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Attorneys for Defendant Apple Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

WALTER PETERS, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

APPLE INC. a California corporation, DOES 1 to 100, inclusive,

Defendants.

Case No.19STCV21787

CLASS ACTION

[*Assigned for all purposes to Hon. Elihu M. Berle, Dept. 6*]

APPLE INC.'S OPPOSITION TO PLAINTIFFS' MOTION FOR ATTORNEYS' FEES, COSTS, AND CLASS REPRESENTATIVE SERVICE PAYMENTS

Date: April 2, 2024
Time: 9:00 am
Department: 6
Complaint filed: June 21, 2019
Trial Date: None Set

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Counsel for the settlement class ("Class Counsel") request that the Court award them nearly ten million dollars in fees and costs—close to 40 percent of the total $25 million Gross Settlement Amount. Class Counsel's Motion for Attorneys' Fees, Costs, and Class Representative Service Payments (the "Motion") seeks more than the customary awards in similar consumer class action cases and the Court should decline these excessive requests. ***First***, the factors that courts consider in determining an appropriate percentage of the settlement fund to award as attorneys' fees do not justify the 33 percent award that Class Counsel seeks. This case involved a straightforward, run-of-the-mill false advertising claim that did not implicate any particularly complex or novel legal issues; a reasonable but far from exceptional recovery for the class; and no unusual risks or financial burdens beyond those that are typical in class actions undertaken on a contingency basis. ***Second***, the Motion's request for costs is conclusory and unsubstantiated by viable supporting evidence, and both this action's history and the evidence that does accompany the Motion suggest that many of Class Counsel's expenses may have been excessive or unwarranted. ***Third***, the $15,000 service award that the Motion seeks for class representatives Diana Ismailyan and Jeff Torres is excessive and above the norm. Like Class Counsel, both class representatives assumed typical risks in a typical case, and their compensation from the settlement fund should be equally typical.

I. ARGUMENT

A. Class Counsel's Fee Request for One-Third of the Gross Settlement Amount Is Excessive.

Class Counsel offer neither persuasive legal authority nor adequate factual justification for their claim that they are entitled to 33 percent of the $25 million settlement fund (the "Gross Settlement Amount") as fees. The Motion implies, without case-specific analysis or discussion, that such an award is presumptively reasonable. On the contrary, the Court of Appeal has repeatedly indicated that a 25 percent award provides the "benchmark" for attorney's fees in class action settlements. *Consumer Priv. Cases*, 175 Cal. App. 4th 545, 558 n.13 (2009); *Lealao v. Beneficial California, Inc.*, 82 Cal. App. 4th 19, 24 n.1 (2000). When courts do authorize higher fee awards, they do so only based on facts more exceptional than those present here. Class Counsel offer a lodestar figure in a further attempt to justify their request, but the lodestar figure is a result of

overlitigation throughout the life of this case, so it is not an accurate indicator of the amount of time and work reasonably required to litigate this matter. The Court should award Class Counsel a standard 25 percent of the Gross Settlement Amount, at most.

1. Class Counsel fail to show this is an extraordinary case justifying a 33 percent fee award.

The Court of Appeal has confirmed on multiple occasions that "[a] fee award of 25 percent is the benchmark award that should be given in common fund cases." *Consumer Priv. Cases*, 175 Cal. App. 4th at 558 n.13 (false advertising, UCL, and invasion of privacy claims) (cleaned up); *see also Lealao*, 82 Cal. App. 4th at 24 n.1 (same, in case alleging UCL violations and similar business torts). An award in the 25 percent range is especially common in large consumer class actions, where "[p]ercentage fees generally decrease as the amount of the recovery increases, on the theory many large recoveries are due merely to the size of the class, which may have no relationship to the efforts of counsel." *Lealao*, 82 Cal. App. 4th at 49 n.16. While California law does not mandate specific factors the Court must or should assess to determine whether to grant an award in excess of the 25 percent benchmark, federal courts have articulated several considerations: the results achieved, including any non-cash benefits to the class, and the potential value of the litigation; the risks involved in pursuing the claims, including in light of the contingent nature of the representation; the novelty and difficulty of the issues presented and the skill required to litigate them; and the market rate for awards approved in similar cases. *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047, 1048-50 (9th Cir. 2002). Especially because the Court of Appeal has previously invoked federal authority in analyzing fee awards, *see, e.g.*, *Consumer Priv. Cases*, 175 Cal. App. 4th at 558 n.13, these factors provide strong persuasive guidance here. Based on these factors, Class Counsel cannot justify receiving 33 percent of the Gross Settlement Amount as fees.

