

1 Beatriz Sosa-Morris (will apply for *pro hac vice* pending)
2 Bsosamorris@smnlawfirm.com
3 SOSA-MORRIS NEUMAN, PLLC
4 Texas State Bar No. 24076154
5 5612 Chaucer Dr.
6 Houston, TX 77005
7 Telephone: (281) 885-8844
8 Facsimile: (281) 885-8813

9 **LEAD ATTORNEY IN CHARGE FOR**
10 **PLAINTIFF AND CLASS MEMBERS**

11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE DISTRICT OF ARIZONA**

13 Valentina Faltoni, on Behalf of Herself and) No.
14 on Behalf of All Others Similarly Situated,)

15 Plaintiff,)

16 v.)

17 **COLLECTIVE AND CLASS ACTION**
18 **COMPLAINT**

19 4716, Inc., d/b/a Hi Liter Gentleman’s)
20 Club and Frank Zanzucchi, Individually,)

21 **(JURY TRIAL REQUESTED)**

22 Defendants.)
23)
24)
25)

26 Plaintiff Valentina Faltoni, on behalf of herself and on behalf of all others similarly
27 situated, alleges as follows:

28 **I. SUMMARY**

29 1. 4716, Inc., d/b/a Hi Liter Gentleman’s Club (“Hi Liter Gentleman’s Club”) and Frank Zanzucchi (hereinafter collectively referred to as “Defendants”) required
30 and/or permitted Valentina Faltoni (hereinafter “Plaintiff”) to work as an exotic dancer at

1 their adult entertainment club in excess of forty (40) hours per week, but refused to
2 compensate her at the applicable minimum wage and overtime rates. In fact, Defendants
3 refused to compensate Plaintiff whatsoever for any hours worked. Plaintiff's only
4 compensation was in the form of tips from club patrons. Moreover, Plaintiff was
5 required to divide her tips with Defendants and other employees who do not customarily
6 receive tips. Therefore, Defendants have failed to compensate Plaintiff at the federally-
7 mandated minimum wage rate.
8

9 2. Defendants' conduct violates the Fair Labor Standards Act (FLSA), which
10 requires non-exempt employees to be compensated for their overtime work at a rate of
11 one and one-half times their regular rate of pay. *See* 29 U.S.C. § 207(a).

12 3. Furthermore, Defendants' practice of failing to pay tipped employees
13 pursuant to 29 U.S.C. § 203(m), violates the FLSA's minimum wage provision. *See* 29
14 U.S.C. § 206.
15

16 4. Plaintiff brings a collective action to recover the unpaid overtime
17 compensation and minimum wage owed to her individually and on behalf of all other
18 similarly situated employees, current and former, of Defendants in Arizona. Members of
19 the Collective Action are hereinafter referred to as "FLSA Class Members."
20

21 5. Additionally, Defendants' failure to compensate Plaintiff and all other non-
22 exempt employees at a rate equal to or in excess of Arizona's required minimum wage
23 violates the Arizona Wage Act, ARIZ. REV. STAT. ANN. § 23-350, et seq., and the Arizona
24 Minimum Wage Act, ARIZ. REV. STAT. ANN. § 23-363, et seq. Plaintiff, therefore, brings
25 a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure to recover

1 unpaid wages and other damages owed under Arizona wage laws. Members of the Rule
2 23 Class Action are hereinafter referred to as the “Arizona Class Members.”

3
4 **II. SUBJECT MATTER JURISDICTION AND VENUE**

5 6. This Court has jurisdiction over the subject matter of this action under 29
6 U.S.C. § 216(b) and 28 U.S.C. § 1331.

7 7. This Court also has supplemental jurisdiction over the state law claims
8 raised herein pursuant to 28 U.S.C. § 1367 because such claims do not raise novel or
9 complex issues of state law and because those claims derive from a common nucleus of
10 operative facts from which the FLSA claims stated herein derive.

11
12 8. Venue is proper in the District of Arizona because a substantial portion of
13 the events forming the basis of this suit occurred in this District, and Defendants operate
14 an adult entertainment club that is located in this District.

15
16 **III. PARTIES AND PERSONAL JURISDICTION**

17 9. Plaintiff Faltoni is an individual residing in Maricopa County, Arizona. Her
18 consent to this action is attached hereto as Exhibit “A.”

19
20 10. The FLSA Class Members and Arizona Class Members are all current and
21 former exotic dancers who worked in Arizona at Defendants’ adult entertainment club at
22 any time starting three (3) years before this Complaint was filed, up to the present.

