

**ROOFING WHOLESALE COMPANY, INC.
adv. JULIO CESAR CASTILLO**

INDEX OF EXHIBITS

Exhibit

- A. Summons, Complaint, Plaintiff's Certificate of Compulsory Arbitration and Affidavit of Service
- B. Answer and Certificate Regarding Compulsory Arbitration
- C. Notice of Removal of Action Under 28 U.S.C. §§ 1331 and 1441(a) filed in Maricopa County Superior Court

EXHIBIT A

SERVED 2/27/08

1 **YEN PILCH KOMADINA & FLEMMING, P.C.**
 2 6017 N. 15th Street
 3 Phoenix, Arizona 85014
 4 (602) 241-0474
 5 State Bar No. 00407400
 6 Caroline A. Pilch, State Bar No. 011041
 7 Attorneys for Plaintiff

ORIGINAL

MARICOPA COUNTY SUPERIOR COURT

STATE OF ARIZONA

8
 9 JULIO CESAR CASTILLO,
 10 Plaintiff,

11 vs.

12 ROOFING WHOLESALE COMPANY,
 13 INC., an Arizona corporation,
 14 Defendant.

Case No. CV 2008-003188

SUMMONS

IF YOU WANT THE ADVICE OF A
 LAWYER, YOU MAY WISH TO CONTACT
 THE LAWYER REFERRAL SERVICE AT
 602-257-4434 OR ON-LINE AT
 WWW.LAWYERREFERRAL.SERVICES.ORG. LRS IS
 SPONSORED BY THE MARICOPA
 COUNTY BAR ASSOCIATION

15
16 THE STATE OF ARIZONA TO THE DEFENDANTS:

17 **ROOFING WHOLESALE COMPANY, INC.**

18 YOU ARE HEREBY SUMMONED and required to appear and defend, within the
 19 time applicable, in this action in this Court. If served within Arizona, you shall appear and
 20 defend within 20 days after the service of the Summons and Complaint upon you, exclusive
 21 of the day of service. If served out of the State of Arizona--whether by direct service, by
 22 registered or certified mail, or by publication--you shall appear and defend within 30 days
 23 after the service of the Summons and Complaint upon you is complete, exclusive of the day
 24 of service. Where process is served upon the Arizona Director of Insurance as an insurer's
 25 attorney to receive service of legal process against it in this state, the insurer shall not be
 26 required to appear, answer or plead until expiration of 40 days after date of such service
 upon the Director. Service by registered or certified mail without the State of Arizona is
 complete 30 days after the date of filing the receipt and affidavit of service with the Court.
 Service by publication is complete 30 days after the date of first publication. Direct service
 is complete when made. Service upon the Arizona Motor Vehicle Superintendent is complete
 30 days after filing the Affidavit of Compliance and return receipt or Officer's Return. RCP
 4; ARS §20-222, §28-502, §28-503.

YOU ARE HEREBY NOTIFIED that in case of your failure to appear and defend
 within the time applicable, judgment by default may be rendered against you for the relief
 demanded in the Complaint.

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YOU ARE CAUTIONED that in order to appear and defend, you must file an Answer or proper response in writing with the Clerk of this Court, accompanied by the necessary filing fee, within the time required, and you are required to serve a copy of any Answer or response upon the Plaintiff's attorney. RCP 10(d); ARS §12-311; RCP 5.

Requests for reasonable accommodation for persons with disabilities must be made to the division assigned to the case by parties at least three judicial days in advance of a scheduled court proceeding.

You may obtain a copy of the summons and complaint from plaintiffs attorney:

Caroline A. Pilch, Esq.
YEN PILCH KOMADINA & FLEMMING, P.C.
6017 North 15th Street
Phoenix, Arizona 85014

FEB 1 2008

SIGNED AND SEALED this date: _____

MICHAEL K. JEANES, Clerk of the Superior Court

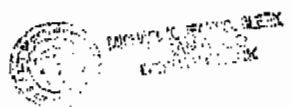
By 
Deputy Clerk

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YEN PILCH KOMADINA & FLEMMING, P.C.
6017 N. 15th Street
Phoenix, Arizona 85014
(602) 241-0474
State Bar No. 00407400
Caroline A. Pilch, State Bar No. 011041
Attorneys for Plaintiff

COPY
FEB 11 2008



MARICOPA COUNTY SUPERIOR COURT
STATE OF ARIZONA

JULIO CESAR CASTILLO,
Plaintiff,
vs.
ROOFING WHOLESALE COMPANY,
INC., an Arizona corporation,
Defendant.

