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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Ryan Weigel, Individually, and on Behalf of
All Others Similarly Situated,

No.

Plaintiff,

COMPLAINT

v.

Phoenix Rising FC, LLC, an Arizona limited liability company formerly named **Arizona United Soccer Club, LLC d/b/a Phoenix Rising Football Club** and d/b/a **Phoenix Rising FC**; **Michael McCoy**, an individual; **Robert Dulle and Jane Doe Dulle**, a married couple; **David Stearns and Jane Doe Stearns**, a married couple; **Jim Scussel and Jane Doe Scussel**, a married couple; **Brett Johnson and Jane Doe Johnson**, a married couple; **Mark Leber and Jane Doe Leber**, a married couple; **David Rappaport and Jane Doe Rappaport**, a married couple; **Tim Riester and Jane Doe Reister**, a married couple; **William Kraus and Jane Doe Kraus**, a married couple; **Christopher Yeung and Jane Doe Yeung**, a married couple; **Kevin Kusatsu and Jane Doe Kusatsu**, a married couple; **Peter Wentz and Jane Doe Wentz**, a married couple; **Brandon McCarthy and Jane Doe McCarthy**, a married couple; **Rick Hauser and Jane Doe Hauser**, a married couple;

Defendants.

DP | DENTON PETERSON, PC
ATTORNEYS & COUNSELORS AT LAW
1930 N. ARBOLEDA ROAD, SUITE 200
MESA, AZ 85213

1 Plaintiff, Ryan Weigel, individually, and on behalf of all other persons similarly
2 situated who are current or former sales team members for Defendants (hereinafter “Plaintiff”
3 or “Collective Members”) allege as follows:

4
5 **PRELIMINARY STATEMENT**

6 1. Plaintiff is a former employee of Defendants who was not paid overtime in
7 accordance with the Fair Labor Standards Act, 29, U.S.C. § 201-219 (hereinafter “FLSA”).

8 2. Plaintiff is a former employee of Defendants who was not paid minimum wage
9 in accordance with the Arizona Minimum Wage Act, A.R.S. § 23-363 (hereinafter
10 “AZMWA”).

11
12 **JURISDICTION AND VENUE**

13 3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 29
14 U.S.C. § 201 *et seq.*

15 4. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c) because
16 acts giving rise to the claims of the Plaintiff occurred within the District of Arizona, and
17 Defendants regularly conduct business in and have engaged in the wrongful conduct alleged
18 herein and, thus, are subject to personal jurisdiction in this judicial district.

19
20 **FACTS**

21 5. At all relevant times alleged herein, Plaintiff resided in the State of Arizona in
22 Maricopa County.

23 6. At all relevant times alleged herein, Arizona United Soccer Club LLC which
24 changed its name to Phoenix Rising Football Club, LLC dba Phoenix Rising FC, LLC was an
25 Arizona Limited Liability Company.

26 7. Arizona United Soccer Club LLC dba Phoenix Rising Football Club, LLC dba
27 Phoenix Rising FC, LLC will be collectively referred to as PRFC.
28

1 8. Upon information and belief, at all relevant times alleged herein Michael
2 McCoy resided in the State of Arizona in Maricopa County.

3 9. Upon information and belief, at all relevant times alleged herein Robert Dulle
4 and Jane Doe Dulle resided in the State of Arizona in Maricopa County. All actions taken by
5 Mr. Dulle were taken for and on behalf of his marital community.

6 10. Upon information and belief, at all relevant times alleged herein David Stearns
7 and Jane Doe Stearns resided in the State of Arizona in Maricopa County. All actions taken
8 by Mr. Stearns were taken for and on behalf of his marital community.

9 11. Upon information and belief, at all relevant times alleged herein Jim Scussel
10 and Jane Doe Scussel resided in the State of Arizona in Maricopa County. All actions taken
11 by Mr. Scussel were taken for and on behalf of his marital community.

12 12. Upon information and belief, at all relevant times alleged herein Brett Johnson
13 and Jane Doe Johnson resided in the State of Arizona in Maricopa County. All actions taken
14 by Mr. Johnson were taken for and on behalf of his marital community.

15 13. Upon information and belief, at all relevant times alleged herein Mark Leber
16 and Jane Doe Leber resided in the State of Arizona in Maricopa County. All actions taken by
17 Mr. Leber were taken for and on behalf of his marital community.

18 14. Upon information and belief, at all relevant times alleged herein David
19 Rappaport and Jane Doe Rappaport resided in the State of Arizona in Maricopa County. All
20 actions taken by Mr. Rappaport were taken for and on behalf of his marital community.

21 15. Upon information and belief, at all relevant times alleged herein Tim Riester
22 and Jane Doe Reister resided in the State of Arizona in Maricopa County. All actions taken
23 by Mr. Reister were taken for and on behalf of his marital community.

