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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

ANDREZA HOLT, an individual; and CHRISTOPHER MARTINEZ, an individual, on behalf of themselves and those similarly situated, Plaintiffs, v. TY WARNER HOTELS & RESORTS, LLC a Delaware corporation; TY WARNER, an individual; and DOES 1 through 50, inclusive, Defendants.	Case No. **DEFENDANTS' NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that Defendants Ty Warner Hotels & Resorts, LLC, a limited liability company ("TWHR") and Ty Warner, an individual ("Warner") (together "Defendants"), hereby give notice of their removal of this

action from the Superior Court of California for the County of Santa Barbara County to the United States District Court for the Central District of California pursuant to 28 U.S.C. §§ 1332(a), 1332(d), 1441 and 1446. In support of their removal, Defendants plead the following:

I.
PLEADINGS, PROCESS AND ORDERS

1. On or about January 27, 2022, Plaintiffs Andreza Holt and Christopher Martinez ("Plaintiffs"), on behalf of themselves and others who are similarly-situated, commenced this action by filing a Class Action Complaint in the Superior Court of California for the County of Santa Barbara entitled *Andreza Holt, an individual; and Christopher Martinez, an individual, on behalf of themselves and those similarly-situated, Plaintiffs, vs. Ty Warner Hotels & Resorts, LLC, a Delaware corporation; Ty Warner, an individual; and Does 1 through 50, inclusive, Defendants,* Case No. 22CV00347 ("Complaint"). A true and correct copy of the Complaint is attached to this Notice of Removal as **Exhibit A.**

2. A copy of all other process, pleadings, or orders related to this case that have been filed in in the Superior Court of the State of California for the County of Santa Barbara are attached hereto together collectively as **Exhibit B.** These filings include the state court civil cover sheet and addendum, the summons, the proof of service of summons via notice and acknowledgment of receipt for each defendant, and the notice of acknowledgment of receipt for each defendant.

II.
STATEMENT OF JURISDICTION

3. This Court has original jurisdiction over this action based on the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1332(d). In relevant part, CAFA grants federal district courts with original jurisdiction over civil class actions filed under federal or state law, in which any member of a class of

plaintiffs is a citizen of a state different from any defendant, and where the aggregate amount in controversy for the putative class members exceeds the sum or value of $5,000,000, exclusive of interest and costs. CAFA authorizes removal of such actions in accordance with 28 U.S.C. § 1446.

4. This Court has jurisdiction over this case under CAFA, 28 U.S.C. § 1332(d). This case is removable pursuant to 28 U.S.C. § 1441(a), because it is a putative civil class action complaint where: (A) the proposed class contains at least 100 members; (B) Defendants are not a state, state official or other governmental entity; (C) the total amount in controversy for all putative class members exceeds $5,000,000; and, (D) there is diversity between at least one class member and any Defendant. All of these elements exist here, as shown below.

A. <u>The proposed class contains at least 100 members:</u>

5. Plaintiffs allege the putative class consists of approximately 450 employees who were laid-off from their jobs at Four Seasons Resort The Biltmore Santa Barbara (the "Hotel"). Compl., ¶ 10. This is far more than the minimum number of class members required under the statute for removal.

B. <u>Defendants are not a state, state official or other governmental entity:</u>

6. Defendants are not a state, state official or other governmental entity.

7. Rather, TWHR is a private Delaware limited liability company, which Plaintiffs allege is doing business as the owner of the Hotel and was in a contractual relationship concerning operations of the Hotel. Compl., ¶ 11.

8. Warner is a private individual who is the principal of TWHR, and he is alleged to be the owner, operator, and controller of TWHR. Compl., ¶ 12.

C. <u>Total amount in controversy exceeds $5,000,000:</u>

9. Plaintiffs allege the total amount in controversy exceeds $6,000,000 in general and compensatory damages, Compl., ¶ 49, while also seeking additional amounts claimed for attorneys' fees and expenses and punitive damages. Compl., ¶¶ 50, 52. This well exceeds the $5,000,000 jurisdictional minimum. *See Dart*

Cherokee Basin Operating Co., LLC v. Owens, 574 U.S. 81, 81 (2014) (holding defendant's notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold; the notice need not contain evidentiary submissions).

D. <u>There is diversity between at least one class member and any defendant:</u>

10. Lastly, CAFA's diversity requirement is satisfied when at least one plaintiff is a citizen of a state in which the defendant is not a citizen. *See* 28 U.S.C. §§ 1332(d)(2)(A), 1453. Here, while both Plaintiffs are citizens of California, Defendants are not citizens of California.

11. The diversity requirement turns on the citizenship of the parties. *Kanter v. Warner–Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001) ("But the diversity jurisdiction statute, 28 U.S.C. § 1332, speaks of citizenship, not of residency."); *see also Atias v. Platinum HR Mgmt., LLC*, No. CV 14–01877-MMM (FFMx), 2014 WL 3536557, at *2 (C.D. Cal. July 16, 2014). For diversity purposes, a person is not necessarily a citizen of the state in which he is residing. *Kanter*, 265 F.3d at 857; *Atias*, 2014 WL 3536557, at *3 ("A person's residency does not determine citizenship for purposes of diversity jurisdiction."). Instead, an individual's citizenship is determined by his domicile, which is his "permanent home where, [he] resides with the intention to remain or to which [he] intends to return." *Kanter*, 265 F.3d at 857; *see also Atias*, 2014 WL 3536557, at *2-3. Although a person may have more than one residence, he can only have one domicile. *Colley v. McCullar*, No. 2:15-CV-0170-TOR, 2016 WL 901679, at *2 (E.D. Wash. Mar. 9, 2016) ("It has long been recognized that a person's residence is not necessarily his domicile; whereas an individual may have multiple residences, he or she has only one domicile."). "A domicile once acquired is presumed to continue until it is shown to have been changed." *Shayn v. Faussett*, No. 2:18-cv-00936-KJD (PAL), 2018 WL 3577235, at *2 (D. Nev. July 25, 2018) (quoting *Mitchell v. United States*, 88 U.S. 350, 353 (1874)). There is "a

presumption in favor of an established domicile as against a newly acquired one." *Lew*, 797 F.2d at 751. A person's old domicile is not lost until a new one is acquired. *Id.* at 750; *Little v. Grant County Hosp. Dist. #1*, No. 2:18-cv-00292-SAB, 2020 WL 1433526, at *2 (E.D. Wash. Mar. 23, 2020).

