

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MICHAEL RINGGOLD, on behalf of
himself and those similarly situated,

Plaintiff,

v.

AMAZON.COM.DEDC, LLC,

Defendant.

Civil Action No. 21-cv-12873

[Removal from the Superior Court of
New Jersey, Mercer County, Law
Division, Civil Part Docket No.
MER-L-001072-21]

Action Filed: May 19, 2021

**DEFENDANT AMAZON.COM.DEDC, LLC'S
NOTICE OF REMOVAL**

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and 1453, Defendant Amazon.com.dedc, LLC (“Amazon” or “Defendant”) hereby removes this action from the Superior Court of New Jersey, Mercer County, Law Division, Civil Part, where it is pending as Case No. MER-L-001072-21, to the United States District Court for the District of New Jersey.¹ The Court has original jurisdiction over this action under 28 U.S.C. § 1332(a) because complete diversity of citizenship exists between Plaintiff and Defendant and the amount in controversy exceeds \$75,000, exclusive of interest and costs. In addition, this Court has jurisdiction over this action under 28 U.S.C. § 1332(d)(2)

¹ Effective January 1, 2019, Amazon.com.dedc, LLC merged into Amazon.com Services, Inc., now known as Amazon.com Services LLC.

because the amount in controversy exceeds the sum or value of \$5 million, exclusive of interest and costs, the class is comprised of over 100 members, and there is minimal diversity between the parties. Grounds for removal are as follows:

PROCEDURAL BACKGROUND

1. On May 19, 2021, Plaintiff Michael Ringgold (“Plaintiff”) filed a class action complaint on behalf of himself and others similarly situated against Defendant in the Superior Court of New Jersey for Mercer County, Law Division, Civil Part captioned *Michael Ringgold v. Amazon.com.dedc, LLC*, Docket No. MER-L-001072-21 (the “State Court Action”).

2. On May 24, 2021, Plaintiff served copies of the Summons, Complaint, and Civil Case Cover Sheet on Amazon. Copies of these documents, as well as the Proof of Service filed on May 24, 2021, are attached hereto as Exhibit A and Exhibit B, respectively.

3. As of this date, no further pleadings have been filed or served in the State Court Action and no further proceedings have been conducted in the State Court Action.

4. In his Complaint, Plaintiff asserts two claims on behalf of himself and a putative class of all persons who, since on or after February 22, 2021: (1) were denied employment by Defendant in the state of New Jersey because he or she

tested positive for marijuana in a pre-employment drug screen; and/or (2) were subject to any other adverse employment action because he or she tested positive for marijuana. Compl. ¶ 8.

5. The two claims alleged are: (1) Violation of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (CREAMMA) (N.J.S.A. 24:6I-52); and (2) Violation of New Jersey public policy under New Jersey common law. Compl. ¶¶ 29–38.

6. Plaintiff seeks an unspecified amount of back pay, front pay, and punitive damages; injunctive relief; and any other relief the Court deems just and proper.

7. For purposes of this removal only, Amazon assumes Plaintiff's allegations are true.

REMOVAL IS TIMELY

8. Plaintiff served Amazon on May 24, 2021. Because Defendant's Notice of Removal is filed within 30 days of service of the Summons and Complaint, it is timely under 28 U.S.C. § 1446(b).

GROUND FOR REMOVAL

9. Removal is proper under 28 U.S.C. § 1441 because this Court has subject matter jurisdiction over this action under 28 U.S.C. § 1332(a). In addition,

this Court has original jurisdiction over this action pursuant to the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1332(d).

10. Removal is also proper because this Court is the district court “for the district and division embracing the place where such action is pending,” and because Defendant is not a citizen of the State in which this action was brought. 28 U.S.C. § 1441.

11. Amazon denies Plaintiff’s factual allegations and denies that Plaintiff or the class he purports to represent are entitled to the relief requested.² However, based on the allegations in the Complaint and the prayer for relief, all requirements for jurisdiction under 28 U.S.C. § 1332 have been met. Accordingly, this Court has original jurisdiction over this action.

I. The Court Has Original Jurisdiction Pursuant to 28 U.S.C. § 1332(a)

12. Complete diversity of citizenship exists between Plaintiff and Defendant, and the amount in controversy exceeds \$75,000, exclusive of interest

² Amazon denies that liability or damages can be established either as to Plaintiff or on a class-wide basis. Amazon does not concede and reserves the right to contest at the appropriate time Plaintiff’s allegations that this action may properly proceed as a class action. Amazon does not concede and reserves the right to contest at the appropriate time that any of Plaintiff’s allegations constitute a cause of action against it under applicable New Jersey law. No statement or reference contained herein shall constitute an admission of liability or a suggestion that Plaintiff will or could actually recover any damages based upon the allegations contained in the Complaint or otherwise. Amazon’s notice seeks only to establish that the amount in controversy plausibly exceeds the jurisdictional minimum under 28 U.S.C. § 1332.

and costs. 28 U.S.C. § 1332(a). Therefore, removal is proper under 28 U.S.C. § 1441(a).

