

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU**

JOSEPH VU, Petitioner, v. BITLY, INC., Respondent.	))))))))	Index No. _____ JOINT PETITION TO CONFIRM ARBITRATION AWARD PURSUANT TO ARTICLE 75 OF THE CIVIL PRACTICE LAW AND RULES
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JOINT PETITION TO CONFIRM ARBITRATION AWARD

Petitioner Joseph Vu (“Petitioner”), and Respondent Bitly, Inc. (“Respondent” or “Bitly”) (together, the “Parties”), hereby petition this Court pursuant to Article 75 of the New York Civil Practice Law and Rules (“CPLR”) to confirm the final award issued in arbitration between the Parties and to enter judgment thereon. In support thereof, the Parties state as follows:

1. This special proceeding is brought pursuant to CPLR § 7510, requesting that the Court: (1) confirm the Final Arbitration Award (the “Award”) rendered in an arbitration before Hunter R. Hughes, Esq., and (2) enter judgment pursuant to CPLR § 7514(a).
2. This Court has jurisdiction pursuant to CPLR § 7502(a)(i) because the Parties agreed to this venue. Additionally Respondent conducts business in the state of New York pursuant to CPLR § 302(a)(1).
3. Petitioner filed an Arbitration Demand, annexed hereto as **Exhibit A**, on April 4, 2024 in an arbitration captioned *Joseph Vu et al. v. Bitly, Inc.* (the “Arbitration”). Petitioner filed a First Amended Arbitration Demand, annexed hereto as **Exhibit B**, on May 31, 2024. The Parties jointly selected Hunter

R. Hughes, Esq., a highly experienced and well-respected neutral with decades of experience, who has served as an arbitrator on the American Arbitration Association Commercial and Employment Panels.

4. Arbitrator Hughes issued the Award, which is annexed hereto as **Exhibit C**, on September 20, 2024. The Award was delivered to the Parties on September 25, 2024. The Award has not been updated or modified.

5. CPLR § 7510 provides that “the court shall confirm an award upon application of a party made within one year after its deliver to them, unless the award is vacated or modified upon a ground specified in” CPLR § 7511.

6. The Award is not the subject of any application to vacate or modify pursuant to CPLR § 7511.

7. The Parties hereby jointly petition the Court to confirm the Award pursuant to CPLR § 7510(a).

PRAYER FOR RELIEF

WHEREFORE, the Parties respectfully and jointly request that this Court:

- A. Enter an Order pursuant to CPLR § 7510 confirming the final arbitration Award;
and
- B. Entering judgment thereon pursuant to § 7514(a).

Dated: October 3, 2024

Respectfully submitted,



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Exhibit A

JOSEPH VU, individually and on behalf of all
others similarly situated,

Claimant,

v.

BITLY, INC.,

Respondent.

**CLASS AND COLLECTIVE ACTION
DEMAND FOR ARBITRATION**

HUNTER HUGHES, ARBITRATOR

Claimant Joseph Vu (“Claimant”), individually and on behalf of all others similarly situated, by and through his attorneys, Outten & Golden LLP, complaining of the conduct of Bitly, Inc. (“Bitly” or “Respondent”) upon personal knowledge as to himself and upon information and belief as to other matters, allege as follows:

PRELIMINARY STATEMENT

1. This action seeks to recover unpaid overtime compensation and other damages for Claimant and similarly situated co-workers who have worked for Bitly as Software Employees.¹

2. Bitly is a software company with U.S. offices located in New York and previously in California.

¹ “Software Employees” means individuals employed by Bitly in the exempt-classified job titles of Sales Development Representative, Business Development Representative, Corporate Sales Representative, SDR Manager, Sales Operation Manager, Account Executive, Associate Account Executive, Senior Account Executive, Account Manager, Associate Account Manager, Senior Account Manager, Renewals and Growth Strategies Account Manager, Sr. Renewals and Growth Strategies Manager I, Customer Success Manager, Associate Customer Success Manager, Senior Customer Success Manager, Senior Customer Success Manager I, Senior Customer Success Manager II, Customer Support Team Manager, Senior Customer Support Team Manager, Customer Onboarding Specialist, Customer Success Specialist, Solutions Engineer, Senior Solutions Engineer, Customer Support Specialist, Senior Customer Support Specialist, Associate Onboarding Manager, Customer Program Manager, Data Analyst – Customer Success, and User Support Representative.

3. Bitly sells a software platform to business clients. Bitly employs Software Employees, such as Claimant, to make sales to current and prospective customers and provide routine customer service to current customers.

4. While employed by Bitly, Claimant and other Software Employees consistently worked more than 8 hours per day and more than 40 hours per workweek without receiving overtime compensation. During the relevant period, it was Bitly's policy to deprive Claimant of his earned overtime wages in violation of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 201, *et seq.*, the California Labor Code ("Cal. Lab. Code") and applicable Wage Orders and regulations, and the California Unfair Business Practices Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (collectively, the "California Wage Laws").

5. Bitly has uniformly classified its Software Employees as exempt from overtime under federal and state laws and regulations and did not pay Software Employees any overtime wages during the relevant period and through the present.

6. The primary duties of Software Employees are and have been non-exempt. These primary duties do not vary significantly from one Software Employees to another.

7. Claimant alleges that the primary duties of Software Employees do not fall under any of the exemptions under federal or state overtime laws.

8. Claimant contends that Software Employees have worked overtime hours, as defined by applicable federal and state laws, and are entitled to overtime premium compensation at the appropriate rate for all overtime hours worked.

9. Claimant brings this action on behalf of himself and similarly situated current and former Software Employees employed by Bitly who elect to opt-in to this action pursuant to the collective action provision of the FLSA, 29 U.S.C. § 216(b), to remedy violations of the FLSA by Bitly that have deprived Claimant and others similarly situated of their lawfully earned wages.

10. Claimant also bring this action on behalf of himself and all similarly situated current and former Software Employees who have worked for Bitly in California as a Fed. R. Civ. P. 23 class action under the California Wage Laws.

11. Claimant has provided written notice to the California Labor and Workforce Development Agency (“LWDA”) of the legal claims and theories of this case pursuant to Cal. Lab. Code § 2699.3. In accordance with Cal. Lab. Code § 2699.3(a)(2)(A), Claimant will amend this Class and Collective Action Demand for Arbitration to assert claims pursuant to California’s Private Attorneys General Act, Cal. Lab. Code §§ 2698 *et seq.* on behalf of himself and other current and former employees as well as the general public to recover for violations of the California Labor Code.

JURISDICTION & VENUE

12. Section 2 of the Settlement Agreement provides that this matter will be arbitrated before Hunter Hughes. *See Exhibit A.*

THE PARTIES

Claimant Joseph Vu

13. Claimant Joseph Vu is an adult individual who is a resident of San Francisco County, California.

14. Claimant Vu was employed by Bitly as Software Employee in San Francisco, California.

15. Claimant Vu was an “employee” within the meaning of all applicable statutes.

16. Claimant Vu regularly worked more than 40 hours in a workweek and 8 in a day and was not paid for the hours he worked over 40 in a week or 8 in a day.

17. Claimant Vu’s written consent to join form is attached hereto as **Exhibit B.**

Respondent Bitly, Inc.

18. Upon information and belief, Bitly is a corporation formed under the laws of the Delaware with a principal place of business in New York, New York.

19. Upon information and belief, Bitly maintained control, oversight, and direction over its operations and employment practices.

