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

WestPac Labs, Inc., a California corporation,

Plaintiff,

v.

Premier Lab Solutions, an Arizona limited liability company,

Defendant.

Case No. \_\_\_\_\_

**COMPLAINT**

Plaintiff WestPac Labs, Inc. (“WestPac” or “Plaintiff”), by its undersigned attorneys, as and for its Complaint against Defendant Premier Lab Solutions (“Premier” or “Defendant”), alleges as follows:

**THE PARTIES**

1. WestPac is a California corporation with its principal place of business in Santa Fe Springs, California.

2. Upon information and belief, Premier is an Arizona limited liability company having its principal place of business in Phoenix, Arizona. Premier has taken action or caused events to occur in Maricopa County, Arizona out of which these claims arise.

3. Upon information and belief, Premier is a manager-managed Arizona limited liability. Upon information and belief, the sole member of Premier is Joni

1 Oltrogge. Upon information and belief, Oltrogge is an individual residing in Maricopa  
2 County, Arizona.

3 **NATURE OF THE ACTION**

4 4. This is an action for breach of contract, breach of the covenant of good faith  
5 and fair dealing, indemnification, and unjust enrichment under Arizona law. WestPac  
6 provided valuable COVID-19 testing services to Defendant Premier. Despite WestPac  
7 fulfilling any and all obligations it may have had, Premier has failed to pay for the services  
8 provided by WestPac. As a result of Premier's failure to adequately and promptly  
9 compensate WestPac, WestPac has suffered, and continues to suffer, damages in an  
10 amount no less than \$355,740.00.

11 **JURISDICTION AND VENUE**

12 5. This Court has jurisdiction over the subject matter of this action pursuant  
13 to 28 U.S.C. § 1332 as there is complete diversity of citizenship between the parties and  
14 the amount in controversy exceeds \$75,000.

15 6. This Court has personal jurisdiction over Premier because (a) Premier is an  
16 Arizona limited liability company whose principal place of business is in Arizona, (b)  
17 this action arises out of Premier's business activities conducted in this judicial district,  
18 and (c) Premier has committed unlawful acts within this State.

19 7. Venue is proper under 28 U.S.C. § 1391(b)(2) and 28 U.S.C. § 1391(c)(2).

20 **FACTUAL ALLEGATIONS**

21 8. WestPac is a network of three clinical and anatomic pathology laboratories  
22 with an unwavering commitment to its clients and the patients which it serves.

23 9. On or around April 24, 2020, WestPac and Premier entered into the Omni  
24 Pathology Laboratory Services Agreement (the "Agreement").

25 10. Under the Agreement, Premier engaged WestPac to provide certain  
26 laboratory and pathology services related to testing for the SARS-CoV-2 virus ("COVID-  
27 19") test specimens and diagnostic information.

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1 11. Pursuant to the terms of the Agreement, WestPac agreed to provide  
2 COVID-19 laboratory testing services (the “Laboratory Tests”) to Premier for a fee of  
3 \$70.00 per completed test.

4 12. The Agreement obligated Premier to compensate WestPac for its completed  
5 COVID-19 Laboratory Tests within 30 days of receipt of an invoice, Net 30 days.

6 13. Throughout April and May 2020, Premier requested, and WestPac  
7 performed, approximately 5,093 COVID-19 Laboratory Tests pursuant to the Agreement.

8 14. On or about May 31, 2020, WestPac issued Invoice No. 202005-0 (the  
9 “Invoice”) to Premier in the amount of \$356,840.00 for the COVID-19 Laboratory Tests  
10 it completed throughout April and May 2020.

11 15. Because the terms of payment were Net 30 days, payment for the Invoice  
12 was due no later than June 30, 2020.

13 16. The Invoice inadvertently included 11 tests that were charged at a rate of  
14 \$100.00 per test. However, WestPac informed Premier of the error and notified Premier  
15 that it would reduce the Invoice amount accordingly. As such, Premier was obligated to  
16 pay the remaining balance of \$355,740.00.

17 17. Premier has failed and refused to pay WestPac for any of the services  
18 rendered and reflected in the Invoice No. 202005-0, despite WestPac’s numerous  
19 demands and the terms of the Agreement.

20 **FIRST CAUSE OF ACTION**  
21 **(Breach of Contract)**

22 18. Plaintiff incorporates each of the prior allegations as if set forth in full  
23 herein.

24 19. The Agreement is a valid and enforceable contract between WestPac and  
25 Premier.

26 20. WestPac and Premier understood and agreed to the terms of the Agreement.

27 21. WestPac performed all duties required of it under the Agreement.  
28

1 22. Premier materially breached the Agreement by failing to pay for the  
2 services performed by WestPac.

