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Attorneys for Plaintiff and the Putative Class

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

STUART AMBLER, on behalf of himself and
all others similarly situated;

Plaintiffs,

v.

LINKEDIN CORPORATION, a Delaware
corporation doing business as LinkedIn, and
DOES 1 through 10, inclusive,

Defendants.

Case No.: 23CV049040

CLASS ACTION

**SECOND AMENDED COMPLAINT FOR
DAMAGES AND INJUNCTIVE RELIEF**

- 1. FAILURE TO REIMBURSE BUSINESS EXPENSES (Labor Code § 2802)'**
- 2. UNFAIR BUSINESS PRACTICES (Labor Code §§ 17200 *et seq.*); and**
- 3. VIOLATIONS OF THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (Labor Code § 2698, *et seq.*)**

DEMAND FOR JURY TRIAL

ELECTRONICALLY FILED
Superior Court of California
County of Alameda
05/31/2024

Chad Finke, Executive Officer / Clerk of the Court

By: D. Drew Deputy

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I. INTRODUCTION

1. This is a class action under Code of Civil Procedure section 382 and a representative action under Labor Code section 2698, *et seq.*, brought by plaintiff STUART AMBLER (“Plaintiff”).

2. Plaintiff seeks to represent a class of current and former employees who are or were employed by defendant LINKEDIN CORPORATION, a Delaware corporation doing business as LinkedIn (“Defendant”) at some time during the period beginning four years prior to the filing of the original complaint through the date of notice that a class has been certified in this action (the “Class Period”) as Software Engineers, Senior Software Engineers, and/or Staff Software Engineers and whom Defendant employed who work the majority of their time in California, or who do not work principally in any one state but have a definite base of operations in California, in addition to performing at least some work in California for Defendant. Such individuals are referred to herein as “Class Members.”

3. Defendant is a social network platform. Defendant requires Plaintiff and Class Members to use their personal cellular devices for work-related purposes throughout their shifts, by requiring Plaintiff and Class Members to download and use an authentication application called the Microsoft Authenticator application on their personal cellular device in order to perform their job duties.

4. Plaintiff brings a claim on behalf of himself and other Class Members for Defendant’s failure to reimburse such business expenses.

5. This action seeks reimbursement of business expenses, interest thereon, civil penalties and reasonable attorneys’ fees and costs pursuant to Labor Code sections 2802 and 2699 and Code of Civil Procedure section 1021.5. Plaintiff, on behalf of himself and Class Members, also seeks equitable and injunctive relief for these violations pursuant to Business and Professions Code sections 17200 *et seq.* (also referred to herein as the “UCL”).

6. Plaintiff also brings a claim seeking civil penalties under the Private Attorneys General Act, Labor Code sections 2698 *et seq.* (“PAGA”).

1 **II. JURISDICTION**

2 7. Venue is proper in this judicial district, pursuant to Code of Civil Procedure section
3 395(a). Defendant employed or has employed Plaintiff and Class Members doing business out of
4 Berkeley, California. The unlawful acts alleged herein have occurred in and have a direct effect on
5 Plaintiff and those similarly situated within the State of California including in the County of
6 Alameda.

7 8. This Court has jurisdiction over this class action pursuant to Article 6, section 10 of
8 the California Constitution and California Code of Civil Procedure section 410.10.

9 9. On information and belief, Plaintiff's and Class Members' monetary claims total
10 less than \$75,000.00 per person.

11 **III. PARTIES**

12 **A. PLAINTIFF**

13 10. Plaintiff STUART AMBLER is a resident of California. Plaintiff worked for
14 Defendant as a Software Engineer and was later promoted to Senior Software Engineer from
15 approximately July 2014 to February 2023. Plaintiff worked for Defendant in Berkeley, California,
16 located in Alameda County.

17 11. Plaintiff and Class Members are Defendant's current or former employees.

18 **B. DEFENDANT**

19 12. LINKEDIN CORPORATION, is a Delaware corporation doing business as
20 LinkedIn. Defendant is a social media platform. Plaintiff is informed and believes, and on that
21 basis alleges, that LINKEDIN CORPORATION maintains its headquarters in Sunnyvale,
22 California located at 1000 West Maude Avenue, Sunnyvale, CA 94085 and conducts business
23 throughout the State of California, including in Alameda County. Defendant LINKEDIN
24 CORPORATION is and at all times relevant herein, has been an employer covered by the Labor
25 Code.