23 11. Defendant 4716, Inc., d/b/a Hi Liter Gentleman’s Club is a domestic for-
24 profit company doing business in Phoenix, Arizona. Defendant may be served with
25 process by serving its registered agent, owner, and president, Frank Zanzucchi, at 4728 N 12TH

1 St. Ste. B Phoenix, AZ 85014 or at 4716, Inc., d/b/a Hi Liter Gentleman’s Club’s physical
2 location of 4716 N 12th St. Phoenix, AZ 85014.

3 12. Defendant Frank Zanzucchi is an individual who resides in Maricopa County,
4 Arizona. He is the owner and registered agent of 4716, Inc., d/b/a Hi Liter Gentleman’s Club.
5 He may be served with process individually at the same address where he will be served as
6 Defendant 4716, Inc., d/b/a Hi Liter Gentleman’s Club’s registered agent, located at 4716 N 12th
7 St. Phoenix, AZ 85014, at his residence of 9633 W. Keyser Dr. Peoria, AZ 85383, or wherever
8 else he may be found.

9
10 **IV. COVERAGE**

11 13. At all material times, Defendants have been employers within the meaning
12 of 3(d) of the FLSA. 29 U.S.C. § 203(d).

13 14. At all material times, Defendants have been employers within the meaning
14 of ARIZ. REV. STAT. ANN. § 23-350(3) and ARIZ. REV. STAT. ANN. § 23-362(B).

15 15. At all material times, Defendants have operated as a “single enterprise”
16 within the meaning of 3(r)(1) of the FLSA. 29 U.S.C. § 203(r)(1). That is, Defendants
17 perform related activities through unified operation and common control for a common
18 business purpose. *See Brennan v. Arnheim and Neely, Inc.*, 410 U.S. 512, 515 (1973);
19 *Chao v. A-One Med. Servs., Inc.*, 346 F.3d 908, 914–15 (9th Cir. 2003).

20 21
22 16. At all material times, Defendants have been an enterprise in commerce or in
23 the production of goods for commerce within the meaning of 3(s)(1) of the FLSA
24 because they have had employees engaged in commerce. 29 U.S.C. § 203(s)(1).
25

1 17. Furthermore, Defendants have had, and continue to have, an annual gross
2 business volume in excess of the statutory standard.

3 18. At all material times, Plaintiff was an individual employee who engaged in
4 commerce or in the production of goods for commerce as required by 29 USC § 206-207.

5 19. At all material times, Plaintiff and the Arizona Class Members were
6 employees of Defendants within the meaning of ARIZ. REV. STAT. ANN. § 23-350(2) and
7 ARIZ. REV. STAT. ANN. § 23-362(A).
8

9 20. Defendant Frank Zanzucchi is the owner and president of Defendant 4716,
10 Inc., d/b/a Hi Liter Gentleman's Club.

11 21. As the owner of Hi Liter Gentleman's Club, Defendant Frank Zanzucchi
12 employed the Plaintiff, FLSA Class Members, and Arizona Class Members as employees
13 who danced for and entertained customers.
14

15 22. Defendant Frank Zanzucchi controlled the nature, pay structure, and
16 employment relationship of Plaintiff, FLSA Class Members, and Arizona Class
17 Members.
18

19 23. Further, Defendant Frank Zanzucchi had, at all times relevant to this lawsuit,
20 the authority to hire and fire employees, the authority to direct and supervise the work of
21 employees, the authority to sign on the business's checking accounts, including payroll
22 accounts, and the authority to make decisions regarding employee compensation and
23 capital expenditures. Additionally, he was responsible for the day-to-day affairs of the
24 clubs. In particular, he was responsible for determining whether his clubs complied with
25 the Fair Labor Standards Act.

1 24. As such, pursuant to 29 U.S.C. § 203(d), ARIZ. REV. STAT. ANN. § 23-
2 350(3), and ARIZ. REV. STAT. ANN. § 23-362(B), Defendant Frank Zanzucchi acted
3 directly or indirectly in the interest of Plaintiff's, FLSA Class Members' and Arizona
4 Class Members' employment as their employer, which makes him individually liable
5 under the FLSA and Arizona State Law.
6

7 **V. FACTS**

8 25. Defendants operate an adult entertainment club in Phoenix, Arizona under
9 the name of Hi Liter Gentleman's Club.
10

11 26. Defendants employ exotic dancers at its aforementioned location.

