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ggalaviz
By _____, Deputy
Case Number:
34-2022-00319308

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO

NICHOLAS JONES, WAYNE PAMPALONI,
BRANDON MCCORMICK, DIMITRI
TREMBOIS, CLAYTON RABER, GEORGE
SUAREZ, and COURTNEY CLARKE, as
individuals and on behalf of all others similarly
situated,

Plaintiffs,

v.

MEMORYBLUE, INC.; and DOES 1
through 50, inclusive,

Defendant.

Case No.

CLASS ACTION

COLLECTIVE, CLASS, AND
REPRESENTATIVE ACTION
COMPLAINT:

BY FAX

- 1) UNPAID OVERTIME, FAIR LABOR
STANDARDS ACT, 29 U.S.C. § 201, *et*
seq.;
- 2) UNPAID MINIMUM WAGES, CAL.
LAB. CODE §§ 1194, 1194.2, 1197
- 3) UNPAID OVERTIME, CAL. LAB.
CODE §§ 510, 1194, 1198
- 4) FAILURE TO PAY TIMELY
WAGES, CAL. LAB. CODE §§ 201-
204, 210
- 5) FAILURE TO PROVIDE TIMELY,
ACCURATE, ITEMIZED WAGE
STATEMENTS, § 226

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- 6) MEAL AND REST BREAK
VIOLATIONS, CAL. LAB. CODE §§
226.7, 512
- 7) FAILURE TO REIMBURSE
EMPLOYEES FOR BUSINESS
EXPENSES, CAL. LAB. CODE § 2802
- 8) UNLAWFUL, UNFAIR, and/or
DECEPTIVE BUSINESS
PRACTICES, CAL. BUS. & PROF.
CODE § 17200, *et seq.*;
- 9) CIVIL PENALTIES UNDER
PRIVATE ATTORNEY GENERAL
ACT, CAL. LAB. CODE § 2698, *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiffs Nicholas Jones, Clayton Raber, Dimitri Trembois, George Suarez, Wayne
2 Pampaloni, Brandon McCormick, and Courtney Clarke (collectively, "Plaintiffs"), on behalf of
3 themselves and all other persons similarly situated, known and unknown, file this Complaint
4 against memoryBlue, Inc. ("memoryBlue" or "Defendant"), and in support thereof state as follows:

5 **I. INTRODUCTION**

6 1. This lawsuit seeks to recover unpaid overtime compensation and other damages for
7 Plaintiffs and similarly situated current or former employees of Defendant who worked as Sales
8 Development Representatives under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, *et*
9 *seq.*

10 2. This lawsuit also seeks to recover unpaid wages and overtime compensation, other
11 damages, and civil penalties for Nicholas Jones, Clayton Raber, Dimitri Trembois, and George
12 Suarez (collectively "California Plaintiffs") and similarly situated current or former employees of
13 Defendant who worked in California as Sales Development Representatives (collectively,
14 "California Sales Development Representatives") under California Wage Order No. 4-2001; Cal.
15 Labor Code §§ 510, 1194, 1197; California Wage Payment Provisions, Cal. Labor Code §§ 201-
16 04; California Meal and Rest Period Provisions, Cal. Wage Order No. 4-2001; Cal. Labor Code §§
17 226.7 & 512; Cal. Labor Code § 226; Cal. Labor Code § 1174; Cal. Labor Code § 2802; and
18 California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*

19 3. Pursuant to the Private Attorney General Act of 2004 ("PAGA"), California Labor
20 Code § 2698, *et seq.*, California Plaintiff Suarez provided the California Labor and Workforce
21 Development Agency notice of his intent to seek penalties under PAGA for all California Sales
22 Development Representatives to whom Defendant failed to pay overtime wages and failed to
23 reimburse for necessary business expenses, including notice of the facts and theories to support the
24 alleged violations, on August 9, 2021. Having received no response from the Agency within 65
25 days of providing their notice, California Plaintiff Suarez "may commence a civil action" alleging
26 PAGA violations on behalf of California Sales Development Representatives. Cal. Lab. Code
27 § 2699.3(a)(2)(C)(B).

28 4. memoryBlue is a "sales development consulting firm that specializes in helping a

1 wide range of high-tech clients accelerate new business growth,” with offices in California,
2 Virginia, Texas, Massachusetts, Colorado, and Washington.¹

3 5. memoryBlue provides inside sales staffing, including Sales Development
4 Representatives such as Plaintiffs, to technology companies nationwide.

5 6. Sales Development Representatives’ primary duty is performing inside sales work.

6 7. Sales Development Representatives do not meet customers in person.

7 8. Defendant requires their Sales Development Representatives to meet stringent
8 productivity requirements, including monthly sales quotas, and daily and weekly requirements for
9 phone calls made and meetings booked, which require Sales Development Representatives to work
10 long hours.

11 9. In one or more workweeks during the last three years, Plaintiffs worked in excess of
12 40 hours. In one or more workdays in the last four years, Plaintiffs worked in excess of eight hours
13 in a workday. And, in one or more workdays in the last four years, Plaintiffs worked in excess of
14 12 hours in a workday.

15 10. Defendant misclassifies Plaintiffs and other Sales Development Representatives as
16 exempt from state and federal overtime laws and does not pay them overtime wages when they
17 work over 40 hours in one or more individual workweeks or more than eight or 12 hours in one or
18 more workdays.

19 11. Sales Development Representatives are not paid on a salary basis, as is required to
20 qualify for the administrative exemption to the overtime requirement, because Defendant adjusts
21 the salary of Sales Development Representatives based on performance.

22 12. Defendant increases or decreases the monthly salary of Sales Development
23 Representatives for the first nine months to a year of a Sales Development Representative’s
24 employment, based on the percentage of monthly leads they attain.

25 13. Defendant also has a practice of requiring Sales Development Representatives to
26 pay memoryBlue \$5,000 if they leave memoryBlue in under 12 to 15 months.

27
28 ¹ <https://memoryblue.com/about-us/> and <https://memoryblue.com/contact> (last visited on March 1, 2022).

1 14. Defendant's practices violate the FLSA and the state laws pled herein. Plaintiffs
2 seek declaratory relief; minimum wages and overtime compensation for all overtime work
3 required, suffered, or permitted by Defendant; liquidated and/or other damages and penalties as
4 permitted by applicable law, including civil penalties; other benefits recoverable under applicable
5 law; interest; and attorneys' fees and costs.