26 13. The true names and capacities, whether individual, corporate, associate or
27 otherwise, of defendants sued herein as DOES 1 through 10, inclusive, are currently unknown to
28 Plaintiff, who therefore sues such defendants by such fictitious names under Code of Civil

1 Procedure section 474. Plaintiff is informed and believes, and based thereon alleges, that each of
2 the defendants designated herein as a DOE is legally responsible in some manner for the unlawful
3 acts referred to herein. Plaintiff is further informed and believes, and alleges thereon, that at all
4 times relevant, the defendants designated herein as a DOE have acted on behalf of Defendants by
5 exercising decision-making responsibility for and by establishing unlawful wage and hour practices
6 or policies for defendants. Plaintiff will seek leave of court to amend this Complaint to reflect the
7 true names and capacities of the defendants designated hereinafter as DOES when such identities
8 become known.

9 **IV. STATEMENT OF FACTS**

10 14. During the Class Period, Defendant has employed Plaintiff and other similarly
11 situated employees at worksites throughout California, including in Alameda County.

12 15. At all times relevant hereto, Labor Code section 2802 has applied to Plaintiff, Class
13 Members, and Defendant.

14 16. Plaintiff is informed and believes and thereon alleges that, through common
15 practices, policies and/or schemes, Defendant has failed to reimburse employees for out-of-pocket
16 expenses for work-related use of their personal cell phones.

17 17. Defendant regularly requires Plaintiff and the Class Members to use their personal
18 cell phone devices as a direct consequence of the discharge of their duties and/or in obedience to
19 Defendant's direction. For example, Defendant requires Plaintiff and Class Members to download
20 an application on their personal cell phone devices called Microsoft Authenticator to perform their
21 job duties. Microsoft Authenticator is an authentication application used for two-step verification
22 to login to software and accounts. Defendant requires Plaintiff and Class Members to use Microsoft
23 Authenticator to perform their job duties, including accessing essential work software and email.

24 18. Defendant does not provide Plaintiff and Class Members a cellular device to use
25 Microsoft Authenticator or provide an alternative way to access essential work software and email
26 to perform their job duties for Defendant.

19. Defendant has not reimbursed or indemnified Plaintiff and the Class Members for the out-of-pocket expenses incurred as a result of the work-related use of their personal cell phones.

V. CLASS ACTION ALLEGATIONS

20. Except as to the Third Cause of Action under PAGA, Plaintiff brings this lawsuit as a class action pursuant to Code of Civil Procedure section 382 on behalf of himself and all similarly situated employees.

21. The class that Plaintiff seeks to represent are defined as:

The Class: All Software Engineers, Senior Software Engineers, and Staff Software Engineers whom Defendant employed who work the majority of their time in California, or who do not work principally in any one state but have a definite base of operations in California, in addition to performing at least some work in California for Defendant.

22. The claims herein have been brought and may properly be maintained as a class action under Code of Civil Procedure section 382 because there is a well-defined community of interest among Class Members with respect to the claims asserted herein and the Class is easily ascertainable:

a. Ascertainability and Numerosity: The potential members of the Class as defined herein are so numerous that joinder would be impracticable. Plaintiff is informed and believes, and based thereon alleges, that Defendant has employed at least four hundred (500) Class Members during the Class Period. The names and addresses of the Class Members are available from Defendant. Notice can be provided to the Class Members via first class mail using techniques and a form of notice similar to those customarily used in class action lawsuits of this nature.

b. Commonality: There are questions of law and fact common to Plaintiff and the Class that predominate over any questions affecting only individual members of the Class. These common questions of law and fact include, without limitation:

i. Whether Defendant has violated Labor Code section 2802 by failing to reimburse or indemnify employees for employment-related expenses,

