

1 MICHELE L. MARYOTT, SBN 191993  
mmaryott@gibsondunn.com  
2 KATIE M. MAGALLANES, SBN 300277  
kmagallanes@gibsondunn.com  
3 JESSICA M. PEARIGEN, SBN 317286  
jpearigen@gibsondunn.com  
4 GIBSON, DUNN & CRUTCHER LLP  
3161 Michelson Drive  
5 Irvine, CA 92612-4412  
Telephone: 949.451.3800  
6 Facsimile: 949.451.4220

7 LAUREN M. BLAS, SBN 296823  
lblas@gibsondunn.com  
8 GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
9 Los Angeles, CA 90071-3197  
Telephone: 213.229.7000  
10 Facsimile: 213.229.7520

11 Attorneys for Defendant  
AMAZON.COM SERVICES LLC  
12

13 UNITED STATES DISTRICT COURT  
14 EASTERN DISTRICT OF CALIFORNIA

15 LUIS MONTIJO, on behalf of himself and all  
16 other similarly situated employees,

17 Plaintiffs,

18 v.

19 AMAZON.COM SERVICES LLC, a  
Delaware Limited Liability Company; and  
20 DOES 1 through 10, inclusive,

21 Defendants.  
22  
23  
24  
25  
26  
27  
28

CASE NO.

**NOTICE OF REMOVAL OF ACTION BY  
DEFENDANT AMAZON.COM SERVICES  
LLC**

(Stanislaus County Superior Court Case No. CV-  
21-006616)

Action Filed: December 10, 2021  
Trial Date: None Set

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1 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT  
2 OF CALIFORNIA, AND TO PLAINTIFF LUIS MONTIJO AND HIS COUNSEL OF RECORD:

3 **PLEASE TAKE NOTICE THAT**, pursuant to the Class Action Fairness Act of 2005, 28  
4 U.S.C. §§ 1332(d), 1453, and 1711–1715, Defendant Amazon.com Services LLC (“Amazon”) hereby  
5 removes to the United States District Court for the Eastern District of California the above-captioned  
6 state court action, originally filed as Case No. CV-21-006616 in Stanislaus County Superior Court,  
7 State of California. Removal is proper on the following grounds:

8 **I. TIMELINESS OF REMOVAL**

9 1. Plaintiff Luis Montijo (“Plaintiff”) filed a putative Class Action Complaint against  
10 Amazon.com Services LLC in Stanislaus County Superior Court, State of California, Case No. CV-21-  
11 006616 on December 10, 2021. Pursuant to 28 U.S.C. § 1446(a), attached as Exhibits A–G to the  
12 Declaration of Michele L. Maryott (“Maryott Decl.”) are true and correct copies of all process,  
13 pleadings, and orders served on Amazon in this matter: (A) Summons, (B) Class Action Complaint,  
14 (C) Civil Case Cover Sheet, (D) Notice of Case Management Conference, (E) Notice of Service of  
15 Process, (F) Alternative Dispute Resolution (ADR) Packet, and (G) Proof of Service of Summons.

16 2. According to the Notice of Service of Process, Plaintiff personally served Amazon  
17 through its registered agent for service of process on December 21, 2021. *See* Maryott Decl., Ex. E,  
18 Notice of Service of Process. Consequently, service was completed on December 21, 2021. This  
19 notice of removal is timely because it is filed within 30 days after service was completed. 28 U.S.C.  
20 § 1446(b); *Anderson v. State Farm Mut. Auto. Ins. Co.*, 917 F.3d 1126, 1128 n.2 (9th Cir. 2019).

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

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

25 4. CAFA applies “to any class action before or after the entry of a class certification order  
26 by the court with respect to that action.” 28 U.S.C. § 1332(d)(8). This case is a putative “class action”  
27 under CAFA because it was brought under a state statute or rule, namely California Code of Civil  
28 Procedure section 382, authorizing an action to be brought by one or more representative persons as a

1 class action. *See* 28 U.S.C. § 1332(d)(1)(B); *see also* Maryott Decl., Ex. B, Class Action Complaint  
2 (“Compl.”) ¶ 13.

3 5. Plaintiff purports to bring “this class action on behalf of himself and all other similarly  
4 situated employees” and seeks to represent a class defined as “[a]ll [Amazon’s] California employees,  
5 at any time during the four years before the filing of this Complaint through the date of trial.” Compl.  
6 ¶ 13. Within that broad class definition, Plaintiff seeks to certify two subclasses: (1) “[a]ll Class  
7 Members who incurred business-related expenses, including but not limited to cell phone expenses”;  
8 and (2) “[a]ll Class Members who were subject to [Amazon’s] unlawful or unfair business acts or  
9 practices.” Compl. ¶¶ 14–15.

10 6. Plaintiff alleges two causes of action against Amazon: (1) Failure to Reimburse  
11 Business Expenses; and (2) Violation of the Unfair Competition Law (Business and Professions Code  
12 § 17200 *et seq.*). *See* Compl. ¶¶ 23–32.

13 7. Plaintiff seeks (1) allegedly unpaid business expenses on behalf of the putative class  
14 pursuant to California Labor Code section 2802; (2) declarations that Amazon violated the California  
15 Labor Code and Business and Professions Code due to the alleged failure to reimburse business  
16 expenses; (3) an order “permanently enjoin[ing] [Amazon] from engaging” in the allegedly unlawful  
17 conduct; and (4) attorneys’ fees. *See* Compl., Prayer for Relief. Plaintiff’s theory of the case centers  
18 on the allegation that Amazon required Plaintiff and the putative class members to use their personal  
19 cell phones to perform their jobs. Specifically, Plaintiff alleges that “Plaintiff and similarly-situated  
20 employees were required to download and use two cell phone applications, ‘Amazon Chime’ and ‘A  
21 to Z,’ to perform their work duties.” Compl. ¶ 12 (“Amazon Chime” and “A to Z” collectively referred  
22 to as “the Apps”).

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

27 9. Amazon denies any liability in this case, both as to Plaintiff’s individual claims and as  
28 to his putative class claims. Further, Amazon expressly reserves all rights to oppose class certification

1 and contest the merits of all claims asserted in the Complaint. However, for purposes of the  
2 jurisdictional requirements *for removal only*, the allegations in Plaintiff’s Complaint identify a putative  
3 class of more than 100 members and put in controversy, in the aggregate, an amount that exceeds  
4 \$5 million. *See id.* § 1332(d).

5 **A. There Are More Than 100 Members In The Proposed Class**

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

8 11. Plaintiff’s proposed class includes “[a]ll [Amazon’s] California employees, at any time  
9 during the four years before the filing of this Complaint through the date of trial.” Compl. ¶ 13.

10 12. It is well established that Amazon does *not* need to “prove it actually violated the law”  
11 to establish this Court’s jurisdiction under CAFA. *Arias v. Residence Inn by Marriott*, 936 F.3d 920,  
12 927 (9th Cir. 2019). Thus, Amazon need not identify precisely how many employees Plaintiff contends  
13 were not reimbursed for business expenses. Instead, Amazon need only show that the assumptions it  
14 makes for purposes of demonstrating federal jurisdiction are reasonable. *Id.* at 925 (“[A] removing  
15 defendant is permitted to rely on ‘a chain of reasoning that includes assumptions’ . . . founded on the  
16 allegations of the complaint.” (quoting *Ibarra v. Manheim Invs., Inc.*, 775 F.3d 1193, 1199 (9th Cir.  
17 2015)); *see also Castro v. ABM Indus., Inc.*, 2017 WL 4682816, at \*4–5 (N.D. Cal. Oct. 19, 2017)  
18 (allegations of “regular[]” and “common” practices supported an assumption that plaintiffs incurred at  
19 least one reimbursable cell phone expense for each month worked).

20 13. Here, Plaintiff’s proposed putative class spans “the four years before the filing” of the  
21 complaint through the date of trial and purports to include all of Amazon’s California employees.  
22 Compl. ¶ 13. Thus, the alleged putative class includes all of Amazon’s California employees from  
23 December 10, 2017 through the present. Plaintiff alleges that he was a “Production Assistant” at  
24 Amazon’s Patterson fulfillment center, and according to Amazon’s business records, Plaintiff worked  
25 as an hourly, non-exempt “Fulfillment Center Associate” (“FC Associate”). Declaration of Denicia  
26 “JP” Prather (“Prather Decl.”) ¶ 3(a); Compl. ¶ 4. According to Amazon’s records, at least 135,259  
27 individuals worked as hourly, non-exempt FC Associates from December 10, 2019 through June 19,  
28 2021 across 20 of its fulfillment centers in California. Prather Decl. ¶ 3(b–c).



1           14.     Thus, based on Plaintiff’s allegations, there are *at least* 135,259 putative class members,  
2 which is a conservative (and underinclusive) estimate because it (a) takes the entire universe of job  
3 titles held by Amazon employees in California—which Plaintiff purports to represent (Compl. ¶ 13)—  
4 and filters it down to just non-exempt FC Associates who worked at specific fulfillment centers in  
5 California, (b) excludes all employees who worked for Amazon in California between  
6 December 10, 2017 and December 9, 2019, and (c) excludes all Amazon employees in California who  
7 have been hired since June 19, 2021. Thus, the putative class contains substantially more than 100  
8 class members.

9           15.     Accordingly, while Amazon denies that class treatment is permissible or appropriate,  
10 the proposed class satisfies CAFA’s requirement that it consists of more than 100 members.

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

12           16.     This Court has original jurisdiction under CAFA’s minimum diversity of citizenship  
13 requirement when the plaintiff or any member of the putative class is a citizen of a different state from  
14 any defendant. *See* 28 U.S.C. § 1332(d)(2)(A).

15           17.     A person is a citizen of the state in which he or she is domiciled. *Kantor v. Wellesley*  
16 *Galleries, Ltd.*, 704 F.2d 1088, 1090 (9th Cir. 1983). A party’s residence is prima facie evidence of  
17 his or her domicile. *Ayala v. Cox Auto., Inc.*, 2016 WL 6561284, at \*4 (C.D. Cal. Nov. 4, 2016) (citing  
18 *State Farm Mut. Auto Ins. Co. v. Dyer*, 19 F.3d 514, 520 (10th Cir. 1994)). Moreover, it is reasonable  
19 to assume that a substantial number of the putative class members, whom by definition are or have  
20 been recently “employed . . . within the state of California,” are also domiciled in California. Compl.  
21 ¶ 10; *see also Ehrman v. Cox Commc’ns, Inc.*, 932 F.3d 1223, 1227 (9th Cir. 2019) (holding that  
22 defendant’s “short and plain statement alleging [plaintiff] and the putative class members were citizens  
23 of California” was “sufficient” to establish jurisdiction for removal under CAFA because “allegations  
24 of citizenship may be based solely on information and belief”).

