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F I L E D

Clerk of the Superior Court

SEP 13 2017

By: P. ASHWORTH, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO, CENTRAL DIVISION

BRANDON FELCZER, individually,
RYAN GOLDMAN, individually,
RAMSEY HAWKINS, individually, and
JOSEPH LANE CARCO, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

APPLE INC., a California corporation; and
DOES 1 through 300, inclusive,

Defendants.

Case No. 37-2011-00102593 CU-OE-CTL

Assigned For All Purposes To:
Hon. Eddie C. Sturgeon, Dept. C-67

IMAGED FILE

**JUDGMENT ON THE JURY VERDICT
AND BENCH TRIAL**

Trial Date: October 14, 2016

JUDGMENT ON THE JURY VERDICT AND BENCH TRIAL

1 On December 16, 2011, Plaintiff Brandon Felczer filed the original Complaint against
2 Defendant Apple Inc. in this matter. On October 8, 2013, Plaintiffs Brandon Felczer, Ryan Goldman,
3 Ramsey Hawkins and Joseph Lane Carco filed the Fourth Amended Complaint, which is the
4 operative complaint herein, against Apple Inc. (hereinafter "Apple") alleging: the first cause of
5 action for failure to provide meal periods, asserted by all Plaintiffs; the second cause of action for
6 failure to provide rest breaks, asserted by all Plaintiffs; the third cause of action for failure to pay all
7 wages due upon ending employment, asserted by Plaintiffs Felczer, Goldman and Hawkins; the
8 fourth cause of action for failure to provide accurate itemized employee wage statements, asserted
9 by all Plaintiffs; the fifth cause of action for claims under the Unfair Competition Law, asserted by
10 all Plaintiffs; and the sixth cause of action for claims under the Private Attorneys General Act,
11 asserted by Plaintiffs Felczer and Hawkins. In their motion for class certification filed on November
12 15, 2013, Plaintiffs voluntarily removed Plaintiff Hawkins from the first cause of action for alleged
13 failure to provide meal periods when they limited their Retail meal period subclass to non-exempt,
14 non-managerial employees only.

15 On September 27, 2016, the Court granted Apple's motion for judgment on the pleadings
16 regarding Plaintiff Felczer's sixth cause of action under PAGA for alleged failure to provide meal
17 periods and rest breaks to Retail employees, and the Court granted Apple's motion for judgment on
18 the pleadings regarding Plaintiff Hawkins' sixth cause of action under PAGA for alleged failure to
19 provide meal periods to Retail employees.

20 On October 18 and 19, following briefing and argument, the Court found that Plaintiffs had
21 no representative plaintiff to litigate the first through fourth causes of action on behalf of the
22 Corporate subclass. As such, Plaintiff Carco could not proceed to litigate these claims, either
23 individually or on a representative basis. The Court ruled that it would first preside over a jury trial
24 of the Retail subclasses' first through fourth causes of action, brought by Plaintiffs Felczer, Goldman,
25 Hawkins, and that immediately thereafter the Court would preside over a bench trial of the first year
26 (i.e., from December 16, 2007 through December 15, 2008) of the Retail subclasses' fifth cause of
27 action for alleged Unfair Competition Law ("UCL") claims, and the entire period (i.e., December 16,
28 2007, through July 31, 2012) of Corporate subclass' UCL claims, brought by Plaintiff Carco. The

1 Court also ruled Plaintiff Hawkins' PAGA cause of action for failure to provide rest breaks to Retail
2 employees would be heard as part of the bench trial.

3 This action came on regularly for jury trial on October 18, 2016, continuing through
4 December 7, 2016, in Department C-67 of the Superior Court for the County of San Diego, the
5 Honorable Eddie C. Sturgeon presiding. Jeffrey L. Hogue and Tyler J. Belong, of Hogue & Belong,
6 APC, appeared for Plaintiffs Brandon Felczer, Ryan Goldman, and Ramsey Hawkins and the
7 subclasses one or more of these Plaintiffs represented, and John S. Adler, Julie A. Dunne, Todd K.
8 Boyer and Michael G. Leggieri, of Littler Mendelson, P.C., appeared for Defendant Apple Inc. A
9 jury of twelve (12) persons was regularly impaneled and sworn. Witnesses were sworn and testified.

