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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JACOB BURNS, JONATHAN MOULTON,  
AND STEVEN ZOU, on Behalf of  
Themselves and All Others Similarly Situated,

Plaintiffs,

v.

NZXT, INC. & FRAGILE, INC.

Defendants.

Case No. 4:25-cv-06604-JST

**[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

Judge Jon S. Tigar  
Courtroom 6, 2nd Floor  
Hearing Date: June 18, 2026  
Hearing Time: 2:00 pm

Before the Court is Plaintiffs’ Unopposed Motion for Preliminary Approval of Class Action Settlement (“Motion”). Plaintiffs Jacob Burns, Jonathan Moulton, and Steven Zou (“Plaintiffs”) and Defendants NZXT, Inc. (“NZXT”) and Fragile Technologies, Inc. (“Fragile”) (collectively, “Defendants”) have entered into a Class Action Settlement and Release dated April 7, 2026 (“Settlement Agreement”). The Court has reviewed the Motion, the Settlement Agreement and exhibits thereto, the declarations and exhibits submitted in support of the Motion, and the record in this action. Good cause appearing, the Court hereby ORDERS as follows:

1. This Court has subject matter jurisdiction over this Action pursuant to 28 U.S.C. § 1332(d), and personal jurisdiction over the Parties and the members of the Settlement Class. Venue is proper in this District.

1           2.       The Court GRANTS preliminary approval of the Settlement based upon the terms  
2 set forth in the Settlement Agreement, and the terms embodied therein pursuant to Federal Rule  
3 of Civil Procedure 23(e)(1). The Court finds that it will likely be able to approve the Settlement  
4 Agreement under Rule 23(e)(2) and to certify the Settlement Class for purposes of judgment on  
5 the proposed Settlement.

6           3.       The Court preliminarily finds that the Settlement Agreement is fair, reasonable,  
7 and adequate as to the Settlement Class Members under the relevant considerations. The Court  
8 finds that Plaintiffs and proposed Class Counsel have adequately represented, and will continue  
9 to adequately represent, the Settlement Class. The Court further finds that the Settlement  
10 Agreement is the product of months of arm’s-length negotiations by the Parties and the use of an  
11 experienced mediator, Professor Eric Green, who facilitated a full-day mediation session on  
12 November 13, 2025, followed by further negotiations.

13           4.       The Court preliminarily finds that the relief provided, with total consideration  
14 valued at approximately \$3,450,000.00 (“Settlement Class Consideration”), consisting of a non-  
15 reversionary cash component of \$1,450,000.00 (“Settlement Cash Fund”) and non-cash relief  
16 with a total monetary value of approximately \$2,139,246.94 (“Settlement Non-Cash  
17 Consideration”) including debt forgiveness relief valued at approximately \$923,117.92 (“Debt  
18 Forgiveness”) and PC-Retention relief valued at approximately \$1,216,129.02 (“PC-Retention”),  
19 is adequate considering, among other things, the costs, litigation risks, delay of trial and appeal,  
20 the uncertainty of recovery, the alleged harm to Settlement Class Members, and the proposed  
21 method of distributing relief to the Settlement Class, including automatic Debt Forgiveness relief  
22 for eligible Settlement Class Members, PC-Retention relief, and cash payments to eligible  
23 claimants. For purposes of this Order, the Court adopts and incorporates all definitions set forth  
24 in the Settlement Agreement. The involvement of a mediator and subsequent settlement process  
25 supports the Court's conclusion that the Settlement is non-collusive.

26           5.       The Court further finds that the Settlement Non-Cash Considerations confers real,  
27 direct value on eligible Settlement Class Members by extinguishing qualifying debt and  
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1 permitting eligible class members to retain their PCs without further payment. Although the relief  
2 made available to individual Settlement Class Members may vary based on objective criteria such  
3 as payment status and elections under the Settlement Agreement, those differences do not  
4 undermine the adequacy of the Settlement or the predominance of common issues for settlement  
5 purposes.

6         6. The Court preliminarily finds that the Settlement Agreement treats Settlement  
7 Class Members equitably relative to each other and that the proposed plan of allocation and  
8 distribution is reasonable. Cash payments from the Settlement Cash Fund shall be available only  
9 to Settlement Class Members who submit a valid Claim Form by mail or online and who satisfy  
10 the eligibility criteria set forth in the Settlement Agreement.

