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11 UNITED STATES DISTRICT COURT  
12 EASTERN DISTRICT OF CALIFORNIA

13 MICHELLE RIZVANOVIC, individually  
14 and on behalf of other persons similarly  
15 situated,

16 Plaintiff,

17 v.

18 AMAZON.COM SERVICES, LLC, a  
Delaware limited liability corporation, and  
19 DOES 1 through 10, inclusive,

20 Defendants.  
21  
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Case No.

**DEFENDANT AMAZON.COM  
SERVICES, LLC'S NOTICE OF  
REMOVAL OF CLASS ACTION**

[Removal from the Superior Court of  
California, County of Kern, Case No.  
BCV-21-102647]

Complaint Filed: November 4, 2021

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1 **TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN**  
2 **DISTRICT OF CALIFORNIA, AND TO PLAINTIFF AND HER COUNSEL OF RECORD:**

3 PLEASE TAKE NOTICE THAT Defendant Amazon.com Services, LLC (“Amazon”)  
4 removes the above-entitled action filed in the Superior Court of the State of California, County of  
5 Kern, to the United States District Court for the Eastern District of California. This removal is  
6 made pursuant to 28 U.S.C. § 1332(d) (the Class Action Fairness Act of 2005 (“CAFA”)), and  
7 removal jurisdiction under 28 U.S.C. §§ 1441(a), 1446, and 1453, on the following grounds:  
8

9 **I. SUMMARY OF ALLEGATIONS**

10 1. On November 4, 2021, Plaintiff Michelle Rizvanovic filed an unverified putative  
11 class action complaint in the Superior Court of the State of California for the County of Kern,  
12 entitled *Michelle Rizvanovic v. Amazon.com Services, LLC*, Case No. BCV-21-102647 (the  
13 “Complaint”).  
14

15 2. On November 23, 2021, Plaintiff served Amazon with copies of a summons, the  
16 civil case cover sheet, and the Complaint. Copies of these documents, others entered in the state  
17 court action, and the Proof of Service filed on December 8, 2021 are attached as Exhibits A  
18 through F to the Declaration of Walter F. Brown in Support of Defendant’s Notice of Removal.  
19

20 3. Defendant Amazon operates Fulfillment Centers in California, where it employs  
21 people to sort, pack, and ship items to other Amazon facilities and to customers. Plaintiff alleges  
22 that in October 2020, Amazon hired her to work 30 to 39 hours each week as a Fulfillment  
23 Associate at a facility in Bakersfield. Compl. ¶¶ 17–18, 22. Plaintiff alleges that, on her second  
24 day of work, she began experiencing pain and swelling around the fourth to fifth hours of her six-  
25 hour shift due to osteoporosis and stress fractures in her feet. *Id.* ¶¶ 19, 21–22. According to  
26 Plaintiff, she subsequently requested an accommodation from Amazon to permit her to work no  
27 more than 20 hours per week. *Id.* ¶¶ 25, 47. Plaintiff claims that, in response, Amazon suspended  
28

1 her without pay and placed her “on a leave of absence, against [her] will or consent” instead of  
2 addressing her accommodation request. *Id.* ¶¶ 34, 39. Further, Plaintiff alleges that she  
3 considered herself constructively terminated based on her disability on December 11, 2020  
4 because she had been placed “in a state of limbo, without pay, while waiting for numerous  
5 employees from various departments to address her accommodation request.” *Id.* ¶¶ 58, 74.

7 4. More broadly, Plaintiff claims that “Defendant[], as a matter of policy, forced  
8 and/or pushed its employees to take unpaid leave of absences [sic] instead of granting  
9 accommodations.” *Id.* ¶ 59. According to the Complaint, “[u]pon information and belief,  
10 Defendants retaliated against Plaintiff and others similarly situated for exercising rights under  
11 California’s Fair Employment and Housing Act (“FEHA”), for insisting that their medical needs  
12 be accommodated, and/or for complaining about, reporting, or perceivably reporting Defendants’  
13 discriminatory acts, by ignoring, delaying, or denying requests for accommodations, demoting,  
14 terminating, or constructively terminating.” *Id.* ¶ 60.

16 5. In the Complaint, Plaintiff seeks to certify a class of “[a]ll current and/or former  
17 non-exempt employees that worked for Defendant[] in California within four (4) years prior to the  
18 filing of this Complaint and had a disability or medical condition or were otherwise considered  
19 disabled under FEHA.” *Id.* ¶ 64.

21 6. The Complaint alleges that the putative class includes six subclasses:

- 22 • **Disability Discrimination Subclass:** All members of the Class who were subjected  
23 to unlawful discrimination based on a disability (actual or perceived) and/or  
24 medical condition (actual or perceived).
- 25 • **Failure to Prevent Discrimination Subclass:** All members of the Class who were  
26 subjected to unlawful discrimination based on a disability (actual or perceived)  
27 and/or medical condition (actual or perceived) and where Defendants were aware of  
28 and failed to prevent such discrimination.
- **Failure to Provide a Reasonable Accommodation Subclass:** All members of the  
Class who were subjected to Defendants’ failure to provide reasonable

1 accommodations for a disability (actual or perceived) and/or medical condition  
2 (actual or perceived).

- 3 • **Failure to Provide a Timely, Good Faith Interactive Process Subclass:** All  
4 members of the Class who were subjected to Defendants' failure to provide a  
5 timely, good faith interactive process.
- 6 • **Retaliation in Violation of FEHA Subclass:** All members of the Class who were  
7 retaliated against for engaging in protected activity under FEHA.
- 8 • **Retaliation in Violation of Public Policy Subclass:** All members of the Class who  
9 were retaliated against for engaging in protected activity under state public policy.

10 *Id.* ¶ 65.

11 7. Plaintiff asserts various claims related to disability discrimination on behalf of  
12 herself and the proposed class. Plaintiff brings seven causes of action: (1) Disability  
13 Discrimination in violation of California Government Code section 12940(a); (2) Failure to  
14 Prevent Discrimination in violation of California Government Code section 12940(k); (3) Failure  
15 to Provide a Reasonable Accommodation in violation of California Government Code section  
16 12940(m); (4) Failure to Provide a Timely, Good Faith, Interactive Process in violation of  
17 California Government Code section 12940(n); (5) Retaliation in violation of California  
18 Government Code section 12940(h); (6) Retaliation and Wrongful Termination in Violation of  
19 Public Policy; and (7) Unfair Business Practices in violation of California Business and  
20 Professions Code section 17200, *et seq.* *Id.* ¶¶ 70–139.

21 8. According to the Complaint, Plaintiff and the putative class members are entitled  
22 to, among other things, damages for the loss of past and future earnings, pain and suffering,  
23 emotional distress, loss of reputation, unpaid wages and expenses, punitive damages, injunctive  
24 relief, interest, and attorneys' fees and costs. Compl., Prayer for Relief.

## 25 **II. THIS COURT HAS ORIGINAL JURISDICTION UNDER CAFA**

26 9. CAFA provides that a class action against a non-governmental entity may be  
27 removed to federal court if: (1) the number of putative class members is 100 or greater; (2) the  
28



1 aggregate amount placed in controversy by the Complaint exceeds \$5 million, excluding interest  
2 and costs; and (3) any member of the class of plaintiffs is a citizen of a state different from any  
3 defendant. 28 U.S.C. §§ 1332(d)(2), 1332(d)(5)(B), 1453. The Supreme Court has explained that  
4 CAFA’s provisions are to be read broadly and that “no antiremoval presumption attends cases  
5 invoking CAFA.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014)  
6 (citing S. Rep. No. 109–14, at 43 (2005)).  
7

8 10. Amazon denies any liability in this case, both as to Plaintiff’s individual claims and  
9 as to the claims she seeks to pursue on behalf of the putative class. Amazon expressly reserves all  
10 rights to contest the merits of Plaintiff’s allegations, including that this action may properly  
11 proceed as a class action.<sup>1</sup> Amazon further reserves all rights to oppose class certification and  
12 believes that class or representative treatment is inappropriate under these circumstances, in part  
13 because there are innumerable material differences between the experiences of Plaintiff and the  
14 putative class members she seeks to represent. Such differences include, but are not limited to,  
15 fact-driven determinations regarding an individual’s alleged disability, qualifications, and job  
16 duties as well as the interactive process and the type and reasonableness of any requested  
17 accommodations.<sup>2</sup> Nevertheless, as discussed below, exclusively for purposes of the jurisdictional  
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21 <sup>1</sup> Amazon denies that liability or damages can be established either as to Plaintiff or on a class-  
22 wide basis. No statement or reference contained herein shall constitute an admission of liability  
23 or a suggestion that Plaintiff will or could actually recover any damages based upon the  
24 allegations contained in the Complaint or otherwise. *See Ibarra v. Manheim Invs., Inc.*, 775 F.3d  
25 1193, 1198 n.1 (9th Cir. 2015) (“[W]hen defendants have persuaded a court upon a CAFA  
26 removal that the amount in controversy exceeds \$5 million, they are still free to challenge the  
27 actual amount of damages in subsequent proceedings . . . because [defendants] are not  
28 stipulating to damages suffered, but only estimating the damages that are in controversy.”).

<sup>2</sup> California federal courts have previously recognized that FEHA claims similar to the ones  
brought in this action are ill-suited for class resolution because of the highly individualized  
nature of the claims. *See Kittel v. City of Oxnard*, No. CV-17-6709-MWF (GJSx), 2018 WL  
6004524, at \*9 (C.D. Cal. Feb. 20, 2018) (finding that “[t]here [were] simply too many  
individualized inquiries necessary for [p]laintiff to possibly meet the commonality and typicality  
requirements of Rule 23” in a proposed disability discrimination class action).

1 requirements for removal, the allegations in the Complaint identify a putative class of more than  
2 100 members and put in controversy an aggregate amount that exceeds \$5 million.

3 **A. The Aggregate Number of Putative Class Members is 100 or Greater**

4 11. Plaintiff seeks to certify a class of “[a]ll current and/or former non-exempt  
5 employees that worked for Defendant[] in California within four (4) years prior to the filing of this  
6 Complaint and had a disability or medical condition or were otherwise considered disabled under  
7 FEHA.” Compl. ¶ 64.

8  
9 12. There can be no question that Plaintiff’s proposed class exceeds 100 members. To  
10 begin with, Plaintiff alleges that “the class is estimated to be greater than one hundred (100)  
11 individuals.” *Id.* ¶ 68(a).

12  
13 13. The proposed class, however, is much larger than 100 individuals. For just 12  
14 months during the alleged four-year class period, from October 15, 2020 through October 14,  
15 2021, Amazon’s records show that at least 11,341<sup>3</sup> non-exempt employees in California with the  
16 same job title as Plaintiff, FC Associate I, requested accommodations based on claimed disabilities  
17 or medical conditions. Declaration of Harjit Randhawa in Support of Defendant’s Notice of  
18 Removal (“Randhawa Decl.”) ¶ 3.b. This data demonstrates that the proposed class well exceeds  
19 100 members.

20  
21 14. Amazon expressly reserves all rights to oppose class certification and denies that  
22 this action meets the Federal Rule of Civil Procedure 23 requirements for class certification. But,  
23 even using conservative estimates, the putative class as defined in the Complaint easily consists of  
24 more than 100 members, the number of members required for CAFA removal. 28 U.S.C.  
25 § 1332(d)(5)(B).

26  
27  
28 <sup>3</sup> Amazon does not concede that each of these 11,341 employees who requested accommodations  
would be able to establish that they qualify as having a disability or medical condition under  
FEHA; individual inquiries would be required for each employee.

1           **B. The Parties Have Minimal Diversity Under CAFA**

2           15. CAFA requires minimal diversity. That is, at least one putative class member must  
3 be a citizen of a state different from any one defendant. 28 U.S.C. §1332(d)(2)(A).

4           16. Plaintiff alleges that she “is, and at all relevant times was, a citizen of the state of  
5 California.”<sup>4</sup> Compl. ¶ 6. Thus, at least one putative class member, the named Plaintiff, is a  
6 citizen of California.  
7

8           17. As a limited liability corporation, Amazon is an unincorporated association and is  
9 thus a citizen of the states under whose laws it is organized and where it has its principal place of  
10 business. *See* 28 U.S.C. § 1332(d)(10); *Ferrell v. Express Check Advance of S.C., LLC*, 591 F.3d  
11 698, 699–705 (4th Cir. 2010); *see also Jack v. Ring, LLC*, \_\_\_ F. Supp. 3d \_\_\_, No. 21-cv-00544-  
12 HSG, 2021 WL 3510291, at \*3 (N.D. Cal. Aug. 10, 2021) (explaining that “it seems likely that the  
13 Ninth Circuit would consider an LLC an unincorporated association under 28 U.S.C.  
14 § 1332(d)(10)” (citing *Davis v. HSBC Bank Nev., N.A.*, 557 F.3d 1026, 1032 n.13 (9th Cir. 2009)  
15 (Kleinfeld, J., concurring))). The “principal place of business” is where a business entity’s  
16 “officers direct, control, and coordinate” its activities. *Hertz Corp. v. Friend*, 559 U.S. 77, 92  
17 (2010); *see Davis*, 577 F.3d at 1032 n.16 (Kleinfeld, J., concurring) (explaining that the Ninth  
18 Circuit determines the principal place of business the same way for corporations and  
19 unincorporated associations). A business entity’s principal place of business will normally be its  
20 headquarters, “provided that the headquarters is the actual center of direction, control, and  
21 coordination, *i.e.*, the ‘nerve center.’” *Hertz Corp.*, 559 U.S. at 93. Amazon is organized under  
22  
23  
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25 \_\_\_\_\_  
26 <sup>4</sup> An individual is a citizen of the state where she is domiciled. *Kanter v. Warner-Lambert Co.*,  
27 265 F.3d 853, 857 (9th Cir. 2001). “A person’s domicile is her permanent home, where she  
28 resides with the intention to remain or to which she intends to return.” *Id.* Consistent with the  
Complaint’s assertion that Plaintiff is a citizen of California, Plaintiff was employed at an  
Amazon facility in California and pleaded a desire to remain working there. *See, e.g.*, Compl.  
¶¶ 17, 46, 103.

1 the laws of the State of Delaware and has its headquarters in the State of Washington, from where  
2 Amazon's officers direct, control, and coordinate its activities. Declaration of Zane Brown in  
3 Support of Defendant's Notice of Removal ("Z. Brown Decl.") ¶ 2.<sup>5</sup> Because named Plaintiff is a  
4 citizen of a state different from at least one defendant, within the meaning of 28 U.S.C.  
5 § 1332(d)(2)(A), CAFA's diversity of citizenship requirement is satisfied in this action.<sup>6</sup>

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

8 18. Under CAFA, the claims of the individual class members are aggregated to  
9 determine if the amount in controversy exceeds the required "sum or value of \$5,000,000,  
10 exclusive of interest and costs." 28 U.S.C. § 1332(d)(6).

11 19. "[A] defendant's notice of removal need include only a plausible allegation that the  
12 amount in controversy exceeds the jurisdictional threshold." *Dart Cherokee*, 574 U.S. at 89; *see*  
13 *also Salter v. Quality Carriers, Inc.*, 974 F.3d 959, 962 (9th Cir. 2020) ("[A] removing  
14

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15  
16 <sup>5</sup> Although Plaintiff's unverified Complaint alleges that Amazon is a California corporation and a  
17 California limited liability company, Plaintiff is simply wrong. Compl. ¶ 8. Federal courts have  
18 held that if a plaintiff misidentifies a defendant's citizenship, the defendant is in the best position  
19 to know its residence for diversity purposes. *See Day v. Zimmer, Inc.*, 636 F. Supp. 451, 453  
20 (N.D.N.Y. 1986) ("[E]ven if [plaintiff's filing] is wrong, obviously defendant is in the best  
21 position to know its residency for diversity purposes.") (cited with approval in *Contreras v.*  
22 *BMW of N. Am., LLC*, No. CV 18-8014 PA (MAAx), 2018 WL 4849107, at \*2 (C.D. Cal. Oct. 3,  
23 2018)). Put simply, "[a] defendant is presumed to know the facts surrounding its own  
24 citizenship." *Contreras*, 2018 WL 4849107, at \*2. Furthermore, Zane Brown's Declaration  
25 under oath setting forth the facts of Amazon's state of organization and principal place of  
26 business satisfies the preponderance of the evidence standard for proving citizenship for diversity  
27 purposes. *Cf. Garza v. Brinderson Constructors, Inc.*, 178 F. Supp. 3d 906, 914 (N.D. Cal.  
28 2016) (holding that the removing party had not proven diversity of citizenship by a  
preponderance of the evidence because it had *failed to submit a declaration* from the individual  
whose citizenship was at issue).

<sup>6</sup> Amazon contends that its citizenship is properly determined under 28 U.S.C. § 1332(d)(10) for  
the purposes of this action, but recognizes that in other contexts, courts evaluate a limited  
liability company's citizenship by determining "every state of which its owners/members are  
citizens." *3123 SMB, LLC v. Horn*, 880 F.3d 461, 465 (9th Cir. 2018) (quoting *Johnson v.*  
*Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006)). Such analysis is not  
required under CAFA, but even under this test, CAFA's diversity of citizenship requirement is  
satisfied here. Amazon's sole member is Amazon.com, Inc., which is a corporation incorporated  
under the laws of the State of Delaware, with its principal place of business in the State of  
Washington. Z. Brown Decl. ¶ 2.

1 defendant’s notice of removal need not contain evidentiary submissions but only plausible  
2 allegations of the jurisdictional elements.” (quoting *Arias v. Residence Inn by Marriott*, 936 F.3d  
3 920, 922 (9th Cir. 2019) (internal quotations omitted))).

4 20. To satisfy this burden, a defendant may rely on a “chain of reasoning” that is based  
5 on reasonable assumptions. *LaCross v. Knight Transp. Inc.*, 775 F.3d 1200, 1201 (9th Cir. 2015).  
6 “An assumption may be reasonable if it is founded on the allegations of the complaint.” *Arias*,  
7 936 F.3d at 925. Further, “[a]n assertion that the amount in controversy exceeds the jurisdictional  
8 threshold is not defeated merely because it is equally possible that damages might be [less than \$5  
9 million].” *Id.* at 927. The amount in controversy is not an assessment of a defendant’s potential  
10 liability, but instead “reflects the *maximum* recovery the plaintiff could reasonably recover.” *Id.*  
11

12 21. Moreover, “in assessing the amount in controversy, a court must ‘assume that the  
13 allegations of the complaint are true and assume that a jury will return a verdict for the plaintiff on  
14 all claims made in the complaint.’” *Campbell v. Vitran Express, Inc.*, 471 F. App’x 646, 648 (9th  
15 Cir. 2012) (quoting *Kenneth Rothschild Tr. v. Morgan Stanley Dean Witter*, 199 F. Supp. 2d 993,  
16 1001 (C.D. Cal. 2002)). This Court’s inquiry therefore focuses on “what amount is put ‘in  
17 controversy’ by the plaintiff’s complaint, not what a defendant will *actually* owe.” *Korn v. Polo*  
18 *Ralph Lauren Corp.*, 536 F. Supp. 2d 1199, 1205 (E.D. Cal. 2008) (quoting *Rippee v. Boston Mkt.*  
19 *Corp.*, 408 F. Supp. 2d 982, 986 (S.D. Cal. 2005)).  
20  
21

22 22. Although the Complaint is silent as to the amount of damages sought, it is apparent  
23 from the allegations that, given the size of the putative class and the nature of the damages sought,  
24 the amount in controversy easily exceeds the jurisdictional threshold.