A. There Is Complete Diversity Between Plaintiff and Defendant

13. Plaintiff is a citizen and resident of New Jersey. Compl. ¶ 3.

14. Effective January 1, 2019, Amazon.com.dedc, LLC merged into Amazon.com Services, Inc., which is now known as Amazon.com Services LLC. Amazon.com Services LLC is a limited liability company organized under the laws of Delaware with its principal place of business in Seattle, Washington. Amazon.com Sales, Inc. is the sole member of Amazon.com Services LLC and Amazon.com Sales, Inc. is wholly owned by Amazon.com, Inc., which is a Delaware corporation with its principal place of business in Washington. Therefore, Defendant Amazon is a citizen of Delaware and Washington.

15. Accordingly, there is complete diversity between Plaintiff and Defendant.

B. The Amount in Controversy Exceeds \$75,000

16. Under 28 U.S.C. § 1332(a), the amount in controversy must “exceed[] the sum or value of \$75,000, exclusive of interest and costs.”

17. Plaintiff has not specified in the Complaint the amount of damages he seeks. Accordingly, Amazon’s Notice of Removal need only make a “plausible allegation” that the amount in controversy exceeds the jurisdictional threshold,

which should be accepted unless contested by Plaintiff or questioned by the Court. *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014).

18. In Counts I and II of his Complaint, Plaintiff seeks damages based on his allegation that Amazon rescinded his offer of employment after he tested positive for marijuana in a pre-employment drug screening, which he claims violated both CREAMMA and New Jersey common law. Compl. ¶¶ 29–38. In the event Plaintiff prevails on these claims, he would be able to recover back pay and front pay for the wages he would have received had he not been denied employment, as well as punitive damages. Such damages, taken in combination, put the amount in controversy well above \$75,000.

19. While the amount in controversy for jurisdictional purposes is typically determined at the time of filing, “where the right to future payments will be judged in the present suit . . . they should be considered during the Court’s jurisdictional analysis.” *Alegre v. Atl. Cent. Logistics*, 2015 WL 4607196, at *4 (D.N.J. July 31, 2015) (quoting *Mazzucco v. Kraft Foods Glob., Inc.*, 2011 WL 6935320, at *3 (D.N.J. Nov. 23, 2011), *report and recommendation adopted*, 2011 WL 6936353 (D.N.J. Dec. 30, 2011)); *see Dardovitch v. Haltzman*, 190 F.3d 125, 135 (3d Cir. 1999) (“Where . . . a suit is brought to establish directly the right to receive any payments because the putative defendant has repudiated that right entirely, and not just with respect to current payments, the amount in controversy is

the entire amount that may ever come due.”). In consequence, in calculating the amount in controversy with respect to claims for back pay and front pay, the Court must consider damages that both accrued before the complaint was filed and may accrue during the pendency of the lawsuit. *See Faltaous v. Johnson & Johnson*, 2007 WL 3256833, at *10 (D.N.J. Nov. 5, 2007) (“Since the right to collect [back pay and front pay] accruing after the filing of the complaint will necessarily be adjudicated in this case, these damages are properly counted against the amount in controversy.”).

20. To account for the accrual of back pay and front pay after a lawsuit has been filed when calculating the amount in controversy, courts have determined “that an additional two year period is appropriate” for purposes of establishing the relevant liability period. *Alegre*, 2015 WL 4607196, at *4; *see also Faltaous*, 2007 WL 3256833, at *10. In such cases, the use of a two year period was based on the fact that, in the United States District Court for District of New Jersey at the time, “the median time from filing to trial for a civil case was thirty-three months,” which yielded a conservative estimate that two years’ worth of lost wages would potentially accrue before judgment was entered. *Id.*

21. A two-year, post-filing liability period for purposes of determining the amount of back pay and front pay in controversy is also appropriate here. For the twelve month period ending on March 31, 2020, the median time between the

filing of a civil action and disposition of the suit for cases resolved during trial in the District of New Jersey was 33.6 months. ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS, FEDERAL JUDICIAL CASELOAD STATISTICS, Table C-5—U.S. District Courts—Civil Federal Judicial Caseload Statistics (March 31, 2020), available at <https://www.uscourts.gov/statistics/table/c-5/federal-judicial-caseload-statistics/2020/03/31> (hereinafter “AOUSC Statistics”). In other words, almost the exact same average case processing time relied on to justify using a two-year liability period in calculating the amount in controversy in the past cases involving back pay and front pay remains the Court’s average processing time today.