20. At all times hereinafter mentioned, Bitly was Claimant's "employer" within the meaning of all applicable statutes.

21. At all relevant times, Bitly maintained control, oversight, and direction over Claimant and other Software Employees, including payroll and other employment practices that applied to them.

22. Bitly has applied the same employment policies, practices, and procedures to Software Employees, including policies, practices, and procedures with respect to payment of overtime compensation.

23. Bitly's annual gross volume of business is not less than \$500,000 within the meaning of 29 U.S.C. § 203(s)(A)(ii).

FLSA COLLECTIVE ACTION CLAIMS

24. Claimant brings the First Cause of Action pursuant to the FLSA, 29 U.S.C. § 216(b), on behalf of himself and all similarly situated persons who worked for Bitly in the United States as Software Employee and who elect to opt-in to this action (the "FLSA Collective").

25. Upon information and belief, there are dozens of current and former Software Employees who are similarly situated to Claimant and were denied overtime compensation.

26. Claimant is acting on behalf of current and former Sales Employees' interests as well as his own interests and the interests of the State of California in bringing this action.

27. All of the work that Claimant and the FLSA Collective performed was assigned by

Bitly, and/or Bitly has been aware of all of the work that Claimant and the FLSA Collective performed.

28. As part of its regular business practices, Bitly has intentionally, willfully, and repeatedly engaged in a pattern, practice and/or policy of violating the FLSA with respect to Claimant and the FLSA Collective. This policy and pattern or practice has included, but is not limited to:

- a. willfully failing to pay Claimant and the members of the FLSA Collective overtime wages for hours that they worked in excess of 40 hours per workweek;
- b. willfully misclassifying Claimant and the members of the FLSA Collective as exempt from the protections of the FLSA; and

29. Bitly was aware or should have been aware that federal law required it to pay employees performing non-exempt duties, including Claimant and members of the FLSA Collective, an overtime premium for hours worked in excess of 40 per workweek.

30. The FLSA Collective members are readily identifiable and can be located through the use of Bitly's records. The FLSA Collective should be notified of and allowed to opt-in to this action pursuant to 29 U.S.C. § 216(b). Unless the Arbitrator promptly issues such a notice, the FLSA Collective members, who have been unlawfully deprived of overtime pay in violation of the FLSA, will be unable to secure compensation to which they are entitled, and which has been unlawfully withheld from them by Bitly.

CALIFORNIA CLASS ALLEGATIONS

31. Claimant brings the Second, Third, Fourth, Fifth, and Sixth Causes of Action on his own behalf and as a class action, pursuant to Fed R. Civ. P. 23, on behalf of the following class of persons:

All Software Employees who worked for Bitly in California at any time between September 11, 2019 through **the earlier of April 30, 2024, or the Preliminary Approval Date** (hereinafter referred to as the “California Class” and the “California Class Period,” respectively).

32. Excluded from the California Class are Bitly’s legal representatives, officers, directors, assigns, and successors, or any individual who has, or who at any time during the class period has had, a controlling interest in Bitly; the Judge(s) to whom this case is assigned and any member of the Judge(s)’ immediate family; and all persons who will submit timely and otherwise proper requests for exclusion from the California Class.

33. The persons in the California Class 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 Bitly.

34. Upon information and belief, the size of the California Class is sufficiently numerous that joinder of each individual would be impracticable.

35. The Second, Third, Fourth, Fifth, and Sixth Causes of Action are properly maintainable as a class action under Fed. R. Civ. P. 23(b)(3). There are questions of law and fact common to the California Class that predominate over any questions solely affecting individual members of the California Class, including but not limited to:

- a. Whether Bitly unlawfully failed to pay California Class Members overtime compensation owed, in violation of the California Labor Code and related regulations, Cal. Lab. Code §§ 226, 510, and 1194; Cal. Wage Order Nos. 4-2001 and 7-2001; and the California Unfair Competition Law, Cal. Bus & Prof. Code §§ 17200, *et seq.*;
- b. Whether California Class Members were non-exempt employees entitled to

- overtime compensation for overtime hours worked under California law;
- c. Whether Bitly's policy and pattern or practice of classifying California Class Members as exempt from overtime entitlement under California law and Bitly's policy and pattern or practice of failing to pay overtime to California Class Members violated applicable provisions of California law;
 - d. Whether Bitly has unlawfully failed to keep and furnish the California Class Members with timely, accurate, and itemized records of hours worked in violation of Cal. Lab. Code §§ 226 and 1174;
 - e. Whether Bitly has unlawfully failed to timely pay wages upon separation in violation of Cal. Lab. Code §§ 201, 202, and 203;
 - f. Whether Bitly has unlawfully failed to furnish the California Class Members with proper meal and rest breaks, in violation of the California Labor Code and related regulations, Cal. Lab. Code §§ 226.7, 512 and applicable wage orders; and
 - g. The nature and extent of the California Class Members' injuries and the appropriate measure of their damages.

36. Claimant will fairly and adequately represent and protect the interests of the members of the California Class. Claimant understands that as class representatives he assumes a fiduciary responsibility to the class to represent its interests fairly and adequately. Claimant recognizes that as class representatives he must represent and consider the interests of the class just as he would represent and consider his own interests. Claimant understands that in decisions regarding the conduct of the litigation and its possible settlement, he must not favor his own interests over the interests of the class. Claimant recognizes that any resolution of a class action must be in the best interest of the class. Claimant understands that in order to provide adequate

representation, he must be informed of developments in litigation, cooperate with class counsel, and testify at deposition and/or trial. Claimant has retained counsel competent and experienced in complex class actions and employment litigation. There is no conflict between Claimant and the California Class Members.

37. A class action is superior to other available methods for the fair and efficient adjudication of this litigation. The members of the California Class are entitled to recovery as a result of Bitly's alleged violation of the California Wage Laws as well as its common and uniform policies, practices, and procedures. Although the relative damages suffered by individual members of the California Class are not *de minimis*, such damages are small compared to the expense and burden of individual prosecution of this litigation. The individual California Class Members lack the financial resources to conduct a thorough examination of Bitly's timekeeping and compensation practices and to prosecute vigorously a lawsuit against Bitly to recover such damages. In addition, class litigation is superior because it will obviate the need for unduly duplicative litigation that might result in inconsistent judgments about Bitly's practices.

38. Further, Claimant and the California Class have been equally affected by Bitly's failure to pay proper wages and other violations. Moreover, members of the California Class still employed by Bitly may be reluctant to raise individual claims for fear of retaliation.

39. Bitly has acted or refused to act on grounds generally applicable to the California Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.

40. Claimant's claims are typical of the claims of the California Class Members he seeks to represent. Claimant and all members of the Class worked for Bitly as Software Employees in the State of California. Claimant and members of the California Class enjoy the same statutory rights under the California Wage Laws to be paid overtime wages. Claimant and members of the

California Class all sustained similar types of damages as a result of Bitly's alleged failure to comply with the California Wage Laws. Claimant and the members of the California Class all were injured in that they were uncompensated or under-compensated due to Bitly's common policies, practices and patterns of conduct.

COMMON FACTUAL ALLEGATIONS

41. Claimant and the members of the FLSA Collective and the California Class (collectively, "Class Members") have been victims of Bitly's common policy and plan of improperly classifying Software Employees as overtime exempt, requiring them to work in excess of 40 hours per week and in excess of 8 hours per day, and denying them overtime compensation. At all times relevant, Bitly's unlawful policy and pattern or practice has been willful.

