

1 LAUREN M. BLAS, SBN 296823
lblas@gibsondunn.com
2 MICHAEL HOLECEK, SBN 281034
mholecsek@gibsondunn.com
3 GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
4 Los Angeles, CA 90071-3197
Telephone: 213.229.7000
5 Facsimile: 213.229.7520

6 JENNIFER K. BRACHT, SBN 300385
jbracht@gibsondunn.com
7 GIBSON, DUNN & CRUTCHER LLP
1801 California Street, Suite 4200
8 Denver, CO 80202-2642
Telephone: 303.298.5700
9 Facsimile: 303.298.5907

10 Attorneys for Defendants
AMAZON.COM SERVICES LLC (erroneously
11 named as AMAZON.COM, LLC) and
AMAZON LOGISTICS, INC.
12
13
14

15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA
17 WESTERN DIVISION

18 DALLAN ESCOBAR, on behalf of
himself and others similarly situated,

19 Plaintiff,

20 v.

21 AMAZON.COM, LLC; AMAZON
LOGISTICS, INC.; and DOES 1 to 100,
22 inclusive,

23 Defendants.
24
25
26
27
28

CASE NO. 2:21-cv-08026

**DEFENDANTS AMAZON.COM
SERVICES LLC AND AMAZON
LOGISTICS, INC.'S NOTICE OF
REMOVAL OF CLASS ACTION**

(San Bernardino County Superior Court
Case No. CIVSB2123066)

Action Filed: August 11, 2021

TABLE OF CONTENTS

Page

I. TIMELINESS OF REMOVAL 1

II. SUMMARY OF ALLEGATIONS AND GROUNDS FOR REMOVAL 2

 A. The Proposed Class Consists of More Than 100 Members..... 3

 B. Amazon and Plaintiff Are Not Citizens of the Same State..... 4

 C. The Amount in Controversy Exceeds \$5 Million 6

 1. Plaintiff’s Claim for Alleged Violation of Labor Code
Section 226 Independently Places More Than \$ 9.5 Million
in Controversy..... 7

 2. Plaintiff’s Request for Attorneys’ Fees Places More Than
\$2.3 Million in Controversy..... 10

 3. Just One of Plaintiff’s Eight Causes of Action, Including
Attorneys’ Fees, Place More Than \$11.8 Million in
Controversy..... 11

III. THIS COURT HAS JURISDICTION AND REMOVAL IS PROPER 11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF AUTHORITIES

Page(s)

CASES

Arias v. Residence Inn by Marriott,
936 F.3d 920 (9th Cir. 2019) 6, 8, 10

Barcia v. Contain-A-Way, Inc.,
2009 WL 587844 (S.D. Cal. Mar. 6, 2009)..... 10

Campbell v. Vitran Express, Inc.,
471 F. App’x 646 (9th Cir. 2012)..... 7

Dart Cherokee Basin Operating Co. v. Owens,
574 U.S. 81 (2014)..... 6, 7

Ehrman v. Cox Commc’ns, Inc.,
932 F.3d 1223 (9th Cir. 2019), *cert. denied*, 140 S. Ct. 2566 (2020) 5

Hanlon v. Chrysler Corp.,
150 F.3d 1011 (9th Cir. 1998) 10

Hertz Corp. v. Friend,
559 U.S. 77 (2010)..... 6

Johnson v. Columbia Props. Anchorage, LP,
437 F.3d 894 (9th Cir. 2006) 5, 6

Kantor v. Wellesley Galleries, Ltd.,
704 F.2d 1088 (9th Cir. 1983) 4

Korn v. Polo Ralph Lauren Corp.,
536 F. Supp. 2d 1199 (E.D. Cal. 2008) 7

LaCross v. Knight Transp. Inc.,
775 F.3d 1200 (9th Cir. 2015) 6

Lewis v. Verizon Commc’ns, Inc.,
627 F.3d 395 (9th Cir. 2010) 7

Lopez v. Adesa, Inc.,
2019 WL 4235201 (C.D. Cal. Sept. 6, 2019)..... 5

TABLE OF AUTHORITIES

(continued)

Page(s)

Mann v. City of Tucson, Dep’t of Police,
782 F.2d 790 (9th Cir. 1986)..... 4

Mejia v. DHL Express (USA), Inc.,
2015 WL 2452755 (C.D. Cal. May 21, 2015)..... 9

Salter v. Quality Carriers, Inc.,
974 F.3d 959 (9th Cir. 2020) 6, 7

Soto v. Tech Packaging, Inc.,
2019 WL 6492245 (C.D. Cal. Dec. 3, 2019)..... 9

Std. Fire Ins. Co. v. Knowles,
568 U.S. 588 (2013)..... 7

STATUTES

28 U.S.C. § 84(c) 12

28 U.S.C. § 1332(c)(1)..... 5, 6

28 U.S.C. § 1332(d) 2, 3, 4, 6

28 U.S.C. § 1332(d)(7) 4

28 U.S.C. § 1441 3, 12

28 U.S.C. § 1446(b) 1

Cal. Code Civ. Proc. § 340(a) 9

Cal. Lab. Code § 226(e)(1) 8

1 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
2 CENTRAL DISTRICT OF CALIFORNIA, PLAINTIFF DALLAN ESCOBAR, AND
3 HIS COUNSEL OF RECORD:

4 **PLEASE TAKE NOTICE THAT**, pursuant to the Class Action Fairness Act of
5 2005, 28 U.S.C. §§ 1332(d), 1453, and 1711, Defendants Amazon.com Services LLC
6 (erroneously sued as Amazon.com, LLC), and Amazon Logistics, Inc. hereby remove to
7 the United States District Court for the Central District of California the above-captioned
8 state court action, originally filed as Case No. CIVSB2123066 in the Superior Court of
9 California, San Bernardino County. Removal is proper on the following grounds:

10 **I. TIMELINESS OF REMOVAL**

11 1. Plaintiff Dallan Escobar (“Plaintiff”) filed a putative Class Action
12 Complaint against Amazon.com Services LLC (erroneously sued as Amazon.com, LLC)
13 and Amazon Logistics, Inc. (together “Amazon” or “Defendants”) in San Bernardino
14 County Superior Court, State of California, Case No. CIVSB2123066, on August 11,
15 2021. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of the (a) Class Action
16 Complaint, Civil Case Cover Sheet and Certificate of Assignment filed on August 11,
17 2021; (b) Summons issued on September 1, 2021 and Proof of Service upon
18 Amazon.com Services LLC (erroneously sued as Amazon.com, LLC) and Amazon
19 Logistics, Inc. filed on September 9, 2021; (c) Initial Case Management Conference
20 Order and court correspondence to Bainer Law Firm relating to Complex Case Order
21 and Guidelines; (d) Notices of Appearance and Proofs of Service filed on September 30,
22 2021, and October 7, 2021; and (e) Register of Actions as of October 8, 2021, are
23 attached as Exhibits A–E to the Declaration of Lauren Blas (“Blas Decl.”) filed
24 concurrently here.

25 2. According to Amazon’s records, Plaintiff served Amazon by personal
26 service on September 8, 2021. *See* Blas Decl. ¶ 3, Ex. B. Consequently, service was
27 completed on September 8, 2021. This notice of removal is timely because it is filed
28 within 30 days after service was completed. 28 U.S.C. § 1446(b).

1 **II. SUMMARY OF ALLEGATIONS AND GROUNDS FOR REMOVAL**

2 3. Removal is proper pursuant to 28 U.S.C. §§ 1441 and 1453 because this
3 Court has subject-matter jurisdiction over this action and all claims asserted against
4 Amazon pursuant to the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C.
5 § 1332(d).

6 4. CAFA applies “to any class action before or after the entry of a class
7 certification order by the court with respect to that action.” 28 U.S.C. § 1332(d)(8). This
8 case is a putative “class action” under CAFA because it was brought under California
9 Code of Civil Procedure section 382, California’s state statute or rule authorizing an
10 action to be brought by one or more representative persons as a class action. *See* 28
11 U.S.C. § 1332(d)(1)(B); *see also* Blas Decl. Ex. A, Compl. ¶ 1 & Prayer for Relief.

12 5. Plaintiff requests “that this case be certified as a class action.” Blas Decl.
13 Ex. A, Compl., Prayer for Relief. He seeks to represent “[a]ll individuals who worked
14 for Defendants in the state of California as Amazon Relay Drivers, or other similar
15 position titles, at any time during the period from four years prior to the filing of this
16 Complaint until the date of certification[.]”

