

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

DATE: 09/06/2012

TIME: 02:00:00 PM

DEPT: C-60

JUDICIAL OFFICER PRESIDING: Gonzalo Curiel

CLERK: Hayden Henson

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT:

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

APPEARANCES

AMENDED RULING AFTER HEARING

The order filed on August 21, 2012 is amended so as to make a correction at page two, section B at the third paragraph by deleting the words "rest and". The remainder of the order is left unchanged and is set out below. The previously established time periods for required notices and production are left unaffected by this amended order.

The Court grants plaintiff Brandon Felczer's ("plaintiff") application re: production of the class list, in part, as set out herein. Apple Inc. ("defendant") shall produce a class list comprised of putative class members who do not elect to opt out following notice of the request. The protocol and timeline for such opt-out procedure are set out below.

A. Legal Discussion

Contact information regarding the identity of potential class members is generally discoverable, so that the lead plaintiff may learn the names of other persons who might assist in prosecuting the case. (E.g., *Bartold v. Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 820-821, 836; see Code Civ. Proc., § 2017.010.) Such disclosure involves no revelation of personal or business secrets, intimate activities, or similar private information, and threatens no undue intrusion into one's personal life, such as mass-marketing efforts or unsolicited sales pitches.

However, Apple employees "unquestionably [have] a legitimate expectation of privacy in their addresses and telephone numbers." (*Puerto v. Superior Court* (2008) 158 Cal.App.4th 1242, 1252.) This information was given to Apple as a condition of employment and "with the expectation that [the information] would not be divulged externally except as required to governmental agencies or to benefits providers. This is a reasonable expectation in light of employers' usual confidentiality customs and practices." (*Ibid.*)

While employees would not likely want their contact information broadly disseminated, this does not mean they would want it withheld "from plaintiffs seeking relief for violations of employment laws in the

workplace that they shared." (*Id.* at p. 1253.) Rather, employees similarly situated to petitioners "may reasonably be supposed to want their information disclosed to counsel whose communications in the course of investigating the claims asserted in [plaintiff's] lawsuit may alert them to similar claims they may be able to assert." (*Ibid.*)

B. Findings and Order

Here, the Court finds that the requested information, while personal, is not particularly sensitive, as it is merely contact information, and does not involve medical or financial details, political affiliations, sexual relationships, or personnel information. An opt-out process provided herein will strike an appropriate balance between the privacy interests of the class members, and the plaintiff's interest in identifying putative class members who might assist in prosecuting the case.

The court directs that a notice be provided to putative class members with an opportunity to opt-out. Defendant shall retain an administrator for purposes of providing notice and the option to opt-out of the disclosed class list. Each side is responsible for one-half of the costs for the notice/opt-out process. The notice should include the following information:

In December 2011, a lawsuit was filed in San Diego, California in which the plaintiff alleges violations of the wage and hour laws of California, including meal breaks laws. As part of the litigation, plaintiff has requested the name, address and telephone numbers for a number of former and current employees of Apple. The court has directed that Apple send you this notice so that you can decide whether to authorize Apple to disclose your personal information to the plaintiff's counsel so they may contact you. If you do not agree to the disclosure of this information to the plaintiff's counsel, please check the box on the enclosed form and return it to the address shown on the form. *Not responding to this letter will be treated as agreeing to contact by Plaintiff's counsel.* [emphasis added].

Defendant is directed to arrange to have the above-described notice provided to putative class members within 30 days of this order. The putative class members will have 30 days to respond to the notice. Thereafter, defendant will have 15 days to produce a class list made up of putative class members who have not elected to opt out of the requested disclosure.

Gonzalo Curiel

Judge Gonzalo Curiel