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11 **UNITED STATES DISTRICT COURT**
12 **FOR THE**
13 **DISTRICT OF ARIZONA**
14

15 **Stormee J. Brown, Julie Leggett, and**)
16 **Megan East, individually and on behalf of**)
17 **all others similarly situated,**)
18 **Plaintiffs,**)

19 **Case No.:**

20 **CIVIL COMPLAINT**

21 **AND**

22 **JURY TRIAL DEMAND**

23 **vs.**)

24 **(Violation of the Fair Labor Standard Act)**

25 **Pegasus Research Group, LLC d/b/a**)
26 **Televerde,**)
27 **Defendant.**)

28
29 Plaintiffs Stormee Brown, Julie Leggett and Megan East (“Plaintiffs”), on their own
30 behalf and on behalf of all similarly situated individuals, by and through their attorney, Eduardo
31 J. Celaya, bring this action against Defendant Pegasus Research Group, LLC, dba Televerde
32 (“hereinafter Pegasus”), for damages and other relief relating to violations of the Fair Labor
33 Standards Act (“FLSA”), 29 U.S.C. § 201 *et seq.*

34 **PRELIMINARY STATEMENT**

35 1. This Complaint is filed as a collective action under 29 U.S.C. § 216(b), and is brought by
36 and on behalf of persons who are or have been at some time employed during the applicable
37 limitations period as employees of Pegasus who challenge the willful policy of misclassifying its
38

1 Inside Marketing Representatives (hereinafter “IMRs”) and Inside Sales Representatives
2 (hereinafter “ISRs”) as exempt from the FLSA.

3
4 2. As a result of Pegasus’s unlawful misclassification of its IMRs and ISRs, Pegasus has
5 uniformly violated the requirement of the FLSA, by among other things:

6 A. Failing to pay its IMRs and ISRs at least the minimum wage required by Federal
7 law for every hour worked; and

8 B. Failing to pay its IMRs and ISRs overtime compensation for hours worked in
9 excess of 40 hours in one week.
10

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12 **JURISDICTION AND VENUE**

13 3. This Court has original jurisdiction to hear this Complaint and to adjudicate the claims
14 stated herein under 28 U.S.C. § 1331, this action being brought under the FLSA, 29 U.S.C.
15 §201 et seq.
16

17 4. Venue is proper in the United States District Court for the District of Arizona pursuant to
18 28 U.S.C. § 1391 because Plaintiffs worked for Defendant in this district, and because a
19 substantial part of the events or omissions giving rise to the claims occurred in this district.

20 5. This Court has personal jurisdiction over Defendant because it regularly transacts
21 business in and has significant and continuous contact with Arizona.
22

23 **PARTIES**

24 6. Defendant’s global headquarters is located in Phoenix, Arizona. According to its website,
25 Defendant employs over “350 +contact center sales agents”.

26 7. At all relevant times, Defendant has been an “employer” engaged in interstate commerce
27
28

1 and/or the production of goods or services for commerce, within the meaning of the FLSA, 29
2 U.S.C. § 203(d). Specifically, Defendant provides inside sales services and marketing services to
3 consumers nationwide.

4 8. Defendant's gross annual sales made or business done have been in excess of
5 \$500,000.00 and it employs more than 2 persons, therefore the FLSA applies in this case on an
6 enterprise basis.

7
8 9. Defendant's employees engage in interstate commerce, therefore they are also covered
9 under the FLSA on an individual basis.

10 10. Plaintiff Stormee Brown is an adult resident of the State of Arizona. Plaintiff was
11 employed by Defendant as an IMR from on or about January 26, 2015 until on or about
12 September 2, 2016.

13
14 11. Plaintiff Julie Leggett is an adult resident of the State of Arizona. Plaintiff was employed
15 by Defendant as an IMR from on or about July 2013 until on or about May 29, 2016.

16 12. Plaintiff Megan East is an adult resident of the State of Arizona. She was employed by
17 Defendant as an ISR from on or about September 2014 until on or about July 15, 2016.

18
19 13. At all relevant times, Plaintiffs have been Defendant's employees within the meaning of
20 the FLSA, 29 U.S.C. § 203.

