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6 SEA WORLD LLC and SEAWORLD PARKS &
ENTERTAINMENT, INC.
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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

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THERESA BENDORF, individually,
and on behalf of other members of the
public similarly situated

Plaintiff,

v.

SEA WORLD LLC, a Delaware limited
liability company doing business as
SEAWORLD SAN DIEGO or
AQUATICA SAN DIEGO;
SEAWORLD PARKS &
ENTERTAINMENT, an unknown
entity; and DOES 1 through 25,
inclusive,

Defendants.

Case No. '21CV2061 AJB LL

**DEFENDANTS SEA WORLD LLC
AND SEAWORLD PARKS &
ENTERTAINMENT, INC.'S NOTICE
OF REMOVAL**

[Filed concurrently with Corporate
Disclosure Statement; Notice of Party
with Financial Interest; Declarations of
Jeffrey Schwartz and Christopher
Hagerman; in Support of Removal]

Complaint Filed: August 25, 2021

Case No. _____

1 of which is attached as Exhibit “D.

2 **6.** On September 22, 2021, Plaintiff filed another copy of the Proof of
3 Service Summons dated August 30, 2021. A copy of this duplicate Proof of Service
4 is attached as Exhibit “E.”

5 **7.** On October 12, 2021, SeaWorld’s counsel filed and served a
6 Declaration of Demurring or Moving Party In Support of Automatic Extension. A
7 copy of Aaron H. Cole’s Declaration is attached as Exhibit “F.”

8 **8.** On October 12, 2021, Susan M. Wilson filed and served a Notice of
9 Appearance as co-counsel of record for SeaWorld. A copy of that Notice of
10 Appearance is attached hereto as Exhibit “G.”

11 **9.** On October 15, 2021, Defendants filed a Notice of Related Cases,
12 identifying the following: *Karmelita Jones v. SeaWorld Parks & Entertainment,*
13 *Inc., et al.* (Lead Case), No. 37-2018-000570057055-CU-OE-CTL, and *Bendorf v.*
14 *Sea World LLC*, Case No. 37-2021-0034922-CU-OE-CTL. A copy of Defendants’
15 Notice of Related Cases is attached hereto as Exhibit “H.

16 **10.** On November 12, 2021, Defendants filed and served a Notice of
17 Demurrer, or, in the alternative, Motion to Stay, and Demurrer, Request for Judicial
18 Notice, Declaration of Aaron H. Cole in support thereof, and proposed Order. A true
19 and correct copy of the Notice of Demurrer or, in the alternative, Motion to Stay and
20 Demurrer is attached hereto as Exhibit “I,” the Request for Judicial Notice as Exhibit
21 “J,” Aaron H. Cole’s Declaration as Exhibit “K,” and the proposed Order as Exhibit
22 “L.”

23 **11.** Plaintiff’s Complaint alleges five causes of action, including (1) Failure
24 to Pay Vested Vacation and Paid Time Off Wages Upon Termination (Labor Code §
25 227.3); (2) Failure to Pay All Wages Due Upon Separation of Employment (Labor
26 Code §§ 201, 202, and 203); (3) Failure to Provide Accurate Itemized Wage
27 Statements (Labor Code §226(a)); (4) Failure to Recall Laid-Off Employees (San
28 Diego Municipal Code §§ 311.0101 *et seq.*); and (5) Unlawful Business Acts and

1 Practices (Business & Professions Code §§ 17200, *et seq.*).

2 **CLASS ACTION FAIRNESS ACT JURISDICTION**

3 **12. Basis of Original Jurisdiction.** The Court has original jurisdiction
4 over this action pursuant to the Class Action Fairness Act of 2005 (“CAFA”), 28
5 U.S.C. § 1332(d). As such, this action may be removed to this Court by Defendant
6 pursuant to 28 U.S.C. §§ 1441, 1446, and 1453.

7 **13. Number of Putative Class Members.** Plaintiff purports to bring this
8 action on behalf of “[a]ll individuals who were employed by Defendants in the State
9 of California at any time during the period from four years prior to the filing of this
10 complaint to final judgment (the “Relevant Period”),” and who fall within one or all
11 of four subclasses: “Vacation Pay Subclass,” “Waiting Time Penalty Subclass,”
12 “Wage Statement Class,; and “Failure to Recall Class.” (Complaint (“Compl.”)
13 ¶27). Plaintiff has not alleged the size of the putative class or subclasses, but
14 assuming for purposes of this notice that the putative Waiting Time Penalty Subclass
15 is comprised solely of terminated (rather than laid-off or “furloughed”) non-exempt
16 employees employed by SeaWorld at any time from August 25, 2018 to May 24,
17 2021, the putative Waiting Time subclass includes at least **3883 persons**.
18 (Declaration of Christopher Hagerman (“Hagerman Decl.”) ¶ 5).

19 **14. Diversity of the Parties.** The minimal diversity requirement of 28
20 U.S.C. § 1332(d) is met in this action because the citizenship of at least one class
21 member is diverse from the citizenship of at least one defendant. *Id.* at (d)(2)(A).
22 Plaintiff, a putative class member, is a citizen of the State of California. SeaWorld
23 Parks & Entertainment, Inc. is a corporation incorporated under the laws of the State
24 of Delaware with its principal place of business, and the location from which the
25 highest level of officers direct, control, and coordinate, the corporation’s activities, is
26 located in Orlando, Florida. (Declaration of Jeffrey Schwartz, ¶4). Thus, Defendant
27 Sea World Parks & Entertainment, Inc. is a citizen of Delaware and Florida. 28
28 U.S.C. § 1332(c); *see also Hertz Corp. v. Friend*, 130 S.Ct. 1181, 1192 (2010).

1 **15. Amount in Controversy.** Based on the allegations in the Complaint,
2 the alleged amount in controversy exceeds, in the aggregate, Five Million Dollars
3 (\$5,000,000), as demonstrated below.

