

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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SANDRA MENA and LA BAMBIA BAR LOUNGE  
INC.,

Plaintiffs,

-against-

INCORPORATED VILLAGE OF FREEPORT, and  
JOSEPH MADIGAN, individually, and JONATHAN  
SMITH, individually, and ROBERT T. KENNEDY,  
individually, and MIGUEL BERMUDEZ,  
individually,

Defendants.  
-----X

**COMPLAINT**

**Docket No.: 19-cv-6255**

**Jury Trial Demanded**

SANDRA MENA (“Mena”) and LA BAMBIA BAR LOUNGE INC. (“La Bamba”) (together, where appropriate, as “Plaintiffs”), by and through their attorneys, BORRELLI & ASSOCIATES, P.L.L.C., as and for their Complaint against Defendants, INCORPORATED VILLAGE OF FREEPORT (“Village” or “Freeport”), and JOSEPH MADIGAN, individually (“Madigan”), and JONATHAN SMITH, individually (“Smith”), and ROBERT T. KENNEDY, individually (“Kennedy”), and MIGUEL BERMUDEZ, individually (“Bermudez,” and with the other individually-named Defendants as the “Individual Defendants,” and with Freeport as “Defendants”), allege upon knowledge as to themselves and their own actions and upon information and belief as to all other matters as follows:

**NATURE OF CASE**

1. This is a civil action based upon Defendants’ willful violations of Plaintiffs’ rights guaranteed to them by: (i) the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, to be enforced vis-à-vis Section 1983 of Title 42 of the United States Code

(“Section 1983”); (ii) the anti-race discrimination provisions of the New York State Human Rights Law (“NYSHRL”); (iii) the anti-aiding and abetting provisions of the NYSHRL; and (iv) any other claim(s) that can be inferred from the facts set forth herein.

2. Plaintiffs - - a Hispanic business owner and the corporation that she formed for the purpose of operating La Bamba Bar & Lounge (“the Bar”), which while open was located in Freeport, New York, and whose customers were primarily Hispanic - - bring this action due to the disparate treatment to which Defendants - - the Village, along with its Building Department Superintendent, Code Enforcement Officer, Mayor, and Chief of Police - - subjected them due to Mena’s race and the general race of La Bamba’s clientele. Specifically, the Village, pursuant to a policy and custom established by the actions of the Individual Defendants in their capacity to set and enforce Village policy and bind the Village, and the Individual Defendants, while acting under color of law and by way of authority and power granted to them by the laws of the State of New York and the Village of Freeport, subjected or caused Plaintiffs to be subjected to the deprivation of rights, privileges, and immunities secured by the Fourteenth Amendment to the United States Constitution, and all laws and statutes arising thereunder, as well as race discrimination under the NYSHRL.

3. Indeed, Defendants, based on their prejudice against the Hispanic population of Freeport, as evidenced by multiple admissions of that prejudice made to Mena, subjected Plaintiffs to repeated and baseless fines, citations, and inspections in a manner so relentless that the business was forced to cease operation.

**COMPLIANCE WITH CONDITIONS PRECEDENT**

4. Within ninety days after accrual of Plaintiffs’ claims, they served a verified Notice of Claim upon which this action is founded, dated November 2, 2018, to all Defendants, pursuant

to General Municipal Law 50-e. More than thirty days have passed since service of the Notice of Claim, and the officer or body capable of redressing Plaintiffs' grievances has neglected or refused to do so. Plaintiffs bring this action within one year and ninety days of the end of Defendants' continuous campaign to deprive Plaintiffs of their rights with the revocation of La Bamba's Public Assembly License by letter dated August 8, 2018.

### **JURISDICTION AND VENUE**

5. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331, as this action arises under 42 U.S.C. § 1983. The supplemental jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1367 over all state law claims.

6. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391(b)(2), as a substantial part of the events or omissions giving rise to the claims for relief occurred within this judicial district.