10 After hearing the evidence and arguments of counsel, the jury was duly instructed by the
11 Court and the cause was submitted to the jury with directions to return a verdict on special issues.
12 The jury deliberated and thereafter returned into court with its verdict as follows:

13 **I. MISSED MEAL PERIOD CLAIM**

14 **QUESTION 1:** Did Plaintiffs prove that from December 16, 2008 through July 31, 2012
15 Apple had uniform company-wide meal period policies that failed to authorize and permit the
16 subclass of all California non-exempt, non-managerial Retail employees to take a first meal period
17 when they worked more than five hours?

18 Yes ☐ No ☒

19 If you answered "Yes" to Question 1, proceed to Question 2. If you answered "No" to Question 1,
20 please proceed to Question 3.

21 **QUESTION 2:** Did Plaintiffs prove that from December 16, 2008 through July 31, 2012,
22 Apple consistently applied its meal period policies in a manner that resulted in the subclass of all
23 California non-exempt, non-managerial Retail employees missing a first meal period when they
24 worked more than five hours?

25 Yes ☐ No ☐

26 Proceed to Question 3.

27 **QUESTION 3:** Did Plaintiffs prove that from December 16, 2008 through July 31, 2012
28 Apple had uniform company-wide meal period policies that failed to authorize and permit the

1 subclass of all California non-exempt, non-managerial employees to take a second meal period when
2 they worked more than ten hours?

3 Yes ☐ No ☒

4 If you answered "Yes" to Question 3, please proceed to Question 4.

5 If you answered "No" to Question 3, AND answered "Yes" to Question 2, please proceed to
6 Question 5.

7 If you answered "No" to Question 3 AND answered "No" to either Question 1 or Question 2, please
8 proceed to Question 6.

9 **QUESTION 4:** Did Plaintiffs prove that from December 16, 2008 through July 31, 2012,
10 Apple consistently applied its meal period policies in a manner that resulted in the subclass of all
11 California non-exempt, non-managerial Retail employees who worked more than 10 hours to miss a
12 second meal period?

13 Yes ☐ No ☐

14 If you answered "Yes" to Question 4 and/or Question 2, please proceed to Question 5.

15 If you answered "No" to Question 4, AND answered "No" to either Question 1 or Question 2, please
16 proceed to Question 6.

17 **QUESTION 5:** What amount of first and second meal period premiums, if any, do you find
18 Apple should pay to the subclass of all California non-exempt, non-managerial Retail employees?
19 (You may not award a second meal period premium for any workday where you already awarded a
20 first meal period premium.) \$_____.

21 Proceed to Question 6.

22 **II. LATE MEAL PERIOD CLAIM**

23 **QUESTION 6:** Did Plaintiffs prove that from December 16, 2008 through July 31, 2012
24 Apple had uniform company-wide meal period policies that failed to authorize and permit the
25 subclass of all California non-exempt, non-managerial Retail employees the opportunity to take a
26 first meal period by the start of the sixth hour of work?

27 Yes ☐ No ☒

28 If you answered "Yes" to Question 6, then proceed to Question 7. If you answered "No" to
3.

1 Question 6, proceed to Question 8.

2 **QUESTION 7:** Did Plaintiffs prove that from December 16, 2008 through July 31, 2012
3 Apple consistently applied its meal period policies in a manner that resulted in the subclass of all
4 non-exempt, non-managerial Retail employees who worked more than five hours to miss the
5 opportunity to take a first meal period by the start of the sixth hour of work?