12 27. Plaintiff Faltoni was previously employed as an exotic dancer at
13 Defendants' adult entertainment club.

14 28. Plaintiff worked on a regular basis for Defendants' gentlemen
15 establishment located in Phoenix, Arizona.

16 29. Plaintiff was compensated exclusively through tips from Defendants'
17 customers. That is, Defendants did not pay Plaintiff whatsoever for any hours worked at
18 their establishment.
19

20 30. Furthermore, Defendants charged the Plaintiff a "house fee" per shift
21 worked. Defendants also required Plaintiff to share her tips with other non-service
22 employees who do not customarily receive tips, including the managers, disc jockeys,
23 and the bouncers.
24

25 31. Defendants are in violation of the FLSA's tipped-employee compensation

1 provision, 29 U.S.C. § 203(m), which requires employers to pay a tipped employee a
2 minimum of \$2.13 per hour. Defendants also violated 29 U.S.C. § 203(m) when they
3 failed to notify the Plaintiff about the tip credit allowance (including the amount to be
4 credited) before the credit was utilized. That is, Defendants' exotic dancers were never
5 made aware of how the tip credit allowance worked or what the amounts to be credited
6 were. Furthermore, Defendants violated 29 U.S.C. § 203(m) because they did not allow
7 Plaintiff to retain all of her tips and instead required that she divide her tips amongst other
8 employees who do not customarily and regularly receive tips. Because Defendants
9 violated the tip-pool law, Defendants lose the right to take a credit toward minimum
10 wage.
11

12 32. Furthermore, Defendants are in violation of Arizona's tipped-employee
13 compensation provision, ARIZ. REV. STAT. ANN. § 23-363(C), which provides that "the
14 employer may pay a wage up to \$3.00 per hour less than the minimum wage if the
15 employer can establish . . . that for each week, when adding tips received to wages paid,
16 the employee received not less than the minimum wage for all hours worked."
17 Defendants failed to compensate Plaintiff with wages for any hours worked in violation
18 of the Arizona Minimum Wage Act.
19

20 33. Defendants illegally classified the dancers as independent contractors.
21 However, at all times, Plaintiff, FLSA Class Members, and Arizona Class Members were
22 employees of Defendants.
23

24 34. Defendants hired/fired, issued pay, supervised, directed, disciplined,
25 scheduled and performed all other duties generally associated with that of an employer

1 with regard to the dancers.

2 35. In addition, Defendants instructed the dancers about when, where, and how
3 they were to perform their work.

4 36. The following further demonstrates the dancers' status as employees:

- 5 a. Defendants have the sole right to hire and fire the dancers;
- 6 b. Defendants required dancers to complete an employee
7 application as a prerequisite to their employment;
- 8 c. Defendants made the decision not to pay overtime;
- 9 d. Defendants provide the dancers with music equipment and a
10 performing stage;
- 11 e. Defendants supervise the dancers;
- 12 f. The dancers have made no financial investment with Defendants'
13 business;
- 14 g. Defendants schedule dancers and as such have sole control over
15 their opportunity for profit;
- 16 h. Defendants suspended dancers for violations of their rules of
17 conduct;
- 18 i. Defendants set the prices for house fees, dances, and tip outs; and
19
- 20 j. The dancers were hired as permanent employees and many have
21 worked for Defendants for years.

22 37. Defendants misclassified Plaintiff, FLSA Class Members, and Arizona
23 Class Members as independent contractors to avoid Defendants' obligation to pay them
24
25

1 pursuant to the FLSA.

2 38. Plaintiff is not exempt from the overtime and minimum wage requirements
3 under the FLSA.

4 39. Although Plaintiff and FLSA Class Members are required to and do in fact
5 frequently work more than forty (40) hours per workweek, they are not compensated at
6 the FLSA mandated time-and-a-half rate for hours in excess of forty (40) per workweek.
7 In fact, they receive no compensation whatsoever from Defendants and thus, Defendants
8 violate the minimum wage requirement of the FLSA. *See* 29 U.S.C. § 206.
9

10 40. Defendants' method of paying Plaintiff in violation of the FLSA was
11 willful and was not based on a good faith and reasonable belief that its conduct complied
12 with the FLSA. Defendants misclassified Plaintiff with the sole intent to avoid paying
13 her in accordance to the FLSA.
14

15 41. Defendants' method of paying Plaintiff and the Arizona Class Members
16 was in violation of the Arizona Minimum Wage Act and Arizona Wage Law and was
17 willful and not based on a good faith and reasonable belief that its conduct complied with
18 Arizona Law.
19