21 **COLLECTIVE ACTION FACTUAL ALLEGATIONS**

22 14. Plaintiffs bring this action on behalf of themselves and all other similarly situated
23 individuals pursuant to 29 U.S.C. § 216(b). Plaintiffs and the similarly situated individuals who
24 work or worked as IMRs and ISRs, and in other positions with similar job titles and/or job duties
25 for Defendant. The proposed collective class is defined as follows: All persons who worked as
26 IMRs, ISRs, and in other positions with similar job titles and/or job duties for Defendant at any
27
28

1 time from three years prior to the filing of this Complaint through the entry of judgment (the
2 “FLSA Collective”).

3 15. Plaintiffs and the FLSA Collective are “similarly situated” as the term is defined in 29
4 U.S.C. § 216(b) and the associated case law, because, *inter alia*, (a) they have been or are
5 employed in the same or similar positions; (b) they were or are subject to the same or similar
6 unlawful practices, policy or plan; and (c) their claims are based on the same factual and legal
7 theories.
8

9 16. The FLSA Collective is readily identifiable and locatable through the use of Defendant’s
10 records. The FLSA Collective should be notified of and allowed to opt-in to this action, pursuant
11 to 29 U.S.C. § 216(b). Unless the Court promptly issues such a notice, the FLSA Collective, who
12 have been unlawfully deprived of pay in violation of the FLSA, will be unable to secure
13 compensation to which they are entitled, and which have been unlawfully withheld from them by
14 Defendant.
15

16 17. Plaintiffs have consented in writing to be a part of this action pursuant to 29 U.S.C. §
17 216(b). Plaintiffs’ signed consent forms are attached.
18

19 18. Defendant paid Plaintiffs and the FLSA Collective a salary with no overtime pay and
20 classified them as exempt employees.

21 19. Defendant willfully classified Plaintiffs and the FLSA Collective as exempt from the
22 FLSA’s overtime pay requirements in order to avoid paying them overtime wages. Defendant
23 informed Plaintiff Stormee Brown that it intentionally classified her position as exempt to avoid
24 paying her overtime as required by the FLSA.
25

26 20. Plaintiffs and the FLSA Collective did not perform exempt duties under the FLSA.
27
28

1 21. Due to the nature of their job responsibilities and duties set forth by the Defendant,
2 Plaintiffs and the FLSA Collective were required to meet deadlines of heavy volume with goals
3 impossible to meet within the standards of a regular forty (40) hour workweek. Plaintiffs and the
4 FLSA Collective were, and continue to be, required to work more than forty (40) hours per week
5 during the course of their employment with the Defendant.

6
7 22. Plaintiff and the FLSA Collective routinely worked over forty (40) hours in a workweek
8 and were not compensated by Defendant with overtime pay for the overtime hours they worked.
9 For example, *inter alia*, Plaintiffs routinely worked through their lunch periods and were not
10 compensated for that time. Defendant's Employee Handbook specifically states "The time spent
11 working during the meal break will be counted toward the total hours worked." Plaintiffs took
12 company laptops home and worked from home after regular work hours and on the weekends
13 and were not compensated for that time by Defendant. Plaintiff Stormee Brown on many
14 occasions came in early in the morning and left late in the evening which resulted in working
15 over 40 hours per week. Plaintiff Julie Leggett would be required to complete her regular duties
16 including 30-50 phone calls after attending company presentations during the day while on
17 company business trips which resulted in working over 40 hours per week.
18
19

20 23. Upon information and belief, Defendant has not inquired with the Department of Labor
21 seeking to establish or affirm that its pay practices were in compliance with the FLSA.

22 24. Upon information and belief, Defendant has not inquired with private legal counsel
23 seeking to establish or affirm that its pay practices were in compliance with the FLSA.
24

25 25. Defendant's Employee Handbook specifically refers to classes of employees and defines
26 non-exempt and exempt employees and overtime compensation.
27
28

1 26. Plaintiffs and the FLSA Collective were required to stay at the workplace until all work
2 for the day was completed and/or take a laptop home to complete the work which required them
3 to work more than 40 hours per week.

4 27. Plaintiffs and the FLSA Collective frequently worked more than 40 hours per week in
5 order to complete their assigned work.

6 28. Defendant is and was aware, or should have been aware, that Plaintiffs and the FLSA
7 Collective worked under the conditions described above.

8 29. Despite Defendant knowing that Plaintiffs and the FLSA Collective worked overtime
9 hours, Defendant denied them overtime compensation.

10 30. Defendant intentionally and willfully violated the FLSA by not allowing Plaintiffs and
11 the FLSA Collective from reporting their off the clock work.

