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FILED
Clerk of the Superior Court

JUL 17 2020

By: K. Mulligan, Clerk

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

ANTHONY SHAMRELL and DARYL
RYSDYK, 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 GRANTING FINAL
) APPROVAL OF CLASS ACTION
) SETTLEMENT AND ENTERING
) JUDGMENT

) Judge: Hon. Ronald L. Styn
) Dept.: C-74

) Filed: July 2, 2013

1 Before the Court is the Unopposed Motion for Final Approval of Class Action Settlement.
2 Plaintiffs Anthony Shamrell and Daryl Rysdyk (“Plaintiffs”), individually and on behalf of the
3 Settlement Class Members, by and through their counsel; and Defendant Apple Inc. (“Defendant”), by
4 and through its counsel, request that the Court enter an order:

- 5 (1) finding that the Settlement Agreement is fair, reasonable, adequate and the product of
6 investigation, litigation and arm’s-length negotiations;
- 7 (2) granting final approval of the Settlement Agreement;
- 8 (3) granting Plaintiffs’ request for incentive awards, distributed as follows:
 - 9 a. \$10,000 to Plaintiff Anthony Shamrell; and
 - 10 b. \$10,000 to Plaintiff Daryl Rysdyk
- 11 (4) granting attorneys’ fees of \$7,000,000.00 to be awarded to Class Counsel;
- 12 (5) granting reimbursement of costs to Class Counsel in the amount of \$844,706.26; and
- 13 (6) payment of all notice and claims administration costs to KCC, Claims Administrator; and
- 14 (7) approving any *cy pres* remaining funds be provided to the Rose Foundation for distribution
15 after approval by this Court.

16 Having reviewed and considered the Settlement Agreement and the Motion for Final Approval
17 of Class Action Settlement (“Motion”), having considered all submissions and heard all arguments of
18 counsel with respect to the Motion, and GOOD CAUSE APPEARING, the Court FINDS as follows:

- 19 1. WHEREAS, Plaintiffs and Defendant entered into a Settlement Agreement, dated
20 October 25, 2019.
- 21 2. WHEREAS, on December 9, 2019, the Court entered an Order preliminarily approving
22 the Settlement (“Preliminary Approval Order”), that, among other things:
 - 23 a. Preliminarily approved the Agreement as fair, reasonable, and adequate, and the
24 product of investigation, litigation, and arm’s-length negotiations (subject to final
25 consideration at the Final Approval Hearing);
 - 26 b. Appointed KCC, LLC (“KCC”), the Administrator selected and agreed to by the
27 Defendant;

1 c. Approved the claims, opt-out, and objection procedures provided for by the
2 Agreement; and

3 d. Ordered a Fairness Hearing before this Court on ~~March 20, 2020 at 2:00 p.m.~~ **July 17, 2020 at 9:00 AM**, in
4 Department 74 of the Superior Court of the State of California, County of San
5 Diego, Central Division.

6 3. WHEREAS, the Notice of Settlement ordered by the Court in its Preliminary Approval
7 Order has been provided to the Settlement Class, as attested to in the Declaration of Jay Geraci of
8 KCC, filed with the Court on February 27, 2020.

9 4. WHEREAS, Plaintiffs' Counsel provided the Court with declarations, and oral and
10 written evidence explaining to the Court the nature and magnitude of the claims in question, the
11 defenses to those claims, the nature of the investigation that had been conducted to determine the
12 number of class members, the specific information obtained through ample discovery and independent
13 research by Plaintiffs' Counsel that may affect the Plaintiffs' claims, the factors that were considered
14 in assessing the potential recovery for purposes of settlement, and the basis for concluding that the
15 consideration being paid for the release of the claims represents a reasonable compromise.

16 5. WHEREAS, on ~~March 20, 2020~~ **July 17, 2020**, a hearing was held on whether the settlement terms set
17 forth in the Agreement were fair, reasonable, adequate, in the best interests of the Class, such hearing
18 date being a due and appropriate number of days after such notice to the Class and the requisite
19 number of days after such notice.

20 6. WHEREAS, the Court has given considerable weight to the competency and integrity
21 of counsel and the involvement of a neutral mediator in assuring the Court that the settlement
22 represents an arm's length transaction entered without self-dealing or other potential misconduct.

23 7. WHEREAS, the Court has an understanding of the amount that is in controversy and
24 the realistic range of outcomes of the litigation, and is independently satisfied that the consideration
25 being received for the release of the Class Members' claims is reasonable in light of the strengths and
26 weaknesses of the claims and the risks of the particular litigation, and that the settlement is not
27 collusive.

1 NOW, THEREFORE, having reviewed and considered the submissions presented with respect
2 to the terms set forth in the Agreement and the record in these proceedings, having heard and
3 considered the evidence presented by the Parties and the arguments of counsel, having determined that
4 the terms set forth in the Agreement are fair, reasonable, adequate, and in the best interests of the
5 Class, and GOOD CAUSE APPEARING THEREFORE, IT IS HEREBY ORDERED AND
6 ADJUDGED as follows:

7 1. The Court hereby incorporates by reference all definitions set forth in the Agreement, as
8 if those terms were defined herein, except where otherwise defined.

9 2. This Court has jurisdiction over the subject matter of the Action and over all Parties to
10 the Action, including all members of the Class.

11 3. The form, content, and method of dissemination of the Notice of Settlement given to the
12 Class were adequate and reasonable, and constituted the best notice practicable under the
13 circumstances. The notice, as given, provided valid, due, and sufficient notice of the proposed
14 settlement, the terms and conditions set forth in the Agreement, and these proceedings to all Persons
15 entitled to such notice, and said notice fully satisfied the requirements of California Rules of Court,
16 Rule 3.766(e) and (f), and due process.

