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22 Attorneys for Plaintiffs

23 SUPERIOR COURT OF CALIFORNIA
24 COUNTY OF FRESNO CIVIL UNLIMITED

25 Case No.: 16CECG00117

26 Hana Yang; Sichanh Bandane; Khamsouk
27 Bounsana; Ky Bounthipanhya; Timothy Braze;
28 Xang Cha; Ka Ying Cha; Thong Cha; Xue
Chang; Bounmy Channita; Somabat
Chanhasen; Vane Chanhasen; Phonesavat
Chanthavixay; Chin Chourn; Donna Clark;
Britney Cottrell; Vorasit Danesomasak; Jessica
Dejager; Anong Donesouda; James Santana
Douangdara; Chanmaly Douangmala; Hiep Hu
Du; David Duangkeo; Phonesauat Chant
Hauxay; Vanhny Havannalath; Charlie
Heaven; Sohcap Heng; Koua Her; Youa Her;
Rodrige Her; Xer Her; Jcc Her; Yee Her;
Thongdy Insarong; Booteng Inthavongsone;
Michelle Kaabua; Somxay Kaysavang;

**PLAINTIFFS' FIRST AMENDED
COMPLAINT FOR:**

1. BREACH OF IMPLIED WARRANTY OF HABITABILITY (CONTRACT);
2. BREACH OF STATUTORY WARRANTY OF HABITABILITY (CIVIL CODE 1942.4);
3. TORTIOUS FAILURE TO PROVIDE HABITABLE PREMISES;
4. BREACH OF COVENANT OF QUIET ENJOYMENT (CIVIL CODE 1940.2);
5. NEGLIGENT MAINTENANCE OF PREMISES;
6. PUBLIC NUISANCE
7. UNFAIR BUSINESS PRACTICE, BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.
8. WRONGFUL DEATH

Plaintiffs' Complaint for Damages

FILED

MAR 29 2016

FRESNO SUPERIOR COURT

By _____ DEPUTY

1 Khampheny Keoboupha; Ekphachanh
2 Keosouriya; Sitthi Khamsao; Noi Khounesy;
3 Tanh Khouttavong; Khamphone Kideng;
4 Bounc Komsonckco; Dia Le; Richard Lee;
5 Mai Lee; Ying Yang Lcc; Lamini Lee; Seng
6 Lee; Pao Lee; Mai Lee; Blia Lcc; Chuc Pao
7 Lee; Neng Lee; Xao Lcc; Choua Lee; William
8 Lcyfoung; Chai Lor; Tha Loyrangsy; Souphat
9 Luangphithalk; Seng Ly; Chai Sia Mona;
10 Nancy Morkhantha; Daniel Moua; Nou Moua;
11 Kitty Moua; Cher Moua; Mao Moua Teng
12 Moua; Steven MOUNGVIENG; Duoc Van Ngo;
13 Sochinda Nguon; Vu-Hoang Nguyen; Doan
14 Ba Nguyen; Oun Onesavanh; Sovanny Ouk;
15 Methany Ounphonchareyne; Cathy
16 Oupathame; Amelia Padre; Muoyly Pao;
17 Nakhonphet Pathammavong; Chan Pheng
18 Phatsavong; Phetsamone Phimmasonc; Phacng
19 Phommasy; Christ Phou; Monthly
20 Rassasombath; Phouvang Rattana; Khamsan
21 Rattanavongsing; Bounhieng Saatsy;
22 Symcuang Saatsy; Selena Saiyasane; Bay
23 Sayachack; Aenoi Sayaline; Deth Sayascng;
24 Khan Sipaseuth; Tomahawk Siphongsay;
25 Piane Sophalak; Manh Soulivong;
26 Khammouane Souvannavang; Khamsao
27 Souvannavong; Tauv Soy; Bouchan
28 Thaenboupha; George Bounleuam
Thammavongkeo; Pangrha Thao; Chue Thao;
Chao Thao; Po Thao; Ly Van Tran; Binh Chau
Trang; Thu Truong; Jec Va; Sopheap Van;
Bee Vang; Beia Vang; Xcc Vang; Gc Vang;
Ycr Vang; Xao Vang; Her Vang; Pa Patty
Vang; Chong Vang; Nao Lee Vang; Diamond
Vang; Chong Vang; Lcc Vang; Jorge Vasquez;
Paul Voroukoumanh; Mcc Vuc; Phung Balh
Vuong; Udom Xayadeth; Lu Kong Xiong;
Tong Xiong; Wa Tou Xiong; Ycr Xiong; Lo
Xiong; Cheng Xiong; Sua Xiong; Zoua Xiong;

Plaintiffs' Complaint for Damages

1 Chee Xiong; Mayneng Yang; Amy Yang;
2 Ying Yang; Chao Yang; Mai Chai Yang; Yec
3 Yang; Macy Yang; See Yang; Ze Yang; Houa
4 Tong Cha (Sucessor in Interst of the Estate of
5 Her Xa Lor), Cher Soua Her, Song Chue Her,
6 Kham Inboon, Savoeung Mam, David
7 Puangkco, ~~Khan Sipasuth~~, Tria Thao, Melony
8 Vang, Nou Moua Vang, Yer, Vang, Cha Pao
9 Yang, ~~See Yang~~,
10 Plaintiffs,

11 vs.

12 Chris Henry, an individual; Chris Henry dba
13 2103 North Angus Street, A California
14 Limited Partnership; 2103 North Angus Street,
15 A California Limited Liability Corporation,
16 and DOES 1-50, INCLUSIVE.
17 Defendants.

18 Plaintiffs hereby allege as follows:

19 INTRODUCTORY ALLEGATIONS

- 20 1. At all times relevant to this action, Plaintiffs are or were low-income tenants residing in
21 dilapidated, neglected, vermin infested building known as Somerset Village Apartments
22 (hereafter "Somerset Apartments").
- 23 2. According to the Fresno County Recorder's Office, the Somerset Apartments are owned
24 by Defendant, 2103 North Angus Street, LLC. Defendant, Chis Henry was the sole
25 member of 2103 North Angus Street, LLC. The Limited Liability Company was
26 converted to Defendant, 2103 North Angus Street, Limited Partnership in 2010. On
27 information and belief, Defendant Chris Henry, unilaterally manage, possesses, and
28 controls the Limited Partnership owning the Somerset Apartments.
3. Somerset Apartments consists of thirty buildings with 220 apartment units in total.
Somerset Apartments is a parcel of property 9.50 acers in size. The southern border of

1 the property extends from 2641 Weldon Street through 2789 Weldon Street. The eastern
2 border of the property extends from 2137 Angus Street through 2057 Angus Street. The
3 western border of the property extends from 2008 Fresno Street through 2038 Fresno
4 Street.

- 5 4. Plaintiffs entered into a tenancy contract with the Defendants pursuant to oral and written
6 lease agreements for residential units at the Somerset Apartments. The majority of
7 Plaintiffs residing at the Somerset Apartments are long term tenants with residency of 10
8 years or more.
- 9 5. At all relevant times, Plaintiffs complied with their contractual obligations and tendered
10 timely payments of the monthly rent due to the Defendants, or were legally excused from
11 paying any portion of such rent to the Defendants.
- 12 6. At different times but prior to November 2015 and continuing thereafter, Plaintiffs made
13 complaints and/or requested repairs to the onsite manager, Gerry Vang who is employed
14 by Defendants and/or acting on their behalf. Such complaints and/or requested repairs
15 included, but were not limited to, dilapidated conditions, rodents, insects, faulty electrical
16 units, exposed wiring and faulty or broken lighting in common areas.
- 17 7. Many of the complaints and/or requested repairs were either not completed or were poorly
18 undertaken. Additionally, on at least one occasion Gerry Vang told Plaintiffs that if they
19 did not like the conditions, they should move out. Gerry Vang told at least one Plaintiff
20 that they were the cause of such conditions. Gerry Vang also told at least one Plaintiff
21 that they would have to pay and undertake their own repairs.
- 22 8. At all relevant times, Defendants failed to comply with their contractual obligations and
23 statutory duty by failing to maintain and repair the premises which caused the Plaintiffs
24 economic damages and emotional stress and anxiety.
- 25 9. The evidence will show Somerset Apartments is dilapidated, neglected and completely
26 uninhabitable. An inspection by the City of Fresno Code Enforcement Division (a/k/a
27 Fresno Community Revitalization Division) revealed over 1400 Housing Code violations
28 at the Somerset Apartments. The violations are for individual residential units and

1 violations which address the unsafe, hazardous and/or substandard conditions common to
2 all units located in all of the residential buildings.

- 3 10. The Defendants neglect of the Somerset Apartments and disregard for the Plaintiffs
4 safety reached an emergency crisis on November 12, 2015. The tenants at Somerset
5 Apartments noticed the smell of natural gas coming from the property. Pacific Gas &
6 Electric (PG & E) was called to the Apartments immediately. PG&E detected numerous
7 gas leaks and immediately turned off the gas to the Somerset Apartments.
- 8 11. PG&E notified the Defendants on November 13, 2015. The Defendants and their agents
9 refused to initiate any corrective measures for repair of the gas lines.
- 10 12. The Plaintiffs were forced to live in the freezing cold temperatures, without a heat source,
11 hot water, or a functioning stove. Plaintiffs had to rely on emergency aid from the
12 American Red Cross and food donations from Southern Baptist Church for one month.
- 13 13. The Defendants refused to repair the gas leak and continued to leave the Plaintiffs
14 abandoned in the cold.
- 15 14. Defendants acted with malice, oppression, and complete disregard for the suffering of the
16 Plaintiffs by failing to take action to repair the property for 21 days, thus leaving the
17 Plaintiffs to depend on donations from the community to survive the conditions caused
18 by the Defendants.
- 19 15. Defendants have deliberately taken unfair advantage of Plaintiffs due to Plaintiffs' lack
20 of knowledge of their legal rights, low income, and fear of Defendants' ability to retaliate
21 against them. Plaintiffs were threatened by Mr. Gerry Vang, the Defendant's Manager of
22 Somerset Apartment that participation in any legal action against the Defendant will
23 result in the tenant's eviction.
- 24 16. Defendants have engaged in a pattern and practice of violating housing rights of its
25 tenants; refusing to comply with all applicable health and safety laws; and taking
26 advantage of any tenants who assert their rights and request repairs.
- 27
28

1 17. Defendants' failure to maintain the Somerset Apartments in a safe and habitable
2 condition is unlawful and has caused direct harm to Plaintiffs in the form of out of pocket
3 expenses for repairs, fumigation, physical illness, and emotional stress and more.

4 18. Plaintiffs now pray for actual, special and statutory damages against Defendant; an
5 injunction requiring Defendant to repair the Somerset Apartments to bring it into
6 compliance with all applicable municipal, health and safety codes; and a declaratory
7 judgment that Plaintiffs are not obligated to pay rent until the violations of the local
8 housing code have been repaired.

9 **THE PARTIES**

10 **PLAINTIFFS**

11 19. At all relevant times, Plaintiffs were and are residents of the County of Fresno, State of
12 California. Plaintiffs are all low-income individuals who currently reside or resided in the
13 Somerset Apartments managed by the Defendants. Plaintiffs have paid rent to the
14 Defendants, pursuant to the terms of their rental agreements or leases.

15 20. Notwithstanding the written and oral lease agreement, Plaintiffs are bona fide tenants in
16 occupancy because (a) the landlord expressly and/or impliedly consented to Plaintiffs
17 occupancy by accepting tender of rent; (b) the landlord expressly consented to the
18 sublease of the premises because the landlords and/or their agents were aware of
19 Plaintiff's occupancy and gave express verbal consent thereto; and (c) the landlord
20 impliedly consented to the occupancy because the landlord and/or their agents were
21 aware of the occupancy and sublease and did not object thereto.

22 21. Plaintiff Hana Yang is 63 years of age and a tenant residing at 2769 E. Weldon,
23 Apartment A, Fresno California 93703.

24 22. Plaintiff Sichanh Bandane is a tenant residing at 2018 N. Fresno, Apartment E, Fresno,
25 California 93703, pursuant to a written lease, which she was never provided a copy.

26 23. Plaintiff Khamsouk Bounsana is 58 years of age and is a tenant residing at 2121 N.
27 Angus, Apartment A, Fresno, California 93703.
28

- 1 24. Plaintiff Ky Bounthipanhya is 78 years of age and is a tenant residing at 2697 E. Weldon,
2 Apartment D, Fresno, California 93703.
- 3 25. Plaintiff Timothy Brazc is 40 years of age and is a tenant residing at 2105 N. Angus,
4 Apartment C, Fresno, California 93703.
- 5 26. Plaintiff Xang Cha is 100 years of age and is a tenant residing at 2691 E. Weldon,
6 Apartment B, Fresno, California 93703.
- 7 27. Plaintiff Ka Ying Cha is 42 years of age and is a tenant residing at 2709 E. Weldon,
8 Apartment B, Frcsno California 93703.
- 9 28. Plaintiff Thong Cha is 66 years of age and is a tenant residing at 2783 E. Weldon,
10 Apartment A, Frcsno California 93703.
- 11 29. Plaintiff Xue Chang is a tenant residing at Summerset Apartments, Fresno California
12 93703.
- 13 30. Plaintiff Bounmy Channita is 65 years of age and is a tenant residing at 2739 E. Weldon,
14 Apartment A, Frcsno California 93703.
- 15 31. Plaintiff Somabat Chanthasen is 51 years of age and is a tenant residing at 2703 E.
16 Weldon, Apartment A, Fresno, California 93703.
- 17 32. Plaintiff Vane Chanthasen is 58 years of age and is a tenant residing at 2008 N. Fresno,
18 Apartment F, Fresno California 93703.
- 19 33. Plaintiff Phonesavat Chanthavixay is 57 years of age and is a tenant residing at 2078 N.
20 Fresno, Apartment C, Fresno California 93703.
- 21 34. Plaintiff Chin Chourn is 25 years of age and is a tenant residing at 2749 E. Weldon,
22 Apartment A, Frcsno California 93703.
- 23 35. Plaintiff Donna Clark is 55 years of age and is a tenant residing at 2661 E. Weldon,
24 Apartment B, Fresno California 93703.
- 25 36. Plaintiff Britney Cottrell is 28 years of age and is a tenant residing at 2117 N. Angus,
26 Apartment B, Fresno California 93703.
- 27 37. Plaintiff Vorasit Dancomasak is 82 years of age and is a tenant residing at 2763 E.
28 Weldon, Apartment B, Frcsno California 93703.