20 **VI. EQUITABLE TOLLING**

21 42. The doctrine of equitable tolling preserves a plaintiff's full claim when a
22 strict application of the statute of limitations would be inequitable. *See Partlow v. Jewish*
23 *Orphans' Home of S. Cal., Inc.*, 645 F.2d 757, 760–61 (9th Cir. 1981), *abrogated on*
24 *other grounds by Hoffman-LaRoche Inc. v. Sperling*, 493 U.S. 165 (1989).
25

1 43. Equitable tolling is proper when an employer has engaged in misleading
2 conduct. Defendants intentionally misled the Plaintiff into believing that it was not
3 required to pay her minimum wage and/or overtime for hours worked in excess of forty
4 (40) hours per workweek. Defendants coerced the Plaintiff, FLSA Class Members, and
5 Arizona Class Members into believing that they were independent contractors.
6 Consequently, the Plaintiff, FLSA Class Members, and Arizona Class Members were
7 victims of fraud and unable to ascertain any violation taking place.
8

9 44. Thus, the statute of limitations for the Plaintiff, FLSA Class Members, and
10 Arizona Class Members should be equitably tolled due to Defendants' fraudulent
11 concealment of the Plaintiff's, FLSA Class Members' and Arizona Class Members'
12 rights. Plaintiff therefore seeks to have the limitations period extended from the first date
13 that Defendants used this covert payroll practice up to the time each Plaintiff joins this
14 lawsuit.
15

16 **VII. CAUSES OF ACTION**

17 **COUNT I** 18 **VIOLATION OF THE FAIR LABOR STANDARDS ACT** 19 **FAILURE TO PAY OVERTIME** 20 **(COLLECTIVE ACTION)**

21 50. Plaintiff incorporates all allegations contained in the foregoing paragraphs.

22 51. Defendants' practice of failing to pay Plaintiff and FLSA Class Members
23 time-and-a-half rate for hours in excess of forty (40) per workweek violates the FLSA. 29
24 U.S.C. § 207. In fact, Defendants do not compensate them whatsoever for any hours
25 worked.

1 52. In at least one week Plaintiff and the FLSA Class Members that she seeks
2 to represent worked more than 40 hours per week, but were not compensated at all by
3 Defendants.

4 53. None of the exemptions provided by the FLSA regulating the duty of
5 employers to pay overtime at a rate not less than one and one-half times the regular rate
6 at which its employees are employed are applicable to the Defendants or the Plaintiff.
7

8 **COUNT II**
9 **VIOLATION OF THE FAIR LABOR STANDARDS ACT**
10 **FAILURE TO PAY THE MINIMUM WAGE**
11 **(COLLECTIVE ACTION)**

12 54. Plaintiff incorporates all allegations contained in the foregoing paragraphs.

13 55. Defendants' practice of failing to pay Plaintiff and FLSA Class Members at
14 the required minimum wage rate violates the FLSA. 29 U.S.C. § 206. In fact, Defendants
15 do not compensate them whatsoever for any hours worked and have violated the tip credit
16 provision under the FLSA as described above.

17 56. None of the exemptions provided by the FLSA regulating the duty of
18 employers to pay employees for all hours worked at the required minimum wage rate are
19 applicable to the Defendants or the Plaintiff.

20 **COUNT III**
21 **VIOLATION OF THE FAIR LABOR STANDARDS ACT**
22 **FAILURE TO KEEP ADEQUATE RECORDS**
23 **(COLLECTIVE ACTION)**

24 57. Plaintiff incorporates all allegations contained in the foregoing paragraphs.
25

1 58. Defendants failed to keep adequate records of Plaintiff's and FLSA Class
2 Members' work hours and pay in violation of section 211(c) of the Fair Labor Standards
3 Act. *See* 29 U.S.C. § 211(c).

