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16  
17 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

18  
19 LISA TABAK, DE'JHONTAI  
20 BANKS, MATTHEW WHITE, KELLY  
21 CAMELO-CENICOLA, NESTOR  
22 TRUJILLO, and CHRISTINE CLEMENCE,  
on behalf of themselves and all others  
similarly situated,

23 Plaintiffs,

24 v.

25 APPLE, INC.,

26 Defendant.  
27

CASE NO. 4:19-CV-02455-JST

**PLAINTIFFS' NOTICE OF MOTION**  
**AND MOTION FOR FINAL APPROVAL**  
**OF CLASS ACTION SETTLEMENT**

**Judge:** Hon. Jon S. Tigar

**Date:** July 18, 2024

**Time:** 2:00 p.m.

**Place:** Courtroom 6, 2<sup>nd</sup> Floor  
1301 Clay Street, Oakland, CA 94612

**NOTICE OF MOTION**

PLEASE TAKE NOTICE THAT on July 18, 2024 at 2:00 p.m., or as soon thereafter that the matter may be heard, via video conference before the Honorable Jon S. Tigar, of the United States District Court for the Northern District of California, Plaintiffs Lisa Tabak, De’Jhontai Banks, Matthew White, Kelly Camelo-Cenicola, Nestor Trujillo, and Christine Clemence (“Plaintiffs”) will and hereby do move, pursuant to Federal Rule of Civil Procedure 23, this Court for an Order (1) finally approving the Settlement settling their claims, both on behalf of themselves and on behalf of a Settlement Class of similarly situated individuals; (2) certifying the Settlement Class for settlement purposes only; (3) appointing Plaintiffs’ counsel as Class Counsel and Plaintiffs as Class Representatives; (4) directing payment to Settlement Class Members who submitted valid payment information; and (5) directing that final judgment be entered herein. As discussed more fully in the attached Memorandum of Points and Authorities, the Parties have negotiated a Settlement that provides substantial compensation to consumers who allegedly experienced certain audio issues with their iPhone 7 and iPhone 7 Plus devices, thereby providing meaningful relief to Class Members for the alleged defect. Following the Court’s Order granting preliminary approval of the Settlement on November 21, 2023, notice was sent to Settlement Class Members. Following a robust notice program, as of June 21, 2024, 114,684 Settlement Class Members have submitted valid payment information. Furthermore, only 91 Settlement Class Members opted out of the Settlement. Only 3 people submitted objections to the Settlement, but as Class Counsel will explain in their Responses to these Objections, to be filed on July 11, 2024, only 1 of these objectors qualifies as a Settlement Class Member, and the 2 other objectors do not qualify as Settlement Class Members, thus their Objections should be considered invalid. Moreover, none have substantive merit. Given the positive response by the Settlement Class, and the valuable benefits the Settlement confers on Settlement Class Members, in this Motion Plaintiffs respectfully request that the Court grant final approval of the Settlement, direct payment of

1 Settlement funds to those Settlement Class Members who submitted valid payment information,  
2 and enter final judgment.

3  
4 Dated: June 24, 2024

*/s/ William A. Ladnier*

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**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

I. INTRODUCTION AND SUMMARY OF ARGUMENT ..... 1

II. THE SETTLEMENT ..... 2

    A. The Settlement Class..... 3

    B. Benefits to the Settlement Class Members ..... 4

III. SETTLEMENT ADMINISTRATION AND CLASS RESPONSE..... 5

    A. Settlement Administration ..... 5

    B. Class Notice ..... 5

    C. Settlement Class Members’ Response..... 8

IV. ATTORNEYS’ FEES AND EXPENSES AND SERVICE AWARDS ..... 9

V. *CY PRES* RECIPIENT ..... 10

VI. LEGAL STANDARD..... 11

VII. ARGUMENT..... 12

    A. The Court Should Certify the Settlement Class for Settlement Purposes..... 12

        1. The Settlement Class meets the requirements of Rule 23(a). ..... 13

        2. The Settlement Class Meets the Requirements of Rule 23(b)(3). ..... 14

    B. The Notice Plan Has Provided the Best Notice Practicable. .... 15

    C. The Court Should Approve the Settlement Because It Is Fair, Reasonable, and Adequate. .... 16

        1. The Settlement is the result of good faith, arm’s-length negotiations before an experienced Mediator..... 16

        2. The Settlement falls within the range of possible approval. .... 17

            a. The Strengths and Risks of Plaintiffs’ Case and the Complexity and Likely Duration of Further Litigation ..... 17

            b. The Risk of Maintaining Class Action Status Through Trial..... 19

            c. The Amount Offered in Settlement..... 19

            d. Extent of Discovery Completed and Stage of Proceedings ..... 21

            e. Views of Class Counsel ..... 21

            f. Overwhelmingly Positive Reception by Settlement Class Members ..... 21

            g. No Governmental Entity Has Objected to the Settlement ..... 22

        3. The Settlement treats Settlement Class Members equitably..... 23

1           4.     The Fee and Expense Award sought by Class Counsel is fair and  
2                 reasonable. .... 24

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
VIII. CONCLUSION..... 25

TABLE OF AUTHORITIES

Page(s)

**Cases**

*Amchem Prods., Inc. v. Windsor*,  
521 U.S. 591 (1997) ..... 12, 13

*Briseño v. Henderson*,  
998 F.3d 1014 (9th Cir. 2021) ..... 17

*Bronson v. Samsung Elecs. Am., Inc.*, No. C 18-02300,  
2020 WL 1503662 (N.D. Cal. Mar. 30, 2020) ..... 2

*Churchill Village, L.L.C. v. General Electric*,  
361 F.3d 566 (9th Cir. 2004) ..... 12, 15

*Class Plaintiffs v. City of Seattle*,  
955 F.2d 1268 (9th Cir. 1992) ..... 12

*Del Toro Lopez v. Uber Techs., Inc.*, No. 17-cv-06255,  
2018 WL 5982506 (N.D. Cal. Nov. 14, 2018) ..... 11

*Edwards v. Andrews*,  
846 F. App'x 538 (9th Cir. 2021) ..... 23

*Edwards v. Nat'l Milk Producers Fed'n*, No. 11-CV-04766,  
2017 WL 3623734 (N.D. Cal. June 26, 2017) ..... 22

*Evon v. Law Offices of Sidney Mickell*,  
688 F.3d 1015 (9th Cir. 2012) ..... 14

*G. F. v. Contra Costa Cnty.*, No. 13-cv-03667-MEJ,  
2015 WL 4606078 (N.D. Cal. July 30, 2015) ..... 16

*Hamilton v. TBC Corp.*,  
821 F. App'x 720 (9th Cir. 2020) ..... 18

*Hanlon v. Chrysler Corp.*,  
150 F.3d 1011 (9th Cir. 1998) ..... 12, 14, 15

*In re Apple iPhone/iPod Warranty Litig.*, No. CV-10-01610,  
2014 WL 12640497 (N.D. Cal. May 8, 2014) ..... 2

*In re Bluetooth Headset Prods. Liab. Litig.*,  
654 F.3d 935 (9th Cir. 2011) ..... 17

*In re Lithium Ion Batteries Antitrust Litig.*, No. 13-MD-02420,  
2020 WL 7264559 (N.D. Cal. Dec. 10, 2020) ..... 17

*In re MacBook Keyboard Litig.*, No. 5:18-cv-02813,  
2023 WL 3688452 (N.D. Cal. May 25, 2023) ..... 20, 23

*In re Netflix Privacy Litig.*, No. 5:11-CV-00379,  
2013 WL 1120801 (N.D. Cal. Mar. 18, 2013) ..... 19

*In re Nexus 6P Products Liability Litigation*, No. 17-cv-02185,  
2019 WL 6622842 (N.D. Cal. Nov. 12, 2019) ..... 2, 23

*In re Online DVD-Rental Antitrust Litig.*,  
779 F.3d 934 (9th Cir. 2015) ..... 22

1 *In re Pac. Enters. Sec. Litig.*,  
47 F.3d 373 (9th Cir. 1995) ..... 12

2 *In re TracFone Unlimited Serv. Plan Litig.*,  
112 F. Supp. 3d 993 (N.D. Cal. 2015)..... 9

3 *In re Transpacific Passenger Air Transportation Antitrust Litig.*, No. 23-15118,  
2024 WL 810703 (9th Cir. Feb. 27, 2024) ..... 9

4 *In re Volkswagen “Clean Diesel” Mktg., Sales Practices & Prod. Liab. Litig.*, No. 2672,  
2016 WL 4010049 (N.D. Cal. July 26, 2016) ..... 12, 13

5 *J.L. v. Cissna*, No. 18-cv-04914-NC,  
2019 WL 415579 (N.D. Cal. Feb. 1, 2019)..... 13

6 *Keller v. Elec. Arts, Inc.*, No. 4:09-cv-1967,  
2015 WL 5005057 (N.D. Cal. Aug. 18, 2015) ..... 15

7 *Kim v. Space Pencil, Inc.*, No. C 11-03796,  
2012 WL 5948951 (N.D. Cal. Nov. 28, 2012) ..... 18

8 *Knapp v. Art.com, Inc.*,  
283 F. Supp. 3d 823 (N.D. Cal. 2017)..... 19, 23

9 *LaGarde v. Support.com, Inc.*, No. C 12-0609,  
2013 WL 1283325 (N.D. Cal. Mar. 26, 2013) ..... 23

10 *Larsen v. Trader Joe’s Co.*, No. 11-cv-05188,  
2014 WL 3404531 (N.D. Cal. July 11, 2014) ..... 2

11 *Miller v. Ghirardelli Chocolate Co.*, No. 12-cv-04936,  
2015 WL 758094 (N.D. Cal. Feb. 20, 2015) ..... 2

12 *Nat’l Rural Telecomm. Coop. v. DirecTV, Inc.*,  
221 F.R.D. 523 (C.D. Cal. 2004)..... 21

13 *Noll v. eBay, Inc.*,  
309 F.R.D. 593 (N.D. Cal. 2015) ..... 22

14 *Officers for Just. v. Civ. Serv. Comm’n of City & Cnty. of San Francisco*,  
688 F.2d 615 (9th Cir. 1982) ..... 17

15 *Phillips Petroleum Co. v. Shutts*,  
472 U.S. 797 (1985) ..... 15

16 *Rael v. Children’s Place, Inc.*, No. 3:16-cv-00370,  
2020 WL 434482 (S.D. Cal. Jan. 28, 2020) ..... 22

17 *Rieckborn v. Velti PLC*, No. 13-cv-03889,  
2015 WL 468329 (N.D. Cal. Feb. 3, 2015)..... 12

18 *Rodriguez v. Hayes*,  
591 F.3d 1105 (9th Cir. 2010) ..... 13

19 *Rodriguez v. W. Publ’g Corp.*,  
563 F.3d 948 (9th Cir. 2009) ..... 19, 24

20 *Stonehocker v. Kindred Healthcare Operating LLC*, No. 19-CV-2494,  
2021 WL 1643226 (N.D. Cal. Apr. 27, 2021)..... 22

21 *Theodore Broomfield v. Craft Brew Alliance, Inc.*, No. 17-cv-01027,  
2020 WL 1972505 (N.D. Cal. Feb. 5, 2020) ..... 21, 22

22 *Tyson Foods, Inc. v. Bouaphakeo*,  
577 U.S. 442 (2016) ..... 14

23 *Van Bronkhorst v. Safeco Corp.*,  
529 F.2d 943 (9th Cir. 1976) ..... 12

24

25

26

27

1 *Villegas v. J.P. Morgan Chase & Co.*, No. CV 09-00261,  
 2012 WL 5878390 (N.D. Cal. Nov. 21, 2012) ..... 16  
 2 *Weeks v. Google LLC*, No. 5:18-cv-00801,  
 2019 WL 8135563 (N.D. Cal. Dec. 13, 2019)..... 20  
 3 *Wolin v. Jaguar Land Rover N. Am., LLC*,  
 617 F.3d 1168 (9th Cir. 2010)..... 13, 15  
 4

5 **Statutes**

6 28 U.S.C. § 1715..... 8

7 **Rules**

8 Fed. Civ. P. 23..... *passim*  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION AND SUMMARY OF ARGUMENT**

Plaintiffs originally filed this proposed class action against Defendant Apple Inc., (“Apple”) on May 6, 2019. Following approximately four years of vigorous litigation and discovery, the parties reached an agreement to resolve the claims raised in this Action (the “Settlement”)<sup>1</sup>. The Settlement provides for a total fund of \$35,000,000, providing between \$50 to \$349 to Settlement Class Members who paid Apple out-of-pocket for a repair or replacement (“OOP Payees”) for certain alleged audio-related issues with their iPhone 7 or iPhone 7 Plus phones and up to \$200 to Settlement Class Members who complained to Apple about such alleged audio-related issues but did not pay out-of-pocket to Apple for a repair or replacement (“Complainants”). *See* ECF No. 186.<sup>2</sup> The Settlement was reached after extensive litigation and arm’s-length negotiations before an experienced mediator, Mr. Randall Wulff. Following preliminary approval of the Settlement, ECF No. 176, direct email and mail notice was sent to Settlement Class Members. Following an over-five-month long notice period, 114,684 Settlement Class Members submitted valid payment information. Of the over 1,649,497 Settlement Class Members,<sup>3</sup> only 91 opted out of the Settlement, and *only 1* objected to the Settlement. Weisbro

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<sup>1</sup> Unless otherwise specifically defined herein, all capitalized terms have the same meanings as those set forth in the Parties’ Settlement Agreement. ECF No. 171-2.

<sup>2</sup> The Court preliminarily approved distribution, on a *pro rata* basis, of between \$50 to \$349 to OOP Payees and up to \$125 to Complainants to Settlement Class Members who timely submitted their payment information. Preliminary Approval Order, ECF No. 176, ¶ 7. In order to ensure that the majority of Net Settlement Funds were distributed to Settlement Class Members, rather than a disproportionately large amount distributed to the *cy pres* recipient, the Parties jointly agreed to increase the distribution to Complainants to a maximum of \$200. ECF No. 186 (granting revision).

<sup>3</sup> Plaintiffs originally represented that there were 2,030,595 Settlement Class Members, based on Apple’s estimated class data showing unique complaints to Apple regarding the iPhone 7 and iPhone 7 Plus’s alleged audio issues. Pls.’ Mot. for Preliminary Approval, ECF No. 171, at 19. However, following review of the Class List by the Settlement Administrator, duplicate

Decl. ¶¶ 31-32.<sup>4</sup> The Settlement is fair, reasonable, and adequate, and provides meaningful relief to the Settlement Class, while balancing the risks and delays of continued, protracted litigation, including class certification briefing, expert reports, trial, and the potential for no recovery at all for Plaintiffs or the Settlement Class. Such recovery aligns with other consumer class action settlements in this District that have received final approval.<sup>5</sup> Based on an informed evaluation of the facts and governing legal principles, and given the decidedly positive response by Settlement Class Members to this Settlement, Plaintiffs respectfully request that the Court grant Final Approval of the Settlement.

## II. THE SETTLEMENT<sup>6</sup>

The Settlement provides substantial, meaningful relief to current and former owners of the iPhones by compensating all who reported to Apple an alleged issue regarding the iPhone 7 and iPhone 7 Plus reflected in Apple’s records as Sound-Speaker, Sound-Microphone, Sound – Receiver, Unexpected Restart / Shutdown, or Power On – Device Unresponsive, with higher

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individuals and individuals with foreign addresses were removed, resulting in a “refined” total of 1,649,497 Settlement Class Members. Declaration of Steven Weisbrot (“Weisbrot Decl.”), ¶ 10.

<sup>4</sup> Only 3 people in total objected to the Settlement. *See* ECF Nos. 179-181, 183. However, as Plaintiffs and Class Counsel will explain more fully in their Responses to Objections, only one of these Objections was raised by an individual who qualifies as Settlement Class Members and, moreover, none have merit. Thus, these Objections should be overruled. Plaintiffs and Class Counsel will file their Responses to Objections on or before the Court’s July 11, 2024 deadline. Preliminary Approval Order, ¶ 16.

<sup>5</sup> *See, e.g., Bronson v. Samsung Elecs. Am., Inc.*, No. C 18-02300, 2020 WL 1503662, at \*2 (N.D. Cal. Mar. 30, 2020); *In re Nexus 6P Products Liability Litigation*, No. 17-cv-02185, 2019 WL 6622842, at \*1-2 (N.D. Cal. Nov. 12, 2019); *Miller v. Ghirardelli Chocolate Co.*, No. 12-cv-04936, 2015 WL 758094 (N.D. Cal. Feb. 20, 2015); *Larsen v. Trader Joe’s Co.*, No. 11-cv-05188, 2014 WL 3404531 (N.D. Cal. July 11, 2014); *In re Apple iPhone/iPod Warranty Litig.*, No. CV-10-01610, 2014 WL 12640497, at \*3 (N.D. Cal. May 8, 2014).

<sup>6</sup> Plaintiffs do not repeat the factual or procedural background here, which they included previously in their Motion for Preliminary Approval. *See* ECF No. 171, at 2-3. However, for ease of reference, Plaintiffs repeat portions of the information provided about the Settlement, while including important additions and revisions. *See id.* at 3-8.

1 compensation to those who paid out of pocket to Apple for a repair or replacement. The Settlement  
2 Fund contains enough funds to ensure that Settlement Class Members receive full and fair relief.

3 **A. The Settlement Class**

4 The Settlement contemplates certification of the following Settlement Class for settlement  
5 purposes only:

6 [I]ndividual persons who are United States residents and who own or owned an  
7 Apple iPhone 7 or 7 Plus and reported to Apple in the United States Covered Issues,  
8 including but not limited to those who paid Apple out of pocket for repairs or  
9 replacements for Covered Issues as reflected in Apple’s records. The Settlement  
10 Class excludes Apple; any entity in which Apple has a controlling interest; Apple’s  
11 directors, officers, and employees; Apple’s legal representatives, successors, and  
12 assigns. Also excluded from the Settlement Class are all judicial officers assigned  
13 to this case as well as their staff and immediate families. The Class Period shall be  
14 September 16, 2016, to January 3, 2023.

15 Order Granting Pls.’ Mot. for Preliminary Approval of Class Action Settlement (“Preliminary  
16 Approval Order”), ECF No. 176, ¶ 5; Settlement Agreement (“SA”), ECF No. 171-2, ¶ 25.

17 “Covered Issues” are defined as “issues reported to Apple regarding the iPhone 7 and  
18 iPhone 7 Plus reflected in Apple’s records as Sound-Speaker, Sound-Microphone, Sound –  
19 Receiver, Unexpected Restart / Shutdown, or Power On – Device Unresponsive.” Preliminary  
20 Approval Order, ¶ 5; SA, ¶ 25.

21 The Settlement Class is more precisely defined than the classes set out in the operative  
22 complaint. ECF No. 67, ¶¶ 245-46 (Procedural Guidance for Class Action Settlements  
23 (“Guideline”) 1(a)). The Settlement Class includes all individuals who owned an iPhone 7 or 7  
24 Plus, allegedly experienced a Covered Issue, and contacted Apple regarding the Covered Issue.  
25 Purchasers of iPhone 7 or iPhone 7 Plus who did not experience any issue are not Settlement Class  
26 Members. *See* Guideline 1(c).

27 Plaintiffs narrowed the Settlement Class given the serious risk associated with litigating  
the claims of iPhone 7 and 7 Plus purchasers who never experienced the alleged audio issue. For  
example, at trial, Apple could argue before a jury that the iPhone owners who never experienced  
any alleged audio issue were never harmed—or that because a large majority of the iPhones did

1 not manifest any audio issue, there was no defect. In defining the Settlement Class to only include  
 2 those individuals who alleged that they experienced an issue, these risks are alleviated. Balancing  
 3 these risks with ensuring a recovery on behalf of the Settlement Class Members who experienced  
 4 an alleged audio issue is fair and reasonable.

5 **B. Benefits to the Settlement Class Members**

6 Apple has provided \$35,000,000 for the Settlement Fund to cover all Settlement Class  
 7 Member payments, administrative expenses, any taxes owed upon the gross settlement amount  
 8 (excluding taxes owed by any individual Settlement Class Counsel, Plaintiffs, or Settlement Class  
 9 Members), any attorneys' fee and expense awards, and any class representative service awards.  
 10 SA ¶ 14. While recognizing that the Settlement entitles Class Counsel to apply for reasonable fees  
 11 and expenses, the outcome of that request will not impact the Settlement from becoming effective,  
 12 and Apple reserved the right to object to or oppose Class Counsel's request for attorneys' fees and  
 13 expenses, but did not do so.<sup>7</sup> Settlement Class Members who provide valid payment information  
 14 (directing the settlement administrator as to whether they prefer to receive payment by physical  
 15 check, electronic check or direct deposit, and providing the information necessary for their chosen  
 16 payment method) will receive payment from the Settlement Fund. Any Settlement Class Member  
 17 who paid any out-of-pocket expenses to Apple for a repair or replacement allegedly relating to a  
 18 Covered Issue ("OOP Payee") and who submits valid payment information will receive, on a *pro*  
 19 *rata* basis, a cash payment between \$50 and \$349, with all OOP Payees receiving the same amount.  
 20 Preliminary Approval Order, ¶ 7; *see also* SA, § B.3. Any Settlement Class Member who did not  
 21 pay out-of-pocket costs to Apple for repairs allegedly relating to a Covered Issue ("Complainant")  
 22 and who submits valid payment information will receive, on a *pro rata* basis, a cash payment of  
 23 up to \$200, with all Complainants receiving the same amount. ECF No. 186. Settlement Class  
 24

25 \_\_\_\_\_  
 26 <sup>7</sup> Class Counsel brought a separate Motion for Attorneys' Fees and Costs and Class Representative  
 27 Service Awards on April 29, 2024. ECF No. 177. Apple did not oppose the motion, and the time  
 to file such an opposition has now passed.

1 Members originally had until June 3, 2024, to submit their payment information to the Settlement  
 2 Administrator. Preliminary Approval Order, ¶ 16. However, on June 5, 2024, the deadline for  
 3 Settlement Class Members to submit their payment information was extended to July 3, 2024. ECF  
 4 No. 182.<sup>8</sup>

5 Should any payments to Class Members fail or remain uncashed after 120 days, such funds  
 6 will be used to pay any unanticipated costs of administration. *Id.* § B.7. If funds still remain after  
 7 payment of unanticipated administrative costs, the remaining funds will be distributed to Girls  
 8 Who Code as the *cy pres* recipient, subject to the Court’s approval. Preliminary Approval Order,  
 9 ¶ 7. Under no circumstances shall any settlement funds revert to Apple. SA, § B.7.

### 10 **III. SETTLEMENT ADMINISTRATION AND CLASS RESPONSE**

#### 11 **A. Settlement Administration**

12 The Court approved the Parties’ selection of Angeion Group (“Angeion”) as the Settlement  
 13 Administrator. Preliminary Approval Order, ¶ 6. Given that the deadline for Settlement Class  
 14 Members has been extended to July 3, 2024, ECF No. 182, the total costs of notice and settlement  
 15 administration are not yet final. *See* Weisbrot Decl. ¶ 33-34. Accordingly, Plaintiffs will file a  
 16 supplement shortly after the submission deadline detailing the final costs of notice and settlement  
 17 administration.

#### 18 **B. Class Notice**

19 In accordance with the Court-approved Notice Plan, Angeion provided Email and mailed  
 20 Postcard Notice to Settlement Class Members. *See* Weisbrot Decl. ¶¶ 12, 15; *id.*, Exs. B-C (copies  
 21 of Email Notice and Postcard Notice). Angeion also made the Long Form Notice available to all  
 22 Settlement Class Members on the Settlement Website, as well as providing a copy of the Long  
 23 \_\_\_\_\_

24 <sup>8</sup> In the intervening period between June 3, 2024 (when the original submission deadline ended)  
 25 and June 5, 2024 (when the Court extended the submission deadline to July 3, 2024), the  
 26 Settlement Administrator continued to accept submissions by Settlement Class Members on a  
 27 tentative basis. Following the Court’s Order extending the deadline, ECF No. 182, the Settlement  
 Administrator has incorporated all post-June 3, 2024 submissions, including these intervening  
 submissions, in its tally of total submissions. Weisbrot Decl. at 7 n.3.

1 Form Notice to anyone who requested it through the Settlement’s toll-free hotline. *Id.* ¶¶ 24, 28.  
2 The Notices informed Settlement Class Members of all relevant facts about the Settlement,  
3 including the benefits available under the Settlement, how to submit payment information in order  
4 to receive Settlement benefits, how to seek exclusion from or object to the Settlement, the  
5 deadlines for submitting payment information or to seek exclusion or file an objection, and  
6 information about the release of Settlement Class Members’ future claims.

7       Angeion established a Settlement Website, at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com), on  
8 January 15, 2024. *Id.* ¶ 23. The Settlement Website provided information to Settlement Class  
9 Members about the Settlement in a user-friendly format and hosted copies of all the Notices, the  
10 Settlement Agreement, Court orders and case-related documents, a list of all relevant Settlement  
11 deadlines, and an online tool for Settlement Class Members to easily submit their payment  
12 information. *Id.* ¶¶ 23-24. The Settlement Website also provided Angeion’s contact information,  
13 should Settlement Class Members wish to contact the Settlement Administrator with questions or  
14 concerns about the Settlement. *Id.* ¶ 23. As of June 21, 2024, the Settlement Website had received  
15 1,218,980 visits by 967,972 unique users, totaling 10,461,918 page views. *Id.* ¶ 26. Angeion also  
16 established a toll-free hotline, available at 1-833-633-0343, which was accessible 24 hours a day,  
17 7 days a week. *Id.* ¶ 27. The toll-free hotline utilized an interactive voice response system that  
18 could provide Settlement Class Members with responses to frequently asked questions and provide  
19 important information about the Settlement. *Id.* As of June 21, 2024, the toll-free hotline had  
20 received 18,885 calls, totaling 76,267 minutes. *Id.* ¶ 28.

