

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Law Office of Thomas P. Hogan

Thomas P. Hogan 95055 Shawnté V. Priest 298460

1207 13th Street, Suite I, Modesto CA 95354

TELEPHONE NO.: 209-492-9335

FAX NO. (Optional): 209-492-9356

ATTORNEY FOR (Name): Matthew Reeves, et al.

FOR COURT USE ONLY

Electronically Filed
9/28/2020 2:05 PM
Superior Court of California
County of Stanislaus
Clerk of the Court
By: Joshua Teixeira, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS

STREET ADDRESS: 801 10th Street, 4th Floor

MAILING ADDRESS:

CITY AND ZIP CODE: Modesto 95354

BRANCH NAME: CIVL

CASE NAME:

Matthew Reeves, et al. v. Apple Cal, LLC and Does 1 - 10, Inclusive

CIVIL CASE COVER SHEET

☒ **Unlimited**
(Amount
demanded
exceeds \$25,000)

☐ **Limited**
(Amount
demanded is
\$25,000)

Complex Case Designation

☐ Counter ☐ Joinder
Filed with first appearance by defendant
(Cal. Rules of Court, rule 3.402)

CASE NUMBER:

CV-20-004214

JUDGE:

DEPT.:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

☐ Auto (22)
☐ Uninsured motorist (46)
**Other PI/PD/WD (Personal Injury/Property
Damage/Wrongful Death) Tort**

☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)

☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)

Employment

☐ Wrongful termination (36)
☒ Other employment (15)

Contract

☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property

☐ Eminent domain/Inverse
condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer

☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review

☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)

☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the
above listed provisionally complex case
types (41)

Enforcement of Judgment

☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

☐ RICO (27)
☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43)

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. ☐ Large number of separately represented parties d. ☒ Large number of witnesses
b. ☒ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. ☒ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive

4. Number of causes of action (specify): 1

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 9-24-2020

Shawnté Priest

(TYPE OR PRINT NAME)

NOTICE

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability *(not asbestos or toxic/environmental)* (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice *(not medical or legal)*
Other Non-PI/PD/WD Tort (35)
Employment
Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract *(not unlawful detainer or wrongful eviction)*
Contract/Warranty Breach—Seller
Plaintiff *(not fraud or negligence)*
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage *(not provisionally complex)* (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment *(non-domestic relations)*
Sister State Judgment
Administrative Agency Award *(not unpaid taxes)*
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint *(not specified above)* (42)
Declaratory Relief Only
Injunctive Relief Only *(non-harassment)*
Mechanics Lien
Other Commercial Complaint Case *(non-tort/non-complex)*
Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition *(not specified above)* (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SUMMONS
(CITACION JUDICIAL)

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

APPLE CAL, LLC, a California Limited Liability Company, and DOES
1 through 10 Inclusive

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Matthew Reeves, as an individual and on behalf of all others similarly situated

Electronically Filed
9/28/2020 2:38 PM
Superior Court of California
County of Stanislaus
Clerk of the Court
By: Nicole Nelson, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

City Towers Building
801 10th Street, 4th Floor
Modesto, CA 95354

CASE NUMBER
(Número del Caso):

CV-20-004214

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Thomas P. Hogan, Esq., Shawnte Priest, Esq. 95055/298460
The Law Office of Thomas P. Hogan, Esq.
1207 13th Street, Suite 1, Modesto, CA 95354 (209) 492-9335

DATE: 9/28/2020 2:38 PM
(Fecha)

Clerk, by
(Secretario)

Nicole Nelson

, Deputy
(Adjunto)

Nicole Nelson

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)
☐ CCP 416.20 (defunct corporation)
☐ CCP 416.40 (association or partnership)
☐ other (specify):

☐ CCP 416.60 (minor)
☐ CCP 416.70 (conservatee)
☐ CCP 416.90 (authorized person)