12. An individual's domicile is determined by physical presence in a place combined with an intent to remain there. *Kanter*, 265 F.3d at 857; *Lew*, 797 F.2d at 752. The domicile of a person "is the place where that individual has a true, fixed home and principal establishment, and to which, whenever he is absent from the jurisdiction, he or she has the intention of returning." 13E Charles A. Wright & Arthur R. Miller, *Fed. Prac. & Proc. Juris.* § 3612 (3d ed.). The determination of an individual's domicile involves consideration of a number of factors including: location of personal and real property, location of brokerage and bank accounts, current residence, place of employment or business, driver's license and automobile registration, membership in unions and other organizations, and payment of taxes. *Lew*, 797 F.2d at 750. No single factor is controlling; rather, the nature and duration of the factors must be examined. *Karma Family LLC v. Brellaba LLC*, No. SACV 20-01854-JVS (DFMx), 2021 WL 886252, at *3 (C.D. Cal. Jan. 27, 2021). In determining the citizenship of parties, "jurisdictional *facts*, not fiction, . . . are dispositive." *Strotek Corp. v. Air Transp. Ass'n. of Am.*, 300 F.3d 1129, 1132 (9th Cir. 2002) (holding that jurisdictional allegations would "give way" to the fact that parties are diverse if "Strotek had sued John Doe, alleging that he was a citizen of Nevada but it turned out that his permanent residence is in the District of Columbia"). The court thus does not limit its inquiry to the complaint. *Jauran v. K-Mart Corp.,* No. CIV-S-06-0530-DFL (PAN), 2006 WL 1321018, at *1 (E.D. Cal. May 15, 2006). Instead, the court may look beyond the complaint and examine the evidence presented in order to determine diversity of the parties. *Lew*, 797 F.2d at 750-51; *Nesbitt v. Progressive*

Nw. Ins. Co., No. C11-2117RSL, 2012 WL 13024804, at *1 (W.D. Wash. May 25, 2012).

13. Here, Plaintiffs allege that they are and were at all relevant times residents of Santa Barbara, California. Compl., ¶¶ 8-9. Accordingly, Plaintiffs are citizens of the State of California for purposes of analyzing diversity jurisdiction. *See Lew v. Moss*, 797 F.2d 747, 751 (9th Cir. 1986) (residency can create a rebuttable presumption of domicile supporting diversity of citizenship); *see also State Farm Mut. Auto. Ins. Co. v. Dyer*, 19 F.3d 514, 519-20 (10th Cir. 1994) (allegation by party in state court complaint of residency "created a presumption of continuing residence in [state] and put the burden of coming forward with contrary evidence on the party seeking to prove otherwise"); *see also Smith v. Simmons*, 2008 U.S. Dist. LEXIS 21162, *22 (E.D. Cal. 2008) (place of residence provides "prima facie" case of domicile).

14. In contrast, Warner is a citizen of Illinois. For instance, Warner was born and raised in Illinois. Declaration of Ty Warner in Support of Notice of Removal ("Warner Decl."), ¶ 2. Warner maintains his permanent residence in Illinois. *Id*. at ¶¶ 3-4. Warner has lived and worked in Illinois almost his entire life. *Id*. at ¶¶ 3-4. Warner's home, where he has lived since 1990, is located in Oak Brook, Illinois. *Id*. at ¶ 4. For several decades, Warner has filed and paid state income tax and state or local property taxes in Illinois. *Id*. at ¶¶ 7-8. Warner has held a valid Illinois driver's license since 1960, and his primary vehicle (a Jeep) is registered in Illinois and maintained at his home in Oak Brook, Illinois. *Id*. at ¶¶ 9, 11. Warner has listed an Illinois address in each passport application that he has filed. *Id*. at ¶ 10. Warner's primary employment and professional activities are on behalf of two companies whose principal places of business are located in Westmont, Illinois, and Warner's primary business office is located in that building in Westmont. *Id*. at ¶¶ 5-6. Warner's personal bills are sent to his office in Westmont, Illinois. *Id*. at ¶ 12. Warner's bank accounts and investment

accounts are located in Illinois and to the best of his knowledge, his office in Westmont, Illinois is listed as the address of record for each of these accounts. *Id.* at ¶ 13.

15. TWHR is a limited liability company created under the laws of Delaware. A limited liability company is a citizen of every state in which its owners/members are citizens." *Johnson v. Columbia Props. Anchorage, LP,* 437 F.3d 894, 899 (9th Cir. 2006). The sole member and manager of TWHR is Ty Warner, who is a citizen of Illinois. Hence, TWHR also is a citizen of Illinois.

16. TWHR is a limited liability company created under the laws of Delaware. A limited liability company is a citizen of every state in which its owners/members are citizens." *Johnson v. Columbia Props. Anchorage, LP,* 437 F.3d 894, 899 (9th Cir. 2006). The sole member and manager of TWHR is Ty Warner, who is a citizen of Illinois, as demonstrated above.