21       Beginning on January 15, 2024, Angeion sent Email and mailed Postcard Notices to  
22 Settlement Class Members. Weisbrot Decl. ¶¶ 12, 15. On that date, Angeion sent Email Notices to  
23 1,310,297 Settlement Class Members, whose validated email addresses appeared on the Class List.  
24 *Id.* ¶ 12. Of those Email Notices, 1,228,783 were delivered successfully (representing  
25 approximately 93.8% reach on initial dissemination), and 93,788 “bounced back” as undeliverable.  
26 *Id.* ¶ 13. Of these Settlement Class Members whose Email Notices were returned as undeliverable,  
27

1 92,780 had corresponding mailing addresses, to which Postcard Notices were sent on February 14,  
2 2024. *Id.* ¶¶ 13, 16. Following receipt of a supplemental list of Settlement Class Member contact  
3 information from Apple, Angeion sent Email Notices to 31,812 Settlement Class Members whose  
4 validated email addresses appeared on this supplemental list. *Id.* ¶¶ 8, 14. Of these supplementally  
5 disseminated Email Notices, 30,905 were delivered successfully (representing approximately  
6 97.15% reach), and 907 “bounced back” as undeliverable. *Id.* ¶ 14.

7 Prior to disseminating Postcard Notices, Angeion reviewed the United State Postal  
8 Service’s National Change of Address database to ensure Postcard Notices would be mailed to the  
9 most up-to-date mailing addresses available for Settlement Class Members. *Id.* ¶ 18. Angeion sent  
10 via United States first-class mail, with prepaid postage, Postcard Notices on January 15, 2024, to  
11 250,7272 Settlement Class Members who appeared on the Class List with a complete mailing  
12 address but did not have a validated email address. *Id.* ¶¶ 7, 15. On March 18, 2024, Angeion also  
13 mailed Postcard Notices via the same means to 1,138 Settlement Class Members who appeared on  
14 the supplemental list of Settlement Class Members and who had a complete mailing address. *Id.* ¶  
15 17. If a Postcard Notice was returned as undeliverable with a forwarding address, Angeion then  
16 re-mailed the Postcard Notice to that forwarding address. *Id.* ¶ 19. If a Postcard Notice was  
17 returned as undeliverable without a forwarding address, Angeion undertook a reasonable address  
18 verification search (“skip trace”) in an attempt to determine an updated address for a given  
19 Settlement Class Member. *Id.* 58,235 Postcard Notices were returned as undeliverable, and, of  
20 those, 31,722 were re-mailed to updated addresses (with 3,403 returning as undeliverable a second  
21 time). *Id.*

22 On April 17, 2024 (47 days before the initial June 3, 2024 deadline to submit payment  
23 information; 77 days before the extended July 3, 2024 submission deadline), Angeion sent Email  
24 Reminder Notices to 1,326,703 Settlement Class Members who had a valid email address but had  
25 not yet submitted a Payment Attestation Form. *Id.* ¶ 20; *id.*, Ex. D (copy of Reminder Email  
26 Notice). Following agreement by the Parties to ensure the maximum reach to Settlement Class  
27

1 Members, on May 10, 2024 (24 days before the initial June 3, 2024 deadline to submit payment  
 2 information; 54 days before the extended July 3, 2024 submission deadline), Angeion also sent  
 3 Reminder Postcard Notices to 1,100,044 Settlement Class Members who had a complete mailing  
 4 address but had not yet submitted a Payment Attestation Form. *Id.* ¶ 21; *id.*, Ex. E (copy of  
 5 Reminder Postcard Notice).

6 Moreover, Angeion provided timely Class Action Fairness Act (“CAFA”) notice, pursuant  
 7 to 28 U.S.C. § 1715, on June 2, 2023, to the Attorneys General of all states and territories and the  
 8 Attorney General of the United States. *Id.* ¶ 6; *id.*, Ex. A (copy of CAFA Notice).

### 9 C. Settlement Class Members’ Response

10 Based on the dissemination of this Notice Plan, and following establishment of the  
 11 Settlement Website, as of June 21, 2024, Angeion has received a total of 114,684 Payment  
 12 Attestation Form submissions. *Id.* ¶ 30. Based on the total 1,649,497 Settlement Class Members,<sup>9</sup>  
 13 this represents a 6.95% submission rate. *See id.* ¶¶ 10, 30; *see also* Joint Decl. of Class Counsel in  
 14 Supp. of Pls.’ Mot. for Final Approval of Class Action Settlement (“Joint Class Counsel Decl.”),  
 15 ¶ 47.<sup>10</sup>

16 The deadline for Settlement Class Members to submit a written request for exclusion from  
 17 the Settlement or to object to the Settlement was June 3, 2024. Preliminary Approval Order, ¶¶ 8,  
 18 16; *see also* Weisbrot Decl. ¶¶ 31-32. Angeion received a total of 91 timely, valid requests for  
 19 exclusion. Weisbrot Decl. ¶ 31. Angeion did not receive any objections to the Settlement. *Id.* ¶ 32.

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21 <sup>9</sup> Following receipt of the Class List and supplemental Class data from Apple, Angeion analyzed  
 22 the data and removed all individuals with foreign addresses and all duplicate individuals. Weisbrot  
 23 Decl. ¶¶ 7-9. This results in a “refined final” Class List containing 1,649,497 unique Settlement  
 24 Class Members. *Id.* ¶ 10.

25 <sup>10</sup> These Payment Attestation Forms are still subject to final audits for completeness, validity, and  
 26 review for duplicate submissions. Weisbrot Decl. ¶ 30. Because the Court extended the deadline  
 27 for Settlement Class Members to submit their payment information to July 3, 2024, ECF No. 182,  
 Plaintiffs will file a supplement shortly after that date detailing the final tally of Settlement Class  
 Members’ validated submissions.

1 A total of 3 individuals timely submitted objections to the Court, but only 1 was submitted by a  
 2 qualified Settlement Class Member. *See* ECF Nos. 179-181, 183.<sup>11</sup> Thus, in total, 91 Settlement  
 3 Class Members have sought exclusion from the Settlement and only 1 Settlement Class Member  
 4 has objected. These 92 individuals amount to approximately 0.0056% of the total 1,649,497  
 5 Settlement Class Members, following refinement of the Class List data. *See* Weisbrot Decl. ¶ 10.

#### 6 **IV. ATTORNEYS' FEES AND EXPENSES AND SERVICE AWARDS**

7 Class Counsel have sought an attorneys' fee and costs award (in the total amount of  
 8 \$8,750,000) through a separate motion. ECF No. 177. Although it originally reserved the right to  
 9 object or oppose such an award, Apple has done neither. As Class Counsel explains more fully in  
 10 that motion, the requested attorneys' fees are reasonable and justified under either a percentage-  
 11 of-the-recovery analysis or a lodestar cross-check, and their requested costs are reasonable. *Id.* at  
 12 4-20. Class Counsel's requested attorneys' fees represent a 24.5% request, lower than the  
 13 benchmark in this District, when compared to the total \$35,000,000 common fund in this  
 14 Settlement. ECF No. 177, at 6. As of April 26, 2024, shortly before filing that Motion, Class  
 15 Counsel had amassed a total of 7,943 hours of time litigating this case, which amounted to a total  
 16 lodestar of \$4,680,669.95. *E.g., id.* at 12; *see also* Joint Declaration of Class Counsel, ECF No.  
 17 177-1, ¶ 67. At that time, Class Counsel's lodestar represented 53.49% of the total requested  
 18 \$8,750,000 for both attorneys' fees and expenses, and a 1.87 multiplier. ECF No. 177, at 12, 18.

19 Since the filing of that motion, Class Counsel has continued to communicate with potential  
 20 Settlement Class Members, with Angeion, and with Apple regarding the Settlement and settlement

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22 <sup>11</sup> As Plaintiffs will explain more fully in their Responses to Objections to be filed on or before  
 23 July 11, 2024, Preliminary Approval Order ¶ 16, two of the objectors are not Settlement Class  
 24 Members, and thus, their Objections are invalid and should be overruled. *See In re Transpacific*  
 25 *Passenger Air Transportation Antitrust Litig.*, No. 23-15118, 2024 WL 810703, at \*1 (9th Cir.  
 26 Feb. 27, 2024) (affirming that non-class member did not have standing to object to settlement); *In*  
 27 *re TracFone Unlimited Serv. Plan Litig.*, 112 F. Supp. 3d 993, 1008 (N.D. Cal. 2015) (finding that  
 objector "lacks standing to object to the proposed settlement because he is not a class member, and  
 certainly is not an aggrieved class member"). The only Objection raised by a Settlement Class  
 Member does not raise substantive concerns and should similarly be overruled.

1 administration. Further, Class Counsel prepared this Motion and worked closely with Angeion  
2 regarding the preparation of a declaration fully describing all steps taken to provide notice to  
3 Settlement Class Members and administer the Settlement. Through these efforts, Class Counsel  
4 have collectively expended 178.8 total hours between April 27, 2024, and June 21, 2024. Joint  
5 Class Counsel Decl. ¶ 57. When combined with the hours already expended throughout this  
6 litigation, this results in a total expenditure (as of the date of June 21, 2024) of 8,121.85 hours,  
7 representing a total lodestar of \$4,820,585.65. *Id.* ¶ 58. The expenditure of this additional time was  
8 both reasonable and justified.<sup>12</sup> Class Counsel's updated total lodestar, as of June 21, 2024,  
9 represents 55% of the total requested \$8,750,000 in both attorneys' fees and expenses and a 1.82  
10 multiplier. *Id.* ¶ 60. For the reasons stated in their previous motion, ECF No. 177, Class Counsel's  
11 total expenditure of time throughout this litigation on behalf of Plaintiffs and the Class has been  
12 reasonable and justified, and Class Counsel ask that the Court grant the requested attorneys' fees  
13 and costs award in the amount of \$8,750,000 and incorporate it into its final approval of the  
14 Settlement.

15 Through that motion, Class Counsel also sought class representative services awards (in  
16 the amount of \$3,000 per named Plaintiff, for a total of \$18,000). ECF No. 177, at 20-22. For the  
17 reasons stated in that motion, Class Counsel asks that the Court grant the requested class  
18 representative service awards and incorporate them into its final approval of the Settlement.

19 **V. CYPRES RECIPIENT**

20 Based upon the response rate by Settlement Class Members as of the date of this Motion,  
21 (and the rate of submissions by OOP Payee and Claimant Settlement Class Members), the finalized  
22 costs of settlement administration, and Class Counsel's requested attorneys' fees and expenses and

23 \_\_\_\_\_  
24 <sup>12</sup> Moreover, Class Counsel will expend additional time in continuing to administer the Settlement  
25 through the extended July 3, 2024 submission deadline; in preparing a supplement detailing the  
26 final Settlement data for the Court; in responding to Objections; and in preparing for and appearing  
27 at the Final Approval hearing on July 18, 2024. Joint Class Counsel Decl. ¶ 59. Although they will  
expend this time, Class Counsel does not intend to include the hours expended after June 21, 2024  
in their calculation of lodestar or in their requested attorneys' fees and expenses. *Id.*

1 class representative service awards (if approved by the Court), a small portion of Net Settlement  
2 Funds may remain. The Parties have jointly proposed Girls Who Code as the *cy pres* recipient. SA  
3 § B.8. In its Preliminary Approval Order, the Court ordered that any remaining Net Settlement  
4 Funds “be distributed to the *cy pres* Recipient set forth in the Settlement Agreement and as  
5 approved by the Court.” Preliminary Approval Order, ¶ 7. Girls Who Code is a national  
6 organization that works to diminish the gender gap in technological professions, to increase  
7 exposure to underrepresented minorities in the technological field, and to expand computer science  
8 curricula in schools. Girls Who Code has clubs throughout the country, including in California.  
9 Plaintiffs and Class Counsel do not have any pre-existing relationship with Girls Who Code, and  
10 Apple has previously partnered with Girls Who Code to support certain programming and has  
11 identified the organization as a *cy pres* recipient in previous settlements. *See* Joint Decl. of Class  
12 Counsel in Supp. of Mot. for Preliminary Approval, ECF No. 171-1, ¶ 26; *see also* Joint Class  
13 Counsel Decl. ¶ 50. Courts in this District have previously approved Girls Who Code as a *cy pres*  
14 recipient, distributing funds from class action settlements to the organization—including in a  
15 settlement involving Apple. *See, e.g., Cameron v. Apple, Inc.*, No. 19-cv-3074, ECF No. 491 (June  
16 10, 2022) (granting final approval of settlement with Girls Who Code established as a *cy pres*  
17 recipient); *see also Del Toro Lopez v. Uber Techs., Inc.*, No. 17-cv-06255, 2018 WL 5982506  
18 (N.D. Cal. Nov. 14, 2018) (same). Plaintiffs now ask, given that a small remainder of Net  
19 Settlement Funds will likely remain following distribution to Settlement Class Members, that the  
20 Court confirm Girls Who Code as the *cy pres* recipient and order that the remainder of Net  
21 Settlement Funds be distributed to it.

## 22 VI. LEGAL STANDARD

23 In the Ninth Circuit, there is a “strong judicial policy that favors settlements” of class  
24 actions. *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992). “[T]here is an  
25 overriding public interest in settling and quieting litigation,” and this is “particularly true in class  
26 action suits.” *Van Bronkhorst v. Safeco Corp.*, 529 F.2d 943, 950 (9th Cir. 1976). Recognizing that

1 “[p]arties represented by competent counsel” are “positioned . . . to produce a settlement that fairly  
 2 reflects each party’s expected outcome in [the] litigation,” courts favor approval of settlements. *In*  
 3 *re Pac. Enters. Sec. Litig.*, 47 F.3d 373, 378 (9th Cir. 1995).

4 Federal Rule of Civil Procedure 23(e) governs approval of class action settlements. At the  
 5 final approval stage, the district court must determine whether the settlement is “fundamentally  
 6 fair, adequate, and reasonable.” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998)  
 7 (internal citations and quotations omitted); *see also* Fed. Civ. P. 23(e)(2). In the Ninth Circuit,  
 8 courts are guided by eight factors to aid in this determination:

9 (1) the strength of the plaintiffs’ case; (2) the risk, expense, complexity, and likely  
 10 duration of further litigation; (3) the risk of maintaining class action status  
 11 throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery  
 12 completed and the stage of the proceedings; (6) the experience and views of  
 13 counsel; (7) the presence of a governmental participant; and (8) the reaction of the  
 14 class members to the Settlement.

15 *Churchill Village, L.L.C. v. General Electric*, 361 F.3d 566, 575 (9th Cir. 2004). However, a court  
 16 need not weigh every factor, and “different factors may predominate in different factual contexts.”  
 17 *Rieckborn v. Velti PLC*, No. 13-cv-03889, 2015 WL 468329, at \*3 (N.D. Cal. Feb. 3, 2015)  
 18 (citation omitted).

## 19 VII. ARGUMENT

### 20 A. The Court Should Certify the Settlement Class for Settlement Purposes.

21 Certification of a settlement class is a “two-step process.” *In re Volkswagen “Clean*  
 22 *Diesel” Mktg., Sales Practices & Prod. Liab. Litig.*, No. 2672, 2016 WL 4010049, at \*10 (N.D.  
 23 Cal. July 26, 2016) (citing *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 613 (1997)). First, the  
 24 court must determine that the Settlement class satisfies the four requirements of Rule 23(a). *Id.*  
 25 The court then must examine whether a “class action may be maintained under [Rule 23(b)].” *Id.*  
 26 (citing *Amchem Prods.*, 521 U.S. at 613). Unlike other class actions, however, when presented  
 27 with a class action settlement, the court need not consider manageability concerns. *Amchem*

1 *Prods.*, 521 U.S. at 620. The Court has already held that certification for settlement purposes was  
2 appropriate at preliminary approval. Preliminary Approval Order, ¶ 5. For the same reasons, the  
3 Court should certify the Settlement Class again and grant final approval.

4 **1. The Settlement Class meets the requirements of Rule 23(a).**

5 The Settlement Class as defined is sufficiently numerous so as to make joinder  
6 impracticable. Fed. R. Civ. P. 23(a)(1). After Apple provided the Class List to the Settlement  
7 Administrator, Angeion removed duplicative records and excluded foreign individuals, which  
8 resulted in a total of 1,649,497 unique Settlement Class Members, including 1,555,382  
9 Complainants and 94,115 OOP Payees. Weisbrot Decl. ¶¶ 7-10; *id.* at 3 n.1. Thus, the total  
10 Settlement Class, including the categories of Settlement Class Members, satisfies Rule 23(a)'s  
11 numerosity requirement.

12 Rule 23 commonality requires that there be “questions of law or fact common to the class.”  
13 Fed. R. Civ. P. 23(a)(2). The commonality requirement should be “construed permissively,” and  
14 is satisfied when class members share “some . . . legal issues or a common core of facts.” *J.L. v.*  
15 *Cissna*, No. 18-cv-04914, 2019 WL 415579, at \*9 (N.D. Cal. Feb. 1, 2019) (quoting *Rodriguez v.*  
16 *Hayes*, 591 F.3d 1105, 1122 (9th Cir. 2010)). Here, whether the iPhone 7 and 7 Plus contained the  
17 alleged defect, whether Apple had knowledge of the alleged defect, and whether Apple had a duty  
18 to disclose the alleged defect are common questions affecting the putative class. Hence,  
19 commonality is satisfied.

20 Rule 23(a)(3) requires that “the claims or defenses of the representative parties are typical  
21 of the claims or defenses of the class,” and “assure[s] that the interest of the named  
22 representative[s] align[] with the interests of the class,” *Wolin v. Jaguar Land Rover N. Am., LLC*,  
23 617 F.3d 1168, 1175 (9th Cir. 2010) (citation omitted). Here, all Plaintiffs’ claims are typical of  
24 the Settlement Class Members’ claims because all claims arise from the same course of Apple’s  
25 conduct.

1 Courts employ a two-pronged approach to analyze adequacy under Federal Rule of Civil  
2 Procedure 23(a)(4), examining whether “the named plaintiffs and their counsel have any conflicts  
3 of interest with other class members” and whether “the named plaintiffs and their counsel [will]  
4 prosecute the action vigorously on behalf of the class.” *Evon v. Law Offices of Sidney Mickell*, 688  
5 F.3d 1015, 1031 (9th Cir. 2012) (quoting *Hanlon*, 150 F.3d at 1020). The Court has already found  
6 the named Plaintiffs and their Counsel are adequate representatives of the Settlement Class and  
7 appointed them as Class Representatives and Class Counsel. Preliminary Approval Order, ¶ 5.  
8 Neither the Class Representatives nor Class Counsel have any conflicts with the Settlement Class,  
9 and both have vigorously prosecuted this case on behalf of putative class members and will  
10 continue to do so through final approval and the close of this litigation. *See* Joint Decl. of Class  
11 Counsel in Supp. of Mot. for Preliminary Approval, ECF No. 171-1, ¶¶ 28-33.

12 **2. The Settlement Class Meets the Requirements of Rule 23(b)(3).**

13 The Settlement Class meets the requirements of Rule 23(b)(3) because (1) common  
14 questions predominate over any questions affecting only individual members here, and (2) “a class  
15 action is superior to other available methods for fairly and efficiently adjudicating the  
16 controversy.” Fed. R. Civ. P. 23(b)(3). This Court has already found that the Settlement Class  
17 meets this requirement, and there are no new developments that would change this determination.  
18 Preliminary Approval Order, ¶ 5. First, the common questions in this case can be resolved using  
19 the same evidence for all Settlement Class Members and are exactly the kind of predominant  
20 common issues that make class certification appropriate. *See Tyson Foods, Inc. v. Bouaphakeo*,  
21 577 U.S. 442, 452 (2016) (“When one or more of the central issues in the action are common to  
22 the class and can be said to predominate, the action may be considered proper under Rule  
23 23(b)(3).”). Second, there are over 1.5 million Settlement Class Members with modest individual  
24 claims, most of whom likely lack the resources necessary to seek individual legal redress in a  
25 complex case against one of the world’s largest tech companies. Thus, this Settlement is the most  
26 practical outcome for individuals with modest claims to recover without bearing expenses or other

1 risks of extensive litigation. *See Wolin*, 617 F.3d at 1175 (“Where recovery on an individual basis  
2 would be dwarfed by the cost of litigating on an individual basis, this factor weighs in favor of  
3 class certification.”) (citations omitted). Thus, certification of the Settlement Class is appropriate  
4 in support of final approval.

5 **B. The Notice Plan Has Provided the Best Notice Practicable.**

6 For a settlement class, the Court must “direct to class members the best notice that is  
7 practicable under the circumstances, including individual notice to all members who can be  
8 identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). Notice should “generally  
9 describe[] the terms of the settlement in sufficient detail to alert those with adverse viewpoints to  
10 investigate and come forward and be heard.” *Churchill Village, L.L.C. v. Gen. Elec.*, 361 F.3d 566,  
11 575 (9th Cir. 2004).

12 Following dissemination of all Notice in accordance with the Court-approved Notice Plan,  
13 and including dissemination of additional reminder Notices jointly approved by the Parties,  
14 Angeion estimates that Notice reached approximately 94.70% of Settlement Class Members.  
15 Weisbrot Decl. ¶ 29; *see also supra* Section III.B. (explaining all Notice efforts). This figure  
16 illustrates the wide, successful reach of the Notice Plan and aligns with those in other court-  
17 approved notice programs. *See, e.g., Keller v. Elec. Arts, Inc.*, No. 4:09-cv-1967, 2015 WL  
18 5005057, at \*5 (N.D. Cal. Aug. 18, 2015) (granting final approval and stating notice process with  
19 “almost 95%” reach rate provided “due and adequate notice to the Class”). Accordingly, the Court  
20 should find (1) the Notice Plan was reasonably calculated to give actual notice to Settlement Class  
21 Members of their rights to receive benefits from the Settlement, or otherwise how to exclude  
22 themselves from or object to the Settlement, and (2) the Notice Plan satisfied due process  
23 requirements and any other applicable requirements under federal law. *Hanlon*, 150 F.3d at 1024  
24 (citing *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 810-13 (1985)).

25 Angeion’s efforts throughout the Notice period effectuated the Notice Plan, as ordered by  
26 this Court in its Preliminary Approval Order, and were designed to ensure the widest possible reach  
27

1 and provide the most practicable notice of the Settlement to Settlement Class Members. Angeion's  
2 efforts as Settlement Administrator, and the Notice as effectuated, support final approval.

3 **C. The Court Should Approve the Settlement Because It Is Fair, Reasonable,**  
4 **and Adequate.**

5 The Settlement represents a fair, reasonable, and adequate resolution to this litigation,  
6 providing meaningful relief to the Settlement Class Members. The relevant considerations weigh  
7 in favor of finally approving the Settlement.

8 **1. The Settlement is the result of good faith, arm's-length negotiations**  
9 **before an experienced Mediator.**

10 The Parties reached the Settlement following a day-long mediation session and extensive  
11 discussions thereafter overseen by Randall Wulff, an experienced litigator and mediator capable  
12 of analyzing the strengths and weaknesses of the parties' cases. Joint Class Counsel Decl. ¶¶ 17,  
13 19. Mr. Wulff offered a reasonable, unbiased analysis of each party's arguments, claims, and  
14 defenses, helping the Parties to recognize the validity (and shortcomings) of their positions. Mr.  
15 Wulff ensured that the Parties' negotiations were conducted in good faith and at arm's length.  
16 After an approximately 10-hour mediation session and numerous discussions thereafter, the Parties  
17 reached an agreement to settle. *Id.* ¶ 19. "[T]he assistance of an experienced mediator in the  
18 settlement process confirms that the settlement is non-collusive." *See G. F. v. Contra Costa Cnty.*,  
19 No. 13-cv-03667-MEJ, 2015 WL 4606078, at \*13 (N.D. Cal. July 30, 2015) (citation omitted);  
20 *Villegas v. J.P. Morgan Chase & Co.*, No. CV 09-00261, 2012 WL 5878390, at \*6 (N.D. Cal.  
21 Nov. 21, 2012) (noting that private mediation "tends to support the conclusion that the settlement  
22 process was not collusive").

23 Moreover, none of the typical indicia of collusion—such as (i) plaintiff's counsel receiving  
24 a disproportionate distribution of the settlement, (ii) the inclusion of a "clear sailing provision, or  
25 (iii) the settlement agreement providing for reversion—exist here. *Briseño v. Henderson*, 998 F.3d  
26 1014, 1026-27 (9th Cir. 2021); *In re Bluetooth Headset Prods. Liab. Litig.*,  
27 654 F.3d 935, 946-47 (9th Cir. 2011). Here, Class Counsel seek a 24.5% fee award, amounting to

1 a 1.82 lodestar multiplier, which is less than the typically approved benchmark in this District.  
 2 *Compare* ECF No. 177, at 12, 18 *with* Joint Class Counsel ¶¶ 57-58, 60 (providing updated Class  
 3 Counsel hours, lodestar, and multiplier); *see also supra* Section IV. There is also no “clear sailing”  
 4 provision here, because any fees awarded will be paid from the common fund, not separately by  
 5 Apple, and the Settlement Agreement does not include any provision wherein Apple agrees not to  
 6 oppose the attorneys’ fees request. *See, e.g., In re Lithium Ion Batteries Antitrust Litig.*, No. 13-  
 7 MD-02420, 2020 WL 7264559, at \*15 (N.D. Cal. Dec. 10, 2020). And there is no reversionary  
 8 component of the Settlement: following distribution on a *pro rata* basis of the net Settlement Funds  
 9 to Settlement Class Members who timely submit their payment information, any remaining funds  
 10 will be awarded to the *cy pres* recipient, Girls Who Code, rather than reverting to Apple. *See supra*  
 11 Section V. The lack of any indicia of collusion and the Parties reaching Settlement through the aid  
 12 of an experienced mediator substantially favor final approval.