- 1 38. Plaintiff Jessica Dejager is 18 years of age and is a tenant residing at 2763 E. Weldon,
2 Apartment A, Fresno California 93703.
- 3 39. Plaintiff Anong Donesouda is 71 years of age and is a tenant residing at 2641 E. Weldon,
4 Apartment A, Fresno California 93703.
- 5 40. Plaintiff James Santana Douangdara is 66 years of age and is a tenant residing at 2115 N.
6 Angus, Apartment C, Fresno California 93703.
- 7 41. Plaintiff Chanmaly Douangmala is 53 years of age and is a tenant at 2661 E Weldon,
8 Apartment C, Fresno California 93703.
- 9 42. Plaintiff Hiep Hu Du is 57 years of age and is a tenant residing at 2038 N. Fresno,
10 Apartment A, Fresno California 93703.
- 11 43. Plaintiff David Duangkeo is 48 years of age and is a tenant residing at 2018 N. Fresno,
12 Apartment B, Fresno California 93703.
- 13 44. Plaintiff Phonesauat Chant Hauxay is 57 years of age and is a tenant residing at 2028 N.
14 Fresno, Apartment C, Fresno California 93703.
- 15 45. Plaintiff Vanhny Havannalath is 62 years of age and is a tenant residing at 2045 N
16 Angus, Apartment B, Fresno California 93703.
- 17 46. Plaintiff Charlie Heaven is 49 years of age and a tenant residing at 2038 N. Fresno,
18 Apartment C, Fresno California 93703.
- 19 47. Plaintiff Soheap Heng is 65 years of age and is a tenant residing at 2687 E. Weldon,
20 Apartment C, Fresno California 93703.
- 21 48. Plaintiff Koua Her is 43 years of age and is a tenant residing at 2125 N. Angus,
22 Apartment B, Fresno California 93703.
- 23 49. Plaintiff Youa Her is 54 years of age and is a tenant residing at 2127 N. Angus,
24 Apartment C, Fresno California 93703.
- 25 50. Plaintiff Rodrige Her is 36 years of age and is a tenant residing at 2713 E. Weldon,
26 Apartment A, Fresno California 93703.
- 27 51. Plaintiff Xer Her is 70 years of age and is a tenant residing at 2119 N. Angus, Apartment
28 B, Fresno California 93703.

- 1 52. Plaintiff Jee Her is 64 years of age and is a tenant residing at 2647 E. Weldon, Apartment
2 F, Fresno California 93703.
- 3 53. Plaintiff Yee Her is 57 years of age and is a tenant residing at 2137 N. Angus, Apartment
4 C, Fresno California 93703.
- 5 54. Plaintiff Thongdy Insarong is 43 years of age and is a tenant residing at 2085 N. Angus,
6 Apartment B, Fresno California 93703.
- 7 55. Plaintiff Booteng Inthavongsone is 66 years of age and is a tenant residing at 2691 E.
8 Weldon, Apartment D, Fresno California 93703.
- 9 56. Plaintiff Michelle Kaabua is 21 years of age and a tenant residing at 2127 N. Angus,
10 Apartment B, Fresno California 93703.
- 11 57. Plaintiff Somxay Kaysavang is 52 years of age and a tenant residing at 2647 E. Weldon,
12 Apartment A, Fresno California 93703.
- 13 58. Plaintiff Khampheuy Keobopha is 78 years of age and a tenant residing at 2115 N.
14 Angus, Apartment A, Fresno California 93703.
- 15 59. Plaintiff Ekphachanh Keosouriya is 55 years of age and a tenant residing at 2018 N.
16 Fresno, Apartment D, Fresno California 93703.
- 17 60. Plaintiff Sitthi Khamsao is 77 years of age and a tenant residing at 2759 E. Weldon,
18 Apartment B, Fresno California 93703.
- 19 61. Plaintiff Noi Khonnesy is 40 years of age and a tenant residing at 2709 E. Weldon,
20 Apartment A, Fresno California 93703.
- 21 62. Plaintiff Thipavanh Khotsombath is 23 years of age and a tenant residing at 2057 N.
22 Angus, Apartment A, Fresno California 93703.
- 23 63. Plaintiff Tanh Khouttavong is 49 years of age and a tenant residing at 2139 N. Angus,
24 Apartment B, Fresno California 93703.
- 25 64. Plaintiff Khamphonc Kideng is 76 years of age and a tenant residing at 2657 E. Weldon,
26 Apartment D, Fresno California 93703.
- 27 65. Plaintiff Boune Komsonckeo is 71 years of age and a tenant residing at 2753 E. Weldon,
28 Apartment C, Fresno California 93703.

1 66. Plaintiff Dia Le is 79 years of age and a tenant residing at 2641 E. Weldon, Apartment F,
2 Fresno California 93703.

3 67. Plaintiff Richard Lee is 51 years of age and a tenant residing at 2008 N. Fresno,
4 Apartment C, Fresno California 93703.

5 68. Plaintiff Mai Lee is 72 years of age and a tenant residing at 2131 N. Angus, Apartment B,
6 Fresno California 93703.

7 69. Plaintiff Pao Lee is 58 years of age and a tenant residing at 2133 N. Angus, Apartment
8 A, Fresno California 93703.

9 70. Plaintiff Lamini Lee is 40 years of age and a tenant residing at 2687 E. Weldon,
10 Apartment B, Fresno California 93703.

11 71. Plaintiff Seng Lee is 36 years of age and a tenant residing at 2697 E. Weldon, Apartment
12 C, Fresno California 93703

13 72. Plaintiff Mai Lee is 66 years of age and a tenant residing at 2743 E. Weldon, Apartment
14 C, Fresno California 93703.

15 73. Plaintiff Bli Lee is 73 years of age and a tenant residing at 2121 N. Angus, Apartment
16 C, Fresno 93703.

17 74. Plaintiff Chue Pao Lee is 84 years of age and a tenant residing at 2783 E Weldon,
18 Apartment B, Fresno California 93703.

19 75. Plaintiff Neng Lee is 60 years of age and a tenant residing at 2671 E Weldon,
20 Apartment C, Fresno California 93703.

21 76. Plaintiff Xiao Lee is a tenant residing at 2713 E. Weldon, Apartment B, Fresno
22 California 93703.

23 77. Plaintiff Choua Lee is 29 years of age and a tenant residing at 2137 N. Angus, Apartment
24 A, Fresno California 93703.

25 78. Plaintiff William Leyfoung is 56 years of age and a tenant residing at 2028 N. Fresno,
26 Apartment A, Fresno California 93703.

27 79. Plaintiff Chai Lor is 75 years of age and a tenant residing at 2691 E. Weldon, Apartment
28 A, Fresno California 93703.

- 1 80. Plaintiff Tha Loyrangsy, is 69 years of age and a tenant residing at 2739 E Weldon,
2 Apartment D, Fresno California 93703.
- 3 81. Plaintiff Souphat Luangphithalk, is 74 years of age and a tenant residing at 2028 N.
4 Fresno, Apartment B, Fresno California 93703.
- 5 82. Plaintiff Seng Ly is 59 years of age and a tenant residing at 2129 N. Angus, Apartment
6 C, Fresno California 93703.
- 7 83. Plaintiff Yang Macy is 55 years of age and a tenant residing at 2719 E. Weldon,
8 Apartment A, Fresno California 93703.
- 9 84. Plaintiff Chai Sia Mona is a tenant residing at 651 E Weldon, Apartment C, Fresno
10 California 93703.
- 11 85. Plaintiff Nancy Morkhantha is 33 years of age and a tenant residing at 2681 E. Weldon,
12 Apartment A, Fresno California 93703.
- 13 86. Plaintiff Daniel Moua is 49 years of age and a tenant residing at 2077 N. Angus,
14 Apartment C, Fresno California 93703.
- 15 87. Plaintiff Nou Moua is 30 years of age and a tenant residing at 2085 N. Angus, Apartment
16 A, Fresno California 93703.
- 17 88. Plaintiff Kitty Moua is 35 years of age and a tenant residing at 2719 E. Weldon,
18 Apartment B, Fresno California 93703.
- 19 89. Plaintiff Cher Moua is 63 years of age and a tenant residing at 2769 E. Weldon,
20 Apartment A, Fresno California 93703.
- 21 90. Plaintiff Teng Moua is 53 years of age and a tenant residing at 2697 E. Weldon,
22 Apartment A, Fresno California 93703.
- 23 91. Plaintiff Mao Moua is 74 years of age and a tenant residing at 2651 E. Weldon,
24 Apartment B, Fresno California 93703.
- 25 92. Plaintiff Steven Mounavieng is 52 years of age and a tenant residing at 2719 E. Weldon,
26 Apartment D, Fresno California 93703.
- 27 93. Plaintiff Duoc Van Ngo is 67 years of age and a tenant residing at 2065 N. Angus,
28 Apartment B, Fresno California 93703.

- 1 94. Plaintiff Sochinda Nguon is 53 years of age and a tenant residing at 2713 E. Weldon,
2 Apartment C, Fresno California 93703.
- 3 95. Plaintiff Vu-Hoang Nguyen is 55 years of age and a tenant residing at 2657 E. Weldon,
4 Apartment B, Fresno California 93703.
- 5 96. Plaintiff Doan Ba Nguyen is 71 years of age and a tenant residing at 2779 E. Weldon,
6 Apartment A, Fresno California 93703.
- 7 97. Plaintiff Oun Onesavanh is 58 years of age and a tenant residing at 2129 N. Angus,
8 Apartment A, Fresno California 93703.
- 9 98. Plaintiff Sovanny Ouk is 60 years of age and a tenant residing at 2753 E. Weldon,
10 Apartment B, Fresno California 93703.
- 11 99. Plaintiff Bouasy Ounesavath is 79 years of age and a tenant residing at 2115 N. Angus,
12 Apartment B, Fresno California 93703.
- 13 100. Plaintiff Methany Ounphoncharcyne is 47 years of age and a tenant residing at 2677 E.
14 Weldon, Apartment D, Fresno California 93703.
- 15 101. Plaintiff Cathy Oupathame is 53 years of age and a tenant residing at 2677 E. Weldon,
16 Apartment B, Fresno California 93703.
- 17 102. Plaintiff Amelia Padre is 49 years of age and a tenant residing at 2038 N. Fresno,
18 Apartment F, Fresno California 93703.
- 19 103. Plaintiff Muoyly Pao is 99 years of age and a tenant residing at 2109 N. Angus,
20 Apartment C, Fresno California 93703.
- 21 104. Plaintiff Nakhonphet Pathammavong is 55 years of age and a tenant residing at 2691 E.
22 Weldon, Apartment A, Fresno California 93703.
- 23 105. Plaintiff Chan Pheng Phatsavong is 77 years of age and a tenant residing at 2713 E.
24 Weldon, Apartment D, Fresno California 93703.
- 25 106. Plaintiff Nakhon Phet is 55 years of age and a tenant residing at 2691 E. Weldon,
26 Apartment A, Fresno California 93703.
- 27 107. Plaintiff Phetsamone Phimmasonne is 51 years of age and a tenant residing at 2733 E.
28 Weldon, Apartment B, Fresno California 93703.

- 1 108. Plaintiff Phaeng Phommasy is 61 years of age and a tenant residing at 2759 E. Weldon,
2 Apartment C, Fresno California 93703.
- 3 109. Plaintiff Christ Phommasy is 62 years of age and a tenant residing at 2008 N. Fresno,
4 Apartment A, Fresno California 93703.
- 5 110. Plaintiff Tho Phuc is 27 years of age and a tenant residing at 2723 E. Weldon,
6 Apartment A, Fresno California 93703.
- 7 111. Plaintiff Guadalupe Pulido is 59 years of age and a tenant residing at 2657 E. Weldon,
8 Apartment A, Fresno California 93703.
- 9 112. Plaintiff Monthly Rassasombath is 48 years of age and a tenant residing at 2065 N.
10 Angus, Apartment C, Fresno California 93703.
- 11 113. Plaintiff Phouvang Rattana is 57 years of age and a tenant residing at 2028 N. Fresno,
12 Apartment D, Fresno California 93703.
- 13 114. Plaintiff Khamsan Rattanavongsing is 62 years of age and a tenant residing at 2729 E.
14 Weldon, Apartment B, Fresno California 93703.
- 15 115. Plaintiff Bounhieng Saathsy is 60 years of age and a tenant residing at 2729 E. Weldon,
16 Apartment C, Fresno California 93703.
- 17 116. Plaintiff Symeuang Saatsy is 85 years of age and a tenant residing at 2759 E. Weldon,
18 Apartment C, Fresno California 93703.
- 19 117. Plaintiff Selena Saiyasane is 19 years of age and a tenant residing at 2651 E. Weldon,
20 Apartment B, Fresno California 93703.
- 21 118. Plaintiff Bay Sayachack is 47 years of age and a tenant residing at 2723 E. Weldon,
22 Apartment D, Fresno California 93703.
- 23 119. Plaintiff Aenoi Sayaline is 49 years of age and a tenant residing at 2647 E. Weldon,
24 Apartment C, Fresno California 93703.
- 25 120. Plaintiff Deth Sayaseng is 49 years of age and a tenant residing at 2101 N. Angus,
26 Apartment A, Fresno California 93703.
- 27 121. Plaintiff Khan Sipaseuth is 48 years of age and a tenant residing at 2111 N. Angus,
28 Apartment A, Fresno California 93703.

- 1 122. Plaintiff Tomahawk Siphongsay is 61 years of age and a tenant residing at 2729 E.
2 Weldon, Apartment D, Fresno California 93703.
- 3 123. Plaintiff Piane Sophalak is 52 years of age and a tenant residing at 2119 N. Angus,
4 Apartment C, Fresno California 93703.
- 5 124. Plaintiff Manh Soulivong is 83 years of age and a tenant residing at 2703 E. Weldon,
6 Apartment D, Fresno California 93703.
- 7 125. Plaintiff Khammouane Souvannavang is 47 years of age and a tenant residing at 2115
8 N. Angus, Apartment B, Fresno California 93703.
- 9 126. Plaintiff Khamsao Souvannavong is 58 years of age and a tenant residing at 2677 E.
10 Weldon, Apartment A, Fresno California 93703.
- 11 127. Plaintiff Tauv Soy is 74 years of age and a tenant residing at 2709 E. Weldon,
12 Apartment A, Fresno California 93703.
- 13 128. Plaintiff Bouchan Thaenboupha is 71 years of age and a tenant residing at 2743 E.
14 Weldon, Apartment B, Fresno California 93703.
- 15 129. Plaintiff George Thammavongkeo is 64 years of age and a tenant residing at 2733 E.
16 Weldon, Apartment C, Fresno California 93703.
- 17 130. Plaintiff Pangrhia Thao is 25 years of age and a tenant residing at 2077 N. Angus,
18 Apartment A, Fresno California 93703.
- 19 131. Plaintiff Chue Thao is 28 years of age and a tenant residing at 2117 N. Angus,
20 Apartment C, Fresno California 93703.
- 21 132. Plaintiff Chao Thao is a tenant residing at 2133 N. Angus, Apartment C, Fresno
22 California 93703.
- 23 133. Plaintiff Po Thao is 28 years of age and a tenant residing at 2723 E. Weldon, Apartment
24 C, Fresno California 93703.
- 25 134. Plaintiff Su Thao is 67 years of age and a tenant residing at 2133 N. Angus, Apartment
26 A, Fresno California 93703.
- 27 135. Plaintiff Ly Van Tran is 53 years of age and a tenant residing at 2038 N. Fresno,
28 Apartment A, Fresno California 93703.

- 1 136. Plaintiff Binh Chau Trang is 45 years of age and a tenant residing at 2641 E. Weldon,
2 Apartment E, Fresno California 93703.
- 3 137. Plaintiff Thu Truong is 60 years of age and a tenant residing at 2703 E. Weldon,
4 Apartment C, Fresno California 93703.
- 5 138. Plaintiff Jec Va is 84 years of age and a tenant residing at 2131 N. Angus, Apartment A,
6 Fresno California 93703.
- 7 139. Plaintiff Sophcap Van is 68 years of age and a tenant residing at 2008 N. Fresno,
8 Apartment E, Fresno California 93703.
- 9 140. Plaintiff Bec Vang is 25 years of age and a tenant residing at 2121 N. Angus, Apartment
10 B, Fresno California 93703.
- 11 141. Plaintiff Beia Vang is 59 years of age and a tenant residing at 2121 N. Angus,
12 Apartment C, Fresno California 93703.
- 13 142. Plaintiff Xcc Vang is 64 years of age and a tenant residing at 2123 E. Weldon,
14 Apartment B, Fresno California 93703.
- 15 143. Plaintiff Ge Vang is 62 years of age and a tenant residing at 2123 N. Angus, Apartment
16 C, Fresno California 93703.
- 17 144. Plaintiff Yer Vang is 35 years of age and a tenant residing at 2129 N. Angus, Apartment
18 B, Fresno California 93703.
- 19 145. Plaintiff Xao Vang is 79 years of age and a tenant residing at 2605 N. Angus,
20 Apartment A, Fresno California 93703.
- 21 146. Plaintiff Diamond Vang is 21 years of age and a tenant residing at 2641 E. Weldon,
22 Apartment D, Fresno California 93703.
- 23 147. Plaintiff Chong Vang is 88 years of age and a tenant residing at 2697 E. Weldon,
24 Apartment B, Fresno California 93703.
- 25 148. Plaintiff Her Vang is 60 years of age and a tenant residing at 2719 E. Weldon,
26 Apartment C, Fresno California 93703.
- 27 149. Plaintiff Pa Patty Vang is 45 years of age and a tenant residing at 2137 N. Angus,
28 Apartment B, Fresno California 93703.

