

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**If you are or were a U.S. owner of an iPhone 6, 6 Plus, 6s, 6s Plus, and/or SE device that ran iOS 10.2.1 or later before December 21, 2017, and/or a U.S. owner of an iPhone 7 or 7 Plus device that ran iOS 11.2 or later before December 21, 2017, you could be entitled to benefits under a class action settlement.**

*The United States District Court for the Northern District of California authorized this notice. This is not a solicitation from a lawyer.*

- Under the proposed settlement, Apple will make a minimum, non-reversionary payment of \$310,000,000 and a maximum payment of up to \$500,000,000; depending on the number of claims submitted.
- You may be entitled to settlement benefits if you are or were (1) a United States owner of an iPhone 6, 6 Plus, 6s, 6s Plus, 7, 7 Plus, and/or SE device (2) that ran iOS 10.2.1 or later or, in the case of iPhone 7 and 7 Plus devices, that ran iOS 11.2 or later before December 21, 2017, and (3) you experienced diminished performance on your device(s). For more information, you can visit the settlement website at [www.SmartphonePerformanceSettlement.com](http://www.SmartphonePerformanceSettlement.com).
- Your legal rights are affected whether you act or don't act. Please read this notice carefully.

| <b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b> |   |   |
|---|---|---|
| <b>OPTION</b>   | <b>EXPLANATION</b>  | <b>DEADLINE</b>                               |
| SUBMIT A CLAIM FORM ONLINE OR IN THE MAIL               | The only way to get a payment under the settlement.   | <b>October 6, 2020</b>                        |
| EXCLUDE YOURSELF  | Get no payment under the settlement. This is the only option that allows you to be a part of any other lawsuit against Apple about the claims and allegations in this case. |   |
| OBJECT TO THE SETTLEMENT                                | Write to the Court about why you don't like the settlement and ask to speak at the Final Hearing.   |   |
| OBJECT TO ATTORNEYS' FEES AND/OR EXPENSES               | Write to the Court about why you don't like the attorneys' fees and/or expenses that Class Counsel requests.  |   |
| GO TO A HEARING   | Speak in Court about the fairness of the settlement.  | <b>December 4, 2020<br/>at 10:00 a.m. PST</b> |
| DO NOTHING  | Get no payment under the settlement and give up your right to compensation for the claims and allegations in this case.   | N/A   |

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still must decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

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## BASIC INFORMATION

### 1. Why did I get a notice?

You may be a United States owner of an iPhone 6, 6 Plus, 6s, 6s Plus, 7, 7 Plus, and/or SE device that ran iOS 10.2.1 or later (or, in the case of iPhone 7 and 7 Plus devices, that ran iOS 11.2 or later) before December 21, 2017. For more information, you can visit the settlement website at [www.SmartphonePerformanceSettlement.com](http://www.SmartphonePerformanceSettlement.com).

The Court ordered this notice because you have a right to know about a proposed settlement of class action lawsuits against Apple relating to certain iOS software that allegedly diminished the performance of Apple devices, and about your options, before the Court decides whether to approve the settlement. If the Court approves the settlement and after any appeals are resolved, an administrator will make the payments that the settlement allows.

This notice explains the lawsuits, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the case is the United States District Court for the Northern District of California, and the case is known as *In re Apple Inc. Device Performance Litigation*, Case No. 18-MD-2827-EJD. The people who sued are Plaintiffs, and the company they sued, Apple Inc., is the Defendant. The proposed settlement also resolves similar class actions filed in other federal districts of the United States, as well as a class action filed in the Superior Court for the State of California, County of San Francisco.

### 2. What is this lawsuit about?

In a consolidated class action lawsuit pending against Apple, Plaintiffs claimed that a performance management feature introduced for iPhone 6, 6 Plus, 6s, 6s Plus, and SE devices in iOS 10.2.1, and introduced for iPhone 7 and 7 Plus devices in iOS 11.2, diminished the performance of some of those devices. Apple denies all allegations and is entering into this settlement to avoid burdensome and costly litigation. The settlement is *not* an admission of wrongdoing by Apple.

### 3. Why is this a class action?

In a class action, one or more people, called Named Plaintiffs, sued on behalf of all people who purportedly have similar claims (called “Settlement Class Members”). Together, the Named Plaintiffs and the other members of the Settlement Class make up the “Settlement Class.” One court resolves the dispute for all members of the Settlement Class, except for those who exclude themselves from the Class. United States District Court Judge Edward J. Davila is in charge of this class action.

### 4. Why is there a settlement?

The Court did not decide the case in favor of Plaintiffs or Apple. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial, and settlement benefits go to the Settlement Class Members. The Named Plaintiffs and their attorneys (“Class Counsel”) think the settlement is in the best interests of the members of the Settlement Class.

