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8
9 **IN THE UNITED STATES DISTRICT COURT**
10 **DISTRICT OF ARIZONA**

11 Ian A. Henderson, on behalf of himself
12 and all those similarly situated,

13 Plaintiff,

14 v.

15 San Diego Sunrise Management
16 Company, a California corporation,

17 Defendant.
18

Case No.

**COLLECTIVE ACTION AND CLASS
ACTION COMPLAINT**

[JURY TRIAL DEMANDED]

19
20 Plaintiff Ian A. Henderson (“Plaintiff”), individually and on behalf of all others
21 similarly situated, for his Complaint against Defendant San Diego Sunrise Management
22 Company (“Sunrise”) alleges as follows:

23 **I. NATURE OF THE CASE**

24 1. Plaintiff brings this action against Sunrise for its unlawful failure to pay
25 overtime wages in violation of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*
26 (“FLSA”) and its unlawful failure to pay wages due in violation of the Arizona Wage
27 Statute, A.R.S. § 23-350 *et seq.*
28

1 24. Rather, Sunrise improperly stated that the Company had discretion as to
2 whether to pay Plaintiff bonuses he had earned once he put the Company on notice that he
3 was resigning his employment there.

4 25. However, Plaintiff had a reasonable expectation to be paid the bonuses that
5 had accrued and became due and owing prior to the conclusion of his employment with
6 Sunrise.

7 26. For example, Plaintiff earned bonuses in April 2022, which should have been
8 paid out in May 2022.

9 27. Sunrise failed to pay Plaintiff the bonuses he earned and that had become due
10 because Plaintiff put in his notice that he was leaving employment with Sunrise effective
11 May 12, 2022.

12 28. In addition, Sunrise failed to pay Plaintiff all the overtime wages he was due
13 during his employment.

14 29. For example, for the pay period from January 1, 2022 until January 15, 2022,
15 Plaintiff was paid \$18.00 per hour for 80 hours and \$27.00 per hour for 5.13 hours of
16 overtime. During that same pay period, Plaintiff earned a \$300 non-discretionary bonus.
17 However, Sunrise failed to calculate his overtime rate to include the non-discretionary
18 bonus he earned in violation of the FLSA.

19 30. Similarly, for the pay period from February 1, 2022 until February 15, 2022,
20 Plaintiff was paid \$18.00 per hour for 88.93 hours and \$27.00 per hour for 3.58 hours
21 designated on the pay stub as overtime. During that same pay period, Plaintiff earned a
22 non-discretionary bonus of \$500. Sunrise failed to pay Plaintiff time and a half his regular
23 rate of pay for the hours of overtime he worked this period, by not accounting for his non-
24 discretionary bonus when calculating his overtime rate in violation of the FLSA.

25 31. There were also times when Sunrise paid Plaintiff his regular hourly rate for
26 hours worked over forty in a workweek. For example, for the pay period from March 16,
27 2022 until March 31, 2022, Plaintiff was paid \$18.00 per hour for 99.63 hours and \$27.00
28 per hour for 2.3 hours designated on the pay stub as overtime. Sunrise improperly calculated

1 overtime Plaintiff worked at his straight hourly rate of \$18.00 for hours he should have been
2 paid at the proper overtime rate required by the FLSA.

3 32. These examples demonstrate how Sunrise failed to pay Plaintiff all the
4 overtime he was due, including overtime that was properly calculated as required by the
5 FLSA.

6 33. There were numerous other pay periods in which Sunrise failed to pay
7 Plaintiff overtime at the rate required by the FLSA.

8 34. Despite having worked numerous hours of overtime, Plaintiff was not paid
9 proper overtime wages at a rate of one and one-half times his regular rate of pay for hours
10 worked over forty in a work week.

11 35. Sunrise also failed to timely pay Plaintiff all the wages that he was due in
12 violation of the Arizona Wage Statute, including non-discretionary bonuses he earned and
13 hours and wages that were improperly calculated by Sunrise.

14 36. For example, Plaintiff was due numerous non-discretionary bonuses for
15 apartments he leased prior to the conclusion of his employment on May 12, 2022. When
16 he put in his notice of resignation, he notified Sunrise of the non-discretionary bonuses he
17 expected to be paid on the next regular pay day in accordance with Arizona law.

18 37. Rather than pay Plaintiff on the next regular pay date as required by Arizona
19 law when an employee quits, Sunrise did not issue a final paycheck to Plaintiff until June
20 6, 2022, which is after the next regular pay day that would have occurred in late May 2022.

21 38. In addition to paying Plaintiff his final paycheck late, Sunrise also failed to
22 pay Plaintiff wages he was due with his final paycheck. Plaintiff's paystub dated June 6,
23 2022 only accounted for hours worked in accordance with his hourly rate, and Sunrise failed
24 to pay Plaintiff for numerous non-discretionary bonuses he had earned during his
25 employment.

26 39. For example, Plaintiff earned non-discretionary bonuses based on properties
27 he leased in April and May of 2022. However, Sunrise did not pay him for the bonuses he
28 had earned during his employment.

1 A. For the Court to order Sunrise to furnish to Plaintiff’s counsel a list of the
2 names and contact information of all current and former Leasing Professionals who worked
3 for a Sunrise in Arizona within the past three years;

4 B. For the Court to authorize Plaintiff’s counsel to issue notice at the earliest
5 possible time to all current and former Leasing Professionals who worked for Sunrise in
6 Arizona within the past three years immediately preceding this action, informing them that
7 this action has been filed and the nature of the action, and of their right to opt-in to this
8 lawsuit if they worked during the Liability Period;

9 C. For the Court to declare and find that Sunrise committed one or more of the
10 following acts:

11 i. violated overtime provisions of the FLSA, 29 U.S.C. § 207, by failing
12 to pay overtime wages to Plaintiff and persons similarly situated who opt-in to this action;

13 ii. willfully violated overtime provisions of the FLSA, 29 U.S.C. § 207;

14 iii. willfully violated the Arizona Wage Statute by failing to timely pay all
15 wages due to Plaintiff and persons similarly situated;

16 D. For the Court to award compensatory damages, including liquidated damages
17 pursuant to 29 U.S.C. § 216(b) and treble damages pursuant to A.R.S. § 23-355, to be
18 determined at trial;

19 E. For the Court to award interest due and accruing from the date such amounts
20 were due;

21 F. For the Court to award such other monetary, injunctive, equitable, and
22 declaratory relief as the Court deems just and proper;

23 G. For the Court to award restitution;

24 H. For the Court to award Plaintiff’s reasonable attorneys’ fees and costs
25 pursuant to 29 U.S.C. § 216(b) and other applicable law;

26 I. For the Court to award pre- and post-judgment interest;

27 J. For the Court to award Plaintiff’s resulting consequential damages, in an
28 amount to be proven at trial; and

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K. For such other relief as the Court deems just and proper.

X. DEMAND FOR JURY TRIAL

73. Plaintiff, on behalf of himself and all others similarly situated, hereby demands trial of his claims by jury to the extent authorized by law.

DATED: July 14, 2022.

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