- 1 150. Plaintiff Chong Vang is 88 years of age and a tenant residing at 2697 E. Weldon,
2 Apartment B, Fresno California 93703.
- 3 151. Plaintiff Nao Lee Vang is 68 years of age and a tenant residing at 2109 E. Weldon,
4 Apartment A, Fresno California 93703.
- 5 152. Plaintiff Lee Vang is a tenant residing at 2677 E. Weldon, Apartment D, Fresno
6 California 93703.
- 7 153. Plaintiff Jorge Vasquez is 46 years of age and a tenant residing at 2105 N. Angus,
8 Apartment C, Fresno California 93703.
- 9 154. Plaintiff Paul Voroukoumanh is 63 2101 N. Angus, Apartment A, Fresno California
10 93703.
- 11 155. Plaintiff Doua Vu is 47 years of age and a tenant residing at 2723 E. Weldon,
12 Apartment B, Fresno California 93703.
- 13 156. Plaintiff Mce Vue is 77 years of age and a tenant residing at 2038 N. Frcsno, Apartment
14 F, Fresno California 93703.
- 15 157. Plaintiff Phung Balh Vuong is 78 years of age and a tenant residing at 2641 E. Weldon,
16 Apartment C, Fresno California 93703.
- 17 158. Plaintiff Gabrielle Wong is 24 years of age and a tenant residing at 2763 E. Weldon,
18 Apartment A, Fresno California 93703.
- 19 159. Plaintiff Udom Xayadeth is 56 years of age and a tenant residing at 2763 E. Weldon,
20 Apartment C, Fresno California 93703.
- 21 160. Plaintiff Tong Xiong is 80 years of age and a tenant residing at 2077 E. Weldon,
22 Apartment C, Fresno California 93703.
- 23 161. Plaintiff Wa Tou Xiong is 61 years of age and a tenant residing at 2111 N. Angus,
24 Apartment B, Fresno California 93703.
- 25 162. Plaintiff Yer Xiong is 71 years of age and a tenant residing at 2133 N. Angus,
26 Apartment B, Fresno California 93703.
- 27 163. Plain tiff Lo Xiong is 63 years of age and a tenant residing at 2687 E. Weldon,
28 Apartment A, Fresno California 93703.

- 1 164. Plaintiff Cheng Xiong, is 41 years of age and a tenant residing at 2687 E. Weldon,
2 Apartment D, Fresno California 93703.
- 3 165. Plaintiff Sua Xiong is 48 years of age and a tenant residing at 2691 E. Weldon,
4 Apartment C, Fresno California 93703.
- 5 166. Plaintiff Zoua Xiong is 57 years of age and a tenant residing at 2647 E Weldon,
6 Apartment B, Fresno California 93703.
- 7 167. Plaintiff Chee Xiong is 67 years of age and a tenant residing at 2773 E. Weldon,
8 Apartment C, Fresno California 93703.
- 9 168. Plaintiff Mayneng Yang is 24 years of age and a tenant residing at 2117 N. Angus,
10 Apartment C, Fresno California 93703.
- 11 169. Plaintiff Amy Yang is 30 years of age and a tenant residing at 2135 N. Angus,
12 Apartment A, Fresno California 93703.
- 13 170. Plaintiff Lee Yeng Yang is 61 years of age and a tenant residing at 2681 E. Weldon,
14 Apartment B, Fresno California 93703.
- 15 171. Plaintiff Ying Yang is 68 years of age and a tenant residing at 2719 E. Weldon,
16 Apartment D, Fresno California 93703.
- 17 172. Plaintiff Chao Yang is 83 years of age and a tenant residing at 2749 E. Weldon,
18 Apartment B, Fresno California 93703.
- 19 173. Plaintiff Mai Chai Yang is 21 years of age and a tenant residing at 2763 E. Weldon,
20 Apartment A, Fresno California 93703.
- 21 174. Plaintiff Yce Yang is a tenant residing at Somersct Apartments.
- 22 175. Plaintiff Macy Yang is 55 years of age and a tenant residing at 2719 E Weldon,
23 Apartment A, Fresno California 93703.
- 24 176. Plaintiff See Yang is 20 years of age and a tenant residing at 2709 E Weldon, Apartment
25 B, Fresno California 93703.
- 26 177. Plaintiff Ze Yang is 45 years of age and a tenant residing at 2107 N. Angus, Apartment
27 B, Fresno California 93703.
- 28

1 178. Plaintiff Kor Yeay is 67 years of age and a tenant residing at 2709 E. Weldon,
2 Apartment C, Fresno California 93703.

3 179. Plaintiff Bunray Yort is 53 years of age and a tenant residing at 2117 N. Angus,
4 Apartment A, Fresno California 93703.

5 **DEFENDANTS**

6 180. Upon information and belief, defendant Chris Henry was and is an individual residing in
7 Santa Barbara County, California. At all relevant times Chris Henry was the owner of
8 the Somerset Apartments.

9 181. Defendant Chris Henry, an individual was the sole managing partner in the sham
10 partnership of 2103 North Angus Street, L.P., and the only officer in the sham
11 corporation, 2103 North Angus Street, LLC. Chris Henry had complete domination and
12 control of the affairs of the business organizations and used them to accomplish the
13 activities set forth.

14 182. Upon information and belief, during the relevant period, defendant Chris Henry was
15 doing business as defendant 2103 North Angus Street, L.P., (hereafter "North Angus,
16 LP"), a limited liability partnership and owner of the Somerset Apartments.

17 183. Defendant North Angus, LP., was formed in the year 2010 and operating under the laws
18 of the State of California, with its principal place of business in Larkspur, California.
19 Plaintiffs further allege that 2103 North Angus Street, L.P., was authorized to transact
20 and did in fact transact business in the County of Fresno, State of California, during the
21 relevant period.

22 184. On information and belief, during the relevant period, defendant Chris Henry was the
23 general partner, agent, servant, employee, and/or representative of defendant 2103 North
24 Angus, L.P., and in doing the things hereinafter alleged, was acting within his actual or
25 apparent authority with the full knowledge and consent of 2103 North Angus, L.P.

26 185. Upon information and belief, during the relevant period, Defendant 2103 North Angus
27 Street, LLC (hereafter "North Angus, LLC."), was and is a limited liability company and
28 owner of the Somerset Apartments. North Angus, LLC., was formed in the year 2000

1 and operating under the laws of the State of California, with its principal place of
2 business in Bodega Bay, California. Plaintiffs further allege that 2103 North Angus,
3 LLC., was authorized to transact and did in fact transact business in the County of
4 Fresno, State of California, during the relevant period.

5 186. On information and belief, during the relevant period, Chris Henry was the agent,
6 servant, employee, and/or representative of Defendant North Angus, LLC., and in doing
7 the things hereinafter alleged, was acting within his actual or apparent authority with the
8 full knowledge and consent of North Angus, LLC.

9 187. The California Secretary of State Business Records Search reflects that 2103 North
10 Angus Street, LLC was converted to 2103 North Angus Street, Limited Partnership in
11 2010. The Fresno County Assessor records continue to reflect 2103 North Angus Street,
12 LLC as the owner of the subject property.

13 188. The Plaintiffs are ignorant of the true names and capacities of Defendants sued herein
14 Does 1 through 50 inclusive, and therefore sue by such fictitious names. Plaintiffs will
15 amend this Complaint to allege the true names and capacities of these Defendants when
16 ascertained. Plaintiffs are informed and believe and thereon allege that each of the
17 fictitiously named Defendants have been responsible in some manner for the occurrences
18 herein allege, and that Plaintiffs' damages and injuries as herein alleged were
19 proximately caused by Defendants' conduct.

20 **JURISDICTION AND VENUE**

21 189. This Court has subject matter jurisdiction over this action pursuant to California Code of
22 Civil Procedure Section 410.10 because Defendants are transacting business and
23 committing the acts and omissions complained of in California.

24 190. Venue is proper in Fresno County and this judicial district pursuant to California Code
25 of Civil Procedure Section 392 and 395(a) because the building/property at issue is
26 located in judicial district; the majority of the acts and omissions complained of arose in
27 Fresno County, California; and Plaintiffs sustained injuries to their rights within this
28 judicial district.

1 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

2 **A. UNINHABITABLE CONDITIONS**

3 191. At all relevant times herein, Somerset Apartments is and was unsafe, unsanitary,
4 unhealthy, uninhabitable, in a serious state of disrepair, and in gross violation of building,
5 health, fire, and safety codes. Relevant laws that Defendant violated and continued to
6 violate include, among others, the habitability laws and standards contained in the
7 California Civil Code, including, but not limited to, §§1942.1 and 1942.4; the California
8 Health and Safety Code; the California Business and Professions Code, §§1700 *et seq.* A
9 description of the long-term problems that exist in the building and the effects on
10 Plaintiffs are listed in the summary that follows.

11 **REGULATORY HISTORY**

12 192. On or about November 24, 2015, The City of Fresno Community Revitalization
13 Division issued a request to inspect the Somerset Apartments. The purpose of the
14 inspection was to determine unsafe, hazardous and substandard conditions.

15 193. The City of Fresno Code Enforcement Division issued a 160 page Notice and Order to
16 Repair and Rehabilitate the Building, with over 1400 code violations. The City of Fresno
17 estimated the costs of the repairs and fines to total one million dollars. Fresno Code
18 Enforcement conducted inspections of many of the units, noting a multitude of health and
19 safety violations, including, but not limited to the following:

- 20 a. Evidence of insect (roach, bedbugs), vermin and/ or rodent infestation in
21 violation of Health and Safety Code 17920.3(a)(12).
- 22 b. Damaged entry doors and improper installation in violation of Health and
23 Safety Code(s) 17920.3(a)(12)(13); 17920.3(g)(2).
- 24 c. Damaged windows, missing window screens, and improper installation in
25 violation of Health and Safety Code 17920.3(a)(13).
- 26 d. Damaged and unsanitary surfaces of interior walls of the complex in
27 violation of Health and Safety Code 17920.3(a)(13).
- 28

- 1 e. Entry door security hardware, jambs and frames are damaged or missing
2 in violation of Health and Safety Code 17920.3 (a)(13).
- 3 f. Damaged and missing exterior light fixtures throughout the complex in
4 violation of Health and Safety Code 17920.3(d).
- 5 g. Damaged and unsanitary carpet and floor coverings throughout the
6 complex in violation of Health and Safety Code 17920.3(a)(13).
- 7 h. Missing and defective smoke detectors through the complex in violation of
8 Health and Safety code 17920.3(a)(13)(d).
- 9 i. Missing carbon monoxide detectors through the complex in violation of
10 Health and Safety code 17920.3(a)(13)(d).
- 11 j. Leaking bathroom faucets through the complex in violation of Health and
12 Safety code 17920.3(a)(13)(e).
- 13 k. Damages or blocked waste line at bathroom sinks and bathtubs in multiple
14 locations throughout the complex in violation of Health and Safety Code
15 17920.3(a)(13); 17920.3(e).
- 16 l. Missing heating systems throughout the complex in violation of Health
17 and Safety Code 17920.3(a)(6).
- 18 m. Damaged wiring at multiple locations throughout the complex in violation
19 of Health and Safety Code 17920.3(d).
- 20 n. No hot water at multiple locations through the complex in violation of
21 Health and Safety Code 17920.3 (a)(5).
- 22 o. Damaged, missing or openings on the electrical service panels in violation
23 of Health and Safety Code 17920.3(d).

24 194. Defendants were provided notice of the violations by the City of Fresno Code
25 Enforcement Division. The Notice and Order required Defendant to eliminate all
26 substandard conditions before the scheduled inspection.
27
28

1 195. Due to the substandard conditions and unlawful acts and omissions on the part of the
2 Defendant, the City of Fresno held a special meeting to declare the conditions of the
3 Somerset Apartments a state of emergency.

4 **ABATEMENT OF RENTS**

5 196. Plaintiffs have repeatedly notified the manager of the Somerset Apartments regarding
6 municipal code violations to his or her individual units. Defendants had actual notice of
7 the defects through Plaintiff's oral complaints to Gerry Vang, Defendants' agent and
8 Manager at Somersct. The Defendants agents ignored the Plaintiffs complaints and told
9 the Plaintiffs to pay for any repairs or renovations from their own personal funds.

10 197. Defendant, directly or through their agents, observed and were personally aware of
11 these uninhabitable conditions. Defendant Chris Henry provided statements to the media
12 that he inspects Somerset Apartments once a month. The deterioration and defects are
13 apparent from the outside of the building. Defendant has both actual and constructive
14 knowledge of the unsafe and unhealthy conditions at the Somerset Apartments.

15 198. Notwithstanding Defendant's knowledge that these deplorable conditions existed and
16 were dangerous to Plaintiffs, and despite having the opportunity and means, as well as the
17 legal obligation to correct these unsafe and unhealthy conditions, the Defendants have
18 dcliberately, intentionally and/or negligently failed and refused to make necessary
19 corrective measures to the Somersct Apartments. Defendant only acted to remedy the
20 code violations and substandard conditions after receiving notice from the City of Fresno
21 of the intent to issue a one million dollar fine and sanction to the Defendants for repair of
22 the property.

23 199. The Somersct Apartments were not and are not habitable or tenantable at the time of
24 Plaintiffs lease agreement and, therefore, had a lesser monthly rental value than what was
25 being charged and demanded by Defendants.
26
27
28

1 200. At all relevant times, the Somerset Apartments were not and are not habitable or
2 tenantable at the time of Plaintiffs' lease agreements and, therefore, had a lesser rental
3 value than the fair market rental value for Fresno County¹.

4 UNLAWFUL BUSINESS PRACTICES

5 201. Upon information and belief, the Plaintiffs' allege that the rent monies collected by the
6 Defendant from Plaintiffs were not used to further legitimate business purposes to repair
7 and maintain the property to make the premises habitable.

8 202. Plaintiffs have maintained timely payments of rent pursuant to their rental agreements.
9 The complex consists of 220 units with a monthly rental value ranging from \$550 to
10 \$650. Paul Dictos from the Fresno County Assessor's office has estimated a monthly
11 rental income of \$100,000.00 generated from the Somerset Apartments.

12 203. Upon information and belief, Plaintiffs allege the rent monies were diverted into the
13 lavish Bay Area real estate ventures of defendant Chris Henry. Paul Dictos from the
14 Fresno County Assessor's office stated the Somerset Apartments has a real estate value
15 of 2.8 million dollars and 3 million dollars in liens from creditors. The financial records
16 on file with the Fresno County Assessor's office confirm that Defendant has
17 undercapitalized the Somerset Apartments despite positive profits from the rental
18 property.