13 **2. The Settlement falls within the range of possible approval.**

14 It is axiomatic that “the very essence of a settlement is compromise, ‘a yielding of absolutes  
 15 and an abandoning of highest hopes.’” *Officers for Just. v. Civ. Serv. Comm’n of City & Cnty. of*  
 16 *San Francisco*, 688 F.2d 615, 624 (9th Cir. 1982). The Settlement provides substantial monetary  
 17 relief to the Class considering (1) the costs, risks, expenses, and delays of trial and appeal, (2) the  
 18 effectiveness of the proposed distribution plan, and (3) the fair and explained terms of the  
 19 substantial gross Settlement fund that will sufficiently pay for all of the settlement costs, including  
 20 any award of attorneys’ fees and expenses and award of class representative service awards, as  
 21 approved by the Court. Fed. R. Civ. P. 23(e)(2)(C).

22 **a. *The Strengths and Risks of Plaintiffs’ Case and the Complexity***  
 23 ***and Likely Duration of Further Litigation***

24 The Settlement provides substantial relief to the Class in the face of the inherent  
 25 uncertainties of litigation. “The substantial and immediate relief provided to the Class under the  
 26 Settlement weighs heavily in favor of its approval compared to the inherent risk of continued  
 27

1 litigation, trial, and appeal, as well as the financial wherewithal of the defendant.” *Kim v. Space*  
2 *Pencil, Inc.*, No. C 11-03796, 2012 WL 5948951, at \*5 (N.D. Cal. Nov. 28, 2012).

3 This case presents significant risks to recovery. On the merits, Apple disputes all Plaintiffs’  
4 claims. Since inception, Apple has denied that the iPhone 7 and 7 Plus contained any alleged  
5 defect. *See generally* Answer, ECF No. 97. Apple also argued that Plaintiffs and all consumers of  
6 the iPhone 7 and iPhone 7 Plus received the benefit of their bargain. *See, e.g., id.* ¶¶ 32, 46, 63, 80,  
7 96, 111, 123, 149. According to Apple, the challenged components and design are not deficient.  
8 *See, e.g., id.* ¶ 25. Further, Apple maintains that all its representations were true and denies that  
9 Apple at any time acted in violation of any consumer protection law or inconsistent with its  
10 warranties. *See, e.g., id.* ¶¶ 264-271; 381-84; 388-401. Additionally, Apple denies that class  
11 treatment is appropriate under the circumstances and will point to what it claims are individualized  
12 issues. *See, e.g., id.* ¶¶ 244-47.

13 There is meaningful risk that a factfinder could agree with Apple at trial. Indeed, consumer  
14 class action trials are inherently risky. Seemingly meritorious class actions have recently gone to  
15 trial in California, with judgments returned for defendants. *See e.g., Farar v. Bayer AG*, No. 14-  
16 cv-4601 (N.D. Cal. 2017); *Allen v. Hyland’s, Inc.*, No. 12-cv-1150 (C.D. Cal. 2014); *cf. Racies v.*  
17 *Quincy Bioscience, LLC*, No. 15-cv-292 (N.D. Cal. 2017) (declaring mistrial and decertifying  
18 class).

19 Similarly, summary judgment is also not without risk, where Apple could analogize to the  
20 Ninth Circuit’s recent dismissal in *Hamilton v. TBC Corp.*, 821 F. App’x 720, 723 (9th Cir. 2020).  
21 There, the Ninth Circuit held that plaintiffs were not able to pinpoint and prove a defect to support  
22 their claims. Proving an actionable defect can be difficult even in strong cases. *Id.* Therefore, in  
23 the face of additional months, if not years, of litigation, Plaintiffs must weigh the very real risk  
24 that the Court—or a jury—could be unconvinced that a legitimate defect exists in the iPhones.

25 Accordingly, while Plaintiffs vigorously dispute Apple’s contentions on the merits, the  
26 risks of litigation weigh in favor of settlement. *See Knapp v. Art.com, Inc.*, 283 F. Supp. 3d 823,

1 832 (N.D. Cal. 2017) (approving settlement where “[c]ase law suggests that plaintiff would have  
2 faced challenges in continuing to litigate” and “unless the settlement is clearly inadequate, its  
3 acceptance and approval are preferable to lengthy and expensive litigation with uncertain results”).

4 **b.** *The Risk of Maintaining Class Action Status Through Trial*

5 The risk of maintaining class action status through trial supports final approval. Joint Class  
6 Counsel Decl. ¶¶ 33-34. A class has not been certified in this case, and Apple will oppose  
7 certification if the case proceeds. *See In re Netflix Privacy Litig.*, No. 5:11-CV-00379, 2013 WL  
8 1120801, at \*6 (N.D. Cal. Mar. 18, 2013); *see also* Answer, ECF No. 97, ¶¶ 244-47 (denying that  
9 class treatment is appropriate). Indeed, Apple would likely argue that individual questions  
10 predominate over common questions with regard to exposure, reliance, materiality, causation, and  
11 injury. Although Plaintiffs assert that certification for litigation is appropriate here, the risk remains  
12 that the Court could refuse to certify a class. In that event, putative class members would receive  
13 nothing. And even if the Court did certify a litigation class, Plaintiffs would still face potential  
14 review on appeal, and would need to prove their claims at trial, which carries serious expense and  
15 further delay—potentially delaying recovery for years. Likewise, Plaintiffs would continue to face  
16 the risk that a “district court may decertify a class at any time.” *Rodriguez v. W. Publ’g Corp.*, 563  
17 F.3d 948, 966 (9th Cir. 2009). The Settlement allows Plaintiffs and Settlement Class Members to  
18 avoid these risks, additional expenses, and delays in favor of immediate recovery.

19 **c.** *The Amount Offered in Settlement*

20 Plaintiffs and their counsel secured for the Settlement Class a gross Settlement fund of  
21 \$35,000,000, which is reasonable in relation to potential trial damages for the Settlement Class.

22 As discussed above, after mediation with Mr. Wulff and analysis of the facts and risks, the  
23 Plaintiffs concluded that it was appropriate to define a Settlement Class of iPhone 7 and 7 Plus  
24 owners nationwide who allegedly experienced a manifestation of the Defect and who contacted  
25 Apple regarding the Covered Issues. Thus, the recovery under this Settlement is different than  
26 recovery at trial based on Plaintiffs’ complaint. But settling on these bases avoids the more

1 significant risks associated with seeking certification of or trying claims by consumers who never  
2 experienced any alleged audio issues and who enjoyed full use of their iPhone.

3 The Settlement ensures payment of up to \$349 through a straightforward process to any  
4 consumer who paid out-of-pocket expenses allegedly related to a Covered Issue. This figure is  
5 intended to compensate such consumers, because it is designed to track the average out-of-pocket  
6 expenses related to repairing or replacing an iPhone allegedly experiencing one of the Covered  
7 Issues. Apple’s data shows that, on average, following alleged manifestation, customers paid \$193  
8 in out-of-pocket expenses to Apple for repairs or replacements allegedly related to the Covered  
9 Issues. Additional benefits are reserved for those who contacted Apple allegedly regarding a  
10 Covered Issue but did not pay for repairs or replacements. These consumers—considered  
11 “Complainants” under the Settlement—may receive up to \$200. *See* ECF No. 186.

12 This tiered allocation plan ensures that consumers are reasonably compensated for Covered  
13 Issues they allegedly experienced with their iPhones and, where applicable, their out-of-pocket  
14 payments. The plan also reasonably compares to any recovery that could be awarded to  
15 compensate for Covered Issues they allegedly experienced without related out-of-pocket costs.  
16 The Settlement benefits that will be paid to OOP Payees are expected to equal or exceed the  
17 average costs paid by them to Apple related to Covered Issues. This compares favorably to other  
18 settlements in this Circuit that have received final approval. *See, e.g., In re MacBook Keyboard*  
19 *Litig.*, No. 5:18-cv-02813, 2023 WL 3688452, at \*13 (N.D. Cal. May 25, 2023) (granting final  
20 approval and finding that “Class Counsel achieved excellent results for the class” where the  
21 settlement fund represented approximately 9% to 28% of the total estimated damages); *Weeks v.*  
22 *Google LLC*, No. 5:18-cv-00801, 2019 WL 8135563, at \*14 (N.D. Cal. Dec. 13, 2019) (settlement  
23 fund represented approximately 38% of the maximum class-wide damages); *Theodore Broomfield*  
24 *v. Craft Brew Alliance, Inc.*, No. 17-cv-01027, 2020 WL 1972505, at \*9 (N.D. Cal. Feb. 5, 2020)  
25 (granting final approval where per-unit monetary relief represented a 12.7% price premium per  
26 product).

1                   **d.**       *Extent of Discovery Completed and Stage of Proceedings*

2           The Parties have been engaged in discovery since 2021, and the Parties have completed  
3 document production and review (with hundreds of thousands of pages produced and reviewed).  
4 *See* Joint Class Counsel Decl. ¶ 9. Further, all of the named Plaintiffs had been deposed at the time  
5 the Parties engaged in the mediation that resulted in the Settlement. *See id.* ¶ 12. Plaintiffs and  
6 Class Counsel have conducted sufficient discovery, including from Apple and third-party retailers  
7 and through work with experts, to permit Class Counsel, the Class Representatives, and the Court  
8 to intelligently and fairly evaluate the fairness and adequacy of the Settlement. *See id.* ¶¶ 9-16.  
9 This favors final approval.

10                   **e.**       *Views of Class Counsel*

11           Class Counsel, who are experienced in consumer class action litigation, believe the  
12 Settlement represents an outstanding recovery for the Settlement Class given the risks of  
13 continuing the litigation. *Id.* ¶¶ 33-36. “Great weight is accorded to the recommendation of  
14 counsel, who are most closely acquainted with the facts of the underlying litigation.” *Nat’l Rural*  
15 *Telecomm. Coop. v. DirecTV, Inc.*, 221 F.R.D. 523, 528 (C.D. Cal. 2004).

16                   **f.**       *Overwhelmingly Positive Reception by Settlement Class Members*

17           Following a Notice and submission period that lasted from January 15, 2024, and continues  
18 until July 3, 2024, *see* Weisbrot Decl. ¶ 12; ECF No. 182, there has been a positive reception to  
19 the Settlement by Settlement Class Members. As of the date of this Motion, 114,684 total  
20 Settlement Class Members have participated in the Settlement by submitting their payment  
21 information. Weisbrot Decl. ¶ 30. This represents a 6.95% submission rate, compared to the  
22 1,649,497 total Settlement Class Members (following removal of duplicate and foreign Settlement  
23 Class Members included on the Class List). *See id.* ¶ 10. Class Counsel believes this number and  
24 rate will continue to increase until the period for submissions officially closes on July 3, 2024.  
25 This response rate is typical for a consumer class action and supports final approval. *See, e.g., In*  
26 *re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 944-45 (9th Cir. 2015) (affirming approval  
27 of settlement where less than 3.4% of class member filed claims); *Rael v. Children’s Place, Inc.*,

1 No. 3:16-cv-00370, 2020 WL 434482, at \*9 (S.D. Cal. Jan. 28, 2020) (noting that “consumer class  
2 actions tend to result in claims rates in the low single digits”); *Broomfield*, 2020 WL 1972505, at  
3 \*7 (approving settlement with response rate of “about two percent”); *see also* Final Approval  
4 Guideline (1).

5 Moreover, of these 1,649,497 total Settlement Class Members, 91 have sought exclusion  
6 from the Settlement, and only 3 individuals—only 1 of whom is even a Settlement Class  
7 Member—have submitted (meritless) objections to the Settlement. Weisbrot Decl. ¶¶ 10, 27-28.  
8 These 94 individuals amount to an incredibly low 0.0057% (0.0055% opt-out and 0.0002%  
9 objection rates) of the total Settlement Class Members. When including only the single objection  
10 raised by a qualifying Settlement Class Member (which Plaintiffs and Class Counsel maintain  
11 lacks substantive merit), this figure drops further to 0.0056%. Thus, the overall perception of the  
12 Settlement by Settlement Class Members has been overwhelmingly positive. *Stonehocker v.*  
13 *Kindred Healthcare Operating LLC*, No. 19-CV-2494, 2021 WL 1643226, at \*5 (N.D. Cal. Apr.  
14 27, 2021) (finding “[t]he reaction of the class was overwhelmingly positive” where “the Court  
15 received only three opt-outs and no objections”); *see also Noll v. eBay, Inc.*, 309 F.R.D. 593, 608  
16 (N.D. Cal. 2015) (“[T]he fact that the overwhelming majority of the class willingly approved the  
17 offer and stayed in the class presents at least some objective positive commentary as to its  
18 fairness”). This “strongly favors final approval.” *Edwards v. Nat’l Milk Producers Fed’n*, No. 11-  
19 CV-04766, 2017 WL 3623734, at \*2, \*8 (N.D. Cal. June 26, 2017) (factor favored approval where  
20 over 307,000 class members had submitted claims yet “only eight objections and one request for  
21 exclusion were received out of the millions of class members receiving notice.”), *aff’d sub nom.*,  
22 *Edwards v. Andrews*, 846 F. App’x 538 (9th Cir. 2021); *see also Knapp v. Art*, 283 F. Supp. 3d  
23 823, 833-34 (N.D. Cal. 2017) (“A court may properly infer that a class action settlement is fair,  
adequate, and reasonable when few class members object to it.”).

24 **g. No Governmental Entity Has Objected to the Settlement**

25 The Settlement Administrator sent CAFA notice on June 2, 2023, to the Attorneys General  
26 of all states and territories and to the Attorney General of the United States. Weisbrot Decl. ¶ 6.

1 To date, no governmental entity has objected to the Settlement. This further supports final approval  
2 of the Settlement. *See LaGarde v. Support.com, Inc.*, No. C 12-0609, 2013 WL 1283325, at \*7  
3 (N.D. Cal. Mar. 26, 2013) (noting that CAFA presumes that, once put on notice, state or federal  
4 officials will raise any concerns that they may have during the normal course of the class action  
5 settlement procedures”).

### 6 **3. The Settlement treats Settlement Class Members equitably.**

7 The Settlement provides benefits to all Settlement Class Members who submit valid  
8 payment information, without any preferential treatment of Class Representatives or any segment  
9 of the Settlement Class. *See Fed. R. Civ. P. 23(e)(2)(D)*. Specifically, all Settlement Class  
10 Members who submit valid payment information will receive cash payments that are proportionate  
11 to the type of injury allegedly suffered. OOP Payees will be paid between \$50 and \$349, while  
12 Complainants—who did not pay any out-of-pocket expenses allegedly due to a Covered Issue—  
13 will receive up to \$200. *See ECF No. 186*. Each OOP Payee will receive the same amount under  
14 the Settlement as other OOP Payees, and each Complainant will receive the same amount as other  
15 Complainants. This plan of allocation protects the interests of all parties by directing relief to the  
16 most significantly impacted Settlement Class Members—awarding more to OOP Payees, while  
17 also paying Complainants a very significant sum. *See In re MacBook Keyboard Litig.*, 2023 WL  
18 3688452, at \*3-4 (finally approving settlement that “provide[d] three payment tiers, or three  
19 groups, for eligible Settlement Class Members”); *see also In re Nexus 6P Prod. Liab. Litig.*, 2019  
20 WL 6622842, at \*9 (finally approving settlement that “divide[d] claimants into different groups  
21 based on the relative size of their potential claims and distributes funds based on these groups”).

22 Class Counsel has also applied for \$3,000 class representative service awards for each  
23 named Plaintiff (totaling \$18,000), based on their dedication to and time expended during this  
24 litigation and in furtherance of putative class members’ interests. *See Mot. for Attorneys’ Fees and*  
25 *Costs and Class Representative Service Awards*, ECF No. 177, at 20-22. Such service awards “are  
26 fairly typical in class action cases” and “are intended to compensate class representatives for work

1 done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the  
2 action, and, sometimes, to recognize their willingness to act as a private attorney general.”  
3 *Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948, 958-59 (9th Cir. 2009). For the reasons stated in that  
4 Motion, ECF No. 177, Class Counsel believes that the Court should grant each named Plaintiff a  
5 \$3,000 service award. Notably, such a service award, if awarded here, would not constitute  
6 preferential treatment. Plaintiffs were not promised that they would receive such an award for their  
7 participation in this litigation, and their agreement to serve as class representatives was not  
8 conditioned on receiving such an award. *See* Joint Decl. of Class Counsel in Supp. of Mot. for  
9 Preliminary Approval, ECF No. 171-1, ¶ 34. If granted, such an award would be offered for the  
10 significant time the Class Representatives expended in this litigation, working tirelessly on behalf  
11 of the Class; it would be separate from and not replace their recovery as Settlement Class Members.  
12 *See id.* ¶¶ 28-33. This factor also favors final approval.

13 **4. The Fee and Expense Award sought by Class Counsel is fair and**  
14 **reasonable.**

15 Class Counsel moved separately for \$8,750,000 in attorneys’ fees and expenses. ECF No.  
16 177; *see also supra* Section IV. As explained more fully in that motion and above, Class Counsel’s  
17 requested attorneys’ fees and expenses are fair, reasonable, and justified. Class Counsel’s  
18 requested attorneys’ fees represent a 24.5% request, and their total lodestar as of April 26, 2024  
19 represented a 1.87 multiplier. ECF No. 177, at 6, 12, 18. Since that date, Class Counsel have  
20 expended additional time in overseeing the administration of this Settlement, in drafting this  
21 Motion, and will spend additional time responding to Objections and preparing for the Final  
22 Approval Hearing. As of June 21, 2024, Class Counsel have expended 178.8 total hours,  
23 amounting to an additional lodestar of \$139,915.70 between April 27, 2024, and June 21, 2024.  
24 Joint Class Counsel Decl. ¶ 57. In total, for the full litigation, as of June 21, 2024, Class Counsel  
25 have expended 8,121.85 hours, representing a total lodestar of \$4,820,585.65. *Id.* ¶ 58. This total  
26 lodestar represents 55% of the total requested \$8,750,000 in both attorneys’ fees and expenses and

1 a 1.82 multiplier. *Id.* ¶ 60. As noted, Class Counsel will continue to expend time following June  
2 21, 2024 and the filing of this motion, including continuing to oversee administration of the  
3 Settlement, responding to Objections, filing a supplement regarding the final Settlement Class  
4 data, preparing for and attending the Final Approval Hearing, and overseeing distributions to the  
5 Settlement Class. *Id.* ¶ 59. Class Counsel do not intend to include any time expended on these  
6 further efforts in their calculated lodestar, which, if included, would further reduce the multiplier.  
7 *Id.* This highlights the inherent fairness and reasonableness of the requested fee and expense award.

### 8 **VIII. CONCLUSION**

9 For the reasons stated above, Plaintiffs respectfully request that the Court (1) finally  
10 approve the Settlement; (2) affirm its conditional certification of the Settlement Class; (3) confirm  
11 its appointment of Class Counsel and Plaintiffs as Class Representatives; (4) retain jurisdiction  
12 over this matter to resolve issues related to interpretation, administration, implementation, and  
13 enforcement of the Settlement; and (5) enter final judgment dismissing the Action.

14  
15 Dated: June 24, 2024

/s/ William A. Ladnier

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**CERTIFICATE OF SERVICE**

I, William A. Ladnier, hereby certify that on June 24, 2024, I caused a true and correct copy of the foregoing Plaintiffs’ Motion for Final Approval of Class Action Settlement to be served upon the following by electronic mail:

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

LISA TABAK, DE'JHONTAI  
BANKS, MATTHEW WHITE, KELLY  
CAMELO-CENICOLA, NESTOR  
TRUJILLO, and CHRISTINE CLEMENCE,  
on behalf of themselves and all others  
similarly situated,

Plaintiffs,

v.

APPLE INC.,

Defendant.

CASE NO. 4:19-CV-02455-JST

**JOINT DECLARATION OF  
CLASS COUNSEL IN SUPPORT OF  
PLAINTIFFS' MOTION FOR FINAL  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

1 Gregory F. Coleman, Adam A. Edwards, William A. Ladnier, Andrea R. Gold, Hassan A.  
2 Zavareei, and Allison W. Parr declare as follows:

3 1. We represent Plaintiffs Lisa Tabak, De’Jhontai Banks, Matthew White, Kelly  
4 Camelo-Cenicola, Nestor Trujillo, and Christine Clemence (“Plaintiffs” or “Class  
5 Representatives”) in the above-captioned class action. We have worked on this litigation since  
6 the case was first filed in May 2019 through to the present. We have led all efforts in this case  
7 on behalf of Plaintiffs and putative Class Members, and we have personal knowledge of all  
8 matters addressed in this Declaration, including the negotiations that culminated with the filing  
9 of the proposed Settlement<sup>1</sup> now pending before the Court.

10 2. Following years of litigation, the Parties negotiated and reached a settlement,  
11 which this Court preliminarily approved on November 21, 2023 (the “Settlement”). Order, ECF  
12 No. 176 (the “Preliminary Approval Order”). In the Preliminary Approval Order, the Court  
13 preliminarily appointed the following attorneys, including the undersigned, as Class Counsel:  
14 Gregory F. Coleman, Adam A. Edwards, and William A. Ladnier of Milberg Coleman Bryson  
15 Phillips Grossman PLLC (“Milberg”), and Andrea R. Gold, Hassan A. Zavareei, and Allison W.  
16 Parr of Tycko & Zavareei LLP (“Tycko & Zavareei”). *Id.* ¶ 5. The Court also preliminarily  
17 appointed Plaintiffs Lisa Tabak, De’Jhontai Banks, Matthew White, Kelly Camelo-Cenicola,  
18 Nestor Trujillo, and Christine Clemence as Class Representatives. *Id.*

19 3. Given the significant amount of effort and resources expended in this multi-year  
20 litigation, and the favorable results wherein, if the Proposed Settlement is approved, owners of  
21 iPhone 7 and iPhone 7 Plus phones impacted by the alleged defect will receive meaningful cash  
22 benefits, Plaintiffs’ counsel jointly offer this Declaration in support of final approval of the  
23 Proposed Settlement.

24  
25  
26  
27 <sup>1</sup> Unless otherwise specifically defined herein, all capitalized terms have the same meanings as those set forth in the Parties’ Settlement Agreement. ECF No. 171-2.

1 ***Overview of this Litigation***

2 4. Throughout the litigation, Defendant Apple Inc. (“Apple”) has vehemently  
3 denied Plaintiffs’ allegations and continues to deny the existence of any alleged defect in the  
4 iPhones at issue, including one that would inhibit audio functionality, as Plaintiffs claim.

5 5. Throughout all phases of this litigation, Plaintiffs’ counsel and their respective  
6 law firms have undertaken an enormous amount of work, effort, and expense in this litigation,  
7 demonstrating a serious devotion of whatever resources are necessary to see this Action through  
8 to a successful outcome. Collectively, thus far in this litigation, which has spanned over five  
9 years, Class Counsel have invested thousands of hours, as well as significant costs and expenses,  
10 in this pursuit.

11 6. Class Counsel have also continued this work, effort, and expenditure through to  
12 the final approval of this Settlement, including through the settlement administration and  
13 distribution process.

14 7. Prior to first filing, Class Counsel engaged in substantial, technical research into  
15 the alleged defect. Class Counsel analyzed numerous consumer complaints, from Apple’s  
16 website and fora and various other consumer fora, to determine whether there were sufficient  
17 concerns to justify bringing claims relating to this alleged defect. Based upon the complaints,  
18 Class Counsel developed a theory of the root cause, which they then confirmed by reaching out  
19 and working closely with retained experts. Following numerous discussions and additional  
20 research, Class Counsel interviewed numerous consumers who experienced manifestations of  
21 the alleged defect. Class Counsel spoke with many potential clients, screening leads to eventually  
22 select the named Plaintiffs. Class Counsel began gathering information from the named  
23 Plaintiffs, including gathering relevant documents, and obtained their subject iPhone 7 and  
24 iPhone 7 Plus phones to preserve them for the litigation. While this occurred, Class Counsel  
25 drafted the initial complaint, working cooperatively with the named Plaintiffs, to develop all  
26 relevant facts. Class Counsel also conducted legal research to develop the legal theories and  
27 causes of action. Following the named Plaintiffs’ approval of the draft complaint, Class Counsel

1 filed the first complaint on May 6, 2019. In total, Class Counsel engaged in over four months'  
2 worth of work prior to first filing this case.

3 8. On the pleadings, Class Counsel engaged in substantial research and contentious  
4 motions practice. For example, prior to filing, Class Counsel performed extensive research  
5 regarding the iPhone 7 and iPhone 7 Plus, worked closely with experts regarding the alleged  
6 defect, and spoke extensively with the Plaintiffs and other potential Class Members regarding  
7 their personal experiences. After the filing of the Complaint, the Parties fully briefed two  
8 separate motions to dismiss, and Plaintiffs amended their complaint twice. *See* ECF Nos. 1, 30,  
9 67. Class Counsel engaged in similar efforts regarding each amendment. And through Class  
10 Counsel's efforts, Plaintiffs defeated both of Apple's motions to dismiss, maintaining many of  
11 their claims.

12 9. After the pleadings closed, the Parties began to engage in discovery. The Parties  
13 engaged in various meet-and-confer negotiations to prepare and finalize the terms of the  
14 Protective Order and ESI Protocol entered in this case, identify relevant custodians of records,  
15 and finalize search terms to identify potentially responsive documents. Plaintiffs issued 13  
16 Interrogatories, 113 Requests for Production, 4 Requests for Admission to Apple, and 4 Requests  
17 for Tangible Things. As part of discovery, Apple produced 24,531 documents, totaling  
18 approximately 235,901 total pages, *all of which* Class Counsel reviewed and analyzed. Further,  
19 Class Counsel issued 9 subpoenas for the production of relevant sales data and documents to  
20 various third-party retailers, who sold the iPhones at issue. Class Counsel engaged in extensive  
21 meet-and-confer efforts regarding these third-party subpoenas and reviewed all documents  
22 produced pursuant to these subpoenas. Apple served 10 interrogatories and 22 requests for  
23 production on each Plaintiff, in addition to requests to inspect Plaintiffs' phones. Class Counsel  
24 worked closely with each Plaintiff to respond and to gather and produce responsive documents.  
25 Class Counsel carefully reviewed these documents prior to producing them to Apple.

