

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

GABRIEL JOHNSON, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

APPLE INC., and Does 1-10, inclusive,

Defendants.

Case No. 1-09-CV-146501

CLASS ACTION

Judge: Honorable Joseph H. Huber
Dept: 21

NOTICE OF PENDENCY AND PROPOSED SETTLEMENT OF CLASS ACTION

CALIFORNIA SUPERIOR COURT FOR THE COUNTY OF SANTA CLARA

If you purchased an Apple iTunes gift card, you could be entitled to benefits under a class action settlement.

The California Superior Court for the County of Santa Clara authorized this Notice. This is not a solicitation from a lawyer.

- You may be eligible if you purchased or received an iTunes gift card and the card or card packaging stated that “songs are 99¢” or contained other language indicating that songs are priced at 99¢. To qualify, you must have purchased or received the card in the United States and used it to purchase one or more \$1.29 songs from the iTunes Store on or before May 10, 2010.
- If you are eligible and you submit a Claim Form, you will receive an iTunes credit of \$3.25 that can be used to purchase anything available on the iTunes Store.
- Your legal rights are affected whether you act or don’t act. Please read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
SUBMIT A CLAIM FORM	The only way to get an iTunes Store credit.
EXCLUDE YOURSELF	Get no iTunes Store credit. This is the only option that allows you to ever be part of any other lawsuit against Apple about the legal claims in this case.
OBJECT	Write to the Court about why you don’t like the settlement.
GO TO A HEARING	Ask to speak in Court about the fairness of the settlement.
DO NOTHING	Get no iTunes Store credit. Give up rights.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Credits will be issued if the Court approves the settlement and after appeals are resolved. Please be patient.

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BASIC INFORMATION

1. Why did I get this Notice package?

You may have purchased or received an iTunes gift card where the card or packaging to which it was attached contained language that “songs are 99¢” or other language indicating that songs are priced at 99¢. For convenience, these gifts cards will be referred to as “99¢ iTunes Gift Cards.”

The Court ordered this Notice to be sent to you because you have a right to know about a proposed settlement of a class action lawsuit, and about your options, before the Court decides whether to approve the settlement. If the Court gives its final approval and any appeals are resolved, and if you follow the instructions for submitting a claim, you will receive the iTunes Store credit that the settlement allows.

This package explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the case is the California Superior Court for the County of Santa Clara, and the lawsuit is known as *Johnson v. Apple Inc.*, Case No. 1-09-CV-146501. For convenience, this will be referred to as “the Lawsuit.” The person who sued is called “Plaintiff,” and the company they sued, Apple Inc., is called “Apple” or “the Defendant.”

2. What is this lawsuit about?

The Lawsuit claimed that Apple advertised, distributed, and sold gift cards which stated that songs could be purchased at Apple’s online iTunes Store for a price of 99¢ per song. It further alleged that in April 2009, Apple raised the price of certain songs at the iTunes Store from 99¢ to \$1.29 and that 99¢ iTunes Gift Card holders who purchased \$1.29 songs were overcharged.

A similar class action was filed in the United States District Court for the Southern District of Illinois. That case is known as *Owens v. Apple Inc.*, Case No. 3:09-cv-00479-MJR-DGW (“*Owens Action*”). It will be dismissed if the Court approves this settlement.

Apple denies all allegations in the Lawsuit and in the *Owens Action*, and has asserted many defenses. Apple is entering into this settlement to avoid burdensome and costly litigation. The settlement is not an admission of wrongdoing or an indication that any law was violated.

3. Why is this a class action?

In a class action, one or more people, called “Class Representatives” or “named plaintiffs” (in this case Gabriel Johnson, Daniel E. Owens, and Barbara Owens), sue on behalf of people who have alleged similar claims. All these people are the Class or Class Members. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class. California Superior Court Judge Joseph H. Huber is in charge of this class action.

4. Why is there a settlement?

The Court did not decide in favor of Plaintiff or Defendant. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial, and settlement benefits go to the Class Members. The Class Representatives and the attorneys think the settlement is best for the Class Members.

WHO IS IN THE SETTLEMENT

To see if you will get a benefit from this settlement, you first have to determine whether you are a Class Member.

5. How do I know if I am part of the settlement?

Judge Huber has decided that everyone who fits this description is a Class Member: All United States residents who purchased or received an iTunes Gift Card where the card or the packaging to which it was attached contained language that “songs are 99¢” or other language indicating that songs are priced at 99¢, and used it to purchase one or more \$1.29 songs from the iTunes Store on or before May 10, 2010.