19 204. Furthermore, the financial records are evidence of Defendants' reckless disregard to
20 maintain and secure funds to pay creditors and the egregious encumbrances on the
21 Somerset Apartments caused by Defendants. Upon information and belief, approximately
22 15 contractors were called to repair the broken gas leaks, however all refused to perform
23 work at the Somerset Apartments because the Defendants had a reputation for not paying
24 for contract services.

25
26 _____
27 ¹ 2015 Housing and Urban Development Fair Market Rental Value for Fresno County,
28 listed a monthly rental value for a studio apartment at \$649; a one bedroom apartment at \$676;
and a two bedroom apartment at \$853 per month
http://www.huduser.gov/portal/datasets/fmr/fmrs/FY2015_code/2015summary.odn

1 205. Moreover, at all times relevant to the instant action, Defendants have engaged in the
2 unlawful and unfair business practice of renting uninhabitable apartments to vulnerable,
3 low-income tenants. The Defendants have deliberately and intentionally failed and
4 refused to make necessary corrective measures in violation of Civil Code 1941.

5 **TERMINATION OF GAS SERVICES**

6 206. On information and belief, Defendants failed to maintain gas distribution lines to
7 Plaintiffs' units.

8 207. The Defendants neglect of the Somerset Apartments and disregard for the Plaintiffs
9 safety reached an emergency crisis on November 12, 2015. The tenants at Somerset
10 Apartments noticed the smell of natural gas coming from the property. Pacific Gas &
11 Electric (PG&E) was called to the Apartments immediately. PG&E detected numerous
12 gas leaks and immediately turned off the gas to the Somerset Apartments.

13 208. PG&E attempted to notify Gerry Vang, the Defendants' agent and on site manager, of
14 the imminent danger to the tenants and the need for evacuation. On information and
15 belief, Gerry Vang refused to answer the door, and when he did make contact with
16 PG&E, he was recklessly indifferent to the dangerous condition on the property by failing
17 to take emergency action to relocate tenants, contact professional repair services, failing
18 to purchase emergency supplies for the tenants such as space heaters and blankets, failing
19 to contact emergency organizations for assistance, and more importantly, failing to notify
20 tenants.

21 209. Denny Boyles, a PG&E representative, confirmed that the Defendants were notified by
22 PG&E of the multiple gas leaks on November 13, 2015. The Defendants and their agents
23 refused to initiate any corrective measures for repair of the gas lines on their own
24 initiative.

25 210. The City of Fresno received notice of the dangerous conditions on seven days later, on
26 or about November 20, 2015. The City of Fresno intervened to force the Defendants to
27 act on repairs.
28

1 211. Due to the gas leak and the dilapidated housing conditions, the Plaintiffs were forced to
2 live in the freezing cold temperatures, without a heat source, hot water, or a functioning
3 stove while the City of Fresno tried to intervene.

4 212. The City of Fresno obtained the Defendants' contact information from Gerry Vang,
5 Defendants' agent and onsite manager. The City of Fresno diligently tried to contact the
6 Defendants directly to come to the property and undertake their duty to repair the
7 property. The Defendants refused to respond and continued to leave the Plaintiffs
8 abandoned in the cold.

9 213. Upon information and belief, approximately 15 contractors were called to repair the
10 broken gas leaks prior to the City of Fresno intervening, however all refused to perform
11 work at the Somersct Apartments because the Defendants had a reputation for not paying
12 for contract services.

13 214. On November 23, 2015, the Defendants contacted the City of Fresno and confirmed an
14 agent/ representative would be present to answer for the Defendants. Defendants
15 continued to avoid personally visiting the Somersct Apartments to inspect the dangerous
16 conditions and witness the Plaintiffs distressed living conditions.

17 215. On November 24, 2015, the Defendants sent local counsel, William Leifer, Esq. to
18 address the gas leak with the City of Fresno. Plaintiffs had lived without heat for 12 days
19 by the time Defendants actually addressed repairs for the Somerset Apartments.

20 216. On November 25, 2015, the City of Fresno declared a state of emergency and
21 authorized repairs of the Somersct Apartments if the Defendants failed to act by
22 December 2, 2015.

23 217. On information and belief, once Defendants hired a licensed property management
24 company, repairs of the gas lines were done in approximately 9 days.

25 218. Defendants acted with malice, oppression, and complete disregard for the suffering of
26 the Plaintiffs by failing to take action to repair the property for 21 days, leaving the
27 Plaintiffs to depend on donations from the community to survive the conditions caused
28 by the Defendants.

1 219. Furthermore, the Defendants acted with knowing disregard of the dangerous living
2 conditions at the Somerset Apartments because had the Defendants acted when notice of
3 the gas leak was received from PG&E, the repairs would have been completed by
4 November 20, 2015. The Plaintiffs suffered an additional 22 days because of the
5 Defendants' callous indifference to their suffering.

6 **ABSENCE OF HEAT**

7 220. Many of the heating units were not working properly prior to the gas shut off. Many of
8 the units failed to radiate hot air and were inoperable in Plaintiffs' apartments. The
9 condition became worse after PG&E terminated the gas and the Plaintiffs were left with
10 no source of heat from approximately November 12, 2015 through December 12, 2015.
11 The lack of heat caused Plaintiffs to suffer illnesses such as coughs, colds, and similar
12 ailments, especially when coupled with a lack of hot water. The problem was and
13 continues to be exacerbated by Plaintiffs whose units have gaps in the door and windows,
14 which allow even more cold air to enter. During this period, Plaintiffs were instructed not
15 to use portable heaters due to the faulty electrical wiring. The emergency service
16 organizations provided electric blankets to the elderly and those with small children, but
17 choose not to distribute electric blankets to all tenants in fear of an electrical shortage.
18 Therefore, some Plaintiffs were left without any source of heat. Plaintiffs experienced
19 stress, anxiety, physical ailments such as pneumonia, coughs, and physical illness caused
20 by living without heat.

21 **LACK OF HOT WATER SERVICES**

22 221. Plaintiffs had no hot water service to their units from November 12, 2015 through
23 December 12, 2015. PG&E shut off the natural gas due to a dangerous natural gas leak
24 to the Somerset Apartments. Plaintiffs went without showers or were forced to take
25 freezing cold showers. The emergency services set up showers stalls outside of the
26 complex in the open public. Plaintiffs were forced to obtain a ticket for an assigned time
27 to take a shower. Many of the Plaintiffs are disabled seniors and there were no disabled
28 shower stalls for the tenants. Furthermore, because it was a community shower, children

1 ten and under were forced to have an accompanying adult. Plaintiffs had to sufferer
2 humiliation, stress, and anxiety to complete the most basic task of personal hygiene.

3 **FAULTY ELECTRICAL SYSTEMS**

4 222. Plaintiffs' units and/or common areas have or had exposed wires and improper damaged
5 outlet connections to the electrical sockets. The tenants were restricted from using
6 electrical heating systems due to the fire hazard caused by the wiring. Plaintiffs complain
7 of being shocked from faulty electrical sockets while using their appliances and
8 electronics. Plaintiffs' counsel was present as one unit sparked a small electrical fire due
9 to the use of the electrical sockets and faulty wiring. Plaintiffs experience stress and
10 anxiety from the constant hazards of electrical shock, sockets that do not work, and
11 outlets that spark electricity.

12 **FIRE HAZARDS**

13 223. A number of Plaintiffs' units have missing, faulty or inoperable smoke detectors and
14 carbon monoxide detectors. The building has numerous fire hazards, including, but not
15 limited to, unlawfully maintained and/or non-functioning electrical wiring and lack of fire
16 extinguisher(s).

17 224. Defendants had actual notice of the fire hazard resulting from the lack of smoke
18 detectors. On May 15, 2010, a fire at the Somerset Apartments damaged six apartment
19 units displaced 16 adults and nine children. The Fire Department only found one smoke
20 detector in the six units. The Defendants were owners of the Somerset Apartments at the
21 time of the fire. The Defendants were required to install fire detectors, however due to
22 the lack of Fire Department staff, the agency was unable to oversee compliance.

23 225. The fire hazards contribute to the general feeling of fear and anxiety Plaintiffs
24 experience living at the Somerset Apartments.

25 **COCKROACH AND VERMIN INFESTATION**

26 226. Somerset Apartments is infested with cockroaches in many units and in the common
27 areas. Cockroaches nest inside electrical appliances and contaminate Plaintiffs' food
28 supplies. The insects crawl onto Plaintiffs' bodies when they are resting or asleep. The

1 cockroaches deposit excrement throughout the units and the common areas. The insects
2 contaminate the building with their filth causing rashes, skin eruptions, and other
3 ailments among Plaintiffs.

4 227. Despite Plaintiffs' persistent complaints about the cockroach, and insect infestations,
5 Defendant responded inconsistently and ineffectively. As a result Plaintiffs have had to
6 purchase traps and insecticide sprays on their own in a never-ending battle against these
7 pests. Plaintiffs' localized attempts to deal with the building's cockroach infestation bring
8 only temporary relief at best.

9 **RODENT INFESTATION**

10 228. Plaintiffs have stated rats infest the living units of the complex. The building is not
11 rodent-proofed, with openings in walls, floors, and ceilings, inside cabinets, and around
12 gas and plumbing lines. Plaintiffs have had to purchase rat traps and rat poison to provide
13 temporary relief of the rodent infestation.

14 **DAMAGED AND DANGEROUS FLOORING**

15 229. Plaintiffs are plagued by the ill effects of filthy, malodorous, aged, deteriorating, and
16 insect-ridden carpeting. The carpet problems are aggravated by the infestation of
17 cockroaches since roaches in large numbers continually deposited their excrement in the
18 carpeting over the years.

19 230. The leaking pipes, which deposited dirty water into the carpeting over the years,
20 contributed to the filth and contamination present in Plaintiffs' units. Most units have
21 holes in the floors, allowing cockroaches, and other vermin easy access to their homes.
22 Most apartments have dirty, broken, jagged, or missing linoleum in the bathroom.

23 **FAULTY PLUMBING AND WATER-DAMAGED WALLS AND CEILINGS**

24 231. Plumbing problems at the building include leaking pipes in the bathrooms and kitchens,
25 constant slow-draining or clogged sinks and bathtubs, dirty water, faucets that leak
26 profusely, and sewage back-up. Sewage back-up as well as leaking ceilings and pipes
27 have contaminated and/or rendered unusable Plaintiffs' personal property, and caused
28 nausea, anxiety, and emotional distress in many Plaintiffs.

1 232. Many walls and ceilings in the building are in poor condition due to leaking plumbing
2 and leaking ceilings. Ceiling leaks cause dirty water to drip into the units and common
3 areas. These leaks have led to the formation of mold on ceilings and walls and have
4 caused them to bulge, crack, and form holes. Some holes are left open and unrepaired for
5 months.

6 233. Walls and ceilings are poorly painted surfaces, uneven plastering, and patchwork done
7 without fixing the leaking water pipes within. Such "band-aid" type repairs are short-
8 lived, do nothing to arrest underlying problem, and contribute to rapid deterioration and
9 unsanitary conditions.

10 **LACK OF SCREENS**

11 234. Many windows in the building have missing or damaged screens. As a result, Plaintiffs
12 suffer from the cold in winter months and infestations of insects during the summer.

13 235. Some Plaintiffs choose not to open windows during the summer because open windows,
14 with damaged or missing screens, permit insects and other vermin to freely enter into
15 their units. The persistent presence of insects and vermin is not only irritating to
16 Plaintiffs, but also poses additional health risks.

17 236. Additionally, the lack of ventilation caused by closed windows causes units to become
18 stuffy and worsens the unit's air quality. The open windows without screens create easy
19 access for vandals, pose a safety risk, and are a source of anxiety for Plaintiffs living in
20 the high crime complex.

21 **LACK OF SECURITY**

22 237. The building has inadequate security for the tenants of the Somerset Apartments. The
23 neighborhood is a high crime area and Defendants have continually failed to maintain
24 common areas by failing to maintain the repair of lighting fixtures, and the lighting for
25 the common walkways, thus causing apprehension, fear, security risks, and anxiety to the
26 Plaintiffs and their guests.

1 **PHYSICAL INJURY, EMOTIONAL DISTRESS AND OTHER INJURIES**

2 238. Plaintiffs suffer from ailments as a result of the inhabitable conditions of the property
3 including: insect bites, colds, coughs, nausea, headaches, and skin problems caused by
4 poor conditions on the property and the gas leak.

5 239. Cockroach infestations cause Plaintiffs to experience lack of appetite and nausea.
6 Dampness and mold, present in places such as ceilings, walls, and holes in ceilings and
7 walls, worsen air quality and have a deleterious effect on Plaintiffs, especially those with
8 upper respiratory infections or other respiratory problems.

9 240. The poor conditions at the building, safety risks, and injuries sustained, and hardships
10 endured, Plaintiffs have experienced considerable emotional distress. Plaintiffs suffer
11 from depression, feelings of frustration, anxiety, and other afflictions.

12 241. During all relevant times, up to and including the present, Plaintiffs have repeatedly and
13 on numerous occasions informed defendants of the deplorable, unsafe, unhealthful and
14 uninhabitable conditions at the property, and of the urgent need to make effective and
15 complete repairs.

16 **FIRST CAUSE OF ACTION**

17 **Declaratory Relief and Damages: Breach of Implied Warranty of Habitability**

18 (By All Plaintiffs Against All Defendants and DOES 1 through 50)

19 242. Plaintiffs re-allege and incorporate by reference all the allegations set forth in the
20 preceding paragraphs of this Complaint as though set forth in full.

21 243. An implied warranty of habitability has been found to exist in every California
22 residential rental contract. *Hinson v. Delis* (1972) 26 CA3d 62; *Green v. Superior Court*
23 (1974) 10 C3d 616. The implied warranty of habitability doctrine provides that, in every
24 lease or rental agreement, the landlord warrants the property is, and will be, repaired and
25 maintained in a condition that meets certain minimum standards of habitability. *Id.*
26 Failure to meet those minimum standards constitutes a breach by the landlord of that
27 warranty. *Id.* Further, a tenancy may exist even notwithstanding a written or oral lease
28 agreement where the landlord expressly or impliedly consented to the tenant's

1 occupancy. Parkmerced Co. v. San Francisco Rent Stabilization & Arbitration Bd.
2 (1989) 215 Cal.App.3d 490, 494.

3 244. In the instant matter, Plaintiffs each entered into leasehold agreements regarding
4 residential units at the Somerset Apartments and have been tenants of the Somerset
5 Apartments all times relevant hereto.

6 245. The Defendants named in this cause of action is a landlord at common law because
7 Defendants have owned and/or managed the Somerset Apartments at all times relevant
8 hereto.

9 246. Plaintiffs and Defendants have been, and continue to be, in a landlord-tenant
10 relationship created by the written and/or oral lease agreements entered into when
11 Plaintiffs moved into the premises, or by Defendant and/or the agents' acceptance of
12 Plaintiffs' rents.

13 247. During Plaintiffs' tenancy, certain defective conditions on the premises began to
14 develop and/ or were present at the time Plaintiffs took possession of the premises,
15 including but not limited to conditions that fail to meet minimum standards of habitability
16 in violation of Health and Safety Code 1920.3 *et seq.* (e.g. missing smoke alarms, lack of
17 hot water, holes in the walls and ceilings, water damage, deteriorated floors, deteriorated
18 window sills and frames, the presence of rats and cockroaches, fire hazards, and the
19 growth of mold on walls and ceilings).

20 248. Defendants had actual or constructive knowledge of each defective condition and failed
21 to correct said condition.