26 10. Early in discovery, Class Counsel hired experts to aid them in understanding and  
27 addressing the complex, technical issues at hand. Through their experts—a mechanical and

1 electrical engineering expert and an expert in iPhone repair—Class Counsel learned the  
2 intricacies of the iPhone 7 and iPhone 7 Plus phones’ designs, the nature of the alleged Defect,  
3 and how it manifested. Class Counsel worked closely with these experts to address various issues  
4 in the case, combat Apple’s arguments and defenses, craft discovery requests, review and  
5 analyze Apple’s document productions, and perform testing on third-party devices to bolster and  
6 support Plaintiffs’ claims. Moreover, Class Counsel hired several experts to develop and perform  
7 a damages analysis and methodology for determining class-wide damages. Class Counsel  
8 worked closely with these experts to craft discovery requests, develop third-party subpoenas  
9 issued to third-party retailers, and analyze Apple’s productions and third-party productions.  
10 These experts also analyzed Apple’s sales data and third-party retailers’ sales data, both of which  
11 informed the Parties’ settlement negotiations.

12         11. The Parties had numerous discovery disputes related to Apple’s document  
13 production. In particular, Class Counsel identified deficiencies in Apple’s productions and  
14 threading and ESI issues that hindered and delayed the document review process. Class Counsel  
15 engaged in 18 meet-and-confer conversations via telephone with Apple to address and ultimately  
16 resolve many of these discovery disputes—often discussing these issues on more than one  
17 occasion. Class Counsel sent Apple at least 10 discovery dispute letters addressing discovery  
18 deficiencies, including missing attachments in productions, threading and ESI issues,  
19 deficiencies in productions relating to damages analyses, along with others relating to testing of  
20 devices, and Apple sent at least 6 letters in response.

21         12. Apple also deposed each named Plaintiff. Class Counsel worked closely with  
22 each Plaintiff, reviewing any relevant documents they produced and preparing them to be  
23 deposed. Class Counsel defended each Plaintiff’s deposition, each of which lasted a full day.

24         13. Moreover, as discovery unfolded, Class Counsel obtained, through their experts,  
25 various third-party iPhone 7 and iPhone 7 Plus phones to perform testing regarding the alleged  
26 defect. Through this testing, Class Counsel and their experts confirmed their theories regarding  
27 the alleged defect.



1 to help them reach a resolution. Following a full-day mediation and subsequent negotiations over  
2 weeks, the Parties reached an agreement in principle to settle, with the aid of Mr. Wulff.

3 20. Following this mediation, the Parties continued to finalize the Settlement, while  
4 ensuring that it continued to align with their agreement in principle. The Parties engaged in  
5 extensive negotiations over many of the full terms of the Settlement Agreement over a period of  
6 several months, including with the continued involvement of Mr. Wulff. On May 25, 2023, the  
7 Parties finalized and fully executed the Settlement.

8 21. The Settlement, as amended by the Parties by stipulation, provides for a total net  
9 fund of \$35,000,000, providing between \$50 to \$349 to Settlement Class Members who paid  
10 Apple out-of-pocket for a repair or replacement for certain alleged audio-related issues with their  
11 iPhone 7 or iPhone 7 Plus phones (“OOP Payees”) and up to \$200 to Settlement Class Members  
12 who complained to Apple about such alleged audio-related issues but did not pay out-of-pocket  
13 to Apple for a repair or replacement (“Complainants”). The Settlement initially provided up to  
14 \$125 to Complainant Settlement Class Members. However, given the current rate of validated  
15 payment form submissions, and in order to ensure that the majority of the Net Settlement Fund  
16 is distributed to Settlement Class Members, the Parties agreed to increase the maximum amount  
17 provided to Complainants. ECF No. 186.

18 22. Prior to mediation, Class Counsel demanded that Apple confirm how many  
19 potential Settlement Class Members existed. Namely, the Settlement Class would include all  
20 those consumers who purchased an iPhone 7 or iPhone 7 Plus in the United States, experienced  
21 a manifestation of the alleged Defect, notified or complained to Apple regarding any audio  
22 functionality issues with their iPhone, and Apple coded the issue within one of the following  
23 CompTIA code categories: “Sound-Speaker,” “Sound-Microphone,” “Sound – Receiver,”  
24 “Unexpected Restart / Shutdown,” or “Power On – Device Unresponsive.”

25 23. Apple confirmed that they received 2,030,595 unique complaints, which were  
26 categorized under these CompTIA codes. At that time, and at the time Plaintiffs sought (and the  
27 Court granted) preliminary approval, this figure represented an approximate total number of

1 Settlement Class Members. Since this time, after further data analysis by Apple and the  
2 Settlement Administrator, the current total number of unique Settlement Class Members is  
3 1,649,497. This figure accounts for the removal of those individuals with foreign addresses and  
4 circumstances in which there were multiple owners of the same iPhone with the alleged Defect.

5 24. During this period, the Parties also continued to finalize the proposed Notice  
6 forms and the proposed Payment Attestation Form, pursuant to the Settlement. The Parties also  
7 worked cooperatively to select a Settlement Administrator following a bidding process from  
8 experienced notice and settlement administration vendors. The Parties received three total bids,  
9 from Angeion Group LLC, CPT Group, and KCC. The Parties ultimately selected Angeion  
10 Group LLC. The Parties also cooperatively selected a *cy pres* recipient, Girls Who Code.

11 ***Preliminary Approval***

12 25. Class Counsel worked extensively to draft the Motion for Preliminary Approval  
13 and a Joint Declaration of Plaintiffs' Counsel in support of that Motion, and worked with the  
14 Settlement Administrator to draft a declaration in support of that Motion.

15 26. Plaintiffs and Class Counsel presented the proposed Settlement to the Court on  
16 May 25, 2023, in their Motion for Preliminary Approval, ECF No. 171.

17 27. On November 21, 2023, the Court preliminarily certified the Settlement Class,  
18 granted preliminary approval of the Settlement, approved the notice plan, approved the Payment  
19 Attestation Form, preliminarily appointed Plaintiffs as Class Representatives, and preliminarily  
20 appointed Plaintiffs' counsel as Class Counsel. Preliminary Approval Order, ¶¶ 5-7. The Court  
21 also established a schedule for final approval of the Settlement, including setting the Final  
22 Approval Hearing on July 18, 2024. *Id.* ¶ 16.

23 ***The Settlement Benefits***

24 28. The Settlement establishes a non-reversionary \$35,000,000 common fund.  
25 Following removal of the attorneys' fee and litigation expenses awarded to Class Counsel by the  
26 Court, any Service Awards to the Class Representatives awarded by the Court, and the expenses  
27 incurred by the Settlement Administrator, the Net Settlement Fund will be distributed to

1 Settlement Class Members.

2 29. The Settlement, as originally negotiated by the Parties, provided for a total net  
3 fund of \$35,000,000, providing, on a *pro rata* basis, between \$50 to \$349 to Settlement Class  
4 Members who paid Apple out-of-pocket for a repair or replacement for certain alleged audio-  
5 related issues with their iPhone 7 or iPhone 7 Plus phones (“OOP Payees”) and, on a *pro rata*  
6 basis, up to \$125 to Settlement Class Members who complained to Apple about such alleged  
7 audio-related issues but did not pay out-of-pocket to Apple for a repair or replacement  
8 (“Complainants”).

9 30. Following Notice to Settlement Class Members, the Parties closely reviewed the  
10 rate of submissions by Settlement Class Members. The Parties cooperatively discussed ways the  
11 Settlement terms could be modified, pending the Court’s approval, to ensure that distributions  
12 of the Net Settlement Fund to Settlement Class Members were maximized, and to avoid a  
13 disproportionately large distribution to the *cy pres* recipient.

14 31. Following these discussions, the Parties jointly agreed that increasing the  
15 maximum distribution to Complainant Settlement Class Members would ensure that the majority  
16 of the Net Settlement Fund would be fully exhausted, such that a small portion would remain for  
17 distribution to the *cy pres* recipient. In particular, the Parties agreed that, under the Settlement,  
18 Complainant Settlement Class Members who submit valid payment information shall receive  
19 payment, on a *pro rata* basis, in the amount of up to \$200 (increased from up to \$125). The  
20 maximum payment to OOP Payee Settlement Class Members would remain unchanged  
21 (remaining set in the amount of at least \$50 and no more than \$349). These revisions are subject  
22 to the Court’s approval.

23 32. The Parties memorialized these revisions in a Joint Stipulation, which was filed  
24 with the Court on June 20, 2024. ECF No. 185. The Court granted that Joint Stipulation on June  
25 24, 2024. ECF No. 186.

26 ***Judgment of Experienced Class Counsel***

27 33. Weighing the benefits of the Settlement against the risks of continuing litigation

1 supports a finding that the Settlement is an excellent result for Settlement Class Members.

2 34. A litigation class has not yet been certified in this case, and Apple will oppose  
3 certification if the case proceeds in litigation. Indeed, Apple would argue that individual  
4 questions predominate over common questions with regard to exposure, reliance, materiality,  
5 causation, and injury. Although Plaintiffs assert that certification for litigation is appropriate  
6 here, the risk remains that the Court could refuse to certify a class. In that event, putative class  
7 members would receive nothing. And even if the Court did certify a litigation class, Plaintiffs  
8 would still face potential review on appeal, would need to maintain class action status through  
9 trial, and would need to prove their claims at trial, which carries serious expense and further  
10 delay—potentially delaying recovery for years. Likewise, Plaintiffs would continue to face the  
11 risk that a class could be decertified. The Settlement allows Plaintiffs and Settlement Class  
12 Members to avoid these risks, additional expenses, and delays in favor of immediate recovery.

13 35. After investigation, contested litigation, and extensive discovery, Class Counsel  
14 fully understand the strengths and weaknesses of this case. Our judgment is informed by our  
15 respective firms' experience litigating consumer class actions. Biographies of Class Counsel,  
16 outlining their experience and accomplishments were previously submitted with the Motion for  
17 Preliminary Approval and updated versions were submitted in Plaintiffs' and Class Counsel's  
18 Motion for Attorneys' Fees and Costs and Class Representative Service Awards. ECF Nos. 171-  
19 4, 171-5, 177-2, 177-3.

20 36. Based on our fulsome investigation, legal research, and extensive discovery  
21 throughout this case, and based on our extensive experience and our consideration of the various  
22 risks associated with continuing litigation, Class Counsel believes that this Settlement represents  
23 an outstanding recovery for the Settlement Class.

24 ***Notice, Efforts to Increase Submissions, and Reactions of the Class***

25 37. As described in the Declaration of Steven Weisbrot Re: Notice and  
26 Administration, submitted concurrently with this filing, Notice was disseminated pursuant to this  
27 Court's Order Granting Plaintiffs' Motion for Preliminary Approval of the Class Action

1 Settlement, ECF No. 176.

2 38. Specifically, Angeion provided CAFA notice, as required by 28 U.S.C. § 1715,  
3 on June 2, 2024.

4 39. Angeion disseminated Email Notice to the 1,310,297 Settlement Class Members  
5 who had a valid email address on January 15, 2024. On March 12, 2024, Angeion disseminated  
6 Email Notice to 31,812 Settlement Class Members whose information was provided in a  
7 supplemental file from Apple.

8 40. With respect to Mailed Notice, Angeion disseminated the Postcard Notice to  
9 250,727 Settlement Class Members. On February 14, 2024, Angeion disseminated the Postcard  
10 Notice to 92,780 Settlement Class Members for whom Email Notice was undeliverable. On  
11 March 18, 2024, Angeion disseminated Postcard Notice to 1,138 Settlement Class Members  
12 whose information was provided in a supplemental file from Defendant. *See* ECF No. 171, at 6.

13 41. The Settlement Website hosted important, Settlement-related documents for  
14 Settlement Class Members to download and review. These documents included: the Payment  
15 Attestation Form, the Long Form Notice, the Second Amended Class Action Complaint, the  
16 Settlement Agreement, Plaintiffs' Motion for Preliminary Approval, Preliminary Approval Order,  
17 Plaintiffs' and Class Counsel's Motion for Attorneys' Fees and Costs and Class Representative  
18 Service Awards, and the Joint Stipulation and Order Extending Deadline for Settlement Class  
19 Members to Submit Valid Payment Information. Of the documents that were not originally  
20 available when the Settlement Website was created, Plaintiffs' and Class Counsel's Motion for  
21 Attorneys' Fees and Costs and Class Representative Service Awards was posted to the Settlement  
22 Website on April 30, 2024, and the Joint Stipulation and Order Extending Deadline for Settlement  
23 Class Members to Submit Valid Payment Information was posted to the Settlement Website on  
24 June 5, 2024. As of June 21, 2024, the Settlement Website has received 1,218,980 website visits  
25 by 967,972 unique users totaling 10,461,918 page views.

26 42. On January 15, 2024, Angeion activated a toll-free telephone number for Settlement  
27 Class Members to call and obtain additional information regarding the Settlement through an

1 Interactive Voice Response system. As of June 21, 2024, the Settlement toll-free number has  
2 received 18,885 calls totaling 76,267 minutes.

3 43. In addition, Class Counsel and Angeion have received and addressed dozens of  
4 inquiries from potential as well as confirmed Settlement Class Members, seeking information  
5 about the Settlement and form submission.

6 44. The Settlement has also received press coverage from over two dozen media  
7 outlets, including the New York Times, CBS, Business Insider, Good Morning America, and  
8 CNN, leading to increased submissions of Payment Attestation Forms.

9 45. In an effort to further boost rates of submissions, the Parties jointly agreed to  
10 extend the deadline for Class Members to submit Payment Attestation Forms from June 3, 2024  
11 to July 3, 2024. *See* Joint Stipulation Extending Deadline for Settlement Class Members to  
12 Submit Valid Payment Information, ECF No. 178; *see also* Order, ECF No. 182.

13 46. Class Counsel also communicated with third-party aggregators of claims  
14 inquiring about the submission of Payment Attestation Forms.

15 47. As of June 21, 2024, Angeion has received 114,684 Payment Attestation Form  
16 submissions. Based on the total 1,649,497 Settlement Class Members, this represents a 6.95%  
17 submission rate. This data substantially supports final approval. *See, e.g., In re Online DVD-*  
18 *Rental Antitrust Litig.*, 779 F.3d 934, 944-45 (9th Cir. 2015) (affirming approval of settlement  
19 where less than 3.4% of class member filed claims); *Rael v. Children's Place, Inc.*, No. 3:16-cv-  
20 00370, 2020 WL 434482, at \*9 (S.D. Cal. Jan. 28, 2020) (noting that “consumer class actions  
21 tend to result in claims rates in the low single digits”); *Broomfield*, 2020 WL 1972505, at \*7  
22 (approving settlement with response rate of “about two percent”)

23 48. The reactions of the Class have been overwhelmingly positive. After analyzing  
24 the data files provided by Defendant, Angeion identified 1,649,497 unique records. Of these  
25 1,649,497 Class Members, only 91 have requested exclusion from the Settlement. Although 3  
26 individuals have lodged objections to the Settlement, which Class Counsel will address  
27 separately in their supplemental filing on July 11, 2024 (consistent with the Court’s Preliminary

1 Approval Order), only 1 of these individuals is a member of the Settlement Class and, even more,  
2 none of their “objections” have merit.

3 49. Because the deadline for Settlement Class Members has been extended to July 3,  
4 2024, Class Counsel will file a supplemental on or before July 11, 2024, detailing the final  
5 Settlement Class data and finalized costs incurred by Angeion in notice and settlement  
6 administration.

### 7 *Cy Pres Distribution*

8 50. Based upon the response rate by Settlement Class Members as of the date of this  
9 Motion, (and the rate of submissions by OOP Payee and Claimant Settlement Class Members),  
10 the finalized costs of settlement administration, and Class Counsel’s requested attorneys’ fees  
11 and expenses and class representative service awards (if approved by the Court), a small portion  
12 of Net Settlement Funds may remain. The Parties have jointly proposed Girls Who Code, an  
13 organization that works to diminish the gender gap in technological professions, increase  
14 exposure to underrepresented minorities in the technological field, and expand computer science  
15 curricula in schools, as the *cy pres* recipient. Girls Who Code has clubs throughout the country,  
16 including in California.

17 51. Following Notice to Settlement Class Members, the Parties closely reviewed the  
18 rate of submissions by Settlement Class Members. As explained above, the Parties cooperatively  
19 discussed ways to modify distributions under the Settlement (subject to the Court’s approval) to  
20 ensure that the majority of the Net Settlement Fund was distributed to Settlement Class  
21 Members, so as to avoid a disproportionately large distribution to the *cy pres* recipient.  
22 Accordingly, the Parties have proposed to modify distributions to Complainant Settlement Class  
23 Members to provide payments, on a *pro rata* basis, in the amount of up to \$200 (increased from  
24 up to \$125). *See* ECF No. 186. Distributions to OOP Payee Settlement Class Members would  
25 remain unchanged. *See id.* The Parties believe this revision will ensure that the Net Settlement  
26 Fund is fully exhausted—or very nearly exhausted—following distributions to Settlement Class  
27 Members. Whatever funds remain would be available for distribution to the *cy pres* recipient.

***Supplemental Report of Attorneys' Fees and Costs***

52. As described in the Joint Declaration of Class Counsel in Support of Plaintiffs' Motion for Attorneys' Fees and Costs and Class Representative Service Awards, ECF No. 177-1, Class Counsel has diligently tracked time throughout the case, and as of April 26, 2024, Class Counsel had spent 7,943.05 hours litigating this Action, totaling \$4,680,669.95. At that time, Class Counsel had accrued \$175,143.81 in litigation expenses in this Action.

53. As stated in the Joint Declaration of Class Counsel in Support of Plaintiffs' Motion for Attorneys' Fees and Costs and Class Representative Service Awards, Class Counsel now provides a supplemental reporting of the total hours and lodestar accrued since April 26, 2024, through June 21, 2024.

54. Specifically, since April 26, 2024 (shortly prior to the filing of Plaintiffs' Motion for Attorneys' Fees and Costs and Class Representative Service Awards), Class Counsel has continued to communicate with potential Settlement Class Members, with Angeion, and with Apple regarding the Settlement and settlement administration. Further, Class Counsel prepared this Motion and worked closely with Angeion regarding the preparation of a declaration fully describing all steps taken to provide notice to Settlement Class Members and administer the Settlement. The expenditure of this additional time was both reasonable and justified.

55. Through these efforts, timekeepers for Milberg have expended 104.6 total hours between April 27, 2024, and June 21, 2024, amounting to a lodestar of \$87,778.20 during that time frame.

56. Timekeepers for Tycko & Zavareei have expended 74.2 total hours between April 27, 2024, and June 21, 2024, amounting to a lodestar of \$52,137.50 during that time frame.

57. Thus, collectively, Class Counsel have expended 178.8 total hours between April 27, 2024, and June 21, 2024, amounting to a total collective lodestar of \$139,915.70 during that time frame.

58. When combining this with the total time previously expended (through April 26, 2024), Class Counsel has expended a total of 8,121.85 hours, representing a total lodestar of

1 \$4,820,585.65, as of June 21, 2024.

2 59. Class Counsel will continue to expend hours on behalf of Plaintiffs and  
3 Settlement Class Members through to the close of this litigation. For example, Class Counsel  
4 will expend additional time in responding to the Objections filed with the Court, in preparing  
5 and filing supplemental reports regarding Settlement Class data, preparing for and attending the  
6 Final Approval Hearing, overseeing distributions pursuant to the Settlement, and filing a post-  
7 disbursement report with the Court. Class Counsel does not intend to include these further hours  
8 in its calculation of lodestar. Thus, Class Counsel's requested attorneys' fees and expenses award  
9 does not fully account for its total hours expended and total lodestar through the close of this  
10 litigation (only through June 21, 2024) and is, thus, inherently conservative.

11 60. As of June 21, 2024, Class Counsel have expended a grand total of 8,121.85  
12 hours, representing a total lodestar of \$4,820,585.65. This lodestar represents 55% of the total  
13 requested \$8,750,000 in both attorneys' fees and expenses and a 1.82 multiplier.

14 61. When including Class Counsel's total litigation-related expenses (\$175,143.81),  
15 which have not increased since their April 29, 2024 motion, this amounts to a grand total of  
16 \$4,995,729.46 in attorneys' fees and costs for the entirety of this litigation, as of June 21, 2024.

17  
18 We declare under penalty of perjury that the foregoing is true and correct.

19  
20 Executed this 24<sup>th</sup> day of June, 2024, at Knoxville, Tennessee.

21 /s/ Gregory F. Coleman

22 Gregory F. Coleman

23  
24 Executed this 24<sup>th</sup> day of June, 2024, at Knoxville, Tennessee.

25 /s/ Adam A. Edwards

26 Adam A. Edwards

1 Executed this 24<sup>th</sup> day of June, 2024, at Knoxville, Tennessee.

2 /s/ William A. Ladnier

3 William A. Ladnier

4  
5 Executed this 24<sup>th</sup> day of June, 2024, at Kensington, Maryland.

6 /s/ Andrea R. Gold

7 Andrea R. Gold

8  
9 Executed this 24<sup>th</sup> day of June, 2024, at Washington, D.C.

10 /s/ Hassan A. Zavareei

11 Hassan A. Zavareei

12  
13 Executed this 24<sup>th</sup> day of June, 2024, at Washington, D.C.

14 /s/ Allison W. Parr

15 Allison W. Parr

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14 \* *Admitted pro hac vice*  
 15 *Attorneys for Plaintiffs*  
 16 *and Class Counsel*

17 UNITED STATES DISTRICT COURT  
 18 NORTHERN DISTRICT OF CALIFORNIA

19 LISA TABAK, DE'JHONTAI  
 20 BANKS, MATTHEW WHITE, KELLY  
 21 CAMELO-CENICOLA, NESTOR  
 TRUJILLO, and CHRISTINE CLEMENCE,  
 on behalf of themselves and all others  
 similarly situated,

22 Plaintiffs,

23 v.

24 APPLE, INC.,

25 Defendant.

Case No. 4:19-CV-02455-JST

**DECLARATION OF STEVEN WEISBROT  
 RE: NOTICE AND ADMINISTRATION**

1 I, **STEVEN WEISBROT**, hereby declare under penalty of perjury pursuant to 28 U.S.C.  
2 § 1746 that the following is true and correct to the best of my knowledge:

3 1. I am the President and Chief Executive Officer at the class action notice and claims  
4 administration firm Angeion Group, LLC (“Angeion”). I am fully familiar with the facts contained  
5 herein based upon my personal knowledge.

6 2. My credentials were provided in my prior declaration outlining the Proposed Notice  
7 Plan in this Settlement, ECF No. 171-6.

8 3. Angeion was retained by the Parties and appointed by this Court to serve as  
9 Settlement Administrator and to, among other tasks, disseminate notice of the Settlement to the  
10 Settlement Class, and perform other duties as specified in the Settlement Agreement, pursuant to  
11 the *Order Granting Plaintiff’s Motion for Preliminary Approval of the Class Action Settlement \*As*  
12 *Modified*, ECF No. 176.

13 4. Angeion is not related to or affiliated with the Plaintiffs, Plaintiffs’ Counsel,  
14 Defendant, or Defendant’s Counsel.

15 5. The purpose of this declaration is to provide the Court and the Parties with an  
16 update to my prior declaration describing the implementation of the Proposed Notice Plan.

17 **CAFA NOTICE**

18 6. On June 2, 2023, pursuant to 28 U.S.C. §1715, Angeion caused Notice of this  
19 Settlement and related materials (“CAFA Notice”) to be sent to the Attorneys General of all states  
20 and territories, as well as the Attorney General of the United States. A true and correct copy of the  
21 CAFA Notice is attached hereto as **Exhibit A**.

22 **CLASS DATA**

23 **Initial Class Data**

24 7. On December 15, 2023, Angeion received from Defendant a list of 9,646,732  
25 records. The data file contained the names, mailing addresses, and email addresses of potential  
26 Settlement Class Members. Angeion’s initial review of the data file involved removing duplicative  
27 records and excluding foreign addresses, resulting in 1,831,011 unique records (“Class List”). Of  
28

1 the unique records, 1,310,297 had a valid email address, and 250,727 had a complete mailing  
2 address (the “Mailing List”).

3 **Supplemental Class Data**

4 8. On or about February 21, 2024, Angeion received from Defendant a supplemental  
5 data file containing the names, mailing addresses, and email addresses of Settlement Class  
6 Members that did not have a valid email address or complete mailing address in the data provided  
7 on December 15, 2023. Of the 94,999 records included in the supplemental list, 31,737 were  
8 removed due to a foreign address, 31,812 had a valid email address (the “Supplemental Email  
9 List”), and 1,138 had a complete mailing address (the “Supplemental Mailing List”).

10 9. On or about April 4, 2024, Angeion received from Defendant a list of 2,574,573  
11 records. The data file contained the names, mailing addresses, email addresses, and device serial  
12 numbers of potential Settlement Class Members. Angeion reviewed the data file and removed  
13 duplicative records and excluded foreign addresses and further refined the list of potential  
14 Settlement Class Members.

15 10. As a result of the above-described efforts, the final Class List contained 1,649,497<sup>1</sup>  
16 unique records, of which 1,343,914 had a valid email address, 1,273,404 had a complete mailing  
17 address.

18 **DIRECT NOTICE**

19 **Email Notice**

20 11. As part of the Class Data analysis, the email addresses on the Class List were  
21 subjected to cleansing and validation processes. The email cleansing process removed extra  
22 spaces, fixed common typographical errors in domain name and corrected insufficient domain  
23 suffixes (*e.g.*, gmal.com to gmail.com, gmail.co to gmail.com, yahoo.com to yahoo.com, etc.). After  
24 the email addresses were standardized, they were subjected to a validation process whereby each  
25 email address was compared against known bad email addresses. The email addresses were further  
26

27 \_\_\_\_\_  
28 <sup>1</sup> Of the 1,649,497 unique records, 1,555,382 are identified as Complainants and 94,115 are  
identified as Out of Pocket Payees.

1 verified by contacting the Internet Service Provider (“ISP”) to determine if the email addresses  
2 exist.

