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Attorneys for Defendant
OMNI HOTELS MANAGEMENT CORPORATION
and erroneously named Defendant OMNI HOTELS
AND RESORTS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

NANTILLE CHARBONNET, on
behalf of herself and all similarly
situated individuals,

Plaintiff,

v.

OMNI HOTELS AND RESORTS,
OMNI HOTELS MANAGEMENT
CORPORATION and DOES 1 to 10,

Defendants.

Case No. '20CV1777 CAB DEB

(San Diego County Superior Court Case
No. 37-2020-00026981-CU-BT-CLT)

**NOTICE OF REMOVAL TO
UNITED STATES DISTRICT
COURT**

TO THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF CALIFORNIA, AND TO PLAINTIFFS AND THEIR ATTORNEY
OF RECORD:

PLEASE TAKE NOTICE THAT Defendant OMNI HOTELS
MANAGEMENT CORPORATION ("OMNI") and erroneously named Defendant
OMNI HOTELS AND RESORTS¹ hereby remove to this Court the state-court
action described below, and in support thereof state as follows:

Pursuant to 28 U.S.C. Sections 1332, 1441, and 1446, Omni removes the

¹ Omni Hotels and Resorts is not a distinct legal entity from Omni Hotels Management Corporation and has been erroneously named as a party to this lawsuit.

1 above-referenced action from the Superior Court of the State of California, for the
 2 County of San Diego, Case No. 37-2020-00026981-CU-BT-CTL, to the United
 3 States District Court, for the Southern District of California. Federal jurisdiction of
 4 this action is proper on the basis of diversity jurisdiction. Removal is based on the
 5 following grounds:

6 **Timeliness of Removal**

7 1. On July 31, 2020, Plaintiff NANTILLE CHARBONNET (“Plaintiff”),
 8 on behalf of herself and all similarly situated individuals, filed a Complaint in the
 9 County of San Diego, Superior Court of the State of California, styled *Nantille*
 10 *Charbonnet, on behalf of herself and all similarly situated individuals v. Omni*
 11 *Hotels and Resorts, Omni Hotels Management Corporation, and Does 1 to 10*,
 12 which was assigned Case Number 37-2020-00026981-CU-BT-CJC (“State
 13 Action”). A true and correct copy of the Complaint is attached hereto as Exhibit A.

14 2. Omni Hotels and Resorts, which is not a distinct legal entity, was
 15 served with a copy of the Summons and First Amended Complaint on August 11,
 16 2020. Omni Hotels Management Corporation was served with a copy of the
 17 Summons and First Amended Complaint on September 4, 2020. True and correct
 18 copies of the Proofs of Service filed in the State Action are attached hereto as
 19 Exhibit B.

20 3. Because fewer than thirty (30) days have passed since Omni received
 21 notice of or was served with Plaintiff's Complaint, this notice is timely under 28
 22 U.S.C. § 1446(b).

23 **Parties**

24 4. Plaintiff is an individual residing in Los Angeles County, California.
 25 (Ex. A, ¶ 1). For the purpose of diversity of citizenship, an individual is domiciled
 26 where she is a resident. *See Kantor v. Wellesley Galleries, Ltd.*, 704 F.2d 1088,
 27 1090 (9th Cir. 1983). Accordingly, Plaintiff is a resident of California for the
 28 purpose of diversity.

1 5. Omni Hotels Management Corporation is a Delaware Corporation with
2 its principal place of business in Texas. Omni Hotels and Resorts is an
3 erroneously-named defendant and is not a distinct legal entity. Pursuant to 28
4 U.S.C. § 1332(c)(1), “a corporation shall be deemed to be a citizen of every State
5 and foreign state by which it has been incorporated and of the State or foreign state
6 where it has its principal place of business.” Thus, Omni is a citizen of Delaware
7 and Texas for the purpose of diversity.

8 6. The citizenship of the fictitious defendants listed in paragraph four of
9 the Complaint, Does 1 through 10, does not affect removal. Indeed, “[t]he
10 citizenship of fictitious defendants is disregarded for removal purposes and
11 becomes relevant only if and when the plaintiff seeks leave to substitute a named
12 defendant.” *Soliman v. Philip Morris Inc.*, 311 F.3d 966, 971 (9th Cir. 2002) (citing
13 28 U.S.C. § 1441(b)).

14 7. The citizenship of unnamed putative class members is also disregarded
15 for the purposes of diversity. *Holt v. Noble House Hotels & Resort, Ltd.*, No.
16 17CV2246-MMA (BLM), 2018 WL 539176, at *3 (S.D. Cal. Jan. 23, 2018).

17 8. Because Plaintiff is a citizen of California, and because Omni is a
18 citizen of Delaware and Texas, complete diversity of citizenship exists for purposes
19 of 28 U.S.C. § 1332(a).