III.

VENUE

17. This action was filed in the Superior Court for the State of California for the County of Santa Barbara. Accordingly, the proper venue for removal is the United States District Court for the Central District of California pursuant to 28 U.S.C. §§ 84, 1391, 1441, and 1446.

IV.

TIMELINESS

18. Defendants voluntarily accepted service of the Summons and Complaint on February 23, 2022, when on that date, Defendants returned the Notice and Acknowledgment of Receipt to Plaintiffs' counsel for both Defendants. Where a party acknowledges receipt and waives formal service, the clock to timely remove the action starts when the defendant returns an Acknowledgment of Receipt pursuant to California Code of Civil Procedure section 415.30. *Harper v. Little Caesar Enterprises, Inc*., No. SACV 18-01564-JLS (JDE), 2018 WL

5984841, at *2 (C.D. Cal. Nov. 14, 2018) (holding the time period for removal began to run after the defendant executed the acknowledgement of receipt); *Snow v. AT & T Corp.*, No. C05–00599JF, 2005 WL 1798399, at *2 (N.D. Cal. July 27, 2005) (same). Therefore, this removal is timely because it is made within 30 days after Defendants received the initial pleading and executed and returned the Acknowledgment of Receipt. *See* 28 U.S.C. § 1446(b); *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347-348 (1999).

V.

NOTICE

19. Contemporaneous with the filing of this Notice in this Court, notice of this removal is being timely given both to the adverse parties and to the state court pursuant to 28 U.S.C. § 1446(d).

VI.

JOINDER

20. Both of the named Defendants consent and jointly remove this action. Hence, all defendants have joined in this removal.

21. To the knowledge of Defendants, no "Doe" defendants have been identified or served. Therefore, there are no other defendants who must consent to this removal. *See Salveson v. Western States Bankcard Assoc.*, 731 F.2d 1423, 1429 (9th Cir. 1984), *superseded by statute on unrelated grounds as noted in Etheridge v. Harbor House Rest.*, 861 F.2d 1389, 1392, n.3 (9th Cir. 1988). Furthermore, CAFA permits any defendant to unilaterally remove the action if the requirements of CAFA for removal are met, as they are here. *See* 28 U.S.C. §1453(b).

VII.

RESERVATION

22. By removing this action to this Court, Defendants do not waive any defenses available to them and specifically reserve defenses based on lack of personal jurisdiction and defective service of process.

WHEREFORE, the Defendants respectfully remove the above-entitled action now pending before the Superior Court of the State of California in and for the County of Santa Barbara, to this United States District Court for the Central District of California.

Dated: March 18, 2022

Mullen & Henzell L.L.P.

Jared M. Katz
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Tab A
Class Action Complaint

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

ANDREZA HOLT, an individual; and CHRISTOPHER MARTINEZ, an individual, on behalf of themselves and those similarly-situated, Plaintiffs, vs. TY WARNER HOTELS & RESORTS, LLC, a Delaware corporation; TY WARNER, an individual; and DOES 1 through 50, inclusive, Defendants.	**Case No.:** **CLASS ACTION COMPLAINT FOR:** 1. Intentional Interference with Contract 2. Negligent Interference with Contract 3. Intentional Interference with Prospective Economic Advantage 4. Negligent Interference with Prospective Economic Advantage **DEMAND FOR JURY TRIAL**

COMES NOW, Plaintiffs ANDREZA HOLT and CHRISTOPHER MARTINEZ ("Plaintiffs"), on behalf of themselves and other similarly-situated individuals ("Class Members"), allege as follows:

INTRODUCTION

1. Plaintiffs herein make claims against Defendants TY WARNER HOTELS & RESORTS, LLC, TY WARNER, and Does 1-50 (hereinafter collectively referred to as Defendants or "WARNER Defendants"), including but not limited to, intentional and negligent interference with contract. The claims alleged herein arise from Defendants' interference with the contractual

agreement between FOUR SEASONS SANTA BARBARA EMPLOYMENT, INC. D.B.A. THE SANTA BARBARA FOUR SEASONS RESORT THE BILTMORE ("FOUR SEASONS") and its employees ("Class Members") to resume their employment after the lay-off which occurred on or about March 20, 2020.

2. Prior to March 20, 2020, Plaintiffs, and approximately 450 other individuals, had entered into a written employment contract with FOUR SEASONS to perform work at THE SANTA BARBARA FOUR SEASONS RESORT THE BILTMORE (the "HOTEL") located in Montecito, California.

3. At all relevant times, WARNER Defendants have owned the HOTEL property and has been in a contract with FOUR SEASONS wherein WARNER Defendants and FOUR SEASONS agreed, among other things, that FOUR SEASONS will employ and manage the employees who work at the HOTEL.

4. On or about March 20, 2020, FOUR SEASONS laid off all but a few employees, and closed the HOTEL to guests, because of the COVID-19 pandemic. FOUR SEASONS advised its laid-off employees they would be recalled, and the HOTEL would reopen for business, when it was safe to do so.

5. The contractual agreement between WARNER Defendants and FOUR SEASONS provides FOUR SEASONS must obtain permission from the WARNER Defendants to reopen the Hotel.

6. On or about May 1, 2020, and continuing to date, FOUR SEASONS advised the WARNER Defendants that it was safe to reopen the HOTEL and it was prepared to recall and return its employees to work. WARNER Defendants refused, and continue to refuse, FOUR SEASONS' attempt to reopen the HOTEL.

7. WARNER Defendants' refusal to permit FOUR SEASONS to recall its employees, and reopen the HOTEL, interfered with the contractual employment relationship between FOUR SEASONS and its employees.