## WHO IS IN THE SETTLEMENT

To see if you are eligible for benefits, you first must determine whether you are a member of the Settlement Class.

### 5. What is an eligible device?

iPhone 6, 6 Plus, 6s, 6s Plus, 7, 7 Plus, and/or SE devices that ran iOS 10.2.1 or later or iPhone 7 and 7 Plus devices that ran iOS 11.2 or later. Eligible members of the Settlement Class must meet the other requirements described in this notice.

### 6. How do I know if I am part of the settlement?

You are a member of the Settlement Class if you are or were (1) a United States owner of an iPhone 6, 6 Plus, 6s, 6s Plus, 7, 7 Plus, and/or SE device (2) that ran iOS 10.2.1 or later or, in the case of iPhone 7 and 7 Plus devices, that ran iOS 11.2 or later before December 21, 2017. **You must meet both criteria to be a member of the Settlement Class.**

A United States owner is someone who owned, purchased, leased, or otherwise received an eligible device, including for personal, work, or any other purposes, and whose eligible device was shipped to the United States, its territories, and/or its possessions. The Settlement Class does not include iPhone owners who are domiciled outside of the United States, its territories, and/or its possessions.

### 7. Are there exceptions to being included?

The Settlement Class *excludes* Apple; any entity in which Apple has a controlling interest; Apple's directors, officers, and employees; Apple's legal representatives, successors, and assigns; members of the Court; all persons who submit valid requests to be excluded from the settlement; and certain other individuals whose claims have already been adjudicated.

### 8. I'm still not sure if I am included.

If you are still not sure whether you are a member of the Settlement Class, you can visit the Settlement Website at [www.SmartphonePerformanceSettlement.com](http://www.SmartphonePerformanceSettlement.com).

## THE SETTLEMENT BENEFITS—WHAT YOU GET

### 9. What does the settlement provide?

Apple will provide a cash payment per eligible device (calculated as set forth below) to each Settlement Class Member who submits a timely and valid Claim Form including a serial number of an eligible device and a declaration under penalty of perjury stating that they are or were (1) a United States owner of an iPhone 6, 6 Plus, 6s, 6s Plus, 7, 7 Plus, and/or SE device (2) that ran iOS 10.2.1 or later or, in the case of iPhone 7 and 7 Plus devices, that ran iOS 11.2 or later before December 21, 2017, and (3) they experienced diminished performance on the device(s).

**Amount of Cash Payment:** The cash payment per eligible device depends on the actual number of approved claims and other factors, including the award of attorneys' fees and

expenses and Named Plaintiff service awards. Under the proposed settlement, Apple shall pay a minimum of \$310,000,000 (the “Floor”) and a maximum of \$500,000,000 (the “Ceiling”). Under no circumstances shall any of the Floor revert to Apple.

Apple will provide a cash payment of approximately \$25 per eligible device, provided that Apple will not pay more than \$500 million in aggregate to the Settlement Class Members. If the total value of approved claims submitted exceeds the \$500 million Ceiling, the value of each approved claim (per eligible device) will be reduced on a pro rata basis. Additionally, under the proposed settlement, if the total value of approved claims submitted by Settlement Class Members does not exceed the \$310 million Floor, the value of each approved claim (per eligible device) may be increased on a pro rata basis, up to a maximum of \$500 per device. For more details, please refer to the Settlement Agreement available at [www.SmartphonePerformanceSettlement.com](http://www.SmartphonePerformanceSettlement.com).

#### 10. What are the requirements to receive a settlement benefit?

To receive a settlement benefit, you must complete a valid Claim Form that includes, among other things, your name, mailing address, and an eligible iPhone serial number. You also must declare under penalty of perjury that: (1) you are or were a United States owner of an iPhone 6, 6 Plus, 6s, 6s Plus, 7, 7 Plus, and/or SE device (2) that ran iOS 10.2.1 or later or, in the case of iPhone 7 and 7 Plus devices, that ran iOS 11.2 or later before December 21, 2017, and (3) you experienced diminished performance on your device(s). If you have multiple eligible devices, you must submit a separate Claim Form for each device.

If you satisfy these requirements, you will receive a cash payment for each valid Claim Form you submit, based on the calculation explained above.

#### HOW YOU GET A SETTLEMENT BENEFIT—SUBMITTING A CLAIM FORM

#### 11. How can I get a settlement benefit?

To qualify for a settlement benefit, you must submit a valid Claim Form. The online Claim Form, including instructions on how to make a Claim, can be accessed at [www.SmartphonePerformanceSettlement.com](http://www.SmartphonePerformanceSettlement.com). If you wish to receive this cash payment electronically by ACH, please be sure to have your routing and bank account number available when completing the online Claim Form.

