

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

APR 01 2022

BY Michael Welch II
MICHAEL WELCH II, DEPUTY

MAYALL HURLEY P.C.
JOHN P. BRISCOE (SBN: 273690)
jbriscoe@mayallaw.com
2453 Grand Canal Boulevard
Stockton, California 95207-8253
Telephone: (209) 477-3833
Facsimile: (209) 473-4818

Attorneys for Plaintiff Sarah Espinoza

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN BERNARDINO

SARAH ESPINOZA, an individual,
Plaintiff,

v.

YERMO INC., a corporation; MANMEET
SINGH, an individual; PRINZPREET
KAUR, an individual; ENRIQUE
VASQUEZ, an individual; and DOES 1-100,
inclusive,

Defendants.

Case No.: **CIV SB 2207274**
COMPLAINT

1. FAILURE TO PAY OVERTIME
2. FAILURE TO PAY SICK LEAVE
3. FAILURE TO PROVIDE PAID REST PERIODS OR PAY PREMIUMS
4. FAILURE TO PROVIDE MEAL PERIODS OR PAY PREMIUMS
5. FAILURE TO PAY ALL WAGES DUE UPON CESSATION OF EMPLOYMENT
6. SEX HARASSMENT
7. SEX DISCRIMINATION
8. FAILURE TO PREVENT DISCRIMINATION AND HARASSMENT

#435 SC-2022-25785 MW

Plaintiff Sarah Espinoza brings this action against Yermo, Inc., a corporation; Manmeet Singh, an individual; Prinzpreet Kaur, an individual; Enrique Vasquez, an individual; and Does 1 through 100, for violations of the Labor Code and Government Code.

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PARTIES

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2 1. Sarah Espinoza ("Espinoza" or "Plaintiff") at all times relevant herein was employed in
3 San Bernardino County, California and was an "employee" as defined by the California Labor Code and
4 the California Government Code.

5 2. Yermo Inc. (aka "Defendant") is a California corporation formed under the laws of
6 California and, at all times relevant herein, was an "employer" as defined by the California Labor Code
7 and the California Government Code.

8 3. Manmeet Singh ("Singh") is an individual and a resident of California. At all times
9 relevant herein, Singh was the CEO and the sole director, as well as a managing agent, of Yermo Inc.

10 4. Prinzpreet Kaur ("Kaur") is an individual and a resident of California. At all times
11 relevant herein, Kaur was the Secretary and CFO, as well as a managing agent, of Yermo Inc.

12 5. Enrique Vasquez ("Vasquez") is an individual and a resident of California.

13 6. Yermo Inc., Singh, Kaur, Vasquez, and Does 1-100 are collectively referred to as
14 Defendants.

15 7. Plaintiff is not aware of the true names and capacities of the Defendants sued herein as
16 Does 1 through 100, whether individual, corporate, associate, or otherwise and therefore sues such
17 Defendants by these fictitious names. Plaintiff will amend this Complaint to allege their true names and
18 capacities when ascertained. Plaintiff is informed and believes, and on that basis alleges, that each of
19 the fictitiously named Defendants is responsible in some manner for the occurrences herein alleged and
20 that Plaintiff's injuries and damages herein alleged were legally caused by such Defendants. Unless
21 otherwise indicated, each Defendant was acting within the course and scope of said agency and/or
22 employment, with the knowledge and/or consent of said co-Defendant.

23 8. Plaintiff is informed and believes and thereupon alleges that at all times mentioned
24 herein, each of the Defendants, including each Doe Defendant, was acting as the agent, servant,
25 employee, partner and/or joint venturer of and was acting in concert with each of the remaining
26 Defendants, including each Doe Defendant, in doing the things herein alleged, while at all times acting
27 within the course and scope of such agency, service, employment partnership, joint venture and/or

1 concert of action. Each Defendant, in doing the acts alleged herein, was acting both individually and
2 within the course and scope of such agency and/or employment, with the knowledge and/or consent of
3 the remaining Defendants.

4 **VENUE AND JURY TRIAL DEMAND**

5 9. Venue is proper in this Court because the unlawful acts alleged herein took place in San
6 Bernardino County and Espinoza's place of employment with Defendants was, at all times relevant
7 herein, located within San Bernardino County. Espinoza hereby demands a jury trial.