20 9. When, as here, the plaintiff fails to specify in her complaint the total
21 amount of the monetary relief sought, the defendant is required to provide only a
22 plausible basis that the amount in controversy exceeds the jurisdictional limit set
23 forth in 28 U.S.C. § 1332. *Park v. Jaguar Land Rover N. Am., LLC*, No. 20-CV-
24 00242-BAS-MSB, 2020 WL 3567275, at *2 (S.D. Cal. July 1, 2020). Importantly,
25 “[t]he amount in controversy is simply an estimate of the total amount in dispute,
26 not a prospective assessment of defendant's liability.” *Lewis v. Verizon Commc'ns,*
27 *Inc.*, 627 F.3d 395, 400 (9th Cir. 2010). In other words, “the amount in controversy
28

1 reflects *the maximum recovery the plaintiff could reasonably recover.*” *Arias v.*
2 *Residence Inn by Marriott*, 936 F.3d 920, 927 (9th Cir. 2019) (emphasis added).

3 10. Further, “a court *must* include future attorneys’ fees recoverable by
4 statute or contract when assessing whether the amount-in-controversy requirement
5 is met.” *Fritsch v. Swift Transportation Co. of Arizona, LLC*, 899 F.3d 785, 794
6 (9th Cir. 2018) (emphasis added). While a court may not attribute all of the
7 attorneys’ fees incurred in a putative class action to the named-plaintiff, the court
8 must nevertheless include all attorneys’ fees incurred prospectively to determine if
9 the amount in controversy is satisfied, and apportion a pro-rata share of those fees
10 to prosecuting the named-plaintiff’s claims. *See, e.g., Goldberg v. CPC Int’l, Inc.*,
11 678 F.2d 1365, 1366–67 (9th Cir. 1982).

12 11. Here, it is almost certain that, if Plaintiff prevails on her three claims
13 and recovers the relief she seeks, including restitution, actual damages, an award for
14 serving as a class representative, and attorneys’ fees, her recovery is going to
15 exceed the \$75,000 jurisdictional threshold. Significantly, if successful, Plaintiff
16 would be entitled to her attorneys’ fees under Cal. Civ. Code § 1780(e) and Code of
17 Civ. P. 1021.5. As an estimate of the amount of Plaintiff’s attorneys’ fees, in a
18 recently-settled class action for wage and hour violations that did not go to trial or
19 even reach the summary-judgment phase, counsel for Plaintiff, in seeking
20 attorneys’ fees, declared that he spent over 200 hours working on the matter and
21 that his hourly rate was \$894 pursuant to the Laffey Matrix. *See Emma Hart V.*
22 *Marriott International, Inc. et al.*, 8:17-cv-2021-JVS-KES (C.D. Cal. June 17,
23 2019) (Dkt. No.’s 44 and 45). It is reasonable to infer that Plaintiff’s counsel here
24 will, in all likelihood, charge a similar fee. However, because that matter settled
25 relatively early, it is likely that Plaintiff’s counsel will expend more than 200 hours
26 working on this matter. Conservatively, that means that the total attorneys’ fees in
27 this matter will exceed \$200,000. Further, in *Hart*, the individually-named plaintiff
28 sought an award of \$7,500 to serve as the class representative. *Id.* (Dkt. No. 44).

1 Here, again, it is reasonable to infer that Plaintiff will seek a comparable award if
2 she is named class representative. Viewed in their totality, Plaintiff's restitution,
3 actual damages, award for serving as class representative, and share of attorneys'
4 fees likely will exceed \$75,000.

5 12. Although Omni denies that it engages in the "drip pricing" scheme
6 alleged by Plaintiff and avers that it will prevail on the merits, it is at the very least
7 plausible that Plaintiff will recover more than \$75,000. Indeed, Plaintiff's actual
8 damages, restitution, and class award alone may exceed \$75,000. Moreover, when
9 considered in light of Plaintiff's counsel's recent declaration that his rate is nearly
10 \$900 and that he spent over 200 hours working on a class action that did not make
11 it to the dispositive motion phase or to trial, it is plausible that fees in this matter
12 will exceed those fees by a wide margin. Plaintiff's share of those fees will not be
13 insignificant.

14 13. For these reasons, removal of the State Action to this Court under 28
15 U.S.C. §§ 1332, 1441, and 1446 is proper.

16 **Additional Pleadings and Hearings**

17 14. True and correct copies of the Summons, Civil Action Cover Sheet,
18 Notice of Case Assignment and Case Management Conference on Mandatory eFile
19 Cases, and Notice of Confirmation of Electronic Filing are attached as Exhibit C.

20 15. Judge Timothy Taylor has set a Case Management Conference for
21 April 2, 2021 at 9:30 a.m. in Department C-72. *See* Ex. C. No other hearings or
22 proceedings have been scheduled and no further orders have been entered by the
23 State Court.

24 **Proper Court**

25 16. Removal to this Court is proper under 28 U.S.C. Section 1441(a)
26 because the Superior Court of California, in and for the County of San Diego, is
27 geographically located within this Court's district and division.
28

Notice

17. Omni is serving a copy of this Notice of Removal on all adverse parties (*i.e.* Plaintiff via its counsel) and is filing a copy with the clerk of the state court pursuant to 28 U.S.C. Section 1446(d). A true and correct copy of the Notice to Plaintiff of Removal (without exhibits) is attached to this Notice as Exhibit D.

Signature

18. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure. See 28 U.S.C. Section 1446(a).