### **PARTIES**

7. At all relevant times herein, Plaintiff Mena was and is a resident of the state of New York and is a "person" within the meaning of the Fourteenth Amendment to the Constitution of the United States of America, Section 1983, and the NYSHRL.

8. At all relevant times herein, Plaintiff La Bamba was and is a corporation organized and existing under the laws of New York, which operated a bar and lounge located at 40 West Merrick Road, Freeport, New York 11520. La Bamba was and is a "person" within the meaning of the Fourteenth Amendment to the Constitution of the United States of America, Section 1983, and the NYSHRL.

9. At all relevant times herein, Defendant Village was and is an incorporated municipal entity in the state of New York, with executive offices located at 46 North Ocean

Avenue, Freeport, New York 11520, which operates the Freeport Police Department and the Building Department of the Village of Freeport. At all relevant times herein, the Village was and is a “person” within the meaning of Section 1983.

10. At all relevant times herein, Defendant Madigan was and is the Superintendent of the Building Department of the Village of Freeport, responsible for overseeing and running the Building Department in its role enforcing local ordinances and codes as they pertain to regulating the operation of local businesses, and who in that role had and has the authority to execute policies and customs on behalf of the Village. Madigan was and is a “person” within the meaning of Section 1983.

11. At all relevant times herein, Defendant Smith was and is a Code Enforcement Inspector for the Village of Freeport, working under the authority of the Building Department, under the direction of Defendant Madigan, to enforce codes, ordinances, and policies of the Village as they pertain to the operation of local businesses, and who in that role had and has the authority to bind the Village and execute policies or customs on its behalf. Smith was and is a “person” within the meaning of Section 1983.

12. At all relevant times herein, Defendant Kennedy was and is the Mayor of the Village of Freeport, responsible for overseeing operation of the Village and enforcement of Village laws and ordinances, and who has authority to bind the Village and execute policies and customs on its behalf with respect to the operations of the Freeport Police Department and Department of Buildings. Kennedy was and is a “person” within the meaning of Section 1983.

13. At all relevant times herein, Defendant Bermudez was and is the Chief of Police for the Village of Freeport, responsible for directing police enforcement and action within the Village of Freeport, and who in that role had and has the authority to bind the Village and to

enforce policies, customs, local laws, and ordinances, on its behalf. Bermudez was and is a “person” within the meaning of Section 1983.

### **BACKGROUND FACTS**

14. On October 31, 2013, Mena, who is Hispanic, incorporated La Bamba Bar Lounge Inc. for the purpose of opening the Bar, located at 40 West Merrick Road, Freeport, New York 11520.

15. To obtain a Public Assembly License, Liquor License, and Cabaret License, Plaintiffs were required to provide proof of compliance with the state and local ordinances that govern these licenses. This included maintaining food sales and submitting a plan for food service to the New York State Liquor Authority (“SLA”) for approval. Plaintiffs submitted a menu and plan for food service that involved the use of outside vendors in conjunction with frozen food maintained on site and prepared through the use of a microwave. The SLA approved this menu and food service plan and granted a liquor license to La Bamba.

16. In late-2015, prior to the Bar’s opening and while Plaintiffs were making necessary repairs to the premises and completing the necessary licensing formalities, Defendant Smith, in his capacity as a Code Inspector for the Department of Buildings, working for the Village, told Mena that Plaintiffs should not attempt to open the Bar because the Village found the prospective clientele, which would be predominantly Hispanic individuals, undesirable, and warned that the Village would attempt to shut the bar down as a result.

17. Despite that racist threat, the Bar opened to the public on October 28, 2015, and became a popular destination for the local and surrounding Hispanic population due to its Hispanic theme, hosting of Hispanic performers, and regular “salsa dance” night. Indeed, Plaintiffs’

clientele consisted of almost exclusively Hispanic individuals, and La Bamba operated the only Hispanic-themed bar in the area.