11         7. Settlement Class Members who are not eligible for Debt Forgiveness, or whose  
12 Debt Forgiveness is less than \$500, and who do not elect PC Retention, may seek cash relief by  
13 submitting a valid Claim Form and the required attestations set forth in the Settlement Agreement.

14         8. Eligible Settlement Class Members who are more than 90 days delinquent on  
15 payments as defined in the Settlement Agreement shall receive Debt Forgiveness, up to the limits  
16 and according to the criteria set forth in the Settlement Agreement. Such Debt Forgiveness shall  
17 be provided automatically to eligible Settlement Class Members who do not exclude themselves  
18 from the Settlement.

19         9. Eligible Settlement Class Members may elect PC Retention in accordance with the  
20 criteria and procedures set forth in the Settlement Agreement.

21         10. The Settlement Administrator shall review all claims to determine validity and  
22 may reject claims that do not materially comply with the Claim Form instructions, are not  
23 submitted by Settlement Class Members, or are duplicative or fraudulent.

24         11. If a Claim Form contains curable deficiencies, the Settlement Administrator shall  
25 provide notice of the deficiency and allow twenty-one (21) days to cure.

1 12. For eligible Settlement Class Members, cash payments shall be made within thirty  
2 (30) days after the Effective Date, and written confirmation of Debt Forgiveness or PC Retention  
3 shall be transmitted within thirty (30) days after the Effective Date.

4 13. Uncashed checks or failed ACH transfers remaining after ninety (90) days shall be  
5 used to pay reasonable settlement-administration costs, and no portion of the Settlement Cash  
6 Fund shall revert to Defendants. Any remaining unclaimed funds after final distribution shall be  
7 paid pro rata to eligible Settlement Class Members.

8 14. Within fourteen (14) days after entry of this Order, Defendants shall transfer  
9 \$60,000.00 into an account established by the Settlement Administrator. Within forty-five (45)  
10 days after entry of this Order, Defendants shall transfer the remainder of the Settlement Cash  
11 Fund into the Settlement Administrator's account. The Settlement Administrator shall hold the  
12 Settlement Cash Fund in an interest-bearing account and administer it, including as a qualified  
13 settlement fund under Treasury Regulation § 1.468B-1 et seq.

14 15. The Court hereby provisionally certifies, for settlement purposes only, a  
15 Settlement Class pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(3), defined as:

16 All persons who reside in the United States, who currently subscribe, or previously  
17 subscribed to, the NZXT Flex Program to obtain a PC. The  
18 Settlement Class excludes Fragile; NZXT; any entity in which Fragile or NZXT  
19 has a controlling interest; Fragile's and NZXT's directors, officers, and  
20 employees; and Fragile's and NZXT's legal representatives, successors, and  
assigns. Also excluded from the Settlement Class are all judicial officers assigned  
to this case as well as their staff and immediate families. The Class Period shall be  
October 19, 2023, to March 30, 2026.

21 16. The Court finds that, for settlement purposes only, the Settlement Class as defined  
22 above satisfies the requirements of Federal Rule of Civil Procedure 23(a) and Rule 23(b)(3),  
23 namely: (a) the Settlement Class is so numerous that joinder is impracticable; (b) there are  
24 questions of law and fact common to the Settlement Class; (c) Plaintiffs' claims are typical of the  
25 claims of the Settlement Class; (d) Plaintiffs and proposed Class Counsel have fairly and  
26 adequately represented and will continue to fairly and adequately represent the Settlement Class;  
27 and (e) for settlement purposes, common questions predominate over any questions affecting only  
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1 individual members, and settlement in a class action is superior to other available methods for  
2 fairly and efficiently adjudicating the controversy.

3 17. This provisional certification of the Settlement Class shall be solely for settlement  
4 purposes, without prejudice to the Parties in the event the Settlement Agreement is not finally  
5 approved by this Court or otherwise does not become effective. In the event that the Settlement  
6 Agreement is not finally approved, the provisional certification shall be vacated and shall have  
7 no effect.

8 18. The Court appoints Plaintiffs Jacob Burns, Jonathan Moulton, and Steven Zou as  
9 Settlement Class Representatives.

10 19. The Court appoints Cotchett, Pitre & McCarthy, LLP and Levi & Korsinsky, LLP  
11 as Class Counsel for the Settlement Class.

12 20. The Court appoints Epiq Global as Settlement Administrator and directs Epiq  
13 Global to carry out all duties and responsibilities of the Settlement Administrator as specified in  
14 the Settlement Agreement and herein.

