

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 09/17/2013

TIME: 08:15:00 AM

DEPT: C-71

JUDICIAL OFFICER PRESIDING: Ronald S. Prager

CLERK: Lee Ryan

REPORTER/ERM: Laura Bollschweiler CSR# 10500

BAILIFF/COURT ATTENDANT: Lynn Wilks

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

CASE TITLE: **Felczer vs. Apple Inc [IMAGED]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Other employment

EVENT TYPE: Ex Parte

APPEARANCES

Jeffrey L Hogue, counsel, present for Plaintiff(s).

Tyler J Belong, counsel, present for Plaintiff(s).

Lara K. Strauss, Esq., specially appearing for counsel JESSICA R PERRY, present for Defendant(s).

Julie A Dunne, counsel, present for Defendant(s).

Minute entry for 9/6/13:

Court grants Order to return or destroy all copies of privileged litigation hold communication
(See redacted copy of Order signed 9/17/14 attached herewith and incorporated herein).

See also Reporter's transcript of 9/6/13 and today.

Regarding witness information provided to plaintiff's counsel in conjunction with response to Bellaire notice:

Plaintiff's counsel are not required to identify all employees who have simply contacted plaintiff's counsel and/or requested legal advice but if employee has provided information based on knowledge of the case making the employee a fact witness, those percipient witnesses statements and contact information must be provided.

Regarding disclosure of identities of Apple employees who have given declarations to plaintiff's counsel: Court provides following guidance. Tentatively it appears as though plaintiff's counsel has selected from 18,000 putative class members a small number to interview and likely a similar number to sign declarations. It appears that disclosing the name and even the number of these individuals would be protected by qualified work product privilege.

A practical solution is to assure Apple that once identities of any of these documents are disclosed in Motion to Certify Class, Apple will be given ample opportunity to depose and use that information in opposition to class certification.

As to dismissal granted 9/13/13 as to paycheck claim based on alleged failure to state address of

California Bank, during pendency of defendant's Motion for Summary Adjudication plaintiff secured a dismissal without prejudice without actual Court approval which is required in a class action case. Since Motion for Summary Adjudication was pending, Court corrects dismissal order nunc pro tunc 9/6/13 so that dismissal as to named class members is with prejudice but dismissal is without prejudice to all other putative class members.

Apple will prepare Order.

Ronald S. Prager

Judge Ronald S. Prager