

ENDORSED  
FILED  
ALAMEDA COUNTY

MAY 09 2010  
Anita Dhir

CLERK OF THE SUPERIOR COURT  
By \_\_\_\_\_ Deputy

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7 Attorneys for Plaintiffs  
8 Briana Rivera, et al.,

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 IN AND FOR THE COUNTY OF ALAMEDA  
11 UNLIMITED JURISDICTION

12 BRIANA RIVERA and ROSALIO )  
13 TRUJILLO RIVERA, suing individually and )  
14 on behalf of others similarly situated, )

15 Plaintiff,

16 v.

17 COCO PROPERTIES JL, LLC, JEFFERY )  
18 LEE, ARACELI VEGA, and DOES 1-30, )

19 Defendants. )

Case No.: *RH19018580*

CLASS ACTION COMPLAINT

20 Plaintiffs Briana Rivera and Rosalio Trujillo Rivera ("Plaintiffs"), are suing both in their  
21 individual capacity and on behalf of all others similarly situated, alleges as follows:

22 **PRELIMINARY STATEMENT**

23 Plaintiffs represent a class of past, present and prospective tenants ("Class Members") of  
24 defendants Coco Properties JL, LLC, Jeffery Lee, Araceli Vega and DOES 1-30 ("Defendants")  
25 which rent approximately 25 apartment units in the City of Fremont, Alameda County.

26 Defendant Coco Properties JL, LLC, currently owns the apartment complex located at 4273  
27 Central Avenue, Fremont, CA ("Premises").

28 As part of their course of business, Defendants demand and collect unlawfully increased  
rents from Class Members at the Premises. Defendants demanding and collecting unlawful rents

1 violates California law and the City of Fremont’s Residential Rent Increase Dispute Resolution  
2 Ordinance (“Ordinance”). As a result of this illegal conduct, Defendants jeopardize the health  
3 and safety of their tenants and the community at large, deprive Class Members of the financial  
4 means to acquire alternate housing, and gain an unfair advantage over law-abiding competitors  
5 who provide rental housing.

6 **FACTUAL ALLEGATIONS**

7 1. This is a class action pursuant to Code of Civil Procedure section 382 seeking  
8 damages, injunctive relief and other equitable relief on behalf of Class Members and all persons  
9 similarly situated who are, have been and will become tenants of the Defendants, and those who  
10 have been or are at risk of being unlawfully deprived of money.

11 2. The “Class Period” is designated as the time period from four year’s prior of this  
12 filing in Superior Court. During the Class Period, Defendants have a consistent policy of  
13 demanding and collecting unlawfully increased rents in violation of California law and the  
14 Ordinance.

15 3. Plaintiffs are informed and believe, and thereon allege, that Defendants, and DOES  
16 1-30, owned, controlled, and/or managed the units that Class Members resided in during all  
17 relevant periods of time in this Complaint.

18 4. Pursuant to Civil Code section 827, landlords may only raise residential tenant rents  
19 upon written notice and in compliance with said statute. During the Class Period, Defendants  
20 have a consistent policy of increasing rents of Class Members in violation of this statute. Class  
21 Members are tenants and Defendants are landlords as defined within Civil Code section 827.

22 5. Pursuant to the Ordinance, landlords within the City of Fremont may only raise  
23 residential tenant rents as prescribed by the Ordinance. During the Class Period, Defendants  
24 have a consistent policy of increasing rents of the Class Members in violation of the Ordinance.  
25 Class Members are tenants and Defendants are landlords as defined within the Ordinance.

26 6. Class Members are informed, believe and on that basis allege that commencing at a  
27 time well prior to the Class Period, Defendants in collusion with each and all other Defendants,  
28 devised and engaged in a course of business conduct designed and intended to violate Civil Code  
section 827 and the Ordinance. During the course of their tenancies, all Class Members received

1 notices of changes of terms of tenancy or a rent increase notice which unlawfully raised the rent  
2 in their respective units. Each of the notices of change of terms of tenancy or rent increase  
3 notice which were given to Class Members violated Civil Code section 827 and the Ordinance.  
4 During their tenancies, Class Members have paid rents which were unlawfully raised, or are in  
5 jeopardy of paying rents which were unlawfully raised, to the Defendants pursuant to the notices  
6 of change of terms of tenancy or a rent increase notice. Additionally, the amounts of rent which  
7 are raised by Defendants in violation of Civil Code section 827 and the Ordinance are  
8 individually so small that it is economically unfeasible for the Class Members to pursue her  
9 remedies alone.

10 7. Defendants DOES 1-30 are individuals and/or business entities doing business in the  
11 County of Alameda and/or who are contracted to do work in the County of Alameda. Each and  
12 every Defendant was at all relevant times the agents and/or employees of other Defendants and  
13 acted within the scope of said agency and/or employment. Class Members do not know the true  
14 names of Defendants identified as DOES 1-30, but will seek leave to amend this complaint if and  
15 when Class Members discovers the identity of any of the Defendants now sued under the  
16 fictitious names DOES 1-30.

