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**Filed via Labor Workforce Development Agency's PAGA Claim Notice Online Form**

**Copy Sent via Certified U.S. Mail To:**

OneFluent Media Corp., US  
C/o: Richard D. Thompson, Esq.  
BFBST  
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Los Angeles, CA 90067

Samuel Reid  
OneFluent Media Corp., US  
6660 Santa Monica Blvd.  
2<sup>nd</sup> Floor  
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Re: Karishma Bhandari v. OneFluent Media Corp., US, et al.  
*Notice of Intent to File Suit Pursuant to California Labor Code Section 2698 et seq.*

To Whom It May Concern:

This office represents Karishma Bhandari ("Ms. Bhandari" or "Plaintiff") and proposed groups of current and former misclassified employees who work/worked for OneFluent Media Corp., US ("OneFluent") its affiliates and/or OneFluent's managing agents, including but not limited to Samuel Reid (collectively, "Defendants"), in regard to violations of the California Labor Code ("Labor Code"). This letter serves as notice pursuant to the California Labor Code Private Attorneys General Act of 2004 ("PAGA"), codified at California Labor Code §§ 2698 through 2699.6, that we intend to include representative claims in an action for civil penalties under PAGA on behalf of a group of aggrieved employees ("PAGA Notice"). The \$75 filing fee made payable to the California Labor and Workforce Development Agency for the PAGA Notice was electronically paid and a copy of this PAGA Notice was submitted electronically to the Department of Industrial Relations. For the purposes of this letter, "Aggrieved Employees" is defined as:

*All current and former employees of Defendants within the State of California who are/were misclassified as independent contractors rather than non-exempt employees from one (1) year prior to the date of this letter and continuing into the present.*

**I. Plaintiff's Claims**

- a. *Defendants Have and Continue to Willfully Misclassify Non-Exempt Employees as Independent Contractors in Violation of Labor Code §§ 226.8 and 2753*

Defendants willfully and knowingly misclassify OneFluent's non-exempt employees as independent contractors, rather than true employees, in order to circumvent the laws, protections and benefits owed by Defendants, as employers, to Plaintiff and other aggrieved employees, as

their employees, pursuant to California law. Under the three-part *Dynamex* ABC-test, as codified in California Assembly Bill 5, Plaintiff and other aggrieved employees: (A) are not free from the control and direction of Defendants in the performance of their work, whether under contract and in performance of their work in fact; (B) do not perform work that is outside of the usual course of the Defendants' business; and (C) are not regularly engaged in the business of the same nature as the work performed for Defendants, independent of work for Defendants.

Pursuant to Labor Code § 226.8, it is unlawful for any person (such as Samuel Reid) or employer (such as OneFluent) to willfully misclassify an individual as an independent contractor. Further, pursuant to Labor Code § 2753, a person who, for money or other valuable consideration, knowingly advises an employer to treat an individual as an independent contractor to avoid employee status for that individual shall be jointly and severally liable with the employer if the individual is found not to be an independent contractor. Here, all Defendants knew Plaintiff and the other aggrieved employees should have been classified as employees, rather than independent contractors. This is evidenced by, among others, multiple discussions with said employees regarding the same as well as email communications.

b. *Defendants Violated and Continue to Violate Labor Code §§ 204, 510, 1194, 1197, 1197.1*

Pursuant to Labor Code § 1197, aggrieved employees are entitled to receive minimum wages for all hours worked. Labor Code § 510 requires an employer to compensate an employee who works more than eight (8) hours in one workday, forty (40) hours in a workweek, and for the first eight (8) hours worked on the seventh consecutive day no less than one and one-half times the regular rate of pay for an employee. Further, Labor Code § 510 obligates employers to compensate employees at no less than twice the regular rate of pay when an employee works more than twelve (12) hours in a day or more than eight (8) hours on the seventh consecutive day of work. In accordance with Labor Code § 1194, Plaintiff and the other aggrieved employees could not agree to work for a lesser wage.

From at least one year ago and continuing to the present, Defendants have had a consistent policy of failing to pay minimum wages and overtime wages at the proper amounts to Plaintiff and all aggrieved employees. Defendants misclassified Plaintiff and all aggrieved employees and as such failed to pay them on an hourly basis. By its common policy as outlined above, Defendants willfully violated the provisions of Labor Code § 510 and the applicable wage order.

Labor Code § 1197.1 authorizes employees who are paid less than the minimum fixed by an applicable state or local law, or by an order of the commission a civil penalty, restitution of wages, and liquidated damages as follows:

“(1) [f]or any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid . . . [and] (2) [f]or each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed.”

