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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF LOS ANGELES**

11 SADYR DIOUF, individually and on behalf of
12 all others similarly situated,

13 Plaintiffs,

14 v.

15 GOOD COMPANY LA, LLC a foreign limited
16 liability company f/k/a GOOD COMPANY
17 PICTURES, LLC, a foreign limited liability
18 company; and DOES 1 through 50, inclusive,

19 Defendants.

Case No.: **23STCV22176**

Hon. Carolyn B. Kuhl, Dept. 12

FIRST AMENDED COMPLAINT

- (1) Failure to Pay All Overtime Wages
- (2) Failure to Provide Accurate Wage Statements
- (3) Failure to Pay All Wages Due and Owing On Separation
- (4) Unlawful Business Practices
- (5) Penalties Pursuant to Private Attorneys General Act of 2004

Complaint Filed: September 14, 2023

Trial Date: None Set

1 Plaintiff Sadyr Diouf (“Plaintiff”), individually and on behalf of all others similarly
2 situated, hereby alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff submits this class action on behalf of all other similarly situated current
5 and former non-exempt employees of Good Company LA, LLC f/k/a Good Company Pictures
6 , LLC (“Good Company”), and DOES 1 through 50, inclusive (each, a “Defendant” and together,
7 “Defendants”).

8 2. Plaintiff, as proxy for the State of California, also brings this action pursuant to the
9 California Private Attorneys General Act, Labor Code sections 2698 et seq. (“PAGA”) to recover
10 civil penalties (75% payable to the Labor Workforce Development Agency and 25% payable to
11 aggrieved employees). Plaintiff seeks to represent all aggrieved employees who suffered one or
12 more violations of the applicable Labor Code.

13 3. Plaintiff alleges that Defendants failed to comply with California’s labor laws that
14 protect employees in connection with their work in and for the Canon video commercial.
15 Plaintiff seeks damages, penalties, interest, attorneys’ fees, costs and equitable restitutionary and
16 injunctive relief.

17 **JURISDICTION AND VENUE**

18 4. The Superior Court of the State of California has jurisdiction in this matter
19 because Plaintiff is a resident in the State of California and Defendants are qualified to do
20 business in and regularly conduct business in California. Further, no federal question is at issue
21 because the claims are based solely on California law.

22 5. This Court has jurisdiction over Plaintiff’s claims for civil penalties pursuant to
23 PAGA.

24 6. Venue is proper in this judicial district and the County of Los Angeles, California,
25 because Plaintiff, and other persons similarly situated, performed work for Defendants in the
26 County of Los Angeles, Defendants maintain offices and facilities and transact business in the
27 County of Los Angeles, and Defendants’ illegal policies and practices that are the subject of this
28 action were applied, at least in part, to Plaintiff and other persons similarly situated in the County

1 of Los Angeles.

2 **THE PARTIES**

3 7. Plaintiff is an individual residing in the State of California. Plaintiff worked for
4 Defendants as a non-exempt employee during the statutory period.

5 8. On information and belief, Defendant Good Company is now, and at all times
6 mentioned in this complaint, was, a corporation organized and existing under the laws of the
7 State of New York and qualified to do business in California.

8 9. Plaintiff does not know the true names or capacities, whether individual, partner,
9 or corporate, of Defendants sued herein as DOES 1 through 50, inclusive, and for that reason,
10 said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
11 complaint when the true names and capacities are known. Plaintiff is informed and believes and
12 thereon alleges that each of Defendants designated as a DOE was responsible in some way for
13 the matters alleged herein and proximately caused Plaintiff and members of the general public
14 and the Class to be subject to the illegal employment practices, wrongs, and injuries complained
15 of herein.

16 10. Plaintiff is informed and believes and based thereon alleges that at all times
17 material to this complaint, Defendants were the employers and/or joint employers of Plaintiff
18 and the putative class members. Defendants directly or indirectly, itself or through its agents,
19 employed or exercised control over the wages, hours, and/or working conditions of the Plaintiff
20 and the putative class members and/or had the right to control the manner or means of
21 accomplishing the result desired. Moreover, Defendants had the power to prevent, but failed to
22 prevent, the violations articulated herein from occurring, despite their knowledge of the same.