17 8. In committing the acts complained of herein, each Defendant acted as the authorized  
18 Agent, employee, and/or representative of each other Defendant. Each act of each Defendants  
19 complained of herein was committed within the scope of said agency, employment, or other  
20 representation, and each act was ratified by each other Defendant. Each Defendant is liable, in  
21 whole or in part, for the damages and injuries suffered by Class Members.

22 9. This Court is the proper Court because Defendants do business in its jurisdictional  
23 area, the damage to Class Members and the making of the contract which is the subject of this  
24 action occurred within its jurisdictional area.

25 10. Plaintiffs and Class Members are informed and believe, and thereon allege, that at all  
26 relevant times, Defendants were named Plaintiffs and Class Members' landlords, and Class  
27 Members were the tenants of Defendants as those terms, "landlord" and "tenant" are defined  
28 under California common law, Code of Civil Procedure section 1161 et seq. and Civil Code  
section 1980.

1 11. On or about March 1, 2013, Plaintiffs as tenants, and Defendants, as owner and/or  
2 agent and/or lessor, entered into a written agreement to rent the premises located at 4273 Central  
3 Avenue #14, Fremont, CA to Plaintiff. The essential terms of this agreement were as follows:  
4 Plaintiffs were to occupy the premises for 6 months, with a monthly rental value of \$1,500.00  
5 due on the first day of each month. The terms of the agreement also required Plaintiffs to make a  
6 security deposit of \$900. A copy of this agreement is attached hereto as **Exhibit A**.

7 12. Defendants named herein were the owners and/or property managers or the agents  
8 and/or employees of the owners and/or property managers of the Premises during all time  
9 periods relevant herein.

10 13. Plaintiffs suffered over-payment of rent and out-of-pocket expenses as a result of the  
11 acts and/or omissions committed by Defendants.

#### 12 **CLASS ALLEGATIONS**

13 14. Plaintiffs bring this action on behalf of themselves and as representatives of the  
14 Class Members similarly situated who have been proximately damaged or are currently at risk of  
15 being damaged by Defendants, including all former tenants of Defendants who have paid  
16 unlawfully increased amounts of rent.

17 15. This action has been brought and may be properly maintained as a class action under  
18 Code of Civil Procedure section 382 because there is a well-defined community of interest in the  
19 litigation and the proposed class is easily ascertainable.

20 a. **Commonality:** Plaintiffs and the Class Members are all tenants, and former tenants  
21 of the Defendants who have paid Defendants rents which were unlawfully increased. Plaintiffs  
22 and the Class Members all share common questions of law and fact which predominate over any  
23 question or issue solely affecting individual members including but not necessarily limited to:

24 i. Whether Defendants have raised rents of their tenants in violation of Civil  
25 Code section 827 and the Ordinance.

26 ii. Whether Defendants have collected unlawfully raised rents from Plaintiff  
27 and Class Members.

28 iii. Whether the Defendants have breached the covenant of good faith and fair

1 dealing with their tenants by unlawfully raising and collecting their tenant's rents at the  
2 Premises.

3 iv. Whether the Defendants unlawful raising and collecting rent constitutes an  
4 unlawful business practice, unfair business practice or an act prohibited by the Business and  
5 Professions Code section 17200, et seq.

6 v. Whether the Defendants unlawful raising and collecting rents constitutes  
7 conversion.

8 b. **Typicality:** The claims of Plaintiffs are typical of the claims of the Class Members.  
9 Plaintiffs and all Class Members are sustaining, have sustained, or are at risk of sustaining,  
10 injuries and damages arising out of and caused by Defendants conduct as alleged in the  
11 complaint herein.

12 c. **Numerosity:** A class action is the only available method for the fair and efficient  
13 adjudication of this controversy, as the Court can resolve the matter in one rather than numerous  
14 lawsuits. Plaintiffs and Class Members are informed, believe and allege thereon that the  
15 Defendants own and/or rent at least approximately 25 residential units within the County of  
16 Alameda, and that the turnover on these units is such that the Class Members are likely to exceed  
17 75. Membership will be determined upon an analysis of the Defendants rental agreements,  
18 notices of change of terms of tenancy, rent increase notices, notices of eviction, and written  
19 communications to the Plaintiffs and the Class Members.

20 d. **Superiority of Class Action:** The damages suffered by Plaintiffs and Class Members,  
21 while not inconsequential, may be relatively small, and the expense and burden of individual  
22 litigation by each individual relatively large. Moreover, this fact is known by the Defendants,  
23 and this reality makes it impractical for Class Members to seek redress individually for the  
24 wrongful conduct alleged herein. A class action is a superior method of resolving this dispute  
25 and securing justice. Additionally, judicial economy would be enhanced as a multiplicity of  
26 lawsuits, undue hardship and expense for both the Court and the litigants will be avoided. In  
27 addition, the prosecution of separate actions would create a risk of inconsistent rulings, which  
28 might be dispositive of the interests of the other Class Members who are not parties to the  
adjudications and/or may substantially impede their ability to adequately protect their interests.