6 **II. JURISDICTION AND VENUE**

7 15. This Court has jurisdiction over the action pursuant to Article 6, § 10 of the
8 California Constitution and California Code of Civil Procedure § 410.10. This action is brought as
9 a collective action pursuant to 29 U.S.C. § 216 and a class action pursuant to California Code of
10 Civil Procedure § 382. California Plaintiffs bring this action on their own behalf and on behalf of
11 all persons within the putative California Class as defined below. Defendant owns property,
12 maintains offices, transacts business, and/or has an agent or agents within the County of
13 Sacramento or is otherwise found within the County of Sacramento, and Defendant is within the
14 jurisdiction of this Court for purposes of service of process.

15 16. Venue is proper in this Court pursuant to California Code of Civil Procedure §§
16 395(a) and 395.5 because the injuries to the persons complained of herein occurred in the County
17 of Sacramento and/or because Defendant's principal place of business is located within the County
18 of Sacramento.

19 **III. THE PARTIES**

20 ***Plaintiffs***

21 **Nicholas Jones**

22 17. Plaintiff Jones is a resident of California.

23 18. Plaintiff Jones was employed by Defendant from approximately August 2018
24 through October 2019 as a Sales Development Representative in Defendant's California office.

25 19. At all times relevant to the Collective, Class, and Representative Action Complaint,
26 Plaintiff Jones was Defendant's "employee" within the meaning of the FLSA and applied in
27 California Labor Code § 1171.

28 20. Plaintiff Jones regularly worked more than 40 hours a workweek, but was not paid

1 overtime compensation at the rate of one and one-half times his regular rate of pay for the hours he
2 worked over 40.

3 21. Plaintiff Jones regularly worked more than eight hours a single day, but was not
4 paid overtime compensation at the rate of one and one-half times his regular rate of pay for the
5 hours he worked over eight in a day.

6 22. Plaintiff Jones regularly worked more than 12 hours a single day, but was not paid
7 overtime compensation at the rate of two times his regular rate of pay for the hours he worked over
8 12 in a day.

9 23. For example, to the best of his recollection, during the week of December 10, 2018,
10 Plaintiff Jones worked at least one 12-hour day and worked approximately 15 hours of overtime.

11 24. Plaintiff Jones regularly worked through lunch breaks in order to meet his sales
12 requirements.

13 25. A written consent form signed by Plaintiff Jones is attached hereto as Exhibit A.

14 Clayton Raber

15 26. Plaintiff Raber is a resident of California.

16 27. Plaintiff Raber was employed by Defendant from approximately March 2019
17 through October 2019 as a Sales Development Representative in Defendant's California office.

18 28. At all times relevant to the Collective, Class, and Representative Action Complaint,
19 Plaintiff Raber was Defendant's "employee" within the meaning of the FLSA and applied in
20 California Labor Code § 1171.

21 29. Plaintiff Raber worked more than 40 hours in one or more workweeks, but was not
22 paid overtime compensation at the rate of one and one-half times his regular rate of pay for the
23 hours he worked over 40.

24 30. Plaintiff Raber regularly worked more than eight hours a single day, but was not
25 paid overtime compensation at the rate of one and one-half times his regular rate of pay for the
26 hours he worked over eight in a day.

27 31. Plaintiff Raber regularly worked more than 12 hours a single day, but was not paid
28 overtime compensation at the rate of two times his regular rate of pay for the hours he worked over

1 12 in a day.

2 32. For example, to the best of his recollection, during the week of April 2, 2018,
3 Plaintiff Raber worked at least one 12-hour day and worked approximately 20 hours of overtime.

4 33. Plaintiff Raber regularly worked through lunch breaks in order to meet his sales
5 requirements.

6 34. A written consent form signed by Plaintiff Raber is attached hereto as Exhibit B.

7 Dimitri Trembois

8 35. Plaintiff Trembois is a resident of California.

9 36. Plaintiff Trembois was employed by Defendant from approximately December
10 2018 through July 2019 as a Sales Development Representative in Defendant's California office.

11 37. At all times relevant to the Collective, Class, and Representative Action Complaint,
12 Plaintiff Trembois was Defendant's "employee" within the meaning of the FLSA and applied in
13 California Labor Code § 1171.

14 38. Plaintiff Trembois worked more than 40 hours in one or more workweeks, but was
15 not paid overtime compensation at the rate of one and one-half times his regular rate of pay for the
16 hours he worked over 40.

17 39. Plaintiff Trembois regularly worked more than eight hours a single day, but was not
18 paid overtime compensation at the rate of one and one-half times his regular rate of pay for the
19 hours he worked over eight in a day.

20 40. Plaintiff Trembois regularly worked more than 12 hours a single day, but was not
21 paid overtime compensation at the rate of two times his regular rate of pay for the hours he worked
22 over 12 in a day.

23 41. For example, to the best of his recollection, during the week of April 22, 2019,
24 Plaintiff Trembois worked at least one 12-hour day and worked approximately 15 hours of
25 overtime.

26 42. Plaintiff Trembois regularly worked through lunch breaks in order to meet his sales
27 requirements.

28 43. A written consent form signed by Plaintiff Trembois is attached hereto as Exhibit C.

1 George Suarez

2 44. Plaintiff Suarez is a resident of California.

3 45. Plaintiff Suarez was employed by Defendant from approximately October 2020 to
4 April 2021 as a Sales Development Representative in Defendant's California office.

5 46. At all times relevant to the Collective, Class, and Representative Action Complaint,
6 Plaintiff Suarez was Defendant's "employee" within the meaning of the FLSA and applied in
7 California Labor Code § 1171.

8 47. Plaintiff Suarez worked more than 40 hours in one or more workweeks, but was not
9 paid overtime compensation at the rate of one and one-half times his regular rate of pay for the
10 hours he worked over 40.

11 48. Plaintiff Suarez regularly worked more than eight hours a single day, but was not
12 paid overtime compensation at the rate of one and one-half times his regular rate of pay for the
13 hours he worked over eight in a day.

14 49. Plaintiff Suarez regularly worked more than 12 hours a single day, but was not paid
15 overtime compensation at the rate of two times his regular rate of pay for the hours he worked over
16 12 in a day.

17 50. For example, to the best of his recollection, during the week of December 14, 2020,
18 Plaintiff Suraez worked at least one 12-hour day and worked approximately 15 hours of overtime.

19 51. Plaintiff Suarez regularly worked through lunch breaks in order to meet his sales
20 requirements.

21 52. A written consent form signed by Plaintiff Suarez is attached hereto as Exhibit D.

22 Wayne Pampaloni

23 53. Plaintiff Pampaloni is a resident of Virginia.

24 54. Plaintiff Pampaloni was employed by Defendant from approximately April 2017
25 through January 2018 as a Sales Development Representative in Defendant's Virginia office.