25 23. Although a removal notice does not need to rely on evidentiary submissions, the  
26 calculations relating to the potential amount in controversy presented below rely on the attached  
27 Declaration of Dr. Peter Nickerson, a well-qualified statistician who used reliable data and  
28

1 methods to estimate the lost wage damages resulting from Plaintiff’s allegations for just 12 months  
2 of the class period.

3           24. Amazon reserves the right to present additional evidence to support the amount  
4 placed in controversy by Plaintiff’s claims, should Plaintiff challenge whether the jurisdictional  
5 amount in controversy threshold is satisfied. *See Dart Cherokee*, 574 U.S. at 87–89; *see also*  
6 *Salter*, 974 F.3d at 964 (holding that only a “factual attack” that “contests the truth of the  
7 [removing party’s] factual allegations, usually by introducing evidence outside the pleadings,”  
8 requires the removing party to “support [the] jurisdictional allegations with competent proof”  
9 (quotations and citations omitted)). When a removing defendant plausibly alleges a basis for  
10 federal court jurisdiction, “a district court may not remand the case back to state court without first  
11 giving the defendant an opportunity to show by a preponderance of the evidence that the  
12 jurisdictional requirements are satisfied.” *Arias*, 936 F.3d at 924.

13           25. Here, as discussed below, Plaintiff’s request for lost wages alone plausibly puts  
14 more than \$5 million in controversy. Amazon has therefore met its burden to establish that CAFA  
15 jurisdiction exists over this action.

16                           **1. Plaintiff’s Allegations Regarding Lost Wages Alone Establish that the**  
17                           **Amount in Controversy Exceeds \$5 Million**

18           26. Plaintiff asserts claims on behalf of herself and the putative class for the loss of past  
19 and future earnings as a result of purported violations of California Government Code section  
20 12940. Compl. ¶¶ 88, 113, Prayer for Relief.

21           27. As discussed above, in the 12 month period from October 15, 2020 to October 14,  
22 2021, Amazon’s records show that at least 11,341 non-exempt employees in California with the  
23 same job title as Plaintiff, FC Associate I, made accommodation requests based on claimed  
24 disabilities or medical conditions. Randhawa Decl. ¶ 3.b.

1 28. Plaintiff alleges that she was originally scheduled to work 30 hours per week, but  
2 requested that Amazon limit her hours to 20 per week as an accommodation. Compl. ¶¶ 19, 47.  
3 Plaintiff’s hourly wage was \$15.00 per hour with an \$.085 per hour shift differential. *Id.* ¶ 17;  
4 Randhawa Decl. ¶ 3.a.

5 29. For the purposes of estimating the lost wage damages of the class, we will assume,  
6 as the Complaint alleges, that other putative class members are similarly situated to Plaintiff and  
7 therefore worked only 20 hours per week at \$15 per hour. Compl. ¶ 62. Such a part-time schedule  
8 therefore worked only 20 hours per week at \$15 per hour. Compl. ¶ 62. Such a part-time schedule  
9 assumption is quite conservative given that Plaintiff’s requested four to five hour shifts and cap of  
10 20 hours per week, *id.* ¶ 47, are almost certainly lower than the average for the proposed class,  
11 given that many of those employees likely worked full-time.

12 **i. Alleged Pre-Separation Lost Wages**

13 30. As for alleged pre-separation lost wages, Plaintiff alleges that she “was suspended  
14 without pay” beginning on November 23, 2020. Compl. ¶ 34. Plaintiff claims that she worked  
15 one shift in the nearly three-week period between November 23 and the date of her alleged  
16 constructive termination on December 11, 2020. *See id.* ¶ 53. Based on Plaintiff’s allegation that  
17 she was suspended without pay for nearly three weeks and without admitting that Plaintiff’s claims  
18 have any merit, it is conservative to assume at least two weeks (or ten working days) of pre-  
19 separation lost wages. Conservatively assuming that Plaintiff never received a shift differential,  
20 pre-separation lost wages for Plaintiff would amount to \$600 (2 weeks x 20 hours per week x  
21 \$15/hour). Nickerson Decl. ¶ 8.

22 31. Plaintiff alleges that “Defendant[], as a matter of policy, forced and/or pushed its  
23 employees to take unpaid leave of absences [sic] instead of granting accommodations.” Compl.  
24 ¶ 59. This allegation is most relevant to two of the alleged subclasses in the Complaint, subclass 3  
25 (alleged failure to provide reasonable accommodations) and subclass 4 (alleged failure to provide  
26  
27  
28

1 a timely, good faith interactive process), see *id.* ¶ 65, and we have accordingly focused our lost  
2 wage calculations in this section on those subclasses. For the Complaint’s other proposed  
3 subclasses, which may include plaintiffs who have never requested accommodations, the claims  
4 for pre-separation lost wages would ostensibly be based on different theories. Any such claims are  
5 not accounted for in these calculations, but would further increase the amount in controversy.  
6

7 32. A putative class member who was “similarly situated” to Plaintiff (i.e., working 20  
8 hours per week at \$15 per hour) would also claim to be entitled to damages of \$600 for two weeks  
9 of pre-separation lost wages. Nickerson Decl. ¶ 9. During the 12 month period on which our  
10 damages estimate is based (October 15, 2020 to October 14, 2021), there were at least 11,341 non-  
11 exempt Amazon employees in California with the same job title as Plaintiff who requested  
12 accommodations. *Id.* ¶ 7. For the purpose of conducting a conservative damages analysis, and  
13 without admitting that Plaintiff’s claims have any merit, we will assume that only 10% of these  
14 11,341 employees, or 1,134 employees, might be entitled to pre-separation lost wages under  
15 Plaintiff’s theory of the case. Accordingly, the amount in controversy solely for pre-separation  
16 lost wages during the 12 month period can be conservatively estimated at **\$680,400** (\$600 x 1,134  
17 employees). *Id.* ¶ 10.  
18

19  
20 **ii. Alleged Post-Separation Lost Wages**

21 33. Plaintiff alleges that she was constructively terminated by Amazon on December  
22 11, 2020. Compl. ¶ 57. Her request for lost past and future wages thus would include pay for the  
23 time she spent unemployed while looking for a new job. The median duration of unemployment  
24 between the period of November 2020 and August 2021 was approximately 16 weeks. Nickerson  
25 Decl. ¶ 11. Further, people with disabilities tend to have a more difficult time securing  
26 employment and have an unemployment rate nearly twice that of non-disabled people. *Id.* Based  
27 on these facts, we can reasonably estimate that Plaintiff’s demand for lost wages may add to the  
28



1 amount in controversy 32 weeks of post-separation wages, representing the time between her  
2 alleged constructive termination and the estimated date by which she may have been able to find  
3 another job. *Id.* Given that Plaintiff’s wages would have amounted to at least \$300 per week on  
4 her desired reduced schedule, 32 weeks of post-separation lost wages would equal \$9,600. *Id.* Of  
5 course, if Plaintiff remains unemployed, her alleged post-separation lost wages could be higher.  
6

7 34. Plaintiff alleges that Amazon “retaliated against [her] and others similarly situated  
8 for exercising rights under [FEHA], for insisting that their medical needs be accommodated,  
9 and/or for complaining about, reporting, or perceivably reporting Defendants’ discriminatory acts,  
10 by . . . terminating, or constructively terminating the employment of Plaintiff and others similarly  
11 situated.” Compl. ¶ 60. This allegation is most relevant to alleged subclasses 5 and 6 (retaliation  
12 in violation of FEHA and public policy). *See id.* ¶ 65.  
13

14 35. Of the at least 11,341 non-exempt employees in California with the job title FC  
15 Associate I who requested accommodations between October 15, 2020 and October 14, 2021,  
16 Amazon’s records show that 5,755 of them are no longer employed by the company (meaning they  
17 resigned or were terminated). Randhawa Decl. ¶ 3.b; Nickerson Decl. ¶ 7. Under Plaintiff’s  
18 theory of the case, these 5,755 employees are “similarly situated” to Plaintiff.  
19

20 36. To estimate the potential post-separation lost wage claims of these 5,755  
21 employees, we assume that each of them, like Plaintiff, would have claims based on working 20  
22 hours per week at \$15 per hour. We have used the same estimate of 32 weeks of unemployment  
23 for these employees as for the Plaintiff, because employees who left Amazon between October 15,  
24 2020 and October 14, 2021 would have faced a similar labor market as Plaintiff. Nickerson Decl.  
25 ¶ 12. Like Plaintiff, such employees could also claim to be entitled to \$9,600 in post-separation  
26 damages (\$15 per hour x 20 hours a week x 32 weeks). *Id.* For the purpose of conducting a  
27 conservative damages analysis, and without admitting that Plaintiff’s claims have any merit, we  
28

1 will assume that only 10% of the 5,755 employees at issue, or 576 employees, might be entitled to  
 2 post-separation lost wages under Plaintiff’s theory of the case. Accordingly, the amount in  
 3 controversy for post-separation lost wages for these 576 employees can be conservatively  
 4 estimated at **\$5,529,600** (\$9,600 x 576 employees). *Id.* ¶ 13.

5  
 6 37. The analysis above demonstrates that the allegations in the Complaint relating to  
 7 past lost wage claims by putative class members for just 12 months out of the four-year class  
 8 period put more than \$6 million in controversy, exceeding CAFA’s \$5 million threshold.

9 10	Alleged pre-separation lost wages assuming only 10% of non-exempt employees who requested accommodations in a 12 month period could prove damages (\$600 x 1,134 employees)	\$680,400
11 12	Alleged post-separation lost wages assuming only 10% of non-exempt employees who requested accommodations in a 12 month period could prove damages (\$9,600 x 576 employees)	\$5,529,600
13	<b>Amount in controversy for past lost wages, based on 12 months of accommodation request data and Plaintiff’s allegations:</b>	<b>\$6,210,000</b>

14  
 15 38. Because the calculations above considered only the non-exempt employees who  
 16 shared Plaintiff’s job title of FC Associate I and requested accommodations within a 12 month  
 17 period, the total amount in controversy at issue for past lost wages for all non-exempt employees  
 18 in California for the entire four-year class period would be a multiple of our estimate for these 12  
 19 months.

20 **2. Plaintiff’s Requests for Attorneys’ Fees and Punitive Damages Place**  
 21 **Additional Amounts in Controversy, Further Exceeding the CAFA**  
 22 **Threshold**

23 39. Plaintiff also asks for an award of attorneys’ fees and punitive damages. *See*  
 24 Compl. ¶¶ 14, 80, 81, 90, 91, 97, 98, 104, 105, 115, 116, 123, 124; Prayer for Relief.

25 40. Claims for attorneys’ fees are properly included in determining the amount in  
 26 controversy. *Arias*, 936 F.3d at 922; *see also* Cal. Gov’t Code § 12965(b) (allowing for the  
 27 recovery of attorneys’ fees for prevailing plaintiffs in FEHA actions); Compl. ¶¶ 81, 91, 98, 105,  
 28 116, 124; Prayer for Relief (asking to be awarded attorneys’ fees).

1           41. In determining how much in prospective attorneys' fees to include in the amount in  
2 controversy, courts in the Ninth Circuit have looked to previous fee awards to the plaintiffs'  
3 attorneys and to the plaintiffs' attorneys' hourly rates. *See, e.g., Castillo v. Trinity Servs. Grp.,*  
4 *Inc.*, No. 1:19-CV-01013-DAD-EPG, 2020 WL3819415, at \*8 (E.D. Cal. July 8, 2020) (providing  
5 counsel's hourly rates and anticipated time expenditures as examples of information from which  
6 an estimate of attorneys' fees could be calculated); *Gonzalez v. Comenity Bank*, No. 1:19-CV-  
7 00348-AWI-EPG, 2019 WL 5304925, at \*10–\*11 (E.D. Cal. Oct. 21, 2019) (finding it more likely  
8 than not that plaintiff's counsel would accrue sufficient attorneys' fees to exceed the amount in  
9 controversy requirement based on the local prevailing hourly rate and estimated number of hours  
10 needed to pursue the claim); *Vasquez v. RSI Home Prods., Inc.*, No. 8:20-CV-01494-JWH-JDEx,  
11 2020 WL 6778772, at \*10 (C.D. Cal. Nov. 12, 2020) (finding that defendant had provided proof of  
12 the reasonableness of its 25% rate for estimating attorneys' fees by citing two previous cases in  
13 which plaintiff's counsel received fee awards exceeding 25%).  
14

15           42. While there is no per se rule in the Ninth Circuit regarding the rate of attorneys'  
16 fees to be included in the amount in controversy, courts in this Circuit have repeatedly approved a  
17 25% rate as reasonable. *See Vasquez*, 2020 WL 6778772, at \*10 (collecting cases).  
18

19           43. In previous employment class actions, Plaintiff's attorneys, Christian Petronelli and  
20 Dean S. Ho, have taken 33% of the class recovery in attorneys' fees. *See Tarver v. Integrated*  
21 *Airline Servs., Inc.*, Nos. BCS596694, BC623647, 2017 WL 7737148, at \*2 (Cal. Super. Ct. Oct.  
22 16, 2017) (court approving requested 33% fee award to team including Plaintiff's attorneys in a  
23 wage and hour class action) and Memorandum of Points & Authorities in Support of Motion for  
24 Final Approval of Class Action Settlement, *Tarver v. Integrated Airline Servs., Inc.*, No.  
25 BCS596694 (Cal. Super. Ct. 2017), 2017 WL 7660980, at \*2 (filing by Plaintiff's attorneys  
26 seeking the approved award of attorneys' fees in the amount of \$733,333.33 out of a \$2.2 million  
27  
28

1 settlement); *Cash v. Smart-Professionals, LLC*, Nos. JCCP4871 / RG16800585, at 2 (Cal. Super.  
2 Ct. Aug. 20, 2018)<sup>7</sup> (court approving requested 33% fee award to team including Plaintiff’s  
3 attorneys in a wage and hour class action) and Memorandum of Points & Authorities in Support of  
4 Motion for Final Approval of Class Action Settlement, *Cash v. Smart-Professionals, LLC*, Nos.  
5 JCCP4871 / RG16800585 (Cal. Super. Ct. 2018), 2018 CA Sup. Ct. Motions LEXIS 9076, at \*2–  
6 \*3 (filing by Plaintiff’s attorneys seeking the approved award of attorneys’ fees in the amount of  
7 \$495,000 out of a \$1.5 million settlement).  
8

9 44. Here, Amazon has calculated that just one component of the potential class  
10 recovery, the claim for past lost wages, puts more than \$6 million in controversy for just  
11 12 months of the class period. Applying a 25% rate to that one component of the potential class  
12 recovery adds an additional **\$1,552,500** to that amount. This would result in Plaintiff’s attorneys  
13 taking 20% of the total of the past lost wage damages and their fees (\$6,210,000 + \$1,552,500), a  
14 considerably less generous percentage than the 33% Plaintiff’s counsel have previously recovered.  
15

16 45. Claims for punitive damages are also properly included when measuring the  
17 amount in controversy. *See Simmons v. PCT Tech.*, 209 F. Supp. 2d 1029, 1033 (N.D. Cal. 2002)  
18 (including punitive damages in an amount in controversy calculation for a suit brought under  
19 FEHA); *Thompson v. Big Lots Stores, Inc.*, No. 1:16-cv-01464-LJO-JLT, 2017 WL 590261, at \*4  
20 (E.D. Cal. Feb. 13, 2017) (same).  
21

22 46. Punitive damages can be estimated by reference to jury verdicts in cases alleging  
23 similar facts. *See Simmons*, 209 F. Supp. 2d at 1033 (finding that defendant had met its burden of  
24 showing the amount in controversy should include a punitive damages award even though “the  
25 cited cases involve[d] distinguishable facts”); *Chambers v. Penske Truck Leasing Corp.*, No. 1:11-  
26

27  
28 <sup>7</sup> As per Eastern District of California Local Rule 133(i)(3), this court order approving the fee  
award to Plaintiff’s attorneys is appended to this Notice as Exhibit 1.

1 cv-00381 LJO GSA, 2011 WL 1459155, at \*4 (E.D. Cal. Apr. 15, 2011) (same).

2 47. Recent jury verdicts for single-plaintiff disability discrimination cases brought  
3 under FEHA have included substantial punitive damages awards that have exceeded the  
4 compensatory damages. In *Ramirez v. Jack in the Box, Inc.*, JVR No. 1908020049, No.  
5 BC593619, 2019 WL 3731275 (Cal. Super. Ct. June 11, 2019), the jury awarded \$10 million in  
6 punitive damages, nearly double the compensatory damage award. Like the Plaintiff here,  
7 Ramirez alleged disability discrimination, failure to engage in the interactive process, harassment,  
8 failure to prevent discrimination and harassment, retaliation, and wrongful discharge when she was  
9 denied accommodations. *Id.* Another recent single-plaintiff disability discrimination case under  
10 FEHA resulted in a jury award of punitive damages four times the compensatory damages amount.  
11 *Samson v. Wells Fargo Bank, N.A.*, JVR No. 2004160018, No. 2:16CV0489, 2020 WL 1890594  
12 (C.D. Cal. Mar. 13, 2020). Samson alleged disability discrimination and retaliation arising from  
13 her firing after disclosing her disability to her supervisor, taking a medical leave, and requesting  
14 accommodations. *Id.*

15 48. Based on recent jury verdicts and without admitting that Plaintiff's claims have any  
16 merit, punitive damages for disability discrimination cases can easily equal compensatory  
17 damages, which have been estimated as **\$6,210,000** for past lost wages for claims stemming from  
18 12 months of the four-year class period.