4 59. Federal law mandates that an employer is required to keep for three (3)
5 years all payroll records and other records containing, among other things, the following
6 information:

- 7 a. The time of day and day of week on which the employees' work
8 week begins;
- 9 b. The regular hourly rate of pay for any workweek in which overtime
10 compensation is due under section 7(a) of the FLSA;
- 11 c. An explanation of the basis of pay by indicating the monetary
12 amount paid on a per hour, per day, per week, or other basis;
- 13 d. The amount and nature of each payment which, pursuant to section
14 7(e) of the FLSA, is excluded from the "regular rate";
- 15 e. The hours worked each workday and total hours worked each
16 workweek;
- 17 f. The total daily or weekly straight time earnings or wages due for
18 hours worked during the workday or workweek, exclusive of
19 premium overtime compensation;
- 20 g. The total premium for overtime hours. This amount excludes the
21 straight-time earnings for overtime hours recorded under this
22 section;
- 23 h. The total additions to or deductions from wages paid each pay period
24 including employee purchase orders or wage assignments;
- 25 i. The dates, amounts, and nature of the items which make up the total
additions and deductions;
- j. The total wages paid each pay period; and
- k. The date of payment and the pay period covered by payment.

1 29 C.F.R. 516.2, 516.5.

2 60. Defendants have not complied with federal law and have failed to
3 maintain such records with respect to the Plaintiff and FLSA Class Members. Because
4 Defendants' records are inaccurate and/or inadequate, Plaintiff and FLSA Class Members
5 can meet their burden under the FLSA by proving that they, in fact, performed work for
6 which they were improperly compensated, and produce sufficient evidence to show the
7 amount and extent of the work "as a matter of a just and reasonable inference." *See, e.g.,*
8 *Anderson v. Mt. Clemens Pottery Co.*, 328 U.S. 680, 687 (1946). Plaintiff does not seek
9 affirmative relief because of Defendants' violations of the FLSA's record keeping
10 requirements. Instead, Plaintiff seeks to put Defendants on notice that she intends to rely
11 on *Mt. Clemens Pottery Co.* to prove the extent of her unpaid work.
12
13

14 COUNT IV
15 VIOLATION OF ARIZONA MINIMUM WAGE ACT
16 FAILURE TO PAY MINIMUM WAGE
17 (CLASS ACTION)

18 61. Plaintiff and Arizona Class Members incorporate all allegations contained
19 in the foregoing paragraphs.

20 62. Defendants' practice of willfully failing to pay Plaintiff and Arizona Class
21 Members wages at the rate of the Arizona Minimum Wage violates the Arizona
22 Minimum Wage Act. ARIZ. REV. STAT. ANN. § 23-363(A), (C). In fact, Defendants do
23 not compensate them whatsoever for any hours worked and have violated the tipped-
24 employee compensation provision under Arizona law as described above.

25 COUNT V

VIOLATION OF ARIZONA WAGE LAW
FAILURE TO PAY WAGES DUE
(CLASS ACTION)

62. Plaintiff and Arizona Class Members incorporate all allegations contained in the foregoing paragraphs.

63. Defendants' practice of willfully failing to pay Plaintiff and Arizona Class Members wages for labor performed violates Arizona Wage Law. ARIZ. REV. STAT. ANN. § 23-351(C). In fact, Defendants do not compensate them whatsoever for any hours worked.

VIII. COLLECTIVE ACTION ALLEGATIONS

A. FLSA Class Members

64. Plaintiff brings this action as an FLSA collective action pursuant to 29 U.S.C. § 216(b) on behalf of all persons who were or are employed by Defendants as exotic dancers at any time during the three (3) years prior to the commencement of this action to present.

65. Plaintiff has actual knowledge that FLSA Class Members have also been denied overtime pay for hours worked over forty hours per workweek and have been denied pay at the federally mandated minimum wage rate. That is, Plaintiff works with other dancers in Phoenix, Arizona. As such, she has first-hand personal knowledge of the same pay violations throughout Defendants' multiple establishments. Furthermore, other exotic dancers at Defendants' various establishments have shared with her similar pay violation experiences as those described in this complaint.

1 66. Other employees similarly situated to the Plaintiff work or have worked for
2 Defendants' gentlemen's club business, but were not paid overtime at the rate of one and
3 one-half their regular rate when those hours exceeded forty hours per workweek.
4 Furthermore, these same employees were denied pay at the federally mandated minimum
5 wage rate.

6 67. Although Defendants permitted and/or required the FLSA Class Members
7 to work in excess of forty hours per workweek, Defendants have denied them full
8 compensation for their hours worked over forty. Defendants have also denied them full
9 compensation at the federally mandated minimum wage rate.
10

11 68. FLSA Class Members perform or have performed the same or similar work
12 as the Plaintiff.

13 69. FLSA Class Members regularly work or have worked in excess of forty
14 hours during a workweek.
15

16 70. FLSA Class Members are not exempt from receiving overtime and/or pay
17 at the federally mandated minimum wage rate under the FLSA.