4 **16. Second Cause of Action – Failure to Pay Wages Due (Waiting Time**
5 **Penalties).** Plaintiff alleges “Defendants knowingly and willfully failed to issue
6 Plaintiff and the other class members all wages owed to them pursuant to California
7 Labor Code sections 201 and 202, including, without limitation, vested vacation
8 and/or paid time off wages, minimum wages, overtime wages, meal period premium
9 wages, and rest period premium wages.” (Complaint ¶ 43). In particular, Plaintiff
10 alleges that “Defendants knew or should have known that, pursuant to Labor Code
11 sections 201, 202, 203, and 227.3, Plaintiff and the other class members were
12 entitled to receive all wages upon termination of employment, without limitation,
13 vacation wages, paid time off wages, overtime wages, meal period premium wages,
14 and rest period wages upon termination of employment.” (Complaint ¶21). The
15 Complaint further alleges that “Plaintiff and the other class members are entitled to
16 all available statutory penalties, including the waiting time penalties provided in
17 California Labor Code section 203, together with interest thereon, as well as other
18 available remedies.” (Complaint ¶ 66). The statute of limitations for waiting time
19 penalties under *Labor Code* § 203 is three years. *Code of Civil Procedure* § 338(a).

20 **17.** Based on a review of Defendants’ business records, 3,883 non-exempt
21 putative class members were terminated from August 25, 2018 to May 24, 2021.
22 (Hagerman Decl., ¶ 5). During that time, which is less than the applicable three-year
23 statutory period, these putative class members received an average hourly rate of
24 \$13.30 per hour and worked an average of 5.88 hours per day. (*Id.*).

25 **18.** Thus, according to Plaintiff’s unqualified allegations that “Defendants
26 knowingly and willfully failed to issue Plaintiff and the other class members all
27 wages owed to them pursuant to California Labor Code sections 201 and 202” upon
28 the termination of their employment, these non-exempt class members are entitled to

1 recover at least **\$9,109,983.96** in waiting time penalties: \$13.30 (average hourly rate
 2 from August 25, 2018 to May 24, 2021) x 5.88 (average hours worked per day) x 30
 3 (maximum days of penalty pay) x 3,883 (number of non-exempt putative class
 4 members terminated from August 25, 2018 to May 24, 2021).

5 **19.** As detailed above, the amount placed in controversy by Plaintiff's
 6 claims far exceeds the \$5,000,000 jurisdictional threshold of 28 U.S.C. § 1332(d),
 7 even without including potential attorneys' fees or amounts from Plaintiff's other
 8 claims. Accordingly, removal of this action under CAFA is proper under Section
 9 1332(d).

10 **COMPLIANCE WITH OTHER REMOVAL REQUIREMENTS**

11 **20. Timeliness of Removal.** This Notice of Removal is timely. 28 U.S.C.
 12 § 1446(b) provides two 30-day windows for removing a case. Section 1446(b)(1)
 13 specifies that a defendant must remove "within 30 days after receipt by the
 14 defendant, through service or otherwise, of a copy of the initial pleading setting forth
 15 the claim for relief upon which such action or proceeding is based." 28 U.S.C. §
 16 1446(b)(1). If, however, "the case stated by the initial pleading is not removable, a
 17 notice of removal may be filed within 30 days after receipt by the defendant, through
 18 service or otherwise, of a copy of an amended pleading, motion, order or other paper
 19 from which it may first be ascertained that the case is one which is or has become
 20 removable." 28 U.S.C. § 1446(b)(3), 1453. In addition, the Ninth Circuit has held
 21 that a defendant may remove "when it discovers, based on its own investigation, that
 22 a case is removable." *Roth v. CHA Hollywood Med. Ctr.*, 720 F.3d 1121, 1123 (9th
 23 Cir. 2013). Thus, the two 30-day periods set forth in section 1446(b) are not the
 24 exclusive periods for removal. *Id.* at 1125 ("We conclude that §§ 1441 and 1446,
 25 read together, permit a defendant to remove outside the two thirty-day periods on the
 26 basis of its own information, provided that it has not run afoul of either of the thirty-
 27 day deadlines.").

28 **21.** In short, a CAFA case "may be removed at any time, provided that

1 neither of the two thirty-day periods under § 1446(b)(1) and (b)(3) has been
 2 triggered.” *Roth*, supra, 720 F.3d at 1126. *See also Rea v. Michaels Stores Inc.*, 742
 3 F.3d 1234, 1238 (9th Cir. 2014) (“[A]s long as the complaint or ‘an amended
 4 pleading, motion, order or other paper’ does not reveal that the case is removable,” a
 5 defendant, in effect, “may remove at any time.”)

6 **22.** To trigger the 30-day removal periods under § 1441(b), the grounds for
 7 removal must be evident from the face of the pleadings. *Harris v. Bankers Life &*
 8 *Cas. Co.*, 425 F.3d 689, 694 (9th Cir. 2005). That is, the determination of
 9 removability is based on the “four corners of the applicable pleadings, not through
 10 subjective knowledge or a duty to make further inquiry.” *Id.* If it is unclear from the
 11 complaint whether the case is removable, the pleadings are considered
 12 “indeterminate,” and the 30-day removal window is not triggered. *Id.* at 693. A
 13 “defendant does not have a duty of inquiry if the initial pleading or other document is
 14 ‘indeterminate’ with respect to removability.” *Roth*, supra, 720 F.3d at 1125. “Even
 15 the simplest of inquiries is not required...[D]efendants are not charged with any
 16 investigation, not even into their own records.” *Stiren v. Lowes Home Ctrs., LLC*,
 17 2019 WL 1958511, *3 (C.D. Cal. May 2, 2019). Accordingly, “even if a defendant
 18 could have discovered grounds for removability through investigation, it does not lose
 19 the right to remove because it did not conduct such an investigation and then file a
 20 notice of removal within thirty days of receiving the indeterminate document.” *Roth*,
 21 supra, 720 F.3d at 1125; *Kenny v. Wal-Mart Stores, Inc.*, 881 F.3d 786, 791 (9th Cir.
 22 2018).