22. Plaintiff applied for full-time work with Amazon in a position that would have paid \$15.60 an hour. Assuming that, as a fulltime worker, Plaintiff would have worked 40 hours per week, and taken off two weeks each year, he would have worked 2,000 hours in a year, yielding an annual salary of \$31,200, which does not account for potential overtime or bonuses he may have received. Over the two year liability period posited for purposes of calculating the amount of backpay and front pay in controversy, Plaintiff thus may be entitled to recover as much as \$62,400.

23. In addition, the amount of damages accrued prior to the filing of the lawsuit must be taken into account. *See Alegre*, 2015 WL 4607196, at *4.

Plaintiff alleges his job offer with Amazon was rescinded on April 5, 2021, and he

filed suit on May 19, 2021. The period between the alleged wrongdoing and the time of filing is therefore approximately six weeks. At an hourly wage of \$15.60, and working 40 hours per week, Plaintiff would have made \$3,744 for that six week period. That brings the total potential value of his claim to \$66,144.

24. On top of his claims for back pay and front pay, Plaintiff also seeks punitive damages. Claims for punitive damages are properly included in determining the amount in controversy for purposes of diversity jurisdiction. *Packard v. Provident Nat. Bank*, 994 F.2d 1039, 1046 (3d Cir. 1993) (“When both actual and punitive damages are recoverable, punitive damages are properly considered in determining whether the jurisdictional amount has been satisfied.”).

25. Wrongful discharge claims under New Jersey common law may result in awards of punitive damages. *Pierce v. Ortho Pharm. Corp.*, 84 N.J. 58, 72, 417 A.2d 505, 512 (1980) (“An action in tort may be based on the duty of an employer not to discharge an employee who refused to perform an act that is a violation of a clear mandate of public policy. In a tort action, a court can award punitive damages to deter improper conduct in an appropriate case.”).

26. New Jersey’s Punitive Damages Act permits successful plaintiffs to recover up to “five times the liability of th[e] defendant for compensatory damages or \$350,000, whichever is greater” in cases where punitive damages are available. N.J.S.A. § 2A:15-5.14(b). “Thus, even in the absence of recovering compensatory

damages, a plaintiff is able to recover up to \$350,000 in punitive damages, under New Jersey law.” *Ward v. Barnes*, 545 F. Supp. 2d 400, 418–19 (D.N.J. 2008).

27. As a result, “[f]or purposes of the amount in controversy calculation, courts assume this maximum ‘five times’ multiplier” when assessing claims under New Jersey law for punitive damages. *Atl. Util. Trailer Sales Inc. v. Harco Nat’l Ins. Co.*, 2020 WL 3287129, at *2 (D.N.J. June 18, 2020); *see also Frederico v. Home Depot*, 507 F.3d 188, 199 (3d Cir. 2007).

28. Here, that multiplier pushes the potential value of Plaintiff’s claim well-above the \$75,000 threshold. The \$66,144 in damages multiplied by five yields a potential \$330,720 in punitive damages. That figure, when added to the \$66,144 Plaintiff may recover in back pay and front pay, yields a potential amount in controversy of \$396,864.

29. Indeed, the Court could use a significantly more conservative estimate of the relevant liability period for calculating back pay and front pay and still find that the amount in controversy requirement is clearly met. For the twelve month period ending on March 31, 2020, the median case processing time for cases resolved before pre-trial in the District of New Jersey was 6.4 months. AOUSC Statistics, Table C-5—U.S. District Courts—Civil Federal Judicial Caseload Statistics. Rounding down to six months, and using the annualized wage calculated above, Plaintiff would still be entitled to \$19,344 (annual salary of

\$31,200 divided in half, plus pre-filing damages of \$3,744) in back pay and front pay, even if he were to secure the relief he seeks in, statistically speaking, a relatively short time frame. This figure, multiplied by five yields \$96,720 in punitive damages, which, when added to the figure for backpay and front pay, yields a total amount in controversy of \$116,064.

30. Although Defendant denies that Plaintiff's claims have any merit or that punitive damages would be appropriate here even were Plaintiff to prevail, Defendant avers, for the purposes of meeting the jurisdictional requirements for removal only, that Plaintiff's requested monetary recovery thus easily exceeds \$75,000.

31. Therefore, the total amount in controversy in this case—*inter alia*, actual damages and punitive damages—plausibly equals or exceeds the amount in controversy necessary for diversity jurisdiction.