19 49. In sum, with a putative class of many more than 100 members, minimal diversity  
20 of citizenship, and an amount in controversy well exceeding \$5 million, the removal requirements  
21 under CAFA are fully satisfied.<sup>8</sup>

22  
23  
24  
25  
26 <sup>8</sup> Amazon reserves the right to supplement or provide the Court with additional briefing or  
27 information as necessary to appropriately assess CAFA's jurisdictional requirements or  
28 traditional diversity requirements with respect to the named Plaintiff. *See Kanter*, 265 F.3d at  
858 (noting that a party may "cure[] its defective allegations . . . by amending its notice of

1 **III. REMOVAL SATISFIES ALL OTHER REQUIREMENTS UNDER 28 U.S.C. § 1446**

2 50. **Timeliness.** Removal is timely under 28 U.S.C. § 1446(b). According to the proof  
3 of service filed December 8, 2021 by Plaintiff with the Kern County Superior Court, Plaintiff  
4 served Amazon through its registered agent for service on November 23, 2021. Because this  
5 Notice of Removal is filed within 30 days of service of the Summons and Complaint, it is timely  
6 under 28 U.S.C. §§ 1446(b)(1) and 1453(b). *See Murphy Bros., Inc. v. Michetti Pipe Stringing,*  
7 *Inc.*, 526 U.S. 344, 354 (1999).  
8

9 51. **No CAFA Exclusions.** This action does not fall within any exclusion to removal  
10 jurisdiction recognized by 28 U.S.C. § 1332(d) because Amazon is not a citizen of California, the  
11 state in which this action was filed, and no other exclusion applies.  
12

13 52. **Venue.** Venue is proper in the United States District Court for the Eastern District  
14 of California because Plaintiff filed her Complaint in the Superior Court of the State of California,  
15 County of Kern. 28 U.S.C. §§ 84(b), 1446(a); E.D. Cal. R. 120(d).  
16

17 53. **State Court Action.** Pursuant 28 U.S.C. §1446(a), true and correct copies of all  
18 “process, pleadings, and orders served” upon Amazon as well as other documents entered in the  
19 state court action are filed concurrently with this Notice of Removal as exhibits to the Declaration  
20 of Walter F. Brown.  
21

22 54. **Notice.** Amazon will promptly serve this Notice of Removal on Plaintiff and file a  
23 copy of this Notice of Removal with the Clerk of the Superior Court of the State of California for  
24 the County of Kern, where this action is pending, as required by 28 U.S.C. § 1446(d).  
25  
26

27 \_\_\_\_\_  
28 removal”); *Acad. of Country Music v. Cont’l Cas. Co.*, 991 F.3d 1059, 1069 (9th Cir. 2021)  
 (“[T]he district court erred as a matter of law in requiring that the notice of removal ‘prove’ the  
 amount in controversy and then failed to follow Supreme Court and Ninth Circuit precedent by  
 refusing to allow [defendant] to supplement its notice of removal”).

1 **IV. CONCLUSION**

2 For the foregoing reasons, Amazon requests that this action be removed to the United  
3 States District Court for the Eastern District of California. If any question arises as to the  
4 propriety of the removal of this action, Amazon requests the opportunity to present a brief and oral  
5 argument in support of its position that this case is subject to removal.  
6

7  
8 Dated: December 22, 2021

Respectfully Submitted,

9  
10 By: /s/ Walter F. Brown  
11 Walter F. Brown  
12 Liza M. Velazquez  
13 David W. Brown  
14 PAUL, WEISS, RIFKIND, WHARTON  
& GARRISON LLP

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Attorneys for Defendant  
AMAZON.COM SERVICES, LLC

# **EXHIBIT 1**



ORIGINAL

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12 (Additional Counsel Below)

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 FOR THE COUNTY OF LOS ANGELES

15 BY FAX

16 Coordination Proceeding  
17 Special Title (Rule 3.550)  
18 COSTCO WAGE AND HOUR CASES.

Case No.: JCCP4871 / RG16800585

Assigned for all purposes to:  
Hon. Elihu M. Berle  
Dept. 6 (Spring Street Courthouse)

CLASS ACTION

19 \_\_\_\_\_  
20 LOREN CASH and ARRIANE  
HENRYHAND, on behalf of themselves and  
21 all others similarly situated,

22 Plaintiffs,

23 vs.

24 SMART-PROFESSIONALS, LLC, a Utah  
25 limited liability corporation; COSTCO  
WHOLESALE CORPORATION, a  
26 Washington corporation; and DOES 1  
through 50, inclusive,

27 Defendants.  
28

**[PROPOSED] ORDER GRANTING  
MOTION FOR FINAL APPROVAL OF  
CLASS ACTION SETTLEMENT AND  
ATTORNEY'S FEES, COSTS, AND CLASS  
REPRESENTATIVE ENHANCEMENT  
PAYMENT**

**RECEIVED**  
LOS ANGELES SUPERIOR COURT

**AUG 13 2018**

**R. NAZARYAN**

[PROPOSED] ORDER

PETRONELLI & HO LLP  
295 REDONDO AVENUE, SUITE 201  
LONG BEACH, CA 90803

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**FILED**  
Superior Court of California  
County of Los Angeles  
**AUG 20 2018**  
Sherri R. Carter, Executive Officer/Clerk  
By *[Signature]* Deputy  
Marisela Fregoso

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PETRONELLI & HO LLP  
295 REDONDO AVENUE, SUITE 201  
LONG BEACH, CA 90803

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[PROPOSED] ORDER

**ORDER**

On August 20, 2018, the Court conducted a hearing on Plaintiffs' unopposed Motion for Final Approval of Class Action Settlement and Motion for Attorney's Fees, Costs, and Class Representative Enhancement Payment ("Motions").

The Court considered the Motion papers, and GOOD CAUSE appearing, IT IS HEREBY ORDERED that the Motions are GRANTED as follows:

1. The Court gives Final Approval to the Settlement as fair, reasonable, and adequate, and consistent and in compliance with all requirements of California law, as to, and in the best interest of, each of the Parties and the members of the Class, and directs the Parties and their counsel to implement and consummate the Settlement Agreement in accordance with its terms and provisions. The relief with respect to the Class is appropriate as to the individual members of the Class and as a whole.

2. The Court finds that the notice program implemented pursuant to the Settlement Agreement (i) constituted the best practicable notice, (ii) was reasonably calculated, under the circumstances, to apprise members of the Class of the pendency of the Litigation, their right to object or exclude themselves from the proposed Settlement, and to appear at the Final Approval Hearing, and their right to seek monetary and other relief, (iii) was reasonable and constituted due, adequate, and sufficient notice to all persons entitled to receive notice, and (iv) met all applicable requirements of due process and under California law.

3. Solely for the purposes of effectuating the Settlement, this Court has concluded that Class certification is appropriate and hereby certifies the Class defined below (and in the Settlement Agreement) and further concludes that this definition is sufficient for purposes of California Rules of Court 3.765(a) and 3.771 and that the Settlement Agreement is binding on all Class Members of the classes set forth in the Settlement Agreement (and as defined below):

Settlement Class:

All persons whom Defendant Smart Professionals retained to work as a roadshow representative at any Costco warehouse in California at any time from January 19, 2012 through March 7, 2018.

PETRONELLI & HO LLP  
295 REDONDO AVENUE, SUITE 201  
LONG BEACH, CA 90803

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1 All persons whom Defendant Smart Professionals retained to work as a  
2 roadshow representative at any Costco warehouse in the United States at  
3 any time from January 19, 2013 through March 7, 2018.

4 4. The Court finds that Plaintiffs and Class Counsel adequately represented the  
5 Class for the purpose of entering into and implementing the Settlement and achieved a very  
6 good result for the Class.

7 5. The Court finds that no objections and 6 requests for exclusion were submitted to  
8 the Settlement. *Those excluded are: Kendra Peters, Birsit Keys, Auden Amoli, Mary Clappison, Felisa McQuirge and*

9 6. The Court adjudges that upon the Effective Date Plaintiffs and the Class  
10 Members have fully, finally, and conclusively compromised, settled, discharged, dismissed, and  
11 released any and all Released Claims as provided in the Settlement Agreement. Nothing in this  
12 Final Order nor any aspect of this Settlement is to be offered as evidence of, or construed or  
13 deemed as an admission of, liability, culpability, negligence, or wrongdoing on the party of any  
14 Defendants or their employees, agents or any related entity. Without limiting the generality of  
15 the foregoing, nothing about this Final Order or the settlement shall be offered or construed as  
16 an admission or evidence of the propriety or feasibility of certifying a class in this lawsuit or any  
17 other action for adversarial, rather than settlement, purposes and nothing herein shall be offered  
18 or construed as an admission or evidence of impropriety or wrongdoing by Defendants.

19 7. The Court approves the payment to Class Counsel of attorney's fees in the total  
20 amount of \$495,000.00 to be distributed as follows: \$111,375.00 to Petronelli & Ho LLP,  
21 \$111,375.00 to Mathew & George, and \$272,250.00 to Setareh Law Group, and reimbursement  
22 of litigation costs in the amount of \$31,774.59 to be distributed as follows: \$5,109.44 to  
23 Petronelli & Ho LLP, \$15,217.00 to Mathew & George, and \$11,448.15 to Setareh Law Group.  
24 The Settlement was carefully and professionally prepared and is in all respects in the interests of  
25 the Class. Counsel's very good efforts are reflected in the percentage fee award. The attorney's  
26 fees and litigation expenses shall be paid in accordance with the terms of the Settlement. The  
27 Parties are to bear their own attorney's fees and costs except as otherwise provided in this  
28

*Rosaline  
Andre.*

PETRONELLI & HO LLP  
295 REDONDO AVENUE, SUITE 201  
LONG BEACH, CA 90803

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\$ 7,500.00

1 paragraph. The Court further approves payment of service awards in an amount of ~~\$12,500~~ to  
2 Loren Cash and ~~\$12,500~~ to Arriane Henryhand in recognition of their services on behalf of the  
3 Class in this Action which are in addition to their payment as participating claimants. The  
4 service awards shall be paid in accordance with the terms of the Settlement.

5 8. The Court further approves payment as and for the PAGA recovery in the  
6 amount of \$75,000.00 of which 75% (\$56,250.00) shall be forwarded to the Labor and  
7 Workforce Development Agency ("LWDA"), and of which the remaining 25% (\$18,750) shall  
8 be distributed to the Class as provided in the Settlement Agreement.

9 9. The Court approves the payment of Claims Administrator's expenses of \$30,000  
10 from the Gross Settlement Amount to Atticus Administration.

11 10. The Court approves the payments to Participating Class Members according to  
12 the terms set forth in the Settlement and in accordance with the terms of the Settlement. All  
13 payroll taxes are to be paid by the Claims Administrator in accordance with the terms of the  
14 Settlement Agreement, and paid not later than the time specified by law or agency regulation.

15 11. The Court in its discretion approves the payment of the amount of any settlement  
16 funds from the California Released Claims that has not been claimed, including any uncashed  
17 checks and funds not paid because class members did not provide a social security number,  
18 pursuant to Code of Civil Procedure section 384 as follows:

- 19 a. By April 22, 2019, ~~2018~~, the parties shall report to the court the  
20 total amount of the Settlement that was actually paid to the class members.
- 21 b. **California Class:** After the report is received, the Court will amend this  
22 judgment to direct the defendant to pay the unpaid residue or unclaimed or  
23 abandoned Class member funds for the Class members for which there remain  
24 uncashed checks and the Class Member funds for which the Claims  
25 Administrator did not receive Social Security Numbers, plus interest on that sum  
26 at the legal rate of interest from the date of entry of the initial judgment, to the  
27 Wage Justice Center (a member of The Legal Aid Association of California),  
28 located at 3250 Wilshire Blvd., 13th Fl., Los Angeles, California, 90010. These

PETRONELLI & HO LLP  
295 REDONDO AVENUE, SUITE 201  
LONG BEACH, CA 90803

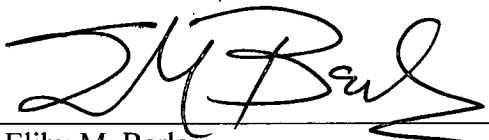
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1 funds are to be paid to the Wage Justice Center within 15 days of entry of the  
2 Court's Amended Judgment.

3 c. **Collective Class:** All Collective Member funds for which the Settlement  
4 Administrator did not receive Social Security numbers shall be distributed  
5 pursuant to the formula in the Settlement.

6 12. Without affecting the finality of the Final Order for purposes of appeal, the Court  
7 reserves jurisdiction over the Parties as to all matters relating to the administration,  
8 consummation, enforcement, and interpretation of the terms of the Settlement Agreement and  
9 the Final Order and for any other necessary purposes.

10  
11 **IT IS SO ORDERED.**

12  
13 Dated: August 20, 2018   
14 Hon. Elishu M. Berle  
15 Los Angeles County Superior Court Judge

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295 REDONDO AVENUE, SUITE 201  
LONG BEACH, CA 90803

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**PROOF OF SERVICE**

**Loren Cash and Arriane Henryhand v. Costco Wholesale Corporation, et al.**

**(Costco Wage & Hour Cases)**

Los Angeles County Superior Court, Coordination Proceeding, Case No.: JCCP4871

I, Jennifer Reyes, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is 295 Redondo Ave., Suite 201, Long Beach, CA 90803. On August 13, 2018, I served the within document(s):

**[PROPOSED] ORDER GRANTING MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND ATTORNEY'S FEES, COSTS, AND CLASS REPRESENTATIVE ENHANCEMENT PAYMENT**

**ELECTRONIC SERVICE: By transmitting the document(s) listed above to counsel of record listed below via Case Anywhere, pursuant to the Court's Order regarding electronic service.**

David D. Kadue David D. Jacobson SEYFARTH SHAW LLP 2029 Century Park East, Suite 3500 Los Angeles, California 90067 <i>Counsel for Defendant Costco Wholesale Corporation</i>	Jack S. Sholkoff OGLETREE, DEAKINS, et al., P.C. 400 South Hope Street, Suite 1200 Los Angeles, CA 90071 <i>Counsel for Morgan &amp; Sampson, Inc.</i>
Jacob George Sang J. Park MATHEW & GEORGE 500 South Grand Avenue, Suite 1490 Los Angeles, CA 90071 <i>Counsel for Plaintiffs</i>	Shaun Setareh Thomas Segal SETAREH LAW GROUP 9454 Wilshire Boulevard, Suite 907 Beverly Hills, California 90212 <i>Counsel for Plaintiffs</i>

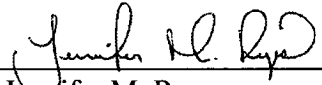
**EXPRESS U.S. MAIL: Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Long Beach, California, with Express Mail postage paid.**

Francisco Cabada CABADA & HAMEED LLP 1055 East Colorado Blvd., Suite 500 Pasadena, CA 91106 <i>Attorneys for Defendant Smart-Professionals, LLC</i>	
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PETRONELLI & HO LLP  
295 REDONDO AVE., SUITE 201  
LONG BEACH, CA 90803

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1 I declare under penalty of perjury under the laws of the State of California that the above is  
2 true and correct. Executed on August 13, 2018, at Long Beach, California.

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6 Jennifer M. Reyes  
7 Paralegal  
8 PETRONELLI & HO LLP  
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10 Attorneys for Defendant  
11 AMAZON.COM SERVICES, LLC

12 UNITED STATES DISTRICT COURT  
13 EASTERN DISTRICT OF CALIFORNIA  
14

15 MICHELLE RIZVANOVIC, individually  
and on behalf of other persons similarly  
16 situated,

17 Plaintiff,

18 v.

19 AMAZON.COM SERVICES, LLC, a  
Delaware limited liability corporation, and  
20 DOES 1 through 10, inclusive,

21 Defendants.  
22

Case No.

**DECLARATION OF WALTER F.  
BROWN IN SUPPORT OF  
DEFENDANT AMAZON.COM  
SERVICES, LLC'S NOTICE OF  
REMOVAL OF CLASS ACTION**

[Removal from the Superior Court of  
California, County of Kern, Case No.  
BCV-21-102647]

Complaint Filed: November 4, 2021

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1 I, Walter F. Brown, 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  
4 a partner at the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP, and am one of the  
5 attorneys representing Amazon.com Services, LLC (“Amazon”) in the above-entitled action.  
6 Unless otherwise stated, I have personal knowledge of the matters stated herein, and if asked to  
7 testify thereto, I would do so competently.

8 2. Attached hereto as **Exhibit A** is a true and correct copy of the Class Action  
9 Complaint in *Rizvanovic v. Amazon.com Services, LLC et al.*, Case No. BCV-21-102647, filed  
10 on November 4, 2021.

11 3. Attached hereto as **Exhibit B** is a true and correct copy of the Civil Cover Sheet  
12 in *Rizvanovic v. Amazon.com Services, LLC et al.*, Case No. BCV-21-102647, filed on  
13 November 4, 2021.

14 4. Attached hereto as **Exhibit C** is a true and correct copy of the Summons in  
15 *Rizvanovic v. Amazon.com Services, LLC et al.*, Case No. BCV-21-102647, filed on November  
16 15, 2021.

17 5. Attached hereto as **Exhibit D** is a true and correct copy of a Rejection and  
18 Correction Notice in *Rizvanovic v. Amazon.com Services, LLC et al.*, Case No. BCV-21-102647,  
19 entered on November 16, 2021.

20 6. Attached hereto as **Exhibit E** is a true and correct copy of the Notice of  
21 Assignment to Judge for All Purposes and Notice of Order to Show Cause re CRC Rule 3.110  
22 and Notice of Case Management Conference in *Rizvanovic v. Amazon.com Services, LLC et al.*,  
23 Case No. BCV-21-102647, entered on November 16, 2021.

24 7. Attached hereto as **Exhibit F** is a true and correct copy of the Proof of Service of  
25 Summons, filed on December 8, 2021 in *Rizvanovic v. Amazon.com Services, LLC et al.*, Case  
26 No. BCV-21-102647, and reflecting that Plaintiffs effected service of the Summons and Class  
27 Action Complaint on November 23, 2021.

28

1           8.       In accordance with 28 U.S.C. § 1446(a), Exhibits A–F constitute “all process,  
2 pleadings, and orders served upon” Amazon and otherwise filed or entered in the state court  
3 action.

4           I declare under penalty of perjury under the laws of the United States of America and the  
5 State of California that the foregoing is true and correct.

6           Executed on the 22nd of December, 2021 at San Francisco, California.

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*/s/ Walter F. Brown*  
\_\_\_\_\_  
Walter F. Brown

# **EXHIBIT A**

**ELECTRONICALLY FILED**  
**11/4/2021 2:43 PM**  
**Kern County Superior Court**  
**By Vickie Fogerson, Deputy**

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9 7545 Irvine Center Dr., Suite 200  
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11 Telephone: (949) 954-8181  
12 Facsimile: (949) 335-6106

13 Attorneys for Plaintiff  
14 MICHELLE RIZVANOVIC

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
16 **FOR THE COUNTY OF KERN**

17 MICHELLE RIZVANOVIC, individually  
18 and on behalf of all other persons similarly  
19 situated,

20 Plaintiff,

21 vs.

22 AMAZON.COM SERVICES, LLC, a  
23 California limited liability company and  
24 DOES 1 through 10, inclusive,

25 Defendants.

Case No.: **BCV-21-102647**

**CLASS ACTION COMPLAINT**

- (1) Disability Discrimination (Government Code § 12940(a));
- (2) Failure to Prevent Discrimination (Government Code § 12940(k));
- (3) Failure to Provide a Reasonable Accommodation (Government Code §12940(m));
- (4) Failure to Provide a Timely, Good Faith, Interactive Process (Government Code § 12940(n));
- (5) Retaliation in Violation of the Fair Employment and Housing Act (“FEHA”) (Government Code § 12940(h));
- (6) Retaliation and Wrongful Termination in Violation of Public Policy; and
- (7) Unfair Business Practices (Business & Professions Code §§ 17200 *et seq.*).