4. ☐ by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME, ADDRESS, PHONE, BAR NUMBER) Loaw Office of Thomas P. Hogan Thomas P. Hogan 95055 Shawnté Priest 298460 1207 13th Street, Suite I, Modesto CA 95354 Attorney for: Matthew Reeves, et al.	FOR COURT USE ONLY Electronically Filed 9/28/2020 2:05 PM Superior Court of California County of Stanislaus Clerk of the Court By: Joshua Teixeira, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS Street Address: City Towers Bldg., 801 10th St, 4 th Floor, Modesto, CA 95354 Civil Clerk's Office: 801 10 th Street, 4 th Floor, Modesto, CA 95354	
Plaintiff/Petitioner: Matthew Reeves, et al. Defendant/Respondent: Apple Cal, LLC and Does 1 through 10, inclusive	
NOTICE OF CASE MANAGEMENT CONFERENCE	CASE NUMBER CV-20-004214

1. NOTICE is given that a **Case Management Conference** has been scheduled as follows:

Hearing: 2/1/2021 9:00 AM

Date: _____ Time: _____ AM/PM

This case is assigned to Judge Freeland, John D, Dept. 23, for all purposes, including trial.

*Departments 21 & 22 are located at 801 10th Street, 6th Floor, Modesto, CA 95354

*Departments 23 & 24 are located at 801 10th Street, 4th Floor, Modesto, CA 95354

All filings shall be filed in the Clerk's Office at the City Towers, 4th Floor address.

.....
 You have 30 calendar days to file a written response with this court after the legal papers and the summons were served on you. You must also serve a copy of your written response on the plaintiff.

2. You must file and serve a completed *Case Management Conference Statement* at least **fifteen (15) calendar days** before the case management conference.
3. You must be familiar with the case and be fully prepared to participate effectively in the case management conference.
4. At the case management conference the Court may make pretrial orders, including the following:
 - a. An order establishing a discovery schedule.
 - b. An order referring the case to arbitration.
 - c. An order dismissing fictitious defendants.
 - d. An order scheduling exchange of expert witness information.
 - e. An order setting subsequent conferences and the trial date.
 - f. Other orders to achieve the goals of the Trial Court Delay Reduction Act (Gov. Code, § 68600 et seq.).

Date: 9/28/2020 2:05 PM by Joshua Teixeira Deputy Clerk

--SANCTIONS--

If you do not file the *Case Management Statement* required by local rule, or attend the case management conference or participate effectively in the conference, the court may impose sanctions (including dismissal of the case, striking of the answer, and payment of money).

CV003
Mandatory
Form

Rule 3.110. Time for Service of Complaint, Cross-Complaint, and Response

- (a) [Application] This rule applies to the service of pleadings in civil cases except for collection cases under Rule 3.740 (a), Unlawful detainer actions, proceedings, under the Family Code, and other proceedings for which different service requirements are prescribed by law.
- (b) [Service of complaint] The complaint must be served on all named defendants and proofs of service on those defendants must be filed with the court within 60 days after the filing of the complaint. When the complaint is amended to add a defendant, the added defendant must be served and proof of service must be filed within 30 days after the filing of the amended complaint.
- (c) [Service of cross-complaint] A cross-complaint against a party who has appeared in the action must be accompanied by proof of service of the cross-complaint at the time it is filed. If the cross-complaint adds new parties, the cross-complaint must be served on all parties and proofs of service on the new parties must be filed within 30 days of the filing of the cross-complaint.
- (d) [Timing of responsive pleadings] The parties may stipulate without leave of court to one 15-day extension beyond the 30-day time period prescribed for the response after service of the initial complaint.
- (e) [Modification of timing: application for order extending time] The court, on its own motion or on the application of a party, may extend or otherwise modify the times provided in (b) - (d). An application for a court order extending the time to serve a pleading must be filed before the time for service has elapsed. The application must be accompanied by a declaration showing why service has not been completed, documenting the efforts that have been made to complete service, and specifying the date by which service is proposed to be completed.
- (f) [Failure to serve] If a party fails to serve and file pleadings as required under this rule, and has not obtained an order extending time to serve its pleadings, the court may issue an Order to Show Cause why sanctions shall not be imposed.
- (g) [Request for entry of default] If a responsive pleading is not served within the time limits specified in this rule and no extension of time has been granted, the plaintiff must file a request for entry of default within 10 days after the time for service has elapsed. The court may issue an Order to Show Cause why sanctions should not be imposed if the plaintiff fails to timely file the request for the entry of default.
- (h) [Default judgment] When a default is entered, the party who requested the entry of default must obtain a default judgment against the defaulting party within 45 days after the default was entered, unless the court has granted an extension of time. The court may issue an Order to Show Cause why sanctions should not be imposed if that party fails to obtain entry of judgment against a defaulting party or to request an extension of time to apply for a default judgment within that time.
- (i) [Order to Show Cause] Responsive papers to an Order to Show Cause issued under this rule must be filed and served at least 5 calendar days before the hearing.