23 11. Plaintiff is informed and believes and based thereon alleges that at all times
24 material to this complaint, Defendants were the alter egos, divisions, affiliates, integrated
25 enterprises, subsidiaries, parents, principals, related entities, co-conspirators, authorized agents,
26 partners, joint venturers, and/or guarantors, actual or ostensible, of each other. Each Defendant
27 was completely dominated by his, her, or its co-Defendant, and each was the alter ego of the
28 other.

1 12. Plaintiff is informed and believes and based thereon alleges that each and every
2 one of the acts and omissions alleged herein were performed by, and/or attributable to, all
3 Defendants, each acting as agents and/or employees, and/or under the direction and control of,
4 each of the other Defendants, and that said acts and failures to act were within the course and
5 scope of said agency, employment, and/or direction and control.

6 13. At all relevant times herein, Plaintiff and the putative class members were
7 employed by Defendants under employment agreements that were partly written, partly oral,
8 and/or partly implied. In perpetrating the acts and omissions alleged herein, Defendants, and each
9 of them, acted pursuant to, and in furtherance of, their policies and practices of not paying
10 Plaintiff and the putative class members all wages earned and due, though methods and schemes
11 that include, but are not limited to, failing to pay overtime premiums, failing to provide meal and
12 rest breaks and/or compensation therefor, failing to properly maintain records, failing to provide
13 accurate itemized statements for each pay period, and requiring, suffering, or permitting
14 employees to work off the clock, in violation of California Labor Code and the applicable
15 Industrial Welfare Commission (“IWC”) Wage Order.

16 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

17 14. On or about March 3, 2023, Defendants employed Plaintiff as a background talent
18 for a Canon video commercial. Plaintiff was promised a daily rate of \$300 for working on the
19 shoot.

20 15. On March 3, 2023, Plaintiff worked at least ten (10) hours for Defendants on the
21 shoot.

22 16. On or about March 20, 2023, Defendants paid Plaintiff the gross amount of \$300.
23 Defendants paid Plaintiff the incorrect overtime rate under Labor Code § 515(d). As a result of
24 Defendants’ violations of California law, Plaintiff was denied his fundamental employment
25 rights, including but not limited to, the right to overtime wages, the right to prompt payment of
26 full wages upon termination of employment, and the right to accurate, itemized wage statements.

27 **CLASS ACTION ALLEGATIONS**

28 17. **Class Definition:** for the period from four years from the filing of this lawsuit

(including applicable tolling periods) (the “Class Period”), Plaintiff seeks to represent the following class: all current and former non-exempt employees of Defendants in California who worked as background talent in exchange for a daily rate (as opposed to an hourly rate).

18. **Numerosity**: Code of Civil Procedure § 382: members of the Classes are so numerous that their individual joinder is impracticable. Plaintiff estimates that there are no less than 50 persons in each of the classes. The precise number of Class members and their addresses are unknown to Plaintiff. However, Plaintiff is informed and believes that the number can be obtained from Defendants’ records. Class members may be notified of the pendency of this action by mail, electronic mail, the Internet, or published notice.

19. **Existence of Predominance of Common Questions of Fact and Law**: Code of Civil Procedure § 382: Common questions of law and fact exist as to all members of the Class. These questions predominate over any questions effecting only individual members of the class. These common factual and legal questions include:

- a. Whether Defendants’ failure to pay non-exempt class members a daily wage that is inclusive of overtime wages violated Labor Code § 510 and the applicable IWC Wage Orders;
- b. Whether Defendants failed to provide class members who ceased employment with Defendants all wages owed at the time of the cessation of the employee-employer relationship;
- c. Whether Defendants committed unlawful business practices or acts within the meaning of Business & Professions Code Sects. 17200 *et seq.*;
- d. Whether, as a consequence of Defendants’ unlawful conduct, the members of the Classes are entitled to restitution, and/or equitable relief;
- e. Whether Defendants’ affirmative defenses, if any, raise any common issues of law or fact as to Plaintiff and the class members as a whole.