17 6. In his Complaint, Plaintiff alleges eight causes of action against Amazon:
18 (1) Failure to Pay Overtime in Violation of California Labor Code Sections 510 and
19 1198; (2) Failure to Pay Minimum Wage in Violation of Labor Code Sections 1194,
20 1197, and 1197.1; (3) Failure to Pay Meal Period Premiums in Violation of Labor Code
21 Sections 226.7 and 512(a); (4) Failure to Pay Rest Period Premiums in Violation of
22 Labor Code Section 226.7; (5) Failure to Timely Pay Wages Upon Termination in
23 Violation of Labor Code Sections 201 and 202; (6) Failure to Provide Compliant Wage
24 Statements in Violation of Labor Code Section 226(a); (7) Failure to Reimburse
25 Expenses in Violation of Labor Code Section 2802; and (8) Unfair Competition under
26 Business & Professions Code section 17200 *et seq.*

27 7. Among other things, Plaintiff alleges that putative class members are
28 entitled to damages, unpaid wages, including statutory penalties for late payment of

1 wages and inaccurate wage statements, interest, and attorneys’ fees and costs. *See* Blas
2 Decl. Ex. A, Compl., Prayer for Relief.

3 8. Removal of a class action under CAFA is proper if: (1) there are at least
4 100 members in the putative class; (2) there is minimal diversity between the parties,
5 such that at least one class member is a citizen of a state different from any defendant;
6 and (3) the aggregate amount in controversy exceeds \$5 million, exclusive of interest
7 and costs. *See* 28 U.S.C. §§ 1332(d), 1441.

8 9. Amazon denies any liability in this case, both as to Plaintiff’s individual
9 claims and as to the claims he seeks to pursue on behalf of the putative class. Amazon
10 also intends to oppose class certification and believes that class treatment is
11 inappropriate under these circumstances in part because there are many material
12 differences between the experiences of Plaintiff and the putative class members he seeks
13 to represent. Amazon expressly reserves all rights to oppose class certification, to object
14 to the scope of the class, and to contest the merits of all claims asserted in the Complaint.
15 However, for purposes of the jurisdictional requirements for removal *only*, the
16 allegations in Plaintiff’s Complaint identify a putative class of more than 100 members
17 and put in controversy, in the aggregate, an amount that exceeds \$5 million. *See* 28
18 U.S.C. § 1332(d)(6).

19 **A. The Proposed Class Consists of More Than 100 Members**

20 10. Based on Plaintiff’s allegations, this action satisfies CAFA’s requirement
21 that the putative class contain at least 100 members. *See* 28 U.S.C. § 1332(d)(5)(B).

22 11. Plaintiff’s proposed class consists of “[a]ll individuals who worked for
23 Defendants in the state of California as Amazon Relay Drivers, or other similar position
24 titles, at any time during the period from four years prior to the filing of this Complaint
25 until the date of certification[.]” Blas Decl., Ex. A, Compl. ¶ 14. Based *solely* on
26 Plaintiff’s alleged definition of the putative class, Amazon assumes for the purposes of
27 removal *only* that the putative class would consist of any Amazon Relay driver who
28 completed at least one drop-off or pick-up in the state of California during the class

1 period. Amazon does not concede that California law would apply to such a class.
2 According to Amazon’s records, at least approximately 30,000 Amazon Relay drivers
3 affiliated with a California-based Delivery Service Provider (“DSP”) completed at least
4 one drop-off or pick-up in the state of California between August 11, 2020 and August
5 11, 2021.

6 12. This putative class size estimate is highly conservative because (a) it
7 excludes, as phrased in the Complaint’s class definition, “other similar position titles”
8 (Blas Decl., Ex. A, Compl. ¶ 14); (b) it excludes any individuals who performed delivery
9 services as Amazon Relay drivers or under “other similar position titles” between
10 August 11, 2017 and August 10, 2020 (*id.*); and (c) it excludes any individuals who will
11 perform delivery services as Amazon Relay drivers or under “other similar position
12 titles” from August 11, 2021 “until the date of certification” (*id.*).

13 13. Accordingly, while Amazon denies that class treatment is permissible or
14 appropriate, as alleged, the proposed class consists of well over 100 members.

15 **B. Amazon and Plaintiff Are Not Citizens of the Same State**

16 14. Under CAFA’s minimum diversity of citizenship requirement, the plaintiff
17 or any member of the putative class must be a citizen of a different state from any
18 defendant. *See* 28 U.S.C. § 1332(d)(2)(A). For purposes of CAFA, the plaintiffs’
19 citizenship is determined “as of the date of filing of the complaint or amended complaint,
20 or if the case stated by the initial pleading is not subject to federal jurisdiction, as of the
21 date of service by plaintiffs of an amended pleading . . . indicating the existence of
22 [f]ederal jurisdiction.” 28 U.S.C. § 1332(d)(7); *see also cf. Mann v. City of Tucson,*
23 *Dep’t of Police*, 782 F.2d 790, 794 (9th Cir. 1986) (concluding that, for traditional
24 removal, diversity of citizenship is established “at the time of the filing of the complaint,
25 not at the time the cause of action arose or after the action is commenced”).

26 15. A person is a citizen of the state in which he or she is domiciled. *Kantor v.*
27 *Wellesley Galleries, Ltd.*, 704 F.2d 1088, 1090 (9th Cir. 1983). Based on information
28 and belief, Defendants allege that Plaintiff is domiciled in Texas and is therefore a

1 citizen of Texas for purposes of removal under CAFA. *See Ehrman v. Cox Commc'ns,*
2 *Inc.*, 932 F.3d 1223, 1227 (9th Cir. 2019), *cert. denied*, 140 S. Ct. 2566 (2020) (holding
3 that defendant's "short and plain statement alleging that [plaintiff] and the putative class
4 members were citizens of California" was "sufficient" to establish jurisdiction for
5 removal under CAFA because "allegations of citizenship may be based solely on
6 information and belief"). In *Lopez v. Adesa, Inc.*, 2019 WL 4235201, at *1 n.2, (C.D.
7 Cal. Sept. 6, 2019), the court rejected plaintiff's argument that defendant's notice of
8 removal "contain[ed] 'only allegations of the [p]arties' citizenships,' such as a citation
9 to [defendant's] own records to establish [p]laintiff's citizenship." Citing *Ehrman*, the
10 Court reasoned that "a party's 'allegation of minimal diversity may be based on
11 information and belief'" and does not "'need to contain evidentiary submissions.'" *Id.*
12 (quoting *Ehrman*, 932 F.3d at 1227).

13 16. A corporation is a citizen of its state of incorporation and the state of its
14 principal place of business. 28 U.S.C. § 1332(c)(1). "[A]n LLC is a citizen of every
15 state of which its owners/members are citizens." *Johnson v. Columbia Props.*
16 *Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). Amazon.com Services LLC is a
17 limited liability company organized under the laws of Delaware and has its principal
18 place of business in Seattle, Washington. Declaration of Zane Brown ("Brown Decl.")
19 ¶ 2. Amazon.com Services LLC's only member is Amazon.com Sales, Inc., which is
20 wholly owned by Amazon.com, Inc. *Id.* ¶ 3. Amazon.com Sales, Inc. and Amazon.com,
21 Inc. are each incorporated in Delaware and have their principal places of business in
22 Seattle, Washington. *Id.* ¶ 4.

23 17. Similarly, Amazon Logistics, Inc. is incorporated in Delaware and has its
24 principal place of business in Seattle, Washington. *Id.*

25 18. The Supreme Court has interpreted the phrase "principal place of business"
26 in 28 U.S.C. § 1332(c)(1) and (d)(2)(A) to mean "the place where a corporation's
27 officers direct, control, and coordinate the corporation's activities," i.e., its "nerve
28 center," which "should normally be the place where the corporation maintains its

1 headquarters—provided that the headquarters is the actual center of direction, control,
2 and coordination[.]” *Hertz Corp. v. Friend*, 559 U.S. 77, 92–93 (2010). This
3 interpretation also applies to limited liability corporations. *Johnson v. Columbia*
4 *Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006) (“We therefore join our
5 sister circuits and hold that, like a partnership, an LLC is a citizen of every state of which
6 its owners/members are citizens.”). These entities’ headquarters, which are located in
7 Washington, constitute their “nerve center[s]” under the test adopted in *Hertz* because
8 their high-level officers oversee each corporation’s activities from that state. *See* Brown
9 Decl. ¶ 5. As such, Amazon.com Services LLC and Amazon Logistics, Inc. are citizens
10 of Delaware and Washington. *See* 28 U.S.C. § 1332(c)(1); *Johnson*, 437 F.3d at 899.