PARTIES

8. At all relevant times, Plaintiff ANDREZA HOLT was and is an individual residing in the County of Santa Barbara, State of California, and who was employed by and in a contractual relationship with FOUR SEASONS.

9. At all relevant times, Plaintiff CHRISTOPHER MARTINEZ was and is an individual residing in the County of Santa Barbara, State of California, and who was employed by and in a contractual relationship with FOUR SEASONS.

10. At all relevant times, the approximate 450 employees employed at the HOTEL who were laid-off by FOUR SEASONS on or about March 20, 2020, are alleged to be CLASS MEMBERS.

11. Plaintiffs allege on information and belief that at all relevant times, Defendant TY WARNER HOTELS & RESORTS, LLC, was and is a Delaware corporation doing business in the State of California, was and is an owner of the property located at 1260 Channel Drive, Santa Barbara, California, 93108 (the HOTEL), and was and is in a contractual relationship with FOUR SEASONS concerning the operations of the HOTEL.

12. Plaintiffs allege on information and belief that at all relevant times, Defendant TY WARNER, an individual, was and is the sole owner, operator, and controller of Defendant TY WARNER HOTELS & RESORTS, LLC. As sole owner, operator, and controller of Defendant TY WARNER HOTELS & RESORTS, LLC., Defendant TY WARNER made all of the decisions regarding the property located at 1260 Channel Drive, Santa Barbara, California, 93108 (the HOTEL), and was and is in a contractual relationship with FOUR SEASONS concerning the operations of the HOTEL.

13. At all relevant times, FOUR SEASONS was and is a Canadian corporation, which does business in California and which employed Plaintiffs and Class Members to provide services at the HOTEL. FOUR SEASONS is not a defendant in this action. The "Empact Agreement", discussed in detail below, provides that FOUR SEASONS employees are required to submit employment law claims by FOUR SEASONS to final and binding arbitration and employees are barred from bringing class claims against FOUR SEASONS in arbitration. Therefore, Plaintiffs and some Class Members have filed or will file individual demands in arbitration for their claims

against FOUR SEASONS which arise from their claims against FOUR SEASONS for breach of the Empact Agreement and other violations related to their employment at the HOTEL and which relate to the allegations of this Complaint.

14. Plaintiffs and Class Members are ignorant of the true names and capacities of Defendants sued hereunder as DOES 1 through 100 inclusive, and therefore sues these Defendants by such fictitious names. Plaintiffs and Class Members are informed and believes and thereon allege that each of the fictitiously named Defendants is responsible in some manner for the occurrences herein alleged, and that Plaintiffs' and Class Members' damages, which are herein alleged, were proximately caused by their conduct. Plaintiffs and Class Members will amend this Complaint to allege the true names and capacities of Defendants DOES 1 through 100 when ascertained. These fictitiously named Defendants, and each of them are, and at all times mentioned were, acting in concert with Defendants, and the parties DOES 1 through 100 inclusive are sued herein individually and joined as Defendants in this action.

15. Defendants at all times herein mentioned were agents, employees and/or alter-egos of one another as co-Defendants. In doing things hereinafter alleged, Defendants were acting within the course and scope of such agency, employment and/or alter-ego capacity with the permission and consent of the co-Defendants. The allegations of this Complaint are stated on information and belief and are likely to have further evidentiary support after a reasonable opportunity for further investigation and/or discovery.

16. At all material times hereto, Defendants, and each of them, were the alter-ego of each other, or were in a principal and agency relationship, and as such were acting with the implied or ostensible authority of each other. On that basis, Plaintiffs and Class Members allege that each of the Defendants is the alter-ego of each other Defendant in that each Defendant is but an instrumentality or conduit of one or more of the other Defendants in the pursuit of a single business venture such that disregard of the separate nature of the Defendants' corporate organization, or other association, is necessary to prevent an injustice upon Plaintiffs and Class Members. In this regard, Plaintiffs and Class Members are informed and believe, and based thereon allege, that each of the Defendants has common employees or agents, and at the time this matter arose, was

operating from the same business location, and using the financial resources of the other Defendants, and each of the Defendants tends to benefit jointly from the transactions entered into by one or more of the other Defendants.

JURISDICTION AND VENUE

17. This Court has personal jurisdiction over Defendants TY WARNER HOTELS & RESORTS, LLC, a Delaware Corporation, and TY WARNER, an individual, because at all relevant times, Defendants have maintained offices with employees and do business in Santa Barbara County, California. TY WARNER HOTELS & RESORTS, LLC is registered with the California Secretary of State to do business in the State of California. At all relevant times, Defendants have owned the HOTEL in Santa Barbara County, California which is the site of Plaintiffs' and Class Members' employment and is the site which is the subject of the contract between WARNER Defendants and FOUR SEASONS.

18. Venue is proper because Defendants reside and/or conduct business in Santa Barbara County and the relevant acts and omissions of Defendants occurred within Santa Barbara County.

FACTUAL ALLEGATIONS

19. FOUR SEASONS employed Plaintiff ANDREZA HOLT at the HOTEL during the time period of March 1, 2010 until March 20, 2020. Her position at FOUR SEASONS as of March 20, 2020 was Food and Beverage Manager. She received a yearly salary of $78,744.12 plus 10% incentives.

20. FOUR SEASONS employed Plaintiff CHRISTOPHER MARTINEZ at the HOTEL during the time period of June 2008 until March 20, 2020. His position at FOUR SEASONS as of March 20, 2020 was Assistant Food and Beverage Manager. His last rate of pay was was $32.93 per hour.