1 e. **Adequacy of Representation:** Plaintiffs in this action are adequate representatives  
2 of the Class in that their claims are typical of those in the Class. Plaintiffs have been damaged as  
3 alleged herein and are willing to go forward. Further, they have retained competent counsel who  
4 are ready, willing and able to vigorously prosecute this action.

#### 5 **COMMON FACTUAL ALLEGATIONS**

6 16. As alleged herein, Class Members are informed, believe and on that basis allege that  
7 commencing at a time well prior to the Class Period, Defendants in collusion with each and all  
8 other Defendants, devised and engaged in a course of business conduct designed and intended to  
9 violate the Civil Code section 827 and the Ordinance. During the course of all of their tenancies,  
10 all Class Members received notices of change of terms of tenancy or rent increase notices which  
11 raised the rent in their respective units. Each of the notices of change of terms of tenancy or rent  
12 increase notices given to the Class Members violated the Civil Code section 827 and the  
13 Ordinance. During their tenancies, Class Members have paid rents which were unlawfully  
14 raised, or are in jeopardy of paying rents which were unlawfully raised, to the Defendants  
15 pursuant to the notices of change of terms of tenancy or rent increase notices. Moreover, the  
16 amounts of rent which are raised by the Defendants in violation of Civil Code section 827 and  
17 the Ordinance are individually so small that it is economically unfeasible for the Class Members  
18 to pursue his/her remedies alone.

19 17. As alleged herein, Class Members are informed, believe and on that basis allege that  
20 commencing at a time well prior to the Class Period, Defendants negligently violated the Civil  
21 Code section 827 and the Ordinance. During the course of their tenancies all Class Members  
22 received notices of change of terms of tenancy or rent increase notices which raised the rent in  
23 their respective units. Each of the notices of change of terms of tenancy or rent increase notices  
24 were given to the Class Members in violation of Civil Code section 827 and the Ordinance.  
25 Each of the Class Members received said notices of rent increase or rent increase notices due to  
26 the Defendants negligence and/or negligent hiring/supervision/retention of their employees.

27 18. Plaintiffs and the Class Members were and/or are tenants of the Defendants under  
28 leases to residential units within Alameda County. Plaintiffs and the Class Members have paid  
unlawfully increased rental amounts to the Defendants, or are at risk of paying unlawfully

1 increased rental amounts to the Defendants.

2 19. As a direct and proximate result of the Defendants unlawful conduct, as set forth in  
3 this complaint, Plaintiffs and Class Members have sustained damages and/or are entitled to the  
4 relief as described above, including but not limited to, (1) a return of all rents which were  
5 unlawfully obtained by the Defendants; (2) statutory interest on such amounts according to  
6 proof; (3) additional statutory damages for Plaintiffs and per Class Member due the acts and  
7 omission of the Defendants according to proof; (4) attorney's fees pursuant to contract, statute,  
8 and equitable doctrines of common fund and substantial benefit theories; (5) injunctive relief  
9 according to proof, including restorative damages of money wrongfully retained by Defendants,  
and interest thereon.

10 20. In addition to the foregoing, this action will result in the enforcement of important  
11 rights affecting the public interest, to wit: the right of the tenants of residential units to have their  
12 residential rental amounts determined in a lawful manner and free of harassment and  
13 intimidation. The successful conclusion of this litigation will confer a significant benefit on the  
14 general public and a large class of persons. Accordingly, Plaintiffs and Class Members are  
15 entitled to an award of attorneys' fees pursuant to Code of Civil Procedure section 1021.5. The  
16 necessity and financial burden of the private enforcement are such as to make such an award  
appropriate. Such fees should not, in the interest of justice, be paid out of the recovery.

17 21. Wherefore, Plaintiffs and Class Members pray for the damages stated below.

18 **FIRST CAUSE OF ACTION**  
19 **VIOLATION OF TITLE 9, CHAPTER 9.60 OF THE CITY OF FREMONT**  
20 **MUNICIPAL CODE**  
21 **(Plaintiffs and Class Members v. All Defendants)**

22 22. Plaintiffs and Class Members re-allege and incorporate into this cause of action the  
23 allegations of paragraphs 1 through 21, as if the same were set out at length herein.

24 23. As tenants of the residential property located in Fremont, California and subject to  
25 the Ordinance, Plaintiffs and Class Members are entitled to bring an action against all  
26 Defendants who have violated said Ordinance to their detriment.

27 24. The Ordinance provides safeguards for tenants in Fremont from illegal rent  
28 increases. Pursuant to the Ordinance, every landlord of residential rental property may only

1 increase rents as proscribed by the Ordinance, including providing notice of said increase which  
2 contains the required information as detailed in the Ordinance. Any rent increase accomplished  
3 in violation of the Ordinance shall be void. Moreover, pursuant to the Ordinance, when a  
4 landlord wrongfully or illegally increases a tenant's rent, a tenant is entitled to bring action for  
5 damages for any illegal rent increase amounts which were paid.

6 25. Defendants have violated the Ordinance, by illegally increasing Plaintiffs and Class  
7 Members' rent throughout their tenancies, said rental increases failed to comply with the  
8 Ordinance and did not advise Plaintiffs and Class Members of their rights to dispute Defendants'  
9 rent increases, or advise them of the Ordinance.

