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*Attorneys for Plaintiffs, on behalf of themselves and all  
others similarly situated*

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

ANDRE NUNN, KAILA WEBB, and  
KASANDRA JIMENEZ, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

BITWISE INDUSTRIES, INC.,  
ALPHAWORKS TECHNOLOGIES, LLC,  
JAKE SOBERAL, and IRMA L. OLGUIN,  
JR.,

Defendants.

CASE NO.

**CLASS ACTION COMPLAINT FOR**

**(1) VIOLATION OF WARN ACT 29 U.S.C.  
§ 2101, *ET SEQ.*, and**

**(2) VIOLATION OF CALIFORNIA  
LABOR CODE § 1400, *ET. SEQ.*,**

**(3) VIOLATION OF CALIFORNIA  
LABOR CODE § 201, *ET SEQ.*, and**

**(4) VIOLATION OF STATE WAGE LAWS**

Plaintiffs Andre Nunn, Kaila Webb, and Kasandra Jimenez (“Plaintiffs”) allege on behalf  
of themselves and the putative class of those similarly situated as follows:

**NATURE OF THE ACTION**

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1. Defendants Bitwise Industries, Inc. (“Bitwise”) and AlphaWorks Technologies, LLC (“AlphaWorks” and together “Defendants”) operate a business that provides technology-based services for underserved cities (the “Company”). Its client base is largely made up of companies and government entities in underserved cities that do not have a robust technology infrastructure. Bitwise rents out offices and co-working spaces in its buildings and helps customers build websites or mobile phone apps. To do this, Bitwise hires apprentices, often from disadvantaged backgrounds, providing them with on-the-job training and opportunities to work with the Bitwise’s clients.

2. Defendants Jake Soberal and Irma L. Olgiun, Jr. were co-founders of Bitwise and the co-CEOs of Defendants at all relevant times.

3. Plaintiffs and an estimated 900 other similarly situated former employees worked for Defendants until May 29, 2023, when they were all placed on indefinite “furlough.”

4. At no time prior to May 29, 2023, did Plaintiffs or the other similarly situated former employees receive written notice that they would be placed on “furlough.”

5. Plaintiffs bring this action on behalf of themselves and the other similarly situated former employees who worked for Defendants and who were terminated without cause, as part of, or as the result of, the mass layoffs, plant closings, or termination of a covered establishment ordered by Defendants on or about May 29, 2023 and within thirty (30) days of that date, and who were not provided 60 days’ advance written notice of their terminations by Defendants, as required by the Worker Adjustment and Retraining Notification Act (“WARN Act”), 29 U.S.C. § 2101, *et seq.*, and the California Labor Code § 1400, *et. seq.* (“CAL-WARN Act”).

6. Plaintiffs, on behalf of themselves and all similarly situated employees, seek to recover 60 days’ wages and benefits, pursuant to 29 U.S.C. § 2104 and California Labor Code § 1402, from Defendants.

7. Because Plaintiffs and those similarly situated have not been paid their wages for the period May 8-20 (that were due to be paid on May 26, 2023), and for the wages earned from

May 21 through May 29, they are owed three weeks and one day of pay. Defendants have also failed to make timely benefits contributions.

8. Plaintiffs, on behalf of themselves and all similarly situated employees, seeks to recover unpaid wages and benefits under the laws of the states in which employees worked, and final paycheck and waiting time penalties under California law.

### **JURISDICTION AND VENUE**

9. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1367, and U.S.C. § 2104(a)(5).

10. Venue in this Court is proper pursuant to 29 U.S.C. § 2104(a)(5).

11. The Court has jurisdiction over Defendants because they did business in this District and a substantial part of the events giving rise to Plaintiffs' claims occurred in this District.

### **THE PARTIES**

#### **Plaintiffs**

12. Plaintiff Andre Nunn was employed by Defendants as the Director of Operations in Buffalo, who worked at Defendants' facility located at 199 Scott Street, Buffalo, New York until he was "furloughed" on or about May 29, 2023.

13. Plaintiff Nunn is a resident of the state of New York.

14. Plaintiff Kaila Webb was employed by Defendants as the Director of Business Analytics and worked remotely, receiving assignments from and reporting to Defendants' headquarters in Fresno, California until she was "furloughed" on or about May 29, 2023.