25           18.     According to information Plaintiff provided to Amazon, Plaintiff resides in California.  
26 Prather Decl. ¶ 3(a). Plaintiff is therefore considered a citizen of California for purposes of removal  
27 under CAFA. *See Ayala*, 2016 WL 6561284, at \*4.

1 19. A corporation is a citizen of its state of incorporation and the state of its principal place  
2 of business. 28 U.S.C. § 1332(c)(1). A limited liability company is a citizen of every state of which  
3 its members or owners are citizens. *See Johnson v. Columbia Properties Anchorage, LP*, 437 F.3d  
4 894, 899 (9th Cir. 2006). Amazon.com Services LLC, the sole defendant in this action, is, and was at  
5 the time of the institution of this action, a limited liability company formed under the laws of the State  
6 of Delaware with its principal place of business in the State of Washington. Declaration of Zane Brown  
7 (“Brown Decl.”) ¶ 2. Amazon.com Services LLC’s only member is Amazon.com Sales, Inc., which is  
8 wholly owned by Amazon.com, Inc. *Id.* at ¶ 3. Amazon.com Sales, Inc. and Amazon.com, Inc. are  
9 incorporated in Delaware and each have their principal places of business in Seattle, Washington. *Id.*

10 20. The Supreme Court has interpreted the phrase “principal place of business” in 28 U.S.C.  
11 § 1332(c)(1) to mean “the place where a corporation’s officers direct, control, and coordinate the  
12 corporation’s activities,” i.e., its “nerve center,” which “should normally be the place where the  
13 corporation maintains its headquarters—provided that the headquarters is the actual center of direction,  
14 control, and coordination.” *Hertz Corp. v. Friend*, 559 U.S. 77, 92–93 (2010). These entities’  
15 headquarters, which are located in Washington, constitute their “nerve center[s]” under the test adopted  
16 in *Hertz* because their high-level officers oversee each corporation’s activities from that state. *See*  
17 *Brown Decl.* ¶ 3. As such, Amazon.com Services LLC is a citizen of Delaware and Washington. *See*  
18 28 U.S.C. § 1332(c)(1); *Johnson*, 437 F.3d at 899.

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

### 21 **C. The Amount In Controversy Exceeds \$5 Million**

22 22. CAFA requires that the amount in controversy in a class action exceed \$5 million,  
23 exclusive of interest and costs. 28 U.S.C. § 1332(d)(2). In calculating the amount in controversy, a  
24 court must aggregate the claims of all individual class members. *Id.* § 1332(d)(6).

25 23. “[A] defendant’s notice of removal need include only a plausible allegation that the  
26 amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin Operating Co. v.*  
27 *Owens*, 574 U.S. 81, 89 (2014). To satisfy this burden, a defendant may rely on a “reasonable” “chain  
28 of reasoning” that is based on “reasonable” “assumptions.” *LaCross v. Knight Transp. Inc.*, 775 F.3d

1 1200, 1201–02 (9th Cir. 2015). “An assumption may be reasonable if it is founded on the allegations  
2 of the complaint.” *Arias*, 936 F.3d at 925; *see also Salter v. Quality Carriers, Inc.*, 974 F.3d 959, 964  
3 (9th Cir. 2020) (“[I]n *Arias* we held that a removing defendant’s notice of removal need not contain  
4 evidentiary submissions but only plausible allegations of jurisdictional elements.” (internal quotation  
5 marks and citation omitted)). That is because “[t]he amount in controversy is simply an estimate of  
6 the total amount in dispute, *not a prospective assessment of defendant’s liability.*” *Lewis v. Verizon*  
7 *Commc’ns, Inc.*, 627 F.3d 395, 400 (9th Cir. 2010) (emphasis added). “[W]hen a defendant seeks  
8 federal-court adjudication, the defendant’s amount-in-controversy allegation should be accepted when  
9 not contested by the plaintiff or questioned by the court.” *Dart Cherokee*, 574 U.S. at 87.

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

18 25. Importantly, a plaintiff seeking to represent a putative class cannot “bind the absent  
19 class” through statements aimed to limit his recovery in an effort to “avoid removal to federal court.”  
20 *Standard Fire Ins. Co. v. Knowles*, 568 U.S. 588, 595–96 (2013). The Supreme Court has held that  
21 even a plaintiff’s written stipulation that she will not seek more than \$5 million for a putative class  
22 cannot defeat federal jurisdiction under CAFA. *Knowles*, 568 U.S. at 592–93. As such, Plaintiff’s  
23 assertion that his “*individual claims* do not arise to the necessary amount in controversy” under either  
24 traditional diversity jurisdiction or CAFA is irrelevant. Compl. ¶ 3 (emphasis added); *see also* 28  
25 U.S.C. § 1332(d)(6); *Knowles*, 568 U.S. at 592–93; *Rodriguez v. AT & T Mobility Servs. LLC*, 728 F.3d  
26 975, 976 (9th Cir. 2013). Under 28 U.S.C. § 1332(d)(6), it is the amount placed in controversy by all  
27 class members in the aggregate based on the allegations in the complaint that controls, not the aggregate  
28 damages limitation asserted by the named plaintiff, or any limit applicable to the named plaintiff’s

1 individual claims. 28 U.S.C. § 1332(d)(6) (“In any class action, the claims of the individual class  
2 members shall be aggregated to determine whether the matter in controversy exceeds the sum or value  
3 of \$5,000,000, exclusive of interest and costs.”). Moreover, Plaintiff’s attempt to limit the amount in  
4 controversy is admittedly “based on his rate of pay” (Compl. ¶ 3) and therefore fundamentally  
5 misapplies section 2802, which does not look at an employee’s rate of pay but instead at what  
6 constitutes a “reasonable percentage” of each employee’s cell phone bill in light of the alleged use.  
7 *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). Thus, this Court must  
8 disregard Plaintiff’s attempt to avoid federal jurisdiction by limiting his individual claims and instead  
9 aggregate the claims of the individual class members as required by CAFA. *Knowles*, 568 U.S. at 595  
10 (citing 28 U.S.C. § 1332(d)(6)); *see also Rodriguez*, 728 F.3d at 976.

11 26. As Amazon will demonstrate below, the amount in controversy exceeds \$8.1 million,  
12 and in any case exceeds \$5 million. Thus, although Amazon denies that Plaintiff’s claims have any  
13 merit, including that Plaintiff’s complaint alleges facts sufficient to state a claim for expense  
14 reimbursement under section 2802, Amazon avers, for the purposes of meeting the jurisdictional  
15 requirements for removal only, that if Plaintiff were to prevail on every claim and allegation in his  
16 Complaint on behalf of the putative class, the requested monetary recovery would exceed \$5 million.

17 **1. Plaintiff’s Reimbursement Allegations Place More Than \$6.5 Million in**  
18 **Controversy**

19 27. Amazon reserves the right to present evidence establishing the amount placed in  
20 controversy by each of Plaintiff’s claims should Plaintiff challenge whether the jurisdictional amount-  
21 in-controversy threshold is satisfied. *See Dart Cherokee*, 574 U.S. at 87–89; *see also Salter*, 974 F.3d  
22 at 964 (holding that only a “factual attack” that “contests the truth of the plaintiff’s factual allegations,  
23 usually by introducing evidence outside the pleadings” requires the removing defendant to “support  
24 her jurisdictional allegations with competent proof” (internal quotation marks omitted)). “[W]hen a  
25 notice of removal plausibly alleges a basis for federal court jurisdiction, a district court may not remand  
26 the case back to state court without first giving the defendant an opportunity to show by a  
27 preponderance of the evidence that the jurisdictional requirements are satisfied.” *Arias*, 936 F.3d at  
28 924. But for present purposes, it is sufficient to note that Plaintiff’s claim regarding unpaid

1 reimbursements places more than \$5 million in controversy, even with several assumptions that narrow  
2 the scope of Plaintiff’s putative class, and even without considering Plaintiff’s claim for attorneys’  
3 fees.

4 28. California Labor Code section 2802 provides that “[a]n employer shall indemnify his or  
5 her employee for all necessary expenditures or losses incurred by the employee in direct consequence  
6 of the discharge of his or her duties, or of his or her obedience to the directions of the employer.” Cal.  
7 Lab. Code § 2802(a). For this provision, “the term ‘necessary expenditures or losses’ shall include all  
8 reasonable costs, including, but not limited to attorney’s fees incurred by the employee enforcing the  
9 rights granted by this section.” *Id.* § 2802(c).

10 29. Plaintiff alleges that Amazon “required [him] and other similarly-situated employees to  
11 use their personal cell phones for work related purposes, but did not reimburse these employees for the  
12 work-related use of their cell phones.” Compl. ¶ 12. Specifically, Plaintiff alleges that Amazon  
13 required him and similarly situated employees to “download and use” the Apps in order “to perform  
14 their work duties,” which includes the allegation that Amazon required employees to use the A to Z  
15 app to “examine, and makes changes to, their work schedules” as well as the claim that Plaintiff and  
16 putative class members “received Amazon Chime notifications both at work and off-the-clock, and  
17 w[ere] required to respond to these messages immediately.” *Id.* at ¶ 12.

18 30. Based on these allegations, it is reasonable to assume that Plaintiff will contend that  
19 Amazon failed to reimburse the putative class for cell phone expenses of at least \$10 per month per  
20 employee, for each month in which they were employed with Amazon.

21 31. First, it is reasonable to assume that Plaintiff will contend that a monthly reimbursement  
22 in the amount of at least \$10 was owed. While Amazon does not agree that any monthly reimbursement  
23 was owed, district courts have routinely accepted a defendant’s reasonable assumption of the monthly  
24 reimbursement amount put in controversy by section 2802 allegations involving cell phone use when  
25 analyzing federal jurisdiction under CAFA. *See, e.g., Cavada v. Inter-Cont’l Hotels Grp., Inc.*, 2019  
26 WL 5677846, at \*7 (S.D. Cal. Nov. 1, 2019) (\$20 per month per was a “reasonable assumption” for  
27 purposes of CAFA’s amount in controversy requirement); *Anderson v. Starbucks Corp.*, 2020 WL  
28 7779015, at \*3–4 (N.D. Cal. Dec. 31, 2020) (finding alternative assumptions of \$50 per month or

1 \$32.50 per month plus the cost of a phone reasonable for purposes of CAFA’s amount in controversy  
2 requirement); *Gurzenski v. Delta Air Lines, Inc.*, 2021 WL 5299240, at \*4 (C.D. Cal. Nov. 12, 2021)  
3 (finding an assumption of 50% of an assumed monthly cell phone bill of \$76, i.e. \$38 per month,  
4 reasonable for purposes of CAFA’s amount in controversy requirement); *Vallejo v. Sterigenics U.S.,*  
5 *LLC*, 2021 WL 2685348, at \*6 (S.D. Cal. June 29, 2021) (finding an assumption of \$25 per month  
6 reasonable for purposes of CAFA’s amount in controversy requirement). Thus, although Amazon  
7 contends that Plaintiff’s claims lack merit, it is reasonable for Amazon to assume that Plaintiff’s  
8 allegations put at least \$10 per month per employee in controversy. To the extent that Plaintiff  
9 challenges this amount, Amazon reserves all rights to put on evidence in support of it or any other  
10 amount according to proof.

