

1 Erin Green Comite (*pro hac vice*)
Joseph P. Guglielmo (*pro hac vice*)
2 **SCOTT+SCOTT**
ATTORNEYS AT LAW LLP
3 The Helmsley Building
230 Park Avenue, 17th Floor
4 New York, NY 10169-1820
Telephone: (212) 223-6444
5 Facsimile: (212) 223-6334
ecomite@scott-scott.com
6 jguglielmo@scott-scott.com

7 John T. Jasnoch (Bar No. 281605)
Hal D. Cunningham (Bar. No. 243048)
8 Sean C. Russell (Bar No. 308962)
Victoria L. Burke (Bar No. 278676)
9 **SCOTT+SCOTT**
ATTORNEYS AT LAW LLP
10 600 W. Broadway, Suite 3300
San Diego, CA 92101
11 Telephone: (619) 233-4565
12 Facsimile: (619) 233-0508
jjasnoch@scott-scott.com
hcunningham@scott-scott.com
13 srussell@scott-scott.com
vburke@scott-scott.com

14 *Attorneys for Plaintiffs*

15 [Additional counsel on signature page.]

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17 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
18 **OAKLAND DIVISION**

19 FUMIKO LOPEZ, FUMIKO LOPEZ, as
20 guardian of A.L., a minor, LISHOMWA
HENRY, JOSEPH HARMS, JOHN TROY
21 PAPPAS, and DAVID YACUBIAN
individually and on behalf of all others
22 similarly situated,

23 Plaintiffs,

24 v.

25 APPLE INC.,

26 Defendant.

ISABELLE L. ORD (Bar No. 198224)
isabelle.ord@dlapiper.com
DLA PIPER LLP (US)
555 Mission Street, Suite 2400
San Francisco, CA 94105-2933
Tel: 415.836.2500
Fax: 415.836.2501

RAJ N. SHAH (*pro hac vice*)
raj.shah@dlapiper.com
ERIC M. ROBERTS (*pro hac vice*)
eric.roberts@dlapiper.com
DLA PIPER LLP (US)
444 West Lake Street, Suite 900
Chicago, IL 60606-0089
Tel: 312.368.4000
Fax: 312.236.7516

Attorneys for Defendant APPLE INC.

Case No.: 4:19-cv-04577-JSW

STIPULATION AND ~~PROPOSED~~
ORDER TO MODIFY CASE
MANAGEMENT SCHEDULE

1 Pursuant to Civil Local Rule 6-2, Plaintiffs Fumiko Lopez, Fumiko Lopez, as guardian of
2 A.L., a minor, John Troy Pappas, and David Yacubian (“Plaintiffs”) and Defendant Apple Inc.
3 (“Apple”) (collectively, the “Parties”), through their undersigned counsel, respectfully submit this
4 stipulated request to extend the current class certification-related and mediation deadlines in the
5 Court’s case management schedule for the reasons set forth below:

6 **WHEREAS**, on November 29, 2023, this Court entered the third amended scheduling order,
7 which set the close of fact discovery deadline and various class certification-related deadlines. *See*
8 ECF No. 160;

9 **WHEREAS**, fact discovery closed on December 1, 2023, except for specific and discrete
10 matters. *Id.* & ECF No. 156-2;

11 **WHEREAS**, the Parties continue to work cooperatively to complete discovery in
12 accordance with Magistrate Judge Kim’s Order on Pending Discovery Disputes issued on February
13 5, 2024 (ECF No. 202, the “February 5 Order”);

14 **WHEREAS**, the current deadline for Plaintiffs’ expert reports is March 1, 2024, and the
15 deadline for Plaintiffs’ motion for class certification is March 15, 2024. ECF No. 160. Dates also
16 are set for Apple’s expert reports (May 3, 2024), opposition to class certification (May 17, 2024),
17 and Plaintiffs’ rebuttal expert reports and reply in support of class certification (July 3, 2024). *Id.*
18 The hearing on Plaintiffs’ class certification motion is set for July 26, 2024. *Id.* The revised case
19 management order also sets a deadline of June 7, 2024 to complete mediation. *Id.* No other
20 deadlines have been set. *Id.*;

21 **WHEREAS**, the Parties, through their respective counsel, have met and conferred regarding
22 the deadlines in the existing case management schedule, and respectfully request a modification of
23 the class certification-related and mediation case management deadlines, as proposed in the chart
24 below;

25 **WHEREAS**, there is good cause to extend the existing case management schedule because
26 the Parties have been diligent in working through the limited discovery matters that remain
27 outstanding, including those expressly addressed in the Court’s February 5 Order.