15. Plaintiff Webb is a resident of the state of Maine.

16. Plaintiff Kasandra Jimenez was employed by Defendants as a payroll and compliance accountant and worked at Defendants' facility located at 700 Van Ness Avenue, Fresno, California 93721 (the "Van Ness Facility") until she was "furloughed" on or about May 29, 2023.

17. Plaintiff Jimenez is resident of the state of California.

1           18.     On May 29, 2023, Plaintiffs received a letter via email from Jake Soberal, CEO and  
2 co-founder of Bitwise. The letter stated that 100% of Bitwise Industries employees and  
3 AlphaWorks apprentices would be “furloughed,” effective immediately. The letter did not state  
4 how long the “furlough” was expected to last. The letter gave information on how to apply for  
5 unemployment benefits.

6           19.     On information and belief, an estimated 900 similarly situated former employees  
7 who worked at the Van Ness Facility, and other facilities as defined by the WARN Act and CAL-  
8 WARN Act (together, the “Facilities”), suffered an employment loss without cause on or about  
9 May 29, 2023, without 60 days’ written notice.

10          20.     Since March 31, 2023, Defendants stopped paying employees on time. Plaintiffs’  
11 last three biweekly checks were put on hold for insufficient funds, leaving their uncertain when or  
12 if they would be paid. Their pay, which was due to be paid on May 26, 2023, has not been paid.

13          21.     Since March 2023, upon information and belief, Defendants ceased forwarding  
14 employees’ contributions to certain employee benefits programs, including 401k and not paid the  
15 employer’s matching contributions. They have not forwarded employee loan payment amounts to  
16 affiliated lenders resulting in employees being declared in default of their loans.

17          22.     Defendants have ceased providing all forms of compensation and benefits without  
18 providing any date or circumstance that would give rise to a reasonable expectation of recall.  
19 Instead, it advised them to raid their retirement savings by seeking a “hardship” distribution or go  
20 into debt with a loan.

21           **Defendants**

22          23.     Upon information and belief and at all relevant times, Defendant Bitwise Industries,  
23 Inc. is a California corporation with its headquarters located at 700 Van Ness Avenue, Fresno,  
24 California 93721.

25          24.     Upon information and belief and at all relevant times, Defendant AlphaWorks  
26 Technologies, LLC is a California corporation with its headquarters located at 700 Van Ness  
27 Avenue, Fresno, California 93721.  
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1           25.     AlphaWorks operates an apprenticeship program in which job trainees are employed  
2 as “apprentices” and paid a minimum wage of approximately eighteen dollars an hour for several  
3 months for performing work until upon graduation they transition to a higher paid, salaried job.  
4 Defendants “furloughed” the employee-apprentices and regular employees (collectively, herein the  
5 “employees”) in the same email on or about May 29, 2023.

6           26.     Upon information and belief, Defendant Jake Soberal is an individual who at all  
7 relevant times was a co-CEO of Defendants and is a resident of Fresno and a citizen of California.

8           27.     Upon information and belief, Defendant Irma Olguin, Jr. is an individual who at all  
9 relevant times was a co-CEO of Defendants and is a resident of Fresno and a citizen of state of  
10 California.

11           28.     In addition to the Van Ness Facility, Defendants owned and/or operated other sites  
12 located at 747 R. Street, Fresno, California, as well as sites in Bakersfield, Merced and Oakland,  
13 California. Additionally, Defendants owned and/or operated sites in the states of New Mexico,  
14 Colorado, Texas, Wyoming, Ohio, Illinois, and New York where they employed employees and  
15 substantially ceased operations on or about May 29, 2023.

16           29.     Until on or about May 29, 2023, Plaintiffs and the similarly situated employees were  
17 employed by Defendants and worked at or reported to the Facilities.

18           30.     Upon information and belief and at all relevant times, Defendants, as a single  
19 employer, made the decision to terminate the Plaintiffs and the similarly situated employees on  
20 May 29, 2023.

21           31.     Defendants failed to provide sixty (60) days advance written notice (or any advance  
22 notice at all) to Plaintiffs of their impending termination.