26 55. At all times relevant to the Collective, Class, and Representative Action Complaint,
27 Plaintiff Pampaloni was Defendant's "employee" within the meaning of the FLSA.

28 56. Plaintiff Pampaloni worked more than 40 hours in one or more workweeks, but was

1 not paid overtime compensation at the rate of one and one-half times his regular rate of pay for the
2 hours he worked over 40. For example, to the best of his recollection, during the first week of
3 December 2017, Plaintiff Pampaloni worked approximately 20 overtime hours without
4 compensation.

5 57. A written consent form signed by Plaintiff Pampaloni is attached hereto as Exhibit
6 E.

7 Brandon McCormick

8 58. Plaintiff McCormick is a resident of Virginia.

9 59. Plaintiff McCormick was employed by Defendant from approximately June 2017
10 through June 2018 as a Sales Development Representative in Defendant's Virginia office.

11 60. At all times relevant to the Collective, Class, and Representative Action Complaint,
12 Plaintiff McCormick was Defendant's "employee" within the meaning of the FLSA.

13 61. Plaintiff McCormick worked more than 40 hours in one or more workweeks, but
14 was not paid overtime compensation at the rate of one and one-half times his regular rate of pay for
15 the hours he worked over 40. For example, to the best of his recollection, during the week of
16 December 4, 2017, Plaintiff McCormick worked approximately 15 overtime hours without
17 compensation.

18 62. A written consent form signed by Plaintiff McCormick is attached hereto as Exhibit
19 F.

20 Courtney Clarke

21 63. Plaintiff Clarke is a resident of Virginia.

22 64. Plaintiff Clarke was employed by Defendant from approximately January 2018
23 through February 2018 as a Sales Development Representative in Defendant's Virginia office.

24 65. At all times relevant to the Collective, Class, and Representative Action Complaint,
25 Plaintiff Clarke was Defendant's "employee" within the meaning of the FLSA.

26 66. Plaintiff Clarke worked more than 40 hours in one or more workweeks, but was not
27 paid overtime compensation at the rate of one and one-half times her regular rate of pay for the
28 hours she worked over 40. For example, to the best of her recollection, during the week of January

22, 2018, Plaintiff Clarke worked approximately 10 overtime hours without compensation.

67. A written consent form signed by Plaintiff Clarke is attached hereto as Exhibit G.

Defendant

memoryBlue, Inc.

68. memoryBlue is a corporation formed under the laws of the State of Virginia with a principal place of business in Tysons, Virginia.

69. memoryBlue conducts business throughout the United States and has offices in California, Virginia, Texas, Massachusetts, Colorado, and Washington.

70. memoryBlue is an “enterprise” as defined by the FLSA, 29 U.S.C. § 203(r)(1) and is an enterprise engaged in commerce, or in the production of goods for commerce, within the meaning of the FLSA. 29 U.S.C. § 203(s)(1)(A).

71. At all times relevant hereto, memoryBlue’s annual dollar volume of business has exceeded \$500,000.00 per year.

72. At all times relevant hereto, memoryBlue has been Plaintiffs’ “employer” within the meaning of the FLSA, 29 U.S.C. § 203(d), and Cal. Lab. Code § 1171.

73. Plaintiffs are ignorant of the true names or capacities, whether as individuals, partners, corporate entities, or joint venturers, of the Defendant sued herein as Does 1 through 50, inclusive, and for that reason Defendant is sued under such fictitious names. Plaintiffs will seek leave from the Court to amend this Collective, Class, and Representative Action Complaint when such true names and capacities are discovered. Plaintiffs are informed and believe, and thereupon allege, that each of said Doe Defendants, whether individuals, partners, corporate entities, or joint venturers, were responsible in some manner for the circumstances alleged herein, and proximately caused Plaintiffs and those members of the general public and the California Class to be subject to the unlawful employment and business practices, wrongs, injuries, and damages complained of herein.

IV. FLSA COLLECTIVE ACTION ALLEGATIONS

74. Plaintiffs bring the First Cause of Action pursuant to the FLSA, 29 U.S.C § 216(b), on behalf of themselves and all similarly situated persons who are current or former employees of

1 Defendant who worked as Sales Development Representatives at any time between December 2,
2 2017 through the date of final judgment and who elect to opt-in to this action (the “FLSA
3 Collective”).²

4 75. Plaintiffs are similarly situated to members of the FLSA Collective because they
5 were paid in the same manner and performed the same primary job duties.

6 76. Defendant misclassified Plaintiffs and other Sales Development Representatives as
7 exempt from overtime and did not pay them one and one-half times their regular rate of pay for
8 hours worked over 40 in a workweek.

9 77. Defendant regularly required Plaintiffs and other Sales Development
10 Representatives to work over 40 hours in a workweek without paying them one and one-half times
11 their regular rate of pay for the hours worked over 40 in a workweek.

12 78. Defendant has the names and addresses for individuals who are eligible to join the
13 FLSA Collective.

14 79. Upon information and belief, Defendant has employed over 700 Sales Development
15 Representatives during the relevant period.

16 80. Members of the FLSA Collective would benefit from the issuance of court-
17 supervised notice, granting them the opportunity to join this lawsuit.

18 81. Defendant was aware or should have been aware that its pay practices and the duties
19 Sales Development Representatives engaged in did not allow Defendant to classify Sales
20 Development Representatives as exempt and to not pay them an overtime premium of one and one-
21 half times their regular rate of pay for all hours Defendant suffered or permitted them to work in
22 excess of 40 per workweek.

23 82. Upon information and belief, Defendant applied the same unlawful policies and
24 practices to their Sales Development Representatives nationwide.

25 **V. CALIFORNIA CLASS ACTION ALLEGATIONS**

26 83. California Plaintiffs bring the Second, Third, Fourth, Fifth, Sixth, Seventh, and
27

28 ² As part of pre-litigation settlement discussions, the parties entered into a tolling agreement effective December 2, 2020.

1 Eighth Causes of Action for violation of California's wage and hour and unfair competition laws as
2 a class action, pursuant to California Code of Civil Procedure § 382, on behalf of all persons who
3 are current or former employees of Defendant who worked in California as Sales Development
4 Representatives at any time between December 2, 2016 through the date of the final disposition of
5 this action (the "California Class").

6 84. **Ascertainable Class:** The proposed California Class consists of readily
7 ascertainable persons. The identity of each California Class Member is readily ascertainable via
8 inspection of Defendant's employment records.