15 **Rule 23(e)(2)**

16 21. Rule 23(e)(2) requires a court to consider a similar list of factors before approving  
17 a settlement, including whether: (A) the class representatives and class counsel have adequately  
18 represented the class; (B) the proposal was negotiated at arm's length; (C) the relief provided for  
19 the class is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the  
20 effectiveness of any proposed method of distributing relief to the class, including the method of  
21 processing class-member claims; (iii) the terms of any proposed award of attorney's fees,  
22 including timing of payment; and (iv) any agreement required to be identified under Rule  
23 23(e)(3); and (D) the proposal treats class members equitably relative to each other. Fed. R. Civ.  
24 P. 23(e)(2).

25 22. This list of factors is not intended to displace any factors identified by courts, "but  
26 rather to focus the court and the lawyers on the core concerns of procedure and substance that  
27 should guide the decision whether to approve the proposal." Fed. R. Civ. P. 23(e) advisory  
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1 committee note to 2018 amendment; see also *McKinney-Drobnis v. Oreshack*, 16 F.4th 594, 609  
2 (9th Cir. 2021) (“The amended Rule 23(e) did not ‘displace’ this court’s previous articulation of  
3 the relevant factors, and it is still appropriate for district courts to consider these factors in their  
4 holistic assessment of settlement fairness.”).

5 23. In any event, “the district court must show it has explored comprehensively all  
6 Rule 23(e)(2) factors.” *In re Apple Inc. Device Performance Litig.*, 50 F.4th 769, 782 (9th Cir.  
7 2022) (citation modified; citation omitted). When a settlement agreement is negotiated prior to  
8 formal class certification, consideration of the above-listed factors alone is insufficient. *In re*  
9 *Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011). “Accordingly, such  
10 agreements must withstand an even higher level of scrutiny for evidence of collusion or other  
11 conflicts of interest than is ordinarily required under Rule 23(e) before securing the court’s  
12 approval as fair.” *Id.* “Collusion may not always be evident on the face of a settlement,” and  
13 courts “must be particularly vigilant not only for explicit collusion, but also for more subtle signs  
14 that class counsel have allowed pursuit of their own self-interests and that of certain class  
15 members to infect the negotiations.” *Id.* Such signs include (1) class counsel’s receipt of a  
16 disproportionate distribution of the settlement, (2) a “clear sailing” agreement “providing for the  
17 payment of attorneys’ fees separate and apart from class funds, which carries the potential of  
18 enabling a defendant to pay class counsel excessive fees and costs in exchange for counsel  
19 accepting an unfair settlement on behalf of the class”; and (3) an arrangement whereby fees that  
20 are not awarded revert to the defendant, rather than being added to the class fund. *Id.* Additionally,  
21 the Northern District of California has published procedural guidance for class action settlements,  
22 which includes guidelines for parties seeking preliminary approval of class action settlements  
23 (“Guidelines”). See [https://cand.uscourts.gov/rules-forms-fees/northern-](https://cand.uscourts.gov/rules-forms-fees/northern-district-guidelines/procedural-guidance-class-action-settlements)  
24 [district-](https://cand.uscourts.gov/rules-forms-fees/northern-district-guidelines/procedural-guidance-class-action-settlements)  
25 [guidelines/procedural-guidance-class-action-settlements](https://cand.uscourts.gov/rules-forms-fees/northern-district-guidelines/procedural-guidance-class-action-settlements). The Guidelines identify information  
26 that is often helpful to district courts in assessing whether a class action settlement satisfies the  
27 standards identified above. As the Court cannot fully assess all fairness factors until after the final  
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1 approval hearing, at this stage the Court evaluates whether the proposed settlement is potentially  
2 fair. *Bellinghausen v. Tractor Supply Co.*, 303 F.R.D. 611, 619 (N.D. Cal. 2015).

3 24. Here, those core concerns are satisfied. The proposed Settlement was reached only  
4 after Plaintiffs and Defendants exchanged information relevant to Plaintiffs' claims and  
5 Defendants' defenses, prepared mediation statements and other pre-mediation materials,  
6 participated in a full-day in-person mediation before Professor Eric Green on November 13, 2025,  
7 and then continued negotiations for months while conducting confirmatory discovery concerning,  
8 among other things, the Debt Forgiveness and PC-Retention components of the proposed relief.  
9 [Loeser Decl. ¶¶ 11-17.] The resulting Settlement provides substantial classwide Settlement Class  
10 Consideration, including Settlement Cash Fund and Settlement Non-Cash Consideration, as well  
11 as prospective business-practice changes through at least December 31, 2027. [Loeser Decl. ¶¶  
12 15-17, 23-26; Settlement Agreement §§ A.6, A.8].

