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8 Attorney for Plaintiff Harry Crouch and the Putative Class

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

HARRY CROUCH, on behalf of himself and all  
others similarly situated,

Plaintiffs,

v.

DHM WESTLAKE, INC. dba FOUR SEASONS  
HOTEL WESTLAKE VILLAGE; WESTLAKE  
WELLBEING PROPERTIES, LLC dba FOUR  
SEASONS HOTEL WESTLAKE VILLAGE;  
CASTLE & COOKE, INC.; and DOES 1 through  
100, Inclusive,

Defendants.

Case No.

**CLASS ACTION COMPLAINT  
FOR INJUNCTIVE RELIEF AND  
DAMAGES FOR:**

1. **Violation of Civil Code § 51 – The Unruh Civil Rights Act; and**
2. **Violation of Business and Professions Code § 125.6.**

**UNLIMITED JURISDICTION**

Plaintiff Harry Crouch, on behalf of himself and all others similarly situated, alleges the following:

**NATURE AND BASIS OF CLAIMS**

1. This lawsuit arises out of defendants' unequal treatment of female and male patrons during a weekly "Girls' Night Out" sex-based pricing promotion at the Four Seasons Hotel in Westlake Village, California ("Four Seasons"). On Girls' Night Out, which Four Seasons employed for over a year on every Wednesday from May 5, 2009 to July 7, 2010, Four Seasons charged female patrons \$6.00 or \$8.00 for beverages, but charged male patrons much more than \$6.00 or \$8.00 -- as much as \$14.50 each -- for the same types of beverages. Also, on Girls' Night Out, Four Seasons provided female patrons with free food, while it denied free food to male patrons.

1 2. Four Seasons' disparate pricing for drinks and free food during Girls' Night Out was based  
2 solely on the patrons' sex. It was not based on how wealthy Four Seasons' female patrons were in  
3 comparison to its male patrons, or how well-hydrated or well-fed its female patrons were in  
4 comparison to its male patrons -- it was based only on the patrons' sex.

5 3. Despite the many State of California anti-discrimination statutes, unanimous California  
6 Supreme Court opinions, California Attorney General and Department of Fair Employment and  
7 Housing actions, and California Department of Alcoholic Beverage Control ("ABC") regulations  
8 that prohibit California businesses from treating patrons unequally based on their sex, and  
9 specifically condemn and outlaw Ladies' Night and Ladies' Day promotions that treat female and  
10 male patrons unequally, defendants brazenly advertised and employed a recurring Girls' Night Out  
11 promotion for over a year that treated female and male unequally based solely on their sex.

12 4. As shown on the Four Seasons' advertisements attached hereto as Exhibit 1, Four Seasons  
13 openly touted its Girls' Night Out promotion "just for the girls" and "at an exclusive ladies-only  
14 price" as excerpted below:

15  
16 **GIRLS' NIGHT OUT**

Specialty cocktails are available at  
an exclusive price of \$6  
with complimentary  
appetizers just for the girls  
Wednesdays, 5:00 to 7:00 pm

19  
20 ***Girls' night out***

On Wednesday evenings from 5:00 pm to 7:00 pm, join us for a  
girls' night out. Specialty cocktails are available at an exclusive  
ladies-only price of USD 6.00, with complimentary appetizers just  
for the girls.

23  
24 **GIRLS' NIGHT OUT**

Drink specials from \$6 and  
Complimentary appetizers  
just for the girls.  
Wednesdays  
5:00 to 7:00 pm

27  
28 **GIRLS NIGHT OUT COCKTAILS**

1        5. During the Wednesday, March 31, 2010, Girls' Night Out promotion, defendants treated  
2 plaintiff Harry Crouch unequally based on his sex when Four Seasons denied Mr. Crouch the free  
3 food that Four Seasons provided to only female patrons on this Girls' Night Out. Mr. Crouch  
4 therefore was required to pay and did pay for his food that evening.

5        6. As a result of defendants' unequal treatment of all Girls' Night Out patrons -- female and male  
6 -- based on the patrons' sex, defendants denied all Girls' Night Out patrons the equal  
7 accommodations, advantages, facilities, privileges, or services they are entitled to under California's  
8 Unruh Civil Rights Act, and several other California anti-discrimination laws discussed below.  
9 Defendants' recurring Girls' Night Out promotion violated California's strong public policy to  
10 eradicate sex discrimination, reflected in the many California statutes that prohibit businesses from  
11 discriminating against patrons based on protected personal characteristics such as sex, race, religion,  
12 national origin, or sexual orientation. Four Seasons' Girls' Night Out promotion is in direct  
13 contravention of California Civil Code sections 51 (codification of the Unruh Civil Rights Act),  
14 51.5, and 51.6 (Gender Tax Repeal Act of 1995), and Business and Professions Code section 125.6,  
15 all of which prohibit California businesses from treating patrons unequally on the basis of their sex.