**DEMAND FOR JURY TRIAL**

1 Plaintiff MICHELLE RIZVANOVIC (hereinafter “Plaintiff”), individually and on behalf of  
2 all other persons similarly situated, alleges as follows:

3 **JURISDICTION AND VENUE**

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

9 2. This Court has jurisdiction over this action pursuant to the California Constitution,  
10 Article VI § 10, which grants the Superior Court “original jurisdiction in all causes except those  
11 given by statute to other courts.” The statutes under which this action is brought do not specify any  
12 other basis for jurisdiction.

13 3. This Court has jurisdiction over all Defendants because, upon information and belief,  
14 each party is either a citizen of California, has sufficient minimum contacts in California, or  
15 otherwise intentionally avails itself of the California market so as to render the exercise of  
16 jurisdiction over it by the California courts consistent with traditional notions of fair play and  
17 substantial justice.

18 4. Venue is proper in this Court because, upon information and belief, one or more of  
19 the named Defendants reside, transact business, or have offices in this county and the acts and  
20 omissions alleged herein took place in this county.

21 5. Plaintiff timely provided notice to the California Labor Workforce Development  
22 Agency (“LWDA”) and to Defendants, pursuant to California Labor Code § 2699.3(a). Therefore,  
23 Plaintiff may proceed with this action for penalties pursuant to California Labor Code § 2698, *et seq.*

24 **PARTIES**

25 6. Plaintiff is, and at all relevant times was, a citizen of the state of California.

26 7. Plaintiff reserves the right to seek leave to amend this complaint to add new plaintiffs,  
27 if necessary, in order to establish suitable representative(s) pursuant to *La Sala v. American Savings*  
28 *and Loan Association*, 5 Cal. 3d 864, 872 (1971), and other applicable law.

1           8. Defendant AMAZON.COM SERVICES, LLC (“AMAZON” or “Defendant”) was  
2 and is, upon information and belief, a California corporation and a California limited liability  
3 company. At all times hereinafter mentioned, Defendant was an employer whose employees were  
4 engaged throughout this county and the State of California.

5           9. Plaintiff does not know the true names or capacities of the persons or entities sued as  
6 DOES 1 to 10, inclusive, and therefore sues them by such fictitious names. Each of the DOE  
7 Defendants was in some manner legally responsible for the violations alleged. Plaintiff will amend  
8 this complaint to set forth the true names and capacities of these Defendants when they have been  
9 ascertained, together with appropriate charging allegations, as may be necessary.

10          10. At all times, the Defendants named as DOES 1 to 10, inclusive, and each of them,  
11 were residents of, doing business in, availed themselves of the jurisdiction of, and/or injured Plaintiff  
12 and aggrieved employees in the State of California.

13          11. At all times, each Defendant was the agent, servant, or employee of the other  
14 Defendants and, in acting and omitting to act as alleged herein, acted within the course and scope of  
15 that agency or employment.

16          12. Defendant AMAZON and DOES 1 to 10 are collectively referred to herein as  
17 “Defendants.”

#### 18    **JOINT LIABILITY**

19          13. Unless otherwise indicated herein, each Defendant herein sued is the agent, co-  
20 conspirator, joint venture, general employer, special employer, dual employer, partner, and/or  
21 employee of every other Defendant and, as alleged, has been acting within the course and scope of  
22 said agency, conspiracy, joint venture, dual employment, joint employment, partnership, and/or  
23 employment with the knowledge and/or consent of co-Defendants, and each of them. Moreover,  
24 Plaintiff is informed and believes, and thereon alleges, that each Defendant has authorized and/or  
25 ratified the wrongful activities of each of the remaining Defendants.

#### 26    **CORPORATE LIABILITY FOR PUNITIVE DAMAGES**

27          14. Defendants’ conduct, as described herein, was malicious, fraudulent, oppressive,  
28 mean, vile, despicable, and in conscious disregard of Plaintiff’s rights and was undertaken by its

1 officers, directors, and/or managing agents, and/or pursuant to policies and procedures adopted by  
2 its officers, directors, and/or managing agents as those terms are used in Civil Code, §§ 3294 and  
3 3295 for purposes of establishing corporate liability for punitive damages. Further, Defendants had  
4 advance knowledge of the malicious, fraudulent, and/or oppressive activities of the individual  
5 perpetrators whose actions and conduct were authorized, approved, and/or ratified by Defendants’  
6 directors, officers, and/or managing agents.

7 **FACTS COMMON TO ALL CAUSES OF ACTION**

8 15. Plaintiff worked for Defendants as an Account Executive from November 24, 2020  
9 to December 30, 2020.

10 16. AMAZON.COM SERVICES, LLC is a multinational technology company with a  
11 multitude of business offerings, including e-commerce and commercial delivery and distribution.

12 17. Defendants employed Plaintiff as a Fulfillment Associate. Plaintiff earned \$15 per  
13 hour and worked at Defendants’ fulfillment center located at 1601 Petrol Road in Bakersfield,  
14 California.

15 18. Defendants hired Plaintiff to work on a “Reduced Time” schedule, which Defendants  
16 classified as a schedule consisting of thirty (30) to thirty-nine (39) hours per week.

17 19. Plaintiff was scheduled to work thirty (30) hours per week, consisting of six (6) hour  
18 shifts for five (5) days per week. Plaintiff was informed her position included working mandatory  
19 overtime hours.

20 20. Plaintiff’s role as a Fulfillment Associate was to assist in processing, packaging, and  
21 shipping items and her duties included, but were not limited to, locating, receiving, storing, checking,  
22 transporting, and arranging packages and items going in and out of Defendants’ fulfillment center.

23 21. Upon initial hire, Plaintiff notified a representative at Defendant’s human resources  
24 department that she suffers from osteoporosis in her ankles and legs and has stress fractures in both  
25 feet, causing pain during certain activities, such as excessive walking and standing for prolonged  
26 periods of time. Plaintiff further explained to human resources personnel that she would not know  
27 how her body was going to react until she performed the work duties.  
28



1           22.     On October 30, 2020, which was Plaintiff’s second day of work, Plaintiff began  
2 feeling pain and discomfort during her shift. Around four (4) to five (5) hours into her shift,  
3 Plaintiff’s pain became unbearable and Plaintiff’s feet began to swell.

4           23.     Plaintiff realized she would not be able to perform any overtime work due to the pain  
5 and discomfort she felt towards the end of her six (6) hour shift. Plaintiff informed human resources  
6 personnel that she would not be able to work any overtime and could not stand in place for prolonged  
7 periods of time. Plaintiff was told she would need to submit a doctor’s note requesting specific  
8 restrictions and/or limitations.

9           24.     Plaintiff was able to perform the functions of her job, but needed accommodations to  
10 her work schedule to minimize and/or prevent aggravation of her medical condition.

11           25.     On October 31, 2020, Plaintiff requested an accommodation via Amazon’s online  
12 employee portal.

13           26.     On November 3, 2020, Plaintiff visited her primary care physician and was referred  
14 to a podiatrist.

15           27.     Plaintiff scheduled the first available appointment and met with her podiatrist on  
16 November 5, 2020.

17           28.     Plaintiff’s podiatrist submitted Plaintiff’s accommodation request to Defendants via  
18 fax on November 9, 2020. The doctor’s note requested her duties be modified to accommodate her  
19 limitations on performing manual tasks, walking, standing, and working due to her immune system,  
20 osteoarthritis, and chronic joint pain related to Lupus. Plaintiff’s doctor filled out Defendants’ form  
21 titled “Healthcare Provider Questionnaire for Employee Accommodation Request” and stated  
22 Plaintiff’s schedule needed to be limited to six (6) hours of standing and walking per day, no more  
23 than twenty-five (25) hours per week, and no standing in place for more than fifteen (15) minutes.

24           29.     On November 9, 2020, Plaintiff received an e-mail from Defendants stating the  
25 Company had received her accommodation request and that she would be receiving a phone call in  
26 the next few business days. Plaintiff received no such call.

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1           30.     Due to Plaintiff's possible exposure to someone with Covid-19, Plaintiff took a test  
2 and tested negative for Covid-19. However, Defendants instructed Plaintiff to quarantine and told  
3 Plaintiff she could return to work on November 21, 2020.

4           31.     During the entire time Plaintiff was out on quarantine, Plaintiff called Defendants'  
5 disability and leave services department every work day in an attempt to follow up on her  
6 accommodation request. Plaintiff was repeatedly told that her request was being escalated to a  
7 manager, but Plaintiff received no response.

8           32.     Accordingly, as a single parent, Plaintiff needed income and had no option at the time  
9 other than to return to work on November 21, 2020 without an accommodation. By the end of  
10 Plaintiff's six (6) hour shift, she was in a tremendous amount of pain and had severely swollen feet.  
11 Plaintiff struggled to walk to her car after her shift. That night, Plaintiff could not walk without  
12 experiencing a great deal of pain and could not complete basic household chores.

13           33.     On November 22, 2020, Plaintiff again called Defendants and asked about the status  
14 of her accommodation request to no avail. Plaintiff was still limping and could barely put weight on  
15 her right foot. At about the fifth hour of her scheduled shift without an accommodation, Plaintiff  
16 could not tolerate the pain any longer. She limped her way to Human Resources and informed them  
17 that she needed to leave an hour early due to her pain. Plaintiff informed Defendants that she was in  
18 severe pain because she was being forced to work without an accommodation. Plaintiff again told  
19 Defendants that she had requested an accommodation on October 31, 2020 and had not received a  
20 response.

21           34.     On November 23, 2020, Plaintiff, once again, had no option but to go to work without  
22 an accommodation. As Plaintiff's condition had worsened, Plaintiff went to work with an orthotic  
23 boot on her right foot. When Plaintiff proceeded to enter the fulfillment center, Plaintiff was stopped  
24 by Defendants' security as her ID badge did not work. The security guard informed Plaintiff that her  
25 ID badge was inactive and that she would need to wait outside for a human resources representative.  
26 After waiting for over an hour outside, a human resources representative informed Plaintiff that she  
27 was suspended without pay until Defendants could resolve her request for accommodation. The  
28 representative told Plaintiff that she could not come back to work because she could get injured.

1 Plaintiff responded that it was already too late for that and showed the representative the orthotic  
2 boot she was wearing.

3 35. On November 23, 2020, Plaintiff filed a Complaint with the California Department  
4 of Fair Employment and Housing for discrimination based on disability and medical condition.

5 36. On November 24, 2020, Plaintiff received a missed call from Yaneisy Belette  
6 (“Belette”), who left a message stating she would be Plaintiff’s case manager in charge of handling  
7 Plaintiff’s accommodation request. Plaintiff called Belette multiple times throughout the day but  
8 could not get a hold of her.

9 37. On November 26, 2020, Plaintiff e-mailed Belette explaining that Plaintiff had tried  
10 to get a hold of Yaneisy on multiple occasions, that Defendants had not responded to her  
11 accommodation requests, and that due to working without an accommodation, Plaintiff’s feet were  
12 severely swollen to a point where she could not walk or provide basic care for herself and her child.  
13 Belette responded to Plaintiff’s e-mail stating Plaintiff’s case was pending. Plaintiff responded to  
14 that e-mail, asking Belette how Defendants could be attempting to accommodate her without anyone  
15 having even talked to Plaintiff.

16 38. Shortly thereafter on November 26, 2020, Belette called Plaintiff and was able to get  
17 a hold of Plaintiff. Belette informed Plaintiff that her only option was to take a leave of absence.  
18 Plaintiff responded by saying she did not need to take a leave of absence, but rather needed an  
19 accommodation to continue working. Plaintiff explained to Belette that her medical condition started  
20 causing her too much pain around the fourth (4<sup>th</sup>) to fifth (5<sup>th</sup>) hour of her shift and that Plaintiff  
21 needed modifications to her work schedule.

22 39. On November 26, 2020, instead of addressing Plaintiff’s accommodation request,  
23 Defendants placed Plaintiff on a leave of absence, against Plaintiff’s will or consent, and placed  
24 Plaintiff on a leave of absence retroactively from November 23, 2020 to December 14, 2020.

25 40. On November 28, 2020, Defendants sent Plaintiff an e-mail stating Plaintiff had  
26 requested a leave of absence, and Plaintiff needed to have her doctor submit another medical packet  
27 to Defendants. Plaintiff immediately replied to Defendants’ e-mail, stating she did not request a leave  
28 of absence, was fit for work, and the leave of absence needed to be cancelled.

1           41.     On November 28, 2020, Plaintiff received a call from Belette informing Plaintiff that  
2 Defendants were offering Plaintiff a temporary accommodation as a Social Distancer, which,  
3 ironically, involved walking the length of the fulfillment center throughout the entirety of the shift,  
4 reminding employees to socially distance. Defendants knew or should have known that Plaintiff was  
5 fully capable of performing the duties of her position at the time, which was removing packages  
6 from the assembly line on the dock and placing them on pallets, and only need her schedule to be  
7 shortened. Instead, Defendants offered to change her position to a temporary “light duty” position  
8 that involved the same number of hours worked and involved standing and walking for the entirety  
9 of her unmodified work shift. Plaintiff informed Belette that she did request and did not need a  
10 temporary change of position, but rather needed an accommodation. During that phone call with  
11 Belette, Plaintiff reiterated that she needed to have her shifts limited to four (4) to five (5) hour shifts  
12 instead of the schedule six (6) hour shifts due to the pain and swelling she felt at around the fourth  
13 (4<sup>th</sup>) to fifth (5<sup>th</sup>) hour of work. Belette informed Plaintiff that this would be her accommodation until  
14 Defendants could figure out a permanent accommodation. Belette further informed Plaintiff that  
15 Plaintiff needed to get another doctor’s note, despite Defendants having not accommodated  
16 Plaintiff’s original request for an accommodation.

17           42.     Plaintiff was then instructed by Defendants to return to work on November 29, 2020  
18 with a printed copy of Defendants’ e-mail stating Plaintiff was to be put on light duty.

19           43.     When Plaintiff reported to work on November 29, 2020, she was again denied access  
20 to Defendants’ building. Security again informed Plaintiff that she was suspended. Plaintiff left  
21 feeling extremely distraught, defeated, and aggravated.

22           44.     After receiving another e-mail from Defendants requesting documentation for  
23 Plaintiff’s unrequested leave of absence, Plaintiff contacted Defendants and spoke to Ashley Dixon  
24 (“Dixon”), who was overseeing Plaintiff’s leave of absence. Plaintiff informed Dixon that Belette  
25 had requested Plaintiff’s leave of absence without Plaintiff’s consent, that Plaintiff had instead  
26 requested an accommodation, and that Plaintiff was ready and willing to work. Plaintiff requested  
27 her leave of absence be cancelled.

28           45.     On December 1, 2020, Plaintiff received an e-mail from Dixon stating Defendants

1 had received Plaintiff's request for a leave of absence on November 27, 2020 and that as of December  
2 1, 2020, her leave of absence was cancelled.

3 46. Later that day, Belette called Plaintiff and berated Plaintiff for cancelling her leave  
4 of absence. Belette yelled at Plaintiff and informed Plaintiff that she could lose her job if she did not  
5 take a leave of absence. Belette continued to speak for and on behalf of Plaintiff regarding Plaintiff's  
6 own disability and medical condition and stated that it was not safe for Plaintiff to work and that  
7 Plaintiff was not fit for work, when Plaintiff expressly and repeatedly informed Defendants that she  
8 was fit and ready to work. Plaintiff again reminded Belette that she was fit and willing to work and  
9 could not afford to go without a paycheck until December 14, 2020. Plaintiff told Belette that she  
10 feels like she is being punished for requesting a reasonable accommodation and asked Belette to stop  
11 bullying her into taking a leave of absence when she did not want or need a leave of absence.

12 47. On December 1, 2020, Plaintiff again visited her podiatrist in order to get a new  
13 doctor's note as per Defendants' request. Plaintiff's podiatrist modified Plaintiff's original doctor's  
14 note to include a limitation of four (4) to five (5) hour shifts, a limitation of twenty (20) hours per  
15 week on staggered days (i.e., not consecutive days), and no standing in place for more than fifteen  
16 (15) minutes. Plaintiff's doctor's note was uploaded to Defendants' employee portal on December  
17 1, 2020.

18 48. Shortly after uploading the doctor's note, Plaintiff contacted Belette, informed Belette  
19 that she had uploaded the modified doctor's note, and asked if she could go to work for her evening  
20 shift. Belette told Plaintiff that she could not go into work because Defendants had to now address  
21 Plaintiff's newly submitted doctor's note.

22 49. On December 1 and 2, 2020, Plaintiff did not report to work as she was explicitly  
23 instructed by Belette to not go to work until Defendants had addressed Plaintiff's accommodation  
24 request.

25 50. On December 3, 2020, Defendants sent Plaintiff an "Amazon Job Abandonment  
26 Notice" e-mail stating she had missed two (2) consecutive shifts of work and that if she did not return  
27 to work, Plaintiff's position would be considered abandoned. Plaintiff immediately contacted  
28 Defendants and explained that Plaintiff had been instructed not to work. Defendants once again

1 informed Plaintiff that she had to take a leave of absence or Defendants' system would assume she  
2 had quit her job.

3 51. On December 3, 2020, Belette's supervisor, Nancy Rowland ("Rowland"), contacted  
4 Plaintiff and stated she would e-mail Plaintiff her contact information and handle the job  
5 abandonment issue. Plaintiff never received such an e-mail from Rowland. Plaintiff reached out to  
6 Defendants that afternoon to try to get in touch with Rowland, but Defendants did not give Plaintiff  
7 Rowland's contact information.

8 52. On December 4, 2020, Plaintiff received another e-mail from Defendants stating  
9 Plaintiff had missed three (3) days of work and would begin termination proceedings. Plaintiff again  
10 contacted Defendants and Defendants told Plaintiff she would need to return to work in order to  
11 avoid termination.

12 53. On December 4, 2020, Plaintiff reported to work for her scheduled shift and took with  
13 her the original doctor's note and the new doctor's note. Plaintiff clocked in and reported to her  
14 supervisor. Plaintiff explained to her supervisor that she had been assigned to work without any  
15 accommodations and had only been offered a temporary assignment as a Social Distancer. Plaintiff  
16 and her supervisor both agreed that she should work her current position, as working as a Social  
17 Distancer and walking the length of the building throughout her shift would be harder on her legs  
18 and feet. Plaintiff informed her supervisor that she would need to end her shift around the four (4)  
19 to five (5) hour mark as per her doctor's note because that is around the time her feet start to swell  
20 and when she starts to experience extreme pain and discomfort. After four-and-a-half (4.5) hours of  
21 working, Plaintiff informed her supervisor that she was leaving and clocked out. Plaintiff then  
22 reported to human resources that she was leaving early. A representative from human resources  
23 proceeded to yell at Plaintiff that she could not work until Defendants issued an accommodation that  
24 matched her doctor's note. The representative yelled at Plaintiff to not come back until Defendants  
25 had issued the proper accommodation. The representative told Plaintiff that her ID badge had been  
26 disabled and her timecard was locked.