13 25. The Settlement here warrants preliminary approval. Nothing in the record suggests  
14 collusion. To the contrary, the Settlement was reached after arm's-length mediation before an  
15 experienced neutral and further negotiations over several months. [Loeser Decl. ¶¶ 12-16.] The  
16 relief provided to the Settlement Class is also adequate under Rule 23(e)(2)(C). The Settlement  
17 Class consists of 19,322 persons who currently subscribe, or previously subscribed, to the NZXT  
18 Flex Program to obtain a PC during the class period. [Loeser Decl. ¶ 25] The Settlement provides  
19 multiple forms of relief tailored to class members' differing circumstances: automatic debt  
20 forgiveness for eligible class members, the option of PC retention for eligible class members, cash  
21 payments from the net settlement cash fund for qualifying claimants, and prospective changes to  
22 Defendants' business practices. [Loeser Decl. ¶¶ 23-26.] The method of distribution is likewise  
23 effective. Certain benefits are automatic; other claims may be submitted through a streamlined  
24 process administered by Epiq Global; and notice will be disseminated primarily by email,  
25 supplemented by mailed notice where necessary, with a settlement website and toll-free number  
26 to facilitate participation. [Loeser Decl. ¶¶ 17, 27; Settlement Agreement § G.] The Settlement  
27 also treats class members equitably relative to each other because class members receive relief  
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1           29. The Court finds that the notice clearly and concisely states in plain, easily  
2 understood language: (a) the nature of the Action; (b) the definition of the Settlement Class; (c)  
3 the class claims and issues; (d) that a Settlement Class Member may appear through counsel if  
4 the member so desires; (e) that the Court will exclude from the Settlement Class any member who  
5 timely and validly requests exclusion; (f) the time and manner for requesting exclusion; and (g)  
6 the binding effect of a class judgment on Settlement Class Members under Rule 23(c)(3).

7           30. The Court directs the Settlement Administrator and the Parties to implement the  
8 Notice Plan in accordance with the Settlement Agreement and this Order.

9           31. By no later than thirty (30) days after entry of this Order, Defendants shall provide  
10 the Settlement Administrator with Settlement Class Member data reasonably necessary to  
11 effectuate notice and administration, including contact information, subscription details, and PC  
12 information, subject to the terms of the Settlement Agreement.

13           32. On or before the Notice Date, the Settlement Administrator shall establish the  
14 Settlement Website and toll-free number, which shall remain operational through at least thirty  
15 (30) days after the deadline to file the post-distribution accounting. The Settlement Website shall  
16 be located at <http://NZXTfragileSettlement.com> or such other URL as agreed by the Parties. The  
17 Settlement Website shall include, in PDF format, the Complaint, the Settlement Agreement, the  
18 Full Notice, the Claim Form, this Preliminary Approval Order, the motion for attorneys' fees,  
19 costs, and service awards once filed, and such other documents as the Parties agree or the Court  
20 may require.

21           33. By no later than sixty (60) days after entry of this Order (the "Notice Date"), the  
22 Settlement Administrator shall disseminate Summary Notice by email to all Settlement Class  
23 Members for whom Defendants possess a valid email address and shall supplement that notice by  
24 postcard or mailed notice to Settlement Class Members for whom Defendants do not possess a  
25 valid email address or whose email notice is returned as undeliverable.





1 45. No later than seven (7) days before the Final Approval Hearing, the Parties shall  
2 file any responses to objections and any replies in support of final approval and/or in support of  
3 the motion for attorneys' fees, expenses, and service awards.

4 46. The Final Approval Hearing shall occur at least 20 days after the Objection and  
5 Exclusion Deadline, on such date as set by the Court.

6 47. The Court may change the date, time, or format of the final approval hearing  
7 without further notice to the Settlement Class. If the Court changes the date, time, or format of  
8 the hearing, the Parties shall ensure that the updated information is posted on the Settlement  
9 Website.

