

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

APPLE INC.

and

CHER SCARLETT, an Individual

**Cases 32-CA-282396
32-CA-287038
32-CA-290101**

**AMENDED CONSOLIDATED
COMPLAINT AND NOTICE OF HEARING**

On October 30, 2024 an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing issued in Cases 32-CA-282396, 32-CA-287038, 32-CA-290101, based on charges filed by Cher Scarlett,¹ an Individual (Charging Party or Scarlett), alleging that Apple, Inc. (Respondent), is engaged in unfair labor practices that violate the National Labor Relations Act (the Act), 29 U.S.C. § 151, et seq. This Amended Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151, et seq., and Sections 102.15 and 102.17 of the Board's Rules and Regulations, and alleges that Respondent has violated the Act as described below.

1.

(a) The charge in Case 32-CA-282396 was filed by Charging Party on September 1, 2021, and a copy was served on Respondent by U.S. mail on September 2, 2021.

(b) The charge in Case 32-CA-287038 was filed by Charging Party on November 22, 2021, and a copy was served on Respondent by U.S. mail on December 2, 2021.

¹ Cases 32-CA-282396 and 32-CA-287038 were filed under a former name of the Charging Party and therefore is corrected herein.

(c) The charge in case 32-CA-290101 was filed by Charging Party on February 4, 2022, and a copy was served on Respondent by U.S. mail on February 4, 2022.

2.

(a) At all material times, Respondent has been a California corporation with its headquarters located in Cupertino, California (Respondent's facility), and retail facilities located throughout the United States, and is engaged in the development, manufacture, and retail sale of consumer electronics and software and provision of customer service and support for those electronics and software.

(b) In conducting its operations during the 12-month period ending May 31, 2022, a representative period, Respondent, in conducting its operations described above in paragraph 2(a), derived gross revenues in excess of \$500,000.

(c) During the time period described above in paragraph 2(b), Respondent, in conducting its operations described above in paragraph 2(a), purchased and received at its Cupertino, California facility products, goods, and materials valued in excess of \$5,000 directly from points outside the State of California.

3.

At all material times, Respondent has been an employer engaged in commerce within the meaning of Sections 2(2), (6), and (7) of the Act.

4.

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act or agents of Respondent within the meaning of Section 2(13) of the Act:

Tim Cook	—	Chief Executive Officer
██████████	—	Senior Vice President
██████████	—	Manager
██████████	—	Manager/Slack Administrator
██████████	—	Manager
██████	—	Director of Design for Manufacturing
██████████	—	Manager
██████████	—	Manager
██████████	—	Manager

**RESPONDENT VIOLATES SECTION 8(a)(1) OF THE ACT BY
MAINTENAINING AN OVERBROAD RULE**

5.

Since at least May 22, 2021, Respondent has maintained a policy titled, “Sales Incentive Compensation Plan (“SICP”),” which outlines financial incentives for reaching specific sales goals and states, *inter alia*:

- (a) in the footer of each page: “Apple Proprietary and Confidential;” and
- (b) under the section heading “Other Provisions,” “Apple considers this Plan to be confidential and proprietary information.”

**RESPONDENT VIOLATES SECTION 8(a)(1) OF THE ACT BY SELECTIVELY
AND DISPARATELY ENFORCING ITS SLACK² TERMS OF USE POLICY TO
INTERFERE WITH PAY EQUITY DISCUSSIONS**

6.

(a) Since at least June 2, 2021, Respondent has maintained a policy titled, “Terms of Use” (TOU) that governs employees’ use of Slack, which states, *inter alia*:

(i) “Slack is a collaboration and productivity tool provided to [Respondent] users to conduct [Respondent] business. Slack channels are created for the sole purpose of advancing the work, deliverables, or mission of [Respondent] departments and teams.”

(ii) Under the heading “Channel Use,” the TOU further states: “Slack channels for approved [Respondent] Employee clubs and Diversity Network Associations (DNAs) are permitted. Slack channels for activities and hobbies not recognized as [Respondent] Employee clubs or DNAs aren’t permitted and shouldn’t be created.”

(b) About August 31, 2021, Respondent, through [REDACTED], via Slack, enforced its TOU selectively and disparately by denying an employee request to create a Slack channel called #community-pay-equity, stating that Slack was to be used for business purposes only, while permitting other employees to use Slack for non-business purposes.

²Slack is a business communication platform that allows individuals within a company to collaborate in an organized manner via a virtual “workspace.” Within a workspace, Slack organizes conversations into dedicated spaces called “channels.”

RESPONDENT VIOLATES SECTION 8(a)(1) OF THE ACT BY INTERFERING WITH EMPLOYEES' SECTION 7 ACTIVITIES BY PROHIBITING WAGE SURVEYS AND OTHER PROTECTED ACTIVITIES AND BY CREATING AN IMPRESSION OF SURVEILLANCE OF EMPLOYEES' SECTION 7 ACTIVITIES

7.

(a) About March 2021, Respondent, by Manager [REDACTED] over a video call, threatened an employee with unspecified reprisals if the employee discussed a performance bonus that the employee had received.

