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RICHARD W. [Signature]
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

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13 IN RE APPLE IPHONE 4 PRODUCTS
14 LIABILITY LITIGATION

Case No. 5:10-md-02188-RMW

**DEFENDANT'S RESPONSE IN
OPPOSITION TO OBJECTIONS
TO THE PROPOSED
SETTLEMENT**

Date: July 13, 2012
Time: 9:00 a.m.
Place: Courtroom 6
The Honorable Ronald Whyte

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1 **I. INTRODUCTION**

2 This settlement was met with overwhelming approval. The Settlement Class consists of
3 approximately 27.1 million iPhone 4 owners, 15.7 million of whom were sent direct notice of the
4 settlement. Yet only 21 people filed objections, just 0.000077% of the Settlement Class and
5 0.00013% of those sent direct notice. And only 94 people opted out, just 0.00035% of the
6 Settlement Class and 0.0006% of those sent direct notice. Neither the U.S. Attorney General nor
7 a single state attorney general objected. These are powerful indicia that the settlement is fair,
8 reasonable, and adequate and deserves final approval.

9 Moreover, the response of the Settlement Class confirms Apple's position throughout the
10 litigation that very few iPhone 4 owners ever experienced the alleged antenna issue and that
11 Apple eliminated the issue when it offered free bumpers shortly after the phone's release. Of the
12 21 objectors, nine are represented by two professional attorney objectors. These professional
13 objectors' boilerplate objections do not even mention the antenna issue or assert that their clients
14 experienced the issue. Two of the remaining objections are in fact *pro*-Apple, arguing that there
15 was no issue with the phone or the antenna and that Apple's bumper program fully addressed any
16 possible customer concerns. As one of these objectors writes:

17 Apple's only transgression in the design of the iPhone 4 antenna
18 was to unwittingly provide a physical demarcation point on the
19 device at which the human hand most readily causes signal
20 attenuation. . . . The iPhone 4's reception performance is
21 excellent. . . . [I]n switching to the iPhone 4 from earlier models, I
22 *gained* reception where it was previously unavailable to me.¹

23 Another *pro*-Apple objection observes that Apple had already "taken actions to alleviate concerns
24 of any potentially unsatisfied customers" and that the lawsuit against Apple was baseless.² Of the
25 remaining ten objectors, only three even assert that they experienced the alleged antenna issue,
26 and none of these three objectors indicates that he or she tried using a bumper or case. Notably,
27 *no* objector disputes that the bumper eliminates the alleged antenna issue.

28 ¹ Objection of Michael Karlesky, Exhibit A to Declaration of Penelope A. Preovolos in
Response to Objections ("Preovolos Decl.") at 2 (emphasis in original).

² Objection of Jordan D. Maglich, Esq., Preovolos Decl., Ex. B at 2.

1 As forth in Apple's Memorandum of Points and Authorities in Support of Final
2 Settlement Approval ("Final Approval Memorandum") and as the Settlement Class Members'
3 response confirms, the settlement is clearly "fair, reasonable and adequate." The settlement
4 recognizes the relief that Apple has already provided and offers a cash payment for the remaining
5 small fraction of iPhone 4 owners who believe they experienced the alleged antenna issue but
6 were not willing to use a bumper or case. The settlement also provides direct notice to Settlement
7 Class Members of the continuing availability of a free bumper. The Court should overrule the
8 objections and approve the settlement.

9 **II. RESPONSE OF THE SETTLEMENT CLASS**

10 The response of the Settlement Class was overwhelmingly positive. Despite 15.7 million
11 notices sent directly to Settlement Class Members, only 21 filed objections – only 10 of which are
12 actual objections to the settlement – and only 94 opted out. Ten objections represents just
13 0.000037% of the Settlement Class, and even 21 objections represents only 0.000077% of the
14 Settlement Class. These infinitesimally small numbers make clear that the settlement is
15 "adequate:"

16 [A] certain number of objections are to be expected in a class action
17 with an extensive notice campaign and a potentially large number
18 of class members. *If only a small number of objections are
received, that fact can be viewed as indicative of the adequacy of
the settlement.*