16        7. A business practice that provides discounted beverages and free food to only female patrons  
17 is as repugnant and unlawful as one that provides discounted beverages and free food to only male  
18 patrons, or as repugnant and unlawful as charging people of color more than Caucasians for the same  
19 types of food or drinks or vice versa, or charging homosexuals more than heterosexuals for the same  
20 types of food or drinks, or vice versa. Simply put, it is against California's Unruh Civil Rights Act  
21 and several other California anti-discrimination statutes for a business in California to discriminate  
22 against patrons based on protected personal characteristics such as sex, race, color, religion,  
23 ancestry, national origin, disability, medical condition, marital status, or sexual orientation.

24        8. In the seminal California Supreme Court case on Ladies' Day and Ladies' Night promotions,  
25 *Koire v. Metro Car Wash* (1985) 40 Cal.3d 24, the Court unanimously held that Ladies' Day and  
26 Ladies' Night promotions that treated patrons unequally based on sex by charging men more than  
27 women for the same thing—as little fifteen cents more—violated the Unruh Civil Rights Act. *Koire*  
28 found “Public policy in California strongly supports eradication of discrimination based on sex. The

1 Unruh Act expressly prohibits sex discrimination by business enterprises.” *Id.* at 37.

2 9. *Koire* also ruled “the Legislature established that arbitrary sex discrimination by business is  
3 per se injurious” and “differential pricing based on sex may be generally detrimental to both men  
4 and women, because it reinforces harmful stereotypes.” *Id.* at 33. Among the harmful stereotypes  
5 detrimental to the advancement of equal rights for women and men that defendants' Girls' Night Out  
6 perpetuated include: (1) all women are genetically incapable of earning as much money as men; (2)  
7 all women are genetically predisposed to not being able to pay as much as men for the same thing;  
8 (3) all women enjoy being subsidized by strange men at hotel bars and restaurants; (4) all adult  
9 women enjoy being treated like little girls by not being required to pay the full price that adult men  
10 are required to pay for the same goods or services, (5) all women enjoy drinking discounted  
11 beverages and eating free food in front of men who paid full price for the same types of drinks or  
12 food; (6) all women welcome and enjoy a hotel treating them as little more than sexual bait for the  
13 hotel's male customers; and (7) all women and men are expected to just stand around and take it like  
14 sheared sheep when a business charges one sex more than the other sex for the exact same thing.

15 10. Defendants' archaic Girls' Night Out promotion, apparently implemented to benefit the "little  
16 women," is the hallmark of traditionalistic thinkers who may advise a young woman her best chance  
17 for a happy life is to ace her home economics class and learn how to make queso from Velveeta in  
18 order to catch a good man. Not only has the California Supreme Court expressed its disapproval of  
19 the treatment of women through Ladies' Night promotions, but the United States Supreme Court has  
20 similarly weighed in about "romantic paternalism" directed at women. In *Frontiero v. Richardson*,  
21 411 U.S. 677, 684 (1973), wherein the U.S. Supreme Court ruled the U.S. military must provide its  
22 female members with the same housing and medical benefits as it provides its male members, Justice  
23 William J. Brennan Jr. wrote that this is another example of one of those types of traditional sex  
24 discrimination that ostensibly appears to benefit women, but “rationalized by an attitude of ‘romantic  
25 paternalism’ which, in practical effect, put women, not on a pedestal, but in a cage.”

26 11. The Judicial Counsel of California's recent changes to its jury instructions for Unruh Act  
27 violations reflects the Judicial Counsel's recognition of the California Supreme Court ruling in *Koire*  
28 that Ladies' Night promotions are "per se injurious." On June 22, 2012, the Judicial Council of

1 California, Administrative Office of the Courts, adopted a report concerning additions and revisions  
2 of the Judicial Council of California Civil Jury Instructions (CACI), so that these changes would  
3 keep CACI current with statutory and case authority. See "Report to the Judicial Council For  
4 business meeting on June 22, 2012."

5 12. This Report changed CACI 3020, Unruh Civil Rights Act Essential Fact Elements, so a  
6 plaintiff no longer needs to prove harm or damages for an Unruh Act claim because, as held by the  
7 *Koire Ladies' Night* case, this type of sex discrimination is "per se injurious." The Report, describes  
8 this change as follows:

9 Elements 3 and 4 of the proposed jury instructions are problematic. Those  
10 elements require plaintiff to prove that s/he was "harmed" and that defendant's  
11 conduct was a substantial factor in causing the harm. In our opinion, these  
12 elements are not required in the large number of Unruh Act cases in which  
13 plaintiffs are only seeking the statutory minimum damages. Those damages  
14 must be awarded automatically once discrimination has been shown.