II. The Court Also Has Original Subject Matter Jurisdiction under CAFA

32. In addition, this Court has subject matter jurisdiction over this action pursuant to CAFA. 28 U.S.C. § 1332(d).

33. Plaintiff brings this action as a putative class action. CAFA applies “to any class action before or after the entry of a class certification order by the court with respect to that action.” 28 U.S.C. § 1332(d)(8).

34. Removal based on CAFA is proper in this action because: (A) the amount placed in controversy by the Complaint exceeds, in the aggregate, \$5 million, exclusive of interest and costs; (B) diversity of citizenship exists between one or more plaintiffs and one or more defendants; and (C) the aggregate number of putative class members is 100 or greater. 28 U.S.C. §§ 1332(d)(2), 1332(d)(5)(B), 1453. Removal is therefore proper under 28 U.S.C. § 1441(a).

A. The Amount in Controversy Exceeds \$5 Million

35. Pursuant to CAFA, the claims of the individual members in a class action are aggregated to determine whether the amount in controversy exceeds \$5 million, exclusive of interests and costs. 28 U.S.C. § 1332(d)(6).

36. Where a plaintiff does not expressly plead a specific amount in damages, as is the case here, a removing party seeking to invoke CAFA jurisdiction “need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee*, 574 U.S. at 89.

37. As stated above, Plaintiff asserts two claims on behalf of himself and a putative class of all individuals who were either denied employment or subject to another adverse employment action by Amazon on account of a positive marijuana test result. Plaintiff requests damages as to each claim on behalf of the putative class.

38. In Counts I and II of the Complaint, Plaintiff and the putative class members seek any and all pay they would have received had they been hired or retained by Amazon, including back pay and front pay.

39. Additionally, Plaintiff seeks punitive damages for himself and the other putative class members.

40. Amazon avers, solely for the purposes of meeting the jurisdictional requirements for removal only, that Plaintiff's and the putative class's requested damages easily exceed \$5 million. As explained above, a reasonable estimate of the damages Plaintiff seeks to recover—taking into account front pay, backpay, and punitive damages—is, even using conservative estimates, at least \$116,064. When multiplied by 100 putative class members, the damages total over \$11.6 million, which exceeds the \$5 million minimum under CAFA. Accordingly, the punitive damages and whatever damages members of the putative class may recover in the case exceed the amount in controversy requirement under CAFA.³

B. Diversity of Citizenship as Defined under CAFA Exists

41. To satisfy CAFA's diversity requirement, a party need only show that minimal diversity exists. Minimal diversity, as defined by CAFA, requires that

³ Amazon reserves the right to present evidence establishing the amount placed in controversy should Plaintiff challenge whether the jurisdictional amount in controversy is met.

one putative class member be a citizen of a state different than one defendant. 28 U.S.C. § 1332(d)(2)(A).

42. Because Plaintiff is a citizen of New Jersey and Amazon is a citizen of Washington and Delaware, minimal diversity is met.

C. The Aggregate Number of Putative Class Members Is 100 or Greater

43. Plaintiff asserts claims on behalf of himself and other similarly situated individuals in New Jersey “who, since on or after February 22, 2021: (1) were denied employment by Defendant in the state of New Jersey because he or she tested positive for marijuana in a pre-employment drug screen; and/or (2) were subject to any other adverse employment action because he or she tested positive for marijuana.” Compl. ¶ 8.

44. Based on Amazon’s records, assuming Plaintiff’s hypothetical class is viable, the putative class is comprised of more than 100 members.

45. Therefore, the class as alleged in the Complaint satisfies the number of required members for purposes of CAFA. 28 U.S.C. § 1332(d)(5)(B).

NOTICE

46. Amazon will promptly serve Defendant’s Notice of Removal on Plaintiff and will promptly file a copy of Defendant’s Notice of Removal with the Clerk of the Superior Court of New Jersey for Mercer County, in which the action is pending, as required under 28 U.S.C. § 1446(d).

47. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all “process, pleadings, and orders served” upon Amazon as well as other documents filed in the State Court Action are filed concurrently with this Notice of Removal as Exhibits A and B.

CONCLUSION

48. Defendant reserves the right to amend or supplement this Notice of Removal as may be appropriate.

49. Defendant submits this Notice of Removal without waiving any defenses to the claims asserted by Plaintiff or conceding that Plaintiff has pleaded claims upon which relief may be granted.

50. Should Plaintiff file a motion to remand this case, Defendant respectfully requests an opportunity to respond more fully in writing.

WHEREFORE, Amazon requests that this action be removed from the Superior Court of New Jersey, Mercer County, Law Division, Civil Part to the United States District Court for the District of New Jersey.

