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12 **IN THE UNITED STATES DISTRICT COURT**
 13 **DISTRICT OF ARIZONA**

14 Jose A. Vega, on behalf of himself and all
 15 those similarly situated,

16 Plaintiff,

17 v.

18 All My Sons Business Development, LLC,
 19 a Delaware limited liability company; All
 20 My Sons Moving & Storage of Tucson
 21 LLC, a Delaware limited liability company;
 22 All My Sons Moving & Storage of Phoenix
 23 LLC, a Delaware limited liability company;
 24 All My Sons of Mesa LLC, a Delaware
 limited liability company,

Defendants.

Case No.

**COLLECTIVE ACTION AND CLASS
 ACTION COMPLAINT**

[Jury Trial Demanded]

25 Plaintiff Jose A. Vega (“Plaintiff”), on behalf of himself and all others similarly
 26 situated, brings this action against Defendants All My Sons Business Development, LLC,
 27 All My Sons Moving & Storage of Tucson LLC, All My Sons Moving & Storage of Phoenix
 28 LLC, and All My Sons of Mesa LLC (collectively “All My Sons” or “Defendant”) for

1 violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, *et seq.* and Arizona
2 wage and paid sick time laws, A.R.S. § 23-350 *et seq.*, A.R.S. § 23-363 *et seq.*, and A.R.S.
3 23-371 *et seq.* (collectively the “Arizona Wage Statute”).

4 **NATURE OF THE ACTION**

5 1. Plaintiff alleges on behalf of himself and all other similarly situated non-
6 exempt employees employed as Movers and paid on an hourly basis by Defendant who elect
7 to opt into this action pursuant to the FLSA, 29 U.S.C. § 216(b) that they are entitled to
8 unpaid wages, including unpaid overtime for all hours worked exceeding forty (40) hours
9 in a workweek and unpaid minimum wage, liquidated damages, and attorneys’ fees and
10 costs, pursuant to the FLSA, 29 U.S.C. §§ 201, *et seq.*

11 2. Plaintiff further complains, pursuant to Fed. R. Civ. P. 23, on behalf of himself
12 and a class of similarly situated non-exempt employees employed as Movers and paid on
13 an hourly basis by Defendant within the state of Arizona, that they are entitled to the
14 minimum wage and timely payment of all wages due, plus interest, treble damages, and
15 penalties as allowed by the Arizona Wage Statute, A.R.S. § 23-350 *et seq.* and A.R.S. § 23-
16 362 *et seq.* and that they are entitled to accrued paid sick time as required by A.R.S. §§ 23-
17 364 and 23-371 *et seq.*

18 **JURISDICTION AND VENUE**

19 3. The FLSA authorizes civil actions by private parties to recover damages for
20 violations of the FLSA’s wage and hour provisions. This Court has jurisdiction over
21 Plaintiff’s FLSA claims pursuant to 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.

22 4. This Court has supplemental jurisdiction over Plaintiff’s state law claims
23 pursuant to 28 U.S.C. § 1367 because they arise from the same case and controversy as the
24 FLSA claim. The state and federal claims derive from a common nucleus of operative fact,
25 the state law claims will not substantially dominate over the FLSA claim, and exercising
26 supplemental jurisdiction would be in the interests of judicial economy, convenience,
27 fairness, and comity.

28

1 14. Defendant All My Sons Moving & Storage of Phoenix LLC is a Delaware
2 limited liability company that does business as a moving and storage company in Arizona.

3 15. Defendant All My Sons of Mesa LLC is a Delaware limited liability company
4 that does business as a moving and storage company in Arizona.

