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15 Attorneys for the State of California

16 IN THE UNITED STATES DISTRICT COURT
 17 FOR THE NORTHERN DISTRICT OF CALIFORNIA

18 THE STATE OF CALIFORNIA et al.,
 19 Plaintiffs,
 20 v.
 21 INFINEON TECHNOLOGIES AG et al.,
 22 Defendants.

Case No. C 06-4333 PJH
 Related to MDL No. 1486
 Declaration of Kathleen Foote re States’
 Reply in Support of Motion to Void
 Certain Defendants’ Agreement (re:
 Settlement)
 Date: November 14, 2007
 Time: 9:00 A.M.
 Courtroom: 3

24 I, Kathleen Foote, declare:

25 1. I am a Senior Assistant Attorney General for the State of California and am
 26 attorney of record for plaintiff States in the above action. I have personal knowledge of the

1 facts stated in this Declaration.

2 2. My responsibilities on behalf of plaintiff States in the above action include the
3 negotiation of settlements with defendants. I have participated in settlement discussions with
4 defendants from the outset of this litigation.

5 3. I do not believe it is proper or productive to disclose the details of any settlement
6 negotiations to the Court or in a public forum. However, in their Opposition to Plaintiffs’
7 Motion to Void Defendants’ Judgment Sharing Agreement, defendants make the following
8 assertion at page 13: “Plaintiffs have not made a separate settlement offer to any Defendant
9 that is a signatory to the JSA since the execution of the Agreement.” I make the following
10 observations in response to this representation.

11 4. Settlement discussions have occurred periodically in this case from the start. These
12 discussion have explored proposals for settling with all defendants and proposals for settling
13 with fewer than all defendants.

14 5. In the course of such discussions, defendants communicated to me that, once they
15 had signed what they call their “Judgment Sharing Agreement,” they would no longer
16 individually discuss settlement with the States. Since that time, individual settlement
17 discussion with the defendants that are signatories to Defendants’ Agreement have
18 terminated.

19 6. Defendants that are signatories to Defendants’ Agreement have communicated
20 to me that settlement will be achieved with these defendants, if at all, only with the entire
21 Agreement group.

22 7. Plaintiffs have successfully negotiated settlement with individual defendants that
23 are not signatories to Defendants’ Agreement. However, in light of the developments
24 described above, further negotiation with fewer than all of the signatories to Defendants’
25 Agreement appears to be futile. The States’ efforts to settle this case have been seriously
26 impaired by Defendants’ Agreement.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

San Francisco, California

Date: October 31, 2007

/s/ Kathleen Foote
Kathleen Foote

I, Charles Kagay, attest that concurrence in the filing of the document has been obtained from each of the other signatories.

SPIEGEL LIAO & KAGAY

/s/ Charles M. Kagay
Charles M. Kagay