19 *In re Visa Check/Mastermoney Antitrust Litig.*, 297 F. Supp. 2d 503, 511 (E.D.N.Y. 2003)
20 (quotations and citation omitted), *aff'd*, 396 F.3d 96 (2d Cir. 2005); *accord In re Mego Fin. Corp.*
21 *Sec. Litig.*, 213 F.3d 454, 459 (9th Cir. 2000) (low number of objections supporting finding that
22 settlement was fair); *see also Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 118 (2d Cir.
23 2005) (18 objections out of 5 million class members is evidence of "overwhelming[] . . .
24 approval"); *Bryan v. Pittsburgh Plate Glass Co.*, 494 F.2d 799, 803-04 (3d Cir. 1974) (approving
25 class settlement even though more than 20% of class objected); *Petrovic v. Amoco Oil Co.*, 200

1 F.3d 1140, 1152 (8th Cir. 1999) (approving settlement where objectors represented fewer than
2 4% of class).³

3 The fact that there are so few objectors and opt-outs also supports a finding that the
4 settlement is “fair and reasonable.” See *In re Mego*, 213 F.3d at 459 (“The reaction of the class
5 members to the proposed settlement further supports the conclusion that the district court did not
6 abuse its discretion in finding that the Settlement was fair, adequate and reasonable.”); *Fulford v.*
7 *Logitech, Inc.*, No. 08-cv-02041 MMC, 2010 U.S. Dist. LEXIS 29042, at *12 (N.D. Cal. Mar. 5,
8 2010) (“In addition, of the approximately 82,091 Class Members to receive Notice, only 12
9 (0.015 %) objected and 10 (0.012 %) opted out. Such an overwhelmingly positive reaction of the
10 Class Members affected by the Settlement supports its approval.”).

11 **III. RESPONSE TO OBJECTIONS**

12 **A. Overview**

13 As set forth in Apple’s Final Approval Memorandum, shortly after the iPhone 4’s release,
14 Apple eliminated the antenna issue by offering free bumpers; no objector disputes that the
15 bumper prevents any antenna issue from occurring. The present settlement recognizes the relief
16 that Apple has already provided and gives Settlement Class Members direct notice of the
17 continuing bumper program. Finally, the settlement offers a cash payment for Settlement Class
18 Members who believe they experienced the alleged antenna issue but who were not willing to use
19 a bumper or case. The cash payment appropriately reflects that the alleged harm – the mere
20 inconvenience of using a bumper or case – is slight. The settlement is “fair, reasonable and
21 adequate.”

22 The objections to the settlement are telling in their lack of substance. Only three of the
23 objectors even colorably assert that they experienced the alleged antenna issue. And none of
24 these three objectors claims to have tried using a bumper, let alone that it was not effective.

25 ³ Indeed, courts frequently approve settlements where the percentage of objections is
26 many magnitudes greater than in this case. See, e.g., *TBK Partners, Ltd v. W. Union Corp.*, 675
27 F.2d 456, 458, 462 (2d Cir. 1982) (approving settlement despite objections of approximately 56%
28 of class); *Cotton v. Hinton*, 559 F.2d 1326, 1333 (5th Cir. 1977) (approving settlement over
objections of counsel purporting to represent almost 50% of class)

1 Indeed, *no* objector denies that using a bumper or case resolves the issue. Rather, several
2 objectors argue that the bumper program should not “count” as part of the settlement. These
3 objectors miss the point that the bumper eliminates any antenna issue, so that Settlement Class
4 Members who received a free bumper would have had no claim had the litigation continued.
5 Moreover, the settlement provides direct notice to Settlement Class Members of the availability
6 of a free bumper, and that the bumper program will remain available for eighteen (18) months
7 after Apple discontinues sales of the iPhone 4.