23 **23.** Here, Plaintiff’s Complaint was indeterminate; it was not clear from the
 24 face of the Complaint that the case was removable. The Complaint does not state the
 25 number of people in the putative class or subclasses, does not specify anyone’s rates
 26 of pay, and hours worked, and lacks substantive facts regarding the basis for
 27 Plaintiff’s claims. *See, e.g., Zhao v. RelayRides, Inc.*, 2017 U.S. Dist. LEXIS 204415,
 28 *32 (N.D. Cal. Dec. 12, 2017) (plaintiff’s complaint “did not reveal on its face that

1 the action was removable under CAFA” where it “contained no specific allegations
2 regarding . . . the amount of either [the plaintiff’s] damages or the damages of the
3 class as a whole”); *Trahan v. U.S. Bank Nat’l Ass’n*, 2014 U.S. Dist. LEXIS 4019,
4 *11-12 (documents were indeterminate and did not trigger 30-day removal deadline
5 where they “did not expressly state that the amount in controversy would exceed
6 \$5,000,000...and did not make any specific assertions about the amount of damages
7 that might be available to the class or the value of injunctive relief”). Nor have the
8 Defendants received any other “pleading, motion, order or other paper” in this matter
9 that revealed on its face that this matter was removable under CAFA. Accordingly,
10 as Defendants remained free to conduct their own investigation of Plaintiff’s claims
11 and remove at any time, this removal is timely.

12 **24. Venue.** As required by 28 U.S.C. § 1446, this Notice of Removal is
13 filed in the district court of the State in which the action is pending. The state court
14 action was pending in San Diego County Superior Court, which is located within the
15 boundaries of this Court. Thus, venue is proper in this Court. 28 U.S.C. § 1441(a).

16 **25. Copies of Process, Pleadings and Orders.** As required by 28 U.S.C. §
17 1446, Defendants hereby provide this Court with copies of all process, pleadings,
18 and orders received and/or filed by Defendants in this action (attached as Exhibits
19 “A” –“L”). Defendants have not received or served any pleading, process, or order
20 besides those attached.

21 **26. Notice to Plaintiff and State Court.** As required by 28 U.S.C. §
22 1446(d), Defendants will promptly give written notice of filing to Plaintiff, and file a
23 copy of the Notice with the clerk of the San Diego County Superior Court.

24 **27. Corporate Disclosure Statement.** As required by Rule 7.1,
25 Defendants concurrently filed their Corporate Disclosure Statement.

26 **28. Notice of Party with Financial Interest.** As required by Local Rule
27 40.2, Defendants concurrently filed their Notice of Party with Financial Interest.

28 **29.** In the event this Court has a question regarding the propriety of this

1 Notice of Removal, Defendants request that the Court issue an Order to Show Cause
2 so that Defendants may have an opportunity to address any such question.

3 **30.** Accordingly, Defendants remove the above-entitled action to this Court.
4

5 DATED: December 9, 2021

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

6
7
8 By: /s/ Aaron H. Cole
Aaron H. Cole

9
10 Attorneys for Defendants
SEA WORLD LLC and SEAWORLD
11 PARKS & ENTERTAINMENT, INC.

12 49471117.2

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Theresa Bendorf, individually, and on behalf of other members of the public similarly situated

(b) County of Residence of First Listed Plaintiff San Diego (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Jonathan M. Genish; Jill J. Parker, Blackstone Law, APC, 8383 Wilshire Blvd, Ste 745, Beverly Hills, CA 90211; 310-622-4278

DEFENDANTS

Sea World LLC, dba Seaworld San Diego or Aquatica San Diego; Seaworld Parks & Entertainment

County of Residence of First Listed Defendant Orange (FL) (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) Aaron H. Cole, Ogletree Deakins Nash Smoak & Stewart, PC; 400 South Hope Street, Suite 1200, Los Angeles, CA 90071: 213-239-9800

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, TORTS, PERSONAL INJURY, LABOR, IMMIGRATION, FORFEITURE/PENALTY, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. Section 1332(d), 1441 and 1453

Brief description of cause: Wage and hour class action with more than 100 putative class members and at least \$5,000,000 in controversy.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE December 9, 2021 SIGNATURE OF ATTORNEY OF RECORD s/ Aaron H. Cole

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

ELECTRONICALLY FILED
Superior Court of California
County of San Diego
08/25/2021 at 04:22:48 PM
Clerk of the Superior Court
By Marc David, Deputy Clerk

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6 Attorneys for Plaintiff THERESA BENDORF

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN DIEGO**

12
13 THERESA BENDORF, individually, and on
14 behalf of other members of the public similarly
situated;

15 Plaintiff,

16 vs.

17 SEA WORLD LLC, a Delaware limited liability
18 company doing business as SEAWORLD SAN
19 DIEGO or AQUATICA SAN DIEGO;
20 SEAWORLD PARKS & ENTERTAINMENT,
an unknown entity; and DOES 1 through 25,
inclusive;

21 Defendants.

Case No. 37-2021-00038521-CU-0E-CTL

CLASS ACTION COMPLAINT

1. Failure to Pay Vested Vacation Wages (Cal. Lab. Code § 227.3)
2. Failure to Timely Pay Wages Upon Termination (Cal. Lab. Code §§ 201, 202, and 203)
3. Failure to Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226(a))
4. Failure to Recall (San Diego Municipal Code §§ 311.0101, et seq.)
5. Unfair Competition (Cal. Bus. & Prof. Code §§ 17200, et seq.)

DEMAND FOR JURY TRIAL

1 COMES NOW, Plaintiff THERESA BENDORF (“Plaintiff”), individually, and on behalf of
2 other members of the public similarly situated, and alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This class action is brought pursuant to California Code of Civil Procedure section 382.
5 The monetary damages and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the
6 Superior Court and will be established according to proof at trial.