18. Plaintiff Mena ran and oversaw the operations of the Bar on a daily basis, managing bar staff, obtaining necessary security, dealing with vendors supplying food and beverages, coordinating events and theme nights, and hiring and training new staff.

19. Carrying out Defendant Smith's ominous and racist warning, beginning in 2016 and continuing until Plaintiffs ceased operation of the Bar on August 8, 2018, Defendants repeatedly filed police reports, which inaccurately or baselessly attributed to the Bar incidents that occurred in public spaces maintained by the Village, to harass Plaintiffs' business, with the singular goal of depriving Plaintiffs of their ability to conduct business.

20. For instance, generally, Plaintiff Mena routinely observed Freeport Police vehicles stationed nearby the Bar, waiting for a reason to interfere with Plaintiffs' operations. Any report remotely in the proximity of the Bar resulted in a visit from officers, an impromptu inspection of the premises, and a series of citations, actions that Defendants did not take with respect to other similarly-situated establishments in the Village operated by a non-Hispanic owner or catering to a non-Hispanic clientele.

21. Further, the Freeport Police department, under the control and direction of Defendant Bermudez, was comprised of six patrol units during the time relevant to this complaint. Frequently, response to any incident near the Bar would involve three or more responding units. Defendant Bermudez permitted and was responsible for this allocation of responding units in furtherance of this campaign of racist harassment.

22. Freeport Police then used any pretext available to enter the Bar and question Plaintiffs, Plaintiffs' employees, and Plaintiffs' clientele about events occurring outside the

premises, on Village property, and frequently unrelated to the Bar. When these lines of interrogation yielded no basis to mete out a citation, officers would begin to question Plaintiffs about either security certifications or food service issues in the hopes of finding some form of SLA or other violation. With this pretext, the police would report false or inaccurate violations to the Building Department, which would then act on these reports to seek to close Plaintiffs' business.

23. More specifically, on April 1 and 3, July 16, August 13, and October 2, 9, and 26 of 2016, and on January 1 and 21, February 3, 5, and 19 of 2017, Plaintiffs were subjected to separate occurrences of heightened police scrutiny in response to reports or allegations about their clientele. Many of these reports detailed events unrelated to Plaintiffs' business operations and involved individuals acting in public spaces outside of Plaintiffs' control or knowledge. Even where it was clear the Plaintiffs had no connection to or knowledge of the events precipitating Freeport Police presence, the reports made by responding officers nonetheless attributed the incidents to Plaintiffs' business. This subjected Plaintiffs to harassment, embarrassment, fines, and administrative action as a result.

24. After receiving that series of citations, in or around August 2017, Mena's husband, Manuel Plaza, approached Defendant Kennedy to raise concerns regarding the Freeport Police Department's actions. In response, Kennedy suggested that Plaintiffs "hire the police" by paying to have an officer stationed in front of the Bar. Kennedy then, reiterating Defendant Smith's warning, candidly informed Mr. Plaza that the Village disliked the Hispanic clientele who frequented the Bar, and suggested that Plaintiffs "should change [their] clientele" because "there are too many people coming in that aren't from around here," implying that the almost exclusively Hispanic customers were not welcome in the Village.

25. Following the conversation between Mr. Plaza and Defendant Kennedy, Plaintiffs did not change their almost entirely Hispanic clientele as Kennedy insisted. The heightened police presence at the Bar did not subside, and the number of baseless citations increased. Indeed, Plaintiffs were again subjected to baseless heightened police scrutiny on August 21 and 28, September 20, October 26, November 12, and December 1 of 2017.

