

FILED
Superior Court of California
County of Los Angeles

MAY 21 2021

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By [Signature], Deputy
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on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

TODD ALTSCHULER, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

SEDGWICK CLAIMS MANAGEMENT
SERVICES, INC., an Illinois corporation; and
DOES 1 through 25,

Defendants.

Case No.: 21STCV06933

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. Violation of Labor Code § 2802
(Failure to reimburse necessary
expenditures)
2. Violation of California Business &
Professions Code §§ 17200, et seq.
3. Recovery of Civil Penalties, Labor
Code §§ 2698, et seq.

Jury Trial Demanded

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Todd Altschuler is an individual and resident of Los Angeles,
California. Plaintiff has been employed by Defendants 2007. Plaintiff's current position
with Defendants is Senior Disability Analyst.

2. Defendant Sedgwick Claims Management Services, Inc. is a corporation
organized under the laws of the state of Illinois. Defendant Sedgwick is registered to and
does conduct business within California and within this County.

3. Plaintiff does not know the true names or capacities of the Defendants sued herein as Does 1 through 25, inclusive, and, for that reason, said Defendants are sued under such fictitious names. Plaintiff is informed and believes, and based thereon, alleges that each of said fictitious Defendants are and were responsible in some manner for the injuries complained of herein. Plaintiff will amend this Complaint to identify such fictitiously named Defendants pursuant to Code of Civil Procedure Section 474 once their identities become known.

4. The relief sought by Plaintiff on behalf of himself and the Class defined below exceeds the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial. The Court has personal jurisdiction over each of the parties because they are either citizens of this State, doing business in this State or otherwise have minimum contacts with this State.

5. Venue is proper in this County, as Plaintiff resides, and received his pay from Defendants here.

6. Plaintiff is informed and believes and based thereon, alleges that the Defendants were at all times relevant hereto members of, and engaged in, a joint venture, partnership, association or common enterprise, and acting within the course and scope of, and in pursuance of, said joint venture, partnership, association or common enterprise. Furthermore, Plaintiff is informed and believes and based thereon, alleges that at all times relevant hereto Defendants conspired together in, aided and abetted, contributed to, and/or acted as agents or employees of each other with respect to, the commission of the acts complained of herein. Defendants are therefore jointly and severally liable for the injuries complained of herein.

CLASS ALLEGATIONS

7. Plaintiff brings this action pursuant to California Code of Civil Procedure Section 382 on behalf of himself and the Class described below. The Class is comprised of and defined as:

1 All persons employed by Defendants in California who have worked
2 from home at any time within the four years prior to the initiation of
3 this action until the date that the class is certified (hereinafter “the
4 Class period”).

5 8. There exists a well-defined community of interest among the Class, and the
6 Class is readily ascertainable.

7 9. The members of the Class are so numerous that joinder of all members in a
8 single action would not be feasible or practical, and the amount of individual damages is not
9 large enough to make individual lawsuits by each class member practical or feasible.
10 Plaintiff is informed and believes and based upon such information and belief alleges that
11 there are in excess of 50 members of the Class.

12 10. Plaintiff’s claims are typical of the claims of the rest of the Class, and
13 Plaintiff will fairly and adequately represent the interests of the Class.

14 11. Common issues of fact and/or law predominate in this action over any
15 allegedly individual issues. Specifically, the following common questions of fact or law
16 predominate and make this action superior to individual actions:

17 (i) whether Plaintiff and the rest of the Class are entitled to
18 recover damages and other relief on the grounds that Defendants have used uniform policies
19 and procedures that have consistently violated California labor laws and regulations and
20 caused Plaintiff and the rest of the Class to suffer the same or similar injuries;

21 (ii) whether Defendants failed to indemnify the Class for all of the
22 necessary expenditures or losses incurred in direct consequence of the discharge of their
23 duties, or of their obedience to the directions of their employer, in violation of Labor Code
24 Section 2802; and

25 (iii) whether Defendants’ practices constitute unfair, fraudulent, or
26 illegal business practices under Business and Professions Code Sections 17200 *et seq.*