8 The two professional objectors, representing nine Settlement Class members, do not even
9 assert that any of their clients experienced the alleged antenna issue, nor do they address the
10 merits of *this* settlement. Rather, they repeat boilerplate objections from other cases, including
11 two prior Apple cases. Notably, in the Order Granting Final Approval of Settlement Agreement
12 and Release and Granting Plaintiffs’ Motion for an Award of Attorneys’ Fees, Reimbursement of
13 Expenses and Incentive Awards, *In re MagSafe Apple Power Adapter Litigation*, Case No. C09-
14 0911 JW (ECF No. 107) (N.D. Cal. Mar. 8, 2012) (“MagSafe Final Approval Order”) (Prevolos
15 Decl. Ex. F), Judge Ware of this Court rejected the objections of both the professional objectors
16 here. So too, as discussed in sections II.B-C below, have numerous other courts. Moreover, as
17 set forth in greater detail below, their objections get the facts of the settlement wrong.

18 Two objectors are pro-Apple. One, Michael Karlesky, writes:

19 As an engineer, I can attest to the simple fact that tradeoffs are
20 always necessary in any product design. Apple’s chosen tradeoffs
21 seem to balance out overall product performance quite nicely. On
22 the whole, the iPhone 4’s reception is excellent. Further, all
23 cellular handsets necessarily experience antenna attenuation due to
the placement of the human hand on the device. This is a simple
reality of electromagnetic radiation in wireless communication
devices and has been thoroughly documented among other mobile
phones

24 The iPhone 4’s reception performance is excellent. In fact, in my
25 experience, it is much superior to earlier iPhone designs I have
26 personally owned. That is, upon switching to the iPhone 4 from
earlier models, I *gained* reception where it was previously
unavailable to me.⁴

27 ⁴ Prevolos Decl., Ex. A at 1-2.
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1 Similarly, Mr. Maglich's pro-Apple response argues that the lawsuit was not necessary and that
2 Apple's bumper program addressed any possible antenna issue.⁵

3 The remaining objectors either assert problems with their phone separate from the antenna
4 or claim that the cash amount should be greater. But the class settlement was never intended to
5 address other issues Settlement Class Members might believe they experienced with their phones.
6 And Settlement Class Members who object to the cash amount ignore the very limited
7 inconvenience (unwillingness to use a bumper or case) the cash payment was intended to address.
8 They also ignore the fact that a settlement is a compromise, not a win on the merits – particularly
9 in a case where plaintiffs could not conceivably have prevailed on the merits.

10 **B. Response to Professional Objector Joseph Palmer (Alison Paul)**

11 Objector Alison Paul appears through counsel, Joseph Darrell Palmer.⁶ As discussed
12 below, Palmer's objection to the settlement is so thin as to be virtually nonexistent; he focuses
13 almost entirely on the propriety of plaintiff's fees. Palmer is a professional objector, with a long
14 history of objecting to class action settlements and filing frivolous appeals when his objections
15 are overruled.⁷ Palmer has been expressly characterized as a "serial objector" by the court that
16 overruled his objection in a case involving the Dannon Company. Memorandum of Opinion and
17 Order, *Gemelas v. The Dannon Co.*, No. 1:08-CV-236 (ECF No. 96), at *3 (N.D. Ohio, Aug. 31,
18 2010) ("*Dannon Order*."). Palmer's boilerplate objections – similar to those here – were recently
19 overruled by Judge Ware in the MagSafe Final Approval Order (ECF No. 107). Palmer also filed
20 similar boilerplate objections on behalf of his client here, Ms. Paul, in *Johnson v. Apple Inc.*,
21 where they were overruled by Judge Huber of the Santa Clara Superior Court earlier this year.⁸

22 ⁵ Preovolos Decl., Ex. B at 1-2.

23 ⁶ Preovolos Decl., Ex. C.

