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12 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
13 **IN AND FOR THE COUNTY OF PIMA**

14
15 STATE OF ARIZONA, *ex rel.* MARK
16 BRNOVICH, the Attorney General, and the
17 CIVIL RIGHTS DIVISION OF THE
18 ARIZONA DEPARTMENT OF LAW,

19 Plaintiff,

20 vs.

21 BIG TEX TRAILER WORLD, INC., d/b/a
22 BIG TEX TRAILERS,

23 Defendant.

Case No.:

CIVIL COMPLAINT

24 Plaintiff, the State of Arizona, *ex rel.* Mark Brnovich, the Attorney General, and the
25 Civil Rights Division of the Arizona Department of Law (collectively, “the State”) alleges and
26 states as follows:

1 **INTRODUCTION**

2 1. The State brings this civil rights action under the Arizona Civil Rights Act to
3 correct an unlawful employment practice, redress injury, and vindicate the public interest.

4 2. Specifically, the State brings this matter due to employment discrimination by
5 Defendant Big Tex Trailer World, Inc., d/b/a Big Tex Trailers (“Defendant”) in failing to
6 reasonably accommodate the disabilities of its employee, Edward Litzinger (“Litzinger”), and
7 discharging Mr. Litzinger on the basis of his disability, in violation of A.R.S. § 41-1463(B)(1)
8 and A.R.S. § 41-1463(F)(4).

9 **JURISDICTION AND VENUE**

10 3. This Court has jurisdiction of this matter pursuant to A.R.S. § 41-1481(D).

11 4. Venue is proper in Pima County pursuant to A.R.S. § 12-401.

12 **PARTIES**

13 5. The Civil Rights Division of the Arizona Department of Law (“the Division”) is
14 an administrative agency of the State of Arizona established by A.R.S. § 41-1401 to administer
15 and enforce the provisions of the Arizona Civil Rights Act, A.R.S. § 41-1401, *et seq.*

16 6. The State brings this action on its own behalf, and on behalf of Mr. Litzinger, as
17 provided by A.R.S. § 41-1481(D) and (G) of the Arizona Civil Rights Act.

18 7. Defendant is a manufacturer and retailer of trailers, trailer parts, and trailer
19 accessories headquartered in Mount Pleasant, Texas with 65 stores nationwide and
20 approximately 275 employees.

21 8. At all times relevant to the allegations in this Complaint, Defendant employed
22 fifteen or more employees in each of twenty or more calendar weeks in the current or preceding
23 calendar year. Defendant is an employer within the meaning of A.R.S. § 41-1461(6)(a).

24 9. Mr. Litzinger worked for Defendant as a Sales Representative in its Tucson,
25 Arizona location from on or about August 22, 2016 to on or about February 22, 2018. Mr.
26 Litzinger was an employee under A.R.S. § 41-1461(5)(a).

1 **GENERAL ALLEGATIONS**

2 1. In late 2017, Mr. Litzinger began experiencing severe leg pain and sought
3 medical treatment. In or about mid-November 2017, Mr. Litzinger informed his immediate
4 supervisor, Defendant's General Manager James Leader, that he would need to undergo hip
5 replacement surgery and would require medical leave. On or about December 5, 2017, Mr.
6 Litzinger underwent a right total hip arthroplasty and greater trochanteric bursa (hip
7 replacement).

8 2. From in or around November of 2017 through, at least, January 2018, Mr.
9 Litzinger was substantially limited in the major life activities of walking, lifting, standing,
10 performing manual tasks, sitting, and squatting. During the time-period relative to this
11 complaint, Mr. Litzinger had a disability as defined in A.R.S. § 41-1461(4).

12 3. Following his December 5, 2017 hip replacement surgery, Mr. Litzinger believed
13 he was medically restricted from prolonged sitting due to the risk of deep vein thrombosis and
14 pulmonary embolism and thus could not travel via airplane for up to one year.

15 4. On or about January 2, 2018, Mr. Litzinger, requiring the use of a cane for
16 ambulation, attempted to return to work—having been released to do so by his treating
17 physician. Mr. Leader told Mr. Litzinger that he could not return to work while using a cane.
18 On or about January 8, 2018, Litzinger returned to work without the aid of a cane.

19 5. Defendant refused to allow Mr. Litzinger the use of a cane as a reasonable
20 accommodation for his disability.

21 6. In or about February of 2018, Mr. Leader informed Mr. Litzinger that Defendant
22 was requiring all salespeople to fly to Texas in March of 2018 for training. Mr. Litzinger told
23 Mr. Leader that he was unable to fly to Texas for training because of the risk of blood clots and
24 asked if he could attend training in Phoenix as a reasonable accommodation for his disability.
25 The next day Mr. Leader told Mr. Litzinger that if he could not fly to Texas for training, he had
26 to resign or he would be terminated by Defendant. Mr. Litzinger refused to resign.

1 E. Order Defendant to provide remedial and additional training to its management
2 and human resources personnel regarding disability discrimination in the workplace and
3 reasonable accommodations;

4 F. Issue an Order authorizing the State to monitor Defendant's compliance with the
5 Arizona Civil Rights Act;

6 G. Award the State its taxable costs incurred in bringing this action; and

7 H. Grant such other and further relief as this Court may deem just and proper in the
8 public interest.

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10 DATED this 30th day of May, 2019.

11 MARK BRNOVICH
12 The Attorney General

13
14 By /s/Vincent J. Sottosanti
15 Vincent J. Sottosanti
16 Senior Litigation Counsel
17 Arizona Civil Rights Division
18 Attorneys for Plaintiff
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