11 32. Second, it is reasonable to assume that Plaintiff will seek monthly reimbursements for  
12 each class member for each month worked. Plaintiff alleges that Amazon “required” employees to use  
13 the Apps in order “to perform their work duties,” Compl. ¶ 12, and California courts have explained  
14 that if an employee is *required* to use a personal cell phone for “work”—as Plaintiff alleges here—an  
15 employer must “pay some reasonable percentage” of the employee’s cell phone bill. *Cochran*, 228  
16 Cal. App. 4th at 1144 (holding that “reimbursement is always required” for “mandatory use of a  
17 personal cell phone”). Thus, Plaintiff’s allegation that Amazon “required” employees to use the Apps  
18 in order “to perform their work duties” supports an assumption that Plaintiff will seek to recover a  
19 reasonable percentage of each class member’s cell phone bill for each month in which each member of  
20 the putative class worked, which allegedly spans the “four years prior to the filing” of the Complaint.  
21 Compl. ¶¶ 6, 12.

22 33. Further, based on Plaintiff’s allegations, it is reasonable to assume he purports to, at a  
23 minimum, represent all non-exempt employees of Amazon in California, including FC Associates.  
24 Plaintiff alleges that he “and other similarly situated employees . . . worked under *the same policies,*  
25 *practices, and procedures* relating to their employment, including those governing expense  
26 reimbursements” and, moreover, that “all members of the Class and Subclasses sustained similar  
27 injuries caused by [Amazon’s] *common* course of conduct.” Compl. ¶¶ 11, 20 (emphases added). And  
28 Plaintiff also alleges that putative class members, which includes all of Amazon’s California employees

1 (Compl. ¶ 13), were forced to download and use the A to Z App on their personal cell phones in order  
2 to “examine, and make changes to, their work schedules” and were “required to respond” to messages  
3 on the Chime App “immediately.” Compl. ¶ 12. Thus, at a minimum Plaintiff is alleging that all non-  
4 exempt Amazon employees at fulfillment centers like the Patterson facility (Compl. ¶ 4) were required  
5 to use their personal smartphones for work purposes, and therefore it is reasonable to assume that  
6 Plaintiff claims he is entitled to recover monthly reimbursements for all FC Associates in California.  
7 *See, e.g., Castro*, 2017 WL 4682816, at \*4–5 (holding that it was reasonable to assume monthly  
8 reimbursements in light of the allegation that defendants “regularly require[d]” personal cell phone  
9 use); *Anderson*, 2020 WL 7779015, at \*4 (finding it reasonable to assume each putative class member  
10 could recover monthly reimbursements in light of the allegation that class members were required to  
11 be reachable via their personal cell phones at all times).

12 34. Nevertheless, for purposes of this notice of removal, Amazon will assume that  
13 reimbursements were owed in only 75% of the months worked by the already narrowed class of FC  
14 Associates who worked at Amazon from December 10, 2019 through June 19, 2021.

15 35. According to Amazon’s records, during the period of December 10, 2019 through June  
16 19, 2021, Amazon employed at least 135,259 FC Associates across 20 of its fulfillment centers in  
17 California. Prather Decl. ¶ 3(c). Over that time period, those 135,259 FC Associates worked an  
18 aggregate of 874,662 months. *Id.* at ¶ 3(d).

19 36. Thus, based on Plaintiff’s allegations, and for purposes of demonstrating CAFA’s  
20 amount in controversy requirement only, Amazon bases its calculation on an assumption of \$10 per  
21 month for these 135,259 FC Associates for at least 75% of those eight-hundred thousand plus months.  
22 *See* Compl. ¶ 13 (purporting to represent all Amazon employees in California); *see also, e.g., Anderson*,  
23 2020 WL 7779015, at \*3 (pointing to the “additional measure” defendant had taken to lower its amount  
24 in controversy calculation as a basis for finding the estimate reasonable).

25 37. Accordingly, if Amazon was required to pay just these FC Associates, which is a  
26 fraction of the putative class Plaintiff purports to represent, *see, e.g.,* Compl. ¶¶ 12–13, Plaintiff’s  
27 reimbursement claims exceed CAFA’s \$5 million threshold by putting at least \$6,559,965.00 in  
28 controversy, exclusive of attorneys’ fees, as shown and calculated below.

<b>Amount of Reimbursement Claims in Controversy</b> (December 10, 2019 through June 19, 2021)	
Assumed Monthly Reimbursement Rate	\$10.00
Number of non-exempt Fulfillment Associates	135,259
Aggregate Number of Months Worked by Fulfillment Associates	874,662
Conservative estimate of months in which reimbursements were owed (874,662 x 0.75)	655,996.50
Amount in controversy for section 2802 claim (\$10.00 monthly reimbursement assumption x 655,996.50 months)	<b>\$6,559,965.00</b>

**2. Plaintiff's Request for Attorneys' Fees Places an Additional \$1.6 Million in Controversy**

38. In addition, Plaintiff requests “[r]easonable attorneys’ fees and costs, pursuant to California Code of Civil Procedure section 1021.5, and the California Labor Code, or other applicable law.” Compl., Prayer for Relief ¶ 8; *see also* Cal. Lab. Code § 2802(c) (“For purposes of this section, the term ‘necessary expenditures or losses’ shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.”). Prospective attorneys’ fees are properly included in the amount in controversy for purposes of evaluating CAFA jurisdiction. *See Arias*, 936 F.3d at 922 (“[W]hen a statute or contract provides for the recovery of attorneys’ fees, prospective attorneys’ fees must be included in the assessment of the amount in controversy.”). Under the Ninth Circuit’s well-established precedent, 25% of the common fund is generally used as a benchmark for an award of attorneys’ fees. *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir. 1998); *Barcia v. Contain-A-Way, Inc.*, 2009 WL 587844, at \*5 (S.D. Cal. Mar. 6, 2009) (“In wage and hour cases, ‘[t]wenty-five percent is considered a benchmark for attorneys’ fees in common fund cases.’” (quoting *Hopson v. Hanesbrands Inc.*, 2008 WL 3385452, at \*4 (N.D. Cal. Aug. 8, 2008))); *Lucas v. Kors*, 2018 WL 2146403, at \*12 (C.D. Cal. May 9, 2018) (collecting cases applying a 25% benchmark in CAFA wage and hour cases). And district courts have previously applied a 25% benchmark in determining attorneys’ fees for purposes of the amount in controversy in



1 reimbursement cases. *See, e.g., Anderson*, 2020 WL 7779015, at \*4 (finding 25% to be a reasonable  
 2 benchmark for attorneys’ fees for plaintiff’s reimbursement claims); *Vallejo*, 2021 WL 2685348, at \*6  
 3 (same).

4 39. Here, Amazon has established that the amount in controversy is *at least* \$6,559,965.00,  
 5 and Plaintiff has not indicated that he will seek less than 25% of a common fund in attorneys’ fees. *See*  
 6 *Compl., Prayer For Relief* (seeking attorneys’ fees). Indeed, Plaintiff’s counsel has sought (and  
 7 received) more than 25% in attorneys’ fees in previous wage and hour cases. *See, e.g., Vasquez v.*  
 8 *Kraft Heinz Foods Co.*, 2020 WL 1550234, at \*5, \*8 (S.D. Cal. Apr. 1, 2020) (order approving  
 9 Plaintiff’s counsel’s request for 33.33% in attorneys’ fees in a CAFA wage and hour case); *Raziano v.*  
 10 *Albertson’s LLC*, 2021 WL 3472858, at \*7–8 (C.D. Cal. July 15, 2021) (order granting 32% in  
 11 attorneys’ fees after Plaintiff’s counsel had requested 33.3% in a CAFA wage and hour case). Amazon  
 12 denies that any such attorneys’ fees are owed to Plaintiff or putative class members, but relies on  
 13 Plaintiff’s allegation that he will be entitled to attorneys’ fees for purposes of this jurisdictional  
 14 analysis. Thus, although Amazon has shown that the amount in controversy without considering  
 15 attorneys’ fees surpasses the jurisdictional threshold, this Court should nevertheless include the  
 16 potential attorneys’ fees in evaluating jurisdiction. *Guglielmino v. McKee Foods Corp.*, 506 F.3d 696,  
 17 700 (9th Cir. 2007).

18 40. Using a 25% benchmark figure for attorneys’ fees for Plaintiff’s allegations regarding  
 19 alleged section 2802 violations results in estimated attorneys’ fees of approximately \$1,639,991.25,  
 20 calculated as follows:

21 Minimum Amount in Controversy from Section 2802 Claim:	\$6,559,965.00
22 Attorneys’ Fees Benchmark:	25%
23 Attorneys’ Fees in Controversy:	<b>\$1,639,991.25</b>

24 **3. Amazon Has Satisfied Its Burden Under CAFA and No Exception Is Applicable**

25 41. In summary, Plaintiff’s allegation regarding unreimbursed cell phone expenses under  
 26 California Labor Code section 2802 places at least \$6,559,965.00 in controversy. Plaintiff’s request  
 27 for attorneys’ fees places an additional \$1,639,991.25 in controversy. In total, Plaintiff’s cause of  
 28

1 action under section 2802, including attorneys' fees, places at least **\$8,199,956.25** in controversy. This  
2 figure underestimates the total amount placed in controversy by Plaintiff's complaint because it is based  
3 on conservative assumptions about Plaintiff's putative class allegations because it excludes (1) all  
4 potential expenses owed to Amazon employees who worked in California between December 10, 2017  
5 and December 9, 2019; (2) all potential expenses owed to Amazon employees who worked in  
6 California since June 19, 2021; (3) any expenses owed to California FC Associates who worked at  
7 fulfillment centers other than the 20 facilities relied on for purposes of this analysis; and (4) all other  
8 potential unreimbursed cell phone expenses allegedly owed to employees who worked for Amazon in  
9 California during the alleged class period in roles other than FC Associate.

10 42. Plaintiff's allegations therefore place more than the requisite \$5 million in  
11 controversy. The jurisdictional amount-in-controversy requirement is met, and removal to this Court  
12 is proper under CAFA.