23           32.     Defendants failed to pay 60 days’ wages and benefits to Plaintiffs and the other  
24 similarly situated former employees in lieu of 60 days’ written notice.  
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**WARN ACT CLASS ALLEGATIONS, 29 U.S.C. § 2104(a)(5)**

33. Plaintiffs are each an aggrieved “person(s) seeking to enforce such liability” and are authorized by Congress to “sue either for [themselves] or for other persons similarly situated, or both” by Congress. 29 U.S.C. § 2104(a)(5).

34. Plaintiffs bring this action on behalf of themselves and all other similarly situated former employees of Defendants who worked at or reported to the Facilities and who suffered an “employment loss” beginning on or about May 29, 2023 and within 30 days of that date, or as the reasonably foreseeable consequence of the mass layoffs or plant closings ordered by Defendants on that date, pursuant to 29 U.S.C. § 2104(a)(5).

35. The persons in the Class identified above (“Class Members”) are so numerous that joinder of all members is impracticable. Although the precise number of such persons is unknown, the facts on which the calculation of that number can be based are presently within the sole control of Defendants.

36. On information and belief, the identity of the members of the class and the recent residence address of each of the Class Members is contained in the books and records of Defendants.

37. On information and belief, the rate of pay and benefits that were being paid by Defendants to each Class Member at the time of his/her termination is contained in the books and records of the Defendants.

38. There are questions of law and fact common to the Class Members that predominate over any questions affecting individual members.

39. There are questions of law and fact common to the Class Members that predominate over any questions solely affecting individual members of the Class, including but not limited to:

- (a) whether the Class Members were employees of the Defendants who worked at or reported to the Facilities;
- (b) whether Defendants terminated the employment of the Class Members without cause on their part and without giving them 60 days’ advance written notice;

1 (c) whether Defendants were a single employer; and

2 (d) whether Defendants paid the Class members 60 days' wages and benefits  
3 as required by the WARN Act.

4 40. Plaintiffs' claims are typical of those of the WARN Class. Plaintiffs, like other  
5 WARN Class members, worked at or reported to one of the Facilities and suffered an employment  
6 loss without cause on or about May 29, 2023, due to the mass layoffs ordered by Defendants.

7 41. Plaintiffs will fairly and adequately protect the interests of the WARN Class.  
8 Plaintiffs have retained counsel competent and experience in complex class actions, including the  
9 WARN Act and employment litigation.

10 42. Class certification of these claims is appropriate under Fed. R. Civ. P. 23(b)(3)  
11 because questions of law and fact common to the WARN Class predominate over any questions  
12 affecting only individual members of the WARN Class, and because a class action is superior to  
13 other available methods for the fair and efficient adjudication of this litigation – particularly in the  
14 context of WARN Act litigation, where an individual Plaintiffs may lack the financial resources to  
15 vigorously prosecute a lawsuit in federal court against corporate defendants, and damages suffered  
16 by individual WARN Class members are small compared to the expense and burden of individual  
17 prosecution of this litigation.

18 43. Concentrating all the potential litigation concerning the WARN Act rights of the  
19 members of the Class in this Court will obviate the need for unduly duplicative litigation that might  
20 result in inconsistent judgments, will conserve the judicial resources and the resources of the parties  
21 and is the most efficient means of resolving the WARN Act rights of all the members of the Class.

22 44. Plaintiffs intend to send notice to all members of the WARN Class to the extent  
23 required by Rule 23.

24 45. A class action is superior to other available methods for the fair and efficient  
25 adjudication of this controversy – particularly in the context of WARN Act litigation, where  
26 individual Plaintiffs may lack the financial resources to vigorously prosecute a lawsuit in federal  
27 court against corporate Defendants.  
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**CALIFORNIA WARN CLASS ALLEGATIONS, CAL LABOR CODE § 1401 et seq.**

46. Plaintiffs bring the Second Claim for Relief for violation of Labor Code § 1401 on behalf of themselves and a class of similarly situated persons pursuant to Labor Code § 1404 and Federal Rules of Civil Procedure, Rule 23(a) and (b), who worked at or reported to Defendants' Facilities and were terminated without cause on or about May 29, 2023 (the "CAL WARN Class")

47. The persons in the CAL WARN Class identified above ("CAL WARN Class Members") are so numerous that joinder of all members is impracticable. Although the precise number of such persons is unknown, the facts on which the calculation of that number can be based are presently within the sole control of Defendants.

