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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 VICKY MALDONADO AND JUSTIN
18 CARTER, individually and on behalf of
themselves and all others similarly situated,
19
20 Plaintiffs,

21 v.

22 APPLE INC., APPECARE SERVICE
COMPANY, INC., AND APPLE CSC, INC.
23
24 Defendants.

No. 3:16-cv-04067-WHO

Related Case:
English v. Apple Inc. et al.
Case No. 3:14-cv-01619-WHO

STIPULATION AND ~~PROPOSED~~
ORDER RE SECOND DISTRIBUTION

[Civil L.R. 6-2]

Judge: William H. Orrick
Courtroom: 2, 17th Floor

Complaint Filed: July 20, 2016

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14 *Justin Carter*

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1 Under Civil Local Rule 6-2, Plaintiffs Vicky Maldonado and Justin Carter (“Plaintiffs”) and
2 Defendants Apple Inc., AppleCare Service Company, Inc., and Apple CSC Inc. (collectively,
3 “Apple” and together with Plaintiffs, “the parties”) stipulate as follows:

4 WHEREAS, on April 29, 2022, the Court approved the parties’ Settlement (ECF No. 340);

5 WHEREAS, the parties’ Settlement Agreement provided that payments to Class Members
6 must be cashed or redeemed within 90 days from the date those payments are transmitted to them,
7 either by digital payment, ECF deposit, or paper check (ECF No. 321-1 ¶ 49);

8 WHEREAS, the Settlement Administrator began distributing payments on August 29, 2022
9 (Declaration of Michella Kras (“Kras Decl.”) ¶ 4);

10 WHEREAS, on three occasions, the parties have stipulated to extend the deadline to allow
11 Class Members to claim, cash, and redeem their payments; each extension has resulted in more
12 class members cashing or redeeming their payments; and the parties have continued to confer on
13 distribution and notice mechanisms designed to increase the claims rate (*see* ECF No. 343; ECF
14 No. 345; ECF No. 347);

15 WHEREAS, after the second extension, the claims administrator sent paper checks to Class
16 Members;

17 WHEREAS, starting on March 20, 2023, paper checks were sent to approximately 1.6
18 million Class Members that the Settlement Administrator had physical addresses for and who had
19 not claimed their digital payment (Kras Decl. ¶ 5);

20 WHEREAS, on May 30, 2023, the parties stipulated to extend the deadline for distribution
21 and redemption of payments to give the parties and the claims administrator additional time to send
22 another email to Class Members, to reissue checks to Class Members who had requested them, and
23 to give Class Members additional time to claim, cash, and/or redeem their payments (ECF No.
24 346);

25 WHEREAS, although August 30, 2023, was the deadline to redeem payments, thousands of
26 Class Members continued to cash their checks after the deadline (Kras Decl. ¶ 6; Declaration of
27 Scott DiCarlo (“DiCarlo Decl.”) ¶ 5);

1 WHEREAS, on November 9, 2023, by agreement of the parties and to provide an
2 accounting to the Court, Epiq voided all outstanding checks (Kras Decl. ¶ 7; DiCarlo Decl. ¶ 5);

3 WHEREAS, as of November 14, 2023, 31% of the Class has cashed or redeemed their
4 payments totaling \$22,049,341.70 (1,054,356 of 3,391,532 Class Members) (Kras Decl. ¶ 8;
5 DiCarlo Decl. ¶ 6);

6 WHEREAS, after all administrative costs are paid, which to date total \$3,470,479.20, there
7 will be \$41,179,486.07 left in the Settlement Fund (Kras Decl. ¶ 9; DiCarlo Decl. ¶ 7);

8 WHEREAS, the parties believe that extending the deadline for all Class Members to
9 redeem payments will not significantly increase the claims rate (Kras Dec. ¶ 10);

10 WHEREAS, given the amount left in the Settlement Fund, the parties agree that a second
11 distribution to all Class Members who previously claimed their payment is appropriate and will
12 ensure that most of the Settlement Fund is distributed to the Class (Kras Dec. ¶ 11);

13 WHEREAS, in accordance with paragraph 51 of the Settlement Agreement, the parties
14 agree to make a second distribution to all Class Members who previously claimed their payment,
15 by issuing that second payment in the same form that the Class Members claimed their original
16 payment, either paper check or digital payment as outlined in paragraphs 49 and 50 of the
17 Settlement Agreement (Kras Decl. ¶ 12);

18 WHEREAS, as several Class Members failed to cash their check before the August 30,
19 2023, deadline, but have since reached out to Class Counsel or the Settlement Administrator to be
20 sent a new check or form of payment, the parties agree to include in the second distribution any
21 Class Members who failed to cash their checks or redeem their payments, and who have or will
22 reach out to Class Counsel or the Settlement Administrator before or while the second distribution
23 is being made (Kras Decl. ¶ 13);