10 26. Plaintiffs and Class Members were harmed by these violations in that they were  
11 forced to pay illegal rent increase amounts. They have also been forced to hire an attorney to  
12 enforce their rights.

13 27. Wherefore, Plaintiffs and Class Members pray for the damages stated below.

14 **SECOND CAUSE OF ACTION**  
15 **BREACH OF CONTRACT CIVIL CODE SECTION 3300 ET SEQ.**  
16 **(Plaintiffs and Class Members v. All Defendants)**

17 28. Plaintiffs and Class Members re-allege and incorporate into this cause of action the  
18 allegations of paragraphs 1 through 21, as if the same were set out at length herein.

19 29. Plaintiffs and Class Members and Defendants entered into a written residential rental  
20 agreement. Defendants were obligated to perform under the terms of this agreement. Plaintiffs  
21 and Class Members performed or were excused from performing their obligations under the  
22 contract. A covenant of good faith and fair dealing is contained in every residential rental lease  
23 and/or agreement in the State of California pursuant to state statute and common law.

24 30. Defendants breached the terms of said agreement on multiple occasions during the  
25 term of preceding the filing of this complaint by unlawfully raising Plaintiffs and Class  
26 Members' rents. Said conduct also breached the covenant of good faith and fair dealing  
27 contained in all the relevant rental agreements.

28 31. As a result of Defendants' conduct, Plaintiffs and Class Members suffered damages  
including overpayment of rent, out of pocket expenses, and other damages to be ascertained at  
trial.



1 32. Wherefore, Plaintiffs and Class Members pray for the damages stated below.

2 **THIRD CAUSE OF ACTION**  
3 **NEGLIGENCE**  
4 **(Plaintiffs and Class Members v. All Defendants)**

5 33. Plaintiffs and Class Members re-allege and incorporate into this cause of action the  
6 allegations of paragraphs 1 through 21, as if the same were set out at length herein.

7 34. Defendants owned and/or were otherwise responsible for the management of the  
8 Premises and had an obligation to ensure the Premises was and/or is managed in a manner that is  
9 in compliance with the law and not in violation of the Ordinance. As tenants, Defendants owed  
10 Plaintiffs and Class Members a duty of care which encompassed to ensure that the Premises was  
11 managed in a manner that is in compliance with the law. During the statutory period, Plaintiffs  
12 and Class Members suffered damages due to Defendants negligent failure to manage the  
13 Premises lawfully. Specifically, Plaintiffs and Class Members paid rents in excess of amounts  
14 which could be legally charged and were in violation of the Ordinance.

15 35. Defendants had ownership, and/or control of the Premises at the time of Plaintiffs  
16 and Class Members injuries. Prior to Plaintiffs and Class Members injuries, Defendants knew,  
17 or should have known not to raise tenant's rents at the Premises in violation of the Ordinance.  
18 Defendants' failure to comply with the Ordinance was a cause in fact of Plaintiffs and Class  
19 Members injuries and/or damages and/or contributed to the injury and/or damages of Plaintiffs  
20 and Class Members.

21 36. As a result of Defendants' conduct, Plaintiffs and Class Members suffered damages,  
22 including economic damages, in an amount to be ascertained at trial.

23 37. Wherefore, Plaintiffs and Class Members pray for the damages stated below.

24 **FOURTH CAUSE OF ACTION**  
25 **NEGLIGENT HIRING/SUPERVISING/RETENTION OF EMPLOYEES**  
26 **(Plaintiffs and Class Members v. All Defendants)**

27 38. Plaintiffs and Class Members re-allege and incorporate into this cause of action the  
28 allegations of paragraphs 1 through 21, as if the same were set out at length herein.

39. Defendants owned and/or were otherwise responsible for the management and staff  
at the Premises and had an obligation to ensure the Premises was and/or is managed in a manner  
that is in compliance with the law.

1 40. The Defendants who managed the Premises owed Plaintiffs and Class Members, as  
2 their tenants, the duty to manage the Premises and to perform their duties at the Premises in a  
3 reasonable and lawful manner. Defendants breached their duties by failing to train their  
4 employees adequately in relationship to the Ordinance and the required conduct to comply with  
5 the law for said employees. Plaintiffs and Class Members suffered harm due to said breach in an  
6 amount to be ascertained at trial.

7 41. As a result of Defendants' conduct, Plaintiffs and Class Members suffered damages,  
8 including economic damages, in an amount to be ascertained at trial.

9 42. Wherefore, Plaintiffs and Class Members pray for the damages stated below.

10 **FIFTH CAUSE OF ACTION**  
11 **CONVERSION CIVIL CODE 3336**  
12 **(Plaintiffs and Class Members v. All Defendants)**

13 43. Plaintiffs and Class Members re-allege and incorporate into this cause of action the  
14 allegations of paragraphs 1 through 21, as if the same were set out at length herein.