13 43. Because Amazon has shown that federal jurisdiction has been established over this  
14 action, Plaintiff bears the burden of proof to prove that an exception to CAFA removal applies and  
15 justifies remand. *See Serrano v. 180 Connect, Inc.*, 478 F.3d 1018, 1024 (9th Cir. 2007). Plaintiff  
16 cannot meet this burden as no exceptions apply to this action. Amazon expressly reserves its right to  
17 contest and further brief the applicability of any exception to removal under CAFA that Plaintiff may  
18 identify in any motion for remand.

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

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

- 22 a) This is a civil action that is a "class action" within the meaning of § 1332(d)(1)(B);
- 23 b) The action involves a putative class of more than 100 employees;
- 24 c) The amount in controversy exceeds \$5 million, exclusive of interest and costs as  
25 required by § 1332(d)(2); and
- 26 d) The minimal diversity requirement is satisfied because Plaintiff and the putative  
27 class members are citizens of a state different from Amazon.

28 Accordingly, this action is properly removable under 28 U.S.C. § 1441.

1 45. The United States District Court for the Eastern District of California, Fresno Division  
2 is the federal judicial district in which the Stanislaus County Superior Court sits. This action was  
3 originally filed in Stanislaus County Superior Court, rendering venue in this federal judicial district  
4 and division proper. 28 U.S.C. § 84(b); *see also* 28 U.S.C. § 1441(a).

5 46. True and correct copies of all process, pleadings and orders served upon Amazon and/or  
6 filed in the state court are attached as Exhibits A–G to the Maryott Declaration filed concurrently  
7 herewith. This constitutes the complete record of all records and proceedings in the state court.

8 47. Upon filing the Notice of Removal, Amazon will furnish written notice to Plaintiff's  
9 counsel, and will file and serve a copy of this Notice with the Clerk of the Stanislaus County Superior  
10 Court, pursuant to 28 U.S.C. § 1446(d).

11  
12 Dated: January 20, 2022

13  
14 MICHELE L. MARYOTT  
15 LAUREN M. BLAS  
16 KATIE M. MAGALLANES  
17 JESSICA PEARIGEN  
18 GIBSON, DUNN & CRUTCHER LLP

19 By: /s/ Michele L. Maryott  
Michele L. Maryott

20 Attorneys for Defendant  
21 AMAZON.COM SERVICES LLC  
22  
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24  
25  
26  
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28

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

LUIS MONTIJO, on behalf of himself and all other similarly-situated employees

(b) County of Residence of First Listed Plaintiff Merced County, CA (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Michael D. Singer; Rosemary C. Khoury (COHELAN KHOURY & SINGER, 605 C Street, Suite 200, San Diego, CA 92101; (619) 595-3001); Sahag Majarian, II (LAW OFFICES OF SAHAG MAJARIAN II, 18250 Ventura Blvd., Tarzana, California 91356; (818) 609-0807)

DEFENDANTS

AMAZON.COM SERVICES LLC, a Delaware Limited Liability Company; and DOES 1 through 10, inclusive

County of Residence of First Listed Defendant King County, WA (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Michele L. Maryott; Lauren M. Blas; Katie M. Magallanes (GIBSON, DUNN & CRUTCHER LLP, 3161 Michelson Drive, Irvine, CA 92612-4412; (949) 451-3800)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF, DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like 110 Insurance, 310 Airplane, 365 Personal Injury, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation-Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. §§ 1332, 1441, 1453; amount in controversy exceeds \$5 million. Brief description of cause: Employment litigation removed under CAFA, 28 U.S.C. §§ 1332, 1441, 1453

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ \$5 million+ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): See concurrently filed Notice of Related Cases JUDGE DOCKET NUMBER

DATE January 20, 2022

SIGNATURE OF ATTORNEY OF RECORD /s/ Michele L. Maryott

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE



1 MICHELE L. MARYOTT, SBN 191993  
mmaryott@gibsondunn.com  
2 KATIE M. MAGALLANES, SBN 300277  
kmagallanes@gibsondunn.com  
3 JESSICA M. PEARIGEN, SBN 317286  
jpearigen@gibsondunn.com  
4 GIBSON, DUNN & CRUTCHER LLP  
3161 Michelson Drive  
5 Irvine, CA 92612-4412  
Telephone: 949.451.3800  
6 Facsimile: 949.451.4220

7 LAUREN M. BLAS, SBN 296823  
lblas@gibsondunn.com  
8 GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
9 Los Angeles, CA 90071-3197  
Telephone: 213.229.7000  
10 Facsimile: 213.229.7520

11 Attorneys for Defendant  
AMAZON.COM SERVICES LLC

12 UNITED STATES DISTRICT COURT  
13 EASTERN DISTRICT OF CALIFORNIA

14 LUIS MONTIJO, on behalf of himself and all  
15 other similarly-situated employees,

16 Plaintiffs,

17 v.

18 AMAZON.COM SERVICES LLC, a  
Delaware Limited Liability Company; and  
19 DOES 1 through 10, inclusive,

20 Defendants.

CASE NO.

**DECLARATION OF MICHELE L.  
MARYOTT IN SUPPORT OF NOTICE OF  
REMOVAL**

(Stanislaus County Superior Court Case No. CV-  
21-006616)

1 I, Michele L. Maryott, hereby declare and state:

2 1. I am an attorney duly licensed to practice law before all the courts of the State of  
3 California as well as the United States District Court for the Eastern District of California. I am a  
4 partner at the law firm of Gibson, Dunn & Crutcher LLP, and am one of the attorneys representing  
5 Amazon.com Services LLC (“Amazon”) in the above-entitled action. Unless otherwise stated, I have  
6 personal knowledge of the matters stated herein.

7 2. Attached hereto as **Exhibit A** is a true and correct copy of the Summons in *Montijo v.*  
8 *Amazon.com Services LLC*, Case No. CV-21-006616, filed on December 10, 2021.

9 3. Attached hereto as **Exhibit B** is a true and correct copy of the Class Action Complaint  
10 in *Montijo v. Amazon.com Services LLC*, Case No. CV-21-006616, filed on December 10, 2021.

11 4. Attached hereto as **Exhibit C** is a true and correct copy of the Civil Case Cover Sheet  
12 in *Montijo v. Amazon.com Services LLC*, Case No. CV-21-006616, filed on December 10, 2021.

13 5. Attached hereto as **Exhibit D** is a true and correct copy of the Notice of Case  
14 Management Conference in *Montijo v. Amazon.com Services LLC*, Case No. CV-21-006616, filed on  
15 December 10, 2021.

16 6. Attached hereto as **Exhibit E** is a true and correct copy of the Notice of Service of  
17 Process Transmittal, reflecting that Plaintiff effected service of the Summons and Class Action  
18 Complaint on Amazon on December 21, 2021.

19 7. Attached hereto as **Exhibit F** is a true and correct copy of the Alternative Dispute  
20 Resolution (ADR) Program Information Packet in *Montijo v. Amazon.com Services LLC*, Case No.  
21 CV-21-006616, served on December 21, 2021.

22 8. In accordance with 28 U.S.C. § 1446(a), Exhibits A–F constitute “all process, pleadings,  
23 and orders served upon” Amazon in this action.

24 9. Attached hereto as **Exhibit G** is a true and correct copy of the Proof of Service of  
25 Summons in *Montijo v. Amazon.com Services LLC*, Case No. CV-21-006616, filed on January 6, 2022.

26 I declare under penalty of perjury pursuant to the laws of the United States of America and the  
27 State of California that the foregoing is true and correct.

28

Executed at San Juan Capistrano, California, on this 20th day of January 2022.

/s/ Michele L. Maryott  
Michele L. Maryott

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# **EXHIBIT A**



SUM-100

**SUMMONS  
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

AMAZON.COM SERVICES LLC, a Delaware Limited Liability Company; and DOES 1 through 10, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

LUIS MONTIJO, on behalf of himself and all other similarly-situated employees

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

Electronically Filed  
12/10/2021 1:17 PM  
Superior Court of California  
County of Stanislaus  
Clerk of the Court  
By: Christina Dixon, Deputy

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

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

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

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

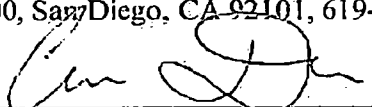
Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios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

The name and address of the court is:  
(El nombre y dirección de la corte es): Stanislaus County Superior Court  
801 10th Street  
Modesto, CA 95354

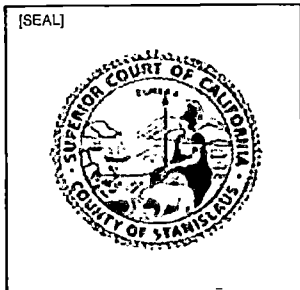
CASE NUMBER:  
(Número del Caso): CV-21-006616

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Rosemary Khoury, Esq., Cohelan Khoury & Singer, 605 C St., Ste. 200, San Diego, CA 92101, 619-595-3001

DATE: 12/10/2021 1:17 PM  
(Fecha)

Clerk, by  , Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)). Christina Dixon



**NOTICE TO THE PERSON SERVED:** You are served

1.  as an individual defendant.
2.  as the person sued under the fictitious name of (specify):
3.  on behalf of (specify): Amazon.com Services LLC, a Delaware Limited Liability Company  
under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)  
 other (specify): Corps.C. section 17701.16(b)
4.  by personal delivery on (date):

# **EXHIBIT B**

**COHELAN KHOURY & SINGER**

Michael D. Singer (SBN 115301)

msinger@cksllaw.com

Rosemary C. Khoury (SBN 331307)

rkhoury@cksllaw.com

605 C Street, Suite 200

San Diego, CA 92101

Telephone: (619) 595-3001/Facsimile: (619) 595-3000

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Superior Court of California  
County of Stanislaus  
Clerk of the Court  
By: Christina Dixon, Deputy

\$435 PAID  \$1000 COMPLEX FEES PAID

**LAW OFFICES OF SAHAG MAJARIAN II**

Sahag Majarian, II (SBN 146621)

sahagii@aol.com

18250 Ventura Blvd.

Tarzana, California 91356

Telephone: (818) 609-0807/Facsimile: (818) 609-0892

Attorneys for Plaintiff LUIS MONTIJO, on behalf of himself and  
all other similarly-situated employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF STANISLAUS**

LUIS MONTIJO, on behalf of himself and  
all other similarly-situated employees,

Plaintiffs,

v.

AMAZON.COM SERVICES LLC, a  
Delaware Limited Liability Company; and  
DOES 1 through 10, inclusive,

Defendants.

Case No. CV-21-006616

**CLASS ACTION COMPLAINT**

1. **FAILURE TO REIMBURSE BUSINESS EXPENSES**
2. **VIOLATION OF THE UNFAIR COMPETITION LAW**

**DEMAND FOR JURY TRIAL**

COHELAN KHOURY & SINGER  
605 C Street, Suite 200  
San Diego, CA 92101

This case has been assigned to Judge Freeland, John D  
Dept. 23  
Department \_\_\_\_\_ for all purposes including Trial.