11 19. Accordingly, Plaintiff and Amazon are citizens of different states and
12 CAFA’s minimal diversity requirement is met. 28 U.S.C. § 1332(d)(2)(A).

13 **C. The Amount in Controversy Exceeds \$5 Million**

14 20. CAFA requires that the amount in controversy in a class action exceed
15 \$5 million, exclusive of interests and costs. 28 U.S.C. § 1332(d)(2). In calculating the
16 amount in controversy, a court must aggregate the claims of all individual class
17 members. 28 U.S.C. § 1332(d)(6).

18 21. “[A] defendant’s notice of removal need include only a plausible allegation
19 that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee*
20 *Basin Operating Co. v. Owens*, 574 U.S. 81, 89 (2014). To satisfy this burden, a
21 defendant may rely on a “chain of reasoning” that is based on “reasonable”
22 “assumptions.” *LaCross v. Knight Transp. Inc.*, 775 F.3d 1200, 1201 (9th Cir. 2015).
23 “An assumption may be reasonable if it is founded on the allegations of the complaint.”
24 *Arias v. Residence Inn by Marriott*, 936 F.3d 920, 925 (9th Cir. 2019); *see also* *Salter v.*
25 *Quality Carriers, Inc.*, 974 F.3d 959, 964 (9th Cir. 2020) (“[I]n *Arias* we held that a
26 removing defendant’s notice of removal need not contain evidentiary submissions but
27 only plausible allegations of jurisdictional elements.” (internal quotation marks and
28 citations omitted)). That is because “[t]he amount in controversy is simply an estimate

1 of the total amount in dispute, not a prospective assessment of defendant’s liability.”
2 *Lewis v. Verizon Commc’ns, Inc.*, 627 F.3d 395, 400 (9th Cir. 2010). “[W]hen a
3 defendant seeks federal-court adjudication, the defendant’s amount-in-controversy
4 allegation should be accepted when not contested by the plaintiff or questioned by the
5 court.” *Dart Cherokee*, 574 U.S. at 87. Importantly, plaintiffs seeking to represent a
6 putative class cannot “bind the absent class” through statements aimed to limit their
7 recovery in an effort to “avoid removal to federal court.” *Std. Fire Ins. Co. v. Knowles*,
8 568 U.S. 588, 595–96 (2013).

9 22. Moreover, in assessing whether the amount in controversy requirement has
10 been satisfied, “a court must ‘assume that the allegations of the complaint are true and
11 assume that a jury will return a verdict for the plaintiff on all claims made in the
12 complaint.’” *Campbell v. Vitran Express, Inc.*, 471 F. App’x 646, 648 (9th Cir. 2012)
13 (quoting *Kenneth Rothschild Tr. v. Morgan Stanley Dean Witter*, 199 F. Supp. 2d 993,
14 1001 (C.D. Cal. 2002)). In other words, the focus of the Court’s inquiry must be on
15 “what amount is put ‘in controversy’ by the plaintiff’s complaint, not what a defendant
16 will *actually* owe.” *Korn v. Polo Ralph Lauren Corp.*, 536 F. Supp. 2d 1199, 1205 (E.D.
17 Cal. 2008) (citing *Rippee v. Bos. Mkt. Corp.*, 408 F. Supp. 2d 982, 986 (S.D. Cal. 2005)).

18 23. Although Amazon denies that Plaintiff’s claims have any merit, for the
19 purposes of meeting the jurisdictional requirements for removal *only*, if Plaintiff were
20 to prevail on every claim and allegation in his Complaint on behalf of the putative class,
21 the requested monetary recovery would exceed \$5 million.

22 **1. Plaintiff’s Claim for Alleged Violation of Labor Code Section 226**
23 **Independently Places More Than \$ 9.5 Million in Controversy**

24 24. Amazon reserves the right to present evidence establishing the amount
25 placed in controversy by each of Plaintiff’s claims should Plaintiff challenge whether
26 the jurisdictional amount-in-controversy threshold is satisfied. *See Dart Cherokee*, 574
27 U.S. at 87–89; *see also Salter*, 974 F.3d at 964 (holding that only a “factual attack” that
28 “contests the truth of the plaintiff’s factual allegations, usually by introducing evidence

1 outside the pleadings” requires the removing defendant to “support her jurisdictional
2 allegations with competent proof,” internal quotation marks and citations omitted).
3 “[W]hen a notice of removal plausibly alleges a basis for federal court jurisdiction, a
4 district court may not remand the case back to state court without first giving the
5 defendant an opportunity to show by a preponderance of the evidence that the
6 jurisdictional requirements are satisfied.” *Arias*, 936 F.3d at 924. But for present
7 purposes, it is sufficient to note that Plaintiff’s claims pursuant to Labor Code section
8 226 alone place more than \$9.5 million in controversy.

9 25. Plaintiff alleges in his Sixth Cause of Action that Amazon “failed to provide
10 employees with or retain complete and accurate wage statements” in violation of Labor
11 Code section 226 and seeks penalties under that statute. Blas Decl., Ex. A, Compl. ¶¶ 72,
12 75.

13 26. Under section 226(e)(1), an employee suffering injury as a result of an
14 intentional failure to comply with section 226(a) is entitled to “recover the greater of all
15 actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs
16 and one hundred dollars (\$100) per employee for each violation in a subsequent pay
17 period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is
18 entitled to an award of costs and reasonable attorney’s fees.” Cal. Lab. Code
19 § 226(e)(1).

20 27. Amazon denies that any such penalties are owed to Plaintiff or putative
21 class members. However, for purposes of this jurisdictional analysis *only*, Amazon
22 relies on Plaintiff’s allegations that the penalties are owed. Plaintiff alleges both that
23 “Plaintiff and other class members were not provided with complete and accurate wage
24 statements[,]” and that “Defendant[s] misclassified [Plaintiff] as an ‘independent
25 contractor’ and, *on that basis*, denied Plaintiff basic statutory rights and protections
26 provided to all California employees and complained of more fully herein.” Blas Decl.,
27 Ex. A, Compl. ¶¶ 21, 29. Based on those allegations, it is reasonable to assume, for the
28 purposes of this jurisdictional analysis *only*, that all class members received inaccurate

wage statements each pay period. *See, e.g., Mejia v. DHL Express (USA), Inc.*, 2015 WL 2452755, at *5 (C.D. Cal. May 21, 2015) (concluding it is appropriate to use 100% violation rate for wage statement claim where the claim is derivative); *Soto v. Tech Packaging, Inc.*, 2019 WL 6492245, at *7 (C.D. Cal. Dec. 3, 2019).

28. For purposes of estimating the amount in controversy, Amazon assumes that Amazon Relay drivers are paid on a monthly basis.¹ During the one-year period prior to the filing of the Complaint,² at least approximately 110,000 Amazon Relay drivers affiliated with a California-based DSP completed at least one drop-off or pick-up in the state of California per month.

29. Based on Plaintiff’s allegations, the amount in controversy with respect to Plaintiff’s Sixth Cause of Action alone is approximately **\$9.5 million**, calculated as follows:

Average number of pay periods for each driver from August 11, 2020 to August 11, 2021 (110,000 pay periods / 30,000 drivers)	3.67
Total number of initial pay periods (30,000 drivers x 1 initial pay period)	30,000
Penalty for initial pay period for each driver (30,000 initial pay periods x \$50):	\$1.5 million
Total number of subsequent pay periods (30,000 drivers x 2.67 subsequent pay periods)	80,100
Penalty for subsequent pay periods for each driver (80,100 subsequent pay periods x \$100)	\$8 million
Amount in controversy for section 226 claim, based on Plaintiff’s allegations:	\$9.5 million

30. The amount in controversy alleged by Plaintiff on this claim alone exceeds \$9.5 million.

¹ This is a very conservative assumption as bi-weekly or weekly payment is common practice.

² The statute of limitations for this claim is one year. Cal. Code Civ. Proc. § 340(a).

1 **2. Plaintiff’s Request for Attorneys’ Fees Places More Than \$2.3 Million**
 2 **in Controversy**

3 31. Plaintiff also explicitly seeks attorneys’ fees should he recover for any of
 4 the claims in this action. *See* Blas Decl., Ex. A, Compl., Prayer for Relief. Prospective
 5 attorneys’ fees are properly included in the amount in controversy for purposes of
 6 evaluating CAFA jurisdiction. *See Arias*, 936 F.3d at 922 (“[W]hen a statute or contract
 7 provides for the recovery of attorneys’ fees, prospective attorneys’ fees must be included
 8 in the assessment of the amount in controversy.”). Under the Ninth Circuit’s well-
 9 established precedent, 25% of the common fund is generally used as a benchmark for an
 10 award of attorneys’ fees. *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir.
 11 1998); *Barcia v. Contain-A-Way, Inc.*, 2009 WL 587844, at *5 (S.D. Cal. Mar. 6, 2009)
 12 (“In wage and hour cases, ‘[t]wenty-five percent is considered a benchmark for
 13 attorneys’ fees in common fund cases.’”).