27 54. On December 5, 2020, Plaintiff contacted Defendants and explained that she had been  
28 instructed not to come to work. Once again, Defendants stated someone would contact her.

1           55.     On December 11, 2020, Plaintiff was contacted by Luisa Alzaga (“Alzaga”) who  
2 stated she would be Plaintiff’s new point of contact. Alzaga told Plaintiff she would not receive any  
3 back pay for the days Plaintiff was forced to stay out of work and reprimanded Plaintiff for not  
4 having taken a leave of absence. Alzaga told Plaintiff that she would have been better off receiving  
5 sixty (60) percent of her pay while out on leave of absence. Again, Plaintiff disagreed and stated she  
6 did not need to take a leave of absence as she was ready, willing, and fit for duty.

7           56.     Later that day on December 11, 2020, Plaintiff received an e-mail from Alzaga,  
8 informing Plaintiff that Alzaga was “still waiting for a response from the site” and that Alzaga “resent  
9 the accommodation recommendation today.”

10          57.     After forty-one (41) days of not receiving a response to her accommodation request,  
11 continued insistence by Defendants that Plaintiff take a leave of absence, notices of termination for  
12 job abandonment juxtaposed with beratement for showing up to work, and prolonged suffering of  
13 financial hardship due to suspension without pay, it became abundantly clear to Plaintiff that  
14 Defendants had no intention of accommodating Plaintiff’s work schedule. Accordingly, on or before  
15 December 11, 2020, Plaintiff considered herself having been constructively terminated by  
16 Defendants.

17          58.     On December 11, 2020, Plaintiff sent an e-mail to Defendants stating that she had  
18 been effectively terminated by being in a state of limbo, without pay, while waiting for numerous  
19 employees from various departments to address her accommodation request only to repeatedly be  
20 given blanket excuses and canned responses.

21          59.     By implementing and enforcing a “no restrictions” policy on its employees,  
22 Defendants, as a matter of policy, forced and/or pushed its employees to take unpaid leave of  
23 absences instead of granting accommodations.

24          60.     Upon information and belief, Defendants retaliated against Plaintiff and others  
25 similarly situated for exercising rights under California’s Fair Employment Housing Act (“FEHA”),  
26 for insisting that their medical needs be accommodated, and/or for complaining about, reporting, or  
27 perceivably reporting Defendants’ discriminatory acts, by ignoring, delaying, or denying requests  
28 for accommodations, demoting, terminating, or constructively terminating the employment of

1 Plaintiff and others similarly situated.

2 61. By forcing Plaintiff and other aggrieved employees to take leave of absences and/or  
3 retaliating against Plaintiff and other aggrieved employees for exercising one or more rights afforded  
4 to them under FEHA, Defendants are in violation of, among others, Government Code §§ 12940(a),  
5 12940(h), 12940(k), 12940(m), and 12940(n).

6 **CLASS ACTION ALLEGATIONS**

7 62. Plaintiff brings this action individually, as well as on behalf of each and all other  
8 persons similarly situated in a concerted effort to improve wages and working conditions for other  
9 non-exempt and/or hourly employees, and thus seeks class certification under Code of Civil  
10 Procedure § 382.

11 63. All claims alleged herein for which Plaintiff seeks relief arise under California law  
12 and are authorized by California law.

13 64. The proposed Class consists of and is defined as:

14 All current and/or former non-exempt employees that worked for  
15 Defendants in California within four (4) years prior to the filing of  
16 this Complaint and had a disability or medical condition or were  
17 otherwise considered disabled under FEHA.

18 65. The proposed subclasses consist of and are defined as:

19 DISABILITY DISCRIMINATION SUBCLASS: All members of  
20 the Class who were subjected to unlawful discrimination based on a  
21 disability (actual or perceived) and/or medical condition (actual or  
22 perceived).

23 FAILURE TO PREVENT DISCRIMINATION SUBCLASS: All  
24 members of the Class who were subjected to unlawful discrimination  
25 based on a disability (actual or perceived) and/or medical condition  
26 (actual or perceived) and where Defendants were aware of and failed  
27 to prevent such discrimination.

28 FAILURE TO PROVIDE A REASONABLE ACCOMMODATION



1 SUBCLASS: All members of the Class who were subjected to  
2 Defendants' failure to provide reasonable accommodations for a  
3 disability (actual or perceived) and/or medical condition (actual or  
4 perceived).

5 FAILURE TO PROVIDE A TIMELY, GOOD FAITH

6 INTERACTIVE PROCESS SUBCLASS: All members of the Class  
7 who were subjected to Defendants' failure to provide a timely, good  
8 faith interactive process.

9 RETALIATION IN VIOLATION OF FEHA SUBCLASS: All  
10 members of the Class who were retaliated against for engaging in  
11 protected activity under FEHA.

12 RETALIATION IN VIOLATION OF PUBLIC POLICY

13 SUBCLASS: All members of the Class who were retaliated against  
14 for engaging in protected activity under state public policy.

15 66. Plaintiff reserves the right to establish additional subclasses as appropriate.

16 67. At all material times, Plaintiff was a member of the Class.

17 68. There is a well-defined community of interest in the litigation and the Class is  
18 readily ascertainable:

19 (a) Numerosity: The members of the class (and each subclass, if any) are so  
20 numerous that joinder of all members would be unfeasible and impractical.  
21 The membership of the entire class is unknown to Plaintiff at this time;  
22 however, the class is estimated to be greater than one hundred (100)  
23 individuals and the identity of such membership is readily ascertainable by  
24 inspection of Defendants' employment records.

25 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect  
26 the interests of each class member with whom there is a shared, well-defined  
27 community of interest. Plaintiff's claims (or defenses, if any) are typical of  
28 all Class members' as demonstrated herein.

1 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect  
2 the interests of each Class member with whom there is a shared, well-  
3 defined community of interest and typicality of claims, as demonstrated  
4 herein. Plaintiff acknowledges that Plaintiff has an obligation to make  
5 known to the Court any relationship, conflicts or differences with any Class  
6 member. Plaintiff's attorneys, the proposed Class counsel, are versed in the  
7 rules governing class action discovery, certification, and settlement.

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

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

21 69. There are common questions of law and fact as to the Class (and each subclass, if  
22 any) that predominate over questions affecting only individual members, including but not limited  
23 to:

- 24 (a) Whether Defendants knew of Plaintiff and Class members physical or  
25 medical condition;
- 26 (b) Whether Plaintiff and Class members were able to perform essential job  
27 duties;
- 28 (c) Whether Plaintiff and Class members were subjected to adverse employment

- 1 action;
- 2 (d) Whether Plaintiff and Class members physical or medical condition was a
- 3 substantial motivating reason for Defendants' adverse employment action;
- 4 (e) Whether Plaintiff and Class members requested that Defendant provide
- 5 reasonable accommodation for Plaintiff and Class members physical or
- 6 medical condition in order to perform essential job requirements;
- 7 (f) Whether Defendants failed to participate in a timely, good-faith interactive
- 8 process with Plaintiff and Class members to determine whether a reasonable
- 9 accommodation could be made;
- 10 (g) Whether Defendants failed to take all reasonable steps to prevent
- 11 harassment, discrimination, or retaliation; and
- 12 (h) The appropriate amount of damages, restitution, or monetary penalties
- 13 resulting from Defendants' violations of California law.

14 **FIRST CAUSE OF ACTION**

15 **Disability Discrimination (Government Code § 12940(a))**

16 **(Plaintiff and Class against all Defendants)**

17 70. Plaintiff incorporates all paragraphs above as though fully set forth herein.

18 71. At all times relevant, Plaintiff was an employee of Defendants, protected by  
19 Government Code § 12940(a), *et seq.*, which prohibits discrimination and harassment in  
20 employment on the basis of disability.

21 72. At all times material hereto, Defendants were employers within the meaning of  
22 California Government Code § 12926, and, as such, were prohibited from discriminating in regard  
23 to terms, conditions, or privileges of employment, including demotion decisions and terminations,  
24 on the basis of disability.

25 73. Plaintiff and the Class are disabled employees within the meaning of Government  
26 Code § 12940(a), *et seq.*

27 74. Plaintiff and the Class were subjected to unlawful discrimination based on a  
28 disability, including, but not limited to, the following: When Plaintiff and the Class requested a

1 reasonable accommodation, Defendants failed to provide a timely response to the point where  
2 Plaintiff and the Class suffered financial hardship, forced Plaintiff and the Class to take leaves of  
3 absence without their consent and urged them to take a leave of absence based on threats of  
4 termination and coercion of continued benefits, employment, and reduced pay, and/or suspended,  
5 terminated, constructively terminated her employment, and/or otherwise mistreated Plaintiff based  
6 on Plaintiff's disability.

7 75. Defendants knew or should have known of these and other discriminatory and  
8 harassing actions taken against Plaintiff and the Class.

9 76. Despite Defendants' actual and/or constructive knowledge of the above mentioned  
10 discrimination, they failed to take immediate and appropriate corrective action to stop the  
11 discrimination.

12 77. Plaintiff and the Class were discriminated against as a direct result of their disability.

13 78. Consequently, Plaintiff and the Class have thereby been subjected to discriminatory  
14 treatment and harassment by Defendants because of their disability, as discussed above, in violation  
15 of Government Code § 12940(a).

16 79. As a direct, foreseeable and proximate result of Defendants' behavior, Plaintiff and  
17 the Class have suffered, and continue to suffer, damages in an amount according to proof at trial.

18 80. Plaintiff and the Class are informed and believe, and thereon allege, that Defendants  
19 committed the acts described above deliberately, callously, maliciously, fraudulently and in an  
20 oppressive manner intended to injure Plaintiff and the Class and that such improper motives  
21 amounted to malice and a conscious disregard of their rights as set forth in Government Code §  
22 12940(a). An award of punitive damages against Defendants is therefore warranted.

23 81. As a result of the discriminatory conduct of Defendants, as alleged herein, Plaintiff,  
24 individually, and on behalf of Class members, is entitled to costs of suit, including reasonable  
25 attorneys' fees, in an amount according to proof at trial.

26 ///

27 ///

28

**SECOND CAUSE OF ACTION**

**Failure to Prevent Discrimination (Government Code § 12940(k))**

**(By Plaintiff and Class against all Defendants)**

82. Plaintiff incorporates all paragraphs above as though fully set forth herein.

83. Under Government Code § 12940(k), Defendants, at the time of the wrongful conduct against Plaintiff and the Class described herein, knew that it was an “unlawful employment practice,” against the law, and a disregard for their rights “for an employer... to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.”

84. Plaintiff and the Class were subjected to harassment and/or discrimination as set forth above based on their disability and/or medical condition.

85. Defendants were aware of this harassment and/or discrimination.

86. Defendants failed to conduct an adequate investigation in regards to said harassment and/or discrimination or to take any action whatsoever to eliminate or remedy that harassment and/or discrimination.

87. Therefore, Defendants failed to take reasonable steps to prevent Plaintiff and the Class from being unlawfully discriminated against and/or harassed.

88. As a direct, foreseeable and proximate result of Defendants’ actions and conduct, Plaintiff and the class have suffered and incurred, and continue to suffer and incur, substantial loss of earnings, bonuses, and other employment benefits, as well as losses incurred in seeking substitute employment, all to Plaintiff and the Class’ damage in an amount according to proof at trial.

89. As a further direct, foreseeable, and proximate result of Defendants’ actions, Plaintiff and the class have suffered and continue to suffer severe and lasting embarrassment, humiliation, and mental anguish, and other incidental and consequential damages and expenses, all to Plaintiff and the Class’ damages in an amount according to proof at trial.

90. Plaintiff and the Class are informed and believe, and thereon allege, that Defendants committed the acts described above deliberately, callously, maliciously, fraudulently and in an oppressive manner intended to injure Plaintiff and the Class and that such improper motives amounted to malice and a conscious disregard of their rights as set forth in Government Code §

1 12940(a). An award of punitive damages against Defendants is therefore warranted.

2 91. As a result of the discriminatory conduct of Defendants as alleged herein, Plaintiff,  
3 individually, and on behalf of Class members, is entitled to costs of suit, including reasonable  
4 attorneys' fees, pursuant to Government Code § 12965(b), in an amount according to proof at trial.

5 **THIRD CAUSE OF ACTION**

6 **Failure to Provide a Reasonable Accommodation (Government Code §12940(m))**

7 **(By Plaintiff and Class against all Defendants)**

8 92. Plaintiff incorporates all paragraphs above as though fully set forth herein.

9 93. At all times material hereto, Plaintiff and the Class were employees of Defendants  
10 and was covered and protected by California Government Code § 12940(m).

11 94. Under Government Code § 12940(m), Defendants, at the time of the wrongful  
12 conduct against Plaintiff and the Class described herein, knew that it was an “unlawful employment  
13 practice,” against the law, and a disregard of their rights “for an employer or other entity covered by  
14 this part to fail to make reasonable accommodation for the known physical or mental disability of an  
15 applicant or employee.”

16 95. Defendants, at the time of the wrongful conduct against Plaintiff and the Class  
17 described herein, knew or should have known, that under Government Code, Section 12926(n), 2  
18 Cal.C.Reg. § 7293.9 (a) and relevant case law, employers, who are aware of the employee’s  
19 disability or at least perceive a disability (disability including “any” limitation on a “major life  
20 activity” including work), have an “affirmative duty” to make “reasonable accommodations” for that  
21 employee which include, but are not limited to:

- 22 (a) A leave of absence [beyond the limits of those required under the CFRA];  
23 (b) Job restructuring;  
24 (c) Offering part-time or modified work schedules;  
25 (d) Preferential consideration in the reassignment of existing employees, [including  
26 the transferring or termination of harassers];  
27 (e) Reassigning to a vacant position;  
28 (f) Adjusting or modifying policies [including leave policies];

1 (g) Other similar accommodations for individuals with disabilities; and

2 (h) Transferring a harasser or otherwise stopping the harassment.

3 96. Plaintiff and the Class specifically requested accommodations on multiple occasions  
4 to no avail.

5 97. Plaintiff and the Class are informed and believe, and thereon allege, that Defendants  
6 committed the acts described above deliberately, callously, maliciously, fraudulently and in an  
7 oppressive manner intended to injure him and that such improper motives amounted to malice and a  
8 conscious disregard of his rights as set forth in Government Code § 12940(m). An award of punitive  
9 damages against Defendants is therefore warranted.

10 98. As a result of the discriminatory conduct of Defendants as alleged herein, Plaintiff,  
11 individually, and on behalf of Class members, is entitled to costs of suit, including reasonable  
12 attorneys' fees, in an amount according to proof at trial.

13 **FOURTH CAUSE OF ACTION**

14 **Failure to Provide a Timely, Good Faith, Interactive Process (Government Code § 12940(n))**

15 **(By Plaintiff and Class against all Defendants)**

16 99. Plaintiff incorporates all paragraphs above as though fully set forth herein.

17 100. At all times material hereto, Plaintiff and the Class were employees of Defendants  
18 and were covered and protected by California Government Code § 12940(n).

19 101. Under Government Code § 12940(n), Defendants, at the time of the wrongful conduct  
20 against Plaintiff and the Class described herein, knew that it was an “unlawful employment  
21 practice,” against the law, and a disregard for their rights “for an employer or other entity covered  
22 by this part to fail to engage in a timely, good faith, interactive process with the employee or  
23 applicant to determine effective reasonable accommodations, if any, in response to a request for  
24 reasonable accommodation by an employee or applicant with a known physical or mental disability  
25 or known medical condition.”

26 102. Defendants, at the time of the wrongful conduct against Plaintiff and the Class  
27 described herein, knew or should have known, of their right to a timely, good faith interactive  
28 process and to have their disabilities and/or perceived disabilities accommodated under Government

1 Code § 12940(n), which is a separate and distinct right and includes many potential “reasonable  
2 accommodations” for an employee’s disability and/or perceived disability.

3 103. Plaintiff and the Class repeatedly asked for an accommodation. Rather than  
4 accommodate their disability, Defendants failed to timely provide Plaintiff and the Class with a  
5 reasonable accommodation, forced and/or coerced Plaintiff and the Class into taking an unwanted  
6 leave of absence, harassed Plaintiff and the Class about not taking and/or keeping their unwanted  
7 leaves of absence, kept Plaintiff and the Class out of work for prolonged periods of time, and  
8 constructively terminated Plaintiff and the Class’ employment based, in substantial part, on Plaintiff  
9 and the Class’ inability to work without an accommodation due to their physical disability.

10 104. Plaintiff and the class are informed and believe, and thereon allege, that Defendants  
11 committed the acts described above deliberately, callously, maliciously, fraudulently and in an  
12 oppressive manner intended to injure Plaintiff and the Class and that such improper motives  
13 amounted to malice and a conscious disregard of their rights as set forth in Government Code §  
14 12940(n). An award of punitive damages against Defendants is therefore warranted.

15 105. As a result of the discriminatory conduct of Defendants as alleged herein, Plaintiff,  
16 individually, and on behalf of Class members, is entitled to costs of suit, including reasonable  
17 attorneys’ fees, in an amount according to proof at trial.

18 **FIFTH CAUSE OF ACTION**

19 **Retaliation in Violation of the Fair Employment and Housing Act (“FEHA”)**

20 **(Government Code § 12940(h))**

21 **(By Plaintiff and Class against all Defendants)**

22 106. Plaintiff incorporates all paragraphs above as though fully set forth herein.

23 107. Under Government Code § 12940(h), Defendants, at the time of the wrongful conduct  
24 against Plaintiff and the Class described herein, knew that it was an “unlawful employment  
25 practice,” against the law, and a disregard for their rights “[f]or an employer... to discharge, expel,  
26 or otherwise discriminate against any person because the person has opposed any practices  
27 forbidden under [Government Code § 12940]...”

28 108. At all times material hereto, Defendants were prohibited from discriminating against



1 employees who oppose practices forbidden by FEHA.

2 109. Defendants retaliated against Plaintiff and the Class based on their actual and/or  
3 perceived disabilities.

4 110. Additionally, Defendants retaliated against Plaintiff and the Class because they  
5 opposed Defendants' discrimination and harassment of Plaintiff and the Class based on their actual  
6 and/or perceived disabilities.

7 111. Specifically, shortly after Plaintiff requested an accommodation, complained about  
8 Defendant's lack of providing a reasonable accommodation, and filed a Complaint with the  
9 California Department of Fair Employment and Housing for discrimination, Defendants gave  
10 Plaintiff the runaround for over one (1) month, forced and/or coerced Plaintiff into taking an  
11 unwanted leave of absence, harassed Plaintiff about not taking and/or keeping her unwanted leave  
12 of absence, kept Plaintiff out of work for prolonged periods of time, and constructively terminated  
13 Plaintiff's employment. Upon information and belief, Defendants similarly retaliated against Class  
14 members because they opposed Defendants' discrimination and harassment based on actual and/or  
15 perceived disabilities.

