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20 **UNITED STATES DISTRICT COURT**  
 21 **NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

22 IN RE: APPLE INC. DEVICE  
 23 PERFORMANCE LITIGATION

Case No. 5:18-md-02827-EJD

24 This Document Relates to:  
 25 ALL ACTIONS

**NOTICE OF MOTION AND MOTION  
 FOR PRELIMINARY APPROVAL OF  
 PROPOSED SETTLEMENT;  
 MEMORANDUM OF POINTS AND  
 AUTHORITIES IN SUPPORT THEREOF**

Judge: Hon. Edward J. Davila  
 Courtroom: 4, 5th Floor  
 Date: April 3, 2020  
 Time: 1:30 p.m.

28

**NOTICE OF MOTION AND MOTION**

**TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that on April 3, 2020, at 1:30 p.m., in Courtroom 4 of the United States District Court for the Northern District of California, Robert F. Peckham Federal Building & United States Courthouse, 280 South First Street, San Jose, California 95113, the Honorable Edward J. Davila, presiding, Named Plaintiffs<sup>1</sup> will and hereby do move for an Order pursuant to Rule 23 of the Federal Rules of Civil Procedure (“Rule”): (i) preliminarily approving the proposed Settlement; (ii) certifying a class for settlement purposes (“Settlement Class”); (iii) approving the form and manner of notice to the Settlement Class; (iv) approving the selection of the Settlement Administrator; and (iv) scheduling a Final Hearing before the Court.

The proposed Settlement is within the range of what is fair, reasonable, and adequate such that notice of its terms may be disseminated to Settlement Class Members and a Final Hearing to finally approve the proposed Settlement scheduled.

This motion is based upon this Notice of Motion and Motion, the Memorandum of Points and Authorities set forth below, the accompanying Joint Declaration of Joseph W. Cotchett and Laurence D. King in Support of Plaintiffs’ Motion for Preliminary Approval of Proposed Settlement, dated February 28, 2020 (“Joint Declaration”), and the exhibits attached thereto, the Stipulation of Settlement dated February 28, 2020 (“Stipulation” or “Settlement”), and the exhibits attached thereto, the pleadings and records on file in this Action, and other such matters and argument as the Court may consider at the hearing of this motion.

**STATEMENT OF ISSUES TO BE DECIDED**

1. Whether the proposed Settlement is within the range of fairness, reasonableness, and adequacy as to warrant: (a) the Court’s preliminary approval; (b) certification of a Settlement Class for settlement purposes; (c) the dissemination of Notice of its terms to Settlement Class Members; and (d) setting a hearing date for final approval of the Settlement as well as application of attorneys’ fees, service awards, and reimbursement of expenses;

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<sup>1</sup> All capitalized words are defined in the Stipulation unless otherwise noted.

1           2.       Whether the proposed Notice adequately apprises the Settlement Class Members of  
2 the terms of the Settlement and their rights with respect to it;

3           3.       Whether the selection of Angeion Group as Settlement Administrator should be  
4 approved;

5           4.       Whether the proposed Plan to Allocate Settlement proceeds should be preliminarily  
6 approved; and

7           5.       Whether the Claim Forms are sufficient.

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