Benefits to the class and potential value of the litigation. The Gross Settlement Amount of $25 million reflects approximately 7 percent of the $354.5 million that Plaintiffs claim they could have received by litigating the case to trial. Coelho Decl. iso Prelim. Approval ¶¶ 5(a), 5(b). Class Counsel discounted their damages estimate by over 90 percent to account for litigation risk when they presented the settlement for preliminary approval, *see id.*, but the Court should measure Class

Counsel's success against "Defendant's ***maximum*** liability exposure" were the case successfully tried to judgment. *Monterrubio v. Best Buy Stores, L.P.*, 291 F.R.D. 443, 456 (E.D. Cal. 2013) (emphasis added). Especially considering the many obstacles Plaintiffs would have faced on the road to winning a $354.5 million judgment had they declined to settle, this is 7 percent recovery is a very fair settlement—but it is hardly an exceptional one.

Courts have declined to authorize one-third fee awards in situations where counsel recovered a far greater proportion of their asserted maximum damages than Class Counsel have here. In *Monterrubio*, for instance, the parties reached a classwide settlement that provided a common fund comprising thirty percent of the defendant's alleged maximum damages, and the plaintiffs' attorneys sought one-third of the settlement fund in fees. 291 F.R.D. at 457. The court refused and instead issued a standard twenty-five percent award, reasoning that even this settlement—which secured for the class a far larger proportion of total potential damages than Class Counsel have here—did not qualify as "exceptional." *Id.*; *see also Hawthorne v. Umpqua Bank*, 2015 WL 1927342, at *5 (N.D. Cal. Apr. 28, 2015) (awarding counsel 25 percent of settlement fund where they "recovered about a third the amount they could have recovered if they had prevailed at trial").

Nor have Class Counsel secured any non-monetary benefit for the class, such as injunctive relief, that would justify the fees they seek. (Indeed, by the time Class Counsel filed suit, the statements they challenged no longer appeared in Apple's materials, leaving nothing to enjoin. *See* Apple's Opp'n to Mot. for Class Cert. at 12-13.) That fact distinguishes this case from *In re Combustion, Inc.*, 968 F. Supp. 1116 (W.D. La. 1997), which Class Counsel cite for its approval of a 36 percent fee award. *See* Mot. at 7. *Combustion* was an eleven-year-long mass tort action in which counsel secured not only monetary compensation, but remediation of carcinogenic chemicals that the defendants had discharged onto the class members' homes. 968 F. Supp. at 1138 ("It is the opinion of the Court that this public service is the singular greatest result for the Class, for Livingston Parish, and for the State."). That is an exceptional result; financial payment for an

allegedly misleading advertisement is not.[1]

Novelty, difficulty, and risks of the action. Class Counsel brought a straightforward false advertising case against a single defendant. They challenged a handful of Apple's public statements as misleading, asserting causes of action for negligent and intentional misrepresentation and for violations of the Unfair Competition Law and False Advertising Law. These claims, which were settled before a litigation class was certified, do not present any novel or unsettled legal issues. *See, e.g.*, *Stewart v. Apple Inc.*, 2022 WL 3109565, at *7 (N.D. Cal. Aug. 4, 2022) (breach of contract action was not exceptional for fee purposes). Indeed, Class Counsel's own description of this litigation's history confirms that it was not an exceptional case. They note that they defended a demurrer, took or defended numerous depositions, reviewed voluminous discovery, and filed lengthy class certification papers. Coelho Decl. ¶¶ 8-20. As analogous caselaw confirms, these are standard practices in large class action cases, and do not warrant an exceptional fee award. *See, e.g.*, *Munoz v. Giumarra Vineyards Corp.*, 2017 WL 2665075, at *15 (E.D. Cal. June 21, 2017) (interviewing hundreds of witnesses, reviewing tens of thousands of pages of documents and data, collecting 77 declarations, taking or defending 21 depositions, and working with 44 analysts to assess evidence was insufficient to warrant attorneys' fee award above 25 percent benchmark); *Hawthorne*, 2015 WL 1927342, at *5 ("While Plaintiffs survived two dispositive motions, this simply reflects the ordinary nature of the adversarial process of litigation."). Class Counsel admit as much: "Large-scale litigation of this type is, ***by its very nature***, complicated and time-consuming." Mot. at 12 (emphasis added). The settlement itself does not involve complex issues either, distinguishing Class Counsel's citation to *In re Relafen Antitrust Litigation*, 231 F.R.D. 52, 79 (D. Mass. 2005), where class counsel took "creative and challenging steps to effectuate th[e] settlement," such as issuing complex subpoenas to major pharmaceutical retailers, that were "unusual if not unprecedented in class action settlements." Mot. at 7.

