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Superior Court of California,  
County of San Diego  
**10/25/2019** at 05:24:26 PM  
Clerk of the Superior Court  
By Carolina Miranda, Deputy Clerk

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

ANTHONY SHAMRELL and DARYL  
RYSYDYK, Individually and on Behalf of All  
Others Similarly Situated,

Plaintiffs,

vs.

APPLE, INC.,

Defendant.

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

) **CLASS ACTION**

) **[PROPOSED] ORDER (1) GRANTING  
) PRELIMINARY APPROVAL OF CLASS  
) SETTLEMENT, (2) APPROVING NOTICE  
) PLAN, AND (3) SETTING FINAL APPROVAL  
) HEARING**

) Judge: Hon. Ronald L. Styn  
) Dept.: C-74  
) Date: November 1, 2019  
) Time: 8:30 a.m.

) Filed: July 2, 2013

1 Before the Court is the Unopposed Motion for Preliminary Approval of Class Action  
2 Settlement. Plaintiffs Anthony Shamrell and Daryl Rysdyk (“Plaintiffs”), individually and on behalf of  
3 the Settlement Class Members,<sup>1</sup> by and through their attorneys of record, Doyle Lowther LLP and  
4 Gomez Trial Attorneys, and Defendant Apple Inc. (“Defendant” or “Apple”), by and through their  
5 attorneys of record, O’Melveny & Myers LLP, request that the Court enter an order:

- 6 (1) preliminarily approving the Agreement, and finding that it is fair, reasonable, adequate, and  
7 the product of investigation, litigation and arm’s-length negotiation;
- 8 (2) appointing KCC as the Settlement Administrator selected and agreed to by the Parties;
- 9 (3) approving the claims, opt-out procedures, and objection procedures provided for in the  
10 Agreement;
- 11 (4) setting a Fairness Hearing on or about \_\_\_\_\_, 2020, at \_\_\_\_\_ in  
12 Department 74 of the Superior Court of the State of California, County of San Diego,  
13 Central Division.

14 Having reviewed and considered the Agreement and the Unopposed Motion for Preliminary  
15 Approval of Class Action Settlement, and having heard and considered the oral arguments of counsel,  
16 the Court makes the findings and grants the relief set forth below, preliminarily approving the  
17 Settlement contained in the Agreement upon the terms and conditions set forth in this Order. All terms  
18 and phrases in this Order shall have the same meaning as they are defined in the Agreement.

19 NOW, THEREFORE, IT IS HEREBY ORDERED:

- 20 1. The Court preliminarily approves the settlement terms set forth in the Agreement as fair,  
21 reasonable, and adequate, and the product of investigation, litigation, and arm’s-length negotiation,  
22 subject to final consideration at the Fairness Hearing provided for below.
- 23 2. KCC, the Settlement Administrator selected and agreed to by the Parties, is appointed as  
24 the Settlement Administrator.
- 25 3. The Notice of Settlement, attached to the Agreement as Exhibits B, C, D, and E, shall be  
26 implemented by KCC. KCC shall send out the Notice of Settlement to Class Members, in the manner

27 \_\_\_\_\_  
28 <sup>1</sup> The capitalized terms used in this Preliminary Approval Order shall have the meanings and/or  
definitions given to them in the Settlement Agreement, or if not defined therein, the meanings and/or  
definitions given to them in this Preliminary Approval Order.

1 and form approved by this Court, no later than thirty (30) days after the Court enters the Preliminary  
2 Approval Order.

3 4. Prior to the Fairness Hearing (defined herein), Class Counsel and Defendants shall cause  
4 to be filed with the Court an appropriate affidavit or declaration with respect to complying with the  
5 Notice Plan that will be submitted to the Court.

6 5. A hearing (the “Fairness Hearing”) shall be held before this Court on \_\_\_\_\_,  
7 2020, at \_\_\_\_\_, in Department 74 of the Superior Court of California, County of San Diego, to  
8 determine:

- 9 a. whether the terms set forth in the Agreement are fair, reasonable, adequate, and in  
10 the best interests of the Settlement Class;
- 11 b. whether a Final Order and Judgment, as provided for in the Agreement, should be  
12 entered granting final approval of the settlement; and
- 13 c. whether, and in what amount, attorneys’ fees, costs and expenses, and Class  
14 Representative incentive awards, should be paid to an account established and/or  
15 directed by Class Counsel for distribution.