(b) Respondent, through Manager [REDACTED]:

(i) About May 12, 2021, told an employee not to speak to the press after the employee communicated on social media about the employee's workplace concerns and after the employee was quoted in the press about those workplace concerns.

(ii) About May 13, 2021, told the employee that the employee must notify him (Mitchell) in advance if the employee wishes to speak to the press.

(iii) About July 1, 2021, told an employee that he was upset that the employee had not told him in advance that the employee would be talking to the press about employees' working conditions, including a group concern about remote work.

(c) About July 19, 2021, Respondent, through Employee Relations Representative [REDACTED]:

(i) told an employee to remove the employee's Tweet regarding how to request continued remote work arrangements at Respondent's facility; and

(ii) sought the names of other employees that the employee had spoken with concerning remote work.

(d) About August 10, 2021, Respondent, by Manager [REDACTED] in a telephone call to an employee:

(i) created an impression of surveillance saying that he ([REDACTED]) and others in Respondent's senior leadership had seen the employee's posts about pay equity on Slack and that Respondent was monitoring those discussions;

(ii) told the employee not to participate in the wage and pay discussions on Slack or fill out the online wage survey that Scarlett had posted; and

(iii) impliedly threatened the employee with unspecified reprisals if the employee continued to participate in discussions about wages on Slack or participate in Scarlett's online pay equity survey.

(e) About August 15, 2021, Respondent, by Manager [REDACTED], in a telephone call, told an employee that Respondent did not want employees talking about wages and/or pay equity issues.

(f) In emails dated August 24, 25, and 30, 2021, Respondent, by Manager [REDACTED], refused to meet with employees collectively about their concerns regarding compensation and group concerns regarding data revealed by employee wage surveys and insisted on meeting with employees in individual meetings.

(g) About August 26, 2021, Respondent, by Manager [REDACTED], in a WebEx video conference meeting:

(i) interrogated an employee about why and how the employee got involved with Scarlett's pay equity survey and who else was involved; and

(ii) impliedly threatened the employee with unspecified reprisals by warning the employee that Slack was intended for Respondent's business use only and that the employee should be careful with what the employee shared over Slack.

(h) About August or September 2021, Respondent, by Manager [REDACTED] in a video call, impliedly threatened termination and/or other reprisals by telling an employee to track the hours the employee spent on the wage survey project and to engage in protected activities only outside of work hours, and specifically on weekends, in case Respondent tried to discipline or discharge the employee for a drop in performance.

(i) About early-September 2021, Respondent, by Senior Vice President [REDACTED], in a video posted to Respondent's intranet, told employees to talk to their managers or HR/People Business Partner if they had concerns about their pay.

RESPONDENT CONSTRUCTIVELY FIRES SCARLETT BY MAKING CONTINUED EMPLOYMENT CONTINGENT UPON HER CEASING HER SECTION 7 ACTIVITIES IN VIOLATION OF SECTION 8(a)(1) OF THE ACT

8.

(a) Since at least May 2021, and continuing to date, Scarlett engaged in concerted activities, with or on behalf of Respondent's other employees for the purposes of mutual aid and protection, by, among other things, engaging in the following conduct:

(i) Scarlett Tweeted, spoke to media reporters, and engaged in Slack discussions about workplace issues including, but not limited to, pay equity and Respondent's remote work policy.

(ii) Scarlett participated in a conversation thread in Respondent's Slack channel called "Women in Software Engineering," where other employees were discussing concerns about sexism and gender discrimination in the workplace.

(iii) In about the summer of 2021, Scarlett helped found the “Apple Too” movement, an effort modeled after the “Me Too” movement,³ to encourage her fellow employees to share stories and create transparency around incidents of discrimination, inequity, racism, and sexism they experienced in the course of their employment with Respondent.

(iv) About August 4, 2021, Scarlett participated in an online pay survey that a fellow employee of Respondent had created.

(v) About August 7, 2021, Scarlett created and posted an online pay equity survey where Respondent’s employees could anonymously share information about their wages, job levels, years of experience, and personal demographics in order to identify potential pay disparities, and then posted the wage survey on her personal Twitter⁴ account, where some of Respondent’s employees followed her.

(vi) About August 7, 2021, Scarlett posted a link to the pay equity survey in one of Respondent’s Slack channels, #talk-benefits, that some of Respondent’s employees had previously attempted to use to discuss pay equity issues and conduct wage surveys.

(vii) About August 24, 2021, Scarlett and other Respondent employees requested a group meeting with Respondent’s management to share group concerns regarding data revealed by the wage surveys.

(viii) About August 26, 2021, Scarlett and other employees showed Respondent’s HR Representative Jeannie Wong a presentation regarding the wage survey’s

³ The “Me Too” movement is an awareness campaign centered on addressing sexual harassment and sexual abuse of women in the workplace that grew to prominence in the fall of 2017.

⁴ “X”, formerly “Twitter” (2006–2023), is an online social media platform and microblogging service that distributes short messages of no more than 280 characters.

methodology and results and the group's finding that there was possible gender-based pay disparity in some of Respondent's departments.