- including, but not necessarily limited to, the costs incurred by using their personal cell phones in the course of performing their work duties;
- ii. Whether Defendant's failure to indemnify employees for their necessary employment-related expenses and losses constitutes an unlawful, unfair and/or fraudulent business practice under Business and Professions Code sections 17200 *et seq.*;
- iii. What relief is necessary to remedy Defendant's unfair and unlawful conduct as herein alleged; and
- iv. Other questions of law and fact.
- c. Typicality: Plaintiff's claims are typical of the claims of the Class: He was employed by Defendant during the Class Period in California. Plaintiff and all members of the Class have sustained injuries-in-fact due to their damages arising out of and caused by Defendant's common course of conduct in violation of law, as alleged herein.
- d. Adequacy of Representation: Plaintiff is a member of the Class that he seeks to represent and will fairly and adequately represent and protect the interests of Class. Counsel representing Plaintiff are competent and experienced in litigating wage and hour class actions.
- e. Superiority of Class Action: A class action is superior to other available means in order to obtain fair and efficient adjudication of this controversy. Individual joinder of all putative Class Members is not practicable, and questions of law and fact common to the proposed Class predominate over any questions affecting only individual members of the proposed Class. Each Class Member has suffered injury and is entitled to recover by reason of Defendant's unlawful policies and practices alleged herein. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Further, the prosecution of separate actions against Defendant by individual members of the proposed Class would create a risk of inconsistent or varying adjudications that would establish incompatible standards of conduct for Defendant.

1 **VI. DAMAGES**

2 23. As a direct, foreseeable, and proximate result of Defendant's conduct, Plaintiff and
3 similarly situated Class Members are owed, among other things, damages and interest in an amount
4 that exceeds \$25,000, the precise amount of which will be proven at trial.

5 **VII. CAUSES OF ACTION**

6 **FIRST CAUSE OF ACTION**

7 **FAILURE TO REIMBURSE BUSINESS EXPENSE**
8 **(Labor Code § 2802)**

9 24. The allegations of each of the preceding paragraphs are re-alleged and incorporated
10 herein by reference. Plaintiff alleges as follows a representative cause of action on behalf of
11 himself and all other Class Members.

12 25. Labor Code section 2802 provides, in pertinent part: "An employer shall indemnify
13 his or her employee for all necessary expenditures or losses incurred by the employee in direct
14 consequence of the discharge of his or her duties, or of his or her obedience to the directions of the
15 employer. . . For purposes of this section, the term 'necessary expenditures or losses' shall include
16 all reasonable costs, including, but not limited to, attorney's fees incurred by the employee
17 enforcing the rights granted by this section."

18 26. While acting on the direct instruction of Defendant and discharging their duties for
19 Defendant, Plaintiff and Class Members have incurred work-related business expenses, including
20 but not limited to costs of maintaining cell phones and cell phone service plans, for which
21 Defendant has failed to reimburse them.

22 27. By requiring Plaintiff and Class Members to incur business expenses in direct
23 consequence of the discharge of their duties for Defendant and/or in obedience to Defendant's
24 direction without fully reimbursing or indemnifying employees for these expenses, Defendant has
25 violated and continues to violate Labor Code section 2802.

26 28. As a direct and proximate result of Defendant's unlawful practices and policies,
27 Plaintiff and Class Members have suffered monetary losses, and are entitled to restitution of all
28 expenses incurred in the performance of their work duties, interest thereon, reasonable attorneys'

1 fees and costs, and any applicable penalties available for the Defendant's violations of Labor Code
2 section 2802.

3 29. Plaintiff, on behalf of himself and the proposed Class, requests reimbursement and
4 indemnification of her required business expenses as stated herein, and other relief as described
5 below.

6 **SECOND CAUSE OF ACTION**

7 **UNFAIR COMPETITION AND UNFAIR BUSINESS PRACTICES**
8 **(Business & Professions Code §§ 17200 *et seq.*)**

9 30. The allegations of each of the preceding paragraphs are re-alleged and incorporated
10 herein by reference. Plaintiff alleges as follows a representative cause of action on behalf of
11 himself and all other Class Members.

