

FILED
Superior Court Of California,
Sacramento
01/13/2022
rcaddick
By _____, Deputy
Case Number:
34-2022-00313863

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Attorneys for Plaintiff and the Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

JOHN COOK, individually and on behalf of all
others similarly situated,

Plaintiff,

vs.

APPLE INC., a California corporation; and DOES
1 through 50, inclusive,

Defendants.

Case No.

**REPRESENTATIVE ACTION COMPLAINT
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004**

BY FAX

DEMAND OVER \$25,000

1 Plaintiff John Cook ("Plaintiff") hereby submits this Representative Action Complaint against
2 Defendant Apple Inc., a California corporation ("Defendant" or "Company"), and Does 1-50
3 (hereinafter collectively referred to as "Defendants"), on behalf of himself and all aggrieved
4 employees of Defendant, for penalties for violations of the California Labor Code as follows:

5 **INTRODUCTION**

6 1. This representative action is within the Court's jurisdiction under California Labor
7 Code sections 226 and 2698 *et seq.*, and the applicable Wage Orders of the Industrial and Welfare
8 Commission (the "IWC").

9 2. This Complaint challenges systemic illegal employment practices resulting in
10 violations of the California Labor Code against Defendant's employees.

11 3. Plaintiff is informed and believes and based thereon alleges that Defendants jointly and
12 severally have acted intentionally and with deliberate indifference and conscious disregard to the
13 rights of all employees by failing to provide accurate and complete wage statements to these
14 employees.

15 **JURISDICTION AND VENUE**

16 4. The Court has jurisdiction over the violations of California Labor Code sections 226
17 and 2698 *et seq.*

18 5. Venue is proper in Sacramento County because Plaintiff worked for Defendant in the
19 City of Elk Grove, California.

20 **PARTIES**

21 6. In or around 2012, Plaintiff was hired by Defendant as a Facility Maintenance Worker.
22 Throughout Plaintiff's employment, he has been an hourly, non-exempt employee.

23 7. Plaintiff is informed and believes and based thereon alleges that Defendant was and is a
24 corporation which operates retail stores throughout the United States, including in Sacramento
25 County.

26 8. Plaintiff is informed and believes and based thereon alleges that at all times herein
27 mentioned Defendant and DOES 1 through 50 are and were business entities, individuals, and
28 partnerships, licensed to do business and actually doing business in the State of California.

1 9. As such, and based upon all the facts and circumstances incident to Defendants'
2 business in California, Defendants are subject to Labor Code sections 226 and 2698 *et seq.*, and the
3 applicable Wage Orders.

4 10. Plaintiff does not know the true names or capacities, whether individual, partner or
5 corporate, of the Defendants sued herein as DOES 1 through 50, inclusive, and for that reason, said
6 Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint
7 when the true names and capacities are known. Plaintiff is informed and believes and based thereon
8 alleges that each of said fictitious Defendants was responsible in some way for the matters alleged
9 herein and proximately caused Plaintiff and Aggrieved Employees to be subject to the illegal
10 employment practices, wrongs and injuries complained of herein.

11 11. At all times herein mentioned, each of said Defendants participated in the doing of the
12 acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants,
13 and each of them, were the agents, servants, and employees of each of the other Defendants, as well as
14 the agents of all Defendants, and at all times herein mentioned, were acting within the course and
15 scope of said agency and employment.

16 12. Plaintiff is informed and believes and based thereon alleges that at all times material
17 hereto, each of the Defendants named herein was the agent, employee, alter ego and/or joint venturer
18 of, or working in concert with each of the other co-Defendants and was acting within the course and
19 scope of such agency, employment, joint venture, or concerted activity. To the extent said acts,
20 conduct, and omissions were perpetrated by certain Defendants, each of the remaining Defendants
21 confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

22 13. At all times herein mentioned, Defendants, and each of them, were members of, and
23 engaged in, a joint venture, partnership, and common enterprise, and acting within the course and
24 scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

25 14. At all times herein mentioned, the acts and omissions of various Defendants, and each
26 of them, concurred and contributed to the various acts and omissions of each and all of the other
27 Defendants in proximately causing the injuries and damages as herein alleged. At all times herein
28 mentioned, Defendants, and each of them, ratified each and every act or omission complained of

1 herein. At all times herein mentioned, the Defendants, and each of them, aided and abetted the acts
2 and omissions of each and all of the other Defendants in proximately causing the damages as herein
3 alleged.

4 **FIRST CAUSE OF ACTION**

5 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

6 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

7 15. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
8 fully set forth herein.

9 16. Plaintiff brings this cause of action, on behalf of and as a proxy for the State of
10 California and in this capacity, seeks penalties on behalf of all Aggrieved Employees from November
11 8, 2020, through the present, for Defendant's violation of Labor Code section 226.

12 17. Labor Code section 226(a)(9) requires that employers provide accurate itemized
13 statements showing the applicable hourly rates in effect and the corresponding number of hours
14 worked at each hourly rate by the employee. Whenever Aggrieved Employees received payment of
15 overtime and/or double-time wages, the corresponding wage statement displayed an incorrect figure
16 for total hours worked, in violation of Labor Code section 226(a)(9). Specifically, whenever overtime
17 and/or double-time wages were paid, the wage statements displayed a total hours worked figure that
18 was less than the actual number of hours worked by Aggrieved Employees.

19 18. On or about November 8, 2021, Plaintiff sent written notice to the California Labor &
20 Workforce Development Agency ("LWDA") of Defendant's violations of Labor Code section 226,
21 pursuant to Labor Code § 2698, *et seq.*, the Private Attorneys General Act ("PAGA"). To date, the
22 LWDA has not responded to Plaintiff's written notice.

23 19. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any and
24 all applicable civil penalties for Defendant's violation of Labor Code section 226 for the time period
25 described above, on behalf of himself and other Aggrieved Employees.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiff prays for judgment individually and all others on whose behalf this
28 suit is brought against Defendants, jointly and severally, as follows:

1 1. Upon the First Cause of Action, for civil penalties pursuant to statute as set forth in
2 California Labor Code sections 226.3 and 2699, and for costs and attorney's fees;

3 2. On all causes of action for attorneys' fees and costs as provided by California Code of
4 Civil Procedure section 1021.5; and

5 3. For such other and further relief the Court may deem just and proper.
6

7 DATED: January 13, 2022

DIVERSITY LAW GROUP, P.C.

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9 By: _____

10 Larry W. Lee
11 Attorneys for Plaintiff and the Aggrieved
Employees
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