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17 *Attorneys for Plaintiffs Rebekah Justice and  
 Andrew Dai, and the Proposed Class*

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 19 IN AND FOR THE COUNTY OF SAN FRANCISCO

20 REBEKAH JUSTICE and ANDREW DAI, on  
 21 behalf of themselves and all others similarly  
 22 situated,

23 Plaintiffs,

24 vs.

25 TWITTER, INC., a Delaware corporation; and  
 26 DOES 1-20, inclusive,

27 Defendants.

Case No.

**CLASS ACTION COMPLAINT FOR:**

1. Breach of Contract
2. Breach of the Covenant of Good Faith and Fair Dealing
3. Violation of California Unfair Competition Law (Bus. & Prof. Code §§ 17200 et seq.)
4. Failure to Pay Wages (Lab. Code § 200 et seq.)
5. Waiting Time Penalties (Lab. Code §§ 201, 202, 203)

28 / **JURY TRIAL DEMANDED**

ELECTRONICALLY  
**FILED**  
 Superior Court of California,  
 County of San Francisco

**01/26/2023**  
 Clerk of the Court  
 BY: JEFFREY FLORES  
 Deputy Clerk

**CGC-23-604287**

1 **I. INTRODUCTION**

2 1. This case arises from the broken promises of Twitter, Inc. (“Twitter”) after its  
3 acquisition by Elon Musk in fall 2022.

4 2. When news of a possible acquisition became known between May and October  
5 2022, Twitter repeatedly promised to all of its workers, including Plaintiffs Rebekah Justice and  
6 Andrew Dai (collectively, “Plaintiffs”), that it would pay particular severance benefits to anyone  
7 who remained employed through the acquisition but whose position was eliminated within one  
8 year of the effective date of the acquisition. Specifically, Twitter promised to all employees that  
9 if it were acquired and their jobs were eliminated within one year, Twitter would (1) pay them at  
10 least two months base salary as severance pay; (2) pay them pro-rated performance bonus plan  
11 compensation for the year at target; (3) pay them the cash value of equity that would have vested  
12 within three months of separation date; and (4) pay them a cash contribution for healthcare  
13 continuation. Twitter made these representations to Plaintiffs in company-wide meetings, policy  
14 documents provided to all employees, and in publicly available filings made with the Securities  
15 and Exchange Commission. These specific, concrete, unqualified promises caused Plaintiffs and  
16 all others similarly situated to forego other work opportunities and stay with Twitter to help  
17 contribute to its success and financial attractiveness as an acquisition target for Mr. Musk.

18 3. In or around October 2022, Mr. Musk completed the acquisition of Twitter, Inc.  
19 (the “Merger”). Immediately thereafter, Twitter laid off thousands of employees, including  
20 Plaintiffs. Twitter prevaricated for several weeks before, during, and after the holidays as to  
21 whether it would honor its promises.

22 4. Eventually, in the morning hours of Saturday, January 7, 2023, Twitter provided  
23 severance offers to Plaintiffs and Twitter’s other employees. Those offers fell significantly short  
24 of Twitter’s promises. Specifically, Twitter offered Plaintiff Justice \$13,714.00, and Twitter  
25 offered Plaintiff Dai \$16,917.00. Plaintiffs are informed and believe that Twitter’s offers to their  
26 colleagues similarly fell short of Twitter’s promises.

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1 **II. PARTIES**

2 5. Plaintiff Rebekah Justice (“Plaintiff Justice”) was an employee of Defendant  
3 Twitter, Inc. until Plaintiff Justice’s termination on or around January 2023. Plaintiff Justice  
4 opted out of Twitter’s arbitration agreement. Plaintiff Justice is a resident of Austin, Texas.

5 6. Plaintiff Andrew Dai (“Plaintiff Dai”) was an employee of Defendant Twitter, Inc.  
6 until Plaintiff Dai’s termination on or around January 2023. Plaintiff Dai opted out of Twitter’s  
7 arbitration agreement. Plaintiff Dai is a resident of San Francisco, California.

8 7. Upon information and belief, Defendant Twitter, Inc. is a social media corporation  
9 whose primary place of business is San Francisco, California.

10 8. The true names and capacities of the Defendants named herein as Does 1 through  
11 20, inclusive, whether individual, corporate, associate or otherwise are unknown to Plaintiffs.  
12 Plaintiffs therefore sue said Defendants by fictitious names pursuant to California Code of Civil  
13 Procedure § 474. Plaintiffs will amend this Complaint to show such true names and capacities of  
14 Does 1 through 20, inclusive, when they have been determined.

15 9. Plaintiffs are informed and believe and thereon allege that each of the Defendants  
16 sued herein is or was the agent, employee, partner and/or representative of one or more of the  
17 remaining Defendants, and each of them was at all times acting within the purpose and scope of  
18 such agency and employment. Plaintiffs are further informed and believe that each of the  
19 Defendants herein gave consent to, ratified, and authorized the acts alleged herein to each of the  
20 remaining Defendants.

21 **III. JURISDICTION AND VENUE**

22 10. This Court has jurisdiction over this matter because Defendant is a corporation  
23 that maintains its headquarters and principal place of business in California, is licensed to do  
24 business in California, regularly conducts business in California, and committed and continues to  
25 commit the unlawful acts alleged herein in California.

26 11. Venue is proper in this Court pursuant to California Code of Civil Procedure  
27 §§ 395 and 395.5 because Defendant is a corporation that maintains its headquarters in the  
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1 County of San Francisco and because a substantial portion of the unlawful acts alleged herein  
2 occurred and continue to occur in this County.

3 **IV. FACTS COMMON TO ALL CAUSES OF ACTION**

4 12. In or around April 2022, Twitter entered into a Merger Agreement providing that  
5 Twitter would be acquired by Elon Musk.

6 13. In May 2022, Twitter issued a policy document stating to all of its employees:  
7 “Twitter has entered into a definitive agreement to be acquired by a private entity affiliated with  
8 Elon Musk.” Twitter stated that the Merger Agreement provides special protection for employee  
9 compensation and benefits for one year following the closing of the transaction. Specifically,  
10 Twitter stated to its employees that the purchasing entity will provide employees who are  
11 terminated within one year after the Merger with “severance payments and benefits that are no  
12 less favorable than those applicable to an applicable employee prior to the closing of the  
13 transaction.” Twitter further informed employees that any vested Restricted Stock Units  
14 (“RSUs”) held by any employee would be converted into the right to receive the \$54.20 purchase  
15 price in cash and that unvested RSUs would be converted into the right to receive an amount in  
16 cash equal to \$54.20 per RSU.

17 14. At company-wide meetings held in the Summer of 2022, Twitter stated to  
18 employees that they would be entitled to Twitter’s severance package should they be laid off  
19 within one year of the Merger.

20 15. Plaintiffs and other Twitter employees accepted Twitter’s promise of severance  
21 benefits by continuing to work for the company.

22 16. On or around October 3, 2022, Mr. Musk provided a letter stating his intent to  
23 proceed with the Merger. On or around October 27, 2022, the Merger was consummated. On or  
24 around October 31, 2022, Defendant filed a Form 8-K with the Securities and Exchange  
25 Commission confirming the completion of the Merger and attaching the Merger Agreement.

26 17. In October 2022, Twitter again stated to all of its employees that, if an employee’s  
27 position was eliminated, it would pay the employee a lump sum cash amount which would  
28 include *at least*:

- 1 • Two months of base salary or On Target Earnings for employees on the Sales
- 2 Incentive Plan;
- 3 • Pro-rated Performance Bonus Plan compensation at target;
- 4 • Cash value of equity that would have vested within three months from the
- 5 separation date; and
- 6 • Cash contribution for healthcare continuation.

7 18. In November 2022, Defendant informed Plaintiffs and thousands of other  
8 employees that they would be laid off. Plaintiffs were informed that they would continue as  
9 employees until the effective date of termination in January 2023. Defendant informed Plaintiffs  
10 that it would offer a severance payment of only “one month base pay (or OTE for commission-  
11 based employees).” Defendant further informed Plaintiffs, “we are not able to negotiate your  
12 severance package” and that “the agreement you have is the company’s standard separation  
13 agreement and we don’t individually negotiate the terms.”

14 19. On or around January 7, 2023, Defendant sent Plaintiffs and thousands of other  
15 employees a severance agreement providing for a payment of one month of base salary in  
16 exchange for a full release of claims. Plaintiffs did not sign the severance agreement.

17 **V. CLASS ACTION ALLEGATIONS**

18 20. Plaintiffs bring these causes of action on behalf of themselves and on behalf of the  
19 following proposed class (“Class”):

20 All Twitter employees who are not subject to Twitter’s arbitration agreement and who  
21 were notified of lay-off on or around November 4, 2022.

22 21. With respect to the California Labor Code claims (Causes of Action 4 & 5),  
23 Plaintiffs bring this action only on behalf of the following proposed subclass (“Subclass”):

24 All California-based Twitter employees who are not subject to Twitter’s arbitration  
25 agreement and who were notified of lay-off on or around November 4, 2022.

26 22. This action is appropriately suited for a class action because:

- 27 a. Numerosity and Ascertainability: Upon information and belief, the proposed
- 28 Class and Subclass include over forty former Twitter employees, and

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therefore joinder of all individual Class members would be impractical.

- b. Predominant Common Questions of Law and Fact: Common questions of law and fact affecting the rights of all Class members predominate over individualized issues. Defendant's liability is based on its decision to not pay laid-off employees the previously promised severance package, which it represented would include at least two months of base salary or On Target Earnings for employees on the Sales Incentive Plan; pro-rated Performance Bonus Plan compensation at target; cash value of equity that would have vested within three months from the separation date; and cash contribution for health care continuation. Common questions include, but are not limited to:
- i. Whether Defendant breached the contract with Class members by failing or refusing to offer or pay the severance wages owed to them in the event of termination;
  - ii. Whether Defendant breached the implied covenant of good faith and fair dealing inherent in the contract with Class members by failing or refusing to offer them the full severance payment required under the Parties' agreement;
  - iii. Whether Defendant committed unlawful business acts or practices within the meaning of California Business and Professions Code section 17200 *et seq.*;
  - iv. Whether Defendant unjustly enriched itself by failing to pay Class members the compensation to which they were entitled;
  - v. Whether Defendant violated California Labor Code section 200 *et seq.* by failing to provide all wages earned and due to Subclass members, including promised severance payments;

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- vi. Whether Defendant violated California Labor Code section 200 *et seq.* by failing to provide all wages earned and due at the time of separation to Subclass members, including promised severance payments;
- vii. The proper measure of damages sustained by members of the Class; and
- viii. Whether Defendant’s affirmative defenses, if any, raise any additional common issues of law or fact as to Plaintiffs and the Class members.

23. Typicality: Plaintiffs’ claims are typical of the claims of the Class as a whole because Twitter laid-off Plaintiffs pursuant to the same mass lay-off experienced by other Class members. Plaintiffs were subjected to Defendant’s universal decision to fail or refuse to provide the promised severance pay in violation of the law.

24. Adequacy of Representation: Plaintiffs will fairly and adequately represent the interests of the Class because their individual interests are consistent with, and not antagonistic to, the interests of the Class. Plaintiffs have retained counsel who have the requisite resources and ability to prosecute this case as a class action. Counsel for Plaintiffs are experienced attorneys who have successfully litigated other cases involving similar issues, including in class actions.

25. This suit is properly maintained as a class action under California Code of Civil Procedure section 382 because Twitter failed or refused to pay promised severance when it terminated Plaintiffs and the Class members. Class treatment is superior to alternative methods to adjudicate this dispute because Plaintiffs and the similarly situated laid-off employees suffered similar treatment and harm as a result of a universal decision made by Twitter to fail or refuse to pay promised severance payments at the time of termination. This suit is also properly maintained as a class action because the common questions of law and fact predominate over any questions affecting only individual members of the Class. For these and other reasons, a class action is superior to other available methods for the fair and efficient adjudication of the controversy set forth herein. Class certification is also superior because it will obviate the need

1 for unduly duplicative litigation which might result in inconsistent judgments about Defendant’s  
2 practices.

3 **VI. LEGAL CLAIMS**

4 **FIRST CAUSE OF ACTION**

5 **Breach of Contract**

6 **(Brought by All Plaintiffs on Behalf of Themselves and the Class)**

7 26. Plaintiffs re-allege and incorporate herein by reference each and every allegation  
8 of the preceding paragraphs as though fully set forth herein.

9 27. Defendant agreed to pay Plaintiffs and Class members severance payment in the  
10 amount identified above pursuant to Defendant’s policy documents and Defendant’s statements  
11 confirming the severance payment to which they would be entitled if they were laid off within  
12 one year of the Merger. Defendant entered into an enforceable agreement with its employees  
13 regarding the severance wages due to them.

14 28. Defendant terminated the employment of Plaintiffs and Class members in a mass  
15 layoff within one year of the Merger.

16 29. Defendant breached its agreement with Plaintiffs and Class members by failing to  
17 offer or pay them the severance wages owed to them in the event of their termination.

18 30. Defendant breached its agreement with Plaintiffs and Class members by refusing  
19 to pay them the severance wages detailed herein, to which they are rightfully entitled.

20 Accordingly, Plaintiffs and Class members are entitled to the unpaid compensation under the  
21 terms of the parties’ Agreement plus interest.

22 **SECOND CAUSE OF ACTION**

23 **Breach of the Covenant of Good Faith and Fair Dealing**

24 **(Brought by All Plaintiffs on Behalf of Themselves and the Class)**

25 31. Plaintiffs re-allege and incorporate herein by reference each and every allegation  
26 of the preceding paragraphs as though fully set forth herein.

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1 32. Defendant’s agreement with Plaintiffs and Class members contained an implied-  
2 in-law covenant of good faith and fair dealing that neither party would do anything to injure the  
3 right of the other party to enjoy the actual benefits of those contracts.

4 33. Defendant breached the implied covenant by refusing to offer Plaintiffs and Class  
5 members the full severance payment required under the parties’ agreement, and instead offering  
6 only a fraction of the full payment due. Defendant undertook these actions in bad faith in order  
7 to avoid paying Plaintiffs and Class members the full wages owed to them.

8 34. As a result of Defendant’s bad faith and unfair dealing in performing under the  
9 parties’ agreement, Defendant is liable for breaching the covenant of good faith and fair dealing  
10 that inheres in the parties’ agreement regarding severance wages. As damages, Defendant is  
11 liable to pay the amount of due but unpaid compensation plus interest.

12 **THIRD CAUSE OF ACTION**

13 **Unfair Competition, Business and Professions Code § 17200**

14 **(Brought by All Plaintiffs on Behalf of Themselves and the Class)**

15 35. Plaintiffs re-allege and incorporate herein by reference each and every allegation  
16 of the preceding paragraphs as though fully set forth herein.

17 36. As a result of Defendant’s failure to pay Plaintiffs and Class members the  
18 contractually owed compensation and wages due to them, as detailed above, and in breach of the  
19 Parties’ Agreement, Defendant is liable for unfair competition in violation of the California  
20 Business and Professions Code. *See* Bus. & Prof. Code § 17200.

21 37. Defendant, by engaging in the unlawful, unfair, deceptive and fraudulent practices  
22 alleged herein, has enriched itself at the expense of Plaintiffs and Class members, and have  
23 gained an unfair competitive advantage over law-abiding employers.

24 38. As a remedy for Defendant’s actions constituting unfair competition, Defendant is  
25 liable to pay restitution to Plaintiffs and Class members in the amount of due but unpaid  
26 severance compensation, plus interest, costs, expenses, and attorneys’ fees, in amounts to be  
27 proven at trial. *See* Bus. & Prof. Code § 17203; Civ. Code §§ 3287, 3288.

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1 **FOURTH CAUSE OF ACTION**

2 **Failure to Pay Wages, Labor Code § 200 et seq.**

3 **(Brought by Plaintiff Dai on Behalf of Himself and the California Subclass)**

4 39. Plaintiffs re-allege and incorporate herein by reference each and every allegation  
5 of the preceding paragraphs as though fully set forth herein.

6 40. Defendant’s contractual obligations are clear and unambiguous. Pursuant to  
7 Defendant’s representations regarding the guaranteed severance wages owed, Plaintiff Dai and  
8 the Subclass were entitled to receive the full severance payment.

9 41. In November 2022, Plaintiff Dai and the Subclass were notified of their  
10 terminations and were informed that the terminations would be effective as of January 2023.  
11 After that date, Defendant disseminated to Plaintiff Dai and Subclass members a severance  
12 agreement requiring a full release of claims in exchange for only a small fraction of the owed  
13 severance.

14 42. Severance pay to which an employee is contractually entitled constitutes “wages”  
15 under the California Labor Code. *See, e.g., Willig v. Exiqon, Inc.* (C.D. Cal. Jan. 3, 2012), No.  
16 11-399, 2012 WL 10375, \*13-14; *see also, Schachter v. Citigroup, Inc.* (2009) 47 Cal.4th 610,  
17 618.

18 43. Defendant has refused to pay contractual severance wages to Plaintiff Dai and the  
19 Subclass. As a result, Plaintiff and the Subclass have claims for violations of the California  
20 Labor Code. *See, e.g., Lab. Code §§ 200, 201, 203, 216, 223, 225.5.*

21 44. As damages for Defendant’s failure to pay wages in violation of the California  
22 Labor Code, Defendant is liable to pay the amount of unpaid severance wages, interest from the  
23 date the wages were due and payable, attorney’s fees and costs, and all applicable penalties. *See*  
24 *Lab. Code §§ 218.5, 218.6; Civ. Code §§ 3281, 3302, 3289(b).*

25 45. Defendant was aware that it owed Plaintiff Dai and the Subclass severance wages.  
26 Yet, it failed to pay the amounts due and instead offered only a fraction of the required severance  
27 pay, conditioned upon a full release of claims. Accordingly, Plaintiff Dai and the Subclass are  
28 entitled to all severance compensation due to them, plus attorneys’ fees and costs.

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**FIFTH CAUSE OF ACTION**

**Waiting Time Penalties, Labor Code §§ 201-203**

**(Brought by Plaintiff Dai on Behalf of Himself and the California Subclass)**

46. Plaintiffs re-allege and incorporate herein by reference each and every allegation of the preceding paragraphs as though fully set forth herein.

47. Under Labor Code section 201, if an employer discharges an employee, all wages earned and unpaid at the time of the discharge are due and payable immediately.

48. Severance pay to which an employee is contractually entitled constitutes “wages” under the Labor Code. *See, e.g., Willig*, 2012 WL 10375 at \*13-14; *see also Schachter*, 47 Cal.4th at 618.

49. Defendant willfully failed to pay, within the time constraints imposed by Labor Code sections 201 and 203, promised severance payment due to Plaintiff Dai and the Subclass members whose employment it terminated.

50. As a direct and proximate result of Defendant’s unlawful conduct, as set forth herein, Plaintiff and the Subclass have sustained damages, including loss of owed severance payments.

51. As penalties for these violations, Plaintiffs and the Subclass are entitled to and seek to recover up to thirty (30) days of their wages at their regular rates, as provided by Labor Code section 203, plus attorneys’ fees and costs.

**VII. PRAYER FOR RELIEF**


WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, respectfully pray for judgment and the following specific relief against Defendant as follows:

1. For an order certifying this action as a class action;
2. For an order appointing Plaintiffs as the class representatives and Plaintiffs’ counsel as the Class and Subclass counsel;
3. For compensatory damages, including but not limited to, unpaid severance wages, plus interest, according to proof allowed by law;
4. For all statutory and civil penalties allowed by law;

- 1           5.       For restitution of all monies due to Plaintiffs and the Class members, as well as
- 2 disgorgement of Defendant’s profits from their unlawful and unfair business practices;
- 3           6.       For liquidated damages allowed by law;
- 4           7.       For an award of prejudgment and post-judgment interest;
- 5           8.       For preliminary and permanent injunctive relief enjoining Defendant from
- 6 engaging in the unlawful and unfair practices alleged herein;
- 7           9.       For an award of reasonable attorneys’ fees and costs;
- 8           10.      For reasonable service payments to the Class Representatives for their services for
- 9 the benefit of the Class Members and the risks they undertook to pursue these claims; and
- 10          11.      For such other and further relief that the Court may deem just and proper.

11 DATED: January 26, 2023

Respectfully submitted,  
RUDY, EXELROD, ZIEFF & LOWE, LLP

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**DEMAND FOR JURY TRIAL**

Plaintiffs hereby request trial by jury.

23 DATED: January 26, 2023

Respectfully submitted,  
RUDY, EXELROD, ZIEFF & LOWE, LLP

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