24 ⁷ See, e.g., Preovolos Decl., Exs. D-G; *White v. Experian Info. Solutions, Inc.*, No. SACV-
25 05-1070 DOC (MLGx), 2011 WL 2971836 (C.D. Cal., July 15, 2011); *The Authors Guild, Inc. v.*
26 *Google, Inc.*, No. 05-CV 8136, 2009 WL 2980745 (S.D.N.Y. Sept. 8, 2009); *Berger v. Property*
27 *ID Corp.*, No. 2:05-cv-05373 (C.D. Cal. Jan. 5, 2009) (ECF No. 897); *Rodriguez v. West Publ'g*
28 *Corp.*, No. CV-05-3222, 2007 WL 3165661 (C.D. Cal., Sept. 10, 2007), *aff'd*, 563 F.3d 948 (9th
Cir. 2009); *Collins v. Am. Honda Motor Co.*, No. RG 03099677, 2006 WL 4103767 (Cal. Super.
Dec. 28, 2006). Palmer focused on the proposed attorney's fees in each of these cases.

⁸ Preovolos Decl., Ex. G.

1 Palmer's objection says almost nothing about the settlement and is largely devoted to
2 objecting to plaintiffs' fees. While Apple defers to plaintiffs' counsel respecting their fees, Apple
3 notes that Palmer's objection that the fee petition was not filed before objections were due is
4 simply wrong. The fee petition was filed on June 1, 2012 (ECF No. 52-3); objections were due
5 on June 15.

6 Moreover, Palmer does not state that his client ever experienced the alleged antenna issue,
7 or indeed, that she ever had any issue whatsoever with her phone. His *sole* objection to the
8 settlement is that proof of class membership is "onerous." But as Palmer concedes, Settlement
9 Class Members need only provide their address, telephone number, and the serial number of their
10 iPhone. If they no longer have their iPhone and did not record the serial number, they can look it
11 up by clicking on a link on the settlement web site. It is hard to imagine *less* "onerous"
12 requirements. Palmer's suggestion that Settlement Class Members should simply be required to
13 sign a statement that they owned an iPhone is an invitation to rampant fraud. Palmer's objections
14 to the settlement are meritless and should be overruled.

15 **C. Response to Professional Objector Thomas L. Cox, Jr. (Frank Aldridge, John**
16 **Davis, Jenny Dowdy, Larry Lavine, Paige Nash, Katie Sibley, Warren Sibley**
and David Stevens)

17 Cox is also a frequent and professional objector; he has objected or represented objectors
18 in at least seven other class actions since 2010, including the recent *In re Apple MagSafe Power*
19 *Adapter* settlement before Judge Ware. Cox's objections were overruled in each of these cases.⁹
20 Indeed, Judge Ware overruled objections that were virtually identical to those asserted by Cox
21 here. (Prevolos Decl. Ex. F.)
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23

24 ⁹ See Prevolos Decl., Exs. F, I; *In re Tyson Foods, Inc., Chicken Raised Without*
25 *Antibiotics Consumer Litig.*, MDL No. 08-1982, 2010 U.S. Dist. LEXIS 48518 (D. Md. May 11,
26 2010); *Dewey v. Volkswagen of Am.*, 728 F. Supp. 2d 546 (D.N.J. 2010); *In re Lawnmower*
27 *Engine Horsepower Mktg. & Sales Practices Litig.*, 733 F. Supp. 2d 997 (E.D. Wis. 2010); *In re*
28 *Lifelock, Inc. Mktg & Sales Practices Litig.*, MDL No. 08-1977, 2009 U.S. Dist. LEXIS 130075
(D. Ariz. July 24, 2009); *In re Countrywide Fin. Corp. Customer Data Sec. Breach Litig.*, MDL
No. 08-01998, 2010 U.S. Dist. LEXIS 131775 (W.D. Ky. Dec. 13, 2010).

1 Cox does not assert that any of his clients actually experienced the alleged antenna issue.¹⁰
2 Cox's objections are purely procedural, and are either ill-founded or simply mistaken.

3 Cox first asserts that notice is inadequate because key settlement documents should have
4 been posted on the settlement website. But in fact, they were: in addition to the full notice,
5 summary notice and claim form, the full Settlement Agreement and this Court's Preliminary
6 Approval Order were posted on the settlement website. That is, of course, more documents than
7 are typically posted on a settlement website. Further, Judge Ware rejected this precise argument
8 in the MagSafe Final Approval Order. Cox argues that existing case law regarding the documents
9 to be posted on a settlement website should be "expanded," but Cox's desire in this regard is
10 hardly a basis for rejecting the settlement.