22 249. The defective conditions were not caused by the wrongful or abnormal use of the
23 premises by Plaintiffs or anyone acting or present on the premises under Plaintiffs'
24 authority.

25 250. By failing to correct the defective conditions, Defendants breached the contractual
26 warranty of habitability, implied by law into every residential tenancy agreement.

27 251. As a direct and proximate result of Defendants' failure to correct the defective
28 conditions, the premises were not habitable and had either reduced or no rental value.

1 252. Accordingly, Plaintiffs seek a declaratory judgment that they are not obligated to pay
2 rent until all serious violations are remedied.

3 253. Moreover, each Plaintiff has been damaged by the Defendants' conduct in an amount
4 equal to rents due and paid by each Plaintiff during the life of each Plaintiff's tenancy, or
5 in an amount to be proven at trial. Therefore, Plaintiff suffered damages measured by (a)
6 the difference between the fair rental value of premises if they had been in the condition
7 as warranted and the fair rental value as it existed with the defective conditions, (b) a
8 percentage reduction of use, *i.e.*, a reduction of Plaintiffs rental obligation by the
9 percentage corresponding to the relative reduction of use of the premises caused by the
10 Defendant's breach, or (c) any other measure allowed by law, in an amount to be
11 determined by proof at trial.

12 254. As a direct and proximate result of Defendant's failure to correct the defective
13 conditions, Plaintiffs have suffered property damage and economic loss as special
14 damages in the sum to be proven at trial, as a result of repairs to defective conditions;
15 insect infested furniture, and contaminated and damaged personal possessions.

16 **SECOND CAUSE OF ACTION**

17 **Damages & Abatement: Violation of Statutory Warranty of Habitability**

18 **Per California Civil Code Section 1942.4**

19 (By All Plaintiffs Against All Defendants and DOES 1 through 50)

20 255. Plaintiffs re-allege and incorporate by reference the allegations of set forth in the
21 preceding paragraphs of this Complaint.

22 256. Pursuant to California Civil Code §1942.4, a landlord of a dwelling may not demand
23 rent, collect rent, or issue a three-day notice to pay rent or quit if the dwelling
24 substantially lacks any of the standard characteristics listed in Section 1941.1 or violates
25 Section 17920.10 of the Health and Safety Code, or is deemed or declared substandard as
26 set forth in Section 17920.3.

1 257. Plaintiffs' residential units substantially fails to meet certain standards of habitability
2 established by California Civil Code §1941.1 and has been deemed or declared
3 substandard as set forth in Section 17920.3.

4 258. A public officer who is responsible for the enforcement of a housing law, after
5 inspecting the Somerset Apartments, has notified Defendants owners/managers in writing
6 of the obligation to abate the nuisance or repair the substandard conditions.

7 259. Additionally, Plaintiffs gave notice to Defendants agent and manager, Gerry Vang, of
8 substandard conditions and made numerous, repeated, separate and independent requests
9 to repair them.

10 260. The conditions have existed and have not been abated beyond the date of service of said
11 notices. Defendants did not repaired the substandard conditions and the delay in doing so
12 is without good cause.

13 261. Defendants only acted to retain assistance for the repairs after receiving notice of one
14 million in fines and repair costs.

15 262. The conditions were not caused by an act or omission of the tenants or lessees.

16 263. Defendants owners/managers were required by law to repair the conditions, but failed to
17 do so.

18 264. As a direct and proximate result, said Defendants are liable to Plaintiffs for the damages
19 set forth in this Complaint.

20 265. Further, Defendants are additionally liable to Plaintiffs for statutory damages and
21 attorney fees under Civil Code §1942.4(a)-(b). Specifically, Plaintiffs pray for actual
22 damages sustained and special damages of not less than \$100.00 each and not more than
23 \$5,000.00; as well as reasonable attorney fees and costs of the instant suit as allowed by
24 the court.

25 266. Moreover, Plaintiffs ask the court to order Defendant to abate any nuisance at the
26 Somerset Apartments and repair substandard conditions as defined in CCP Section
27 1941.1, which significantly or materially affect the health and safety of the occupants.
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THIRD CAUSE OF ACTION

Damages: Tortious Failure to Provide Habitable Premises

(By All Plaintiffs Against All Defendants and DOES 1 through 50)

267. Plaintiffs re-allege and incorporate by reference all the allegations set forth in the preceding paragraphs of this Complaint.

268. At all relevant times, Defendants were operating the Somersct Apartments by and through the owners and managers of the subject premises and assumed the responsibility of maintaining the premises in a habitable condition.

269. Implied in each rental agreement in California, oral or written, is a warranty of habitability, which requires landlords to maintain their premises in a habitable condition.

270. By virtue of the landlord-tenant relationship, Defendants owe the Plaintiffs a duty, as defined by applicable municipal, and health and safety codes, to maintain the premises in a habitable condition.

271. Defendants have breached this duty and the implied warranty of habitability by failing to correct the substandard conditions.

272. Defendants knew, or reasonably should have known, that Plaintiffs would suffer damage as a result of the breach.

273. As a further, direct, and proximate result of the above-described acts and omissions by Defendants, Plaintiffs have suffered discomfort and annoyance and endured mental suffering caused by the fear for their own safety and that of their family. As a result of such injury, Plaintiffs have sustained damage in an amount to be determined by proof at trial.

274. In addition, as a direct, and proximate result of the above-described acts and omissions by the Defendants, Plaintiffs have been hurt and injured in their health, strength, and activity, sustained injuries to their bodies, and endured shock, anxiety, and injury to their nervous system and person, all of which have caused Plaintiffs great mental, physical, and nervous pain, distress, and suffering. As a result of such injuries, Plaintiffs have sustained damage in an amount according to proof at trial.

1 275. Said Defendants' failure to correct the defective conditions and their conduct in dealing
2 with Plaintiffs was tortious, knowing, intentional, and willful or was in conscious
3 disregard of the rights of Plaintiffs'. Defendants had full knowledge or should have
4 known of the damage that this failure would cause Plaintiffs.

5 276. Furthermore, said Defendants' conduct was malicious and oppressive, in that said
6 Defendants knew that the municipal building department has inspected the premises and
7 found it violated numerous building and safety codes, and Defendants did not take action
8 to remedy the conditions of the premises, despite repeated, separate, and independent
9 requests by Plaintiffs, who informed Defendants in detail that the conditions were
10 causing Plaintiffs extreme physical inconvenience and severe emotional distress, and
11 therefore Plaintiffs are entitled to punitive damages in an amount according to proof.

12 **FOURTH CAUSE OF ACTION**

13 **Damages: Breach of the Covenant of Quiet Enjoyment**

14 **Per CCP 1940.2**

15 (By All Plaintiffs Against All Defendants and DOES 1 through 50)

16 277. Plaintiffs re-allege and incorporate by reference the allegations of set forth in the
17 preceding paragraphs of this Complaint.

18 278. Pursuant to CCP Section 1940.2, it is unlawful for a landlord to use or threaten to use
19 force, willful threats, or menacing conduct that interferes with the tenant's quiet
20 enjoyment of the premises that would create an apprehension of harm.

21 279. Defendants created an apprehension of harm by intentionally and maliciously (a)
22 ignoring the repeated requests to repair the natural gas leak after receiving notice from
23 PG&E; and (b) failing to keep the Somerset Apartments in good repair per the rental
24 agreements.

25 280. Plaintiffs were forced to bath in community shower stalls and rely on food donations for
26 their daily meals, because they did not have working hot water or a working stove.
27 Plaintiffs had to endure the cold apartments during the winter months without any source
28 of heat because electric heaters were in restricted used due to the fire hazards.

1 281. The Defendants' agent was notified of the condition on November 12, 2015 and the
2 Defendants were notified of the condition on November 13, 2015. The Plaintiffs were
3 forced to suffer in the conditions for an additional 21 days because the Defendants
4 callously ignored requests for repairs.

5 282. Defendants' interference with Plaintiffs' quiet enjoyment caused Plaintiffs actual harm,
6 and thus Defendants are liable to Plaintiffs for \$2,000.00 for each violation of habitability
7 and for each day the Plaintiffs endured the conditions without natural gas.

8 **FIFTH CAUSE OF ACTION**

9 **Damages: Negligent Maintenance of Premises**

10 (By All Plaintiffs Against All Defendants and DOES 1 through 50)

11 283. Plaintiffs allege and incorporate by reference every allegation contained in the
12 preceding paragraphs of this Complaint.

13 284. At all relevant times herein, Plaintiffs have held a leasehold interest in and have been
14 tenants of Somerset Apartments.

15 285. At all relevant times herein, Defendants have owned and/or managed Somerset
16 Apartments.

17 286. As landowners and managers of Somerset Apartments, Defendants owed a duty of care
18 under common law and California Civil Code Section 1714 to exercise due care in the
19 management of their property so as to avoid foreseeable injury to others. This duty
20 requires Defendant to comply with all building, fire health and safety codes, ordinances,
21 regulations, and other laws applying to maintenance and operation of residential rental
22 housing.

23 287. Defendants breached their common law and statutory duties of due care by failing to
24 correct substandard conditions complained of. Defendants knew, or reasonably should
25 have known, that Plaintiffs would be injured as a result of the breach of the common law
26 and statutory duties of due care.
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1 288. As a direct and proximate result of Defendants' negligent maintenance of the premises,
2 the value of the leasehold held by each Plaintiff has been diminished. Consequently,
3 each Plaintiff has been damaged in an amount to be proven at trial.

4 289. As a direct and proximate result of Defendants' conduct, each Plaintiff has suffered
5 and/or continues to suffer illness, physical injury, mental stress, emotional distress,
6 anxiety, annoyance and discomfort, and property damage in an amount to be proven at
7 trial, but which amount is within the jurisdictional requirements of this Court.

8 290. Defendants' acts and omissions have been grossly negligent, malicious and oppressive,
9 thereby entitling each Plaintiff to punitive damages in an amount to be determined at
10 trial.

11 **SIXTH CAUSE OF ACTION**

12 **Damages & Abatement: Public Nuisance**

13 (By All Plaintiffs Against All Defendants and DOES 1 through 50)

14 291. Plaintiffs allege and incorporate by reference every allegation contained in the
15 preceding paragraphs of this Complaint.

16 292. Plaintiffs have held a leasehold interest in and have been tenants of Somerset
17 Apartments at all times relevant hereto.

18 293. Defendants named in this cause of action have owned and managed Somerset
19 Apartments at all times relevant hereto.

20 294. The conditions of Somerset Apartments as described constitute a nuisance within, but
21 not limited to the meaning of Civil Code Section 3479 *et seq.* in that these defective
22 conditions are injurious to the health and safety of each Plaintiffs, and interfere
23 substantially with each Plaintiffs comfortable enjoyment of the premises.

24 295. Despite being required by law to abate the nuisance, Defendants have failed and
25 continue to fail to correct conditions rendering the premises a nuisance.

26 296. This nuisance continues to exist, and unless the Defendants are enjoined to abate this
27 nuisance, the failure to abate it will continue.
28

1 297. Plaintiffs have no adequate remedy at law, and thus is entitled to an order compelling
2 Defendants to abate the nuisance.

3 **SEVENTH CAUSE OF ACTION**

4 **Damages: Unfair Business Practice, Business & Professions Code § 17200 et seq.**

5 280. Plaintiff re-alleges and incorporates by reference every allegation contained in the
6 preceding paragraphs of this Complaint as though set forth herein.

7 281. Defendants, engaged in unlawful and unfair business practices prohibited by
8 California Business & Professions Code § 17200, et seq. by virtue of the foregoing acts and
9 omissions.

10 282. Plaintiffs were harmed as a result of said practices by paying full monthly rent for
11 apartments with material deficiencies.

12 283. The foregoing acts and omissions were and are the regular business practices of the
13 Defendants at the Somerset Apartments.

14 284. As a direct and proximate result of the aforementioned acts and omissions, the
15 Defendants have been unjustly enriched at the expense of Plaintiffs, and Plaintiffs are entitled to
16 restitution in an amount to be proven at trial.

17 **EIGHTH CAUSE OF ACTION**

18 **Wrongful Death – Negligence**

19 **Only As to Plaintiff Tong Cha Individually and as Successor in Interest to**

20 **Her Xa Lor, Deceased, Against All Defendants**

21 285. Plaintiff re-alleges and incorporates by reference every allegation contained in the
22 preceding paragraphs of this Complaint as though set forth herein.

23 286. At all relevant times, Defendants, and each of them, had a duty to use ordinary care
24 in the management of Somerset Apartments so as to avoid foreseeable injury to others.

25 287. Defendants carelessly, recklessly and negligently breached their common law and
26 statutory duties of due care by failing to maintain Somerset Apartments and by failing to correct
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1 substandard conditions complained of. As such, tenants at Somerset Apartments went without
2 heat and hot water during the primary months of November 2015 and December 2015.

3 288. Since approximately 2005 until his death on January 2, 2016, Her Xa Lor resided
4 and lived at Somerset Apartments with his wife and named Plaintiff Tong Cha (aka Tong
5 Chang).

6 289. As a direct and proximate result of the aforesaid conduct and other tortious acts and
7 omissions by Defendants, Her Xa Lor consequently suffered respiratory failure and pneumonia
8 that caused his death on January 2, 2016.

9 290. As a direct and proximate result of the aforesaid conduct of Defendants, Plaintiff
10 Tong Cha suffered, and continues to suffer the following: loss of society, companionship,
11 comfort, protection, care, love, affection, moral support and all other damages under applicable
12 wrongful death and survival statutes.

13 291. As a further direct and proximate result of the conduct of Defendants, Plaintiff Tong
14 Cha incurred expenses for funeral, burial and other costs pertaining to her husband's death in an
15 amount to be ascertained at trial.

16 292. As a further direct and proximate result of the conduct of Defendants, Plaintiff Tong
17 Cha experienced and continues to experience economic loss, including, but not limited to, loss of
18 financial support, loss of services, loss of gifts and other economic benefits in an amount to be
19 ascertained at trial.

20 **PRAYER FOR RELIEF**

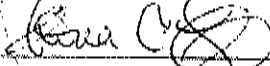
21 WHEREFORE, Plaintiffs hereby respectfully request relief as follows:

- 22 a. For a declaratory judgment pursuant to CCP Section 1942.4 that Plaintiffs
do not owe rent, or that rent is abated, for the periods for which the units at Somerset
23 Apartments are/were uninhabitable;
- 24 b. For equitable relief in the form of specific performance to abate the
nuisance;
- 25 c. For general damages in the sum to be determined at trial;
- 26 d. For special damages in the sum to be determined at trial;
- 27 e. For punitive damages in the sum to be determined at trial;
- 28 f. For reasonable attorneys' fees and costs pursuant to (a) CCP Section
1942.4; (b) CCP Section 1021.5 (Private Attorney General Doctrine); as provided in
rental contracts.

- 1 g. For pre-judgment and post-judgment interest pursuant to California Civil
2 Code Sections 3288 and 3291; and
3 h. For restitution under Business and Professions Code Section 17200;
4 j. For any further relief that the Court considers just and proper.

5 Dated this 28th of March, 2016

6 Law Office of Pahoua C. Lor

7 

8 PAHOUA C. LOR, ESQ.

9 Attorney for Plaintiffs

10 DEMAND FOR JURY TRIAL

11 Plaintiffs demand a jury trial on all causes of action triable by jury.

12 Dated this 28th of March, 2016

13 

14 PAHOUA C. LOR, ESQ.

15 Attorney for Plaintiffs

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23 SUPERIOR COURT OF CALIFORNIA
24 COUNTY OF FRESNO CIVIL UNLIMITED

25 Choemun Chin, Mang Thao Her, Thipavanh
26 Khotombath, Bouasy Ounesavath, Nakhon
27 Phet, Tho Phuc, Guadalupe Pulida, Su Thao,
28 Doua Vu, Gabrielle Wong,

Plaintiffs,

vs.