16 112. Such conduct as described herein violates Government Code § 12940(h), which  
17 makes it unlawful to discharge, expel, or otherwise discriminate against an employee because the  
18 employee has opposed discriminatory and/or harassing practices.

19 113. As a direct and proximate result of Defendants' conduct, Plaintiff and the Class have  
20 suffered special damages in the form of lost earnings, benefits and/or out of pocket expenses in an  
21 amount according to proof at the time of trial. As a further direct and proximate result of  
22 Defendants' conduct, Plaintiff and the Class will suffer additional special damages in the form of  
23 lost future earnings, benefits and/or other prospective damages in an amount according to proof at  
24 the time of trial.

25 114. As a further direct and proximate result of these Defendants' conduct, Plaintiff and  
26 the Class have suffered embarrassment, humiliation, mental and emotional pain and distress and  
27 discomfort, all to his detriment and damage in amounts not fully ascertained but within the  
28 jurisdiction of this court and subject to proof at the time of trial.

1 115. Plaintiff and the Class are informed and believe, and thereon allege, that Defendants  
2 committed the acts described above deliberately, callously, maliciously, fraudulently and in an  
3 oppressive manner intended to injure him and that such improper motives amounted to malice and  
4 a conscious disregard of his rights as set forth in Government Code § 12940(k). An award of  
5 punitive damages against Defendants is therefore warranted.

6 116. As a result of the discriminatory conduct of Defendants as alleged herein, Plaintiff,  
7 individually, and on behalf of Class members, is entitled to costs of suit, including reasonable  
8 attorneys' fees, in an amount according to proof at trial.

9 **SIXTH CAUSE OF ACTION**

10 **Retaliation and Wrongful Termination in Violation of Public Policy**

11 **(By Plaintiff and Class against all Defendants)**

12 117. Plaintiff incorporates all paragraphs above as though fully set forth herein.

13 118. At all times material hereto, Plaintiff and the Class were employees of Defendants.

14 119. At all times material hereto, the following statute was in full force and effect and  
15 delineated fundamental, substantial, and well-established policies that benefit the public at large  
16 rather than private interests and were binding upon Defendants at the time of Plaintiff's  
17 employment:

- 18 • **Cal. Gov. Code § 12940, *et seq.*** embodies a fundamental state public policy  
19 and prohibits harassment, discrimination, retaliation, and failure to prevent  
20 discrimination based on disability.

21 120. Defendants further violated the law and the well-settled public policy set forth in Cal.  
22 Gov. Code § 12940(a), *et seq.*, by harassing, discriminating against, retaliating against, failing to  
23 prevent discrimination, retaliation, and harassment, and by ultimately suspending and/or placing in  
24 an inferior position Plaintiff and the Class' employment based on Plaintiff and the Class' disability.

25 121. Defendants acted with malice, oppression, and fraud and in conscious disregard for  
26 Plaintiff and the Class's rights under the law, by retaliating against Plaintiff and the Class'  
27 employment in contravention of the public policies set forth therein.

28 122. As a direct, foreseeable and proximate result of Defendants' behavior, Plaintiff and

1 the Class have suffered, and continues to suffer, damages in an amount according to proof at trial.

2 123. Plaintiff and the Class are informed and believe, and thereon allege, that Defendants  
3 committed the acts described above deliberately, callously, maliciously, fraudulently and in an  
4 oppressive manner intended to injure him and that such improper motives amounted to malice and  
5 a conscious disregard of his rights. Pursuant to Civil Code § 3294, an award of punitive damages  
6 against Defendants is therefore warranted.

7 124. As a result of the illegal conduct of Defendants, as alleged herein, Plaintiff,  
8 individually, and on behalf of Class members, is entitled to costs of suit, including reasonable  
9 attorneys' fees, in an amount according to proof at trial.

10 **SEVENTH CAUSE OF ACTION**

11 **Unfair Business Practices (Business & Professions Code § 17200, *et seq.*)**

12 **(By Plaintiff and Class against all Defendants)**

13 125. Plaintiff incorporates all paragraphs above as though fully set forth herein.

14 126. Defendants, and each of them, are "persons" as defined under Business & Professions  
15 Code § 17021.

16 127. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,  
17 unlawful, and harmful to Plaintiff, Class members, and to the general public. Plaintiff and the Class  
18 seek to enforce important rights affecting the public interest within the meaning of Code of Civil  
19 Procedure § 1021.5.

20 128. Defendants' activities, as alleged herein, are violations of California law, and  
21 constitute unlawful business acts and practices in violation of California Business & Professions  
22 Code § 17200, *et seq.*, by providing Defendants with an unfair competitive advantage over employers  
23 who comply with FEHA and other California law.

24 129. A violation of California Business & Professions Code § 17200, *et seq.* may be  
25 predicated on the violation of any state or federal law. All of the acts described herein as violations  
26 of, among other things, the California Labor Code, the California Government Code, and Industrial  
27 Welfare Commission Wage Orders, are unlawful and in violation of public policy; and in addition  
28 are immoral, unethical, oppressive, fraudulent and unscrupulous, and thereby constitute unfair,

1 unlawful and/or fraudulent business practices in violation of California Business and Professions  
2 Code § 17200, *et seq.*

3  
4 **Disability Discrimination**

5 130. Defendants' discrimination based on disability in violation of Government Code §  
6 12940(a), as alleged above, constitutes unlawful and/or unfair activity prohibited by Business and  
7 Professions Code § 17200, *et seq.*

8 **Failure to Prevent Discrimination**

9 131. Defendants' failure to prevent discrimination and/or harassment in violation of  
10 Government Code § 12940(k), as alleged above, constitutes unlawful and/or unfair activity  
11 prohibited by Business and Professions Code § 17200, *et seq.*

12 **Failure to Provide a Reasonable Accommodation**

13 132. Defendants' failure to provide a reasonable accommodation in violation of  
14 Government Code § 12940(m), as alleged above, constitutes unlawful and/or unfair activity  
15 prohibited by Business and Professions Code § 17200, *et seq.*

16 **Failure to Provide a Timely, Good Faith, Interactive Process**

17 133. Defendants' failure to provide a timely, good faith, interactive process in violation of  
18 Government Code § 12940(n), as alleged above, constitutes unlawful and/or unfair activity  
19 prohibited by Business and Professions Code § 17200, *et seq.*

20 **Retaliation in Violation of FEHA**

21 134. Defendants' retaliation against employees for engaging in protected activity in  
22 violation of Government Code § 12940(h), as alleged above, constitutes unlawful and/or unfair  
23 activity prohibited by Business and Professions Code § 17200, *et seq.*

24 135. By and through their unfair, unlawful and/or fraudulent business practices described  
25 herein, Defendants have obtained valuable property, money and/or services from Plaintiff and the  
26 Class, and all persons similarly situated, and have deprived Plaintiff and the Class, and all persons  
27 similarly situated, of valuable rights and benefits guaranteed by law, all to their detriment.

28 136. Plaintiff and Class members suffered monetary injury as a direct result of Defendants'

1 wrongful conduct.

2 137. Plaintiff, individually, and on behalf of Class members, is entitled to, and does, seek  
3 such relief as may be necessary to disgorge the profits which the Defendants have acquired, or of  
4 which Plaintiff has been deprived, by means of the above-described unfair, unlawful and/or  
5 fraudulent business practices. Plaintiff and Class members are not obligated to establish individual  
6 knowledge of the unfair practices in order to recover restitution.

7 138. Plaintiff, individually, and on behalf of Class members, is further entitled to and do  
8 seek a declaration that the above-described business practices are unfair, unlawful and/or fraudulent,  
9 and injunctive relief restraining the Defendants, and each of them, from engaging in any of the above-  
10 described unfair, unlawful and/or fraudulent business practices in the future.

11 139. Plaintiff, individually, and on behalf of Class members, has no plain, speedy, and/or  
12 adequate remedy at law to redress the injuries that he has suffered as a consequence of Defendants'  
13 unfair, unlawful and/or fraudulent business practices. As a result of the unfair, unlawful and/or  
14 fraudulent business practices described above, Plaintiff, individually, and on behalf of Class  
15 members, has suffered and will continue to suffer irreparable harm unless Defendants, and each of  
16 them, are restrained from continuing to engage in said unfair, unlawful and/or fraudulent business  
17 practices.

18 **PRAYER FOR RELIEF**

19 Plaintiff, individually, and on behalf of all others similarly situated, prays for relief and  
20 judgment against Defendants, jointly and severally, as follows:

- 21 1. That this action be certified as a class action;
- 22 2. That Plaintiff be appointed as the representatives of the Class;
- 23 3. That counsel for Plaintiff be appointed as Class Counsel;
- 24 4. For actual damages, including loss of past and future earnings, in an amount  
25 according to proof at trial;
- 26 5. For general and special damages, including but not limited to, pain and suffering,  
27 emotional distress, and loss of reputation in an amount according to proof at trial;
- 28 6. For consequential and incidental damages and expenses in an amount according to

1 proof at trial;

2 7. For punitive damages in an amount according to proof at trial;

3 8. For reasonable attorneys' fees according to proof at trial;

4 9. For all unpaid wages and expenses according to proof at trial;

5 10. For injunctive relief, as applicable, to ensure compliance with the law;

6 11. For any and all penalties under the law, including statutory and civil penalties;

7 12. For restitution and disgorgement of all unpaid wages and injunctive relief according

8 to proof at trial;

9 13. Damages for consequential financial losses and additional emotional distress  
10 damages, increasing with each day, as described above in an amount to be determined by the jury  
11 at the trial of this matter;

12 14. Damages pursuant to Government Code § 12965(b) and California Code of Civil  
13 Procedure § 1021.5, for litigation costs, expert costs, and attorneys' fees incurred herein;

14 15. For pre-judgment and post-judgment interest, all at the legal prevailing rate;

15 16. For costs of suit incurred herein; and

16 17. For such other and further relief as the court may deem just, proper, and equitable.

17

18 Dated: November 4, 2021

PETRONELLI LAW GROUP, PC

19

20 By: 

CHRISTIAN J. PETRONELLI, ESQ.

21

22

OPTIMUM EMPLOYMENT LAWYERS

23

24

25

By: /s/ Dean S. Ho, Esq.

DEAN S. HO, ESQ.

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Attorneys for Plaintiff and the Class

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**DEMAND FOR JURY TRIAL**

Plaintiff hereby respectfully demands a jury trial.

Dated: November 4, 2021

PETRONELLI LAW GROUP, PC

By:   
CHRISTIAN J. PETRONELLI, ESQ.

OPTIMUM EMPLOYMENT LAWYERS

By: /s/ Dean S. Ho, Esq.  
DEAN S. HO, ESQ.

Attorneys for Plaintiff and the Class

# **EXHIBIT B**



ATTORNEY OR PARTY WITHOUT ATTORNEY (Print State Bar Number and address)

Document 1-1 Filed 12/22/21 Page 33 of 48

FOR COURT USE ONLY

Christian J. Petronelli, Esq. (SBN 284522), Dean S. Ho, (SBN 297357)
Petronelli Law Group, PC
295 Redondo Ave. Ste. 201
Long Beach, CA 90803
TELEPHONE NO.: (888)855-3670 FAX NO.: (888) 449-9675
ATTORNEY FOR (Name): Plaintiff MICHELLE RIZVANOVIC

ELECTRONICALLY FILED
11/4/2021 2:43 PM
Kern County Superior Court
By Vickie Fogerson, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF KERN
STREET ADDRESS: 1415 Truxtun Avenue
MAILING ADDRESS: 1415 Truxtun Avenue
CITY AND ZIP CODE: Bakersfield, 93301
BRANCH NAME: Metropolitan Courthouse

CASE NUMBER: BCV-21-102647
JUDGE:
DEPT:

CASE NAME: MICHELLE RIZVANOVIC v. AMAZON.COM SERVICES, LLC

CIVIL CASE COVER SHEET
Complex Case Designation
[checked] Unlimited (Amount demanded exceeds \$25,000) [ ] Limited (Amount demanded is \$25,000 or less)
[ ] Counter [ ] Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

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

1. Check one box below for the case type that best describes this case:
Auto Tort
Contract
Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
Real Property
Enforcement of Judgment
Non-PI/PD/WD (Other) Tort
Unlawful Detainer
Miscellaneous Civil Complaint
Employment
Judicial Review
Miscellaneous Civil Petition

- 2. This case [checked] 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. [ ] Large number of separately represented parties
b. [checked] Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. [ ] Substantial amount of documentary evidence
d. [checked] Large number of witnesses
e. [ ] Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. [ ] Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. [checked] monetary b. [checked] nonmonetary; declaratory or injunctive relief c. [checked] punitive
4. Number of causes of action (specify): seven (7)
5. This case [checked] 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: 11/4/2021
Christian Petronelli, Esq. (SBN 284522)
(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 C**

**SUMMONS**  
**(CITACION JUDICIAL)**

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

ELECTRONICALLY FILED  
11/15/2021  
Kern County Superior Court  
By Vickie Fogerson, Deputy

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

AMAZON.COM SERVICES, LLC, a California limited liability company and DOES 1 through 10, inclusive,

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

MICHELLE RIZVANOVIC, individually and on behalf of all other persons similarly situated,

**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): Kern County Superior Court  
Metropolitan Courthouse  
1415 Truxtun Avenue, Bakersfield, CA 93301

CASE NUMBER:  
(Número del Caso): BCV-21-102647

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):  
Christian Petronelli, Esq. (SBN 28452), 295 Redondo Ave., Suite 201, Long Beach CA 90803, (888) 855-3670  
Dean S. Ho, Esq. (SBN 297357), 7545 Irvine Center Dr., Ste 200 Irvine, CA 92618, (949) 954-8181

DATE: 11/15/2021 TAMARAH HARBER-PICKENS Clerk, by Vickie M. Fogerson, Deputy  
(Fecha) (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)).

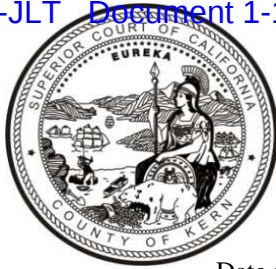


**NOTICE TO THE PERSON SERVED:** You are served

1.  as an individual defendant.
2.  as the person sued under the fictitious name of (specify):
3.  on behalf of (specify): 
  - 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):
4.  by personal delivery on (date):

# **EXHIBIT D**

Tamarah Harber-Pickens  
Clerk of the Superior Court



SUPERIOR COURT  
Telephone 661-868-5393  
1415 Truxtun Avenue  
Bakersfield CA 93301

TO: CHRISTIAN J. PETRONELLI,  
ATTORNEY

Date : 11/16/2021  
Case No.: BCV-21-102647  
Case Name: MICHELLE RIZVANOVIC, INDIVIDUALLY  
AND ON BEHALF OF ALL OTHER  
PERSONS SIMILARLY SITUATED VS  
AMAZON.COM SERVICES, LLC  
Document: CIVIL CASE COVER SHEET ADDENDUM  
AND STATEMENT OF LOCATION

RETURNED VIA E-FILE

- The attached papers are being returned for the following reason(s):  Check # \_\_\_\_ Returned
- This pleading does not appear to be for Superior Court, Kern County.
  - The attached document is an improper *ex-parte* communication and has not been considered by the Court.
  - Fee of \$ \_\_\_\_ required or a Request to Waive Court Fees must be submitted.
  - Application for Waiver of Fees missing attachment(s):**
    - Last three (3) paystubs, if employed.
    - Certified Copy of Statement of Account for previous six (6) months certified by Dept. of Corrections
    - Trust Account Withdrawal Order form (CDC form 193) completed by the Dept. of Corrections indicating \$3.00 fee to Dept. of Corrections has been paid or insufficient funds in the account to cover.
  - Does not conform to Rule 2.100-2.119, California Rules of Court, as to form and format.
  - Superior Court case number is wrong, incomplete, or missing.
  - Consolidated matter: All consolidated case numbers must be listed in the heading with the lead case listed first.
  - Consolidated matter:
    - Title is incorrect or missing parties.
    - Summons does not conform to complaint/cross-complaint/petition.
    - Not an original. Copies are not acceptable.
    - Copies must be provided if *endorsed* copies are requested. Submit one original plus \_\_\_\_ copy(ies).
    - Does not conform to Kern County Local Rule/Code:
      - Must use Mandatory Judicial Council form.
      - is not eligible for filing. Reason:
      - Item(s) # incomplete.
      - Missing required forms/attachment:
      - Original Will must be presented at the time of filing petition.
      - Signature missing:
      - Date and place of execution not completed.
      - Document(s) must be verified.
      - Show date, time, and location of hearing pursuant to California Rules of Court.
      - The date you have noticed this matter is a Court holiday/weekend.
      - Acknowledgement of Receipt/Citation must be attached to the completed proof of service.
      - Attach Proof of Service on opposing party.
      - Correct Proof of Service:
        - Not appraised by the Probate Referee.
        - Order/Judgment does not conform to the Court minutes.
        - Order page does not contain enough information regarding case; need at least three lines of text with identifying information for order and case (short title case and case number).
    - Dismissal cannot be entered for the following reasons:
    - Other: **Document is a Los Angeles Superior Court form, not a Kern County Superior Court form.**

Tamarah Harber-Pickens  
CLERK OF THE SUPERIOR COURT

By: Vickie Fogerson, Deputy Clerk

ANY CORRESPONDENCE REQUIRING AN ANSWER FROM THE COURT MUST BE  
ACCOMPANIED BY A SELF-ADDRESSED STAMPED ENVELOPE LARGE ENOUGH TO RETURN DOCUMENTS

Rev. 12/2017

**ANY CORRESPONDENCE REQUIRING AN ANSWER FROM THE COURT MUST BE  
ACCOMPANIED BY A SELF-ADDRESSED STAMPED ENVELOPE LARGE ENOUGH TO RETURN DOCUMENTS**

Rev. 12/2017

# **EXHIBIT E**





SUPERIOR COURT OF CALIFORNIA  
COUNTY OF KERN  
BAKERSFIELD COURT  
1415 TRUXTUN AVENUE  
BAKERSFIELD CA 93301

FOR COURT USE ONLY

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF KERN  
NOVEMBER 16, 2021  
By Vickie Fogerson DEPUTY

**PLAINTIFF/PETITIONER:**  
MICHELLE RIZVANOVIC, INDIVIDUALLY AND ON BEHALF  
OF ALL OTHER PERSONS SIMILARLY SITUATED  
**DEFENDANT/RESPONDENT:**  
AMAZON.COM SERVICES, LLC, A CALIFORNIA LIMITED  
LIABILITY COMPANY

**NOTICE OF ASSIGNMENT TO JUDGE FOR ALL PURPOSES AND  
NOTICE OF ORDER TO SHOW CAUSE RE CRC RULE 3.110 AND  
NOTICE OF CASE MANAGEMENT CONFERENCE**

CASE NUMBER:  
BCV-21-102647

By order of the presiding judge, the above entitled case is assigned to the Honorable J. Eric Bradshaw for all purposes. It will be managed on the direct calendar program in Bakersfield Division J until its conclusion. Peremptory challenges, if any, must be made within the times set out in CCP §170.6. Please include the initials **JEB** after the case number on all future pleadings filed in this case.

