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18 UNITED STATES DISTRICT COURT
 19 NORTHERN DISTRICT OF CALIFORNIA
 20 OAKLAND DIVISION

20 CHRIS SMITH, CHERYL SMITH, KAREN
 SMITHSON, FRANK ORTEGA, ALBERTO
 21 CORNEA, MICHELLE ROGERS,
 22 DEBORAH CLASS, AMBER JONES,
 ALEXIS KEISER, LOORN SAELEE,
 23 THOMAS PEAR and TANNAISHA
 SMALLWOOD, individually and on behalf of
 24 all other similarly situated individuals,

25 Plaintiffs,
 v.

26 APPLE INC.,

27 Defendant.
 28

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Case No. 4:21-cv-09527 HSG

**JOINT ADMINISTRATIVE MOTION
 TO VACATE CASE SCHEDULE AND
 ORDER**

Dept.: Courtroom 2 – 4th Floor
 Judge: Hon. Haywood S. Gilliam, Jr.

Second Am. Compl. Filed: March 17, 2023

1 Pursuant to Civil Local Rule 7-11, Plaintiffs in the above-captioned action *Smith v. Apple, Inc.*, No. 4:21-cv-09527 HSG (N.D. Cal.) and Defendant Apple Inc. (“Apple”), by and through
2 their undersigned counsel, file this joint motion for administrative relief in which Plaintiffs
3 request, and Apple does not oppose, that the Court vacate the deadlines set forth in the February
4 8, 2023 Amended Scheduling Order (ECF No. 78).

6 **Plaintiffs’ Statement.** Plaintiffs have filed a Motion to Modify the Case Management
7 Order and Motion to Amend Pleadings (ECF 116, the “Motion”), which Apple opposes. The
8 briefing on Plaintiffs’ Motion is scheduled to be completed on September 12, 2023 and the
9 hearing on Plaintiffs’ Motion is scheduled for November 16, 2023. The current deadline for the
10 close of fact discovery is September 8, 2023 and the Class Certification Filing deadline is
11 September 22, 2023 – both before Plaintiffs’ Motion is set to be heard. Accordingly, Plaintiffs
12 request that the following deadlines in the Court’s February 8, 2023 Amended Scheduling Order
13 (ECF No. 78) be vacated pending the resolution of Plaintiffs’ Motion:

Event	Current Deadline	Proposed New Deadline
Close of Fact Discovery	September 8, 2023	Vacated pending resolution of Plaintiffs’ Motion
Class Certification Filing Deadline (including expert disclosures and expert reports)	September 22, 2023	Vacated pending resolution of Plaintiffs’ Motion
Opposition to Class Certification (including <i>Daubert</i> motions and expert reports)	November 17, 2023	Vacated pending resolution of Plaintiffs’ Motion
Reply to Class Certification (including <i>Daubert</i> motions and rebuttal expert reports)	December 15, 2023	Vacated pending resolution of Plaintiffs’ Motion
Class Certification Hearing	January 18, 2024 at 2:00 p.m.	Vacated pending resolution of Plaintiffs’ Motion

27 **Apple’s Statement.** As discussed in Apple’s Request for a Case Management
28 Conference seeking guidance from the Court on a case schedule (ECF 118), and as Apple will

1 detail in its opposition to Plaintiffs' Motion (which, pursuant to the deadlines set by the Court,
2 will be filed by September 5, 2023), Apple's position is that amendment of the pleadings at this
3 late stage is past the deadline and otherwise improper, and that Plaintiffs cannot show good cause
4 to do so. The parties had previously agreed to seek a four-month case extension to the current
5 case schedule, before Plaintiffs informed Apple of their intent to seek leave to amend. Apple
6 believes that the four-month case extension the parties had negotiated would be appropriate
7 should the case remain governed by the current pleadings. However, because Plaintiffs have now
8 filed a Motion to Amend Pleadings that is set for hearing on November 16, 2023, and because the
9 deadlines for the close of fact discovery and Plaintiffs' class certification motion are currently set
10 for September 8, 2023, and September 22, 2023, respectively, Apple does not oppose Plaintiffs'
11 request to vacate the current case deadlines while Plaintiffs' Motion is pending.

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15 Dated: August 24, 2023

MORRISON & FOERSTER LLP

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18 By: /s/ Claudia M. Vesti
CLAUDIA M. VETESI

19 Attorneys for Defendant
20 APPLE INC.

21 Dated: August 24, 2023

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