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8
 9 Attorneys for Plaintiff RACHAEL SHAY,
 on behalf of herself and all others similarly situated

10
 11 **UNITED STATES DISTRICT COURT**
 12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 RACHAEL SHAY, individually and
 14 on behalf of all others similarly
 15 situated,

16 Plaintiff,

17 v.

18 APPLE INC., a Delaware corporation;
 19 APPLE VALUE SERVICES, LLC, a
 20 Virginia limited liability corporation;
 21 and DOES 1 through 10, inclusive,

22 Defendants.

Case No. 3:20-cv-1629-JO-BLM

**DECLARATION OF RACHAEL
 SHAY IN SUPPORT OF
 PLAINTIFF’S MOTION FOR
 AWARD OF ATTORNEYS’ FEES,
 COSTS, AND CLASS
 REPRESENTATIVE SERVICE
 AWARD**

Date: January 17, 2024

Time: 9:30 a.m.

Judge: Hon. Jinsook Ohta

Courtroom: 4C, 4th Floor

1 I, Rachael Shay, declare as follows:

2 1. I am over the age of 18. I am the Plaintiff and Court-appointed Class
3 Representative in this case. I have personal knowledge of all the facts in this
4 declaration and, if asked, I would testify to these facts under oath in court.

5 2. I filed this consumer class action against Apple to hold Apple
6 accountable and to obtain refunds on behalf of myself and all other consumers
7 who purchased iTunes gift cards, and whose gift cards were subject to a
8 redemption attempt prior to activation and whose gift cards were redeemed prior
9 to redemption by the consumer of intended user.

10 3. When I filed this class action, I understood it was my duty as the
11 plaintiff and proposed class representative to be readily available and to
12 participate actively in the case. I knew that I needed to keep aware of the status
13 and progress of the lawsuit.

14 4. I also understood the risks I could face due to my involvement as the
15 named plaintiff. I was advised I could be responsible for the payment of Apple's
16 court-awarded litigation costs and potentially attorney's fees if I did not prevail in
17 the litigation. Therefore, I realized that I was taking a significant amount of risk
18 in filing the class action lawsuit.

19 5. Even though I knew I was taking risks, I knew I had to do what I
20 believed was right and pursue claims on behalf of other consumers to vindicate
21 our rights and attempt to recover the value of the compromised gift cards.

22 6. I spent a substantial amount of time and effort pursuing my claims
23 and the claims of other consumers from the time I retained my attorneys to this
24 date.

25 7. Prior to filing the class action, I spent several hours with the
26 attorneys at James Hawkins APLC discussing the facts of my case, gathering all
27 documents related to my claims against Apple and reviewing them with
28 attorneys, including the gift card, a receipt, photographs, and correspondence

1 with Apple's customer support. I also spent several hours reviewing emails and
2 phone logs and preparing a timeline and detailed summary of events.

3 8. My attorneys drafted and forwarded me a copy of the complaint for
4 review in this case. I thoroughly reviewed the complaint and discussed the
5 contents of the complaint with my attorneys.

6 9. During discovery, I responded to Apple's interrogatories, requests
7 for admission, and requests for production of documents. I searched for and
8 produced numerous documents and information responsive to Apple's requests.

9 10. In addition, I was deposed by Apple's counsel on August 9, 2022.

10 11. I also assisted my attorneys and provided a declaration in support of
11 the motion for class certification.

12 12. After filing the motion for class certification, I agreed to participate in
13 private mediation with the Honorable Irma Gonzalez (Ret.) as I believed it was in
14 the best interest of the class to attempt to resolve this case through a negotiated
15 settlement. I spent time discussing the mediation and potential settlement terms
16 with my attorneys in preparation for the mediation.

17 13. Although the case was not resolved at mediation, my attorneys kept
18 me informed of continued settlement discussions happening through the mediator
19 which ultimately led to a mediator's proposal accepted by the parties.

20 14. My attorneys provided me with a copy of the Settlement Agreement,
21 which I reviewed carefully before signing. As a term of the settlement, I have
22 agreed to give a broad release of all claims that I had or might have against
23 Apple. No other Class Member is required to give such a broad release, but I
24 understand this is sometimes asked of a class representative.

25 15. It is my opinion that the proposed settlement achieved is fair,
26 adequate and reasonable.

27 16. As a result of the settlement, Class Members will have the
28 opportunity to submit a claim for the amount equal to the face value of the iTunes

1 gift card they purchased.

2 17. In addition, I am informed that, during the pendency of this lawsuit,
3 Apple developed the technical capability to void iTunes gift cards that had pre-
4 activation redemption attempts. I believe this lawsuit was the catalyst for Apple
5 developing this technology which will hopefully prevent this type of gift card
6 theft and loss in the future.

7 18. I have always considered the interests of the Class just as I would
8 consider my interests, and placed the interests of the class above my own since I
9 started the case.

10 19. In fact, I rejected offers to resolve this litigation on an individual,
11 non-class basis.

12 20. I am requesting the Court approve a \$10,000 Service Award. I
13 believe this amount is reasonable considering the amount of work and time I
14 spent with my attorneys to achieve this excellent settlement and the personal risk
15 I assumed. I estimate that I spent approximately 84 hours meeting with my
16 attorneys, gathering documents and information, reviewing the complaint,
17 reviewing and responding to discovery, preparing for and attending my
18 deposition, reviewing my declaration in support of the motion for class
19 certification, monitoring the case, participating in the settlement discussions,
20 reviewing the Term Sheet and Settlement Agreement, and reviewing this
21 declaration.

22 21. The time and service I provided to the Class resulted in the parties
23 agreeing to settle the case and in a positive outcome to the Class, who will be
24 eligible to submit a claim to recover the value of their gift card(s) they would
25 otherwise not have recovered.

26 22. I further believe the amount of the Class Representative Service
27 Award is reasonable considering the financial risks I took by bringing a class
28 action lawsuit against Apple compared to the nominal potential benefit.

1 I declare under penalty of perjury under that the foregoing is true and
2 correct. Executed on December 4, 2023.

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Rachael Shay (Dec 4, 2023 18:15 PST)

5 Rachael Shay
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