10 48. If the Settlement Agreement is not finally approved or otherwise does not become  
11 effective in accordance with its term, or if the Final Order and Judgment is not entered or is  
12 reversed or vacated on appeal, this Order shall be null and void, the Settlement Agreement shall  
13 be deemed terminated, and the Parties shall return to their positions without any prejudice, as  
14 provided for in the Settlement Agreement.

15 49. The fact and terms of this Order or the Settlement, all negotiations, discussions,  
16 drafts and proceedings in connection with this Order or the Settlement, and any act performed or  
17 document signed in connection with this Order or the Settlement, shall not, in this or any other  
18 Court, administrative agency, arbitration forum, or other tribunal, constitute an admission, or  
19 evidence, or be deemed to create any inference (a) of any acts of wrongdoing or lack of  
20 wrongdoing, (b) of any liability on the part of Defendants to Plaintiffs, the Settlement Class, or  
21 anyone else, (c) of any deficiency of any claim or defense that has been or could have been  
22 asserted in this Action, (d) of any damages or absence of damages suffered by Plaintiffs, the  
23 Settlement Class, or anyone else, or (e) that any benefits obtained by the Settlement Class under  
24 the Settlement represent the amount that could or would have been recovered from Defendants in  
25 this Action if it were not settled at this time. The fact and terms of this Order or the Settlement,  
26 and all negotiations, discussions, drafts, and proceedings associated with this Order or the  
27 Settlement, including the judgment and the release of the Released Claims provided for in the  
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1 Settlement Agreement, shall not be offered or received in evidence or used for any other purpose  
2 in this or any other proceeding in any court, administrative agency, arbitration forum, or other  
3 tribunal, except as necessary to enforce the terms of this Order, the Final Order and Judgment,  
4 and/or the Settlement.

5 50. If Final Approval is not granted for any reason, the balance of the Settlement Cash  
6 Fund, after payment of notice and administration costs associated with the preliminary and final  
7 approval process, plus any interest earned thereon, shall be returned to Defendants within ten (10)  
8 days, as provided in the Settlement Agreement.

9 51. Pending final determination of whether the Settlement should be approved, all  
10 proceedings in this Action, except those contemplated herein and by the Settlement Agreement,  
11 are stayed. Pending final approval, Settlement Class Members are preliminarily enjoined from  
12 filing, commencing, prosecuting, intervening in, or participating in any other lawsuit, arbitration,  
13 or representative proceeding asserting Released Claims against the Released Parties.

14 52. This Preliminary Approval Order, the Settlement Agreement, and all negotiations  
15 and proceedings relating to the Settlement shall not be construed as or deemed to be evidence of  
16 any admission or concession by Defendants of liability or wrongdoing, or of the certifiability of  
17 any class for litigation purposes. Defendants continue to deny Plaintiffs' claims and deny that any  
18 class could be certified for litigation purposes.

19 53. The Court retains jurisdiction over all matters arising out of or connected with the  
20 Settlement Agreement and this Preliminary Approval Order.

21 54. The Court may, for good cause shown, extend any of the deadlines set forth in this  
22 Order without further notice to the Settlement Class. Without further order of the Court, the  
23 Parties may agree to make non-material modifications in implementing the Settlement that are  
24 consistent with this Order and the Settlement Agreement.

25 55. The following chart summarizes the deadlines established by this Order:  
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Event	Deadline
Settlement Website and toll-free number live	21 days after entry of this Order
Defendants provide Settlement Class Member data to Settlement Administrator	30 days after entry of this Order
Notice Date	60 days after entry of this Order
Motion for attorneys' fees, expenses, and service awards	40 days after Notice Date
Exclusion/Objection Deadline	60 days after Notice Date
Motion for final approval	74 days after Notice Date
Claim Deadline	90 days after Notice Date
Responses to objections and replies in support of final approval and fee motion	At least 7 days before final approval hearing
Exclusion list filed	At least 7 days before final approval hearing
Final approval hearing	No earlier than 150 days after entry of this Order, or at the Court's convenience

56. The Court ORDERS that the motion for final approval shall address, in the order presented, the Northern District of California's Procedural Guidance for Class Action Settlements. As reflected in that Guidance, the Court will require a post-distribution accounting within twenty-one (21) days after the distribution of settlement funds. The Court will typically withhold between ten percent (10%) and twenty-five percent (25%) of the attorneys' fees awarded at final approval until after the post-distribution accounting has been filed. The final approval motion shall specify what percentage Class Counsel believes should be withheld and why.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
HON. JON S. TIGAR  
United States District Judge