20. **Typically**: Plaintiff’s claims are typical of the claims of the members of each Class because Plaintiff, as an hourly paid employee, was exposed to the same unlawful business practices as the members of the classes. Plaintiff sustained the same types of injuries and losses

1 that the class members sustained. Plaintiff is subject to the same affirmative defenses as the
2 members of the class.

3 21. **Adequacy**: Plaintiff will fairly and adequately protect the interests of all Class
4 Members. Plaintiff has no interest adverse to the interests of absent Class members. Plaintiff is
5 represented by legal counsel who has substantial class action experience in civil litigation and
6 employment law.

7 22. **Superiority**: A class action is superior to other available means for fair and
8 efficient adjudication of the claims of the Class members and would be beneficial for the parties
9 and the court. Class action treatment will allow a large number of similarly situated persons to
10 prosecute their common claims in a single forum, simultaneously, efficiently, and without the
11 unnecessary duplication of effort and expense that numerous individual actions would require.
12 The monetary amounts due to many individual Class members are likely to be relatively small,
13 and the burden and expense of individual litigation would make it difficult or impossible for
14 individual members of the Class to seek and obtain relief. A class action will serve an important
15 public interest by permitting such individuals to effectively pursue recovery of the sums owed to
16 them. Further, class litigation prevents the potential for inconsistent or contradictory judgments
17 raised by individual litigation.

18 **PAGA ALLEGATIONS**

19 23. Plaintiffs bring this action pursuant to the Private Attorneys General Act of 2004
20 (“PAGA”), California Labor Code § 2698 *et seq.* on a representative basis. All current and
21 former non-exempt employees who suffered one or more violations below are the aggrieved
22 employees.

23 **FIRST CAUSE OF ACTION**

24 **Failure to Pay Overtime Wages**

25 **[Cal. Labor Code §§ 510, 1194]**

26 **(By Plaintiff Against Defendants)**

27 24. Plaintiff re-alleges and incorporate by reference the above paragraphs as though
28 fully set forth herein.

1 25. Pursuant to Labor Code Sections 510, 1194 and Subsection 3(D) of Wage Order
2 12-2001, require an employer to pay an employee one and one-half (1½) times such employee's
3 regular rate of pay for work in excess of eight hours in a day. See Wage Order 12(3)(d)
4 (specifically providing for "One and one-half (1½) times the extra player's rate of pay for the
5 ninth (9th) and tenth (10th) work hours of employment and not less than double the extra player's
6 rate of pay for all hours worked thereafter").

7 26. Plaintiff is informed and believes, and based thereon, alleges that Defendants
8 regularly and systematically, as a policy and practice, failed to compensate, and continue to fail
9 to compensate, Plaintiff and the Class Members for all overtime hours worked as required under
10 the foregoing provisions of the California Labor Code and applicable IWC Wage Order(s) by,
11 among other things, failing to pay overtime at one and one-half (1½) times or double the regular
12 rate of pay.

13 27. Defendants policy and practice of requiring overtime work but not paying at the
14 proper overtime and double time rates for said work violates Labor Code Section 510 and the
15 applicable California Wage Orders.

16 28. As a direct and proximate cause of the aforementioned violations, Plaintiff and
17 the Class Members have suffered, and continue to suffer, substantial losses related to the use and
18 enjoyment of such wages and lost interest on such wages. Plaintiff and the Class Members are
19 entitled to recover the unpaid balance of wages owed to them by Defendants, plus interest,
20 penalties, attorneys' fees, expenses, and costs of suit.

21 **SECOND CAUSE OF ACTION**

22 **Failure to Furnish Accurate Itemized Wage Statements**

23 **[Cal. Labor Code § 226]**

24 **(By Plaintiff Against Defendants)**

25 29. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
26 fully set forth herein.