26. With respect to that first instance and by way of example, on August 21, 2017, Freeport Police arrived at the Bar to question Plaintiff Mena about an altercation that occurred on Church Street, which is around the corner from the Bar's entrance, which they claimed began in the Bar. Mena was unaware of any fight that had occurred in the Bar and thus informed the officers that the incident about which they inquired did not begin in the Bar. Mena later learned that the two individuals allegedly involved in the altercation that evening were familiar with each other from their time incarcerated. As Mena understood the course of events that evening, these individuals left the Bar together prior to any altercation beginning. Once they had left the premises and proceeded to another street outside of Plaintiffs' ability to exercise any control over them, without Plaintiffs' knowledge, and giving no indication to Plaintiffs of their intention to fight each other or of their intention to return to the Bar afterwards, the altercation began. Nonetheless, Freeport Police returned to the Bar to issue a baseless citation to Plaintiffs about the absence of a kitchen and its bearing on the Plaintiffs' liquor license status, despite Plaintiffs receiving approval from the SLA.

27. As another example, one week later, on August 28, 2017, as Plaintiff Mena was closing the Bar, a patron attempted to enter a vehicle outside, believing it to be a ride-share driver he had called. The vehicle instead belonged to a relative of a member of the Bar's security that Plaintiffs had hired for the evening. The driver pushed the patron out of the vehicle as he tried to

enter. The security guard, leaving work as the Bar closed, witnessed this interaction and proceeded to physically remove the patron from the vehicle. Freeport Police, stationed nearby and awaiting any opportunity to interfere with Plaintiffs, intentionally inaccurately reported the incident as a fight occurring in front of Plaintiffs' premises involving Plaintiffs' employees. But rather, as Plaintiffs explained to the officers, the security guard involved in the altercation was a guard assigned by an outside security vendor and assigned to work at the Bar for the first time that evening, and was not an employee of the Bar.

28. Defendants' harassment of Plaintiffs was not limited to filing inaccurate police reports. Indeed, Defendants' agents, including Freeport Police officers and Village building inspectors, routinely made baseless claims regarding the Bar's status with the SLA in an attempt to impede operation of the Bar. For instance, on December 1, 2017, a Worker's Compensation inspection of the Bar revealed that Plaintiffs' insurance agent had failed to issue an appropriate policy for which he had been paid, and instead absconded with the money without Plaintiffs' knowledge, until Plaintiffs inquired as to the reason why they had no insurance on record. Plaintiffs remedied this deficiency immediately and once corrected, their status with the SLA was restored. Despite this correction, Defendants sought to use Plaintiffs' misfortune to interfere with operation of the Bar. Defendants issued orders to cease operation of the Bar due to inadequate insurance coverage and framed the incident as a willful failure of Plaintiffs to obtain proper insurance.

29. Defendants subjected Plaintiffs and their clientele to further heightened police presence, citations, and baseless scrutiny for calls or reports only tangentially related to the operation of their business on April 1 and 5, June 17, and August 8 of 2018.

30. Specifically, at 4:15 a.m. on April 1, 2018, Freeport Police officers responded to reports of an altercation in a public parking area operated by the Village, located a half-block away from the Bar on Church Street, and in doing so made their way to the Bar. Plaintiff Mena had closed the Bar prior to their arrival and prepared to leave, but the officers stopped her to question her about the altercation. Mena responded that she was unaware of the altercation in the Village parking lot, however the officers falsely alleged that the altercation began in the Bar. Mena denied this and indicated that the only argument in the Bar that evening was between a husband and wife who had both been asked to leave. Mena later spoke with these patrons who informed her that they were not involved in the parking lot altercation. Nonetheless, Freeport Police falsely reported an altercation occurring outside the front of Plaintiffs' premises that began in the Bar, despite learning from Mena that this was not true. The officers then requested to see a security agreement, seeking to cite Mena for a lack of adequate supervision that permitted this altercation to occur. Mena, who is a trained security guard, has employed bartenders trained in New York State-recognized security and prevention programs, and who in fact maintained a security agreement covering the Bar at that time, could not immediately locate and provide the agreement in response to the officers' demands. The officers, not missing an opportunity, cited Mena, alleging that she did not possess any agreement, when she in fact did. The officers also cited Mena because of a vacant table for playing dominoes, which they insisted was evidence of illegal gambling. Finally, seeking anything that they could tenuously use in the absence of definitive violations, they again pressed Mena about the existence of a kitchen and the availability of food service, ignored her explanation of the SLA-approved food service plan that she maintained, and issued a citation alleging that Plaintiffs provided no food service at the Bar.

