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APPLE INC.

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**UNITED STATES DISTRICT COURT**

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**NORTHERN DISTRICT OF CALIFORNIA**

14

**OAKLAND DIVISION**

15

16 CHRIS SMITH, CHERYL SMITH, KAREN  
SMITHSON, JASON ROUSH, COREY  
17 POMROY, FRANK ORTEGA, LESLIE WHITE,  
ALBERTO CORNEA, MICHELLE ROGERS,  
18 JOSHUA BAYS, DEBORAH CLASS and  
AMBER JONES, individually and on behalf of all  
19 other similarly situated individuals,

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Plaintiffs,

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v.

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APPLE INC.,

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Defendant.

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Case No. 4:21-cv-09527 HSG

**APPLE INC.'S NOTICE OF  
MOTION AND MOTION TO  
DISMISS PLAINTIFFS' FIRST  
AMENDED COMPLAINT;  
MEMORANDUM OF POINTS  
AND AUTHORITIES IN  
SUPPORT THEREOF**

Date: November 10, 2022

Time: 2:00 p.m.

Dept.: Courtroom 2 – 4th Floor

Judge: Hon. Haywood S. Gilliam, Jr.

Am. Compl. Filed: March 28, 2022

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**NOTICE OF MOTION AND MOTION TO DISMISS**

TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on November 10, 2022, at 2:00 p.m., or as soon thereafter as the matter may be heard, before the Honorable Haywood S. Gilliam, Jr. in Courtroom 2, in the United States District Court, Northern District of California, Oakland Division, 1301 Clay Street, Oakland, CA 94612, Defendant Apple Inc. (“Apple”) will and hereby does move to dismiss Plaintiffs Chris Smith, Cheryl Smith, Karen Smithson, Jason Roush, Corey Pomroy, Frank Ortega, Leslie White, Alberto Cornea, Michelle Rogers, Joshua Bays, Deborah Class, and Amber Jones’s (collectively, “Plaintiffs”) claims pursuant to Federal Rules of Civil Procedure 12(b)(1) for lack of standing and 12(b)(6) for failure to state a claim upon which relief can be granted.

This motion is based upon this Notice of Motion and Motion, the Memorandum of Points and Authorities in support thereof, the Request for Judicial Notice in Support of the Motion to Dismiss Plaintiffs’ First Amended Complaint filed concurrently herewith, the Declaration of Alexis A. Amezcua in Support of the Motion to Dismiss Plaintiffs’ First Amended Complaint filed concurrently herewith, all other pleadings and papers on file herewith, and such other argument and evidence as may be presented to the court.

Dated: April 27, 2022

MORRISON & FOERSTER LLP

By: /s/ Alexis A. Amezcua  
ALEXIS A. AMEZCUA

Attorneys for Defendant  
APPLE INC.

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