3 12. On January 15, 2024, Angeion caused notice to be disseminated via email (“Email  
4 Notice”) to the 1,310,297 Settlement Class Members who had a valid email address in the initial  
5 Class Data. A true and correct copy of the Email Notice is attached hereto as **Exhibit B**.

6 13. Of the 1,310,297 Email Notices sent, 1,228,783 were delivered (approximately  
7 93.78%). Note: the initial deliverability statuses indicated that 93,788 Email Notices were not  
8 delivered. As such, those 93,788 records were analyzed for corresponding mailing addresses, and  
9 92,780 mailing addresses were identified. The final email deliverability stats confirmed that there  
10 were 81,514 emails that were ultimately not delivered (6.22%).

11 14. On March 12, 2024, Angeion caused notice to be disseminated via email to the  
12 31,812 Settlement Class Members on the Supplemental Email List. Of the 31,812 Email Notices  
13 sent, 30,905 were delivered (approximately 97.15%) and 907 bounced back as undeliverable  
14 (approximately 2.85%). The 907 individuals whose email bounced back as undeliverable did not  
15 have a complete mailing address.

16 **Mailed Notice**

17 15. On January 15, 2024, Angeion caused the notice to be mailed (“Postcard Notice”)  
18 via the United States Postal Service (“USPS”) first-class mail, postage prepaid, to the 250,727  
19 Settlement Class Members on the Mailing List. A true and correct copy of the Postcard Notice is  
20 attached hereto as **Exhibit C**.

21 16. On February 14, 2024, the Postcard Notice was mailed USPS first-class, postage  
22 prepaid, to the 92,780 Settlement Class Members on the Email Undeliverable List.

23 17. On March 18, 2024, the Postcard Notice was mailed USPS first-class, postage  
24 prepaid, to the 1,138 Settlement Class Members on the Supplemental Mailing List.

25 18. Prior to mailing, the mailing addresses were processed through the USPS National  
26 Change of Address database to identify updated addresses for individuals who have moved within  
27 the last four years and who filed a change of address card with the USPS.  
28

1 19. Postcard Notices that were returned by the USPS as undeliverable with a  
2 forwarding address were re-mailed to that forwarding address. Postcard Notices that were returned  
3 by the USPS without a forwarding address were subjected to an address verification search (“skip  
4 trace”) in an attempt to locate an updated address. As a result of the above-described efforts, of  
5 the 58,235 Postcard Notices returned as undeliverable by the USPS, 31,722 were re-mailed to  
6 updated addresses. Of the 31,722 Postcard Notices that were re-mailed, 3,403 were returned a  
7 second time.

8 **Reminder Notices**

9 20. On April 17, 2024, Angeion caused an Email Reminder Notice to be disseminated  
10 to Settlement Class Members who had a valid email address and had not yet submitted a Payment  
11 Attestation Form. A true and correct copy of the Reminder Email Notice is attached hereto as

12 **Exhibit D.**

13 21. On May 10, 2024, at the agreement of the Parties, Angeion caused a Reminder  
14 Postcard Notice to be disseminated to Settlement Class Members who had a complete mailing  
15 address and had not yet submitted a Payment Attestation Form. A true and correct copy of the  
16 Reminder Postcard Notice is attached hereto as **Exhibit E.**

17 22. On May 28, 2024, the last group of Postcard Notices were re-mailed, concluding  
18 the Notice Plan.

19 **SETTLEMENT WEBSITE**

20 23. On January 15, 2024, Angeion activated the following case-specific website:  
21 [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com) (the “Settlement Website”). The Settlement Website was  
22 designed to be user-friendly and makes it easy for Settlement Class Members to view general  
23 information about this class action Settlement, review relevant Court documents, and view  
24 important dates and deadlines pertinent to the Settlement. Settlement Class Members can file a  
25 Payment Attestation Form directly on the Settlement Website via a secure portal or download and  
26 print the Payment Attestation Form to be completed and mailed via the USPS. The Settlement  
27 Website also has a “Contact Us” page whereby Settlement Class Members can send an email with  
28 any additional questions to a dedicated email address: [info@SmartPhoneAudioSettlement.com](mailto:info@SmartPhoneAudioSettlement.com).



1 notice efforts that combined email and mail notices to Settlement Class members<sup>2</sup>. The  
2 approximate 94.70% deliverability percentage is consistent with or exceeds other court-approved,  
3 similar settlements. The Federal Judicial Center states that a notice plan that reaches 70% of class  
4 members is one that reaches a “high percentage” and is within the “norm.” Barbara J. Rothstein &  
5 Thomas E. Willging, Federal Judicial Center, “Managing Class Action Litigation: A Pocket Guide  
6 or Judges,” at 27 (3d Ed. 2010).

### 7 **PAYMENT ATTESTATION FORMS**

8 30. The deadline for Settlement Class Members to submit a Payment Attestation Form  
9 is July 3, 2024. As of June 21, 2024, Angeion has received 114,684<sup>3</sup> Payment Attestation Form  
10 submissions. These Payment Attestation Form submissions are still subject to final audits,  
11 including the full assessment for completeness, validity, and a review for duplicate submissions.  
12 Angeion will continue to report to the Parties the number of Payment Attestation Form  
13 submissions it receives and processes.

### 14 **EXCLUSIONS & OBJECTIONS**

15 31. The deadline to submit a request for exclusion from the Settlement was June 3,  
16 2024. As of June 21, 2024, Angeion has received 91 requests for exclusion. Attached hereto as  
17 **Exhibit F** is a list of names of the individuals who submitted exclusion requests.

18 32. The deadline to submit an objection to the Settlement was June 3, 2024. As of June  
19 21, 2024, Angeion has been made aware of three (3) objections filed directly with the Court.  
20 Angeion has not received any objections.

### 21 **SETTLEMENT ADMINISTRATION COSTS**

22  
23  
24 <sup>2</sup> Emails are considered delivered if not bounced back and mail notices are considered delivered if  
25 they are not returned by the U.S. Postal service.

26 <sup>3</sup> The original deadline for Settlement Class Members to submit a Payment Attestation Form was  
27 June 3, 2024. On June 3, 2024, the Parties informed Angeion that they had sought an extension  
28 to this deadline through a stipulation. Accordingly, Angeion continued to accept any Payment  
Attestation Forms submitted after June 3, 2024, on a tentative basis. Following the Court’s Order  
on June 5, 2024, extending the submission deadline to July 3, 2024, Angeion accepted all such  
tentative submissions (following assessment for completeness, validity, and review for duplicate  
submissions).

1 33. Through May 31, 2024, Angeion has incurred approximately \$1,099,848.04 in  
2 costs to provide notice and administration services for this Settlement. A true and correct copy of  
3 the truncated invoice generated to date is attached hereto as **Exhibit G**.<sup>4</sup>

4 34. Angeion estimates there will be approximately \$403,785 in future administrative  
5 costs through the conclusion of this Settlement. The current estimate assumes that Angeion will  
6 only be issuing payments to Settlement Class Members that filed a Payment Attestation Form.  
7 Additional payments, as may be required, will incur additional costs.


8 **CONCLUSION**

9 35. The Notice Plan provided for direct notice via email and/or mail to all reasonably  
10 identifiable Settlement Class members, and integrated considerable reminder notice efforts. The  
11 Notice Plan also included the implementation of a dedicated Settlement Website and toll-free  
12 telephone support to further provide Settlement Class members with information about the  
13 Settlement, including their rights and options, and the deadlines to exercise those options.

14 36. It remains my professional opinion that the Notice Plan implemented in this  
15 Settlement was the best notice practicable under the circumstances, delivering notice to an  
16 approximate 94.70% of Settlement Class members on the Class List. It is also my opinion that the  
17 Notice Plan fully comports with due process and Fed. R. Civ. P. 23, and provided full and proper  
18 notice to Settlement Class Members before the applicable exclusion, objection, and Payment  
19 Attestation Form deadlines.

20 I declare under penalty of perjury that the foregoing is true and correct.

21 Dated: June 24, 2024

22  
23 

24 

---

STEVEN WEISBROT

25  
26  
27  
28 <sup>4</sup> Upon request, Angeion will provide a more detailed breakdown of costs. Angeion would respectfully request that any detailed breakdown of notice and administration costs be filed under seal or made available for in camera review, as the pricing details are competitively sensitive.

# **EXHIBIT A**



1650 Arch Street, Suite 2210  
Philadelphia, PA 19103  
www.angeiongroup.com  
215.563.4116 (P)  
215.525.0209 (F)

June 2, 2023

VIA USPS PRIORITY MAIL

United States Attorney General &  
Appropriate Officials

**Re: Notice of Class Action Settlement**  
*Lisa Tabak, et al., v. Apple, Inc.*

Dear Counsel or Official:

Angeion Group, an independent Claims Administrator, on behalf of the defendant in the below-described action, hereby provides your office with this notice under the provisions of the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715, to advise you of the following proposed class action settlement:

**Case Name:** Lisa Tabak, et al., v. Apple, Inc.  
**Index Number:** 4:19-cv-02455-JST  
**Jurisdiction:** United States District Court, Northern District of California  
**Date Settlement Filed with Court:** May 25, 2023

In accordance with the requirements of 28 U.S.C. § 1715, please find copies of the following documents associated with this action on the enclosed CD-ROM:

- 1. 28 U.S.C. § 1715(b)(1)-Complaint:** *Class Action Complaint* filed with the Court on May 6, 2019; the *First Amended Class Action Complaint* filed with the Court on July 25, 2019; and the *Second Amended Class Action Complaint* filed with the Court on February 20, 2020 can be found on the enclosed CD-ROM as "Exhibit 1 – Complaints."
- 2. 28 U.S.C. § 1715(b)(2)-Notice of Any Scheduled Judicial Hearings:** A hearing on Plaintiffs' Unopposed Motion for Preliminary Approval of Settlement is scheduled for August 31, at 2:00 p.m., before the Honorable Jon S. Tigar, via videoconference. There are no other judicial hearings currently scheduled.
- 3. 28 U.S.C. § 1715(b)(3)-Notification to Class Members:** The *Full Class Notice, Email Notice, and Postcard Notice*, filed with the Court on May 25, 2023, can be found on the enclosed CD as "Exhibit 2 – Notice of Class Action Settlement to Class Members."
- 4. 28 U.S.C. § 1715(b)(4)-Class Action Settlement Agreement:** *Class Action Settlement Agreement and Release*, filed with the Court on May 25, 2023. *Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement and Memorandum of Law, Joint Declaration of Counsel in Support of Motion for Preliminary*

CAFA Notice of Class Action Settlement

June 2, 2023

Page 2 of 2

*Approval of Settlement, and the Declaration of Steven Weisbrot of Angeion Group, LLC re: Proposed Notice Plan*, filed with the Court on May 25, 2023, can be found on the enclosed CD as “Exhibit 3 – Settlement Agreement and Release and Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement.”

5. **28 U.S.C. § 1715(b)(5)-Any Settlement or Other Agreements:** Other than the *Settlement Agreement and Release*, no other settlements or other agreements have been contemporaneously made between the Parties.
6. **28 U.S.C. § 1715(b)(6)-Final Judgment:** The Court has not issued a Final Judgment or notice of dismissal as of the date of this CAFA Notice.
7. **28 U.S.C. § 1715(b)(7)(B)-Estimate of Class Members:** While the exact number of Class Members remains unknown at this time, it is estimated that the Settlement Class contains approximately 2,100,000 Class Members located throughout the United States. It is currently not feasible for Apple to ascertain the number of class members who reside in each state and proportionate share of the claims of such members to the entire settlement as contemplated by 28 U.S.C. § 1715(b)(7)(B). However, Apple anticipates that the Settlement Class is sufficiently numerous as to include Class Members potentially residing in all 50 U.S. states, as well as the District of Columbia.
8. **28 U.S.C. §1715(b)(8)-Judicial Opinions Related to the Settlement:** The Court has not issued a judicial opinion related to the Settlement at this time.

If you have questions or concerns about this notice, the proposed settlement, or the enclosed materials, or if you did not receive any of the above-listed materials, please contact this office.

Sincerely,

Angeion Group  
1650 Arch Street, Suite 2210  
Philadelphia, PA 19103  
(p) 215-563-4116  
(f) 215-563-8839

**Enclosures**

# **EXHIBIT B**

From Email: [DoNotReply@SmartPhoneAudioSettlement.com](mailto:DoNotReply@SmartPhoneAudioSettlement.com)  
From Name: Tabak v. Apple Class Action Administrator  
Subject: Notice of Proposed Class Action Settlement

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**Notice ID:** <Notice ID>  
**Confirmation Code:** <Confirmation Code>  
**Name:** <First Name> <Last Name>

**IF YOU OWNED AN IPHONE 7 OR IPHONE 7 PLUS IN THE UNITED STATES AT ANY POINT BETWEEN SEPTEMBER 16, 2016 AND JANUARY 3, 2023 AND EXPERIENCED AN AUDIO ISSUE WITH YOUR DEVICE, YOU SHOULD READ THIS NOTICE AS IT MAY IMPACT YOUR LEGAL RIGHTS.**

**A Settlement has been reached with Apple Inc. (“Apple”) in a class action lawsuit** alleging that the iPhone 7 and iPhone 7 Plus experienced certain audio issues allegedly related to the “audio IC” chip. Apple denies that the devices had such issues and denies all allegations of wrongdoing.

**You received this email because Apple’s records indicate you may be a member of the “Settlement Class” and entitled to receive a payment called the “Class Payment.”** The Court decided that the “Settlement Class” includes individual persons who are United States residents and who own or owned an iPhone 7 or 7 Plus between September 16, 2016 and January 3, 2023, and reported to Apple in the United States issues reflected in Apple’s records as potentially related to the alleged audio issues (“Covered Issues”). Covered Issues include those reflected in Apple’s records for the iPhone 7 or iPhone 7 Plus as Sound-Speaker, Sound-Microphone, Sound – Receiver, Unexpected Restart / Shutdown, or Power On – Device Unresponsive, and includes but is not limited to those who paid Apple out of pocket for repairs or replacements for Covered Issues. 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. Also excluded from the Settlement Class are all judicial officers assigned to this case as well as their staff and immediate families.

**What does the Settlement provide?**

- A \$35 million settlement fund will be established. If you received this email notification from the independent Settlement Administrator about the Lawsuit, that means that you may be a member of the Settlement Class. If you are a member of the Settlement Class and you decide to receive the Class Payment, you must let the Settlement Administrator know by June 3, 2024, whether you elect to receive the payment by electronic check, ACH transfer, or physical check, and provide the corresponding e-mail address, banking information, or mailing address for the payment’s distribution. You may provide your payment information online at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com), by scanning the QR code included below on this notice, or via mail to *Tabak v. Apple* Class Action Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103. You must submit payment information in order to receive a Class Payment. If you remain in the Settlement Class and provide the necessary payment information, you will receive a Class Payment if the Court grants final approval to the Settlement. If you do not provide the necessary payment information by June 3, 2024, you will remain in the Settlement Class and forego receiving a Class Payment and will waive your right to sue or continue to sue Apple for the Covered Issues.
- If you received this notice from the Settlement Administrator, that means Apple has determined from its records that you may be a Settlement Class Member. Settlement Class Members who paid Apple out of pocket for repairs or replacements for Covered Issues, as reflected in Apple’s records, who do not opt out and timely submit payment information to the Settlement Administrator will receive an equal payment of least \$50 and no more than \$349. Settlement Class Members who reported Covered Issues to Apple, but who did not pay Apple out of pocket for repairs or replacements for Covered Issues, will receive an equal payment of up to \$125.

### What are you giving up to receive a Class Payment?

If you decide to stay in the Settlement Class, you will give up the right to sue Apple in a separate lawsuit related to the subject matter of the claims in the Lawsuit. No further action is required from you if you decide to stay in the Settlement Class and provide the necessary information to receive a Class Payment.

### What are your options?

- **Submit a Payment Attestation Form.** Filing a payment attestation form is the only way to receive a Class Payment under the Settlement. Click the button at the bottom of this notice or visit the settlement website, [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com), to file a Payment Attestation Form electronically. You may also scan the QR code included below in this notice. If you file a Payment Attestation Form, you will give up the right to sue Apple in a separate lawsuit about the claims this Settlement resolves. You have until June 3, 2024, to file a Payment Attestation Form.
- **Ask to Be Excluded (Opt Out).** If you decide to opt out of this Settlement, you will keep the right to sue Apple in a separate lawsuit related to the subject matter of the claims this Settlement resolves, but you give up the right to get a Class Payment from this Settlement. This is the only option that allows you to sue, continue to sue, or be part of another lawsuit against Apple related to the subject matter of the claims in this Lawsuit. If you elect to opt out of this Settlement and the Settlement is approved, you will no longer be represented by Class Counsel and will be responsible for retaining legal representation at your expense should you choose to sue Apple in a separate lawsuit. Instructions for requesting to opt out of the Settlement can be found at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com). Your opt out request must be received by June 3, 2024.
- **Object to the Settlement.** If you do not opt out of the Settlement, you may object to it by writing to the Court about why you do not like the Settlement. Instructions for objecting and attending the Final Approval Hearing where the Parties will request that the Final Approval Order be entered approving the Settlement can be found at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com). Your objection must be filed or postmarked on or before June 3, 2024.
- **Do Nothing.** You will not receive a settlement benefit under the Settlement. You will also give up your right to object to the Settlement and you will not be able to be part of any other lawsuit about the claims this Settlement resolves.

### Do I have a lawyer in this case?

The Court has appointed the law firms of Tycko & Zavareei LLP and Milberg Coleman Bryson Phillips Grossman, PLLC as “Class Counsel.” Class Counsel represents you and other Settlement Class Members for purposes of the Settlement. You will not be charged attorney’s fees or costs by Class Counsel as part of this Settlement.

### The Court’s Final Approval Hearing

The Court will hold a Final Approval Hearing on July 18, 2024, at 2:00 p.m. to decide whether to approve the Settlement. The hearing will be in Courtroom 6 on the 2nd floor at the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102. The Court will consider whether the settlement is fair, reasonable, and adequate. The Court will also consider what amount to award to each of the class representatives as compensation for their services for the Settlement Class, and what amount to award Class Counsel for their attorneys’ fees and costs. You may appear at the Final Approval Hearing, on your own behalf or through counsel, but you do not have to.

**SUBMIT PAYMENT ATTESTATION FORM**

**QUESTIONS?**

More detailed information, including the Settlement Agreement, is available at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com), (which can be accessed by scanning the QR code below) or by calling 1-833-633-0343.



This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, you may (1) see the Settlement Agreement available at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com); (2) contact Class Counsel representing the Class Members (listed below); (3) access the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>; or (4) visit the office of the Clerk of Court for the United States District Court for the Northern District of California, Phillip Burton Federal Building & United States Courthouse, 450 Golden Gate Avenue, 16th Floor, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THIS NOTICE.

Andrea R. Gold, of Tycko & Zavareei LLP, 2000 Pennsylvania Avenue, NW, Suite 1010 Washington D.C., 20006	Adam A. Edwards, of Milberg Coleman Bryson Phillips Grossman, PLLC, 800 S. Gay Street, Suite 1100 Knoxville, TN 37929
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# **EXHIBIT C**

Important Notice About a Class Action Lawsuit

**If you owned an iPhone 7 or iPhone 7 Plus in the United States at any point between September 16, 2016 and January 3, 2023 and experienced an audio issue with your device, you could get a payment from a class action settlement.**

*Tabak v. Apple*  
Class Action Administrator  
1650 Arch Street, Suite 2210  
Philadelphia, PA 19103

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U.S. POSTAGE PAID  
MAG

Electronic Service Requested



NUMERIC EQUIVALENT

Postal Service: Please do not mark barcode

Notice ID: «Notice ID»  
Confirmation Code: «Confirmation Code»

«FirstName»«LastName»  
«Address1»  
«Address2»  
«City», «State» «Zip»  
«Country»

BLIND PERF DOES NOT PRINT

Notice ID: «Notice ID»  
«FirstName» «LastName»  
«Address1»  
«Address2»  
«City», «State» «Zip»  
«Country»

If your address is *different* than noted, please include your current address below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PAYMENT ATTESTATION FORM**

You can complete and return this form, complete the form online at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com) or click the QR Code in the bottom left corner to be taken to the website to submit your payment selection.

Please select **one** of the following payment options. Note: If you prefer to receive your payment via direct deposit, please complete the form online or by scanning the QR Code.

Digital Check - Enter your email address: \_\_\_\_\_

Physical Check - Payment will be mailed to the address provided above.



**Legal Notice**

A settlement has been reached with Apple Inc. (“Apple”) in a class action lawsuit alleging that the iPhone 7 and iPhone 7 Plus experienced certain audio issues allegedly related to the “audio IC” chip. Apple denies that the devices had such issues and denies all allegations of wrongdoing.

You received this notice because Apple’s records indicate that you may be a member of the “Settlement Class” and entitled to receive payment called the “Class Payment.” The Court decided that the “Settlement Class” includes individual persons who are United States residents and who own or owned an iPhone 7 or 7 Plus between September 16, 2016 and January 3, 2023, and reported to Apple in the United States issues reflected in Apple’s records as potentially related to the alleged audio issues (“Covered Issues”). Covered Issues include those reflected in Apple’s records for the iPhone 7 or iPhone 7 Plus as Sound-Speaker, Sound-Microphone, Sound – Receiver, Unexpected Restart / Shutdown, or Power On – Device Unresponsive, and includes but is not limited to those who paid Apple out of pocket for repairs or replacements for Covered Issues.

**What are your options?** A \$35 million settlement fund will be established. If you are a member of the Settlement Class and you decide to receive the Class Payment, you must let the Settlement Administrator know by June 3, 2024, whether you elect to receive the payment by electronic check, ACH transfer, or physical check, and provide the corresponding e-mail address, banking information, or mailing address for the payment’s distribution. You may provide your payment information online at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com), by scanning the QR code included below on this notice, or by tearing off, completing, and mailing the form included with this notice to *Tabak v. Apple* Class Action Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103. You must submit payment information in order to receive a Class Payment. If you remain in the Settlement Class and provide the necessary payment information, you will receive a Class Payment if the Court grants final approval to the settlement. If you do not provide the necessary payment information by June 3, 2024, you will remain in the Settlement Class and will forego receiving a Class Payment and will waive your right to sue Apple for the Covered Issues in the future.

You may exclude yourself from the settlement by submitting a written request asking to be excluded. Instructions for making this request can be found at the website or by calling the toll-free number below. Your exclusion request must be received by June 3, 2024. This is the only option that allows you to sue, continue to sue, or be part of another lawsuit against Apple related to the subject matter of the claims in this case. If you exclude yourself from the settlement, you will not receive a Class Payment.

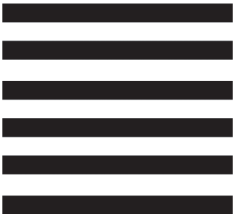
You may also remain in the Settlement Class but object to the settlement, and you may (but do not have to) attend the Court’s Final Approval Hearing to speak about your objection. Your objection must be filed or postmarked by June 3, 2024. Instructions for sending or filing your objection and attending the hearing can be found at the website (which can be accessed by scanning the QR code on the attached Payment Attestation Form) or by calling the toll-free number below.

[www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com) · 1-833-633-0343

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NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES



**BUSINESS REPLY MAIL**  
FIRST-CLASS MAIL PERMIT NO. 49 PHILADELPHIA, PA

POSTAGE WILL BE PAID BY ADDRESSEE

TABAK V. APPLE  
C/O SETTLEMENT ADMINISTRATOR  
1650 ARCH STREET  
SUITE 2210  
PHILADELPHIA PA 19103-9996



# **EXHIBIT D**

From Email: [DoNotReply@SmartPhoneAudioSettlement.com](mailto:DoNotReply@SmartPhoneAudioSettlement.com)

From Name: Tabak v. Apple Class Action Administrator

Subject: Smartphone Audio Settlement - Reminder to Submit Form to Receive Payment, Deadline Approaching

---

Notice ID: <Notice ID>

Confirmation Code: <Confirmation Code>

Name: <First Name> <Last Name>

**REMINDER TO SUBMIT FORM TO RECEIVE UP TO \$349**

**PAYMENT INFORMATION FORM SUBMISSION DEADLINE IS ON JUNE 3, 2024**

If you owned an iPhone 7 or iPhone 7 Plus in the United States at any point between September 16, 2016 and January 3, 2023 and experienced an audio issue with your device, you could get a payment from a class action settlement.

**You received this notice because Apple's records indicate that you may be entitled to payment under this settlement.**

Our records indicate that you have **not** yet submitted a Payment Information Form required to receive payment. You could get from **\$50 up to \$349** if you paid Apple for repair or replacement service for an audio issue, or **up to \$125** if you reported an audio issue to Apple.

**To receive payment, you must submit a Payment Information Form by no later than June 3, 2024.**

**You must submit a form in this settlement to receive payment even if you were identified as a class member in another settlement involving an Apple device.**

**SUBMIT PAYMENT INFORMATION FORM**

**QUESTIONS?**

More detailed information, including the full Notice and Settlement Agreement, is available at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com), (which can be accessed by scanning the QR code below) or by calling 1-833-633-0343.



**If you have already filed your Payment Information Form prior to receiving this notice, please disregard.**

# **EXHIBIT E**

Important Notice About a Class Action Lawsuit

**If you owned an iPhone 7 or iPhone 7 Plus in the United States at any point between September 16, 2016 and January 3, 2023 and experienced an audio issue with your device, you could get a payment from a class action settlement.**

*Tabak v. Apple*  
Class Action Administrator  
1650 Arch Street, Suite 2210  
Philadelphia, PA 19103

PRESORTED  
FIRST-CLASS MAIL  
U.S. POSTAGE PAID  
MAG

Electronic Service Requested



NUMERIC EQUIVALENT

Postal Service: Please do not mark barcode

Notice ID: «Notice ID»  
Confirmation Code: «Confirmation Code»

«FirstName»«LastName»  
«Address1»  
«Address2»  
«City», «State» «Zip»  
«Country»

BLIND PERF DOES NOT PRINT

Notice ID: «Notice ID»  
«FirstName» «LastName»  
«Address1»  
«Address2»  
«City», «State» «Zip»  
«Country»

If your address is *different* than noted, please include your current address below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PAYMENT ATTESTATION FORM**

You can complete and return this form, complete the form online at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com) or click the QR Code in the bottom left corner to be taken to the website to submit your payment selection.