12 31. Defendant's failure to reimburse or indemnify employees for all business expenses
13 incurred, in violation of Labor Code section 2802, constitutes unlawful and unfair activities
14 prohibited by Business and Professions Code section 17200. Plaintiff reserves the right to identify
15 additional unfair and unlawful practices by Defendant as further investigation and discovery
16 warrants.

17 32. Plaintiff seeks a court order requiring an audit and accounting of work-related cell
18 phone expenses to determine the amount of restitution of all unreimbursed business expenses owed
19 to him and Class Members, according to proof, as well as a determination of the amount of funds to
20 be paid to current and former employees that can be identified and located pursuant to a court order
21 and supervision.

22 33. Plaintiff also seeks an injunction barring Defendant from future unlawful and unfair
23 activities because Defendant's failure to reimburse business expenses is likely to be repeated in the
24 future for proposed Class Members. Injunctive relief is therefore necessary to prevent Defendant
25 from continuing to engage in the unlawful business acts and practices alleged herein.

26 34. Plaintiff and all proposed Class Members are "persons" within the meaning of
27 Business and Professions Code section 17204 who have suffered injury in fact and have lost money
28 or property as a result of Defendant's unfair competition, and who comply with requirements of

1 Code of Civil Procedure section 382, as set forth above, and therefore have standing to bring this
2 claim for injunctive relief, restitution, and other appropriate equitable relief.

3 35. Because of its unlawful and unfair acts, Defendant has reaped unfair benefits and
4 illegal profits at the expense of Plaintiff and Class Members. Defendant should be enjoined from
5 this activity and made to restore to Plaintiff and Class Members their necessary business expenses
6 and interest thereon, pursuant to Business and Professions Code sections 17202 and 17203.

7 Defendant should also be enjoined from future unlawful and unfair activities.

8 36. Private enforcement of these rights is necessary, as no other agency has raised a
9 claim to protect these workers. There is a financial burden incurred in pursuing this action that
10 would be unjust to place upon Plaintiff, as the burden of enforcing workforce-wide rights is
11 disproportionately greater than that of enforcing only Plaintiff's individual claims. Additionally,
12 Plaintiff and Class Members are low-income workers who cannot afford to spend part of their
13 wages on enforcing others' wage rights. Thus, it would be against the interests of justice to force
14 payment of attorneys' fees from Plaintiff's and Class Members' recovery in this action. Therefore,
15 attorneys' fees are appropriately sought pursuant to Code of Civil Procedure section 1021.5.

16 37. Plaintiff and proposed Class Members do not have an adequate remedy at law
17 because the California Labor Code only provides for a three-year statute of limitations, whereas
18 Business and Professions Code section 17208 provides for a four-year statute of limitations.

19 38. Plaintiff and proposed Class Members also do not have an adequate remedy at law
20 because the applicable Labor Code provisions do not permit injunctive relief, whereas Business
21 and Professions Code section 17203 does.

22 39. Plaintiff, on behalf of himself and Class Members, requests restitution of
23 unreimbursed business expenses, injunctive relief and other relief as described below.

24 **THIRD CAUSE OF ACTION**

25 **PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT**
26 **(Labor Code §§ 2698 et seq.)**

27 40. The allegations of each of the preceding paragraphs are re-alleged and incorporated
28 herein by reference. Plaintiff alleges as follows a representative cause of action on behalf of

1 himself and all other Software Engineers, Senior Software Engineers, and Staff Software Engineers
2 whom Defendant employed at any time from October 6, 2022 to present who worked the majority
3 of their time in California, or who did not work principally in any one state but had a definite base
4 of operations in California, in addition to having performed at least some work in California for
5 Defendant (“aggrieved employees”).

6 41. Pursuant to Labor Code section 2699.3(a), on October 6, 2023, Plaintiff gave notice
7 by electronic filing and by certified mail to Defendant, and the Labor and Workforce Development
8 Agency (“LWDA”) of the factual and legal basis for the labor law violations alleged in this
9 complaint. Plaintiff submitted an amended letter to the LWDA on October 27, 2023, clarifying the
10 name of Defendant. The LWDA has not provided notice pursuant to Labor Code section
11 2699.3(a)(2)(A), and 65 calendar days have passed since the postmark date of Plaintiff’s LWDA
12 notice. Therefore, Plaintiff is entitled to commence a civil action pursuant to Labor Code section
13 2699.