[1] *In re Pacific Enterprises Securities Litigation*, 47 F.3d 373, 379 (9th Cir. 1995), which Class Counsel also cite, likewise involved a settlement that included not just a cash payout, but substantial nonmonetary benefits justifying a 33 percent award. The defendant there agreed to change its practices involving dividend payments and diversification of its business, both of which the settlement class of shareholders had challenged. *Id.*

For all the same reasons, this case does not present any unusual risks that justify such a sizable attorneys' fee award. The Motion and its supporting papers describe no such risks, noting only the possibility that Plaintiffs may not prevail. Coelho Decl. ¶ 28 ("The risk was significant given that, if the case was unsuccessful, Class Counsel would not have received any compensation for the time our firms spent litigating this case."). But this is the inherent risk of losing in all litigation and the literal opposite of unusual. *See Monterrubio*, 291 F.R.D. at 457 (risk that defendant could prevail on certain legal issues "ma[de] clear that [c]lass [c]ounsel assumed risks in taking on this litigation," but was not "extremely risky" to warrant more than a 25 percent award). Simply put, in the class action context, this kind of "contingency-fee litigation is not a special consideration—it's the nature of the beast." *Hawthorne*, 2015 WL 1927342, at *5 (cleaned up).

Fee awards in similar cases. Class Counsel themselves cite empirical authority confirming that a 33 percent award is above the market rate for contingency fee awards in class action settlements. Counsel refer to a 2010 analysis of 444 cases, which they say supports their position because "[m]ost fee awards were between 25 percent and 35 percent[.]" Mot. at 8 (quoting Brian T. Fitzpatrick, *An Empirical Study of Class Action Settlements and Their Fee Award*, 7 J. Empirical Legal Stud. 811, 833 (2010)). This assertion is at best misleading: the same study in fact concluded that the average fee award in all cases studied was 25.7 percent, with a median award of exactly 25 percent. Fitzpatrick, 7 J. Empirical Legal Stud. at 835. For consumer class action settlements—the better comparator here—the average and median awards were slightly lower, at 23.5 percent and 24.6 percent, respectively. *Id.* The range Class Counsel cite is particularly inapt because it includes wage-and-hour and civil rights cases, both of which typically yield awards closer to 30 percent, thus driving up the high end of the range. *Id.* Another study identified by Class Counsel reports similar results, with a survey of 125 consumer class actions showing a mean award of 25 percent and a median award of just 20 percent. Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees and Expenses in Class Action Settlements: 1993-2008*, 7 J. Empirical Legal Stud. 248, 262 (2010). A one-quarter fee award—not the one-third award Class Counsel request—is the market rate here.

The Motion does not engage with or assess any of these factors in detail, but instead relies on the general claim that "the custom and practice in class actions is to award approximately one-

third of a fund as a fee award." Mot at 7. As the authorities cited above confirm, this is an overstatement. Class Counsel cite just one Court of Appeal decision, *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43 (2008), for this proposition. Mot. at 7. The *Chavez* court indeed observed in a footnote that "fee awards in class actions average around one-third of the recovery," in turn citing a Texas federal court decision for that premise. *Chavez*, 162 Cal. App. 4th at 66 n.11. But as noted above, a general ***average*** of fee awards that are "around one-third" across ***all*** class actions (including those that raise more complex issues or provide more significant benefits) does not mean that Class Counsel have proven ***they*** deserve an award of one-third in ***this*** class action. Indeed, the court in *Chavez* itself (which was a consumer fraud action) affirmed a "final fee award" totaling "27.9 percent of the benefits" at issue. *Id.* That is significantly less—nearly $2 million less, in this case—than what Class Counsel seek here, and far closer to the 25 percent benchmark that the Court of Appeal has endorsed and that empirical evidence confirms is the norm in cases like this.