5 16. Defendant All My Sons Business and Development, LLC has its corporate
6 headquarters in Carrollton, Texas. This central location develops the policies and human
7 resources practices applicable to all of the All My Sons locations and employees nationwide,
8 including those Movers in Arizona at the All My Sons of Mesa LLC, All My Sons Moving
9 & Storage of Tucson LLC, and All My Sons Moving & Storage of Phoenix LLC locations.
10 All the Movers in Arizona have their compensation policies and practices and employment
11 directed by Defendants, which sends out applicable training and policies related to their
12 employment from the corporate headquarters in Texas to all the Movers at all the Arizona
13 locations. For example, All My Sons distributes its employee handbook, payroll policies,
14 and wage withholdings through its central headquarters location in Carrollton, Texas to all
15 of the Movers employed throughout Arizona regardless of which individual office the
16 Mover works from.

17 17. Under the FLSA and Arizona Wage Statute, Defendants All My Sons
18 Business Development, LLC, All My Sons Moving & Storage of Tucson LLC, All My Sons
19 Moving & Storage of Phoenix LLC, All My Sons of Mesa LLC are employers of the
20 Movers. They are responsible for determining the method and rate of Plaintiff's payment of
21 wages and make decisions affecting Plaintiff's hiring, training, employment, and
22 compensation at All My Sons.

23 18. All My Sons provides moving services for customers throughout Arizona.

24 19. Plaintiff Jose A. Vega was, at all relevant times, an individual residing in
25 Tucson, Arizona in Pima County and is employed as a Mover for All My Sons there.

26 20. At all relevant times, Plaintiff Vega was employed by All My Sons as a
27 Mover, which is a non-exempt position that paid an hourly rate of \$12 per hour. Plaintiff
28 Vega's Consent to Become a Party Plaintiff and Opt-In to Lawsuit pursuant to 29 U.S.C. §

1 216(b) is attached hereto as Exhibit A, opting him into this action to pursue unpaid overtime
2 and minimum wage under the FLSA.

3 **COLLECTIVE ACTION ALLEGATIONS**

4 21. Plaintiff Vega brings Counts I and II, the FLSA unpaid overtime claim and
5 FLSA unpaid minimum wage claim, pursuant to 29 U.S.C. § 216(b) on behalf of himself
6 and the following similarly situated employees of Defendant:

7 All hourly employees of All My Sons who worked as Movers in Arizona
8 during the last three years, regardless of actual title (“Off-the-Clock
9 Collective Action Members”).

10 22. Plaintiff, on behalf of himself and all other similarly situated hourly, non-
11 exempt employees who worked as Movers for All My Sons in Arizona during the last three
12 years, seeks relief on a collective basis challenging Defendant’s practice of failing to pay
13 its employees overtime and the minimum wage for all hours worked. The number and
14 identity of other plaintiffs yet to opt-in and consent to be party plaintiffs to the collective
15 action may be determined from Defendant’s records and potential Collective Action
16 Members may easily and quickly be notified of the pendency of this action.

17 23. Plaintiff is similarly situated to the Off-the-Clock Collective Action Members
18 because they all are subject to similar payroll policies and procedures. Defendant requires
19 the similarly situated Off-the-Clock Collective Action Members to work overtime but fails
20 to pay them the overtime rate of one and one half their regular hourly rate of pay for hours
21 worked over forty in a workweek. Defendant also requires the similarly situated Off-the-
22 Clock Collective Action members to work hours for which they are not paid, causing their
23 wages to fall below the minimum wage required by law. The Off-the-Clock Collective
24 Action Members are also similarly situated because they all utilize Defendant’s time
25 recording and reporting practices and are subject to similar pay practices and job duties.

26 24. Defendant’s overtime and minimum wage practices were routine and
27 consistent. Throughout the relevant time period over the past three years, the Off-the-Clock
28

1 Collective Action Members regularly were not paid the proper overtime and minimum
2 wage.

3 25. Plaintiff and the Off-the-Clock Collective Action Members performed the
4 same or similar job duties as Movers. Moreover, they regularly worked more than forty
5 hours in a workweek and were required to work off the clock without receiving proper
6 overtime wages. The requisite off the clock work they performed also resulted in their wages
7 routinely falling below the minimum wage. Accordingly, the employees victimized by
8 Defendant's unlawful pattern and practices are similarly situated to Plaintiff in terms of
9 employment and pay provisions.