Chris Henry, an individual; Chris Henry dba
2103 North Angus Street, A California
Limited Partnership; 2103 North Angus Street,
A California Limited Liability Corporation,
and DOES 1-50, INCLUSIVE.

Defendants.

FILED

APR 14 2016

FRESNO SUPERIOR COURT
By 4012201600013500
438 DEPUTY

16CECG01174
CFL
Civil Complaint filed
250352



Case No.: **16 CE CG 0 1 1 7 4**

COMPLAINT FOR:

- 1. BREACH OF IMPLIED WARRANTY OF HABITABILITY (CONTRACT);**
- 2. BREACH OF STATUTORY WARRANTY OF HABITABILITY (CIVIL CODE 1942.4);**
- 3. TORTIOUS FAILURE TO PROVIDE HABITABLE PREMISES;**
- 4. BREACH OF COVENANT OF QUIET ENJOYMENT (CIVIL CODE 1940.2);**
- 5. NEGLIGENT MAINTENANCE OF PREMISES;**
- 6. PUBLIC NUISANCE**
- 7. UNFAIR BUSINESS PRACTICE, BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.**

Plaintiffs' Complaint for Damages

1 Plaintiffs hereby allege as follows:

2 **INTRODUCTORY ALLEGATIONS**

- 3 1. At all times relevant to this action, Plaintiffs are or were low-income tenants residing in
4 dilapidated, neglected, vermin infested building known as Somerset Village Apartments
5 (hereafter "Somerset Apartments").
- 6 2. According to the Fresno County Recorder's Office, the Somerset Apartments are owned
7 by Defendant, 2103 North Angus Street, LLC. Defendant, Chis Henry was the sole
8 member of 2103 North Angus Street, LLC. The Limited Liability Company was
9 converted to Defendant, 2103 North Angus Street, Limited Partnership in 2010. On
10 information and belief, Defendant Chris Henry, unilaterally manage, possesses, and
11 controls the Limited Partnership owning the Somerset Apartments.
- 12 3. Somerset Apartments consists of thirty buildings with 220 apartment units in total.
13 Somerset Apartments is a parcel of property 9.50 acers in size. The southern border of
14 the property extends from 2641 Weldon Street through 2789 Weldon Street. The eastern
15 border of the property extends from 2137 Angus Street through 2057 Angus Street. The
16 western border of the property extends from 2008 Fresno Street through 2038 Fresno
17 Street.
- 18 4. Plaintiffs entered into a tenancy contract with the Defendants pursuant to oral and written
19 lease agreements for residential units at the Somerset Apartments. The majority of
20 Plaintiffs residing at the Somerset Apartments are long term tenants with residency of 10
21 years or more.
- 22 5. At all relevant times, Plaintiffs complied with their contractual obligations and tendered
23 timely payments of the monthly rent due to the Defendants, or were legally excused from
24 paying any portion of such rent to the Defendants.
- 25 6. At different times but prior to November 2015 and continuing thereafter, Plaintiffs made
26 complaints and/or requested repairs to the onsite manager, Gerry Vang who is employed
27 by Defendants and/or acting on their behalf. Such complaints and/or requested repairs
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1 included, but were not limited to, dilapidated conditions, rodents, insects, faulty electrical
2 units, exposed wiring and faulty or broken lighting in common areas.

3 7. Many of the complaints and/or requested repairs were either not completed or were poorly
4 undertaken. Additionally, on at least one occasion Gerry Vang told Plaintiffs that if they
5 did not like the conditions, they should move out. Gerry Vang told at least one Plaintiff
6 that they were the cause of such conditions. Gerry Vang also told at least one Plaintiff
7 that they would have to pay and undertake their own repairs.

8 8. At all relevant times, Defendants failed to comply with their contractual obligations and
9 statutory duty by failing to maintain and repair the premises which caused the Plaintiffs
10 economic damages and emotional stress and anxiety.

11 9. The evidence will show Somerset Apartments is dilapidated, neglected and completely
12 uninhabitable. An inspection by the City of Fresno Code Enforcement Division (a/k/a
13 Fresno Community Revitalization Division) revealed over 1400 Housing Code violations
14 at the Somerset Apartments. The violations are for individual residential units and
15 violations which address the unsafe, hazardous and/or substandard conditions common to
16 all units located in all of the residential buildings.

17 10. The Defendants neglect of the Somerset Apartments and disregard for the Plaintiffs
18 safety reached an emergency crisis on November 12, 2015. The tenants at Somerset
19 Apartments noticed the smell of natural gas coming from the property. Pacific Gas &
20 Electric (PG & E) was called to the Apartments immediately. PG&E detected numerous
21 gas leaks and immediately turned off the gas to the Somerset Apartments.

22 11. PG&E notified the Defendants on November 13, 2015. The Defendants and their agents
23 refused to initiate any corrective measures for repair of the gas lines.

24 12. The Plaintiffs were forced to live in the freezing cold temperatures, without a heat source,
25 hot water, or a functioning stove. Plaintiffs had to rely on emergency aid from the
26 American Red Cross and food donations from Southern Baptist Church for one month.

27 13. The Defendants refused to repair the gas leak and continued to leave the Plaintiffs
28 abandoned in the cold.

1 14. Defendants acted with malice, oppression, and complete disregard for the suffering of the
2 Plaintiffs by failing to take action to repair the property for 21 days, thus leaving the
3 Plaintiffs to depend on donations from the community to survive the conditions caused
4 by the Defendants.

5 15. Defendants have deliberately taken unfair advantage of Plaintiffs due to Plaintiffs' lack
6 of knowledge of their legal rights, low income, and fear of Defendants' ability to retaliate
7 against them. Plaintiffs were threatened by Mr. Gerry Vang, the Defendant's Manager of
8 Somerset Apartment that participation in any legal action against the Defendant will
9 result in the tenant's eviction.

10 16. Defendants have engaged in a pattern and practice of violating housing rights of its
11 tenants; refusing to comply with all applicable health and safety laws; and taking
12 advantage of any tenants who assert their rights and request repairs.

13 17. Defendants' failure to maintain the Somerset Apartments in a safe and habitable
14 condition is unlawful and has caused direct harm to Plaintiffs in the form of out of pocket
15 expenses for repairs, fumigation, physical illness, and emotional stress and more.

16 18. Plaintiffs now pray for actual, special and statutory damages against Defendant; an
17 injunction requiring Defendant to repair the Somerset Apartments to bring it into
18 compliance with all applicable municipal, health and safety codes; and a declaratory
19 judgment that Plaintiffs are not obligated to pay rent until the violations of the local
20 housing code have been repaired.

21 THE PARTIES

22 PLAINTIFFS

23 19. At all relevant times, Plaintiffs were and are residents of the County of Fresno, State of
24 California. Plaintiffs are all low-income individuals who currently reside or resided in the
25 Somerset Apartments managed by the Defendants. Plaintiffs have paid rent to the
26 Defendants, pursuant to the terms of their rental agreements or leases.

27 20. Notwithstanding the written and oral lease agreement, Plaintiffs are bona fide tenants in
28 occupancy because (a) the landlord expressly and/or impliedly consented to Plaintiffs

1 occupancy by accepting tender of rent; (b) the landlord expressly consented to the
2 sublease of the premises because the landlords and/or their agents were aware of
3 Plaintiff's occupancy and gave express verbal consent thereto; and (c) the landlord
4 impliedly consented to the occupancy because the landlord and/or their agents were
5 aware of the occupancy and sublease and did not object thereto.

6 **DEFENDANTS**

7 21. Upon information and belief, defendant Chris Henry was and is an individual residing in
8 Santa Barbara County, California. At all relevant times Chris Henry was the owner of
9 the Somerset Apartments.

10 22. Defendant Chris Henry, an individual was the sole managing partner in the sham
11 partnership of 2103 North Angus Street, L.P., and the only officer in the sham
12 corporation, 2103 North Angus Street, LLC. Chris Henry had complete domination and
13 control of the affairs of the business organizations and used them to accomplish the
14 activities set forth.

15 23. Upon information and belief, during the relevant period, defendant Chris Henry was
16 doing business as defendant 2103 North Angus Street, L.P., (hereafter "North Angus,
17 LP"), a limited liability partnership and owner of the Somerset Apartments.

18 24. Defendant North Angus, LP., was formed in the year 2010 and operating under the laws
19 of the State of California, with its principal place of business in Larkspur, California.
20 Plaintiffs further allege that 2103 North Angus Street, L.P., was authorized to transact
21 and did in fact transact business in the County of Fresno, State of California, during the
22 relevant period.

23 25. On information and belief, during the relevant period, defendant Chris Henry was the
24 general partner, agent, servant, employee, and/or representative of defendant 2103 North
25 Angus, L.P., and in doing the things hereinafter alleged, was acting within his actual or
26 apparent authority with the full knowledge and consent of 2103 North Angus, L.P.

27 26. Upon information and belief, during the relevant period, Defendant 2103 North Angus
28 Street, LLC (hereafter "North Angus, LLC."), was and is a limited liability company and

1 owner of the Somerset Apartments. North Angus, LLC., was formed in the year 2000
2 and operating under the laws of the State of California, with its principal place of
3 business in Bodega Bay, California. Plaintiffs further allege that 2103 North Angus,
4 LLC., was authorized to transact and did in fact transact business in the County of
5 Fresno, State of California, during the relevant period.

6 27. On information and belief, during the relevant period, Chris Henry was the agent,
7 servant, employee, and/or representative of Defendant North Angus, LLC., and in doing
8 the things hereinafter alleged, was acting within his actual or apparent authority with the
9 full knowledge and consent of North Angus, LLC.

10 28. The California Secretary of State Business Records Search reflects that 2103 North
11 Angus Street, LLC was converted to 2103 North Angus Street, Limited Partnership in
12 2010. The Fresno County Assessor records continue to reflect 2103 North Angus Street,
13 LLC as the owner of the subject property.

14 29. The Plaintiffs are ignorant of the true names and capacities of Defendants sued herein
15 Does 1 through 50 inclusive, and therefore sue by such fictitious names. Plaintiffs will
16 amend this Complaint to allege the true names and capacities of these Defendants when
17 ascertained. Plaintiffs are informed and believe and thereon allege that each of the
18 fictitiously named Defendants have been responsible in some manner for the occurrences
19 herein allege, and that Plaintiffs' damages and injuries as herein alleged were
20 proximately caused by Defendants' conduct.

21 **JURISDICTION AND VENUE**

22 30. This Court has subject matter jurisdiction over this action pursuant to California Code of
23 Civil Procedure Section 410.10 because Defendants are transacting business and
24 committing the acts and omissions complained of in California.

25 31. Venue is proper in Fresno County and this judicial district pursuant to California Code of
26 Civil Procedure Section 392 and 395(a) because the building/property at issue is located
27 in judicial district; the majority of the acts and omissions complained of arose in Fresno
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1 County, California; and Plaintiffs sustained injuries to their rights within this judicial
2 district.

3 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

4 **A. UNINHABITABLE CONDITIONS**

5 32. At all relevant times herein, Somerset Apartments is and was unsafe, unsanitary,
6 unhealthy, uninhabitable, in a serious state of disrepair, and in gross violation of building,
7 health, fire, and safety codes. Relevant laws that Defendant violated and continued to
8 violate include, among others, the habitability laws and standards contained in the
9 California Civil Code, including, but not limited to, §§1942.1 and 1942.4; the California
10 Health and Safety Code; the California Business and Professions Code, §§1700 *et seq.* A
11 description of the long-term problems that exist in the building and the effects on
12 Plaintiffs are listed in the summary that follows.

13 **REGULATORY HISTORY**

14 33. On or about November 24, 2015, The City of Fresno Community Revitalization Division
15 issued a request to inspect the Somerset Apartments. The purpose of the inspection was
16 to determine unsafe, hazardous and substandard conditions.

17 34. The City of Fresno Code Enforcement Division issued a 160 page Notice and Order to
18 Repair and Rehabilitate the Building, with over 1400 code violations. The City of Fresno
19 estimated the costs of the repairs and fines to total one million dollars. Fresno Code
20 Enforcement conducted inspections of many of the units, noting a multitude of health and
21 safety violations, including, but not limited to the following:

- 22 a. Evidence of insect (roach, bedbugs), vermin and/ or rodent infestation in
23 violation of Health and Safety Code 17920.3(a)(12).
24 b. Damaged entry doors and improper installation in violation of Health and
25 Safety Code(s) 17920.3(a)(12)(13); 17920.3(g)(2).
26 c. Damaged windows, missing window screens, and improper installation in
27 violation of Health and Safety Code 17920.3(a)(13).
28

- 1 d. Damaged and unsanitary surfaces of interior walls of the complex in
2 violation of Health and Safety Code 17920.3(a)(13).
- 3 e. Entry door security hardware, jambs and frames are damaged or missing
4 in violation of Health and Safety Code 17920.3 (a)(13).
- 5 f. Damaged and missing exterior light fixtures throughout the complex in
6 violation of Health and Safety Code 17920.3(d).
- 7 g. Damaged and unsanitary carpet and floor coverings throughout the
8 complex in violation of Health and Safety Code 17920.3(a)(13).
- 9 h. Missing and defective smoke detectors through the complex in violation of
10 Health and Safety code 17920.3(a)(13)(d).
- 11 i. Missing carbon monoxide detectors through the complex in violation of
12 Health and Safety code 17920.3(a)(13)(d).
- 13 j. Leaking bathroom faucets through the complex in violation of Health and
14 Safety code 17920.3(a)(13)(e).
- 15 k. Damages or blocked waste line at bathroom sinks and bathtubs in multiple
16 locations throughout the complex in violation of Health and Safety Code
17 17920.3(a)(13); 17920.3(e).
- 18 l. Missing heating systems throughout the complex in violation of Health
19 and Safety Code 17920.3(a)(6).
- 20 m. Damaged wiring at multiple locations throughout the complex in violation
21 of Health and Safety Code 17920.3(d).
- 22 n. No hot water at multiple locations through the complex in violation of
23 Health and Safety Code 17920.3 (a)(5).
- 24 o. Damaged, missing or openings on the electrical service panels in violation
25 of Health and Safety Code 17920.3(d).

26 35. Defendants were provided notice of the violations by the City of Fresno Code
27 Enforcement Division. The Notice and Order required Defendant to eliminate all
28 substandard conditions before the scheduled inspection.

1 36. Due to the substandard conditions and unlawful acts and omissions on the part of the
2 Defendant, the City of Fresno held a special meeting to declare the conditions of the
3 Somerset Apartments a state of emergency.

4 **ABATEMENT OF RENTS**

5 37. Plaintiffs have repeatedly notified the manager of the Somerset Apartments regarding
6 municipal code violations to his or her individual units. Defendants had actual notice of
7 the defects through Plaintiffs oral complaints to Gerry Vang, Defendants' agent and
8 Manager at Somerset. The Defendants agents ignored the Plaintiffs complaints and told
9 the Plaintiffs to pay for any repairs or renovations from their own personal funds.

10 38. Defendant, directly or through their agents, observed and were personally aware of these
11 uninhabitable conditions. Defendant Chris Henry provided statements to the media that
12 he inspects Somerset Apartments once a month. The deterioration and defects are
13 apparent from the outside of the building. Defendant has both actual and constructive
14 knowledge of the unsafe and unhealthy conditions at the Somerset Apartments.