8 **GENERAL ALLEGATIONS**

9 10. Espinoza was hired by Yermo, Inc. on or around October 30, 2020 as a cashier at Yermo
10 Inc.'s AM/PM market and Arco gas station in Yermo, California.

11 11. At all times during her employment with Yermo Inc., Espinoza was an hourly employee,
12 eligible for overtime under both California and federal law.

13 12. However, Espinoza was not paid overtime wages earned. Espinoza frequently worked in
14 excess of eight hours in a workday and 40 hours in a workweek. However, she was not paid overtime
15 wages at 1.5 times her regular rate of pay for this overtime; instead, she was paid for all hours worked at
16 her base hourly rate.

17 13. Espinoza was also denied rest and meal periods to which she was entitled. Though her
18 workshifts were typically eight hours or more, Espinoza was not relieved of all duty and given the
19 opportunity to take (a) a paid ten-minute rest period for every work period of four hours, or (b) an unpaid
20 thirty-minute meal period for every workshift of more than five hours. Espinoza was not paid an hour of
21 pay at her regular rate of compensation (aka "premiums") for each denied rest period and meal period.

22 14. Yermo Inc. also failed to provide Espinoza with paid sick leave or paid time off in lieu of
23 sick leave.

24 15. When Espinoza resigned her employment in August 2021, she was not paid the full value
25 of unpaid overtime and rest and meal period premiums, *supra*.

26 16. Separately from the foregoing, Espinoza was sexually harassed during her employment
27 with Yermo Inc.

1 17. Beginning shortly after Espinoza's hiring, she was sexually harassed by a coworker,
2 Enrique Vasquez ("Vasquez"). On dozens of occasions, Vasquez would touch and grope Espinoza on
3 her breasts, buttocks, and her groin. Espinoza repeatedly asked Vasquez to stop this harassing behavior,
4 but he would not stop.

5 18. Yermo Inc., and its agents and supervisors, knew or should have known about this
6 harassing conduct but failed to take immediate and appropriate corrective action. On one occasion,
7 Vasquez and Espinoza were both in the workplace while Vasquez was on the phone with the manager
8 Maria (last name presently unknown). Vasquez, in earshot of Espinoza, told Maria "I'm going to fuck
9 Sarah." Vasquez was using the speakerphone during this call, and Espinoza heard Maria laugh when
10 Vasquez made this vulgar comment.

11 19. On numerous other occasions, Vasquez told Espinoza "I want to fuck you" and other
12 lewd things.

13 20. Around Christmas 2020, Vasquez sent a group text message to Espinoza and others with a
14 picture of a nightie; he said he was going to buy nighties for "all the ladies" and "we're going to have
15 some fun".

16 21. This sexual harassment continued on a regular basis (at least a couple of incidents per
17 week) throughout Espinoza's employment.

18 22. Due in substantial part to this unabated sexual harassment and Yermo Inc.'s abject
19 indifference (if not approval), Espinoza was compelled to resign her employment on or around August
20 16, 2021.

21 23. The foregoing list of misconduct is a partial list only, and set forth by way of example.

22 24. On March 28, 2022, Espinoza filed a complaint with the Department of Fair Employment
23 and Housing, and was issued a right-to-sue notice that same day. (**Exhibit 1.**)

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FIRST CAUSE OF ACTION
FAILURE TO PAY OVERTIME
(Lab. Code, § 510)

Against Yermo Inc., Singh, Kaur, and Does 1-100

25. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

26. Pursuant to California Labor Code section 510, any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

27. Pursuant to Labor Code section 1198 and the applicable IWC Wage Order(s), it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending upon the number of hours worked by the person on a daily or weekly basis.

28. During the relevant time period, Plaintiff regularly and/or consistently worked in excess of eight hours per day and forty hours per workweek.

29. During the relevant time period, Defendants intentionally and willfully failed to pay overtime wages owed to Plaintiff.

30. Pursuant to California Labor Code section 1194(a), notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

31. Pursuant to Labor Code section 558.1, any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.

32. Singh and Kaur were and are officers and managing agents of Yermo Inc. and created the policies and practices which caused the aforementioned overtime violations.

33. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereafter provided.

SECOND CAUSE OF ACTION
FAILURE TO PAY SICK LEAVE
(Labor Code, §§ 218, 233, 246 *et seq.*)
Against Yermo Inc., Singh, Kaur, and Does 1-100

34. Plaintiff hereby reallege and incorporate by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

35. Labor Code section 246(l) requires that employers pay sick time pay to non-exempt employees at that employee's "regular rate of pay."

36. The "regular rate of pay" includes all remuneration for employment paid to the employee and includes, but is not limited to, hourly earnings, salary, piece work earnings, commissions, non-discretionary bonuses, and the value of meals and lodging. DLSE Enforcement Policies and Interpretations Manual Section 49.

37. According to the California Supreme Court, sick pay is a form of wages. *Murphy v. Kenneth Cole Productions* (2007) 40 Cal.4th 1094, 1103.

38. Labor Code section 233 provides that "any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months

1 at the employee's then current rate of entitlement, for the reasons specified in subdivision (a) of Section
2 246.5."

3 39. During the relevant time period, Defendants intentionally and willfully failed to pay
4 Plaintiff sick pay at the rate of pay required by law. Accordingly, Plaintiff did not receive the full
5 amount of paid sick time that he was entitled to receive by law, and was therefore denied the right to use
6 sick leave within the meaning of Labor Code sections 233(a) and (c).

7 40. Any employer who violates Labor Code section 233 is liable to employees for the greater
8 of one days' pay or actual damages, reasonable equitable relief, and reasonable attorneys' fees and costs.
9 Labor Code §233(d), (e).

10 41. Further, Labor Code section 218 authorizes a private right of action to recover unpaid
11 wages.

12 42. Pursuant to Labor Code section 558.1, any employer or other person acting on behalf of
13 an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours
14 and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be
15 violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such
16 violation.

17 43. Singh and Kaur were and are officers and managing agents of Yermo Inc. and created the
18 policies and practices which caused the aforementioned paid sick leave violations.

19 44. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereafter
20 provided.

21 **THIRD CAUSE OF ACTION**
22 **FAILURE TO PROVIDE PAID REST PERIODS OR PAY PREMIUMS**
23 **(Lab. Code, § 226.7)**
24 **Against Yermo Inc., Singh, Kaur, and Does 1-100**

25 45. Plaintiff hereby realleges and incorporates by reference each and every allegation set
26 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
27 allegations of this cause of action.

1 46. Labor Code section 226.7 requires employers to provide employees rest periods as
2 mandated by Order of the Industrial Welfare Commission. It states:

- 3 a. No employer shall require any employee to work during any meal or rest period
4 mandated by an applicable order of the Industrial Welfare Commission.
5 b. If an employer fails to provide an employee a meal period or rest period in
6 accordance with an applicable order of the Industrial Welfare Commission, the
7 employer shall pay the employee one additional hour of pay at the employee's
8 regular rate of compensation for each work day that the meal or rest period is not
9 provided.

10 47. Section 12 of the applicable IWC Wage Order provides:

11 “(A) Every employer shall authorize and permit all employees to take rest periods,
12 which insofar as practicable shall be in the middle of each work period. The
13 authorized rest period time shall be based on the total hours worked daily at the rate
14 of ten (10) minutes net rest time per four (4) hours or major fraction thereof.
15 However, a rest period need not be authorized for employees whose total daily work
16 time is less than three and one-half (3 1/2) hours. Authorized rest period time shall
17 be counted as hours worked for which there shall be no deduction from wages.”

18 48. During the relevant time period, Plaintiff was not provided with rest breaks as required
19 by law and did not receive an additional hour of premium pay for each missed rest break.

20 49. Pursuant to Labor Code section 558.1, any employer or other person acting on behalf of
21 an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours
22 and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be
23 violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such
24 violation.

25 50. Singh and Kaur were and are officers and managing agents of Yermo Inc. and created the
26 policies and practices which caused the aforementioned rest period violations.

27 51. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereinafter
28 provided.