Please select **one** of the following payment options. Note: If you prefer to receive your payment via direct deposit, please complete the form online or by scanning the QR Code.

Digital Check - Enter your email address: \_\_\_\_\_

Physical Check - Payment will be mailed to the address provided above.



### Legal Notice

A settlement has been reached with Apple Inc. (“Apple”) in a class action lawsuit alleging that the iPhone 7 and iPhone 7 Plus experienced certain audio issues allegedly related to the “audio IC” chip. Apple denies that the devices had such issues and denies all allegations of wrongdoing.

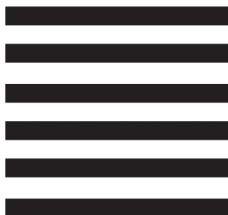
You received this notice because Apple’s records indicate that you may be entitled to payment under this settlement. Our records indicate that you have **not** yet submitted a Payment Information Form required to receive payment. You could get from **\$50 up to \$349** if you paid Apple for repair or replacement service for an audio issue, or **up to \$125** if you reported an audio issue to Apple. **To receive payment, you must submit a Payment Information Form by no later than June 3, 2024.** You must submit a form in this settlement to receive payment even if you were identified as a class member in another settlement involving an Apple device.

**Additional Information.** More detailed information, including the full Notice and Settlement Agreement, how to object to or opt out of the Settlement, and information about the Final Approval Hearing is available at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com), (which can be accessed by scanning the QR code on the other side) or by calling 1-833-633-0343.

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IF MAILED  
IN THE  
UNITED STATES



**BUSINESS REPLY MAIL**  
FIRST-CLASS MAIL PERMIT NO. 49 PHILADELPHIA, PA

POSTAGE WILL BE PAID BY ADDRESSEE

TABAK V. APPLE  
C/O SETTLEMENT ADMINISTRATOR  
1650 ARCH STREET  
SUITE 2210  
PHILADELPHIA PA 19103-9996



# **EXHIBIT F**

	FIRST NAME	LAST NAME
1	PARU	ACHARYA
2	MENOA	AGHAJANI
3	KORI	ANDERSON
4	RICHARD	ANDRADE
5	REBECCA	ARMBRUSTER
6	JEFF	ARMSTRONG
7	TAMARA	AVERY
8	STEVEN	AZIZ
9	QUEEN	B
10	SHANNON	BANNISTER
11	ABBY	BEYOR
12	JOEL	BLAIR
13	BRENDA	BLAKE
14	JAKE	BOSCHERT
15	FORREST	BRUCE
16	ASHLEE	BURKETT
17	JASON	CARRIER
18	CAITLYM	CAWLEU
19	SUNGMEE	CHO
20	THOMAS	COCHRAN
21	AMEENAH	CODY
22	SHAMARI	COLE
23	HANS MARTIEN	DIABA
24	MUKESH	DIXIT
25	NOHEMI	DOMINGUEZ
26	DANIEL	DOUGLAS
27	FRANKIE	DUNAWAY
28	DAVID	ENSIGN
29	GRANT	FELTON
30	TIFFANY	FORNITO
31	RENARD	FOSTER
32	NORMAN	FULKERSON
33	UMER	GHANI
34	SUSAN	GIGUERE
35	CHAYLA	GREEN
36	TONY	GREINER
37	AVA	HANNER
38	EVELYN	HAWEL
39	SHANE	HEFFERNAN
40	JUAN	HERNANDEZ
41	TRACY	HOBEN-SHELKIN
42	CHARLES	HOWELL
43	TIMMY	HUYNH
44	BRENDA	JENSEN
45	ALBERT	JONES
46	LISA	JOSEPH

47	SYLWIA	KOZIEJA
48	RAMON	LÃ“PEZ
49	GREG	LYNN
50	JANICE	MAI
51	YIREISY	MANCERA
52	ASHLEY	MAYERS
53	OLIVIA	MCLAURIN
54	PERCY	MERVYN
55	NAHLA	MOHAMED
56	RONALD	MOORE
57	TINA	MULLINS
58	LUV	NAIK
59	INESA	NAVASARDYAN
60	RONALD	NORDMEYER
61	RONALD	NORDMEYER
62	AMANDA	OCHOA
63	KAHKEENA	ORR
64	BARBARA	PANTOJA
65	SHANNON	PARKER
66	JANET	PETERSON
67	RICK	PONTI
68	FRANK	PUGLISI
69	CARL	RAMSELL
70	KAREN	REYES
71	NICOLE	SABINO
72	DAVID	SCHWAB
73	HARVEY	SCHWARTZ
74	JODY	SCIDMORE
75	OBIE	SNYDER
76	HOWARD	STERN
77	GROVER	STRONG
78	JACQUELINE	SUTHERLAND
79	STANLEY	SZAFIR
80	MARIE	TAVERNE
81	LISBETH	TORRES
82	DONIELLE	TURTURRO
83	GREGORY	VOSS
84	KYLE	WALKER
85	DEBORAH	WILLIAMS
86	TASHANDRA	WILLIAMS
87	GLORIA	WILSON
88	VONI	WILSON
89	TAMARA	WULFF
90	IFANG	YUE
91	SALLY	ZAMBRANO MANTUANO

# **EXHIBIT G**



1650 ARCH STREET • SUITE 2210 • PHILADELPHIA, PA 19103  
 PHONE 215.563.4116 • FAX 215.525.0209 • INVOICES@ANGEIONGROUP.COM

DESCRIPTION OF SERVICES		TOTAL (\$)
Notification Fees & Costs - Email Notice		TOTAL (\$)
Processing undeliverable mail notices, skip tracing, and remailing to those with updated address		
	SUBTOTAL	13,422.58
Notification Fees & Costs - Mail Notice		TOTAL (\$)
Processing undeliverable mail notices, skip tracing, and remailing to those with updated address		
	SUBTOTAL	247,308.12
Notification Fees & Costs - Reminder Email Notice		TOTAL (\$)
Processing undeliverable mail notices, skip tracing, and remailing to those with updated address		
	SUBTOTAL	11,742.57
Notification Fees & Costs - Reminder Mail Notice		TOTAL (\$)
Processing undeliverable mail notices, skip tracing, and remailing to those with updated address		
	SUBTOTAL	513,711.24
Processing Undeliverable Direct Mail Notices		TOTAL (\$)
Processing undeliverable mail notices, skip tracing, and remailing to those with updated address		
	SUBTOTAL	26,366.50
Processing Notice Requests & Class Member Correspondence		TOTAL (\$)
Processing notice requests and handling class member inquiries		
	SUBTOTAL	103,049.39
Website Requirements		TOTAL (\$)
Website hosting monthly fee, and additional revisions for claims filing and deficiency portal		
	SUBTOTAL	5,986.00
Call Center Requirements		TOTAL (\$)
Monthly maintenance of IVR (integrated voice response) as well as transcription requests for class members		
	SUBTOTAL	12,684.44
Angeion Reporting Requirements		TOTAL (\$)
General reporting to counsel, the Court, project management and internal reporting requirements		
	SUBTOTAL	28,300.77
Claims Administration Fees & Costs		TOTAL (\$)
Receive and process claims. Adjudicate, audit, and resolve deficiencies		
	SUBTOTAL	126,616.10
Process Opt-Out & Objections		TOTAL (\$)
Receive and process claims. Adjudicate, audit, and resolve deficiencies		
	SUBTOTAL	539.50
Other Relevant Costs		TOTAL (\$)
Scanning documents and data/document storage (Paper & electronic)		
	SUBTOTAL	7,320.83
CAFA Notice		TOTAL (\$)
CAFA Notice		
	SUBTOTAL	2,800.00

Subtotal:	\$1,099,848.04
Sales Tax:	
Payments/Credit Applied:	
<b>Total Due:</b>	<b>\$1,099,848.04</b>



1650 Arch Street, Suite 2210  
Philadelphia, PA 19103  
www.angeiongroup.com  
215.563.4116 (P)  
215.525.0209 (F)

June 2, 2023

VIA USPS PRIORITY MAIL

United States Attorney General &  
Appropriate Officials

**Re: Notice of Class Action Settlement**  
*Lisa Tabak, et al., v. Apple, Inc.*

Dear Counsel or Official:

Angeion Group, an independent Claims Administrator, on behalf of the defendant in the below-described action, hereby provides your office with this notice under the provisions of the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715, to advise you of the following proposed class action settlement:

**Case Name:** Lisa Tabak, et al., v. Apple, Inc.  
**Index Number:** 4:19-cv-02455-JST  
**Jurisdiction:** United States District Court, Northern District of California  
**Date Settlement Filed with Court:** May 25, 2023

In accordance with the requirements of 28 U.S.C. § 1715, please find copies of the following documents associated with this action on the enclosed CD-ROM:

- 1. 28 U.S.C. § 1715(b)(1)-Complaint:** *Class Action Complaint* filed with the Court on May 6, 2019; the *First Amended Class Action Complaint* filed with the Court on July 25, 2019; and the *Second Amended Class Action Complaint* filed with the Court on February 20, 2020 can be found on the enclosed CD-ROM as "Exhibit 1 – Complaints."
- 2. 28 U.S.C. § 1715(b)(2)-Notice of Any Scheduled Judicial Hearings:** A hearing on Plaintiffs' Unopposed Motion for Preliminary Approval of Settlement is scheduled for August 31, at 2:00 p.m., before the Honorable Jon S. Tigar, via videoconference. There are no other judicial hearings currently scheduled.
- 3. 28 U.S.C. § 1715(b)(3)-Notification to Class Members:** The *Full Class Notice*, *Email Notice*, and *Postcard Notice*, filed with the Court on May 25, 2023, can be found on the enclosed CD as "Exhibit 2 – Notice of Class Action Settlement to Class Members."
- 4. 28 U.S.C. § 1715(b)(4)-Class Action Settlement Agreement:** *Class Action Settlement Agreement and Release*, filed with the Court on May 25, 2023. *Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement and Memorandum of Law*, *Joint Declaration of Counsel in Support of Motion for Preliminary*

CAFA Notice of Class Action Settlement

June 2, 2023

Page 2 of 2

*Approval of Settlement, and the Declaration of Steven Weisbrot of Angeion Group, LLC re: Proposed Notice Plan*, filed with the Court on May 25, 2023, can be found on the enclosed CD as “Exhibit 3 – Settlement Agreement and Release and Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement.”

5. **28 U.S.C. § 1715(b)(5)-Any Settlement or Other Agreements:** Other than the *Settlement Agreement and Release*, no other settlements or other agreements have been contemporaneously made between the Parties.
6. **28 U.S.C. § 1715(b)(6)-Final Judgment:** The Court has not issued a Final Judgment or notice of dismissal as of the date of this CAFA Notice.
7. **28 U.S.C. § 1715(b)(7)(B)-Estimate of Class Members:** While the exact number of Class Members remains unknown at this time, it is estimated that the Settlement Class contains approximately 2,100,000 Class Members located throughout the United States. It is currently not feasible for Apple to ascertain the number of class members who reside in each state and proportionate share of the claims of such members to the entire settlement as contemplated by 28 U.S.C. § 1715(b)(7)(B). However, Apple anticipates that the Settlement Class is sufficiently numerous as to include Class Members potentially residing in all 50 U.S. states, as well as the District of Columbia.
8. **28 U.S.C. §1715(b)(8)-Judicial Opinions Related to the Settlement:** The Court has not issued a judicial opinion related to the Settlement at this time.

If you have questions or concerns about this notice, the proposed settlement, or the enclosed materials, or if you did not receive any of the above-listed materials, please contact this office.

Sincerely,

Angeion Group  
1650 Arch Street, Suite 2210  
Philadelphia, PA 19103  
(p) 215-563-4116  
(f) 215-563-8839

**Enclosures**

From Email: [DoNotReply@SmartPhoneAudioSettlement.com](mailto:DoNotReply@SmartPhoneAudioSettlement.com)

From Name: Tabak v. Apple Class Action Administrator

Subject: Notice of Proposed Class Action Settlement

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**Notice ID:** <Notice ID>

**Confirmation Code:** <Confirmation Code>

**Name:** <First Name> <Last Name>

**IF YOU OWNED AN IPHONE 7 OR IPHONE 7 PLUS IN THE UNITED STATES AT ANY POINT BETWEEN SEPTEMBER 16, 2016 AND JANUARY 3, 2023 AND EXPERIENCED AN AUDIO ISSUE WITH YOUR DEVICE, YOU SHOULD READ THIS NOTICE AS IT MAY IMPACT YOUR LEGAL RIGHTS.**

**A Settlement has been reached with Apple Inc. (“Apple”) in a class action lawsuit** alleging that the iPhone 7 and iPhone 7 Plus experienced certain audio issues allegedly related to the “audio IC” chip. Apple denies that the devices had such issues and denies all allegations of wrongdoing.

**You received this email because Apple’s records indicate you may be a member of the “Settlement Class” and entitled to receive a payment called the “Class Payment.”** The Court decided that the “Settlement Class” includes individual persons who are United States residents and who own or owned an iPhone 7 or 7 Plus between September 16, 2016 and January 3, 2023, and reported to Apple in the United States issues reflected in Apple’s records as potentially related to the alleged audio issues (“Covered Issues”). Covered Issues include those reflected in Apple’s records for the iPhone 7 or iPhone 7 Plus as Sound-Speaker, Sound-Microphone, Sound – Receiver, Unexpected Restart / Shutdown, or Power On – Device Unresponsive, and includes but is not limited to those who paid Apple out of pocket for repairs or replacements for Covered Issues. 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. Also excluded from the Settlement Class are all judicial officers assigned to this case as well as their staff and immediate families.

**What does the Settlement provide?**

- A \$35 million settlement fund will be established. If you received this email notification from the independent Settlement Administrator about the Lawsuit, that means that you may be a member of the Settlement Class. If you are a member of the Settlement Class and you decide to receive the Class Payment, you must let the Settlement Administrator know by June 3, 2024, whether you elect to receive the payment by electronic check, ACH transfer, or physical check, and provide the corresponding e-mail address, banking information, or mailing address for the payment’s distribution. You may provide your payment information online at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com), by scanning the QR code included below on this notice, or via mail to *Tabak v. Apple* Class Action Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103. You must submit payment information in order to receive a Class Payment. If you remain in the Settlement Class and provide the necessary payment information, you will receive a Class Payment if the Court grants final approval to the Settlement. If you do not provide the necessary payment information by June 3, 2024, you will remain in the Settlement Class and forego receiving a Class Payment and will waive your right to sue or continue to sue Apple for the Covered Issues.
- If you received this notice from the Settlement Administrator, that means Apple has determined from its records that you may be a Settlement Class Member. Settlement Class Members who paid Apple out of pocket for repairs or replacements for Covered Issues, as reflected in Apple’s records, who do not opt out and timely submit payment information to the Settlement Administrator will receive an equal payment of least \$50 and no more than \$349. Settlement Class Members who reported Covered Issues to Apple, but who did not pay Apple out of pocket for repairs or replacements for Covered Issues, will receive an equal payment of up to \$125.

### What are you giving up to receive a Class Payment?

If you decide to stay in the Settlement Class, you will give up the right to sue Apple in a separate lawsuit related to the subject matter of the claims in the Lawsuit. No further action is required from you if you decide to stay in the Settlement Class and provide the necessary information to receive a Class Payment.

### What are your options?

- **Submit a Payment Attestation Form.** Filing a payment attestation form is the only way to receive a Class Payment under the Settlement. Click the button at the bottom of this notice or visit the settlement website, [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com), to file a Payment Attestation Form electronically. You may also scan the QR code included below in this notice. If you file a Payment Attestation Form, you will give up the right to sue Apple in a separate lawsuit about the claims this Settlement resolves. You have until June 3, 2024, to file a Payment Attestation Form.
- **Ask to Be Excluded (Opt Out).** If you decide to opt out of this Settlement, you will keep the right to sue Apple in a separate lawsuit related to the subject matter of the claims this Settlement resolves, but you give up the right to get a Class Payment from this Settlement. This is the only option that allows you to sue, continue to sue, or be part of another lawsuit against Apple related to the subject matter of the claims in this Lawsuit. If you elect to opt out of this Settlement and the Settlement is approved, you will no longer be represented by Class Counsel and will be responsible for retaining legal representation at your expense should you choose to sue Apple in a separate lawsuit. Instructions for requesting to opt out of the Settlement can be found at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com). Your opt out request must be received by June 3, 2024.
- **Object to the Settlement.** If you do not opt out of the Settlement, you may object to it by writing to the Court about why you do not like the Settlement. Instructions for objecting and attending the Final Approval Hearing where the Parties will request that the Final Approval Order be entered approving the Settlement can be found at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com). Your objection must be filed or postmarked on or before June 3, 2024.
- **Do Nothing.** You will not receive a settlement benefit under the Settlement. You will also give up your right to object to the Settlement and you will not be able to be part of any other lawsuit about the claims this Settlement resolves.

### Do I have a lawyer in this case?

The Court has appointed the law firms of Tycko & Zavareei LLP and Milberg Coleman Bryson Phillips Grossman, PLLC as “Class Counsel.” Class Counsel represents you and other Settlement Class Members for purposes of the Settlement. You will not be charged attorney’s fees or costs by Class Counsel as part of this Settlement.

### The Court’s Final Approval Hearing

The Court will hold a Final Approval Hearing on July 18, 2024, at 2:00 p.m. to decide whether to approve the Settlement. The hearing will be in Courtroom 6 on the 2nd floor at the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102. The Court will consider whether the settlement is fair, reasonable, and adequate. The Court will also consider what amount to award to each of the class representatives as compensation for their services for the Settlement Class, and what amount to award Class Counsel for their attorneys’ fees and costs. You may appear at the Final Approval Hearing, on your own behalf or through counsel, but you do not have to.

**SUBMIT PAYMENT ATTESTATION FORM**

**QUESTIONS?**

More detailed information, including the Settlement Agreement, is available at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com), (which can be accessed by scanning the QR code below) or by calling 1-833-633-0343.



This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, you may (1) see the Settlement Agreement available at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com); (2) contact Class Counsel representing the Class Members (listed below); (3) access the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>; or (4) visit the office of the Clerk of Court for the United States District Court for the Northern District of California, Phillip Burton Federal Building & United States Courthouse, 450 Golden Gate Avenue, 16th Floor, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THIS NOTICE.

Andrea R. Gold, of Tycko & Zavareei LLP, 2000 Pennsylvania Avenue, NW, Suite 1010 Washington D.C., 20006	Adam A. Edwards, of Milberg Coleman Bryson Phillips Grossman, PLLC, 800 S. Gay Street, Suite 1100 Knoxville, TN 37929
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Important Notice About a Class Action Lawsuit

**If you owned an iPhone 7 or iPhone 7 Plus in the United States at any point between September 16, 2016 and January 3, 2023 and experienced an audio issue with your device, you could get a payment from a class action settlement.**

*Tabak v. Apple*  
Class Action Administrator  
1650 Arch Street, Suite 2210  
Philadelphia, PA 19103

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Confirmation Code: «Confirmation Code»

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«Address2»  
«City», «State» «Zip»  
«Country»

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«City», «State» «Zip»  
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If your address is *different* than noted, please include your current address below:

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**PAYMENT ATTESTATION FORM**

You can complete and return this form, complete the form online at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com) or click the QR Code in the bottom left corner to be taken to the website to submit your payment selection.

Please select **one** of the following payment options. Note: If you prefer to receive your payment via direct deposit, please complete the form online or by scanning the QR Code.

Digital Check - Enter your email address: \_\_\_\_\_

Physical Check - Payment will be mailed to the address provided above.



**Legal Notice**

A settlement has been reached with Apple Inc. (“Apple”) in a class action lawsuit alleging that the iPhone 7 and iPhone 7 Plus experienced certain audio issues allegedly related to the “audio IC” chip. Apple denies that the devices had such issues and denies all allegations of wrongdoing.

You received this notice because Apple’s records indicate that you may be a member of the “Settlement Class” and entitled to receive payment called the “Class Payment.” The Court decided that the “Settlement Class” includes individual persons who are United States residents and who own or owned an iPhone 7 or 7 Plus between September 16, 2016 and January 3, 2023, and reported to Apple in the United States issues reflected in Apple’s records as potentially related to the alleged audio issues (“Covered Issues”). Covered Issues include those reflected in Apple’s records for the iPhone 7 or iPhone 7 Plus as Sound-Speaker, Sound-Microphone, Sound – Receiver, Unexpected Restart / Shutdown, or Power On – Device Unresponsive, and includes but is not limited to those who paid Apple out of pocket for repairs or replacements for Covered Issues.

**What are your options?** A \$35 million settlement fund will be established. If you are a member of the Settlement Class and you decide to receive the Class Payment, you must let the Settlement Administrator know by June 3, 2024, whether you elect to receive the payment by electronic check, ACH transfer, or physical check, and provide the corresponding e-mail address, banking information, or mailing address for the payment’s distribution. You may provide your payment information online at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com), by scanning the QR code included below on this notice, or by tearing off, completing, and mailing the form included with this notice to *Tabak v. Apple* Class Action Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103. You must submit payment information in order to receive a Class Payment. If you remain in the Settlement Class and provide the necessary payment information, you will receive a Class Payment if the Court grants final approval to the settlement. If you do not provide the necessary payment information by June 3, 2024, you will remain in the Settlement Class and will forego receiving a Class Payment and will waive your right to sue Apple for the Covered Issues in the future.

You may exclude yourself from the settlement by submitting a written request asking to be excluded. Instructions for making this request can be found at the website or by calling the toll-free number below. Your exclusion request must be received by June 3, 2024. This is the only option that allows you to sue, continue to sue, or be part of another lawsuit against Apple related to the subject matter of the claims in this case. If you exclude yourself from the settlement, you will not receive a Class Payment.

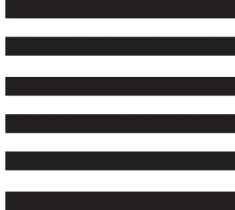
You may also remain in the Settlement Class but object to the settlement, and you may (but do not have to) attend the Court’s Final Approval Hearing to speak about your objection. Your objection must be filed or postmarked by June 3, 2024. Instructions for sending or filing your objection and attending the hearing can be found at the website (which can be accessed by scanning the QR code on the attached Payment Attestation Form) or by calling the toll-free number below.

[www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com) · 1-833-633-0343

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IN THE  
UNITED STATES



**BUSINESS REPLY MAIL**  
FIRST-CLASS MAIL PERMIT NO. 49 PHILADELPHIA, PA

POSTAGE WILL BE PAID BY ADDRESSEE

TABAK V. APPLE  
C/O SETTLEMENT ADMINISTRATOR  
1650 ARCH STREET  
SUITE 2210  
PHILADELPHIA PA 19103-9996



From Email: [DoNotReply@SmartPhoneAudioSettlement.com](mailto:DoNotReply@SmartPhoneAudioSettlement.com)

From Name: Tabak v. Apple Class Action Administrator

Subject: Smartphone Audio Settlement - Reminder to Submit Form to Receive Payment, Deadline Approaching

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Notice ID: <Notice ID>

Confirmation Code: <Confirmation Code>

Name: <First Name> <Last Name>

**REMINDER TO SUBMIT FORM TO RECEIVE UP TO \$349**

**PAYMENT INFORMATION FORM SUBMISSION DEADLINE IS ON JUNE 3, 2024**

If you owned an iPhone 7 or iPhone 7 Plus in the United States at any point between September 16, 2016 and January 3, 2023 and experienced an audio issue with your device, you could get a payment from a class action settlement.

**You received this notice because Apple's records indicate that you may be entitled to payment under this settlement.**

Our records indicate that you have **not** yet submitted a Payment Information Form required to receive payment. You could get from **\$50 up to \$349** if you paid Apple for repair or replacement service for an audio issue, or **up to \$125** if you reported an audio issue to Apple.

**To receive payment, you must submit a Payment Information Form by no later than June 3, 2024.**

**You must submit a form in this settlement to receive payment even if you were identified as a class member in another settlement involving an Apple device.**

**SUBMIT PAYMENT INFORMATION FORM**

**QUESTIONS?**

More detailed information, including the full Notice and Settlement Agreement, is available at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com), (which can be accessed by scanning the QR code below) or by calling 1-833-633-0343.



**If you have already filed your Payment Information Form prior to receiving this notice, please disregard.**

Important Notice About a Class Action Lawsuit

**If you owned an iPhone 7 or iPhone 7 Plus in the United States at any point between September 16, 2016 and January 3, 2023 and experienced an audio issue with your device, you could get a payment from a class action settlement.**

*Tabak v. Apple*  
Class Action Administrator  
1650 Arch Street, Suite 2210  
Philadelphia, PA 19103

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«City», «State» «Zip»  
«Country»

If your address is *different* than noted, please include your current address below:

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**PAYMENT ATTESTATION FORM**

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Please select **one** of the following payment options. Note: If you prefer to receive your payment via direct deposit, please complete the form online or by scanning the QR Code.

Digital Check - Enter your email address: \_\_\_\_\_

Physical Check - Payment will be mailed to the address provided above.



### Legal Notice

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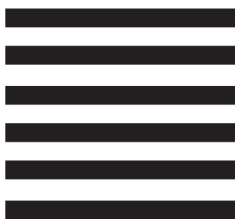
You received this notice because Apple’s records indicate that you may be entitled to payment under this settlement. Our records indicate that you have **not** yet submitted a Payment Information Form required to receive payment. You could get from **\$50 up to \$349** if you paid Apple for repair or replacement service for an audio issue, or **up to \$125** if you reported an audio issue to Apple. **To receive payment, you must submit a Payment Information Form by no later than June 3, 2024.** You must submit a form in this settlement to receive payment even if you were identified as a class member in another settlement involving an Apple device.