15 44. At all times herein mentioned, Plaintiffs and Class Members were the lawful  
16 possessors and lawfully entitled to possession of the following personal property: money which  
17 was spent on illegally charged rents.

18 45. All Defendants took the above-mentioned property from Plaintiffs' possession  
19 and converted the same to their own use, intentionally.

20 46. Plaintiffs and Class Members did not consent to said deprivation of their personal  
21 property.

22 47. As a direct and proximate result of the conversion by Defendants, Plaintiffs have  
23 been damaged by the lost value and use of the property that was taken by the Defendants in an  
24 amount according to proof. Plaintiffs will seek leave to amend this Complaint once the amount  
25 is better ascertained.

26 48. As a direct and proximate result of the conversion by Defendants, Plaintiffs have  
27 been damaged by the lost use of their property, in an amount according to proof.

28 49. Wherefore Plaintiffs pray for the damages stated below.

**SIXTH CAUSE OF ACTION**  
**UNFAIR BUSINESS PRACTICE VIOLATION OF BUSINESS AND**  
**PROFESSIONS CODE SECTION 17200 ET SEQ.**

**(Plaintiffs and Class Members v. All Defendants)**

1  
2 50. Plaintiffs and Class Members re-allege and incorporate into this cause of action the  
3 allegations of paragraphs 1 through 21, as if the same were set out at length herein.

4 51. Plaintiffs and Class Members bring this cause of action on Plaintiffs own behalves,  
5 on behalf of the Class Members and all persons similarly situated, and on behalf of the People of  
6 the State of California who paid any illegal rent increase amounts.

7 52. By reason of Defendants' failure to comply with Civil Code section 827 and the  
8 Ordinance, and state and local law for the management of real property, Defendants' conduct  
9 constitutes an unfair and/or unlawful business practice as set forth in California Business and  
10 Professions Code sections 17200 - 17208. Specifically, Defendants conducted business activities  
11 in violation of the legal mandates as alleged herein.

12 53. Plaintiffs are informed and believe and thereon allege that it is the regular practice  
13 of Defendants to intentionally disregard the rights of tenants and violate applicable laws relating  
14 to tenancies in their buildings in ways that include, but are not limited to, unlawfully raising and  
15 collecting tenant's rents.

16 54. The conduct of the Defendants, and each of them, is continuing and constitutes an  
17 ongoing threat and deterrent to the current tenants at the Premises. For that reason, among  
18 others, an injunction in the form set forth in the below prayer, which incorporated herein by  
19 reference, against the continuation of such conduct is reasonable, equitable and appropriate and  
20 should be ordered.

21 55. Because this conduct is continuing in nature as alleged, there is no adequate remedy  
22 at law with respect to the ongoing business activities of the Defendants, thus necessitating  
23 injunctive relief to protect those tenants and other landlords who conduct their business fairly,  
24 honestly and in compliance with applicable laws.

25 56. At all times herein relevant, Defendants were conducting business under the laws of  
26 the State of California, the County of Alameda, and the City of Fremont. In conducting said  
27 business, Defendants were obligated to comply with the laws of the State of California, the  
28 County of Alameda, and the City of Fremont.

57. As a direct and proximate result of Defendants' conduct, Defendants have accrued

1 unjust enrichment.

2 58. Wherefore, Plaintiffs and Class Members pray for the damages stated below.

3 **CLAIM FOR EXEMPLARY DAMAGES**  
4 **(Plaintiffs and Class Members v. All Defendants)**

5 59. Plaintiffs and Class Members re-allege and incorporate into this cause of action the  
6 allegations of paragraphs 1 through 22, as if the same were set out at length herein.

7 60. Defendants intentionally violated Plaintiffs and Class Members rights and caused  
8 them damage in an oppressive manner with malicious disregard for their rights as tenants.

9 61. Defendants actions were willful and done in conscious disregard of Plaintiffs and  
10 Class Members rights. Such willful and conscious disregard for Plaintiffs and Class Members  
11 rights justifies an award of punitive damages as such conduct was oppressive and malicious as  
12 defined by Civil Code section 3294. Defendants willful conduct also merits an award of  
13 substantial punitive damages against all Defendants. Defendants knew or should have known  
14 that their intentional raising of rents at the Premises posed a substantial risk of harm to Plaintiffs  
15 and Class Members. Defendants' actions arose to despicable conduct carried out by Defendants  
16 with willful and conscious disregard of the consumer and tenant rights and safety of others  
17 including Plaintiffs and Class Members.