24 16. Upon information and belief, at all relevant times alleged herein William Kraus
25 and Jane Doe Kraus resided in the State of Arizona in Maricopa County. All actions taken by
26 Mr. Kraus were taken for and on behalf of his marital community.

1 17. Upon information and belief, at all relevant times alleged herein R Christopher
2 Yeung and Jane Doe Yeung resided in the State of Arizona in Maricopa County. All actions
3 taken by Mr. Yeung were taken for and on behalf of his marital community.

4 18. Upon information and belief, at all relevant times alleged herein Kevin Kusatsu
5 and Jane Doe Kusatsu resided in the State of Arizona in Maricopa County. All actions taken
6 by Mr. Kusatsu were taken for and on behalf of his marital community.

7 19. Upon information and belief, at all relevant times alleged herein Peter Wentz
8 and Jane Doe Wentz resided in the State of Arizona in Maricopa County. All actions taken by
9 Mr. Wentz were taken for and on behalf of his marital community.

10 20. Upon information and belief, at all relevant times alleged herein Brandon
11 McCarthy and Jane Doe McCarthy resided in the State of Arizona in Maricopa County. All
12 actions taken by Mr. McCarthy were taken for and on behalf of his marital community.

13 21. Upon information and belief, at all relevant times alleged herein Rick Hauser
14 and Jane Doe Hauser resided in the State of Arizona in Maricopa County. All actions taken
15 by Mr. Hauser were taken for and on behalf of his marital community.

16 22. Upon information and belief, Defendants McCoy, Dulle, Stearns, Scussel,
17 Johnson, Leber, Rappaport, Riester, Kraus, Yeung, Kusatsu, Wentz, McCarthy and Hauser
18 were acting as an “employer” as defined in 29 U.S.C. § 203(d) at all relevant times herein.

19 23. Plaintiff worked for PRFC starting in January 2017 through May 16, 2017.

20 24. Plaintiff’s duties consisted of participating in PRFC sales and client retention
21 under the supervision of Michael McCoy.

22 25. On occasion, Plaintiff reported to Mr. McCoy’s boss, the Chief Operating
23 Officer, Bobby Dulle.

24 26. Mr. Dulle presented information to PRFC ownership for final decision making.

25 27. Defendants chose to improperly designate Plaintiff, and other persons similarly
26 situated, as overtime exempt employees.

27 28. Plaintiff, and other persons similarly situated, were expected to work up to
28 seven days a week, up to 16 hours a day, well over 40 hours per week.

1 29. For example, on the week of January 30, 2016 to February 5, 2017, Plaintiff
2 worked in excess of 60 hours, but was not paid any overtime hours.

3 30. Defendants told Plaintiff, and other persons similarly situated, that PRFC does
4 not pay overtime and to expect to work long hours during the season, and that time could be
5 made up during the offseason.

6 31. Upon information and belief, on March 27, 2017, Mr. Dulle fired a co-worker,
7 Michael Sawyer, because Mr. Sawyer told the Defendants that they were in violation of the
8 federal law by failing to pay overtime.

9 32. Shortly thereafter, Mr. Saywer sent a letter to all PRFC owners notifying them
10 of this illegal practice, among other things.

11 33. Upon information and belief, as a direct result of Mr. Sawyer's reporting a
12 violation of the Federal law to Mr. McCoy, Plaintiff and other persons similarly situated were
13 asked to provide PRFC with the amount of overtime they believed they worked up to that
14 point, but Plaintiffs and other persons similarly situated were not given any instruction on
15 what actually constituted time worked.

16 34. Upon information and belief, subsequently Defendants paid an anomalous
17 additional salary amount too sales team members, including Plaintiff, on their May paycheck.

18 35. This amount was not explained and it was not tracked as an overtime payment
19 and is for all intents and purposes, a bonus given to keep Plaintiff and others similarly
20 situated, quiet.

21 36. Despite knowing of their wrong doing, Defendants failed to pay Plaintiff and
22 others similarly situated what they were owed in overtime damages.

23 37. Upon information and belief, Defendants still force their employees to work
24 more than 40 hours a week without paying overtime.

25 38. This further shows that while Defendants have knowledge of their violation of
26 the Fair Labor Standards Act, they refuse to correct their actions.

27 ...//...
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MESA, AZ 85213

COUNT ONE

FAILURE TO PAY OVERTIME – 29 U.S.C. §§ 201 *et seq.*

All Defendants

39. Plaintiff, on behalf of himself and the Collective Members, realleges and incorporates by reference all allegations in all preceding paragraphs.

40. While employed by PRFC, Plaintiff and the Collective Members worked between 10-16 hours a day, up to seven days a week.

41. PRFC has an obligation to comply with 29 U.S.C. §§ 201 *et seq.*

42. Defendants were aware of its failure to pay overtime in accordance with the law and failed to correct the behavior.

43. Plaintiff and the Collective Members have suffered damages in an amount to be determined at trial, including liquidated damages, attorney’s fees and costs.

COUNT TWO

VIOLATIONS OF ARIZONA MINIMUM WAGE ACT

PRFC

44. Plaintiff, on behalf of himself and the Collective Members, realleges and incorporates by reference all allegations in all preceding paragraphs.

45. Plaintiff and the Collective Members were covered “employees” and Defendants were Plaintiff’s and the Collective Members’ “employer” as those terms are defined by the Arizona Minimum Wage Act.

46. Pursuant to A.R.S. § 23-363, Defendants were required to pay Plaintiff and the Collective Members the state minimum wage of \$10.00, but failed to do so.

47. Specifically, on the week of February 27 through March 5 2017, Plaintiff was paid only his bimonthly salary which is equal to roughly \$480.77 per work week despite working over 50 hours that week. This means that Plaintiff was paid less than \$10.00 an hour in that week.

48. Plaintiff and the Collective Members regularly did not make minimum wage.

1 49. Defendants were required to pay Plaintiff and the Collective Members at least
2 minimum wage for the hours they worked.

3 50. As a result of Defendants' unlawful acts, Plaintiff and the Collective Members
4 are entitled to the statutory remedies provided in A.R.S. § 23-364 and other Arizona law.
5

6 **DEMAND FOR JURY TRIAL**

7 Plaintiff, and those similarly situated, hereby request that upon trial of this action, all
8 issues be submitted to and determined by a jury except those issues expressly reserved by law
9 for determination by the Court.
10

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff and the Collective Members respectfully request that this
13 Court grant the following relief in Plaintiff's favor and against Defendants:

14 A. For the Court to award compensatory, incidental, and consequential damages to
15 be determined at trial;

16 B. For the Court to award overtime compensation in the amount due to him for all
17 of Plaintiff's time worked without receiving overtime;

18 C. For the Court to award lost minimum wages in the amount to be determined at
19 trial;

20 D. For the Court to award liquidated damages in an amount equal to the overtime
21 award;

22 E. For the Court to award prejudgment and post-judgment interest;

23 F. For the Court to award Plaintiff's reasonable attorneys' fees and costs of the
24 actions pursuant to 29 U.S.C. § 216(b) and all other causes of action set forth herein;

25 G. Such other relief as this Court shall deem just and proper.
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RESPECTFULLY SUBMITTED this 1st day of August 2017.

DENTON PETERSON, P.C.

/s/ Timothy F. Coons
Timothy F. Coons
1930 N. Arboleda Road, Suite 200
Mesa, AZ 85213
Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

**The completed cover sheet must be printed directly to PDF and filed as an attachment to the
Complaint or Notice of Removal.**

Plaintiff(s): Ryan Weigel

Defendant(s): Phoenix Rising FC, LLC ; Arizona United Soccer Club, LLC d/b/a Phoenix Rising Football Club and d/b/a Phoenix Rising FC ; Michael McCoy ; Robert Dulle ; Jane Doe Dulle ; David Stearns ; Jane Doe Stearns ; Jim Scussel ; Jane Doe Scussel ; Brett Johnson ; Jane Doe Johnson ; Mark Leber ; Jane Doe Leber ; David Rappaport ; Jane Doe Rappaport ; Tim Reister ; Jane Doe Reister ; William Kraus ; Jane Doe Kraus ; Christopher Yeung ; Jane Doe Yeung ; Kevin Kusatsu ; Jane Doe Kusatsu ; Peter Wentz ; Jane Doe Wentz ; Brandon McCarthy ; Jane Doe McCarthy ; Rick Hauser ; Jane Doe Hauser

County of Residence: Maricopa

County of Residence: Maricopa

County Where Claim For Relief Arose: Maricopa

Plaintiff's Atty(s):

Defendant's Atty(s):

**Timothy F. Coons (Ryan Weigel)
Denton Peterson, P.C.
1930 N. Arboleda Rd., Ste. 200
Mesa, Arizona 85213
4803259900**

II. Basis of Jurisdiction:

3. Federal Question (U.S. not a party)

III. Citizenship of Principal
Parties (Diversity Cases Only)

Plaintiff:- N/A

Defendant:- N/A

IV. Origin : **1. Original Proceeding**

V. Nature of Suit: **710 Fair Labor Standards Act**

VI. Cause of Action: **Fair Labor Standards Act, 29 U.S.C. § 201-219 and Arizona Minimum Wage Act, A.R.S. § 23-363**

VII. Requested in Complaint

Class Action: **No**
Dollar Demand: **TBD**
Jury Demand: **Yes**

VIII. This case is not related to another case.

Signature: Timothy F. Coons

Date: 8/1/2017

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.

Revised: 01/2014

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [USL Soccer Club Phoenix Rising FC, Owners Carded with Unpaid OT Suit](#)