42. Claimant alleges that Software Employee's primary duties are non-exempt duties, specifically, identifying business opportunities, engaging with potential and existing customers by phone, email, social media, and web meetings, making sales of Bitly's products, and providing routine customer service to current customers.

43. Although Software Employees were eligible to earn commissions based on various performance indicators, these commissions did not constitute the majority of their earnings.

44. Throughout their employment, Claimant and Class Members consistently worked more than 40 hours per week and 8 hours per day.

45. Bitly was aware that Claimant and the Class Members worked more than 40 hours per workweek and 8 hours per day yet failed to pay them any overtime compensation.

46. Bitly did not keep accurate records of hours worked by Claimant or Class Members. That is, hours worked by Claimant and Class Members were not accurately recorded on pay stubs, and Bitly did not require Claimant or Class Members to clock in or out, or otherwise record their time.

47. Bitly failed to pay Claimant and Class Members time and one-half for all hours worked over 40 in a workweek in violation of the FLSA.

48. Bitly failed to pay Claimant and California Class members overtime compensation for all hours worked over 8 in a workday.

49. Bitly failed to furnish Claimant and the California Class members with an accurate itemized statement showing, *inter alia*, wages, hours worked, and rates paid as required by the California Wage Laws.

50. Bitly failed to timely pay Claimant and the California Class Members all wages earned and unpaid at the time of separation from employment.

51. Claimant and all California Class Members who ceased employment with Bitly are entitled to unpaid compensation, but to date have not received such compensation.

52. Bitly failed to provide Claimant and California Class members with at least a half-hour meal break in which they were relieved of all duty, and, for shifts of more than ten-hours, a second half-hour meal break in which they were relieved of all duty, as required by the California Wage Laws.

53. Bitly failed to provide Claimant and California Class Members with a ten-minute rest breaks for every three and one-half hours worked in which they were relieved of all duty, as required by the California Wage Laws.

54. As part of its regular business practice, Bitly intentionally, willfully, and repeatedly engaged in a pattern, practice, and/or policy that violates the FLSA and California Wage Laws.

55. Bitly's policy and pattern or practice includes but is not limited to:

- a. willfully misclassifying Claimant and Class Members as exempt from the protections of federal and state overtime laws;
- b. willfully failing to record the time that its employees, including Claimant

and Class Members, worked for the benefit of Bitly;

c. willfully failing to keep payroll records as required by the FLSA and California Wage Laws; and

d. willfully failing to pay its employees, including Claimant and Class Members, overtime wages for all of the overtime hours that they worked.

56. Bitly was or should have been aware that the FLSA required it to pay its Software Employees overtime compensation for all hours worked in excess of 40 per week.

57. Bitly's failure to pay Claimant and Class Members overtime wages for their work in excess of 40 hours per week was willful, intentional, and in bad faith.

58. Bitly's unlawful conduct has been widespread, repeated, and consistent.

FIRST CAUSE OF ACTION

FLSA – Overtime Wages

29 U.S.C. §§ 201, *et seq.*

(Brought by Claimant Individually and on Behalf of the FLSA Collective)

59. Claimant realleges and incorporates by reference all allegations in all preceding paragraphs.

60. Plaintiff alleges that Bitly has engaged in a widespread pattern and practice of violating the FLSA, as described in this Class and Collective Action Demand for Arbitration.

61. Claimant has expressed his consent to make these claims against Bitly by filing a written consent form, pursuant to 29 U.S.C. § 216(b).

62. Claimant and members of the FLSA Collective are and were non-exempt employees entitled to be paid overtime compensation for all overtime hours worked.

63. At all relevant times, Claimant and other similarly situated current and former employees were engaged in commerce and/or the production of goods for commerce within the meaning of 29 U.S.C. § 207(a).

64. The overtime wage provisions set forth in §§ 201, *et seq.* of the FLSA apply to Bitly.

65. Bitly is an employer engaged in commerce and/or the production of goods for commerce within the meaning of 29 U.S.C. §§ 206(a) and 207(a).

66. At all times relevant, Claimant was an employee within the meaning of 29 U.S.C. §§ 203(e) and 207(a).

67. Bitly has failed to pay Claimant and other similarly situated current and former employees the overtime wages to which they were entitled under the FLSA.

68. Bitly's violations of the FLSA, as described in this Demand, have been willful and intentional.

69. Bitly failed to make a good faith effort to comply with the FLSA with respect to its compensation of Claimant and other similarly situated current and former employees.

70. Because Bitly's violations of the FLSA are willful, a three-year statute of limitations applies, pursuant to 29 U.S.C. § 255.

71. As a result of Bitly's willful violations of the FLSA, Claimant and all other similarly situated employees have suffered damages by being denied overtime wages in accordance with 29 U.S.C. §§ 201, *et seq.*

72. As a result of the unlawful acts of Bitly, Claimant and other similarly situated current and former employees have been deprived of overtime compensation and other wages in amounts to be determined at trial, and are entitled to recovery of such amounts, liquidated damages, prejudgment interest, attorneys' fees, costs, and other compensation pursuant to 29 U.S.C. § 216(b).

SECOND CAUSE OF ACTION**California Wage Laws – Overtime Wages
California Wage Order Nos. 4-2001 & 7-2001; Cal. Lab. Code §§ 510, 1194
(Brought by Claimant Individually and on Behalf of the California Class)**

73. Claimant realleges and incorporates by reference all allegations in all preceding paragraphs.

74. California law requires employers, such as Bitly, to pay overtime compensation to all non-exempt employees for all hours worked over 40 per workweek and over 8 per day.

75. Claimant and the California Class members are and were non-exempt employees entitled to be paid overtime compensation for all overtime hours worked.

76. At all relevant times, Claimant and the California Class members worked in excess of 40 hours in a workweek and 8 hours in a workday.

77. At all relevant times, Bitly failed and refused to pay Claimant and the California Class members overtime compensation.

78. As a direct and proximate result of Bitly's unlawful conduct, as set forth herein, Claimant and the California Class members have sustained damages, including loss of earnings for hours of overtime worked for the benefit of Bitly in an amount to be established at trial, prejudgment interest, and costs and attorneys' fees, pursuant to statute and other applicable law.

THIRD CAUSE OF ACTION**California Wage Laws – Record-Keeping Violations
California Wage Order Nos. 4-2001 & 7-2001; Cal. Lab. Code §§ 226
(Brought by Claimant Individually and on Behalf of the California Class)**

79. Claimant realleges and incorporates by reference all allegations in all preceding paragraphs.

80. Bitly knowingly and intentionally failed to provide timely, accurate, itemized wage statements including, *inter alia*, all hours worked to Claimant and the California Class members

in accordance with California Wage Order Nos. 4-2001 and 7-2001 and California Labor Code § 226(a). Such failure has caused injury to Claimant and the California Class members, by, among other things, impeding them from knowing the amount of wages to which they are and were entitled.

81. Claimant and the California Class members are entitled to and seek injunctive relief requiring Bitly to comply with California Labor Code §§ 226(a) and further seek the amount provided under California Labor Code §§ 226(e), including the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period.

FOURTH CAUSE OF ACTION

California Wage Laws – Wage Payment Provisions

Cal. Lab. Code §§ 201, 202, & 203

(Brought by Claimant Individually and on Behalf of the California Class)

82. Claimant realleges and incorporates by reference all allegations in all preceding paragraphs.

83. California Labor Code §§ 201 and 202 require Bitly to pay its employees all wages due upon termination within the time specified by law. California Labor Code § 203 provides that if an employer willfully fails to timely pay such wages, the employer must continue to pay the subject employees' wages until the back wages are paid in full or an action is commenced, up to a maximum of thirty (30) days of wages.

