

1 DANIELLE J. MOSS, *PRO HAC VICE PENDING*  
2 dmoss@gibsondunn.com  
3 GIBSON, DUNN & CRUTCHER LLP  
4 200 Park Avenue  
5 New York, NY 10166-0193  
6 Telephone: 212.351.4000  
7 Facsimile: 212.351.4035

8 MEGAN COONEY, SBN 295174  
9 mcooney@gibsondunn.com  
10 LAUREN M. FISCHER, SBN 318625  
11 lfischer@gibsondunn.com  
12 GIBSON, DUNN & CRUTCHER LLP  
13 3161 Michelson Drive  
14 Irvine, CA 92612-4412  
15 Telephone: 949.451.3800  
16 Facsimile: 949.451.4220

17 Attorneys for Defendant  
18 PELOTON INTERACTIVE, INC.

19 UNITED STATES DISTRICT COURT  
20 CENTRAL DISTRICT OF CALIFORNIA

21 MARK COHEN, as an individual and  
22 on behalf of all others similarly situated,

23 Plaintiff,

24 v.

25 PELOTON INTERACTIVE, INC., a  
26 Delaware corporation; and Does 1  
27 through 50, inclusive,

28 Defendants.

CASE NO. 2:22-cv-01425

**DEFENDANT PELOTON  
INTERACTIVE, INC.'S NOTICE OF  
REMOVAL OF CLASS ACTION**

(Los Angeles County Superior Court Case  
No. 22STCV00201)

Action Filed: January 3, 2022

**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I. TIMELINESS OF REMOVAL ..... 1

II. SUMMARY OF ALLEGATIONS AND GROUNDS FOR REMOVAL..... 2

    A. The Proposed Class Consists of More than 100 Members ..... 5

    B. Peloton and Plaintiff Are Not Citizens of the Same State ..... 6

    C. The Amount in Controversy Exceeds \$5 Million ..... 7

        1. Plaintiff’s Allegations Regarding Waiting Time Penalties  
           Place More than \$2.9 Million in Controversy ..... 9

        2. Plaintiff’s Claim for Alleged Violation of Labor Code  
           Section 226 Places Another \$1.4 Million in Controversy ..... 11

        3. Plaintiff’s Allegations Regarding Meal and Rest Periods  
           Places Another \$694,411.20 in Controversy ..... 13

        4. Plaintiff’s Request for Attorneys’ Fees Places an Additional  
           \$1.2 Million in Controversy..... 16

        5. Just Four of Plaintiff’s Nine Causes of Action, Including  
           Attorneys’ Fees, Places More than \$6.3 Million in  
           Controversy..... 17

III. THIS COURT HAS JURISDICTION AND REMOVAL IS PROPER ..... 18

**TABLE OF AUTHORITIES**

Page(s)

**CASES**

1		
2		
3		
4		
5	<i>Arias v. Residence Inn by Marriott,</i>	
6	936 F.3d 920 (9th Cir. 2019) .....	7, 8, 16
7	<i>Avila v. Kiewit Corp.,</i>	
8	789 F. App'x 32 (9th Cir. 2019) .....	15
9	<i>Ayala v. Cox Auto., Inc.,</i>	
10	2016 WL 6561284 (C.D. Cal. Nov. 4, 2016) .....	6
11	<i>Barcia v. Contain-A-Way, Inc.,</i>	
12	2009 WL 587844 (S.D. Cal. Mar. 6, 2009) .....	16
13	<i>Branch v. PM Realty Grp., L.P.,</i>	
14	647 F. App'x 743 (9th Cir. 2016) .....	15
15	<i>Campbell v. Vitran Exp., Inc.,</i>	
16	471 F. App'x 646 (9th Cir. 2012) .....	7
17	<i>Crummie v. CertifiedSafety, Inc.,</i>	
18	2017 WL 4544747 (N.D. Cal. Oct. 11, 2017) .....	10
19	<i>Danielsson v. Blood Ctrs. of Pac.,</i>	
20	2019 WL 7290476 (N.D. Cal. Dec. 30, 2019) .....	15
21	<i>Dart Cherokee Basin Op. Co. v. Owens,</i>	
22	574 U.S. 81 (2014) .....	7, 8
23	<i>De Bedoy v. ATN Window &amp; Door Corp.,</i>	
24	2016 WL 7647203 (Cal. Super.) .....	16
25	<i>Ferra v. Loews Hollywood Hotel, LLC,</i>	
26	11 Cal. 5th 858 (2021) .....	13
27	<i>Garza v. Brinderson Constructors, Inc.,</i>	
28	178 F. Supp. 3d 906 (N.D. Cal. 2016) .....	14
	<i>Hanlon v. Chrysler Corp.,</i>	
	150 F.3d 1011 (9th Cir. 1998) .....	16