You can also download a Claim Form to mail in by clicking [here](#), or you may request a Claim Form by emailing the Claims Administrator at: [Questions@SmartphonePerformanceSettlement.com](mailto:Questions@SmartphonePerformanceSettlement.com) or by calling toll-free 1-833-649-0927.

You must read the instructions carefully, fill out the Claim Form as directed in the instructions, and sign the Claim Form. You must (a) submit the Claim electronically at [www.SmartphonePerformanceSettlement.com](http://www.SmartphonePerformanceSettlement.com) or (b) mail it to: *In re Apple Inc. Device Performance Litigation*, ATTN: Claims Administrator, 1650 Arch Street, Suite 2230, Philadelphia, PA 19103. The Claim Form must be **received by October 6, 2020**. **If your Claim Form is not received by the deadline, your Claim will be rejected, and you will be deemed to have waived all rights to receive any cash benefit under this settlement.**

Please carefully follow all instructions on the Claim Form.

**12. When would I get my settlement benefit?**

The Court will hold a Final Hearing on **December 4, 2020 at 10:00 a.m. PST**, to decide whether to approve the settlement. The date of the Final Hearing may change without further notice. You should check the Court's Public Access to Court Electronic Records (PACER) site at <https://ecf.cand.uscourts.gov>, for a fee, to confirm that the date has not been changed. The Final Hearing will take place at the San Jose Courthouse, Courtroom 4, 280 South 1st Street, San Jose, CA 95113. If Judge Davila approves the settlement, there may be appeals. The appeal process can take time, perhaps more than a year. If there is no appeal, your settlement benefit will be processed promptly. Please be patient.

**13. What am I giving up to get a settlement benefit?**

Unless you submit a valid request to be excluded from the Settlement Class, you will be a Settlement Class Member. If you remain a Settlement Class Member, you will be eligible for a settlement benefit but you can't sue, continue to sue, or be part of any other lawsuit against Apple about the claims and allegations in this case. It also means that all of the Court's orders will apply to you and legally bind you.

**EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you don't want a payment from this settlement, but you want to keep the right to sue, or continue to sue, Apple on your own about the claims and allegations in this case, then you must take steps to get out of the Settlement Class. This is what it means to request to be excluded from or "opt out" of the Settlement Class.

**14. How do I get out of the settlement?**

To request to be excluded from the settlement, you must send a letter saying that you want to be excluded from the Settlement Class in *In re Apple Inc. Device Performance Litigation*, Case No. 18-MD-2827-EJD. You must include your name, mailing address, telephone number, eligible Class iPhone serial number and your signature. Your exclusion request must be **received by** no later than **October 6, 2020** to:

*In re Apple Inc. Device Performance Litigation*  
ATTN: Opt Out  
PO Box 60257  
Philadelphia, PA 19102

If you are excluded, you will not receive any settlement payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) Apple in the future about the claims and allegations in this case.

**15. If I don't request exclusion, can I sue Apple for the same thing later?**

No. Unless you request to be excluded, you give up the right to sue Apple for the claims that this settlement resolves.

**16. If I request exclusion, can I get a settlement benefit?**

No. If you request to be excluded, you may not submit a Claim Form to ask for any benefit. But you will not lose any right you may have to sue, continue to sue, or be part of a different lawsuit against Apple about the claims and allegations in this case.

**THE LAWYERS REPRESENTING YOU**

**17. Do I have a lawyer in this case?**

The Settlement Class is represented by Joseph W. Cotchett of Cotchett, Pitre & McCarthy, LLP and Laurence D. King of Kaplan Fox & Kilsheimer LLP, who have been appointed by the Court as Class Counsel for the Settlement Class. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

**18. How will the lawyers be paid?**

Court-appointed Class Counsel, which have been prosecuting this litigation since its inception in 2017, have not received any payment of attorneys' fees for their representation of the Settlement Class and have advanced all expenses necessarily incurred in order to prosecute the Action. Class Counsel will ask the Court for attorneys' fees in the amount not to exceed 30% of the \$310,00,000 Floor. Class Counsel will also apply for reimbursement of expenses paid on behalf of the Class in an amount not to exceed \$2 million and Service Awards to Named Plaintiffs of up to \$3,500 each (for those Named Plaintiffs who were deposed) and \$1,500 (for all other Named Plaintiffs). A copy of Class Counsel's Motion for Attorneys' Fees and Expenses and for Named Plaintiff Service Awards will be available at [www.SmartphonePerformanceSettlement.com](http://www.SmartphonePerformanceSettlement.com) on or around August 26, 2020.

**OBJECTING TO THE SETTLEMENT**

You can tell the Court that you don't agree with the settlement or some part of it.