27 30. Labor Code § 226(a) sets forth reporting requirements for employers when they
28 pay wages, including in relevant part: "Every employer shall ... at the time of each payment of

1 wages, furnish each of his or her employees ... an itemized statement in writing showing (1)
2 gross wages earned, (2) total hours worked by the employee, ... (5) net wages earned,” Labor
3 Code § 226(e)(1) provides: “An employee suffering injury as a result of a knowing and
4 intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater
5 of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs
6 and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not
7 exceeding an aggregate penalty of four thousand dollars (\$4,000) per employee, and is entitled
8 to an award of costs and reasonable attorneys’ fees.”

9 31. Labor Code § 226(e)(2)(B)(iii) provides: “An employee is deemed to suffer injury
10 for purposes of this subdivision if the employer fails to provide accurate and complete
11 information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and
12 the employee cannot promptly and easily determine from the wage statement alone one or more
13 of the following: (i) The amount of the gross wages or net wages paid to the employee during
14 the pay period or any of the other information required to be provided on the itemized wage
15 statement pursuant to items (2) to (4), inclusive, (6) and (9) of subdivision (a) ... (iii) The name
16 and address of the employer....”

17 32. Throughout the period applicable to this cause of action, Defendants knowingly
18 and intentionally failed to furnish, and continue to knowingly and intentionally fail to furnish, to
19 Plaintiff and other members of the Class Members, itemized statements accurately showing the
20 required information, including but not limited to all wages earned and correct applicable hourly
21 rates of pay.

22 33. Plaintiff and the other members of the Class Members suffered injury by these
23 failures because, among other things, they could not determine from the wage statement alone
24 their total wages and correct hourly rates.

25 34. Plaintiff and the other Class Members are entitled to the amounts provided for in
26 Labor Code § 226(e), plus costs of suit.

27 35. Pursuant to Civil Code § 3287(a), Plaintiff and the other members of the Class
28 Members are entitled to recover prejudgment interest on the amount of their § 226(e) remedies.

Pursuant to Code of Civil Procedure Section 1021.5, the substantial benefit doctrine, and/or the common fund doctrine, Plaintiff and other members of the Class are entitled to recover their attorney's fees.

THIRD CAUSE OF ACTION

Waiting Time Penalties

[Cal. Labor Code § 201.5, 203]

(By Plaintiff Against Defendants)

36. Plaintiff re-alleges and incorporates by reference the above paragraphs as though fully set forth herein.

37. Plaintiff and the other members of the Class Members were employees of Defendants covered by Labor Code Sections 201.5 whose employment with Defendants ended during the relevant class period.

38. Labor Code Section 201.5 provides "An employee engaged in the production or broadcasting of motion pictures whose employment terminates is entitled to receive payment of the wages earned and unpaid at the time of the termination by the next regular payday."

39. As alleged above, Defendants failed to pay Plaintiff and other members of the Class Members all wages earned and unpaid prior to termination, including all overtime and premium wages due at the time of the cessation of the employee-employer relationship in accordance with Labor Code Section 201.5. Plaintiff is informed and believes and thereon alleges that at all relevant times within the applicable limitations period, Defendants maintained and continue to maintain a policy or practice of not paying terminated employees all their final wages, including all overtime wages and premium wages, earned before termination due under Labor Code Section 201.5.

40. Defendants' failure to pay Plaintiff and members of the Class Members all wages earned prior to termination in accordance with Labor Code Section 201.5 was willful. Defendants had the ability to pay all wages earned by employees prior to termination in accordance with Labor Code Section 201.5, but intentionally adopted policies or practices incompatible with the requirements of Labor Code Section 201.5.

1 41. Pursuant to Labor Code Section 201.5, Plaintiff and other members of the Class
2 Members are entitled to all wages earned prior to termination that Defendants failed to pay them.

