

D307 William Highberger

1 Ricardo Merluza, Esq., SBN 199945
2 BERMEO & MERLUZA
3 3435 Wilshire Blvd., 27th floor
4 Los Angeles, CA 90010
5 Telephone: (213) 380-9888
6 Facsimile: (213) 380-5397
7 Email: rymlaw@yahoo.com

8 Claudia C. Bohorquez, SBN 150647
9 LAW OFFICES OF CLAUDIA C. BOHORQUEZ
10 5757 Wilshire Blvd., PH3
11 Los Angeles, CA 90036
12 Telephone: (323) 964-8125
13 Facsimile: (323) 964-5270
14 Email: ccblawyer@gmail.com

15 ATTORNEYS FOR PLAINTIFFS:
16 ROXANNA G. SEVILLA, MARIA G. OROZCO
17 AND ROSA ISELA GONZALEZ

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA
19 COUNTY OF LOS ANGELES - CENTRAL

20 ROXANNA G. SEVILLA, MARIA G. OROZCO,)
21 ROSA ISELA GONZALEZ, individually, and on)
22 behalf of all others similarly situated,)
23)
24 Plaintiffs,)
25)
26 -v-)
27)
28 JON DAVLER, INC., a California corporation;)
CHRISTINA YANG, an individual; and DOES 1)
through 25, inclusive;)
Defendants.)

Case No.

CLASS ACTION

COMPLAINT FOR GENDER
DISCRIMINATION HARASSMENT;
FAILURE TO PREVENT
HARASSMENT; INTENTIONAL
INFLECTION OF EMOTIONAL
DISTRESS; INVASION OF
PRIVACY; FALSE
IMPRISONMENT

DEMAND FOR JURY TRIAL

29 Plaintiffs, ROXANNA G. SEVILLA, MARIA G. OROZCO, and ROSA ISELA
30 GONZALEZ, individually, and on behalf of all others similarly situated, bring this action
31 against defendants JON DAVLER, INC. and CHRISTINA YANG, and allege, on information
32 and belief, except as to those allegations relating to plaintiffs themselves which are asserted
33 on personal knowledge, as follows:

CLASS ACTION COMPLAINT

complete
6005
91745

ORIGINAL FILED
Los Angeles Superior Court

JUL 30 2012

John A. Clarke, Executive Officer/Clerk
By SHAUNYA WESLEY, Deputy

BC 4899
CIT/CASE: BC489259 LEA/DEF#:
RECEIPT #: CCM48598054
DATE PAID: 07/30/12 12:46:17 PM
PAYMENT: \$1,000.00
RECEIVED: 07/30/12 12:46:17 PM

CIT/CASE: BC489259 LEA/DEF#:
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CLASS ACTION ALLEGATIONS

10. Plaintiffs bring this action on their own behalf and on behalf of all persons similarly situated. Such a representative action is necessary to prevent and remedy the unlawful practices alleged herein.

11. This action is brought and may be properly maintained as a class action pursuant to the provisions of C.C.P. §382. Plaintiffs bring this action on behalf of themselves and all members of the class, defined as follows: all female workers who were present at the JON DAVLER facility on or about September 6, 2011, and were subjected to the vaginal inspection set forth in detail below. Excluded from the proposed class are defendants, any entities in which any of the defendants has a controlling interest, and the officers, directors, affiliates, attorneys, heirs, predecessors, and successors in interest, subsidiaries, and/or assigns of any of the defendants.

12. The members of the class are so numerous that joinder of all members is impracticable. While the exact number of class members is unknown to plaintiffs at this time and can only be ascertained through discovery, plaintiffs believe there are at least 15 members of the proposed class.