15 . . .  
16 Courts have held that discrimination under the Unruh Act is "per se injurious."  
17 (See, e.g., *Koire v. Metro Car Wash* (1985) 40 Cal.3d 24, 33.) Therefore,  
18 unless the plaintiff is seeking more than the minimum damages, proof of harm  
19 is not necessary. Both 3020 and 3021 should be revised to make it clear that  
20 plaintiff does not need to prove either harm or that defendant's conduct was a  
21 substantial factor in causing harm, unless, plaintiff is seeking "actual  
22 damages" beyond the statutory minimum.

23 Report at p. 29.

24 13. *Koire* was upheld by the California Supreme Court in its latest opinion on Ladies' Night  
25 promotions, *Angelucci v. Century Supper Club* (2007) 41 Cal.4<sup>th</sup> 160, wherein the Court  
26 unanimously ruled that men who were charged more than women to enter a supper club did not have  
27 to ask the offending business for equal treatment in order to have an unequal treatment claim under  
28 the Unruh Act. Therefore, if Four Seasons were to have hosted an equally ill-advised sex-based  
pricing promotion such as a "Boys' Night Out" that charged female patrons more than male patrons  
for beverages, and/or gave only male patrons free food, female patrons would not have to confront  
defendants and affirmatively assert their right to be treated the same as their male counterparts to  
have standing for an Unruh Act claim.

1 14. Defendants' Girls' Night Out promotion caused discontent, animosity, harm, resentment, or  
2 envy among the sexes, and is especially troubling, arbitrary, and invidious at a time when the  
3 depressed economy put a higher proportion of men out of work than women. For example, when  
4 Harry Crouch attended the Girls' Night Out in March of 2010, the national unemployment rate for  
5 men was higher than it was for women, standing at 10% for men and only 8% for women.

6 15. During Girls' Night Out, Four Seasons would have provided female millionaires such as  
7 Nancy Pelosi or Sarah Palin with discounted drinks and free food, but would have denied the same  
8 to combat veterans from the Iraq and Afghanistan wars. Or, multi-millionaire Oprah Winfrey could  
9 have traveled from her Montecito, California mansion and have been given deeply discounted drinks  
10 and free food on Girls Night Out, while unemployed male construction workers would have had to  
11 pay full price for their beverages and be denied the free food. On Girls' Night Out, a female defense  
12 attorney pulling down a six figure annual salary would have received discounted drinks and free  
13 food, but a minimum wage male file clerk, working for the same firm and sitting at the same Four  
14 Seasons table, would have had to pay full price for the same types of beverages and food.

15 16. Defendant DHM Westlake, Inc. is the owner or holder of ABC License Number 445119.  
16 ABC licensees are prohibited from discriminating against patrons based on the patrons' sex. For  
17 example, Business and Professions Code section 125.6 prohibits State of California licensees, such  
18 as holders of ABC licenses, from discriminating against customers based on sex and other personal  
19 characteristics. *Easebe Enterprises, Inc. v. Alcoholic Bev. etc. Appeals Bd.* (1983) 141 Cal.App.3d  
20 981. The ABC specifically informs all licensees about the illegality of charging patrons different  
21 prices based on sex. For example, the ABC's Business Practice Information Index provides:

22  
23 While drinks may be advertised at reduced prices, these specially-priced drinks  
24 cannot be made available only to certain groups of persons (e.g., Ladies Nights  
25 specials). This violates Business and Professions Code Section 125.6.

26 "Ladies Night" Promotions

27 An advertising program, which includes an inducement for ladies to frequent licensed  
28 premises on a particular night and thereby receive meals and cocktails at reduced  
prices because they are "ladies" is considered discriminatory and contrary to Business  
and Professions Code section 125.6 and Civil Code section 51.

1 17. Also, ABC license applications require an applicant to certify it has not and will not violate  
2 or cause or permit to be violated any provisions of the Alcoholic Beverage Control Act. Bus. &  
3 Prof. Code § 23952. Also, ABC Official Publication 620A, Model House Policies reads:

4  
5 Guidelines for Writing Policies

- 6 • You may have any company policy that does not conflict with existing laws (for  
7 example, no discrimination).  
8 • We will not promote drink specials to certain groups of people. For example, “Ladies’  
9 Night.” (This is against the law.)

10 18. The Van Nuys District Office of the California Department of Alcoholic Beverage Control  
11 issued defendant DHM Westlake a warning letter about Four Seasons' Girls' Night Out promotion,  
12 and that letter is attached hereto as Exhibit 2.

13 19. The California Department of Fair Employment and Housing (“DFEH”), the State agency  
14 charged with preventing unlawful discrimination in places of public accommodation, has published  
15 an Unruh Civil Rights Act brochure specifically addressing the unlawfulness of Ladies’ Night  
16 promotions. This DFEH brochure is attached hereto as Exhibit 3, and can also be found at  
17 <http://www.dfeh.ca.gov/DFEH/Publications/PublicationDocs/UnruhActBrochure.pdf>.