Class Action Complaint

1 Plaintiff LUIS MONTIJO (“Plaintiff”), on behalf of himself and all other similarly-  
2 situated employees, alleges as follows:

3 I.

4 **INTRODUCTION**

5 1. Plaintiff brings this proposed Class Action against his former employers  
6 Amazon.com Services LLC and Does 1 through 10 (collectively “Defendants”) for Defendants’  
7 failure to reimburse business expenses.

8 2. Plaintiff brings this lawsuit as a on behalf of himself and other similarly-situated  
9 current and former employees including, but not limited to, Production Assistants, pursuant to  
10 California Code of Civil Procedure section 382. Plaintiff seeks recovery of business expenses  
11 incurred, plus interest, attorneys’ fees, and other equitable relief against Amazon.com Services,  
12 LLC for violations of California Labor Code section 2802 and violations of California’s Unfair  
13 Competition Law (“UCL”), Business & Professions Code sections 17200, *et seq.*

14 II.

15 **JURISDICTION AND VENUE**

16 3. Venue as to each Defendant is proper in this judicial district, pursuant to Code of  
17 Civil Procedure section 395. Defendants conduct business in the city and county of Stanislaus in  
18 the state of California and each Defendant is within the jurisdiction of this Court for service of  
19 process purposes. The unlawful acts alleged have a direct effect on Plaintiff and other employees  
20 within the State of California and Stanislaus County. Defendants employ numerous employees in  
21 Stanislaus County and in California generally. There is no federal question at issue for removal  
22 under 28 U.S.C. section 1331, as the issues herein are based solely on California statutes and  
23 law, including the Labor Code, Code of Civil Procedure, and Business and Professions Code.  
24 Plaintiff is also informed and believes that based on his rate of pay, Plaintiff’s individual claims  
25 do not arise to the necessary amount in controversy so as to implicate traditional jurisdiction  
26 under 28 U.S.C. section 1332(a) or jurisdiction under the CAFA.

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III.

**THE PARTIES**

4. Plaintiff LUIS MONTIJO is a former employee of Defendants. He was employed by Defendants as a "Production Assistant" at Defendants' Patterson facility located at 255 Park Center Dr., Patterson, California 95363 for approximately five years, ending on March 6, 2020.

5. Plaintiff is informed and believes Defendant Amazon.com Services LLC is a Delaware Limited Liability Company operating in the warehousing and storage industry. Amazon.com Services LLC employs employees, including Production Assistants, throughout California, including throughout Stanislaus County.

6. During the proposed Class Period, defined as four years prior to the filing of this Complaint to the date of commencement of trial (or such earlier date as ordered by the Court), Defendants did, and do, transact and conduct business in the state of California, including, but not limited to, within the jurisdiction of the Court.

7. During the Class Period, each Defendant employed Plaintiff and other similarly-situated employees for purposes of the California laws at issue in this action.

8. Plaintiff is unaware of the true names, capacities, relationships, and extent of participation in the conduct alleged of Defendants sued as DOES 1 through 10, but is informed and believes, and based on that alleges, DOE Defendants are legally responsible for the wrongful conduct alleged and sues these Defendants by such fictitious names. Plaintiff will amend this complaint when their true names and capabilities are ascertained.

9. Plaintiff is informed and believes and, based thereon alleges, that each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and other similarly-situated employees, and exercised control over whether, when and if they were reimbursed for business expenses. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

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IV.

**GENERAL ALLEGATIONS**

10. During the Class Period, Plaintiff and other similarly-situated employees were employed by Defendants and each of them, including Doe Defendants, within the state of California.

11. During the Class Period, Plaintiff and other similarly-situated employees of Defendants worked under the same policies, practices, and procedures relating to their employment, including those governing expense reimbursements.

12. During the Class Period, Defendants required Plaintiff and other similarly-situated employees to use their personal cell phones for work-related purposes, but did not reimburse these employees for the work-related use of their cell phones. Plaintiff and similarly-situated employees were required to download and use two cell phone applications, "Amazon Chime" and "A to Z," to perform their work duties. Amazon Chime is an internal instant messaging and video call system which allowed managers and supervisors to coordinate operations and to organize group chats among employees regarding assignments. Plaintiff received Amazon Chime notifications both at work and off-the-clock, and was required to respond to these messages immediately. A to Z is a scheduling application that employees like Plaintiff were required to use to examine, and make changes to, their work schedules

13. Plaintiff brings this class action on behalf of himself and all other similarly-situated employees pursuant to Code of Civil Procedure section 382. Class members are defined as:

All Defendants' California employees, at any time during the four years before filing this Complaint through the date of trial.

14. Plaintiff seeks to certify a subclass of employees defined as:

**Expense Reimbursement Subclass**

All Class Members who incurred business-related expenses, including but not limited to cell phone expenses.

15. Plaintiff seeks to certify a subclass of employees defined as:

**UCL Subclass**

All Class Members who were subject to Defendants' unlawful or unfair

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San Diego, CA 92101

1 business acts or practices.

2 16. Plaintiff reserves the right to amend or modify the Class description, including by  
3 division into subclasses or limitation to particular issues. California Rule of Court 3.765(b).

4 17. **Commonality**: This action has been brought and may be maintained as a class  
5 action pursuant to Code of Civil Procedure section 382 because there is a well-defined common  
6 interest of many persons and it is impractical to bring them all before the court.

7 18. **Ascertainable Class**: The proposed Class and Subclasses are ascertainable  
8 because they can be identified and located using Defendants' payroll and personnel records.

9 19. **Numerosity**: The potential members of the Class and Subclasses as defined are so  
10 numerous that joinder of all members would be unfeasible and impractical. The disposition of  
11 their claims through this class action will benefit the parties and this Court. The number of  
12 members of the Class and Subclasses is unknown to Plaintiff, but is estimated to be in excess of  
13 100 individuals. The number and identity of members can be readily ascertained using  
14 Defendants' records.

15 20. **Typicality**: The claims of Plaintiff are typical of the claims of all members of the  
16 Class and Subclasses because all members of the Class and Subclasses sustained similar injuries  
17 caused by Defendants' common course of conduct in violation of law.

18 21. **Adequacy**: Plaintiff is an adequate representative of the Class and Subclasses,  
19 will fairly protect the interests of the Class and Subclass members and has no interests  
20 antagonistic to them, and will vigorously pursue this suit. Plaintiff's attorneys are competent,  
21 skilled, and experienced in litigating large employment law class actions.

22 22. **Superiority**: A class action is superior to other available means for the fair and  
23 efficient adjudication of this controversy. Individual joinder of all Class Members is not  
24 practicable, and questions of law and fact common to the Class predominate over questions  
25 affecting only individual Class Members. A Class action will allow those similarly-situated to  
26 litigate their claims in the most efficient and economical manner for the parties and the judicial  
27 system. Plaintiff is unaware of any difficulties likely to be encountered in the management of this  
28 action that precludes its maintenance as a class action.

V.

**CAUSES OF ACTION**

**FIRST CAUSE OF ACTION**

**Failure to Reimburse Business Expenses**

**Labor Code §§ 2802 and 2804**

**(By Plaintiff and each Member of the Expense Reimbursement Subclass)**

23. Plaintiff incorporates the preceding paragraphs of this Complaint.

24. An employer must reimburse its employees for their reasonable business-related expenses. Labor Code § 2802. This right to reimbursement cannot be waived. Labor Code § 2804.

25. During the Class Period, Defendants failed to reimburse Plaintiff and other similarly-situated employees for their reasonable business use of their cell phones, including for their use of cell phone applications which Defendants required them to download and use. As a result, Defendants violated Labor Code section 2802.

26. Defendants' unlawful acts deprived Plaintiff, the Class, and the Expense Reimbursement Subclass Plaintiff seeks to represent of expense reimbursements in amounts to be determined at trial, and they are entitled to recover these amounts, with interest, attorneys' fees, and costs.

**SECOND CAUSE OF ACTION**

**Violation of the Unfair Competition Law**

**Bus. & Prof. Code §§ 17200, *et seq.***

**(By Plaintiff and each Member of the UCL Subclass)**

27. Plaintiff incorporates the preceding paragraphs of this complaint.

28. The California Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code sections 17200, *et seq.*, defines unfair competition to include any "unlawful," "unfair," or "fraudulent" business act or practice. Cal. Bus. & Prof. Code § 17200.

29. Defendants' failure to reimburse Plaintiff and the Expense Reimbursement Subclass for incurred business expenses in compliance with California Labor Code section 2802, as alleged herein, constitutes an unlawful or unfair business practice which has resulted in an injury in fact.

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San Diego, CA 92101



1 30. Plaintiff and the Class seek declaratory and injunctive relief, restitution, and other  
2 appropriate equitable relief. Cal. Bus. & Prof. Code §§ 17203, 17204.

3 31. Pursuant to California Code of Civil Procedure section 1021.5 and Labor Code  
4 section 2802, Plaintiff and the Class are entitled to recover reasonable attorneys' fees, costs, and  
5 expenses incurred in bringing this action.

6 32. This cause of action is brought as a cumulative remedy and is intended as an  
7 alternative remedy for restitution for Plaintiff and each Class Member for the four (4)-year period  
8 before the filing of this Complaint, and as the primary remedy during the fourth year before the  
9 filing of this Complaint. Business and Professions Code § 17205.

10 VI.

11 **PRAYER FOR RELIEF**

12 Plaintiff, on behalf of himself and the Class, prays for the following relief against  
13 Defendants:

14 1. Certification of this action as a class action and appointment of Plaintiff and  
15 Plaintiff's counsel to represent the Class;

16 2. Provision of class notice to Class Members;

17 3. A declaratory judgment that Defendants violated California Labor Code section  
18 2802 by failing to reimburse business expenses;

19 4. A declaratory judgment that Defendants violated California Business and  
20 Professions Code sections 17200, *et seq.* by engaging in unlawful or unfair business practices;

21 5. That Defendants be permanently enjoined from engaging in the unlawful or unfair  
22 practices alleged;

23 6. Expense reimbursements according to proof;

24 7. Interest on all sums collected;

25 8. Reasonable attorneys' fees and costs, pursuant to California Code of Civil  
26 Procedure section 1021.5, and the California Labor Code, or other applicable law;

27 9. Costs of suit; and

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10. Such other relief as the Court deems appropriate.

COHELAN KHOURY & SINGER  
LAW OFFICES OF SAHAG MAJARIAN II

Dated: December 10, 2021

By: *Rosemary Khoury*  
Michael D. Singer, Esq.  
Rosemary C. Khoury, Esq.