14 32. Here, Amazon has established that the total amount in controversy is at
 15 least **\$9.5 million**, and Plaintiff has not indicated that he will seek less than 25% of a
 16 common fund in attorneys’ fees. *See* Blas Decl., Ex. A, Compl., Prayer for Relief
 17 (seeking attorneys’ fees). Although Amazon has shown that the amount in controversy
 18 absent attorneys’ fees surpasses the jurisdictional threshold, this Court should
 19 nevertheless include the potential attorneys’ fees in evaluating jurisdiction. *Arias*, 936
 20 F.3d at 922. Amazon denies that any such attorneys’ fees are owed to Plaintiff or
 21 putative class members. However, for purposes of this jurisdictional analysis *only*,
 22 Amazon relies on Plaintiff’s allegations that the attorneys’ fees are owed.

23 33. Using a 25% benchmark figure for attorneys’ fees for Plaintiff’s allegations
 24 regarding alleged Labor Code section 226 violations results in estimated attorneys’ fees
 25 of approximately **\$2.3 million**, calculated as follows:

26 Conservative Estimate of Amount in Controversy from Section 226 Claims:	\$9.5 million
27 Attorneys’ Fees Benchmark:	25%
28 Attorneys’ Fees:	\$2.3 million

1 **3. Just One of Plaintiff’s Eight Causes of Action, Including Attorneys’**
2 **Fees, Place More Than \$11.8 Million in Controversy**

3 34. In summary, Plaintiff’s allegations regarding failure to provide accurate
4 itemized wage statements places more than \$9.5 million in controversy, and attorneys’
5 fees on this one claim alone would place an additional \$2.3 million in controversy. This
6 amount in controversy calculation underestimates the total amount placed in controversy
7 by Plaintiff’s complaint because it is based on conservative assumptions about Plaintiff’s
8 putative class allegations and does not account for, among other things, any recovery
9 sought for failure to pay lawful wages, including minimum wages and overtime wages
10 (First and Second Causes of Action), failure to pay meal or rest period premiums (Third
11 and Fourth Causes of Action), failure to timely pay wages earned and unpaid to
12 discharged employees (Fifth Cause of Action), failure to indemnify employees for losses
13 and expenditures (Seventh Cause of Action), or violation of the Unfair Competition Law
14 (Eighth Cause of Action).

15 35. Plaintiff’s allegations therefore place more than the requisite \$5 million in
16 controversy. The jurisdictional amount-in-controversy requirement is met, and removal
17 to this Court is proper under CAFA.

18 **III. THIS COURT HAS JURISDICTION AND REMOVAL IS PROPER**

19 36. Based on the foregoing facts and allegations, this Court has original
20 jurisdiction over this action pursuant to 28 U.S.C. § 1332(d) because:

- 21 a) This is a civil action which is a class action within the meaning of
22 § 1332(d)(1)(B);
- 23 b) The action involves a putative class of at least 100 persons as required
24 by § 1332(d)(5)(B);
- 25 c) The amount in controversy exceeds \$5 million, exclusive of interest
26 and costs, as required by § 1332(d)(2); and
- 27 d) At least one member of the putative class is a citizen of a state different
28 from that of any defendant as required by § 1332(d)(2)(A).

1 Accordingly, this action is properly removable under 28 U.S.C. §§ 1441, 1446, and
2 1453.

3 37. The United States District Court for the Central District of California is the
4 federal judicial district in which the San Bernardino County Superior Court sits. This
5 action was originally filed in the San Bernardino County Superior Court, rendering
6 venue in this federal judicial district proper. 28 U.S.C. § 84(c); *see also* 28 U.S.C.
7 § 1441(a).

8 38. True and correct copies of the (a) Class Action Complaint, Civil Case Cover
9 Sheet and Certificate of Assignment filed on August 11, 2021; (b) Summons issued on
10 September 1, 2021 and Proof of Service upon Amazon.com Services LLC (erroneously
11 sued as Amazon.com, LLC) and Amazon Logistics filed on September 9, 2021; (c)
12 Initial Case Management Conference Order and court correspondence to Bainer Law
13 Firm relating to Complex Case Order and Guidelines; (d) Notices of Appearance and
14 Proofs of Service filed on September 30, 2021, and October 7, 2021; and (e) Register of
15 Actions as of October 8, 2021, are attached as Exhibits A–E to the Declaration of Lauren
16 Blas (“Blas Decl.”) filed concurrently here. These filings constitute the complete record
17 of all records and proceedings in the state court.

18 39. Upon filing the Notice of Removal, Amazon will furnish written notice to
19 Plaintiff’s counsel, and will file and serve a copy of this Notice with the Clerk of the San
20 Bernardino County Superior Court, pursuant to 28 U.S.C. § 1446(d).

21 Dated: October 8, 2021

22 LAUREN M. BLAS
23 GIBSON, DUNN & CRUTCHER LLP

24
25 By: /s/ Lauren M. Blas
Lauren M. Blas

26
27 Attorneys for Defendants
28 AMAZON.COM SERVICES LLC (erroneously
named as AMAZON.COM, LLC) and
AMAZON LOGISTICS, INC.

EXHIBIT A

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

AUG 11 2021

BY Justin Manassee
JUSTIN MANASSEE, DEPUTY

1 Matthew R. Bainer, Esq. (SBN 220972)
2 **THE BAINER LAW FIRM**
3 1901 Harrison St., Suite 1100
4 Oakland, California 94612
Telephone: (510) 922-1802
Facsimile: (510) 844-7701
mbainer@bainerlawfirm.com

5 Attorneys for Plaintiff Dallan Escobar

6
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF SAN BERNARDINO

9
10 DALLAN ESCOBAR, individually and on
11 behalf of others similarly situated,

12 Plaintiff,

13 vs.

14 AMAZON.COM, LLC, a Delaware
15 corporation, AMAZON LOGISTICS, INC.,
a Delaware corporation, and DOES 1
through 100, inclusive,

16 Defendants.

Case No.: **CIV SB 2123066**

CLASS ACTION COMPLAINT

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (4) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (5) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (6) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (7) Violation of California Labor Code § 2802 (Reimbursement of Business Expenses) and
- (8) Violation of California Business & Professions Code §§ 17200, *et seq.*

Jury Trial Demanded



RECEIVED

AUG 11 2021

SUPERIOR COURT
SAN BERNARDINO COUNTY

CIV SB 2123066

1 Plaintiff, individually and on behalf of all other members of the public similarly
2 situated, alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This class action is brought pursuant to California Code of Civil Procedure
5 section 382. The monetary damages and restitution sought by Plaintiff exceed the minimal
6 jurisdiction limits of the Superior Court and will be established according to proof at trial.

7 2. This Court has jurisdiction over this action pursuant to the California
8 Constitution, Article VI, section 10. The statutes under which this action is brought do not
9 specify any other basis for jurisdiction.

10 3. This Court has jurisdiction over all Defendants because, upon information and
11 belief, Defendants are either citizens of California, have sufficient minimum contacts in
12 California, or otherwise intentionally avail themselves of the California market so as to render
13 the exercise of jurisdiction over them by the California courts consistent with traditional
14 notions of fair play and substantial justice.

15 4. Venue is proper in this Court because Defendants employed Plaintiff and other
16 class members and continue to employ other class members in this county and thus a
17 substantial portion of the transactions and occurrences related to this action occurred in this
18 county. Cal. Civ. Proc. Code § 395.

19 **THE PARTIES**

20 5. Plaintiff Dallan Escobar performed employment services in the State of
21 California, including in Ontario, California, in San Bernardino County.

22 6. Defendants Amazon.Com LLC and Amazon Logistics, Inc. (collectively
23 “Amazon”) was and is, upon information and belief, a Delaware corporation and, at all times
24 hereinafter mentioned, an employer whose employees are engaged throughout this county, the
25 State of California, or the various states of the United States of America.