21. As a condition of their employment with FOUR SEASONS at the HOTEL, Plaintiffs and Class Members signed an agreement, entitled "U.S EmPact Employee Handbook Last Revised: May 2016" ("Empact Agreement") which covers the rules and conditions of employment, compensation and benefits, standards of conduct, complaint and arbitration procedures, and separation from employment for Plaintiffs and Class Members.

22. The Empact Agreement has a "No-Fault Separation Pay" Clause which mandates that FOUR SEASONS pay Plaintiffs a pre-calculated amount of Severance Pay in the event of a "No-Fault Termination".

23. "No-Fault Separation Pay" Clause creates exceptions to FOUR SEASONS' Severance Pay requirement in the following situations:

> "In the event of the sale of the Four Seasons Resort The Biltmore Santa Barbara, a change in ownership resulting from the loss of or change (partial or otherwise) in the Four Seasons Hotels and Resorts management agreement, including but not limited to the relinquishment or loss of control of any portion of The Resort's operations, and the new hotel employers offers continuing "Comparable Employment", then [Plaintiff and Class Members] will not be entitled to No-Fault Separation Pay even if [Plaintiff and Class Members] decline the offer of continuing employment. [Plaintiff and Class Members] understand that [Plaintiff and Class Members] may be eligible to apply for positions (which may or may not be Comparable Employment) at another Four Seasons Hotel or Resort. [Plaintiff and Class Members] will be considered eligible for transfer if Plaintiff and Class Members meet the qualifications for transfer as outlined in EmPactSM. If [Plaintiff and Class Members are] transferred to another Four Seasons Hotel or Resort, Plaintiff and Class Members will not be entitled to No-Fault Separation Pay."

24. On March 20, 2020, FOUR SEASONS issued an Internal Memo to the HOTEL's employees, which informed them they were being immediately placed on a furlough due to the restrictions imposed on the lodging industry by the rapid advance of the COVID-19 virus. The HOTEL immediately closed and all employees were sent home that same day.

25. FOUR SEASONS originally announced on its social media accounts that the HOTEL would reopen on April 16, 2020, but that date came and went, and the HOTEL remained closed.

26. On June 25, 2020, FOUR SEASONS notified its employees in an Internal Memorandum that their health insurance would be canceled on June 30, 2020. The memorandum stated, in pertinent part, "Starting July 1, 2020, all furloughed employees will be responsible for 100% of the benefit costs (medical, dental and vision). If payment is not received by the requested due date, your benefits will be terminated."

27. On August 8, 2020, the employees led a march to the resort and to the Montecito home of Defendant TY WARNER. After the march, the HOTEL clarified on its social media accounts that

it would remain temporarily closed until further notice. On August 11, 2020, FOUR SEASONS notified its employees in an Internal Memo that the HOTEL would remain closed into mid-2021.

28. Defendant TY WARNER issued a statement in mid-August 2020 which acknowledged FOUR SEASONS had failed to keep its employees fully informed regarding the HOTEL's closure. Defendant TY WARNER stated in pertinent part, "the lack of communication with our valued employees at the HOTEL has created unnecessary confusion. For that, I would like to express my apologies."

29. On October 26, 2020, in a telephone call with employees, the HOTEL's Resort Manager, Arron Ide, informed employees that no reservations would be booked through the remainder of 2021 because there was not a set date for the reopening of the HOTEL. Plaintiffs and Class Members expressed their deep frustration with this news during the phone call.

30. Two days later, on October 28, 2020, Mr. Ide sent an email to employees which stated, "As of today, we will be taking reservations for arrivals beginning May 1st, 2021." However, May 1, 2021 came and went without the HOTEL reopening.

31. On March 16, 2021, Mr. Ide conducted another telephone call with the employees. He informed them that Four Seasons did not know when it would reopen the Hotel, and he could not inform them why the Hotel remained closed, and the decision to reopen the Hotel was going to be made by Defendant TY WARNER. Four Seasons then canceled all reservations through 2022. Mr. Ide resigned his position on April 16, 2021.

32. As of the date of this Complaint filing, the HOTEL has been closed for 21 months and FOUR SEASONS has canceled all reservations through the end of 2022. As of December 2022, Plaintiffs and Class Members will have been out of work for close to three years.

33. What began as a temporary furlough became a no-fault termination on or about March 20, 2020 ("Termination Date").

34. Plaintiffs and Class Members are informed and based thereupon believe that WARNER Defendants have intentionally and negligently kept and will keep the Hotel property closed for business for the time period of March 20, 2020 until December 31, 2022, thereby interfering with

the contract between FOUR SEASONS and Plaintiffs and Class Members, to the detriment of Plaintiffs and Class Members, and to the benefit of WARNER Defendants.

35. By keeping the HOTEL closed, WARNER Defendants are effectively keeping Plaintiffs and Class Members in a state of limbo where they have little to no rights, to wit: (1) the employees are defined by FOUR SEASONS as being on temporary furlough but not terminated for no-fault for the purposes of the Separation Pay owed them (even though the HOTEL will not reopen until December 31, 2022 at the earliest); (2) although the HOTEL is closed, there has not been a change of ownership or a change in operations that would allow for Plaintiff and Class Members to be offered employment in a similar position by a new operator of the HOTEL or otherwise be granted their Separation Pay; and (3) if Plaintiffs and Class Members resign their employment, they will lose their Separation Pay, among other benefits.

36. Plaintiffs and Class Members are informed and believe that the contract between FOUR SEASONS and WARNER Defendants will not expire until 2025.

37. In contrast to WARNER Defendants' closure of the HOTEL on or about March 20, 2020, The San Ysidro Ranch, also owned by WARNER Defendants, never closed.

38. At FOUR SEASONS' property in Westlake Village, Ventura County, a comparable operation to the HOTEL, the employees were placed on a furlough from March 2020 until June 2020 and again in January 2021 through March 2021.