**19. How do I tell the Court that I don't like the settlement?**

If you're a Settlement Class Member, you can object to the settlement if you don't agree with a part of it and give reasons you think the Court should not approve it. You can also object to the requested award of Attorneys' Fees and Expenses or Service Awards to the Named Plaintiffs. The Court will consider your views. To object, you must send a letter stating that you object to the settlement in *In re Apple Inc. Device Performance Litigation*, Case No. 18-MD-2827-EJD. You must include the case name and number, your name, mailing address, telephone number, your signature, a detailed statement of your specific objections, and proof of membership in the Class, as well as any documents that you want the Court to consider. The letter and any supporting documents must be delivered to and **received by** the Court by **October 6, 2020** at the following address, or filed in person at any location of the United States District Court for the Northern District of California:



| Court  |
|--|
| Clerk of the Court<br>United States District Court<br>Northern District of California<br>San Jose Division<br>280 South 1st Street<br>San Jose, CA 95113 |

**20. What’s the difference between objecting and requesting exclusion?**

If you object, you are telling the Court that you disagree with something in the settlement. You can object only if you *stay in* the Settlement Class. If you object but the Court still approves the settlement, you will be bound by the settlement and can receive the benefits it provides.

If you request exclusion, you are telling the Court that you don’t want to be part of the Settlement Class. You would then have no basis to object, because the settlement would no longer affect you.

**THE COURT’S FAIRNESS HEARING**

The Court will hold a hearing to decide whether to approve the settlement. You may attend, and you may ask to speak, but you don’t have to.

**21. When and where will the Court decide whether to approve the settlement?**

The Court will hold a Final Hearing at **10:00 a.m. PST on December 4, 2020**, at the United States District Court for the Northern District of California, San Jose Division, Courtroom 4 (5th Floor) located at 280 South 1st Street, San Jose, California 95113. At the Final Hearing the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Davila will listen to Settlement Class Members who have asked to speak at the hearing. The Court will also consider how much money to award Class Counsel and the amount of the Named Plaintiff Service Awards. After the Final Hearing, the Court will decide whether to approve the settlement and will rule on Class Counsel’s Motion for Attorneys’ Fees and/or Expenses, and for Named Plaintiff Service Awards.

We do not know how long these decisions will take. The date of the Final Hearing can change without further notice. Please check [www.SmartphonePerformanceSettlement.com](http://www.SmartphonePerformanceSettlement.com) for further updates.

**22. Do I need to come to the Final Hearing?**

No. Class Counsel will answer questions about the settlement that Judge Davila may have. But you are welcome to come at your own expense. If you send an objection, you don’t need to come to the Final Hearing to talk about it. As long as your written objection was received on time, the Court will consider it. You may also pay your own lawyer to attend, but it’s not necessary.



**23. May I speak at the Final Hearing?**

You may ask the Court for permission to speak at the Final Hearing. To do so, you must send a letter stating that you intend to appear and speak at the Final Hearing in *In re: Apple Inc. Device Performance Litigation*, Case No. 18-MD-2827-EJD. You must include the case name and number, your name, mailing address, telephone number, and your signature. Your letter must be **received by** the Clerk of the Court, at the address above, by **October 6, 2020**. You cannot speak at the Final Hearing if you requested to be excluded from the Settlement Class.

**IF YOU DO NOTHING**

**24. What happens if I do nothing at all?**

If you do nothing, you will be a Settlement Class Member. You will not receive a benefit from the settlement unless you file a valid Claim Form on time. If you submit a valid Claim Form on time, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Apple about the claims and allegations in this case.

**GETTING MORE INFORMATION**

**25. Are there more details about the settlement?**

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. Copies of the Settlement Agreement and the pleadings and other documents relating to the case, including motions for approval of the Settlement and awards of Attorneys' Fees and Expenses and Service Awards, are on file at the United States District Court for the Northern District of California, San Jose Division. The Settlement Agreement and other important documents are also available on the Settlement Website at [www.SmartphonePerformanceSettlement.com](http://www.SmartphonePerformanceSettlement.com).

In addition, you can access the Court docket in this case, for a fee, through the Court's PACER system at <https://ecf.cand.uscourts.gov>. Subject to the Court's current operations in light of the COVID-19 pandemic, you can also visit the office of the Clerk of the Court for the United States District Court for the Northern District of California, San Jose Division, located at 280 South 1st Street, Second Floor, San Jose, California, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

**26. How do I get more information?**

You can visit the Settlement Website at [www.SmartphonePerformanceSettlement.com](http://www.SmartphonePerformanceSettlement.com), where you will find answers to common questions about the Settlement, a Claim Form, and other information.

**Questions may not be directed to the Court.**

Date: May 27, 2020