



3. Madeleine Watson worked for Blackboard as a salesperson in its K-12 division based out of her residence in Cook County, Illinois, from March 2015 until June 29, 2018. Her consent to participate in this action is attached as Exhibit B.

4. McMechen and Watson worked as salespeople in Blackboard's K-12 division, selling its educational software packages to educators, schools, and school districts according to assigned geographic territories and market segments according to the number of students in the schools or school districts. The assigned geographic territories and market segments to which Blackboard's K-12 salespeople were assigned changed over time. McMechen and Watson are referred to in this Complaint as "Female Salespeople" or "Plaintiffs."

5. During the entire time at Blackboard, the Female Salespeople were paid less than male salespeople in the K-12 division performing equal work, the performance of which required equal skill, effort, and responsibility, and which are performed under similar working conditions. Other female salespeople work and have worked at Blackboard without getting paid the same as male salespeople for equal work. Each similarly situated person who participates as a plaintiff in this lawsuit ("Opt-in Plaintiff Class Member") will execute and file a Notice of Consent. Individuals similarly situated to the Female Salespeople are the female salespeople who work or have worked in Blackboard's K-12 sales division, from three years prior to the filing of this Complaint to the present (collectively, the "Members of the Class").

### **JURISDICTION**

6. This Court has jurisdiction under 28 U.S.C. § 1331 because the Plaintiffs have asserted a claim arising under federal law, the Equal Pay Act, 29 U.S.C. § 206(d), which is enforced through the provisions of the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”). *See* 29 U.S.C § 206(d)(3).

### **VENUE**

7. Venue is proper in the Eastern District of Arkansas under 28 U.S.C. §1391(b) because Blackboard regularly conducts business in this District and the events forming the basis of the suit occurred in this District, including by employing McMechen to work from her residence in this District and by soliciting and doing business with schools and school districts in this District, including schools and school districts in Little Rock, Arkansas, and, on information and belief, throughout the University of Arkansas and Arkansas State University systems.

### **FLSA COVERAGE**

8. At all times mentioned, Blackboard has been an employer within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

9. At all times mentioned, Blackboard has been an enterprise within the meaning of Section 3(r) of the FLSA, 29 U.S.C. § 203(r).

10. At all times mentioned, Blackboard has been an enterprise engaged in interstate commerce within the meaning of Section 3(s)(1) of the FLSA, 29 U.S.C. § 203(s)(1). Blackboard has had employees engaged in interstate commerce and has had and has an annual gross volume of sales made or business done of not less than \$500,000 (exclusive of excise taxes at the retail level which are separately stated) during the relevant time period.

11. At all times mentioned, Plaintiffs and the Members of the Class were and/or are engaged in commerce or in the production of goods for commerce as required by 29 U.S.C. §§ 206-207.

### **FACTS**

12. Blackboard, which bills itself as the “#1 Global Education Software Provider,” provides educational software solutions to educators, schools, and school districts throughout the United States and worldwide. With at least fourteen locations in the United States alone, Blackboard is well aware of the Equal Pay Act’s requirements.

13. During the relevant time period, Female Salespeople and the Members of the Class were paid less for equal work than men. There has been a stark disparity in pay between Blackboard’s male and female salespeople despite performing virtually identical jobs. While they served different market segments and territories, these roles were interchangeable and identical in skill, effort, responsibility, and working conditions. All or nearly all of Blackboard’s salespeople in the K-12 division were based from their residences and traveled to sites to meet with clients and provided product demonstrations throughout their assigned territories.

14. However, for example, Watson was paid less than Chad Kreindler and Dan Gabbert, the only difference being, until January 2018, that they served different sizes of school districts and different territories. Since that time, Blackboard moved to having primarily only one salesperson per state, regardless of school size. This resulted in Watson’s and Kreindler’s jobs, which had overlapping territories, in particular to become even more identical, differing only in territory. McMechen was paid less than Kreindler and Adam Dolan, despite being in the same market segment as Dolan and typically serving more “strategic” (meaning, larger) schools than did Kreindler.

15. In January 2018, Watson's compensation structure was changed from a minimum \$55,000 base pay, with overtime, plus commissions, to \$75,000 base salary, without overtime, plus commission, which actually reduced her overall compensation package. McMechen's compensation included \$115,000 in base pay, plus commissions.

16. On information and belief, Kreindler was paid at least \$120,000 in base pay. The disparity, at least vis-à-vis Watson, is at least in part ostensibly due to his managerial status as a Director. Not only was Kreindler not a true Director, in that he did not manage any other employees, but he was also only had a few schools of the size typically necessary to be considered "strategic." McMechen was also a Director, but she also did not manage any other employees and her base pay was still less than Kreindler's. Kreindler otherwise primarily handled schools of the same size as Watson, and did not have as much relevant experience as any of the Female Sales Employees.

17. Gabbert was also paid more than Watson. On information and belief, his compensation included at least \$85,000 in base salary, despite having no prior sales experience.

18. On information and belief, Dolan's compensation included at least \$140,000 in base pay and increased to \$150,000 in base pay during the relevant time period. The pay disparity with Dolan is at least in part ostensibly due his title being a Regional Vice President, which is higher than Director, despite performing the same work as McMechen and other female salespeople, and reporting to the same person as McMechen.

19. Male salespeople such as Kreindler and Dolan were also eligible for \$50,000 bonuses that were not available to the Female Salespeople.

20. Blackboard is aware of the disparities in favor of male versus female salespeople.

21. Blackboard's conduct described above constitutes a willful and intentional violation of the Equal Pay Act.

22. The Female Salespeople are aware of other current and former female employees who are or were similarly situated in that they are or were salespeople in Blackboard's K-12 division who performed equal work as men but were paid less. Therefore, pursuant to 29 U.S.C. § 219(b), the Female Salespeople sue on behalf of themselves and all other female employees regardless of their title who are similarly situated employees. They also request that the Court authorize Plaintiffs' counsel to provide notice to similarly situated female employees without regard to their job title during the pendency of this action and apprise them of their right to join this lawsuit.