13. There is a well-defined community of interest among the members of the proposed class. Plaintiffs, like all other members of the class, suffered a humiliating and degrading inspection of their vaginal area after YANG became angry that someone had left a used female sanitary napkin in the toilet area, and sought to determine who was on their menstrual period that day. She ordered plaintiffs and the other members of the class to pull down their pants and underwear so that a co-worker could see who was on their period. The factual basis of defendants' misconduct are common to all members of the class and represent a common act of wrongful conduct resulting in damages to all members of the class.

14. There are numerous questions of law and fact common to plaintiffs and to the members of the class and those questions predominate over any questions that may affect individual members of the class.

1 **(a) The common questions of fact include the following:**

2 - whether defendants ordered plaintiffs and all members of the class to subject
3 themselves to a vaginal inspection by a co-worker by requiring each woman to pull down her
4 pants and underwear, on or about September 6, 2011, to determine who was on their menstrual
5 period;

6 - whether defendants' actions were severe enough to rise to the level of gender related
7 sexual harassment that is so outrageous as to shock the conscience of a reasonable woman;

8 - whether JON DAVLER failed to take steps to prevent the sexual harassment from
9 occurring;

10 - whether defendants invaded the privacy of plaintiffs and the class members by their
11 actions;

12 - whether defendants falsely imprisoned plaintiffs and the class members when they
13 ordered each of them one by one into a bathroom for an inspection of their vaginal area while
14 YANG and another male supervisor stood outside the door of the bathroom;

15 - whether plaintiffs and other members of the class were forced to undergo the inspection
16 or suffer the consequence of termination;

17 - whether defendants' actions were intentional or conducted with a reckless disregard of
18 the probability of causing plaintiffs and the other class members to suffer emotional distress;

19 - whether plaintiffs and the other class members suffered severe emotional distress as a
20 result of the actions of defendants.

21 - whether JON DAVLER failed to provide any adequate education, training, and
22 information to personnel concerning policies and practices regarding sexual harassment and
23 discrimination;

24 **b. The common questions of law include the following:**

25 - whether defendants violated Article 1, Section 1, of the California Constitution
26 regarding invasion of privacy;

27 - whether plaintiffs and other members of the class had a reasonable expectation of
28 privacy in their bodily functions and body;

- 1 - whether defendants' actions were severe and outrageous enough to constitute
2 gender/sexual harassment in violation of California's Fair Employment and Housing Act;
3 - whether defendants' actions resulted in a false imprisonment of plaintiffs and the other
4 class members;
5 - whether JON DAVLER failed to take reasonable steps to prevent sexual/gender
6 harassment from occurring;
7 - whether JON DAVLER had an adequate sexual harassment policy;
8 - whether defendants intentionally deprived the plaintiffs and other members of the class
9 of their freedom of movement by use of physical barriers, force, menace, fraud, deceit, and
10 unreasonable duress.
11 - whether plaintiffs and other members of the class voluntarily consented to the actions
12 of defendants;
13 - whether the actions of defendants were serious enough to constitute an invasion of
14 privacy;
15 - whether plaintiffs and the other members of the class are entitled to compensatory
16 damages;
17 - whether plaintiffs and the other members of the class are entitled to punitive damages.

18 15. Plaintiffs' claims are typical of the claims of the other members of the class.
19 Plaintiffs and all the members of the class have sustained economic damage arising out of the
20 common course of conduct as alleged herein.

21 16. Plaintiffs will fairly and adequately represent and protect the interests of the class.
22 They have retained counsel with substantial experience in prosecuting class actions. Plaintiffs
23 and their counsel are committed to vigorously prosecuting this action on behalf of the class and
24 have the financial resources necessary to do so. Neither plaintiffs nor their counsel have any
25 interest adverse to those of the class.

26 17. A class action is superior to other available methods for the fair and efficient
27 adjudication of this controversy since individual joinder of all members of the class is
28 impracticable. Further, as the damages suffered by each individual member of the class may be

1 relatively small, the expense and burden of individual litigation would make it difficult or
2 impossible for individual members of the class to redress the wrongs done to them. The cost to
3 the court system of such individual adjudication would be substantial. Individualized litigation
4 would also present the potential for inconsistent or contradictory judgments and would magnify
5 the delay and expense to all parties and the court system in multiple trials of identical factual
6 issues. By contrast, the conduct of this action as a class action presents fewer management
7 difficulties, conserves the resources of the parties and the court system and protects the rights of
8 each class member.