18 71. As such, FLSA Class Members are similar to Plaintiff in terms of job
19 duties, pay structure, misclassification as independent contractors and/or the denial of
20 overtime and minimum wage.
21

22 72. Defendants' failure to pay overtime compensation and hours worked at the
23 minimum wage rate required by the FLSA results from generally applicable policies or
24 practices, and does not depend on the personal circumstances of the FLSA Class
25 Members.

1 73. The experiences of the Plaintiff, with respect to her pay, are typical of the
2 experiences of the FLSA Class Members.

3 74. The specific job titles or precise job responsibilities of each FLSA Class
4 Member does not prevent collective treatment.

5 75. All FLSA Class Members, irrespective of their particular job requirements,
6 are entitled to overtime compensation for hours worked in excess of forty (40) during a
7 workweek.
8

9 76. All FLSA Class Members, irrespective of their particular job requirements,
10 are entitled to compensation for hours worked at the federally mandated minimum wage
11 rate.

12 77. Although the exact amount of damages may vary among FLSA Class
13 Members, the damages for the FLSA Class Members can be easily calculated by a simple
14 formula. The claims of all FLSA Class Members arise from a common nucleus of facts.
15 Liability is based on a systematic course of wrongful conduct by the Defendant that
16 caused harm to all FLSA Class Members.
17

18 78. As such, Plaintiff brings her FLSA overtime and minimum wage claims as
19 a collective action on behalf of the following class:
20

21 **The FLSA Class Members are all of Defendants' current and**
22 **former exotic dancers who worked at the Hi Liter Gentlemen's**
23 **Club located in Phoenix, Arizona at any time starting three years**
24 **before this Complaint was filed up to the present.**

25 **B. Arizona Class Action**

1 79. Plaintiff and the Arizona Class Members incorporate all preceding
2 paragraphs as though fully set forth herein.

3 80. Plaintiff brings her Arizona wage claims as a Rule 23 class action on behalf
4 of the following class:

5 **The Arizona Class Members are all of Defendants' current and**
6 **former exotic dancers who worked at the Hi Liter Gentlemen's**
7 **Club located in Phoenix, Arizona at any time starting three years**
8 **prior to the filing of this Complaint through the present.**

9 81. Numerosity. The number of members in the Arizona Class is believed to
10 be over fifty (50). This volume makes bringing the claims of each individual member of
11 the class before this Court impracticable. Likewise, joining each individual member of
12 the Arizona Class as a plaintiff in this action is impracticable. Furthermore, the identity
13 of the members of the Arizona Class will be determined from Defendants' records, as
14 will the compensation paid to each of them. As such, a class action is a reasonable and
15 practical means of resolving these claims. To require individual actions would prejudice
16 the Arizona Class and Defendants.

17 82. Typicality. Plaintiff's claims are typical of the Arizona Class because like
18 the members of the Arizona Class, Plaintiff was subject to Defendants' uniform policies
19 and practices and was compensated in the same manner as others in the Arizona Class.
20 Defendants failed to pay non-exempt employees who worked at Hi Liter Gentlemen's
21 Club overtime wages for all of their overtime hours worked. All members of the Arizona
22 Class worked substantially more than eight (8) hours in a day and forty (40) hours in a
23 workweek. Plaintiff and the Arizona Class were likewise not paid minimum wage for all
24
25

1 of their hours worked. Plaintiff and the Arizona Class have been uncompensated and/or
2 under-compensated as a result of Defendants' common policies and practices which
3 failed to comply with Arizona law.

4 83. Adequacy. Plaintiff is a representative party who will fairly and adequately
5 protect the interests of the Arizona Class because it is in her interest to effectively
6 prosecute the claims herein alleged in order to obtain the unpaid wages and penalties
7 required under Arizona law. Plaintiff has retained attorneys who are competent in both
8 class actions and wage and hour litigation. Plaintiff does not have any interest which
9 may be contrary to or in conflict with the claims of the Arizona Class she seeks to
10 represent.
11

12 84. Commonality. Common issues of fact and law predominate over any
13 individual questions in this matter. The common issues of fact include, but are not
14 limited to:
15

- 16 a. Whether Plaintiff and the Arizona Class worked more than forty (40)
17 hours in a workweek;
- 18 b. Whether Defendants failed to pay Plaintiff and the Arizona Class
19 overtime wages for all hours worked over over forty (40) hours in a
20 workweek; and
- 21 c. Whether Defendants failed to pay Plaintiff and Arizona Class the
22 minimum wage for all hours worked.