2. Class Counsel's asserted lodestar figure is inflated and does not provide a meaningful cross-check.

Although the Supreme Court permits the Court to examine Class Counsel's lodestar as a "cross-check" of the reasonableness of the percentage fee award they seek, the lodestar here is likely dramatically inflated and not useful for that purpose. *Laffitte v. Robert Half Int'l Inc.*, 1 Cal. 5th 480, 506 (2016). Class Counsel propose a lodestar of $10,833,630, with an ostensibly modest multiplier of 0.8. Mot. at 1; Coelho Decl. ¶ 43. But the course of this action reveals that Class Counsel substantially over-litigated their claims and Apple's defenses, making the proposed lodestar meaningless.

First, Class Counsel struggled to secure named Plaintiffs to prosecute this action, resulting in significant litigation delays while they identified the current class representatives. Plaintiff Walter Peters initially filed suit in June 2019, only for Class Counsel to discover the following year that Mr. Peters "lack[ed] standing." Pls.' Mot. for Leave to Amend to Substitute Plaintiff (Mar. 5, 2020). Over the course of the next six months, Class Counsel filed and withdrew a series of requests to amend their complaint to add and substitute several rounds of Plaintiffs before finally naming Jeff Torres and Diana Ismailyan.

Second, Class Counsel often took unreasonable and uncompromising discovery positions that required unnecessary negotiations and eventual Court intervention. For instance, Class Counsel attempted to depose nearly fifty Apple employees, agreeing to reduce that number to nine only after the Court ordered the parties to confer further at an Informal Discovery Conference following briefing in a joint discovery statement. *See* July 2, 2021 Joint Report re: Discovery Dispute; Aug. 12, 2021 Joint Notice of Discovery Compromise.

Third, Class Counsel hired ***ten*** separate experts who authored ***seventeen*** reports opining on issues related to class certification, dramatically and unnecessarily increasing the fees associated with expert discovery and class certification. Many of these experts offered redundant and overlapping analysis and opinions. Dr. Ernan Haruvy and Dr. Thomas Maronick, for example, conducted nearly identical consumer surveys from which they reported to draw nearly identical conclusions about the meaning and materiality of the challenged statements. Dr. Bobby Calder and Rhonda Harper also submitted reports on these same topics, both drawing conclusions based on consumer psychology about how putative class members would have viewed Apple's statements. Another class certification expert, Dr. William Eastom, authored a report that Class Counsel did not even cite in their class certification opening or reply briefs. Employing so many experts—without good reason—can only have unduly increased Class Counsel's time spent vetting experts, supervising their work, reviewing their analysis, preparing for and defending their depositions, and responding to Apple's critiques and evidentiary objections. By way of contrast, Apple retained just four experts at class certification.

While their detailed billing records are under seal and not available to Apple, these examples of Class Counsel's litigation conduct strongly suggest that the Court "must carefully review attorney documentation of hours expended" should it choose to conduct a lodestar cross-check, since "'padding' in the form of inefficient or duplicative efforts is not subject to compensation." *Ketchum v. Moses*, 24 Cal. 4th 1122, 1132 (2001). Given these circumstances, Apple respectfully submits that Class Counsel's lodestar should be substantially reduced, or that the Court should exercise its "discretion to forgo a lodestar cross-check and use other means to evaluate the reasonableness of [counsel's] requested percentage fee." *Laffitte*, 1 Cal. 5th at 506.

B. Class Counsel's Asserted Costs Are Excessive and Unsubstantiated.

Class Counsel seek nearly $1.5 million of the Gross Settlement Amount in costs but fail to explain or justify these costs' reasonableness. The Motion contains a conclusory assertion that "[t]hese costs were reasonably incurred," Mot. at 14, with an equally conclusory assertion in Class Counsel's declaration. *See* Coelho Decl. ¶ 47 ("These expenses were reasonably necessary to the litigation and were actually incurred by my office."). The expense summary appended to counsel's declaration calls this assertion into doubt, however. While some of these costs are self-explanatory, such as legal research database fees or mediation expenses, the bulk of them are either unexplained or at least partially unjustifiable.