28

1 **WHEREAS**, the Parties agree that the following list of discovery matters includes all of the
2 matters that, pursuant to this extension, may be conducted after March 1, 2024 and completed by
3 April 15, 2024 (“Forthcoming Discovery”):

- 4 1) The Parties shall cooperatively carry out the sampling proposal adopted by
5 the Court in paragraph 1 of the February 5 Order, ECF No. 202 at 2;
- 6 2) Apple will comply with Paragraph 3 of the February 5 Order, *id.*;
- 7 3) Plaintiffs may complete the deposition specified in Paragraph 3 of the
8 February 5 Order, *id.*; and
- 9 4) Plaintiffs may complete the deposition specified in Apple’s August 25, 2023
10 correspondence and Plaintiffs’ October 23, 2023 response thereto.

11 **WHEREAS**, Plaintiffs contend, and Apple disagrees, that there are discrete potential
12 discovery disputes pertaining to (a) Apple’s privilege log; and (b) Apple’s objections to Plaintiffs’
13 Second Set of Interrogatories to Apple that, pursuant to this extension, the Parties may continue to
14 negotiate after March 1, 2024, and, to the extent necessary, the Parties will submit these disputes to
15 the Court via Joint Discovery Letter no later than April 15, 2024. No other dispute that, prior to
16 March 1, 2024, was the subject of any meet-and-confer, submission to the Court, or motion shall be
17 raised after March 1, 2024, except as to any new discovery dispute that may arise as to Forthcoming
18 Discovery;

19 **WHEREAS**, there have been three prior extensions of the class certification-related
20 deadlines. *See* ECF Nos. 102, 118, 160;

21 **WHEREAS**, the Parties have sought seven other limited extensions of time related to non-
22 class certification deadlines, most of which have been stipulated. *See* ECF No. 26 (stipulated 45-
23 day extension for Apple to respond to the initial complaint); ECF No. 44 (stipulated deadline for
24 Plaintiffs to file the amended complaint and for Apple to respond); ECF Nos. 66-69 (stipulated 15-
25 day extension for Plaintiffs to file the second amended complaint (“SAC”) and stipulated deadline
26 for Apple to respond); ECF No. 81 (stipulated 14-day extension for Apple to answer the SAC); ECF
27 No. 90 (vacating ADR deadline); and ECF No. 115 (vacating settlement conference deadline);

28

1 **WHEREAS**, this requested extension is not made for the purpose of delay, promotes judicial
 2 efficiency, and will not cause prejudice to the respective Parties and no case management issues or
 3 inefficiencies for the Court will arise because no other deadlines for the filing of dispositive motions
 4 or trial have been set;

5 **NOW, THEREFORE, IT IS HEREBY STIPULATED** by and between the Parties, by
 6 and through their respective counsel, and respectfully requested that the following case management
 7 deadlines be modified as set forth below:

Event	Current Deadlines	Proposed Deadlines
Deadline to Complete Fact Discovery except Forthcoming Discovery	December 1, 2023	Same
Plaintiffs' Deadline to Serve Expert Reports in Support of Class Certification	March 1, 2024	April 30, 2024
Motion for Class Certification	March 15, 2024	May 17, 2024
Apple's Deadline to Serve Expert Reports in Opposition to Class Certification	May 3, 2024	July 3, 2024
Opposition to Motion for Class Certification	May 17, 2024	July 19, 2024
Plaintiffs' Reply in Support of Class Certification and Deadline to Serve Rebuttal Expert Reports, if any	July 3, 2024	August 30, 2024
Last Day to Complete Mediation	June 7, 2024	September 27, 2024
Hearing regarding Class Certification	July 26, 2024, at 9:00 a.m.	To be scheduled according to Court's schedule. October 11, 2024
Plaintiffs' Deadline to Serve Merits Expert Reports	A further case management conference shall be held within a reasonable time after a ruling on the class	A further case management conference shall be held within a reasonable time after a ruling on the class
Apple's Deadline to Serve Merits Expert Reports		