9 85. **Numerosity:** The California Class is so numerous that joinder of all members is
10 impracticable. California Plaintiffs are informed and believe, and on that basis allege, that during
11 the California Class Period, Defendant has employed at least 100 persons who satisfy the definition
12 of the California Class. Disposition of the California Class Members' claims through a common
13 action will benefit both the parties and this Court. A class action will be efficient and prevent
14 redundancy of claims and inconsistent rulings.

15 86. **Typicality:** California Plaintiffs' claims for damages, penalties, and restitution are
16 typical of the proposed Class Members' claims. Defendant's practice of uniformly classifying
17 Sales Development Representatives as exempt employees and failing to pay them minimum wages,
18 overtime, failing to provide them with meal and rest breaks, failing to pay all owed minimum
19 wages and overtime at the time of separation, failing to reimburse their necessary business
20 expenses, and failing to provide timely, accurate, and itemized wage statements and maintain
21 accurate records of hours worked was consistent for all California Class Members. California
22 Plaintiffs and the California Class Members suffered a common injury as a result of Defendant's
23 conduct.

24 87. **Adequacy:** California Plaintiffs are members of the proposed California Class.
25 California Plaintiffs suffered actual harm and damages as a result of Defendant's misclassification
26 of Sales Development Representatives as exempt and failure to pay them owed minimum wages,
27 overtime pay, failure to provide meal and rest breaks, failure to pay all owed wages at the time of
28 separation, failure to reimburse necessary business expenses, failure to provide timely, accurate

1 and itemized wage statements, and failure to maintain accurate records of hours worked.
2 California Plaintiffs have been informed of their duties as class representatives and have
3 committed to serving in that capacity as adequate representatives. California Plaintiffs' interests in
4 the pursuit of the case are not adverse to the interests of the other California Class Members, and
5 California Plaintiffs are aware of no conflicts of interest that are capable of destroying their
6 adequacy to pursue the claims made herein. California Plaintiffs are informed and believe the
7 selected competent Class Counsel experienced in handling both the procedural and substantive
8 aspects of the case as a class action. California Plaintiffs will fairly protect the interests of the
9 California Class, have no interests antagonistic to the California Class, and will vigorously pursue
10 this suit via attorneys who are competent, skilled, and experienced in litigating employment
11 matters and well-acquainted with class action process and procedure.

12 **88. Superiority:** The class action mechanism provides a particularly efficient and
13 appropriate procedure to afford relief to California Plaintiffs and the California Class for the
14 wrongs alleged herein, as follows:

15 a. This case involves a large corporate defendant and a sufficiently numerous
16 group of individual class members with many relatively small claims all having similar common
17 issues of law and fact;

18 b. If each California Class Member were required to file an individual lawsuit,
19 the large corporate defendant would necessarily gain an unconscionable advantage because
20 Defendant would be able to exploit and overwhelm the limited resources of each individual
21 California Class Member with Defendant's superior financial and legal resources;

22 c. Requiring each California Class Member to pursue an individual remedy
23 would discourage California Class Members from bringing lawful claims because many would be
24 disinclined to pursue an action against Defendant out of an appreciable and justifiable fear of
25 retaliation and permanent damage to their careers within the software sales industry;

26 d. Proof of common business practices and policies that the California Class
27 Members were all subject to will establish the right of each of the California Class Members to
28 recover on the causes of action alleged herein;

1 e. The prosecution of separate actions by individual California Class Members
2 would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to
3 the individual California Class Members against Defendant and may establish potentially
4 incompatible standards of conduct for Defendant;

5 f. The claims of the individual California Class Members are not sufficiently
6 large to warrant the filing of individual actions, considering the concomitant costs and expenses
7 associated with vigorous prosecution of such claims;

8 g. Because the damages suffered by each California Class Member may be
9 relatively small, the expenses and burden of individual litigation would make it difficult or
10 impossible for individual California Class Members to redress the wrongs done to them, while an
11 important public interest will be served by addressing the matter as a class action; and

12 h. Finally, the cost to the court system of adjudicating such individualized
13 claims would be substantial.

14 **89. Manageability of Class and Common Modes of Proof:** The nature of this action
15 makes the class action format a particularly efficient and appropriate procedure to address the
16 wrongs alleged herein. Specifically, Defendant maintains all records necessary to identify each
17 California Class Member. Defendant maintained a common practice of misclassifying Sales
18 Development Representatives as exempt and failing to pay them minimum and overtime wages.
19 Defendant had a common practice of failing to provide Sales Development Representatives with
20 meal and rest breaks, failing to pay them all owed compensation, including minimum and overtime
21 wages, at the time of their separation from employment, failing to reimburse their necessary
22 business expenses incurred as a result of performing their job duties, and failing to provide them
23 with timely, accurate, itemized wage statements reflecting their hours worked. Further, Defendant
24 utilized these uniform practices to gain an unfair competitive advantage over competitors by
25 essentially lowering operating costs in comparison to competitors. This action is brought for the
26 benefit of the California Plaintiffs and all affected employees, and to promote the public policy of
27 the State of California to protect employee wages and prevent unfair competition in employment.
28

1 **FIRST CAUSE OF ACTION**

2 **(Failure to Pay Overtime Wages)**

3 **Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.***

4 90. Plaintiffs, on behalf of themselves and all members of the FLSA Collective, reallege
5 and incorporate by reference all other paragraphs as if they were set forth again herein.

6 91. At all relevant times, Defendant has been, and continues to be, "employer[s]"
7 engaged in interstate "commerce" and/or in the production of "goods" for "commerce," within the
8 meaning of the FLSA, 29 U.S.C. § 203. At all relevant times, Defendant has employed, and
9 continues to employ, "employee[s]," including Plaintiffs and the FLSA Collective. At all relevant
10 times, Defendant has had gross operating revenues in excess of \$500,000.

11 92. Plaintiffs' signed Consent to Sue forms have been filed, pursuant to section 16(b) of
12 the FLSA, 29 U.S.C. §§ 216(b) and 256. It is likely that other similarly situated individuals will
13 sign consent forms and join as Plaintiffs in asserting this claim in the future.

14 93. The FLSA requires each covered employer, including Defendant, to compensate all
15 non-exempt employees at a rate of not less than one and one-half times the regular rate of pay for
16 work performed in excess of 40 hours in a workweek.

17 94. Under the FLSA, the FLSA Collective are employees who are entitled to be paid
18 overtime compensation for all overtime hours worked.

19 95. At all relevant times, Defendant, pursuant to its policies and practices, failed and
20 refused to pay overtime premiums to the FLSA Collective for their hours worked in excess of 40
21 hours per week.