15 39. Notwithstanding Defendant's knowledge that these deplorable conditions existed and
16 were dangerous to Plaintiffs, and despite having the opportunity and means, as well as the
17 legal obligation to correct these unsafe and unhealthy conditions, the Defendants have
18 deliberately, intentionally and/or negligently failed and refused to make necessary
19 corrective measures to the Somerset Apartments. Defendant only acted to remedy the
20 code violations and substandard conditions after receiving notice from the City of Fresno
21 of the intent to issue a one million dollar fine and sanction to the Defendants for repair of
22 the property.

23 40. The Somerset Apartments were not and are not habitable or tenantable at the time of
24 Plaintiffs lease agreement and, therefore, had a lesser monthly rental value than what was
25 being charged and demanded by Defendants.
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1 41. At all relevant times, the Somerset Apartments were not and are not habitable or
2 tenantable at the time of Plaintiffs' lease agreements and, therefore, had a lesser rental
3 value than the fair market rental value for Fresno County¹.

4 **UNLAWFUL BUSINESS PRACTICES**

5 42. Upon information and belief, the Plaintiffs' allege that the rent monies collected by the
6 Defendant from Plaintiffs were not used to further legitimate business purposes to repair
7 and maintain the property to make the premises habitable.

8 43. Plaintiffs have maintained timely payments of rent pursuant to their rental agreements.
9 The complex consists of 220 units with a monthly rental value ranging from \$550 to
10 \$650. Paul Dictos from the Fresno County Assessor's office has estimated a monthly
11 rental income of \$100,000.00 generated from the Somerset Apartments.

12 44. Upon information and belief, Plaintiffs allege the rent monies were diverted into the
13 lavish Bay Area real estate ventures of defendant Chris Henry. Paul Dictos from the
14 Fresno County Assessor's office stated the Somerset Apartments has a real estate value
15 of 2.8 million dollars and 3 million dollars in liens from creditors. The financial records
16 on file with the Fresno County Assessor's office confirm that Defendant has
17 undercapitalized the Somerset Apartments despite positive profits from the rental
18 property.

19 45. Furthermore, the financial records are evidence of Defendants' reckless disregard to
20 maintain and secure funds to pay creditors and the egregious encumbrances on the
21 Somerset Apartments caused by Defendants. Upon information and belief, approximately
22 15 contractors were called to repair the broken gas leaks, however all refused to perform
23 work at the Somerset Apartments because the Defendants had a reputation for not paying
24 for contract services.

25
26 ¹ 2015 Housing and Urban Development Fair Market Rental Value for Fresno County,
27 listed a monthly rental value for a studio apartment at \$649; a one bedroom apartment at \$676;
28 and a two bedroom apartment at \$853 per month
http://www.huduser.gov/portal/datasets/fmr/fmrs/FY2015_code/2015summary.odn

1 46. Moreover, at all times relevant to the instant action, Defendants have engaged in the
2 unlawful and unfair business practice of renting uninhabitable apartments to vulnerable,
3 low-income tenants. The Defendants have deliberately and intentionally failed and
4 refused to make necessary corrective measures in violation of Civil Code 1941.

5 **TERMINATION OF GAS SERVICES**

6 47. On information and belief, Defendants failed to maintain gas distribution lines to
7 Plaintiffs' units.

8 48. The Defendants neglect of the Somerset Apartments and disregard for the Plaintiffs
9 safety reached an emergency crisis on November 12, 2015. The tenants at Somerset
10 Apartments noticed the smell of natural gas coming from the property. Pacific Gas &
11 Electric (PG&E) was called to the Apartments immediately. PG&E detected numerous
12 gas leaks and immediately turned off the gas to the Somerset Apartments.

13 49. PG&E attempted to notify Gerry Vang, the Defendants' agent and on site manager, of
14 the imminent danger to the tenants and the need for evacuation. On information and
15 belief, Gerry Vang refused to answer the door, and when he did make contact with
16 PG&E, he was recklessly indifferent to the dangerous condition on the property by failing
17 to take emergency action to relocate tenants, contact professional repair services, failing
18 to purchase emergency supplies for the tenants such as space heaters and blankets, failing
19 to contact emergency organizations for assistance, and more importantly, failing to notify
20 tenants.

21 50. Denny Boyles, a PG&E representative, confirmed that the Defendants were notified by
22 PG&E of the multiple gas leaks on November 13, 2015. The Defendants and their agents
23 refused to initiate any corrective measures for repair of the gas lines on their own
24 initiative.

25 51. The City of Fresno received notice of the dangerous conditions on seven days later, on or
26 about November 20, 2015. The City of Fresno intervened to force the Defendants to act
27 on repairs.
28

1 52. Due to the gas leak and the dilapidated housing conditions, the Plaintiffs were forced to
2 live in the freezing cold temperatures, without a heat source, hot water, or a functioning
3 stove while the City of Fresno tried to intervene.

4 53. The City of Fresno obtained the Defendants' contact information from Gerry Vang,
5 Defendants' agent and onsite manager. The City of Fresno diligently tried to contact the
6 Defendants directly to come to the property and undertake their duty to repair the
7 property. The Defendants refused to respond and continued to leave the Plaintiffs
8 abandoned in the cold.

9 54. Upon information and belief, approximately 15 contractors were called to repair the
10 broken gas leaks prior to the City of Fresno intervening, however all refused to perform
11 work at the Somerset Apartments because the Defendants had a reputation for not paying
12 for contract services.

13 55. On November 23, 2015, the Defendants contacted the City of Fresno and confirmed an
14 agent/ representative would be present to answer for the Defendants. Defendants
15 continued to avoid personally visiting the Somerset Apartments to inspect the dangerous
16 conditions and witness the Plaintiffs distressed living conditions.

17 56. On November 24, 2015, the Defendants sent local counsel, William Leifer, Esq. to
18 address the gas leak with the City of Fresno. Plaintiffs had lived without heat for 12 days
19 by the time Defendants actually addressed repairs for the Somerset Apartments.

20 57. On November 25, 2015, the City of Fresno declared a state of emergency and authorized
21 repairs of the Somerset Apartments if the Defendants failed to act by December 2, 2015.

22 58. On information and belief, once Defendants hired a licensed property management
23 company, repairs of the gas lines were done in approximately 9 days.

24 59. Defendants acted with malice, oppression, and complete disregard for the suffering of the
25 Plaintiffs by failing to take action to repair the property for 21 days, leaving the Plaintiffs
26 to depend on donations from the community to survive the conditions caused by the
27 Defendants.
28

1 60. Furthermore, the Defendants acted with knowing disregard of the dangerous living
2 conditions at the Somerset Apartments because had the Defendants acted when notice of
3 the gas leak was received from PG&E, the repairs would have been completed by
4 November 20, 2015. The Plaintiffs suffered an additional 22 days because of the
5 Defendants' callous indifference to their suffering.

6 **ABSENCE OF HEAT**

7 61. Many of the heating units were not working properly prior to the gas shut off. Many of
8 the units failed to radiate hot air and were inoperable in Plaintiffs' apartments. The
9 condition became worse after PG&E terminated the gas and the Plaintiffs were left with
10 no source of heat from approximately November 12, 2015 through December 12, 2015.
11 The lack of heat caused Plaintiffs to suffer illnesses such as coughs, colds, and similar
12 ailments, especially when coupled with a lack of hot water. The problem was and
13 continues to be exacerbated by Plaintiffs whose units have gaps in the door and windows,
14 which allow even more cold air to enter. During this period, Plaintiffs were instructed not
15 to use portable heaters due to the faulty electrical wiring. The emergency service
16 organizations provided electric blankets to the elderly and those with small children, but
17 choose not to distribute electric blankets to all tenants in fear of an electrical shortage.
18 Therefore, some Plaintiffs were left without any source of heat. Plaintiffs experienced
19 stress, anxiety, physical ailments such as pneumonia, coughs, and physical illness caused
20 by living without heat.

21 **LACK OF HOT WATER SERVICES**

22 62. Plaintiffs had no hot water service to their units from November 12, 2015 through
23 December 12, 2015. PG&E shut off the natural gas due to a dangerous natural gas leak
24 to the Somerset Apartments. Plaintiffs went without showers or were forced to take
25 freezing cold showers. The emergency services set up showers stalls outside of the
26 complex in the open public. Plaintiffs were forced to obtain a ticket for an assigned time
27 to take a shower. Many of the Plaintiffs are disabled seniors and there were no disabled
28 shower stalls for the tenants. Furthermore, because it was a community shower, children

1 ten and under were forced to have an accompanying adult. Plaintiffs had to sufferer
2 humiliation, stress, and anxiety to complete the most basic task of personal hygiene.

3 **FAULTY ELECTRICAL SYSTEMS**

4 63. Plaintiffs' units and/or common areas have or had exposed wires and improper damaged
5 outlet connections to the electrical sockets. The tenants were restricted from using
6 electrical heating systems due to the fire hazard caused by the wiring. Plaintiffs complain
7 of being shocked from faulty electrical sockets while using their appliances and
8 electronics. Plaintiffs' counsel was present as one unit sparked a small electrical fire due
9 to the use of the electrical sockets and faulty wiring. Plaintiffs experience stress and
10 anxiety from the constant hazards of electrical shock, sockets that do not work, and
11 outlets that spark electricity.

12 **FIRE HAZARDS**

13 64. A number of Plaintiffs' units have missing, faulty or inoperable smoke detectors and
14 carbon monoxide detectors. The building has numerous fire hazards, including, but not
15 limited to, unlawfully maintained and/or non-functioning electrical wiring and lack of fire
16 extinguisher(s).

17 65. Defendants had actual notice of the fire hazard resulting from the lack of smoke
18 detectors. On May 15, 2010, a fire at the Somerset Apartments damaged six apartment
19 units displaced 16 adults and nine children. The Fire Department only found one smoke
20 detector in the six units. The Defendants were owners of the Somerset Apartments at the
21 time of the fire. The Defendants were required to install fire detectors, however due to
22 the lack of Fire Department staff, the agency was unable to oversee compliance.

23 66. The fire hazards contribute to the general feeling of fear and anxiety Plaintiffs experience
24 living at the Somerset Apartments.

25 **COCKROACH AND VERMIN INFESTATION**

26 67. Somerset Apartments is infested with cockroaches in many units and in the common
27 areas. Cockroaches nest inside electrical appliances and contaminate Plaintiffs' food
28 supplies. The insects crawl onto Plaintiffs' bodies when they are resting or asleep. The

1 cockroaches deposit excrement throughout the units and the common areas. The insects
2 contaminate the building with their filth causing rashes, skin eruptions, and other
3 ailments among Plaintiffs.

4 68. Despite Plaintiffs' persistent complaints about the cockroach, and insect infestations,
5 Defendant responded inconsistently and ineffectively. As a result Plaintiffs have had to
6 purchase traps and insecticide sprays on their own in a never-ending battle against these
7 pests. Plaintiffs' localized attempts to deal with the building's cockroach infestation bring
8 only temporary relief at best.

9 **RODENT INFESTATION**

10 69. Plaintiffs have stated rats infest the living units of the complex. The building is not
11 rodent-proofed, with openings in walls, floors, and ceilings, inside cabinets, and around
12 gas and plumbing lines. Plaintiffs have had to purchase rat traps and rat poison to provide
13 temporary relief of the rodent infestation.

14 **DAMAGED AND DANGEROUS FLOORING**

15 70. Plaintiffs are plagued by the ill effects of filthy, malodorous, aged, deteriorating, and
16 insect-ridden carpeting. The carpet problems are aggravated by the infestation of
17 cockroaches since roaches in large numbers continually deposited their excrement in the
18 carpeting over the years.

19 71. The leaking pipes, which deposited dirty water into the carpeting over the years,
20 contributed to the filth and contamination present in Plaintiffs' units. Most units have
21 holes in the floors, allowing cockroaches, and other vermin easy access to their homes.
22 Most apartments have dirty, broken, jagged, or missing linoleum in the bathroom.

23 **FAULTY PLUMBING AND WATER-DAMAGED WALLS AND CEILINGS**

24 72. Plumbing problems at the building include leaking pipes in the bathrooms and kitchens,
25 constant slow-draining or clogged sinks and bathtubs, dirty water, faucets that leak
26 profusely, and sewage back-up. Sewage back-up as well as leaking ceilings and pipes
27 have contaminated and/or rendered unusable Plaintiffs' personal property, and caused
28 nausea, anxiety, and emotional distress in many Plaintiffs.

1 73. Many walls and ceilings in the building are in poor condition due to leaking plumbing
2 and leaking ceilings. Ceiling leaks cause dirty water to drip into the units and common
3 areas. These leaks have led to the formation of mold on ceilings and walls and have
4 caused them to bulge, crack, and form holes. Some holes are left open and unrepaired for
5 months.

6 74. Walls and ceilings are poorly painted surfaces, uneven plastering, and patchwork done
7 without fixing the leaking water pipes within. Such "band-aid" type repairs are short-
8 lived, do nothing to arrest underlying problem, and contribute to rapid deterioration and
9 unsanitary conditions.

10 **LACK OF SCREENS**

11 75. Many windows in the building have missing or damaged screens. As a result, Plaintiffs
12 suffer from the cold in winter months and infestations of insects during the summer.

13 76. Some Plaintiffs choose not to open windows during the summer because open windows,
14 with damaged or missing screens, permit insects and other vermin to freely enter into
15 their units. The persistent presence of insects and vermin is not only irritating to
16 Plaintiffs, but also poses additional health risks.

17 77. Additionally, the lack of ventilation caused by closed windows causes units to become
18 stuffy and worsens the unit's air quality. The open windows without screens create easy
19 access for vandals, pose a safety risk, and are a source of anxiety for Plaintiffs living in
20 the high crime complex.

21 **LACK OF SECURITY**

22 78. The building has inadequate security for the tenants of the Somerset Apartments. The
23 neighborhood is a high crime area and Defendants have continually failed to maintain
24 common areas by failing to maintain the repair of lighting fixtures, and the lighting for
25 the common walkways, thus causing apprehension, fear, security risks, and anxiety to the
26 Plaintiffs and their guests.
27
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1 **PHYSICAL INJURY, EMOTIONAL DISTRESS AND OTHER INJURIES**

2 79. Plaintiffs suffer from ailments as a result of the inhabitable conditions of the property
3 including: insect bites, colds, coughs, nausea, headaches, and skin problems caused by
4 poor conditions on the property and the gas leak.

5 80. Cockroach infestations cause Plaintiffs to experience lack of appetite and nausea.
6 Dampness and mold, present in places such as ceilings, walls, and holes in ceilings and
7 walls, worsen air quality and have a deleterious effect on Plaintiffs, especially those with
8 upper respiratory infections or other respiratory problems.

9 81. The poor conditions at the building, safety risks, and injuries sustained, and hardships
10 endured, Plaintiffs have experienced considerable emotional distress. Plaintiffs suffer
11 from depression, feelings of frustration, anxiety, and other afflictions.

12 82. During all relevant times, up to and including the present, Plaintiffs have repeatedly and
13 on numerous occasions informed defendants of the deplorable, unsafe, unhealthful and
14 uninhabitable conditions at the property, and of the urgent need to make effective and
15 complete repairs.

16 **FIRST CAUSE OF ACTION**

17 **Declaratory Relief and Damages: Breach of Implied Warranty of Habitability**

18 (By All Plaintiffs Against All Defendants and DOES 1 through 50)

19 83. Plaintiffs re-allege and incorporate by reference all the allegations set forth in the
20 preceding paragraphs of this Complaint as though set forth in full.