Case No. CV2008-003188
COMPLAINT
(Wrongful Termination)
(FMLA)

Plaintiff alleges:

1. Plaintiff is a resident of Maricopa County, Arizona, and all events giving rise to this action arose in Maricopa County, Arizona.
2. Defendant Roofing Wholesale Company, Inc. is an Arizona corporation authorized to do and doing business in Maricopa County, Arizona. Defendant employs more than 50 people in the State of Arizona.
3. All events herein alleged occurred in Maricopa County, Arizona.
4. Plaintiff was formerly employed by Roofing Wholesale Company, Inc. as a driver, having started employment with the company in May, 1997.
5. On March 11, 2006 plaintiff was involved in a traffic accident while employed by, and within the course and scope of his employment with, defendant. As a result of this accident, plaintiff was injured.

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NOT TRUE

NOT TRUE

NO

- 6. On April 18, 2007 plaintiff informed defendant that plaintiff had a serious health condition which required plaintiff to have back surgery. Said surgery would cause plaintiff to be unable to perform his job for a period of time, and thus, plaintiff had a need to be put on Family Medical Leave. Plaintiff also advised defendant that plaintiff intended to file paperwork seeking to re-open his workman's compensation case because his ongoing medical problems related to the accident of March, 2006.
- 7. Defendant, through its employee Michael O'Day, advised plaintiff to go home and return to work once plaintiff's doctor had cleared plaintiff to return to work. Defendant advised plaintiff that the appropriate paperwork for Family Medical Leave would be mailed to plaintiff. NOT TRUE
- 8. Instead of placing plaintiff on FMLA as required by law, once requested, defendant fired plaintiff but did not bother to inform plaintiff for several weeks.
- 9. On May 2, 2007, plaintiff underwent surgery. While at home recovering, plaintiff received a certified letter, on June 12, 2007, notifying plaintiff that his insurance had been terminated effective May 31, 2007.
- 10. Plaintiff called the defendant to inquire and was advised that he was terminated from his employment effective April 24, 2007.

COUNT I - WRONGFUL TERMINATION
A.R.S. § 23-1501

- 11. Plaintiff incorporates herein all allegations set forth in paragraphs 1 - 10 above.
- 12. Defendant terminated plaintiff in retaliation for plaintiff's exercise of his rights under the workers compensation statutes contained in Title 23 of Arizona Revised Statutes.

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13. Defendant wrongfully terminated the employment relationship in violation of A.R.S. § 23-1501(3)(c)(iii)

COUNT II – VIOLATION OF FAMILY MEDICAL LEAVE ACT
(29 U.S.C. § 2601, et seq.)

- 14. Plaintiff incorporates herein all the allegations in paragraphs 1 through 10 above.
- 15. Plaintiff, on April 18, 2007, provided defendant notice of plaintiff's need for Family Medical Leave Act. Plaintiff had a right to the benefits provided to employees pursuant to the Family Medical Leave Act.
- 16. Defendant did not place plaintiff on family medical leave; but rather, defendant terminated plaintiff's employment.
- 17. Defendant acted purposefully and in bad faith and intentionally denied plaintiff's his Family Medical Leave Act rights.
- 18. Plaintiff is entitled to an award of liquidated damages due to plaintiff's unreasonable and wilful actions.

DAMAGES

- 19. As a result of defendants' wrongful actions, plaintiff has lost wages and will continue to lose wages in the future. Additionally, plaintiff has lost all of the benefits that come from full time employment.
- 20. Plaintiff has suffered mental and emotional harm due to defendant's outrageous conduct, and will continue to suffer mental and emotional harm in the future.
- 21. Defendants acted intentionally, wilfully, wantonly, and with retaliatory animus and did so without any regard to the harm such actions would cause the plaintiff, thus entitling plaintiff to punitive damages against defendants.
- 22. Plaintiff has had to pay medical bills and expenses out of his own pocket, and

1 will continue to have to pay medical bills in the future.

2 23. Plaintiff is entitled to an award of attorneys' fees and costs.

3 WHEREFORE, plaintiff requests that this Court: (a) reinstate plaintiff to his position
4 with the company, (b) award plaintiff compensatory damages including back pay and front
5 pay, (c) award plaintiff special damages, (d) award plaintiff liquidated damages, and (e) award
6 plaintiff punitive damages, (f) award plaintiff interest on the wages owed, (g) award plaintiff
7 attorneys' fees and costs, and (h) award plaintiff any other relief that may be appropriate,
8 pursuant to law.