16 The Court may adjourn and/or continue the Fairness Hearing without further notice to the Class  
17 Members.

18 6. Each Person desiring to exclude themselves from the settlement shall timely submit, via  
19 U.S. Mail, written notice of such intent to the designated address. The written notice must clearly  
20 manifest the intent to be excluded from the settlement, and must be signed by the Settlement Class  
21 Member, or the Settlement Class Member’s parent or guardian (if the Settlement Class Member is a  
22 minor). Signature by an authorized representative of the Settlement Class Members is also acceptable  
23 if proper and adequate documentation of the authorization accompanies the opt-out. To be effective,  
24 written notice must be postmarked by the Settlement Opt-Out Deadline, which shall run for no more  
25 than 60 days after the entry of the Preliminary Approval Order.

26 7. All Settlement Class Members who do not request to be excluded from the settlement  
27 shall be bound by the terms of the Agreement, the Final Order and Judgment entered thereon, and all  
28 Orders entered by the Court in connection with the settlement terms set forth in the Agreement. All

1 Persons who submit valid and timely notices of their intent to be excluded from the settlement shall  
2 neither receive any benefits, nor be bound by the terms of the Agreement.

3 8. Class Members who wish to submit a Claim for any benefit under the Agreement, as to  
4 which a Claim is required, shall do so in accordance with the requirements and procedures set forth in  
5 the Agreement. All Class Members who qualify for any benefit under the Agreement as to which a  
6 Claim is required, but fail to submit a Claim therefor in accordance with the requirements and  
7 procedures of the Agreement, shall be forever barred from receiving any such benefit, but will in all  
8 other respects be subject to and bound by the provisions of the Agreement, the releases contained  
9 therein, and the Final Order and Judgment.

10 9. Each Class Member desiring to object to the settlement shall submit a timely written  
11 statement by first-class United States Mail, postage paid, to the Settlement Administrator that describes  
12 the Class Member's objection in specific terms and the reasons for any such objection, including any  
13 evidence and legal authority the Class Member wishes to bring to the Court's attention and any  
14 evidence the Class member wishes to introduce in support of his or her objection, as well as the Class  
15 Member's name, email and postal addresses, and telephone number, and information demonstrating  
16 that the Class Member is entitled to be included as a Member of the Class. To be timely, written notice  
17 of an objection in the format above must be mailed to the Settlement Administrator thirty (30) days  
18 before the date of the Fairness Hearing.

19 10. All discovery and pretrial proceedings in this Action are stayed and suspended until  
20 further order of this Court.

21 11. Pending the final determination of the fairness, reasonableness, and adequacy of the  
22 terms set forth in the Agreement, no Class Member, either directly, representatively, or in any other  
23 capacity, shall institute, commence, or prosecute any of the Released Claims in any action or  
24 proceeding in any court or tribunal.

25 12. Neither the Agreement, nor the terms contained therein, nor any act performed or  
26 document executed pursuant to or in furtherance of the Agreement or the settlement: (a) is or may be  
27 deemed to be, or may be used as an admission of, or evidence of, the validity or lack thereof of any  
28 Released Claim, or of any wrongdoing or liability of Defendants; or (b) is or may be deemed to be, or

1 may be used as an admission of, or evidence of, any fault or omission of Defendants, in any civil,  
2 criminal, or administrative proceeding in any court, administrative agency, or other tribunal.

3       13.     In the event the Court does not grant final approval of the Agreement, or the Agreement  
4 is terminated in accordance with its terms, the Settling Parties shall be restored to their respective  
5 positions in the Action, except that all scheduled litigation deadlines shall be reasonably extended so as  
6 to avoid prejudice to any Settling Party or litigant. In such event, the terms and provisions of the  
7 Agreement shall have no further force and effect with respect to the Settling Parties, and shall not be  
8 used in the Action or in any other proceeding for any purpose, and any judgment or order entered by  
9 the Court in accordance with the terms of the Agreement shall be treated as vacated, nunc pro tunc.

10  
11  
12 **IT IS SO ORDERED.**

13  
14 Dated: \_\_\_\_\_

\_\_\_\_\_  
Honorable Judge Ronald L. Styn  
Superior Court Judge