22 96. By failing to compensate Plaintiffs and the FLSA Collective at a rate not less than
23 one and one-half times the regular rate of pay for work performed in excess of 40 hours in a
24 workweek, Defendant has violated, and continues to violate, the FLSA, 29 U.S.C. §§ 201, *et seq.*,
25 including 29 U.S.C. § 207(a)(1) and § 215(a).

26 97. By failing to record, report, and/or preserve records of hours worked by Plaintiffs
27 and the FLSA Collective, Defendant has failed to make, keep, and preserve records with respect to
28 each of their employees sufficient to determine their wages, hours, and other conditions and

1 practice of employment, in violation of the FLSA, 29 U.S.C. §§ 201 *et seq.*, including 29 U.S.C. §
2 211(c) and § 215(a).

3 98. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within
4 the meaning of 29 U.S.C. § 255(a).

5 99. Plaintiffs, on behalf of themselves and the FLSA Collective, seek damages in the
6 amount of unpaid overtime compensation, liquidated damages as provided by the FLSA, 29 U.S.C.
7 § 216(b), interest, attorneys' fees and costs of action, and such other legal and equitable relief as
8 the Court deems just and proper.

9 **SECOND CAUSE OF ACTION**

10 **(Failure to Pay Minimum Wages)**

11 **California Labor Code §§ 1194, 1194.2, and 1197**

12 100. California Plaintiffs, on behalf of themselves and all members of the California
13 Class, reallege and incorporate by reference all other paragraphs as if they were set forth again
14 herein.

15 101. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees fixed
16 by the IWC is the minimum wage to be paid to employees, and the payment of a lesser wage than
17 the minimum so fixed is unlawful.

18 102. California Plaintiff and California Class Members were employees entitled to the
19 protections of Labor Code §§ 1194 and 1197.

20 103. During the relevant time period, Defendant failed to pay California Plaintiff and
21 California Class Members all wages owed when Defendant did not pay minimum wage for all
22 hours worked. When Defendant required California Class Members to pay back Defendant up to
23 \$5,000 of training costs if they left Defendant's employment in under 12-15 months, California
24 Class Members did not earn minimum wages.

25 104. During the relevant time period, Defendant failed to pay at least minimum wage to
26 Plaintiff and Class Members for all hours worked pursuant to Labor Code §§ 1194 and 1197.

27 105. As a direct and proximate result of Defendant's unlawful conduct, as set forth
28 herein, California Plaintiffs and the California Class have sustained damages, including loss of

1 earnings for hours worked on behalf of Defendant in an amount to be established at trial,
2 prejudgment interest, and costs and attorneys' fees, pursuant to statute and other applicable law.

3 **THIRD CAUSE OF ACTION**

4 **(Failure to Pay Overtime Wages)**

5 **California Labor Code §§ 510, 1194; Cal. Wage Order No. 4-2001**

6 106. California Plaintiffs, on behalf of themselves and all members of the California
7 Class, reallege and incorporate by reference all other paragraphs as if they were set forth again
8 herein.

9 107. California law requires employers, such as Defendant, to pay overtime
10 compensation to all non-exempt employees for all hours worked over 40 per week, or over eight
11 per day.

12 108. Under California law, California Plaintiffs and the California Class are nonexempt
13 employees entitled to be paid overtime compensation for all overtime hours worked.

14 109. At all relevant times, California Plaintiffs and the California Class worked in excess
15 of eight and 12 hours in a workday and/or 40 hours in a workweek.

16 110. At all relevant times, Defendant misclassified California Plaintiffs and the
17 California Class as exempt from overtime pay entitlement and failed and refused to pay them
18 overtime premium pay for their overtime hours worked.

19 111. As a direct and proximate result of Defendant's unlawful conduct, as set forth
20 herein, California Plaintiffs and the California Class have sustained damages, including loss of
21 earnings for hours of overtime worked on behalf of Defendant in an amount to be established at
22 trial, prejudgment interest, and costs and attorneys' fees, pursuant to statute and other applicable
23 law.

24 **FOURTH CAUSE OF ACTION**

25 **(Failure to Pay Timely Wages During Employment and Upon Separation)**

26 **California Labor Code §§ 201 - 204**

27 112. California Plaintiffs, on behalf of themselves and the California Class, reallege and
28 incorporate by reference all other paragraphs as if they were set forth again herein.

1 113. California Labor Code §§ 201 and 202 require Defendant to pay their employees all
2 wages due within the time specified by law. California Labor Code § 203 provides that if an
3 employer willfully fails to timely pay such wages, the employer must continue to pay the subject
4 employees' wages until the back wages are paid in full or an action is commenced, up to a
5 maximum of 30 days of wages.

6 114. California Plaintiffs and all California Class Members who ceased employment with
7 Defendant are entitled to unpaid compensation, but to date have not received such compensation.

8 115. More than 30 days have passed since California Plaintiffs and certain California
9 Class Members left Defendant's employ.

10 116. As a consequence of Defendant's willful conduct in not paying compensation for all
11 hours worked, California Plaintiffs and California Class Members whose employment ended
12 during the class period are entitled to 30 days' wages under Labor Code § 203, together with
13 interest thereon and attorneys' fees and costs.

14 **FIFTH CAUSE OF ACTION**

15 **(Failure to Provide Accurate Wage Statements)**

16 **Cal. Labor Code §§ 226, 1174)**

17 117. California Plaintiffs, on behalf of themselves and the California Class, reallege and
18 incorporate by reference all other paragraphs as if they were set forth again herein.

19 118. Defendant knowingly and intentionally failed to provide timely, accurate, itemized
20 wage statements including, *inter alia*, hours worked, to California Plaintiffs and the California
21 Class in accordance with Labor Code § 226(a) and the IWC Wage Orders. Such failure caused
22 injury to California Plaintiffs and the California Class, by, among other things, impeding them
23 from knowing the amount of wages to which they are and were entitled. At all times relevant
24 herein, Defendant has failed to maintain records of hours worked by California Plaintiffs and the
25 California Class as required under California Labor Code § 1174(d).

26 119. California Plaintiffs and the California Class are entitled to and seek injunctive
27 relief requiring Defendant to comply with Labor Code §§ 226(a) and 1174(d), and further seek the
28 amount provided under Labor Code §§ 226(e) and 1174.5, including the greater of all actual

1 damages or \$50 for the initial pay period in which a violation occurred and \$100 per employee for
2 each violation in a subsequent pay period.

3 **SIXTH CAUSE OF ACTION**

4 **(Meal And Rest Period Violations)**

5 **Cal. Wage Order No. 4-2001; Cal. Labor Code §§ 226.7 & 512**

6 120. California Plaintiffs, on behalf of themselves and the California Class, reallege and
7 incorporate by reference all other paragraphs as if they were set forth again herein.

