were reasonably and necessarily committed to the prosecution of the litigation. They are broken down as follows:

**EXPENSES**

From Inception to May 21, 2012

DATE	DESCRIPTION	TOTAL
7/16/10	Filing Fee	\$1,084.50
7/23/10	Service Fee	\$54.95

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 21st day of August, 2012, at Irvine in Orange County, California.

By:

Thomas M. Ferlauto  
Attorneys For: MARK MUSIN

EXHIBIT A



ORANGE COUNTY OFFICE  
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THE LAW OFFICES OF  
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August 21, 2012

### The Firm

King & Ferlauto, LLP is a litigation law firm in Century City, Los Angeles, California that specializes in providing its select clientele with the best representation possible -- understanding that the best result from a lawsuit is often avoiding the lawsuit in the first place. However, when the gauntlet is dropped, King & Ferlauto, LLP is a powerful advocate ready to zealously fight the most powerful individuals and the richest corporations. The firm is consistently successful in litigation, negotiation, trial and appeals. The firm's areas of practice have ranged from employment, entertainment, insurance, real estate to consumer class actions against Fortune 500 companies.

### History

This law firm was formed in 1997 by William T. King and Thomas M. Ferlauto to provide unparalleled legal services to its clients and to the community. Between them, they have over 70 years of legal experience.

*WILLIAM T. KING*, born Detroit, Michigan, February 3, 1933; admitted to bar, 1958, California and U.S. District Court, Central District of California; 1964, U.S. Supreme Court; 1970, U.S. Tax Court. Education: The Principia College (B.A., cum laude, 1954); Harvard University (J.D., 1957). Listed: Who's Who in America, Bicentennial Edition, 1976; Who's Who in American Law, 1st Edition, 1978. President, Board of Traffic Commissioners of Los Angeles, 1973-1975. Member, Board of Commissioners of the Los Angeles Department of Water and Power, 1975-1976. Member, California Advisory Commission to U.S. Commission on Civil Rights, 1969-1970. Research Associate, Institute of Government and Public Affairs U.C.L.A., 1969-1970. Trustee, Constitutional Rights foundation, 1970-. Counsel: Directors' Guild Foundation. Member: Beverly Hills and Los Angeles County Bar Associations (Member: Executive Committee, Probate and Trust Section, 1966-1971; Family Law Section); The State Bar of California (Member, Family Law Section); California Trial Lawyers Association; Consumer Attorneys Association of Los Angeles. Fellow, American College of Probate Counsel. PRACTICE AREAS: Estate Planning; Probate; Trusts; Conservatorships; Family Law; Business Law; Real Estate; Corporate; Partnership; Civil Litigation.

*THOMAS M. FERLAUTO*, born Long Beach, California, July 1, 1966; admitted to bar, 1991, California and U.S. District Court, Northern, Southern, Eastern and Central Districts of California; U.S. District Court, District of Arizona. Education: University of Texas at Austin (B.S., with honors. 1987; J.D., 1990). Member: AAJ: American Association for Justice PRACTICE AREAS: State and Federal Litigation; Consumer Class Action Litigation; Business Law; anti-SLAPP (Strategic Lawsuits Against Public Participation); Defamation; Employment Law; Insurance; Real Estate; Intellectual Property; Entertainment.

KING & FERLAUTO, LLP

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Mr. Ferlauto is currently representing a wide range of clients (including doctors, lawyers, interior designers, construction companies, patients, employees, policy holders, etc.) in a wide variety of civil litigation. He has also successfully represented consumers in class actions, including:

- *Bancroft vs. Apple Computer, Inc.*, LASC Case No. BC 267266
- *Vargas v. Tenet Healthcare Corporation*, LASC Case No. BC 291 303, Tenet Healthcare Cases II, JCCP Case No. 4289
- *Uy v. Ralphs Groceries Company*, LASC Case No. BC 306411 and *Seibel v. Ralphs Groceries Company*, LASC Case No. BC 324957, The Great Escape Promotion Cases, JCCP 4343
- *Finestone v. Menu Foods*, USDC Case No. CV 07-02338 CAS(CW) Pet Foods Product Liability Litigation, MDL Docket No. 1850
- *Martiez v. RC2 Corporation*, USDC Case No. CV 07-05401 AHM (FMOx) In Re RC2 Corp. Toy Lead Paint Products Liability Litigation, MDL Docket No. 1893

Mr. Ferlauto's prior successes include the following:

- Litigation and trial of an employment dispute for a legal secretary against a large law firm resulting in a \$478,000 recovery for the firm's client.
- Litigation and trial of a medical malpractice wrongful death action for a widow against the hospital and negligent doctors resulting in a \$625,000 recovery for the firm's client.
- Litigation and appeal concerning the terms of DIRECTV's customer agreement. This lawsuit challenged the enforceability of the arbitration provision located in DIRECTV's customer agreement which prohibited class and representative actions. In *Cohen v. DIRECTV* (2006) 142 Cal.App.4th 1442, the California Court of Appeals found the arbitration provision was unconscionable and not enforceable. The Court refused to enforce DIRECTV's arbitration provision, permitting the proposed class action to proceed.
- Litigation and negotiation of a settlement of a nationwide class action lawsuit against RALPHS GROCERY COMPANY concerning its defunct Great Escape Promotion. This lawsuit was based on Ralphs' failure to give qualifying customers a free two night hotel stay as promised under the terms of its promotion. This settlement provided a remedy to over 300,000 customers across the State of California, providing class members certificates worth \$108 in free groceries for each time they qualified under the promotion. Thus, the settlement had a potential value to consumers in excess of \$30,000,000.00.
- Litigation and negotiation of a settlement of a nationwide class action lawsuit against APPLE COMPUTER, INC. concerning its operating system Mac OS X. This lawsuit was based on Apple's failure to adequately support the video graphic acceleration hardware in Apple's Mac G3 computer systems. This settlement provided a remedy to over 80,000 computer users across the country, including a full refund of the purchase price of \$129.00 per person. Thus, the settlement had a potential value to consumers in excess of \$10,000,000.00.

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- Litigation and trial of a Federal copyright lawsuit on behalf of Plaintiff, a video producer. This jury trial resulted in a verdict in favor of the Plaintiff and awarded him injunctive relief and monetary damages.
- Litigation and negotiation of a confidential settlement of a breach of contract and fraud lawsuit for a motion picture director against the producers of the motion picture NATURAL BORN KILLERS.
- Litigation and negotiation of a confidential settlement of a breach of contract, fraud and business tort lawsuit against Frank and SYLVESTER STALLONE on behalf of the producers of the motion picture THE GOOD LIFE.
- Litigation and negotiation of a confidential settlement of a high profile defamation lawsuit against self-proclaimed plastic surgeon to the stars, DR. STEVEN M. HOEFFLIN. In connection with this case, Mr. Ferlauto managed to have the Court's gag order reversed in a published decision by the California Court of Appeal (*Hurvitz v. Hoefflin* (2000) 84 Cal.App.4th 1232 , 101 Cal.Rptr.2d 558) This case is widely cited in California jurisprudence on the Court's ability to restrict the free speech of litigants.