9 18. An award of attorney's fees is authorized by C.C.P. §1021.5 and §Gov't. Code
10 12940 et seq.

11 FACTUAL ALLEGATIONS

12 19. JON DAVLER is a company which manufactures, fills, packages, and labels
13 cosmetic products. The company employs both men and women.

14 20. Plaintiff SEVILLA was an employee of JON DAVLER from approximately
15 1/5/2010 to 1/13/2012.

16 21. Plaintiff OROZCO was an employee of JON DAVLER from approximately
17 5/14/2010 to 4/13/2012.

18 22. Plaintiff GONZALEZ was an employee of JON DAVLER from approximately
19 9/2009 to 9/16/2011.

20 23. At all times herein mentioned, plaintiffs and the members of the class worked in the
21 Production Department and/or the Bulk Department of JON DAVLER.

22 24. At all times herein mentioned, defendant YANG was an owner, shareholder, officer,
23 director, supervisor, manager and/or employee of JON DAVLER.

24 25. On or about the morning of September 6, 2011, defendant YANG became extremely
25 angry because she found a used sanitary napkin around the toilet area in the women's bathroom
26 and blood around the toilet seat at the JON DAVLER facility. YANG was so upset that she
27 went to Production Department where plaintiffs and the members of the class were working, and
28 started yelling that they were "dirty" and demanded to know who was on their menstrual period

1 so that she could determine who had left the used sanitary napkin by the toilet and the toilet
2 unclean. She told one of the workers, Lucy Castillo, to go clean up the mess in the bathroom.
3 Meanwhile, in an angry, shouting voice, YANG demanded to know of the plaintiffs and the
4 other members of the class, "Are you on your period!" Each of the plaintiffs and the other
5 members of the class denied being on their menstrual period. YANG was not satisfied with the
6 responses she received, and instructed Ms. Castillo to take each of the plaintiffs and the other
7 members of the class into the bathroom, one by one, and check their panties to see who was on
8 their menstrual period, by requiring each to pull down their pants and underwear for an
9 inspection.

10 26. Plaintiffs and the members of the class were shocked and in a state of disbelief at
11 what they were hearing YANG instruct Ms. Castillo to do. In front of all of the other women,
12 one member of the class asked YANG what would happen if she refused to participate in the
13 inspection. YANG said whoever refused would be fired. YANG ordered each of the plaintiffs
14 and the other members of the class to form a line outside of the women's bathroom and to go in
15 one by one to be checked by Ms. Castillo. YANG and a male supervisor named "Dennis" stood
16 outside the bathroom door ensuring that each woman went in for the inspection and waiting for
17 each woman to come out after their inspection.

18 27. When plaintiffs and the members of the class went into the bathroom, one by one,
19 they were in shock and disbelief and extremely embarrassed to have to undergo an inspection of
20 their vaginal area to determine if they were on their menstrual period. Ms. Castillo stood a foot
21 or two away from plaintiffs and the members of the class at the time of each of their inspections.
22 Plaintiffs and the members of the class had to pull down their pants and their panties, exposing
23 their vaginal area, so that Ms. Castillo could see if they were wearing a sanitary napkin and
24 therefore on their period. After each inspection, plaintiffs and the members of the class went
25 outside of the bathroom where YANG and another male supervisor "Dennis" were standing
26 outside the door. They found it extremely difficult and embarrassing to face YANG and
27 especially Dennis because he was a man, and quickly went back to their work area while the
28 inspections continued with the other members of the class.