As set forth above, Defendants failed to compensate Plaintiff and all aggrieved employees for all minimum and overtime wages at the proper rates. Accordingly, through PAGA and to the extent permitted by law, Plaintiff and all aggrieved employees are entitled to recover liquidated damages for violations of Labor Code § 1197.1. Based upon these same factual allegations, Plaintiff and the other aggrieved employees are entitled to penalties under Labor Code § 1199.

c. *Defendants Violated and Continue to Violate Labor Code §§ 510, 1194, 1197.1, 1199*

Plaintiff further alleges Defendants consistently failed to provide her and other aggrieved employees meal periods, let alone timely meal periods (i.e., commencing after the fifth hour of work). Specifically, Defendants misclassified employees as independent contractors and as such failed to provide meal periods and failed to keep track of the same. Defendants failed to compensate the employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7. As a result of Defendants' unlawful meal period policies and practices, Plaintiff seeks to recover on behalf of herself and all aggrieved employees meal period premiums and penalties under Labor Code § 558. (See, *Thurman v. Bayshore Transit Management, Inc.*, 203 Cal.App.4th 1112.) Consequently, Defendants have violated Labor Code sections 226.7 and 512. Defendants are also liable for civil penalties pursuant to Labor Code sections 558 and 2698.

d. *Employees Were Not Provided with Duty-Free Rest Periods or Compensation for On-Duty Rest Periods*

Defendants also failed to authorize and permit Plaintiff and other aggrieved employees to take all required and paid rest periods. See Labor Code §§ 226.7 and 516; applicable Wage Order. Specifically, Plaintiff and other aggrieved employees worked shifts in excess of 3.5 hours, and were never authorized and permitted to take a paid rest period for every 4-hour period worked due to Defendants misclassifying the aggrieved employees as independent contractors. As a result, Plaintiff and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. See Labor Code § 226.7 (“[i]f an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.”) Defendants violated Labor Code §§ 226.7, 516, 558 and 2698 by their failure to comply with the law.

e. *Defendants' Violation of Labor Code §§ 2802 and 2804*

Defendants also failed, and continue to fail, to reimburse Plaintiff and other aggrieved employees for necessary business expenses incurred on behalf of Defendants, for the benefit of Defendants, and/or in accordance with directions from Defendants, including but not limited to, reimbursements for work-required cellular phone and internet data usage (e.g., data charges, call charges, and otherwise), as required by Labor Code sections 2802 and 2804. Consequently,

Plaintiff and other aggrieved employees would be entitled to recover penalties and interest on the cost of such unreimbursed expenses for such violations.

f. *Defendants' Violation of Labor Code §§ 226(a) and 226.3*

As a result of Defendants' failure to pay minimum wages, overtime wages, and failure to provide meal and rest periods or compensation in lieu thereof as described above, Defendants also intentionally failed, and continue to fail, to furnish employees with itemized wage statements that accurately reflect, including but not limited to, the correct amount of hours worked, gross and net wages paid, the deductions taken, and pay due and owing for meal and rest break law violations and hours worked that were not paid as required by Labor Code section 226(a). Consequently, since Defendants failed to comply with Labor Code section 226(a), Plaintiff and other aggrieved employees would be entitled to recover penalties under Labor Code section 226(e) and 2698.

g. *Defendants' Violation of Labor Code §§ 201-203*

Defendants also failed and refused, and continue to fail and refuse, to timely pay compensation to Plaintiff and other aggrieved employees, including but not limited to all wages owed as a result of Defendants' failure to pay minimum wages, overtime wages, and failure to provide meal and rest period premium pay. Consequently, Defendants are liable for waiting time penalties for having violated Labor Code section 201, 202 and 203. Defendants would also be liable for civil penalties pursuant to Labor Code section 2698.

## **II. Conclusion**

Pursuant to Labor Code section 2699.3(a)(2)(A), please advise within sixty-five (65) calendar days of the date of this notice whether your office intends to investigate the violations alleged herein above. We understand that if we do not receive a response from your office within sixty-five (65) calendar days of this PAGA Notice, Plaintiff may immediately thereafter pursue his interests and the interests of similarly situated employees with a civil complaint against Defendants for their violations of the Labor Code.

While we intend to pursue a PAGA representative and/or Class Action lawsuit against Defendants for misclassification, unpaid wages and civil penalties under Labor Code § 2699, it is our firm's policy to attempt to negotiate an early resolution of all matters where possible and beneficial to all aggrieved employees. If you are interested in resolving this matter, please contact me to discuss an informal discovery plan and the possibility of early mediation on or before **December 23, 2024.**

Very truly yours,



Sanjay Bansal, Esq.

Partner

Golden State Employment Lawyers