**Additional Information.** More detailed information, including the full Notice and Settlement Agreement, how to object to or opt out of the Settlement, and information about the Final Approval Hearing is available at [www.SmartPhoneAudioSettlement.com](http://www.SmartPhoneAudioSettlement.com), (which can be accessed by scanning the QR code on the other side) or by calling 1-833-633-0343.

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TABAK V. APPLE  
C/O SETTLEMENT ADMINISTRATOR  
1650 ARCH STREET  
SUITE 2210  
PHILADELPHIA PA 19103-9996



	FIRST NAME	LAST NAME
1	PARU	ACHARYA
2	MENOA	AGHAJANI
3	KORI	ANDERSON
4	RICHARD	ANDRADE
5	REBECCA	ARMBRUSTER
6	JEFF	ARMSTRONG
7	TAMARA	AVERY
8	STEVEN	AZIZ
9	QUEEN	B
10	SHANNON	BANNISTER
11	ABBY	BEYOR
12	JOEL	BLAIR
13	BRENDA	BLAKE
14	JAKE	BOSCHERT
15	FORREST	BRUCE
16	ASHLEE	BURKETT
17	JASON	CARRIER
18	CAITLYM	CAWLEU
19	SUNGMEE	CHO
20	THOMAS	COCHRAN
21	AMEENAH	CODY
22	SHAMARI	COLE
23	HANS MARTIEN	DIABA
24	MUKESH	DIXIT
25	NOHEMI	DOMINGUEZ
26	DANIEL	DOUGLAS
27	FRANKIE	DUNAWAY
28	DAVID	ENSIGN
29	GRANT	FELTON
30	TIFFANY	FORNITO
31	RENARD	FOSTER
32	NORMAN	FULKERSON
33	UMER	GHANI
34	SUSAN	GIGUERE
35	CHAYLA	GREEN
36	TONY	GREINER
37	AVA	HANNER
38	EVELYN	HAWEL
39	SHANE	HEFFERNAN
40	JUAN	HERNANDEZ
41	TRACY	HOBEN-SHELKIN
42	CHARLES	HOWELL
43	TIMMY	HUYNH
44	BRENDA	JENSEN
45	ALBERT	JONES
46	LISA	JOSEPH

47	SYLWIA	KOZIEJA
48	RAMON	LÃ“PEZ
49	GREG	LYNN
50	JANICE	MAI
51	YIREISY	MANCERA
52	ASHLEY	MAYERS
53	OLIVIA	MCLAURIN
54	PERCY	MERVYN
55	NAHLA	MOHAMED
56	RONALD	MOORE
57	TINA	MULLINS
58	LUV	NAIK
59	INESA	NAVASARDYAN
60	RONALD	NORDMEYER
61	RONALD	NORDMEYER
62	AMANDA	OCHOA
63	KAHKEENA	ORR
64	BARBARA	PANTOJA
65	SHANNON	PARKER
66	JANET	PETERSON
67	RICK	PONTI
68	FRANK	PUGLISI
69	CARL	RAMSELL
70	KAREN	REYES
71	NICOLE	SABINO
72	DAVID	SCHWAB
73	HARVEY	SCHWARTZ
74	JODY	SCIDMORE
75	OBIE	SNYDER
76	HOWARD	STERN
77	GROVER	STRONG
78	JACQUELINE	SUTHERLAND
79	STANLEY	SZAFIR
80	MARIE	TAVERNE
81	LISBETH	TORRES
82	DONIELLE	TURTURRO
83	GREGORY	VOSS
84	KYLE	WALKER
85	DEBORAH	WILLIAMS
86	TASHANDRA	WILLIAMS
87	GLORIA	WILSON
88	VONI	WILSON
89	TAMARA	WULFF
90	IFANG	YUE
91	SALLY	ZAMBRANO MANTUANO

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

LISA TABAK, DE'JHONTAI  
BANKS, MATTHEW WHITE, KELLY  
CAMELO-CENICOLA, NESTOR  
TRUJILLO, and CHRISTINE CLEMENCE,  
on behalf of themselves and all others  
similarly situated,

Plaintiffs,

v.

APPLE INC.,

Defendant.

CASE NO. 4:19-CV-02455-JST

**[PROPOSED] ORDER GRANTING  
FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT**

**Judge:** Hon. Jon S. Tigar

**Date:** July 18, 2024

**Time:** 2:00 p.m.

**Place:** Courtroom 6, 2nd Floor  
1301 Clay Street, Oakland, CA 94612

1 On July 18, 2024, the Court held a Final Fairness hearing on Plaintiffs Lisa Tabak,  
2 De’Jhontai Banks, Matthew White, Kelly Camelo-Cenicola, Nestor Trujillo, and Christine  
3 Clemence’s Motion for Final Approval of Class Action Settlement (“Final Approval Motion”), as  
4 well as Plaintiffs’ Motion for Attorneys’ Fees and Costs and Class Representative Service Awards  
5 (“Motion for Fees”). Having considered both Motions, all of the documentation submitted with  
6 the Motions including but not limited to the declarations of Plaintiffs’ Counsel, arguments of  
7 counsel, terms of the Settlement Agreement and the effectuation of the class Notice, as well as the  
8 record in this case, and based on the reasons set forth herein, the Court GRANTS Plaintiffs’ Final  
9 Approval Motion and GRANTS Plaintiffs’ Motion for Fees in their entirety as outlined herein.

#### 10 **I. BACKGROUND**

11 Plaintiffs filed their original Complaint on May 6, 2019. ECF No. 1. Following an  
12 amendment and full briefing on Defendant Apple Inc.’s (“Apple”) motion to dismiss the  
13 complaint, the Court granted partial dismissal with leave to amend. ECF No. 62. Plaintiffs filed  
14 the operative Second Amended Complaint on February 20, 2020. ECF No. 67. Following further  
15 briefing on another motion to dismiss, the Court dismissed several claims with prejudice and left  
16 intact certain express warranty claims, implied warranty claims under the Song-Beverly  
17 Consumer Warranty Act, various state consumer protection claims, and common law fraud and  
18 negligent misrepresentation claims. ECF No. 90.

19 The Parties engaged in significant discovery, issuing and responding to multiple sets of  
20 requests for production, interrogatories, and requests for admission. Joint Decl. of Class Counsel  
21 in Supp. of Pls.’ Mot. for Final Approval of Class Action Settlement (“Joint Class Counsel Decl.”)  
22 ¶¶ 9-16. Apple produced, and Class Counsel reviewed, hundreds of thousands of pages of  
23 documents. *Id.* ¶ 9. Plaintiffs requested and reviewed documents relating to third-party sales of the  
24 iPhones. *Id.* Apple deposed all named Plaintiffs. *Id.* ¶ 12. Further, the Parties have met and  
25 conferred extensively regarding discovery and testing of the iPhones, and, following a joint  
26 discovery letter and conference with the Court, they engaged a neutral expert to accomplish some  
27

1 of this testing. *See* ECF No. 140; *see also* Joint Class Counsel Decl. ¶ 14. The Court set regular  
2 case management conferences for the Parties to discuss discovery, case status, and mediation. *See*  
3 ECF Nos. 94, 115, 117, 156.

4 At the Court’s request, the Parties engaged neutral mediator Randall Wulff to conduct a  
5 mediation on November 2, 2022. Joint Class Counsel Decl. ¶ 19. With Mr. Wulff’s aid, the Parties  
6 reached an agreement to settle. *Id.* Since that mediation, the parties continued to discuss and  
7 finalized the settlement terms, and they executed the Settlement Agreement on May 25, 2023. *Id.*  
8 ¶ 20.

9 On May 25, 2023, Plaintiffs filed a motion seeking preliminary approval, which this Court  
10 granted on November 21, 2023, ECF No. 176. Now before the Court is Plaintiffs’ Motion for Final  
11 Approval. Plaintiffs and Class Counsel previously filed their Motion for Attorneys’ Fees and Costs  
12 and Class Representative Service Awards on April 29, 2024, ECF No. 177.

## 13 **II. DISCUSSION**

### 14 **A. SETTLEMENT CLASS DEFINITION**

15 As proposed and preliminarily approved, the “Settlement Class” means Settlement Class  
16 as defined in the Settlement Agreement: “All individual persons who are United States residents  
17 and who own or owned an Apple iPhone 7 or 7 Plus and reported to Apple in the United States  
18 Covered Issues, including but not limited to those who paid Apple out of pocket for repairs or  
19 replacements for Covered Issues as reflected in Apple’s records.” Settlement Agreement ¶ 25.

20 The Settlement Agreement defines “Covered Issues” as “issues reported to Defendant  
21 Apple Inc. regarding the iPhone 7 and iPhone 7 Plus reflected in Apple’s records as Sound-  
22 Speaker, Sound-Microphone, Sound – Receiver, Unexpected Restart / Shutdown, or Power On –  
23 Device Unresponsive.” *Id.*

24 Excluded from the Settlement Class are: (i) Defendant Apple Inc.; (ii) any entity in which  
25 Apple Inc. has a controlling interest; (iii) Apple Inc.’s directors, officers, and employees; (iv)

1 Apple Inc.’s legal representatives, successors, and assigns; and (v) all judicial officers assigned to  
2 this case, their staff, and their immediate families. *Id.*

3 The Class Period shall be from September 16, 2016, to January 3, 2023. *Id.*

4 There are approximately 1,649,497 Settlement Class members, a number confirmed by the  
5 Settlement Administrator to remove duplicate individuals and individuals with foreign addresses.  
6 Weisbrot Decl. ¶¶ 7-10.

7 **B. TERMS OF SETTLEMENT**

8 For the purposes of this Final Approval Order and Final Judgment (“Order”), the Court  
9 adopts all defined terms as set forth in the Settlement Agreement.

10 **Monetary Relief.** Under the terms of the Settlement Agreement, Apple will provide  
11 \$35,000,000 for the Settlement Fund to cover all Settlement Class Member payments,  
12 administrative expenses, any taxes owed upon the gross settlement amount (excluding taxes owed  
13 by any individual Settlement Class Counsel, Plaintiffs, or Settlement Class Members), any  
14 attorneys’ fee and expense awards, and any class representative service awards. Settlement  
15 Agreement ¶ 14. Any Settlement Class Member who paid any out-of-pocket expenses to Apple  
16 for a repair or replacement allegedly relating to a Covered Issue (“OOP Payee”) and who submits  
17 valid payment information will receive a cash payment between \$50 and \$349, with all OOP  
18 Payees receiving the same amount. *Id.*, § B.3. Any Settlement Class Member who did not pay out-  
19 of-pocket costs to Apple for repairs allegedly relating to a Covered Issue (“Complainant”) and  
20 who submits valid payment information will receive a cash payment of up to \$200. *Id.*

21 This framework, which has been agreed to jointly by the Parties, *see* Joint Stip., ECF No.  
22 185, modifies the monetary relief included in the Settlement Agreement and preliminarily  
23 approved by the Court. The monetary relief preliminarily approved by the Court was as follows:

24 Each OOP Payee Settlement Class Member who submits valid payment  
25 information shall be provided with an equal *pro rata* share of the Net Settlement  
26 Fund, up to \$349, but no less than \$50. Complainant Settlement Class Members  
27 include those Settlement Class Members who complained to Defendant about  
allegedly experiencing a Covered Issue, but who did not pay out of pocket to  
Defendant for a repair or replacement of that alleged issue. Each Complainant

1 Settlement Class Member who submits valid payment information shall be  
 2 provided with an equal *pro rata* share of the Net Settlement Fund, up to \$125, but  
 3 no higher than 75% of the *pro rata* share to be paid to each OOP Payee Settlement  
 4 Class Member. The actual amount provided to each Settlement Class Member who  
 submits valid payment information may be increased or decreased on a *pro rata*  
 basis based on the size of the Net Settlement Fund and the number of Settlement  
 Class Members who submit valid payment information, subject to the allocation  
 plan described above and in the Settlement Agreement.

5 Preliminary Approval Order, ECF No. 176, ¶ 7. This modified framework revises the payments to  
 6 Complainant Settlement Class Members only (increasing payments, on a *pro rata* basis, to  
 7 Complainant Settlement Class Members from “up to \$125, but no higher than 75% of the *pro rata*  
 8 share to be paid to each OOP Payee Settlement Class Member” to “up to \$200”) and is designed  
 9 to ensure that as much of the Net Settlement Fund as possible is distributed to Settlement Class  
 10 Members, rather than a disproportionately large amount being distributed to the *cy pres* recipient.  
 11 The Court granted the Joint Stipulation modifying this framework on June 24, 2024. ECF No. 186.

12 **Attorneys’ Fees, Litigation Expenses, and Service Award.** Under the Settlement  
 13 Agreement, Class Counsel seeks up to twenty-five percent (25%) of the Settlement Amount, or  
 14 \$8,750,000, inclusive of costs and expenses incurred by Class Counsel, which are currently  
 15 calculated at \$175,143.81. The Settlement Agreement also includes a provision for settlement  
 16 administration costs to be paid out of the Settlement Fund. Lastly, the Settlement Agreement  
 17 provides for service awards of \$3,000 to be paid to each of the six named Plaintiffs.

18 Should any payments to Class Members fail or remain uncashed after 120 days, such funds  
 19 will be used to pay any unanticipated costs of administration. If funds still remain after payment  
 20 of unanticipated administrative costs, the remaining funds will be distributed to Girls Who Code  
 21 as the *cy pres* recipient, subject to the Court’s approval. Under no circumstances shall any  
 22 settlement funds revert to Apple.

23 **C. LEGAL STANDARD FOR FINAL APPROVAL**

24 To grant final approval of a settlement, “Fed. R. Civ. P. 23(e) requires the district court to  
 25 determine whether a proposed settlement is fundamentally fair, adequate, and reasonable.” *Hanlon*  
 26 *v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998) (internal citations and quotations omitted).

1 The *Hanlon* court identified the following factors as relevant to assessing a settlement proposal:  
2 (1) the strength of the plaintiff’s case; (2) the risk, expense, complexity, and likely duration of  
3 further litigation; (3) the risk of maintaining class action status throughout the trial; (4) the amount  
4 offered in settlement; (5) the extent of discovery completed and the stage of the proceeding; (6)  
5 the experience and views of counsel; (7) the presence of a government participant; and (8) the  
6 reaction of class members to the proposed settlement. *Id.* at 1026 (citation omitted); *see also*  
7 *Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575-76 (9th Cir. 2004) (listing *Hanlon* factors).

8 Moreover, to determine whether the settlement is “adequate,” the Court must “balance the  
9 ‘proposed award of attorney’s fees’ vis-à-vis the ‘relief provided for the class.’” *Briseño v.*  
10 *Henderson*, 998 F.3d 1014, 1023-24 (9th Cir. 2021) (quoting Fed. R. Civ. P. 23(e)(2)(c)(iii)). To  
11 scrutinize attorneys’ fees arrangements and “smoke out potential collusion[.]” district courts  
12 should apply the factors established in *In re Bluetooth Headset Products Liability Litigation*, 654  
13 F.3d 935 (9th Cir. 2011). *Id.* at 1023, 1026. The “red flags” identified in *Bluetooth* that may lead  
14 to a determination that the settlement is inadequate are: “(1) when counsel receives a  
15 disproportionate distribution of the settlement; (2) when the parties negotiate a clear sailing  
16 arrangement, under which the defendant agrees not to challenge a request for an agreed-upon  
17 attorney’s fee; and (3) when the agreement contains a kicker or reverter clause that returns  
18 unawarded fees to the defendant, rather than the class.” *Id.* at 1023 (quoting *Bluetooth*, 654 F.3d  
19 at 947) (internal quotation marks omitted).

#### 20 **D. JURISDICTION**

21 For the purposes of the Settlement of the Action, the Court finds it has subject matter and  
22 personal jurisdiction over the Parties, including all Settlement Class Members, and venue is proper.

#### 23 **E. CLASS CERTIFICATION FOR SETTLEMENT PURPOSES ONLY**

24 The Court finds and concludes that, for the purposes of approving this Settlement only, the  
25 Settlement Class meets the requirements for certification under Rule 23(a) and Rule 23(b)(3) of  
26 the Federal Rules of Civil Procedure. Specifically, the Court finds that: (a) the Settlement Class is  
27

1 so numerous that joinder of all members is impracticable; (b) there are questions of law or fact  
2 common to the Settlement Class; (c) the claims or defenses of the Settlement Class Representatives  
3 are typical of the claims or defenses of the Settlement Class Members; and (d) Settlement Class  
4 Representatives and Class Counsel will fairly and adequately protect the interests of the Settlement  
5 Class because Settlement Class Representatives have no interests antagonistic to the Settlement  
6 Class, and have retained counsel who are experienced and competent to prosecute this matter on  
7 behalf of the Settlement Class. Indeed, there are no conflicts of interest between Plaintiffs and the  
8 Settlement Class Members, and Class Counsel have vigorously prosecuted this case on behalf of  
9 the class for years. Finally, the Settlement Class further satisfies Rule 23(b)(3) in that common  
10 issues predominate and “a class action is superior to other available methods for fairly and  
11 efficiently adjudicating” the claims here.

12 This Settlement Class is cohesive: All Settlement Members purchased an iPhone 7 or 7  
13 Plus that allegedly contain a common audio defect that Apple is alleged to have known about and  
14 failed to disclose, and the common questions noted above present a significant aspect of litigation  
15 and predominate. Although Apple denies these allegations, that does not undermine certification  
16 for settlement purposes. Furthermore, the superiority requirement is met because the claims of  
17 individual Settlement Class Members are modest in amount and, in light of the great expense  
18 associated with bringing individual claims, it is unlikely that they would have the resources  
19 necessary to prosecute individual actions.

20 The Settlement Agreement was reached only after extensive investigation and litigation of  
21 over five years, and it was the result of negotiations conducted by the Parties with the assistance  
22 of a neutral mediator. Plaintiffs and Class Counsel maintain that the Action and the claims asserted  
23 herein are meritorious and that Plaintiffs and the Settlement Class would have prevailed at trial.  
24 Apple disputes all of Plaintiffs’ claims and denies that class treatment is appropriate.  
25 Notwithstanding the foregoing, the Parties have agreed to settle the Action pursuant to the  
26 provisions of the Settlement Agreement, after considering, among other things: (a) the benefits to  
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1 Plaintiffs and the Settlement Class under the terms of the Settlement Agreement; (b) the attendant  
2 risks of litigation, especially in complex actions such as this, as well as the difficulties and delays  
3 inherent in such litigation and appeals; and (c) the desirability of consummating the Settlement  
4 promptly in order to provide effective relief to Plaintiffs and the Settlement Class and avoid the  
5 delays of further litigation. The Court accordingly affirms its certification of the Settlement Class,  
6 for settlement purposes only, under Rule 23(a) and Rule 23(b)(3). Excluded from the Settlement  
7 Class are: (i) Defendant Apple Inc.; (ii) any entity in which Apple Inc. has a controlling interest;  
8 (iii) Apple Inc.'s directors, officers, and employees; (iv) Apple Inc.'s legal representatives,  
9 successors, and assigns; (v) all judicial officers assigned to this case, their staff, and their  
10 immediate families; and (vi) all Settlement Class Members who made a timely election to be  
11 excluded. A list of the Settlement Class Members who made a timely election to be excluded are  
12 included as Exhibit F to the Declaration of Steven Weisbrot. The Court also reaffirms the  
13 appointment of Class Counsel and the Class Representative pursuant to Rule 23(g) for all the  
14 reasons identified above and in its Preliminary Approval Order. Further, the Court affirms the  
15 appointment of Girls Who Code as the *cy pres* recipient.

16 **F. ADEQUACY OF NOTICE**

17 For a settlement class, the Court must “direct to class members the best notice that is  
18 practicable under the circumstances, including individual notice to all members who can be  
19 identified through reasonable effort.” Fed. R. Civ. P. 23(c)(2)(B). Notice should “generally  
20 describe[] the terms of the settlement in sufficient detail to alert those with adverse viewpoints to  
21 investigate and come forward and be heard.” *Churchill Village, L.L.C.*, 361 F.3d at 575.

22 In this Action, the Court finds that the Notice Plan provided the best notice practicable  
23 under the circumstances. Pursuant to the procedures approved by the Court in its Preliminary  
24 Approval Order, Angeion executed the Notice Plan and reached approximately 94.70% of  
25 Settlement Class Members. Weisbrot Decl. ¶ 29. Notice was provided to the Settlement Class  
26 through Email Notice, Postcard Notice, and Long Form Notice. *Id.* ¶¶ 11-22, 24, 28. The Notices  
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1 informed Settlement Class Members of all relevant facts: the nature of the claims, the benefits  
2 available under the Settlement, the release of claims, and the processes regarding how to submit  
3 Payment Attestation Forms, how to request exclusion from the Settlement, and how to object to  
4 the Settlement. In addition to its compliance with the Court's Preliminary Approval Order, each  
5 form of notice complied with the United States District Court for the Northern District's  
6 Procedural Guidance for Class Action Settlements. Prelim. Appr. Guideline 3.

7 On June 2, 2023, pursuant to 28 U.S.C. §1715, Angeion caused Notice of this Settlement  
8 and related materials to be sent to the Attorneys General of all states and territories, as well as the  
9 Attorney General of the United States. Weisbrot Decl. ¶ 6. The Settlement Administrator activated  
10 the Settlement Website and the Settlement's toll-free hotline on January 15, 2024. *Id.* ¶¶ 23, 27.  
11 The Settlement Administrator sent out Email Notice to 1,310,297 Settlement Class Members on  
12 January 15, 2024. *Id.* ¶ 12. Of the 1,310,297 Email Notices, 1,228,783 were delivered and 93,788  
13 bounced back as undeliverable. *Id.* ¶ 13. Of the 93,788 Class Members whose Email Notice could  
14 not be delivered, 92,780 had a corresponding mailing address. *Id.* On March 12, 2024, Angeion  
15 disseminated Email Notice to 31,812 Settlement Class Members whose information was provided  
16 in a supplemental file from Defendant. *Id.* ¶ 14. Of the 31,812 Email Notices sent, 30,905 were  
17 delivered and 907 bounced back as undeliverable. *Id.*

18 On January 15, 2024, Angeion disseminated the Postcard Notice to 250,727 Settlement  
19 Class Members via USPS first-class mail, postage prepaid. *Id.* ¶ 15. On February 14, 2024,  
20 Angeion disseminated the Postcard Notice to 92,780 Settlement Class Members for whom Email  
21 Notice was undeliverable. *Id.* ¶ 16. On March 18, 2024, Angeion disseminated Postcard Notice to  
22 1,138 Settlement Class Members whose information was provided in a supplemental file from  
23 Defendant. *Id.* ¶ 17. Notices that were returned by the USPS as undeliverable with a forwarding  
24 address were re-mailed to that forwarding address, and notices that were returned by the USPS  
25 without a forwarding address were subjected to an address verification search in an attempt to  
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1 locate an updated address. *Id.* ¶ 19. As a result of those efforts, of the 58,235 Postcard Notices  
2 returned as undeliverable, 31,722 were re-mailed to updated addresses. *Id.*

3 On April 17, 2024, Angeion caused an Email Reminder Notice to be disseminated to the  
4 1,326,703 Settlement Class Members who had a valid email address and had not yet submitted a  
5 Payment Attestation Form. *Id.* ¶ 20. On May 10, 2024, at the agreement of the Parties, Angeion  
6 caused a Reminder Postcard Notice to be disseminated to the 1,100,044 Settlement Class Members  
7 who had a complete mailing address and had not yet submitted a Payment Attestation Form. *Id.* ¶  
8 21.

9 This Notice Plan was effective and successful, with a reach rate of direct notice of  
10 approximately 94.70% of Settlement Class members received individual notice. *Id.* ¶ 29.

11 The Settlement Website, which went live on January 15, 2024, contains information about  
12 the Settlement, including important dates such as the Final Approval Hearing date and the  
13 deadlines to opt-out or object, answers to frequently asked questions, and contact information for  
14 the Settlement Administrator. *Id.* ¶ 23. The Settlement website also contains a downloadable copy  
15 of documents relating to the Settlement, including the Settlement Agreement, Long Form Notice,  
16 Payment Attestation Form, and Preliminary Approval Order, along with other filings. *Id.* ¶ 24. On  
17 April 30, 2024 Angeion published downloadable copies of Class Counsel’s motion for attorneys’  
18 fees and all declarations filed in support of that motion to the Settlement Website. *Id.* ¶ 25. This  
19 was 47 days prior to the deadline for Settlement Class Members to opt out or object on June 3,  
20 2024. As of June 21, 2024, the Settlement Website has received 1,218,980 website visits by  
21 967,972 unique users totaling 10,461,918 page views. *Id.* ¶ 26.

22 On January 15, 2024, Angeion activated a toll-free telephone number for Settlement Class  
23 Members to call and obtain additional information regarding the Settlement through an Interactive  
24 Voice Response system. *Id.* ¶ 27. As of June 21, 2024, the Settlement toll-free telephone number  
25 has received 18,885 calls totaling 76,267 minutes. *Id.* ¶ 28. As of that date, a total of 163 requests  
26 for the Long Form Notice had been received and mailed. *Id.*

1 In addition, Class Counsel and Angeion received and addressed numerous inquiries from  
2 potential as well as confirmed Settlement Class Members, seeking information about the  
3 Settlement and form submission.

4 The Settlement also received press coverage from over two dozen media outlets, including  
5 the New York Times, CBS, Business Insider, Good Morning America, and CNN, leading to  
6 increased submissions of Payment Attestation Forms.

7 In an effort to further boost rates of submissions, the Parties jointly agreed to extend the  
8 deadline for Class Members to submit Payment Attestation Forms from June 3, 2024 to July 3,  
9 2024. *See* Joint Stipulation Extending Deadline for Settlement Class Members to Submit Valid  
10 Payment Information, ECF No. 178; *see also* Order, ECF No. 182. Angeion and Class Counsel  
11 took substantial steps to notify the Settlement Class, resulting in expansive reach of the Notice to  
12 Settlement Class Members, all in compliance with this Court’s Preliminary Approval Order and  
13 Procedural Guidelines. Accordingly, the Court finds that the Court-approved Notice Plan has been  
14 fully and properly implemented by the Parties and the Settlement Administrator and the Settlement  
15 Class has been provided adequate notice of the pendency of this Action and the opportunity to opt  
16 out from or present their objections to this Settlement.