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FOURTH CAUSE OF ACTION
FAILURE TO PROVIDE MEAL PERIODS OR PAY PREMIUMS
(Lab. Code, §§ 226.7, 512)
Against Yermo Inc., Singh, Kaur, and Does 1-100

52. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

53. Labor Code § 226.7 requires employers to provide employees meal breaks as mandated by Order of the Industrial Welfare Commission. It states:

- a. No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.
- b. If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

54. Labor Code § 512(a) and the applicable Wage Order(s) provide that an employer may not employ a person for a work period of more than 5 hours per day without providing that employee a meal period of not less than 30 minutes, except that if the total work period per day is not more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ a person for a work period of more than 10 hours per day without providing an employee with a second meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than twelve (12) hours, the meal period may be waived by mutual consent of both the employer and employee, and if the first meal period was not waived.

55. During the relevant time period, Plaintiff was not provided with compliant meal breaks, nor did he receive an additional hour of premium pay for each non-compliant meal break.

56. Pursuant to Labor Code section 558.1, any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be

1 violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such
2 violation.

3 57. Singh and Kaur were and are officers and managing agents of Yermo Inc. and created the
4 policies and practices which caused the aforementioned meal period violations.

5 58. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereafter
6 provided.

7 **FIFTH CAUSE OF ACTION**
8 **FAILURE TO PAY ALL WAGES DUE UPON CESSATION OF EMPLOYMENT**
9 **(Lab. Code, § 201)**
10 **Against Defendants**

11 59. Plaintiff hereby realleges and incorporates by reference each and every allegation set
12 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
13 allegations of this cause of action.

14 60. Labor Code section 201 requires an employer to pay an employee all wages earned and
15 unpaid at the time the employer discharges the employee. Labor Code section 202 requires an employer
16 to pay the employee all wages due no later than 72 hours after the employee quits his employment.

17 61. Labor Code section 203 provides: "If an employer willfully fails to pay, without
18 abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an
19 employee who is discharged or who quits, the wages of the employee shall continue as a penalty from
20 the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages
21 shall not continue for more than 30 days".

22 62. During the relevant time period, Defendants failed to pay Plaintiff all earned but unpaid
23 wages upon cessation of employment.

24 63. Pursuant to Labor Code section 558.1, any employer or other person acting on behalf of an
25 employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and
26 days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated,
27 Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.

64. Singh and Kaur were and are officers and managing agents of Yermo Inc. and created the policies and practices which caused the aforementioned violation of Labor Code section 203.

65. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereafter provided.

SIXTH CAUSE OF ACTION
SEX HARASSMENT
(Gov. Code, § 12940, subd. (j))
Against Yermo Inc., Vasquez, and Does 1-100

66. Plaintiff hereby realleges and incorporates by reference each paragraph above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

67. The Fair Employment and Housing Act ("FEHA") prohibits an employer or any other person from harassing an employee on the basis of actual or perceived race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. (Gov. Code § 12940, subd. (j).) Sexually harassing conduct need not be motivated by sexual desire. (Gov. Code § 12940, subd. (j)(4)(C).) FEHA also provides that harassment by an employee, other than an agent or supervisor, shall be unlawful if the entity, or its agents or supervisors knows or should have known of the conduct and fails to take immediate and appropriate corrective action. (Gov. Code § 12940, subd. (j).) In addition, an employee is personally liable for any harassment prohibited under Government Code section 12940 that is perpetrated by the employee. (Gov. Code § 12940(j)(3).) The FEHA also provides that an employer may also be responsible for the acts of nonemployees, with respect to harassment of employees, applicants, unpaid interns or volunteers, or persons providing services pursuant to a contract in the workplace, if the employer, or its agents or supervisors, knows or should have known of the conduct and fails to take immediate and appropriate corrective action. (*Id.*, subd. (j)(1).)

68. Nevertheless, as set forth above, Defendants unlawfully harassed Plaintiff in violation of the FEHA.

69. Defendants' actions towards Plaintiff were committed by them, their officers, directors, and/or managing agents, and/or employees in an oppressive, fraudulent, and malicious manner, and ratified by them, in order to injure or damage Plaintiff, thereby justifying an award of punitive damages.

70. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereafter provided.