24 WHEREAS, the parties agree to expend additional administrative costs of \$1,227,000 to
25 effectuate the second distribution (Kras Decl. ¶ 14);

26 WHEREAS, a breakdown of those administrative costs are included in the attached
27 Declaration of Scott DiCarlo, and include approximately \$650,000 in postage costs, \$412,000 in
28 check printing costs, and \$165,000 of hourly time including handling class member

1 communication, project management, and ongoing project maintenance costs through the stale date
2 of the new checks (DiCarlo Decl. ¶ 8);

3 WHEREAS, the second distribution amount, after all administrative costs are paid, will be
4 approximately \$39,952,486.07 distributed to class members collectively, or an additional amount
5 of approximately \$26.18 per device, which along with the original distribution will result in total
6 compensation of approximately \$40.63 per device (Kras Decl. ¶ 15; DiCarlo Decl. ¶ 8);

7 WHEREAS, to avoid requesting another extension, and to account for the estimated 6-week
8 time period that it will take for Epiq to issue the second distribution to class members following
9 submission of this stipulation, the parties agree that the deadline for Class Members to redeem their
10 payment shall be six months from the date of filing the stipulation (Kras Decl. ¶ 16);

11 WHEREAS, the parties agree that a second distribution is, at this juncture, the most
12 practical and feasible way to ensure that as much of the Settlement Fund as possible will be
13 claimed by members of the Class, and thus, a third distribution is unwarranted (Kras Decl. ¶ 17);

14 WHEREAS, in accordance with paragraph 52 of the Settlement Agreement, Plaintiffs have
15 proposed, and Apple does not object, that after the second distribution is complete and after all
16 administrative costs have been paid, the remaining amount in the Settlement Fund shall be
17 distributed to a *cy pres* recipient, the Consumer Federation of America (Kras Decl. ¶ 18);

18 WHEREAS, Plaintiffs assert that the Consumer Federation of America is a research,
19 advocacy, education, and service organization dedicated to protecting the rights of consumers,¹
20 which is consistent with the Ninth Circuit's requirement for nationwide class actions that the *cy*
21

22
23 ¹ <https://consumerfed.org/>. The Consumer Federation of America articulates its mission
24 statement as follows:

25 “CFA promotes consumer protection by advocating for strong laws and regulations,
26 working for trade agreements that provide real benefits for consumers and do not
27 weaken their rights, encouraging good business practices, supporting consumers’
ability to complain and obtain redress, and educating consumers about their rights
and how to avoid fraud and abuse. CFA’s Consumer Protection Institute conducts
research and brings experts together to address consumer protection issues.”

28 <https://consumerfed.org/issues/consumer-protection/>.

1 *pres* award be directed to an organization whose activities have nationwide impact and whose
2 focus is aligned with the nature of the lawsuit and interests of the class members (Kras Decl. ¶ 19);

3 WHEREAS, the parties do not make this request for delay or any other improper purpose
4 (Kras Decl. ¶ 20).

5 THEREFORE, IT IS HEREBY AGREED AND STIPULATED, subject to the Court’s
6 approval, that a second distribution be made to all Class Members who have previously claimed
7 their payment, that the deadline to claim, cash and/or redeem the second distribution is May 15,
8 2024, and after the second distribution is complete, the remaining funds shall be distributed to the
9 Consumer Federation of America.

10 DATED: November 15, 2023

HAGENS BERMAN SOBOL SHAPIRO LLP

11 By /s/ Steve W. Berman
12 Steve W. Berman
13 *Attorneys for Plaintiffs*
Vicky Maldonado and Justin Carter

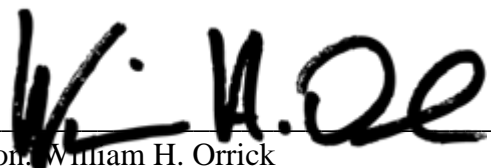
14 DATED: November 15, 2023

PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP

15 By /s/ Meredith R. Dearborn
16 Meredith R. Dearborn
17 *Attorneys for Defendants*
18 *Apple Inc., AppleCare Service Company,*
Inc., and Apple CSC Inc.

19
20 PURSUANT TO STIPULATION, IT IS SO ORDERED. The Final Post-Distribution
21 Accounting required by the Northern District Class Action Settlement Guidance is due by **June**
24, 2024.

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23 Date: November 16, 2023

24 
25 Hon. William H. Orrick
26 United States District Judge

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ECF ATTESTATION

I, Steve W. Berman, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that Meredith Dearborn, counsel of record for Defendants, has concurred in this filing.

Dated: November 15, 2023 HAGENS BERMAN SOBOL SHAPIRO LLP

By: /s/ Steve W. Berman
Steve W. Berman
Attorneys for Plaintiffs
Vicky Maldonado and Justin Carter