First, over half of the claimed expenses are attributed to Plaintiffs' ten testifying experts—whose work, as noted above, was duplicative and excessive. Coelho Decl. Ex. 4. While Class Counsel note that courts typically allow recovery of "out-of-pocket expenses that 'would normally be charged to a fee paying client,'" Mot. at 14 (quoting *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994)), it is highly unlikely that most paying clients would authorize their attorneys to retain so many experts to offer such overlapping opinions.

Second, several other line items are not explained at all. For instance, Class Counsel report paying $57,000 to "AM Gjovik Consulting LLC" and $20,000 to "Strategy Team, Ltd." Coelho Decl. Ex. 4. No expert affiliated with these entities testified, and Class Counsel have not explained what services these consultants rendered, how they pertained to the litigation, or why these expenditures were reasonable and necessary (particularly with ten testifying experts already on the payroll). Further, one of these line items appears to be associated with Ashley M. Gjovik, whom Plaintiffs identified in an August 8, 2022 notice of disclosure filed with the Court pursuant to the parties' stipulated protective order. This notice lists Ms. Gjovik's occupation as "Human Rights Researcher," an area of expertise that has no connection to the allegations of false advertising at issue in this case. Indeed, Class Counsel withdrew their designation of Ms. Gjovik as an expert after Apple objected. Class Counsel also do not justify or explain $53,681.88 paid to private investigators. Coelho Decl. Ex. 4. Plaintiffs incurred these expenses in 2021 and 2022—long after they filed their initial complaint and obtained access to civil discovery—making it even more

uncertain what they were investigating and why. *See id.* Indeed, Plaintiffs' arguments at class certification all appear to have been based on either public information or information obtained from Apple in discovery, so it is inexplicable on the current record why they needed to spend such a substantial sum on investigators.

Finally, Class Counsel appear to have paid Robert Alan Leder, who was previously a named Plaintiff in this action and whom Apple deposed via videoconference as a fact witness after he withdrew from the suit, $400 in "expert fees." *Id.* Mr. Leder is not an expert and offered no expert testimony, and the basis for these fees is entirely unclear. This amount may not be a large one, but especially when combined with the other questions raised by Class Counsel's cost statement and conclusory declaration, it casts doubt on the reasonableness of their request for costs.

Apple accordingly urges the Court to reduce Class Counsel's cost request, or at least to require significant additional justification for it.

C. A $15,000 Incentive Award to Class Representatives Is Highly Unusual and Unwarranted Here.

Plaintiffs Ismailyan and Torres each request an incentive award of $15,000, 300 times the $50 maximum recovery that each Class Member could potentially receive from this settlement. There is no basis for the considerably enhanced award Plaintiffs seek here, which would compensate them at a rate of no less than $115 per hour. *See* Torres Decl. ¶ 11 (estimating that Plaintiff Torres "spent at least 100 to 125 hours on this case," for an hourly rate of $120 to $150); Ismailyan Decl. ¶ 11 (estimating that Plaintiff Torres "spent at least 115 to 130 hours on this case," for an hourly rate of about $115 to $130). Class Counsel rightly note that, under controlling law, an incentive award should be based on "(1) the risk to the class representative in commencing suit, both financial and otherwise; (2) the notoriety and personal difficulties encountered by the class representative; (3) the amount of time and effort spent by the class representative; (4) the duration of the litigation; and (5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation." Mot. at 15 (quoting *Cellphone Term. Fee Cases*, 186 Cal. App. 4th 1380, 1394-95 (2010)). These factors strongly militate against an enhanced incentive award.

As to the first and second *Cellphone Termination Fee Cases* factors, Plaintiffs experienced no risk, notoriety, or personal hardship (beyond the stresses inherent in all litigation) in filing or maintaining this lawsuit. Unlike, for example, an employee who challenges her employer's unlawful practices, there was no danger that they would experience harassment, retaliation, or a threat to their livelihood as a result of bringing suit. By way of contrast, the court in *Pike v. County of San Bernardino* authorized a $15,000 incentive award to class representatives who not only "invest[ed] an extraordinary amount of time into litigation," but also "endured harsh remarks, retaliation, and harassment from supervisors"—so much so that one of them "was forced to retire due to stress and health related problems she asserts derived from the mistreatment she suffered." 2020 WL 1049912, at *7 (C.D. Cal. Jan. 27, 2020) (applying same factors from *Cellphone Termination Fee Cases*). Pursuing an arms-length consumer fraud action is a far cry from that level of risk. As to the fourth factor, Plaintiffs were involved in this case for fewer than three years, which is hardly an exceptional period in the world of consumer class actions. Equally saliently, Plaintiffs Torres and Ismailyan did not initiate the case with Class Counsel, but only joined after the action had already been pending for over a year. And as to the final factor, Plaintiffs will receive the same monetary compensation as all other Class Members, thus enjoying the same "personal benefit" as the rest of the Class.