1 28. At the time of her inspection, plaintiff GONZALEZ asked Ms. Castillo if she had to
2 do this, and Ms. Castillo responded that she had to do it. At the time of plaintiff OROZCO's
3 inspection, Ms. Castillo told her that she was very sorry she had to do this and that she felt
4 extremely embarrassed. OROZCO responded that she was extremely embarrassed, too. At the
5 time of SEVILLA's inspection, Ms. Castillo told her she felt very bad about doing it, but she did
6 not want to lose her job.

7 29. On the day of the women's inspections, SEVILLA told her brother-in-law Jose
8 Reyes who was a co-worker at JON DAVLER about what had happened. SEVILLA also told
9 her mother and boyfriend when she got home from work later that day. She felt humiliated,
10 degraded, embarrassed, and devalued as a human being. She wrote her feelings in a journal.
11 OROZCO told her sister after work what had happened also. GONZALEZ told her husband and
12 daughter after work what had happened.

13 30. The area where the workers at JON DAVLER sit down for lunch is located in front
14 of the bathroom where the women's inspections occurred. A male co-worker told OROZCO he
15 was eating his lunch at the time of the women's inspections and he had to leave without
16 finishing his food because he was disgusted by the references to dirty sanitary napkins and blood
17 as YANG screamed at the ladies and as the women spoke among themselves about the incident.

18 31. All of the plaintiffs and the other members of the class feared they would lose their
19 jobs if they did not permit this inspection.

20 32. Ms. Castillo did not go to work the next day because she was overcome by
21 embarrassment, felt bad about having to inspect the women the day before, and did not want to
22 face the plaintiffs and the other members of the class.

23 33. Plaintiffs exhausted their administrative remedies by timely filing a complaint with
24 the California Department of Fair Employment and Housing ("DFEH") against each defendant.
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**FIRST CAUSE OF ACTION FOR SEXUAL HARASSMENT
FEHA CAL. GOV'T. CODE 12940 et seq.**

(Against all Defendants and DOES 1 through 25, inclusive)

34. Plaintiffs incorporate all of the allegations contained in paragraphs 1 through 33 as though set forth here in full.

35. Plaintiffs and the members of the class were employees of JON DAVLER.

36. Defendants' actions described above subjected plaintiffs and the members of the class to sexual harassment and discrimination based on their gender, at their workplace, causing a hostile or abusive work environment.

37. Defendants' conduct described above was unwelcome and directed towards the plaintiffs and the members of the class, and interfered with their work environment and job performance.

38. The conduct of defendants created a work environment that was intimidating, hostile, abusive, or offensive; and caused plaintiffs to perceive their work environment as intimidating, hostile, abusive, or offensive. The conduct of defendants was so severe that a reasonable woman in plaintiffs' and the members of the class' circumstances would have considered the work environment to be hostile or abusive. Plaintiffs feared YANG, were intimidated by YANG, and feared that another similar female sanitary napkin incident could happen again and that they would be subjected to the same humiliating inspection again.

39. Defendant YANG is an owner, manager, and/or supervisor of JON DAVLER who engaged in the above-described conduct and had actual authority over plaintiffs and the members of the class who were subjected to the wrongful vaginal inspection.

40. JON DAVLER and its supervisors or agents knew or should have known of the conduct and failed to take immediate and appropriate corrective action and is liable on the basis of respondeat superior.

41. Complaints to the owners and supervisors of JON DAVLER (YANG, and "Dennis") would have been futile because they, themselves, ordered the outrageous inspection of the plaintiffs' and members of the class' vaginal area, and waited outside the restroom while the

1 inspections were being conducted by Ms. Castillo

2 42. Defendants' acts were malicious, oppressive, or fraudulent with the intent to vex,
3 injure, annoy, humiliate and embarrass plaintiffs and the members of the class, and in conscious
4 disregard of the rights or safety of plaintiffs and the members of the class, and in furtherance of
5 defendants' ratification of the wrongful conduct of the employees, owners, and supervisors of
6 JON DAVLER.