18 20. Defendants DHM Westlake, Inc., Westlake Wellbeing Properties, LLC, and Cooke & Castle,  
19 Inc. created, hosted, advertised, promoted, employed and/or managed this Girls' Night Out, and/or  
20 provided the necessary ABC license type 47 for Girls' Night Out, thereby discriminating or aiding in  
21 the unequal treatment of women and men that occurred during every Girls' Night Out.

22 21. While the statute of limitations for Unruh Act claims is two years, see *Gatto v. County of*  
23 *Sonoma* (2002) 98 Cal. App. 4th 744 (Unruh Act claims are based on the State's common law of  
24 personal injury and therefore have the same statute of limitations), the time for bringing this claim  
25 has been tolled by at least the doctrine of equitable tolling by the May 5, 2010, filing of a similar  
26 class action complaint in this court for the same Girls' Night Out promotion, *Loren Stone v. Westlake*  
27 *Wellbeing Properties, LLC*, Los Angeles County Superior Court Case Number BC437103 (the  
28 "Stone Case"). However, the complaint in the Stone Case does not include an Unruh Civil Rights

1 Act cause of action as alleged in this lawsuit, and the notice of the proposed settlement of the Stone  
2 Case specifically does not release any Unruh Civil Rights Act claims the class members in the Stone  
3 Case have against the Stone Case's sole named defendant: Westlake Wellbeing Properties, LLC.  
4 The operative First Amended Complaint Stone Case does not include female patrons in its definition  
5 of class members who were treated unequally during Girls' Night Out, but this complaint does.

6 22. The plaintiff here, Harry Crouch, among others, has opted out of the proposed settlement in  
7 the Stone Case, and objected to that settlement because that settlement was not fair to the class,  
8 among many other objections. In a November 2, 2012, hearing on a motion for a final approval of  
9 the proposed settlement of the Stone Case, the court characterized the proposed final settlement of  
10 the Stone Case as follows: "This overall settlement, the way it has turned out, is disturbing." The  
11 court did not grant approval of the final settlement of the Stone Case at the November 2, 2012  
12 hearing, and another hearing on the settlement of the Stone Case is set for January 8, 2013..

13 23. By this action, plaintiff Harry Crouch, on behalf of himself and all others similarly situated,  
14 seeks redress for defendants' unequal treatment of female and male patrons based on their sex.

### 15 **PARTIES**

16 24. Plaintiff Harry Crouch is a California resident over 21 years of age.

17 25. On information and belief, at all times relevant hereto, defendant DHM Westlake, Inc. was a  
18 California corporation doing business as Four Seasons Hotel Westlake Village located at 2 Dole  
19 Drive in Westlake Village, California. DHM Westlake, Inc. is the owner or holder of California  
20 ABC License Number 445119, which also benefits fellow defendants. This is an ABC License Type  
21 47 for on-sale general eating place. But for DHM Westlake's ABC license, Girls' Night Out would  
22 not have been possible.

23 26. On information and belief, at all times relevant hereto, defendant Westlake Wellbeing  
24 Properties, LLC was a California limited liability company doing business as Four Seasons Hotel  
25 Westlake Village located at 2 Dole Drive in Westlake Village, California. Westlake Wellbeing  
26 Properties, LLC is the owner of this Four Seasons Hotel. But for Westlake Wellbeing Properties'  
27 ownership of this Four Seasons Hotel, Girls' Night Out would not have been possible.



1 27. On information and belief, at all times relevant hereto, defendant Castle & Cooke, Inc. was  
2 an Hawaii corporation assigned Entity Number C1954302 by the California Secretary of State.  
3 Castle & Cooke's website lists the Four Seasons Hotel Westlake Village as one of its "properties."  
4 But for Castle & Cooke's ownership of this Four Seasons Hotel property, Girls' Night Out would not  
5 have been possible

6 28. The true names and capacities of Does 1 through 100 are unknown to plaintiff. When their  
7 true names and capacities are learned, plaintiff will amend this complaint accordingly. Plaintiff is  
8 informed and believes, and on that basis alleges, each fictitiously named defendant is responsible in  
9 some way for the occurrences herein alleged, and those defendants proximately caused plaintiff and  
10 the other male consumers' damages. Each reference in this complaint to "defendant," "defendants,"  
11 or a specifically named defendant refers to all defendants sued under fictitious names.

12 29. Unless otherwise alleged, whenever reference is made in this complaint to any act of  
13 "defendant," "defendants," or a specifically named defendant, such allegation shall mean that each  
14 defendant acted individually and jointly with the other defendant named in the complaint.

15 30. Unless otherwise alleged, whenever reference is made in this complaint to any act or  
16 omission of any corporate or business defendant, such allegation shall mean that such corporation or  
17 other business defendant committed or omitted to act as in this complaint through its officers,  
18 directors, employees, agents, and/or representatives while they were acting within the actual or  
19 apparent scope of their authority.

20 31. At all relevant times alleged herein, each defendant acted as an agent, representative, partner,  
21 joint venturer, employee, assistant, or aide of each of the other defendants and has acted within the  
22 course and scope of said agency, representation, partnership, or joint venture.