SEVENTH CAUSE OF ACTION
SEX DISCRIMINATION
(Gov. Code, § 12940(a))
Against Yermo Inc. and Does 1-100

71. Plaintiff hereby realleges and incorporates by reference each paragraph set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

72. The Fair Employment and Housing Act ("FEHA") explicitly prohibits an employer from refusing to hire or employ a person, discharging a person from employment, or discriminating against such person in compensation or in terms, conditions or privileges of employment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age or sexual orientation. (Gov. Code, § 12940, subd. (a).) "Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics. (Gov. Code, § 12926, subd. (n).)

73. At all times relevant herein mentioned, Plaintiff was qualified for the position held with Defendants.

74. Defendants were, at all times material herein, Plaintiff's employer pursuant to Government Code section 12926(d) and were therefore barred from discriminating in its employment decisions in violation of Government Code section 12940(a).

75. Nevertheless, as set forth above, Defendants discriminated against Plaintiff based on sex/gender, in violation of Government Code section 12940(a).

76. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants and/or managing agents/employees of Defendants acting in an oppressive, fraudulent and malicious manner in order to injure or damage Plaintiff, thereby justifying an award of punitive damages.

77. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered damages and requests relief as hereafter provided.

EIGHTH CAUSE OF ACTION
FAILURE TO PREVENT HARASSMENT AND DISCRIMINATION
(Gov. Code, § 12940, subd. (j)(1))
Against Yermo Inc. and Does 1-100

78. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

79. FEHA requires an employer to take all reasonable steps necessary to prevent harassment and discrimination from occurring. (Gov. Code, § 12940, subd. (k).)

80. Nevertheless, as set forth above, Defendants failed to prevent harassment and discrimination against Plaintiff.

81. As a result of Defendants' conduct, Plaintiff has suffered damages.

82. Defendants' actions towards Plaintiff were committed or ratified by Defendants, and/or their managing agents and/or employees in an oppressive, fraudulent, and malicious manner in order to injure or damage Plaintiff, thereby justifying an award of punitive damages.

83. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereafter provided.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment against Defendants as follows:

As to the First through Fifth Causes of Action:

1. For unpaid wages, including rest and meal premiums;

2. That this Court award statutory penalties including, but not limited to, those available under Labor Code sections 203 and 226(e);

- 1 3. That this Court award statutory attorneys' fees and costs, including those available under
- 2 Labor Code sections 218.5 and 1194, as well as Code of Civil Procedure section 1021.5;
- 3 4. That this Court award prejudgment and post-judgment interest according to any
- 4 applicable provision of law or as otherwise permitted by law, including those available
- 5 under Civil Code sections 3287(a) and 3289(b); and
- 6 5. That this Court award such other and further relief as the court deems just and proper.

7 **As to the Sixth through Eighth Causes of Action:**

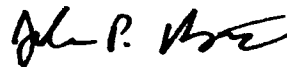
- 8 1. For compensatory, special, and general damages;
- 9 2. For punitive and/or exemplary damages;
- 10 3. For injunctive relief;
- 11 4. For statutory attorneys' fees and costs, including but not limited to those available under
- 12 Government Code section 12965, subdivision (b);
- 13 5. For prejudgment and post-judgment interest according to any applicable provision of law
- 14 or as otherwise permitted by law, including but not limited to that available
- 15 under Civil Code sections 3287, subdivision (a) and 3289, subdivision (b); and
- 16 6. For all other and further relief as the court deems just and proper.

17 ///

18 **DATED:** March 29, 2022

MAYALL HURLEY P.C.

19 By _____



20 JOHN P. BRISCOE
21 Attorneys for Plaintiff
22 SARAH ESPINOZA



EXHIBIT 1



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

March 28, 2022

John Briscoe
2453 Grand Canal Blvd.
Stockton, California 95207

RE: **Notice to Complainant's Attorney**
DFEH Matter Number: 202203-16531428
Right to Sue: Espinoza / Yermo Inc. et al.