6. Are there exceptions to being included?

The Settlement Class does not include Apple; any entity in which Apple has a controlling interest; Apple’s directors, officers, and employees; Apple’s legal representatives, successors, and assigns; and anyone who validly requests exclusion from the Settlement Class.

7. I’m still not sure if I am included.

If you are still not sure whether you are included, you can visit the settlement website, www.JohnsoniTunesSettlement.com, for more information. You can also call or write to counsel for the Settlement Class.

THE SETTLEMENT BENEFITS—WHAT YOU GET

8. What does the settlement provide?

Apple has agreed to provide an iTunes Store Credit in the amount of \$3.25 to all Settlement Class Members who qualify and submit a valid Claim Form. In exchange for their time in prosecuting this action and creating a benefit for the Class, Class Counsel is entitled to an award of attorneys’ fees. Apple has also agreed not to oppose an award of attorneys’ fees and verified costs to Class Counsel in an amount not to exceed \$2,117,500.00 and service awards not to exceed \$2,500.00 each to the three named plaintiffs. The settlement distribution process will be administered by an independent claims administrator (“Claims Administrator”) approved by the Court.

9. What can I get from the settlement?

The settlement provides for an iTunes Store credit in the amount of \$3.25. To be entitled to an iTunes Store credit under the settlement, you must have purchased or received a 99¢ iTunes Gift Card and you must also have purchased or received the card in the United States and used it to purchase one or more \$1.29 songs from the iTunes Store on or before May 10, 2010.

You are limited to one iTunes Store credit.

HOW YOU GET AN iTUNES STORE CREDIT—SUBMITTING A CLAIM FORM

10. How can I get an iTunes Store credit?

You must submit an online Claim Form at www.JohnsoniTunesSettlement.com. A sample of the online Claim Form, including instructions on how to make a claim, is included with this Notice.

You must read the instructions carefully and fill out the Claim Form, including a declaration that you bought or received an iTunes Gift Card containing language indicating that songs are priced at 99¢ and did not believe that any song(s) you downloaded using this card would cost more than 99¢. You must submit the Claim Form on or before **September 24, 2012**. **If you fail to submit your Claim Form by the required date, your claim will be rejected, and you will be deemed to have waived all rights to receive any benefits under this settlement.**

You may be asked for additional information. Follow all the instructions on the Claim Form.

11. When would I get my credit?

The Court will hold a hearing on February 10, 2012, at 9:00 a.m., to decide whether to approve the settlement. If the Court approves the settlement, there may be appeals. The appeal process can take time, perhaps more than a year. Please be patient.

12. What am I giving up to get a credit or stay in the Class?

Unless you exclude yourself, you are staying in the Class, and that means that you cannot sue, continue to sue, or be part of any other lawsuit against Apple about the legal issues in this case. It also means that all of the Court's orders will apply to you and legally bind you. If you sign the Claim Form, you will agree to a "Release of Claims," included with the Claim Form, which describes exactly the legal claims that you are giving up.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don't want to participate in this settlement, but you want to keep the right to sue or continue to sue Apple on your own about the legal issues in this case, then you must take steps to get out. This is called excluding yourself — or is sometimes referred to as opting out of the Settlement Class.

13. How do I get out of the settlement?

To exclude yourself from the settlement, you must send a letter by mail saying that you want to be excluded from the settlement of *Johnson v. Apple Inc.*, Case No. 1-09-CV-146501. Be sure to include your name, address, telephone number, the fact that you purchased a 99¢ iTunes Gift Card and used that card to purchase one more \$1.29 songs from the iTunes Store before May 10, 2010, and your signature. You must mail your exclusion request postmarked no later than **December 29, 2011**, to:

Johnson v. Apple Inc. Claims Administrator
c/o Kurtzman Carson Consultants LLC
P.O. Box 43044, Providence, RI 02940-3044

You can't exclude yourself on the phone or by fax or e-mail. If you ask to be excluded, you will not get any settlement benefits, and you cannot object to the settlement. You will not be legally bound by anything that happens in this Lawsuit. You may be able to sue (or continue to sue) Apple in the future about the legal issues in this case.

Apple retains the right to withdraw from the Settlement in the event an excessive number of requests for exclusion are received.

