

EXHIBIT B

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CARL BARRETT, MICHEL POLSTON,
NANCY MARTIN, MICHAEL
RODRIGUEZ, MARIA RODRIGUEZ, No.
and ANDREW HAGENE, 5:20-cv-04812-EJD
individually and on behalf of
All Others Similarly
Situated,
Plaintiffs,
v.
APPLE, INC., a California
corporation; APPLE VALUE
SERVICES, LLC; and DOES 1
through 10, Inclusive,
Defendants.

VOLUME II
REMOTE VIDEOTAPED DEPOSITION OF NANCY MAY MARTIN
Taken in behalf of Defendants
February 24, 2023

1 BE IT REMEMBERED THAT, the remote videotaped
2 deposition of NANCY MAY MARTIN was reported by
3 Aleshia K. Macom, Oregon CSR No. 94-0296,
4 Washington CCR No. 2095, California CSR No.
5 7955, RMR, CRR, RPR, on Friday, February 24,
6 2023, commencing at the hour of 9:04 a.m. EST,
7 the witness appearing at North Port, Florida.
8

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ALSO PRESENT: Robert Guier - Videographer

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1 Apple's customer service number; is that right?

2 A. No. I knew it was not their customer service
3 number. I assumed it was their tech number.

4 Q. And what's the difference between a tech number
5 and a customer service number?

6 A. Customer service just sends you -- They ask you,
7 hi. How are you today? How may we help you?
8 You know, you tell them the problem. Okay. We
9 need to transfer you to this department or that
10 department. And that's what happened.

11 Q. And why did you think the number on your screen
12 was Apple's tech number?

13 MS. FLOHR: Object to form.

14 THE WITNESS: I just assumed it.

15 Q. BY MR. NILES-WEED: And how did the person on
16 the phone identify themselves as an Apple
17 employee?

18 A. I can't remember exactly how he worded it.

19 Q. Is it possible that he could have identified
20 himself as an employee of a different company?

21 MS. FLOHR: Object to form.

22 THE WITNESS: No.

23 Q. BY MR. NILES-WEED: So you're confident that he
24 identified himself as an Apple employee; is that
25 right?

1 A. Yes, I am confident.

2 Q. Did you ask to talk to his manager?

3 A. No.

4 Q. Why not?

5 A. Because number one, my mother shouldn't have
6 been left home alone. I needed to hurry up and
7 get home. I needed to also hurry up and get
8 home and get my computer fixed.

9 Q. And did you think that it was unusual that you
10 were calling Apple for a problem with your PC?

11 MS. FLOHR: Object to form.

12 THE WITNESS: No.

13 Q. BY MR. NILES-WEED: And why not?

14 MS. FLOHR: Same objection.

15 Q. BY MR. NILES-WEED: You can answer.

16 A. Because they screwed up my computer. It was
17 Apple supposedly. Why would I call anybody
18 else? I'm calling whoever -- Okay. If you were
19 in a car accident and you go to call the guy
20 that hits you three doors down --

21 MS. FLOHR: Nancy, you answered his
22 question, Nancy.

23 Q. BY MR. NILES-WEED: I'm sorry, Nancy. Can you
24 repeat that? I didn't hear it. Your attorney
25 was speaking.

1 Q. BY MR. NILES-WEED: And if you don't live in
2 California, do you believe you can bring a
3 lawsuit under California law?

4 MS. FLOHR: Object to form, calls for a
5 legal conclusion.

6 Nancy, you can answer if you can.

7 THE WITNESS: Yes, I do.

8 Q. BY MR. NILES-WEED: And do you know what
9 conversion is?

10 A. No.

11 MS. FLOHR: Object to form.

12 Q. BY MR. NILES-WEED: You can answer.

13 A. I said no.

14 Q. So I'm going to have Ms. Le pull up and mark as
15 Exhibit 28 a document that I'll represent to you
16 are screenshots from an internal Apple system
17 that keeps track of when people contact Apple.
18 It will be up in just a second.

19 And I'm going to have Ms. Le zoom in because
20 the text is a little small.

21 Do you see the top up there, in the top left
22 where it says "Nancy Martin"?

23 A. Yes.

24 Q. And then sort of two columns to the right,
25 towards the right side of the page do you see a

1 phone number and an e-mail address?

2 A. Yes.

3 Q. And you told me that one of the phone numbers
4 you've used is 941-301-6439; is that right?

5 A. Correct.

6 Q. And one of the e-mail addresses you've used is
7 ninal9709@aol.com; is that right?

8 A. Yeah. I've had that e-mail address ever since
9 I've been on e-mail.

10 Q. So this record has your name, your phone number
11 and your e-mail address; is that correct?

12 A. Uh-huh.

13 Q. I'm going to have you look below where the
14 e-mail address is, there's a box that says case.
15 Do you see the word "case" on top of a circle
16 with the number five?

17 A. Yep.

18 Q. So if you look at the list below that, there's a
19 series of cases with dates. Do you see those
20 dates, that line of dates there?

21 A. Yes.

22 Q. And the top date is 01-06-2023. Do you see
23 that?

24 A. Yes.

25 Q. And the next date is 09-04-2019?

1 A. Yes.

2 Q. And then below that do you see that there's
3 another date in 2019 and a couple of other dates
4 in 2018?

5 A. Yes.

6 Q. And I'll represent that these are tracking
7 occasions where the person associated with the
8 account, that is you here, has contacted Apple.
9 Do you see any dates in there from 2020?