Dear John Briscoe:

Attached is a copy of your complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer. You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the DFEH does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

March 28, 2022

RE: Notice of Filing of Discrimination Complaint
DFEH Matter Number: 202203-16531428
Right to Sue: Espinoza / Yermo Inc. et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

This matter may qualify for DFEH's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. You may contact DFEH's Small Employer Family Leave Mediation Pilot Program by emailing DRDOnlineRequests@dfeh.ca.gov and include the DFEH matter number indicated on the Right to Sue notice.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,



STATE OF CALIFORNIA | Business, Consumer Services and Housing Agency

GAVIN NEWSOM, GOVERNOR

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

KEVIN KISH, DIRECTOR

March 28, 2022

Sarah Espinoza

RE: **Notice of Case Closure and Right to Sue**
DFEH Matter Number: 202203-16531428
Right to Sue: Espinoza / Yermo Inc. et al.

Dear Sarah Espinoza:

This letter informs you that the above-referenced complaint filed with the Department of Fair Employment and Housing (DFEH) has been closed effective March 28, 2022 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

This matter may qualify for DFEH's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. Contact DFEH's Small Employer Family Leave Mediation Pilot Program by emailing DRDOnlineRequests@dfeh.ca.gov and include the DFEH matter number indicated on the Right to Sue notice.



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Department of Fair Employment and Housing

1 **COMPLAINT OF EMPLOYMENT DISCRIMINATION**
2 **BEFORE THE STATE OF CALIFORNIA**
3 **DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING**
4 **Under the California Fair Employment and Housing Act**
 (Gov. Code, § 12900 et seq.)

5 **In the Matter of the Complaint of**
6 Sarah Espinoza

DFEH No. 202203-16531428

7 Complainant,

8 vs.

9 Yermo Inc.
10 35474 Yermo Rd.
11 Yermo, CA 95603

12 Enrique Vasquez

13 Respondents

14 1. Respondent **Yermo Inc.** is an **employer** subject to suit under the California Fair Employment
15 and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

16 2. Complainant is naming **Enrique Vasquez** individual as Co-Respondent(s).

17 3. Complainant **Sarah Espinoza**, resides in the City of , State of .

18 4. Complainant alleges that on or about **August 16, 2021**, respondent took the
19 following adverse actions:

20 **Complainant was harassed** because of complainant's sex/gender, sexual harassment-
21 hostile environment.

22 **Complainant was discriminated against** because of complainant's sex/gender, sexual
23 harassment- hostile environment and as a result of the discrimination was forced to quit,
24 other.

25 **Additional Complaint Details:** Complainant was hired by Employer on or around October
26 30, 2020, as a cashier at Employer's AM/PM market and Arco gas station in Yermo,
27 California. Beginning shortly after Complainant's hire, she was sexually harassed by her
28 coworker, Enrique Vasquez. On dozens of occasions, Vasquez would touch and grope

1 Complainant on her breasts, her buttocks, and her groin. Complainant repeatedly asked
2 Vasquez to stop his harassing behavior, but he would not stop. Employer, and its agents
3 and supervisors, knew or should have known about this harassing conduct but failed to take
4 immediate and appropriate corrective action. On one occasion, Vasquez and Complainant
5 were both in the workplace while Vasquez was on the phone with the manager, Maria (last
6 name unknown). Vasquez, in earshot of Complainant, told Maria "I'm going to fuck
7 [Complainant]." Vasquez was using the speakerphone during this call, and Complainant
8 heard Maria laugh when Vasquez made this vulgar comment. On numerous other
9 occasions, Vasquez told Complainant "I want to fuck you" and other lewd things. Around
10 Christmas 2020, he sent a group text message to Complainant and others, with a picture of
11 a nightie; he said he was going to buy nighties for "all the ladies" and "we're gonna have
12 some fun." This harassing behavior continued on a regular basis throughout Complainant's
13 employment. Due in substantial part to this unabated harassment and Employer's abject
14 indifference to it, Complainant was compelled to resign her employment on or around
15 August 16, 2021. Employer failed to prevent the foregoing misconduct, which is a partial list
16 only and set forth by way of mere example.
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1 VERIFICATION

2 I, **John P. Briscoe**, am the **Attorney** in the above-entitled complaint. I have read the
3 foregoing complaint and know the contents thereof. The matters alleged are based
4 on information and belief, which I believe to be true.

5 On March 28, 2022, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **Stockton, CA**