14. If I don't exclude myself, can I sue Apple for the same thing later?

No. Unless you exclude yourself, you give up the right to sue Apple for the claims that this settlement resolves. You must exclude yourself from *this* Class to pursue your own lawsuit. Remember, your exclusion must be postmarked on or before **December 29, 2011**.

15. If I exclude myself, can I get benefits from this settlement?

No. If you exclude yourself, you cannot send in a Claim Form or make a claim. But, you may sue, continue to sue, or be part of a different lawsuit against Apple about the legal issues in this case.

THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in this case?

The Class is represented in this case by William M. Audet, Jonas P. Mann, Audet & Partners, LLP, 221 Main Street, Suite 1460, San Francisco, CA 94105, johnsonsettlement@audetlaw.com; W. Lewis Garrison, Gayle L. Douglas, Heninger Garrison Davis, LLC, P.O. Box 11310, Birmingham, AL 35202, johnsonsettlement@hdglawfirm.com; or James G. Onder, Michael S. Kruse, Onder, Shelton, O'Leary & Peterson, LLC, 110 East Lockwood, St. Louis, MO 63119, johnsonsettlement@onderlaw.com. Together, these lawyers are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

17. How will the lawyers be paid?

Class Counsel will ask the Court for an award of attorneys' fees and expenses of up to \$2,117,500.00. Apple has agreed not to oppose this amount. The Court may award less than this amount.

Class Counsel will also ask the Court for an award of \$2,500.00 for each of the named plaintiffs in the Lawsuits. Apple has agreed not to oppose these awards. These awards will be based on the contribution to the case as well as the time and expense involved in participating in the lawsuits. The Court may award less than these amounts.

The attorneys' fees and expenses and the award for each of the named plaintiffs was negotiated separately from the amount to be paid to the Class and do not reduce the amount of the award to the Class.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you don't agree with the settlement or some part of it.

18. How do I tell the Court that I don't like the settlement?

If you're a Class Member, you can object to the settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must notify the Claims Administrator in writing that you object to the settlement of *Johnson v. Apple Inc.*, Case No. 1-09-CV-146501. The objection and any supporting papers must be mailed to the Claims Administrator at the following address no later than **December 29, 2011**:

Johnson v. Apple Inc. Claims Administrator
c/o Kurtzman Carson Consultants LLC
P.O. Box 43044
Providence, RI 02940-3044

19. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object, because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the settlement. You may attend, and you may ask to speak, but you don't have to.

20. When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing at 9:00 a.m. on February 10, 2012, at the Superior Court of California for the County of Santa Clara, located at Department 21, 191 North First Street, San Jose, California 95113. At this hearing the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. The Court may also consider how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

21. Do I have to come to the hearing?

No. Class Counsel will answer questions the Court may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as your written objection was received on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary. Finally, you may seek to intervene in the action, but you need not do so.

22. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing; you are welcome to come at your own expense. You cannot speak at the hearing if you excluded yourself.

IF YOU DO NOTHING

23. What happens if I do nothing at all?

If you do nothing, you'll get nothing from this settlement. But, unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Apple about the legal issues in this case, ever again.

GETTING MORE INFORMATION

24. Are there more details about the settlement?

This Notice summarizes the proposed settlement. More details are in a Settlement Agreement. Copies of the Settlement Agreement and the pleadings and other documents relating to the case are on file at the Santa Clara Superior Court, and may be examined and copied at any time during regular office hours at the Office of the Clerk, Santa Clara Superior Court, 191 North First Street, San Jose, California 95113.

25. How do I get more information?

You can visit the settlement website at www.JohnsoniTunesSettlement.com, where you will find answers to common questions about the settlement, a Claim Form, plus other information. You may also write to counsel for the Settlement Class at William M. Audet, Jonas P. Mann, Audet & Partners, LLP, 221 Main Street, Suite 1460, San Francisco, CA 94105, johnsonsettlement@audetlaw.com; W. Lewis Garrison, Gayle L. Douglas, Heninger Garrison Davis, LLC, P.O. Box 11310, Birmingham, AL 35202, johnsonsettlement@hdglawfirm.com; or James G. Onder, Michael S. Kruse, Onder, Shelton, O'Leary & Peterson, LLC, 110 East Lockwood, St. Louis, MO 63119, johnsonsettlement@onderlaw.com. You can also call 1-888-332-0275. **Questions may not be directed to the Court.**

Date: September 23, 2011.