

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

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Chaim Lerman, individually and on behalf of	:	
others similarly situated,	:	
Plaintiffs,	:	
	:	
v.	:	15-cv-07381 (SJ) (LB)
	:	
Apple Inc.,	:	
Defendant.	:	
	:	
-----	X	

DEFENDANT APPLE INC.’S OPPOSITION TO PLAINTIFFS’ MOTION
FOR AWARD OF ATTORNEYS’ FEES AND REIMBURSEMENT
OF LITIGATION EXPENSES TO CLASS COUNSEL AND
SERVICE AWARDS TO THE PLAINTIFFS

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PRELIMINARY STATEMENT

Defendant Apple Inc. (“Apple”) agrees with the plaintiffs that the Proposed Settlement¹ is fair, reasonable, and adequate, and it respectfully requests that this Court approve it at the upcoming fairness hearing. (*See* ECF No. 156.) For all of the reasons Apple previously explained, while Apple vigorously denies that it did anything wrong, and it agreed to resolve this case solely to avoid the expenses, uncertainties, delays, and other risks inherent in continued litigation, the Proposed Settlement should be approved. (*Id.* at 3.) The Proposed Settlement is the product of extensive, arms-length negotiations facilitated by an experienced mediator and former federal Magistrate Judge, and the Proposed Settlement provides substantial, non-reversionary monetary compensation to the plaintiffs and the putative class through a claims-made settlement structure. Apple, however, is compelled to object to the plaintiffs’ Motion for Award of Attorneys’ Fees and Reimbursement of Litigation Expenses to Class Counsel and Service Awards to the Plaintiffs (the “Motion”) (ECF Nos. 161-1, 161-2) in certain respects, discussed below.

First, Apple respectfully requests that the Court award Class Counsel attorneys’ fees of thirty percent of the Settlement Fund, rather than the 33 and 1/3 percent Class Counsel requested. Courts in this Circuit have held thirty percent is appropriate where the settlement amount—like here—is between \$10 and \$20 million. *See, e.g., Pearlman v. Cablevision Sys. Corp.*, 2019 WL 3974358, at *3 (E.D.N.Y. Aug. 20, 2019) (stating that it is “common” to have a thirty percent award where the settlement fund is between \$10 million and \$50 million). That thirty percent is reasonable is clear: that is what Class Counsel and each named plaintiff agreed to in their engagement letters. Without this reduction, Class Counsel’s windfall will be almost the same as

¹ Capitalized terms not defined herein have the same meaning as in the Settlement Agreement and Release (the “Proposed Settlement,” ECF No. 155-3).

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