9 DATED this 11 day of February, 2008.

10 YEN PILCH KOMADINA & FLEMMING, P.C.

11 By Caroline Pilch

12 Caroline A. Pilch
13 6017 N. 15th Street
14 Phoenix, Arizona 85014
Attorneys for Plaintiff

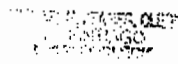
15 S:\Active\Castillo,Julio\Pleadings\Complaint-Castillo.wpd

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 3 Phoenix, Arizona 85014
 4 (602) 241-0474
 State Bar No. 00407400
 Caroline A. Pilch, State Bar No. 011041
 Attorneys for Plaintiff

COPY

FEB 11 2008



MARICOPA COUNTY SUPERIOR COURT

STATE OF ARIZONA

9 JULIO CESAR CASTILLO,
 10 Plaintiff,

Case No. CV2008-003188

11 vs.

PLAINTIFF'S CERTIFICATE
OF COMPULSORY
ARBITRATION

12 ROOFING WHOLESALE COMPANY,
 13 INC., an Arizona corporation,
 14 Defendant.

15 The undersigned certifies that he or she knows the dollar limits and any other
 16 limitations set forth by the local rules of practice for the applicable superior court, and
 17 further certifies that this case is not subject to compulsory arbitration, as provided by Rules
 18 72 through 76 of the Arizona Rules of Civil Procedure.

19 DATED this 11 day of February, 2008.

20 YEN PILCH KOMADINA & FLEMMING, P.C.

21 By Caroline Pilch

22 Caroline A. Pilch
 23 6017 N. 15th Street
 Phoenix, Arizona 85014
 Attorneys for Plaintiff

25 S:\Acctv\Castillo,Julio\Pleadings\Cert.Arb.wpd

26

LIDDY LEGAL SUPPORT SERVICES

P.O. Box 2007
Phoenix, AZ 85001
Phone 602-297-0676 Fax 602-297-0670
www.LiddyLegal.com

MICHAEL K. JEANES, CLERK
RECEIVED CCC #8
DOCUMENT DEPOSITORY
08 FEB 29 PM 3:46

Client File # Castillo v. Roofing
Account # 0070
Invoice # 74618

FILED
BY *M. Knott*, DEP

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

JULIO CESAR CASTILLO
Plaintiff,

vs.

**ROOFING WHOLESALE COMPANY,
INC., an Arizona corporation,**
Defendants.

**CERTIFICATE OF SERVICE
BY PRIVATE PROCESS SERVER
Case No. CV2008-003188**

ORIGINAL

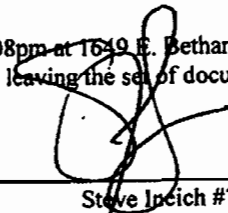
STATE OF ARIZONA
County of Maricopa

The undersigned states: That I am a registered private process server in the county of MARICOPA, and an officer of the court.

On 2/25/08 I received a *Summons, Complaint and Certificate of Compulsory Arbitration* from the law offices of **Yen, Pilch Komadina & Flemming, P.C., (Caroline A. Pilch #011041)**, and in each instance I personally served a copy of each document listed above on those named below in the manner and at the time and place shown, that all services, except where noted were made within Maricopa County, Arizona.

Upon **ROOFING WHOLESALE COMPANY, INC.**, on 2/27/08 at 2:08pm at 1649 E. Bethany Home Road, Phoenix, AZ 85016, by serving Roofing Wholesale Company, Inc., by leaving the set of documents with Thomas McLellan, Statutory Agent, a person authorized to accept service

Date February 27, 2008


Steve Inich #7401
Registered Officer of the Superior Court

Item	Amount
Service Of Process	16.00
Mileage	21.60
Doc. Prep Fee	8.00

I declare under penalty of perjury that the foregoing is true and correct and was executed on this date.

Total \$45.60

Tax ID# 86-1021541

EXHIBIT B

MICHAEL K. JEANES, CLERK
RECEIVED CCC #1
NIGHT DEPOSITORY

08 MAR 18 PM 5: 21

1 BRYAN CAVE LLP, #00145700
2 Jay A. Zweig, #011153
3 Caroline K. Larsen, #022547
4 Two North Central Avenue, Suite 2200
5 Phoenix, Arizona 85004-4406
6 Telephone: (602) 364-7000
7 jay.zweig@bryancave.com
8 caroline.larsen@bryancave.com

9 Attorneys for Defendant

10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

11 **IN AND FOR THE COUNTY OF MARICOPA**

12 JULIO CESAR CASTILLO,

13 Plaintiff,

14 vs.