23 85. The common issues of law include, but are not limited to:

- 24 a. Whether Defendants improperly classified Plaintiff and the Arizona
25 Class as exempt;
- b. Whether Plaintiff and the Arizona Class are entitled to compensatory
damages;

- 1 c. The proper measure of damages sustained by Plaintiff and the
Arizona Class; and
- 2 d. Whether Defendants' actions were "willful."

3 86. Superiority. A class action is superior to other available means for the fair
4 and efficient adjudication of this lawsuit. Even in the event any member of the Arizona
5 Class could afford to pursue individual litigation against companies the size of
6 Defendants, doing so would unduly burden the court system. Individual litigation would
7 magnify the delay and expense to all parties and flood the court system with duplicative
8 lawsuits. Prosecution of separate actions by individual members of the Arizona Class
9 would create the risk of inconsistent or varying judicial results and establish incompatible
10 standards of conduct for Defendants.
11

12 87. A class action, by contrast, presents far fewer management difficulties and
13 affords the benefits of uniform adjudication of the claims, financial economy for the
14 parties, and comprehensive supervision by a single court. By concentrating this litigation
15 in one forum, judicial economy and parity among the claims of individual Arizona Class
16 Members are promoted. Additionally, class treatment in this matter will provide for
17 judicial consistency. The identity of members of the Arizona Class is readily identifiable
18 from Defendants' records.
19

20 88. This type of case is well-suited for class action treatment because: (1)
21 Defendants' practices, policies, and/or procedures were uniform; (2) the burden is on
22 each Defendant to prove it properly compensated its employees; and (3) the burden is on
23 each Defendant to accurately record hours worked by employees and meal periods taken.
24
25

1 89. Ultimately, a class action is a superior forum to resolve the Arizona claims
2 detailed herein because of the common nucleus of operative facts centered on the
3 continued failure of Defendants to pay Plaintiff and the Arizona Class according to
4 applicable Arizona laws.

5 90. Nature of notice to be proposed. As to the Rule 23 Class, it is contemplated
6 that notice would be issued giving putative class members an opportunity to opt out of
7 the class if they so desire, *i.e.* “opt-out notice.” Notice of the pendency and resolution of
8 the action can be provided to the Arizona class by mail, electronic mail, print, broadcast,
9 internet and/or multimedia publication.
10

11
12 **IX. DAMAGES SOUGHT**

13 91. Plaintiff, FLSA Class Members, and Arizona Class Members are entitled to
14 recover compensation for the hours they worked for which they were not paid at the
15 federally mandated minimum wage rate.

16 92. Additionally, Plaintiff, FLSA Class Members, and Arizona Class Members
17 are entitled to recover their unpaid overtime compensation.
18

19 93. Plaintiff, FLSA Class Members, and Arizona Class Members are also
20 entitled to all of the misappropriated funds.

21 94. Plaintiff and FLSA Class Members are also entitled to an amount equal to
22 all of their unpaid wages as liquidated damages. 29 U.S.C. § 216(b).

23 95. Plaintiff and FLSA Class Members are entitled to recover their attorney’s
24 fees and costs as required by the FLSA. 29 U.S.C. § 216(b).
25

1 96. Plaintiff and Arizona Class Members are entitled to an amount equal to
2 wages owed, interest thereon, and an additional amount equal to twice the underpaid
3 wages. ARIZ. REV. STAT. ANN. § 23-364(G).

4 97. Plaintiff and Arizona Class Members are entitled to treble the amount of
5 wages unpaid under Arizona Wage Law. ARIZ. REV. STAT. ANN. § 23-355(A).

6 98. The treble damages provision set forth in ARIZ. REV. STAT. ANN. § 23-
7 355(A) may be applied to treble a liquidated damages award received under the FLSA
8 pursuant to this Court's supplemental jurisdiction. *Davis v. Jobs for Progress*, 427 F.
9 Supp. 479, 483 (D. Ariz. 1976).

10 99. Plaintiff and Arizona Class Members are entitled to recover attorney's fees and
11 costs under ARIZ. REV. STAT. ANN. §§ 12-341, 12-341.01, 23-364(G).

12
13
14 **X. JURY DEMAND**

15 100. Pursuant to their rights under the Constitution of the United States, U.S.
16 Const. amend VII, and Fed. R. Civ. P. 38(a), Plaintiff hereby demands a trial by jury.