#### **INDIVIDUAL ALLEGATIONS**

23. 29 U.S.C. 206(d)(1) provides:

No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions[.]

24. Pursuant to 29 U.S.C. 206(d)(3), "any amounts owing to any employee which have been withheld in violation of this subsection shall be deemed to be unpaid minimum wages or unpaid overtime compensation under this chapter."

25. During the relevant period, the Female Salespeople were discriminated against on the basis of sex by being paid wages at a rate less than the rate at which Blackboard pays wages to employees of the opposite sex for equal work on jobs the performance of which require equal skill, effort, and responsibility, and which are performed under similar working conditions.

### **COLLECTIVE ACTION ALLEGATIONS**

26. The Members of the Class had similar job requirements, responsibilities, and conditions as the Female Salespeople. The Members of the Class were subjected to the same unequal pay practices and policies as the Female Salespeople. The Members of the Class are similarly situated in terms of Blackboard's failure to pay them the same as men pursuant to the Equal Pay Act.

27. Although the amount of damages may vary from individual to individual, the damages can be calculated by using a single mathematical formula that is individually applicable to each Member of the Class.

28. Accordingly, the class of similarly-situated Plaintiffs is properly defined as:

All current and former female employees of Blackboard Inc. employed in the United States as salespeople in the K-12 division during the three year period preceding the filing of this Complaint.

### **COUNT I: VIOLATION OF THE EQUAL PAY ACT (COLLECTIVE ACTION)**

29. The Female Salespeople incorporate the allegations in the preceding paragraphs as if fully set forth in their entirety.

30. During the relevant period, Blackboard violated the Equal Pay Act and the FLSA, 29 U.S.C. §§ 206(d), 215(a)(2), and 216(b). The Female Salespeople and Members of the Class perform equal work as men but were paid less. Blackboard has acted willfully in failing to equally pay the Female Salespeople and the Members of the Class in accordance with the law.

31. The Female Salespeople and the Members of the Class are therefore entitled to damages equal to the differential in pay on the basis of sex over the past three years. *See* 29 U.S.C. §§ 206(d), 216(b), and 255(a).

32. The Female Salespeople and the Members of the Class are also entitled to a separate amount equal to all of their unpaid overtime compensation as liquidated damages. *See* 29 U.S.C. § 216(b).

33. The Female Salespeople and the Members of the Class also are entitled to reasonable attorneys' fees, costs and expenses, and pre- and post-judgment interest. *See id.*

### **JURY DEMAND**

Plaintiffs hereby demand a trial by jury.

### **RELIEF SOUGHT**

The Female Salespeople and the Members of the Class request judgment against Blackboard awarding:

- a. Damages due the Female Salespeople and the Opt-in Plaintiff Class Members;
- b. Liquidated damages equal in amount to the damages due to the Female Salespeople and the Opt-in Plaintiff Class Members;
- c. Reasonable attorneys' fees;
- d. Costs and expenses;
- e. Pre- judgment and post-judgment interest at the highest rates allowed by law; and
- f. Such other relief as may be necessary and appropriate.



Dated: November 13, 2018.

Respectfully Submitted,



Jennifer J. Spencer

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(972) 770-2156 (Fax)

**ATTORNEYS FOR PLAINTIFFS**

**TINA MCMECHEN AND**

**MADELEINE WATSON**

**EXHIBIT A**  
**Consent Form – Tina McMechen**

IN RE: EQUAL PAY ACT ACTION AGAINST

BLACKBOARD INC.

**NOTICE OF CONSENT**

I, Tina McMechen, an employee formerly employed by Blackboard Inc., hereby consent to be a party plaintiff in an action to collect unpaid wages.

Tina McMechen  
Signature

11/11/18  
Date

**EXHIBIT B**  
**Consent Form – Madeleine Watson**

**IN RE: EQUAL PAY ACT ACTION AGAINST**

**BLACKBOARD INC.**

**NOTICE OF CONSENT**

I, Madeleine Watson, an employee formerly employed by Blackboard Inc., hereby consent to be a party plaintiff in an action to collect unpaid wages.

Madeleine Watson  
Signature

11/06/2018  
Date

JS 44 (Rev. 06/17)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

TINA McMechen and MADELEINE WATSON, individually and on behalf of all similarly situated employees

(b) County of Residence of First Listed Plaintiff Craighead County, AR  
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
 Jennifer J. Spencer, Mary L. Scott, James E. Hunnicutt, Spencer Scott pllc, 12221 Merit Drive, Suite 160, Dallas, Texas 75251, (972) 458-5301

**DEFENDANTS**

BLACKBOARD, INC.

County of Residence of First Listed Defendant \_\_\_\_\_  
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff  
 2 U.S. Government Defendant  
 3 Federal Question (U.S. Government Not a Party)  
 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- 1 Original Proceeding  
 2 Removed from State Court  
 3 Remanded from Appellate Court  
 4 Reinstated or Reopened  
 5 Transferred from Another District (specify)  
 6 Multidistrict Litigation - Transfer  
 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. § 1331, 29 U.S.C. § 201, 29 U.S.C. § 203, 29 U.S.C. § 206  
 Brief description of cause:  
Collective Action Case for violation of the Equal Pay Act

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMANDS**  
 CHECK YES only if demanded in complaint:  
**JURY DEMAND:**  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE 11-13-18 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Blackboard Accused of Pay Discrimination by Female Sales Employees](#)

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