26 7. Plaintiff is unaware of the true names or capacities of the Defendants sued
27 herein under the fictitious names DOES 1 through 100 but will seek leave of this Court to
28 amend the complaint and serve such fictitiously named Defendants once their names and

CIV SB 2123066

1 capacities become known.

2 8. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through
3 100 are the partners, agents, owners, shareholders, managers or employees of Amazon at all
4 relevant times.

5 9. Plaintiff is informed and believes, and thereon alleges, that each and all of the
6 acts and omissions alleged herein were performed by, or are attributable to, Amazon and/or
7 DOES 1 through 100 (collectively "Defendants"), each acting as the agent, employee, alter
8 ego, and/or joint venturer of, or working in concert with, each of the other co-Defendants and
9 was acting within the course and scope of such agency, employment, joint venture, or
10 concerted activity with legal authority to act on the others' behalf. The acts of any and all
11 Defendants represent and were in accordance with Defendants' official policy.

12 10. At all relevant times, Defendants, and each of them, ratified each and every act
13 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
14 and abetted the acts and omissions of each and all the other Defendants in proximately causing
15 the damages herein alleged.

16 11. Plaintiff is informed and believes, and thereon alleges, that each of said
17 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
18 omissions, occurrences, and transactions alleged herein.

19 **CLASS ACTION ALLEGATIONS**

20 12. Plaintiff brings this action on his own behalf, as well as on behalf of each and
21 all other persons similarly situated, and thus, seeks class certification under California Code of
22 Civil Procedure section 382.

23 13. All claims alleged herein arise under California law for which Plaintiff seeks
24 relief authorized by California law.

25 14. Plaintiff's proposed class consists of and is defined as follows:

26 All individuals who worked for Defendants in the state of
27 California as Amazon Relay Drivers, or other similar position
28 titles, at any time during the period from four years prior to the
filing of this Complaint until the date of certification ("Class").

CIV SB 2123066

1 15. Members of the Class will hereinafter be referred to as “class members.”

2 16. Plaintiff reserves the right to redefine the Class and to add additional subclasses
3 as appropriate based on further investigation, discovery, and specific theories of liability.

4 17. There are common questions of law and fact as to the class members that
5 predominate over questions affecting only individual members, including, but not limited to:

6 (a) Whether Defendants required Plaintiff and class members to work off-
7 the-clock without payment;

8 (b) Whether Defendants required Plaintiff and class members to work over
9 eight (8) hours per day, over twelve (12) hours per day, and/or over
10 forty (40) hours per week and failed to pay legally required overtime
11 compensation to Plaintiffs and class members;

12 (c) Whether Defendants failed to pay at least minimum wages for all hours
13 worked by Plaintiff and class members;

14 (d) Whether Defendants deprived Plaintiff and class members of meal
15 periods or required Plaintiff and class members to work during meal
16 periods without compensation;

17 (e) Whether Defendants deprived Plaintiff and class members of rest
18 periods or required Plaintiff and class members to work during rest
19 periods without compensation;

20 (f) Whether Defendants complied with wage reporting as required by
21 California Labor Code section 226(a);

22 (g) Whether Defendants failed to pay all vested and unused vacation pay
23 due to Plaintiff and class members upon their discharge;

24 (h) Whether Defendants failed to timely pay wages due to Plaintiff and
25 class members during their employment, including meal and rest period
26 premium wages;

27 (i) Whether Defendants failed to timely pay wages due to class members
28 upon their discharge, including meal and rest period premium wages;

CIV SB 2123066

- 1 (j) Whether Defendants' failure to pay wages, without abatement or
- 2 reduction, in accordance with the California Labor Code, was willful or
- 3 reckless;
- 4 (k) Whether Defendant failed to reimburse Plaintiff and class members for
- 5 business expenses incurred in the discharge of their work duties;
- 6 (l) Whether Defendants engaged in unfair business practices in violation of
- 7 California Business & Professions Code sections 17200, *et seq.*; and
- 8 (m) The appropriate amount of damages, restitution, or monetary penalties
- 9 resulting from Defendants' violations of California law.

10 18. There is a well-defined community of interest in the litigation and the class is
11 readily ascertainable:

- 12 (a) Numerosity: The members of the class are so numerous that joinder of
- 13 all members would be unfeasible and impractical. The membership of
- 14 the entire class is unknown to Plaintiff at this time; however, the class is
- 15 estimated to be over forty and the identity of such membership is readily
- 16 ascertainable by inspection of Defendants' employment records.
- 17 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately
- 18 protect the interests of each class member with whom he has a well-
- 19 defined community of interest, and Plaintiff's claims (or defenses, if
- 20 any) are typical of all Class Members' as demonstrated herein.
- 21 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately
- 22 protect the interests of each class member with whom he has a well-
- 23 defined community of interest and typicality of claims, as demonstrated
- 24 herein. Plaintiff acknowledges that he has an obligation to make known
- 25 to the Court any relationship, conflicts or differences with any class
- 26 member. Plaintiff's attorneys, the proposed class counsel, are versed in
- 27 the rules governing class action discovery, certification, and settlement.
- 28 Plaintiff has incurred, and throughout the duration of this action, will

CIV SB 2123066

1 continue to incur costs and attorneys’ fees that have been, are and will
2 be necessarily expended for the prosecution of this action for the
3 substantial benefit of each class member.

4 (d) Superiority: The nature of this action makes the use of class action
5 adjudication superior to other methods. A class action will achieve
6 economies of time, effort, and expense as compared with separate
7 lawsuits, and will avoid inconsistent outcomes because the same issues
8 can be adjudicated in the same manner and at the same time for the
9 entire class.

10 (e) Public Policy Considerations: Employers in the State of California
11 violate employment and labor laws every day. Current employees are
12 often afraid to assert their rights out of fear of direct or indirect
13 retaliation. Former employees are fearful of bringing actions because
14 they believe their former employers might damage their future
15 endeavors through negative references and/or other means. Class
16 actions provide the class members who are not named in the complaint
17 with a type of anonymity that allows for the vindication of their rights at
18 the same time as their privacy is protected.

19 **GENERAL ALLEGATIONS**

20 19. Amazon is the largest provider of logistics and delivery services in North
21 America. Amazon has and continues to provide these services to clients throughout the state
22 of California through its “Amazon Relay” program

23 20. Defendants employed Plaintiff as an Amazon Relay Driver charged with
24 delivering products to and on behalf of Amazon customers in the County of San Bernardino
25 from approximately February 2019 to 2020.

26 21. In employing Plaintiff, Defendant’s misclassified him as an “independent
27 contractor” and, on that basis, denied Plaintiff basic statutory rights and protections provided
28 to all California employees and complained of more fully herein.

1 22. Defendants continue to employ employees in the position of Amazon Relay
2 Drivers, and similar positions, who are similarly classified as “independent contractors”
3 throughout California.

4 23. Plaintiff is informed and believes, and thereon alleges, that at all times herein
5 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
6 and advisors knowledgeable about California labor and wage law, employment and personnel
7 practices, and about the requirements of California law.

8 24. Plaintiff is informed and believes, and thereon alleges, that employees were not
9 paid for all hours worked because all hours worked were not recorded.

10 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that Plaintiff and class members were entitled to receive certain wages for
12 overtime compensation and that they were not receiving certain wages for overtime
13 compensation.

14 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and class members were entitled to receive at least minimum
16 wages for compensation and that, in violation of the California Labor Code, they were not
17 receiving at least minimum wages for work done off-the-clock.

18 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
19 should have known that Plaintiff and other class members were entitled to receive all meal
20 periods or payment of one (1) additional hour of pay at Plaintiff and other class members’
21 regular rate of pay when they did not receive a timely, uninterrupted meal period, and that
22 they did not receive all meal periods or payment of one (1) additional hour of pay at Plaintiff
23 and other class members’ regular rate of pay when they did not receive a timely, uninterrupted
24 meal period.

25 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and other class members were entitled to receive all rest
27 periods or payment of one (1) additional hour of pay at Plaintiff and other class members’
28 regular rate of pay when a rest period was missed, and that they did not receive all rest periods

CIV SB 2123066

1 or payment of one (1) additional hour of pay at Plaintiff and other class members' regular rate
2 of pay when a rest period was missed.

3 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and other class members were entitled to receive complete
5 and accurate wage statements in accordance with California law. In violation of the California
6 Labor Code, Plaintiff and other class members were not provided with complete and accurate
7 wage statements.

8 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that Plaintiff and other class members were entitled to timely payment of
10 wages during their employment. In violation of the California Labor Code, Plaintiff and other
11 class members did not receive payment of all wages, including, but not limited to meal and
12 rest period premium wages, within permissible time periods.

