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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION
13

14 IN RE APPLE INC. SECURITIES
15 LITIGATION

Civil Action No. 4:19-cv-02033-YGR

DEFENDANTS' MOTION TO DISMISS

16 Date: March 3, 2020
17 Time: 2:00 p.m.
18 Judge: Honorable Yvonne Gonzalez Rogers
Ctrm: 1, 4th Floor

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NOTICE OF MOTION AND RELIEF REQUESTED

PLEASE TAKE NOTICE that on March 3, 2020, at 2:00 p.m., or at such later date and time as the Court may order, Defendants Apple Inc. (“Apple” or the “Company”), Timothy Cook, and Luca Maestri (the “Individual Defendants,” and collectively with Apple, “Defendants”), will move the Court pursuant to Federal Rule of Civil Procedure (“Rule”) 12(b)(6) and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4 (the “PSLRA”), for an order dismissing Lead Plaintiff’s (“Plaintiff”) Consolidated and Amended Class Action Complaint for Violation of the Federal Securities Laws (the “CAC”). Defendants’ motion is based on this Notice of Motion; the Memorandum of Points and Authorities below; the accompanying Request for Judicial Notice and exhibits attached thereto; the accompanying Proposed Order; the Court’s files; and oral argument of counsel at the hearing.

STATEMENT OF ISSUES TO BE DECIDED

1. Whether Plaintiff’s claim for violation of Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78j(b) (“Section 10(b)”), and Securities and Exchange Commission (“SEC”) Rule 10b-5, 17 C.F.R. § 240.10b-5 (“Rule 10b-5”), should be dismissed because the CAC:

- a. Constitutes impermissible puzzle pleading and fails to conform with the pleading requirements of Rule 8.
- b. Fails to plead any actionably false or misleading statement, and thus fails to plead the element of “falsity.”
- c. Fails to plead particularized facts giving rise to a strong inference that Defendants made a false or misleading statement with a fraudulent state of mind, and thus fails to plead the element of “scienter.”
- d. With respect to certain categories of alleged misstatements and omissions, fails to plead facts showing that Apple’s stock price declined because of the materialization of a previously concealed risk, and thus fails to plead the element of “loss causation.”

2. Whether Plaintiff’s claim for violation of Section 20(a) of the Exchange Act, 15

1 U.S.C. § 78t(a) (“Section 20(a)”), should be dismissed because the CAC fails to plead a primary
2 violation of Section 10(b).

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