Dated: June 22, 2021

Respectfully submitted,

By: /s/ Stephanie L. Silvano

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Attorneys for Defendant

LOCAL CIVIL RULE 11.2 VERIFICATION

Other than the action filed in the Superior Court of New Jersey, Law Division, Mercer County, which is the subject of this Notice of Removal, the matter in controversy, to the best of the Attorneys for Defendant Amazon.com.dedc, LLC's information and belief, is not the subject of any other action pending in any court, or of any pending arbitration of administrative proceeding.

Dated: June 22, 2021

/s/ Stephanie L. Silvano

Stephanie L. Silvano, Esq.

EXHIBIT A

Justin L. Swidler, Esq. (NJID: 039312007)
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MICHAEL RINGGOLD, *on behalf of himself
and those similarly situated*,
27 Kingsbridge Dr.
Burlington, NJ 08016

Plaintiff,

v.

AMAZON.COM.DEDC, LLC
50 New Canon Way
Robbinsville, NJ 08691

Defendant.

SUPERIOR COURT OF NEW JERSEY
MERCER COUNTY

CLASS ACTION

No:

COMPLAINT AND JURY TRIAL DEMAND

INDIVIDUAL AND CLASS ACTION COMPLAINT

Named Plaintiff Michael Ringgold (hereinafter referred to as “Named Plaintiff”), on behalf of himself and those similarly situated, by and through undersigned counsel, hereby complains as follows against Defendant Amazon.com.dedc, LLC (hereinafter referred to as “Defendant”).

INTRODUCTION

1. Named Plaintiff has initiated the instant action to redress Defendant’s violations of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J. Stat. 24:6I-31 (“CREAMMA”) and the New Jersey common law. As a result of Defendant’s unlawful actions, Named Plaintiff and those similarly situated have suffered damages.

PARTIES

2. The foregoing paragraphs are incorporated herein as if set forth in full.

3. Named Plaintiff is an adult individual with an address as set forth above.

4. Defendant is a company operating in New Jersey.

5. At all times relevant herein, Defendant acted by and through its agents, servants, and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendant.

CLASS ACTION ALLEGATIONS

6. The foregoing paragraphs are incorporated herein as if set forth in their entirety.

7. Pursuant to Rule 4:32 of the New Jersey Rules of Civil Procedure, Named Plaintiff brings his claims for relief to redress Defendant's violations of the CREAMMA and New Jersey public policy on behalf of himself and those similarly situated.

8. Specifically, Named Plaintiff seeks to represent a class of all persons who, since on or after February 22, 2021: (1) were denied employment by Defendant in the state of New Jersey because he or she tested positive for marijuana in a pre-employment drug screen; and/or (2) were subject to any other adverse employment action because he or she tested positive for marijuana (hereinafter members of this putative class are referred to as "Class Plaintiffs").

9. The class is so numerous that the joinder of all class members is impracticable. Named Plaintiff does not know the exact size of the class, as such information is in the exclusive control of Defendant; however, on information and belief, the number of potential class members is over 40 individuals.

10. Named Plaintiff's claims are typical of the claims of the Class Plaintiffs, because Named Plaintiff, like all Class Plaintiffs, was subject to an adverse employment action because he tested positive for marijuana, in violation of CREAMMA.

11. Named Plaintiff will fairly and adequately protect the interests of the Class Plaintiffs, because Named Plaintiff's interests are coincident with and not antagonistic to those of the class. Named Plaintiff has retained counsel with substantial experience in the prosecution of claims involving employee disputes.

12. No difficulties are likely to be encountered in the management of this class action that would preclude its maintenance as a class action. The class will be easily identifiable from Defendant's records.

13. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Such treatment will allow all similarly situated individuals to prosecute their common claims in a single forum simultaneously. Prosecution of separate actions by individual members of the putative class would create the risk of inconsistent or varying adjudications with respect to individual members of the class that would establish incompatible standards of conduct for Defendant. Furthermore, the amount at stake for individual putative class members may not be great enough to enable all the individual putative class members to maintain separate actions against Defendant. Additionally, Named Plaintiff seeks injunctive relief ordering Defendant to cease enforcement of its unlawful policy.

14. Questions of law and fact that are common to the members of the class predominate over questions that affect only individual members of the class. Among the questions of law and fact that are common to the class are: 1) whether Defendant's conduct in denying employment or taking any other adverse action because the individual tested positive for marijuana on a drug test violates CREAMMA; and 2) whether Defendant's conduct in denying employment or taking any other adverse action because the individual tested positive for marijuana on a drug test is unlawful as a violation of public policy.

FACTUAL BACKGROUND

15. The foregoing paragraphs are incorporated herein as if set forth in full.

16. Since February 22, 2021, and upon information and belief, continuing through the present, Defendant has enforced its Drug & Alcohol Policy (“Policy”) to all of its warehouse workers and applicants in the state of New Jersey.

17. Pursuant to Defendant’s Policy, Defendant will refuse to hire any applicant who tests positive for marijuana in the state of New Jersey and who does not provide a medical explanation for using marijuana.

18. Pursuant to Defendant’s Policy, any employee who tests positive for marijuana and who does not provide a medical explanation faces “disciplinary action based on the positive test result in accordance with Amazon’s Drug & Alcohol Policy, up to and including termination of employment.”

19. On or about March 27, 2021, Named Plaintiff applied for employment with Defendant to work in Defendant’s warehouse as an order picker / sorter.

20. Defendant extended Named Plaintiff an offer of employment, subject to him submitting to and passing a drug test.

21. On or about March 29, 2021, Named Plaintiff took the drug test.

22. On about April 2, 2021, Defendant emailed Named Plaintiff to inform him of the drug test results.

23. The email stated that the “test of the sample you recently submitted for testing has been verified by [Seth Portnoy, Total Compliance Network] as **positive for marijuana.**” (Emphasis and bracketing in original).

24. Defendant further informed Named Plaintiff that unless he provided a “legitimate medical explanation for your positive test result” he would be denied employment with Defendant.

25. On April 5, 2021, Defendant informed Named Plaintiff that his employment offer was rescinded because he tested positive for marijuana and did not provide a medical explanation for his test result.

26. As a result of Defendant’s Policy, Named Plaintiff and Class Plaintiffs, all of whom have faced adverse employment actions because they tested positive for marijuana, have been harmed.

27. As a result of Defendant’s aforesaid illegal actions, Named Plaintiff and Class Plaintiffs have suffered damages as set forth herein.

COUNT I
Violations of the New Jersey Cannabis Regulatory, Enforcement Assistance, and
Marketplace Modernization Act
(Named Plaintiff and Class Plaintiffs v. Defendant)

28. The foregoing paragraphs are incorporated herein as if set forth in full.

29. Pursuant to CREAMMA, “No employer shall refuse to hire or employ any person or shall discharge from employment or take any adverse action against any employee with respect to compensation, terms, conditions, or other privileges of employment because that person does or does not smoke, vape, aerosolize or otherwise use cannabis items, and an employee shall not be subject to any adverse action by an employer solely due to the presence of cannabinoid metabolites in the employee's bodily fluid ...” N.J. Stat. Ann. § 24:6I-52 (2021).

30. Defendant’s Policy which subjects applicants and employees to adverse employment actions for testing positive for marijuana violates CREAMMA.

31. As a result of Defendant's Policy, Defendant subjected Named Plaintiff and Class Plaintiffs to adverse actions solely due to testing positive for marijuana on a drug test.

32. Named Plaintiff and Class Plaintiffs have suffered harm as a result of Defendant's unlawful conduct.

33. As a result of Defendant's conduct, Named Plaintiff and Class Plaintiffs have suffered damages as set forth herein.

COUNT II
Failure to Hire/Wrongful Discharge
Pierce Claim (violation of public policy)
(Named Plaintiff and Class Plaintiffs v. Defendant)

34. The foregoing paragraphs are incorporated herein as if set forth in full.

35. Defendant's conduct in refusing to hire and/or terminating Named Plaintiff and Class Plaintiffs solely because they tested positive for marijuana violates a clear mandate of public policy of the state of New Jersey, as codified by CREAMMA. N.J. Stat. Ann. § 24:6I-52 (2021).

36. Defendant's Policy which subjects applicants and employees to adverse employment actions for testing positive for marijuana violates CREAMMA, and accordingly is unlawful as a violation of public policy.

37. Named Plaintiff and Class Plaintiffs have suffered harm as a result of Defendant's unlawful conduct.

38. As a result of Defendant's conduct, Named Plaintiff and Class Plaintiffs have suffered damages as set forth herein.

WHEREFORE, Named Plaintiff and Class Plaintiffs pray that this Court enter an Order providing that:

- (1) Defendant is to be prohibited from continuing to maintain its illegal policy, practice or customs in violation of CREAMMA and New Jersey public policy;
- (2) Defendant is to compensate, reimburse, and make Named Plaintiff and Class Plaintiffs whole for any and all pay they would have received had it not been for Defendant's illegal actions;
- (3) Defendant is to immediately reinstate Named Plaintiff's and Class Members to employment;
- (4) Defendant is to immediately rescind its Policy which imposes adverse employment actions on New Jersey employees solely for testing positive for marijuana on a drug test;
- (5) Named Plaintiff and Class Plaintiffs are to be awarded back pay, front pay, punitive damages, and all other relief this Court deems just and proper.
- (6) Named Plaintiff and Class Plaintiffs' claims are to receive a jury trial.

Respectfully Submitted,

/s/ Justin L. Swidler

Justin L. Swidler, Esq.

SWARTZ SWIDLER, LLC

1101 Kings Highway N., Ste. 402

Cherry Hill, NJ 08034

Phone: (856) 685-7420

Fax: (856) 685-7417

Date: May 19, 2021

DEMAND TO PRESERVE EVIDENCE

Defendant is hereby directed to preserve all physical and electronic information pertaining in any way to Named Plaintiff's and Class Plaintiffs' employment, to Named Plaintiff's and Class Plaintiffs' cause of action and/or prayers for relief, and to any defenses to same, including, but not limited to, electronic data storage, closed circuit TV footage, digital images, computer images, cache memory, searchable data, emails, spread sheets, employment files, memos, text messages, any and all online social or work related websites, entries on social networking sites (including, but not limited to, Facebook, Twitter, MySpace, etc.), and any other information and/or data and/or things and/or documents which may be relevant to any claim or defense in this litigation.

JURY DEMAND

Named Plaintiff hereby demands a trial by jury.

Respectfully Submitted,

/s/ Justin L. Swidler
Justin L. Swidler, Esq.

RULE 4:5-1 CERTIFICATION

I am licensed to practice law in New Jersey, and I am responsible for the above captioned matter. I am aware of no other matter currently filed or pending in any court in any jurisdiction which may affect the parties or matters described herein.

Respectfully Submitted,



/s/ Justin L. Swidler
Justin L. Swidler, Esq.

DESIGNATION OF TRIAL COUNSEL

Justin L. Swidler, Esquire, of the law firm of Swartz Swidler, LLC, is hereby designated trial counsel.

Respectfully Submitted,

/s/ Justin L. Swidler
Justin L. Swidler, Esq.

	<h2 style="margin: 0;">Civil Case Information Statement</h2> <h3 style="margin: 0;">(CIS)</h3> <p style="margin: 5px 0 0 0;">Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed</p>		For Use by Clerk's Office Only
			Payment type: <input type="checkbox"/> ck <input type="checkbox"/> cg <input type="checkbox"/> ca
			Chg/Ck Number:
			Amount:
			Overpayment:
		Batch Number:	
Attorney/Pro Se Name Justin L. Swidler, Esq.		Telephone Number (856) 685-7420	County of Venue Mercer ▼
Firm Name (if applicable) Swartz Swidler LLC		Docket Number (when available)	
Office Address 1101 Kings Hwy N Ste 402 Cherry Hill NJ 08034		Document Type Complaint	
		Jury Demand <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Name of Party (e.g., John Doe, Plaintiff) Michael Ringgold, on behalf of himself and all those similarly situated, Plaintiff		Caption Michael Ringgold, on behalf of himself and all those similarly situated v. Amazon.com.dedc, llc	
Case Type Number (See reverse side for listing) 509	Are sexual abuse claims alleged? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is this a professional malpractice case? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If you have checked "Yes," see <i>N.J.S.A. 2A:53A-27</i> and applicable case law regarding your obligation to file an affidavit of merit.	
Related Cases Pending? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If "Yes," list docket numbers	
Do you anticipate adding any parties (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Name of defendant's primary insurance company (if known) <input type="checkbox"/> None <input checked="" type="checkbox"/> Unknown	
The Information Provided on This Form Cannot be Introduced into Evidence.			
Case Characteristics for Purposes of Determining if Case is Appropriate for Mediation			
Do parties have a current, past or recurrent relationship? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		If "Yes," is that relationship: <input checked="" type="checkbox"/> Employer/Employee <input type="checkbox"/> Friend/Neighbor <input type="checkbox"/> Other (explain) <input type="checkbox"/> Familial <input type="checkbox"/> Business	
Does the statute governing this case provide for payment of fees by the losing party? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition			
 Do you or your client need any disability accommodations? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If yes, please identify the requested accommodation:	
Will an interpreter be needed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If yes, for what language?	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .			
Attorney Signature: /s/ Justin L. Swidler			

Side 2



Civil Case Information Statement (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days discovery

- | | |
|--|---|
| 151 Name Change | 506 PIP Coverage |
| 175 Forfeiture | 510 UM or UIM Claim (coverage issues only) |
| 302 Tenancy | 511 Action on Negotiable Instrument |
| 399 Real Property (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction) | 512 Lemon Law |
| 502 Book Account (debt collection matters only) | 801 Summary Action |
| 505 Other Insurance Claim (including declaratory judgment actions) | 802 Open Public Records Act (summary action) |
| | 999 Other (briefly describe nature of action) |

Track II - 300 days discovery

- | | |
|---|---|
| 305 Construction | 603Y Auto Negligence – Personal Injury (verbal threshold) |
| 509 Employment (other than Conscientious Employees Protection Act (CEPA) or Law Against Discrimination (LAD)) | 605 Personal Injury |
| 599 Contract/Commercial Transaction | 610 Auto Negligence – Property Damage |
| 603N Auto Negligence – Personal Injury (non-verbal threshold) | 621 UM or UIM Claim (includes bodily injury) |
| | 699 Tort – Other |

Track III - 450 days discovery

- | | |
|------------------------------|--|
| 005 Civil Rights | 608 Toxic Tort |
| 301 Condemnation | 609 Defamation |
| 602 Assault and Battery | 616 Whistleblower / Conscientious Employee Protection Act (CEPA) Cases |
| 604 Medical Malpractice | 617 Inverse Condemnation |
| 606 Product Liability | 618 Law Against Discrimination (LAD) Cases |
| 607 Professional Malpractice | |

Track IV - Active Case Management by Individual Judge / 450 days discovery

- | | |
|---|--|
| 156 Environmental/Environmental Coverage Litigation | 514 Insurance Fraud |
| 303 Mt. Laurel | 620 False Claims Act |
| 508 Complex Commercial | 701 Actions in Lieu of Prerogative Writs |
| 513 Complex Construction | |

Multicounty Litigation (Track IV)

- | | |
|---|---|
| 271 Accutane/Isotretinoin | 601 Asbestos |
| 274 Risperdal/Seroquel/Zyprexa | 623 Propecia |
| 281 Bristol-Myers Squibb Environmental | 624 Stryker LFIT CoCr V40 Femoral Heads |
| 282 Fosamax | 625 Firefighter Hearing Loss Litigation |
| 285 Stryker Trident Hip Implants | 626 Abilify |
| 286 Levaquin | 627 Physiomesb Flexible Composite Mesh |
| 289 Reglan | 628 Taxotere/Docetaxel |
| 291 Pelvic Mesh/Gynecare | 629 Zostavax |
| 292 Pelvic Mesh/Bard | 630 Proceed Mesh/Patch |
| 293 DePuy ASR Hip Implant Litigation | 631 Proton-Pump Inhibitors |
| 295 AlloDerm Regenerative Tissue Matrix | 632 HealthPlus Surgery Center |
| 296 Stryker Rejuvenate/ABG II Modular Hip Stem Components | 633 Prolene Hernia System Mesh |
| 297 Mirena Contraceptive Device | 634 Allergan Biocell Textured Breast Implants |
| 299 Olmesartan Medoxomil Medications/Benicar | |
| 300 Talc-Based Body Powders | |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category Putative Class Action Title 59 Consumer Fraud

SUMMONS

Attorney(s) Justin L. Swidler, Esq.

Office Address Swartz Swidler LLC

Town, State, Zip Code 1101 Kings Hwy N Ste 402
Cherry Hill NJ 08034

Telephone Number 856-685-7420

Attorney(s) for Plaintiff _____

Michael Ringgold, on behalf of himself

and all those similarly situated

Plaintiff(s)

vs.

Amazon.com.dedc, llc

Defendant(s)

**Superior Court of
New Jersey**

Mercer County

LAW Division

Docket No: _____

**CIVIL ACTION
SUMMONS**

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.

Clerk of the Superior Court

DATED: 05/19/2021

Name of Defendant to Be Served: Anazon.com.dedc, llc

Address of Defendant to Be Served: 50 New Canon Way, Robbinsville, NJ 08691

Civil Case Information Statement

Case Details: MERCER | Civil Part Docket# L-001072-21

Case Caption: RINGGOLD MICHAEL VS
AMAZON.COM.DEDC, LLC

Case Initiation Date: 05/19/2021

Attorney Name: JUSTIN L SWIDLER

Firm Name: SWARTZ SWIDLER, LLC

Address: 1101 KINGS HIGHWAY NORTH STE 402

CHERRY HILL NJ 08034

Phone: 8566857420

Name of Party: PLAINTIFF : RINGGOLD, MICHAEL

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: EMPLOYMENT (OTHER THAN CEPA OR LAD)

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Are sexual abuse claims alleged by: MICHAEL RINGGOLD? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? YES

If yes, is that relationship: Employer/Employee

Does the statute governing this case provide for payment of fees by the losing party? YES

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

05/19/2021

Dated

/s/ JUSTIN L SWIDLER

Signed

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Alleges Amazon Violated NJ Cannabis Law by Denying Employment Based on Positive Test](#)