1 **LAW OFFICE OF THOMAS P. HOGAN**
 2 **THOMAS P. HOGAN, ESQ** 95055
 3 **SHAWNTE PRIEST, ESQ** 298460
 4 Shawnte@TomHoganLaw.com
 5 1207 13th Street, Suite 1
 6 Modesto, California 95354
 Telephone: 209-214-6600
 Facsimile: 209-492-9356
Attorneys for Plaintiffs

Electronically Filed
 9/28/2020 2:05 PM
 Superior Court of California
 County of Stanislaus
 Clerk of the Court
 By: Joshua Teixeira, Deputy

\$435 PAID
 \$1000 NOT PAID

7
 8 **SUPERIOR COURT OF CALIFORNIA**
 9 **FOR THE COUNTY OF STANISLAUS**

10 **MATTHEW REEVES**, as an individual and
 on behalf of all others similarly situated,
 11 Plaintiff,

12 vs.

13 **APPLE CAL, LLC**, a California Limited
 14 Liability Company, and DOES 1 through 10
 inclusive,
 15 Defendants.

Case No. CV-20-004214

16 **REPRESENTATIVE ACTION**
 17 **COMPLAINT**

(1) **CIVIL PENALTIES UNDER THE
 PRIVATE ATTORNEYS GENERAL
 ACT (LABOR CODE 2698 et seq.)**

1 Plaintiff Matthew Reeves brings this Complaint against Defendant Apple Cal, LLC
2 (doing business as Applebee's), and DOES 1 through 10, inclusive (hereafter collectively
3 referred to as "Defendant" or "Defendants"), and on information and belief alleges as follows:
4

5 JURISDICTION

6 1. Plaintiff, on behalf of himself and all similarly aggrieved employees, hereby brings this
7 representative action for recovery of civil penalties under Labor Code §2698 *et seq.* This Court
8 has jurisdiction over Defendant's violations of the California Labor Code because the amount in
9 controversy exceeds this Court's jurisdictional minimum.
10

11 VENUE

12 2. Venue as to Defendant is proper in this judicial district pursuant to California Code of
13 Civil Procedures §§ 395(a) and 395.5, as at least some of the acts and omissions complained of
14 herein occurred in the County of Stanislaus, California.
15

16 PARTIES

17 3. Plaintiff Matthew Reeves is an individual over the age of eighteen (18). At all relevant
18 times herein, Plaintiff was and currently is a California resident. During the statute of
19 limitations period, Plaintiff was employed by Defendant as an hourly, non-exempt employee.
20

21 4. Plaintiff Matthew Reeves was terminated from employment with Defendant on June 8,
22 2020 and worked for Defendant at least one full calendar year preceding the date of termination.

23 5. Plaintiff is informed and believes, and based thereon alleges, that during the one year
24 preceding the amended notice of violations under the California Labor Code to the Labor
25 Workforce Development Agency ("LWDA") and continuing to the present, Defendant did (and
26 continues to do) business by operating casual dining restaurants and employed Plaintiff and
27
28

1 other similarly aggrieved employees within Stanislaus County and, therefore, was and is doing
2 business in Stanislaus County and the State of California.