6 Yes ☐ No ☐

7 Proceed to Question 8.

8 **QUESTION 8:** Did Plaintiffs prove that from December 16, 2008 through July 31, 2012
9 Apple Retail stores consistently applied a uniform scheduling practice that resulted in the subclass of
10 all California non-exempt, non-managerial Retail employees who worked more than five hours to
11 miss the opportunity to take their first meal period by the start of the sixth hour of work?

12 Yes ☒ No ☐

13 Proceed to Question 9.

14 **QUESTION 9:** Did Plaintiffs prove that from December 16, 2008 through July 31, 2012
15 Apple had uniform company-wide meal period policies that failed to authorize and permit the
16 subclass of all California non-exempt, non-managerial Retail employees who worked more than 10
17 hours the opportunity to take a second meal period beginning by the start of the eleventh hour of
18 work?

19 Yes ☐ No ☒

20 If you answered "Yes" to Question 9, then proceed to Question 10. If you answered "No" to
21 Question 9, proceed to Question 11.

22 **QUESTION 10:** Did Plaintiffs prove that from December 16, 2008 through July 31, 2012
23 Apple consistently applied its meal period policies in a manner that resulted in the subclass of all
24 non-exempt, non-managerial Retail employees who worked more than 10 hours to miss the
25 opportunity to take their second meal period by the start of the eleventh hour of work?

26 Yes ☐ No ☐

27 Proceed to Question 11.

1 QUESTION 15: What rest break premiums, if any, do you find Apple should pay to the
2 subclass of all California non-exempt Retail employees? \$_____.

3 Please go to Question 16.

4 IV. DIRECT FINAL WAGE PAYMENT CLAIM

5 QUESTION 16: Did Plaintiffs prove that because Apple's Payroll Department is located in
6 Austin, Texas and is informally staffed on weekends, Apple willfully failed to timely provide final
7 wages to the subclass of all California non-exempt, non-managerial Retail employees who
8 terminated their employment between December 16, 2008 and December 16, 2011?

9 Yes ☐ No ☒

10 If you answered "Yes" to Question 16, then proceed to Question 17. If you answered "No" to
11 Question 16, and you did not provide a damage calculation in response to Question 5, Question 12,
12 or Question 15, please have the presiding juror sign and date this Special Verdict Form and return it
13 to the Bailiff, or as directed by the Court.

14 QUESTION 17: Did Apple willfully fail to pay the full amount of wages earned by each
15 subclass member within the appropriate timeframe?

16 Yes ☐ No ☒

17 If your answer to Question 17 is "Yes", then proceed to question 18. If you answered "No" to
18 Question 17, and you did not provide a damage calculation in response to Question 5, Question 12,
19 or Question 15, please have the presiding juror sign and date this Special Verdict Form and return it
20 to the Bailiff, or as directed by the Court.

21 QUESTION 18. For each subclass, do you find either:

22 A. That those subclass members who voluntarily terminated their employment gave at least
23 72 hours' notice; or

24 B. That those subclass members who voluntarily terminated their employment gave no
25 notice.

26 Check the appropriate one: A: _____ B: _____ Both: _____
27
28

1 QUESTION 19: What waiting time penalties, if any, do you find Apple should pay to the
2 subclass of California non-exempt, non-managerial Retail employees who terminated their
3 employment between December 16, 2008 and December 16, 2011? \$_____.

4 If you provided a damage calculation in response to Question 5, Question 12, or Question 15, please
5 proceed to Question 20.

6 V. DERIVATIVE FINAL WAGE PAYMENT CLAIM

7 QUESTION 20: Did Plaintiffs prove that Apple failed to pay meal period and/or rest break
8 premiums to those meal period and/or rest break subclass members who terminated their
9 employment between December 16, 2008 and December 16, 2011?

10 Yes ☒ No ☐

11 If you answered "Yes" to Question 20, then proceed to Question 21. If you answered "No" to
12 Question 20, then please have the presiding juror sign and date this Special Verdict Form and return
13 it to the Bailiff, or as directed by the Court.

