

1 Lee Shalov (admitted *pro hac vice*)
lshalov@mclaughlinstern.com
2 Brett Gallaway (admitted *pro hac vice*)
bgallaway@mclaughlinstern.com
3 Jason Scott Giaimo (admitted *pro hac vice*)
jgiaimo@mclaughlinstern.com
4 **McLAUGHLIN & STERN, LLP**
5 260 Madison Avenue
New York, New York 10016
6 Tel: (212) 448-1100
7 Fax: (212) 448-0066

8 Kimberly A. Kralowec (CA Bar No. 163158)
kkralowec@kraloweclaw.com
9 Kathleen Styles Rogers (CA Bar No. 122853)
krogers@kraloweclaw.com
10 **KRALOWEC LAW, P.C.**
11 3132A 24th Street
San Francisco, California 94110
12 Tel: (415) 546-6800
13 Fax: (415) 546-6801

14 Attorneys for Plaintiffs and the Class

Julie Dunne (CA Bar No. 160544)
julie.dunne@us.dlapiper.com
Matthew Riley (CA Bar No. 257643)
matthew.riley@us.dlapiper.com
Vani Parti (CA Bar No. 308468)
vani.parti@us.dlapiper.com
DLA PIPER LLP (US)
401 B Street, Suite 1700
San Diego, California 92101
Tel: (619) 699-2700
Fax: (619) 699-2701

Mandy Chan (CA Bar No. 305602)
mandy.chan@us.dlapiper.com
Andrea Ortega (CA Bar No. 317820)
andrea.ortega@us.dlapiper.com
DLA PIPER LLP (US)
555 Mission Street, Suite 2400
San Francisco, California 94105
Tel: (415) 836-2500
Fax: (415) 836-2501

Attorneys for Defendant
APPLE INC.

16 **UNITED STATES DISTRICT COURT**

17 **NORTHERN DISTRICT OF CALIFORNIA**

18 AMANDA FRLEKIN, AARON GREGOROFF,
19 SETH DOWLING, DEBRA SPEICHER; AND
TAYLOR KALIN, on behalf of themselves and
all others similarly situated,

20 Plaintiffs,

21 v.

22 APPLE INC.,

23 Defendant.

Case No. 13cv03451-WHA (lead)
Case No. 13cv04727-WHA (consolidated)

**AMENDMENT TO STIPULATION
REGARDING CLASS AND PRIVATE
ATTORNEYS GENERAL ACT
SETTLEMENT AND RELEASE**

Pursuant to paragraph 3.7.7 of the Stipulation Regarding Class and Private Attorneys General Act Settlement and Release (hereinafter “Settlement Agreement”) dated November 11, 2021, between Plaintiffs and Apple Inc., the Parties agree to this Amendment to the Settlement Agreement, subject to the Court’s approval.

RECITALS

WHEREAS, on November 12, 2021, Plaintiffs filed their motion for preliminary approval of the Settlement Agreement (Dkt. 416);

WHEREAS, on December 28, 2021, the Court granted Plaintiffs’ motion for preliminary approval (Dkt. 431);

WHEREAS, on December 30, 2021, Apple provided the Settlement Administrator with an Employee List containing information for 14,683 individuals whom Apple had in good faith determined at that time comprised all Settlement Class Members, including that these 14,683 Settlement Class Members had collectively worked a total of 6,758,356 shifts in a non-exempt position at an Apple retail store in California during the Class Period;

WHEREAS, on January 11, 2022, the Settlement Administrator sent all 14,683 Settlement Class Members a Notice of Settlement by mail and, if available, by email;

WHEREAS, the Notices of Settlement included the recipient’s number of shifts worked in a non-exempt position at an Apple retail store in California during the Class Period, and the projected payment the recipient would receive following final approval of the Settlement Agreement;

WHEREAS, based on questions from four Settlement Class Members, and following an extensive investigation by Apple, Apple concluded that its prior calculation of the number of shifts worked by non-exempt employees at an Apple retail store in California during the Class Period did not include 203,557 shifts;

WHEREAS, the Parties have agreed to account for these undercounted shifts pursuant to the terms of this Amendment to the Settlement Agreement;

NOW, THEREFORE, the Parties hereby amend the Settlement Agreement as follows:

1. The purpose of this Amendment to the Settlement Agreement is to incorporate the

203,557 additional shifts into the Settlement Agreement.

2. The following defined terms in the original Settlement Agreement shall be modified as follows:

a. The definition of “PAGA Settlement Amount” in paragraph 1.30 of the Settlement Agreement, and that term as used throughout the Settlement Agreement, shall be increased by \$8,549.39 from \$448,500 to \$457,049.39. Assuming the Court approves this new PAGA Settlement Amount, the PAGA LWDA Payment shall be \$342,787.04 and the PAGA Settlement Class Member Payment shall be \$114,262.35.

b. The definition of “Total Settlement Amount” in paragraph 1.46 of the Settlement Agreement, and that term as used throughout the Settlement Agreement, shall be increased by \$578,508.99 from \$29,900,000 to \$30,478,508.99. In addition to the Total Settlement Amount, as amended by this paragraph, Defendant shall pay the employer’s share of state and federal payroll taxes on the wage component of the Individual Class Payments.

3. The Parties agree that the net value of each shift based on the amount of Attorneys’ Fees, Litigation Costs, Settlement Administration Costs, PAGA Settlement Amount, Class Representative Payments and the Service Award requested in Plaintiffs’ motion for preliminary approval is \$2.80, and therefore Apple will pay \$2.80 for each of the 203,557 additional shifts added to the Settlement Agreement pursuant to this Amendment to the Settlement Agreement, for a total of \$569,959.60. In addition, so that the PAGA Settlement Amount is not reduced for the LWDA or for any class members, Apple will pay an additional \$8,549.39 to be added to the PAGA Settlement Amount, representing 1.5% of the additional \$569,959.60 Apple will be paying pursuant to this paragraph. The additional payments to be made by Apple pursuant to this paragraph total \$578,508.99, which sum shall be paid within ten (10) calendar days of the Effective Date pursuant to paragraph 3.6.2 of the Settlement Agreement.