17 **G. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE**

18 A court may approve a proposed class action settlement only “after a hearing and on finding  
19 that it is fair, reasonable, and adequate after considering whether: (A) the class representatives and  
20 class counsel have adequately represented the class; (B) the proposal was negotiated at arm’s  
21 length; (C) the relief provided for the class is adequate, taking into account: (i) the costs, risks, and  
22 delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the  
23 class, including the method of processing class-member claims; (iii) the terms of any proposed  
24 award of attorney’s fees, including timing of payment; and (iv) any agreement required to be  
25 identified under Rule 23(e)(3); and (D) the proposal treats class members equitably relative to each  
26 other.” Fed. R. Civ. P. 23(e)(2). This Court is not required to address whether the Settlement is  
27

1 ideal or the best outcome, but only whether it is fair, free of collusion, and consistent with  
2 Plaintiffs' and Class Counsel's obligations to the Settlement Class. For the reasons further detailed  
3 below, the Court finds that the proposed settlement is fair, reasonable, and adequate under the Rule  
4 23(e)(2) factors.

5 Class Counsel are highly experienced in complex class action litigation including, but not  
6 limited to, consumer class actions including product defect class actions. They submitted a  
7 detailed Joint Declaration explaining their analysis of, and support for, the Settlement, and there  
8 is no factual basis to support any allegation of collusion or self-dealing.

9 **Adequacy of Representation.** There is no question that the Settlement Class  
10 Representatives and Class Counsel have adequately represented the Settlement Class over the  
11 more than five years of this Action. In the Preliminary Approval Order, this Court found that  
12 Plaintiffs and Class Counsel had adequately represented the interests of the Settlement Class. Since  
13 that time, there has been no contrary evidence and the Court confirms its preliminary finding.  
14 Plaintiffs and Class Counsel have vigorously prosecuted this Action from its infancy.

15 They defeated, in significant part, both of Apple's motions to dismiss and litigated this  
16 novel and complex case through voluminous written discovery and multiple depositions, motion  
17 practice, and mediation. Class Counsel possessed sufficient information to make an informed  
18 decision about settlement.

19 **Extent of Discovery.** Prior to reaching the Settlement Agreement, the Parties engaged in  
20 significant contentious discovery, including production and review of hundreds of thousands of  
21 pages of documents, multiple depositions of the Plaintiffs, and discovery disputes. The Court finds  
22 that the amount of investigation and discovery conducted shows that the Parties had adequately  
23 developed a perspective on the strengths and weaknesses of their respective cases to "make an  
24 informed decision about settlement." *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 459 (9th  
25 Cir. 2000) (quoting *Linney v. Cellular Alaska P'ship*, 151 F.3d 1234, 1239 (9th Cir. 1998)).  
26  
27

1           **Experience and Views of Counsel.** “Parties represented by competent counsel are better  
2 positioned than courts to produce a settlement that fairly reflects each party’s expected outcome  
3 in litigation.” *Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948, 967 (9th Cir. 2009). Consequently,  
4 “[t]he recommendations of plaintiffs’ counsel should be given a presumption of reasonableness.”  
5 *In re Omnivision Techns., Inc.*, 559 F. Supp. 2d 1036, 1043 (N.D. Cal. 2009) (quoting *Boyd v.*  
6 *Bechtel Corp.*, 485 F. Supp. 610, 622 (N.D. Cal. 1979)). Class Counsel has extensive experience  
7 in complex class actions and has expressed their strong support for the Settlement. Thus, the Court  
8 finds that this factor also favors approval of the settlement.

9           **Arm’s Length Negotiations.** The Court finds that the Settlement is the product of serious,  
10 non-collusive, arm’s length negotiations by experienced counsel with the assistance of a well-  
11 respected, experienced mediator, Randall Wulff. Before agreeing on the terms of the Settlement,  
12 the Parties engaged in extensive factual investigation, which included the production and review  
13 of hundreds of thousands of pages of documents, extensive written discovery, and motions  
14 practice. The record was thus sufficiently developed that the Parties were fully informed as to the  
15 viability of the claims and able to adequately evaluate the strengths and weaknesses of their  
16 respective positions and risks to both sides if the Action was not resolved through settlement. The  
17 Court has independently and carefully reviewed the record for any signs of collusion or self-  
18 dealing and has found none.

19           **Monetary Relief.** Under the terms of the Settlement Agreement, Apple will provide  
20 \$35,000,000 for the Settlement Fund to cover all Settlement Class Member payments,  
21 administrative expenses, any taxes owed upon the gross settlement amount (excluding taxes owed  
22 by any individual Settlement Class Counsel, Plaintiffs, or Settlement Class Members), any  
23 attorneys’ fee and expense awards, and any class representative service awards. Settlement  
24 Agreement ¶ 14. Any Settlement Class Member who paid any out-of-pocket expenses to Apple  
25 for a repair or replacement allegedly relating to a Covered Issue (“OOP Payee”) and who submits  
26 valid payment information will receive a cash payment, on a *pro rata* basis, between \$50 and \$349,  
27

1 with all OOP Payee Settlement Class Members receiving the same amount. *Id.*, § B.3. As modified  
2 by the Parties and approved by the Court, the Settlement also provides that any Settlement Class  
3 Member who did not pay out-of-pocket costs to Apple for repairs allegedly relating to a Covered  
4 Issue (“Complainant”) and who submits valid payment information will receive a cash payment,  
5 on a *pro rata* basis, of up to \$200, with all Complaint Settlement Class Members receiving the  
6 same amount. *See* ECF No. 186. The Settlement previously provided up to \$125 for Complainants,  
7 but given the rate of validated payment form submissions, and in order to ensure that the majority  
8 of the Net Settlement Fund is distributed to Settlement Class Members, the parties agreed to  
9 increase the maximum amount provided to Complainants. *Id.*

10 Based on the evidence and argument the Parties submitted in connection with the  
11 Settlement, the Court finds that this monetary recovery is fair, reasonable, and adequate given the  
12 risks of proceeding to trial in this Court.

13 **The Risk of Continuing Litigation.** The monetary relief provided in the Settlement is  
14 also reasonable in light of the risks of continued litigation. On the merits, Apple disputes Plaintiffs’  
15 claims and the propriety of class certification. Through further litigation, there is a meaningful risk  
16 that the Court denies class certification or grants summary judgment in Apple’s favor. Even if  
17 certification were granted, there remains a meaningful risk that certification could be overturned  
18 on appeal, later decertified, or fail to be maintained through trial. If this case were to proceed to  
19 trial, there is a meaningful risk that a jury could agree with Apple and find against Plaintiffs.  
20 Further, even if Plaintiffs were successful at trial, there remains a risk that a favorable result could  
21 be overturned on appeal. Under such circumstances, Plaintiffs could recover nothing. These risks  
22 of further, prolonged litigation all support final approval.

23 **Other Agreements.** The Court is required to outline “any agreements required to be  
24 identified under Rule 23(e)(3).” The Court understands that there are no other such agreements.

25 **The Allocation Plan.** The Proposed Settlement provides benefits to all Settlement Class  
26 Members who submit valid payment information, without any preferential treatment of Class  
27

1 Representatives or any segment of the Settlement Class. *See* Fed. R. Civ. P. 23(e)(2)(D).  
2 Specifically, all Settlement Class Members who submit valid payment information will receive  
3 cash payments that are proportionate to the type of injury allegedly suffered. OOP Payees will be  
4 paid, on a *pro rata* basis, between \$50 and \$349, while Complainants—who did not pay any out-  
5 of-pocket expenses allegedly due to a Covered Issue—will receive, on a *pro rata* basis, up to \$200.  
6 Each OOP Payee will receive the same amount under the Settlement as other OOP Payees, and  
7 each Complainant will receive the same amount as other Complainants. This plan of allocation  
8 protects the interests of all parties by directing relief to the most significantly impacted Settlement  
9 Class Members—awarding more to OOP Payees, while also paying Complainants. *See In re*  
10 *MacBook Keyboard Litig.*, 2022 WL 17409738, at \*6 (preliminarily approving allocation plan  
11 which “divide[s] Claimants into three groups which are based on the extent of Settlement Class  
12 Members’ injuries . . . . Compensation varies by group, with those who have experienced the  
13 greatest harm in Group 1 being compensated the greatest amount”); *In re Nexus 6P Prod. Liab.*  
14 *Litig.*, 2019 WL 6622842, at \*9 (“The plan divides claimants into different groups based on the  
15 relative size of their potential claims and distributes funds based on these groups.”).

16 **The Response of the Settlement Class.** Out of 1,649,497 Settlement Class Members,  
17 only 91 Settlement Class Members have requested exclusion from the Settlement. In comparison,  
18 as of June 21, 2024, Angeion has received 114,684 Payment Attestation Form submissions,  
19 representing a 6.95% submission rate. Weisbrot Decl. ¶ 30. These figures indicate a decidedly  
20 positive response to the Settlement and support final approval of the Settlement. *See, e.g., In re*  
21 *Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 944-45 (9th Cir. 2015) (affirming approval of  
22 settlement where less than 3.4% of class member filed claims); *Shuman v. SquareTrade Inc.*, No.  
23 20-cv-02725-JCS, 2023 WL 2311950, at \*4 (N.D. Cal. Mar. 1, 2023) (approving settlement with  
24 claims rate of about 6%).

25 There were 3 purported objections to the Settlement, 2 of which were submitted by  
26 individuals who are not Settlement Class Members. Laurie Bell, a Settlement Class Member who  
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1 submitted a Payment Attestation Form, complains that the Settlement Class does not cover all  
2 owners of iPhone 7 and iPhone 7 Plus phones and instead only represents purchasers of the iPhone  
3 7 and iPhone 7 Plus phones where the defect manifested and the purchaser complained to Apple.  
4 However, pursuant to the Settlement, owners of iPhone 7 and 7 Plus phones, which did not  
5 manifest the alleged audio defect, have not released their claims against Apple.

6 Joseph Soldis is not a Settlement Class Member and, thus, does not have standing to object.  
7 His objection is invalid on that basis alone. Moreover, his objection that non-Settlement Class  
8 Members were not provided notice or permitted to submit a Payment Attestation Form is not well  
9 taken. Non-Settlement Class Members are not required to receive notice nor must they be  
10 permitted to submit Payment Attestation Forms, as they are not in the Settlement Class and are not  
11 releasing their claims against Apple. Mr. Soldis' objection therefore does not raise a valid criticism  
12 of the Notice or the Settlement. Finally, Edward Orr, who is also not a Settlement Class Member,  
13 does not have standing to object and, in any event, did not raise any substantive objections to the  
14 Settlement.

15 As such, each of the objections is OVERRULED.

16 The Court finds that there were 91 timely opt-outs to this Settlement. A list of the 91  
17 Settlement Class Members to be excluded from this Settlement is attached as Exhibit F to the  
18 Declaration of Steven Weisbrot. That exhibit will be incorporated into the Final Judgment.

19 **H. COMPLIANCE WITH CLASS ACTION FAIRNESS ACT**

20 The record establishes that the Settlement Administrator served the required notices under  
21 the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, with the documentation required by 28  
22 U.S.C. § 1715(b)(1-8), in compliance with that Act.

23 **I. CLAIMS COVERED AND RELEASE; NO ADMISSION OF LIABILITY**

24 This Order constitutes a full, final, and binding resolution between the Releasing Parties,  
25 on behalf of themselves and the Settlement Class Members, and the Released Parties. This Release  
26 shall be applied to the maximum extent permitted by law.

1 By operation of this Order and Judgment, with respect to the Released Claims, Plaintiff,  
2 the Released Parties, and Settlement Class Members shall be deemed to have waived and  
3 relinquished, to the fullest extent permitted by law, the provisions, rights and benefits conferred  
4 by any law of any state of the United States, or principle of common law or otherwise, which is  
5 similar, comparable, or equivalent to section 1542 of the California Civil Code, which provides:

6 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE  
7 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO  
8 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE  
9 RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE  
10 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE  
11 DEBTOR OR RELEASED PARTY.

12 Plaintiffs, Apple (on behalf of itself and the Released Parties), and Settlement Class  
13 Members understand and acknowledge the significance of these waivers of California Civil Code  
14 section 1542 and any other applicable federal or state statute, case law, rule or regulation relating  
15 to limitations on releases.

16 Neither the Settlement, nor any act performed or document executed pursuant to or in  
17 furtherance of the Settlement, is or may be deemed to be or may be used as an admission of, or  
18 evidence of, (a) the validity of any Released Claim, (b) any wrongdoing or liability of Apple, or  
19 (c) any fault or omission of Apple in any proceeding in any court, administrative agency, arbitral  
20 forum, or other tribunal. To the extent permitted by law, neither the Settlement Agreement, the  
21 Settlement, this Order, the Judgment, any of their terms or provisions, nor any of the negotiations  
22 or proceedings connected with them, shall be offered as evidence or received in evidence or used  
23 in any way in any pending or future civil, criminal, or administrative action or any other proceeding  
24 to establish any liability or wrongdoing of, or admission by Apple. Notwithstanding the foregoing,  
25 nothing in this Order shall be interpreted to prohibit the use of this Order or the Judgment in a  
26 proceeding to consummate or enforce the Settlement Agreement or Judgment, or to defend against

1 the assertion of Released Claims in any other proceeding. All other relief not expressly granted to  
2 the Settlement Class Members is denied.

3 **J. CY PRES RECIPIENT**

4 If, after the Settlement Administrator has made a reasonable effort to locate intended  
5 recipients of settlement funds whose checks were returned, any amount remains from the Net  
6 Settlement Amount, the remaining amount will be distributed to Girls Who Code, the *cy pres*  
7 recipient selected by the Parties. SA § B.8. The Ninth Circuit employs the substantial nexus test  
8 for determining whether a *cy pres* recipient is fair, adequate, and reasonable. *Lane v. Facebook,*  
9 *Inc.*, 696 F.3d 811, 820-21 (9th Cir. 2012). The Court should analyze whether the *cy pres* recipient  
10 has a substantial nexus to the interests of the Settlement Class members in light of the substance  
11 of the lawsuit, the statutory objectives, and the interests of the absent class members. *Id.* Girls Who  
12 Code is an organization that works to diminish the gender gap in technological professions,  
13 increase exposure to underrepresented minorities in the technological field, and expand computer  
14 science curricula in schools. *See* Joint Class Counsel Decl. ¶ 50. Because this case involves a  
15 technological product, the Court finds that Girls Who Code bears a substantial nexus to the  
16 interests of the Settlement Class Members.

17 **K. ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARD**

18 Class Counsel has requested attorneys' fees and expenses in the combined amount of  
19 \$8,750,000. This figure represents 25% of the total \$35,000,000 Settlement fund. Attorneys' fees  
20 and expenses may be awarded in a certified class action under Federal Rule of Civil Procedure  
21 23(h). Such fees must be found "fair, reasonable, and adequate" in order to be approved. Fed. R.  
22 Civ. P. 23(e). Employing the percentage-of-the-recovery method for calculating Class Counsel's  
23 fees is appropriate here. It is the "preferred" method in common fund settlements. *In re Capacitors*  
24 *Antitrust Litig.*, No. 3:14-CV-03264, 2018 WL 4790575, at \*2 (N.D. Cal. Sept. 21, 2018); *see also*  
25 *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011) ("Because the  
26 benefit to the class is easily quantified in common-fund settlements, . . . courts [may] award  
27

1 attorneys a percentage of the common fund in lieu of the often more time-consuming task of  
2 calculating the lodestar.”).

3 In the Ninth Circuit, courts consider of a range of qualitative factors when ruling on a fee  
4 request. *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir. 1998) (giving examples  
5 including “the quality of the representation, the benefit obtained for the class, the complexity and  
6 novelty of the issues presented, and the risk of nonpayment”). Consideration of the following  
7 factors is appropriate and support the requested fee award of 25% (a) the significance of the relief,  
8 (b) the public interest served by the litigation and the public benefits provided by the settlement,  
9 (c) the quality of representation and the novelty and complexity of the issues litigated, (d) the  
10 opposition mounted by a well-funded defendant, and (e) the expense, opportunity costs, delayed  
11 payment, and contingent risks that Class Counsel bore.

12 Since the inception of this litigation, Class Counsel have brought their extensive skills and  
13 experience to bear, by performing thorough investigations prior to initial filing; by briefing,  
14 arguing, and defeating multiple motions to dismiss; by obtaining relevant and vital information in  
15 discovery, which required diligent advocacy through at least 10 discovery dispute letters and 18  
16 meet-and-confer conversations with Apple; by reviewing hundreds of thousands of pages of  
17 Apple’s produced documents; by preparing and defending Plaintiffs in their depositions; by  
18 engaging in substantial motions practice including Plaintiffs’ motion for preliminary approval; by  
19 regularly appearing before this Court in at least 10 case management conferences; by obtaining  
20 and working closely with knowledgeable and experienced experts; by negotiating the Settlement;  
21 and by overseeing administration of the Settlement.

22 After over five years of investigation and contentious litigation in this complex case, and  
23 without any payment and with significant risk, Class Counsel negotiated, after a mediation session  
24 with an experienced mediator and months of subsequent negotiations, a non-reversionary \$35  
25 million Settlement Fund. This result is especially significant considering the novel and complex  
26 legal and factual issues in this case. Apple defended this case at every turn and contested all of  
27

1 Plaintiffs' key arguments. In zealously advocating for Plaintiffs and the Settlement Class for over  
2 five years, Class Counsel took on substantial risk—including the real risk of zero recovery—and  
3 bore considerable expense.

4 Indeed, while it is not required that this Court engage in a lodestar cross-check, the  
5 requested fee of 25% is reasonable when such a cross-check is completed. Both Class Counsel's  
6 firms have set their billing rates based on the Adjusted Laffey matrix, which has been accepted by  
7 the Ninth Circuit. *See Mancini v. Dan P. Plute, Inc.*, 358 F. App'x 886, 889 (9th Cir. 2009); *see*  
8 *also Smith v. Am. Greetings Corp.*, No. 14-cv-02577-JST, 2016 WL 362395, at \*9 & n.6 (N.D.  
9 Cal. Jan. 29, 2016) (Tigar, J.). Class Counsel have submitted detailed charts showing their  
10 expenditure of time and calculation of lodestar. Throughout this litigation, Class Counsel have  
11 expended 8,121.85 total hours over the approximately five years of this litigation, resulting in a  
12 total lodestar of \$4,820,585.65, based upon reasonable billing rates. *See Joint Class Counsel Decl.*  
13 ¶ 60. This results in a reasonable 1.82 multiplier, compared to the total requested attorneys' fees  
14 and expenses. *Id.* The Court finds that Class Counsel's detailed charts summarizing the types of  
15 tasks undertaken, by timekeeper, show that the hours expended were reasonable and justified.

16 Class Counsel have also submitted a detailed declaration outlining the litigation expenses  
17 expended in this Action, which amount to \$175,143.81 in out-of-pocket costs for the benefit of the  
18 Settlement Class. These costs include expert fees, document retrieval and document production  
19 management fees, court reporting and transcript services, mediation expenses, court fees, and fees  
20 related to third-party subpoenas. These standard out-of-pocket costs are reasonable, and Counsel  
21 are entitled to reimbursement for such expenses incurred in investigating and prosecuting this  
22 Action. *See Schneider v. Chipotle Mexican Grill, Inc.*, 336 F.R.D. 588 (N.D. Cal. 2020) ("Class  
23 Counsel is entitled to recover those out-of-pocket expenses that would normally be charged to a  
24 fee paying client." (internal quotation marks and citation omitted)).

25 For all of these reasons, Plaintiffs' and Class Counsel's request for attorneys' fees and costs  
26 in the amount of \$8,750,000 is GRANTED.

1           **L. SERVICE AWARDS TO CLASS REPRESENTATIVES**

2           Class Counsel requests Service Awards of \$3,000 for each of the five Plaintiffs in  
3 recognition for their service to the Settlement Class over this nearly five year-long litigation.  
4 Service awards “are fairly typical in class action cases.” *Rodriguez v. W. Publ'g Corp.*, 563 F.3d  
5 948, 958 (9th Cir. 2009). They “are intended to compensate class representatives for work done  
6 on behalf of the class, to make up for financial or reputational risk undertaken in bringing the  
7 action, and, sometimes, to recognize their willingness to act as a private attorney general.” *Id.* at  
8 958-59. This request is well within the range of service awards in this District. Plaintiffs  
9 contributed significantly to the success in this case including by reviewing the Complaints filed in  
10 this action, compiling documents, responding to written discovery requests, regularly conferring  
11 with Class Counsel regarding discovery, sitting for their lengthy depositions, regularly  
12 corresponding with Counsel, and conferring with Counsel regarding settlement negotiations. *See*  
13 *generally* District’s Guidelines for Final Approval of Class Settlements, Guideline 3. Thus, the  
14 requested Service Award payments of \$3,000 to each of the Plaintiffs (totaling \$18,000) are  
15 GRANTED.

16           **M. AUTHORIZATION TO PARTIES TO IMPLEMENT AGREEMENT AND**  
17           **MODIFICATIONS OF AGREEMENT**

18           By this Order, the Parties are hereby authorized to implement the terms of the Settlement  
19 Agreement. After the date of entry of this Order, the Parties may by written agreement effectuate  
20 such amendments, modifications, or expansion of the Settlement Agreement and its implementing  
21 documents without further approval of the Court if such changes are consistent with the terms of  
22 this Order and do not materially alter, reduce, or limit the rights of Settlement Class Members  
23 under the Settlement Agreement.

24           **N. TERMINATION**

25           In the event that the Settlement Agreement is terminated pursuant to the terms of the  
26 Settlement Agreement or otherwise does not become effective, then this Order and any Judgment  
27 entered herein shall be rendered null and void to the extent provided by and in accordance with

1 the Agreement and shall be vacated and, in such event, all orders entered and releases delivered in  
2 connection herewith shall be null and void to the extent provided by and in accordance with the  
3 Agreement. Further, the Court’s grant of conditional class certification of the Settlement Class  
4 shall be vacated, the Parties shall revert to their positions in the Lawsuit as they existed before the  
5 Settlement Agreement’s execution date, May 25, 2023, and the Class Representatives and the  
6 Settlement Class Members will once again bear the burden to prove the propriety of class  
7 certification and the merits of their claims at trial.

8 **O. RETENTION OF JURISDICTION**

9 Without affecting the finality of this Order or the Judgment entered herein, the Court shall  
10 retain jurisdiction over any claim relating to the Settlement Agreement (including all claims for  
11 enforcement of the Settlement Agreement and/or all claims arising out of a breach of the  
12 Settlement Agreement) as well as any future claims by any Settlement Class Member relating in  
13 any way to the Released Claims.

14 **P. FINAL JUDGMENT AND DISMISSAL WITH PREJUDICE**

15 The Court finds, pursuant to Rules 54(a) and (b) of the Federal Rules of Civil Procedure,  
16 that Final Judgment of Dismissal with prejudice as to the Defendants (“Judgment”) should be  
17 entered forthwith and further finds that there is no just reason for delay in the entry of the  
18 Judgment, as Final Judgment, in accordance with the Settlement Agreement.

19  
20 **IT IS SO ORDERED.**

21  
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23 DATED: \_\_\_\_\_, 2023

\_\_\_\_\_  
24 HON. JON S. TIGAR  
25 UNITED STATES DISTRICT JUDGE  
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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

LISA TABAK, DE'JHONTAI  
BANKS, MATTHEW WHITE, KELLY  
CAMELO-CENICOLA, NESTOR TRUJILLO,  
and CHRISTINE CLEMENCE, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

APPLE INC.,

Defendant.

Case No. 4:19-cv-02455-JST

**[PROPOSED] FINAL JUDGMENT**

1 **[PROPOSED] FINAL JUDGMENT**

2 For the reasons set forth in this Court’s Final Approval Order, in the above-captioned matter as  
3 to the following class of persons:

4 Individual persons who are United States residents and who own or owned  
5 an Apple iPhone 7 or 7 Plus and reported to Apple in the United States  
6 Covered Issues, including but not limited to those who paid Apple out of  
7 pocket for repairs or replacements for Covered Issues as reflected in  
8 Apple’s records. The Settlement Class excludes Apple; any entity in which  
9 Apple has a controlling interest; Apple’s directors, officers, and  
10 employees; Apple’s legal representatives, successors, and assigns. Also  
excluded from the Settlement Class are all judicial officers assigned to this  
case as well as their staff and immediate families. The Class Period shall  
be September 16, 2016, to January 3, 2023.

11 **JUDGMENT IS HEREBY ENTERED**, pursuant to Federal Rule of Civil Procedure 58, as to  
12 the above-specified class of persons and entities, Plaintiffs Lisa Tabak, De’Jhontai Banks, Matthew  
13 White, Kelly Camelo-Cenicola, Nestor Trujillo, and Christine Clemence, (collectively “Plaintiffs” or  
14 “Class Representatives”) and Defendant Apple Inc. (“Apple”) on the terms and conditions of the  
15 Settlement Agreement and Release (the “Settlement Agreement”) approved by the Court’s Final  
16 Approval Order, dated \_\_\_\_\_.

17 1. The Court, for purposes of this Final Judgment, adopts the terms and definitions set forth  
18 in the Settlement Agreement incorporated into the Final Approval Order.

19 2. All Released Claims of the Releasing Persons are hereby released as against Apple and  
20 the Released Persons, as defined in the Settlement Agreement.

21 3. The claims of Plaintiffs and the Settlement Class Members are dismissed with prejudice  
22 in accordance with the Court’s Final Approval Order.

23 4. The Parties shall bear their own costs and attorneys’ fees, except as set forth in the  
24 Settlement Agreement or otherwise set forth in the Final Approval Order or any Order regarding  
25 Plaintiffs’ request for attorneys’ fees, expenses, and service awards.

26 5. This document constitutes a final judgment and separate document for purposes of Federal  
27 Rule of Civil Procedure 58(a).