### 23 **JURISDICTION AND VENUE**

24 32. This court has subject matter jurisdiction over this matter pursuant to Article VI,  
25 section 10 of the California Constitution because this action is a cause not given by statute to other  
26 trial courts, and seeks (among other relief) a permanent injunction. Subject matter jurisdiction is  
27 further premised on, *inter alia*, California Civil Code section 51 and Business and Professions Code  
28 section 125.6.

33. This court has personal jurisdiction over defendants in this action because all defendants do sufficient business in California and have sufficient minimum contacts in California to render the exercise of personal jurisdiction over them by California courts consistent with traditional notions of fair play and substantial justice.

34. Venue is proper in this court because the unequal treatment alleged herein occurred in Westlake Village, California, and this is a class action.

## CLASS ALLEGATIONS

35. Plaintiff brings this Class Action on behalf of himself, and on behalf of all other persons similarly situated, defined as follows:

All male and female patrons who were treated unequally based on their sex during the Girls' Night Out promotion at the Four Seasons Hotel Westlake Village, during the period from May 5, 2009 through July 7, 2010 (the "Class").

36. This action has been brought and may properly be maintained pursuant to Code of Civil Procedure section 382 because:

(a) The members of the Class are so numerous it would be impracticable to join them all individually in a single action. The Class are believed to number several hundred or thousand members. If the court determines notice to be necessary or appropriate, members of the Class may be notified of the pendency of this action by mail and/or email, supplemented or substituted by published notice.

(b) Common questions of law and fact exist as to all members of the Class. These questions predominate over any questions which affect only the individual members of the Class. These common legal and factual questions include:

- (1) Whether defendants' Girls' Night Out promotion, advantage, privilege, service, or activity treated members of the Class unequally based on the sex of the members;
- (2) Whether defendants treated male and female patrons unequally on the basis of their sex by requiring male patrons and female patrons to pay

different prices for the same types of beverages and/or food on Girls' Night Out;

(3) Whether defendant violated Civil Code section 51 by requiring male patrons and female patrons to pay different prices for the same types of beverages on Girls' Night Out;

(4) Whether defendant violated Civil Code section 51 by requiring male patrons and female patrons to pay different prices for the same types of beverages and/or food on Girls' Night Out;

(5) Whether defendant DHM Westlake, Inc., holder of ABC License Number 445119, violated Business & Professions Code 125.6 (1) because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, DHM Westlake refused to perform the ABC-licensed activity or aided the refusal to perform that ABC-licensed activity or if, (2) because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, DHM Westlake made any discrimination, or restriction in the performance of the ABC-licensed activity, and should thereby be enjoined by this court for either action.

37. The claims of plaintiff are typical of those of the proposed Class. Like the members of the proposed Class, plaintiff was treated unequally during a Girls' Night Out. Defendants denied plaintiff and the members of the proposed Class equal accommodations, advantages, facilities, privileges, or services based upon the patrons' sex, all of which plaintiff and members of the proposed class are entitled to under California's Unruh Civil Rights Act. Plaintiff and the members of the proposed Class are similarly situated and were similarly harmed by the same course of unlawful conduct alleged herein. Because the California Supreme Court in *Koire v. Metro Car Wash* (1985) 40 Cal.3d 24, 33 found that sex-based pricing promotions such as Ladies' Day and Ladies' Night promotions that charge customers different prices for the same thing based solely on

1 the customers' sex to be *per se* injurious (“the Legislature established that arbitrary sex  
2 discrimination by business is *per se* injurious”), harm and causation are presumed for both the plaintiff  
3 and the Class in order to recover the \$4,000 statutory damages per offense plaintiff has listed in his  
4 prayer for relief.

5         38. Plaintiff will fairly and adequately protect the interests of the members of the Class.  
6 He is a member of the proposed Class and has no interests adverse to the interests of the proposed  
7 Class. He is a champion of equal rights for women and men, being the president of the National  
8 Coalition for Men, the world's oldest organization advocating equal treatment for women and men.  
9 He is interested in and prays for equal treatment for all consumers, no matter what their sex. He has  
10 been treated unequally because of his sex as a result of defendants' conduct. This unequal treatment  
11 and harm to himself and other consumers provide him with a substantial stake in this action and the  
12 incentive to prosecute it vigorously for himself and the Class. He has retained experienced and  
13 competent counsel familiar with class actions, consumer protection law, the applicable sex  
14 discrimination laws, and complex litigation, and intends to pursue this action vigorously. Plaintiff's  
15 attorney represented the prevailing plaintiffs/appellants in the California Supreme Court's landmark  
16 Unruh Act/Gender Tax Repeal Act case of *Angelucci v. Century Supper Club* (2007) 41 Cal.4<sup>th</sup> 160,  
17 and has worked with the California Attorney General, Department of Fair Employment and Housing,  
18 Department of Alcoholic Beverage Control, Bureau of Gambling Control, the California Legislature,  
19 and many other State of California agencies and officials in support of California's strong public  
20 policy to eradicate sex discrimination. Plaintiff's attorney was also asked by the Judicial Council of  
21 California to comment on the Judicial Council's recently proposed changes to its CACI jury  
22 instructions for violations of the Unruh Act and of similar California anti-discrimination statutes.  
23 See pages 28 - 29 of the "Report to the Judicial Council For business meeting on June 22, 2012."