4. **Supplemental LWDA Notice.** Pursuant to California Labor Code section 2699(I), Class Counsel will provide a copy of this Amendment to Settlement Agreement to the LWDA

1 concurrently with the filing of this Amendment to the Settlement Agreement with the Court. Class
2 Counsel will also file a declaration in support of the motion for final approval confirming that they
3 have submitted this Amendment to the Settlement Agreement to the LWDA in compliance with
4 California Labor Code section 2699(I). The Parties intend to and believe that the notice pursuant to
5 the procedures described in this paragraph complies with the requirements of PAGA, and the Parties
6 will request that the Court adjudicate the validity of the notice to the LWDA in the motion for final
7 approval of the Settlement.

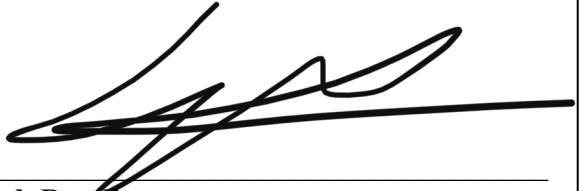
8 5. **No Impact on Amount of the Service Payment, Class Representative Payments,**
9 **Attorneys' Fees or Litigation Costs to be Sought.** Plaintiffs, Class Counsel and the other firms
10 representing Plaintiffs agree that because Apple has agreed to contribute additional sums
11 representing only the *net* value of each undercounted shift, no additional or increased Attorneys'
12 Fees or Litigation Costs will be sought from out of the additional sums Apple will be paying
13 pursuant to paragraph 3 of this Amendment.

14 6. **Final Approval Order.** In support of their motion for final approval of the
15 Settlement, Class Representatives shall request that the Court enter a Final Approval Order and
16 Judgment, substantially in the forms of **Exhibits 1 and 2** hereto, which shall replace the proposed
17 Final Approval Order and Judgment that were attached to the original Settlement Agreement as
18 Exhibits D and E.

19 7. **Electronic Signatures.** Electronic signatures may be used to execute this
20 Amendment to the Settlement Agreement.

21
22 Dated: June 23, 2022

By:


Seth Dowling

23
24
25 Dated: June __, 2022

By:

Amanda Frlekin

26
27 Dated: June __, 2022

By:

Aaron Gregoroff

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2 Counsel will also file a declaration in support of the motion for final approval confirming that they
3 have submitted this Amendment to the Settlement Agreement to the LWDA in compliance with
4 California Labor Code section 2699(I). The Parties intend to and believe that the notice pursuant to
5 the procedures described in this paragraph complies with the requirements of PAGA, and the Parties
6 will request that the Court adjudicate the validity of the notice to the LWDA in the motion for final
7 approval of the Settlement.

8 5. **No Impact on Amount of the Service Payment, Class Representative Payments,**
9 **Attorneys' Fees or Litigation Costs to be Sought.** Plaintiffs, Class Counsel and the other firms
10 representing Plaintiffs agree that because Apple has agreed to contribute additional sums
11 representing only the *net* value of each undercounted shift, no additional or increased Attorneys'
12 Fees or Litigation Costs will be sought from out of the additional sums Apple will be paying
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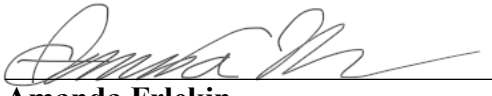
21
22 Dated: June ___, 2022

By: _____

Seth Dowling

23
24
25 Dated: June 24, 2022

By: _____


Amanda Frlekin

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By: _____

Aaron Gregoroff

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2 Counsel will also file a declaration in support of the motion for final approval confirming that they
3 have submitted this Amendment to the Settlement Agreement to the LWDA in compliance with
4 California Labor Code section 2699(I). The Parties intend to and believe that the notice pursuant to
5 the procedures described in this paragraph complies with the requirements of PAGA, and the Parties
6 will request that the Court adjudicate the validity of the notice to the LWDA in the motion for final
7 approval of the Settlement.

8 5. **No Impact on Amount of the Service Payment, Class Representative Payments,**
9 **Attorneys' Fees or Litigation Costs to be Sought.** Plaintiffs, Class Counsel and the other firms
10 representing Plaintiffs agree that because Apple has agreed to contribute additional sums
11 representing only the *net* value of each undercounted shift, no additional or increased Attorneys'
12 Fees or Litigation Costs will be sought from out of the additional sums Apple will be paying
13 pursuant to paragraph 3 of this Amendment.

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By: _____
Seth Dowling

23
24
25 Dated: June ___, 2022

By: _____
Amanda Frlekin

26
27 Dated: June 23, 2022

By: _____
Aaron Gregoroff

1
2 Dated: June 24, 2022

By: /s/ Taylor Kalin

Taylor Kalin

3
4
5 Dated: June 23, 2022

By: /s/ Debra Speicher

Debra Speicher

6
7 Dated: June 23, 2022

APPLE INC.

8
9 By: Kwang Kim

Kwang Kim
Employment Law Counsel

10
11
12 Dated: June 24, 2022

McLAUGHLIN & STERN, LLP

13 By: /s/ Lee S. Shalov

14 Lee Shalov
Lead Counsel and Class Counsel

15
16 Dated: June 24, 2022

KRALOWEC LAW, P.C.

17 By: /s/ Kimberly A. Kralowec

18 Kimberly A. Kralowec
19 Class Counsel

20 Dated: June 24, 2022

LAW OFFICES OF LOUIS GINSBERG, P.C.

21 By: /s/ Louis Ginsberg

22 Louis Ginsberg
23 Attorneys for Plaintiffs Amanda Frlekin,
24 Aaron Gregoroff, Seth Dowling, and Debra
25 Speicher

26 Dated: June 24, 2022

THE BLANCHARD LAW GROUP, APC

27 By: /s/ Lonnie C. Blanchard

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Lonnie C. Blanchard, III
Attorneys for Plaintiff Taylor Kalin

Dated: June 24, 2022

PETER R. DION-KINDEM, P.C.

By: /s/ **Peter R. Dion-Kindem**
Peter R. Dion-Kindem
Attorneys for Plaintiff Taylor Kalin

Dated: June 24, 2022

THE HOLMES LAW GROUP, APC

By: /s/ **Jeff Holmes**
Jeff Holmes
Attorneys for Plaintiff Taylor Kalin

EXHIBIT 1

Lee Shalov (admitted *pro hac vice*)
lshalov@mclaughlinstern.com
Brett Gallaway (admitted *pro hac vice*)
bgallaway@mclaughlinstern.com
Jason Scott Giaimo (admitted *pro hac vice*)
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New York, New York 10016
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krogers@kraloweclaw.com
KRALOWEC LAW, P.C.
3132A 24th Street
San Francisco, California 94110
Tel: (415) 546-6800
Fax: (415) 546-6801

Attorneys for Plaintiffs and the Class

Julie Dunne (CA Bar No. 160544)
julie.dunne@us.dlapiper.com
Matthew Riley (CA Bar No. 257643)
matthew.riley@us.dlapiper.com
Vani Parti (CA Bar No. 308468)
vani.parti@us.dlapiper.com
DLA PIPER LLP (US)
401 B Street, Suite 1700
San Diego, California 92101
Tel: (619) 699-2700
Fax: (619) 699-2701

Mandy Chan (CA Bar No. 305602)
mandy.chan@us.dlapiper.com
Andrea Ortega (CA Bar No. 317820)
andrea.ortega@us.dlapiper.com
DLA PIPER LLP (US)
555 Mission Street, Suite 2400
San Francisco, California 94105
Tel: (415) 836-2500
Fax: (415) 836-2501

Attorneys for Defendant
APPLE INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

AMANDA FRLEKIN, AARON GREGOROFF,
SETH DOWLING, DEBRA SPEICHER; AND
TAYLOR KALIN, on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

APPLE INC.,

Defendant.

Case No. 13cv03451-WHA (lead)
Case No. 13cv04727-WHA (consolidated)

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS
ACTION SETTLEMENT
AGREEMENT ECF NO. 416-2), AS
AMENDED (ECF NO. ____)**

1 Plaintiffs Seth Dowling, Aaron Gregoroff, Taylor Kalin, and Debra Speicher, on behalf of
2 themselves and each of the Settlement Class Members, and Plaintiffs Amanda Frlekin and Taylor
3 Kalin on behalf of themselves, the State of California, and the PAGA Settlement Class Members,
4 have filed a motion for final approval of the Parties' Stipulation Regarding Class and Private
5 Attorneys General Act Settlement and Release¹ in the above-referenced consolidated action.
6 Plaintiffs' motion for final approval came on regularly for hearing on July 7, 2022, in Courtroom
7 12 on the 19th Floor of the United States Courthouse located at 450 Golden Gate Avenue, San
8 Francisco, California 94102, before the Honorable William Alsup.

9 Plaintiffs and the Settlement Class Members were represented by their counsel, McLaughlin
10 & Stern, LLP and Kralowec Law, P.C. Defendant Apple Inc. ("Defendant") was represented by its
11 counsel, DLA Piper LLP (US).

12 The Court has: (1) reviewed and considered the terms and conditions of the proposed
13 Settlement; (2) reviewed and considered the results of the Notices of Settlement mailed and emailed
14 to Settlement Class Members in accordance with the Court's Order Granting Preliminary Approval
15 of Class and Private Attorneys General Act Settlement and Notice Procedures entered on December
16 28, 2021 (the "Preliminary Approval Order"); (3) reviewed and considered the motions for
17 Attorneys' Fees, Litigation Costs, Class Representative Payments, and Service Payment and held a
18 hearing on those motions; (4) held a Final Approval Hearing; (5) taken into account the presentations
19 and other proceedings at the Final Approval Hearing; and (6) considered the Settlement in the
20 context of all prior proceedings had in this Action.

21 Based thereon, the Court enters the following **FINDINGS** and **CONCLUSIONS**:

23 ¹ After the Court preliminarily approved the Parties' Settlement, the Parties entered into an
24 Amendment to Stipulation Regarding Class and private Attorneys General Act Settlement and Release dated
25 June 1, 2022 ("Amendment"), pursuant to which Apple agreed to pay an additional \$569,959.60 account for
26 an additional 203,557 shifts worked by Participating Settlement Class Members that were not included in
27 Apple's prior calculation of the number of shifts worked by such individuals. Additionally, Apple agreed to
28 increase the PAGA Settlement Amount by \$8,549.39 from \$448,500 to \$457,049.39. The Total Settlement
Amount was therefore increased by \$578,508.99 from \$29,900,000 to \$30,478,508.99. All references to
"Settlement" or "Settlement Agreement" used herein are to the Settlement as amended pursuant to the
Amendment.

1 A. Capitalized terms used in this Order that are not otherwise defined herein shall have
2 the meaning assigned to them in the Settlement Agreement.

3 B. The Court has subject-matter jurisdiction over the Action and all acts within the
4 Action, and over all the Parties to the Action, including Plaintiffs, Defendant, the State of California,
5 Settlement Class Members, and PAGA Settlement Class Members.

6 C. In the Preliminary Approval Order, the Court conditionally modified the certified
7 class definition to include the New Class Members for a revised class definition comprising the
8 “Settlement Class Members.” In response to the Notices of Settlement, 5 New Class Members
9 requested exclusion from the Settlement. Accordingly, the Court’s order preliminarily approving
10 modification of the class definition to include all New Class Members (except for the 5 New Class
11 Members who opted out of the Settlement) is now finally certified for settlement purposes. Class
12 Counsel and the appointed Class Representatives have fairly and adequately represented all
13 Settlement Class Members for purposes of negotiating and seeking approval of the Settlement.

14 D. Pursuant to the Preliminary Approval Order and according to the Declaration of
15 Steve Platt dated June 15, 2022, the appointed Settlement Administrator, Angeion Group, mailed
16 by First Class U.S. Mail a Notice of Settlement for Existing Class Members who are PAGA Class
17 Members who worked shifts during the Class Period (Dkt. 444-1, Ex. A); a Notice of Settlement for
18 Existing Class Members who are PAGA Class Members who worked no shifts during the Class
19 Period² (Dkt. 444-1, Ex. B); a Notice of Settlement for Existing Class Members who are not PAGA
20 Settlement Class Members and who worked shifts during the Class Period (Dkt. 444-1, Ex. C); a
21 Notice of Settlement for Existing Class Members who are not PAGA Class Members and who
22 worked no shifts during the Class Period (Dkt. 444-1, Ex. D); a Notice of Settlement for New Class
23 Members who worked shifts during the Class Period (Dkt. 444-1, Ex. E); and a Notice of Settlement
24 for New Class Members who worked no shifts during the class period (Dkt. 444-1, Ex. F). The
25 Settlement Administrator also emailed the Notice of Settlement in the form attached to the

26 _____
27 ² Some Settlement Class Members were employed by Apple during the Class Period, but worked no
28 shifts during that Period because, for example, they were on vacation or on leave.

1 Settlement Agreement as Exhibit A to Existing Class Members and the Notice of Settlement in the
2 form attached to the Settlement Agreement as Exhibit B to New Class Members, at the email address
3 for such individuals, if any, included in the Employee List.

4 The Notices of Settlement fairly and adequately advised Settlement Class Members of the
5 terms of the proposed Settlement, of the preliminary approval of the proposed Settlement, of their
6 right to receive their shares of the Total Settlement Amount, of the scope and effect of the Released
7 Class Claims, of Settlement Class Members' rights relating to objecting to the Settlement, of New
8 Class Members' rights relating to opting out of the Settlement, of the date of the Final Approval
9 Hearing, and of Settlement Class Members' right to appear at the Final Approval Hearing.
10 Settlement Class Members had adequate time to consider this information and to use the procedures
11 identified in the Notices of Settlement. The Court finds and determines that this notice procedure
12 afforded adequate protections to Settlement Class Members and provides the basis for the Court to
13 make an informed decision regarding approval of the Settlement based on the responses of
14 Settlement Class Members. The Court finds and determines that the Notices of Settlement provided
15 to Settlement Class Members was the best notice practicable, which satisfied the requirements of
16 law and due process.

17 E. The Court finds that Plaintiffs' notices of the proposed Settlement, and the
18 Amendment to the Settlement, submitted to the California Labor and Workforce Development
19 Agency ("LWDA") were sufficient and valid pursuant to California Labor Code section 2699(l).
20 The LWDA has not filed any document related to this Action with the Court.

21 F. The Court finds that Defendant's notice of the proposed Settlement submitted to the
22 Attorney General of the United States and the appropriate State officials fully and adequately
23 complied with the notice requirements set forth in the Class Action Fairness Act of 2005, 28 U.S.C.
24 § 1715. Neither the Attorney General of the United States nor any State official filed any document
25 related to this action with the Court. The Court concludes that Apple is not required to provide
26 notice of the Amendment to the Settlement Agreement to the relevant Attorneys General because
27 no Attorney General objected to the original settlement and the Amendment merely adds benefits
28

1 for the Settlement Class Members. *See, e.g., Smith v. Levine Leichtman*, 2014 U.S. Dist. LEXIS
2 198138 (N.D. Cal. Mar. 26, 2014) (holding that an updated notice was not required because the
3 amendments benefitted the class and the no Attorney General objected to the originally proposed
4 settlement); *Demmings v. KKW Trucking, Inc.*, 2018 U.S. Dist. LEXIS 159749 (D. Or. Sep. 19,
5 2018) (same).

6 F. In response to the Notices of Settlement, no Settlement Class Members objected to
7 the Settlement and only 5 New Class Members requested exclusion from the Settlement.

8 G. The Settlement is in all respects fair, reasonable, adequate, and proper, and in the
9 best interests of the Settlement Class Members. In reaching this conclusion, the Court considered a
10 number of factors, including: (1) the strength of Plaintiffs' claims; (2) the risk, expense, complexity,
11 and likely duration of further litigation; (3) the amount offered in settlement; (4) the extent of
12 discovery completed and the stage of the proceedings; (5) the experience and views of Class Counsel
13 and Defense Counsel; and (6) the reaction of the Settlement Class Members to the proposed
14 Settlement. The Court finds that the Settlement offers significant monetary recovery to all
15 Participating Settlement Class Members, and finds that such recovery is fair, reasonable, and
16 adequate when balanced against the risk of further litigation related to damages issues. The Court
17 further finds that counsel for the Parties engaged in extensive investigation, research, and discovery
18 such that Class Counsel and Defense Counsel were able to reasonably evaluate their respective
19 positions at the time of settlement. The Court finds that the Settlement will avoid substantial
20 additional costs by all Parties, as well as avoid the risks and delay inherent to further prosecution of
21 the Action. The Court further finds that the Settlement has been reached as the result of serious and
22 non-collusive arms-length negotiations. The Court further finds that the relief provided for under
23 PAGA is genuine, meaningful, and consistent with PAGA's underlying purpose of benefitting the
24 public. Thus, the Court finally approves the Settlement set forth in the Settlement Agreement and
25 finds that the Settlement is, in all respects, fair, reasonable, and adequate. Accordingly, the Court
26 directs the Parties to effectuate the Settlement according to its terms.

27 H. Participating Settlement Class Members (as certified below) shall be subject to all of
28

1 the provisions of the Settlement, the Settlement Agreement, and this Final Approval Order and the
2 Judgment to be entered by the Clerk of the Court, as set forth herein, including with respect to the
3 Released Class Claims.

4 On the basis of the foregoing findings and conclusions, as well as the submissions and
5 proceedings referred to above, **NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED,**
6 **and DECREED:**

7 1. Plaintiffs' motion for final approval of the Settlement is **GRANTED**. The Settlement
8 is hereby approved as fair, reasonable, adequate, and in the best interests of the Settlement Class
9 Members, and the requirements of due process and Federal Rule of Civil Procedure 23 have been
10 satisfied. The Parties are ordered and directed to effectuate the Settlement according to its terms.

11 2. The Court, having found that each of the elements of Rule 23 are satisfied, certifies
12 the following Class regarding the Class Claims: All current and former non-exempt employees of
13 Defendant who worked at an Apple retail store in California between July 25, 2009 and August 10,
14 2015 who were previously provided notice of the Action in 2015 and who did not opt out of the
15 class (*i.e.*, Existing Class Members), and all individuals who began working as a non-exempt
16 employee at an Apple retail store in California between August 3, 2015 and December 26, 2015 and
17 to whom a notice of class certification was not mailed in 2015 (*i.e.*, New Class Members).

18 3. Plaintiffs' motion for approval of Settlement Administration Costs is **GRANTED**.
19 For purposes of this Final Approval Order and this Settlement, the Court hereby confirms the
20 appointment of Angeion Group as the Settlement Administrator to administer the Settlement as more
21 specifically set forth in the Settlement Agreement, and further finally approves Settlement
22 Administration Costs, as fair and reasonable, of _____ Dollars (\$_____).

23 4. For purposes of this Final Approval Order and this Settlement, the Court hereby
24 confirms the appointment of Plaintiffs Seth Dowling, Aaron Gregoroff, Taylor Kalin, and Debra
25 Speicher (all of whom were previously appointed as Class Representatives for the Existing Class
26 Members) as the Class Representatives for the Settlement Class Members. Further, Plaintiffs'
27 motion for approval of Class Representatives Payments is **GRANTED**. The Court finally approves

1 the Class Representative Payments, as fair and reasonable, to Plaintiffs Seth Dowling, Aaron
2 Gregoroff, Taylor Kalin, and Debra Speicher in the amount of _____ Dollars
3 (\$_____) each, for the reasons stated in the Court's order granting motions for Attorneys' Fees,
4 Litigation Costs, Class Representative Payments, and Service Payment, issued herewith. The Court
5 hereby orders the Settlement Administrator to distribute the Class Representative Payments to the
6 Class Representatives in accordance with this Order and the provisions of the Settlement.

7 5. Plaintiffs' motion for approval of the Service Payment is **GRANTED**. For purposes
8 of this Final Approval Order and this Settlement, the Court finally approves the Service Payment,
9 as fair and reasonable, to Plaintiff Amanda Frlekin in the amount of _____ Dollars
10 (\$_____), for the reasons stated in the Court's order granting motions for Attorneys' Fees,
11 Litigation Costs, Class Representative Payments, and Service Payment, issued herewith. The Court
12 hereby orders the Settlement Administrator to distribute the Service Payment to Plaintiff Amanda
13 Frlekin in accordance with this Order and the provisions of the Settlement.

14 6. For purposes of this Final Approval Order and this Settlement, the Court hereby
15 extends the appointment of Class Counsel McLaughlin & Stern, LLP and Kralowec Law P.C. (with
16 Lee Shalov of McLaughlin & Stern, LLP as Lead Counsel) to also represent the New Class
17 Members, such that Class Counsel represents all Settlement Class Members for purposes of the
18 Settlement. Further, Plaintiffs' motion for approval of Attorneys' Fees is **GRANTED**. The Court
19 finally approves the payment of Attorneys' Fees in the amount of _____ Dollars
20 (\$_____) as fair and reasonable, for the reasons stated in the Court's order granting motions for
21 Attorneys' Fees, Litigation Costs, Class Representative Payments, and Service Payment, issued
22 herewith. The Attorneys' Fees shall fully satisfy all legal fees for all attorneys representing Plaintiffs
23 in the Action (including McLaughlin & Stern LLP; Kralowec Law, P.C.; the Law Office of Louis
24 Ginsberg, P.C.; the Blanchard Law Group, APC; Peter R. Dion-Kindem, P.C., and the Holmes Law
25 Group, APC). The issue of allocation of the Attorneys' Fees award is addressed in the Court's order
26 granting motions for Attorneys' Fees, Litigation Costs, Class Representative Payments, and Service
27 Payment, issued herewith. The Court's allocation of the Attorneys' Fees among the law firms that
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1 have represented Plaintiffs in the Action shall not affect the total amount of Attorneys' Fees awarded
2 in this case or require Defendant to pay more for Attorneys' Fees. No other attorneys or law firms
3 shall be entitled to any award of attorneys' fees from Defendant in any way connected with the
4 Action. The Court hereby orders the Settlement Administrator to distribute the Attorneys' Fees in
5 accordance with the provisions of this Order, the Court's order granting motions for Attorneys'
6 Fees, Litigation Costs, Class Representative Payments, and Service Payment, and the Settlement
7 Agreement.

8 7. Plaintiffs' motion for approval of Litigation Costs is **GRANTED**. For purposes of
9 this Final Approval Order and this Settlement, the Court finally approves the payment of Litigation
10 Costs in the amount of _____ Dollars (\$_____) as fair and reasonable, for the reasons
11 stated in the Court's order granting motions for Attorneys' Fees, Litigation Costs, Class
12 Representative Payments, and Service Payment, issued herewith. The Litigation Costs shall fully
13 satisfy all litigation costs incurred by the attorneys representing Plaintiffs in the Action (including
14 McLaughlin & Stern LLP; Kralowec Law, P.C.; the Law Office of Louis Ginsberg, P.C.; the
15 Blanchard Law Group, APC; Peter R. Dion-Kindem, P.C., and the Holmes Law Group, APC). The
16 issue of allocation of the Litigation Costs award is addressed in the Court's order granting motions
17 for Attorneys' Fees, Litigation Costs, Class Representative Payments, and Service Payment, issued
18 herewith. The Court's allocation of the Litigation Costs among the law firms that have represented
19 Plaintiffs in the Action shall not affect the total amount of Litigation Costs awarded in this case or
20 otherwise require Defendant to pay more for Litigation Costs. No other attorneys or law firms shall
21 be entitled to any award of costs from Defendant in any way connected with the Action. The Court
22 hereby orders the Settlement Administrator to distribute the Litigation Costs in accordance with the
23 provisions of this Order, the Court's order granting motions for Attorneys' Fees, Litigation Costs,
24 Class Representative Payments, and Service Payment, and the Settlement Agreement.

25 8. For purposes of this Final Approval Order and this Settlement, the Court hereby
26 approves the PAGA Settlement Amount in the amount of Four Hundred Fifty-Seven Thousand
27 Forty-Nine Dollars and Thirty-Nine Cents (\$457,049.39) as fair and reasonable. Pursuant to the
28

1 terms of the Settlement Agreement, seventy-five percent (75%) of the PAGA Settlement Amount
2 (*i.e.*, \$342,787.04) shall be distributed to the LWDA and twenty-five percent (25%) of the PAGA
3 Settlement Amount (*i.e.*, \$114,262.35) shall be distributed to the PAGA Settlement Class Members.
4 Payment of the PAGA Settlement Amount shall resolve all claims for civil penalties under PAGA
5 for the PAGA Claims alleged in the Action. The Court hereby orders the Settlement Administrator
6 to distribute the PAGA LWDA Payment to the LWDA and to distribute the PAGA Settlement Class
7 Member Payments to the PAGA Settlement Class Members in accordance with the provisions of
8 this Order and the Settlement Agreement.

9 9. For purposes of this Final Approval Order and this Settlement, the Court hereby
10 approves the Individual Class Payments in the aggregate amount of _____ Dollars
11 (\$_____) as fair, reasonable, and adequate. The Court hereby orders the Settlement Administrator
12 to distribute the Individual Class Payments to Participating Settlement Class Members in accordance
13 with the provisions of this Order and the Settlement Agreement.

14 10. Any checks issued to Participating Settlement Class Members or PAGA Settlement
15 Class Members shall remain valid and negotiable for one hundred and eighty (180) calendar days
16 from the date of their issuance and then shall become void on the 181st day after mailing, *i.e.*, the
17 Void Date. Any re-mailed or re-issued check shall remain valid and negotiable for one hundred
18 eighty (180) calendar days from the date the original check was mailed, or thirty (30) calendar days
19 from the date the re-issued check is re-mailed, whichever date is later. Any unclaimed funds
20 resulting from Settlement Class Members' failure to cash Individual Class Payment checks and/or
21 Individual PAGA Payment checks by the Void Date shall be transmitted by the Settlement
22 Administrator to the California Alliance of Boys & Girls Clubs, Inc. ("Boys & Girls Clubs"), with
23 the funds designated to be used in California for the Boys & Girls Clubs' Workforce Readiness
24 program/job training, within fourteen (14) calendar days of the Void Date. The Court approves the
25 Boys & Girls Clubs as an appropriate recipient of these funds. Any refunded employee-side payroll
26 taxes corresponding to the wage component of any uncashed Individual Class Payment checks shall
27 be transmitted by the Settlement Administrator to the Boys & Girls Clubs with the funds designated

1 to be used in California for Boys & Girls Clubs' Workforce Readiness program/job training, within
2 fourteen (14) calendar days of the Settlement Administrator's receipt of the refunded employee-side
3 payroll taxes. Any refunded employer-side payroll taxes corresponding to the wage component of
4 any uncashed Individual Class Payment checks shall be returned to Apple within fourteen (14)
5 calendar days of the Settlement Administrator's receipt of the refunded employer-side payroll taxes.

6 11. As of the Effective Date, Plaintiffs Seth Dowling, Aaron Gregoroff, Amanda Frlekin,
7 Taylor Kalin, and Debra Speicher shall be deemed to have provided a Complete and General Release
8 to the Released Parties.

9 12. As of the Effective Date, Plaintiffs Amanda Frlekin and Taylor Kalin – on behalf of
10 themselves, the State of California, and PAGA Settlement Class Members – shall be deemed to have
11 fully and irrevocably released the Released Parties from the PAGA Claims, as defined in the
12 Settlement Agreement. Plaintiffs Amanda Frlekin and Taylor Kalin, the State of California, and
13 PAGA Settlement Class Members will release such Released PAGA Claims for the PAGA Period,
14 *i.e.*, from July 25, 2012 through and including December 31, 2015. Plaintiffs Amanda Frlekin and
15 Taylor Kalin, the State of California, and PAGA Settlement Class Members may discover facts in
16 addition to or different from those they now know or believe to be true with respect to the subject
17 matter of the Released PAGA Claims, but upon the Effective Date, they shall be deemed to have –
18 and by operation of this Final Approval Order and the Judgment that will be entered concurrently
19 herewith, they shall have – fully, finally, and forever settled and released any and all of the Released
20 PAGA Claims. On behalf of the State of California and all PAGA Settlement Class Members,
21 Plaintiffs Amanda Frlekin and Taylor Kalin agree that, as of the Effective Date, Plaintiffs Amanda
22 Frlekin and Taylor Kalin, the State of California, and all PAGA Settlement Class Members are
23 hereby forever barred and enjoined from prosecuting the Released PAGA Claims against the
24 Released Parties. Nothing in this paragraph is intended to create a basis for imposing monetary
25 sanctions against Settlement Class Members, but rather is intended to confirm the finality of the
26 releases provided in the Settlement.

1 13. As of the Effective Date, Class Representatives and each of the Participating
2 Settlement Class Members shall be deemed to have fully and irrevocably released the Released
3 Parties from the Class Claims, as defined in the Settlement Agreement. Participating Settlement
4 Class Members will release such Released Class Claims for the Class Period, *i.e.*, from July 25,
5 2009 through and including December 31, 2015. Class Representatives and Participating Settlement
6 Class Members may discover facts in addition to or different from those they now know or believe
7 to be true with respect to the subject matter of the Released Class Claims, but upon the Effective
8 Date, they shall be deemed to have – and by operation of this Final Approval Order and the Judgment
9 that will be entered concurrently herewith, they shall have – fully, finally, and forever settled and
10 released any and all of the Released Class Claims. On behalf of all Participating Settlement Class
11 Members, Class Representatives agree that, as of the Effective Date, Class Representatives and all
12 Participating Settlement Class Members are hereby forever barred and enjoined from prosecuting
13 the Released Class Claims against the Released Parties. Nothing in this paragraph is intended to
14 create a basis for imposing monetary sanctions against Settlement Class Members, but rather is
15 intended to confirm the finality of the releases provided in the Settlement.

16 14. The terms of the Settlement Agreement, and this Final Approval Order and the
17 Judgment that will be entered concurrently herewith, are binding on Plaintiffs, the State of
18 California, Participating Settlement Class Members, and the PAGA Settlement Class Members, and
19 those terms shall have, to the fullest extent permitted by law, *res judicata* and other preclusive effect
20 in all pending and future claims, lawsuits, or other proceedings maintained by or on behalf of the
21 State of California, Participating Settlement Class Members and PAGA Settlement Class Members,
22 to the extent those claims, lawsuits or other proceedings fall within the scope of Released
23 Class Claims and/or Released PAGA Claims as set forth in the Settlement Agreement.

24 15. Neither this Final Approval Order, the Judgment, the Settlement Agreement, nor any
25 document referred to herein, nor any action taken to carry out the Settlement Agreement is, may be
26 construed as, or may be used as an admission by or against Defendant or any of the other Released
27 Parties of any fault, wrongdoing, or liability whatsoever. Nor is this Final Approval Order or the
28

Judgment a finding of the validity of any of the Class Claims or PAGA Claims in the Action or of any wrongdoing by Defendant or any of the other Released Parties. The entering into or carrying out of the Settlement Agreement, and any negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an admission or concession with regard to the denials or defenses by Defendant or any of the other Released Parties and shall not be offered in evidence against Defendant or any of the Released Parties in any action or proceeding in any court, administrative agency or other tribunal for any purpose whatsoever other than to enforce the provisions of this Final Approval Order and the Judgment, the Settlement Agreement, or any related agreement or release. Notwithstanding these restrictions, any of the Released Parties may file in the Action or in any other proceeding this Final Approval Order, the Judgment, the Settlement Agreement, or any other papers and records on file in the Action as evidence of the Settlement and to support a defense of *res judicata*, collateral estoppel, release, waiver, or other theory of claim preclusion, issue preclusion, or similar defense.

16. In the event that the Settlement does not become final and effective in accordance with the terms of the Settlement Agreement, then this Final Approval Order, the Judgment and all orders entered in connection herewith, shall be rendered null and void and be vacated. Moreover, any funds tendered by Defendant shall be returned and/or retained by Defendant consistent with the terms of the Settlement.

17. Within twenty-one (21) calendar days after the Void Date, the Parties shall file with the Court and post to the Settlement Administrator's website a post-distribution accounting setting forth: (a) the Total Settlement Amount; (b) the total number of Settlement Class Members; (c) the total number of Settlement Class Members to whom a Notice of Settlement was sent and not returned as undeliverable; (d) the number and percentage of opt-outs; (e) the number and percentage of objections; (f) the average and median recovery per Participating Settlement Class Member; (g) the largest and smallest amounts paid to Participating Settlement Class Members; (h) the methods of notice and the method of payment to Settlement Class Members; (i) the number and value of checks not cashed; (j) the amounts distributed to the cy pres recipient; (k) the Settlement

1 Administration Costs; (l) the Attorneys' Fees and Litigation Costs; and (m) the Attorneys' Fees in
2 terms of percentage of the settlement fund, and the multiplier, if any.

3 18. The terms of the Settlement Agreement, and this Final Approval Order, and
4 the Judgment that will be entered concurrently herewith, are binding on the Parties.

5 19. A compliance hearing is set for _____, 2022 at _____.

6 20. Judgment will be entered separately.

7 **IT IS SO ORDERED.**

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9 DATED: _____, 2022
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11 _____
12 Hon. William Alsup
13 United States District Judge
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EXHIBIT 2

Lee Shalov (admitted *pro hac vice*)
lshalov@mclaughlinstern.com
Brett Gallaway (admitted *pro hac vice*)
bgallaway@mclaughlinstern.com
Jason Scott Giaimo (admitted *pro hac vice*)
jgiaimo@mclaughlinstern.com
McLAUGHLIN & STERN, LLP
260 Madison Avenue
New York, New York 10016
Tel: (212) 448-1100
Fax: (212) 448-0066

Kimberly A. Kralowec (CA Bar No. 163158)
kkralowec@kraloweclaw.com
Kathleen Styles Rogers (CA Bar No. 122853)
krogers@kraloweclaw.com
KRALOWEC LAW, P.C.
3132A 24th Street
San Francisco, California 94110
Tel: (415) 546-6800
Fax: (415) 546-6801

Attorneys for Plaintiffs and the Class

Julie Dunne (CA Bar No. 160544)
julie.dunne@us.dlapiper.com
Matthew Riley (CA Bar No. 257643)
matthew.riley@us.dlapiper.com
Vani Parti (CA Bar No. 308468)
vani.parti@us.dlapiper.com
DLA PIPER LLP (US)
401 B Street, Suite 1700
San Diego, California 92101
Tel: (619) 699-2700
Fax: (619) 699-2701

Mandy Chan (CA Bar No. 305602)
mandy.chan@us.dlapiper.com
Andrea Ortega (CA Bar No. 317820)
andrea.ortega@us.dlapiper.com
DLA PIPER LLP (US)
555 Mission Street, Suite 2400
San Francisco, California 94105
Tel: (415) 836-2500
Fax: (415) 836-2501

Attorneys for Defendant
APPLE INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

AMANDA FRLEKIN, AARON GREGOROFF,
SETH DOWLING, DEBRA SPEICHER; AND
TAYLOR KALIN, on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

APPLE INC.,

Defendant.

Case No. 13cv03451-WHA (lead)
Case No. 13cv04727-WHA (consolidated)

**[PROPOSED] JUDGMENT ON CLASS
ACTION SETTLEMENT
AGREEMENT (ECF NO. 416-2), AS
AMENDED (ECF NO. ____)**

1 In the Court's Final Approval Order entered _____ (ECF No. ____), the Court
2 granted Plaintiffs Seth Dowling, Amanda Frlekin, Aaron Gregoroff, Taylor Kalin, and Debra
3 Speicher's motion for final approval of the parties' class action Settlement Agreement (ECF No.
4 416-2), as amended (ECF No. _____),¹ and motions for: (a) Class Representative Payments to
5 Plaintiffs Seth Dowling, Aaron Gregoroff, Taylor Kalin, and Debra Speicher; (b) a Service Payment
6 to Plaintiff Amanda Frlekin; (c) Settlement Administration Costs; (d) Attorneys' Fees; and (e)
7 Litigation Costs. Accordingly, the Court hereby enters final Judgment on the Class Claims of
8 Plaintiffs Dowling, Gregoroff, Kalin and Speicher, and of the Participating Settlement Class
9 Members, and on the PAGA Claims of Plaintiffs Frlekin and Kalin, the State of California, and the
10 PAGA Settlement Class Members, pursuant to Federal Rule of Civil Procedure 54(b) and based on
11 the findings, conclusions, and orders set forth in the Final Approval Order and the order granting
12 motions for Attorneys' Fees, Litigation Costs, Class Representative Payments, and Service
13 Payment. In addition, the Court's December 23, 2014 order dismissing with prejudice the claims of
14 the individual plaintiffs arising under Massachusetts, New York, and Ohio law and under the Fair
15 Labor Standards Act (ECF No. 214) is incorporated herein by reference. The Court enters final
16 Judgment on the Massachusetts, New York, Ohio and federal claims of the individual plaintiffs who
17 brought those non-California claims pursuant to the Court's prior dismissal order and Federal Rule
18 of Civil Procedure 54(b) and based on the findings and conclusions set forth in the prior dismissal
19 order. The Court determines that there is no just reason for delay of final Judgment with respect to
20 these claims. Each party shall bear its own costs, other than as specified in the Settlement
21 Agreement, the Final Approval Order, and the order granting motions for Attorneys' Fees, Litigation
22 Costs, Class Representative Payments, and Service Payment.

23 _____
24 ¹ After the Court preliminarily approved the Parties' Settlement, the Parties entered into an
25 Amendment to Stipulation Regarding Class and private Attorneys General Act Settlement and Release dated
26 June __, 2022 ("Amendment"), pursuant to which Apple agreed to pay an additional \$569,959.60 account for
27 an additional 203,557 shifts worked by Participating Settlement Class Members that were not included in
28 Apple's prior calculation of the number of shifts worked by such individuals. Additionally, Apple agreed to
increase the PAGA Settlement Amount by \$8,549.39 from \$448,500 to \$457,049.39. The Total Settlement
Amount was therefore increased by \$578,508.99 from \$29,900,000 to \$30,478,508.99. All references to
"Settlement" or "Settlement Agreement" used herein are to the Settlement as amended pursuant to the
Amendment.

1 Without affecting the finality of this Judgment in any way, this Court retains jurisdiction
2 over: (a) the implementation of the Settlement and the terms of the Settlement Agreement; (b) the
3 distribution of the Total Settlement Amount to Plaintiffs, Participating Settlement Class Members,
4 PAGA Settlement Class Members, the Labor and Workforce Development Agency, Class Counsel
5 and the other law firms that represented Plaintiffs during the litigation, the Settlement Administrator,
6 and, as applicable, the agreed-upon cy pres recipient; and (c) all other proceedings related to the
7 implementation, interpretation, administration, consummation, and enforcement of the terms of the
8 Settlement Agreement.²

9 The time for Participating Settlement Class Members to appeal from this final Judgment
10 shall commence upon its entry.

11 **IT IS SO ORDERED.**

12 DATED: _____, 2022

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14
15 _____
16 Hon. William Alsup
17 United States District Judge
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25 ² The Court further retains jurisdiction over the action and the parties as it relates to the recently
26 identified Class of 105 Additional Employees, who have entered into a separate settlement agreement with
27 Apple to receive payment on the same *pro rata* net shift basis as the Participating Settlement Class Members.
28 The Court preliminarily approved the settlement as to the Class of 105 Additional Employees on _____,
2022, and will hold a final fairness hearing on _____, 2022. The pendency of proceedings related to the
Class of 105 Additional Employees does not affect the finality of this Judgment as between the parties to the
Settlement Agreement (ECF No. 416-2), as amended (ECF No. _____).