17 4. Pursuant to this Court's Preliminary Approval Order, and as certified by the Court's
18 order granting class certification, for the purposes of settling the Released Claims against Defendant in
19 accordance with the Agreement, the following Persons are Class Members for purposes of the Order:

20 *iPhone 4 and 4S Class*

21 All California Citizens who purchased one or more iPhone 4 or 4S smartphones from
22 Apple or a third-party retailer, from June 24, 2010 thru October 10, 2011 for the
23 iPhone 4, and from October 11, 2011 through September 20, 2012 for the iPhone 4S,
24 and whose sleep/wake (power) button stopped working or worked intermittently
25 during a one year period from date of purchase.

26 *iPhone 5 Class*

27 All California citizens who purchased one or more iPhone 5 smartphones from Apple
28 or a third-party retailer prior to April 1, 2013, and whose sleep/wake (power) button
stopped working or worked intermittently during a three year period from date of
purchase.

Excluded from both classes are persons whose Class iPhone was repaired or replaced
by Apple due to a non-working sleep/wake button.

1 5. Excluded are those Persons who submit timely and valid requests for exclusion from the
2 settlement ("Settlement Opt-Outs"). Settlement Opt-Outs shall neither share in the distribution of the
3 Settlement Fund nor receive any benefits of the terms of the Agreement, and shall not be bound by this
4 Judgment Order.

5 6. Plaintiffs and Plaintiffs' Counsel fairly and adequately represented the interests of all
6 Class Members in connection with the settlement terms set forth in the Agreement.

7 7. There were no objections to the Agreement.

8 8. Upon entry of this Order, compensation to the Class Members shall be effectuated
9 pursuant to the terms of the Agreement.

10 9. Plaintiffs, Defendant, and the Class Members shall consummate the settlement
11 according to the terms of the Agreement. The Agreement, including each and every term and
12 provision thereof, shall be deemed incorporated herein as if explicitly set forth in this Order and shall
13 have the full force and effect of an order of this Court, except as may be otherwise explicitly stated by
14 this Order.

15 10. As soon as practicable, Plaintiffs are hereby ordered to dismiss their cases with
16 prejudice. Class Counsel has already agreed, in joining the underlying Agreement, to dismiss
17 Plaintiffs' cases with prejudice upon entry of this Judgment.

18 11. Each Released Claim of each Class Member is hereby extinguished as against the
19 Released Persons. Plaintiffs and each Participating Settlement Class Member shall be deemed
20 conclusively to have compromised, settled, discharged, and released the Released Claims against
21 Defendant upon the terms and conditions provided in the Settlement Agreement. Participating Class
22 Members are deemed to have released and forever discharged Defendant from any and all of Plaintiffs'
23 Released Claims, except for enforcement of the Settlement Agreement.

24 12. Defendant is deemed to have fully, finally, and forever released, relinquished, and
25 discharged Plaintiffs, the Class Members, Plaintiffs' Counsel, from all claims based upon or arising out
26 of the institution, prosecution, assertion, settlement or resolution of the Action or the Released Claims,
27 except as set forth in the Agreement.

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1 13. Having reviewed and considered all petitions and arguments raised by counsel for
2 Plaintiffs' incentive awards separate and apart from the other terms of the Agreement, and all other
3 relevant submissions in the record, and in recognition of the Plaintiffs' efforts on behalf of the
4 Settlement Class, the Court hereby approves Plaintiffs' unopposed request for the payment of incentive
5 awards to Class Representatives in the total of \$20,000, in addition to any recovery that Plaintiffs may
6 receive under the settlement, distributed as follows:

7 a. \$10,000 to Plaintiff Anthony Shamrell;

8 b. \$10,000 to Plaintiff Daryl Rysdyk.

9 14. Having considered all petitions and arguments submitted and raised by Plaintiffs'
10 Counsel for attorneys' fees, costs, and expenses separate and apart from other terms of the Agreement,
11 and all other relevant submissions in the record, the Court approves Plaintiffs' request for the payment
12 of attorneys' fees to Plaintiffs' Counsel in the sum of \$7,000,000 and reimbursement of costs to
13 Plaintiffs' Counsel in the amount of \$844,706.26.

14 15. Having considered all petitions and arguments submitted and raised by Plaintiffs'
15 Counsel, and all other relevant submissions in the record, the Court approves payment to KCC as
16 Claims Administrator in the total amount of \$997,251.30 for class notice, settlement notice and
17 settlement Claims Administration.

18 16. This "Judgment" is intended to be a final disposition of the above-captioned action in its
19 entirety and is intended to be immediately appealable.

20 17. Notwithstanding paragraph 15, this Court shall retain jurisdiction with respect to all
21 matters related to the administration and consummation of the settlement, and any and all claims,
22 asserted in, arising out of, or related to the subject matter of the lawsuit, including but not limited to all
23 matters related to the settlement and the determination of all controversies relating thereto.

24 18. This Court will retain jurisdiction to approve the distribution of any *cy pres* funds
25 following the proposal and implementation of the protocol of the Rose Foundation as submitted to this
26 Court.

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1 19. In the event the Effective Date does not occur, this Judgment Order shall be rendered
2 null and void and shall be vacated and, in such event, as provided in the Agreement, this Judgment and
3 all orders entered in connection herewith shall be vacated and null and void.

4 20. The Court directs the Clerk to enter Judgment.

5 IT IS SO ORDERED.

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7 Dated: JUL 17 2020



Honorable Ronald L. Styn
Superior Court Judge

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