**TABLE OF AUTHORITIES**  
(continued)

		<u>Page(s)</u>
1		
2		
3	<i>Hertz Corp. v. Friend,</i>	
4	559 U.S. 77 (2010).....	6
5	<i>Johnson v. Columbia Props. Anchorage, LP,</i>	
6	437 F.3d 894 (9th Cir. 2006) .....	7
7	<i>Kantor v. Wellesley Galleries, Ltd.,</i>	
8	704 F.2d 1088 (9th Cir. 1983) .....	6
9	<i>Kenneth Rothschild Tr. v. Morgan Stanley Dean Witter,</i>	
10	199 F. Supp. 2d 993 (C.D. Cal. 2002) .....	7
11	<i>Korn v. Polo Ralph Lauren Corp.,</i>	
12	536 F. Supp. 2d 1199 (E.D. Cal. 2008) .....	7
13	<i>LaCross v. Knight Transp. Inc.,</i>	
14	775 F.3d 1200 (9th Cir. 2015) .....	7
15	<i>Lewis v. Verizon Commc'ns, Inc.,</i>	
16	627 F.3d 395 (9th Cir. 2010) .....	8
17	<i>Mackall v. Healthsource Glob. Staffing, Inc.,</i>	
18	2016 WL 4579099 (N.D. Cal. Sept. 2, 2016).....	14
19	<i>Mamika v. Barca,</i>	
20	68 Cal. App. 4th 487 (1998) .....	9
21	<i>Marentes v. Key Energy Servs. Cal., Inc.,</i>	
22	2015 WL 756516 (E.D. Cal. Feb. 23, 2015) .....	10
23	<i>Mays v. Wal-Mart Stores, Inc.,</i>	
24	804 F. App'x 641 (9th Cir. 2020) .....	12
25	<i>Mejia v. DHL Express (USA), Inc.,</i>	
26	2015 WL 2452755 (C.D. Cal. May 21, 2015).....	12
27	<i>Murphy v. Kenneth Cole Prods., Inc.,</i>	
28	40 Cal. 4th 1094 (2007) .....	14
	<i>Pineda v. Bank of Am., N.A.,</i>	
	50 Cal. 4th 1389 (2010) .....	9

**TABLE OF AUTHORITIES**  
(continued)

Page(s)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

*Rippee v. Boston Mkt. Corp.*,  
408 F. Supp. 2d 982 (S.D. Cal. 2005) ..... 7

*Salter v. Quality Carriers, Inc.*,  
974 F.3d 959 (9th Cir. 2020) ..... 7, 8

*Soto v. Tech Packaging, Inc.*,  
2019 WL 6492245 (C.D. Cal. Dec. 3, 2019)..... 12

*Standard Fire Ins. Co. v. Knowles*,  
568 U.S. 588 (2013)..... 8

*State Farm Mut. Auto Ins. Co. v. Dyer*,  
19 F.3d 514 (10th Cir. 1994) ..... 6

*Tajonar v. Echosphere, L.L.C.*,  
2015 WL 4064642 (S.D. Cal. July 2, 2015)..... 10

*Vasquez v. Randstad US, L.P.*,  
2018 WL 327451 (N.D. Cal. Jan. 9, 2018)..... 15

**STATUTES**

28 U.S.C. § 84(c) ..... 18

28 U.S.C. § 1332(c)(1)..... 6, 7

28 U.S.C. § 1332(d) ..... *passim*

28 U.S.C. § 1441 ..... 2, 5, 18

28 U.S.C. § 1446..... 1, 18, 19

28 U.S.C. § 1453 ..... 1, 2, 18

28 U.S.C. § 1711 ..... 1

Cal. Civ. Proc. Code § 340(a)..... 12

Cal. Civ. Proc. Code § 338(a)..... 9, 14

Cal. Civ. Proc. Code § 382 ..... 2

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.