8 121. California Plaintiffs and the California Class regularly work and have worked in
9 excess of five-hour shifts without being afforded at least a half-hour meal break in which they were
10 relieved of all duty and more than ten-hour shifts without being afforded a second half-hour meal
11 break in which they were relieved of all duty, as required by Labor Code §§ 226.7 and 512 and
12 Wage Order No. 4-2001, § 11(a).

13 122. In addition, California Plaintiffs and the California Class regularly work and have
14 worked without being afforded at least one ten-minute rest break, in which they were relieved of
15 all duty, per four hours of work performed or major fraction thereof, as required by Labor Code §
16 226.7 and Wage Order No. 4-2001, § 12.

17 123. As a result of Defendant's failure to afford proper meal periods, it is liable to
18 California Plaintiffs and the California Class for one hour of additional pay at the regular rate of
19 compensation for each workday that the proper meal periods were not provided, pursuant to Labor
20 Code § 226.7 and Wage Order No. 4-2001, § 11(b).

21 124. As a result of Defendant's failure to afford proper rest periods, it is liable to
22 California Plaintiffs and the California Class for one hour of additional pay at the regular rate of
23 compensation for each workday that the proper rest periods were not provided, pursuant to Labor
24 Code § 226.7 and Wage Order No. 4-2001, § 12(b).

25 **SEVENTH CAUSE OF ACTION**

26 **(Failure to Reimburse Employees for Business Expenses)**

27 **Cal. Bus. & Prof. Code § 2802**

28 125. California Plaintiffs, on behalf of themselves and all members of the California

1 Class, reallege and incorporate by reference all other paragraphs as if they were set forth again
2 herein.

3 126. California Labor Code § 2802 provides that employers shall reimburse employees
4 for all necessary business expenses incurred in the performance of their job duties.

5 127. Defendant required California Plaintiffs and the California Class Members to pay
6 back Defendant up to \$5,000 if they left Defendant's employment in under 12-15 months.

7 128. Defendant intentionally and consistently failed to reimburse California Plaintiffs
8 and the California Class Members for the above-described expenses incurred in the performance of
9 their job duties, in violation of California Labor Code § 2802.

10 129. California Plaintiffs and the California Class Members are entitled to and seek to
11 recover all unreimbursed business expenses.

12 **EIGHTH CAUSE OF ACTION**

13 **(Unlawful, Unfair, and/or Deceptive Business Practices)**

14 **Cal. Bus. & Prof. Code § 17200 *et seq.*,**

15 130. California Plaintiffs, on behalf of themselves and all members of the California
16 Class, reallege and incorporate by reference all other paragraphs as if they were set forth again
17 herein.

18 131. The foregoing conduct, as alleged, violates the California Unfair Competition Law
19 ("UCL"), Cal. Bus. & Prof. Code § 17200 *et seq.* Section 17200 of the California Business &
20 Professions Code prohibits unfair competition by prohibiting, inter alia, any unlawful or unfair
21 business acts or practices.

22 132. Within the four years before the filing of this action, Defendant committed, and
23 continues to commit, acts of unfair competition, as defined by the UCL, by, among other things,
24 engaging in the acts and practices described herein. Defendant's conduct as herein alleged has
25 injured California Plaintiffs and the California Class by wrongfully denying them earned wages,
26 and therefore was substantially injurious to California Plaintiffs and the California Class.

27 133. Defendant engaged in unfair competition in violation of the UCL by violating, inter
28 alia, each of the following laws. Each of these violations constitutes an independent and separate

1 violation of the UCL:

- 2 a. The Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*;
- 3 b. California Labor Code § 1194;
- 4 c. California Labor Code §§ 201, 202, 203, and 204;
- 5 d. California Labor Code §§ 226;
- 6 e. California Labor Code §§ 226.7 and 512;
- 7 f. California Labor Code § 1174;
- 8 g. California Labor Code § 2802; and;
- 9 h. California Labor Code § 510.

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

14 135. The unlawful and unfair business practices and acts of Defendant, described above,
15 have injured California Class Members in that they were wrongfully denied the payment of earned
16 overtime wages.

17 136. California Plaintiffs, on behalf of themselves and the California Class, seek
18 restitution in the amount of the respective unpaid wages earned and due at a rate of at least one and
19 one-half times the regular rate of pay for work performed in excess of 40 hours in a workweek, or
20 eight hours in a day, and double the regular rate of pay for work performed in excess of twelve
21 hours per day.

22 137. California Plaintiffs, on behalf of themselves and the California Class, seek
23 recovery of attorneys' fees and costs of this action to be paid by Defendant, as provided by the
24 UCL and California Labor Code §§ 218, 218.5, and 1194.

25 **NINTH CAUSE OF ACTION**

26 **(Violation of the Private Attorney General Act ("PAGA"))**

27 **California Labor Code §§ 2698, *et seq.***

28 138. California Plaintiffs, on behalf of themselves and all members of the California

1 Class, reallege and incorporate by reference all other paragraphs as if they were set forth again
2 herein.

3 139. PAGA, Cal. Lab. Code § 2698, *et seq.*, authorizes plaintiffs to recover civil
4 penalties that otherwise would have been “assessed and collected by the Labor and Workforce
5 Development Agency” for violations of the Labor Code through a “civil action brought by an
6 aggrieved employee on behalf of himself or herself and other current or former employees.” Cal.
7 Lab. Code § 2699(a).

8 140. Plaintiff Suarez is an “aggrieved employee” under PAGA, as he was employed by
9 Defendant during the applicable statutory period and suffered the Labor Code violations alleged
10 herein. As such, California Plaintiffs seek to recover, on behalf of themselves and all other current
11 and former aggrieved employees of Defendant, the civil penalties provided by PAGA, including
12 civil penalties for failure to reimburse all necessary business expenses pursuant to Labor Code
13 § 2802, plus reasonable attorneys’ fees and costs.

14 141. California Plaintiffs seek to recover the PAGA civil penalties through a
15 representative action as permitted by PAGA and the California Supreme Court in *Arias v. Superior*
16 *Court*, 46 Cal. 4th 969 (2009). Therefore, class certification of the PAGA claims is not required,
17 but California Plaintiffs may choose to seek certification of the PAGA claims.

18 142. California Plaintiffs have satisfied the requirements for bringing a civil action under
19 PAGA, as set forth in California Labor Code § 2699.3.