7 43. By reason of the conduct of defendants and each of them as alleged herein, plaintiffs
8 have necessarily retained attorneys to prosecute the within action. Plaintiffs are therefore
9 entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and
10 costs incurred in bringing this action.

11 44. As a result of defendants' and each of their actions, plaintiffs and the members of
12 the class sustained economic damages to be proven at trial. As a further result of defendants'
13 and each of their actions, plaintiffs and the members of the class suffered, and continue to suffer,
14 humiliation, grief, nervousness, fright, shame, embarrassment, mental anguish, anger, worry,
15 disappointment, insomnia, and emotional and physical distress, and have been injured in mind
16 and body, all to their damage in an amount to be proven at trial.

17 45. The above-described harassing conduct violates Cal. Gov.'t Code §§12940 et seq.
18 and California public policy and entitles plaintiffs and the members of the class to all categories
19 of damages, including exemplary or punitive damages.

20 46. Plaintiffs filed timely complaints against all of the defendants to the DFEH alleging
21 sexual harassment and failure to prevent sexual harassment. Plaintiffs received from the DFEH
22 notification of their right to sue the defendants.

23 **SECOND CAUSE OF ACTION FOR**
24 **FAILURE TO PREVENT SEXUAL HARASSMENT**
25 **FEHA CAL. GOV'T. CODE 12940(j) and (k)**

26 **(Against JON DAVLER and DOES 1 through 25, inclusive)**

27 47. Plaintiffs incorporate all of the allegations contained in paragraphs 1 through 33 as
28 though set forth here in full.

48. In violation of Cal. Gov't. Code §12940(k), JON DAVLER failed to take all

1 reasonable steps necessary to prevent discrimination and sexual harassment by its shareholders,
2 owners, officers, directors, managers, supervisors and employees from occurring. Defendants
3 and each of them committed unlawful employment practices.

4 49. JON DAVLER failed to make an adequate response and investigation into the
5 conduct of YANG and "Dennis," and thereby established a policy, custom, practice, or usage
6 within the organization which condoned, encouraged, tolerated, sanctioned, ratified, approved
7 of, and/or acquiesced in sexual and gender discrimination and harassment towards plaintiffs and
8 the members of the class.

9 50. JON DAVLER did not have an adequate sexual harassment policy and did not
10 provide adequate sexual harassment training with respect to its employees, managers,
11 supervisors.

12 51. JON DAVLER knew or reasonably should have known that the failure to provide
13 adequate education, training, and information as to their personnel policies and practices
14 regarding sexual harassment and gender discrimination, would result in sexual harassment and
15 discrimination against its employees including plaintiffs and the members of the class.

16 52. The failure of JON DAVLER to provide any adequate education, training, and
17 information to personnel concerning policies and practices regarding sexual harassment and
18 gender discrimination constituted deliberate indifference to the rights of employees including
19 plaintiffs and the members of the class under Cal. Gov't. Code §12940 et seq.

20 53. Defendant's acts were malicious, oppressive, or fraudulent with the intent to vex,
21 injure, annoy, humiliate and embarrass plaintiffs and the members of the class, and in conscious
22 disregard of the rights or safety of plaintiffs and the members of the class, and in furtherance of
23 defendant's ratification of the wrongful conduct of the employees, owners, and supervisors of
24 defendant.

25 54. By reason of the conduct of JON DAVLER as alleged herein, plaintiffs have
26 necessarily retained attorneys to prosecute the within action. Plaintiffs are therefore entitled to
27 reasonable attorney's fees and litigation expenses, including expert witness fees and costs
28 incurred in bringing this action.