27 12. California labor laws under which Plaintiff asserts the following causes of
28 action on behalf of himself and the rest of the Class are broadly remedial in nature. These

1 labor laws serve an important public interest in establishing minimum working conditions
2 and standards in California. They furthermore protect employees from exploitation by
3 employers who may seek to take advantage of their superior economic and bargaining power
4 in setting onerous terms and conditions of employment. The class action mechanism is a
5 particularly efficient and appropriate procedure to redress the injuries alleged herein. If each
6 employee in the Class was required to file an individual action, Defendants would be able to
7 use their superior financial and legal resources to gain an unfair advantage over each
8 individual class member. Moreover, requiring each class member to pursue an individual
9 action would also discourage the assertion of meritorious causes of action by employees
10 who would likely be disinclined to file such individual actions due to a justifiable fear of
11 retaliation and damage to their careers at subsequent employment.

12 13. In addition, even if feasible, individual actions by each Class member would
13 create a substantial risk (i) of inconsistent or varying adjudications with respect to the claims
14 of each Class member against Defendants, that in turn could establish potentially
15 incompatible standards of conduct for Defendants, and/or (ii) of adjudications with respect
16 to individual Class members that would, as a practical matter, be dispositive of the interests
17 of the other Class members. Furthermore, the claims of each individual Class member are
18 not sufficiently large enough to make it economically feasible to bring each Class member's
19 claims on an individual basis.

20 **GENERAL ALLEGATIONS**

21 14. Plaintiff is informed and believes and based thereon, alleges that during the
22 Class Period, Plaintiff and the rest of the Class were employees of Defendants.

23 15. During the Class Period, Plaintiff and other class members have worked from
24 home.

25 16. In order to perform their jobs from home, Plaintiff and other members of the
26 Class were required to have internet access and telephones. To receive such services, Plaintiff
27 and members of the Class were required to pay fees to third-party providers.
28

any state law or regulation may constitute the basis of an unlawful business practice prohibited by Business and Professions Code Sections 17200 *et seq.*

24. Defendants' failure to reimburse Plaintiff and the Class for their reimbursable expenses as required by Labor Code Section 2802 is an unlawful business practice.

25. Accordingly, pursuant to Business and Professions Code Section 17200 *et seq.*, Plaintiff and the rest of the Class are entitled to restitution of the difference between what they expended and the amounts that Defendants paid to them as reimbursements.

26. Plaintiff meets the standing requirements for seeking relief pursuant to Business and Professions Code Section 17203, in that he has suffered an injury in fact and has lost money as a result of Defendants' policies, practices and procedures, as more fully set forth elsewhere in this pleading.

27. Plaintiff is entitled to injunctive relief requiring Defendants to properly reimburse Plaintiff and other Class members for their expenses.

THIRD CAUSE OF ACTION

FOR RECOVERY OF LABOR CODE CIVIL PENALTIES, CALIFORNIA LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004

(Against all Defendants)

28. Plaintiff re-alleges and incorporates herein by this reference each of the allegations in Paragraphs 1-27, inclusive.

29. Plaintiff brings this cause of action as a representative action on behalf of the LWDA under the Private Attorneys General Act of 2004 ("PAGA"), California Labor Code §§ 2698-2699.5. In pursuing his PAGA claim, Plaintiff represents the same legal right and interest as state labor law enforcement agencies. PAGA permits him to recover civil penalties that otherwise would have been assessed and collected by the California Labor and Workforce Development Agency ("LWDA"). Plaintiff does not bring his PAGA claim as an individual but as an agent of the LWDA, and as such brings this representative action on behalf of all other current and former employees who were aggrieved within the statutory time periods for the specific violations of the California Labor Code alleged herein.

30. Plaintiff has complied with the notice requirements of Labor Code section 2699.3. On February 23, 2021, Plaintiff's representative notified the LWDA and Defendant in writing of the Labor Code violations set forth herein. Sixty-five days later, the LWDA had not responded to Plaintiff's notice. Pursuant to section 2699.3(a)(2)(A), Plaintiff was entitled to commence this action, and pursuant to section 2699.3(a)(2)(C) is entitled to amend his pleading to include this claim.

