

1 Sarah M. Ray (SBN 229670)
sarah.ray@lw.com
2 Aaron T. Chiu (SBN 287788)
aaron.chiu@lw.com
3 Brett M. Sandford (SBN 302072)
brett.sandford@lw.com
4 Blake R. Davis (SBN 294360)
blake.davis@lw.com
5 **LATHAM & WATKINS LLP**
6 505 Montgomery Street, Suite 2000
San Francisco, California 94111-6538
7 Telephone: +1.415.391.0600

8 Gary S. Feinerman (*pro hac vice*)
gary.feinerman@lw.com
9 **LATHAM & WATKINS LLP**
330 North Wabash Avenue, Suite 2800
10 Chicago, Illinois 60611-3695
Telephone: +1.312.876.7700

11 Christopher Bower (SBN 301379)
christopher.bower@lw.com
12 **LATHAM & WATKINS LLP**
13 555 Eleventh Street, NW, Suite 1000
Washington, D.C. 20004-1304
14 Telephone: +1.202.637.2200

15 *Attorneys for Defendant Apple Inc.*

James P. Rouhandeh (*pro hac vice*)
rouhandeh@davispolk.com
David B. Toscano (*pro hac vice*)
david.toscano@davispolk.com
DAVIS POLK & WARDWELL LLP
450 Lexington Avenue
New York, New York 10017
Telephone: +1.212.450.4000

Micah G. Block (SBN 270712)
micah.block@davispolk.com
DAVIS POLK & WARDWELL LLP
900 Middlefield Road, Suite 200
Redwood City, California 94063
Telephone: +1.650.752.2000

16
17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 OAKLAND DIVISION
20

21 EPIC GAMES, INC.,
22 Plaintiff,
23 v.
24 APPLE INC.,
25 Defendant.

CASE NO. 4:20-cv-05640-YGR

**APPLE INC.'S ADMINISTRATIVE
MOTION FOR REFERRAL TO
SETTLEMENT CONFERENCE**

The Honorable Yvonne Gonzalez Rogers

Pursuant to Civil Local Rule 7-11 and ADR Local Rule 7-2, Defendant Apple Inc. (“Apple”), respectfully moves the Court for an order referring the parties to a settlement conference before Magistrate Judge Joseph C. Spero. Counsel for Apple conferred with counsel for Epic Games, Inc. (“Epic”) on August 11, 2026 regarding the requested relief. Declaration of Sarah M. Ray in Support of Apple’s Administrative Motion for Referral to Settlement Conference ¶ 2. Epic did not consent to the relief sought herein. *Id.*

Under Civil Local Rule 16-8(a), “the Court on its own initiative or at the request of one or more parties may refer the case to one of the Court’s ADR programs.” *See also* ADR L.R. 2-3 (same). ADR Local Rule 7-2 specifically provides that the Court may refer the parties to a settlement conference “on motion by a party under Civil L.R. 7.” Federal Rules of Civil Procedure 16(c)(2)(I) and 16(c)(2)(P) further authorize the Court to “us[e] special procedures to assist in resolving the dispute when authorized by statute or local rule” and to “facilitat[e] in other ways the just, speedy, and inexpensive disposition of the action.” *See Ayers v. City of Richmond*, 895 F.2d 1267, 1270 (9th Cir. 1990) (recognizing that Rule 16 authorizes a court to direct a party’s attorney to appear for a settlement conference).

The Ninth Circuit expressly “encouraged [the parties] to reach agreement” on an appropriate link-out commission, *Epic Games, Inc. v. Apple Inc.*, 161 F.4th 1162, 1188 (9th Cir. 2025), and consistent with that guidance, Apple believes referral to a settlement conference before Magistrate Judge Spero would give the parties an opportunity to explore a potential resolution of the dispute while remand proceedings take place in parallel. A settlement conference would potentially conserve limited judicial resources by positioning the parties to expedite a negotiated resolution of this matter. *See SRI Louise Coles v. City of Oakland*, 2005 WL 2373724, at *8 (N.D. Cal. Sept. 27, 2005) (ordering the parties to participate in a mandatory settlement conference “rather than expend potentially unnecessary judicial resources”). Further, discussions of a potential settlement in a confidential, non-adversarial setting would increase the likelihood of reaching a practical resolution that could obviate the need for prolonged remand proceedings. *See Lakes v. Bath and Body Works LLC*, 2018 WL 2318106, at *2 (E.D. Cal. May 22, 2018) (finding

1 that confidentiality protections afforded by mediation “promote[] ‘a candid and informal
2 exchange’” (internal citation omitted)). Finally, Apple’s request is not meant to cause any delay
3 as it explicitly contemplates that settlement discussions would take place in parallel with remand
4 proceedings.

5 **CONCLUSION**

6 For the foregoing reasons, Apple respectfully requests that the Court enter an order
7 referring this case to a settlement conference before Magistrate Judge Joseph C. Spero to proceed
8 in parallel on an expedited basis with remand proceedings.

1 Dated: August 13, 2026

By: /s/ Sarah M. Ray

2 **LATHAM & WATKINS LLP**

3 Sarah M. Ray (SBN 229670)

4 *sarah.ray@lw.com*

5 Aaron T. Chiu (SBN 287788)

6 *aaron.chiu@lw.com*

7 Brett M. Sandford (SBN 302072)

8 *brett.sandford@lw.com*

9 Blake R. Davis (SBN 294360)

10 *blake.davis@lw.com*

11 **LATHAM & WATKINS LLP**

12 505 Montgomery Street, Suite 2000

13 San Francisco, California 94111-6538

14 Telephone: +1.415.391.0600

15 Gary S. Feinerman (*pro hac vice*)

16 *gary.feinerman@lw.com*

17 **LATHAM & WATKINS LLP**

18 330 North Wabash Avenue, Suite 2800

19 Chicago, Illinois 60611-3695

20 Telephone: +1.312.876.7700

21 Christopher Bower (SBN 301379)

22 *christopher.bower@lw.com*

23 **LATHAM & WATKINS LLP**

24 555 Eleventh Street, NW, Suite 1000

25 Washington, D.C. 20004-1304

26 Telephone: +1.202.637.2200

27 **DAVIS POLK & WARDWELL LLP**

28 James P. Rouhandeh (*pro hac vice*)

rouhandeh@davispolk.com

David B. Toscano (*pro hac vice*)

david.toscano@davispolk.com

DAVIS POLK & WARDWELL LLP

450 Lexington Avenue

New York, New York 10017

Telephone: +1.212.450.4000

Micah G. Block (SBN 270712)

micah.block@davispolk.com

DAVIS POLK & WARDWELL LLP

900 Middlefield Road, Suite 200

Redwood City, California 94063

Telephone: +1.650.752.2000

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Attorneys for Defendant Apple Inc.