

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CARL BARRETT, *et al.*,

Plaintiffs,

v.

APPLE, INC., *et al.*,

Defendants.

Case No. 5:20-cv-04812-EJD

**[PROPOSED] ORDER
APPROVING FEE,
EXPENSE, AND SERVICE AWARD
APPLICATION**

Judge: Edward J. Davila

WHEREAS, this matter is before the Court on Class Counsel’s Fee, Expense, and Service Award Application (“Application”).

WHEREAS, the Court has considered all matters submitted to it in connection with the Application, including the Joint Declaration of Joseph P. Guglielmo, Nyran Rose Rasche, and Anthony F. Fata filed on September 10, 2024, and the exhibits thereto, and Class Counsel’s Motion and Memorandum of Law in Support of Class Counsel’s Application, filed September 10, 2024;

WHEREAS, the Court-approved form of Notice disseminated in this matter advised Settlement Class Members that Class Counsel intended to submit an Application in which they would apply for an award of attorneys’ fees in an amount not to exceed one-third of the Settlement Fund, and for reimbursement of litigation expenses in an amount not to exceed \$700,000, plus an award of \$10,000 per named Plaintiff totaling no more than \$40,000; and that all Class Members had the right to submit to the Court objections to the Fee and Expense Application or any portion thereof, by following procedures set forth in the Notice;

WHEREAS, the Court has considered all materials submitted in connection with the Fee and Expense Application, and reviewed the relevant standards and factors for assessing the fairness and reasonableness of the requested Application.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1 1. This Order incorporates by reference the definitions in the Stipulation and
2 Agreement of Settlement dated April 2, 2024 (ECF No. 266) (“Stipulation”) and all capitalized
3 terms not otherwise defined herein shall have the same meanings as set forth in the Stipulation.

4 2. The Court has jurisdiction to enter this Order and over the subject matter of the
5 Action and all Parties to the Action, including all Settlement Class Members.

6 3. Class Counsel is hereby awarded as attorneys’ fees a sum equal to ___% of the
7 Settlement Amount, plus \$ _____ in litigation expenses (both amounts to be
8 paid from the Settlement Fund), together with any interest thereon for the same time period at the
9 same rate as that earned on the Settlement Fund until paid pursuant to the terms set forth in the
10 Stipulation. The Court finds that the amount of fees hereby awarded is fair, reasonable, and
11 appropriate, after taking into consideration, *inter alia*:

- 12 a. the results achieved by Class Counsel for the benefit of the Class, notably
13 the creation of an all-cash \$35 million Settlement Fund;
- 14 b. the significant litigation risks involved in pursuing the action, in terms of
15 establishing both liability and damages, as well as in terms of collectability
16 even assuming that Plaintiffs were to ultimately prevail on the merits at trial,
17 such that absent Settlement there was a high risk that Plaintiffs and the Class
18 would have recovered little or nothing from the Defendants after trial;
- 19 c. the complexity of the claims alleged, and the perseverance, diligence, and
20 expertise required from Class Counsel;
- 21 d. the fully contingent nature of the representation;
- 22 e. fee awards in similar cases, and the exceptional circumstances warranting
23 an upward departure of the Ninth Circuit’s benchmark;
- 24 f. the time and effort expended by Class Counsel to the litigation and
25 settlement of the Claims, which involved 16,662.5 hours of attorney and
26 paraprofessional time with a combined lodestar value of \$11,701,465;
- 27 g. consideration of “lodestar cross-check,” which indicates that the requested
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1 fee (or \$11.65 million before interest) equates to an unexceptional
2 multiplier of .99 on the value of Class Counsel’s above-referenced
3 combined lodestar; and,

4 h. the reaction of the Class, including that [no] [no more than ____] Class
5 Members have objected to the requested fees or expense.

6 4. The Court also finds that the requested expenses are reasonable in amount and are
7 for expenses of a type (*e.g.*, filing fees, electronic legal research fees, expert fees, mediation fees)
8 that are customarily awarded in class action cases of this type.

9 5. Such fees and expenses may be paid out of the Settlement Fund to Class Counsel
10 at any time after entry of this Order, notwithstanding the existence of any timely filed objections
11 thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof,
12 provided, however, that such payments shall be subject to all of terms, conditions, and obligations
13 are expressly incorporated herein.

14 6. The named Plaintiffs Nancy Martin, Michel Polston, Andrew Hagene and Maria
15 Rodriguez are hereby awarded \$_____ for their service as representatives of the Class,
16 which sum the Court finds to be fair and reasonable.

17 7. Any appeal or any challenge affecting the finality of the Court’s order approving
18 the Application shall in no way disturb or affect the finality of the Court’s Judgment approving the
19 Settlement, or any other judgment that may be entered in this Action.

20 **SO ORDERED this ____ of _____, 2024**

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EDWARD J. DAVILA
United States District Judge
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