Attorneys for Plaintiff LUIS MONTIJO, on behalf  
of himself and all other similarly-situated employees

VII.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a jury trial of all claims triable as of right by jury.

COHELAN KHOURY & SINGER  
LAW OFFICES OF SAHAG MAJARIAN II

Dated: December 10, 2021

By: *Rosemary Khoury*  
Michael D. Singer, Esq.  
Rosemary C. Khoury, Esq.

Attorneys for Plaintiff LUIS MONTIJO, on behalf  
of himself and all other similarly-situated employees

COHELAN KHOURY & SINGER  
605 C Street, Suite 200  
San Diego, CA 92101

# **EXHIBIT C**

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Rosemary C. Khoury, Esq. (SBN 331307) COHELAN KHOURY & SINGER 605 C Street, Suite 200 San Diego, CA 92101 TELEPHONE NO.: 619-595-3001 FAX NO.: 619-595-3000 ATTORNEY FOR (Name): Plaintiff Luis Montijo	FOR COURT USE ONLY  Electronically Filed 12/10/2021 1:17 PM Superior Court of California County of Stanislaus Clerk of the Court By: Christina Dixon, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Stanislaus STREET ADDRESS: 801 10th Street MAILING ADDRESS: 801 10th Street CITY AND ZIP CODE: Modesto, CA 95354 BRANCH NAME: City Towers Courthouse	CASE NUMBER: CV-21-006616
CASE NAME: Montijo v. Amazon.com Services LLC	JUDGE: DEPT:
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)	<b>Complex Case Designation</b> <input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b> Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

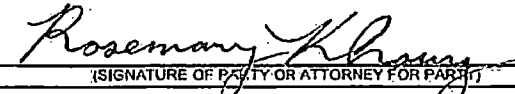
Items 1-6 below must be completed (see instructions on page 2).

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

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <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) <b>Non-PI/PD/WD (Other) Tort</b> <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) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	<b>Contract</b> <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) <b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <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)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <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) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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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 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 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): Two (2)
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: December 10, 2021  
 Rosemary C. Khoury, 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

# **EXHIBIT D**

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME, ADDRESS, PHONE, BAR NUMBER)	FOR COURT USE ONLY
<b>COURT GENERATED</b>	<b>FILED</b>
Attorney for: <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS</b> Street Address: City Towers Bldg., 801 10th St, 4 <sup>th</sup> Floor, Modesto, CA 95354 Civil Clerk's Office: 801 10 <sup>th</sup> Street, 4 <sup>th</sup> Floor, Modesto, CA 95354	DEC 10 2021 CLERK OF THE SUPERIOR COURT COUNTY OF STANISLAUS
Plaintiff/Petitioner: LUIS MONTIJO Defendant/Respondent: AMAZON.COM SERVICES LLC	BY _____ <b>CHRISTINA DIXON</b> DEPUTY
<b>NOTICE OF CASE MANAGEMENT CONFERENCE</b>	CASE NUMBER <b>CV-21-006616</b>

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

Date: 04/18/2022 Time: 9:00 AM

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

\*Departments 21 & 22 are located at 801 10<sup>th</sup> Street, 6<sup>th</sup> Floor, Modesto, CA 95354

\*Departments 23 & 24 are located at 801 10<sup>th</sup> Street, 4<sup>th</sup> Floor, Modesto, CA 95354

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

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

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

Date: **DEC 10 2021** by CHRISTINA DIXON Deputy Clerk  
Mandatory Form

**--SANCTIONS--**

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

CV003 11/10

**Rule 3.110 of the California Rules of Court.**

**Time for Service of Complaint, Cross-Complaint, and Response**

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



# **EXHIBIT E**



## Notice of Service of Process

Transmittal Number: 24234953  
Date Processed: 12/22/2021

**Primary Contact:** Ms. Lynn Radliff  
Amazon.Com, Inc.  
440 Terry Ave N  
Seattle, WA 98109-5210

**Electronic copy provided to:** Kimberly Thomas  
Theresa Nixon  
Vivian Ching  
Michelle King  
Luana Kooker  
Jesse Jensen  
Arianna Smogard  
Sara Rawson  
Lizette Fernandez  
Lynn Foley-Jefferson  
Maria Catana  
Stephanie Habben  
Karen Curtis  
Rochelle Lewis

---

**Entity:** Amazon.com Services LLC  
Entity ID Number 2102616

**Entity Served:** Amazon.com Services LLC

**Title of Action:** Luis Montijo vs. Amazon.com Services LLC

**Matter Name/ID:** Luis Montijo vs. Amazon.com Services LLC (11850117)

**Document(s) Type:** Summons/Complaint

**Nature of Action:** Class Action

**Court/Agency:** Stanislaus County Superior Court, CA

**Case/Reference No:** CV-21-006616

**Jurisdiction Served:** California

**Date Served on CSC:** 12/21/2021

**Answer or Appearance Due:** 30 Days

**Originally Served On:** CSC

**How Served:** Personal Service

**Sender Information:** Cohelan Khoury & Singer  
619-595-3001

**Client Requested Information:** Amazon Case Type: Class Action

---

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

**To avoid potential delay, please do not send your response to CSC**

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | [sop@cscglobal.com](mailto:sop@cscglobal.com)

# **EXHIBIT F**

Alternative Dispute Resolution (ADR) Program Information Packet

# ALTERNATIVES TO TRIAL

NOTE: The plaintiff must serve a copy of the ADR Information Packet on each defendant along with the complaint (CRC 3.221 (c))

Superior Court, Modesto, County of Stanislaus

## ADR INTRODUCTION

Did you know that most Civil lawsuits settle without a trial?

Did you know that there are a number of ways to resolve civil disputes without having to sue somebody?

These alternatives to a lawsuit are known as Alternative Dispute Resolution (ADR). The most common forms of ADR are Mediation and Arbitration. There are a number of other kinds of ADR as well.

In ADR, trained, impartial persons decide disputes or help parties decide disputes themselves. These persons are called neutrals. For example, in mediation, the neutral is the mediator. Neutrals normally are chosen by the disputing parties or by the court. Neutrals can help parties resolve disputes without having to go to court.

ADR is not new. ADR is available in many communities through dispute resolution programs and private neutrals.

## ADVANTAGES OF ADR

ADR can have a number of advantages over a lawsuit.

- ADR can save time. A dispute often can be resolved in a matter of months, even weeks, through ADR, while a lawsuit can take years.
- ADR can save money. Court costs, attorney fees, and expert fees can be saved.
- ADR can be cooperative. This means that the parties having a dispute may work together with the neutral to resolve the dispute and agree to a remedy that makes sense to them, rather than work against each other.
- ADR can reduce stress. There are fewer, if any, court appearances. ADR can be speedier, and save money and because the parties are normally cooperative, ADR is easier on the nerves. The parties don't have a lawsuit hanging over their heads for years.
- ADR encourages participation. The parties may have more chances to tell their side of the story than in court and may have more control over the outcome.
- ADR is flexible. The parties can choose the ADR process that is best for them. For example, in mediation the parties may decide how to resolve their dispute.
- ADR can be more satisfying. For all the above reasons, many people have reported a high degree of satisfaction with ADR.

Superior Court, Stanislaus offers all parties the opportunity to voice their satisfaction/dissatisfaction by completing an exit survey.

Because of these advantages, many parties choose ADR to resolve a dispute, instead of filing a lawsuit. Even when a lawsuit has been filed, the court can refer the dispute to a neutral before the parties' position harden and the lawsuit becomes costly. ADR has been used to resolve disputes even after a trial, when the result is appealed.

## DISADVANTAGES OF ADR

ADR may not be suitable for every dispute.

- If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure, and review for legal error by an Appellate court.

1 - 10/12/2010

- There generally is less opportunity to find out about the other side's case with ADR than with litigation. ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute.
- The neutral may charge a fee for his or her services.
- If a dispute is not resolved through ADR, the parties may have to put time and money into both ADR and a lawsuit.
- Lawsuits must be brought within specified periods of time, known as statutes of limitation. Parties must be careful not to let a statute of limitations run out while a dispute is in an ADR process.

## PROGRAM ASSISTANCE

### CRLA (California Rural Legal Assistance)

Superior Court, Stanislaus and our local CRLA Office works with the court to provide information and education to proper patrons of the Court who are, or desire to be, parties in landlord/tenant and other housing matters. These matters also include Small Claims Court.

### PROJECT SENTINEL

Superior Court, Stanislaus and Project Sentinel work out of our Self Help Center on Fridays and also assist with Dispute Resolution Programs Act (DRPA) and Small Claims questions.

## WORKSHOPS

### PARENTAGE WORKSHOP

This workshop is for parents who are not married to the other parent and wish to start a case for custody, visitation and child support. The workshop will last approximately 3 hours and will be held every **Monday morning**. **Attendees must arrive and sign in by 8:30 a.m. to attend workshop.**

#### **BRING WITH YOU:**

- Children's names, dates of birth, and all addresses where they have lived for the last 5 years.
- 

### DIVORCE, LEGAL SEPARATION OR ANNULMENT WORKSHOP

This workshop is for those wishing to file for divorce, legal separation or an annulment. The workshop will last approximately 3 hours and will be held every **Tuesday morning**. **Attendees must arrive and sign in by 8:30 a.m. to attend workshop.**

#### **BRING WITH YOU:**

- Children's names, dates of birth, and all addresses where they have lived for the last 5 years.
- List of all debts or property, whether in your name alone, your spouse's name, or both your names.
- 

### ORDER TO SHOW CAUSE WORKSHOP

This workshop is for parties who have an existing action for Divorce/Legal Separation, Paternity or Department of Child Support Services and want to request a hearing for custody and visitation orders or support orders. The workshop will last approximately 3 hours and held every **Wednesday morning**. **Attendees must arrive and sign in by 8:30 a.m. to attend workshop.**

#### **BRING WITH YOU:**

2 - 10/12/2010

Copies of all documents filed with the court, including all current orders for custody/visitation and child/spousal support.

#### GUARDIANSHIP WORKSHOP

This workshop is for those wishing to start a case to obtain custody of a minor other than their own child. The workshop will last approximately 2 hours and will be held every **Wednesday afternoon**. Attendees must arrive and sign in by 1:30 p.m. to attend workshop.

#### DEFAULT JUDGMENT WORKSHOP

This workshop is for those who have filed for Divorce, Legal Separation or Annulment and at least thirty (30) days have passed since the other party was served, no Response was filed and the Request for Default has been filed. The workshop will last approximately 3 hours and held every **Thursday morning**. Attendees must arrive and sign in by 8:30 a.m. to attend workshop.