39. As of March 20, 2020, Plaintiff ANDREZA HOLT had 10 years and 19 days of service with FOUR SEASONS. She is entitled to 16 weeks of Separation Pay under the Empact Agreement which amounts to approximately $26,644.00 in unpaid compensation.

40. As of March 20, 2020, Plaintiff CHRISTOPHER MARTINEZ had 11 years and 9 months of service with FOUR SEASONS. He is entitled to 17 weeks of Separation Pay under the Empact Agreement which amounts to approximately $22,392.00 in unpaid compensation.

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CLASS ALLEGATIONS

41. Plaintiffs bring this action, on behalf of themselves and all others similarly-situated, as a class action pursuant to Code of Civil Procedure § 382. The Class that Plaintiffs seek to represent is composed of and defined as follows:

Plaintiffs Class:

All employees of FOUR SEASONS SANTA BARBARA EMPLOYMENT, INC. D.B.A. THE SANTA BARBARA FOUR SEASONS RESORT THE BILTMORE who were furloughed and/or permanently terminated from their employment at the HOTEL on or after March 20, 2020.

42. Plaintiffs bring this action on behalf of themselves and all others similarly situated persons in Subclasses of the Plaintiffs Class, defined as:

Plaintiffs Subclass:

All employees of FOUR SEASONS SANTA BARBARA EMPLOYMENT, INC. D.B.A. THE SANTA BARBARA FOUR SEASONS RESORT THE BILTMORE who have filed, or will cause to be filed, Demands in Arbitration against FOUR SEASONS SANTA BARBARA EMPLOYMENT, INC. for Breach of Contract and related claims as a result of their permanent layoffs from their employment at the HOTEL on or after March 20, 2020.

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

a. Numerosity: The potential members of the Class as defined are so numerous that joinder of all the members of the Class is impracticable. While the precise number of Class Members has not been determined at this time, Plaintiffs are informed and believe that FOUR SEASONS furloughed and/or permanently terminated approximately 425 employees from their employment at the HOTEL on or after March 20, 2020. Joinder of all members of the proposed class is not practicable.

b. Commonality: There are questions of law and fact common to the Plaintiffs and Class Members that predominate over any questions affecting only individual members of the Class. These common questions of law and fact include, but are not limited to:

(i) Whether there was a contract between Plaintiffs and Class Members and FOUR SEASONS;

(ii) Whether WARNER Defendants knew of the contract between Plaintiffs and Class Members and FOUR SEASONS;

(iii) Whether performance of the contract between Plaintiffs and Class Members and FOUR SEASONS was disrupted by WARNER Defendants;

(iv) Whether WARNER Defendants intended to disrupt the performance of the contract between Plaintiffs and Class Members and FOUR SEASONS or knew that disruption of performance was certain or substantially certain to occur;

(v) Whether Plaintiffs and Class Members were harmed by WARNER Defendants' disruption of the contract; and,

(vi) Whether WARNER Defendants' disruption of the contract was a substantial factor in causing Plaintiffs' and Class Members' harm;

c. Typicality: Plaintiffs' claims are typical of the claims of the Class. Plaintiffs and all members of the Class sustained injuries and damages arising out of and caused by WARNER Defendants' interference with FOUR SEASON'S and Plaintiff's and Class Members' contract by refusing to reopen the HOTEL as of the date this Complaint was filed.

d. Adequacy of Representation: Plaintiffs are members of the Class and will fairly and adequately represent and protect the interests of the Class Members. Counsel who represent the Plaintiffs are competent and experienced in class action and other complex employment litigation.

e. Superiority of Class Action: A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual members of the Class. Each Class Member has been damaged and is

entitled to recovery by reason of Defendants' interference with Plaintiffs' and Class Members' contracts with FOUR SEASONS and their probable prospective economic advantage. Class action treatment will allow those similarly-situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Intentional Interference with Contract

(Against All Defendants)

44. Plaintiffs and Class Members incorporate by reference all of the above paragraphs of this Complaint as though fully set forth herein.

45. As alleged herein, Plaintiffs and Class Members were signatories and/or parties to the Empact Agreement, a valid enforceable written contract, among other agreements, with FOUR SEASONS whose term was running at all relevant times.

46. At all relevant times, WARNER Defendants were and are aware of the contracts and agreements between Plaintiff and Class Members and FOUR SEASONS and their terms.

47. As alleged herein, WARNER Defendants tortiously and maliciously interfered with the contractual interests under the Empact Agreement and other agreements between Plaintiffs and Class Members and FOUR SEASONS. Plaintiffs and Class Members are informed and believe, and thereon allege, that this interference included, but is not limited to the following: (1) Defendants' interference with FOUR SEASON'S and Plaintiffs' and Class Members' contract by refusing to reopen the HOTEL as of the date this Complaint was filed.

48. Defendants knew that the interference was certain or substantially certain to occur as a result of their actions. Defendants were aware of, and intended to cause, the detrimental impact on the contractual relations between Plaintiffs and Class Members and FOUR SEASONS which was caused by and was a direct result of Defendants' acts and omissions. Defendants' conduct was a substantial factor in causing Plaintiffs' and Class Members' harm.

49. As a direct and proximate result of Defendants' acts and omissions, Plaintiffs and Class Members have suffered and continue to suffer substantial losses in earnings and job benefits, and

have suffered extreme and severe mental anguish, emotional distress, and pain and suffering, among other damage. Plaintiffs and Class Members are therefore entitled to general and compensatory damages estimated to exceed $6,000,000.00.