3 42. Pursuant to Labor Code Section 203, Plaintiff and other members of the Class
4 Members are entitled to continuation of their wages, from the day their earned and unpaid wages
5 were due upon termination until paid, up to a maximum of 30 days.

6 43. As a result of Defendants' conduct, Plaintiff and other members of the Class
7 Members have suffered damages in an amount, subject to proof, to the extent they were not paid
8 for all wages earned prior to termination.

9 44. As a result of Defendants' conduct, Plaintiff and members of the Class Members
10 have suffered damages in an amount, subject to proof, to the extent they were not paid all
11 continuation wages owed under Labor Code Section 203.

12 45. Pursuant to Labor Code Sections 218 and 218.5, Plaintiff and other members of
13 the Class Members are entitled to recover the full amount of their unpaid wages, continuation
14 wages under Labor Code Section 203, reasonable attorney's fees and costs of suit. Pursuant to
15 Labor Code Section 218.6 or Civil Code Section 3287(a), Plaintiff and other members of the
16 Class Members are entitled to recover prejudgment interest on the amount of their unpaid wages
17 and unpaid continuation wages

18 **FOURTH CAUSE OF ACTION**

19 **Unfair and Unlawful Business Practices**

20 **[Cal. Bus. & Prof. Code § 17200 *et seq.*]**

21 **(Against all Defendants by Plaintiff on Behalf of the Class)**

22 46. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
23 fully set forth herein.

24 47. Beginning at an exact date unknown to Plaintiff, Defendants engaged in unfair
25 competition as defined in California Business and Professions Code section 17200.

26 48. Section 17200 provides a private cause of action for any "unlawful, unfair or
27 fraudulent business practice and unfair, deceptive, untrue or misleading advertising."

28 49. At all times relevant to this action, Plaintiff and other members of the Class

Members were employees of Defendants entitled to the benefits of Labor Code sections 201-203, 226.7, 510 and 1194.

50. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiff and other members of the Class Members their overtime wages at the rate of pay required by law. Accordingly, Plaintiff and other members of the Overtime Class Members did not receive the full amount of overtime and double time that they were entitled to receive by law.

51. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiff and other members of the Class Members their meal and rest break premium wages at the rate of pay required by law. Accordingly, Plaintiff and other members of the Break Premium Class did not receive the full amount of premium wages that they were entitled to receive by law.

52. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiff and other members of the Class Members the full amount of their overtime wages and/or premium wages upon the separation of employment by Defendants and, thereafter, failed to pay waiting time penalties pursuant to Labor Code section 203 to the members of the Class Members. Accordingly, Plaintiff and members of the Class Members did not receive all of the wages they were entitled to receive by law.

53. The unlawful conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business and Professions Code section 17200. Due to its unlawful and unfair business practices in violation of the Labor Code, Defendants have gained a competitive advantage over other comparable companies doing business in the State of California that comply with their obligations under the Labor Code.

54. As a result of Defendants' unfair competition as alleged herein, Plaintiff and other members of the Class Members have suffered injury in fact and lost money or property. Plaintiff and members of the Class Members have been deprived of their rights to all overtime and double time wages owed to them, additional premium wages for meal and rest period violations; and/or timely payment of all earned wages due upon termination of employment.

55. Pursuant to Business and Professions Code section 17203, Plaintiff and other

1 members of the Class Members are entitled to restitution of the amount of overtime pay by which
2 Defendants underpaid them, the amount of the premium wages by which Defendants underpaid
3 them, and to their reasonable attorneys' fees and costs under Code of Civil Procedure section
4 1021.5.

5 **FIFTH CAUSE OF ACTION**

6 **Civil Penalties Under PAGA**

7 **(By Plaintiff, Aggrieved Employees and the State of California against Defendants)**

8 56. Plaintiff realleges and incorporates by reference all of the foregoing paragraphs,
9 as though they are set forth in full.

10 57. At all times relevant to this action, Plaintiff and other Aggrieved Employees were
11 "aggrieved employees" within the meaning of Labor Code Section 2699.