3 23. As a direct and proximate result of Premier's material breach of the  
4 Agreement, WestPac has suffered and continues to suffer damages of no less than  
5 \$355,740.00.

6 24. WestPac is entitled to an award of its attorneys' fees and costs pursuant to  
7 A.R.S. §§ 12-341 and 12-341.01.

8 **SECOND CAUSE OF ACTION**  
9 **(Breach of Covenant of Good Faith and Fair Dealing)**

10 25. WestPac incorporates each of the prior allegations as if set forth in full  
11 herein.

12 26. The Agreement is a valid and enforceable contract between WestPac and  
13 Premier.

14 27. Implied in every contract, including the Agreement between WestPac and  
15 Premier, is the covenant of good faith and fair dealing.

16 28. The covenant of good faith and fair dealing requires that Premier refrain  
17 from acting in any way that would impair WestPac's right to receive the benefits that flow  
18 from the Agreement.

19 29. Despite this obligation, Premier has breached the covenant of good faith  
20 and fair dealing by failing to pay WestPac pursuant to the payment terms outlined in the  
21 Agreement. Premier's bad faith continued with its refusal to provide adequate reason for  
22 its failure to compensate WestPac for its services and its failure to communicate with  
23 WestPac.

24 30. Premier's acts, as outlined in the allegations above, constitute a breach of  
25 the covenant of good faith and fair dealing.

26 31. As a direct and proximate result of Premier's breach of its duty of good  
27 faith and fair dealing, WestPac has been damaged in an amount to be proven at trial.  
28

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1 32. WestPac is entitled to an award of its attorneys’ fees and costs pursuant  
2 A.R.S. §§ 12-341 and 12-341.01.

3 **THIRD CAUSE OF ACTION**  
4 **(Express Indemnity)**

5 33. Plaintiff incorporates each of the prior allegations as if set forth in full  
6 herein.

7 34. According to the terms of the Agreement, Premier is obligated to indemnify  
8 and hold harmless WestPac “for, from and against any claim, loss, liability, cost and  
9 expense (including, without limitation, costs of investigation and reasonable attorney’s  
10 fees), directly or indirectly relating to, resulting from or arising out of any action or failure  
11 to act arising out of this Agreement by [Premier] and its staff...”

12 35. WestPac has suffered various losses arising out of or in connection with  
13 Premier’s failure to act according to the terms and conditions of the Agreement and  
14 incurred costs and expenses resulting from Premier’s failures.

15 36. WestPac has performed all obligations required of it under the terms and  
16 conditions of the Agreement.

17 37. By reason of the foregoing, WestPac is entitled to complete and total  
18 indemnification from Premier.

19 38. WestPac is entitled to an award of its attorneys’ fees and costs pursuant  
20 A.R.S. §§ 12-341 and 12-341.01.

21 **FOURTH CAUSE OF ACTION**  
22 **(Unjust Enrichment – Pled in the Alternative)**

23 39. Plaintiff incorporates each of the prior allegations as if set forth in full  
24 herein.

25 40. If for any reason, the Agreement is found to be unenforceable, Premier has  
26 been unjustly enriched by the services provided by WestPac.

27 41. WestPac provided Premier with valuable COVID-19 laboratory testing  
28 services and performed over 5,000 COVID-19 Laboratory Tests throughout the months  
of April and May 2020.

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1 42. As of the date of this Complaint, Premier has failed to pay for the services  
2 provided by WestPac. As a result of Premier’s failure to pay for the services, WestPac  
3 has suffered an impoverishment.

4 43. Premier cannot be permitted to retain the benefits of the services provided  
5 by WestPac. Premier’s failure to pay for the services provided was the actual and  
6 proximate cause of harm to WestPac.

7 44. If the Agreement is found to be unenforceable for any reason, WestPac does  
8 not have an adequate legal remedy.

9 45. WestPac is entitled to recover the damages it has suffered, in an amount no  
10 less than \$355,740.00, as a result of Premier’s failure to pay for the services provided.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff demands that Judgment be entered against Defendant as  
13 follows:

14 A. For an award of all recoverable actual, compensatory, and other damages  
15 no less than \$355,740.00;

16 B. For reasonable attorneys’ fees, expenses, and costs as permitted by  
17 applicable statutes and law;

18 C. For pre- and post- judgment interest as allowed by law; and

19 D. For any further relief that the Court deems appropriate under the  
20 circumstances.

21 Respectfully submitted this 8th day of September 2021.

22 GREENBERG TRAUIG, LLP

23  
24 By: /s/ Adrianna Griego Gorton  
25 Adrianna Griego Gorton  
26 *Attorneys for Plaintiff*

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