18 **PRAYER**

19 WHEREFORE, Plaintiffs and Class Members pray for judgment as follows as to all  
20 Defendants:

21 A. For an Order certifying the proposed and/or any other appropriate sub-classes under  
22 Code of Civil Procedure section 382;

23 B. For an award to Plaintiffs and Class Members of damages for all of the unlawfully  
24 increased and collected rents within the Class Period, including statutory interest thereon and  
25 statutory damages to each member of the Class in amounts to be proven at trial;

26 C. That Defendants be restrained, enjoined and ordered to disgorge all profits obtained  
27 by them and to pay restitution to Plaintiffs and Class Members and others similarly situated,  
28 together with statutory interest thereon, on account of their violations of Business and  
Professions Code sections 17200-17208;

D. That the Defendants be restrained and enjoined to cease and desist from further

1 unlawful activities in violation of Business and Professions Code section 17200, et seq. including  
2 orders for the publication of this injunction, and its dissemination to all current tenants;

3 E. That the Court appoint an independent Trustee/Receiver to accept and retain all rents  
4 collected by the Defendants to prevent the continued collection of unlawfully increased rent;

5 F. For general damages in the amount of \$1,000,000.00, or according to proof for each  
6 cause of action;

7 G. For special damages in the amount of \$1,000,000.00, or according to proof for each  
8 cause of action;

9 H. For punitive and exemplary damages in the amount of \$2,000,000.00 or according to  
10 statute and according to proof;

11 I. For compensatory damages in the amount of \$1,000,000.00, or according to proof;

12 J. For incidental expenses, past present and future;

13 K. For interest on the amount of losses incurred at the prevailing legal rate;

14 L. For attorney's fees in the amount of \$1,000,000.00, or according to contract, statute  
15 pursuant to Code of Civil Procedure section 1021.5 or according to the equitable doctrines of  
16 common fund or substantial benefit theories;

17 M. For treble damages pursuant to Civil Code section 1947.11;

18 N. For costs of suit incurred herein;

19 O. For pre-judgment interest;

20 P. For statutory penalties; and

21 Q. For such other and further relief which this Court deems just and proper.

**LAW OFFICES OF ANDREW WOLFF, P.C.**

22 Dated: May 8, 2019



Andrew Wolff, Attorney for Plaintiffs

# **EXHIBIT A**

# LEASE AGREEMENT

THIS AGREEMENT is made and entered into this 7 day of March, 2013 between  
(Day) (Month) (Year)

Araceli A. Vega Owner/Agent, whose address and phone  
(Name of Owner/Agent)  
number are 4273 Central Ave #14 Fremont CA 94536 (510) 474-4553  
(Address and Telephone of Owner/Agent)

and Rosalio Rivera, Virginia Gomez, Roberto Torres and Briana Rivera Resident.

## THE PARTIES AGREE AS FOLLOWS:

1. **RENTAL UNIT:** Subject to the terms and conditions of this Agreement, Owner rents to Resident and Resident rents from Owner, for residential use only,

the premises located at: 4273 Central Ave Unit # (if applicable) 10  
(Street Address)  
Fremont CA, 94536  
(City) (Zip)

2. **RENT:** Rent is due in advance on the first day of each and every month, at \$ 1500.00 per month, beginning on  
3/1/13 payable at 4273 Central Ave #14 Payments made in person may be  
(Date) (Address where payments should be delivered)

delivered to Owner/Agent between the hours of 9:00 AM and 5:00 PM on the following days of the week:  
 Monday  Tuesday  Wednesday  Thursday  Friday  Saturday  Sunday  
 Other \_\_\_\_\_

### Acceptable methods of payment:

Personal Check  Cashier's Check  Money Order  EFT/Credit (see Owner/Agent for details) and  Cash

If rent is paid after the 3<sup>rd</sup> of the month, there will be a late charge of \$ 10 percent assessed. The parties agree that this late fee is presumed to be the amount of damage sustained by late payment of rent. It would be impracticable or extremely difficult to fix the actual damage. This sum represents a reasonable endeavor by the Owner/Agent to estimate fair average compensation for any loss that may be sustained as a result of late payment of rent. Pursuant to California law, if Resident passes a check on insufficient funds, Resident will be liable to Owner/Agent for the amount of the check and a service charge of \$ 35.00, not to exceed \$25 for the first check passed on insufficient funds, and \$35 for each subsequent check passed on insufficient funds.

3. **SECURITY DEPOSIT:** Resident shall deposit with Owner/Agent, as a security deposit, the sum of \$ 900  
 prior to taking possession of the unit or  no later than \_\_\_\_\_ (check one).

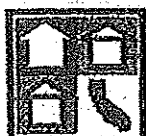
Resident shall not use the security deposit to pay any month's rent. Owner/Agent may withhold from the security deposit on such amounts as are reasonably necessary to remedy Resident defaults including, but not limited to, the following:

- (a) defaults in the payment of rent,
- (b) to repair damages to the premises caused by Resident, exclusive of ordinary wear and tear, and/or
- (c) to clean the premises, if necessary, upon termination of the tenancy in order to return the unit to the same level of cleanliness it was in at the inception of the tenancy, and/or
- (d) to restore, replace, or return personal property or appurtenances, exclusive of ordinary wear and tear.

No later than 21 calendar days after Owner/Agent has regained possession of the premises, Owner/Agent shall return any remaining portion of such security deposit to Resident.