12 58. Defendants' conduct as described herein, arising from Defendants', failure to pay
13 rest and meal break premiums at the correct regular rate of compensation, failure to provide
14 accurate wage statements, and failure to timely pay all wages upon cessation of employment
15 constitute violations of Labor Code Sections 201-204, 210, 223, 225.5, 226, 226.3, 246, 226.7,
16 248.5, 510, 512, , 558, 1197, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198 and the applicable Wage
17 Orders, including, Subsections 3, 11 and 12 of Wage Order 12-2001.

18 59. Labor Code Sections 2699(a) and (g) authorize an aggrieved employee, on behalf
19 of himself and other current or former employees, to bring a civil action to recover civil penalties
20 pursuant to the procedures specified in Labor Code Section 2699.3.

21 60. Plaintiff has complied with the procedures for bringing suit specified in Labor
22 Code Section 2699.3. By letter dated September 12, 2023, Plaintiff gave written notice to the
23 Labor and Workforce Development Agency ("LWDA") via its online filing system and by
24 certified mail to Defendant of the specific provisions of the Labor Code alleged to have been
25 violated, including the facts and theories to support the alleged violations. To date, more than 65
26 days after the postmark date of September 12, 2023, the LWDA has not advised Plaintiff that it
27 intends to investigate Plaintiff's allegations.

28 61. Pursuant to Labor Code Sections 2699(a) and (f), Plaintiff and other Aggrieved

1 Employees are entitled to civil penalties for Defendants' violations of the Labor Code and the
2 applicable Wage Orders of the Industrial Welfare Commission, including Wage Order 12-2001,
3 in the amount of one hundred dollars (\$100) for each aggrieved employee per pay period for the
4 initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for
5 each subsequent violation. Pursuant to Labor Code Section 2699(i), 75% of the civil penalties
6 recovered shall be distributed to the LWDA, and 25% shall be distributed to the aggrieved
7 employees.

8 62. Pursuant to Labor Code Section 2699(g), Plaintiff is entitled to an award of
9 reasonable attorney's fees and costs in connection with his claims for civil penalties

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as
12 follows:

13 **CLASS CERTIFICATION:**

- 14 1. An order that the action be certified as a class action;
15 2. An order that Plaintiff be certified as the representative of the Class;
16 3. An order that counsel for Plaintiff be confirmed as Class counsel;

17 **ON THE FIRST CAUSE OF ACTION:**

- 18 1. Damages for underpaid overtime wages;
19 2. Prejudgment interest;

20 **ON THE SECOND CAUSE OF ACTION:**

- 21 1. Damages for inaccurate wage statements for each pay period;
22 2. Prejudgment interest;

23 **ON THE THIRD CAUSE OF ACTION:**

- 24 1. Damages for unpaid wages earned prior to termination of employment;
25 2. Damages for unpaid continuation wages owed for failing to pay all earned wages
26 timely upon termination of employment;
27 3. Prejudgment interest;
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1. For civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a);

ON ALL CAUSES OF ACTION:

- DATED: November 17, 2023

By: /s/ Frank H. Kim
Frank H. Kim, Esq.
Attorneys for Plaintiff

Plaintiff demands a trial by jury for himself and the Class on all claims so triable.

DATED: November 17, 2023

By: /s/ Frank H. Kim
Frank H. Kim, Esq.
Attorneys for Plaintiff

PROOF OF SERVICE
[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 3435 Wilshire Blvd., Suite 2700, Los Angeles, CA 90010.

On November 17, 2023, I served all interested parties in this action the following documents described as: FIRST AMENDED COMPLAINT, on the interested parties below as follows:

Tricia L. Legittino
Alycia S. Tulloch
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Attorneys for Defendant
Good Company LA, LLC

BY ELECTRONIC SERVICE: I electronically served the document(s) using the Case Anywhere system. Participants in the case who are registered users will be served by the Case Anywhere system. Participants in the case who are not registered users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 17, 2023, at Los Angeles, California.

/s/ Frank H. Kim
FRANK H. KIM