1 55. As a result of defendants' and each of their actions, plaintiffs and the members of
2 the class sustained economic damages to be proven at trial. As a further result of defendants'
3 and each of their actions, plaintiffs and the members of the class suffered, and continue to suffer,
4 humiliation, grief, nervousness, fright, shame, embarrassment, mental anguish, anger, worry,
5 disappointment, insomnia, and emotional and physical distress, and have been injured in mind
6 and body, all to their damage in an amount to be proven at trial.

7 56. The above-described harassing conduct violates Cal. Gov.'t Code §§12940 et seq.
8 and California public policy and entitles plaintiffs and the members of the class to all categories
9 of damages, including exemplary or punitive damages.

10
11 **THIRD CAUSE OF ACTION FOR INVASION OF PRIVACY**
12 **IN VIOLATION OF ARTICLE 1, SECTION 1 OF CALIFORNIA CONSTITUTION**

13 **(Against all DEFENDANTS and DOES 1 through 25, inclusive)**

14 57. Plaintiffs incorporate all of the allegations contained in paragraphs 1 through 33 as
15 though set forth here in full.

16 58. At all times herein mentioned, plaintiffs and members of the class had a reasonable
17 expectation of privacy in intimate personal decisions or conducting personal activities without
18 observation, intrusion or interference including their bodily functions such as their menstrual
19 cycle, their body, and their personal hygiene, under the circumstances.

20 59. Defendants invaded plaintiffs' and the members of the class' privacy in intimate
21 personal matters, and in the conduct of their personal activities without observation, intrusion or
22 interference including their personal bodily functions such as their menstrual cycle, their body,
23 and their personal hygiene.

24 60. Defendants' conduct was a serious invasion of plaintiffs' and the members of the
25 class' privacy.

26 61. Defendants' conduct was a substantial factor in causing plaintiffs and the other
27 members of the class harm. As a result of defendants' and each of their actions, plaintiffs and
28 the members of the class sustained economic damages to be proven at trial. As a further result

1 of defendants' and each of their actions, plaintiffs and the members of the class suffered , and
2 continue to suffer, humiliation, grief, nervousness, fright, shame, embarrassment, mental
3 anguish, anger, worry, disappointment, insomnia, and emotional and physical distress, and have
4 been injured in mind and body, all to their damage in an amount to be proven at trial.

5 **FOURTH CAUSE OF ACTION FOR INTENTIONAL**
6 **INFLICTION OF EMOTIONAL DISTRESS**

7 **(Against all DEFENDANTS and DOES 1 through 25, inclusive)**

8 62. Plaintiffs incorporate all of the allegations contained in paragraphs 1 through 33
9 as though set forth here in full.

10 63. Defendants' conduct of ordering plaintiffs and the members of the class to pull
11 down their pants and underwear to suffer a humiliating inspection of their vaginal area to see
12 who was on their menstrual period was extreme and outrageous, and done with the intention of
13 causing, or reckless disregard of the probability of causing, emotional distress to plaintiffs and
14 the members of the class. Defendants' conduct exceeded the bounds of behavior of civilized
15 society.

16 64. Plaintiffs and the members of the class suffered severe or extreme emotional
17 distress as a result of defendants' outrageous conduct.

18 65. The conduct of defendants, and each of them, was intentional and malicious
19 insofar as their actions were taken with knowledge that plaintiffs and the members of the class
20 would suffer emotional and physical distress as a result of their conduct, but nevertheless
21 undertook such conduct with a wanton and reckless disregard of the consequences to plaintiffs
22 and the members of the class.

23 66. As a proximate result of the conduct alleged herein, plaintiffs and the members of
24 the class suffered, and continue to suffer, humiliation, grief, nervousness, fright, shame,
25 embarrassment, mental anguish, anger, worry, disappointment, insomnia, and emotional and
26 physical distress, and have been injured in mind and body, all to their damage in an amount
27 presently unknown. Plaintiffs will seek leave of court to amend this Complaint to set forth the
28 full amount of damages when ascertained.

