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9 PEOPLE OF THE STATE OF CALIFORNIA and
CITY AND COUNTY OF SAN FRANCISCO

10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SAN FRANCISCO

13 UNLIMITED JURISDICTION

14 The PEOPLE OF THE STATE OF
CALIFORNIA, by and through David Chiu,
15 City Attorney for the City and County of San
Francisco; and the CITY AND COUNTY OF
16 SAN FRANCISCO, a Municipal Corporation

17 Plaintiffs,

18 vs.

19 QWICK, INC., a Delaware Corporation; and
DOE ONE through DOE TWENTY

20 Defendants.
21

Case No. CGC-23-608756

**DECLARATION OF EDWARD A. LENZ IN
SUPPORT OF THE PEOPLE AND THE
CITY'S MOTION FOR PRELIMINARY
INJUNCTION**

Hearing Date: Date
Hearing Judge: Judge Ethan P. Schulman
Time: Time
Place: Department 304

Date Action Filed: August 31, 2023
Trial Date: None set.

22
23 **DECLARATION OF EDWARD A. LENZ**

24 I, EDWARD A. LENZ, declare as follows:

25 1. The facts set forth in this Declaration are true and correct based upon my own personal
26 knowledge and, if called as a witness, I could and would testify competently to each of the facts set
27 forth herein.
28

1 2. I am Senior Counsel for the American Staffing Association (“ASA”). The ASA and its
2 state affiliates advance the interests of the staffing industry across all sectors through advocacy,
3 research, education, and the promotion of high standards of legal, ethical, and professional practices. I
4 have worked for the ASA since 1989. Before becoming Senior Counsel in 2012, I worked as general
5 counsel and senior vice president for legal and public affairs from July 1989 through December 2012.
6 From 1982 to 1989, I served as Vice President and Assistant General Counsel for Kelly Services, Inc.,
7 a major international staffing company in which capacity I also chaired the ASA Legal and Legislative
8 Committee. Through my more than 40 years of experience in this field, I am deeply familiar with the
9 temporary staffing industry.

10 3. Online app-based job platforms that classify industrial temporary workers (including
11 temporary hospitality workers) as independent contractors do not conform to the standard industry
12 practice of classifying such workers as W-2 employees.

13 4. Classification of temporary workers as employees, not independent contractors, has
14 long been the assumption behind reports published by ASA, government agencies, and independent
15 research firms on the size of the temporary workforce and the percentage of nonfarm employment it
16 represents. For example, ASA publishes a quarterly staffing employment report based on a survey of
17 its member staffing firms. Firms are asked to complete a survey form that defines temporary and
18 contract staffing as “a service whereby your staffing company hires its own employees (W-2 workers)
19 and assigns them to work for clients.” Likewise, the weekly ASA Staffing Index, a widely used
20 measure of staffing employment trends, is based on a weekly survey of temporary and contract
21 *employees* on the payroll of ASA member firms.

22 5. In 2016, Staffing Industry Analysts (“SIA”), a leading research firm that many in the
23 industry rely upon, conducted a survey of 382 staffing firms in North America that asked:
24 “Approximately what percent of your temporary worker payroll is typically paid via W-2 vs. 1099?”
25 The responses showed that 99% of industrial staffing firm workers (which includes hospitality
26 positions such as cooks and waiters) are designated as W-2 employees.

27 6. From the staffing industry’s inception, staffing agencies’ classification of temporary
28 workers as W-2 employees has not only been a matter of legal compliance but also has had a vitally

1 important business purpose. Apart from providing clients with the economic advantages of obtaining
2 flexible, just-in-time labor, staffing agencies' assumption of responsibility as the W-2 employer, with
3 the primary legal obligation to pay the workers' wages and benefits, withhold payroll taxes, and
4 provide workers' compensation and other employee protections, has always been a significant client
5 value proposition.

6 I declare under the penalty of perjury under the laws of the State of California and the United
7 States of America that the foregoing is true and correct and was executed on December 12, 2023, at
8 Alexandria, Virginia.

9 
10 _____
11 EDWARD A. LENZ