#### BRING WITH YOU:

- Copies of all documents filed with the court, including all current orders for custody/visitation and child/spousal support
- Copy of the **Schedule of Assets and Debts (Form FL-142)**
- 2 envelopes with postage, 1 addressed to you and 1 addressed to the other party.
- Enough change to make your own copies.

**IMPORTANT:** You must have already filed a Proof of Service of Summons (FL-335), Request to Enter Default (FL-165), Income and Expense Declaration (FL-150), Schedule of Assets and Debts (FL-142), and Declaration Regarding Service of Disclosures (FL-341) with the Clerks' office prior to attending this class.

#### OPEN CLINIC

This workshop is for those individuals who are unable to attend any of the scheduled workshops, or have other legal matters not covered by workshops, or would like assistance with the completion of court forms and/or instructions on the "next step" in their legal proceeding. This workshop is held every **afternoon Monday thru Thursday**.

#### BRING WITH YOU:

- Copies of all documents filed with the court
- Enough change to make your own copies

MEDIATION GUIDELINES  
(For inclusion in ADR Packet)

**Before the CMC (Case Management Conference)**

All parties are required to meet-and-confer with the opposing side before the CMC pursuant to California Rule of Court 212(f). Alternative dispute resolution is discussed. If parties agree to mediation they must stipulate to mediation by filling out a STAN-100 (attached).

**At the CMC (Case Management Conference), the judge will determine if case is suitable for Voluntary Mediation.**

- All parties must be prepared to discuss Alternative Dispute Resolution at the CMC. The judge may order case into Judicial Arbitration. If parties agree to participate in Voluntary Mediation in lieu of Judicial Arbitration, the court will have available the ADR Packet which includes attached guidelines and our Local Stipulation and Order to ADR form

**Selecting a Mediator**

- When parties agree to participate in mediation they must also agree to the mediator. You may select a mediator from the court provided panel list (attached and available on the court website [http://www.stanct.org/Content.aspx?page=adr\\_info\\_mediation\\_panel](http://www.stanct.org/Content.aspx?page=adr_info_mediation_panel))
- Contact the mediator and get his or her signature on the STAN-100 form before it is filed. Don't forget both parties must sign the Stipulation form
- If and the opposing party wishes, you may request the court randomly select a mediator for your case, by indicating on the STAN-100 form

**Filing the STAN-100 form**

- You have **25 days** to select a mediator and return the STAN-100 form with \$400 (\$200 for each side to the party)
- Cases cannot be entered into the Court's Voluntary Mediation program after this date.

**Completing Mediation**

- If you selected your own mediator set up mediation as soon as possible. A mediator might not be able to schedule the mediation for a few weeks or even months. You must complete mediation at least **60 days** before trial. If the mediation is not completed before that time sanctions may be imposed.
- Once you have scheduled the mediation date fill; out and return a STAN-220, Notice of Date, Time and Place of Mediation (attached) and return it to the ADR program office.
- ATTEND AND COMPLETE MEDIATION at least **60 days** before trial. Contact the mediator before the mediation for any special instructions. The mediator may ask you to bring special documents

**After Mediation**

- After mediation the mediator may provide you with an evaluation of the mediation process. These are evaluations from which go to the ADR program Administrator, for the courts information. Do not include any confidential information, or information regarding what went on during the mediation.



STAN-100

ATTORNEY FOR PLAINTIFF <i>(name, bar card, and address):</i>  TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, STANISLAUS COUNTY</b> MAILING ADDRESS: 801 10TH STREET, 4TH FLOOR CITY AND ZIP CODE: MODESTO, CA 95354 BRANCH NAME: MODESTO	
<b>STIPULATION AND ORDER TO ADR</b>	
CASE NAME: _____	CASE NUMBER: _____

The parties or by and through their attorneys' of record stipulate that the claims in this action shall be submitted to the following alternative dispute resolution process:

- |   |   |
|---|---|
| <input type="checkbox"/> Voluntary Mediation  | <input type="checkbox"/> Private Arbitration            |
| <input type="checkbox"/> Private Mediation    | <input type="checkbox"/> Voluntary Mediation in lieu of |
| <input type="checkbox"/> Judicial Arbitration | Judicial Arbitration                                    |

<b>This box is to be filled out for Voluntary Mediation and Neutral Evaluation only.</b>	
<input type="checkbox"/>	In accordance with Stanislaus County Rule of Court 3.10(D)(4) and 3.11(C)(2) this form must be signed by the agreed upon mediator. If both parties agree the court will select a mediator for the case.
<input type="checkbox"/>	It is Stipulated that _____ (Name of mediator) shall serve as the neutral for this case.
_____	_____
Signature of Mediator	Date
<input type="checkbox"/>	It is Stipulated that the Court select a mediator for this case.
<b>For Voluntary Mediation this form must be completed and returned with \$400 (\$200 from the plaintiffs and \$200 from the defendants).</b>	

▶ _____	▶ _____
SIGNATURE	SIGNATURE
DATE	DATE
_____	_____
PLAINTIFF OR PLAINTIFF'S ATTORNEY	DEFENDANT OR DEFENDANT'S ATTORNEY

February 27, 2018  
(Mandatory)

**STIPULATION AND ORDER TO ADR**

STAN-220

<p><i>Name and Address:</i></p> <p>TELEPHONE NO.:</p> <p>E-MAIL ADDRESS <i>(Optional)</i>: FAX NO. <i>(Optional)</i>:</p>	<p><b>FOR COURT USE ONLY</b></p>
<p><b>SUPERIOR COURT OF CALIFORNIA, STANISLAUS COUNTY</b></p> <p>MAILING ADDRESS: 801 10TH STREET, 4TH FLOOR</p> <p>CITY AND ZIP CODE: <b>MODESTO, CA 95354</b></p> <p>BRANCH NAME: <b>MODESTO</b></p>	
<p>CASE NAME:</p>	
<p><b>NOTICE OF DATE, TIME AND PLACE OF MEDIATION</b></p>	<p>CASE NUMBER:</p>

All parties to this case are notified that this matter has been set for Mediation on \_\_\_\_\_, 20\_\_, at the hour of \_\_\_\_\_, at this address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

STAN-220

<i>Name and Address:</i>  TELEPHONE NO.: E-MAIL ADDRESS (Optional):                      FAX NO. (Optional):	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, STANISLAUS COUNTY</b> MAILING ADDRESS: 801 10TH STREET, 4TH FLOOR CITY AND ZIP CODE: MODESTO, CA 95354 BRANCH NAME: MODESTO	
CASE NAME:	
<b>NOTICE OF DATE, TIME AND PLACE OF MEDIATION</b>	CASE NUMBER:

All parties to this case are notified that this matter has been set for Mediation on \_\_\_\_\_, 20\_\_, at the hour of \_\_\_\_\_, at this address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

STAN-230

MEDIATOR (Name and Address):  TELEPHONE NO.: E-MAIL ADDRESS (Optional):                      FAX NO. (Optional):	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, STANISLAUS COUNTY</b> MAILING ADDRESS: 801 10TH STREET, 4TH FLOOR CITY AND ZIP CODE: MODESTO, CA 95354 BRANCH NAME: MODESTO	
CASE NAME:	
<b>MEDIATOR'S REPORT</b>	CASE NUMBER:

1. Mediation (check one)

- did not take place, because \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- is continuing until \_\_\_\_\_
- took place on \_\_\_\_\_ and is completed.

2. The mediation ended in (check one)

- full agreement.
- partial agreement.
- no agreement.

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF MEDIATOR)

Date:

NOTE: Within 10 days of the end of the mediation process or by the ADR completion deadline set by the court, the mediator must forward a copy of this report to the ADR Clerk at the Stanislaus County Courthouse. Please do not include any confidential information on this form (see Evidence Code §1121).

# **EXHIBIT G**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Michael D. Singer, Esq. (SBN: 115301) / Rosemary C. Khoury, Esq. (SBN: 331307) <b>COHELAN KHOURY &amp; SINGER</b> 605 C STREET, SUITE 200 SAN DIEGO , CA 92101  TELEPHONE NO.: (619) 595-3001                      FAX NO. (Optional): (619) 595-3000 E-MAIL ADDRESS (Optional): msinger@ckslaw.com ATTORNEY FOR (Name): Plaintiff	<b>FOR COURT USE ONLY</b>  Electronically Filed 1/6/2022 1:17 PM Superior Court of California County of Stanislaus Clerk of the Court By: Christina Dixon, Deputy
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS</b>  STREET ADDRESS: 801 10TH STREET MAILING ADDRESS: SAME AS ABOVE CITY AND ZIP CODE: MODESTO, CA 95354  BRANCH NAME:	CASE NUMBER:  <b>CV-21-006616</b>
PLAINTIFF/PETITIONER: LUIS MONTIJO DEFENDANT/RESPONDENT: AMAZON.COM SERVICES LLC, et al.	Ref. No. or File No.:  COHKHSD-0000757.CC
<b>PROOF OF SERVICE OF SUMMONS</b>	

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
  - a.  Summons
  - b.  Complaint
  - c.  Alternative Dispute Resolution (ADR) package
  - d.  Civil Case Cover Sheet
  - e.  Cross-Complaint
  - f.  Other (specify documents): Notice of Case Management Conference;
3. a. Party served (specify name of party as shown on documents served):  
 AMAZON.COM SERVICES LLC, a Delaware Limited Liability Company
  - b.  Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):  
 CSC Lawyers Incorporating Service, Agent for Service of Process, by serving to KOY SAECHAO, Authorized Personnel
4. Address where the party was served: 2710 GATEWAY OAKS DRIVE, SUITE 150N , SACRAMENTO , CA 95833
5. I served the party (check proper box)
  - a.  **by personal service.** I personally delivered the documents listed item 2 to the party or person authorized to receive service of process for the party (1) on (date): **12/21/21** (2) at (time): **3:00 PM**
  - b.  **by substituted service.** On (date): \_\_\_\_\_ at (time): \_\_\_\_\_ I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
    - (1)  **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
    - (2)  **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
    - (3)  **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
    - (4)  I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ.Proc., § 415.20). I mailed the documents on (date): \_\_\_\_\_ from (city): \_\_\_\_\_ or  a declaration of mailing is attached.