19. By removing on the basis of diversity jurisdiction, Omni does not concede or make any admissions relating to the merit and/or value of Plaintiff's allegations, claims or damages, or that they have a valid cause of action. Omni denies many of the material allegations contained in the Complaint.

WHEREFORE, Omni respectfully removes the State Action from the state court in which it was filed to the United States District Court, in and for the Southern District of California, and further request that this Honorable Court issue all necessary orders and process and grant such other and further relief as in law and justice that Omni may be entitled to receive.

Dated: September 10, 2020

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

By: /s/ Jonathan C. Sandler

Jonathan C. Sandler
Attorneys for Defendant
OMNI HOTELS MANAGEMENT
CORPORATION and erroneously
named Defendant OMNI HOTELS
AND RESORTS

PROOF OF SERVICE

I, Patricia Cormier Herron, declare:

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is Brownstein Hyatt Farber Schreck, LLP, 2049 Century Park East, Suite 3550, Los Angeles, California 90067. On September 10, 2020, I served a copy of the within document(s):

**NOTICE OF REMOVAL TO UNITED STATES
DISTRICT COURT**

- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, the United States mail at Los Angeles, California addressed as set forth below.
- ☐ by placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal Express agent for delivery.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ based on a court order or an agreement by the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification listed below.

Adam Rose
FRONTIER LAW CENTER
23901 Calabasas Rd., #2074
Calabasas, CA 91302
Phone: 818.914.3433
Fax: 818.914.3433
Email: adam@frontierlawcenter.com

Attorneys for Plaintiffs
NANTILLE CHARBONNET, on behalf
of herself and all similarly situated
individuals

I am readily familiar with the firm's practice of collection and processing

1 correspondence for mailing. Under that practice it would be deposited with the
2 U.S. Postal Service on that same day with postage thereon fully prepaid in the
3 ordinary course of business. I am aware that on motion of the party served, service
4 is presumed invalid if postal cancellation date or postage meter date is more than
5 one day after date of deposit for mailing in affidavit.

6 I declare under penalty of perjury under the laws of the State of California
7 that the above is true and correct.

8 Executed on September 10 2020, at Los Angeles, California.

9
10 

11 Patricia Cormier Herron
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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

NANTILLE CHARBONNET, on behalf of herself and all similarly situated individuals

(b) County of Residence of First Listed Plaintiff Los Angeles

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Adam Rose (SBN 210880)
23901 Calabasas Rd., #2074
Calabasas, CA 91302

'20CV1777 CAB DEB

DEFENDANTS

OMNI HOTELS AND RESORTS, OMNI HOTELS
MANAGEMENT CORPORATION, and DOES 1 TO 10

County of Residence of First Listed Defendant Delaware

(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

Jonathan C. Sandler (SBN 227532)
2049 Century Park East, Suite 3550
Los Angeles, CA 90067

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

☐ 1 U.S. Government Plaintiff

☐ 3 Federal Question
(U.S. Government Not a Party)

☐ 2 U.S. Government Defendant

☒ 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)

(For Diversity Cases Only)

Citizen of This State ☒ 1 ☐ 1

Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4

Citizen of Another State ☐ 2 ☐ 2

Incorporated and Principal Place of Business In Another State ☐ 5 ☒ 5

Citizen or Subject of a Foreign Country ☐ 3 ☐ 3

Foreign Nation ☐ 6 ☐ 6

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

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities-Employment <input type="checkbox"/> 446 Amer. w/Disabilities-Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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

☐ 6 Multidistrict Litigation-Transfer

☐ 8 Multidistrict Litigation - Direct File

(specify)

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. Sections 1441

Brief description of cause:

Violations of the Consumer Legal Remedies Act, Unfair Competition law and false advertising law

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
0.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE September 10, 2020

SIGNATURE OF ATTORNEY OF RECORD /s/ Jonathan C. Sandler

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG JUDGE
American LegalNet, Inc.
www.FormsWorkFlow.com



INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

EXHIBIT A

1 Adam Rose (210880)
adam@frontierlawcenter.com
2 FRONTIER LAW CENTER
23901 Calabasas Rd., #2074
3 Calabasas, California 91302
Telephone: (818) 914-3433
4 Facsimile: (818) 914-3433

5 Attorney for Plaintiff
Nantille Charbonnet
6
7

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
07/31/2020 at 01:37:29 PM
Clerk of the Superior Court
By Taylor Crandall, Deputy Clerk

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SAN DIEGO
10

11 NANTILLE CHARBONNET, on behalf of
herself and all similarly situated individuals,

12 Plaintiff,
13

14 v.

15 OMNI HOTELS AND RESORTS, OMNI
HOTELS MANAGEMENT CORPORATION,
and DOES 1 to 10,
16

17 Defendants.
18
19
20

Case No. 37-2020-00026981-CU-BT-CTL
CLASS ACTION
COMPLAINT
1. VIOLATION OF CONSUMER LEGAL
REMEDIES ACT
2. VIOLATION OF UNFAIR
COMPETITION LAW
3. VIOLATION OF FALSE ADVERTISING
LAW

21 PRELIMINARY ALLEGATIONS

- 22 1. Plaintiff Nantille Charbonnet is a resident of Los Angeles County.
23 2. Defendant Omni Hotels and Resorts is a business entity form unknown that transacts
24 business in California.
25 3. Defendant Omni Hotels Management Corporation is a Delaware corporation that is
26 authorized to transact business in California.
27 4. Plaintiff does not know the true names and capacities of Does 1 to 10 and uses fictitious
28 names. Plaintiff will amend the complaint to insert their true names and capacities pursuant to Code

1 of Civil Procedure section 474 when known.