24         39. A class action is superior to other available methods for the fair and efficient  
25 adjudication of the litigation because individual joinder of all members of the Class is impracticable.  
26 The damages suffered by each individual member of the Class are relatively small given the expense  
27 and burden of individual prosecution of an individual action. Thus, it would be virtually impossible  
28

1 for the members of the Class to individually redress the wrongs done to them. Even if the members  
2 of the Class themselves could afford such individual litigation, such litigation would constitute a  
3 highly avoidable inefficiency in the administration of justice by the courts. Further, individualized  
4 litigation presents the potential for inconsistent or contradictory judgments.

5 40. In engaging in the wrongful conduct alleged herein, defendants acted or refused to act  
6 on grounds generally applicable to the Class, thereby making appropriate final injunctive relief or  
7 corresponding declaratory relief with respect to the Class as a whole, and making appropriate class  
8 certification under Code of Civil Procedure section 382 and any other relevant provisions of other  
9 statutes alleged herein.

#### 11 **FIRST CAUSE OF ACTION**

#### 12 **Violation of the Unruh Civil Rights Act, Civil Code Section 51 For Not Providing Patrons With** 13 **Equal Accommodations, Advantages, Facilities, Privileges, Or Services**

14 41. Plaintiff incorporates in this cause of action the allegations contained in each and  
15 every preceding paragraph of this Complaint as if they were set out at length herein.

16 42. By virtue of defendants' acts and omissions during the Girls' Night Out promotion,  
17 defendants denied equal accommodations, advantages, facilities, privileges, or services to patrons on  
18 the basis of the patrons' sex, all as prohibited by the Unruh Civil Rights Act, codified as Civil Code  
19 section 51.

20 43. Because the California Supreme Court in *Koire v. Metro Car Wash* (1985) 40 Cal3d  
21 24, 33 found that sex-based pricing promotions such as Ladies' Day and Ladies' Night promotions  
22 that charge customers different prices for the same thing based solely on the customers' sex to be per  
23 se injurious ("the Legislature established that arbitrary sex discrimination by business is per se  
24 injurious"), harm and causation are presumed in order to recover the \$4,000 statutory damages per  
25 offense that plaintiff prays for here.

26 44. Said discrimination further renders defendants subject to injunctive relief.  
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1 **SECOND CAUSE OF ACTION**

2 **Violation of Business and Professions Code Section 125.6**

3 **For Discriminating In The Performance Of The ABC Licensed Activity Based On Patrons' Sex**

4 45. Plaintiff incorporates in this cause of action the allegations contained in each and  
5 every preceding paragraph of this Complaint as if they were set out at length herein.

6 46. Defendant DHM Westlake, Inc. is the holder or owner of California Department of  
7 Alcoholic Beverage Control License Number 445119, which also benefits co-defendants. This is an  
8 ABC License Type 47 for on-sale general eating place.

9 47. By virtue of defendants' conduct alleged herein, defendants made a discrimination or  
10 restriction in the performance of the ABC licensed activity against plaintiff and the Class on the  
11 basis of the patrons' sex.

12 48. Defendants' conduct harmed plaintiff and the Class and caused them damages.

13 49. Defendants' conduct was a substantial factor in harming plaintiff and the Class.

14 50. Said discrimination renders defendants subject to injunctive relief.  
15

16 **PRAYER FOR RELIEF**

17 WHEREFORE, plaintiff prays for the following relief on behalf of himself and all others similarly  
18 situated:

19 1. For an order providing equitable and injunctive relief permanently enjoining  
20 defendants from engaging in unequal treatment of patrons in violation of Civil Code section 51 and  
21 Business & Professions Code section 125.6;

22 2. For an order certifying the proposed Class under California Code of Civil Procedure  
23 section 382, appointing plaintiff and his counsel to represent the Class, and directing that reasonable  
24 notice of this action be given to the Class by defendants;


25 3. For statutory damages pursuant to Civil Code section 52;

26 4. For costs incurred herein, including attorneys' fees to the extent allowable by statute,  
27 including but not limited to Civil Code sections 52 and Code of Civil Procedure section 1021.5; and

28 5. For such other and further legal and equitable relief as this court may deem proper.

1 Dated: December 27, 2012

Respectfully submitted,

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4 By:   
5 Alfred G. Rava  
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# Exhibit 1





## GIRLS' NIGHT OUT

Drink specials from \$6 and  
complimentary appetizers  
just for the girls.