15 ROOFING WHOLESALE COMPANY,
16 INC., an Arizona corporation,

17 Defendant.

Case No. CV2008-003188

ANSWER

(Assigned to Hon. Bethany Hicks)

18 Defendant Roofing Wholesale Company, Inc. ("Roofing Wholesale") responds to
19 the Complaint of Plaintiff Julio Cesar Castillo as follows:

- 20 1. Defendant is without sufficient knowledge to form a belief as to the truth of
21 the allegations in ¶ 1 of the Complaint and, therefore, denies those allegations.
- 22 2. Defendant admits the allegations in ¶ 2 of the Complaint
- 23 3. Defendant denies the events alleged occurred, as those events are
24 characterized in the Complaint.
- 25 4. Defendant admits the allegations in ¶ 4 of the Complaint.
- 26 5. To the extent the allegations in ¶ 5 of the Complaint state a legal
27 conclusion, to which no response is necessary, Defendant denies those allegations.
- 28

1 Defendant is without sufficient knowledge to form a belief as to the truth of the
2 remaining allegations in ¶ 5 of the Complaint and, therefore, denies the same.

3 6. Defendant denies the allegations in ¶ 6 of the Complaint.

4 7. Defendant denies the allegations in ¶ 7 of the Complaint.

5 8. Defendant denies the allegations in ¶ 8 of the Complaint.

6 9. Defendant avers that the letter speaks for itself. Defendant is without
7 sufficient knowledge to form a belief as to the truth of the remaining allegations in ¶ 9 of
8 the Complaint and, therefore, denies those allegations.

9 10. Defendant denies the allegations in ¶ 10 of the Complaint.

10 **ANSWER TO COUNT I**

11 11. Defendant realleges and incorporates by reference its answering paragraphs
12 1 through 10, as if set forth herein in full.

13 12. Defendant denies the allegations in ¶ 12 of the Complaint.

14 13. Defendant denies the allegations in ¶ 13 of the Complaint.

15 **ANSWER TO COUNT II**

16 14. Defendant realleges and incorporates by reference its answering paragraphs
17 1 through 13, as if set forth herein in full.

18 15. Defendant denies the allegations in ¶ 15 of the Complaint.

19 16. Defendant denies the allegations in ¶ 16 of the Complaint.

20 17. Defendant denies the allegations in ¶ 17 of the Complaint.

21 18. Defendant denies the allegations in ¶ 18 of the Complaint.

22 **ANSWER TO DAMAGES CLAIMS**

23 19. Defendant denies the allegations in ¶ 19 of the Complaint.

24 20. Defendant denies the allegations in ¶ 20 of the Complaint.

25 21. Defendant denies the allegations in ¶ 21 of the Complaint.

26 22. Defendant is without sufficient knowledge to form a belief as to the truth of
27 the allegations in ¶ 22 of the Complaint and, therefore, denies the same.
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23. Defendant denies the allegations in ¶ 23 of the Complaint.

FURTHER AFFIRMATIVE DEFENSES

In addition to its responses above, Defendant asserts the following affirmative defenses to Plaintiff’s Complaint:

1. Plaintiff is not entitled to any of the relief sought in his prayer for relief.
2. Plaintiff fails to state a claim against Defendant upon which relief can be granted.
3. Plaintiff’s alleged damages, if any, were caused or contributed to by his own acts and omissions and not by Defendant.
4. Plaintiff’s claims are barred, in whole or in part, because of his failure to properly and adequately mitigate his damages, if any.
5. The Complaint and each purported cause of action alleged therein fails to allege facts sufficient to allow the recovery of punitive damages from Defendant.
6. Plaintiff is not entitled to recover the punitive damages alleged in the Complaint because such an award violates Defendant’s rights under the Constitution of the United States of America and the Constitution of the State of Arizona, including but not limited to, Defendant’s rights to (1) procedural due process under the Constitution of the State of Arizona and the Fourteenth Amendment of the Constitution of the United States of America; (2) substantive due process provided in the Constitution of the State of Arizona and the Fifth and Fourteenth Amendments of the Constitution of the United States of America; and (3) protection from excessive fines as provided by the Eighth Amendment of the Constitution of the United States of America.
7. As discovery and further investigation of this matter may reveal affirmative defenses not presently known to Defendant, Defendant reserves the right to amend its Answer to add additional affirmative defenses that may be discovered during the course of this litigation, including, but not limited to, those listed in Rule 8(c), Arizona Rules of Civil Procedure.

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Phoenix, Arizona 85004-4406
(602) 364-7000

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WHEREFORE, Defendant prays for relief against Plaintiff as follows:

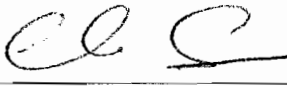
A. that judgment be entered in Defendant's favor and that Plaintiff take nothing thereby;

B. that Defendant be awarded reasonable attorneys' fees and costs incurred herein, pursuant to any and all applicable laws or court rules allowing such recovery;

C. that Defendant be awarded such further relief as the Court deems just and proper.

DATED this 18th day of March, 2008.