14 QUESTION 21: Did Apple willfully fail to pay the full amount of meal period and/or rest
15 break premiums to each subclass member upon termination?

16 Yes ☐ No ☒

17 If you answered "Yes" to question 21, then proceed to Question 22. If you answered "No" to
18 Question 21, then proceed to Question 23.

19 QUESTION 22: What waiting time penalties, if any, do you find Apple should pay to the
20 subclass of California non-exempt, non-managerial Retail employees who terminated their
21 employment between December 16, 2008 and December 16, 2011? \$_____.

22 Proceed to Question 23.

23 VI. DERIVATIVE WAGE STATEMENT CLAIM

24 QUESTION 23: Did Plaintiffs prove that Apple knowingly and intentionally failed to report
25 the amount of meal period and/or rest break premiums on the wage statements of meal period and
26 rest break subclass members who worked between December 16, 2010 and July 31, 2012?

27 Yes ☐ No ☒

28 If you answered "Yes" to Question 23, then proceed to Question 24. If you answered "No" to

1 Question 23, then please have the presiding juror sign and date this Special Verdict Form and return
2 it to the Bailiff, or as directed by the Court.

3 QUESTION 24: For the Class, identify the number of pay periods the meal period or rest
4 break premiums were due and Apple knowingly and intentionally failed to include the meal period
5 or rest break premiums on the Class' wage statements.
6 _____

7 Proceed to Question 25.

8 QUESTION 25: What wage statement penalties, if any, do you find Apple should pay to the
9 subclass of California non-exempt, non-managerial Retail employees from December 16, 2010
10 through July 31, 2012? \$ _____.

11 Please have the presiding juror sign and date this Special Verdict Form and return it to the
12 Bailiff, or as directed by the Court.

13
14 Dated: December 9, 2016

Joshua Mellor
Presiding Juror

15
16 On December 8, 2016, the action continued directly into a bench trial. Jeffrey L. Hogue and
17 Tyler J. Belong, of Hogue & Belong, APC, appeared for Plaintiffs Brandon Fellezer, Ryan Goldman,
18 Ramsey Hawkins and Joseph Lane Carco and the subclasses one or more of these Plaintiffs
19 represented, and John S. Adler, Julie A. Dunne, Todd K. Boyer and Michael G. Leggieri, of Littler
20 Mendelson, P.C., appeared for Defendant Apple Inc. The Court heard evidence and had evidence
21 presented via stipulation regarding: (1) the Retail subclass' fifth cause of action for Unfair
22 Competition for failure to provide meal periods and rest breaks to Retail employees for the period of
23 December 16, 2007, to December 15, 2008; (2) the Corporate Subclass' fifth cause of action for
24 Unfair Competition for failure to provide meal periods and failure to provide rest breaks to
25 Corporate employees for the period of December 16, 2007 through July 31, 2012; and (3) Plaintiff
26 Ramsey Hawkins' sixth cause of action under the Private Attorneys' General Act for failure to
27 provide rest breaks to Retail employees for the period February 27, 2012, through July 31, 2012.
28

1 The Court's Amended Final Statement of Decision, filed 13 SEP 2017, addressing and setting
2 forth the resolution of such claims by way of Bench Trial, is attached hereto as Exhibit A and
3 incorporated herein in its entirety by reference.

4 **NOW THEREFORE IT IS SO ORDERED, ADJUDGED AND DECREED:**

5 1. Plaintiffs Brandon Felczer and Ryan Goldman, individually and on behalf of the
6 subclass of all non-exempt, non-managerial Retail employees they represent, shall have and recover
7 on their first cause of action for failure to provide meal periods as found on Special Verdict 8, and
8 judgment is hereby entered against Defendant Apple Inc. on that cause of action in the sum of,
9 \$2,000,000, with interest thereon at the legal rate from December 9, 2016 until paid, together with

10 costs and disbursements in the amount of \$ 2,724,838.20, of which attorney's fees
11 are \$ 2,286,639.82.