7 2. This Court has jurisdiction over this action pursuant to the California Constitution,
8 Article VI, section 10. The statutes under which this action is brought do not specify any other basis
9 for jurisdiction.

10 3. This Court has jurisdiction over all Defendants because, upon information and belief,
11 Defendants are citizens of California, have sufficient minimum contacts in California, or otherwise
12 intentionally avail themselves of the California market so as to render the exercise of jurisdiction over
13 them by California courts consistent with traditional notions of fair play and substantial justice.

14 4. Venue is proper in this Court because a majority of the acts, events, and violations
15 occurred in this County. Upon information and belief, Defendants maintain offices, have agents,
16 employ individuals, and/or transact business in the State of California, County of San Diego.

17 **THE PARTIES**

18 5. At all times herein mentioned, Plaintiff THERESA BENDORF was a resident of the
19 County of San Diego, State of California.

20 6. At all times herein mentioned, Defendant SEA WORLD LLC, a Delaware limited
21 liability company doing business as SEAWORLD SAN DIEGO or AQUATICA SAN DIEGO, was
22 and is an employer whose employees are engaged in the State of California, including the County of
23 San Diego.

24 7. At all times herein mentioned, Defendant SEAWORLD PARKS &
25 ENTERTAINMENT, an unknown entity, was and is an employer whose employees are engaged in
26 the State of California, including the County of San Diego.

27 8. Plaintiff is unaware of the true names or capacities of the Defendants sued herein under
28 the fictitious names DOES 1 through 25 but will seek leave of this Court to amend the complaint and

1 serve such fictitiously named Defendants once their names and capacities become known.

2 9. Plaintiff is informed and believes, and based thereon alleges, that each and all of the
3 acts and omissions alleged herein were performed by, or are attributable to Defendant SEA WORLD
4 LLC, doing business as SEA WORLD SAN DIEGO or AQUATICA SAN DIEGO, and SEAWORLD
5 PARKS & ENTERTAINMENT, and/or DOES 1 through 25 (collectively "Defendants"), each acting
6 as the agent, employee, alter ego, and/or joint venturer of, or working in concert with, each of the
7 other co-Defendants and within the course and scope of such agency, employment, joint venture, or
8 concerted activity with legal authority to act on the others' behalf. The acts of any and all Defendants
9 represent and were in accordance with Defendants' official policy.

10 10. At all relevant times, Defendants were the employer of Plaintiff and the other class
11 members within the meaning of all applicable state laws and statutes. Defendants directly or
12 indirectly controlled or affected the working conditions, wages, working hours, and conditions of
13 employment of Plaintiff and the other class members so as to make each of said Defendants'
14 employers and employers liable under the statutory provisions set forth herein.

15 11. Defendants had the authority to hire and terminate Plaintiff and the other class
16 members, to set work rules and conditions governing Plaintiff and the other class members'
17 employment, and to supervise their daily employment activities.

18 12. Defendants exercised sufficient authority over the terms and conditions of Plaintiff
19 and the other class members' employment for them to be joint employers of Plaintiff and the other
20 class members.

21 13. Defendants directly hired and paid wages and benefits to Plaintiff and the other class
22 members.

23 14. Defendants continue to employ employees within the State of California.

24 15. At all relevant times, Defendants, and each of them, ratified each and every act or
25 omission complained of herein. At all relevant times, Defendants, and each of them, aided and
26 abetted the acts and omissions of each and all the other Defendants in proximately causing the
27 damages herein alleged.

28 16. Plaintiff is informed and believes, and based thereon alleges, that each of said

1 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
2 omissions, occurrences, and transactions alleged herein.

3 **GENERAL ALLEGATIONS**

4 17. Defendants, jointly and severally, employed Plaintiff as a non-exempt, hourly-paid
5 employee in the County of San Diego. Plaintiff was hired by Defendants in or around March of 2011.
6 Plaintiff's most recent job title was Entertainment Specialist. As an Entertainment Specialist,
7 Plaintiff's job duties included, but were not limited to, creating, writing, and producing events and
8 shows at Defendants' aquatic theme park in San Diego, California.

9 18. In or around April of 2020, Defendants indefinitely laid off thousands of employees
10 with little or no notice in response to the Coronavirus ("COVID-19") pandemic. Defendants did not
11 provide a return to work date and instructed employees that they were not to perform any work during
12 their layoff.

13 19. Although Defendants did not guarantee that these employees would ever be brought
14 back to work, Defendants informed Plaintiff and the other class members that once operations
15 resumed, Defendants planned to return Plaintiff and the other class members to work. However,
16 Defendants failed to recall Plaintiff and other class members back to work. Instead, Defendants hired
17 new individuals for positions previously held by Plaintiff and other class members.

18 20. In California, when an employer lays off its employees, it must immediately pay out
19 all earned wages, including all vested vacation wages. "The public policy in favor of full and prompt
20 payment of an employee's earned wages is fundamental and well established: Delay of payment or
21 loss of wages results in deprivation of the necessities of life, suffering inability to meet just
22 obligations to others, and, in many cases may make the wage-earner a charge upon the public." *Smith*
23 *v. Superior Court*, 39 Cal.4th 77, 83 (2006). "[B]ecause of the economic position of the average
24 worker and, in particular, his dependence on wages for the necessities of life for himself and his
25 family, it is essential to the public welfare that he receive his pay when it is due." *Id.*

26 21. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or
27 should have known that, pursuant to Labor Code sections 201, 202, 203, and 227.3, Plaintiff and the
28 other class members were entitled to receive all wages upon termination of employment, including,

1 without limitation, vacation wages, paid time off wages, overtime wages, meal period premium
2 wages, and rest period premium wages, and that Plaintiff and the other class members did not receive
3 payment of all wages upon termination of employment. Although Defendants belatedly paid out
4 some of the wages owed to Plaintiff and the other class members with the regularly scheduled payroll
5 periods subsequent to their indefinite layoff, to date, Plaintiff and other class members have not been
6 paid all wages owed to them, including vested vacation and/or paid time off wages.