BRYAN CAVE LLP

By 

Jay A. Zweig
Caroline K. Larsen
Two North Central Avenue, Suite 2200
Phoenix, AZ 85004-4406
Attorneys for Defendant

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ORIGINAL of the foregoing filed
with the Clerk of the Superior Court
and a **COPY** mailed this 18th day
of March, 2008, to:

Caroline A. Pilch
Yen, Pilch, Komadina & Flemming, P.C.
6017 N. 15th Street
Phoenix, Arizona 85014
Attorneys for Plaintiff



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Two North Central Avenue, Suite 2200
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7 jay.zweig@bryancave.com
8 caroline.larsen@bryancave.com

9 Attorneys for Defendant

10
11 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
12
13 **IN AND FOR THE COUNTY OF MARICOPA**

14 JULIO CESAR CASTILLO,

15 Plaintiff,

16 vs.

17 ROOFING WHOLESALE COMPANY,
18 INC., an Arizona corporation,

19 Defendant.

Case No. CV2008-003188

**CERTIFICATE REGARDING
COMPULSORY ARBITRATION**

(Assigned to Hon. Bethany Hicks)

20 Pursuant to Rule 3.10(c), Maricopa County Local Rules of Practice, defendant
21 Roofing Wholesale Company, Inc. certifies it does not controvert Plaintiff's certificate of
22 compulsory arbitration stating that this case is not subject to compulsory arbitration.

23 DATED this 18th day of March, 2008.

24 BRYAN CAVE LLP

25 By 

26 Jay A. Zweig
27 Caroline K. Larsen
28 Two North Central Avenue, Suite 2200
Phoenix, AZ 85004-4406
Attorneys for Defendant

MICHAEL K. JEANES, CLERK
RECEIVED CCC #1
NIGHT DEPOSITORY

08 MAR 18 PM 5:22

1 **ORIGINAL** of the foregoing filed
2 with the Clerk of the Superior Court
3 and a **COPY** mailed this 18th day
4 of March, 2008, to:

5 Caroline A. Pilch
6 Yen, Pilch, Komadina & Flemming, P.C.
7 6017 N. 15th Street
8 Phoenix, Arizona 85014
9 Attorneys for Plaintiff

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Bryan Cave LLP
Two North Central Avenue, Suite 2200
Phoenix, Arizona 85004-4406
(602) 364-7000

EXHIBIT C

Bryan Cave LLP
Two North Central Avenue, Suite 2200
Phoenix, Arizona 85004-4406
(602) 364-7000

1 BRYAN CAVE LLP, #00145700
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8 caroline.larsen@bryancave.com

9 Attorneys for Defendant

10
11 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
12
13 **IN AND FOR THE COUNTY OF MARICOPA**

14 JULIO CESAR CASTILLO,

15 Plaintiff,

16 vs.

17 ROOFING WHOLESALE COMPANY,
18 INC., an Arizona corporation,

19 Defendant.

Case No. CV2008-003188

**NOTICE OF REMOVAL OF
ACTION UNDER 28 U.S.C.
§§ 1331 AND 1441(b)**

(Assigned to Hon. Bethany G. Hicks)

20 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

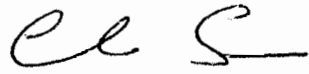
21 PLEASE TAKE NOTICE that Defendant Roofing Wholesale Company, Inc. has
22 filed its Notice of Removal of this action with the United States District Court for the
23 District of Arizona. A copy of the Notice of Removal filed with the United States
24 District Court is attached hereto as Exhibit 1.
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Bryan Cave LLP
Two North Central Avenue, Suite 2200
Phoenix, Arizona 85004-4406
(602) 364-7000

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DATED this 19th day of March, 2008.

BRYAN CAVE LLP

By 
Jay A. Zweig
Caroline K. Larsen
Two North Central Avenue, Suite 2200
Phoenix, AZ 85004-4406
Attorneys for Defendant

ORIGINAL filed and **COPY** of
the foregoing hand-delivered
this 1st day of March, 2008, to:

Honorable Bethany G. Hicks
MARICOPA COUNTY SUPERIOR COURT
101 West Washington, Room 811
Phoenix, Arizona 85003

COPY of the foregoing mailed
this 17th day of March, 2008, to:

Caroline A. Pilch
Yen, Pilch, Komadina & Flemming, P.C.
6017 N. 15th Street
Phoenix, Arizona 85014