1 67. As a further proximate result of the conduct alleged herein, plaintiffs and the
2 members of the class have incurred and will in the future incur, sundry expenses in the
3 examination, care and treatment of their physical and/or emotional injuries, the exact nature and
4 extent of which are presently unknown to them. Plaintiffs will seek leave of court to amend this
5 Complaint to set forth the full amount of damages sustained when ascertained.

6 68. The acts of defendants, and each of them, were wilful, wanton, malicious and
7 oppressive, and justify the awarding of exemplary and punitive damages.

8 **FIFTH CAUSE OF ACTION FOR FALSE IMPRISONMENT**

9 **(Against all DEFENDANTS and DOES 1 through 25, inclusive)**

10 69. Plaintiffs incorporate all of the allegations contained in paragraphs 1 through 33
11 as though set forth here in full.

12 70. Plaintiffs and the members of the class were wrongfully detained and confined by
13 defendants in the bathroom for the purpose of conducting a humiliating and wrongful inspection
14 of their vaginal area to determine if they were on their menstrual period.

15 71. Defendants intentionally deprived the plaintiffs and the members of the class of their
16 freedom of movement by use of physical barriers, force, menace, fraud, deceit, and/or
17 unreasonable duress. Defendants threatened to fire them and stood at the door with another
18 male supervisor (Dennis) outside the door of the bathroom ensuring the plaintiffs and the
19 members of the class went inside the bathroom for their inspection.

20 72. Plaintiffs and the members of the class did not voluntarily consent to the actions of
21 defendants.

22 73. Defendants' conduct was a substantial factor in causing plaintiffs' and the members
23 of the class' harm. As a result of defendants' actions, plaintiffs and members of the class
24 suffered harm including emotional suffering, shock, humiliation, embarrassment, loss of time,
25 business interruption, physical discomfort or inconvenience, physical injury, and are entitled to
26 damages including general and punitive damages.

1 WHEREFORE PLAINTIFFS, ON BEHALF OF THEMSELVES, AND ALL
2 OTHERS SIMILARLY SITUATED, PRAY for judgment against defendants, and each of
3 them as follows:

- 4 1. For certification of this action as a plaintiff class action as set forth hereinabove;
5 2. For an award of compensatory damages in an amount according to proof at trial;
6 3. For punitive damages in an amount sufficient to deter, punish, and make an example
7 of defendants;
8 4. For prejudgment, postjudgment and other interest as provided by law;
9 5. For attorney's fees as provided by law;
10 6. For costs of suit incurred herein;
11 7. For such other relief as the Court deems just and fair.

12
13 JURY DEMAND

14 Plaintiffs hereby demand a trial by jury against all defendants.

15
16 Dated: July 26, 2012

BERMEO & MERLUZA

17
18 By: 

Ricardo Y. Merluza, Esq.
Attorney for Plaintiffs

19
20
21 LAW OFFICES OF CLAUDIA C. BOHORQUEZ

22
23 By: 

Claudia C. Bohorquez, Esq.
Attorney for Plaintiffs

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Claudia C. Bohorquez, Esq., SBN 150647; Ricardo Merluza SBN 199847 BERMEO & MERLUZA 3435 Wilshire Blvd., 27th fl. Los Angeles, CA 90010 TELEPHONE NO.: 213 380 9888 FAX NO.: 213 380 5397 ATTORNEY FOR (Name): Plaintiffs, Sevilla, Orozco, Gonzalez		ORIGINAL		FOR COURT USE ONLY FILED Los Angeles Superior Court JUL 30 2012 John A. Clarke, Executive Officer/Clerk By <u>SHAUNYA WESLEY</u> , Deputy	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central		CASE NAME: SEVILLA et al. v. JON DAVLER, INC. et al.		CASE NUMBER: BC 489259 JUDGE: DEPT:	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		JUDGE: DEPT:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input checked="" type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (38) <input checked="" type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input checked="" type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary, declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): **-5-**
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: July 26, 2012