14 42. Labor Code section 2699(f) provides, in pertinent part: “For all provisions of this
15 code except those for which a civil penalty is specifically provided, there is established a civil
16 penalty for a violation of these provisions, as follows: . . . If, at the time of the alleged violation, the
17 person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each
18 aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each
19 aggrieved employee per pay period for each subsequent violation.”

20 43. Labor Code section 2699(g)(1) provides, in pertinent part: “[A]n aggrieved
21 employee may recover the civil penalty described in subdivision (f) in a civil action . . . filed on
22 behalf of himself or herself and other current or former employees against whom one or more of
23 the alleged violations was committed. Any employee who prevails in any action shall be entitled to
24 an award of reasonable attorney’s fees and costs.”

25 44. Plaintiff is an aggrieved employee as defined by Labor Code section 2699(a).

26 45. Plaintiff’s cause of action under Labor Code section 2698, *et seq.* is based on the
27 following allegations:

28 a. Violation of Labor Code section 2802, requiring employers to indemnify employees

1 for all work-related expenditures, as LinkedIn does not indemnify its aggrieved
2 employees for the work-related use of their personal cell phones.

3 46. As a direct and proximate result of Defendant's unlawful practices and policies,
4 Plaintiff and other aggrieved employees have suffered and continue to suffer monetary losses.

5 47. Plaintiff, on behalf of himself and all other aggrieved employees, requests civil
6 penalties against Defendant for violations of the Labor Code, as provided under Labor Code
7 section 2699(f), plus reasonable attorneys' fees and costs, as provided under Labor Code section
8 2699(g)(1), in amounts to be proven at trial.

9 **VIII. REQUEST FOR JURY TRIAL**

10 Plaintiff requests a trial by jury on behalf of himself and the above-described Class.

11 **IX. PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff on behalf of himself and the above-described Class of similarly
13 situated Class Members, request relief as follows:

- 14 a. Certification of this action as a class action, pursuant to Code of Civil Procedure
15 section 382;
- 16 b. Declaratory judgment that Defendant has knowingly and intentionally violated
17 Labor Code section 2802 for failure to reimburse or indemnify Plaintiff and the
18 Class for work-related business expenses they have incurred in carrying out their job
19 duties and/or the Defendant's instructions, and Business and Professions Code
20 sections 17200 *et seq.*, by the conduct set forth above;
- 21 c. Declaratory judgment that Defendant's violations as described above are unlawful;
- 22 d. Injunctive relief pursuant to Business and Professions Code section 17203,
23 including (1) requiring an equitable accounting to identify, locate and restore to all
24 current and former Class Members the reimbursement for business expenses that are
25 due and (2) preventing future violations of law;
- 26 e. An award of damages and restitution to be paid by Defendant, according to proof;
- 27 f. An award of civil penalties under Labor Code section 2698, *et seq.*;
- 28 g. Pre-judgment and post-judgment interest;

- 1 h. An award of reasonable attorneys' fees and costs, pursuant to Labor Code sections
2 2802(c), 2699. and other applicable law; and
3 i. An award of such other and further relief as this Court deems just and proper.
4

5 DATED: May 31, 2024

HUNTER PYLE LAW

6
7 By:  _____

8 Hunter Pyle
 Katie Fiester

9 Attorneys for Plaintiff and the Putative Class
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1 **DEMAND FOR JURY TRIAL**

2 Plaintiff, on behalf of himself and the proposed Class, hereby demands a jury trial in this
3 matter for all claims so triable.
4

5 DATED: May 31, 2024

HUNTER PYLE LAW

6
7 By: 
8 Hunter Pyle
Katie Fiester

9 Attorneys for Plaintiff and the Putative Class
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I declare that I am employed in the County of Alameda, State of California. I am over the age of eighteen (18) years and not a party to this action. My business address is Hunter Pyle Law, PC, 505 14th Street, Suite 600, Oakland, California 94612. On this day, I served the following Document(s):

☒ By Electronic Service. Based on an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Attorneys for
LINKEDIN CORPORATION


DARLENE SANCHEZ