

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

DATE: 07/12/2017

TIME: 09:41:00 AM

DEPT: C-67

JUDICIAL OFFICER PRESIDING: Eddie C Sturgeon

CLERK: Patricia Ashworth

REPORTER/ERM: ///

BAILIFF/COURT ATTENDANT: ///

CASE NO: 37-2011-00102593-CU-OE-CTL CASE INIT.DATE: 12/16/2011

CASE TITLE: **Felczer vs. Apple Inc [E-FILE]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Other employment

APPEARANCES

FINAL ORDER REGARDING WHETHER COURT CAN REEXAMINE SAME OPERATIVE FACTUAL FINDINGS OF THE JURY

On June 2, 2017, the court granted the parties the right to brief the court as to its role as a factfinder for the plaintiff's first year retail unfair competition claim. After reviewing the parties' pleadings, the court confirms the March 8, 2017 statement of decision, and enters judgment in Apple's favor regarding all of plaintiff's first year retail UCL meal and rest claims.

The court in *Rankin v. Frebank Co.* (1975) 47 Cal.App.3d 75, 92, which involved a shareholder's derivative action, stated clearly the Seventh Amendment is inapplicable to the California civil proceedings:

However, the Seventh Amendment has never been held to be applicable to state proceedings, and California has interpreted article I, section 7 of the California Constitution to preserve to litigants the right to trial by jury as it existed at common law in 1850. (*Veale v. Piercy* (1962) 206 Cal.App.2d 557, 560; *Ripling v. Superior Court* (1952) 112 Cal.App.2d 399, 402.) California has yet to depart from this historically based approach to the interpretation of article I, section 7.

The court is not required to adopt the jury's findings carte blanche, but may make its own determination as to the facts presented at trial. The jury's findings regarding the plaintiffs' statutory meal period claim applied only to the period from December 16, 2008 through July 31, 2012. (Jury verdict, questions 6, 9.) In contrast, the court's findings regarding the first year retail UCL claims covered the period between December 16, 2007 through December 15, 2008. (March 8, 2017, Tent. statement of decision, pp. 17-21.) Additionally, the jury's verdict and the court's decision address different legal claims. The UCL claim involves equitable claims not before the jury.

Defendant Apple Inc. is ordered to prepare a final judgment. The court appreciates the extensive efforts of the parties and the courtesies extended to the court.

Eddie C. Sturgeon

Judge Eddie C Sturgeon