7 22. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
8 or should have known that, pursuant to Labor Code section 226(a), Plaintiff and the other class
9 members were entitled to receive complete and accurate wage statements in accordance with
10 California law, but, in fact, Plaintiff and the other class members did not receive complete and
11 accurate wage statements from Defendants.

12 23. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
13 or should have known that, pursuant to Emergency Ordinance No. O-21231 of the San Diego
14 Municipal Code, they were required to offer their laid-off employees in writing all job positions
15 that became available for which the laid-off employees are qualified, but failed to offer these
16 positions to Plaintiff and the other class members.

17 24. In response to the COVID-19 pandemic, the Judicial Council of California enacted
18 Emergency Rule 9 to the California Rules of Court, which provided that, notwithstanding any other
19 law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled
20 from April 6, 2020, until October 1, 2020.

21 25. California Labor Code section 218 states that nothing in Article 1 of the Labor Code
22 shall limit the right of any wage claimant to “sue directly . . . for any wages or penalty due to him
23 [or her] under this article.”

24 **CLASS ACTION ALLEGATIONS**

25 26. Plaintiff brings this lawsuit as a class action on behalf of herself and all others similarly
26 situated, as members of a proposed class pursuant to California Code of Civil Procedure section 382.
27 The class satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority
28 requirements under California Code of Civil Procedure section 382.

1 27. The proposed Class and Subclasses are defined as follows:

2 **Class:** All individuals who were employed by Defendants in the State of California at any
3 time during the period from four years prior to the filing of this complaint to final judgment
4 (the “Relevant Period”) and who fall within the definition of one or all of the following
5 Subclasses:

6 **Vacation Pay Subclass:** All members of the Class whose employment was terminated
7 (including, without limitation, temporarily laid off, laid off, or “furloughed”) and who were
8 not paid for all vested vacation time and/or paid time off (“PTO”) immediately upon cessation
9 of their employment within the Relevant Period.

10 **Waiting Time Penalty Subclass:** All members of the Class whose employment with
11 Defendants was terminated (including, without limitation, temporarily laid off, laid off, or
12 “furloughed”) and who were not timely paid all minimum wages, overtime wages, meal period
13 premiums, and rest period premiums upon termination.

14 **Wage Statement Class:** All members of the Class who were not issued complete and accurate
15 wage statements at the time of termination (including, without limitation, temporarily laid off,
16 laid off, or “furloughed”) of their employment.

17 **Failure to Recall Class:** All members of the Class who, in a particular week performed at least
18 two hours of work for Defendants in San Diego, had a length of service of three months or
19 more in the 12 months preceding March 4, 2020, and who were separated from active service
20 or failed to be scheduled for customary seasonal work on or after March 4, 2020 due to a
21 government shutdown order, lack of business, reduction in force, or other economic, non-
22 disciplinary reason and to whom Defendant failed to offer in writing all job positions for which
23 they were qualified and which became available after September 8, 2020.

24 28. Plaintiff reserves the right to establish additional subclasses as appropriate.

25 29. There is a well-defined community of interest in the litigation and the Class is easily
26 ascertainable.

27 30. The Class is so numerous that the individual joinder of all its members is impracticable.
28 While the exact number and identities of class members are unknown to Plaintiff at this time, the exact

1 numbers of class members and their identities can be ascertained through appropriate discovery from
2 records maintained by Defendants and their agents.

3 31. Common questions of fact and law exist as to all class members, which predominate
4 over any questions affecting only individual members of the Class. The common legal and factual
5 questions which do not vary from class member to class member and which may be determined
6 without reference to the individual circumstances of any class member include, but are not limited to,
7 the following:

- 8 i. Whether Defendants' failure to pay wages, without abatement or reduction, in
9 accordance with the California Labor Code, was willful;
- 10 ii. Whether Defendants failed to pay all wages due to Plaintiff and the other class
11 members within the required time upon their discharge or resignation;
- 12 iii. Whether Defendants failed to comply with wage reporting as required by the
13 California Labor Code; including, *inter alia*, section 226;
- 14 iv. Whether Defendants failed to recall Plaintiff and the other class members that it
15 terminated (including without limitation, temporarily laid off, laid off, or
16 "furloughed") due to the COVID-19 pandemic;
- 17 v. Whether Defendants' conduct was willful or reckless;
- 18 vi. Whether Defendants engaged in unfair business practices in violation of California
19 Business & Professions Code section 17200, et seq.;
- 20 vii. Whether Plaintiff and the other class members are entitled to compensatory damages
21 pursuant to the California Labor Code
- 22 viii. The appropriate amount of damages, restitution, and/or monetary penalties resulting
23 from Defendants' violation of California law;
- 24 ix. Whether Plaintiff and the other class members are entitled to punitive damages
25 pursuant to the California Civil Code; and
- 26 x. Whether Plaintiff and the other class members are entitled to injunctive relief and
27 other equitable remedies.

28 ///

1 paid vacations and an employee is terminated without having taken off his or her vested vacation
2 time, all vested vacation shall be paid to the employee as wages at his or her final rate of pay.

3 37. During the relevant time period, Plaintiff and the other class members earned vested
4 vacation wages and/or paid time off wages pursuant to Defendants' own employment policies.
5 However, Defendants failed to timely pay out all vested vacation and paid time off wages owed to
6 Plaintiff and the other class members upon termination of their employment.

7 38. Defendants are liable to Plaintiff and the other class members for all unpaid wages
8 earned during their employment with Defendants in an amount subject to proof at trial.