Wednesdays  
5:00 to 7:00 pm

## HAPPY HOUR

Drink and appetizer  
specials from \$6.

Tuesdays & Thursdays  
5:00 to 7:00 pm



## THE BAR

### GIRLS' NIGHT OUT

Specialty cocktails are available at  
an exclusive price of \$6  
with complimentary  
appetizers just for the girls.

Wednesdays, 5:00 to 7:00 pm

---

### HAPPY HOUR

Live music and recession friendly  
\$6 drink and appetizer specials.

Thursdays, 5:00 to 7:00 pm



For more information,  
please call (818) 575-3000  
or visit  
[www.fourseasons.com/westlakevillage](http://www.fourseasons.com/westlakevillage).



FOUR SEASONS HOTEL  
*Westlake Village, California*



**FOUR SEASONS HOTEL**  
*Westlake Village, California*

Two Dole Drive , Westlake Village , California , U.S.A. 91362 Tel. 1 (818) 575-3000 Fax. 1 (818) 575-3100

**Four Seasons Westlake  
Village, California**

## Dining

**Photos and videos**

**Rates and reservations**

**Guest rooms and suites**

**Spa and wellness**

**Dining**

**Services and activities**

**About this destination**

**Hotel fact sheet**

**Plan your**

Wedding

Celebration or event

Meeting

Local time: **10:43 a.m.**

Local temp: **54°F/12°C**

### Rates and reservations

Find a hotel or resort

Purchase a gift card

Contact us

\$

\$

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### Restaurants

Hampton's

ONYX

### Lounges

Lobby Lounge

**The Bar**

### In-Room Dining

In-Room Dining



[Share photo](#) (1 of 2)

## The Bar

Custom cherry and burled-wood panelling, leather wing-back chairs and intimate group seating around the fireplace lend a cosy, club-like atmosphere to The Bar. Also featured are three mahogany billiard tables and a plasma screen television for entertainment.

The menu consists of tasty appetisers complemented by cocktails and a wide selection of international beers.

Events and promotions

*Happy hour Tuesdays and Thursdays*

Join us for happy hour from 5:00 pm to 7:00 pm every Tuesday and Thursday. Enjoy specialty cocktails and appetisers starting from USD 6.00.

*Girls' night out*

On Wednesday evenings from 5:00 pm to 7:00 pm, join us for a girls' night out. Specialty cocktails are available at an exclusive ladies-only price of USD 6.00, with complimentary appetisers just for the girls.

Hours

Sunday to Thursday 11:30 am – 12:00 midnight

Friday and Saturday 11:30 am – 1:00 am

Quick reference

Location Lobby level

Indoor seating 60

Outdoor seating 20

Attire Casual

• [View sample menu](#)

• [Bar menu](#)

## **GIRLS NIGHT OUT COCKTAILS**

**8**

### **Orange Dreamsicle**

Grey Goose L'Orange, Vanilla Vodka  
Orange Juice, Splash of Cream

### **Pink Cosmopolitan**

Ketel One Vodka, Cointreau  
Cranberry Juice, Fresh Lime

### **Raspberry Crush**

Ketel One Vodka, Chambord, Lemonade

### **First Crush**

Hendricks Gin, Fresh Cucumber,  
Fresh Lime, Dash of Sprite

### **Strawberry Blossom**

Cachaca, Fresh Lime Juice, Brown Sugar  
Local Organic Strawberries, Splash of Club Soda

## **WINES BY THE GLASS**

**6**

Merlot, Saddlerock, California  
Chardonnay, Geode, Santa Barbara

# Exhibit 2

**DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**

Van Nuys District Office - Southern Division  
6150 Van Nuys Blvd, Suite 220  
Van Nuys, California 91401  
(818) 901-5017



October 5, 2010

Alfred G. Rava  
The Rava Law Firm  
3667 Voltaire Street  
San Diego, CA 92106

RE: DHM WESTLAKE INC.  
DBA: Four Seasons Hotel Westlake Village  
2 Dole Dr.  
Westlake Village, CA 91362  
File: 455119

Dear Mr. Rava,

This office is in receipt of the complaint that was filed on September 2, 2010 by The Rava Law Firm concerning the above licensee and violations involving discrimination.

This office has generated a letter of warning concerning the practices and a letter has been mailed to the licensed corporation.

If I can be of further assistance, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Armando Gonzalez", is written over a horizontal line.

Armando Gonzalez  
District Administrator

# Exhibit 3



## Protections Under the Law Against Sex Discrimination

The Unruh Civil Rights Act (Civ. Code, § 51), originally enacted in 1959, was designed to protect the rights of Californians from arbitrary discrimination and to guarantee their rights to full and equal access to all public accommodations regardless of sex.

Discrimination by business establishments on the basis of sex is against the law. It is unlawful for any business that is open to the general public to discriminate against a patron based on any of the following classifications: sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. The Unruh Act protection is not limited to these classifications. It is an Unruh Act violation for a business to offer special treatment, whether preferential or detrimental, to one class of patrons regardless of the business' motives for doing so.