17
18 **PRAYER FOR RELIEF**

19 101. For these reasons, Plaintiff, FLSA Class Members, and Arizona Class
20 Members respectfully request that judgment be entered in their favor awarding the
21 following relief:
22

- 23 a. Overtime compensation for all hours worked over forty in a
24 workweek at the applicable time-and-a-half rate;
25 b. All unpaid wages at the FLSA mandated minimum wage rate;

- 1 c. All misappropriated funds;
- 2 d. An equal amount of all owed wages as liquidated damages as
- 3 allowed under the FLSA;
- 4 e. An amount equal to wages owed, interest thereon, and an additional
- 5 amount equal to twice the underpaid wages pursuant to ARIZ. REV.
- 6 STAT. ANN. § 23-364(G);
- 7 f. An amount equal to treble the amount of wages unpaid under
- 8 Arizona Wage Law and liquidated damages pursuant to ARIZ. REV.
- 9 STAT. ANN. § 23-355(A);
- 10 g. Prejudgment and post-judgment interest on unpaid back wages
- 11 pursuant to the FLSA and/or ARIZ. REV. STAT. ANN. § 23-364(G);
- 12 h. Tolling of the statute of limitations;
- 13 i. Reasonable attorney's fees, costs and expenses of this action as
- 14 provided by the FLSA and ARIZ. REV. STAT. ANN. §§ 12-341, 12-
- 15 341.01, 23-364(G);
- 16 j. In the event Defendants fail to satisfy any judgment for Plaintiff with
- 17 respect to the Arizona wage claims, an award that Defendants shall
- 18 pay Plaintiffs an amount which is treble the amount of the
- 19 outstanding judgment with interest thereon at the then legal rate in
- 20 accordance with ARIZ. REV. STAT. ANN. § 23-360; and
- 21 k. Such other and further relief to which Plaintiff and Class Members
- 22 may be entitled, at law or in equity.

23 Respectfully submitted,

24 By: /s/ Beatriz Sosa-Morris
25 Beatriz Sosa-Morris (will apply for *pro hac*
vice admission)

SOSA-MORRIS NEUMAN, PLLC
BSosaMorris@smnlawfirm.com
Texas State Bar No. 24076154
5612 Chaucer Drive
Houston, Texas 77005
Telephone: (281) 885-8844

Facsimile: (281) 885-8813

LEAD ATTORNEY IN CHARGE FOR PLAINTIFF
AND CLASS MEMBERS

OF COUNSEL:

John Neuman (will apply for *pro hac vice* admission)

JNeuman@smnlawfirm.com

Texas State Bar No. 24083560

SOSA-MORRIS NEUMAN, PLLC

5612 Chaucer Drive

Houston, Texas 77005

Telephone: (281) 885-8630

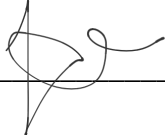
Facsimile: (281) 885-8813

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CONSENT FORM FOR
WAGE CLAIM

Printed Name: Valentina Lucia Faltoni

1. I consent and agree to be represented by Sosa-Morris Neuman Attorneys at Law and to pursue my claims of unpaid overtime and/or minimum wage through the lawsuit filed against my employer under the Fair Labor Standards Act and/or applicable state laws.
2. I intend to pursue my claim individually, unless and until the court certifies this case as a collective or class action. I agree to serve as the class representative if the court approves. If someone else serves as the class representative, then I designate the class representatives as my agents to make decisions on my behalf concerning the litigation, the method and manner of conducting the litigation, the entering of an agreement with the plaintiffs' counsel concerning attorney's fees and costs, and all other matters pertaining to this lawsuit.
3. If my consent form is stricken or if I am for any reason not allowed to participate in this case, I authorize Plaintiffs' counsel to use this Consent Form to re-file my claims in a separate or related action against my employer.

(Signature)  _____

(Date Signed) March 9 2018

Exhibit A

CIVIL COVER SHEET

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

Valentina Faltoni

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Sosa-Morris Neuman, PLLC, 5612 Chaucer Drive, Houston, Texas 77005, 281-885-8844

DEFENDANTS

4716, Inc. and Frank Zanzucchi

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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation).

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

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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): Fair Labor Standards Act, 29 U.S.C. 201, et seq.

Brief description of cause: Failure to Pay the Minimum Wage and Overtime

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE 03/13/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Beatriz Sosa-Morris

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Claims Hi Liter Gentleman's Club Paid Dancers No Wages](#)