84. Claimant and all California Class members who ceased employment with Bitly are entitled to unpaid compensation, but to date have not received such compensation.

85. More than thirty (30) days have passed since Claimant and certain California Class members left Bitly's employ.

86. Claimant, on behalf of himself and the California Class members, seek waiting time

penalties pursuant to California Labor Code § 203, attorneys' fees and costs, and such other legal and equitable relief as the Arbitrator deems just and proper.

FIFTH CAUSE OF ACTION

**California Wage Laws – Meal and Rest Period Provisions
Cal. Wage Order Nos. 4-2001 & 7-2001; Cal. Labor Code §§ 218.5, 226.7, & 512
(Brought by Claimant Individually and on Behalf of the California Class)**

87. Claimant realleges and incorporates by reference all allegations in all preceding paragraphs.

88. Claimant and the California Class members regularly work and have worked in excess of five-hour shifts without being afforded at least a half-hour meal break in which they were relieved of all duty, and more than ten-hour shifts without being afforded a second half-hour meal break in which they were relieved of all duty, as required by California Labor Code §§ 226.7 and 512 and Wage Order Nos. 4-2001 and 7-2001, § 11.

89. Claimant and the California Class members regularly work and have worked in excess of three and one-half hour shifts without being afforded a ten-minute rest break in which they were relieved of all duty, as required by California Labor Code § 226.7 and Wage Order Nos. 4-2001 and 7-2001, § 12.

90. As a result of Bitly's failure to afford proper meal periods and rest breaks, Bitly is liable to Claimant and the California Class members for one hour of additional pay at the regular rate of compensation for each workday that the proper meal periods were not provided and one hour of additional pay at the regular rate of compensation for each workday that the rest periods were not provided, pursuant to Labor Code § 226.7 and Wage Order Nos. 4-2001 and 7-2001, §§ 11, 12.

SIXTH CAUSE OF ACTION**California Wage Laws – Unfair Competition****California Business & Professions Code §§ 17200, *et seq.*****(Brought by Claimant Individually and on Behalf of the California Class)**

91. Claimant realleges and incorporates by reference all allegations in all preceding paragraphs.

92. The foregoing conduct, as alleged, violates the California Unfair Competition Law (“UCL”). The UCL prohibits unfair competition by prohibiting, *inter alia*, any unlawful or unfair business acts or practices.

93. Beginning at a date unknown to Claimant, but at least as long ago as four years prior to the filing of this action, Bitly committed, and continued to commit, acts of unfair competition, as defined by the UCL, by, among other things, engaging in the acts and practices described herein. Bitly conduct as alleged herein has injured Claimant and the California Class members by wrongfully denying them earned wages, and therefore was substantially injurious to them.

94. Bitly engaged in unfair competition in violation of the UCL by violating, *inter alia*, each of the following laws. Each of these violations constitutes an independent and separate violation of the UCL:

- a. FLSA, 29 U.S.C. §§ 201, *et seq.*;
- b. Cal. Lab. Code §§ 201-203;
- c. Cal. Lab. Code § 1194;
- d. Cal. Lab. Code § 226;
- e. Cal. Lab. Code § 1174; and
- f. Cal. Lab. Code § 510.

95. Bitly’s course of conduct, acts, and practices in violation of the California laws

mentioned in the above paragraph constitute a separate and independent violation of the UCL. Bitly's conduct described herein violates the policy or spirit of such laws or otherwise significantly threatens or harms competition.

96. The unlawful and unfair business practices and acts of Bitly, described above, have injured Claimant and the California Class members in that they were wrongfully denied the payment of earned overtime wages.

97. Claimant, individually and on behalf of the California Class, seeks recovery of attorneys' fees and costs of this action to be paid by Bitly, as provided by the UCL and California Labor Code §§ 218, 218.5, and 1194.

98. Claimant, individually and on behalf of the California Class, seeks restitution in the amount of the respective unpaid wages earned and due, including for unpaid overtime at a rate not less than one and one-half times the regular rate of pay for work performed in excess of 40 hours in a workweek, or 8 hours in a day, and double the regular rate of pay for work performed in excess of 12 hours per day.

PRAYER FOR RELIEF

WHEREFORE, Claimant, individually and on behalf of the FLSA Collective and California Class, request the following relief:

- A. Designation of this action as a collective action and prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to all similarly situated members of the FLSA Collective, apprising them of the pendency of this action, and permitting them to file individual Consent to Join forms pursuant to 29 U.S.C. § 216(b);
- B. Certification of this action as a class action on behalf of the California Class;
- C. Designation of Claimant as Representative of the California Class he seeks to represent;
- D. Designation of Claimant's counsel of record as Class Counsel for the California

Class;

- E. An award of damages, liquidated damages, and restitution, to be paid by Bitly according to proof;
- F. Appropriate statutory penalties;
- G. Appropriate equitable and injunctive relief to remedy violations, including but not necessarily limited to an order enjoining Bitly from continuing its unlawful practices under the FLSA and California Wage Laws and/or a declaration that Bitly's acts violate the FLSA and California Wage Laws;
- H. A service award of \$10,000 Claimant to compensate him for the time he spent attempting to recover wages for the FLSA Collective and California Class and for the risks he took in doing so;
- I. Costs of the action incurred herein;
- J. Attorneys' fees, including fees pursuant to 29 U.S.C. § 216;
- K. Pre- and post-judgment interest, as provided by law; and
- L. Such other relief as the Arbitrator deems necessary, just, and proper.

Dated: New York, New York
April 23, 2024

Respectfully submitted,

By: /s/ Melissa L. Stewart
Melissa Stewart

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*Attorneys for Claimant and the Proposed
Class and FLSA Collective*

Exhibit B

JOSEPH VU, individually and on behalf of all
others similarly situated,

Claimant,

v.

BITLY, INC.,

Respondent.

**FIRST AMENDED CLASS, COLLECTIVE
ACTION, AND PAGA DEMAND FOR
ARBITRATION**

HUNTER HUGHES, ARBITRATOR

Claimant Joseph Vu (“Claimant”), individually and on behalf of all others similarly situated, by and through his attorneys, Outten & Golden LLP, complaining of the conduct of Bitly, Inc. (“Bitly” or “Respondent”) upon personal knowledge as to himself and upon information and belief as to other matters, allege as follows:

PRELIMINARY STATEMENT

1. This action seeks to recover unpaid overtime compensation and other damages for Claimant and similarly situated co-workers who have worked for Bitly as Software Employees.¹

2. Bitly is a software company with U.S. offices located in New York and previously in California.

¹ “Software Employees” means individuals employed by Bitly in the exempt-classified job titles of Sales Development Representative, Business Development Representative, Corporate Sales Representative, SDR Manager, Sales Operation Manager, Account Executive, Associate Account Executive, Senior Account Executive, Account Manager, Associate Account Manager, Senior Account Manager, Renewals and Growth Strategies Account Manager, Sr. Renewals and Growth Strategies Manager I, Customer Success Manager, Associate Customer Success Manager, Senior Customer Success Manager, Senior Customer Success Manager I, Senior Customer Success Manager II, Customer Support Team Manager, Senior Customer Support Team Manager, Customer Onboarding Specialist, Customer Success Specialist, Solutions Engineer, Senior Solutions Engineer, Customer Support Specialist, Senior Customer Support Specialist, Associate Onboarding Manager, Customer Program Manager, Data Analyst – Customer Success, and User Support Representative.