50. As a direct and proximate result of Defendants' acts and omissions, Plaintiffs Subclass have had to bring separate actions in arbitration against FOUR SEASONS for, *inter alia*, breach of contract, breach of implied contract, breach of the covenant of good faith and fair dealing; failure to pay wages, and Labor Code section 203 penalties. Plaintiffs Subclass, therefore, entitled to recover their attorneys' fees and expenses in the action against FOUR SEASONS under the tort of another doctrine.

51. As for all allegations asserted in this cause of action, each of the Defendants has aided and abetted the actions of the other based on allegations in the factual section of the Complaint.

52. By performing the foregoing acts, Defendants acted with the intent to injure Plaintiffs and Class Members and acted with malice, oppression, and/or fraud. Alternatively, the acts of the Defendants were despicable and in conscious disregard of the probability of damage to Plaintiffs and Class Members and, thus, the conduct alleged herein support an award of punitive damages pursuant to Civil Code section 3294 in an amount designed to punish Defendants and to deter such conduct in the future.

SECOND CAUSE OF ACTION

Negligent Interference with Contract

(Against All Defendants)

53. Plaintiffs and Class Members incorporate by reference all of the above paragraphs of this Complaint as though fully set forth herein.

54. As alleged herein, Plaintiffs and Class Members were signatories and/or parties to the Empact Agreement, a valid enforceable written contract, among other agreements, with FOUR SEASONS whose term was running at all relevant times.

55. At all relevant times, WARNER Defendants were and are aware of the contracts and agreements between Plaintiff and Class Members and FOUR SEASONS and their terms.

56. Plaintiffs and Class Members are informed, believe and thereon allege that Defendants owed Plaintiffs and Class Members a duty of care to refrain from interfering or otherwise disrupting Plaintiffs' and Class Members' contracts with FOUR SEASONS in connection with the HOTEL.

57. Plaintiffs and Class Members are informed, believe and thereon allege that Defendants breached their duty of care by disrupting and interfering with the contractual interests under the Empact Agreement and other agreements between Plaintiffs and Class Members and FOUR SEASONS. Plaintiffs and Class Members are informed and believe, and thereon allege, that this interference included, but is not limited to the following: (1) Defendants' interference with FOUR SEASON'S and Plaintiff's and Class Members' contract by refusing to reopen the HOTEL as of the date this Complaint was filed.

58. Defendants knew that the interference was certain or substantially certain to occur as a result of their actions. Defendants were aware of, and intended to cause, the detrimental impact on the contractual relations between Plaintiffs and Class Members and FOUR SEASONS which was caused by and was a direct result of Defendants' acts and omissions. Defendants' conduct was a substantial factor in causing Plaintiffs' and Class Members' harm.

59. As a direct and proximate result of Defendants' acts and omissions, Plaintiffs and Class Members have suffered and continue to suffer substantial losses in earnings and job benefits, and have suffered extreme and severe mental anguish, emotional distress, and pain and suffering, among other damage. Plaintiffs and Class Members are therefore entitled to general and compensatory damages estimated to exceed $6,000,000.00.

60. As a direct and proximate result of Defendants' acts and omissions, Plaintiffs Subclass have had to bring separate actions in arbitration against FOUR SEASONS for, *inter alia*, breach of contract, breach of implied contract, breach of the covenant of good faith and fair dealing; failure to pay wages, and Labor Code section 203 penalties. Plaintiffs Subclass, therefore, entitled to recover their attorneys' fees and expenses in the action against FOUR SEASONS under the tort of another doctrine.

61. As for all allegations asserted in this cause of action, each of the Defendants has aided and abetted the actions of the other based on allegations in the factual section of the Complaint.

62. By performing the foregoing acts, Defendants acted with the intent to injure Plaintiffs and Class Members and acted with malice, oppression, and/or fraud. Alternatively, the acts of the Defendants were despicable and in conscious disregard of the probability of damage to Plaintiffs and Class Members and, thus, the conduct alleged herein support an award of punitive damages pursuant to Civil Code section 3294 in an amount designed to punish Defendants and to deter such conduct in the future.

THIRD CAUSE OF ACTION

Intentional Interference with Prospective Economic Advantage

(Against All Defendants)

63. Plaintiffs and Class Members incorporate by reference all of the above paragraphs of this Complaint as though fully set forth herein.

64. As alleged herein, there existed between Plaintiffs and Class Members and FOUR SEASONS an economic relationship that contained probable prospective economic advantages to Plaintiffs and Class Members, including but not limited to, future employment at the HOTEL and the earnings and benefits associated with that employment, future job security.

65. At all relevant times, WARNER Defendants were and are aware of the economic relationship between Plaintiffs and Class Members and FOUR SEASONS that contained probable prospective economic advantages to Plaintiffs and Class Members.

66. As alleged herein, WARNER Defendants tortiously and maliciously interfered with Plaintiffs' and Class Members' probable prospective economic advantages arising from their economic relationship with FOUR SEASONS. Plaintiffs and Class Members are informed and believe, and thereon allege, that this interference included, but is not limited to the following: (1) Defendants' interference with FOUR SEASON'S and Plaintiff's and Class Members' contract by refusing to reopen the HOTEL as of the date this Complaint was filed.

67. Defendants knew that the interference was certain or substantially certain to occur as a result of their actions. Defendants were aware of, and intended to cause, the detrimental impact on

Plaintiffs' and Class Members' probable prospective economic advantages arising from their economic relationship with FOUR SEASONS which was caused by and was a direct result of Defendants' acts and omissions. Defendants' conduct was a substantial factor in causing Plaintiffs' and Class Members' harm.

68. As a direct and proximate result of Defendants' acts and omissions, Plaintiffs and Class Members have suffered and continue to suffer substantial losses in earnings and job benefits, and have suffered extreme and severe mental anguish, emotional distress, and pain and suffering, among other damage. Plaintiffs and Class Members are therefore entitled to general and compensatory damages in an amount to be proven at trial.

69. As a direct and proximate result of Defendants' acts and omissions, Plaintiffs Subclass have had to bring separate actions in arbitration against FOUR SEASONS for, *inter alia*, breach of contract, breach of implied contract, breach of the covenant of good faith and fair dealing; failure to pay wages, and Labor Code section 203 penalties. Plaintiffs Subclass, therefore, entitled to recover their attorneys' fees and expenses in the action against FOUR SEASONS under the tort of another doctrine.

70. As for all allegations asserted in this cause of action, each of the Defendants has aided and abetted the actions of the other based on allegations in the factual section of the Complaint.

71. By performing the foregoing acts, Defendants acted with the intent to injure Plaintiffs and Class Members and acted with malice, oppression, and/or fraud. Alternatively, the acts of the Defendants were despicable and in conscious disregard of the probability of damage to Plaintiffs and Class Members and, thus, the conduct alleged herein support an award of punitive damages pursuant to Civil Code section 3294 in an amount designed to punish Defendants and to deter such conduct in the future.

FOURTH CAUSE OF ACTION

Negligent Interference with Prospective Economic Advantage

(Against All Defendants)

72. Plaintiffs and Class Members incorporate by reference all of the above paragraphs of this Complaint as though fully set forth herein.

73. As alleged herein, there existed between Plaintiffs and Class Members and FOUR SEASONS an economic relationship that contained probable prospective economic advantages to Plaintiffs and Class Members, including but not limited to, future employment at the HOTEL and the earnings and benefits associated with that employment, future job security.

74. At all relevant times, WARNER Defendants were and are aware of the economic relationship between Plaintiffs and Class Members and FOUR SEASONS that contained probable prospective economic advantages to Plaintiffs and Class Members.

75. Plaintiffs and Class Members are informed, believe and thereon allege that Defendants owed Plaintiffs and Class Members a duty of care to refrain from interfering or otherwise disrupting Plaintiffs' and Class Members' probable prospective economic advantages arising from their economic relationship with FOUR SEASONS.

76. Plaintiffs and Class Members are informed, believe and thereon allege that Defendants breached their duty of care by disrupting and interfering with Plaintiffs' and Class Members' probable prospective economic advantages arising from their economic relationship with FOUR SEASONS. Plaintiffs and Class Members are informed and believe, and thereon allege, that this interference included, but is not limited to the following: (1) Defendants' interference with FOUR SEASON'S and Plaintiff's and Class Members' contract by refusing to reopen the HOTEL as of the date this Complaint was filed.

77. Defendants knew that the interference was certain or substantially certain to occur as a result of their actions. Defendants were aware of, and intended to cause, the detrimental impact on Plaintiffs' and Class Members' probable prospective economic advantages arising from their economic relationship with FOUR SEASONS which was caused by and was a direct result of Defendants' acts and omissions. Defendants' conduct was a substantial factor in causing Plaintiffs' and Class Members' harm.

78. As a direct and proximate result of Defendants' acts and omissions, Plaintiffs and Class Members have suffered and continue to suffer substantial losses in earnings and job benefits, and have suffered extreme and severe mental anguish, emotional distress, and pain and suffering,

among other damage. Plaintiffs and Class Members are therefore entitled to general and compensatory damages in an amount to be proven at trial.

79. As a direct and proximate result of Defendants' acts and omissions, Plaintiffs Subclass have had to bring separate actions in arbitration against FOUR SEASONS for, *inter alia*, breach of contract, breach of implied contract, breach of the covenant of good faith and fair dealing; failure to pay wages, and Labor Code section 203 penalties. Plaintiffs Subclass, therefore, entitled to recover their attorneys' fees and expenses in the action against FOUR SEASONS under the tort of another doctrine.

80. As for all allegations asserted in this cause of action, each of the Defendants has aided and abetted the actions of the other based on allegations in the factual section of the Complaint.

81. By performing the foregoing acts, Defendants acted with the intent to injure Plaintiffs and Class Members and acted with malice, oppression, and/or fraud. Alternatively, the acts of the Defendants were despicable and in conscious disregard of the probability of damage to Plaintiffs and Class Members and, thus, the conduct alleged herein support an award of punitive damages pursuant to Civil Code section 3294 in an amount designed to punish Defendants and to deter such conduct in the future.

PRAYER

WHEREFORE, Plaintiffs and Class Members pray for relief as follows:

1. That the Court determine that this action may be maintained as a class action under Code of Civil Procedure § 382;
2. For general and compensatory damages according to proof;
3. For punitive damages;
4. For attorneys' fees and costs incurred by Plaintiffs Subclass in their arbitrations against FOUR SEASONS, for breach of contract, breach of implied contract, breach of the covenant of good faith and fair dealing, failure to pay wages, and Labor Code § 203 penalties, pursuant to tort of another doctrine;
5. For attorneys' fees and costs as allowed by law;
6. For prejudgment interest on all amounts claimed;

7. For injunctive relief; and,

8. For such other and further relief as the Court deems just and proper.

Dated: 1/26/2022

ANTICOUNI & RICOTTA, APC

By: _____
Bruce N. Anticouni
Nicole K. Ricotta
Attorneys for Plaintiffs and Class Members

JURY DEMAND

Plaintiffs and Class Members hereby demand a jury trial on all issues triable at law.

Dated: 1/26/2022

ANTICOUNI & RICOTTA, APC

By: _____
Bruce N. Anticouni
Nicole K. Ricotta
Attorneys for Plaintiffs and Class Members

ClassAction.org