9 39. Pursuant to Labor Code section 218.5, Plaintiff and the other class members are
10 entitled to an award of reasonable attorneys' fees and costs.

11 **SECOND CAUSE OF ACTION**

12 **Violation of California Labor Code §§ 201, 202, and 203**

13 **(Against SEA WORLD LLC, doing business as SEAWORLD SAN DIEGO or AQUATICA**
14 **SAN DIEGO; SEAWORLD PARKS & ENTERTAINMENT; and DOES 1-25)**

15 40. Plaintiff incorporates herein by specific reference, as though fully set forth, the
16 allegations in all preceding paragraphs.

17 41. Pursuant to California Labor Code sections 201, 202, and 203, Defendants are required
18 to pay all earned and unpaid wages to an employee who is discharged or who quits. California Labor
19 Code section 201 mandates that if an employer discharges an employee, the employee's wages accrued
20 and unpaid at the time of discharge are due and payable immediately. California Labor Code section
21 202 mandates that if an employee quits, his or her wages shall become due and payable not later than
22 seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours notice of
23 his or her intention to quit, in which case the employee is entitled to his or her wages at the time of
24 quitting.

25 42. California Labor Code section 203 provides that if an employer willfully fails to pay,
26 in accordance with California Labor Code sections 201 and 202, any wages of an employee who is
27 discharged or who quits, the wages of the employee shall continue as a penalty from the due date
28 thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not

1 continue for more than thirty (30) days.

2 43. Defendants knowingly and willfully failed to issue Plaintiff and the other class
3 members their final pay within the time limits prescribed by Labor Code sections 201 and 202. At
4 the time that Plaintiff and the other class members were indefinitely laid off, Defendants knowingly
5 and willfully failed to pay Plaintiff and the other class members all wages owed to them pursuant to
6 California Labor Code sections 201 and 202, including, without limitation, vested vacation and/or
7 paid time off wages, minimum wages, overtime wages, meal period premium wages, and rest period
8 premium wages.

9 44. As set forth above, at all relevant times California Labor Code section 227.3 has
10 provided that, unless otherwise provided by a collective-bargaining agreement, whenever an
11 employer policy provides for paid vacations and an employee is terminated without having taken off
12 his or her vested vacation time, all vested vacation shall be paid to the employee as wages at his or
13 her final rate of pay. However, Defendants failed to timely pay out all vested vacation and/or paid
14 time off wages owed to Plaintiff and the other class members upon termination of their employment.

15 45. At all relevant times, California Labor Code sections 1194, 1197 and 1197.1 provide
16 that the minimum wage for employees fixed by the Industrial Welfare Commission is the minimum
17 wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful.
18 However, Defendants failed to timely pay out all minimum wages owed to Plaintiff and the other
19 class members upon termination of their employment.

20 46. California Labor Code section 1198 and the applicable Industrial Welfare
21 Commission (“IWC”) Wage Order provide that it is unlawful to employ non-exempt persons without
22 compensating them at a rate of pay either time-and-one-half or two-times that person’s regular rate
23 of pay, depending on the number of hours worked by the person on a daily or weekly basis.

24 47. Specifically, the applicable IWC Wage Order provides that Defendants are and were
25 required to pay Plaintiff and the non-exempt class members employed by Defendants, and working
26 more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time-
27 and-one-half for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours
28 in a workweek.

1 48. The applicable IWC Wage Order further provides that Defendants are and were
2 required to pay Plaintiff and the non-exempt class members employed by Defendants, and working
3 more than twelve (12) hours in a day, overtime compensation at a rate of two (2) times their regular
4 rate of pay.

5 49. California Labor Code section 510 codifies the right to overtime compensation at one-
6 and-one half times the regular hourly rate for hours worked in excess of eight (8) hours in a day or
7 forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and to
8 overtime compensation at twice the regular hourly rate for hours worked in excess of twelve (12)
9 hours in a day or in excess of eight (8) hours in a day on the seventh day of work.

10 50. Defendants failed to timely pay out all overtime wages owed to Plaintiff and the other
11 non-exempt class members upon termination of their employment.

12 51. At all relevant times herein set forth, the applicable IWC Wage Order(s) and California
13 Labor Code sections 226.7 and 512(a) were applicable to Plaintiff and the other non-exempt class
14 members' employment by Defendants and each of them.

15 52. At all relevant times herein set forth, California Labor Code section 226.7 has
16 provided that no employer shall require a non-exempt employee to work during any meal period
17 mandated by an applicable IWC Order.

18 53. At all relevant times herein set forth, California Labor Code section 512(a) has
19 provided that an employer may not require, cause, or permit a non-exempt employee to work for a
20 period of more than five (5) hours per day without providing the employee with a meal period of not
21 less than thirty (30) minutes, except that if the total work period per day of the employee is not more
22 than six (6) hours, the meal period may be waived by mutual consent of both the employer and the
23 employee.

24 54. At all relevant times, the applicable IWC Wage Order and California Labor Code
25 section 512(a) have further provided that an employer may not require, cause or permit a non-exempt
26 employee to work for a work period of more than ten (10) hours per day without providing the
27 employee with a second uninterrupted meal period of not less than thirty (30) minutes, except that if
28 the total hours worked is no more than twelve (12) hours, the second meal period may be waived by

1 mutual consent of the employer and the employee only if the first meal period was not waived.

2 55. During the relevant time period, Plaintiff and other non-exempt class members
3 scheduled to work for a period of time no longer than six (6) hours, and who did not waive their
4 legally mandated meal periods by mutual consent, were required to work for periods longer than five
5 (5) hours without a meal period of not less than thirty (30) minutes.

6 56. During the relevant time period, Plaintiff and the other non-exempt class members,
7 who were scheduled to work for a period of time in excess of six (6) hours, were required to work for
8 periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30)
9 minutes.