21 84. An implied warranty of habitability has been found to exist in every California residential
22 rental contract. *Hinson v. Delis* (1972) 26 CA3d 62; *Green v. Superior Court* (1974) 10
23 C3d 616. The implied warranty of habitability doctrine provides that, in every lease or
24 rental agreement, the landlord warrants the property is, and will be, repaired and
25 maintained in a condition that meets certain minimum standards of habitability. *Id.*
26 Failure to meet those minimum standards constitutes a breach by the landlord of that
27 warranty. *Id.* Further, a tenancy may exist even notwithstanding a written or oral lease
28 agreement where the landlord expressly or impliedly consented to the tenant's

1 occupancy. Parkmerced Co. v. San Francisco Rent Stabilization & Arbitration Bd.
2 (1989) 215 Cal.App.3d 490, 494.

3 85. In the instant matter, Plaintiffs each entered into leasehold agreements regarding
4 residential units at the Somerset Apartments and have been tenants of the Somerset
5 Apartments all times relevant hereto.

6 86. The Defendants named in this cause of action is a landlord at common law because
7 Defendants have owned and/or managed the Somerset Apartments at all times relevant
8 hereto.

9 87. Plaintiffs and Defendants have been, and continue to be, in a landlord-tenant relationship
10 created by the written and/or oral lease agreements entered into when Plaintiffs moved
11 into the premises, or by Defendant and/or the agents' acceptance of Plaintiffs' rents.

12 88. During Plaintiffs' tenancy, certain defective conditions on the premises began to develop
13 and/ or were present at the time Plaintiffs took possession of the premises, including but
14 not limited to conditions that fail to meet minimum standards of habitability in violation
15 of Health and Safety Code 1920.3 *et seq.* (e.g. missing smoke alarms, lack of hot water,
16 holes in the walls and ceilings, water damage, deteriorated floors, deteriorated window
17 sills and frames, the presence of rats and cockroaches, fire hazards, and the growth of
18 mold on walls and ceilings).

19 89. Defendants had actual or constructive knowledge of each defective condition and failed
20 to correct said condition.

21 90. The defective conditions were not caused by the wrongful or abnormal use of the
22 premises by Plaintiffs or anyone acting or present on the premises under Plaintiffs'
23 authority.

24 91. By failing to correct the defective conditions, Defendants breached the contractual
25 warranty of habitability, implied by law into every residential tenancy agreement.

26 92. As a direct and proximate result of Defendants' failure to correct the defective
27 conditions, the premises were not habitable and had either reduced or no rental value.
28

1 93. Accordingly, Plaintiffs seek a declaratory judgment that they are not obligated to pay rent
2 until all serious violations are remedied.

3 94. Moreover, each Plaintiff has been damaged by the Defendants' conduct in an amount
4 equal to rents due and paid by each Plaintiff during the life of each Plaintiff's tenancy, or
5 in an amount to be proven at trial. Therefore, Plaintiff suffered damages measured by (a)
6 the difference between the fair rental value of premises if they had been in the condition
7 as warranted and the fair rental value as it existed with the defective conditions, (b) a
8 percentage reduction of use, *i.e.*, a reduction of Plaintiffs rental obligation by the
9 percentage corresponding to the relative reduction of use of the premises caused by the
10 Defendant's breach, or (c) any other measure allowed by law, in an amount to be
11 determined by proof at trial.

12 95. As a direct and proximate result of Defendant's failure to correct the defective
13 conditions, Plaintiffs have suffered property damage and economic loss as special
14 damages in the sum to be proven at trial, as a result of repairs to defective conditions;
15 insect infested furniture, and contaminated and damaged personal possessions.

16 **SECOND CAUSE OF ACTION**

17 **Damages & Abatement: Violation of Statutory Warranty of Habitability**

18 **Per California Civil Code Section 1942.4**

19 (By All Plaintiffs Against All Defendants and DOES 1 through 50)

20 96. Plaintiffs re-allege and incorporate by reference the allegations of set forth in the
21 preceding paragraphs of this Complaint.

22 97. Pursuant to California Civil Code §1942.4, a landlord of a dwelling may not demand rent,
23 collect rent, or issue a three-day notice to pay rent or quit if the dwelling substantially
24 lacks any of the standard characteristics listed in Section 1941.1 or violates Section
25 17920.10 of the Health and Safety Code, or is deemed or declared substandard as set
26 forth in Section 17920.3.
27
28

1 98. Plaintiffs' residential units substantially fails to meet certain standards of habitability
2 established by California Civil Code §1941.1 and has been deemed or declared
3 substandard as set forth in Section 17920.3.

4 99. A public officer who is responsible for the enforcement of a housing law, after inspecting
5 the Somerset Apartments, has notified Defendants owners/managers in writing of the
6 obligation to abate the nuisance or repair the substandard conditions.

7 100. Additionally, Plaintiffs gave notice to Defendants agent and manager, Gerry Vang, of
8 substandard conditions and made numerous, repeated, separate and independent requests
9 to repair them.

10 101. The conditions have existed and have not been abated beyond the date of service of said
11 notices. Defendants did not repaired the substandard conditions and the delay in doing so
12 is without good cause.

13 102. Defendants only acted to retain assistance for the repairs after receiving notice of one
14 million in fines and repair costs.

15 103. The conditions were not caused by an act or omission of the tenants or lessees.

16 104. Defendants owners/managers were required by law to repair the conditions, but failed to
17 do so.

18 105. As a direct and proximate result, said Defendants are liable to Plaintiffs for the damages
19 set forth in this Complaint.

20 106. Further, Defendants are additionally liable to Plaintiffs for statutory damages and
21 attorney fees under Civil Code §1942.4(a)-(b). Specifically, Plaintiffs pray for actual
22 damages sustained and special damages of not less than \$100.00 each and not more than
23 \$5,000.00; as well as reasonable attorney fees and costs of the instant suit as allowed by
24 the court.

25 107. Moreover, Plaintiffs ask the court to order Defendant to abate any nuisance at the
26 Somerset Apartments and repair substandard conditions as defined in CCP Section
27 1941.1, which significantly or materially affect the health and safety of the occupants.
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THIRD CAUSE OF ACTION

Damages: Tortious Failure to Provide Habitable Premises

(By All Plaintiffs Against All Defendants and DOES 1 through 50)

108. Plaintiffs re-allege and incorporate by reference all the allegations set forth in the preceding paragraphs of this Complaint.

109. At all relevant times, Defendants were operating the Somerset Apartments by and through the owners and managers of the subject premises and assumed the responsibility of maintaining the premises in a habitable condition.

110. Implied in each rental agreement in California, oral or written, is a warranty of habitability, which requires landlords to maintain their premises in a habitable condition.

111. By virtue of the landlord-tenant relationship, Defendants owe the Plaintiffs a duty, as defined by applicable municipal, and health and safety codes, to maintain the premises in a habitable condition.

112. Defendants have breached this duty and the implied warranty of habitability by failing to correct the substandard conditions.

113. Defendants knew, or reasonably should have known, that Plaintiffs would suffer damage as a result of the breach.

114. As a further, direct, and proximate result of the above-described acts and omissions by Defendants, Plaintiffs have suffered discomfort and annoyance and endured mental suffering caused by the fear for their own safety and that of their family. As a result of such injury, Plaintiffs have sustained damage in an amount to be determined by proof at trial.

115. In addition, as a direct, and proximate result of the above-described acts and omissions by the Defendants, Plaintiffs have been hurt and injured in their health, strength, and activity, sustained injuries to their bodies, and endured shock, anxiety, and injury to their nervous system and person, all of which have caused Plaintiffs great mental, physical, and nervous pain, distress, and suffering. As a result of such injuries, Plaintiffs have sustained damage in an amount according to proof at trial.

1 116. Said Defendants' failure to correct the defective conditions and their conduct in dealing
2 with Plaintiffs was tortious, knowing, intentional, and willful or was in conscious
3 disregard of the rights of Plaintiffs'. Defendants had full knowledge or should have
4 known of the damage that this failure would cause Plaintiffs.

5 117. Furthermore, said Defendants' conduct was malicious and oppressive, in that said
6 Defendants knew that the municipal building department has inspected the premises and
7 found it violated numerous building and safety codes, and Defendants did not take action
8 to remedy the conditions of the premises, despite repeated, separate, and independent
9 requests by Plaintiffs, who informed Defendants in detail that the conditions were
10 causing Plaintiffs extreme physical inconvenience and severe emotional distress, and
11 therefore Plaintiffs are entitled to punitive damages in an amount according to proof.

12 **FOURTH CAUSE OF ACTION**

13 **Damages: Breach of the Covenant of Quit Enjoyment**

14 **Per CCP 1940.2**

15 (By All Plaintiffs Against All Defendants and DOES 1 through 50)

16 118. Plaintiffs re-allege and incorporate by reference the allegations of set forth in the
17 preceding paragraphs of this Complaint.

18 119. Pursuant to CCP Section 1940.2, it is unlawful for a landlord to use or threaten to use
19 force, willful threats, or menacing conduct that interferes with the tenant's quiet
20 enjoyment of the premises that would create an apprehension of harm.

21 120. Defendants created an apprehension of harm by intentionally and maliciously (a)
22 ignoring the repeated requests to repair the natural gas leak after receiving notice from
23 PG&E; and (b) failing to keep the Somerset Apartments in good repair per the rental
24 agreements.

25 121. Plaintiffs were forced to bath in community shower stalls and rely on food donations for
26 their daily meals, because they did not have working hot water or a working stove.
27 Plaintiffs had to endure the cold apartments during the winter months without any source
28 of heat because electric heaters were in restricted used due to the fire hazards.

1 122. The Defendants' agent was notified of the condition on November 12, 2015 and the
2 Defendants were notified of the condition on November 13, 2015. The Plaintiffs were
3 forced to suffer in the conditions for an additional 21 days because the Defendants
4 callously ignored requests for repairs.

5 123. Defendants' interference with Plaintiffs' quiet enjoyment caused Plaintiffs actual harm,
6 and thus Defendants are liable to Plaintiffs for \$2,000.00 for each violation of habitability
7 and for each day the Plaintiffs endured the conditions without natural gas.

8 **FIFTH CAUSE OF ACTION**

9 **Damages: Negligent Maintenance of Premises**

10 (By All Plaintiffs Against All Defendants and DOES 1 through 50)

11 124. Plaintiffs allege and incorporate by reference every allegation contained in the
12 preceding paragraphs of this Complaint.

13 125. At all relevant times herein, Plaintiffs have held a leasehold interest in and have been
14 tenants of Somerset Apartments.

15 126. At all relevant times herein, Defendants have owned and/or managed Somerset
16 Apartments.

17 127. As landowners and managers of Somerset Apartments, Defendants owed a duty of care
18 under common law and California Civil Code Section 1714 to exercise due care in the
19 management of their property so as to avoid foreseeable injury to others. This duty
20 requires Defendant to comply with all building, fire health and safety codes, ordinances,
21 regulations, and other laws applying to maintenance and operation of residential rental
22 housing.

23 128. Defendants breached their common law and statutory duties of due care by failing to
24 correct substandard conditions complained of. Defendants knew, or reasonably should
25 have known, that Plaintiffs would be injured as a result of the breach of the common law
26 and statutory duties of due care.
27
28

1 129. As a direct and proximate result of Defendants' negligent maintenance of the premises,
2 the value of the leasehold held by each Plaintiff has been diminished. Consequently,
3 each Plaintiff has been damaged in an amount to be proven at trial.

4 130. As a direct and proximate result of Defendants' conduct, each Plaintiff has suffered
5 and/or continues to suffer illness, physical injury, mental stress, emotional distress,
6 anxiety, annoyance and discomfort, and property damage in an amount to be proven at
7 trial, but which amount is within the jurisdictional requirements of this Court.

8 131. Defendants' acts and omissions have been grossly negligent, malicious and oppressive,
9 thereby entitling each Plaintiff to punitive damages in an amount to be determined at
10 trial.

11 **SIXTH CAUSE OF ACTION**

12 **Damages & Abatement: Public Nuisance**

13 (By All Plaintiffs Against All Defendants and DOES 1 through 50)

14 132. Plaintiffs allege and incorporate by reference every allegation contained in the
15 preceding paragraphs of this Complaint.

16 133. Plaintiffs have held a leasehold interest in and have been tenants of Somerset
17 Apartments at all times relevant hereto.

18 134. Defendants named in this cause of action have owned and managed Somerset
19 Apartments at all times relevant hereto.

20 135. The conditions of Somerset Apartments as described constitute a nuisance within, but
21 not limited to the meaning of Civil Code Section 3479 *et seq.* in that these defective
22 conditions are injurious to the health and safety of each Plaintiffs, and interfere
23 substantially with each Plaintiffs comfortable enjoyment of the premises.

24 136. Despite being required by law to abate the nuisance, Defendants have failed and
25 continue to fail to correct conditions rendering the premises a nuisance.

26 137. This nuisance continues to exist, and unless the Defendants are enjoined to abate this
27 nuisance, the failure to abate it will continue.
28

1 138. Plaintiffs have no adequate remedy at law, and thus is entitled to an order compelling
2 Defendants to abate the nuisance.

3 **SEVENTH CAUSE OF ACTION**

4 **Damages: Unfair Business Practice, Business & Professions Code § 17200 et seq.**

5 280. Plaintiff re-alleges and incorporates by reference every allegation contained in the
6 preceding paragraphs of this Complaint as though set forth herein.

7 281. Defendants, engaged in unlawful and unfair business practices prohibited by
8 California Business & Professions Code § 17200, et seq. by virtue of the foregoing acts and
9 omissions.

10 282. Plaintiffs were harmed as a result of said practices by paying full monthly rent for
11 apartments with material deficiencies.

12 283. The foregoing acts and omissions were and are the regular business practices of the
13 Defendants at the Somerset Apartments.

14 284. As a direct and proximate result of the aforementioned acts and omissions, the
15 Defendants have been unjustly enriched at the expense of Plaintiffs, and Plaintiffs are entitled to
16 restitution in an amount to be proven at trial.

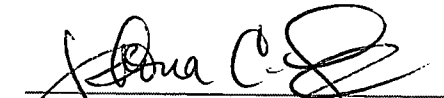
17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiffs hereby respectfully request relief as follows:

- 19 a. For a declaratory judgment pursuant to CCP Section 1942.4 that Plaintiffs
do not owe rent, or that rent is abated, for the periods for which the units at Somerset
20 Apartments are/were uninhabitable;
- 21 b. For equitable relief in the form of specific performance to abate the
nuisance;
- 22 c. For general damages in the sum to be determined at trial;
- 23 d. For special damages in the sum to be determined at trial;
- 24 e. For punitive damages in the sum to be determined at trial;
- 25 f. For reasonable attorneys' fees and costs pursuant to (a) CCP Section
1942.4; (b) CCP Section 1021.5 (Private Attorney General Doctrine); as provided in
rental contracts.
- 26 g. For pre-judgment and post-judgment interest pursuant to California Civil
Code Sections 3288 and 3291; and
- 27 h. For restitution under Business and Professions Code Section 17200;
- 28 j. For any further relief that the Court considers just and proper.

1 Dated this 12th of April, 2016

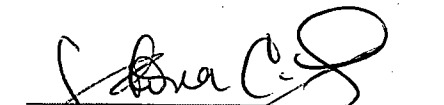
Law Office of Pahoua C. Lor

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4 PAHOUA C. LOR, ESQ.
5 Attorney for Plaintiffs

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7
8 DEMAND FOR JURY TRIAL

9 Plaintiffs demand a jury trial on all causes of action triable by jury.

10 Dated this 12th of April, 2016

11 
12 PAHOUA C. LOR, ESQ.
13 Attorney for Plaintiffs