31. Labor Code Section 2802 requires an employer to reimburse employees for all necessary expenditures and losses incurred in order to discharge their duties for Employer.

32. During the relevant time period, Plaintiff and the other aggrieved employees were required to work from home and use their own internet and telephone services and other resources to perform their work. Employees were not reimbursed by Defendants for all such expenses.

33. Accordingly, pursuant to Labor Code Section 2699, Plaintiff and the rest of the aggrieved employees are entitled to recover penalties for Defendants' failure to properly reimburse them for their necessary expenditures.

PRAAYER

WHEREFORE, Plaintiff prays for judgment on behalf of himself and the rest of the Class against all Defendants, as follows:

ON THE FIRST CAUSE OF ACTION

1. For unreimbursed expenses incurred by Plaintiff and the Class;
2. For prejudgment interest;
3. For reasonable attorneys' fees and costs under Labor Code Section 2802.

ON THE SECOND CAUSE OF ACTION

1. For restitution of all unpaid expenses withheld from Plaintiff and the rest of the Class as a result of Defendants' unfair, unlawful or fraudulent business practices;
2. For a permanent injunction;

1 3. For reasonable attorneys' fees and costs under Code of Civil Procedure
2 Section 1021.5.

3 **ON THE THIRD CAUSE OF ACTION**

4 1. For civil penalties, 75% of which will be paid to the LWDA and 25% of
5 which will be paid to Plaintiff and the aggrieved employees;

6 2. For prejudgment interest; and

7 3. For reasonable attorney's fees and costs pursuant to California Labor Code
8 section 2699(g).

9 **ON ALL CAUSES OF ACTION**

10 1. For certification of this action as a class action;

11 2. For attorneys' fees and costs pursuant to Civil Procedure Section 1021.5, the
12 "common fund" theory, the "substantial benefit" theory and/or any other applicable theory
13 or doctrine; and,

14 3. For such further relief as the Court may deem appropriate.

15 DATED: May 21, 2021

GUNDZIK GUNDZIK HEEGER LLP

16
17 By: 

Aaron C. Gundzik
Attorneys for Plaintiff Todd Altschuler,
individually, on behalf of all others similarly
situated

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DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all claims so triable.

DATED: May 21, 2021

GUNDZIK GUNDZIK HEEGER LLP



By: _____

Aaron C. Gundzik
Attorneys for Plaintiff Todd Altschuler,
individually, on behalf of all others similarly
situated

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and not a party to the within action. My business address is 14011 Ventura Blvd., Suite 206E, Sherman Oaks, CA 91423.

On May 21, 2021, I served the following document described as

- **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT**

on the interested parties in this action:

(X) by serving () the original (X) true copies thereof as follows:

Please see attached service list

() BY MAIL I caused such envelope to be deposited in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.	() BY FACSIMILE TRANSMISSION I caused said document(s) to be transmitted by facsimile transmission to the name(s) and facsimile telephone number(s) of the person(s) named on the attached service list. The facsimile machine telephone number of the sending facsimile machine was (818) 918-2316. A transmission report was issued by the sending facsimile machine confirming that the transmission was completed without error. A true and correct copy of said transmission report is attached hereto.
() BY OVERNIGHT DELIVERY Said document was placed in an envelope designated by the express service center and placed for collection in a box regularly maintained by said carrier with whom we have a direct billing account, to be delivered to the office of the addressee listed above on the next business day.	(XX) BY ELECTRONIC TRANSMISSION I caused the above-described document to be electronically served through Case Anywhere pursuant to the Court's Order Authorizing Electronic Service dated April 30, 2021, to the names and email addresses listed on the Service List attached hereto.

(X) STATE I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

() FEDERAL I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

(X) EXECUTED on May 21, 2021, at Sherman Oaks, California.



Nicole Salazar

Electronic Service List

Case: **Altschuler, et al. v. Sedgwick Claims Management Services, Inc.**

Case Info: **21STCV06933, Los Angeles Superior Court**

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