The Motion does not address any of these four factors and offers only a single justification under the third *Cellphone Termination Fee Cases* factor: "Plaintiffs devoted a great deal of time and work assisting counsel in the case." Mot. at 15. That is the job of a named plaintiff in any class action, and it typically justifies an incentive of no more than $5,000 or $10,000. For instance, in *Hawthorne*, the named plaintiffs "(1) submitted to interviews with class counsel; (2) located and forwarded responsive documents and information, including submitting verified responses to interrogatories, responses to requests for production, and responsive documents for production; and (3) participated in conferences with class counsel." 2015 WL 1927342, at *8. Applying the same factors as in *Cellphone Termination Fee Cases*, the court awarded $5,000 to each named Plaintiff, noting that "$5,000 is the typical enhancement award in th[e Ninth] Circuit." *Id.* (collecting cases). The services Plaintiffs here performed for the class are nearly identical to those described in

Hawthorne: they "had conversations with [their] attorneys on several occasions," "provide[d] them with information," and spent time "participating in and preparing for . . . deposition." Ismailyan Decl. ¶¶ 3-8; *see also* Torres Decl. ¶¶ 3-8 (same). Likewise, in *Cellphone Termination Fee Cases*, the Court of Appeal affirmed an incentive award of $10,000[2] for class representatives who did far more than Plaintiffs did here. The named plaintiffs in those cases not only coordinated with their lawyers and answered discovery requests, but also testified at trial and flew across the country to attend multiday evidentiary hearings and testify at public hearings before a federal agency. 186 Cal. App. 4th at 1395; *see also Golba v. Dick's Sporting Goods, Inc.*, 238 Cal. App. 4th 1251, 1272 (2015) (affirming trial court order denying $3,500 incentive award and authorizing $500 where "[t]he declaration submitted by Plaintiff in support of the motion for attorney fees does not reveal that she undertook any particular risk, had any unreimbursed expenses, or encountered any unusual difficulties in serving as class representative").

Consistent with the *Cellphone Termination Fee Cases* factors and the significant persuasive authority cited above, Apple urges the Court to grant the named Plaintiffs no more than $5,000 as a reasonable and customary incentive award.

II. CONCLUSION

For the foregoing reasons, the Court should (1) award Class Counsel no more than 25 percent of the Gross Settlement Fund in fees, (2) reduce Class Counsel's request for $1.43 million in costs, and (3) authorize an incentive award of no more than $5,000 for the named Plaintiffs.

Respectfully submitted,

Dated: March 1, 2024

COOLEY LLP

By: */s/ Michelle C. Doolin*
Michelle C. Doolin

Attorneys for Apple Inc.

[2] This award equates to approximately $14,233 in today's dollars, but as noted, it was justified by the plaintiffs' significantly more extensive publicity, testimony, and investment of time. *See CPI Inflation Calculator,* U.S. Bureau of Labor Statistics, https://www.bls.gov/data/inflation_calculator.htm.

PROOF OF SERVICE

I am a citizen of the United States and a resident of the State of California. I am employed in San Francisco County, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of 18 years and not a party to this action. My business address is Cooley LLP, 3 Embarcadero Center, 20th Floor, San Francisco, California 94111-4004. My e-mail address is mmagana@cooley.com. On March 1, 2024, I served the following documents on the parties listed below in the manner(s) indicated:

APPLE INC.'S OPPOSITION TO PLAINTIFFS' MOTION FOR ATTORNEYS' FEES, COSTS, AND CLASS REPRESENTATIVE SERVICE PAYMENTS

☒ (BY ELECTRONIC MAIL – CCP § 1010.6(a)(4)(A)) Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused such documents described herein to be sent to the persons at the e-mail addresses listed below via **CASE ANYWHERE**. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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Attorneys for Plaintiff and the Putative Class

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 1, 2024, at Richmond, California.

Monica Magana

298158044