3
4 6. Plaintiff is informed and believes, and thereon alleges, that always mentioned herein,
5 Defendant Apple Cal, LLC was licensed to do business in California and the County of
6 Stanislaus and was the employer of Plaintiff and aggrieved employees (as defined herein).

7
8 7. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
9 herein, Defendant had direct control of the work and working conditions of Defendant's non-
10 exempt employees in California; made hiring, firing and other human resources decisions, such
11 as regulating the wages and benefits of Plaintiff and other aggrieved employees, exemplified by
12 Defendant's management team's integration in the daily practices and process of employees
13 assigned to Defendant's casual dining locations in the County of Stanislaus.

14
15 8. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
16 herein, Apple Cal, LLC employed or otherwise utilized the services of management personnel
17 for oversight of Defendant's enterprise, such as referring all non-exempt employees in
18 California to contact and/or directly report to Area Manager, Tim Morris, and General Manager,
19 Anthony Perriera.

20
21 9. Plaintiff does not know the true names or capacities, whether individual, partner, or
22 corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
23 defendants are sued under fictitious names, and Plaintiff will seek leave from this Court to amend
24 this Representative Action Complaint when such true names and capacities are discovered.
25 Plaintiff is informed, and believes, and based thereon alleges, that each of said fictitious
26 defendants, whether individual, partners, or corporate, were responsible in some manner for the
27 acts and omissions alleged herein, and proximately caused Plaintiff and the aggrieved
28

1 employees (as defined herein) to be subject to the unlawful employment practices, wrongs,
2 injuries and damages complained of herein.

3
4 10. Plaintiff is informed, and believes, and thereon alleges, that always mentioned herein,
5 Defendant was and/or is the employer of Plaintiff and the aggrieved employees.

6 11. At all times herein mentioned, Defendant participated in the doing of the acts hereinafter
7 alleged to have been done; and furthermore, Defendant, and each of them [herein listed as Does
8 1 – 10, inclusive], were the agents, servants, and employees of each and every one of the other
9 Defendants, as well as the agents of all Defendants, and at all times herein mentioned were
10 acting within the course and scope of said agency and employment. Defendants, and each of
11 them, approved of, condoned, and/or otherwise ratified each one of the acts or omission
12 complained of herein.

13
14 12. At all times mentioned herein, Defendants, and each of them, were members of and
15 engaged in a joint venture, partnership, and common enterprise, and acting within the course
16 and scope of and in pursuance of said joint venture, partnership, and common enterprise.
17 Further, Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff
18 and the aggrieved employees.

19
20
21 **REPRESENTATIVE ACTION ALLEGATIONS**

22 13. Plaintiff began his employment with Defendant as a non-exempt employee, working in
23 the capacity as a host and/or server, when he was acquired by Defendant in December 2018.
24 Plaintiff was regularly scheduled to work minimum 6-hour shifts, at a minimum of 4 days per
25 week. Plaintiff has good faith and reasonable belief and based thereon alleges that Plaintiff and
26 other aggrieved employees periodically worked in excess of 6 hours per shift, and more than 4
27 days per week.
28

1 14. Plaintiff and other aggrieved employees worked shifts in excess of 3.5 hours but were
2 not authorized and permitted to take all required rest periods for every 4-hour work period, or
3 major fraction thereof. Specifically, upon information and belief, Defendant did not [in practice
4 or by procedure] authorize and permit Plaintiff and aggrieved employees to take rest periods for
5 every 4- hour work period, or major fraction thereof. On those occasions where Plaintiff and
6 other aggrieved employees were not provided with legally-compliant rest periods to which they
7 are entitled, Defendant failed to compensate Plaintiff and aggrieved employees with the
8 required rest period premium for each workday in which they experienced a rest period
9 violation as mandated by Labor Code §226.7. Upon information and belief, Defendant did not
10 maintain a payroll code or other mechanism for the payment of rest period premium payments
11 under Labor Code §226.7 if a legally compliant rest period is not provided to their non-exempt
12 employees.
13
14