12 31. Defendant uniformly intentionally and willfully misrepresented to Plaintiffs and the
13 FLSA Collective that they were exempt employees and therefore ineligible to receive overtime
14 pay.

15 32. Plaintiffs and the FLSA Collective are, and were, non-exempt employees who are, and
16 were, entitled to overtime pay.

17 33. Defendant did not allow Plaintiffs and the FLSA Collective to report actual time worked.
18 Plaintiffs were only allowed to report eight hours of work for each day worked even if they
19 worked more than eight hours per day.

20 34. Plaintiffs and the FLSA Collective were not allowed to report time worked when they
21 worked on the weekends or during company trips.

22 35. Defendant failed to make, keep, and preserve records of the hours actually worked by
23 Plaintiffs and the FLSA Collective.
24
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1 36. Defendant's unlawful conduct is widespread, repetitious, and consistent, affecting
2 Plaintiffs and the FLSA Collective.

3 37. For the reasons described in this Complaint, Defendant's conduct is willful and in bad
4 faith, and has caused significant damages to Plaintiffs and the FLSA Collective which entitles
5 them to a three-year statute of limitations.

6 38. Notice of this action should be sent to the FLSA Collective. There are numerous similarly
7 situated current and former employees of Defendant who have been denied appropriate
8 compensation in violation of the FLSA, who would benefit from a court supervised notice of the
9 lawsuit and the opportunity to join the case. Those similarly situated employees are known to
10 Defendant and are readily identifiable through Defendant's records.
11
12

13
14 **VIOLATION OF THE FAIR LABOR STANDARDS ACT**
15 **FAILURE TO PAY OVERTIME (on behalf of Plaintiffs and the FLSA Collective)**

16 39. Plaintiffs allege and incorporates by reference the allegations in the preceding
17 paragraphs.
18

19 40. The FLSA, 29 U.S.C. § 207, requires employers to pay all non-exempt employees one
20 and one-half times the regular rate of pay for all hours worked over forty (40) per workweek.

21 41. Plaintiffs and the FLSA Collective are employees entitled to FLSA overtime
22 compensation for all hours worked in excess of forty (40).
23

24 42. Plaintiffs and the FLSA Collective routinely work(ed) in excess of forty (40) hours per
25 week, but did not receive the appropriate overtime compensation from Defendant.

26 43. By failing to pay overtime compensation, Defendant violated the FLSA.
27
28

1 44. Evidence reflecting the precise number of overtime hours worked by Plaintiffs and the
2 FLSA Collective, as well as the applicable compensation rates, is in the possession of the
3 Defendant. If these records are unavailable, Plaintiffs and the FLSA Collective may establish the
4 hours they worked by their testimony, and the burden of overcoming such testimony shifts to the
5 employer. *See Anderson v. Mt. Clemens Pottery Co.*, 328 U.S. 680 (1946).

6
7 45. Furthermore, if Defendant failed to record, report, and/or preserve records of hours
8 worked by Plaintiffs and the FLSA Collective sufficient to determine their wages, hours, and
9 other conditions of employment, it is in violation of the FLSA, 29 U.S.C. § 255(a).

10 46. The Defendant's conduct, as alleged in this Complaint, constitutes a willful violation of
11 the FLSA, within the meaning of 29 U.S.C. § 255(a) which entitles Plaintiffs and the FLSA
12 Collective to a three-year statute of limitations.

13
14 47. As a direct and proximate result of Defendant's willful unlawful conduct, Plaintiffs and
15 the FLSA Collective have suffered and will continue to suffer a loss of income and other
16 damages. Plaintiffs and the FLSA Collective are entitled to liquidated damages and attorneys'
17 fees and costs incurred in connection with this claim under the FLSA's three-year statute of
18 limitations.
19

20
21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiffs, on behalf of themselves and the FLSA Collective, pray for relief as
23 follows:
24

- 25 A. Designation of this action as a collective action on behalf of Plaintiffs and those similarly
26 situated, and prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to all those
27 similarly situated apprising them of the pendency of this action, and permitting them to
28 assert timely FLSA claims in this action by filing individual consent forms pursuant to 29
U.S.C. § 216(b);