10 26. Defendant's failure to pay overtime and minimum wage compensation at the
11 rates required by the FLSA result from generally applicable policies or practices and do not
12 depend on the personal circumstances of the members of the collective action. Thus,
13 Plaintiff's experience is typical of the experience of the other non-exempt hourly employees
14 employed by Defendant as Movers.

15 27. The Off-the-Clock Collective Action Members, including Plaintiff, regardless
16 of their precise job requirements or rates of pay, are entitled to overtime compensation for
17 hours worked in excess of forty per workweek and the minimum wage. Although the issue
18 of damages may be individual in character, there is no detraction from the common nucleus
19 of facts pertaining to liability.

20 28. Plaintiff will fairly and adequately protect the interests of the Off-the-Clock
21 Collective Action Members and has retained counsel experienced and competent in the
22 practice of wage and hour law and class and collective action litigation. Plaintiff has no
23 interest that is contrary to or in conflict with the putative members of this collective action.

CLASS ACTION ALLEGATIONS

24 29. Plaintiff brings Counts III, IV and V, the Arizona Wage Statute unpaid wage
25 and paid sick time claims, as a Rule 23 class action on behalf of himself and the following
26 persons:
27
28

1 All hourly employees who worked as Movers for All My Sons in Arizona
2 during the last three years, regardless of actual title (“Arizona Class
3 Members”).

4 30. Plaintiff’s Rule 23 class claims satisfy the numerosity, commonality,
5 typicality, adequacy, and superiority requirements of a class action pursuant to Fed. R. Civ.
6 P. 23.

7 31. Plaintiff’s Rule 23 state law class claims satisfy the numerosity requirement
8 of a class action. The Arizona Class Members identified above are so numerous that joinder
9 of all members is impracticable. Although the precise number of potential class members
10 is unknown, and the facts for calculating that number are presently within the sole control
11 of Defendant, upon information and belief, there are more than forty Arizona Class
12 Members.

13 32. Questions of law and fact common to the Arizona Class Members
14 predominate over questions that may affect only individual members because Defendant
15 has acted on grounds generally applicable to all Arizona Class Members. Among the
16 questions of law and fact common to Plaintiff and the Arizona Class Members are:

- 17 a. whether Defendant employed the Arizona Class Members within the
18 meaning of the Arizona Wage Statute;
- 19 b. whether Defendant owes the Arizona Class Members wages in
20 exchange for all work performed;
- 21 c. whether Defendant owes the Arizona Class Members the minimum
22 wage;
- 23 d. whether Defendant is liable for damages under the Arizona Wage
24 Statute, including but not limited to compensatory damages, statutory
25 damages, interest, and treble damages; and
- 26 e. whether Defendant owes paid sick time or other penalties to the
27 Arizona Class Members for its failure to accrue and provide paid sick
28

1 time and provide requisite notice of paid sick time as required by
2 Arizona law.

3 33. Plaintiff's claims under Arizona state law are typical of those of the Arizona
4 Class Members because they have been employed in the same or similar positions as
5 Plaintiff and were subject to the same or similar unlawful payroll practices as Plaintiff.

6 34. The common questions set forth above predominate over any questions
7 affecting only individual persons, and a class action is superior with respect to
8 considerations of consistency, economy, efficiency, fairness, and equity to other available
9 methods for the fair and efficient adjudication of the state law claims.

10 35. A class action is appropriate for the fair and efficient adjudication of this
11 controversy. Defendant acted or refused to act on grounds generally applicable to the entire
12 class. The presentation of separate actions by individual class members could create a risk
13 of inconsistent and varying adjudications, establish incompatible standards of conduct for
14 Defendant, and substantially impair or impede the ability of the class members to protect
15 their interests. The damages suffered by individual class members may be relatively small,
16 and the expense and burden of individual litigation make it virtually impossible for the
17 members of the class action to individually seek redress for the wrongs done to them.

18 36. Plaintiff will fairly and adequately represent the interests of the Arizona Class
19 Members and has retained counsel experienced and competent in wage and hour law and
20 class action litigation. Plaintiff has no interest that is contrary to or in conflict with those
21 members of this class action.