4. **TERM:** The term of this Agreement is for 6 months beginning on 3/1/13 and ending on 8/31/13 at which time this  
(Term) (Date) (Date)

Lease shall terminate without further notice. Any holding over thereafter shall result in Resident being liable to Owner/Agent for daily rental damages equal to the current market value of the unit, divided by 30. A "month-to-month" tenancy subject to the terms and conditions of this agreement shall be created only if Owner/Agent accepts rent from Resident thereafter, and so accepted, tenancy may be terminated by Resident after service upon the Owner/Agent of a written 30-day Notice of Termination. Except as prohibited by law, that month-to-month tenancy may be terminated by the Owner/Agent by service upon the Resident of a written 60-day notice of termination of tenancy. However, Civil Code Section 1946.1 provides that "if any tenant or resident has resided in the dwelling for less than one year", the Owner/Agent may terminate the tenancy by service upon the Resident of a written 30-day notice.



5. **UTILITIES:** Resident shall pay for all utilities, services and charges, if any, made payable by or predicated upon occupancy of Resident, except: Water and Garbage
6. **CASH PAYMENT:** The Owner/Agent may demand or require cash as the exclusive form of payment of rent or deposit of security if the tenant has previously attempted to pay the Owner/Agent with a check drawn on insufficient funds or the tenant has instructed the drawee to stop payment on a check, draft, or order for the payment of money. If the Owner/Agent chooses to demand or require cash payment under these circumstances, the Owner/Agent shall give the Resident a written notice stating that the payment instrument was dishonored and informing the Resident that the Resident shall pay in cash for a period determined by Owner/Agent, not to exceed three months, and attach a copy of the dishonored instrument to the notice.
7. **OCCUPANTS:** Premises shall be occupied only by the following named person(s):  
Rosalio Rivera 1/11/1944 Virginia Gomez 1/11/1944  
 Name Birthdate Name Birthdate  
Roberto Carres 1/11/1944 Briana J Rivera 1/11/1944  
 Name Birthdate Name Birthdate  
Leslie Rivera 1/11/1944 Valetae Rivera 1/11/1944 Jason Rivera 1/11/1944  
 Name Birthdate Name Birthdate Name Birthdate
8. **PROHIBITIONS:** Without Owner/Agent's prior written permission as an addendum to this Agreement, no pets, no waterbeds or \_\_\_\_\_ shall be kept or allowed in or about the premises.
9. **QUIET ENJOYMENT:** Resident shall not violate any criminal or civil law, ordinance or statute in the use and occupancy of the premises, commit waste or nuisance, annoy, molest or interfere with any other Resident or neighbor. Any such action may result in the immediate termination of this Agreement as provided herein and by law.
10. **REPAIRS AND ALTERATIONS:** Except as provided by law, no repairs, decorating or alterations shall be done by Resident without Owner/Agent's prior written consent. Resident shall notify Owner/Agent in writing of any repairs or alterations contemplated. Decorations include, but are not limited to, painting and wallpapering. Resident shall hold Owner/Agent harmless and indemnify Owner/Agent as to any mechanics lien recordation or proceeding caused by Resident. Resident may not make any alterations to cable or telephone inside wiring (such as may occur when changing telecommunications providers or adding phone lines) without prior written consent of the Owner/Agent. The notice shall include the name, address, and telephone number of any new telecommunication provider. Resident agrees to pay all costs resulting from the alteration and agrees to pay to the Owner/Agent any costs associated with restoring the inside wiring to the condition at the time of move-in, except for reasonable wear and tear.
11. **ACCEPTANCE OF PREMISES:** Resident has inspected the premises, furnishings and equipment, and has found them to be satisfactory. All plumbing, heating and electrical systems are operative and deemed satisfactory.
12. **CARE, CLEANING, MAINTENANCE AND INSURANCE:** Resident agrees to leave the premises in the same condition as it was received, subject to normal wear and tear. Except as prohibited by law, Resident shall keep the premises and furniture, furnishings and appliances, and fixtures, which are rented for Resident's exclusive use, in good order and condition. Upon move-out, Resident agrees to return the unit to the same level of cleanliness it was in at the inception of the tenancy. Resident  is  is not (check one) responsible for the upkeep of the yard and landscaping. Resident shall pay Owner/Agent for costs to repair, replace or rebuild any portion of the premises damaged by the Resident, Resident's guests or invitees. Resident's property is not insured by Owner/Agent. Resident is not a co-insured and is expressly excluded from any insurance policy held by Owner/Agent which is now in effect or becomes effective during the term of this Agreement.
13. **WAIVER OF BREACH:** The waiver of either party of any breach shall not be construed to be a continuing waiver of any subsequent breach. The receipt by Owner/Agent of the rent with the knowledge of any violation of a covenant or condition hereto shall not be deemed a waiver of such breach. No waiver by either party of the provisions herein shall be deemed to have been made unless expressed in writing and signed by all parties to this Rental Agreement.
14. **JOINT AND SEVERAL LIABILITY:** The undersigned Resident(s), whether or not in actual possession of the premises, are jointly and severally liable for all obligations under this Rental Agreement, and shall indemnify Owner/Agent for liability arising prior to the termination of the Rental Agreement for personal injuries or property damage caused or permitted by Resident(s), their guests and invitees. This does not waive "Owner/Agent's duty of care" to prevent personal injury or property damage where that duty is imposed by law.
15. **ENTRY:** California law allows Owner/Agent or his/her employee(s) to enter the premises for certain purposes during normal business hours. The Owner/Agent will provide written notice to the Resident prior to the entry of the dwelling unit whenever required by state law. (Civil Code Section 1954.) Resident's non-compliance with Owner/Agent's lawful request for entry is a material breach of this Agreement that may be cause for immediate termination as provided herein and by law.
16. **SUBLETTING AND ASSIGNMENT:** No portion of the premises shall be sublet nor this Agreement assigned. Any attempted





subletting or assignment by Resident shall, at the election of Owner/Agent, be an irremediable breach of this Agreement and cause for immediate termination as provided herein and by law.