## Businesses that are Governed by the Unruh Civil Rights Act

The list below includes examples of businesses that are covered by the Unruh Act. This list is non-exhaustive, and may include any place of public accommodation regardless of whether the entity is a traditional business or non-profit entity.

- Bars and Nightclubs.
- Restaurants.
- Hotels and Motels.
- Retail Shops.
- Golf Courses.
- Fitness Clubs or Gyms.
- Theaters.
- Hospitals.
- Barber Shops and Beauty Salons.
- Non-Profit Organizations (open to the public).
- Public Agencies.
- Housing Accommodations.

## Filing a Complaint

The Department of Fair Employment and Housing (DFEH or Department) is charged with the task of upholding the Unruh Act, and ensuring that its laws and principles are not violated. If you believe you are a victim of unlawful discrimination, do not hesitate to call the DFEH and file a complaint following these steps:

- Contact the DFEH by calling the toll free number at (800) 884-1684 to schedule an appointment.
- "Be prepared to present specific facts about the alleged harassment of discrimination.
- "Provide any copies you may have of documents that support the charges in the complaint.
- Keep records and documents about the complaint, such as receipts, stubs, bills, applications, flyers, witness contact information, and other materials.

## Examples of Sex-Based Discrimination Under the Unruh Violations

The following are examples of potential violations of the Unruh Act. The list is not meant to be exhaustive, and there is other conduct that may violate the Act.

- Providing free admission, discounts, or promotional gifts to only one sex.
- Charging men and women different prices for comparable services, such as clothing alterations, haircuts, dry cleaning, or drinks at a restaurant or bar.

- Maintaining "women only" or "men only" exercise areas of a fitness club or gym and excluding or deterring the opposite sex from those areas.
- Establishing a "women only" or "men only" business establishment which would otherwise be completely open to the public.
- Excluding one sex from a business premises during certain times.
- Posting signs or adopting policies for "women recommended" or "men preferred."
- Requiring members of one sex to submit to searches to gain admittance to a business.

establishment while providing admittance to members of the other sex without the same level or degree of search.

- Promoting a business with "ladies night" discounts on admission and services.
- Denying access to a business, such as a nightclub to a particular sex, or giving preference to one sex over the other.



Complaints must be filed within one year from the last act of discrimination. The DFEH will conduct an impartial investigation.

The Department is not an advocate for either the person complaining or the person complained against. The Department represents the state. The DFEH will, if possible, try to assist both parties to resolve the complaint. If a voluntary settlement cannot be reached, and there is sufficient evidence to establish a violation of the law, the Department may issue an accusation and litigate the case before the Fair Employment and Housing Commission or in civil court. This law provides for a variety of remedies that may include the following:

- Out-of-pocket expenses.
- Cease and desist orders.
- Damages for emotional distress.
- Statutory damages of three times the amount of actual damages, or a minimum of \$4,000 for each offense.

For more information, contact the DFEH  
Toll Free (800) 884-1684  
Sacramento area and out-of-state (916) 227-0551  
Videophone for the Deaf (916) 226-5285  
E-mail [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)  
Web site [www.dfeh.ca.gov](http://www.dfeh.ca.gov)

Facebook  
<http://www.facebook.com/#!/pages/Department-of-Fair-Employment-and-Housing/183801915445>  
YouTube <http://www.youtube.com/califdfeh>  
Twitter <http://twitter.com/DFEH>

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## State of California DEPARTMENT OF FAIR EMPLOYMENT & HOUSING



### References

1. California Civil Code section 51.
2. *Rotary Club of Duarte v. Board of Directors* (1987) 178 Cal.App.3d 1035. A non-profit club was a business establishment under the Unruh Act because it offered its members substantial "commercial advantages and business benefits." Membership in these kinds of organizations is a privilege or advantage under the Unruh Act. Thus, termination of membership based on sex is prohibited.
3. *Warfield v. Peninsula Golf & Country Club* (1995) 10 Cal.4th 594. By offering the public access to its facilities, the County Club became a business establishment under the Unruh Act and could not exclude women.

4. *Ibister v. Boys' Club of Santa Cruz* (1985) 40 Cal.3d 72. A non-profit activities center for boys was a place of public accommodation, and excluding an entire class of patrons, such as women, was illegal.
5. *Angelucci v. Century Supper Club* (2007) 41 Cal.4th 160. It was a violation of the Unruh Act for a night club to charge its male patrons a higher price for admission. The patrons need not affirmatively request nondiscriminatory treatment, but rather, are entitled to it. The Unruh Act imposes a compulsory duty upon business establishments to serve all persons without arbitrary discrimination.
6. *Koire v. Metro Car Wash* (1985) 40 Cal.3d 24. The Unruh Act broadly condemns any business establishment's policy of gender-based price discounts.

### Unruh Civil Rights Act

All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.