13 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
14 should have known that terminated class members were entitled to timely payment of wages
15 upon termination. In violation of the California Labor Code, terminated class members did
16 not receive payment of all wages within permissible time periods.

17 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that class members were entitled to be fully reimbursed for all necessary
19 and reasonable business expenses incurred while completing their job duties. In violation of
20 the California Labor Code, Plaintiff and other class members did not receive reimbursement
21 for all expenses reasonably and necessarily incurred in the performance of their job duties.

22 33. Plaintiff is informed and believes, and thereon alleges, that at all times herein
23 mentioned, Defendants knew or should have known that they had a duty to compensate
24 Plaintiff and other members of the class, and that Defendants had the financial ability to pay
25 such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
26 represented to Plaintiff and other class members that they were properly denied wages, all in
27 order to increase Defendants' profits.
28

CIV SB 2123066

FIRST CAUSE OF ACTION

Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime

(Against All Defendants)

1
2
3
4 34. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
5 and every allegation set forth above.

6 35. California Labor Code section 1198 makes it illegal to employ an employee
7 under conditions of labor that are prohibited by the applicable wage order. California Labor
8 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
9 shall be the . . . standard conditions of labor for employees. The employment of any employee
10 . . . under conditions of labor prohibited by the order is unlawful.”

11 36. California Labor Code section 1198 and the applicable Industrial Welfare
12 Commission (“IWC”) Wage Order provide that it is unlawful to employ persons without
13 compensating them at a rate of pay either time-and-one-half or two-times that person’s regular
14 rate of pay, depending on the number of hours worked by the person on a daily or weekly
15 basis.

16 37. Specifically, the applicable IWC Wage Order provides that Defendants are and
17 were required to pay Plaintiff and class members employed by Defendants, and working more
18 than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time-
19 and-one-half for all hours worked in excess of eight (8) hours in a day or more than forty (40)
20 hours in a workweek.

21 38. The applicable IWC Wage Order further provides that Defendants are and were
22 required to pay Plaintiff and class members employed by Defendants, and working more than
23 twelve (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate
24 of pay.

25 39. California Labor Code section 510 codifies the right to overtime compensation
26 at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours
27 in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day
28 of work, and to overtime compensation at twice the regular hourly rate for hours worked in

CIV SB 2123066

1 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day
2 of work.

3 40. During the relevant time period, Plaintiff and class members worked in excess
4 of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty
5 (40) hours in a week. Despite this work, Defendant did not compensate Plaintiff and Class
6 members the applicable overtime compensation rate for this work.

7 41. Defendants' failure to pay Plaintiff and class members the unpaid balance of
8 overtime compensation, as required by California law, violates the provisions of California
9 Labor Code sections 510 and 1198, and is therefore unlawful.

10 42. Pursuant to California Labor Code section 1194, Plaintiff and class members
11 are entitled to recover their unpaid overtime compensation, as well as interest, costs, and
12 attorneys' fees.

13 **SECOND CAUSE OF ACTION**

14 **Violation of California Labor Code §§ 1194, 1197, 1197.1—Unpaid Minimum Wages**
15 **(Against All Defendants)**

16 43. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
17 and every allegation set forth above.

18 44. At all relevant times, California Labor Code sections 1194, 1197 and 1197.1
19 provide that the minimum wage for employees fixed by the Industrial Welfare Commission is
20 the minimum wage to be paid to employees, and the payment of a wage less than the
21 minimum so fixed is unlawful. Defendants regularly required Plaintiff and class members to
22 work off-the-clock. Defendants did not pay at least minimum wages for all of these off-the-
23 clock hours. Also, to the extent that these off-the-clock hours did not qualify for overtime
24 premium payment, Defendants did not pay minimum wages for those hours worked off-the-
25 clock in violation of California Labor Code sections 1194, 1197, and 1197.1.

26 45. Defendants' failure to pay Plaintiff and class members the minimum wage as
27 required violates California Labor Code sections 1194, 1197 and 1197.1. Pursuant to those
28 sections, Plaintiff and class members are entitled to recover the unpaid balance of their

1 minimum wage compensation, as well as interest, costs, and attorney’s fees.

2 46. Pursuant to California Labor Code section 1194.2, Plaintiff and class members
3 are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid
4 and interest thereon.

5 **THIRD CAUSE OF ACTION**

6 **Violations of California Labor Code §§ 226.7 and 512(a)—Unpaid Meal Period**

7 **Premiums**

8 **(Against All Defendants)**

9 47. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
10 and every allegation set forth above.

11 48. At all relevant times herein set forth, the applicable California Industrial
12 Welfare Commission (IWC) Wage Order(s) and California Labor Code sections 226.7 and
13 512(a) were applicable to Plaintiff’s and the other class members’ employment by Defendants
14 and each of them.

15 49. At all relevant times herein set forth, California Labor Code section 226.7
16 provides that no employer shall require an employee to work during any meal period
17 mandated by an applicable order of the California Industrial Welfare Commission (IWC).

18 50. At all relevant times herein set forth, California Labor Code section 512(a)
19 provides that an employer may not require, cause, or permit an employee to work for a period
20 of more than five (5) hours per day without providing the employee with a meal period of not
21 less than thirty (30) minutes, except that if the total work period per day of the employee is
22 not more than six (6) hours, the meal period may be waived by mutual consent of both the
23 employer and the employee.

24 51. During the relevant time period, Plaintiff and other class members scheduled to
25 work for a period of time no longer than six (6) hours, and who did not waive their legally
26 mandated meal periods by mutual consent, were required to work for periods longer than five
27 (5) hours without a meal period of not less than thirty (30) minutes.

28 52. During the relevant time period, Defendants willfully required Plaintiff and

CIV SB 2123066

1 other class members to work during meal periods and failed to compensate them for work
2 performed during meal periods. For example, Defendants had a policy and/or practice of
3 failing to schedule customer appointments and to properly coordinate employee schedules
4 such that Plaintiff and other class members were relieved of all duties and permitted to take
5 compliant meal breaks. Instead, Plaintiff and other class members were required to work
6 through meal periods, cut their meal periods short, suffer interruptions during meal periods,
7 and/or take meal periods after the fifth hour of work because of Defendants' practices.
8 Defendants then failed to pay Plaintiff and other class members all meal period premiums due
9 pursuant to California Labor Code section 226.7.

10 53. Defendants' conduct violates applicable Industrial Welfare Commission (IWC)
11 Wage Order(s), and California Labor Code sections 226.7 and 512(a).

12 54. Pursuant to the applicable Industrial Welfare Commission (IWC) Wage
13 Order(s) and California Labor Code section 226.7(b), Plaintiff and other class members are
14 entitled to recover from Defendants one (1) additional hour of pay at the employee's regular
15 hourly rate of compensation for each work day that the meal period was not provided.

16 **FOURTH CAUSE OF ACTION**

17 **Violation of California Labor Code § 226.7—Unpaid Rest Period Premiums**
18 **(Against All Defendants)**

19 55. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
20 and every allegation set forth above.

21 56. At all relevant times herein set forth, the applicable IWC Wage Order and
22 California Labor Code section 226.7 were applicable to Plaintiff's and class members'
23 employment by Defendants.

24 57. At all relevant times, California Labor Code section 226.7 provides that no
25 employer shall require an employee to work during any rest period mandated by an applicable
26 order of the California IWC.

27 58. At all relevant times, the applicable IWC Wage Order provides that "[e]very
28 employer shall authorize and permit all employees to take rest periods, which insofar as

CIV SB 2123066

1 practicable shall be in the middle of each work period” and that the “rest period time shall be
2 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
3 hours or major fraction thereof” unless the total daily work time is less than three and one-half
4 (3½) hours.

5 59. During the relevant time period, Defendants required Plaintiff and class
6 members to work four (4) or more hours without authorizing or permitting a ten (10) minute
7 rest period per each four (4) hour period worked. As with meal periods, Defendants failure to
8 properly staff and coordinate customer appointments lead to their being unable to take
9 compliant rest breaks, even where they had knowledge about their rest break rights.
10 Defendants then failed to pay Plaintiff and class members the full rest period premium due
11 pursuant to California Labor Code section 226.7. As a result, Defendants failed to pay
12 Plaintiff and other class members rest period premiums in violation of California Labor Code
13 section 226.7.

14 60. During the relevant time period, Defendants failed to pay Plaintiff and class
15 members the full rest period premium due pursuant to California Labor Code section 226.7.

16 61. Defendants’ conduct violates the applicable IWC Wage Orders and California
17 Labor Code section 226.7.