**Bakersfield Hearing Locations:**

Departments 1 through 18 are located at 1415 Truxtun Avenue, Bakersfield, CA 93301  
Divisions A through L are located at 1215 Truxtun Avenue, Bakersfield, CA 93301

**TO PLAINTIFF AND PLAINTIFF'S COUNSEL:**

You are ordered to appear on **February 28, 2022** in **Bakersfield Division J** at **8:30 AM** to give any legal reason why sanctions shall not be imposed for failure to serve the complaint on all named defendants and file proof(s) of service with the court within sixty (60) days after the filing of the complaint pursuant to California Rules of Court, Rule 3.110. All appearances are mandatory, unless the court receives the required proof(s) of service five (5) court days prior to the hearing date, and then no appearance is necessary.

**TO EACH PARTY AND THEIR RESPECTIVE ATTORNEY(S) OF RECORD:**

This case is set for Case Management Conference, by the Honorable J. Eric Bradshaw on **May 16, 2022** at **8:30 AM** in **Bakersfield Division J**. Case management statements are to be filed at least fifteen (15) days prior to the conference in accordance with California Rules of Court, Rules 3.720 – 3.730. All parties shall comply with California Rules of Court, Rules 3.720 – 3.730.

**NOTICE TO PLAINTIFF'S COUNSEL**

**IMPORTANT:** You are required to serve this Notice of Assignment and Notice of Order to Show Cause Date and Notice of Case Management Conference Date with the Summons, Complaint [Local Rule 3.7(a)], Alternative Dispute Resolution (ADR) Information Packet, and ADR Stipulation and Order Form ( California Rules of Court, Rule 3.221).

**NOTICE TO CROSS COMPLAINANT'S COUNSEL**

**IMPORTANT:** If you are bringing a cross complaint against new parties, you are, likewise, required to serve this Notice of Assignment pursuant to California Rules of Court, Rule 3.110 and Notice of Order to Show Cause date and Notice of Case Management Conference date on the new cross defendants.

**TAMARAH HARBER-PICKENS**  
CLERK OF THE SUPERIOR COURT

Date: November 16, 2021

Signed: 11/16/2021 8:17:05 AM

By:

The Clerk of the Superior Court's office has received a civil complaint from you for filing. Pursuant to the Trial Court Delay Reduction Act, your case has been assigned to the Honorable J. Eric Bradshaw as monitoring judge.

Judge J. Eric Bradshaw has instituted a direct calendaring system for all cases assigned to him/her as the monitoring judge.

All law and motion, case management and trial setting conferences, ex parte matters and trials will be scheduled before him/her in Bakersfield Division J. This will involve all cases in which the clerk has assigned the initials JEB to the complaint at the time of filing. Counsel is expected to make the initials of the monitoring judge a part of the case number on all pleadings and papers.

Law & Motion and Ex-Parte hearing dates must be pre-cleared by contacting the Direct Calendaring Clerk at (661) 868-7204. Tentative rulings can be located by visiting "<http://www.kern.courts.ca.gov/>", after 4:00 pm. Click on the Non-Criminal Case Information link to enter the case number. Please note, not all departments provide tentative rulings.

At the time of filing the complaint, plaintiff's counsel will be given a Notice of Case Management Conference which sets a conference approximately one hundred eighty (180) days after filing of the complaint. This notice must be served with the summons and complaint on all defendants. Defendants must serve the notice on all cross-defendants named. The notice must also be served on interveners and lien claimants.

Telephonic appearances for case management conferences and law and motion hearings are available through Court Call. The toll free telephone number for Court Call is (888) 88-COURT. Proper procedures must be complied with under California Rules of Court, Rule 3.670. Arrangements to make appearances through Court Call must be made at least five (5) court days prior to the hearing date.

Another judge will hear settlement conferences in cases assigned to Judge J. Eric Bradshaw. However, those cases that do not settle will be set for trial before him/her.

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF KERN  
SPECIAL RULES RELATING TO CASE MANAGEMENT CONFERENCES**

At least fifteen (15) days prior to the case management conference, each party shall prepare, file and serve on each other party a case management conference statement providing the Court with the following information:

1. The “at-issue” status of the case including any new parties that may be contemplated;
2. A brief statement of the type of case and the general facts or contentions;
3. A description of the discovery done to date and that contemplated to be done;
4. Estimated time for trial and whether a jury is demanded;
5. Whether or not the case is entitled to priority in trial setting and if so, the legal authority thereof;
6. An evaluation of the case for alternative dispute resolution, including arbitration (judicial or binding), mediation or private judge handling;
7. If a person injury action, a description of the injuries sustained by each plaintiff and the elements of claimed damage;
8. A statement of any settlement negotiations undertaken thus far;
9. The name of the attorney primary responsible for the case on behalf of the party filing the statement.

More than one party may join in the filing of a single statement.

The case management conference shall be attended by the attorney primarily responsible for the case on behalf of each party or a member of his or her firm or counsel formally associated in the case. The attorney attending shall be thoroughly familiar with the case, and be able to engage in meaningful discussions with court and counsel, and to enter into agreements on behalf of his or her client on the following subjects:

1. The “at-issue” status of the case including the dismissal of the unnamed doe defendants or cross-defendants by agreement of all parties;
2. Discovery conducted and remaining to be done;
3. Amenability of the case to alternative dispute resolution including, but no limited to, arbitration (judicial or binding), mediation, and private judge handling.
4. Delineation of issues including stipulation of facts not in substantial controversy;
5. Settlement prospects;
6. Setting the matter for trial, pre-trial conferences, settlement conference or further case management conference;
7. Any other matters relevant to the processing of the case to a final resolution.

Any violation of these rules shall result in the imposition of substantial sanctions which may include monetary, issue, termination, or other appropriate sanctions.

**CERTIFICATE OF POSTING**

The undersigned, of said Kern County, certify: That I am a Deputy Clerk of the Superior Court of the State of California, in and for the County of Kern, that I am a citizen of the United States, over 18 years of age, I reside in or am employed in the County of Kern, and not a party to the within action, that I served the *Notice of Assignment/Notice of Order to Show Cause Re CRC 3.110/Notice of Case Management Conference* attached hereto on all interested parties and any respective counsel of record in the within action by posting true copies thereof, to the Superior Court of California, County of Kern, Non-Criminal Case Information Portal (<https://odyprodportal.kern.courts.ca.gov/portalprod>).

Date of Posting: November 16, 2021

Place of Posting: Bakersfield, CA


I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

**TAMARAH HARBER-PICKENS**  
CLERK OF THE SUPERIOR COURT

Date: November 16, 2021

Signed: 11/16/2021 8:17:05 AM

By:

  
Vickie Fogerson, Deputy Clerk

# **EXHIBIT F**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Christian Petronelli, 284522 Petronelli Law Group, PC 295 Redondo Avenue, Suite 201 Long Beach, CA 90803 TELEPHONE NO.: (888) 855-3670 ATTORNEY FOR (Name): Plaintiff	FOR COURT USE ONLY  <b>ELECTRONICALLY FILED</b> <b>12/8/2021 11:25 AM</b> <b>Kern County Superior Court</b> <b>By Karren Blanton, Deputy</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> Superior Court of California, Kern County 1415 Truxtun Avenue Bakersfield, CA 93301-5216	
PLAINTIFF/PETITIONER: Michael Rizvanovic, et al.  DEFENDANT/RESPONDENT: Amazon.com Services, LLC, et al.	CASE NUMBER: <b>BCV-21-102647</b>
<b>PROOF OF SERVICE OF SUMMONS</b>	Ref. No. or File No.: <b>90802</b>

1. At the time of service I was a citizen of the United States, at least 18 years of age and not a party to this action.
2. I served copies of:

Summons; Civil Case Cover Sheet; Complaint

3. a. Party served: AMAZON.COM SERVICES, LLC, a California limited liability company
- b. Person Served: CSC - Nicole Stauss - Person Authorized to Accept Service of Process

4. Address where the party was served: 2710 Gateway Oaks Drive, Suite 150N  
 Sacramento, CA 95833

5. I served the party
  - a. **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): 11/23/2021 (2) at (time): 1:50PM

6. The "Notice to the Person Served" (on the summons) was completed as follows:

d. on behalf of:

AMAZON.COM SERVICES, LLC, a California limited liability company  
 under: Other: Limited Liability Company

**7. Person who served papers**

- a. Name: Tyler Anthony DiMaria
- b. Address: One Legal - P-000618-Sonoma  
 1400 North McDowell Blvd, Ste 300  
 Petaluma, CA 94954

- c. Telephone number: 415-491-0606
- d. The fee for service was: \$ 40.00

- e I am:
- (3) registered California process server.
    - (i) Employee or independent contractor.
    - (ii) Registration No.: 2006-06
    - (iii) County: Sacramento

8. I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.  
 Date: 11/23/2021

Tyler Anthony DiMaria  
 (NAME OF PERSON WHO SERVED PAPERS)



(SIGNATURE)

1 WALTER F. BROWN (STATE BAR NO. 130248)  
 wbrown@paulweiss.com  
 2 PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP  
 3 535 Mission Street, 24th Floor  
 San Francisco, CA 94105  
 4 Telephone: (628) 432-5111

5 LIZA M. VELAZQUEZ (*pro hac vice application to be submitted*)  
 lvelazquez@paulweiss.com

6 DAVID W. BROWN (*pro hac vice application to be submitted*)  
 dbrown@paulweiss.com

7 PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP  
 8 1285 Avenue of the Americas  
 New York, NY 10019-6142  
 9 Telephone: (212) 373-3000

10 Attorneys for Defendant  
 11 AMAZON.COM SERVICES, LLC

12 UNITED STATES DISTRICT COURT  
 13 EASTERN DISTRICT OF CALIFORNIA

15 MICHELLE RIZVANOVIC, individually  
 and on behalf of other persons similarly  
 16 situated,

17 Plaintiff,

18 v.

19 AMAZON.COM SERVICES, LLC, a  
 Delaware limited liability corporation, and  
 20 DOES 1 through 10, inclusive,

21 Defendants.

Case No.

**DECLARATION OF HARJIT  
 RANDHAWA IN SUPPORT OF  
 DEFENDANT AMAZON.COM  
 SERVICES, LLC'S NOTICE OF  
 REMOVAL OF CLASS ACTION**

[Removal from the Superior Court of  
 California, County of Kern, Case No.  
 BCV-21-102647]

Complaint Filed: November 4, 2021

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1 I, Harjit Randhawa, hereby declare and state:

2 1. I am over the age of 18, and am competent to attest to the facts set forth herein.  
3 Unless otherwise stated, the following facts are within my personal knowledge and, if called and  
4 sworn as a witness, I could and would testify competently thereto.

5 2. I am currently employed by Amazon.com Services, LLC (“Amazon”) as a Senior  
6 Human Resources Business Partner. In this role, I have been responsible for, among other  
7 things, providing general human resources support to Amazon employees at all job levels at  
8 various facilities in California. I have been employed by Amazon since October 2021. In my  
9 position as Senior Human Resources Business Partner, I have access to certain employment-  
10 related information and corporate records for Amazon.

11 3. Information maintained by Amazon reflects the following:

- 12 a. Plaintiff Michelle Rizvanovic’s hourly wage for the duration of her  
13 employment was \$15 per hour with an \$0.85 per hour shift differential.  
14 b. Between October 15, 2020 and October 14, 2021, at least 11,341 non-  
15 exempt Amazon employees in California requested accommodations. Of  
16 these 11,341 non-exempt employees who requested accommodations,  
17 5,755 are no longer employed by Amazon as of December 15, 2021.

18 I declare under penalty of perjury under the laws of the United States of America and the  
19 State of California that the foregoing is true and correct.

20 Executed on the 22nd of December, 2021 at Bakersfield, California.

21  DBE993D313F74C5...

22  
23 Harjit Randhawa

24  
25  
26  
27  
28



1 WALTER F. BROWN (STATE BAR NO. 130248)  
wbrown@paulweiss.com  
2 PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP  
3 535 Mission Street, 24th Floor  
San Francisco, CA 94105  
4 Telephone: (628) 432-5111

5 LIZA M. VELAZQUEZ (*pro hac vice application to be submitted*)  
lvelazquez@paulweiss.com

6 DAVID W. BROWN (*pro hac vice application to be submitted*)  
dbrown@paulweiss.com

7 PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP  
8 1285 Avenue of the Americas  
New York, NY 10019-6142  
9 Telephone: (212) 373-3000

10 Attorneys for Defendant  
11 AMAZON.COM SERVICES, LLC

12 UNITED STATES DISTRICT COURT  
13 EASTERN DISTRICT OF CALIFORNIA  
14

15 MICHELLE RIZVANOVIC, individually  
and on behalf of other persons similarly  
16 situated,

17 Plaintiff,

18 v.

19 AMAZON.COM SERVICES, LLC, a  
Delaware limited liability corporation, and  
20 DOES 1 through 10, inclusive,

21 Defendants.  
22

Case No.

**DECLARATION OF PETER  
NICKERSON IN SUPPORT OF  
DEFENDANT AMAZON.COM  
SERVICES, LLC'S NOTICE OF  
REMOVAL OF CLASS ACTION**

[Removal from the Superior Court of  
California, County of Kern, Case No.  
BCV-21-102647]

Complaint Filed: November 4, 2021

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1 I, Peter Nickerson, hereby declare and state:

2 1. I am over the age of 18, and I am competent to attest to the facts set forth herein.  
3 I am making this declaration based upon my own knowledge, and, if sworn as a witness, I could  
4 and would testify competently to the facts contained in this Declaration.

5 2. I am an economist and the principal of Nickerson & Associates, LLC, a Seattle  
6 based consulting firm specializing in economic and statistical analyses, especially analyses that  
7 require the use of large data sets. I have an M.S. and a Ph.D., both in economics from the  
8 University of Washington. I have taught at the university level for over 30 years. I have worked  
9 on numerous cases alleging wage and hour violations and various types of discrimination in both  
10 federal and state courts. That work has included numerous assignments in which I calculated  
11 individual and class damages. I have qualified as an expert and testified in depositions and in  
12 trial in federal and state courts in Alaska, Washington, Oregon, California, Idaho, Texas,  
13 Arizona, and Virginia. I have attached my c.v. to this declaration as Attachment 1.

14 3. I have been asked by Defendant Amazon.com Services, LLC (“Amazon”) to  
15 ascertain whether plaintiffs’ damages as a putative class would exceed \$5,000,000 were they to  
16 prevail on all claims enumerated in the Class Action Complaint brought by Michele Rizvanovic  
17 (“Plaintiff”).

18 4. I have been provided by Amazon a copy of the Complaint. I have also received  
19 data concerning non-exempt employees who requested an accommodation at Amazon in  
20 California.

21 5. I have also collected data from the 2021 Economic Report of the President on  
22 unemployment rates and the duration of unemployment from 2017 through November 2021 and  
23 have reviewed data from the U.S. Department of Labor’s Bureau of Labor Statistics (“BLS”) on  
24 unemployment rates and duration of unemployment for disabled people. These sources are listed  
25 in Attachment 2.

26 6. According to the Complaint, Plaintiff is proposing that the class be defined as:  
27 “All current and/or former non-exempt employees that worked for Defendants in California  
28

1 within four (4) years of the filing of this Complaint and had a disability or a medical condition or  
2 were otherwise considered disabled under FEHA.”

3 7. Amazon’s records show that for the period October 15, 2020 through October 14,  
4 2021, Amazon employed at least 11,341 non-exempt individuals in California who asked for an  
5 employment accommodation and had the same job position as Plaintiff, FC Associate I. Of these  
6 11,341 employees, 5,755 were no longer employed at Amazon as of December 15, 2021 (due  
7 either to termination or resignation) and 5,586 were still employed and active at that time.<sup>1</sup> The  
8 one-year period of October 15, 2020 through October 14, 2021 amounts to one quarter of the  
9 proposed class period. Plaintiff was one of the employees who left Amazon during this period.

10 8. Plaintiff has been proposed as the class representative. Plaintiff claims that she  
11 was suspended without pay for the nearly three-week period between November 23, 2020 and  
12 December 11, 2020. Plaintiff alleges that she worked only one shift in that time period but does  
13 not allege whether she was paid or not. Based on these allegations, we can assume that  
14 Plaintiff’s claim for damages would include at least 10 days of pre-separation pay at four hours  
15 per day and \$15 per hour (10 days x \$15 x 4). That is \$600.

16 9. If the class claim for pre-separation lost wages were to prevail and assuming  
17 four-hour work days similar to Plaintiff’s alleged requested accommodation, members of this  
18 group would each have pre-separation damages similar to the Plaintiff’s. The pre-separation lost  
19 wages would equal \$600 for each class member (\$15.00 x 4 hours x 10 days).

20 10. If we estimate that only 10 percent of the 11,341 employees in our one year data  
21 set, which amounts to 1,134 employees, would be able to show pre-separation lost wage  
22 damages in the amount of \$600, the total amount of these damages would be approximately  
23 \$680,400 (1,134 x \$600 equals \$680,400).

24 \_\_\_\_\_  
25 <sup>1</sup> An employee is included in this analysis based on the date on which his or her accommodation  
26 record was first created in the database. The time period for inclusion in my analysis is  
27 October 15, 2020 through October 14, 2021. The employment status for each employee in this  
28 analysis is determined as of December 15, 2021. This means that any employees who left  
Amazon between October 15, 2021 and December 15, 2021 would show as no longer  
employed by Amazon in this analysis. This additional two-month period adds slightly to the  
post-separation lost wage damages during our 12-month time period, but would have virtually  
no effect on potential damages over the proposed four-year class period. It also has no effect  
on the conclusion that potential damages in this case substantially exceed \$5,000,000.

1           11. Plaintiff's claim for loss of past earnings would also include pay for the period it  
2 would take her to find a job beginning in December 2020 and going into 2021. The median  
3 overall duration of unemployment was 18.8 weeks in November 2020, declining to 15 weeks in  
4 August 2021, with an average of approximately 16 weeks. Also, according to the BLS February  
5 14, 2021 Report on Persons with a Disability: Labor Force Characteristics Summary, disabled  
6 individuals have a markedly more difficult time finding work and have almost twice the  
7 unemployment rate relative to individuals without a disability. I have used twice the overall  
8 duration figure to account for that and assume that it would have taken Plaintiff 32 weeks to find  
9 a new job. This is consistent with a calculation of duration of unemployment using actual  
10 unemployment rates. Those 32 weeks of damages amount to \$9,600 (32 weeks x 5 days per  
11 week x \$15 x 4 hours per day).

12           12. Of the 11,341 FC Associate I employees in our year-long data set, 5,755 are no  
13 longer employed by Amazon. These individuals either resigned or were terminated. If the class  
14 claim for post-separation lost wages were to prevail and former employees were awarded  
15 damages for the periods of time it took them to find other jobs, the damages for each of them  
16 would be equal to their duration of unemployment times their wage times the number of hours  
17 that they would have worked per day. The period of time I am studying for this group is the  
18 same period that included the Plaintiff. I assume they would experience the same duration of  
19 unemployment as her (32 weeks). For the wage, I use Plaintiff's hourly wage rate of \$15.00.  
20 For the number of hours per day, I have used the same four hours as for the Plaintiff. The four  
21 hour day likely underestimates damages because it is likely that many of these employees would  
22 have worked longer shifts than the four hours Plaintiff requested. The average post-separation  
23 damage figure for each person in this group would thus be, like for the Plaintiff, \$9,600 (32  
24 weeks x 5 days x 4 hours per day x \$15).

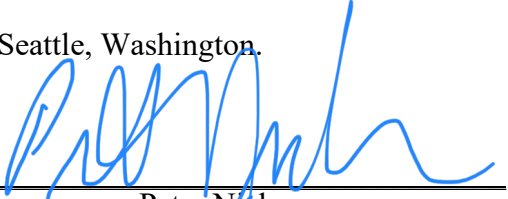
25           13. If we estimate that only 10 percent of these 5,755 former employees, or 576  
26 employees, would be able to show post-separation lost wage damages in the amount of \$9,600,  
27 the total amount of their damages would be \$5,529,600 (576 x \$9,600 equals \$5,529,600).  
28

1           14.     In summary, limiting the analysis to one year of the class period and assuming  
2 just 10% of the employees with FC Associate I as a job title who requested accommodations are  
3 awarded damages similar to the Plaintiff's, damages for that period alone are \$6,210,000  
4 (\$680,400 from paragraph 10 + \$5,529,600 from paragraph 13 = \$6,210,000).

5           15.     None of this analysis includes potential damages for alleged pain and suffering,  
6 attorneys' fees, punitive damages, interest, or other costs. Nor does it include estimates of  
7 damages over the rest of the four-year period.

8           I declare under penalty of perjury under the laws of the United States of America and the  
9 State of California that the foregoing is true and correct.

10           Executed on the 22nd of December, 2021 at Seattle, Washington.

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12 \_\_\_\_\_  
13 Peter Nickerson

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# **ATTACHMENT 1**

## NICKERSON & ASSOCIATES LLC

Economists • Statisticians • Data Analysts

---

*Nickerson & Associates LLC is a consulting firm with more than 40 years' experience specializing in applying economics, statistics, and computer-related analyses to business and public policy issues. Our clients have included numerous law firms; Fortune 500 companies; small and medium size businesses; federal, state, and local government entities; the U.S. Department of Justice; and labor and trade organizations. As consultants we have calculated damages in litigation; performed numerical, statistical, and econometric analyses both for litigation and public policy studies; and provided expert testimony in jury and bench trials on numerous occasions. In related capacities, we have been integrally involved in mediation and settlement discussions and served as Settlement Administrators in a number of class action cases.*

### ***Economic Analyses***

Nickerson & Associates LLC is often asked to apply economic reasoning and theory to analyze real-world events. We have, for example, forecasted timber harvests in light of environmental laws, studied the effect of an oil spill on fishery permit prices in Alaska, and analyzed corporate restructuring plans and the effect of such plans on the age and gender distribution of employees. In the public policy arena, we have carefully analyzed and constructed simulations of the effect of agency rules on the distribution of state contracts across contractors and the effect of such policy on individual firms.

### ***Econometric and Statistical Analyses***

Often we are asked to perform econometric and statistical analyses to test for the inference of causality or relatedness. Employment decisions, environmental damage and forecasting typically lend themselves to this sort of analyses. We often discuss with clients our opinion regarding the appropriateness of using statistical analyses in certain circumstances and have been asked on numerous occasions to assess others' statistical work and the integrity of data.

### ***Damages***

Much of the litigation work performed by Nickerson & Associates LLC involves economic damage assessment. Examples include economic loss in individual employment cases, development of structured settlement methodologies in class action consumer and wage and hour cases, class loss estimates for corporate restructuring employment cases, and estimates of losses in contract disputes. On a number of occasions, we have been asked to develop computerized loss estimate systems to be used in settlement discussions.

***Database Development and Compilation of Computerized Database Records***

A particular area of expertise for Nickerson & Associates LLC is the area of database development. By developing databases with high levels of integrity we provide more accurate analyses, we are able to more carefully review and critique the work done by other experts, and we can provide our clients more complete and more quickly accessible information. Using existing electronic data, we have constructed databases as large as seven million records with 160 variables in each record. We have also constructed computerized databases using non-electronic information as the primary source. In one age discrimination case against a federal agency, we constructed a sound, analytical database from 80 boxes of job applications, personnel files, and employment decision records.

***Class Actions and Class Action Settlement Administration***

Nickerson & Associates LLC has both worked with court-appointed Settlement Administrators and been appointed the Settlement Administrator for a number of class action settlements. We have performed this work for classes as small as one hundred and as large as 35,000 individuals. We have been responsible for locating and notifying class members, responding to class members' inquiries, calculating individual awards, disbursing both the class awards and attorney's fees, and managing settlement accounts.



## NICKERSON & ASSOCIATES LLC

Economists • Statisticians • Data Analysts

### Selected Cases

Shannon v. McNally, National Football League (WEC 116622), Superior Court of California, Los Angeles, 1987

In Re: the Exxon Valdez (A89-0595-CV (HRH)), U.S. District Court, Alaska, 1989

Adams et al. v. Fred Meyer (3AN-90-10286), Superior Court of Alaska, 1990

UFCW et al. v. Nordstrom (90-2-04282-1) Superior Court of Washington, King County, 1990

Clark et al. v. Carr-Gottstein Foods Co. (A-94-0587-CD), U.S. District Court, Alaska, 1994

Olsen v. Payless Drugstores, NW (94-2-07361-9) Superior Court of Washington, Pierce County, 1994

Citizens Alliance to Protect Our Wetlands v. U.S. Corps of Engineers et al. (C95-591Z), U.S. District Court, Western Washington, 1995

Fox et al. v. Bonneville Power Administration (3:95-cv-01873-JE), U.S. District Court, Oregon, 1995

Migliuri v. First Interstate Bank of Washington (95-2-05972-8), Superior Court of Washington, King County, 1995

Sharp et al v. Overlake Hospital Medical Center (2:95-cv-01008-JCC), U.S. District Court, Western Washington, 1995

Laughman et al. v. Wells Fargo Leasing Corp. (96 C 925), U.S. District Court, Northern Illinois, 1996

Ebeling et al. v. United Airlines (2:97-cv-00347-JCC), U.S. District Court, Western Washington, 1997

Davis v. WA Department of Ecology (ALLO-02-0033), Personnel Appeals Board, 2002

Saccoccia v. Bozeman (DV-02-223), U.S. District Court, Montana, 2002

Corbis Corp. v. Amazon.com (CV-03-1415L), U.S. District Court, Western Washington, 2003

Cao v. City of Seattle (04-2-21734-2 SEA), Superior Court of Washington, King County, 2004

Pitts v. Murreys Disposal (04-2-07512-8), Superior Court of Washington, Pierce County, 2004

Stuart v. Swinerton (04 2 16611 0 KNT), Superior Court of Washington, King County, 2004

Gooden v. Eagle Transport (05-2-13546-3), Superior Court of Washington, King County, 2005

Gonzalez et al. v. OfficeMax (C07-02399 SC), U.S. District Court, Southern California, 2007

Olsen v. Hoot Winc (71-160-0045505 JOIB), American Arbitration Association, 2005

**Selected Cases, Cont.**

Schubeck v. King County (05-2-42224-6 SEA), Superior Court of Washington, King County, 2005

Tolbert v. Glacier (05-2-06976-7 SEA), Superior Court of Washington, King County, 2005

Turner v. University of Washington (CV05-1575L), U.S. District Court, Western Washington, 2005

Wagner v. PMA (CV05 1729 ST), U.S. District Court, Oregon, 2005

Watkins v. UPS (CV-05-1611-RSL), U.S. District Court, Western Washington, 2005

Elliott v. Cadman, Inc. (06-2-29743-1 SEA), Superior Court of Washington, King County, 2006

Lucky Break Wishbone v. Sears (06cv0312 TSZ), U.S. District Court, Western Washington, 2006

MP Medical Inc. v. Halls Medical (06-2-25495-3 SEA), Superior Court of Washington, King County, 2006

Fewel (Doe minor) v. Schnell (06-2-03644-1 SEA), Superior Court of Washington, King County, 2006

Nguyen v. Hardel Mutual Plywood (07-2-00661), Superior Court of Washington, Lewis County, 2007

Hurtado-Lopez v. Armadillo Bay (RG 08390556), Superior Court of California, Alameda County, 2008

Ballard v. TriMet (cv-09-873-PK), U.S. District Court, Oregon, 2009

Rojas v. Sunview Vineyards (09-cv-00705-AWI-SMS), U.S. District Court, Eastern District of California, 2009

Brink's Incorporated Wage And Hour Cases (BC423237, BC410374, BC392462), Superior Court of California, Los Angeles County, 2010

Faust v. Comcast (1:10-cv-02336-WMN), U.S. District Court, Northern District of Maryland, 2010

Lagos et al. v. Cogent Communications (4:11-cv-04523), U.S. District Court, Southern District of Texas, Houston Division, 2011

McCoy v. North Slope Borough (2:11-cv-00001 SLG), U.S. District Court, Alaska, 2011

## **PETER H. NICKERSON, PH.D.**

---

520 Pike Street, Suite 1200  
Seattle, WA 98101-4001

Main: (206)332-0270  
Direct: (206)332-0271  
Email: phn@nickersonassociates.com

### **SUMMARY**

Over 40 years' experience as a consultant in economic and statistical analyses, damage calculations, mediation, and settlement administration. Testimony given in court, by deposition and by affidavit, in Federal and State proceedings throughout the United States. Six years' experience in the software/Internet industry as founder and CEO. Led initial development and took company public, raising over eighty million dollars. Thirteen years as a university professor teaching both graduate and undergraduate courses.

### **EXPERIENCE**

#### **Nickerson & Associates LLC, Seattle, WA**

**1978 –Present**

Principal and President of Economics and Statistics consulting firm.

- Direct and manage consulting engagements for law firms and their clients involved in litigation relating to labor and employment issues, natural resources, and commercial transactions. Work includes mediation preparation, damages estimation, statistical and economic analyses, and public policy analyses.
- Served as Settlement Administrator in class action cases and as such responsible for notification of class members, damage calculations, award distribution, and general administration.
- Testified in numerous cases; qualified as expert in Federal and State Courts in Oregon, Washington, California, Iowa, Montana, and Alaska.
- Engaged to analyze legislative and administrative decisions as they affect public policy and potential liability.
- Taught and presented various aspects of the economics of child support, economic damages, and expert preparation to Washington State Judges Conferences, National Institute for Trial Advocacy, Pacific Coast Labor Conference, MALDEF.
- Supervise and manage nine full-time professionals and support staff and various contract professionals as needed.

#### **Seattle University, Seattle, WA**

**2014 – 2015**

Adjunct Professor of Economics

#### **New York University, New York, NY**

**2010 – 2013**

Adjunct Professor of Economics

**EXPERIENCE** *(continued)*

**N2H2, Incorporated**

**1995 – 2001**

Chief Executive Officer, President and Founder of Internet content management business.

- Grew Internet company from inception to over \$10 million in annual sales and 250 employees, selling computer services to over 40% of K-12 education base in the U.S. and Australia and to businesses and educational institutions in thirteen other countries.
- Raised \$15 million in private capital and led company through a \$60 million public offering.
- As CEO made scores of presentations in public forums, investment conferences, education conferences and computer conferences about Internet content management, computer use in schools and businesses, and Internet content technology.
- Led numerous company initiatives and teams encompassing virtually all aspects of company functions including development, product management, customer service, marketing, and finance.

**Seattle University, Seattle, WA**

**1984 - 1997**

Visiting Assistant, Assistant, and ultimately Associate Professor for the Department of Economics and Finance, Albers School of Business and Economics, Seattle University. Tenured in 1991.

- Taught graduate and undergraduate courses in micro- and macro-economics, industrial organization, natural resources, and environmental economics.
- Served on numerous university, school, and departmental committees; Created, raised funding, and managed the University Adult Literacy Project; Created and served on the Board of the University Children's Literacy Project.
- Published various articles on resources, child support, and taxation in refereed journals, proceedings, and newspapers; served as session chair, discussant, and paper presenter at various professional conferences.
- Awarded Albers School of Business faculty research award and School of Business summer research grants

**University of Washington, Seattle, WA**

**1976 – 1983**

- Teaching Associate, Department of Economics and the School of Business, University of Washington.
- Research Assistant, Department of Economics and Institute of Marine Sciences, University of Washington.

## EDUCATION

### University of Washington, Seattle, WA

- Ph.D. in Economics **1984**  
Fields of concentration were microeconomics, natural resources, and public finance. Research in natural resources and lottery allocation systems as they function as pricing mechanisms.
- Master of Science in Economics **1978**  
Major coursework in macro and micro economic theory, econometrics, and natural resources. Estimated demand for recreational shellfish resources for Institute for Marine Sciences.

### Washington State University, Pullman, WA

- B.A. in Economics and Business **1975**

### Stevens Institute of Technology, Hoboken, N.J.

- Engineering major **1970 - 1972**

## DIRECTORSHIPS

Chairman of the Board, N2H2, Incorporated, 1995 – 2003.

Chairman of the Board, Iseek Limited, Brisbane Australia, 2000 – 2001.

Board of Directors, One Name Corporation, Seattle, WA 2000 – 2001.

**NICKERSON & ASSOCIATES LLC**

Economists • Statisticians • Data Analysts

**Peter H. Nickerson, Ph.D.**  
**Depositions and Trial Testimony**  
**2014 - 2020**

CASE	COURT	YEAR	DEPOSITION	TRIAL TESTIMONY
Rufin v. City of Seattle	Superior Court of Washington, King County	2014		YES
Baricuatro v. Industrial Personnel Management Services et al.	Superior Court of Washington, King County	2014	YES	
Newell v. HomeCare of WA	Superior Court of Washington, Spokane County	2014	YES	
Federal Home Loan Bank of Seattle v. Morgan Stanley, Goldman Sachs, UBS Securities, Deutsche Bank Securities, Merrill Lynch, and Credit Suisse Securities	Superior Court of Washington, King County	2015	YES	
Eat Right Foods v. Whole Foods	U.S. District Court, Western Washington	2015	YES	
Griffus et al. v. Knight Transportation	Oregon Circuit Court, Multnomah Country	2015		YES
Williams v. Microsoft	Superior Court of Washington, King County	2015	YES	YES
Miglio v. United Airlines	U.S. District Court, Western Washington	2015	YES	
Borden v. Embassy Management	Superior Court of Washington, Pierce County	2016	YES	
Weil v. Citizens Telecom and Frontier Communications	U.S. District Court, Western Washington at Seattle	2016	YES	
Loczi v. Daimler Trucks	Oregon Circuit Court, Multnomah Country	2016		YES
Kayshel v. O'Brien Auto	Superior Court of Washington, King County	2017	YES	
Stines v. Fidelity National	US District Court, Western Washington at Seattle	2017	YES	
USI v. Vanderzanden	American Arbitration Association	2018	YES	

Gilmer v. Centene	Superior Court of Washington, Pierce County	2019	YES	
Robertson v. Valley Communications Center	Superior Court of Washington, King County	2017	Yes	
USI v. Ogden	US District Court, Western Washington at Seattle	2018	Yes	
Robertson v. Valley Communications Center	Superior Court of Washington, King County	2019	Yes	
Romney v. Franciscan Medical Group	American Arbitration Association	2019		Yes
Erickson v. Biogen	US District Court, Western Washington at Seattle	2019	Yes	

## **ATTACHMENT 2**



Data

1. Persons with a Disability: Labor Force Characteristics, February 24, 2021, U.S. Bureau of Labor Statistics (<http://bls.gov/news.release/disabl.nr0.htm>)
2. Economic Report of the President 2021:
  - a. Table B-27. Civilian Unemployment Rate, (1975-2020) ([www.govinfo/content/pkg/ERP-2021-table27.pdf](http://www.govinfo/content/pkg/ERP-2021-table27.pdf))
  - b. Table B-28 Unemployment by Duration and Reason, 1975-2020 ([www.govinfo/content/pkg/ERP-2021-table28.pdf](http://www.govinfo/content/pkg/ERP-2021-table28.pdf))

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10 Attorneys for Defendant  
 11 AMAZON.COM SERVICES, LLC

12 UNITED STATES DISTRICT COURT  
 13 EASTERN DISTRICT OF CALIFORNIA  
 14

15 MICHELLE RIZVANOVIC, individually  
 and on behalf of other persons similarly  
 16 situated,

17 Plaintiff,

18 v.

19 AMAZON.COM SERVICES, LLC, a  
 Delaware limited liability corporation, and  
 20 DOES 1 through 10, inclusive,

21 Defendants.  
 22

Case No.

**DECLARATION OF ZANE BROWN  
 IN SUPPORT OF DEFENDANT  
 AMAZON.COM SERVICES, LLC'S  
 NOTICE OF REMOVAL OF CLASS  
 ACTION**

[Removal from the Superior Court of  
 California, County of Kern, Case No.  
 BCV-21-102647]

Complaint Filed: November 4, 2021

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1 I, Zane Brown, hereby declare and state:

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

8 2. According to business records available to me, Amazon is a limited liability  
9 company organized under the laws of Delaware. Its principal place of business is located in  
10 Seattle, Washington. Amazon’s sole member is Amazon.com, Inc. and Amazon is wholly  
11 owned by Amazon.com, Inc. Amazon.com, Inc. is a Delaware corporation with its principal  
12 place of business in Seattle, Washington. The Washington headquarters are staffed by corporate  
13 officers and executives of Amazon.com, Inc., who are responsible for overseeing Amazon’s  
14 activities.

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

17 Executed on the 12/21/2021 at Seattle, WA.

18 DocuSigned by:

*Zane Brown*

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19  
20 Zane Brown

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CIVIL COVER SHEET

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

Michelle Rizvanovic

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

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

DEFENDANTS

Amazon.com Services, LLC; 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) (see attachment)

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, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

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, INTELLECTUAL PROPERTY RIGHTS, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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(d); 28 U.S.C. § 1441. Brief description of cause: Putative class action seeking to bring claims under California's Fair Employment and Housing Act and Business & Professions Code § 17200

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

12/22/2021 /s/ Walter F. Brown

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Case 1:21-cv-01804-NONE-JLT Document 1-5 Filed 12/22/21 Page 2 of 3  
**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

**CIVIL COVER SHEET ATTACHMENT**

Case 1:21-cv-01804-NONE-JLT Document 1-5 Filed 12/22/21 Page 3 of 3

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# 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 Refused to Accommodate Former Worker's Medical Needs](#)

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