15 15. Plaintiff and other aggrieved employees worked shifts in excess of 5 hours but were not
16 authorized and permitted to take all required meal periods. Specifically, upon information and
17 belief, Defendant discouraged, prevented or otherwise stopped Plaintiff and other aggrieved
18 employees from taking a meal period of not less than 30 minutes, when the total work period
19 would be for more than 5 hours. Defendant regularly interrupted or failed to permit and/or
20 authorize Plaintiff and other aggrieved employees a mandated meal period, based in part due to
21 the unreasonable demands placed upon Plaintiff and aggrieved employees. On those occasions
22 where Plaintiff and other aggrieved employees were not provided with legally-compliant meal
23 periods to which they were entitled, Defendant failed to compensate Plaintiff and aggrieved
24 employees with the required meal period premium for each occurrence of a meal period
25 violation as mandated by Labor Code §226.7.
26
27
28

1 16. Plaintiff and other aggrieved employees were required to work off-the-clock at times
2 during their employment due to the amount of work that Defendant required of them. Upon
3 information and belief, Defendant failed to compensate Plaintiff and other aggrieved employees
4 at least the state minimum wage for each hour worked, such as when Plaintiff and other
5 aggrieved employees were required to resume working after clocking out to provide service to
6 dining patrons, greet customers, pick-up drinks from the bar, and more. Upon information and
7 belief, Plaintiff and other aggrieved employees were required to attend business/staff meetings
8 outside of their scheduled shift, at times at a restaurant location [other than their base location],
9 yet did not receive requisite reporting time pay [if the employee was not put to work or was
10 given less than half of the hours they were scheduled for or usually worked]. Defendants do not
11 have a proper policy and/or practice in place to ensure that Plaintiff and other aggrieved
12 employees would be paid at least minimum wage for each hour that they worked or requisite
13 reporting time pay. Defendant's caused Plaintiff and other aggrieved employees to not be paid
14 for all hours worked, thus Defendant's violated Labor Code § 1194 and 1197, and are subject to
15 civil penalties.

16 17. Plaintiff and other aggrieved employees were required to place and/or receive telephone
17 and electronic communication by use of their personal telephone landline, cellular phone and/or
18 home internet in performance of duties for Defendant, thus causing Plaintiff and other aggrieved
19 employees to incur cellular data and/or internet charges. Plaintiff and other aggrieved
20 employees were required to travel to other restaurant locations [other than their base location]
21 outside of their normal daily commute, for meetings in their personal vehicle in furtherance of
22 Defendant's business. As a result, Defendant caused Plaintiff and other aggrieved employees to
23 incur mileage expense, subject to reimbursement at the standard Internal Revenue Service rate.

1 Defendant's had an obligation under Labor Code § 2802 to indemnify Plaintiff and other
2 aggrieved employees for all necessary expenditures or losses incurred by the employee in direct
3 consequence of the discharge of their duties, or their obedience to the directions of the
4 employer. Upon information and belief Defendant failed to reimburse Plaintiff and other
5 aggrieved employees for use of their personal items for work purposes, such as reimbursement
6 for cellular data, internet usage and/or mileage reimbursement, thus Defendant is liable for civil
7 penalties.
8

9
10 18. As a result of Defendant's failure to pay all rest and meal period premium wages, and
11 all hours worked at the requisite minimum wage, Defendant maintains inaccurate payroll
12 records, issues inaccurate wages statements, and fails to pay all final wages owed upon
13 separation from employment.
14

15 19. Based on the foregoing, Plaintiff seeks to represent himself and all aggrieved
16 employees, as defined by Labor Code § 2699 (c), including Defendant's non-exempt employees
17 who have worked or continue to work for Defendant in California during the one year
18 immediately preceding the date that Plaintiff sent notice to Defendant via certified mail, and the
19 California Labor and Workforce Agency ("LWDA") via e-mail, of Defendant's violations of the
20 California Labor Code, pursuant to Labor Code § 2699.3 through the present [Exhibit A].
21