(b) Since at least September 1, 2021, to about November 15, 2021, Respondent made it known that Respondent was conditioning continued employment of Scarlett on her abandoning Section 7 activities by:

(i) telling employees not to participate in Scarlett's online pay survey;

(ii) telling employees their participation in Scarlett's online pay survey was not condoned;

(iii) telling employees that participation in Scarlett's pay survey could lead to demotion and/or harm their careers and/or violate their employment agreements;

(iv) telling Scarlett's former legal representative that Respondent's executives were having a headache from Scarlett's Tweeting about them and therefore telling Scarlett to stop; and

(v) repeatedly telling Scarlett to take medical leave and offering her a severance agreement rather than addressing her requests for: a company-wide statement clarifying employees' right to discuss pay, to engage in protected concerted activities, to freely speak to the press about workplace issues, and to access Slack to discuss pay and workplace issues; and for a formal platform for Respondent to receive employee group concerns.

(c) By the conduct described above in paragraph 8(b), Respondent caused the termination of employee Scarlett.

(d) Respondent engaged in the conduct described above in paragraphs 8(b) and (c) because Scarlett engaged in the conduct described above in paragraph 8(a), and to discourage employees from engaging in these or other protected concerted activities.

9.

By the conduct described above in paragraphs 5, 6, 7, and 8, Respondent has been interfering with, restraining and coercing employees in the exercise of their rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

10.

The unfair labor practices of Respondent described above affect commerce within the meaning of Sections 2(6) and (7) of the Act.

REMEDIES

11.

WHEREFORE, as part of the remedy for the unfair labor practices described above in paragraphs 5 through 8, the General Counsel seeks an Order requiring Respondent to: (1) physically and electronically post the Notice to Employees at all its facilities including, but not limited to, posting on Respondent-sponsored Slack communication channels, intranet portals, and by e-mail; (2) email a copy of the Notice to Employees to all its supervisors and managers; (3) physically and electronically post the Explanation of Employee Rights poster in the same manner as the posting of the Notice to Employees; (4) have a Board Agent conduct a training session for its managers and supervisors on their obligations under the Act, on work time, scheduled so as to ensure the widest possible attendance (by videoconference or in person, at the discretion of the Regional Director); and (5) have a Board Agent conduct a training session for its employees on their rights under the Act, on

work time, scheduled so as to ensure the widest possible attendance (by videoconference or in person, at the discretion of the Regional Director).

WHEREFORE, as part of the remedy for the unfair labor practices described above in paragraph 8 the General Counsel seeks an Order requiring Respondent to: (1) offer employee Scarlett reinstatement to her former job position or, if that job no longer exists, to a substantially equivalent position, without prejudice to Scarlett's seniority or any other rights or privileges previously enjoyed; (2) send a letter to Scarlett apologizing for constructively terminating her, expunge all Respondent's records of such termination, and inform her, in writing, that her termination has been expunged from Respondent's records and will not be used against her in any way; (3) make employee Scarlett whole for all losses incurred as a result of the unfair labor practices described above, including for all pecuniary losses incurred as a result of her unlawful termination; and (4) provide a neutral job reference to all prospective employers with the correct job titles and positions of employee Scarlett.

WHEREFORE, as part of the remedy for the unfair labor practices described above in paragraph 5 the General Counsel seeks an Order requiring Respondent to rescind the rules described in all their forms, or revise them in all their forms, to make clear to employees, in writing, that these rules do not interfere with employees' right to engage in Section 7 activities for mutual aid and protection; to rescind all disciplines or terminations issued to all employees pursuant to the unlawful rules; and to make all employees whole for losses incurred as a result of being suspended or terminated pursuant to the unlawful rules.

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the Amended Consolidated Complaint. The answer must be **received by this office on or before November 14, 2024.**

An answer must be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a Complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely,

the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Amended Consolidated Complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on June 24, 2025, at 9:00 a.m., at the Oakland Regional Office of the National Labor Relations Board located at 1301 Clay Street, Suite 1510N, Oakland, California 94612, at a conference room to be determined, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this Amended Consolidated Complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

DATED AT Oakland, California this 31st day of October 2024.



Christy Kwon
Regional Director
National Labor Relations Board
Region 32
1301 Clay Street, Suite 1510N
Oakland, CA 94612-5224

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

NOTICE

**Cases: 32-CA-282396
32-CA-287038
32-CA-290101**

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds thereafter must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request;

and

- (5) Copies must be simultaneously served on all other parties (*listed below*), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

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**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

APPLE INC.

and

CHER SCARLETT, an Individual

**Cases: 32-CA-282396
32-CA-287038
32-CA-290101**

Date: October 31, 2024

**AFFIDAVIT OF SERVICE OF AMENDED CONSOLIDATED
COMPLAINT AND NOTICE OF HEARING**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) upon the persons at the addresses and in the manner indicated below. Persons listed below under "E-Service" have voluntarily consented to receive service electronically, and such service has been effected on the same date indicated above.

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E-FILE

October 31, 2024
Date

Frances Hayden, Designated Agent of NLRB
Name

/s/ Frances Hayden