10 A. No.

11 Q. But all of the things we've been talking about
12 here, this incident happened in 2020; is that
13 right?

14 MS. FLOHR: Object to form.

15 THE WITNESS: I don't -- No. I believe it
16 all was in 2019.

17 Q. BY MR. NILES-WEED: And so how many -- Strike
18 that.

19 You said you contacted Apple between eight
20 and ten times after the incident happened,
21 but --

22 A. Correct.

23 Q. Do you see here eight to ten entries associated
24 with contacts?

25 MS. FLOHR: Object to form.

1 THE WITNESS: Of course not.

2 Q. BY MR. NILES-WEED: Why not? Why not?

3 MS. FLOHR: Object to form.

4 Only if you know.

5 Q. BY MR. NILES-WEED: You can answer.

6 A. I don't know the answer to that.

7 Q. So then looking at these five cases, do you see
8 that there's a little number and a text with
9 each one? Do you see that?

10 A. Yes.

11 Q. First one says "Cancellation of YouTube." The
12 second one says "update inquiry." The third one
13 says "iPhone." The fourth one says "iPhone."
14 The third one said "Set up do not disturb." Do
15 you see all of those?

16 A. Yes.

17 Q. And would you agree that none of those appear to
18 refer to your contacts in connection with the
19 incident here?

20 MS. FLOHR: Object to form.

21 You can answer.

22 Q. BY MR. NILES-WEED: You can answer.

23 A. I believe it was the 19, the 9-4-19, 9-4 -- All
24 the ones from 9-4 of '19. Because I know the
25 one, the top one for the cancellation of

1 YouTube, my grandson did that one. I know that.
2 And I know I did not -- I doubt that I had an
3 iPhone of 12 of '18. I think that was my
4 grandson also. But yes. On the 9-4 -- And it's
5 funny because Sarah, I got that phone call and
6 Ms. Pedal, that's the date that she gave me.

7 Q. I'm sorry. Who gave you that date?

8 A. My banker.

9 Q. Gave you the date of 9-4-19?

10 A. That's when this all took place. And it should
11 really be -- Well, this is only telling you when
12 I called in. But yes, there are three things on
13 my bank statement for 9-4 of 2019 for Publix.

14 Q. And you have that bank statement?

15 A. I don't have it with me right now. No. My
16 banker just informed me that she found it.

17 Q. And so we could actually scroll down and there's
18 a little more detail about each of these
19 contacts.

20 Ms. Le, if you can scroll down. And so
21 we'll go -- Keep scrolling.

22 So here you see in the bottom right there's
23 the 9-4-19 date?

24 A. Yes.

25 Q. And so I'll represent that this is a more

1 detailed information about that communication.
2 And then we'll scroll down. And do you see
3 where it says "Summary" on the left there near
4 the top?

5 A. Yes.

6 Q. And if you look down a little bit, it says,
7 "Caller Nancy Martin." Do you see that?

8 A. Yes.

9 Q. And then it has your phone number and your
10 e-mail; is that right?

11 A. Yes.

12 Q. And then it says a couple lines down, "Affected
13 product, iPhone 8 Plus." Do you see that?

14 A. Yes.

15 Q. And then a couple lines above that it says
16 "Resolution: Resolved -- Unexpected product
17 behavior (bug)."

18 A. Yes.

19 Q. Is it possible that you called Apple on 9-4-19
20 about a bug with an iPhone?

21 A. No.

22 MS. FLOHR: Object to form.

23 THE WITNESS: No. Now, that could have been
24 my grandson. He could have done that. Because
25 his phone at that time, all my children's phones

1 and my grandchildren's phones were under my name
2 and my e-mail.

3 Q. BY MR. NILES-WEED: So that record could have
4 been your grandson contacting Apple about an
5 iPhone bug; is that right?

6 A. Yeah. Because that's all he's ever had from
7 iPhone from day one. You know, these kids, they
8 got the top notch stuff. Me, no.

9 Q. How old was your grandson in 2019?

10 A. Let me see. Hold on. I got to think. You're
11 asking me a hard question. Let me see. He was
12 20 years old.

13 Q. Okay. So now we're going to go back to the
14 first page where we started and go back to that
15 list of cases. And you see the one, it says
16 "iPhone 9-4-19"? So is it possible that that
17 wasn't referring to a call about the gift card
18 issue and was instead your grandson calling
19 about an iPhone?

20 MS. FLOHR: Object to form.

21 Answer only if you know.

22 THE WITNESS: No, because my bank has
23 already confirmed. No.

24 Q. BY MR. NILES-WEED: Would you be surprised if
25 Apple didn't have a record of you contacting

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C E R T I F I C A T E

I, Aleshia K. Macom, Oregon CSR No. 94-0296, Washington CCR No. 2095, California CSR No. 7955, RMR, CRR, RPR, do hereby certify that NANCY MAY MARTIN remotely appeared before me at the time and place mentioned in the caption herein; that the witness was by me first duly sworn on oath, and examined upon oral interrogatories propounded by counsel; that said examination, together with the testimony of said witness, was taken down by me in stenotype and thereafter reduced to typewriting; and that the foregoing transcript, pages 145 to 257, both inclusive, constitutes a full, true and accurate record of said examination of and testimony given by said witness, and of all other proceedings had during the taking of said deposition, and of the whole thereof, to the best of my ability. I further certify review of the transcript was not requested.

Witness my hand at Vancouver, Washington, this 7th day of March, 2023.



Aleshia K. Macom