

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STEVEN SERABIAN,  
Plaintiff,

v.

SAP AMERICA, INC.,  
Defendant.

CIVIL ACTION: 1:16-cv-10501-DJC

**SAP AMERICA, INC.’S RENEWED MOTION FOR JUDGMENT  
AS A MATTER OF LAW AT THE CLOSE OF EVIDENCE**

Pursuant to the provisions of Rule 50(a) of the Federal Rules of Civil Procedure, defendant, SAP America, Inc. (“SAP”), respectfully now moves at the close of all evidence that this Court rule, as a matter of law, in SAP’s favor as to all remaining counts against SAP in the Complaint: Failure to Pay Wages pursuant to M.G.L. c. 149 § 148 (Count I); and Retaliatory Termination pursuant to M.G.L. c. 149 § 148 (Count V).<sup>1</sup> As reasons therefore, SAP incorporates in full all legal and factual arguments stated within its Motion for Directed Verdict at the close of Plaintiff, Steven Serabian’s case (D. 131), including those stated in the supporting Memorandum to the motion (D. 132). In addition, SAP states that:

- On Count I, there has been no evidence that Plaintiff was not paid commissions that were definitely determined “due and payable” to him under the document he claims is his commission plan (Trial Exhibit 19), which clearly states that commissions are not due and payable unless they are earned as of the last date of employment.
- On Count I, there has been no evidence that Plaintiff was not paid commissions that were due and payable under the terms and conditions of Exhibit 19, which clearly states that commissions were not due and payable unless the customer has paid in full.

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<sup>1</sup> Count V was incorrectly numbered in the Complaint as a second Count IV.

- On Count V, there has been no evidence supporting a claim for front pay. In particular, there has been no evidence concerning the amounts that Plaintiff expects to make in the future, the length of time Plaintiff expected to remain employed at SAP if he had not been included in a layoff, and the amount of time Plaintiff expects to work until retirement.

September 28, 2018

Respectfully submitted,  
SAP America, Inc.  
By its attorneys,

/s/ Bronwyn L. Roberts  
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**CERTIFICATE OF SERVICE**

I hereby certify that this document filed on September 28, 2018 through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on the date of electronic filing.

/s/ Bronwyn L. Roberts  
Bronwyn L. Roberts

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