18 62. Pursuant to the applicable IWC Wage Order and California Labor Code section
19 226.7(b), Plaintiff and class members are entitled to recover from Defendants one (1)
20 additional hour of pay at the employee’s regular hourly rate of compensation for each work
21 day that the rest period was not provided.

22 **FIFTH CAUSE OF ACTION**

23 **Violation of California Labor Code §§ 201 and 202 – Wages Not Timely Paid Upon**

24 **Termination**

25 **(Against All Defendants)**

26 63. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
27 and every allegation set forth above.

28 64. This cause of action is wholly derivative of and dependent upon the unpaid

CIV SB 2123066

1 wage claims set forth for unpaid overtime wages, unpaid minimum wages, and unpaid meal
2 and rest period premium wages, which remained unpaid upon termination of terminated class
3 members' employment.

4 65. At all times herein set forth, California Labor Code sections 201 and 202
5 provide that if an employer discharges an employee, the wages earned and unpaid at the time
6 of discharge are due and payable immediately, and that if an employee voluntarily leaves his
7 or her employment, his or her wages shall become due and payable not later than seventy-two
8 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
9 his or her intention to quit, in which case the employee is entitled to his or her wages at the
10 time of quitting.

11 66. During the relevant time period, Defendants willfully failed to pay class
12 members who are no longer employed by Defendants the earned and unpaid wages set forth
13 above, including but not limited to, overtime wages, minimum wages, and meal and rest
14 period premium wages, either at the time of discharge, or within seventy-two (72) hours of
15 their leaving Defendants' employ.

16 67. Defendants' failure to pay those class members who are no longer employed by
17 Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72)
18 hours of their leaving Defendants' employ, is in violation of California Labor Code sections
19 201 and 202.

20 68. California Labor Code section 203 provides that if an employer willfully fails
21 to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee
22 shall continue as a penalty from the due date, and at the same rate until paid or until an action
23 is commenced; but the wages shall not continue for more than thirty (30) days.

24 69. Terminated class members are entitled to recover from Defendants the statutory
25 penalty wages for each day they were not paid, at their regular hourly rate of pay, up to a
26 thirty (30) day maximum pursuant to California Labor Code section 203.

27
28

CIV SB 2123066

SIXTH CAUSE OF ACTION

**Violation of California Labor Code § 226(a)—Non-Compliant Wage Statements
(Against All Defendants)**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

70. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

71. At all material times set forth herein, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing, including, but not limited to, the name and address of the legal entity that is the employer, total hours worked, and all applicable hourly rates.

72. Defendants have intentionally and willfully failed to provide employees with or retain complete and accurate wage statements. The deficiencies include, among other things, failing to state the total amount of hours worked, failing to state all wages owed or paid including but not limited to, overtime wages, minimum wages, and meal and rest period premium wages as a result of failing to properly record meal period violations and/or premiums. Further, in violation of California Labor Code section 226(a), Defendants do not maintain on file a copy of the itemized statements provided to employees or a computer-generated record that accurately shows gross wages earned for all hours worked and not recorded, total hours worked by the employee as a result of working off the clock and not recording those hours, the inclusive dates of the period for which the employee is paid, the name and address of the legal entity that is the employer, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee as required by California Labor Code section 226(a).

73. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiff and class members have suffered injury and damage to their statutorily protected rights.

74. Specifically, Plaintiff and class members have been injured by Defendants' intentional violation of California Labor Code section 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate, itemized wage

CIV SB 2123066

1 statements under California Labor Code section 226(a). In addition, because Defendants
2 failed to provide the accurate number of total hours worked on wage statements, Plaintiff has
3 been prevented by Defendants from determining if all hours worked were paid and the extent
4 of the underpayment. Plaintiff has had to file this lawsuit, conduct discovery, reconstruct time
5 records, and perform computations in order to analyze whether in fact Plaintiff was paid
6 correctly and the extent of the underpayment, thereby causing Plaintiff to incur expenses and
7 lost time. Plaintiff would not have had to engage in these efforts and incur these costs had
8 Defendants provided the accurate number of total hours worked. This has also delayed
9 Plaintiff's ability to demand and recover the underpayment of wages from Defendants.

10 75. Plaintiff and class members are entitled to recover from Defendants the greater
11 of their actual damages caused by Defendants' failure to comply with California Labor Code
12 section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
13 employee.

14 **SEVENTH CAUSE OF ACTION**

15 **Violation of California Business & Professions Code § 2802, et seq.**

16 **(Against All Defendants)**

17 76. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
18 and every allegation set forth above.

19 77. Labor Code§ 2802 provides that "[a]n employer shall indemnify his or her
20 employee for all necessary expenditures or losses incurred by the employee in direct
21 consequence of the discharge of his or her duties."

22 78. In order to discharge their duties for Defendants, Plaintiff and Class Members
23 have incurred reasonable and necessary expenses in the course of completing their job duties,
24 which were not reimbursed by Defendants.

25 79. Plaintiff and Class Members are entitled to reimbursement for these necessary
26 expenditures, plus interest and attorneys' fees and costs, under Labor Code§ 2802.

CIV SB 2123066

EIGHTH CAUSE OF ACTION

Violation of California Business & Professions Code §§ 17200, et seq.

(Against All Defendants)

80. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

81. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff class members, and to the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

82. Defendants' activities, as alleged herein, are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code sections 17200, et seq.

83. A violation of California Business & Professions Code sections 17200, et seq. may be predicated on the violation of any state or federal law. In the instant case, Defendants' policies and practices have violated state law in at least the following respects:

- (a) Requiring non-exempt employees, including Plaintiff and class members, to work overtime without paying them proper compensation in violation of California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission Order;
- (b) Failing to pay at least minimum wage to Plaintiff and class members in violation of California Labor Code sections 1194, 1197 and 1197.1 and the applicable Industrial Welfare Commission Order;
- (c) Failing to provide meal and rest periods or to pay premium wages for missed meal and rest periods to Plaintiff and class members in violation of California Labor Code sections 226.7 and 512 and the applicable Industrial Welfare Commission Order;
- (d) Failing to provide Plaintiff and class members with accurate wage statements in violation of California Labor Code section 226(a) and the

CIV SB 2123066

- 1 applicable Industrial Welfare Commission Order;
- 2 (e) Failing to reimburse Plaintiff and class members for all necessary and
- 3 reasonable business expenses incurred in the performance of their job
- 4 duties and
- 5 (f) Failing to timely pay all earned wages to Plaintiff and class members in
- 6 violation of California Labor Code section 204 and the applicable
- 7 Industrial Welfare Commission Order as set forth below.

8 84. California Labor Code section 1198 makes it illegal to employ an employee
9 under conditions of labor that are prohibited by the applicable wage order. California Labor
10 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
11 shall be the . . . standard conditions of labor for employees. The employment of any employee
12 . . . under conditions of labor prohibited by the order is unlawful.”

13 85. California Labor Code section 204 requires that all wages earned by any person
14 in any employment between the 1st and the 15th days, inclusive, of any calendar month, other
15 than those wages due upon termination of an employee, are due and payable between the 16th
16 and the 26th day of the month during which the labor was performed, and that all wages
17 earned by any person in any employment between the 16th and the last day, inclusive, of any
18 calendar month, other than those wages due upon termination of an employee, are due and
19 payable between the 1st and the 10th day of the following month. California Labor Code
20 section 204 also requires that all wages earned for labor in excess of the normal work period
21 shall be paid no later than the payday for the next regular payroll period. During the relevant
22 time period, Defendants failed to pay Plaintiff and class members all wages due to them,
23 including, but not limited to, overtime wages, minimum wages, and meal and rest period
24 premium wages, within any time period specified by California Labor Code section 204.

25 86. Pursuant to California Business & Professions Code sections 17200 *et seq.*,
26 Plaintiff and class members are entitled to restitution of the wages withheld and retained by
27 Defendants during a period that commences four years prior to the filing of this complaint; a
28 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and

CIV SB 2123066

1 class members; an award of attorneys' fees pursuant to California Code of Civil Procedure
2 section 1021.5 and other applicable laws; and an award of costs.

3 **REQUEST FOR JURY TRIAL**

4 Plaintiff requests a trial by jury.

5 **PRAYER FOR RELIEF**

6 Plaintiff, on behalf of all others similarly situated, pray for relief and judgment against
7 Defendants, jointly and severally, as follows:

8 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in
9 excess of twenty-five thousand dollars (\$25,000).