PLAINTIFF/PETITIONER: LUIS MONTIJO  DEFENDANT/RESPONDENT: AMAZON.COM SERVICES LLC, et al.	CASE NUMBER:  <b>CV-21-006616</b>
---	---

- (5)  I attach a **declaration of diligence** stating actions taken first to attempt personal service.
5. c.  **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): \_\_\_\_\_ (2) from (city): \_\_\_\_\_
- (3)  with two copies of the *Notice and Acknowledgment of Receipt and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgement of Receipt).* (Code Civ. Proc., § 415.30.)
- (4)  to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d.  **by other means** (specify means of service and authorizing code section):
- Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:
- a.  as an individual defendant.
- b.  as the person sued under the fictitious name of (specify):
- c.  as occupant.
- d.  On behalf of (specify): **AMAZON.COM SERVICES LLC**, a Delaware Limited Liability Company under the following Code of Civil Procedure section:
- |   |   |
|---|---|
| <input type="checkbox"/> 416.10 (corporation)                           | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation)                   | <input type="checkbox"/> 416.60 (minor)                               |
| <input type="checkbox"/> 416.30 (joint stock company/association)       | <input type="checkbox"/> 416.70 (ward or conservatee)                 |
| <input checked="" type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person)                   |
| <input type="checkbox"/> 416.50 (public entity)                         | <input type="checkbox"/> 415.46 (occupant)                            |
|   | <input type="checkbox"/> other:                                       |

7. **Person who served papers**
- a. Name: **ROBERT J. MASON**
- b. Address: **PO Box 861057, Los Angeles, California 90086**
- c. Telephone number: **(213) 975-9850**
- d. **The fee** for service was: \$ **155.00**
- e. I am:

- (1)  not a registered California process server.
- (2)  exempt from registration under Business and Professions Code section 22350(b).
- (3)  registered California process server:
- (i)  owner  employee  independent contractor
- (ii) Registration No.: 03-007
- (iii) County: **PLACER**

8.  **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- or
9.  **I am a California sheriff or marshal and** I certify that the foregoing is true and correct.

Date: 12/27/2021

ROBERT J. MASON  
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

  
(SIGNATURE)

1 MICHELE L. MARYOTT, SBN 191993  
mmaryott@gibsondunn.com  
2 KATIE M. MAGALLANES, SBN 300277  
kmagallanes@gibsondunn.com  
3 JESSICA M. PEARIGEN, SBN 317286  
jpearigen@gibsondunn.com  
4 GIBSON, DUNN & CRUTCHER LLP  
3161 Michelson Drive  
5 Irvine, CA 92612-4412  
Telephone: 949.451.3800  
6 Facsimile: 949.451.4220

7 LAUREN M. BLAS, SBN 296823  
lblas@gibsondunn.com  
8 GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
9 Los Angeles, CA 90071-3197  
Telephone: 213.229.7000  
10 Facsimile: 213.229.7520

11 Attorneys for Defendant  
AMAZON.COM SERVICES LLC

12 UNITED STATES DISTRICT COURT  
13 EASTERN DISTRICT OF CALIFORNIA

14 LUIS MONTIJO, on behalf of himself and all  
15 other similarly-situated employees,

16 Plaintiffs,

17 v.

18 AMAZON.COM SERVICES LLC, a  
Delaware Limited Liability Company; and  
19 DOES 1 through 10, inclusive,

20 Defendants.

CASE NO.

**DECLARATION OF DENICIA “JP”  
PRATHER IN SUPPORT OF NOTICE OF  
REMOVAL**

(Stanislaus County Superior Court Case No. CV-  
21-006616)



1 I, Denicia “JP” Prather, declare as follows:

2 1. I am a Senior Human Resources Manager at Amazon.com Services LLC (“Amazon”).  
3 I am competent to testify, and make this declaration based on my personal knowledge of the facts set  
4 forth in this Declaration or know them in my capacity as an employee based on business records and  
5 data that Amazon maintains in the regular course of its business. I make this declaration in support of  
6 Amazon’s Notice of Removal of Class Action.

7 2. In my role as Senior Human Resources Manager, I am responsible for, among other  
8 things, providing general human resources support to Amazon associates at all job levels, including  
9 associates employed at California fulfillment centers. I have been employed by Amazon since  
10 February 2016.

11 3. Using the business records and data available to me, I determined the following:

- 12 a. Plaintiff Luis Montijo was employed by Amazon as an hourly, non-exempt  
13 employee at Amazon’s fulfillment center located in Patterson, California also  
14 known as OAK3. Plaintiff Montijo worked as a non-exempt Amazon employee at  
15 OAK3 from April 29, 2015 to March 10, 2020. Information maintained by Amazon  
16 reflects that Mr. Montijo resided in Atwater, California until at least his termination  
17 from Amazon on March 10, 2020.
- 18 b. Amazon operates at least 20 fulfillment centers in California, including OAK3 in  
19 Patterson, California.
- 20 c. At least 135,259 individuals were employed as hourly, non-exempt employees,  
21 commonly referred to as Fulfillment Associates, across 20 of the fulfillment centers  
22 operated by Amazon in California from December 10, 2019 through June 19, 2021.
- 23 d. Those 135,259 individuals worked an aggregate of 874,662 months from December  
24 10, 2019 through June 19, 2021.

25 I declare under penalty of perjury pursuant to the laws of the United States of America and the  
26 State of California that the foregoing is true and correct.

Executed at Riverside, California, on this 19th day of January 2022.

DocuSigned by:

*Denicia Prather*

62A7949EECD24A3...

Denicia "JP" Prather

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1 MICHELE L. MARYOTT, SBN 191993  
mmaryott@gibsondunn.com  
2 KATIE M. MAGALLANES, SBN 300277  
kmagallanes@gibsondunn.com  
3 JESSICA M. PEARIGEN, SBN 317286  
jpearigen@gibsondunn.com  
4 GIBSON, DUNN & CRUTCHER LLP  
3161 Michelson Drive  
5 Irvine, CA 92612-4412  
Telephone: 949.451.3800  
6 Facsimile: 949.451.4220

7 LAUREN M. BLAS, SBN 296823  
lblas@gibsondunn.com  
8 GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
9 Los Angeles, CA 90071-3197  
Telephone: 213.229.7000  
10 Facsimile: 213.229.7520

11 Attorneys for Defendant  
AMAZON.COM SERVICES LLC

12 UNITED STATES DISTRICT COURT  
13 EASTERN DISTRICT OF CALIFORNIA

14 LUIS MONTIJO, on behalf of himself and all  
15 other similarly-situated employees,

16 Plaintiffs,

17 v.

18 AMAZON.COM SERVICES LLC, a  
19 Delaware Limited Liability Company; and  
DOES 1 through 10, inclusive,

20 Defendants.

CASE NO.

**DECLARATION OF ZANE BROWN IN  
SUPPORT OF NOTICE OF REMOVAL**

(Stanislaus County Superior Court Case No. CV-  
21-006616)

1 I, Zane Brown, declare as follows:

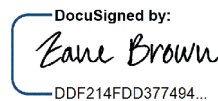
2 1. I am a Vice President and Associate General Counsel of Amazon Corporate, LLC. I am  
3 competent to testify, and make this declaration based on my personal knowledge of the facts set forth  
4 in this Declaration or know them in my capacity as an employee based on corporate records that  
5 Amazon.com Services LLC (“Amazon”) maintains in the regular course of its business. I make this  
6 declaration in support of Amazon’s Notice of Removal of Class Action.

7 2. According to business records available to me, Amazon.com Services LLC is a limited  
8 liability company organized under the laws of Delaware. Its principal place of business is located in  
9 Seattle, Washington.

10 3. Amazon.com Sales, Inc. is the sole member of Amazon.com Services LLC, and  
11 Amazon.com Sales, Inc. is wholly owned by Amazon.com, Inc. Both Amazon.com Sales, Inc. and  
12 Amazon.com, Inc. are Delaware corporations with their principal place of business in Seattle,  
13 Washington. The Washington headquarters are staffed by the corporate officers and executives of  
14 Amazon.com, Inc., who are responsible for overseeing each corporation’s activities.

15 I declare under penalty of perjury pursuant to the laws of the United States of America and the  
16 State of California that the foregoing is true and correct.

17 Executed at Seattle, Washington, on this 19th day of January 2022.

18  DocuSigned by:  
Zane Brown  
DDF214FDD377494...

19 \_\_\_\_\_  
20 Zane Brown

1 MICHELE L. MARYOTT, SBN 191993  
mmaryott@gibsondunn.com  
2 KATIE M. MAGALLANES, SBN 300277  
kmagallanes@gibsondunn.com  
3 JESSICA M. PEARIGEN, SBN 317286  
jpearigen@gibsondunn.com  
4 GIBSON, DUNN & CRUTCHER LLP  
3161 Michelson Drive  
5 Irvine, CA 92612-4412  
Telephone: 949.451.3800  
6 Facsimile: 949.451.4220

7 LAUREN M. BLAS, SBN 296823  
lblas@gibsondunn.com  
8 GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
9 Los Angeles, CA 90071-3197  
Telephone: 213.229.7000  
10 Facsimile: 213.229.7520

11 Attorneys for Defendant  
AMAZON.COM SERVICES LLC

12  
13 UNITED STATES DISTRICT COURT  
14 EASTERN DISTRICT OF CALIFORNIA

15 LUIS MONTIJO, on behalf of himself and all  
other similarly-situated employees,

16 Plaintiffs,

17 v.

18 AMAZON.COM SERVICES LLC, a  
19 Delaware Limited Liability Company; and  
DOES 1 through 10, inclusive,

20 Defendants.  
21

CASE NO.

**PROOF OF SERVICE**

**PROOF OF SERVICE**

I, Cynthia Martinez, declare as follows:

I am employed in the County of Orange, State of California, I am over the age of eighteen years and am not a party to this action; my business address is 3161 Michelson Drive, Irvine, CA 92612-4412, in said County and State. On January 20, 2022, I served the following document(s):

**NOTICE OF REMOVAL OF ACTION BY DEFENDANT AMAZON.COM SERVICES LLC**

**CIVIL COVER SHEET**

**DECLARATION OF MICHELE L. MARYOTT IN SUPPORT OF NOTICE OF REMOVAL**

**DECLARATION OF DENICIA “JP” PRATHER IN SUPPORT OF NOTICE OF REMOVAL**

**DECLARATION OF ZANE BROWN IN SUPPORT OF NOTICE OF REMOVAL**

on the parties stated below, by the following means of service:

Michael D. Singer  
Rosemary C. Khoury  
Cohelan Khoury & Singer  
605 C Street, Suite 200  
San Diego, CA 92101  
Tel 619.595.3001  
Fax 619.595.3000  
msinger@ckslaw.com  
rkhoury@ckslaw.com

Sahag Majarian, II  
Law Offices of Sahag Majarian II  
18250 Ventura Blvd.  
Tarzana, CA 91356  
Tel 818.609.0807  
Fax 818.609.0892  
sahagii@aol.com

*Attorneys for Plaintiff Luis Montijo, on behalf of himself and all others similarly-situated employees*

- BY OVERNIGHT DELIVERY:** On the above-mentioned date, I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses shown above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier with delivery fees paid or provided for.
- (FEDERAL)** I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 20, 2022.

  
Cynthia Martinez

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims Amazon Failed to Reimburse Employees for Work-Related Cell Phone Use](#)

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