22 **STATEMENT OF FACTS**

23 37. The Off the Clock Collective Action Members and Arizona Class Members
24 are collectively referred to as Movers.

25 38. All My Sons is an "employer" within the meaning of the FLSA and the
26 Arizona Wage Statute.

27 39. Plaintiff was hired by All My Sons as a non-exempt employee paid on an
28 hourly basis on May 13, 2020.

1 40. Plaintiff is employed as a non-exempt, hourly employee working as a Mover.

2 41. Plaintiff is paid at an hourly rate of \$12.00 per hour, which is the minimum
3 wage required for employees in Arizona in 2020 pursuant to A.R.S. § 23-363.

4 42. Plaintiff and the other similarly situated employees perform routine labor on
5 behalf of All My Sons including providing labor for moving All My Sons' customers'
6 personal belongings throughout Arizona.

7 43. All My Sons boasts that it is one of the premier residential moving firms in
8 the country with over 60 offices nationwide.

9 44. All My Sons operates from a central headquarters that dictates employment
10 policies and payroll policies for the Movers throughout the country, including the offices in
11 Arizona.

12 45. The Movers are subject to uniform compensation policies and practices
13 regarding their compensation. These policies and practices are dictated by All My Sons
14 through corporate training documents distributed to the Movers when they are hired,
15 including information regarding the All My Sons' employment and compensation policies
16 applicable to the Movers.

17 46. While Plaintiff's job duties frequently required him to work in excess of forty
18 hours per workweek, he was routinely denied the overtime rate of time and a half for the
19 overtime he worked. All My Sons also routinely failed to pay Plaintiff for all the hours he
20 worked, resulting in unpaid straight time, unpaid overtime, and unpaid minimum wage.

21 47. All My Sons had a policy and practice of requiring Movers like Plaintiff to
22 work off the clock.

23 48. Movers like Plaintiff are first required to report to the All My Sons Dispatch
24 Center to start their work. Once at the Dispatch Center, they are required to conduct work
25 to prepare for their day of moving. They have to get the company tablet, obtain supplies,
26 and gas up the Company vehicle.

27 49. Once they finish their duties at the Dispatch Center, Movers like Plaintiff then
28 travel to the first customer location to move the customers' belongings.

1 50. All My Sons does not consider Plaintiff and Movers clocked in and does not
2 start paying them for their work until they arrive at the first customer location of the day.
3 Movers like Plaintiff are not paid for their work at the Dispatch Center or traveling from the
4 Dispatch Center to their first customer site each day in violation of the FLSA.

5 51. In fact, Movers like Plaintiff are only paid for the time they are performing
6 labor at a customer's location. They are not paid for the time it takes to drive from customer
7 site to customer site throughout the day. They also are not paid for the time it takes to drive
8 from the final customer location of the day back to the All My Sons Dispatch Center at the
9 end of the day.

10 52. This regular practice of requiring Movers like Plaintiff to work off the clock
11 results in them not being paid for all the time they worked, including straight time and
12 overtime.

13 53. All My Sons engaged in the regular practice of failing to accurately record the
14 time during which it suffered or permitted Plaintiff to work. As such, All My Sons' payroll
15 records understate the duration of time that it suffered and permitted Plaintiff to work during
16 each week of his employment.

17 54. Plaintiff estimates that he is required to work as many as five hours off the
18 clock on a given day. He is only paid \$12 per hour for the hours actually reported on his
19 pay stubs, which does not include the hours he is required to work off the clock. When
20 counting the numerous hours per week that he is required to work off the clock, his hourly
21 wage falls below the minimum wage required by the FLSA and Arizona law.

22 55. In addition, All My Sons' wage practices that require Movers like Plaintiff to
23 work off the clock result in them not being paid all the straight time and overtime they are
24 due.

25 56. All My Sons' failure to pay wages is likely a result of its failure to maintain
26 accurate records of its Movers' time and payroll in violation of the FLSA, including records
27 sufficient to accurately determine the wages and hours of employment for Plaintiff and the
28 similarly situated Movers.