48. On information and belief, the identity of the members of the class and the recent residence address of each of the CAL WARN Class Members is contained in the books and records of Defendants.

49. On information and belief, the rate of pay and benefits that were being paid by Defendants to each CAL-WARN Class Member at the time of his/her termination is contained in the books and records of Defendants.

50. Common questions of law and fact exist as to members of the CAL-WARN Class, including, but not limited to, the following:

(a) whether the members of the CAL-WARN Class were employees of the Defendants;

(b) whether Defendants unlawfully terminated the employment of the members of the CAL-WARN Class without cause on their part and without giving them 60 days advance written notice in violation of the CAL-WARN Act; and

(c) whether Defendants unlawfully failed to pay the CAL-WARN Class members 60 days wages and benefits as required by the CAL-WARN Act.

51. The CAL WARN Class Plaintiffs' claims are typical of those of the CAL-WARN Class. The CAL WARN Class Plaintiffs, like other WARN Class members, worked at or reported to one of the Facilities and were terminated on or about May 29, 2023, due to the terminations



1 ordered by Defendants.

2 52. The CAL WARN Class Plaintiffs will fairly and adequately protect the interests of  
3 the CAL WARN Class. The CAL WARN Class Plaintiffs has retained counsel competent and  
4 experienced in complex class actions on behalf of employees, including the CAL WARN Act, the  
5 federal WARN Act, other similar state laws, and employment litigation.

6 53. Class certification of these Claims is appropriate under Fed. R. Civ. P. 23(b)(3)  
7 because questions of law and fact common to the CAL-WARN Class predominate over any  
8 questions affecting only individual members of the CAL-WARN Class, and because a class action  
9 superior to other available methods for the fair and efficient adjudication of this litigation –  
10 particularly in the context of CAL-WARN Class Act litigation, where individual plaintiffs may  
11 lack the financial resources to vigorously prosecute a lawsuit in federal court against a corporate  
12 defendants, and damages suffered by individual CAL-WARN Class members are small compared  
13 to the expense and burden of individual prosecution of this litigation.

14 54. Concentrating all the potential litigation concerning the CAL-WARN Act rights of  
15 the members of the Class in this Court will obviate the need for unduly duplicative litigation that  
16 might result in inconsistent judgments, will conserve the judicial resources and the resources of the  
17 parties and is the most efficient means of resolving the CAL-WARN Act rights of all the members  
18 of the Class.

19 55. The CAL WARN Class Plaintiffs intends to send notice to all members of the CAL  
20 WARN Class to the extent required by Rule 23.

21 **FIRST CLAIM FOR RELIEF**

22 **FEDERAL WARN ACT, U.S.C. § 2104 et seq.**

23 56. Plaintiffs reallege and incorporate by reference all allegations in all preceding  
24 paragraphs.

25 57. At all relevant times, Defendants Bitwise Industries and AlphaWorks (collectively,  
26 the “Federal Defendants”) employed more than 100 employees who in the aggregate worked at  
27 least 4,000 hours per week, exclusive of hours of overtime, within the United States.  
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1           58. At all relevant times, Federal Defendants were an “employer,” as that term is defined  
2 in 29 U.S.C. § 2101 (a)(1) and 20 C.F.R. § 639.3(a)(1).

3           59. At all relevant times, Plaintiffs and the other similarly situated former employees  
4 were employees of Federal Defendants as that term is defined by 29 U.S.C. §2101.

5           60. On or about May 29, 2023, and within 30 days thereafter, Defendants ordered mass  
6 layoffs or plant closings at the Facilities with no expectation of its employees being recalled.

7           61. The mass layoffs or plant closings at the Facilities resulted in “employment losses,”  
8 as that term is defined by 29 U.S.C. § 2101(a)(2) for at least fifty of Federal Defendants’ employees  
9 as well as more than 33% of Federal Defendants’ workforce at the Facilities, excluding “part-time  
10 employees,” as that term is defined by 29 U.S.C. § 2101(a)(8), 20 CFR 639.4(b).