10 57. During the relevant time period, Plaintiff and the other non-exempt class members,
11 who were scheduled to work for a period of time in excess of ten (10) hours but no longer than twelve
12 (12) hours, and who did not waive their legally-mandated meal periods by mutual consent, were
13 required to work in excess of ten (10) hours without receiving a second uninterrupted meal period of
14 not less than thirty (30) minutes.

15 58. During the relevant time period, Plaintiff and the other non-exempt class members,
16 who were scheduled to work for a period of time in excess of twelve (12) hours, were required to
17 work for periods longer than ten (10) hours without a second uninterrupted meal period of not less
18 than thirty (30) minutes.

19 59. At all relevant times, the applicable IWC Wage Order and California Labor Code
20 section 226.7 have required an employer that fails to provide a non-exempt employee with a meal
21 period in accordance with state law to pay the employee one additional hour of pay at the employee's
22 regular rate of compensation, which includes all non-discretionary payments for work performed by
23 the employee, for each workday that the meal period is not provided.

24 60. Defendants failed to timely pay out the full meal period premium wages owed to
25 Plaintiff and the other non-exempt class members upon termination of their employment.

26 61. At all relevant times, California Labor Code section 226.7 has provided that no
27 employer shall require a non-exempt employee to work during any rest period mandated by an
28 applicable order of the California IWC.

1 writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of
2 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4)
3 all deductions, provided that all deductions made on written orders of the employee may be aggregated
4 and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the
5 employee is paid, (7) the name of the employee and his or her social security number, (8) the name
6 and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during
7 the pay period and the corresponding number of hours worked at each hourly rate by the employee.
8 The deductions made from payments of wages shall be recorded in ink or other indelible form,
9 properly dated, showing the month, day, and year, and a copy of the statement or a record of the
10 deductions shall be kept on file by the employer for at least three years at the place of employment or
11 at a central location within the State of California. Once a vacation benefit is required to be paid, it
12 must be included in a wage statement pursuant to Labor Code section 226(a). *Soto v. Motel 6*
13 *Operating, L.P.*, 4 Cal. App. 5th 385, 393 (2016).

14 69. Defendants have intentionally and willfully failed to provide employees with complete
15 and accurate wage statements. Defendants failed to provide wage statements to Plaintiff and the other
16 class members on the date that they were terminated (including, without limitation, temporarily laid
17 off, laid off, or “furloughed”) stating the vested vacation and/or paid time off wages owed to them.

18 70. As a result of Defendants’ violation of California Labor Code section 226(a), Plaintiff
19 and the class members have suffered injury and damage to their statutorily protected rights.

20 71. Specifically, Plaintiff and the class members have been injured by Defendants’
21 intentional violation of California Labor Code section 226(a) because they were denied both their
22 legal right to receive, and their protected interest in receiving, accurate, itemized wage statements
23 under California Labor Code section 226(a). Plaintiff and the other class members have been
24 prevented by Defendants from determining if all wages earned were paid and the extent of the
25 underpayment. Plaintiff has had to file this lawsuit, and will further have to conduct discovery,
26 reconstruct time records, and perform computations in order to analyze whether in fact Plaintiff was
27 paid correctly and the extent of the underpayment, thereby causing Plaintiff to incur expenses and
28 lost time.

1 72. Plaintiff and the other class members are entitled to recover from Defendants the
2 greater of their actual damages caused by Defendants' failure to comply with California Labor Code
3 section 226(a), or an aggregate penalty not exceeding four thousand dollars.

4 **FOURTH CAUSE OF ACTION**

5 **Violation of San Diego Municipal Code §§ 311.0101 et seq.**

6 **(Against SEA WORLD LLC, doing business as SEAWORLD SAN DIEGO or AQUATICA**
7 **SAN DIEGO; SEAWORLD PARKS & ENTERTAINMENT; and DOES 1-25)**

8 73. Plaintiff incorporates herein by specific reference, as though fully set forth, the
9 allegations in all preceding paragraphs.

10 74. On September 8, 2020, the Council of the City of San Diego enacted Ordinance O-
11 21231, an emergency ordinance amending Chapter 3 of the San Diego Municipal Code by adding new
12 Article 11, Division 1, Sections 311.0101 through 311.0109 and Article 11, Division 2, Sections
13 311.0201 through 311.0209.

14 75. Pursuant to Municipal Code section 311.0104, an employer must offer its laid-off
15 employees in writing, by mailing to their last known physical address, and by email and text message
16 to the extent the employer possesses such information, all job positions which become available after
17 this Division's effective date for which the laid-off employees are qualified.

18 76. Defendants are employers within the meaning of section 311.0103.

19 77. During the relevant time period, Defendants have violated San Diego Municipal Code
20 sections 311.0101 et seq. by failing to offer available positions to Plaintiff and the other class members
21 for which they were qualified. Rather than offer open positions to Plaintiff and the other class
22 members when they became available, Defendants publicly hosted job fairs and advertised positions
23 to the general public.

24 78. Pursuant to San Diego Municipal Code section 311.0106, Plaintiffs and the other class
25 members are entitled to hiring and reinstatement; actual damages suffered by each employee, or for
26 statutory damages in the sum of \$1,000, whichever is greater; punitive damages pursuant to California
27 Civil Code Section 3294; and reasonable attorney's fees and costs.

28 **FIFTH CAUSE OF ACTION**

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**Violation of California Business & Professions Code §§ 17200 et seq.
(Against SEA WORLD LLC, doing business as SEAWORLD SAN DIEGO or AQUATICA
SAN DIEGO; SEAWORLD PARKS & ENTERTAINMENT; and DOES 1-25)**

79. Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in all preceding paragraphs.

80. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff, to the other class members, to the general public, and to Defendants' competitors. Accordingly, Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

81. Defendants' activities as alleged herein are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code section 17200, et seq.

82. A violation of California Business & Professions Code section 17200, et seq. may be predicated on the violation of any state or federal law. In the instant case, Defendants' failure to timely pay wages to Plaintiff and the other class members violates California Labor Code sections 201, 202, 203, and 227.3. Defendants also violated California Labor Code section 226(a).