1 57. The routine off the clock work caused the Movers' wages to fall below the
2 minimum wage for each week during their employment. Defendant also failed to pay them
3 time and a half their regular rate of pay for hours worked over forty in a workweek.

4 58. For example, Plaintiff worked at least 40 hours during the week from May 11,
5 2020 to May 17, 2020. However, Defendant's payroll records for Plaintiff indicate that he
6 was only paid for 24 hours during this pay period at \$12 per hour for a total of \$288. As a
7 result, Plaintiff was not paid for 16 hours of work during this pay period. Plaintiff's hourly
8 wage for the hours actually worked was only \$7.20 when calculating the amount he was
9 compensated (\$288) divided by total hours worked (40), demonstrating that Defendant
10 failed to pay him the minimum wage required by law. Furthermore, Defendant failed to
11 pay Plaintiff for 16 hours of straight time wages owed at his regular hourly rate.

12 59. In addition, Plaintiff was not paid all the overtime he was due. For example,
13 Plaintiff worked at least 60 hours during the week from May 18, 2020 to May 24, 2020.
14 However, Defendant's payroll records for Plaintiff indicate that he was only paid for 45.75
15 hours during this pay period at his regular hourly rate of \$12 per hour for a total of \$549.
16 As a result, Plaintiff was not paid for 14.25 hours of work during this pay period. Defendant
17 failed to pay Plaintiff time and a half his regular rate of pay for all hours worked in excess
18 of forty hours during this workweek, resulting in him only being paid his regular rate of \$12
19 per hour for 45.75 hours instead of the legally required \$18 per hour for the 20 hours he was
20 required to work in excess of forty hours during this workweek. In addition, Plaintiff's
21 hourly wage for the hours he actually worked was only \$9.15 when calculating the amount
22 he was compensated (\$549) divided by total hours worked (60), demonstrating that
23 Defendant failed to pay him the minimum wage required by law.

24 60. These are just two examples of Defendant's pattern and practice of routinely
25 failing to pay non-exempt, hourly employees like Plaintiff the proper overtime rate and
26 minimum wages they are owed, which occurred during the typical week of their
27 employment.

28

1 61. Plaintiff and the Movers are also required to complete mandatory training for
2 which they were not paid. For example, Plaintiff spent approximately 1.5 hours completing
3 mandatory training regarding his job duties and requirements but he was not paid for this
4 time.

5 62. The Arizona Wage Statute, A.R.S. §§ 23-363(A), (B), establishes the
6 minimum wage that employers in Arizona must pay their employees.

7 63. The minimum wage in Arizona is \$12 per hour for 2020. When All My Sons
8 required Plaintiff to work off the clock, it resulted in his wages falling below the minimum
9 wage required.

10 64. Defendant routinely failed to pay Plaintiff and the similarly situated non-
11 exempt hourly employees employed as Movers time and a half their regular rate of pay for
12 the overtime they were required to work.

13 65. A significant part, if not all, of this unpaid wages and overtime work is
14 evidenced in Defendant's own payroll, time-recording, and attendance records, most of
15 which are exclusively in Defendant's own possession.

16 66. Defendant's policy and practice is to willfully deny its hourly, non-exempt
17 employees employed as Movers overtime pay for hours worked beyond forty in a workweek
18 and minimum wage they are due.

19 67. Defendant failed to timely pay Plaintiff and the similarly situated employees
20 all the wages they were due. This is evident from Plaintiff's experiences and conversations
21 with other Movers who were subject to the same unlawful pay practices that he was. In
22 addition, there are numerous online complaints about All My Sons' wage practices in
23 Arizona on Indeed.com, in which employees of All My Sons complain that the Company is
24 "extremely demanding without proper compensation," "you can work 40 to 50 to 60 hours
25 a week which employees don't get paid overtime and yet they charge the customer overtime
26 rates and when you have to load the trucks up in the morning you don't get paid for it not
27 until you get to the customs (sic) house," and "my check was short every week."