- 17. **BREACH OF LEASE:** In the event that Resident breaches this Lease Agreement, Owner/Agent shall be allowed at Owner/Agent's discretion, but not by way of limitation, to exercise any or all remedies provided Owner/Agent by California Civil Code Section 1951.2 and 1951.4. Damages Owner/Agent "may recover" include the worth at the time of the award of the amount by which the unpaid rent for the balance of the term after the time of award, or for any shorter period of time specified in the Lease Agreement, exceeds the amount of such rental loss for the same period that the Resident proves could be reasonably avoided.
- 18. **SALE OF PROPERTY:** In the event of the sale or refinance of the property: If Owner/Agent presents to Resident a "Resident's Certification of Terms - Estoppel Certification," or other similar Estoppel Certification form, Resident agrees to execute and deliver the certificate acknowledging that this Agreement is unmodified and in full force and effect, or in full force and effect as modified with the consent of Owner/Agent, and stating the modifications, within ten (10) days of written notice. Failure to comply shall be deemed Resident's acknowledgement that the certificate as submitted by Owner/Agent is true and correct and may be relied upon by any lender or purchaser.
- 19. **SMOKE DETECTION DEVICE:** The premises are equipped with a functioning smoke detection device(s), and Resident shall be responsible for testing the device weekly and immediately reporting any problems, maintenance or need for repairs to Owner/Agent. If battery operated, Resident is responsible for changing the detector's battery as necessary. Owner/Agent shall have a right to enter the premises to check and maintain the smoke detection device as provided by law.
- 20. **NOTICE:** Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at [www.meganslaw.ca.gov](http://www.meganslaw.ca.gov). Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides.

21. **ADDENDA:** By initialing as provided, Resident acknowledges receipt of the following applicable addenda, as indicated, copies of which are attached hereto, and are incorporated as part of this Agreement:

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> Resident Policies Addendum   | <input checked="" type="checkbox"/> Smoke Detector Addendum    | <input type="checkbox"/> CC & Rs                                     |
| <input checked="" type="checkbox"/> Move-In/Move-Out Itemization | <input type="checkbox"/> Pet Addendum                          | <input checked="" type="checkbox"/> Drug Free Housing Addendum       |
| <input type="checkbox"/> Pest Control Notice Addendum            | <input checked="" type="checkbox"/> Asbestos Addendum          | <input type="checkbox"/> Proposition 65 Brochure                     |
| <input checked="" type="checkbox"/> Satellite Addendum           | <input checked="" type="checkbox"/> Lead Disclosure Addendum   | <input checked="" type="checkbox"/> Other: <u>Megan-Low Addendum</u> |
| <input type="checkbox"/> Pool Rules Addendum                     | <input checked="" type="checkbox"/> Mold Notification Addendum | <input type="checkbox"/> Other: _____                                |

- 22. **ENTIRE AGREEMENT:** This Agreement, which includes all attachments referred to above, constitutes the entire Agreement between the parties and cannot be modified except in writing and signed by all parties, except as permitted by applicable law. Neither Owner/Agent, nor any agent or employee of Owner/Agent has made any representations or promises other than those set forth herein.
- 23. **CREDIT REPORTS:** A negative credit report reflecting on your credit history may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations. Resident expressly authorizes Owner/Agent (including a collection agency) to obtain Resident's consumer credit report, which Owner/Agent may use if attempting to collect past due rent payments, late fees, or other charges from Resident, both during the term of the Agreement and thereafter.
- 24. **ATTORNEYS' FEES:** If any legal action or proceeding is brought by either party to enforce any part of this Agreement, the prevailing party shall recover, in addition to all other relief, reasonable attorneys' fees and court costs, unless one of the following two boxes is checked:  
 the prevailing party shall recover, in addition to all other relief, attorneys' fees not to exceed \$ \_\_\_\_\_, plus court costs.  
 each party shall be responsible for their own attorneys' fees and court costs.

The undersigned Resident(s) acknowledge(s) having read and understood the foregoing, and receipt of a duplicate original.

<u>03-01-13</u> Date	<u>Virginia Gomez</u> Resident	<u>3/1/13</u> Date	<u>[Signature]</u> Resident
<u>03-01-13</u> Date	<u>Rosalba Rivera</u> Resident	<u>03/1/13</u> Date	<u>Briana Rivera</u> Resident
<u>3/1/13</u> Date	<u>[Signature]</u> Owner/Agent		



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