31. The cumulative history of charges, arising from the continued campaign of harassment against Plaintiffs, resulted in the revocation of Plaintiffs' Public Assembly License following the April 1, 2018 incident, thereby closing the Bar.

32. Following this incident, on April 7, 2018, Defendant Smith issued additional citations to Plaintiff Mena personally, rather than citing La Bamba as the corporate entity operating the bar and maintaining the permits and insurance required, alleging defects in the Bar that violated the Village Code and Building Code.

33. Plaintiffs appealed this revocation, and on July 25, 2018, at a Superintendent Hearing on the Public Assembly License revocation, Defendant Madigan, in his capacity as Superintendent, required that Plaintiffs enter into an overly restrictive stipulation as a condition of reinstatement of the Public Assembly License. Plaintiffs, without an alternative, accepted the conditions of this stipulation in order to reopen the Bar for business. Specifically, the stipulation required, *inter alia*, that alcohol service stop at 12:30 a.m. prior to a 1:00 a.m. closing on weekdays or at 1:30 a.m. prior to a 2:00 a.m. closing on weekends, that patrons not be allowed to wear hats, that Plaintiffs only serve beverages in plastic cups or bottles, and that Plaintiffs either install metal detectors at the door or purchase handheld metal detectors to ensure that patrons were not carrying weapons. Plaintiffs are aware of no other restaurants, bars, or lounges in Freeport subjected to any such similarly restrictive requirements to maintain a Public Assembly License. Furthermore, during the July 25, 2018 hearing, Defendant Smith reiterated to Plaintiffs that: "I told you not to open the business, we don't want that kind of business here."

34. On August 7, 2018, Plaintiffs re-opened the Bar pursuant to the conditions of the stipulation. That evening, alcohol service at the bar ended at 12:30 a.m., and Plaintiff Mena closed the Bar to the public before 1:00 a.m., in accordance with the restrictions of the stipulation. In

conjunction with closing the Bar, Mena locked the front door, but her husband needed to move their vehicle that was parked on the street, so he briefly unlocked the door and proceeded outside. Two Freeport Police officers waiting outside immediately pounced at the opportunity. Specifically, at 12:50 a.m. on August 8, 2018, two officers entered the Bar and observed six individuals there besides Mena and her husband. The officers confronted Plaintiff Mena and threatened to report Plaintiffs for serving alcohol later than allowed pursuant to the stipulation. Mena protested, informing the officers that the individuals present were not drinking, and that alcohol service had ended at 12:30 a.m. in accordance with the stipulation. In fact, the individuals observed were three employees assisting with clean up at closing time, a potential buyer discussing purchase of the property with Mena who was drinking an energy drink and not alcohol, and two candidates there to interview for a waitress position. Refusing to accept any explanation for the presence of those in the establishment, the officers filed a false report to Defendant Madigan stating that Plaintiffs served alcohol after the time allowed by the stipulation, and Madigan in turn issued a letter to Plaintiffs that same day that ordered Plaintiffs to immediately cease operation of the Bar, revoked their Public Assembly License, and accomplished the goal that Defendants had pursued from the start of their campaign of harassment, shutting down the only Hispanic-owned establishment catering to a mostly Hispanic clientele in the Village, because they believed this clientele to be undesirable. Defendant Madigan copied Defendants Kennedy and Bermudez on this letter.

35. Plaintiffs appealed the determination to revoke the Public Assembly License by letter on August 10, 2018, and in a subsequent meeting with Defendants Kennedy and Bermudez, as well as attorneys representing the Village, all reviewed footage taken by the officers on the evening of August 7, 2018.