- 1 B. Declaration that Plaintiffs and the FLSA Collective are nonexempt employees entitled to
protection under the FLSA;
- 2 C. Judgment against Defendant for violation of the overtime provisions of the FLSA;
- 3 D. Declaration that Defendant's violations were and are willful;
- 4 E. Declaration that Defendant failed to maintain accurate time records of all the hours
5 worked by Plaintiff and the FLSA Collective in violation of the FLSA;
- 6 F. An award to Plaintiffs and the FLSA Collective for the amount of unpaid overtime wages
7 owed, liquidated damages and penalties where provided by law, and interest thereon,
8 subject to proof at trial;
- 9 G. An award of reasonable attorneys' fees and costs pursuant to 29 U.S.C. § 216 and/or
10 other applicable laws;
- 11 H. An award of pre-judgment interest and post-judgment interest;
- 12 I. Leave to add additional plaintiffs by motion, the filing of written consent forms, or any
13 other method approved by the Court;
- 14 J. Leave to amend to add state law claims if necessary; and
- 15 K. For such other and further relief, in law or equity, as this Court may deem appropriate
16 and just.

17
18 **PLAINTIFFS DEMAND TRIAL BY JURY ON ALL ISSUES SO TRIABLE.**

19
20 Dated this 7th day of November 2016.

21
22 /s/Eduardo J. Celaya

23 Eduardo J. Celaya

24 **LAW OFFICE OF EDUARDO J. CELAYA, PLLC**

25 1910 S. Stapley Drive, Suite 221

26 Mesa, Arizona 85204

27 Attorney for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Stormee J. Brown, Julie Leggett, Megan East, individually and on behalf of all others similarly situated,

Plaintiffs,

vs.

Pegasus Research Group, LLC d/b/a Televerde,

Defendant.

FLSA CONSENT TO BE A PARTY

CONSENT TO BECOME A PARTY PLAINTIFF UNDER 16(b) OF THE FAIR LABOR STANDARDS ACT,
29 U.S.C. § 216(b)

I hereby consent and agree to pursue my claim against the Defendant(s) and related companies arising out of federal and state laws in the above-referenced lawsuit. I understand and acknowledge that this lawsuit is being brought under the Fair Labor Standards Act of 1938 ("FLSA"), as amended (29 U.S.C. §§ 201 et seq.) to secure unpaid overtime wages, liquidated damages, attorney's fees, costs, and other relief arising out of my employment with the Defendant(s) and related companies.

Name Stormee Brown

Signature Stormee Brown

Dated 10/29/16

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Stormee J. Brown, Julie Leggett, Megan East, individually and on behalf of all others similarly situated,

Plaintiffs,

vs.


Pegasus Research Group, LLC d/b/a Televerde,

Defendant.

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Name  Julie Leggett

Signature 

Dated 11-3-16

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

<p>Stormee J. Brown, Julie Leggett, Megan East, individually and on behalf of all others similarly situated,</p> <p>Plaintiffs,</p> <p>vs.</p> <p>Pegasus Research Group, LLC d/b/a Televerde,</p> <p>Defendant.</p>	<p>FLSA CONSENT TO BE A PARTY</p>
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CONSENT TO BECOME A PARTY PLAINTIFF UNDER 16(b) OF THE FAIR LABOR STANDARDS ACT, 29 U.S.C. § 216(b)

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Name MEGAN EAST

Signature 

Dated 11/1/2016

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

**The completed cover sheet must be printed directly to PDF and filed as an attachment to the
Complaint or Notice of Removal.**

Plaintiff(s): Stormee Brown ; Julie Leggett ; Megan East **Defendant(s): Pegasus Research Group, LLC dba Televerde**

County of Residence: Maricopa

County of Residence: Maricopa

County Where Claim For Relief Arose: Maricopa

Plaintiff's Atty(s):

Defendant's Atty(s):

**Eduardo Joel Celaya (Stormee Brown ; Julie Leggett ; Megan East)
1910 S. Stapley Drive, Suite 221
Mesa, Arizona 85204
4803865193**

II. Basis of Jurisdiction: 3. Federal Question (U.S. not a party)

III. Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff:- N/A

Defendant:- N/A

IV. Origin : 1. Original Proceeding

V. Nature of Suit: 710 Fair Labor Standards Act

VI. Cause of Action: 29 U.S.C. 201

VII. Requested in Complaint

Class Action: **No**

Dollar Demand:

Jury Demand: **Yes**

VIII. This case is not related to another case.

Signature: /s/Eduardo J. Celaya

Date: 11/7/2016

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.

Revised: 01/2014

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Pegasus Research Group, LLC Hit with Wage and Hour Class Action](#)