28

1 68. In addition, All My Sons failed to provide the requisite notice to Plaintiff and
2 the similarly situated employees of their rights to paid sick time pursuant to Arizona law,
3 and All My Sons failed to accrue and provide the paid sick time as required by Arizona law.

4 69. Plaintiff was not provided notice of accrued paid sick time with his pay
5 statements in violation Arizona law.

6 70. Plaintiff was also never provided notice of his rights related to paid sick time
7 in violation of Arizona law.

8 71. All My Sons' wage and paid sick time violations uniformly applied to the
9 Movers throughout Arizona.

10 **COUNT I**
11 **VIOLATION OF THE FAIR LABOR STANDARDS ACT**
12 **(Failure to Properly Pay Overtime and Record Keeping Violations - FLSA - 29**
13 **U.S.C. § 207 *et seq.*; Brought Against Defendant by Plaintiff Individually and on**
14 **Behalf of the Off-the-Clock Collective Action Members)**

15 72. Plaintiff, on behalf of himself individually and all Off-the-Clock Collective
16 Action Members, reasserts the allegations set forth in the above paragraphs.

17 73. Defendant paid Plaintiff and the Off-the-Clock Collective Action Members
18 on an hourly basis, and they are and were all entitled to the overtime protections of the
19 FLSA as set forth in 29 U.S.C. §§ 201, *et seq.*

20 74. At all relevant times, Defendant has been, and continues to be, subject to the
21 minimum wage and overtime provisions of the FLSA because its employees are engaged in
22 interstate commerce and Defendant has annual revenues in excess of \$500,000.

23 75. Plaintiff and the Off-the-Clock Collective Action Members are non-exempt
24 employees entitled to the statutorily mandated overtime pay according to the FLSA.

25 76. Defendant was an employer pursuant to 29 U.S.C. § 203(d).

26 77. Defendant failed to comply with 29 U.S.C. § 207 because Plaintiff and the
27 Off-the-Clock Collective Action Members worked for Defendant in excess of forty hours
28 per week, but Defendant failed to pay them for those excess hours at the statutorily required
rate of one and one-half times their regular rate of pay as required by the FLSA.

1 78. The work was performed at Defendant's direction and/or with Defendant's
2 knowledge.

3 79. Defendant willfully violated the FLSA by failing to pay Plaintiff and the other
4 Off-the-Clock Collective Action Members all wages due including time and a half for all
5 hours accrued beyond forty (40) hours in a workweek.

6 80. Defendant has acted neither in good faith nor with reasonable grounds to
7 believe that its actions and omissions complied with the FLSA.

8 81. As a result of the aforesaid willful violations of the FLSA's overtime pay
9 provisions, Defendant has unlawfully withheld overtime wages from Plaintiff and the Off-
10 the-Clock Collective Action Members. Accordingly, Defendant is liable to Plaintiff and the
11 Off-the-Clock Collective Action Members for unpaid wages including overtime
12 compensation, an additional equal amount as liquidated damages, pre-judgment and post-
13 judgment interest, reasonable attorneys' fees, and costs of this action.

14 WHEREFORE, Plaintiff and all similarly situated employees demand judgment
15 against Defendant, and pray this Court:

16 a. Certify the claim set forth in Count I above as a collective action
17 pursuant to Section 216(b) of the FLSA and issue notice to all similarly-situated hourly
18 employees, regardless of actual title, who worked for Defendant as Movers in Arizona
19 during the last three years, informing them of their right to file consents to join the FLSA
20 portion of this action;

21 b. Designate Plaintiff Vega as the Representative Plaintiff of the Off- the-
22 Clock Collective Action and undersigned counsel as the attorneys representing the Off-the-
23 Clock Collective Action Members;

24 c. Award Plaintiff and all similarly situated employees compensatory and
25 liquidated damages under 29 U.S.C. § 216(b);

26 d. Award Plaintiff and all similarly situated employees prejudgment and
27 post-judgment interest as provided by law;

28

1 e. Award Plaintiff and all similarly situated employees attorneys' fees
2 and costs as allowed by Section 216(b) of the FLSA, including that Defendant is financially
3 responsible for notifying the Off-the-Clock Collective Action Members of Defendant's
4 alleged wage and hour violations; and

5 f. Award Plaintiff and all similarly situated employees such other relief
6 as this Court deems fair and equitable, including injunctive relief.

7 **COUNT II**
8 **VIOLATION OF THE FAIR LABOR STANDARDS ACT**
9 **(Failure to Properly Pay Minimum Wage and Record Keeping Violations - FLSA -**
10 **29 U.S.C. § 206 *et seq.*; Brought Against Defendant by Plaintiff Individually and on**
11 **Behalf of the Off-the-Clock Collective Action Members)**

12 82. Plaintiff, on behalf of himself and all Off-the-Clock Collective Action
13 Members, reasserts the allegations set forth in the above paragraphs.

14 83. Defendant paid Plaintiff and the Off-the-Clock Collective Action Members
15 on an hourly basis, and they are and were all entitled to the minimum wage protections of
16 the FLSA as set forth in 29 U.S.C. §§ 201, *et seq.*

17 84. At all relevant times, Defendant has been, and continues to be, subject to the
18 minimum wage and overtime provisions of the FLSA because its employees are engaged in
19 interstate commerce and Defendant has annual revenues in excess of \$500,000.

20 85. Plaintiff and the Off-the-Clock Collective Action Members are non-exempt
21 employees entitled to the statutorily mandated minimum wage according to the FLSA.

22 86. Defendant was an employer pursuant to 29 U.S.C. § 203(d).

23 87. Defendant failed to comply with 29 U.S.C. § 206 because Defendant failed to
24 pay the Off-the-Clock Collective Action Members the minimum wage as required by the
25 FLSA.

26 88. The work was performed at Defendant's direction and/or with Defendant's
27 knowledge.

28 89. Defendant willfully violated the FLSA by failing to pay Plaintiff and the other
Off-the-Clock Collective Action Members all the minimum wage due.

1 90. Defendant has acted neither in good faith nor with reasonable grounds to
2 believe that its actions and omissions complied with the FLSA.

3 91. As a result of the aforesaid willful violations of the FLSA's minimum wage
4 pay provisions, Defendant has unlawfully withheld minimum wages from Plaintiff and the
5 Off-the-Clock Collective Action Members. Accordingly, Defendant is liable to Plaintiff
6 and the Off-the-Clock Collective Action Members for unpaid wages including minimum
7 wage compensation, an additional equal amount as liquidated damages, pre-judgment and
8 post-judgment interest, reasonable attorneys' fees, and costs of this action.

9 WHEREFORE, Plaintiff and all similarly situated employees demand judgment
10 against Defendant, and pray this Court:

11 a. Certify the claim set forth in Count II above as a collective action
12 pursuant to Section 216(b) of the FLSA and issue notice to all similarly-situated hourly
13 employees, regardless of actual title, who worked for Defendant as Movers in Arizona
14 during the last three years, informing them of their right to file consents to join the FLSA
15 portion of this action;

16 b. Designate Plaintiff Vega as the Representative Plaintiff of the Off- the-
17 Clock Collective Action and undersigned counsel as the attorneys representing the Off-the-
18 Clock Collective Action Members;

19 c. Award Plaintiff and all similarly situated employees compensatory and
20 liquidated damages under 29 U.S.C. § 216(b);

21 d. Award Plaintiff and all similarly situated employees prejudgment and
22 post-judgment interest as provided by law;

23 e. Award Plaintiff and all similarly situated employees attorneys' fees
24 and costs as allowed by Section 216(b) of the FLSA, including that Defendant is financially
25 responsible for notifying the Off-the-Clock Collective Action Members of Defendant's
26 alleged wage and hour violations; and

27 92. Award Plaintiff and all similarly situated employees such other relief as this
28 Court deems fair and equitable, including injunctive relief.

1 Arizona Class Members are entitled to the statutory remedies provided pursuant to A.R.S.
2 § 23-355.

3 107. The state law claim, if certified for class-wide treatment, may be pursued by
4 all similarly situated persons who do not opt out of the Class.

5 WHEREFORE, Plaintiff and all similarly situated employees demand judgment
6 against Defendant and pray this Court:

7 a. Certify the state law claim set forth in Count IV above as a class action
8 pursuant to Rule 23 of the Federal Rules of Civil Procedure;

9 b. Designate Plaintiff Vega as the Class Representative of the Arizona
10 Class Members and undersigned counsel as the attorneys representing the Arizona Class
11 Members;

12 c. Award Plaintiff and all similarly situated employees compensatory
13 damages and treble damages, plus costs and attorneys' fees, and all available remedies
14 pursuant to A.R.S. § 23-350 *et seq.*;

15 d. Award Plaintiff and all similarly situated employees prejudgment and
16 post-judgment interest as provided by law; and

17 e. Award Plaintiff and all similarly situated employees such other relief
18 as this Court deems fair and equitable, including injunctive relief.

19 **COUNT V**
20 **FED.R.CIV.P. 23 CLASS ACTION FOR VIOLATION OF THE**
21 **ARIZONA WAGE STATUTE**
22 **(A.R.S. §§ 23-364; 23-371 *et seq.*; Failure to Provide Earned Paid Sick Time; Brought**
23 **Against Defendant by Plaintiff Individually and on Behalf of the Arizona Class**
24 **Members)**

25 108. Plaintiff, on behalf of himself and the Arizona Class Members, reasserts the
26 allegations set forth in the above paragraphs.

27 109. At all material times hereto, Plaintiff and the Arizona Class Members were
28 employed by Defendant within the State of Arizona and have been entitled to the rights,
protections, and benefits provided under A.R.S. §§ 23-364 and 23-371 *et seq.* relating to
paid sick time.

1 110. Defendant was aware of its obligation to accrue and provide paid sick time
2 pursuant to A.R.S. §§ 23-364 and 23-371 *et seq.*

3 111. Defendant is aware that, under A.R.S. §§ 23-364 and 23-372-374, it was
4 obligated to accrue and provide paid sick time to Plaintiff and the Arizona Class Members.

5 112. Defendant is also aware that it was obligated to provide written notice to
6 Plaintiff and the Arizona Class Members of their rights relating to paid sick time and also
7 provide the amount of paid sick time accrued with their pay stubs.

8 113. Defendant failed to provide Plaintiff and the Arizona Class Members paid sick
9 time or requisite notice of their rights or amounts accrued in violation of A.R.S. §§ 23-364
10 and 23-372 *et. seq.* and did not have a good faith basis for doing so.

11 114. Defendant has willfully failed and refused to comply with the requirements
12 for providing paid sick time to Plaintiff and the Arizona Class Members. As a result of
13 Defendant's unlawful acts, Plaintiff and the Arizona Class Members are entitled to the
14 statutory remedies provided pursuant to A.R.S. § 23-375(E) of at least \$250 for a first
15 violation and \$1000 for each subsequent violation and other applicable remedies provided
16 by Arizona law including A.R.S. § 23-364.

17 115. The state law claim, if certified for class-wide treatment, may be pursued by
18 all similarly situated persons who do not opt out of the Class.

19 WHEREFORE, Plaintiff and all similarly situated employees demand judgment
20 against Defendant and pray this Court:

21 a. Certify the state law claim set forth in Count V above as a class action
22 pursuant to Rule 23 of the Federal Rules of Civil Procedure;

23 b. Designate Plaintiff Vega as the Class Representative of the Arizona
24 Class Members and undersigned counsel as the attorneys representing the Arizona Class
25 Members;

26 c. Award Plaintiff and all similarly situated employees compensatory
27 damages, plus costs and attorneys' fees, and all available remedies pursuant to A.R.S. §§
28 23-364 and 23-371 *et seq.* and other applicable Arizona law;