11 Cox next argues that the Settlement Class is not objectively "ascertainable" but of course
12 it is: all United States residents who are or were owners of an iPhone 4 as of February 17, 2012.
13 This definition avoids precisely the problem identified in the cases Cox cites: defining the class
14 in terms of individuals who experienced the alleged harm (there, receipt of unauthorized
15 advertisements; here, having experienced the alleged antenna issue). In this case, all iPhone 4
16 owners are included in the Settlement Class and receive notice; they then can determine if they
17 experienced the alleged antenna issue and have the basis to make a claim. That is exactly what
18 class action settlement law requires. The cases Cox cites are inapposite and his argument makes
19 no sense here.¹¹

20 Cox also purports to find an intraclass conflict where there is none. Cox argues that
21 Settlement Class Members who already received a bumper do not receive relief under the
22 settlement. But that is simply wrong: the settlement does *not* preclude Settlement Class
23 Members who obtained a bumper but were not satisfied with it from requesting the \$15 cash
24 payment. Even if he were correct — which he is not — it is worth noting that Settlement Class

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26 ¹⁰ Prevolos Decl., Ex. H.

27 ¹¹ The cases Cox cites involve the Telephone Consumer Protection Act, not any of the
28 statutes at issue here, presumably because he has copied this boilerplate objection from one he
filed in a TCPA case.

1 Members who received a free bumper that resolved any antenna issue they allegedly experienced
2 have no injury, no claim, and no standing to sue or object. Cox's argument that "subclasses"
3 must satisfy Rule 23's certification requirements is a non sequitur because there is no intraclass
4 conflict and hence no subclasses.

5 Cox also argues that the claims requirements are "needlessly complex" but does not and
6 cannot point to any particular requirement that he contends is inappropriate. The claims
7 requirements are needed to ensure that only Settlement Class Members who actually experienced
8 the alleged antenna issue, followed basic "troubleshooting" steps and were unwilling to use a
9 bumper (which indisputably eliminates the issue) could claim the cash payment. Moreover, Mr.
10 Cox's nine clients apparently have no trouble with the requirements, since he indicates that they
11 are all filing claims. Finally, the only proof required is the serial number of the phone and that
12 the Settlement Class Member check a box indicating that he or she meets the requirements. This
13 is hardly an onerous process. Again, this is a boilerplate objection raised by Cox and rejected
14 with respect to other settlements, including the *In re MagSafe Power Adapter* settlement recently
15 approved by Judge Ware.

16 **D. Response to Objector Bert Chapa**

17 Most fundamentally, Chapa does not allege that he ever experienced the alleged antenna
18 issue.¹² Accordingly, he does not have standing to object. *See In re First Capital Holdings*
19 *Corp. Fin. Prods. Sec. Litig.*, 33 F.3d 29, 30 (9th Cir. 1994) ("[s]imply being a member of a class
20 is not enough to establish standing. One must be an aggrieved class member"); *In re Omnivision*
21 *Techs., Inc.*, 559 F. Supp. 2d 1036, 1044 (N.D. Cal. 2007) (no standing because objector/class
22 member suffered no injury).

23 In any event, Chapa's objections are meritless. He first objects that the class definition
24 does not make clear if the "owner" in a gift situation is the purchaser or the recipient. Chapa then
25 admits that he lacks standing to advance this objection, because he states that he purchased the
26 phone for his own use. Moreover, the term "owner" favors the Settlement Class Members by

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12 Prevolos Decl., Ex. J.

1 *broadening* who may make a claim. If a gift recipient is the actual owner of the phone who
2 believes he experienced the antenna issue, he can make a claim. Unlike many settlements, the
3 class is *not* limited to purchasers. Chapa's next objection is simply foolish: he complains
4 objections must be mailed via US Mail. But there is no other way for Settlement Class Members
5 who are not ECF users to file objections.