22 **FIRST CAUSE OF ACTION**
23 **PRIVATE ATTORNEYS GENERAL ACT**
(AGAINST ALL DEFENDANTS)

24 20. Plaintiff re-alleges and incorporates by reference all previous paragraphs.
25

26 21. Defendant has committed and continues to commit several Labor Code violations
27 against Plaintiff and other similarly aggrieved employees. Plaintiff is an "aggrieved employee"
28 within the meaning of Labor Code §2698 et seq., and acting on behalf of himself and other

1 similarly aggrieved employees, brings this representative action against Defendant to recover the
2 civil penalties due to Plaintiff, other similarly aggrieved employees, and the State of California
3 according to proof pursuant to Labor Code § 2699 including, but not limited to: (1) \$50.00 for
4 each initial violation and \$100 for each subsequent violation pursuant to Labor Code §558 per
5 employee pay period; (2) \$250.00 for each initial violation, and \$1,000.00 for each subsequent
6 violation pursuant to Labor Code §226.3 per employee per pay period; and/or (3) \$100.00 for
7 each initial violation and \$200.00 for each subsequent violation per employee per pay period for
8 those violations of the Labor Code for which no civil penalty is specifically provided, based on
9 the following Labor Code violations:
10
11

- 12 a. Failure to authorize and permit all required rest periods in violation of Labor
13 Code §§ 226.7, 516 and 558;
- 14 b. Failure to authorize and permit all required meal periods in violation of Labor
15 Code §§ 226.7, 512 and 558;
- 16 c. Failure to pay for all hours worked at the requisite minimum wage in violation of
17 Labor Code §§1194 and 1197;
- 18 d. Failure to reimburse for all necessary expenditures or loss incurred in direct
19 consequence of the discharge of duties or obedience to directions in violation of
20 Labor Code §2802;
- 21 e. Failure to maintain accurate payroll records, and issuing inaccurate wage
22 statements to Plaintiff and other aggrieved employees that fail to list all rest
23 period premium wages, and/or meal period premium wages, and/or all hours of
24 work with the corresponding rate of pay, in violation of Labor Code § 226;
- 25
26
27
28

- f. Failure to pay Plaintiff and other aggrieved employees all wages earned at least twice during each calendar month in violation of Labor Code § 204;
- g. Failure to maintain accurate records on behalf of Plaintiff and other aggrieved employees, in violation of Labor Code §§ 558, 1174 and 1198, and;
- h. Failure to timely pay all final wages due to Plaintiff Matthew Reeves and other aggrieved employees in violation of Labor Code §§ 201 – 203.

22. On June 8, 2020, Plaintiff Matthew Reeves notified Defendant via certified mail, and the California Labor Workforce Development Agency (“LWDA”) via online submission of Defendant’s violations of the California Labor Code §2698 et seq. [Exhibit A].

23. On July 6, 2020, Plaintiff Matthew Reeves sent a supplemental letter to Defendant and the LWDA providing additional factual details regarding additional violations [Exhibit B]. Now that 65 days have passed from Plaintiff notifying Defendant of these violations and the additional underlying factual details, Plaintiff has exhausted the administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

24. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other similarly aggrieved employees, and to assess and collect the civil penalties owed by Defendant. Plaintiff has thereby incurred attorneys’ fees and costs, which he is entitled to receive under the California Labor Code.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendant, as follows:

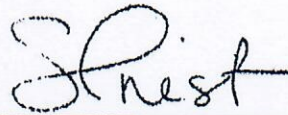
1. Upon the First Cause of Action, for civil penalties due to Plaintiff, other similarly aggrieved employees, and the State of California according to proof pursuant to Labor Code §

1 2699 including, but not limited to: (1) \$50.00 for each initial violation and \$100 for each
2 subsequent violation pursuant to Labor Code §558 per employee pay period; (2) \$250.00 for
3 each initial violation, and \$1,000.00 for each subsequent violation pursuant to Labor Code
4 §226.3 per employee per pay period; and/or (3) \$100.00 for each initial violation and \$200.00 for
5 each subsequent violation per employee per pay period for those violations of the Labor Code for
6 which no civil penalty is specifically provided;
7

8 2. On all causes of action, for attorneys' fees and costs as provided by Labor Code
9 §2699, and Code of Civil Procedure §1021.5, and;
10

11 3. For such other relief the Court may deem just and proper.
12
13

14 DATED THIS 24th OF September, 2020
15
16

17 
18

19 LAW OFFICE OF THOMAS P. HOGAN
20 Shawnté Priest, Esq.
21 Attorney for Plaintiff and aggrieved employees
22
23
24
25
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28

EXHIBIT A

Thank you for submission of your PAGA Case.

noreply@salesforce.com <noreply@salesforce.com>

on behalf of

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>

Sat 6/6/2020 4:03 PM

To: Shawnte Priest <spriest@priestlawfirm.net>

6/6/2020

LWDA Case No. LWDA-CM-792588-20

Law Firm : Shawnte Priest, Attorney at Law

Plaintiff Name : MATTHEW REEVES

Employer: APPLE CAL, LLC

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of

Labor and Workforce Development Agency

Website: [http://labor.ca.gov/Private Attorneys General Act.htm](http://labor.ca.gov/Private_Attorneys_General_Act.htm)

DER: COMPLETE THIS SECTION

Complete items 1, 2, and 3.
Print your name and address on the reverse
so that we can return the card to you.
Attach this card to the back of the mailpiece,
or on the front if space permits.

Article Addressed to:

exp. Creations Network
1640 Admiralty Way
Suite 54-F
Marina del Rey CA 90291



9590 9402 5701 9346 9977 27

Transfer from service label

7019 1640 0001 0403 2071

Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent ☐ Addressee

B. Received by (Printed Name) T. Phillips C. Date of Delivery 6/10/12

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature	☐ Priority Mail Express
☐ Adult Signature Restricted Delivery	☐ Registered Mail™
☐ Certified Mail®	☐ Registered Mail Restricted Delivery
☐ Certified Mail Restricted Delivery	☐ Return Receipt for Merchandise
☐ Collect on Delivery	☐ Signature Confirmation
☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery
☐ Collect on Delivery Restricted Delivery (all Restricted Delivery)	

Domestic Delivery

EXHIBIT B

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: FormAssembly <no-reply@formassembly.com> on behalf of DIR PAGA Unit
<lwdadonotreply@dir.ca.gov>
Sent: Tuesday, July 7, 2020 8:27 AM
To: Shawnte Priest
Subject: Thank you for your Amended PAGA Claim Notice Submission

07/07/2020 08:27:26 AM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Amended PAGA Claim Notice

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: <http://labor.ca.gov/Private Attorneys General Act.htm>



September 24, 2020

Dear SHAWNTE PRIEST:

The following is in response to your request for proof of delivery on your item with the tracking number: 9502 8066 8826 0188 2497 21.

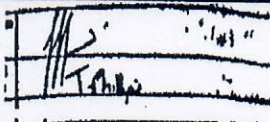
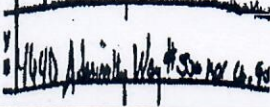
Item Details

Status:	Delivered, Front Desk/Reception/Mail Room
Status Date / Time:	July 9, 2020, 11:32 am
Location:	MARINA DEL REY, CA 90292
Postal Product:	Priority Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic Up to \$50 insurance included

Destination Delivery Address

Street Address:	4640 ADMIRALTY WAY FL 5
City, State ZIP Code:	MARINA DEL REY, CA 90292-6636

Recipient Signature

Signature of Recipient:	
Address of Recipient:	

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
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Washington, D.C. 20260-0004