Event	Current Deadlines	Proposed Deadlines
Plaintiffs' Deadline to Serve Rebuttal Expert Reports	certification motion to establish a schedule for closing fact discovery, completing pretrial expert disclosures, and any additional dispositive motion briefing.	certification motion to establish a schedule for closing fact discovery, completing pretrial expert disclosures, and any additional dispositive motion briefing.
Close of Expert Discovery		
Last day to hear Motion for Summary Judgment	To be scheduled according to Court's schedule.	To be scheduled according to Court's schedule.
Pre-Trial Conference	To be scheduled according to Court's schedule.	To be scheduled according to Court's schedule.
Trial	To be scheduled according to Court's schedule.	To be scheduled according to Court's schedule.

Dated: February 29, 2024

Respectfully submitted:

By:

By:

/s/ Erin Green Comite

/s/ Isabelle Ord

Erin Green Comite (*pro hac vice*)
Joseph P. Guglielmo (*pro hac vice*)

ISABELLE L. ORD (Bar No. 198224)
isabelle.ord@dlapiper.com

**SCOTT+SCOTT
ATTORNEYS AT LAW LLP**
The Helmsley Building
230 Park Avenue, 17th Floor
New York, NY 10169-1820
Telephone: (212) 223-6444
Facsimile: (212) 223-6334
ecomite@scott-scott.com
jguglielmo@scott-scott.com

DLA PIPER LLP (US)
555 Mission Street, Suite 2400
San Francisco, CA 94105-2933
Tel: 415.836.2500
Fax: 415.836.2501

John T. Jasnoch (Bar No. 281605)
Hal D. Cunningham (Bar. No. 243048)
Sean C. Russell (Bar No. 308962)
Victoria L. Burke (Bar No. 278676)
**SCOTT+SCOTT
ATTORNEYS AT LAW LLP**
600 W. Broadway, Suite 3300
San Diego, CA 92101
Telephone: (619) 233-4565
Facsimile: (619) 233-0508
jjasnoch@scott-scott.com
hcunningham@scott-scott.com
srussell@scott-scott.com
vburke@scott-scott.com

RAJ N. SHAH (*pro hac vice*)
raj.shah@dlapiper.com
ERIC M. ROBERTS (*pro hac vice*)
eric.roberts@dlapiper.com
DLA PIPER LLP (US)
444 West Lake Street, Suite 900
Chicago, IL 60606-0089
Tel: 312.368.4000
Fax: 312.236.7516

Attorneys for Defendant APPLE INC.

1 Vincent Briganti (*pro hac vice*)
Christian Levis (*pro hac vice*)
2 Andrea Farah (*pro hac vice*)
LOWEY DANNENBERG, P.C.
3 44 South Broadway, Suite 1100
White Plains, NY 10601
4 Telephone: (914) 997-0500
Facsimile: (914) 997-0035
5 vbriganti@lowey.com
clevis@lowey.com
6 afarah@lowey.com

7 Mark N. Todzo (Bar No. 168389)
Patrick Carey (Bar No. 308623)
8 **LEXINGTON LAW GROUP**
503 Divisadero Street
9 San Francisco, CA 94117
Telephone: (415) 913-7800
10 Facsimile: (415) 759-4112
mtodzo@lexlawgroup.com
11 pcarey@lexlawgroup.com

12 E. Kirk Wood (*pro hac vice* forthcoming)
WOOD LAW FIRM
13 P. O. Box 382434
Birmingham, AL 35238
14 Telephone: (205) 612-0243
kirk@woodlawfirmllc.com

15 *Attorneys for Plaintiffs*
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17
18
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21
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CASE MANAGEMENT ORDER

The above STIPULATION AND [PROPOSED] ORDER TO MODIFY CASE MANAGEMENT SCHEDULE is approved as the Case Management Order for this case and all Parties shall comply with its provisions.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: March 1, 2024



HON. JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE