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9
 10 **UNITED STATES DISTRICT COURT**
 11 **NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

12
 13 ELIOT JOHNSON, individually, and on
 behalf of the general public,

14 Plaintiff,

15 v.

16 MICRON TECHNOLOGY, INC. and DOES
 1 through 100, inclusive,

17 Defendant.

CASE NO. 5:21-CV-07774-NC

**DEFENDANT MICRON
 TECHNOLOGY, INC.’S NOTICE OF
 MOTION AND MOTION TO DISMISS;
 MEMORANDUM OF POINTS AND
 AUTHORITIES IN SUPPORT**

**[FILED CONCURRENTLY WITH
 REQUEST FOR JUDICIAL NOTICE]**

DATE: November 10, 2021
 TIME: 1:00 p.m.
 CTRM: 5

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NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on November 10, 2021, at 1:00 p.m., or as soon thereafter as the matter may be heard before the Court, located at the San Jose Courthouse, Robert F. Peckham Federal Building, 280 S. 1st St, San Jose, CA 95113, Courtroom 5, 4th Floor, Defendant Micron Technology, Inc. (“Micron”) will and hereby does move the Court for an order dismissing Plaintiff Eliot Johnson’s (“Plaintiff”) First Amended Complaint (“FAC”) in its entirety pursuant to Federal Rule of Civil Procedure 12(b)(6).

Defendant Micron moves the Court to dismiss Plaintiff’s FAC in its entirety because it fails to state sufficient facts to constitute a cause of action against Micron under California Labor Code Section 2802 (“Section 2802”). Plaintiff claims that Micron is liable for Plaintiff’s home internet expenses during the time he was working from home pursuant to government orders requiring all non-essential workers to stay home during the COVID-19 pandemic. Plaintiff’s claim fails because Section 2802 does not cover expenses incurred to comply with government orders. Moreover, even if Section 2802 reached such expenses (it does not), Plaintiff’s claim fails because the pandemic—not Micron—was the direct cause of Plaintiff’s expenses. Plaintiff’s claims under the California Unfair Competition Law and the Private Attorneys General Act are based on the same allegations as his claim under Section 2802 and likewise fail. Because each of Plaintiff’s claims fail as a matter of law, the Court should dismiss the FAC with prejudice.

This Motion is based on this Notice of Motion, the following Memorandum of Points and Authorities, the concurrently filed Request for Judicial Notice and exhibit thereto, the pleadings and papers on file in this action, and upon such other matters as may be presented to the Court at or before the time of the hearing.

Dated: October 6, 2021

Jones Day

By: /s/ Rick Bergstrom

Rick Bergstrom

Attorneys for Defendant
MICRON TECHNOLOGY, INC.

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