6 Like Cox, Chapa objects that Settlement Class Members should not be required to have
7 experienced the antenna issue to make a claim; he argues that everyone who owns the phone
8 should be entitled to \$15. But Chapa is wrong for the same reason Cox is wrong: Settlement
9 Class Members who did not experience the issue have no injury, had no claim in the litigation,
10 and have no standing to object.

11 Lastly, like other objectors, Chapa argues that the bumper should not be considered part of
12 the settlement but ignores the fact that the settlement notice informs Settlement Class Members of
13 the bumper program so that they can take advantage of it. He also ignores the fact that Settlement
14 Class Members who received a free bumper that eliminated any alleged antenna issue have
15 received complete relief and have neither injury, standing to object, nor a claim in the litigation.

16 **E. Response to Objector Michael J. Schulz**

17 Like Chapa, Schulz does not allege that he ever experienced an antenna issue, and hence
18 lacks standing to object.¹³ Also like Chapa and Cox, he objects that the claims process is overly
19 burdensome. That objection should be rejected for the reasons discussed above with respect to
20 Cox and Chapa. Schulz final objection is also identical to Chapa's – that the bumper program does
21 not "count" – and should be rejected for the same reasons.

22 **F. Response to Objector Burke Fort**

23 Objector Fort, like Chapa and Schulz, does not allege that he ever experienced any
24 antenna issue; as such, he lacks standing to object.¹⁴ Fort's objection is that he "does not meet the
25 claim requirements" but that he loses his claim anyway. Fort does not say why he does not meet

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27 ¹³ Prevolos Decl., Ex. K

28 ¹⁴ Prevolos Decl., Ex. L.

1 the claim requirements: presumably he did not experience the alleged antenna issue. But if that
2 is so, he had no claim in this lawsuit in any event. Moreover, Fort was free to opt out and retain
3 any claim he may have had.

4 **G. Response to Objectors Karabeth Bigford, Brittany Davis, Charles Farnum,**
5 **Tonia Johnson, Gregg Salomon, Wesley Sullivant, and Abhishek Tripathi**

6 Objectors Bigford, Davis, Farnum, Johnson, Salomon, Sullivant and Tripathi all make the
7 same basic objection: they contend that \$15 is not a sufficient dollar amount.¹⁵ But
8 compromise — not what these objectors hoped to achieve if they prevailed on the merits — is the
9 essence of settlement. Further, these objectors ignore the free bumper program, which prevents
10 any antenna issue from occurring. Accordingly, the amount of the cash payment for owners who
11 were not willing to use a bumper appropriately reflects that the only remaining alleged harm —
12 the mere inconvenience of using a bumper — is very slight.

13 There is a strong judicial policy in favor of settlement in the class action context. *Fulford*,
14 2010 U.S. Dist. LEXIS 29042, at *5 (citing *Manual for Compl. Litig.*, Fourth § 30.42 (2004)
15 (“([T]he interests of the class as a whole are better served if the litigation is resolved by the
16 settlement rather than pursued.”). The very nature of a settlement is compromise in the interest
17 of expeditious and cost-effective conclusion of the litigation. *See Class Plaintiffs v. City of*
18 *Seattle*, 955 F.2d 1268, 1291 (9th Cir. 1992) (“[I]t is the very uncertainty of outcome in litigation
19 and avoidance of wasteful and expensive litigation that induce consensual settlements.”)
20 (quotations and citation omitted); *see also Cnty. of Santa Fe v. Pub. Serv. Co.*, 311 F.3d 1031,
21 1053 (10th Cir. 2002) (“The premise of a settlement and compromise is that each party has an
22 arguable position that it agrees to give up in exchange for expeditious, inexpensive, and amicable
23 resolution of the matter.”).

