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10  
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF SAN DIEGO, CENTRAL DIVISION**

13 ANTHONY SHAMRELL and DARYL )  
RYSZYK, Individually and on Behalf of All )  
14 Others Similarly Situated, )

15 Plaintiffs, )

16 vs. )

17 APPLE, INC., )

18 Defendant. )

) Case No. 37-2013-00055830-CU-PL-CTL

) **CLASS ACTION**

) **SUPPLEMENTAL DECLARATION OF**  
) **DEBORAH S. DIXON, ESQ. IN SUPPORT OF**  
) **PLAINTIFFS' UNOPPOSED MOTION FOR**  
) **AN ORDER (1) GRANTING PRELIMINARY**  
) **APPROVAL OF SETTLEMENT, (2)**  
) **APPROVING NOTICE PLAN, AND (3)**  
) **SETTING FINAL APPROVAL HEARING**

) Judge: Hon. Ronald L. Styn  
) Dept.: C-74  
) Date: November 1, 2019  
) Time: 2:00 p.m.

) Filed: July 2, 2013  
)  
)  
)  
)

1 I, Deborah S. Dixon, declare:

2 1. I am an attorney licensed to practice law in the State of California, and I am counsel for  
3 Plaintiffs Anthony Shamrell and Daryl Rysdyk and the putative class members (“Plaintiffs”). I have  
4 personal knowledge of the facts set forth in this declaration.

5 2. I submit this supplemental declaration in support of Plaintiffs’ Unopposed Motion for  
6 an Order (1) Granting Preliminary Approval of Settlement, (2) Approving Notice Plan, and (3) Setting  
7 Final Approval Hearing.

8 3. As discussed in my October 25, 2019 declaration at paragraph 25, based on experience,  
9 counsel’s assessment of the potential claims in this case and consideration provided, the settlement  
10 amount (“common fund”) is more than sufficient to pay the entirety of the class members’ claims, as  
11 well as the cost of Claims Administration. In addition, the settlement amount is robust enough to also  
12 cover reimbursement of costs expended by Class Counsel, as well as attorney’s fees based on lodestar,  
13 which Class Counsel will formally seek as part of a motion for attorneys’ fees to be filed after  
14 preliminary approval.

15 4. As discussed in the Motion for Preliminary Approval and October 25, 2019 Dixon  
16 Declaration, the estimated class size is approximately 500,000, based on expert Fred Schenkelberg’s  
17 calculation and recent production of Apple’s records identifying new repairs and replacements to the  
18 Class iPhones. While Plaintiffs initially believed the class size was closer to 770,000 Class iPhones,  
19 based on sales data for the Class iPhone, the records produced in August 2019 indicated substantially  
20 more repairs had been completed than originally identified.

21 5. If every owner of the estimated number of Class iPhones sought to participate in the  
22 class relief, the Common Fund is sufficient to pay every claim at \$24.00 per claim. If there are more  
23 valid claims than the estimated class size of 500,000 Class iPhones, the relief would be reduced pro-  
24 rata. Class Counsel believe it is highly unlikely the claims would be pro-rated based on the estimated  
25 size of the defect rate and number of Class iPhones potentially impacted by the defect.

26 6. The amount of consideration, \$24.00 per Class iPhone, is also appropriate, especially  
27 considering the substantial risks Plaintiffs could face in proving liability and damages at trial. (October  
28 25, 2019 Dixon Decl.¶ 20-23; Mot. at p. 9-10; 11-12.) While Plaintiffs’ expert testified in deposition

1 the Class damages based on a diminution in value would range from \$99.40 to \$194.41 depending on  
2 the Class iPhone and “launch” time compared to “date of sale”, Apple’s experts testified the Class  
3 suffered zero damages because of the existence of the warranty program. The amount ultimately  
4 agreed to in settlement is consistent with the range of damages assessed during focus groups and trial  
5 preparation and is a percentage of the theory presented by Plaintiffs. Even assuming Plaintiffs would  
6 be successful at trial, it was inevitable Apple would appeal to the Appellate Court, at least, if not  
7 beyond. And, the settlement amount is per Class iPhone, not claimant, allowing a consumer who  
8 purchased multiple defective phones, or any combination of the Class iPhones to recover *per phone* not  
9 per claimant.

10 7. As Class Counsel, it is our intention to seek reimbursement of costs expended in this  
11 litigation (estimated \$1,300,000, which includes \$530,000 in class notice alone), as well as attorneys’  
12 fees measured by lodestar, consistent with California statute and case law. A fully briefed motion for  
13 attorneys’ fees will be filed within 45 days of preliminary approval, which is also 57 days before the  
14 proposed final approval hearing. While the exact amount of attorneys’ fees is not known as of the date  
15 of this declaration, because work will be required to be completed from preliminary approval through  
16 final approval, as Class Counsel we will not seek more than 35% of the Common Fund, even if the  
17 ultimate lodestar exceeds that amount. Calculating all the costs to be reimbursed and if the Court  
18 awards full lodestar, the Common Fund is still adequate to pay all claims, attorneys’ fees, costs and  
19 Claims Administration.

20 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
21 true and correct. Executed this 1st day of November 2019, in San Diego, California.

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23   
24 \_\_\_\_\_  
Deborah S. Dixon