20 143. In a letter postmarked August 9, 2021 (and contemporaneously submitted online),
21 Plaintiff Suarez provided notice to the California Labor and Workforce Development Agency of
22 his intent to seek penalties under PAGA for all Sales Development Representatives that Defendant
23 unlawfully failed to pay overtime compensation for all hours worked over 40 in a workweek and/or
24 over eight hours in a workday to California Sales Development Representatives, in violation of
25 California Labor Code §§ 510, 1194, 1198 and the applicable Wage Order. Additionally, Plaintiff
26 Suarez alleged that Defendant violated California law by: (1) failing to provide timely, accurate,
27 and itemized wage statements in accordance with California Labor Code §§ 226, 226.3, 1174, and
28 1174.5; (2) failing to timely pay wages during employment and upon separation in accordance with

1 California Labor Code §§ 201-204; and (3) failing to provide meal and rest breaks in accordance
2 with California Labor Code §§ 218.5, 226.7, 512, and the applicable Wage Order. A copy of the
3 letter transmitted to the Agency is attached hereto as Exhibit H. A confirmation of online
4 submission is attached hereto as Exhibit I.

5 144. California Plaintiffs did not receive a response from the California Labor and
6 Workforce Development Agency within 65 calendar days of the postmark date of Plaintiff
7 Suarez's notice to the California Labor and Workforce Development Agency. *See* Cal. Lab. Code
8 § 2699.6(a)(2)(A).

9 145. California Plaintiffs did not receive a response from the California Labor and
10 Workforce Development Agency within 65 calendar days of the postmark date of Plaintiff
11 Suarez's notice to the California Labor and Workforce Development Agency. *See* Cal. Lab. Code
12 § 2699.6(a)(2)(A).

13 146. Under California Labor Code § 2699(f)(2), Defendant is subject to the following
14 civil penalties:

- 15 a. California Labor Code § 510 (overtime compensation): \$100 for initial
16 violations and \$200 for subsequent violations;
- 17 b. California Labor Code § 226 (wage statements): \$250 for initial violations and
18 \$1,000 for subsequent violations;
- 19 c. California Labor Code §§ 226.7 & 512 (meal and rest breaks): \$100 for initial
20 violations and \$200 for subsequent violations; and
- 21 d. California Labor Code § 204 (waiting time penalties): \$100 for initial violations
22 and \$200 for subsequent violations, plus 25 percent of the amount unlawfully
23 withheld.

24 147. California Plaintiffs, on behalf of themselves and all other aggrieved employees,
25 request relief as described below.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiffs, on behalf of themselves and all members of the FLSA Class,
28 pray for relief as follows:

1 a. Designation of this action as a collective action on behalf of the FLSA Collective
2 and prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to all similarly situated members of
3 the FLSA Collective, apprising them of the pendency of this action, and permitting them to assert
4 timely FLSA claims in this action by filing individual Consent to Sue forms pursuant to 29 U.S.C.
5 § 216(b);

6 b. Designation of Plaintiffs as Representatives of the FLSA Collective;

7 c. A declaratory judgment that the practices complained of herein are unlawful under
8 the FLSA;

9 d. An award of damages, according to proof, including liquidated damages, to be paid
10 by Defendant;

11 e. Costs of action incurred herein, including expert fees;

12 f. Attorneys' fees, including fees pursuant to 29 U.S.C. § 216;

13 g. Pre-judgment and post-judgment interest, as provided by law; and

14 h. Such other legal equitable relief as this Court deems necessary, just, and proper.

15 WHEREFORE, California Plaintiffs, on behalf of themselves and the California Class, pray
16 for relief as follows:

17 i. Certification of this action as a class action on behalf of the California Class;

18 j. Designation of California Plaintiffs as Representatives of the California Class;

19 k. Designation of Plaintiffs' counsel of record as Class Counsel for the California
20 Class;

21 l. A declaratory judgment that the practices complained of herein are unlawful under
22 applicable state law;

23 m. Appropriate injunctive and equitable relief, including an order enjoining Defendant
24 from continuing its unlawful practices;

25 n. Appropriate statutory penalties;

26 o. An award of civil penalties pursuant to California Labor Code §§ 2698, *et seq.*, with
27 twenty-five (25) percent accruing to aggrieved employees, California Labor Code § 2699(i);

28 p. An award of damages, liquidated damages, and restitution to be paid by Defendant

1 according to proof;

2 q. Pre-judgment and post-judgment interest, as provided by law;

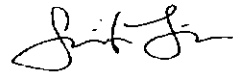
3 r. Such other injunctive and equitable relief as the Court may deem just and proper;

4 and

5 s. Attorneys' fees and costs of suit, including expert fees and costs.

6
7 Date: May 4, 2022

Respectfully submitted,

8 

9 Jennifer Liu (State Bar No. 279370)
10 LIU PETERSON-FISHER LLP
11 800 Menlo Avenue, Suite 102
12 Menlo Park, CA 94025
13 Telephone: 650.461.9000
14 Facsimile: 650.460.6967
15 Email: jliu@liupetersonfisher.com

16 Sally J. Abrahamson (*pro hac vice* motion
17 forthcoming)
18 WERMAN SALAS P.C.
19 335 18th PINE
20 Washington, D.C. 20002
21 Telephone: 312.419.1008
22 Facsimile: 312.419.1025 Email:
23 sabrahamson@flsalaw.com

24 *Counsel for Plaintiffs and the Proposed FLSA*
25 *Collective and Class*
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27
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Date: May 4, 2022

Jim Jim

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335 18th PINE
Washington, D.C. 20002
Telephone: 312.419.1008
Facsimile: 312.419.1025
Email: sabrahamson@flsalaw.com

***Counsel for Plaintiffs and the Proposed FLSA
Collective and Class***

EXHIBIT A

CONSENT FORM

I was employed by memoryBlue, Inc., and/or its parents, subsidiary or affiliated companies during the prior three (3) years, and in one or more of those weeks was not paid all the overtime pay owed to me as required by 29 U.S.C. § 201 *et seq.* I authorize the filing and prosecution of this Fair Labor Standards Act action in my name and on behalf of all persons similarly situated to myself.

My name is: Nicholas Jones

Your signature:  DocuSigned by:
6884633ATE08434...

EXHIBIT B

CONSENT FORM

I was employed by memoryBlue, Inc., and/or its parents, subsidiary or affiliated companies during the prior three (3) years, and in one or more of those weeks was not paid all the overtime pay owed to me as required by 29 U.S.C. § 201 *et seq.* I authorize the filing and prosecution of this Fair Labor Standards Act action in my name and on behalf of all persons similarly situated to myself.