11           62. Accordingly, Plaintiffs and the Class Members were terminated by Federal  
12 Defendants without cause on their part, as part of or as the reasonably foreseeable consequence of  
13 the layoff or closings ordered by Defendants at the Facilities.

14           63. Plaintiffs and the Class Members are “affected employees” of Federal Defendants,  
15 within the meaning of 29 U.S.C. § 2101(a)(5).

16           64. Federal Defendants were required by the WARN Act to give Plaintiffs and the Class  
17 Members at least 60 days’ advance written notice of their terminations.

18           65. Federal Defendants failed to give Plaintiffs and the Class members written notice  
19 that complied with the requirements of the WARN Act.

20           66. Upon information and belief, at all relevant times, Federal Defendants shared  
21 common ownership, common directors and/or officers, de facto exercise of control, unity of  
22 personnel policies emanating from a common source, and the dependency of operations. 20 C.F.R.  
23 § 639.3(a)(2).

24           67. Plaintiffs, and each of the Class Members are, “aggrieved employees” of the Federal  
25 Defendants as that term is defined in 29 U.S.C. § 2104 (a)(7).

26           68. Federal Defendants failed to pay Plaintiffs and each of the Class Members their  
27 respective wages, salary, commissions, bonuses, incentives, accrued holiday pay and accrued  
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vacation for 60 days following their respective terminations and failed to make the pension and 401(k) contributions and provide employee benefits under ERISA, other than health insurance, for 60 days from and after the dates of their respective terminations.

**SECOND CLAIM FOR RELIEF**  
**VIOLATION OF CALIFORNIA LAB. CODE, § 1400 *et seq.***

69. Plaintiffs reallege and incorporate by reference all allegations in all proceeding paragraphs.

70. Plaintiffs bring the Second Claim for Relief for violation of California Lab. Code § 1401 on behalf of themselves and a class of similarly situated persons pursuant to Lab. Code § 1404 and Federal Rules of Civil Procedure 23(a) and (b), who worked at, reported to, or received assignments from the Facilities and were terminated without cause on or about May 29, 2023 and within 30 days of that date (the “CAL-WARN Class”).

71. Pursuant to Lab. Code § 1400(b), “[e]mployer” means any person . . . who directly or indirectly owns and operates a covered establishment. A parent corporation is an employer as to any covered establishment directly owned and operated by its corporate subsidiary.”

72. Upon information and belief and at all relevant times, Defendants Soberal and Olguin, Jr., were employers of the CAL-WARN Class as that term is defined by Lab. Code § 1400(b) because they directly or indirectly owned and operated at least one covered establishment in California that employed hundreds of employees.

73. Upon information and belief and at all relevant times, Defendants Bitwise and AlphaWorks were employers of the CAL-WARN Class as that term is defined by Lab. Code § 1400(b) because they directly or indirectly owned and operated covered establishments in California that employed several hundred employees.

74. Defendants violated CAL-WARN by terminating Plaintiffs’ employment and the employment of other similarly situated employees pursuant to a “mass layoff,” “relocation” or “termination” as defined in Lab. Code § 1400 on or about May 29, 2023 or thereafter, without giving written notice at least 60 days before the order took effect to: (1) the employees affected by

1 the order and (2) the Employment Development Department, the local workforce investment board,  
2 and the chief elected official of each city and county government within which the mass layoff,  
3 relocation or termination occurred. The “mass layoff,” “relocation” or “termination” was not  
4 necessitated by a physical calamity or act of war.

5 75. As a result of Defendants’ violation of Lab. Code § 1401, Plaintiffs and the other  
6 similarly situated employees are entitled to 60 days of back pay under Lab. Code § 1402(a-b).

7 76. Plaintiffs has incurred attorneys’ fees in prosecuting this action and is entitled to an  
8 award of attorneys’ fees under Cal. Lab. Code § 1404.

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10 **THIRD CLAIM FOR RELIEF**  
11 **WAGE VIOLATIONS UNDER CALIFORNIA LAB. CODE § 203**  
12 **AND STATE WAGE PAYMENT LAWS**

13 77. Plaintiffs reallege and incorporate by reference all allegations in all proceeding  
14 paragraphs.

15 78. Plaintiffs seek to recover under California state laws for Defendants’ failure to pay  
16 wages owed for their final three weeks of work and to issue a final paystub, and waiting time  
17 penalties, for themselves and the other similarly situated employees who worked in California.

18 79. Cal. Labor Code § 558.1 makes personally liable “any employer or other person  
19 acting on behalf of an employer, who holds the position of owner, director, officer, or managing  
20 agent of the employer, who violates, or causes to be violated, any provision regulating minimum  
21 wages or hours and days of work in any order of the Industrial Welfare Commission or violates, or  
22 causes to be violated Sections 203, 226, 226.7, 1193.6, 1194 or 2802.

23 80. Upon information and belief, Defendants Soberal and Olgiun, Jr. exercised control  
24 over the workers’ wages (including the decision over whether to pay out the vacation wages upon  
25 termination), hours, or working conditions, (b) suffered and permitted them to work, and/or (c)  
26 engaged them, thereby creating a common law employment relationship.

27 81. Upon information and belief, Defendants Bitwise and AlphaWorks exercised  
28 control over the workers’ wages (including the decision over whether to pay out the vacation  
wages upon termination), hours, or working conditions, (b) suffered and permitted them to work,

1 and/or (c) engaged them, thereby creating a common law employment relationship

2 82. Pursuant to Cal. Lab. Code § 201, upon the discharge of Plaintiffs and the other  
3 similarly situated former employees on or about May 29, 2023, their earned and unpaid wages,  
4 became due and payable immediately.

5 83. Defendants, as employers that willfully failed to pay in accordance with Cal. Lab.  
6 Code § 201, are liable to Plaintiffs and the other similarly situated former employees waiting time  
7 penalties of up to 30 days' wages. Defendants' failure to pay wages upon termination was willful.

8 84. In violation of Cal. Lab. Code § 203(a), which states that "If an employer willfully  
9 fails to pay ... any wages of an employee who is discharged or who quits, the wages of the employee  
10 shall continue as a penalty from the due date thereof at the same rate until paid or until an action  
11 therefor is commenced; but the wages shall not continue for more than 30 days," Defendants failed  
12 to issue to Plaintiffs and the other similarly situated former employees their final paychecks, in full  
13 and itemized statements, upon discharging them from their employment on May 29, 2023.

14 85. Defendants' failure to pay accrued vacation wages upon termination represents a  
15 violation of Labor Code sections 201 and 227.3 (and IWC Wage Order 8) and as such those  
16 wages continue as a penalty under Labor Code § 203.

17 86. Defendants Soberal and Olgiun, Jr., as an employer of Plaintiffs and all others  
18 similarly situated, caused this violation and are personally liable for the unpaid wages and  
19 continuing penalties pursuant to Labor Code § 558.1.

20 87. Defendants' failure to pay wages upon termination represents a violation of Cal.  
21 Lab. Code § 201 and, as such, those wages continue as a penalty under Labor Code § 203.

22 88. On information and belief, Defendants additionally have failed to make timely  
23 benefit payments such 401k funding contributions and matching amounts, and failed to make  
24 other payments from earned wages to authorized recipients, and instead retained those funds for  
25 their own use.  
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**FOURTH CLAIM FOR  
WAGE VIOLATIONS UNDER STATE LAWS**

89. Plaintiffs reallege and incorporate by reference all allegations in all proceeding paragraphs.

90. Defendants additionally have failed to make timely payments for wages upon termination and to issue final pay stubs or wage statements, including benefits such 401k funding contributions and matching amounts.

91. Defendants' failure to make timely wage and benefits payments have violated the wage laws of the states in which it maintained Facilities or employed persons working remotely to its Facilities, including but not limited to:

- a. New Mexico, for failure to pay all wages due at the time of discharge within five days, and continuing wages per day until paid, for up to 60 days. (NMSA § 50-4-1 to 50-4-4),
- b. Colorado, for failure to pay employees final wages and related double penalties. Colorado Rev. Stat. Ann. §8-4-109,
- c. Ohio, for failure to pay final wages, and related liquidated damages. Ohio Revised Code § 4113.15,
- d. Illinois, for failure to pay wages and issue a final paycheck to terminated employees at the time of termination, 820 Ill. Comp. Stat. 115/5,
- e. New York, for failure to pay wages upon termination and provide a final wage statement under NYLL §§ 191, 195(3) and related penalties under NYLL §§ 198(1-d),
- f. Wyoming, for failure to pay final wages and issue a final paycheck. Wyo. Stat. § 27-4-104, and
- g. Texas, for breach of contract under the common law of Texas.

92. Plaintiffs will seek to certify a subclass of these similarly situated individuals to the extent necessary.

**PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiffs, on behalf of themselves and all other similarly situated persons, pray for the following relief as against Defendants:

- A. Certification that, pursuant to Fed. R. Civ. P. 23 (a) and (b), Plaintiffs and the other similarly situated former employees constitute a class;
- B. Designation of the Plaintiffs as Class Representatives;
- C. Appointment of the undersigned attorneys as Class Counsel;
- D. A judgment in favor of Plaintiffs and each of the “affected employees” equal to the sum of: their unpaid wages, salary, commissions, bonuses, accrued holiday pay, accrued vacation pay, pension and 401(k) contributions and other ERISA benefits, for 60 days, that would have been covered and paid under the then-applicable employee benefit plans had that coverage continued for that period, all determined in accordance with the WARN Act, 29 U.S.C. § 2104(a)(1)(4) and the California Labor Code § 1402(a);
- E. Interest as allowed by law on the amounts owed under the preceding paragraphs;
- F. Plaintiffs’ reasonable attorneys’ fees and the costs and disbursements that the Plaintiffs incurred in prosecuting this action, as authorized by the WARN Act, 29 U.S.C. § 2104(a)(6) and Cal. Lab. Code § 1404;
- G. A judgment in favor of all similarly situated employees for any unpaid wages under the laws of the respective states in which they worked at time of their terminations on or about May 29, 2023; and
- H. Such other and further relief as this Court may deem just and proper.

DATED: June 6, 2023

Respectfully submitted,

By: /s/ Gail C. Lin

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## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<b>I. (a) PLAINTIFFS</b> Andre Nunn, Kaila Webb and Kasandra Jimenez, on behalf of themselves and all others similarly situated, <b>(b) County of Residence of First Listed Plaintiff</b> <u>Erle County (NY)</u> (EXCEPT IN U.S. PLAINTIFF CASES)  <b>(c) Attorneys (Firm Name, Address, and Telephone Number)</b> Rene S. Roupinian and Jack A. Raisner Raisner Roupinian LLP 270 Madison Avenue, Suite 1801, New York NY 10016, (212) 221-1747	<b>DEFENDANTS</b> Bitwise Industries, Inc., AlphaWorks Technologies, LLC, Jake Soberal, and Irma L. Olguin, Jr., <b>County of Residence of First Listed Defendant</b> <u>Fresno, CA</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)
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<b>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input type="checkbox"/> 1 U.S. Government Plaintiff  <input type="checkbox"/> 2 U.S. Government Defendant         </div> <div style="width: 48%;"> <input checked="" type="checkbox"/> 3 Federal Question          (U.S. Government Not a Party)  <input type="checkbox"/> 4 Diversity          (Indicate Citizenship of Parties in Item III)         </div> </div>	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</b> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> </thead> <tbody> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </tbody> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
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Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only)				Click here for: Nature of Suit Code Descriptions.	
<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input checked="" type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>INTELLECTUAL PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<b>OTHER STATUTES</b> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

<b>V. ORIGIN (Place an "X" in One Box Only)</b>							
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File	

<b>VI. CAUSE OF ACTION</b>	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>29 U.S.C. § 2101 et seq.; California Labor Code § 1400, et. seq.</u> Brief description of cause: <u>60 days' pay and ERISA benefits by reason of Defendants' violation of Plaintiffs' rights under Worker Adjustment and Retraining Notification Act</u>
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<b>VII. REQUESTED IN COMPLAINT:</b>	<input checked="" type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.	DEMAND \$ _____	CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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<b>VIII. RELATED CASE(S) IF ANY</b>	(See Instructions): JUDGE _____ DOCKET NUMBER _____	SIGNATURE OF ATTORNEY OF RECORD 
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DATE June 6, 2023

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_