24 Consistent with the premise of settlement and compromise, each party to a settlement
25 necessarily receives less than what he or she *may* have obtained *if* he or she ultimately prevailed
26 on the merits. *See City of Seattle*, 955 F.2d at 1291 (uncertainty of litigation induces consensual

27 ¹⁵ Prevolos Decl., Exs. M – S.
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1 settlements); *Fulford*, 2010 U.S. Dist. LEXIS 29042, at *8 (inherent risks in litigation considered
2 in assessing fairness of settlement); *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir.
3 1998) (“Of course it is possible . . . that [a] settlement could have been better. But this possibility
4 does not mean [a] settlement presented [is] not fair, reasonable or adequate.”).

5 Further, objections based on the merits of the claim should be disregarded. *See Officers*
6 *for Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 625 (9th Cir. 1982) (“[T]he settlement or
7 fairness hearing is not to be turned into a trial or rehearsal for trial on the merits.”). In any event,
8 no objector even attempts to argue that the settlement is not appropriate in light of the merits of
9 the case. As Apple explained in its Final Approval Memorandum, had the litigation continued,
10 Apple would have shown that the vast majority of Settlement Class Members would never
11 experience the alleged antenna issue and, in any event, Apple eliminated any possible claim with
12 its bumper program. (Final Approval Memorandum, ECF No. 53, at 9) Further, plaintiffs’
13 “defect” claim was meritless, as demonstrated by the high level of customer satisfaction,
14 extremely small number of complaints and returns, and low number of dropped calls. (*Id.*)
15 Similarly, plaintiffs could point to virtually no representations respecting the antenna, let alone
16 actionable misrepresentations. (*Id.* at 10) Indeed, it is highly unlikely that the vast majority of
17 class members were exposed to *any* representation regarding the antenna. (*Id.*) Finally, given
18 that the overwhelming majority of class members would never experience the alleged antenna
19 issue, plaintiffs would not have been able to certify a settlement class. (*Id.* at 11) A host of
20 individual issues also precluded class certification. (*Id.*) The cash amount is clearly reasonable in
21 light of the severe weaknesses of the claims. It also appropriately reflects the undisputed fact that
22 the free bumpers eliminate any alleged antenna issue, so that the cash payment is compensation
23 solely for the minor inconvenience of using a bumper or case.

24 Several of these objectors also base their objection on what they *hoped* to recover if they
25 prevailed on the merits, or on individual issues unrelated to the antenna that they allegedly
26 experienced with their phones. Thus, objector Johnson claims to have experienced an unspecified
27 “problem” with her phone and argues that she should be entitled to a new phone. Objector
28 Salomon claims that he had problems receiving a signal at his home and had to purchase a “signal

1 extender” for his home; he also contends that he is entitled to a new phone. Objector Farnum
 2 claims that he experienced “a lot of problems” with his phone (he does not indicate that any of
 3 those problems related to the antenna). He contends that he should therefore receive an amount
 4 greater than \$15, which should include compensation for his time and expense in traveling to the
 5 store to seek repairs. But the nature of a settlement is compromise, and failure to grant individual
 6 Settlement Class Members the relief they desire is not grounds for disapproving the settlement.
 7 The settlement does not purport to address unique, individual alleged problems with particular
 8 Settlement Class Members’ phones or their particular theories of consequential damages, nor is it
 9 required to do so. Furthermore, these objectors, and any who share their views, were free to opt
 10 out and pursue individual remedies.

11 IV. CONCLUSION

12 The proposed settlement is fair, reasonable and adequate. It appropriately reflects the
 13 legal and factual weaknesses of the case, the relief provided by Apple before the settlement, and
 14 the minor harm addressed by the cash payment — the mere inconvenience of using a bumper.
 15 The settlement benefits are well-tailored to the facts and circumstances of the class. The
 16 miniscule percentage of objections and opt-outs is compelling evidence that the settlement is fair,
 17 reasonable and adequate. The objections themselves are boilerplate, ill-founded, and ignore the
 18 realities of the lawsuit and the settlement. Apple respectfully requests that the Court overrule the
 19 objections and grant final approval of the proposed settlement.

21 Dated: June 29, 2012

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