36. In addition to the baseless complaint alleging sale of alcohol in violation of the stipulation, Defendant Kennedy, and seeking a means to support the report and citations against Plaintiffs, conjured a new list of violations to justify the cease and desist letter based upon the footage. Specifically, Defendant Kennedy alleged that Plaintiffs violated the stipulation's restriction on patrons wearing hats, although Mena had taken a patron's hat upon his arrival at the Bar and returned it when he left, informing him that he could not wear a hat in the Bar pursuant to the stipulation. Kennedy framed this attempt to abide by the terms of the stipulation to be a violation instead. Finally, the officers noted the red bull can and indicated a violation of the ban on beverage service during operation of the Bar using containers made of any material other than plastic. This was again baseless, however, as the beverage was not served in the course of operation of the Bar, and instead was consumed by a guest to the premises after closing, while discussing purchase of the establishment.

37. As a result of this cease and desist letter and Kennedy's laundry list of further baseless threats, Plaintiffs were forced to close the bar permanently on August 8, 2018.

**FIRST CLAIM FOR RELIEF AGAINST DEFENDANTS**

*Violations of the Equal Protection Clause of the Fourteenth Amendment to the United States  
Constitution vis-à-vis Section 1983*

38. Plaintiffs repeat, reiterate, and re-allege each and every allegation set forth above with the same force and effect as if more fully set forth herein.

39. The aforementioned administrative and police actions taken by the Defendants are violations of Section 1983 vis-à-vis the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

40. As fully described above, the Village, acting pursuant to a policy or custom, subjected Plaintiffs to egregious race discrimination in the form of increased police presence,

overly restrictive enforcement of operating requirements disproportionately leveled against Plaintiffs when compared to other similarly-situated businesses based upon the ethnicity of Mena and Plaintiffs' clientele, and harassment targeted at negatively impacting Plaintiffs' ability to conduct business, thereby treating Plaintiffs disparately based on their protected characteristics as described herein.

41. As described above, the Individual Defendants, acting on behalf of the Village under color of law and as policy makers and custom setters for the Village, willfully and maliciously deprived Plaintiffs of rights, privileges, and immunities under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution by engaging in race discrimination in the form of increased police presence, overly restrictive enforcement of operating requirements disproportionately leveled against Plaintiffs when compared to other similarly-situated businesses based upon the ethnicity of Mena and Plaintiffs' clientele, and harassment targeted at negatively impacting Plaintiff's ability to conduct business.

42. As a direct and proximate result of Defendants' unconstitutional discriminatory actions in violation of Section 1983 and the Equal Protection Clause, Plaintiffs have suffered economic damages, including, but not limited to, loss of earnings for sales that they would have received but for Defendants' conduct and out-of-pocket expenses associated with closing the Bar.

43. As a direct and proximate result of Defendants' unconstitutional discriminatory actions in violation of Section 1983 and the Equal Protection Clause, Plaintiff Mena has suffered, and continues to suffer, severe mental anguish and emotional distress, including, but not limited to, humiliation, embarrassment, loss of self-esteem, self-confidence, personal dignity, harm to her professional and personal reputations, stress and anxiety, and emotional pain and suffering, for which she is entitled to an award of monetary damages and other relief.

44. Defendants' unconstitutional discriminatory actions also constitute malicious, willful, and wanton violations of section 1983, for which Plaintiffs are entitled to an award of punitive damages from the Individual Defendants.

**SECOND CLAIM FOR RELIEF AGAINST DEFENDANTS**

**Race Discrimination in Violation of the NYSHRL**

45. Plaintiffs repeat, reiterate, and re-allege each and every allegation set forth above with the same force and effect as if more fully set forth herein.

46. NYSHRL § 40-C prohibits discrimination in the exercise of a person's civil rights, including harassment on the basis of, *inter alia*, an individual's race.