2 5. Venue is proper in San Diego since the hotel Plaintiff stayed at that led to this action was
3 the Omni San Diego.

4 6. This case relates to an unlawful trade practice called drip pricing.

5 7. The FTC defines drop pricing as a technique where companies advertise only part of a
6 product's or service's price but then reveal other charges later as the consumer goes through the
7 buying process.

8 8. The additional charges can be mandatory charges or fees; here the additional charge was a
9 resort fee / destination charge that was added to the hotel bills after the nightly price was already
10 advertised.

11 9. Thus, drip pricing is where the seller (Omni) first appears to describe the full price of a
12 defined or expected rate, leaving the consumer to discover later the nature of the resort fee /
13 destination charge.

14 10. Omni charges consumers undisclosed resort fees in addition to the posted rates. Consumers
15 see a lower advertised base rate for their rooms but end up paying a higher price and are compelled
16 to pay a higher rate that was not disclosed at the outset.

17 11. By waiting for hotel guests to check in and/or reserve before levying the resort fees, Omni
18 constrains consumer options and consumers are prevented from obtaining the offer they expected at
19 the advertised price.

20 12. Regarding Plaintiff, she stayed at Omni San Diego from Sept. 1, 2019 to Sept. 4, 2019.
21 When Plaintiff checked out of the hotel, she saw that a resort fee was appended to the bill.

22 13. In November 2012, the FTC warned the hotel industry that the advertised price for hotel
23 rooms should include the resort fees and should be provided to consumers at the outset and not
24 during the checkout process.

25 14. Omni operates hotels in the following cities in California: San Diego, Los Angeles, Rancho
26 Mirage, Carlsbad, and San Francisco.

27 15. A CLRA letter was sent to Omni on June 8, 2020 that explained the above violations, but
28 Omni has not responded to the CLRA letter.

CLASS ACTION ALLEGATIONS

16. The class is defined as the following: “All consumers who paid for rooms at an Omni hotel in California from four years before filing the case until preliminary approval or judgment, whichever is earlier.”

17. There is a well-defined community of interest in the litigation and the proposed class is ascertainable from Defendants’ records.

a. Numerosity: The potential members of the class are so numerous that joinder of all class members is impracticable. While the precise number of class members has not been determined at this time, Plaintiff is informed and believes that the number of class members is in the thousands.

b. Commonality: This action involves common questions of law and fact to the class because the action focuses on the propriety of not disclosing the resort fee / destination charge in the advertised rate.

c. Typicality: Plaintiff’s claims are typical of the claims of the class. Plaintiff was subjected to the same violations and seeks the same types of damages, restitution, and other relief on the same theories and legal grounds as those of the members of the class she seeks to represent.

d. Adequacy of Representation: Plaintiff will fairly and adequately represent and protect the interests of all members of the class. Plaintiff understands the obligations as class representative and is willing and able to fulfill them faithfully. Class Representative’s counsel are competent and experienced in litigating class actions and other complex litigation matters.

e. Superiority of Class Action: Class certification is appropriate because a class action is superior to other available means for the fair and efficient adjudication of this controversy. Each class member has been damaged and is entitled to recovery. Class action treatment will allow similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system.

18. There are common questions of law and fact as to the class that predominate over questions affecting only individuals, including but not limited to whether the undisclosed resort fee / destination charges violate the Consumer Legal Remedies Act, the Unfair Competition Law, and the False Advertising Law.

FIRST CAUSE OF ACTION

VIOLATION OF CONSUMER LEGAL REMEDIES ACT

Against All Defendants

19. Plaintiff incorporates by reference paragraphs 1 to 18 of the complaint.

20. The resort fee / destination charge imposed by Omni on the class members violates the following provisions of the CLRA:

a. (5) Representing that goods or services have sponsorship, approval, characteristics, ingredients, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he or she does not have.

b. (7) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.

c. (9) Advertising goods or services with intent not to sell them as advertised.

21. Pursuant to Civil Code section 1781, Plaintiff may maintain this case as a class action.

22. Pursuant to Civil Code sections 1780 and 1782, Plaintiff and the class are entitled to actual damages, restitution, injunctive relief, and attorney fees.

SECOND CAUSE OF ACTION

VIOLATION OF UNFAIR COMPETITION LAW

Against All Defendants

23. Plaintiff incorporates by reference paragraphs 1 to 18 of the complaint.

24. Defendants violated the fraudulent prong of the Unfair Competition Law since members of the public are likely to be deceived by drip pricing. (See *Committee on Children's Television v. General Foods Corp.* (1983) 35 Cal.3d 197, 211.)

25. Deception is measured by a reasonable person standard. (*Clemens v. DaimlerChrysler Corp.* (9th Cir. 2008) 534 F.3d 1017, 1025.) Plaintiff and the class members were deceived by Omni's drip pricing as suggested by the FTC.

26. Plaintiff and the class are entitled to restitution and injunctive relief under Business and Professions Code section 17203, and attorney fees under Code of Civil Procedure section 1021.5.

THIRD CAUSE OF ACTION

VIOLATION OF FALSE ADVERTISING LAW

Against All Defendants

27. Plaintiff incorporates by reference paragraphs 1 to 18 of the complaint.

28. Business and Professions Code section 17500 prevents false advertising.

29. Defendants intended to perform services, namely their hotels, and publicly disseminated advertising that contained untrue statements about the room rates.

30. Defendants knew the room rate statements were misleading since the advertised room rates did not disclose the resort fee / destination charge.

31. Defendants publicly disseminated the misleading room rates with the intent not to sell the room rates as advertised since the resort fee / destination charge was not disclosed.

32. Pursuant to Business and Profession Code section 17535, Plaintiff and the class are entitled to injunctive relief and attorney fees under Code of Civil Procedure section 1021.5.

PRAYER

All Causes of Action

1. Plaintiff is appointed class representative

2. Plaintiff's attorneys are appointed class counsel

3. Class certification

4. Other relief the court deems proper

First Cause of Action

1. Actual damages

2. Restitution

3. Injunctive relief

4. Class certification

5. Attorney fees

6. Other relief the court deems proper

1 Second Cause of Action

2 1. Restitution

3 2. Injunctive relief

4 3. Attorney fees

5 4. Other relief the court deems proper

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7 Third Cause of Action

8 1. Injunctive relief

9 2. Attorney fees

10 3. Other relief the court deems proper


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12 Date: July 29, 2020

FRONTIER LAW CENTER

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Adam Rose
Attorney for Plaintiff
Nantille Charbonnet

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EXHIBIT B

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number, and address) FRONTIER LAW CENTER MANNY M. STARR, ESQ. (SBN 319778) 23901 CALABASAS RD STE 2074 CALABASAS, CA 91302 TELEPHONE NO: (818) 914-3433 FAX NO (Optional): (818) 914-3433 E-MAIL ADDRESS (Optional): manny@frontierlawcenter.com ATTORNEY FOR (Name): Plaintiff	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Diego 08/18/2020 at 11:03:00 AM Clerk of the Superior Court By E- Filing, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: 300 WEST BROADWAY MAILING ADDRESS: CITY AND ZIP CODE: SAN DIEGO, 92101 BRANCH NAME: SAN DIEGO COUNTY SUPERIOR COURT	
PLAINTIFF / PETITIONER: NANTILLE CHARBONNET, ON BEHALF OF HERSELF AND ALL SIMILARLY SITUATED INDIVIDUALS DEFENDANT / RESPONDENT: OMNI HOTELS AND RESORTS	CASE NUMBER: 37-2020-00026981-CU-BT-CTL
PROOF OF SERVICE	Ref. No. or File No.: 4766484 (2710)

1. At the time of service I was 18 years of age and not a party to this action.
2. I served copies of the:
VENUE DECLARATION; CLASS ACTION COMPLAINT; CIVIL CASE COVER SHEET; NOTICE OF CASE ASSIGNMENT; NOTICE OF CONFIRMATION OF ELECTRONIC FILING; ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION
3. Party served: OMNI HOTELS AND RESORTS
4. Address where the party was served:
**2710 GATEWAY OAKS DR SUITE 150N
 SACRAMENTO, CA 95833**
- 5.b.I served the party on: **DATE: Aug 11, 2020 TIME: 9:03 am**

I served the party by **personal service**. I left the items in item 2 with the defendant personally.

I left the documents listed in Item 2 with or in the presence of
Trudy Desbiens, Agent for Service (Asian, female, 45 years old, black hair, brown eyes, 5'0", 160 pounds)

Physical Description:

6. The "Notice to the Person Served" (on the summons) was completed as follows: OMNI HOTELS AND RESORTS per CCP 416.10.



7.a. STACEY SOLOMAN (SACRAMENTO, 2019-06)
 b. C/O Aggressive Legal Services, Inc.
 10200 Sepulveda Blvd, Suite 260
 Mission Hills, CA 91345
 c. 877-925-7462
 d. Fee: \$75.00

e. California Registered Process Server
 Independent Contractor (not employee)
 Registration # 2019-06
 County: SACRAMENTO

8. I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.
 DATE: 08/14/2020

STACEY SOLOMAN (SACRAMENTO, 2019-06) - FILE BY FAX

FILE BY FAX

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) FRONTIER LAW CENTER MANNY M. STARR, ESQ. (SBN 319778) 23901 CALABASAS RD STE 2074 CALABASAS, CA 91302 TELEPHONE NO: (818) 914-3433 FAX NO (Optional): (818) 914-3433 E-MAIL ADDRESS (Optional): manny@frontierlawcenter.com ATTORNEY FOR (Name): Plaintiff	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Diego 09/09/2020 at 03:24:00 PM Clerk of the Superior Court By E- Filing, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: 300 WEST BROADWAY MAILING ADDRESS: CITY AND ZIP CODE: SAN DIEGO, 92101 BRANCH NAME: SAN DIEGO COUNTY SUPERIOR COURT	
PLAINTIFF / PETITIONER: NANTILLE CHARBONNET, ON BEHALF OF HERSELF AND ALL SIMILARLY SITUATED INDIVIDUALS DEFENDANT / RESPONDENT: OMNI HOTELS AND RESORTS	CASE NUMBER: 37-2020-00026981-CU-BT-CTL
PROOF OF SERVICE	Ref. No. or File No.: 4841577 (211)

1. At the time of service I was 18 years of age and not a party to this action.
2. I served copies of the:
VENUE DECLARATION; CLASS ACTION COMPLAINT; CIVIL CASE COVER SHEET; NOTICE OF CASE ASSIGNMENT; NOTICE OF CONFIRMATION OF ELECTRONIC FILING; ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION
3. Party served: OMNI HOTELS MANAGEMENT CORPORATION
4. Address where the party was served:
**211 E. 7TH ST SUITE 620
 AUSTIN, TX 75219**
- 5.b.I served the party on: **DATE: Sep 4, 2020 TIME: 1:26 pm**

I served the party by **personal service**. I left the items in item 2 with the defendant personally.

I left the documents listed in Item 2 with or in the presence of
OMNI HOTELS MANAGEMENT CORPORATION

Physical Description: **Age: 30; Ethnicity: Caucasian; Gender: Male; Height: 5'6"; Hair: Brown; Other: John Spidel.**

- 6.The "Notice to the Person Served" (on the summons) was completed as follows: OMNI HOTELS MANAGEMENT CORPORATION per CCP 416.10.



7.a. John Horn
 b. C/O Aggressive Legal Services, Inc.
 10200 Sepulveda Blvd, Suite 260
 Mission Hills, CA 91345
 c. 877-925-7462
 d.Fee: \$135.00

e. California Registered Process Server
 Independent Contractor (not employee)
 Registration # PSC10838
 County: Statewide

8. I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.
 DATE: 09/08/2020

Corrina Hart - FILE BY FAX

FILE BY FAX

EXHIBIT C

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

07/31/2020 at 01:37:29 PM

Clerk of the Superior Court
By Taylor Crandall, Deputy Clerk

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

Omni Hotels and Resorts, Omni Hotels Management Corporation, and Does 1 to 10

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

Nantille Charbonnet, on behalf of herself and all similarly situated individuals

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, 330 W. Broadway, San Diego, CA 92101

CASE NUMBER: (Número del Caso):

37-2020-00026981-CU-BT-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):

Frontier Law Center, 23901 Calabasas Rd., #2074, Calabasas, CA 91302, (818) 914-3433

DATE: 08/03/2020

(Fecha)

Clerk, by
(Secretario)

T. Crandall

T. Crandall

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).)

[SEAL]



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4. ☐ by personal delivery on (date)

Page 1 of 1

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Adam Rose (210880) - Frontier Law Center

23901 Calabasas Rd., #2074

Calabasas, CA 91302

TELEPHONE NO.: (818) 914-3433

FAX NO. (Optional):

ATTORNEY FOR (Name): Plaintiff Nantille Charbonnet

FOR COURT USE ONLY

ELECTRONICALLY FILEDSuperior Court of California,
County of San Diego**07/31/2020 at 01:37:29 PM**Clerk of the Superior Court
By: Taylor Crandall, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

STREET ADDRESS: 330 W. Broadway

MAILING ADDRESS:

CITY AND ZIP CODE: San Diego 92101

BRANCH NAME: San Diego

CASE NAME:

Charbonnet v. Omni

CIVIL CASE COVER SHEET
☒ **Unlimited**
(Amount
demanded
exceeds \$25,000)
 ☐ **Limited**
(Amount
demanded is
\$25,000)
Complex Case Designation
☐ Counter ☐ Joinder
Filed with first appearance by defendant
(Cal. Rules of Court, rule 3.402)

CASE NUMBER:

37-2020-00026981-CU-BT-CTL

JUDGE:

Judge Timothy Taylor

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☐ Auto (22)☐ Uninsured motorist (46)**Other PI/PD/WD (Personal Injury/Property
Damage/Wrongful Death) Tort**☐ Asbestos (04)☐ Product liability (24)☐ Medical malpractice (45)☐ Other PI/PD/WD (23)**Non-PI/PD/WD (Other) Tort**☒ Business tort/unfair business practice (07)☐ Civil rights (08)☐ Defamation (13)☐ Fraud (16)☐ Intellectual property (19)☐ Professional negligence (25)☐ Other non-PI/PD/WD tort (35)**Employment**☐ Wrongful termination (36)☐ Other employment (15)**Contract**☐ Breach of contract/warranty (06)☐ Rule 3.740 collections (09)☐ Other collections (09)☐ Insurance coverage (18)☐ Other contract (37)**Real Property**☐ Eminent domain/Inverse
condemnation (14)☐ Wrongful eviction (33)☐ Other real property (26)**Unlawful Detainer**☐ Commercial (31)☐ Residential (32)☐ Drugs (38)**Judicial Review**☐ Asset forfeiture (05)☐ Petition re: arbitration award (11)☐ Writ of mandate (02)☐ Other judicial review (39)**Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)**☐ Antitrust/Trade regulation (03)☐ Construction defect (10)☐ Mass tort (40)☐ Securities litigation (28)☐ Environmental/Toxic tort (30)☐ Insurance coverage claims arising from the
above listed provisionally complex case
types (41)**Enforcement of Judgment**☐ Enforcement of judgment (20)**Miscellaneous Civil Complaint**☐ RICO (27)☐ Other complaint (not specified above) (42)**Miscellaneous Civil Petition**☐ Partnership and corporate governance (21)☐ Other petition (not specified above) (43)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. ☐ Large number of separately represented partiesd. ☐ Large number of witnessesb. ☐ Extensive motion practice raising difficult or novel
issues that will be time-consuming to resolvee. ☐ Coordination with related actions pending in one or more
courts in other counties, states, or countries, or in a federal
courtc. ☐ Substantial amount of documentary evidencef. ☐ Substantial postjudgment judicial supervision3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): 3

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 31, 2020

Adam Rose

(TYPE OR PRINT NAME)

NOTICE

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

- 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**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

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 92101-3827	
BRANCH NAME: Central	
TELEPHONE NUMBER: (619) 450-7072	
PLAINTIFF(S) / PETITIONER(S): Nantille Charbonnet	
DEFENDANT(S) / RESPONDENT(S): OMNI HOTELS AND RESORTS et.al.	
CHARBONNET VS OMNI HOTELS AND RESORTS [E-FILE]	
NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE on MANDATORY eFILE CASE	CASE NUMBER: 37-2020-00026981-CU-BT-CTL

CASE ASSIGNED FOR ALL PURPOSES TO:

Judge: Timothy Taylor

Department: C-72

COMPLAINT/PETITION FILED: 07/31/2020

TYPE OF HEARING SCHEDULED	DATE	TIME	DEPT	JUDGE
Civil Case Management Conference	04/02/2021	09:30 am	C-72	Timothy Taylor

Due to the COVID-19 pandemic, all hearings will be conducted remotely until further notice. Absent an order of the court, personal appearances at the hearing will not be allowed. For information on arranging telephonic or video appearances, contact CourtCall at (888)882-6878, or at www.courtcall.com. Please make arrangements with CourtCall as soon as possible.

A case management statement must be completed by counsel for all parties or self-represented litigants and timely filed with the court at least 15 days prior to the initial case management conference. (San Diego Local Rules, Division II, CRC Rule 3.725).

All counsel of record or parties in pro per shall appear at the Case Management Conference, be familiar with the case, and be fully prepared to participate effectively in the hearing, including discussions of ADR* options.

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT), THE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), AND OTHER DOCUMENTS AS SET OUT IN SDSC LOCAL RULE 2.1.5.

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil cases consist of all civil cases except: small claims proceedings, civil petitions, unlawful detainer proceedings, probate, guardianship, conservatorship, juvenile, parking citation appeals, and family law proceedings.

COMPLAINTS: Complaints and all other documents listed in SDSC Local Rule 2.1.5 must be served on all named defendants.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than 15 day extension which must be in writing and filed with the Court.) (SDSC Local Rule 2.1.6)

JURY FEES: In order to preserve the right to a jury trial, one party for each side demanding a jury trial shall pay an advance jury fee in the amount of one hundred fifty dollars (\$150) on or before the date scheduled for the initial case management conference in the action.

MANDATORY eFILE: Case assigned to mandatory eFile program per CRC 3.400-3.403 and SDSC Rule 2.4.11. All documents must be eFiled at www.onelegal.com. Refer to General Order in re procedures regarding electronically imaged court records, electronic filing, and access to electronic court records in civil and probate cases or guidelines and procedures.

COURT REPORTERS: Court reporters are not provided by the Court in Civil cases. See policy regarding normal availability and unavailability of official court reporters at www.sdcourt.ca.gov.

*ALTERNATIVE DISPUTE RESOLUTION (ADR): THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO TRIAL, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. PARTIES MAY FILE THE ATTACHED STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (SDSC FORM #CIV-359).



Superior Court of California
County of San Diego

NOTICE OF ELIGIBILITY TO eFILE
AND ASSIGNMENT TO IMAGING DEPARTMENT

This case is eligible for eFiling. Should you prefer to electronically file documents, refer to General Order in re procedures regarding electronically imaged court records, electronic filing, and access to electronic court records in civil and probate cases for rules and procedures or contact the Court's eFiling vendor at www.onelegal.com for information.

This case has been assigned to an Imaging Department and original documents attached to pleadings filed with the court will be imaged and destroyed. Original documents should not be filed with pleadings. If necessary, they should be lodged with the court under California Rules of Court, rule 3.1302(b).

On August 1, 2011 the San Diego Superior Court began the Electronic Filing and Imaging Pilot Program ("Program"). As of August 1, 2011 in all new cases assigned to an Imaging Department all filings will be imaged electronically and the electronic version of the document will be the official court file. The official court file will be electronic and accessible at one of the kiosks located in the Civil Business Office and on the Internet through the court's website.

You should be aware that the electronic copy of the filed document(s) will be the official court record pursuant to Government Code section 68150. The paper filing will be imaged and held for 30 days. After that time it will be destroyed and recycled. **Thus, you should not attach any original documents to pleadings filed with the San Diego Superior Court. Original documents filed with the court will be imaged and destroyed except those documents specified in California Rules of Court, rule 3.1806.** Any original documents necessary for a motion hearing or trial shall be lodged in advance of the hearing pursuant to California Rules of Court, rule 3.1302(b).

It is the duty of each plaintiff, cross-complainant or petitioner to serve a copy of this notice with the complaint, cross-complaint or petition on all parties in the action.

On all pleadings filed after the initial case originating filing, all parties must, to the extent it is feasible to do so, place the words **"IMAGED FILE"** in all caps immediately under the title of the pleading on all subsequent pleadings filed in the action.

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 92101-3827 BRANCH NAME: Central	<i>FOR COURT USE ONLY</i>
Short Title: Charbonnet VS Omni Hotels and Resorts [E-FILE]	
NOTICE OF CONFIRMATION OF ELECTRONIC FILING	CASE NUMBER: 37-2020-00026981-CU-BT-CTL

San Diego Superior Court has reviewed the electronic filing described below. The fee assessed for processing and the filing status of each submitted document are also shown below.

Electronic Filing Summary Data

Electronically Submitted By: Adam Rose
 On Behalf of: Nantille Charbonnet
 Transaction Number: 2823557
 Court Received Date: 07/31/2020
 Filed Date: 07/31/2020
 Filed Time: 01:37 PM
 Fee Amount Assessed: \$1,435.00
 Case Number: 37-2020-00026981-CU-BT-CTL
 Case Title: Charbonnet VS Omni Hotels and Resorts [E-FILE]
 Location: Central
 Case Type: Business Tort
 Case Category: Civil - Unlimited
 Jurisdictional Amount: > 25000

Status

Documents Electronically Filed/Received

Accepted Complaint
 Accepted Civil Case Cover Sheet
 Accepted Declaration - Other
 Accepted Original Summons

Comments

Clerk's Comments:
Events Scheduled

Hearing(s)	Date	Time	Location	Department
Civil Case Management Conference	04/02/2021	09:30 AM	Central	C-72

Electronic Filing Service Provider Information

Service Provider: OneLegal
Email: support@onelegal.com
Contact Person: Customer Support
Phone: (800) 938-8815

EXHIBIT D

JONATHAN C. SANDLER (State Bar No. 227532)
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Attorneys for Defendant
OMNI HOTELS MANAGEMENT CORPORATION
AND ERRONEOUSLY NAMED DEFENDANT
OMNI HOTELS AND RESORTS

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

NANTILLE CHARBONNET, on behalf of
herself and all similarly situated
individuals,

Plaintiff,

v.

OMNI HOTELS AND RESORTS, OMNI
HOTELS MANAGEMENT
CORPORATION and DOES 1 to 10,
Defendants.

Case No. 37-2020-00026981-CU-BT-CLT

Assigned for All Purposes to the
Honorable Timothy Taylor

NOTICE TO ADVERSE PARTIES OF
REMOVAL TO UNITED STATES DISTRICT
COURT

TO PLAINTIFF AND TO THE CLERK OF THE COURT:

PLEASE TAKE NOTICE that a Notice of Removal of this action was filed in the United
States District Court for the Southern District of California on September 10, 2020 under Federal
Case No. _____. A copy of said Notice of Removal is attached hereto marked as
Exhibit 1, and is served and filed herewith.

Dated: September 10, 2020

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

By: /s/ Jonathan C. Sandler

JONATHAN C. SANDLER
Attorneys for Defendant
OMNI HOTELS MANAGEMENT
CORPORATION AND ERRONEOUSLY
NAMED DEFENDANT OMNI HOTELS
AND RESORTS

PROOF OF SERVICE

I, Patricia Cormier Herron, declare:

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is Brownstein Hyatt Farber Schreck, LLP, 2049 Century Park East, Suite 3550, Los Angeles, California 90067. On September 10, 2020, I served a copy of the within document(s):

NOTICE TO ADVERSE PARTIES OF REMOVAL TO UNITED STATES DISTRICT COURT

- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, the United States mail at Los Angeles, California addressed as set forth below.
- ☐ by placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal Express agent for delivery.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ based on a court order or an agreement by the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification listed below.

Adam Rose
FRONTIER LAW CENTER
23901 Calabasas Rd., #2074
Calabasas, CA 91302
Phone: 818.914.3433
Fax: 818.914.3433
Email: adam@frontierlawcenter.com

Attorneys for Plaintiffs
NANTILLE CHARBONNET, on
behalf of herself and all similarly
situated individuals

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage

meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 10, 2020, at Los Angeles, California.

Patricia Cormier Herron

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: ['Drip Pricing': Omni Hotels Hit with Class Action Over Allegedly Undisclosed Resort Fees Added to Guests' Bills](#)