My name is: Clayton Raber

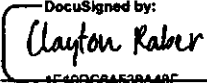
Your signature:  Clayton Raber
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EXHIBIT C

CONSENT FORM

I was employed by memoryBlue, Inc., and/or its parents, subsidiary or affiliated companies during the prior three (3) years, and in one or more of those weeks was not paid all the overtime pay owed to me as required by 29 U.S.C. § 201 *et seq.* I authorize the filing and prosecution of this Fair Labor Standards Act action in my name and on behalf of all persons similarly situated to myself.

My name is: Dimitri Trembois

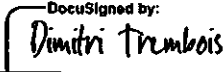
Your signature:  DocuSigned by:
Dimitri Trembois
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EXHIBIT D

CONSENT FORM

I was employed by memoryBlue, Inc., and/or its parents, subsidiary or affiliated companies during the prior three (3) years, and in one or more of those weeks was not paid all the overtime pay owed to me as required by 29 U.S.C. § 201 *et seq.* I authorize the filing and prosecution of this Fair Labor Standards Act action in my name and on behalf of all persons similarly situated to myself.

My name is: George Suarez

Your signature:

DocuSigned by:
George Suarez
B6C662967D1943B...

EXHIBIT E

CONSENT FORM

I was employed by memoryBlue, Inc., and/or its parents, subsidiary or affiliated companies during the prior three (3) years, and in one or more of those weeks was not paid all the overtime pay owed to me as required by 29 U.S.C. § 201 *et seq.* I authorize the filing and prosecution of this Fair Labor Standards Act action in my name and on behalf of all persons similarly situated to myself.

My name is: Wayne Pampaloni

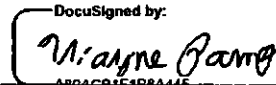
Your signature:  DocuSigned by:
A88ACB1F188A446

EXHIBIT F

CONSENT FORM

I was employed by memoryBlue, Inc., and/or its parents, subsidiary or affiliated companies during the prior three (3) years, and in one or more of those weeks was not paid all the overtime pay owed to me as required by 29 U.S.C. § 201 *et seq.* I authorize the filing and prosecution of this Fair Labor Standards Act action in my name and on behalf of all persons similarly situated to myself.

My name is: Brandon McCormick

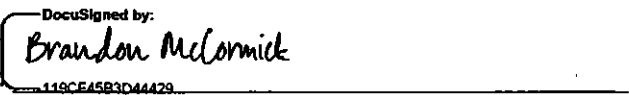
Your signature  DocuSigned by:
Brandon McCormick
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EXHIBIT G

CONSENT FORM

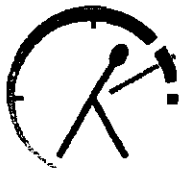
I was employed by memoryBlue, Inc., and/or its parents, subsidiary or affiliated companies during the prior three (3) years, and in one or more of those weeks was not paid all the overtime pay owed to me as required by 29 U.S.C. § 201 *et seq.* I authorize the filing and prosecution of this Fair Labor Standards Act action in my name and on behalf of all persons similarly situated to myself.

My name is: Courtney Clarke

Your signature: DocuSigned by:

57A1460D63FB44D...

EXHIBIT H



**Werman
Salas P.C.**

335 18th PI NE, Washington, D.C. 20002 Tel: 202-830-2016 | Fax: 312-419-1025 www.flsalaw.com

August 9, 2021

VIA ONLINE SUBMISSION

California Labor and Workforce Development
Agency Attn: PAGA Administrator

Re: PAGA Notice of California Labor Code Claims against memoryBlue

Dear PAGA Administrator:

This letter is submitted on behalf of George Suarez, a former Sales Development Representative at memoryBlue, Inc. ("memoryBlue"). Mr. Suarez worked as a Sales Development Representative at memoryBlue from approximately October 2020 through May 2021. As set forth below, Mr. Suarez alleges that memoryBlue failed to pay him and other similarly-situated employees as required by California law.

Mr. Suarez alleges that memoryBlue unlawfully failed to pay overtime compensation for all hours worked over 40 in a workweek and/or over eight hours in a workday to California Sales Development Representatives, in violation of Cal. Labor Code §§ 510, 1194, 1198 and the applicable Wage Order. Additionally, Mr. Suarez alleges that memoryBlue violated California law by: (1) failing to provide timely, accurate, and itemized wage statements in accordance with Cal. Labor Code §§ 226, 226.3, 1174, and 1174.5; (2) failing to timely pay wages during employment and upon separation in accordance with Cal. Labor Code §§ 201-204; and (3) failing to provide meal and rest breaks in accordance with Cal. Labor Code §§ 218.5, 226.7, 512, and the applicable Wage Order.

This letter serves as notice of our intent to seek civil penalties pursuant to the Private Attorneys General Act ("PAGA"), Cal. Lab. Code §§ 2698 *et seq.*, on behalf of Mr. Suarez and similarly-situated Sales Development Representatives who worked for memoryBlue in the State of California at any time in the past year. Mr. Suarez alleges that memoryBlue violated numerous provisions of the California Labor Code, including, but not limited to: Sections 201-204, 226, 226.7, 510, 512, 1174, 1194, 1198, and 2802 and provisions of the applicable Wage Order. Mr. Suarez will seek all applicable civil penalties on behalf of himself and all similarly-situated Sales Development Representatives, including but not limited to penalties pursuant to the aforementioned statutes and California Labor Code §§ 210, 218.5, 226.3, 226.6, 558, 1174.5, and 2699, and the applicable Wage Order.

The facts and claims contained herein are based on the limited information available at the time of this writing. Therefore, if through further review or informal or formal discovery, Mr. Suarez becomes aware of additional compensation or penalties owed to him and other current or former Sales Development Representatives or of additional claims against

memoryBlue, he reserves the right to revise these facts and/or add any new claims by amending this letter.

Based on the foregoing, Mr. Suarez intends to file a civil action to pursue claims against memoryBlue and to seek PAGA remedies for these violations. Mr. Suarez respectfully requests that the Labor & Workforce Development Agency notify him if it intends to investigate the above allegations pursuant to PAGA.

Thank you for your attention to this matter. Please direct all communications and correspondence to our office going forward. If you have any questions, please do not hesitate to contact us at 202-830-2016.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sally J. Abrahamson', with a long horizontal flourish extending to the right.

Sally J. Abrahamson
Werman Salas, P.C.

EXHIBIT I

Sally Abrahamson

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY
<lwdadonotreply@dir.ca.gov>
Sent: Monday, August 9, 2021 3:47 PM
To: Sally Abrahamson
Subject: Thank you for submission of your PAGA Case.

8/9/2021

LWDA Case No. LWDA-CM-840772-21
Law Firm : Werman Salas P.C.
Plaintiff Name : George Suarez
Employer: memorBlue, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm