

Exhibit A

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

DAVID COLLINGE, MELONIE
PRIESTLY, and HEATHER ARRAS
on behalf of themselves and all others
similarly situated,

Plaintiffs,

vs.

INTELLIQUICK DELIVERY, INC., an
Arizona corporation; KEITH
SPIZZIRRI and MIRIAM SPIZZIRRI,
husband and wife;
TRANSPORTATION AUTHORITY,
LLC, a Nevada corporation; ROBERT
F. LORGEREE, JR; MAJIK LEASING,
LLC, an Arizona corporation, FELICIA
TAVISON; JASON MITTENDORF and
JANE DOE MITTENDORF; JEFFREY
LIEBER; WILLIAM "BILL"
COCCHIA and JANE DOE COCCHIA;
STEVEN ANASTASE and JANE DOE
ANASTASE,

Defendants.

) CASE NO.:

) **AMENDED COMPLAINT**

) **(JURY TRIAL DEMANDED)**

1 Plaintiffs allege:

2 1. This action is to recover wages, benefits and damages owed under the Fair
3 Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.*; Family Medical Leave Act
4 ("FMLA"), 29 U.S.C. § 2601 *et seq.*; the Arizona wage statute, A.R.S. § 23-350, *et seq.*;
5 and the Arizona minimum wage law, A.R.S. §§ 23-363 *et seq.*

6 2. This action is brought as a collective action under the FLSA, 29 U.S.C. §
7 216(b), to recover minimum wages, overtime wages, liquidated damages, attorneys' fees
8 and other statutory penalties resulting from Defendants' violations of the FLSA. This
9 lawsuit is also brought as a class action under Federal Rule of Civil Procedure 23, to
10 recover unpaid minimum and overtime wages, unlawful deductions from wages, benefits,
11 compensatory damages, treble damages, attorneys' fees and any other statutory penalty
12 resulting from Defendants' violations of the Arizona wage statutes and FMLA.

13 3. For at least three years prior to filing this action, Defendants have
14 knowingly misclassified Plaintiffs and Class Members, as defined below (collectively
15 referred to hereinafter as "Drivers," "Plaintiffs," and/or "Class Members"), as
16 independent contractors and failed to pay them the statutorily required minimum wages
17 and overtime wages and made unlawful deductions from their earned compensation.

18 4. Even though Defendants act as Plaintiff's employers, Defendants benefit
19 greatly by misclassifying the Drivers as independent contractors. Defendants operate a
20 scheme to treat the Drivers as independent contracts and shift Defendants' business
21 expenses to their employees. Defendants require Plaintiffs to pay them a weekly fee for
22 use of Defendants' scanners, secondary insurance and mandatory uniform laundry fees.
23 Defendants also require Plaintiffs to pay for gas, repairs and maintenance of their own
24 vehicles that are used to make deliveries for Defendants. Defendants also charge each
25 Plaintiff and Class Member over a thousand dollars per year to issue their weekly
26 paychecks.

27 5. By treating the drivers as independent contractors instead of employees,
28 Defendants have engaged and continue to engage in a scheme to avoid worker's

1 compensation and unemployment payments, social security, other payroll taxes owed by
2 employers, and other benefits otherwise owed to employees. Defendants have attempted
3 and continue to attempt to avoid liability under wage protection statutes, federal labor
4 laws, Title VII of the Civil Rights Act of 1964 (Title VII), the Equal Pay Act (EPA), the
5 Age Discrimination in Employment Act (ADEA), Americans with Disabilities Act
6 (ADA), Americans with Disabilities Act Amendments Act (ADAAA) and other statutes.
7 Defendants have shifted and continue to shift the cost of their business expenses to their
8 employees. Defendants are able to obtain a vast competitive advantage over competitor
9 services that treat employees in compliance with the law. As a result, Defendants' pay
10 practices drive down wages and undercut fair labor practices across the industry. In
11 addition, Defendants have been unjustly enriched by these practices.

12 **JURISDICTION AND VENUE**

13 6. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 because
14 this is a civil action arising under the laws of the United States. Specifically, this action
15 is brought under 29 U.S.C. § 216(b) and 29 U.S.C. § 2617(a)(2).

16 7. This Court has supplemental jurisdiction over the state law claims pursuant
17 to 28 U.S.C. § 1367(a). The state law claims are sufficiently related and/or part of the
18 same case or controversy as the FLSA and FMLA claims.

19 8. This Court has personal jurisdiction over Defendants because they
20 regularly transact business in and have significant and continuous contact with Arizona.

21 9. Venue is proper under 28 U.S.C. § 1391(b). Defendants Keith Spizzirri,
22 Jason Mittendorf, Jeffrey Lieber, Felicia Tavison and Robert Lorgeree reside in Maricopa
23 County, Arizona. The principal place of business for Defendants IntelliQuick Deliveries,
24 Inc., Majik Leasing LLC and Transportation Authority LLC is in Maricopa County,
25 Arizona. A substantial part of the acts and/or omissions giving rise to the claims occurred
26 in this district.

27 **PARTIES**

28 10. Plaintiff, David Collinge, is a citizen and resident of Maricopa County,

1 Arizona. He currently works and at all relevant times has worked for IntelliQuick and/or
2 other Defendants in Phoenix, Arizona as a Freight Driver, Route Driver, and On-Demand
3 Driver. At all relevant times, he has been an “employee” of Defendant IntelliQuick
4 and/or other Defendants within the meaning of A.R.S. § 23-350 and 29 U.S.C. §
5 203(e)(1). Defendants have unlawfully classified him as an independent contractor.

6 11. Plaintiff, Melonie Priestly, is a citizen and resident of Phoenix, Arizona.
7 She currently works and at all relevant times has worked for IntelliQuick and/or other
8 Defendants in Phoenix, Arizona as a Route Driver and On-Demand Driver. At all
9 relevant times, she has been an “employee” of Defendant IntelliQuick and/or other
10 Defendants within the meaning of A.R.S. § 23-350 and 29 U.S.C. § 203(e)(1).
11 Defendants have unlawfully classified her as an independent contractor.

12 12. Plaintiff, Heather Arras, is a citizen and resident of Maricopa County,
13 Arizona. She currently works and at all relevant times has worked for IntelliQuick
14 and/or other Defendants in Phoenix, Arizona as a Route Driver. At all relevant times, she
15 has been an “employee” of Defendant IntelliQuick and/or other Defendants within the
16 meaning of A.R.S. § 23-350 and 29 U.S.C. § 203(e)(1).

17 13. As of December, 2011 Plaintiff Arras had worked for IntelliQuick for more
18 than 12 months and for at least 1,250 hours during the previous 12- month period. In
19 December 2011, Ms. Arras suffered a serious health condition yet was unable to take
20 leave and was instead forced to work while on crutches or be penalized for missing work.
21 At all relevant times it was and is Defendants’ policy and practice to penalize drivers for
22 missing work, even on account of the serious health conditions of the employee or their
23 family member.

24 14. Defendant, IntelliQuick Deliveries, Inc is an Arizona corporation which is
25 authorized to and does transact business in the State of Arizona, including in Maricopa
26 County. IntelliQuick is one of the largest delivery/courier services in the Southwest.
27 IntelliQuick’s principal place of business is located at 4022 S. 20th Street, Phoenix, AZ
28 85040. At all relevant times, IntelliQuick has employed Drivers and been engaged in

1 providing small package information, transportation and delivery services in the States of
2 Arizona, Nevada, Utah, Colorado, New Mexico, and Illinois.

3 15. At all relevant times, IntelliQuick has employed Drivers and has had
4 operations, offices, and/or warehouses in Tucson, Arizona, Yuma, Arizona, Lake
5 Havasu, Arizona, Las Vegas, Nevada, Reno, Nevada, Salt Lake City, Utah, Denver,
6 Colorado, Albuquerque, New Mexico, and Chicago, Illinois.

7 16. At all times material, Defendant IntelliQuick was, and continues to be,
8 engaged in interstate commerce as defined by the FLSA, 29 U.S.C. § 203 and FMLA, 29
9 U.S.C. § 2611(1).

10 17. At all relevant times, Defendant, Keith Spizzirri (“Spizzirri”), was and is
11 the President and an Owner of IntelliQuick. Mr. Spizzirri resides in Scottsdale, Arizona.
12 Mr. Spizzirri works at 4022 S. 20th Street, Phoenix, AZ 85040. At all relevant times,
13 Mr. Spizzirri has exercised and continues to exercise direct and/or indirect supervisory
14 authority over Plaintiffs. Upon information, Mr. Spizzirri has been directly involved in
15 decisions affecting the terms and conditions of employment for Plaintiffs at IntelliQuick,
16 including, but not limited to, decisions regarding hiring, termination, hours worked,
17 wages paid, deductions made to wages, and discipline. Upon information, Mr. Spizzirri
18 was responsible for establishing the wages of Plaintiffs and other Class members at
19 IntelliQuick. At all relevant times, Mr. Spizzirri has been and continues to be Plaintiffs’
20 “employer” within the meaning of the FLSA, 29 U.S.C. § 203(d).

21 18. Upon information, Miriam Spizzirri is the wife of Keith Spizzirri and is
22 named as a Defendant solely for the purpose of Arizona’s community property laws.

23 19. At all relevant times, Defendant, Felicia Tavison (“Tavison”), was and is a
24 Driver Supervisor for IntelliQuick. Ms. Tavison resides and works in Maricopa County,
25 Arizona. At all relevant times, Ms. Tavison has exercised and continues to exercise
26 direct and/or indirect supervisory authority over Plaintiffs. Upon information, Ms.
27 Tavison has been directly involved in decisions affecting the terms and conditions of
28 employment for Plaintiffs at IntelliQuick, including, but not limited to, decisions

1 regarding hiring, termination, hours worked, wages paid, deductions made to wages, and
2 discipline. Upon information, Ms. Tavison was responsible for establishing the wages of
3 Plaintiffs and other Class members at IntelliQuick. At all relevant times, Ms. Tavison
4 has been and continues to be Plaintiffs' "employer" within the meaning of the FLSA, 29
5 U.S.C. § 203(d).

6 20. At all relevant times, Defendant Jeffrey Lieber ("Lieber"), was and is a
7 Driver Supervisor for IntelliQuick. Mr. Lieber resides and works in Maricopa County,
8 Arizona. At all relevant times, Mr. Lieber has exercised and continues to exercise direct
9 and/or indirect supervisory authority over Plaintiffs. Upon information, Mr. Lieber has
10 been directly involved in decisions affecting the terms and conditions of employment for
11 Plaintiffs at IntelliQuick, including, but not limited to, decisions regarding hiring,
12 termination, hours worked, wages paid, deductions made to wages, and discipline. Upon
13 information, Mr. Lieber was responsible for establishing the wages of Plaintiffs and other
14 Class members at IntelliQuick. At all relevant times, Mr. Lieber has been and continues
15 to be Plaintiffs' "employer" within the meaning of the FLSA, 29 U.S.C. § 203(d).

16 21. At all relevant times, Defendant Jason Mittendorf ("Mittendorf"), was and
17 is a Driver Recruiter for IntelliQuick. Mr. Mittendorf resides and works in Maricopa
18 County, Arizona. At all relevant times, Mr. Mittendorf has exercised and continues to
19 exercise direct and/or indirect supervisory authority over Plaintiffs. Upon information,
20 Mr. Mittendorf has been directly involved in decisions affecting the terms and conditions
21 of employment for Plaintiffs at IntelliQuick, including, but not limited to, decisions
22 regarding hiring, termination, hours worked, wages paid, deductions made to wages, and
23 discipline. Upon information, Mr. Mittendorf was responsible for establishing the wages
24 of Plaintiffs and other Class members at IntelliQuick. At all relevant times, Mr.
25 Mittendorf has been and continues to be Plaintiffs' "employer" within the meaning of the
26 FLSA, 29 U.S.C. § 203(d).

27 22. Upon information, Jane Doe Mittendorf is the wife of Jason Mittendorf and
28 is named as a Defendant solely for the purpose of Arizona's community property laws.

1 23. At all relevant times, Defendant William “Bill” Cocchia, was and is a
2 Manager or Supervisor for IntelliQuick. Upon information, Mr. Cocchia resides and
3 works in Maricopa County, Arizona. At all relevant times, Mr. Cocchia has exercised
4 and continues to exercise direct and/or indirect supervisory authority over Plaintiffs.
5 Upon information, Mr. Cocchia has been directly involved in decisions affecting the
6 terms and conditions of employment for Plaintiffs at IntelliQuick, including, but not
7 limited to, decisions regarding hiring, termination, hours worked, wages paid, deductions
8 made to wages, and discipline. Upon information, Mr. Cocchia was responsible for
9 establishing the wages of Plaintiffs and other Class members at IntelliQuick. Upon
10 information, Mr. Cocchia was responsible for arbitrarily reducing Plaintiffs and other
11 Class Members’ pay, after work was performed, issuing unjustified charge-backs, and
12 arbitrarily increasing assignments and hours worked without any increase in pay or
13 overtime. At all relevant times, Mr. Cocchia has been and continues to be Plaintiffs’
14 “employer” within the meaning of the FLSA, 29 U.S.C. § 203(d).

15 24. Upon information, Jane Doe Cocchia is the wife of Bill Cocchia and is
16 named as a Defendant solely for the purpose of Arizona’s community property laws.

17 25. At all relevant times, Defendant Steven Anastase, was and is a Business
18 Manager or Supervisor for IntelliQuick. Upon information, Mr. Anastase resides in Las
19 Vegas, Nevada and works in Maricopa County, Arizona and Clark County, Nevada. At
20 all relevant times, Mr. Anastase engaged in acts and omission in Maricopa County,
21 Arizona so as to give rise to personal jurisdiction over him. He has exercised and
22 continues to exercise direct and/or indirect supervisory authority over Plaintiffs. Upon
23 information, Mr. Anastase has been directly involved in decisions affecting the terms and
24 conditions of employment for Plaintiffs at IntelliQuick, including, but not limited to,
25 decisions regarding hiring, termination, hours worked, wages paid, deductions made to
26 wages, and discipline. Upon information, Mr. Anastase was responsible for establishing
27 the wages of Plaintiffs and other Class members at IntelliQuick. Upon information, Mr.
28 Cocchia was responsible for arbitrarily reducing Plaintiffs and other Class Members’ pay,

1 after work was performed, issuing unjustified charge-backs, and arbitrarily increasing
2 assignments and hours worked without any increase in pay or overtime. At all relevant
3 times, Mr. Anastase has been and continues to be Plaintiffs' "employer" within the
4 meaning of the FLSA, 29 U.S.C. § 203(d).

5 ~~21-26.~~ Upon information, Jane Doe Anastase is the wife of Steven Anastase and is
6 named as a Defendant solely for the purpose of Arizona's community property laws.

7 ~~22-27.~~ Defendant, Majik Leasing, LLC ("Majik") is an Arizona corporation that is
8 owned and operated by Defendant Keith Spizzirri. Majik's principal place of business is
9 the same location as IntelliQuick's principal place of business, at 4022 S. 20th
10 Street, Phoenix, AZ 85040. Upon information, Majik owns multiple vehicles that are
11 used by IntelliQuick, its employees, and Drivers. IntelliQuick requires some Drivers to
12 use vehicles owned by Majik. Majik often requires Drivers to sign a Vehicle Rental
13 Agreement before the Driver may use the vehicle.

14 ~~23-28.~~ Defendant, Transportation Authority, LLC ("TA") is a Nevada corporation
15 authorized to, and does, transact business in the State of Arizona, including in Maricopa
16 County. TA's principal place of business is the same location as IntelliQuick's principal
17 place of business at 4022 S. 20th Street, Phoenix, AZ 85040.

18 ~~24-29.~~ TA is a joint employer with IntelliQuick and an "employer" within the
19 meaning of 29 U.S.C. § 203(d) and A.R.S. § 23-350. In the alternative, TA is an alter ego
20 of IntelliQuick.

21 ~~25-30.~~ Robert "Bob" Lorgeree is the owner and President of TA. Mr. Lorgeree
22 resides and works in Maricopa County, Arizona. Upon information, at all relevant times,
23 Mr. Lorgeree has exercised and continues to exercise direct and/or indirect supervisory
24 authority over Plaintiffs. Upon information, Mr. Lorgeree has been directly involved in
25 decisions affecting the terms and conditions of employment for Plaintiffs at IntelliQuick,
26 including, but not limited to, decisions regarding hiring, termination, hours worked,
27 wages paid, deductions made to wages, and discipline. Upon information, Mr. Lorgeree
28 was responsible for establishing the wages of Plaintiffs and other Class members at

IntelliQuick. At all relevant times, Mr. Lorgeree has been and continues to be Plaintiffs' "employer" within the meaning of the FLSA, 29 U.S.C. § 203(d).

~~26-31.~~ Defendant IntelliQuick is Plaintiffs' "employer" within the meaning of the FLSA, 29 U.S.C. § 203(d), FMLA, 29 U.S.C. § 2611(4)(A), and Arizona wage statutes, A.R.S. § 23-350. In the alternative, IntelliQuick is a joint employer with one or more of the other named Defendants, and/or alter ego of one or more of the other named Defendants.

CLASS ACTION ALLEGATIONS

~~27-32.~~ Counts I ~~and II~~ asserted below ~~are~~ is properly maintainable as a collective action under 29 U.S.C. § 216(b).

~~28-33.~~ Counts II ~~I~~ through V ~~II~~ asserted below are properly maintainable as a class action under Federal Rule of Civil Procedure 23

~~29-34.~~ For both collective and class action purposes, the proposed collective action and class includes: All current and former drivers or couriers, who performed transportation and delivery services for IntelliQuick Deliveries, Inc. and were or are classified as independent contractors and/or not classified as employees within three (3) years of the date this action commenced, (collectively referred to hereinafter as "Drivers," "Plaintiffs," and/or "Class Members"). The proposed Class includes the following subclasses of Drivers:

- a) Freight Drivers: All Drivers who use vehicles or vans that are owned or leased by IntelliQuick or Majik to make deliveries and pick-ups for IntelliQuick. (Hereinafter referred to as "Freight Drivers.")
- b) Route Drivers: All Drivers who generally use their own vehicles to make deliveries and pick-ups on an assigned route for IntelliQuick. (Hereinafter referred to as "Route Drivers.")
- c) On-Demand Drivers: All Drivers who generally use their own vehicles to make specific deliveries and pick-ups for IntelliQuick that are not

1 included in an assigned route. (Hereinafter referred to as “On-Demand
2 Drivers.”)

3 d) FMLA Covered Drivers: All persons who worked in excess of 1,250
4 hours during any 12-month period of time period who were eligible for
5 FMLA leave and were penalized or did not take eligible FMLA leave
6 because of Defendants’ policy and practice of penalizing drivers for taking
7 leave for family and/or medical reasons. (Hereinafter referred to as
8 “FMLA Covered Drivers.”)

9 ~~30.35.~~ Excluded from any class or collective action are Defendants’ legal
10 representatives, officers, directors, assigns, and successors, or any individual who at any
11 time during the class period has a controlling interest in any Defendants.

12 ~~31.36.~~ The proposed Class Members are so numerous that joinder of all members
13 is impracticable. Upon information and belief there are several hundred members of the
14 proposed Class of each subclass.

15 ~~32.37.~~ There are questions of law and fact common to the Class that predominate
16 over any questions solely affecting individual members of the Class, including but not
17 limited to:

- 18 a. Whether— one, more or all of Defendants are or were Plaintiffs’
19 employers;
- 20 b. Whether one, more or all of Defendants are required to and failed to pay
21 Plaintiffs’ statutory minimum wages;
- 22 c. Whether Defendants are required to and failed to pay Plaintiffs’
23 overtime for all hours worked in excess of over forty hours per week;
- 24 d. Whether Defendants failure to pay wages violates state and common
25 law;
- 26 e. Whether Drivers are entitled to a declaratory judgment and other
27 equitable and legal relief for Defendants’ failure to classify and treat
28 Drivers as employees and not as independent contractors;

- f. Whether Defendants were unjustly enriched by the acts and omissions complained of herein;
- g. Whether Defendants made unlawful deductions from Plaintiffs' wages or unlawfully required Drivers ~~Plaintiffs~~ to bear Defendants' business expenses for vehicles, equipment, gas, bonds, insurance, and other costs and expenses of the employer's business;
- h. Whether Defendants wrongfully required Plaintiffs to expend money on Defendants' behalf;
- i. Whether the "Vehicle Rental Agreement" and "Membership Application and Agreement" contracts some Drivers were required to sign are unconscionable in whole or in part;
- j. Whether such contracts are void and/or voidable in whole or in part; and
- k. The nature and extent of Class and subclass injury and the appropriate measure of damages for the Classes;

~~33.38.~~ The claims of Plaintiffs are typical of the claims of the Class they seek to represent. Plaintiffs and Class Members work or have worked for Defendants and have been subjected to common policies and practices of failing to pay all wages and overtime owed, making unlawful and excessive deductions from their wages.

~~34.39.~~ Defendants acted or refused to act on grounds generally applicable to the Class Members as a whole by engaging in the same violations of law with respect to the Classes, thereby making final injunctive relief and corresponding declaratory relief appropriate with respect to the Classes as a whole.

~~35.40.~~ Plaintiffs will fairly and adequately represent and protect the interests of the Class and each subclass.

~~36.41.~~ Plaintiffs have retained counsel competent and experienced in complex class action employment litigation.

~~37.42.~~ The Class Members have been damaged and are entitled to recovery as a

1 result of Defendants' common and uniform policies, practices, and procedures.

2 ~~38.43.~~ A class action is superior to other available methods for the fair and
 3 efficient adjudication of this litigation – particularly in the context of wage litigation like
 4 the present action, where individual Plaintiffs lack the financial resources to vigorously
 5 prosecute a lawsuit in federal court against one of the largest delivery services in the
 6 Southwest. In addition, class treatment is superior because it will obviate the need for
 7 unduly duplicative litigation that might result in inconsistent judgments about
 8 Defendants' practices.

9 **GENERAL ALLEGATIONS**

10 **I. Defendants' Control over Drivers' Daily Activities**

11 ~~39.44.~~ Defendants control the majority, if not all, of the Drivers' work for
 12 IntelliQuick.

13 ~~40.45.~~ Drivers do not and may not exercise independent judgment regarding their
 14 work for IntelliQuick.

15 ~~41.46.~~ Defendants IntelliQuick independently or jointly with the other Defendants
 16 controls the Drivers' work.

17 ~~42.47.~~ Defendants control the method, manner and time that Plaintiffs deliver
 18 packages.

19 ~~43.48.~~ Defendants control virtually every aspect of Plaintiffs' performance of
 20 IntelliQuick's work and the equipment that Plaintiffs use for that work.

21 ~~44.49.~~ IntelliQuick instructs Drivers when to be at the office, when they can leave,
 22 what deliveries and pickups to make, when to make the deliveries and pickups and how
 23 to make the deliveries and pickups.

24 ~~45.50.~~ By way of example, IntelliQuick has gone so far as to order a Driver not to
 25 wait for police to arrive at the scene of an accident when the Driver observed the
 26 accident.

27 ~~46.51.~~ If Drivers fail to follow IntelliQuick's directions, instructions, rules,
 28 policies or procedures they are penalized and have money deducted from their weekly

1 compensation under what is called “chargebacks.”

2 ~~47.52.~~ Drivers cannot delegate their work to assistants, associates or others
3 without first obtaining approval from IntelliQuick.

4 ~~48.53.~~ Drivers cannot hire other assistants or associates to assist with their routes
5 or deliveries.

6 ~~49.54.~~ All Drivers report to IntelliQuick Supervisors, including Defendants
7 Mittendorf, Leiber, and Tavison (“IntelliQuick Supervisors”).

8 ~~50.55.~~ IntelliQuick Supervisors direct the daily activities of the Drivers.

9 ~~51.56.~~ IntelliQuick Supervisors assign all routes, deliveries, and pick-ups to the
10 Drivers.

11 **A. Drivers’ Daily Work Assignments.**

12 ~~52.57.~~ Drivers are given a “manifest” each day from IntelliQuick which tells them
13 what deliveries or pick-ups to make and when to make each delivery or pick-up.

14 ~~53.58.~~ The manifest is obtained from and printed from an IntelliQuick computer
15 and can only be obtained at IntelliQuick’s offices.

16 ~~54.59.~~ Drivers cannot reject or negotiate the routes or deliveries that they have
17 been assigned.

18 ~~55.60.~~ Drivers are required to keep IntelliQuick scanners with them at all times so
19 that they can, among other things, receive instructions and messages throughout their
20 workday from IntelliQuick. Drivers often receive messages sent directly to the
21 IntelliQuick scanners, which will modify their daily routes and schedules, and/or direct
22 them to make extra pick-ups or deliveries. Drivers do not receive any extra payment for
23 these extra deliveries or pick-ups.

24 ~~56.61.~~ Drivers cannot deviate from instructions given to them by IntelliQuick on
25 their manifests or as modified by messages throughout the day. If the Drivers fail to
26 follow the directions from IntelliQuick they are given a “chargeback” or deduction from
27 their compensation.

28 ~~57.62.~~ IntelliQuick Supervisors regularly tell Drivers that “we [IntelliQuick] have

1 you [the Driver] from 7:00 am until 5:00 pm” and “you [the Driver] work for us
2 [IntelliQuick].”

3 ~~58-63.~~ Defendants instruct the Drivers to report to work no later than 7:00 am.
4 Drivers report to work at IntelliQuick’s offices and/or warehouses. For example, Drivers
5 in the Phoenix, Arizona area are told to report to IntelliQuick’s headquarters at 4022 S.
6 20th Street, Phoenix, AZ 85040.

7 ~~59-64.~~ Drivers are then given their daily routes and/or assignments, through the
8 IntelliQuick manifests.

9 ~~60-65.~~ Before leaving on their morning routes, deliveries, or pick-ups, Drivers
10 must first load their vehicles or vehicles owned or leased by Defendants that are used for
11 deliveries and pick-ups.

12 ~~61-66.~~ Drivers are often instructed by Defendants to perform extra work in the
13 IntelliQuick warehouses or offices, before leaving on their routes including sorting,
14 logging packages, checking in drivers, loading vehicles and other administrative tasks.
15 Drivers regularly spend between 30 minutes and two hours performing this extra work.
16 Drivers are not paid for performing any of this extra work.

17 ~~62-67.~~ Defendants instruct Drivers to report back from their morning routes,
18 deliveries, or pick-ups to IntelliQuick’s warehouses or offices by 1:00 pm.

19 ~~63-68.~~ Drivers are then given any new or additional routes, pick-ups or deliveries.
20 Drivers are also often given additional work, including sorting, logging packages,
21 checking in drivers, loading vehicles and other administrative tasks, which they must
22 complete before leaving on their afternoon routes, deliveries, or pick-ups. Drivers
23 regularly spend between 30 minutes and two hours performing this extra work. Drivers
24 are not paid for performing any of this extra work.

25 ~~64-69.~~ Defendants instruct Drivers to report back from their afternoon routes,
26 deliveries, or pick-ups to by 5:00 pm.

27 ~~65-70.~~ Because of the extra work that Defendants assign to the Drivers in
28 IntelliQuick’s warehouses and offices, Drivers are forced to leave on their routes later

1 and accordingly are expected to complete their routes in less time or work later to
2 complete their routes.

3 **B. Defendants' Treat Drivers Like Employees.**

4 ~~66.71.~~ Although Defendants tell the Drivers they are "Independent Contractors" or
5 "ICs," Defendants treat Drivers like employees.

6 ~~67.72.~~ Drivers make deliveries to and pick-ups from businesses or individuals that
7 are clients of IntelliQuick; not customers or clients of the Drivers.

8 ~~68.73.~~ Drivers are required to get pre-approval from an IntelliQuick Supervisor
9 before they can take any time-off or personal leave.

10 ~~69.74.~~ As previously noted, IntelliQuick Supervisors tell the Drivers when they
11 have to arrive at work and when they can leave work. IntelliQuick Supervisors regularly
12 assign Drivers to do work in the IntelliQuick warehouse or office that is outside the
13 Drivers' normal routes, deliveries, and pick-ups.

14 ~~70.75.~~ Defendants are aware that Drivers regularly perform work in the
15 IntelliQuick warehouse without any extra compensation.

16 ~~71.76.~~ Upon information and belief, Drivers currently are being assigned to do the
17 same work while classified as independent contractors that was formerly performed by
18 regular, non-exempt fulltime IntelliQuick employees without any additional wages.

19 ~~72.77.~~ On IntelliQuick's website, Defendants refer to the Drivers as "our drivers,"
20 "our legal couriers," "IntelliQuick Medical Courier Specialists," "our medical delivery
21 specialists," "IntelliQuick's financial couriers," and "IntelliQuick delivery drivers."

22 ~~73.78.~~ IntelliQuick's website asserts, "IntelliQuick has more than 250 uniformed
23 and credentialed local couriers for pick-up and local delivery."

24 ~~74.79.~~ IntelliQuick's website states, "Our delivery drivers are sharp, seasoned
25 professionals who understand that they are making an impression on your customers and
26 business associates every time they make a delivery for you."

27 ~~75.80.~~ IntelliQuick's website also states, "All IntelliQuick delivery drivers are
28 insured for cargo damage, reconstruction and criminal liability. Since most bonds don't

1 cover independent delivery drivers, our clients are assured proper coverage in the event
2 of a loss.”

3 ~~76-81.~~ IntelliQuick includes pictures of the Drivers, wearing IntelliQuick
4 uniforms, on their website.

5 ~~77-82.~~ Drivers are required to wear IntelliQuick uniforms and meet specific
6 grooming requirements, established by IntelliQuick. Drivers cannot wear their own
7 uniforms.

8 ~~78-83.~~ When Drivers perform work in IntelliQuick’s offices and warehouses, there
9 is no way to distinguish between the Drivers and other IntelliQuick employees.

10 ~~79-84.~~ Drivers are given IntelliQuick Identification Badges (IDs). Drivers are
11 required to wear the IDs somewhere that is in sight when they make deliveries or pick-
12 ups. The IDs include the Driver’s name, the IntelliQuick logo and company name, and
13 an IntelliQuick identification number.

14 ~~80-85.~~ Job openings for Drivers are posted on the IntelliQuick website and are
15 advertised as positions with IntelliQuick. Drivers apply for the positions at IntelliQuick’s
16 headquarters or other offices.

17 ~~81-86.~~ Drivers are interviewed and hired by IntelliQuick supervisors, including but
18 not limited to Defendants Spizzirri, Mittendorf, Lieber, and Tavison.

19 ~~82-87.~~ Drivers are terminated by IntelliQuick supervisors, including but not
20 limited to Defendants Spizzirri, Mittendorf, Lieber, and Tavison.

21 ~~83-88.~~ Drivers are required to use equipment provided by IntelliQuick, including
22 scanners and computers.

23 89. Drivers cannot purchase or use their own scanners.

24 90. Drivers are denied any entrepreneurial opportunities and cannot control
25 their own profits because, among other things, Defendants control the number of
26 deliveries and pick-ups that Drivers make each day, send Drivers additional pick-ups
27 after they have started their routes or assignments, monitor and redirect Drivers
28 throughout their work day, issue Drivers charge-backs for failing or refusing to follow

1 Defendants' directives, and determine and control the time in which deliveries and pick-
2 ups are made.

3 91. Defendants require Route Drivers to remain in their designated geographic
4 areas until 10:30 am in the morning and then report back to the IntelliQuick warehouse
5 with all packages that they have picked-up. Drivers must remain in the warehouse until
6 Defendants inform them that "mails up" and they can pick up their afternoon deliveries.
7 Route Drivers must then remain in their designated geographic areas until 3:30 pm in the
8 afternoon and then must report back to the IntelliQuick warehouse with all packages they
9 have picked-up no later than 5:00 pm.

10 84.——

11 **C. Payment of Wages.**

12 85-92. Drivers are paid each week. The pay statements can be viewed through
13 IntelliQuick's website or internal server.

14 86-93. Defendants provide Drivers with IntelliQuick identification numbers that
15 Drivers can use to access their pay statements or "settlements" online through
16 IntelliQuick's website or internal server. These ID numbers are also used by Drivers to
17 log into IntelliQuick computers.

18 87-94. Drivers are paid by Defendants either per route, delivery, or pick-up. Route
19 and Freight Drivers are told that they will be paid a set amount per route (or per day).
20 On-Demand Drivers are told that they will be paid a set amount per delivery or pick-up.

21 88-95. Drivers cannot negotiate with Defendants regarding the amount paid for a
22 particular delivery or pick-up.

23 89-96. If Drivers refuse a route, pick-up, or delivery that has been assigned to
24 them, Defendants issue the Drivers a chargeback fee for refusing the assignment or
25 threaten them with termination and/or a chargeback.

26 90-97. Defendants often refer to or explain the Drivers' wages or compensation in
27 terms of their hourly rate. For example, Defendants explain to Drivers that a route will
28 pay the Driver "\$10 an hour," and refer to routes as "\$10 an hour routes," "\$15 an hour

1 routes,” “8 hour route,” “10 hour route,” or “13 hour route.”

2 ~~91.98.~~ Defendants often fail or refuse to pay the Drivers the amount they
3 originally quoted for a particular route, delivery or pick-up, after the Driver completes the
4 assignment. For example, a Driver was quoted \$140 to make a late night delivery from
5 Phoenix to Lake Havasu, Arizona, but only received \$90 for the delivery.

6 ~~92.99.~~ The Drivers’ paychecks are generally issued by a third-party service,
7 including TA. However, there have been occasions when the checks were issued directly
8 from IntelliQuick and signed by Defendant Spizzirri.

9 ~~93.100.~~ Although IntelliQuick clients or customers are regularly charged an
10 extra “fuel surcharge,” Defendants do not pay anything to the Route Drivers or On-
11 Demand Drivers for fuel in their own vehicles.

12 ~~94.101.~~ Defendants have decreased the compensation paid to Drivers while
13 increasing the costs and fees to the IntelliQuick clients and customers for delivery and
14 pick-up services.

15 ~~95.102.~~ Although Route Drivers and On-Demand Drivers are expected and
16 required to use their own vehicles for the benefit of Defendants, Route Drivers and On-
17 Demand Drivers do not receive any additional compensation for gas or maintenance of
18 their vehicles.

19 **D. Trainings and Meetings**

20 ~~96.103.~~ IntelliQuick regularly provides training for and trains the Drivers.

21 ~~97.104.~~ Drivers are required to attend and participate in an initial orientation
22 or training with IntelliQuick. Defendants Spizzirri, Mittendorf, Leiber, and Tavison,
23 regularly conduct or participate in the initial orientation. After completion of the
24 orientation, Drivers receive an employee identification number and certificates stating
25 IntelliQuick’s “Policies and Procedures to help promote employee teamwork and
26 increase customer satisfaction.”

27 ~~98.105.~~ Defendants require Drivers to complete HIPAA training at
28 IntelliQuick’s offices. After the completion of the training, the Drivers receive

certificates stating, “IntelliQuick Delivery completed HCSI Compliance Training for Employees, In Employee HIPAA Privacy Training” and “IntelliQuick Delivery Employee Acknowledgement for [Name of Driver].”

~~99.106.~~ Defendants require Drivers to complete client specific training for certain IntelliQuick clients, including Saliba. These trainings are taught by IntelliQuick supervisors, including Defendants Mittendorf, Leiber, and Tavison and are held on IntelliQuick property.

~~100.107.~~ Route Drivers receive one to two week trainings on their routes, where they ride along with an IntelliQuick Trainer, Supervisor, or other Driver to observe how to conduct deliveries.

~~101.108.~~ Drivers do not receive any extra compensation for attending these orientations, trainings or meetings.

II. Defendants’ Failure to Pay Overtime.

~~102.109.~~ Defendants classified and continue to classify Plaintiffs and Class Members as independent contractors.

~~103.110.~~ At all relevant times, Drivers regularly worked for IntelliQuick’s benefit for periods of time without compensation or for less than the minimum wage as required by law, pursuant to IntelliQuick’s policies and standard practices. IntelliQuick did not pay Plaintiffs or the Class Members overtime compensation for hours worked for IntelliQuick’s benefit in excess of 40 hours in a workweek despite being legally obligated to do so.

~~104.111.~~ At all relevant times, Drivers have regularly worked and continue to work more than forty (40) hours in a workweek.

~~105.112.~~ At all relevant times, Drivers have regularly worked and continue to work on average 10 hours per day and between 45 to 60 hours per week for the benefit of Defendants.

~~106.113.~~ Drivers are required to work until their route, delivery, or pick-up is complete or until they have completed all work required of them in IntelliQuick’s

1 warehouse or route room.

2 ~~107.114.~~ Many Drivers must report to work by 6:00 am in order to have time
3 to complete their routes, deliveries, and pick-ups plus any other assigned work assigned
4 by IntelliQuick by 5:00 pm.

5 ~~108.115.~~ Defendants have refused and continue to refuse to pay Drivers for
6 any hours worked in excess of forty hours in a week.

7 ~~109.116.~~ Defendants regularly assign Drivers additional routes, deliveries, or
8 pick-ups for which they receive no extra compensation.

9 ~~110.117.~~ Defendants regularly send messages to Drivers throughout the day
10 via scanners or by phone call directing them to make extra pick-ups or deliveries.
11 Drivers are often required to double-back to make a delivery or pick-up if they have
12 already passed a certain location or time. Drivers receive no extra compensation for the
13 additional time or fuel required for the new delivery or pick-up. If the Driver refuses to
14 make the delivery or pick-up they are penalized with a “chargeback,” or deduction from
15 their compensation, for “driver refusal to pickup customer package.”

16 **III. Defendants’ Failure to Pay Minimum Wages.**

17 ~~111.118.~~ Defendants often require or knowingly permit Drivers to regularly
18 work without any compensation or for less than the statutory minimum wages.

19 119. As a result of the additional work assigned to the Drivers for which they
20 do not receive any extra compensation, Drivers often perform work for the benefit of
21 Defendants and receive less than the statutory minimum wages for their work.

22 120. Defendants take the same standard weekly deductions from each Driver’s
23 pay, regardless of the number of hours or days worked. In other words, Defendants do not
24 pro rate their weekly deductions based upon the number of hours worked by each driver.

25 121. Defendants similarly issue unexplained charge-backs without any
26 consideration of the number of days or hours worked by the driver.

27 122. Not only will drivers not be paid for their time off work, but they may be
28 fined or issued a charge-back for taking time off work. Drivers may receive a smaller

1 charge-back if they give their Supervisors prior notice of their time off or provide medical
2 documentation justifying their absence from work. IntelliQuick supervisors, including
3 Jeffrey Lieber, Bill Cocchia, Jason Mittendorf, Felicia Tavason, and Steve Anastase,
4 arbitrarily determine the amount to charge-back the Driver for taking time off.

5 123. As a result of all these deductions from their pay, Drivers are often paid less
6 than the statutory minimum wage for all hours worked.

7 124. For example, Plaintiff Heather Arras worked six hours during her last
8 workweek. After Defendants made all their deductions, she was only paid \$2.97 for six
9 hours of work, which equals less than 50 cents per hour.

10 125. Similarly, other Drivers were paid less than the minimum wage when they
11 took time off work.

12 126. In addition, Plaintiff David Collinge was told that drivers are paid \$30 per
13 day for On-Demand Driver orientation and training. This training lasts 8 hours per day
14 for two to three days. Consequently, Drivers are paid \$3.75 an hour for the mandatory
15 training.

16 127. On-Demand Drivers may also be paid less than the statutory minimum wage
17 for their individual assignments.

18 128. On-Demand Drivers are required to sign up for a schedule or shift in which
19 they must be available to receive pick-up or delivery assignments from IntelliQuick.
20 Drivers are told that if “you deviate from this schedule that you are committing to, [you]
21 must make contact with IQ well in advance.”

22 129. IntelliQuick has three set schedules or shifts for On-Demand Drivers. The
23 first shift is from 7 am to 5 pm. The second shift is from 4 pm to 2 am. The third shift is
24 from 12 am to 8 am.

25 130. On-Demand Drivers are expected to either check-in with IntelliQuick
26 dispatch and wait for assignments at the IntelliQuick warehouse or call-in to IntelliQuick
27 dispatch and wait in an assigned area until an IntelliQuick dispatcher or customer service
28 representative sends them an assignment on their scanner or calls them with the

1 assignment.

2 131. If an On-Demand Driver declines an assignment from IntelliQuick,
3 Defendants or their representatives or agents retaliate against them by: (a) threatening to
4 issue or actually issuing them a charge-back; (b) threatening or refusing to send them any
5 other assignments; (c) issuing less desirable assignments or putting them at the bottom of
6 their call list; (d) arbitrarily reducing the amount paid for an assignment; or (e) berating,
7 admonishing, or otherwise expressing disappointment, anger or frustration for refusing an
8 assignment.

9 132. On-Demand Drivers are engaged to be waiting and cannot do any other
10 work for any other companies during the time periods they have committed to work for
11 IntelliQuick. Drivers are expected to be dressed in their IntelliQuick uniforms and have
12 their scanners with them at all times during their assigned schedule or shift. Drivers are
13 also limited in their ability to run personal errands during their assigned schedule because
14 they must be available to immediately respond to a call from IntelliQuick to avoid
15 “service failures” for “late and missed pickups.” If an On-Demand Driver does not
16 immediately respond to a call from IntelliQuick, they risk retaliation from Defendants.

17 133. On-Demand Drivers are not paid anything for the time they must spend
18 waiting on IntelliQuick to send them an assignment. For example, an On-Demand Driver
19 may wait 10 hours for an assignment and only receive one assignment which pays \$30
20 thereby receiving only \$3 an hour for 10 hours of work. Like Route and Freight Drivers,
21 On-Demand Drivers may also be sent additional pick-ups on their scanner, after they have
22 left on an assignment, for which they receive no additional pay. On-Demand Drivers are
23 also regularly told they will be paid a certain amount for a pick-up or delivery and then,
24 without justification or explanation, are paid less after they complete the assignment.

25 134. Upon information and belief, many of the On-Demand Drivers, who are
26 waiting for work at IntelliQuick’s warehouse, are given work assignments in the
27 warehouse, such as scanning, moving, organizing, and shrink-wrapping packages. Upon
28 information and belief, most, if not all, of these Drivers are not paid for this extra work.

1 135. As a result, many On-Demand Drivers are paid less than the statutory
 2 minimum wage.

3 ##

4 ##

5 **IV. Defendants' Unlawful Deductions from Drivers' Paychecks.**

6 **A. Defendants Illegally Deduct "Chargebacks."**

7 ~~112.~~136. Defendants regularly deduct fees or fines from the Drivers' weekly
 8 compensation without consent or approval from the Drivers. These deductions are
 9 referred to as "chargebacks."

10 ~~113.~~137. Defendants penalize Plaintiffs and reap windfall profits for all
 11 chargebacks deducted

12 ~~114.~~138. IntelliQuick Supervisors impose the chargebacks on the Drivers.

13 ~~115.~~139. IntelliQuick regularly fails to notify the Drivers before imposing a
 14 chargeback and often fails to provide any explanation for the chargeback.

15 ~~116.~~140. Drivers regularly first learn about the chargebacks when they receive
 16 their weekly pay.

17 ~~117.~~141. Upon information and belief, the chargebacks are paid directly to
 18 IntelliQuick.

19 ~~118.~~142. If Drivers want to challenge a chargeback they are required to
 20 submit a dispute to TA, which then forwards the dispute to IntelliQuick. Only
 21 IntelliQuick Supervisors can decide whether to refund an improperly imposed
 22 chargeback.

23 ~~119.~~143. IntelliQuick claims that chargebacks are imposed for "service
 24 failures," but does not explain the date, location, or nature of any alleged failure. Drivers
 25 are not notified what can be done to avoid future chargebacks.

26 ~~120.~~144. Drivers are not given any extra compensation if it is found that the
 27 alleged service failure was the result of a mistake made by an IntelliQuick dispatcher or
 28 the IntelliQuick client.

~~121,145.~~ Drivers are faced with the impossible dilemma if they are given an extra pick-up or delivery during their regular route. If a Driver does not perform the extra pick-up or delivery, he or she must do it at their own time, expense, and fuel without any reimbursement from IntelliQuick. If the Driver does not perform the extra pick-up or delivery they are given a chargeback.

~~122,146.~~ If a Route Driver does not perform an extra pick-up or delivery it is then assigned to an On-Demand Driver. The On-Demand Driver is paid less than the Route Driver is docked for the same route for which the Route Driver incurs a chargeback.

B. Defendants Illegally Deduct Chargebacks for Family or Medical Leave.

~~123,147.~~ Drivers receive chargebacks if they fail to obtain IntelliQuick Supervisor approval for time off. Drivers receive chargebacks if they are unable to complete their work because of serious health conditions.

~~124,148.~~ Drivers are also penalized for taking days off or calling in sick including for their own or family members' serious health conditions. Drivers receive a "chargeback" or deduction from their regular compensation. Drivers receive these "chargebacks" even if they notify IntelliQuick in advance of the schedule conflict. Drivers receive these penalties even if another Driver is found to complete the Driver's regular route or delivery.

~~125,149.~~ Drivers are also penalized for serious health conditions that make it impossible for them to complete their regular route or delivery. Drivers receive a "chargeback" or deduction from their regular compensation, even if another Driver is found to complete the route or delivery.

C. Defendants Illegally Deduct Other Fees.

~~126,150.~~ Drivers are required to pay IntelliQuick an initial fee to obtain a scanner from IntelliQuick, plus they have to pay IntelliQuick a weekly service fee for the use of the scanners.

~~127,151.~~ IntelliQuick makes several mandatory deductions from every

1 Driver's weekly paycheck.

2 ~~128.152.~~ Upon information and belief, these deductions are made by and paid
3 directly to Defendants. Drivers are charged the following weekly "fees":

- 4 a. Paycheck processing fee of approximately \$22;
- 5 b. Scanner or device fee of approximately \$24;
- 6 c. Uniform laundry fee of \$7.50; and
- 7 d. Secondary insurance of \$9.50.

8 ~~129.153.~~ Drivers are not given any information or an invoice regarding the
9 processing fee that they must pay every week.

10 ~~130.154.~~ Drivers are required to use the IntelliQuick scanners and devices and
11 cannot use other scanners or devices that they may find that would meet their needs.

12 ~~131.155.~~ Drivers must pay the weekly laundry fee whether or not they want
13 to use the service and whether or not they actually use the service.

14 ~~132.156.~~ Drivers are not given any information regarding the secondary
15 insurance that they allegedly receive for the extra fee.

16 ~~133.157.~~ Upon information, Defendants are unjustly enriched from these
17 charges.

18 ~~134.158.~~ Drivers who are not provided vehicles from Defendants also have to
19 pay for the gas, repair and maintenance of their own vehicles used to make deliveries for
20 and on behalf of Defendants.

21 ~~135.159.~~ Drivers are also required to obtain a motor carriers permit at an
22 annual cost of approximately \$64.

23 **V. Transportation Authority and Other Related Entities**

24 ~~136.160.~~ IntelliQuick attempts to distance itself from the Drivers themselves
25 through the use of other companies, such as Defendant Transportation Authority.

26 ~~137.161.~~ TA is owned and operated by Defendant Lorgeree.

27 ~~138.162.~~ Lorgeree has worked with IntelliQuick and Spizzirri for between ten
28 to twelve years.

1 ~~139.~~163. Lorgeree has worked as the President of three different companies
2 that alleged to manage the Drivers, including TA, Transportation Resource Group
3 (“TRG”), and Contractor Management Services (“CMS”).

4 ~~140.~~164. TA maintains offices within IntelliQuick’s principal place of
5 business. IntelliQuick and TA employees regularly transfer between positions within the
6 alleged separate companies. Upon information, IntelliQuick employees often perform
7 work for TA and alleged TA employees regularly perform work for IntelliQuick.

8 ~~141.~~165. TA has never offered Drivers any work for any other companies,
9 except for IntelliQuick.

10 ~~142.~~166. Upon information and belief, TA works primarily with IntelliQuick
11 Drivers.

12 ~~143.~~167. Most, if not all meetings called by TA, TA employees, or Lorgeree
13 are held at IntelliQuick’s offices, buildings or warehouses.

14 **A. The Agreement**

15 ~~144.~~168. Many Drivers are required to sign a “Membership Application and
16 Agreement” (the “Agreement”) before they begin working.

17 ~~145.~~169. This Agreement is an unenforceable contract between the Driver and
18 Transportation Authority, LLC (“TA”).

19 ~~146.~~170. Drivers are told that if they do not sign the Agreement then they
20 cannot work for IntelliQuick.

21 ~~147.~~171. Drivers are hired by IntelliQuick supervisors then told that they will
22 work as independent contractors and are given a copy of the Agreement they are then
23 directed to sign.

24 ~~148.~~172. Plaintiffs are told that they work for IntelliQuick from 7:00 am to
25 5:00 pm, are given additional work beyond their original deliveries, and are threatened
26 with pay deductions if they refuse the additional work.

27 ~~149.~~173. The Agreements purport to be with another company that operates
28 out of IntelliQuick’s headquarters and other offices. This company has gone by many

1 different names in recent years. The Company was originally called CMS, then it was
2 called TRG, and now it is called TA. Although the names of the company have changed,
3 the employees of each company have remained primarily the same. Defendant Lorgeree
4 has been the President of all three companies. The only apparent change to the
5 Agreement was the change in the company name.

6 ~~150.174.~~ Drivers have no ability to bargain or negotiate over the terms of the
7 Agreement.

8 ~~151.175.~~ Drivers are recruited by Defendant Mittendorf, who is an
9 IntelliQuick Supervisor, who maintains a desk within the TA office within IntelliQuick's
10 headquarters.

11 ~~152.176.~~ There is nothing in the Agreement regarding work performed by the
12 Drivers, other than the delivery of packages. The Agreement mentions nothing about
13 work performed in the IntelliQuick warehouse or route room, including but not limited to
14 sorting packages, scanning packages, or loading packages.

15 ~~153.177.~~ Although the Agreement states that the Drivers will not receive
16 training, ~~e~~ Drivers regularly receive mandatory training from IntelliQuick.

17 ~~154.178.~~ The Agreement is a contract of adhesion.

18 ~~155.179.~~ The Agreement is unconscionable.

19 ~~156.180.~~ Although Defendants tell Plaintiffs and Class Members (the
20 "Drivers") that they are independent contractors and direct them to a Membership
21 Application and Agreement, which labels the Drivers as "independent contractors,"
22 Defendants treat Plaintiffs and Class Members like employees.

23 **B. Majik Leasing, LLC**

24 ~~157.181.~~ IntelliQuick maintains a fleet of vans or vehicles that are used
25 primarily by Freight Drivers for delivery. Upon information, many of these vehicles are
26 owned or leased by IntelliQuick and/or Majik Leasing, LLC.

27 ~~158.182.~~ Drivers are often asked to sign a Vehicle Rental Agreement with
28 Majik Leasing, LLC when they use one of these vehicles. IntelliQuick leads Drivers to

1 believe that these form contracts are provided on a take it or leave it basis that must be
2 signed at the time they are provided to Plaintiffs, so that Plaintiffs are precluded from
3 seeking legal advice before signing.

4 183. Drivers are occasionally asked to sign a daily Vehicle Rental Agreement
5 with Majik that are given to the Drivers by IntelliQuick employees, including but limited
6 to Defendants Mittendorf, Leiber, and Tavison, before they can use the vehicles. Freight
7 Drivers are not charged for the use of these vehicles.

8 **VI. Retaliation**

9 184. Plaintiffs filed this action on April 19, 2012. (See Doc. 1.)

10 185. Upon information and belief, all Defendants were aware of Plaintiffs'
11 Complaint and the names of those Drivers who opted-in to the FLSA claim and filed
12 Consent to Sue forms as of April 23, 2012.

13 186. Plaintiffs served Defendant Majik Leasing with copies of the Summons,
14 Complaint and Consent to Sue forms on April 23, 2012. (See Doc. 9.) Plaintiffs served
15 Defendant TA with copies of the Summons, Complaint and Consent to Sue forms on
16 April 23, 2012 (See Doc. 8.) Defendants IntelliQuick, Keith Spizzirri and Miriam Spizzirri
17 accepted service of the Summons, Complaint and Consent to Sue forms on April 24,
18 2012. (See Doc. 10.) Defendant Robert Lorgeree also accepted service of the Summons,
19 Complaint and Consent to Sue forms on April 24, 2012. (See Doc. 11.) Defendants
20 Jeffrey Lieber, Jason Mittendorf, and Felicia Tavison accepted service of the Summons,
21 Complaint and Consent to Sue forms on April 26, 2012. (See Docs. 12, 13 & 14.)

22 187. Defendants TA and Lorgeree still have not filed an answer to the Complaint
23 or defended any claims in this action and default was entered against these Defendants on
24 May 25, 2012. (See Doc. 36.)

25 188. On April 23, 2012, Plaintiff David Collinge was told by his supervisor that
26 he needed to talk to Defendant Jeffrey Lieber. Mr. Collinge had never previously spoken
27 to Defendant Lieber nor had he ever been asked to talk to him. Defendant Lieber told Mr.
28 Collinge that they were going to be making some "operational changes." Defendant

1 Lieber also stated that “Keith [Spizzirri] said that you’ve been with us for a long time, you
2 wear our uniform, you’re a spot on driver, and you know Amerisource in and out.” He
3 then asked him if he would be interested in “being a full-time trainer” and said the he
4 would be given a “little more money” and a “little bit better hours.” Defendant Lieber
5 never followed-up with Mr. Collinge about this conversation nor did he discuss this
6 opportunity with him again.

7 189. Just before this lawsuit was filed, IntelliQuick posted notices and invited
8 Drivers to a “Driver Recognition Night” on May 5, 2012 in Intelliquick’s Route Room.
9 Drivers were asked to RSVP to Becky at IntelliQuick.

10 190. Soon after the lawsuit was filed, IntelliQuick removed the prior notices and
11 posted new invitations, stating: “Attention all Vendors/Independent Contractors your
12 customer IntelliQuick is hosting a Vendor/Independent Contractor Appreciation night to
13 show their thanks for your service to their clients.” The event was moved to May 12,
14 2012 and Drivers were asked to RSVP to Ariana in the TA office by May 8, 2012.

15 191. On May 12, 2012, Defendant Keith Spizzirri and another individual gave
16 speeches in which they attempted to discourage Drivers from joining the lawsuit and said
17 that if people were unhappy that they should just move on. Defendant Spizzirri also
18 discussed the lawsuit and alleged that it will hurt business, implying that Drivers would be
19 adversely affected.

20 192. During this event, Defendant Jeffrey Lieber confronted Plaintiff David
21 Collinge and told him that he did not think he was committed to IntelliQuick and “a lot of
22 people here feel that way.” Lieber also got in Mr. Collinge’s face, so that they were
23 standing nose to nose, and told him that the event was “for the drivers who were
24 committed to IQ” and that Collinge should go home.

25 193. After Drivers’ Consent to Sue forms were filed with the Court, Defendants
26 approached several Drivers and told them that they should “opt-out” of the lawsuit or
27 asked what it would take for them to “opt-out.” Defendants also began to interrogate
28 Drivers who had and had not filed Consent to Sue forms. Defendants also began to

1 increase their surveillance of Drivers while in the IntelliQuick warehouse. Upon
2 information and belief, Defendants installed video and audio surveillance equipment in
3 the IntelliQuick Route Room.

4 194. On May 21, 2012, Defendant Jeff Lieber approached Plaintiff David
5 Collinge and two other drivers, who had opted-in to the FLSA action and filed Consent to
6 Sue forms, and told them that they could no longer “congregate” and talk to each other.
7 Defendant Lieber told them that they must meet with him that day or they could not drive
8 the following day.

9 195. Defendant Lieber gave the three Drivers a new policy, titled “Rules
10 Regarding Solicitation, Distribution of Literature, & Political Advocacy.” The policy
11 applies to “all employees, service providers, vendors and other non-employees to govern
12 solicitation, distribution of written material, political advocacy and access to Company
13 property. According to this new policy, employees and non-employees are prohibited
14 from distributing any materials of any kind and engaging in any advocacy of any kind and
15 for any cause while on Company property.

16 196. Defendant Lieber threatened Plaintiff Collinge and told him that if he or
17 anyone else does not “abide by” this policy they would be terminated. Lieber also
18 mentioned the lawsuit and told Mr. Collinge that he would terminate anyone he saw
19 “handing out an opt-in form in order to expand your group that is committed to suing
20 IntelliQuick.”

21 197. On or about May 25, 2012, Plaintiff Heather Arras received threatening text
22 messages, stating “think carefully as to how you choose to proceed in life,” and “Lawsuits
23 are ugly and you have chosen to dishonestly threaten my family via lawsuit[.] Just drop
24 it.” She also received a message stating “I am exercising my freedom of speech... It is
25 kinda like trying to sue someone that has done nothing wrong...” These messages were
26 received late in the evening. Upon information and belief, these text messages were sent
27 by one of the Defendants.

28 198. Upon information and belief, there are several current Drivers who are

1 afraid to opt in or join this lawsuit because they are afraid Defendants will retaliate against
2 them. Upon information and belief, current On-Demand Drivers, who are wholly
3 dependent upon Defendants to send them various new assignments each day, are afraid to
4 opt-in or participate in this lawsuit because Defendants or their representatives or agents
5 will retaliate against them by refusing to send them any assignments, issuing less desirable
6 assignments or putting them at the bottom of their list, or arbitrarily reducing the amount
7 paid for an assignment. Upon information and belief, current Route and Freight Drivers
8 are afraid to opt-in or participate in this lawsuit because they are afraid Defendants or their
9 representatives or agents will retaliate against them by eliminating or “reorganizing” their
10 route, taking away their route, arbitrarily increasing the number of pick-ups and deliveries
11 on their route, decreasing the amount paid for their route, issuing them additional
12 unwarranted charge-backs, or otherwise confronting them and expressing their anger,
13 frustration or disappointment in them.

14 199. In addition, many of the current drivers who have filed Consent to Sue
15 forms are afraid that Defendants have or will retaliate against them for filing Consent to
16 Sue forms.

17 200. Defendants, including Defendants Spizzirri, Lieber, Tavison, and Cocchia,
18 have approached Drivers and told them they should “opt-out,” implying that they would
19 suffer some adverse action if they did not.

20 201. Defendants have even established three websites, in which they encourage
21 Drivers to “Withdraw from the Case,” and claim a “small group of IQ’s independent
22 contractors” retained a law firm and have “chosen a more litigious route with this IQ
23 lawsuit simply because they have not achieved success as independent business. [sic]”

24 202. Defendants also alleged on their websites that “the IntelliQuick class action
25 lawsuit [is] a debased claim by those who sought to prosper with the IQ lawsuit versus the
26 traditional path of hard work and honest win/win discussions to leverage income
27 opportunities by working faster, better and smarter than the competition.” Defendants
28 further assert that “[a]ll claims represented by the plaintiffs in the IntelliQuick lawsuit go

1 completely against everything IQ stands in our staunch support of the American dream.”
2 These statements are false, misleading and intended to intimidate and discourage Drivers
3 from opting-in or otherwise participating in the lawsuit.

4 203. Defendant Keith Spizzirri also threatens the Drivers, stating “[t]he important
5 point to remember is that we all make choices and when they do not work out in our best
6 interests, we accept the outcome and learn from it,” implying that if the Drivers make the
7 wrong choice by supporting the lawsuit that they will face adverse consequences. He also
8 states that: “I do not think our forefathers or the current court system would want us suing
9 to get what we would have had with a different choice, when we were free to make the
10 choice all along;” “[t]he plaintiffs in the IQ lawsuit are challenging the independent
11 contractor relationship for their own financial gain and casting it in a negative light;” and
12 “this IQ lawsuit [] is attempting to divert attention from our focus on providing resources
13 and opportunity for everyone.” These statements are intended to intimidate and
14 discourage drivers from challenging Defendants’ actions and joining this lawsuit.

15 204. The claims on Defendants’ new websites also further support Plaintiffs’
16 claims that they have been intentionally misclassified. Defendants admit that they provide
17 “*employment* options for qualified drivers agents,” provide “opportunities for
18 advancement and further training in the industry,” that drivers are members of their
19 “team,” that Defendant “Jason Mittendorf was an IC driver who now is the PM Terminal
20 Manager (employee).” All of these facts, show an employment relationship, not a
21 contractor relationship.

22 205. Prior to Defendants’ “No Solicitation” policy, Plaintiffs and other Drivers,
23 who had filed Consent to Sue forms, notified other Drivers about this lawsuit and shared
24 copies of Consent to Sue forms with other drivers.

25 206. Upon information and belief, Defendants removed their video and audio
26 surveillance equipment soon after Plaintiff David Collinge filed a unfair labor practice
27 charge with the NLRB.

28 207. On July 31, 2012, this Court ordered conditionally certifying a class on

1 Plaintiff's FLSA claims. (Doc. 59.)

2 208. The following day, on August 1, 2012, IntelliQuick gave every Driver a
3 Memorandum notifying them that they are in the process of redesigning their "routed
4 distribution mechanism" and encouraging Drivers to opt-out of the lawsuit and to visit
5 Defendants' website and complete their "opt-out form online" by clicking the
6 "WITHDRAW FROM CASE" button.

7 209. Upon information and belief, Defendants distributed this memorandum to
8 discourage all current Drivers, who will receive the Court approved Notice, from filing
9 Consent to Sue forms.

10 210. On the evening of August 7, 2012, Plaintiff David Collinge was notified that
11 IntelliQuick was taking his route away. He was told that his morning route would be
12 covered by an IntelliQuick employee and his afternoon route would be added to another
13 Driver's route. He was told that the decision to take away his route had been made by
14 Jeffrey Lieber and Steven Anastase.

15 211. On August 8, 2012, Mr. Collinge was approached by Defendants Lieber and
16 Anastase, told that his route had been taken away and that they would follow up with him
17 by the following Monday, August 13, 2012, regarding his status with the company.
18 Defendants told him that he may be able to do "on-call" or "on-demand" work but he
19 could no longer use a company vehicle and Defendants would not pay or reimburse him
20 for his gas. Defendants later confiscated Mr. Collinge's scanner, which is the principal
21 means of communication with Drivers while at work.

22 212. After Mr. Collinge's meeting with Defendants Lieber and Anastase, his
23 supervisor notified him that he could cover another Driver's route, who would be out for a
24 week, but after that time they did not have any other work for him.

25 213. After the other Driver returned to work, Mr. Collinge was not given any
26 other assignments and Defendants refused to talk to him about his status with IntelliQuick.
27 Accordingly, Mr. Collinge was effectively terminated.

28 214. On August 27, 2012, after not receiving any contact from Defendants

1 regarding any opportunities to continue work, Mr. Collinge returned all of the uniforms,
 2 equipment and tools that belonged to IntelliQuick, including IntelliQuick's lockbox keys,
 3 scanner car charger, and medical specimen clean-up kit.

4 215. Upon information and belief, Defendants terminated Mr. Collinge in
 5 retaliation for filing and being actively involved in this action and to discourage other
 6 current Drivers from opting-in and filing Consent to Sue forms.

7 ~~159.—~~

8
 9 **COUNT I**
 10 **FAILURE TO PAY OVERTIME AND MINIMUM WAGES IN VIOLATION OF**
 11 **FLSA**
 12 **(29 U.S.C. § 201 *et. seq*)**

13 ~~160.~~216. Plaintiffs reallege and incorporate by reference all allegations in all
 14 paragraphs as if fully set forth herein.

15 ~~161.~~217. The FLSA, 29 U.S.C. § 206 provides in relevant part:

16 Every employer shall pay to each of his employees who in any workweek is
 17 engaged in commerce or in the production of goods for commerce, or is
 18 employed in an enterprise engaged in commerce or in the production of
 19 goods for commerce, wages at the following rates:

(1) except as otherwise provided in this section, not less than--

(A) \$5.85 an hour, beginning on the 60th day after May 25, 2007;

(B) \$6.55 an hour, beginning 12 months after that 60th day; and

(C) \$7.25 an hour, beginning 24 months after that 60th day;

20 ~~162.~~218. The FLSA, 29 U.S.C. § 207(a)(2) provides in relevant part:

21 no employer shall employ any of his employees who in any workweek is
 22 engaged in commerce or in the production of goods for commerce, or is
 23 employed in an enterprise engaged in commerce or in the production of
 24 goods for commerce, for a workweek longer than forty hours unless such
 25 employee receives compensation for his employment in excess of the hours
 26 above specified at a rate not less than one and one-half times the regular rate
 27 at which he is employed.

28 ~~163.~~219. By the acts and omissions complained of above, including, *inter alia*,
 by failing to pay minimum wages and by failing to pay overtime wages for work in
 excess of 40 hours per week, Defendants violated the FFLSA.

~~164.~~220. Plaintiffs and Class Members are entitled to be paid minimum wages

1 and are entitled to receive compensation at the rate of one and one-half times their hourly
2 rate for each hour worked in excess of forty hours per workweek.

3 ~~165.221.~~ Defendants' violations of the FLSA were willful and accordingly, a
4 three year statute of limitations applies, pursuant to 29 U.S.C. § 255.

5 ~~166.222.~~ Each improperly paid Plaintiff and Class Member, who performed or
6 continues to perform services for Defendants for any time during the three years preceding
7 this lawsuit, is entitled to notification of the pendency of this action and of his/her right to
8 consent to becoming a party to this action. Notice should be sent to all Class Members, as
9 defined above, pursuant to 29 U.S.C. § 216(b).

10 ~~167.223.~~ Defendants have intentionally, willfully and repeatedly engaged in a
11 pattern, practice and/or policy of violating the FLSA.

12 ~~168.224.~~ Plaintiffs and Class Members have been harmed and suffered
13 damages by being denied overtime wages in accordance with the FLSA, plus incurred
14 costs and reasonable attorneys' fees.

15 ~~169.225.~~ As a result of Defendants' unlawful acts and violations of the FLSA,
16 Plaintiffs and Class Members have been damaged and pursuant to 29 U.S.C. § 216(b) are
17 entitled to recovery of overtime wages, liquidated damages in an amount equal to the
18 wages they are owed as unpaid overtime, prejudgment interest, attorneys' fees, costs and
19 other compensation, declaratory and injunctive relief.

20 **COUNT II**
21 **VIOLATION OF ARIZONA'S WAGE ACT**
22 **(A.R.S. § 23-350 *et seq.*)**

23 ~~170.226.~~ Plaintiffs reallege and incorporate by reference all allegations in all
24 paragraphs as if fully set forth herein.

25 ~~171.227.~~ Ariz. Rev. Stat. § 23-351 provides in relevant part:

26 A. Each employer in this State shall designate two or more
27 days in each month, not more than sixteen days apart, as fixed
28 paydays for payment of wages to the employees . . .

C. Each employer shall, on each of the regular paydays, pay
to the employees . . . all wages due the employee up to such

1 date, except

2 (3) Overtime or exception pay shall be paid no later than
3 sixteen days after the end of the most recent pay period.

4 ~~172.228.~~ Ariz. Rev. Stat. § 23-355(A) provides in relevant part:

5 if an employer, in violation of this chapter, fails to pay wages due any
6 employee, the employee may recover in a civil action against an employer
7 or former employer an amount that is treble the amount of the unpaid wages.

8 ~~173.229.~~ Arizona Rev. Stat. § 23-352 provides in relevant part:

9 No employer may withhold or divert any portion of an employee's wages
10 unless one of the following applies:

11 1. The employer is required or empowered to do so by state or federal law.

12 2. The employer has prior written authorization from the employee. An
13 employer shall not withhold wages under a written authorization from the
14 employee past the date specified by the employee in a written revocation of
15 the authorization, unless the withholding is to resolve a debt or obligation to
16 the employer or a court orders otherwise.

17 3. There is a reasonable good faith dispute as to the amount of wages due,
18 including the amount of any counterclaim or any claim of debt,
19 reimbursement, recoupment or set-off asserted by the employer against the
20 employee.

21 230. Arizona Rev. Stat. § 23-363 provides, in relevant part:

22 A. Employers shall pay employees no less than the minimum wage, which shall be
23 six dollars and seventy five cents (\$6.75) an hour beginning January 1, 2007.

24 B. The minimum wage shall be increased shall be increased on January 1, 2008
25 and on January 1 of successive years by the increase in the cost of living. ...

26 ~~174.231.~~ By the acts and omissions set forth above, including by failing to pay
27 all wages due to Plaintiffs and Class Members, including minimum wages and overtime
28 wages and by improperly deducting portions of Plaintiffs' and Class Members' wages
without authorization, Defendants violated Arizona's Wage Act.

~~175.232.~~ As a result of Defendants' violations of Ariz. Rev. Stat. § 23-351,
Plaintiffs and Class Members have been harmed, have suffered substantial losses and have
been deprived of compensation to which they were entitled are entitled to an award of the
unpaid wages, with prejudgment interest thereon, and treble the amount of such wages,
together with attorneys' fees and costs, pursuant to A.R.S. §23-355.

COUNT III
RESTITUTION/UNJUST ENRICHMENT

~~176.233.~~ Plaintiffs reallege and incorporate by reference all allegations in all paragraphs as if fully set forth herein.

~~177.234.~~ Defendants' Membership Application and Agreement and Vehicle Lease Agreement are unconscionable.

~~178.235.~~ Defendants' unconscionable agreements are void, or alternatively, voidable by Plaintiffs under the common law.

~~179.236.~~ Defendants have been unjustly enriched by the unconscionable terms of the contracts they imposed on the Plaintiffs and Class Members.

~~237.~~ Defendants have been unjustly enriched by the work performed by Plaintiffs and Class Members without any compensation for the work performed.

~~180.238.~~ Defendants have been unjustly enriched by the charge-backs and deductions made from the Plaintiffs and Class Members pay.

~~181.239.~~ Plaintiffs are entitled to restitution and/or damages in quantum meruit for the value of Defendants' unconscionable contracts conferred upon Defendants.

COUNT IV
DECLARATORY JUDGMENT

~~182.240.~~ Plaintiffs reallege and incorporate by reference all allegations in all paragraphs as if fully set forth herein.

~~183.241.~~ The Membership Application and Agreement and Vehicle Lease Agreement that some Drivers are requested to sign are unconscionable.

~~184.242.~~ Plaintiffs and Class Members are entitled to declaratory judgment that Defendants' lease and Vehicle Rental Agreement are unconscionable.

COUNT V
VIOLATIONS OF FMLA
(29 U.S.C. § 2601 *et seq.*)

~~185.243.~~ Plaintiffs reallege and incorporate by reference all allegations in all paragraphs as if fully set forth herein.

~~186.244.~~ The FMLA, 29 U.S.C. § 2612, provides in relevant part that:

an eligible employee shall be entitled to a total of 12 workweeks of leave during any 12-month period for one or more of the following:

(A) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.

(B) Because of the placement of a son or daughter with the employee for adoption or foster care.

(C) In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.

(D) Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.

(E) Because of any qualifying exigency (as the Secretary shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.

~~187.245.~~ The FMLA, 29 U.S.C. § 2615, further provides:

Exercise of rights

It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this subchapter.

~~188.246.~~ The FMLA provides that an employer who violates § 2615 shall be liable to any eligible employee affected:

(A) for damages equal to--

(i) the amount of--

(I) any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or

(II) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to 12 weeks (or 26 weeks, in a case involving leave under section 2612(a)(3) of this title) of wages or salary for the employee;

(ii) the interest on the amount described in clause (i) calculated at the prevailing rate; and

(iii) an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii), except that if an employer who has violated section 2615 of this title proves to the satisfaction of the court that the act or omission which violated section 2615 of this title was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of section 2615 of this title, such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under clauses (i) and (ii), respectively; and

(B) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

1
2 247. By the acts and omissions set forth above, including by failing to provide
3 FMLA leave and by penalizing employees who take unpaid leave, Defendants violated the
4 FMLA. As a result of Defendants' violations of the FMLA, Plaintiffs have been damaged
5 and, *inter alia*, are entitled to damages equal to the amount of wages and benefits lost and
6 monetary losses, interest and liquidated damages together with appropriate declaratory
7 and other equitable relief, together with attorneys' fees and costs.

8 **COUNT VI**
9 **RETALIATION IN VIOLATION OF FLSA**
10 **(29 U.S.C. § 201 et seq.)**

11 248. Plaintiffs reallege and incorporate by reference all allegations in all
12 paragraphs as if fully set forth herein. As set forth above, Plaintiff David Collinge was
13 retaliated against for exercising his rights under the FLSA.

14 249. Pursuant to FLSA, 29 U.S.C. § 215(a)(3), it is unlawful to discharge or in
15 any other manner discriminate against any employee because such employee has filed a
16 complaint or instituted or caused to be instituted any proceedings under or related to this
17 chapter, or has testified or is about to testify in any such proceedings, or has served or is
18 about to serve on an industry committee..."

19 250. Plaintiff has suffered emotional distress, mental anguish, lost past and future
20 wages as a result of Defendants' retaliatory conduct.

21 251. As a result of Defendants' retaliatory conduct, Plaintiff is entitled to
22 compensatory damages, punitive damages, attorneys' fees and costs, and all other legal or
23 equitable relief permitted under 29 U.S.C. § 216.

24 ~~189.~~252. _____

25 **PRAYER FOR RELIEF**

26 **WHEREFORE**, Plaintiffs, individually and on behalf of Class Members, pray
27 that judgment be entered against Defendants and that the Court award the following relief
28 including, but not limited to:

A. A declaration that Defendants have violated and are violating the FLSA;

- 1
- 2 B. A declaration that Defendants have violated and are violating Arizona's
- 3 Wage Act;
- 4 C. A declaration that Defendants have violated and are violating the
- 5 FMLA;
- 6 D. A declaration that Defendants' violations of the FLSA and FMLA are
- 7 willful;
- 8 E. Enjoining Defendants from violating the FLSA, the FMLA and
- 9 Arizona's Wage Act;
- 10 F. Fashioning appropriate equitable and injunctive relief to remedy
- 11 Defendants' violations of law, including but not limited to, an order
- 12 declaring that the Membership Application and Agreement and Vehicle
- 13 Lease Agreement are void or voidable or alternatively, severing any
- 14 unconscionable clauses and enjoining Defendants from continuing their
- 15 unlawful practices as described herein;
- 16 G. Awarding Plaintiffs and Class Members wages and overtime payments
- 17 due them for the hours worked by them for Defendants without proper
- 18 compensation;
- 19 H. Awarding Plaintiffs and Class Members statutory, compensatory and
- 20 punitive damages, liquidated damages, appropriate statutory penalties,
- 21 treble damages and restitution to be paid by Defendants;
- 22 I. Awarding Plaintiffs and Class Members pre-judgment and post-
- 23 judgment interest;
- 24 J. Awarding Plaintiffs and Class Members attorneys' fees and costs of
- 25 suit; and
- 26 K. Awarding Plaintiffs and Class Members such other and further relief as
- 27 the Court deems just and proper.
- 28 //

PLAINTIFFS DEMAND TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

Dated this ~~19th~~ 30th day of ~~April~~ August, 2012.

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