Claudia C. Bohorquez, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (not asbestos or toxic/environmental) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)
Defamation (e.g., slander, libel) (13)
Fraud (18)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (not medical or legal)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)
Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (not provisionally complex) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (non-domestic relations)
Sister State Judgment
Administrative Agency Award (not unpaid taxes)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (not specified above) (42)
Declaratory Relief Only
Injunctive Relief Only (non-harassment)
Mechanics Lien
Other Commercial Complaint Case (non-tort/non-complex)
Other Civil Complaint (non-tort/non-complex)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (not specified above) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

ORIGINAL

SHORT TITLE:

SEVILLA et al. v. JON DAVLER, INC. et al.

CASE NUMBER

BC 489259

**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☒ YES CLASS ACTION? ☒ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL ³ ☐ HOURS/ ☒ DAYS

Item II. Indicate the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column B below which best describes the nature of this case.

Step 3: In Column C, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- | | |
|--|--|
| 1. Class actions must be filed in the Stanley Mosk Courthouse, central district. | 6. Location of property or permanently garaged vehicle. |
| 2. May be filed in central (other county, or no bodily injury/property damage). | 7. Location where petitioner resides. |
| 3. Location where cause of action arose. | 8. Location where defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred. | 9. Location where one or more of the parties reside. |
| 5. Location where performance required or defendant resides. | 10. Location of Labor Commissioner Office |

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	Type of Case/Category	Type of Action	Reasons for Choosing Location
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/ Property Damage/ Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1., 4.
		<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 4.
		<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 4.
		<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1., 3.
		<input checked="" type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4.

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SEVILLA et al. v. JON DAVLER, INC. et al.

CASE NUMBER

Non-Personal Injury/Property
Damage/ Wrongful Death Tort

Employment

Contract

Real Property

Unlawful Detainer

Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
Civil Rights (08)	<input checked="" type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
Other (35)	<input checked="" type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input checked="" type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2., 6.
Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.

SHORT TITLE: SEVILLA et al. v. JON DAVLER, INC. et al.	CASE NUMBER
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	CIVIL CASE COVER SHEET	STATEMENT OF LOCATION
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case 2., 6.
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration 2., 5.
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus 2., 8. <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter 2. <input type="checkbox"/> A6163 Writ - Other Limited Court Case Review 2.
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review 2., 8.
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation 1., 2., 8.
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect 1., 2., 3.
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6008 Claims Involving Mass Tort 1., 2., 8.
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case 1., 2., 8.
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental 1., 2., 3., 8.
Enforcement of Judgment	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only) 1., 2., 5., 8.
	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment 2., 9. <input type="checkbox"/> A6180 Abstract of Judgment 2., 6. <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) 2., 9. <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) 2., 8. <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax 2., 8. <input type="checkbox"/> A6112 Other Enforcement of Judgment Case 2., 8., 9.
Miscellaneous Civil Complaints	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case 1., 2., 8.
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only 1., 2., 8. <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) 2., 8. <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) 1., 2., 8. <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex) 1., 2., 8.
	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case 2., 8.
Miscellaneous Civil Petitions	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment 2., 3., 9. <input type="checkbox"/> A6123 Workplace Harassment 2., 3., 9. <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case 2., 3., 9. <input type="checkbox"/> A6190 Election Contest 2. <input type="checkbox"/> A6110 Petition for Change of Name 2., 7. <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law 2., 3., 4., 8. <input type="checkbox"/> A6100 Other Civil Petition 2., 9.

SHORT TITLE:

SEVILLA et al. v. JON DAVLER, INC. et al.

CASE NUMBER

Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case. <input checked="" type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input checked="" type="checkbox"/> 3. <input checked="" type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		ADDRESS: 13324 E. Valley Blvd.
CITY: La Puente	STATE: CA	ZIP CODE: 91746

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subds. (b), (c) and (d)].

Dated: July 26, 2012

 (SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.