83. As a result of the herein described violations of California law, Defendants unlawfully gained an unfair advantage over other businesses.

84. Plaintiff and the other class members have been personally injured by Defendants' unlawful business acts and practices as alleged herein, including but not necessarily limited to the loss of money and/or property.

85. Pursuant to California Business & Professions Code sections 17200, et seq., Plaintiff and the other class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years from the filing of this complaint; an award of attorneys' fees pursuant to California Code of Civil procedure section 1021.5 and other applicable laws; an award of costs; and injunctive relief to ensure that Defendants cease and desist from engaging in the practices described herein.

PRAYER FOR RELIEF

1 Plaintiff and the other class members pray for relief and judgment against Defendants, jointly
2 and severally, as follows:

3 **Class Certification**

- 4 1. That this action be certified as a class action;
- 5 2. That Plaintiff be appointed as representative of the class;
- 6 3. That counsel for Plaintiff be appointed as class counsel; and
- 7 4. That Defendants provide to Class Counsel immediately the names and most current/last
8 known contact information (address, e-mail and telephone numbers) of all class members.

9 **For the First Through Fifth Causes of Action**

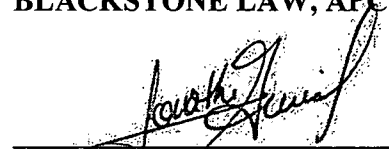
- 10 5. For all actual, consequential, and incidental losses and damages, according to proof;
- 11 6. For general unpaid wages and such general and special damages as may be appropriate;
- 12 7. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiff
13 and the other class members;
- 14 8. For statutory penalties pursuant to California Labor Code section 226(e);
- 15 9. For pre-judgment interest on any unpaid compensation from the date such amounts
16 were due;
- 17 10. For punitive damages;
- 18 11. For reasonable attorneys' fees and costs;
- 19 12. For injunctive relief; and
- 20 13. For such other and further relief as the Court may deem proper.

21 Respectfully Submitted,

22 Dated: August 25, 2021

BLACKSTONE LAW, APC

23
24 By:



 Jonathan M. Genish
 Attorneys for Plaintiff THERESA BENDORF

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DEMAND FOR JURY TRIAL

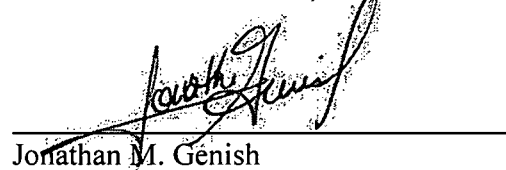
Plaintiff, on behalf of herself and all others similarly situated, hereby demands a jury trial with respect to all issues triable of right by jury.

Dated: August 25, 2021

Respectfully Submitted,

BLACKSTONE LAW, APC

By:



Jonathan M. Genish
Attorneys for Plaintiff THERESA BENDORF

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Jonathan M. Genish (SBN 259031); Jill J. Parker (SBN 274230) BLACKSTONE LAW, APC, 8383 Wilshire Boulevard, Suite 745, Beverly Hills, California 90211 TELEPHONE NO.: (310) 622-4278 FAX NO. (Optional): (855) 786-6356 ATTORNEY FOR (Name): Plaintiff THERESA BENDORF	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California County of San Diego 08/25/2021 at 04:22:48 PM Clerk of the Superior Court By: Marc David, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 W. Broadway MAILING ADDRESS: 330 W. Broadway CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Hall of Justice	
CASE NAME: THERESA BENDORF v. SEA WORLD LLC et al.	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
	CASE NUMBER: 37-2021-00036521-CU-0E-CTL JUDGE: Judge Joel R. Wohlfeil 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 type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <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 checked="" 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 checked="" 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: August 25, 2021
 Jill J. Parker _____
 (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.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

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 (16)
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

SUM-100

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

08/25/2021 at 04:22:48 PM

Clerk of the Superior Court
By Marc David, Deputy Clerk

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

SEA WORLD LLC, a Delaware limited liability company doing business as SEAWORLD SAN DIEGO or AQUATICA SAN DIEGO (see summons attachment)

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

THERESA BENDORF, individually, and on behalf of other members of the public similarly situated

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): San Diego Superior Court
Hall of Justice, 330 W. Broadway, San Diego, CA 92101

CASE NUMBER: (Número del Caso):
37-2021-00036521-CU-0E-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Jonathan M. Genish, 8383 Wilshire Boulevard, Suite 745, Beverly Hills, California 90211; (310) 622-4278

DATE: 08/26/2021
(Fecha)

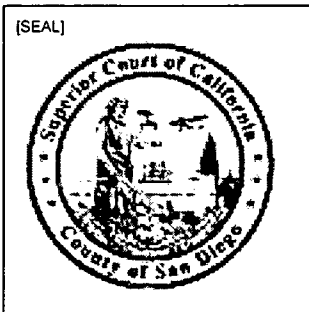
Clerk, by
(Secretario)

M. David
M. David

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS 010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify): *Seaworld LLC a Delaware limited liability company*
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify): *LLC*
- by personal delivery on (date):

Page 1 of 1

SUM-200(A)

SHORT TITLE: THERESA BENDORF v. SEA WORLD LLC et al.	CASE NUMBER:
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INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

Plaintiff
 Defendant
 Cross-Complainant
 Cross-Defendant

SEAWORLD PARKS & ENTERTAINMENT, an unknown entity; and DOES 1 through 25, inclusive

ADDITIONAL PARTIES ATTACHMENT
 Attachment to Summons

For your protection and privacy, please press the Clear This Form button after you have printed the form.

Print this form

Save this form

Clear this form

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [SeaWorld San Diego Owes Unpaid Wages to Workers Laid Off During Pandemic, Lawsuit Alleges](#)