3. Bitly sells a software platform to business clients. Bitly employs Software Employees, such as Claimant, to make sales to current and prospective customers and provide routine customer service to current customers.

4. While employed by Bitly, Claimant and other Software Employees consistently worked more than 8 hours per day and more than 40 hours per workweek without receiving overtime compensation. During the relevant period, it was Bitly's policy to deprive Claimant of his earned overtime wages in violation of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 201, *et seq.*, the California Labor Code ("Cal. Lab. Code") and applicable Wage Orders and regulations, and the California Unfair Business Practices Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (collectively, the "California Wage Laws").

5. Bitly has uniformly classified its Software Employees as exempt from overtime under federal and state laws and regulations and did not pay Software Employees any overtime wages during the relevant period and through the present.

6. The primary duties of Software Employees are and have been non-exempt. These primary duties do not vary significantly from one Software Employees to another.

7. Claimant alleges that the primary duties of Software Employees do not fall under any of the exemptions under federal or state overtime laws.

8. Claimant contends that Software Employees have worked overtime hours, as defined by applicable federal and state laws, and are entitled to overtime premium compensation at the appropriate rate for all overtime hours worked.

9. Claimant brings this action on behalf of himself and similarly situated current and former Software Employees employed by Bitly who elect to opt-in to this action pursuant to the collective action provision of the FLSA, 29 U.S.C. § 216(b), to remedy violations of the FLSA by Bitly that have deprived Claimant and others similarly situated of their lawfully earned wages.

10. Claimant brings this action on behalf of himself and all similarly situated current and former Software Employees who have worked for Bitly in California as a Fed. R. Civ. P. 23 class action under the California Wage Laws.

11. Claimant provided written notice on March 12, 2024 to the California Labor and Workforce Development Agency (“LWDA”) of the legal claims and theories of this case pursuant to Cal. Lab. Code § 2699.3. In accordance with Cal. Lab. Code § 2699.3(a)(2)(A), Claimant hereby amends this Class and Collective Action Demand for Arbitration to assert claims pursuant to California’s Private Attorneys General Act (“PAGA”), Cal. Lab. Code §§ 2698 *et seq.* on behalf of himself and other current and former Software Employees who worked for Respondent in California from September 11, 2022, and April 23, 2024 (“Aggrieved Employees”), to recover penalties for violations of the California Labor Code as set forth herein.

JURISDICTION & VENUE

12. Section 2 of the Settlement Agreement provides that this matter will be arbitrated before Hunter Hughes. *See Exhibit A.*

THE PARTIES

Claimant Joseph Vu

13. Claimant Joseph Vu is an adult individual who is a resident of San Francisco County, California.

14. Claimant Vu was employed by Bitly as Software Employee in San Francisco, California.

15. Claimant Vu was an “employee” within the meaning of all applicable statutes.

16. Claimant Vu regularly worked more than 40 hours in a workweek and 8 in a day and was not paid for the hours he worked over 40 in a week or 8 in a day.

17. Claimant Vu’s written consent to join form is attached hereto as **Exhibit B.**

Respondent Bitly, Inc.

18. Upon information and belief, Bitly is a corporation formed under the laws of the Delaware with a principal place of business in New York, New York.

19. Upon information and belief, Bitly maintained control, oversight, and direction over its operations and employment practices.

20. At all times hereinafter mentioned, Bitly was Claimant's "employer" within the meaning of all applicable statutes.

21. At all relevant times, Bitly maintained control, oversight, and direction over Claimant and other Software Employees, including payroll and other employment practices that applied to them.

22. Bitly has applied the same employment policies, practices, and procedures to Software Employees, including policies, practices, and procedures with respect to payment of overtime compensation.

23. Bitly's annual gross volume of business is not less than \$500,000 within the meaning of 29 U.S.C. § 203(s)(A)(ii).

FLSA COLLECTIVE ACTION CLAIMS

24. Claimant brings the First Cause of Action pursuant to the FLSA, 29 U.S.C. § 216(b), on behalf of himself and all similarly situated persons who worked for Bitly in the United States as Software Employee and who elect to opt-in to this action (the "FLSA Collective").

25. Upon information and belief, there are dozens of current and former Software Employees who are similarly situated to Claimant and were denied overtime compensation.

26. Claimant is acting on behalf of current and former Sales Employees' interests as well as his own interests and the interests of the State of California in bringing this action.

27. All of the work that Claimant and the FLSA Collective performed was assigned by

Bitly, and/or Bitly has been aware of all of the work that Claimant and the FLSA Collective performed.

28. As part of its regular business practices, Bitly has intentionally, willfully, and repeatedly engaged in a pattern, practice and/or policy of violating the FLSA with respect to Claimant and the FLSA Collective. This policy and pattern or practice has included, but is not limited to:

- a. willfully failing to pay Claimant and the members of the FLSA Collective overtime wages for hours that they worked in excess of 40 hours per workweek;
- b. willfully misclassifying Claimant and the members of the FLSA Collective as exempt from the protections of the FLSA; and

29. Bitly was aware or should have been aware that federal law required it to pay employees performing non-exempt duties, including Claimant and members of the FLSA Collective, an overtime premium for hours worked in excess of 40 per workweek.

30. The FLSA Collective members are readily identifiable and can be located through the use of Bitly's records. The FLSA Collective should be notified of and allowed to opt-in to this action pursuant to 29 U.S.C. § 216(b). Unless the Arbitrator promptly issues such a notice, the FLSA Collective members, who have been unlawfully deprived of overtime pay in violation of the FLSA, will be unable to secure compensation to which they are entitled, and which has been unlawfully withheld from them by Bitly.

CALIFORNIA CLASS ALLEGATIONS

31. Claimant brings the Second, Third, Fourth, Fifth, and Sixth Causes of Action on his own behalf and as a class action, pursuant to Fed R. Civ. P. 23, on behalf of the following class of persons:

All Software Employees who worked for Bitly in California at any time between September 11, 2019 through April 23, 2024 (hereinafter referred to as the “California Class” and the “California Class Period,” respectively).

32. Excluded from the California Class are Bitly’s legal representatives, officers, directors, assigns, and successors, or any individual who has, or who at any time during the class period has had, a controlling interest in Bitly; the Judge(s) to whom this case is assigned and any member of the Judge(s)’ immediate family; and all persons who will submit timely and otherwise proper requests for exclusion from the California Class.

33. The persons in the California Class 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 Bitly.

34. Upon information and belief, the size of the California Class is sufficiently numerous that joinder of each individual would be impracticable.

35. The Second, Third, Fourth, Fifth, and Sixth Causes of Action are properly maintainable as a class action under Fed. R. Civ. P. 23(b)(3). There are questions of law and fact common to the California Class that predominate over any questions solely affecting individual members of the California Class, including but not limited to:

- a. Whether Bitly unlawfully failed to pay California Class Members overtime compensation owed, in violation of the California Labor Code and related regulations, Cal. Lab. Code §§ 226, 510, and 1194; Cal. Wage Order Nos. 4-2001 and 7-2001; and the California Unfair Competition Law, Cal. Bus & Prof. Code §§ 17200, *et seq.*;
- b. Whether California Class Members were non-exempt employees entitled to overtime compensation for overtime hours worked under California law;

- c. Whether Bitly's policy and pattern or practice of classifying California Class Members as exempt from overtime entitlement under California law and Bitly's policy and pattern or practice of failing to pay overtime to California Class Members violated applicable provisions of California law;
- d. Whether Bitly has unlawfully failed to keep and furnish the California Class Members with timely, accurate, and itemized records of hours worked in violation of Cal. Lab. Code §§ 226 and 1174;
- e. Whether Bitly has unlawfully failed to timely pay wages upon separation in violation of Cal. Lab. Code §§ 201, 202, and 203;
- f. Whether Bitly has unlawfully failed to furnish the California Class Members with proper meal and rest breaks, in violation of the California Labor Code and related regulations, Cal. Lab. Code §§ 226.7, 512 and applicable wage orders; and
- g. The nature and extent of the California Class Members' injuries and the appropriate measure of their damages.

36. Claimant will fairly and adequately represent and protect the interests of the members of the California Class. Claimant understands that as class representatives he assumes a fiduciary responsibility to the class to represent its interests fairly and adequately. Claimant recognizes that as class representatives he must represent and consider the interests of the class just as he would represent and consider his own interests. Claimant understands that in decisions regarding the conduct of the litigation and its possible settlement, he must not favor his own interests over the interests of the class. Claimant recognizes that any resolution of a class action must be in the best interest of the class. Claimant understands that in order to provide adequate representation, he must be informed of developments in litigation, cooperate with class counsel,

and testify at deposition and/or trial. Claimant has retained counsel competent and experienced in complex class actions and employment litigation. There is no conflict between Claimant and the California Class Members.

37. A class action is superior to other available methods for the fair and efficient adjudication of this litigation. The members of the California Class are entitled to recovery as a result of Bitly's alleged violation of the California Wage Laws as well as its common and uniform policies, practices, and procedures. Although the relative damages suffered by individual members of the California Class are not *de minimis*, such damages are small compared to the expense and burden of individual prosecution of this litigation. The individual California Class Members lack the financial resources to conduct a thorough examination of Bitly's timekeeping and compensation practices and to prosecute vigorously a lawsuit against Bitly to recover such damages. In addition, class litigation is superior because it will obviate the need for unduly duplicative litigation that might result in inconsistent judgments about Bitly's practices.

38. Further, Claimant and the California Class have been equally affected by Bitly's failure to pay proper wages and other violations. Moreover, members of the California Class still employed by Bitly may be reluctant to raise individual claims for fear of retaliation.

39. Bitly has acted or refused to act on grounds generally applicable to the California Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.

40. Claimant's claims are typical of the claims of the California Class Members he seeks to represent. Claimant and all members of the Class worked for Bitly as Software Employees in the State of California. Claimant and members of the California Class enjoy the same statutory rights under the California Wage Laws to be paid overtime wages. Claimant and members of the California Class all sustained similar types of damages as a result of Bitly's alleged failure to

comply with the California Wage Laws. Claimant and the members of the California Class all were injured in that they were uncompensated or under-compensated due to Bitly's common policies, practices and patterns of conduct.

COMMON FACTUAL ALLEGATIONS

41. Claimant and the members of the FLSA Collective and the California Class (collectively, "Class Members") have been victims of Bitly's common policy and plan of improperly classifying Software Employees as overtime exempt, requiring them to work in excess of 40 hours per week and in excess of 8 hours per day, and denying them overtime compensation. At all times relevant, Bitly's unlawful policy and pattern or practice has been willful.

42. Claimant alleges that Software Employee's primary duties are non-exempt duties, specifically, identifying business opportunities, engaging with potential and existing customers by phone, email, social media, and web meetings, making sales of Bitly's products, and providing routine customer service to current customers.

43. Although Software Employees were eligible to earn commissions based on various performance indicators, these commissions did not constitute the majority of their earnings.

44. Throughout their employment, Claimant and Class Members consistently worked more than 40 hours per week and 8 hours per day.

45. Bitly was aware that Claimant and the Class Members worked more than 40 hours per workweek and 8 hours per day yet failed to pay them any overtime compensation.

46. Bitly did not keep accurate records of hours worked by Claimant or Class Members. That is, hours worked by Claimant and Class Members were not accurately recorded on pay stubs, and Bitly did not require Claimant or Class Members to clock in or out, or otherwise record their time.

47. Bitly failed to pay Claimant and Class Members time and one-half for all hours

worked over 40 in a workweek in violation of the FLSA.

48. Bitly failed to pay Claimant and California Class members overtime compensation for all hours worked over 8 in a workday.

49. Bitly failed to furnish Claimant and the California Class members with an accurate itemized statement showing, *inter alia*, wages, hours worked, and rates paid as required by the California Wage Laws.

50. Bitly failed to timely pay Claimant and the California Class Members all wages earned and unpaid at the time of separation from employment.

51. Claimant and all California Class Members who ceased employment with Bitly are entitled to unpaid compensation, but to date have not received such compensation.

52. Bitly failed to provide Claimant and California Class members with at least a half-hour meal break in which they were relieved of all duty, and, for shifts of more than ten-hours, a second half-hour meal break in which they were relieved of all duty, as required by the California Wage Laws.

53. Bitly failed to provide Claimant and California Class Members with a ten-minute rest breaks for every three and one-half hours worked in which they were relieved of all duty, as required by the California Wage Laws.

54. As part of its regular business practice, Bitly intentionally, willfully, and repeatedly engaged in a pattern, practice, and/or policy that violates the FLSA and California Wage Laws.

55. Bitly's policy and pattern or practice includes but is not limited to:

- a. willfully misclassifying Claimant and Class Members as exempt from the protections of federal and state overtime laws;
- b. willfully failing to record the time that its employees, including Claimant and Class Members, worked for the benefit of Bitly;

- c. willfully failing to keep payroll records as required by the FLSA and California Wage Laws; and
- d. willfully failing to pay its employees, including Claimant and Class Members, overtime wages for all of the overtime hours that they worked.

56. Bitly was or should have been aware that the FLSA required it to pay its Software Employees overtime compensation for all hours worked in excess of 40 per week.

57. Bitly's failure to pay Claimant and Class Members overtime wages for their work in excess of 40 hours per week was willful, intentional, and in bad faith.

58. Bitly's unlawful conduct has been widespread, repeated, and consistent.

FIRST CAUSE OF ACTION

FLSA – Overtime Wages

29 U.S.C. §§ 201, *et seq.*

(Brought by Claimant Individually and on Behalf of the FLSA Collective)

59. Claimant realleges and incorporates by reference all allegations in all preceding paragraphs.

60. Plaintiff alleges that Bitly has engaged in a widespread pattern and practice of violating the FLSA, as described in this Class and Collective Action Demand for Arbitration.

61. Claimant has expressed his consent to make these claims against Bitly by filing a written consent form, pursuant to 29 U.S.C. § 216(b).

62. Claimant and members of the FLSA Collective are and were non-exempt employees entitled to be paid overtime compensation for all overtime hours worked.

63. At all relevant times, Claimant and other similarly situated current and former employees were engaged in commerce and/or the production of goods for commerce within the meaning of 29 U.S.C. § 207(a).

64. The overtime wage provisions set forth in §§ 201, *et seq.* of the FLSA apply to

Bitly.

65. Bitly is an employer engaged in commerce and/or the production of goods for commerce within the meaning of 29 U.S.C. §§ 206(a) and 207(a).

66. At all times relevant, Claimant was an employee within the meaning of 29 U.S.C. §§ 203(e) and 207(a).

67. Bitly has failed to pay Claimant and other similarly situated current and former employees the overtime wages to which they were entitled under the FLSA.

68. Bitly's violations of the FLSA, as described in this Demand, have been willful and intentional.

69. Bitly failed to make a good faith effort to comply with the FLSA with respect to its compensation of Claimant and other similarly situated current and former employees.

70. Because Bitly's violations of the FLSA are willful, a three-year statute of limitations applies, pursuant to 29 U.S.C. § 255.

71. As a result of Bitly's willful violations of the FLSA, Claimant and all other similarly situated employees have suffered damages by being denied overtime wages in accordance with 29 U.S.C. §§ 201, *et seq.*

72. As a result of the unlawful acts of Bitly, Claimant and other similarly situated current and former employees have been deprived of overtime compensation and other wages in amounts to be determined at trial, and are entitled to recovery of such amounts, liquidated damages, prejudgment interest, attorneys' fees, costs, and other compensation pursuant to 29 U.S.C. § 216(b).

SECOND CAUSE OF ACTION

California Wage Laws – Overtime Wages

California Wage Order Nos. 4-2001 & 7-2001; Cal. Lab. Code §§ 510, 1194

(Brought by Claimant Individually and on Behalf of the California Class)

73. Claimant realleges and incorporates by reference all allegations in all preceding

paragraphs.

74. California law requires employers, such as Bitly, to pay overtime compensation to all non-exempt employees for all hours worked over 40 per workweek and over 8 per day.

75. Claimant and the California Class members are and were non-exempt employees entitled to be paid overtime compensation for all overtime hours worked.

76. At all relevant times, Claimant and the California Class members worked in excess of 40 hours in a workweek and 8 hours in a workday.

77. At all relevant times, Bitly failed and refused to pay Claimant and the California Class members overtime compensation.

78. As a direct and proximate result of Bitly's unlawful conduct, as set forth herein, Claimant and the California Class members have sustained damages, including loss of earnings for hours of overtime worked for the benefit of Bitly in an amount to be established at trial, prejudgment interest, and costs and attorneys' fees, pursuant to statute and other applicable law.

THIRD CAUSE OF ACTION

California Wage Laws – Record-Keeping Violations

California Wage Order Nos. 4-2001 & 7-2001; Cal. Lab. Code §§ 226

(Brought by Claimant Individually and on Behalf of the California Class)

79. Claimant realleges and incorporates by reference all allegations in all preceding paragraphs.

80. Bitly knowingly and intentionally failed to provide timely, accurate, itemized wage statements including, *inter alia*, all hours worked to Claimant and the California Class members in accordance with California Wage Order Nos. 4-2001 and 7-2001 and California Labor Code § 226(a). Such failure has caused injury to Claimant and the California Class members, by, among other things, impeding them from knowing the amount of wages to which they are and were entitled.

81. Claimant and the California Class members are entitled to and seek injunctive relief requiring Bitly to comply with California Labor Code §§ 226(a) and further seek the amount provided under California Labor Code §§ 226(e), including the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period.

FOURTH CAUSE OF ACTION

California Wage Laws – Wage Payment Provisions

Cal. Lab. Code §§ 201, 202, & 203

(Brought by Claimant Individually and on Behalf of the California Class)

82. Claimant realleges and incorporates by reference all allegations in all preceding paragraphs.

83. California Labor Code §§ 201 and 202 require Bitly to pay its employees all wages due upon termination within the time specified by law. California Labor Code § 203 provides that if an employer willfully fails to timely pay such wages, the employer must continue to pay the subject employees' wages until the back wages are paid in full or an action is commenced, up to a maximum of thirty (30) days of wages.

84. Claimant and all California Class members who ceased employment with Bitly are entitled to unpaid compensation, but to date have not received such compensation.

85. More than thirty (30) days have passed since Claimant and certain California Class members left Bitly's employ.

86. Claimant, on behalf of himself and the California Class members, seek waiting time penalties pursuant to California Labor Code § 203, attorneys' fees and costs, and such other legal and equitable relief as the Arbitrator deems just and proper.

FIFTH CAUSE OF ACTION

California Wage Laws – Meal and Rest Period Provisions

Cal. Wage Order Nos. 4-2001 & 7-2001; Cal. Labor Code §§ 218.5, 226.7, & 512

(Brought by Claimant Individually and on Behalf of the California Class)

87. Claimant realleges and incorporates by reference all allegations in all preceding paragraphs.

88. Claimant and the California Class members regularly work and have worked in excess of five-hour shifts without being afforded at least a half-hour meal break in which they were relieved of all duty, and more than ten-hour shifts without being afforded a second half-hour meal break in which they were relieved of all duty, as required by California Labor Code §§ 226.7 and 512 and Wage Order Nos. 4-2001 and 7-2001, § 11.

89. Claimant and the California Class members regularly work and have worked in excess of three and one-half hour shifts without being afforded a ten-minute rest break in which they were relieved of all duty, as required by California Labor Code § 226.7 and Wage Order Nos. 4-2001 and 7-2001, § 12.

90. As a result of Bitly's failure to afford proper meal periods and rest breaks, Bitly is liable to Claimant and the California Class members for one hour of additional pay at the regular rate of compensation for each workday that the proper meal periods were not provided and one hour of additional pay at the regular rate of compensation for each workday that the rest periods were not provided, pursuant to Labor Code § 226.7 and Wage Order Nos. 4-2001 and 7-2001, §§ 11, 12.

SIXTH CAUSE OF ACTION

California Wage Laws – Unfair Competition

California Business & Professions Code §§ 17200, *et seq.*

(Brought by Claimant Individually and on Behalf of the California Class)

91. Claimant realleges and incorporates by reference all allegations in all preceding paragraphs.

92. The foregoing conduct, as alleged, violates the California Unfair Competition Law ("UCL"). The UCL prohibits unfair competition by prohibiting, *inter alia*, any unlawful or unfair

business acts or practices.

93. Beginning at a date unknown to Claimant, but at least as long ago as four years prior to the filing of this action, Bitly committed, and continued to commit, acts of unfair competition, as defined by the UCL, by, among other things, engaging in the acts and practices described herein. Bitly conduct as alleged herein has injured Claimant and the California Class members by wrongfully denying them earned wages, and therefore was substantially injurious to them.

94. Bitly engaged in unfair competition in violation of the UCL by violating, *inter alia*, each of the following laws. Each of these violations constitutes an independent and separate violation of the UCL:

- a. FLSA, 29 U.S.C. §§ 201, *et seq.*;
- b. Cal. Lab. Code §§ 201-203;
- c. Cal. Lab. Code § 1194;
- d. Cal. Lab. Code § 226;
- e. Cal. Lab. Code § 1174; and
- f. Cal. Lab. Code § 510.

95. Bitly's course of conduct, acts, and practices in violation of the California laws mentioned in the above paragraph constitute a separate and independent violation of the UCL. Bitly's conduct described herein violates the policy or spirit of such laws or otherwise significantly threatens or harms competition.

96. The unlawful and unfair business practices and acts of Bitly, described above, have injured Claimant and the California Class members in that they were wrongfully denied the payment of earned overtime wages.

97. Claimant, individually and on behalf of the California Class, seeks recovery of

attorneys' fees and costs of this action to be paid by Bitly, as provided by the UCL and California Labor Code §§ 218, 218.5, and 1194.

98. Claimant, individually and on behalf of the California Class, seeks restitution in the amount of the respective unpaid wages earned and due, including for unpaid overtime at a rate not less than one and one-half times the regular rate of pay for work performed in excess of 40 hours in a workweek, or 8 hours in a day, and double the regular rate of pay for work performed in excess of 12 hours per day.

SEVENTH CAUSE OF ACTION

Private Attorneys General Act

Cal. Lab. Code §§ 2698, *et seq.*

(Brought by Claimant Individually and on Behalf of the Aggrieved Employees)

99. Claimant on behalf of himself and all Aggrieved Employees, realleges and incorporates by reference all other paragraphs as if they were set forth again herein.

100. Claimant is an Aggrieved Employee as he worked for Respondent and suffered the California Labor Code violations set forth herein. Accordingly, he seeks to recover on behalf of himself and all other current and former Aggrieved Employees of Bitly the civil penalties provided by PAGA, plus reasonable attorney's fees and costs.

101. Claimant seeks civil penalties pursuant to PAGA for violations of the following California Labor Code provisions:

- a. Failure to pay overtime wages in violation of California Labor Code §§ 510, 1194 and Wage Order Nos. 4-2001 & 7-2001;
- b. Failure to provide timely, accurate, itemized wage statements in violation of California Labor Code §§ 226 and Wage Order Nos. 4-2001 & 7-2001;
- c. Failure to provide prompt payment of wages due upon termination and resignation in violation of California Labor Code §§ 201, 202, & 203; and
- d. Failure to provide meal and rest breaks in violation of California Labor

Code §§ 218.5, 226.7, 512, and Wage Order Nos. 4-2001 & 7-2001;

PRAYER FOR RELIEF

WHEREFORE, Claimant, individually and on behalf of the FLSA Collective, California Class, and Aggrieved Employees request the following relief:

- A. Designation of this action as a collective action and prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to all similarly situated members of the FLSA Collective, apprising them of the pendency of this action, and permitting them to file individual Consent to Join forms pursuant to 29 U.S.C. § 216(b);
- B. Certification of this action as a class action on behalf of the California Class;
- C. Designation of Claimant as Representative of the California Class he seeks to represent;
- D. Designation of Claimant's counsel of record as Class Counsel for the California Class;
- E. An award of damages, liquidated damages, and restitution, to be paid by Bitly according to proof;
- F. Appropriate statutory penalties;
- G. Civil penalties provided, per violation, under the California Private Attorneys General Act, California Labor Code §§ 2698, *et seq.*;
- H. Appropriate equitable and injunctive relief to remedy violations, including but not necessarily limited to an order enjoining Bitly from continuing its unlawful practices under the FLSA and California Wage Laws and/or a declaration that Bitly's acts violate the FLSA and California Wage Laws;
- I. A service award of \$10,000 Claimant to compensate him for the time he spent attempting to recover wages for the FLSA Collective and California Class and for the risks he took in doing so;
- J. Costs of the action incurred herein;
- K. Attorneys' fees, including fees pursuant to 29 U.S.C. § 216 and California Labor

Code § 2698(g)(1);

- L. Pre- and post-judgment interest, as provided by law; and
- M. Such other relief as the Arbitrator deems necessary, just, and proper.

Dated: New York, New York
May 31, 2024

Respectfully submitted,

By: /s/ Melissa L. Stewart
Melissa Stewart

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*Attorneys for Claimant, the California
Class, FLSA Collective, and Aggrieved
Employees*

Exhibit C

**ARBITRATION
BEFORE HUNTER R. HUGHES III, ARBITRATOR
HUNTER HUGHES ADR**

**JOSEPH VU, individually and on behalf of
all others similarly situated,**

Claimant,

v.

BITLY, INC.,

Respondent.

AWARD FOR FINAL APPROVAL OF SETTLEMENT

This matter came before the Arbitrator on Claimant's Unopposed Motion for Final Settlement Approval.

1. The Arbitrator approves the Settlement Agreement and Release ("Settlement Agreement") attached as Exhibit 1 to the Declaration of Melissa L. Stewart in Support of Claimant's Unopposed Motion for Final Approval of Class, PAGA, and Collective Action Settlement, and so-orders all of its terms. The Arbitrator finds that the Settlement Agreement is fair, reasonable, and adequate and reflects a reasonable compromise of contested issues.

2. On April 23, 2024, the Arbitrator preliminarily certified the Class for settlement purposes only. The Arbitrator now grants final certification, for settlement purposes only, of the class of all individuals employed by Bitly, Inc. as Software Employees in California during the Class Period.

3. The Arbitrator finds that the prerequisites and considerations necessary for certification of a collective under 29 U.S.C. § 216(b) of the Fair Labor Standards Act of 1938 are

satisfied and certifies, for settlement purposes only, the collective of all individuals employed by Bitly as Software Employees in the United States at any time during the Collective Period.

4. The Arbitrator approves the Service Award of \$10,000.00 for the Named Claimant, Joseph Vu.

5. The Arbitrator grants Claimant's Counsel's unopposed request for one-third of the Total Settlement Amount, \$308,333.33, as attorneys' fees, and unopposed request for reimbursement of reasonable out-of-pocket costs of \$5,398.81.

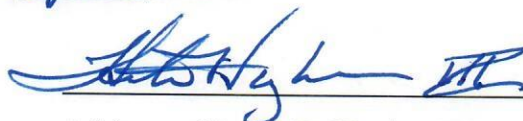
6. The Settlement Administrator shall distribute settlement funds in accordance with the Settlement Agreement.

7. The Parties shall abide by all terms of the Settlement Agreement, which are incorporated herein by reference, and this Award.

8. This case is dismissed with prejudice.

9. The Arbitrator will retain jurisdiction over this action for the purposes of enforcing the Settlement.

It is so ORDERED this 20th day of September, 2024.



Arbitrator Hunter R. Hughes III

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU**

	)	
JOSEPH VU,	)	Index No. _____
	)	
Petitioner,	)	JOINT PETITION TO
	)	CONFIRM ARBITRATION
v.	)	AWARD PURSUANT TO
BITLY, INC.,	)	ARTICLE 75 OF THE CIVIL
	)	PRACTICE LAW AND RULES
Respondent.	)	
	)	
	)	

**[PROPOSED] ORDER GRANTING JOINT PETITION FOR CONFIRMATION OF
ARBITRATION AWARD**

AND NOW, this ____ day of _____, 2024, upon consideration of the Parties’ Joint Petition for Confirmation of Arbitration Award and the accompanying exhibits, it is hereby ordered that the Petition is **GRANTED**.

SO ORDERED:

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU**

-----	)	
JOSEPH VU,	)	
	)	
Petitioner,	)	Index No. _____
v.	)	
BITLY, INC,	)	NOTICE OF JOINT PETITION TO CONFIRM ARBITRATION AWARD
Respondent.	)	
	)	
-----	)	

PLEASE TAKE NOTICE that, upon the accompanying Joint Petition to Confirm Arbitration Award dated October 3, 2024, and the exhibits annexed thereto, Petitioner Joseph Vu (“Petitioner”) jointly with Respondent Bitly, Inc. (“Respondent”), will move in this Court, at the Supreme Court of New York, Nassau County, at an IAS Part at the Courthouse located at 100 Supreme Court Drive, Mineola, New York 11501 on October 21, 2024 at 9:30 a.m. or as soon thereafter as counsel can be heard for an Order and Judgment confirming the final arbitration award approved by Hunter R. Hughes, Esq., in *Joseph Vu, et al. v. Bitly, Inc.*, under Article 75 of the CPLR.

[SIGNATURE PAGE FOLLOWS]

Dated: October 3, 2024

Respectfully submitted,



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