10 **Class Certification**

- 11 2. That this case be certified as a class action;
- 12 3. That Plaintiff be appointed as the representative of the Class;
- 13 4. That counsel for Plaintiff be appointed as Class Counsel.

14 **As to the First Cause of Action**

15 5. That the Court declare, adjudge, and decree that Defendants violated California
16 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to
17 pay all overtime wages due to Plaintiff and class members;

18 6. For general unpaid wages at overtime wage rates and such general and special
19 damages as may be appropriate;

20 7. For pre-judgment interest on any unpaid overtime compensation commencing
21 from the date such amounts were due;

22 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
23 California Labor Code section 1194(a); and

24 9. For such other and further relief as the Court may deem equitable and
25 appropriate.

26 **As to the Second Cause of Action**

27 10. That the Court declare, adjudge and decree that Defendants violated California
28 Labor Code sections 1194, 1197 and 1197.1 by willfully failing to pay minimum wages to

CIV SB 2123066

1 Plaintiff and class members;

2 11. For general unpaid wages and such general and special damages as may be
3 appropriate;

4 12. For pre-judgment interest on any unpaid compensation from the date such
5 amounts were due;

6 13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
7 California Labor Code section 1194(a);

8 14. For liquidated damages pursuant to California Labor Code section 1194.2; and

9 15. For such other and further relief as the Court may deem equitable and
10 appropriate.

11 **As to the Third Cause of Action**

12 16. That the Court declare, adjudge, and decree that Defendants violated California
13 Labor Code sections 226.7 and 512(a) and applicable Industrial Welfare Commission (IWC)
14 Wage Order(s) by willfully failing to provide all meal periods to Plaintiff and class members;

15 17. That the Court make an award to the Plaintiff and class members of one (1)
16 hour of pay at each employee's regular rate of compensation for each workday that a meal
17 period was not provided;

18 18. For all actual, consequential, and incidental losses and damages, according to
19 proof;

20 19. For premiums pursuant to California Labor Code section 226.7(b);

21 20. For pre-judgment interest on any unpaid meal period premiums from the date
22 such amounts were due; and

23 21. For such other and further relief as the Court may deem equitable and
24 appropriate.

25 **As to the Fourth Cause of Action**

26 22. That the Court declare, adjudge and decree that Defendants violated California
27 Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all
28 rest periods to Plaintiff and class members;

CIV SB 2123066

1 23. That the Court make an award to the Plaintiff and class members of one (1) hour
2 of pay at each employee’s regular rate of compensation for each workday that a rest period
3 was not provided;

4 24. For all actual, consequential, and incidental losses and damages, according to
5 proof;

6 25. For premiums pursuant to California Labor Code section 226.7(b);

7 26. For pre-judgment interest on any unpaid rest period premiums from the date
8 such amounts were due; and

9 27. For such other and further relief as the Court may deem equitable and
10 appropriate.

11 **As to the Fifth Cause of Action**

12 28. That the Court declare, adjudge and decree that Defendants violated California
13 Labor Code sections 201, 202, and 203 by willfully failing to pay all overtime wages,
14 minimum wages, and meal and rest period premium wages owed at the time of termination of
15 the employment of Plaintiff and other class members no longer employed by Defendants.

16 29. For all actual, consequential and incidental losses and damages, according to
17 proof;

18 30. For statutory wage penalties pursuant to California Labor Code section 203 for
19 Plaintiff and all other class members who have left Defendants’ employ;

20 31. For pre-judgment interest on any unpaid wages from the date such amounts
21 were due; and

22 32. For such other and further relief as the Court may deem equitable and
23 appropriate.

24 **As to the Sixth Cause of Action**

25 33. That the Court declare, adjudge and decree that Defendants violated the
26 recordkeeping provisions of California Labor Code section 226(a) and applicable IWC Wage
27 Orders as to Plaintiff and class members, and willfully failed to provide accurate itemized
28 wage statements thereto;

CIV SB 2123066

1 34. For all actual, consequential and incidental losses and damages, according to
2 proof;

3 35. For statutory penalties and injunctive relief pursuant to California Labor Code
4 section 226(e) and (h); and

5 36. For such other and further relief as the Court may deem equitable and
6 appropriate.

7 **As to the Seventh Cause of Action**

8 37. That the Court declare that Defendants' policies and/or practices violate
9 California law by failing to reimburse all business expenses incurred by Plaintiff and class
10 members in the discharge of their duties as employees of Defendants violates California
11 Labor Code § 2802;

12 38. For all actual, consequential and incidental losses and damages, according to
13 proof;

14 39. For an award of damages in the amount of unpaid unreimbursed business
15 expenses, pursuant to California Labor Code Section 2802, according to proof;

16 40. For pre-judgment interest on any unpaid unreimbursed business expenses from
17 the date such amounts were due; and

18 41. For such other and further relief as the Court may deem equitable and
19 appropriate.

20 **As to the Eighth Cause of Action**

21 42. That the Court declare, adjudge and decree that Defendants violated California
22 Business and Professions Code sections 17200, *et seq.* by failing to pay overtime
23 compensation due, failing to pay at least minimum wages for all hours worked, failing to
24 provide meal and rest periods or premium wages in lieu thereof, failing to provide accurate
25 wage statements, and failing timely to pay all earned wages during employment and upon
26 termination;

27 43. For restitution of unpaid wages to Plaintiff and all class members and
28 prejudgment interest from the day such amounts were due and payable;

CIV SB 2123066

1 44. For the appointment of a receiver to receive, manage and distribute any and all
2 funds disgorged from Defendants and determined to have been wrongfully acquired by
3 Defendants as a result of violations of California Business & Professions Code sections 17200
4 *et seq.*;

5 45. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
6 California Code of Civil Procedure section 1021.5; and

7 46. For such other and further relief as the Court may deem equitable and
8 appropriate.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: August 11, 2021


Respectfully submitted,

The Bainer Law Firm

By: 

Matthew R. Bainer, Esq.

Attorneys for Plaintiff Dallan Escobar

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Matthew R. Bainer (No. 220972) 1901 Harrison St., Ste. 1100 Oakland, CA 94612 mbainer@bainerlawfirm.com TELEPHONE NO.: 510-922-1802 FAX NO.: 510-844-7701 ATTORNEY FOR (Name): Dallan Escobar	FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO SAN BERNARDINO DISTRICT AUG 11 2021 BY  JUSTIN MANASSEE, DEPUTY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Bernardino STREET ADDRESS: 247 West Third Street, San Bernardino, CA 92415 MAILING ADDRESS: 247 West Third Street CITY AND ZIP CODE: San Bernardino, CA 92415 BRANCH NAME: San Bernardino Justice Center	CASE NUMBER: CIV SB 2123066 JUDGE: DEPT:
CASE NAME: Escobar v. Amazon.com, LLC, et al.	CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

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

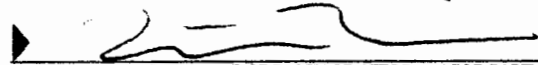
1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> 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. <input checked="" type="checkbox"/> Large number of separately represented parties | d. <input checked="" type="checkbox"/> Large number of witnesses |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | f. <input checked="" type="checkbox"/> 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): **Eight**
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: August 11, 2021
 Matthew R. Bainer, Esq.

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- 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

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

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

CIV SB 2123066

DALLAN ESCOBAR

Case No.:

vs.

CERTIFICATE OF ASSIGNMENT

AMAZON.COM, LLC, et al.

A civil action or proceeding presented for filing must be accompanied by this Certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the Civil Division of San Bernardino District of the Superior Court under Rule 131 and General Order of this court for the checked reason:

General

Collection

Nature of Action

Ground

- 1. Adoption
2. Conservator
3. Contract
4. Equity
5. Eminent Domain
6. Family Law
7. Guardianship
8. Harassment
9. Mandate
10. Name Change
11. Personal Injury
12. Personal Property
13. Probate
14. Prohibition
15. Review
16. Title to Real Property
17. Transferred Action
18. Unlawful Detainer
19. Domestic Violence
20. Other
21. THIS FILING WOULD NORMALLY FALL WITHIN JURISDICTION OF SUPERIOR COURT

The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designed district is:

Amazon.com, LLC

5450 E. Francis Street

NAME - INDICATE TITLE OR OTHER QUALIFYING FACTOR

ADDRESS

Ontario

CA

91761

CITY

STATE

ZIP CODE

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed on August 11, 2021 at Oakland, CA California.

Handwritten signature of attorney/party

Signature of Attorney/Party



ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [California Amazon Relay Drivers Owed Unpaid Wages, Class Action Alleges](#)
