

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE**

ADAM S. LEVY on behalf of himself and all others  
similarly situated,

Plaintiff,

v.

THOMAS GUTIERREZ, RICHARD J. GAYNOR,  
RAJA BAL, J. MICHAL CONAWAY, KATHLEEN A.  
COTE, ERNEST L. GODSHALK, MATTHEW E.  
MASSENGILL, MARY PETROVICH, ROBERT E.  
SWITZ, NOEL G. WATSON, THOMAS WROE, JR.,  
MORGAN STANLEY & CO. LLC, GOLDMAN,  
SACHS & CO., AND CANACCORD GENUITY INC.,  
AND APPLE, INC.

Defendants.

No. 1:14-cv-00443-JL

ECF CASE

**LEAD PLAINTIFF'S UNOPPOSED MOTION FOR APPROVAL OF  
SECOND DISTRIBUTION OF EARLIER SETTLEMENTS  
AND APPLE SETTLEMENT DISTRIBUTION PLAN**

Lead Plaintiff and Class Representative Douglas Kurz (“Lead Plaintiff”), on behalf of himself and the Settlement Classes,<sup>1</sup> respectfully moves this Court for entry of the accompanying [Proposed] Order Approving Second Distribution of Earlier Settlements and Apple Settlement Distribution Plan (the “Class Distribution Order”), which would, *inter alia*: (i) approve Epiq’s administrative recommendations accepting, adjusting, and rejecting Claims submitted in the Action; (ii) direct the Earlier Settlements Second Distribution of the Earlier Settlements Net Settlement Funds to Claimants whose Claims are accepted by Epiq as valid and approved by the Court, including the Late Adjusted Claims; (iii) direct the Apple Initial Distribution of the Apple Net Settlement Fund to Claimants whose Claims are accepted by Epiq as valid and approved by the Court, while maintaining a Reserve for any tax liability and claims administration-related contingencies that may arise; (iv) approve Epiq’s fees and expenses incurred and estimated to be incurred in the administration of the Settlements; (v) approve the recommended plan for any funds remaining after the distributions; (vi) release claims related to the administration process; and (vii) authorize the destruction of Proofs of Claim and supporting documents at an appropriate time.

This motion is based upon the accompanying Memorandum in Support of Lead Plaintiff’s Unopposed Motion for Approval of Second Distribution of Earlier Settlements and Apple Settlement Distribution Plan and the Amin-Giwner Declaration submitted on behalf of Epiq.

Pursuant to the Stipulations, Defendants have no role in or responsibility for the administration of the Settlement Funds or processing of Claims, including determinations as to the

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<sup>1</sup> All terms with initial capitalization not otherwise defined herein have the meanings ascribed to them in the Amin-Giwner Declaration or in the Stipulation and Agreement of Settlement with Defendant Apple Inc. dated as of January 10, 2020 (ECF No. 252-1) (the “Apple Stipulation”).

validity of Claims or the distribution of the Net Settlement Funds.<sup>2</sup> As this motion is unopposed and there are no disputed Claims requiring resolution by the Court, it is ripe for determination based on the papers pending before the Court.

Dated: May 4, 2021

Respectfully submitted,

**BERNSTEIN LITOWITZ BERGER  
& GROSSMANN LLP**

*/s/ John C. Browne*

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*Liaison Counsel for Plaintiffs*

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<sup>2</sup> See Apple Stipulation ¶¶ 22, 28, Stipulation and Agreement of Settlement with Individual Defendants (ECF No. 178-1) ¶¶ 23, 28, Stipulation and Agreement of Settlement with Settling Underwriter Defendants and the Supplement thereto (ECF No. 178-2) ¶¶ 21, 27.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 4<sup>th</sup> day of May 2021, the above Lead Plaintiff's Unopposed Motion for Approval of Second Distribution of Earlier Settlements and Apple Settlement Distribution Plan was electronically served through ECF on all registered attorneys in the case under Civil Action No. 14-cv-00443-JL.

/s/ Jennifer A. Eber  
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