47. Plaintiffs are "individuals" within the meaning of the NYSHRL.

48. As described above, Defendants discriminated against Plaintiffs on the basis of Mena's race, and the race of La Bamba's clientele, in violation of the NYSHRL, by harassing, antagonizing, and enforcing regulations in a manner disparately against them when compared to other similarly-situated non-Hispanic individuals and establishments that did not cater primarily to Hispanics.

49. As a direct and proximate result of Defendants' unlawful discriminatory actions in violation of the NYSHRL, Plaintiffs have suffered economic damages, including, but not limited to, loss of earnings for sales that they would have received but for Defendants' conduct and out of pocket expenses associated with closing the Bar.

50. As a direct and proximate result of Defendants' unlawful discriminatory actions in violation of the NYSHRL, Plaintiff Mena has suffered, and continues to suffer, severe mental anguish and emotional distress, including, but not limited to, humiliation, embarrassment, loss of self-esteem, self-confidence, personal dignity, harm to her professional and personal reputations,

stress and anxiety, and emotional pain and suffering, for which she is entitled to an award of monetary damages and other relief.

**THIRD CLAIM FOR RELIEF AGAINST THE INDIVIDUAL DEFENDANTS**

***Aiding and Abetting Discrimination in Violation of the NYSHRL***

51. Plaintiffs repeat, reiterate, and re-allege each and every allegation set forth above with the same force and effect as if more fully set forth herein.

52. As described above, the Individual Defendants knowingly or recklessly aided and abetted the above-described unlawful discrimination against Plaintiffs in violation of the NYSHRL.

53. As a direct and proximate result of Defendants' unlawful discriminatory actions, Plaintiffs have suffered economic damages, including, but not limited to, loss of earnings for sales that they would have received but for the Defendants' conduct and out of pocket expenses associated with closing the Bar.

54. As a direct and proximate result of Defendants' unlawful discriminatory actions in violation of the NYSHRL, Plaintiff Mena has suffered, and continues to suffer, severe mental anguish and emotional distress, including, but not limited to, humiliation, embarrassment, loss of self-esteem, self-confidence, personal dignity, harm to her professional and personal reputations, stress and anxiety, and emotional pain and suffering, for which she is entitled to an award of monetary damages and other relief.

**DEMAND FOR A JURY TRIAL**

55. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demand a trial by jury on all claims in this action.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that this Court:

A. Declare that the actions, conduct, and practices of Defendants complained of herein violate the laws of the United States and the State of New York;

B. Grant preliminary and permanent injunctions against Defendants and their officers, owners, agents, successors, employees, representatives, and any and all persons acting in concert with them, from engaging in each of the unlawful practices, policies, customs, and usages set forth herein;

C. Enter an order restraining Defendants from any retaliation against Plaintiffs for participation in any form in this litigation;

D. Grant an award of damages in an amount to be determined at trial to compensate Plaintiffs for all monetary and/or economic damages in connection with their claims, whether legal or equitable in nature, including loss of earnings for sales that they would have received but for Defendants' conduct, out of pocket losses, and non-monetary and/or compensatory damages.

E. Grant an award of damages to be determined at trial to compensate Plaintiff Mena for harm to her professional and personal reputations in connection with her claims;

F. Grant an award of damages to be determined at trial to compensate Plaintiff Mena for emotional distress and/or mental anguish in connection with her claims;

G. Grant an award of punitive damages, as provided by law, commensurate with the Individual Defendants' ability to pay;

H. Award Plaintiffs their reasonable attorneys' fees, costs, and disbursements incurred in connection with this action, including, but not limited to, any accountants' or experts' fees;

I. Award pre-judgment and post-judgment interest, as provided by law; and

J. Grant such other and further relief, including equitable relief, as the Court may deem just and proper.

Dated: Garden City, New York  
November 5, 2019

Respectfully submitted,

BORRELLI & ASSOCIATES, P.L.L.C.

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