12 2. Plaintiffs Brandon Felczer and Ryan Goldman, individually and on behalf of the
13 subclass of all non-exempt Retail employees they represent, shall have and recover from Defendant
14 Apple Inc. nothing on their second cause of action for failure to provide rest breaks, their third cause
15 of action for failure to pay all wages due upon ending employment, their fourth cause of action for
16 failure to provide accurate itemized employee wage statements, and their fifth cause of action for
17 unfair competition. Judgment on Plaintiff Brandon Felczer's and Ryan Goldman's second, third,
18 fourth, and fifth causes of action is entered in Defendant Apple Inc.'s favor and against Plaintiff
19 Brandon Felczer and Ryan Goldman, individually and in their representative capacity.

20 3. Plaintiff Brandon Felczer and the alleged other aggrieved employees he represents
21 shall have and recover from Defendant Apple Inc. nothing on his sixth cause of action for PAGA
22 penalties. Judgment on Plaintiff Brandon Felczer's sixth cause of action is entered in Defendant
23 Apple Inc.'s favor and against Plaintiff Brandon Felczer, individually and in his representative
24 capacity.

25 4. Plaintiff Ramsey Hawkins, individually and on behalf of the subclass of all non-
26 exempt Retail employees he represents, shall have and recover from Defendant Apple Inc. nothing
27 on his second cause of action for failure to provide rest breaks, third cause of action for failure to pay
28 all wages due on ending employment, fourth cause of action for failure to provide accurate itemized
employee wage statements, and fifth cause of action for unfair competition.

Costs
entered on
5/30/2018.

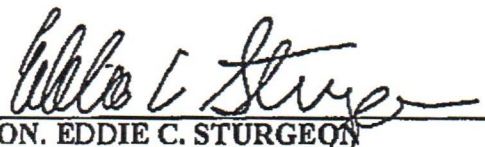
1 5. Plaintiff Ramsey Hawkins and the alleged other aggrieved employees he represents
2 shall have and recover from Defendant Apple Inc. nothing on his sixth cause of action for PAGA
3 penalties.

4 6. Judgment regarding Plaintiff Ramsey Hawkins' second, third, fourth, fifth, and sixth
5 causes of action, which constitute all of the causes of action Plaintiff Ramsey Hawkins pursued
6 against Defendant Apple Inc., is entered in Defendant Apple Inc.'s favor and against Plaintiff
7 Ramsey Hawkins, individually and in his representative capacity, and Defendant Apple Inc. shall
8 recover costs and disbursements from Plaintiff Ramsey Hawkins in the amount of \$ ~~FBA~~ ^{pa}
9 \$203,126.43 (joint and severally with Plaintiff Joseph Lane Carco).

10 7. Plaintiff Joseph Lane Carco, individually and on behalf of the subclass of all non-
11 exempt Corporate employees he represents, shall have and recover from Defendant Apple Inc.
12 nothing on his first cause of action for failure to provide meal periods, second cause of action for
13 failure to provide rest periods, fourth cause of action for failure to provide accurate itemized
14 employee wage statements, and fifth cause of action for unfair competition.

15 8. Judgment regarding Plaintiff Joseph Lane Carco's first, second, fourth and fifth
16 causes of action, which constitute all of the causes of action Plaintiff Joseph Lane Carco pursued
17 against Defendant Apple Inc., is entered in Defendant Apple Inc.'s favor and against Plaintiff Joseph
18 Lane Carco, individually and in his representative capacity, and Defendant Apple Inc. shall recover
19 from Plaintiff Joseph Lane Carco costs and disbursements in the amount of \$ ~~FBA~~ ^{pa}
20 \$203,126.43 (joint and severally with Plaintiff Ramsey Hawkins).

21 Dated: Sept 13, 2017

22 
23 HON. EDDIE C. STURGEON
24 Judge of the Superior Court
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26
27
28