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7

**CONFORMED COPY**  
OF ORIGINAL FILED  
Los Angeles Superior Court

JUL 12 2005

John A. Clarke, Executive Officer/Clerk  
By J. SUNGA, Deputy

8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

11 ELIZABETH EMERMAN,

12 Plaintiff,

13 v.

14 AMALFI ENTERTAINMENT GROUP,  
LLC, a limited liability company,  
15 FRANCESCO GRILLO, an individual, M.D.  
16 SWEENEY, an individual, ADAM  
COROLLA, an individual, and DOES 1  
through 50, inclusive,

17 Defendants.  
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Case No. BC336405

**COMPLAINT FOR DAMAGES:**

- (1) SEXUAL/GENDER HARASSMENT  
AND DISCRIMINATION  
[Cal. Gov't Code § 12940];
- (2) RETALIATION FOR OPPOSING  
UNLAWFUL EMPLOYMENT  
PRACTICES PURSUANT TO FEHA  
[Cal. Gov't Code § 12940(f)];
- (3) WRONGFUL TERMINATION AND  
OTHER ADVERSE EMPLOYMENT  
ACTIONS IN VIOLATION OF  
PUBLIC POLICY;
- (4) INTENTIONAL INFLICTION OF  
EMOTIONAL DISTRESS;
- (5) NEGLIGENT INFLICTION OF  
EMOTIONAL DISTRESS

**DEMAND FOR TRIAL BY JURY**

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26 Plaintiff ELIZABETH EMERMAN (hereinafter "MS. EMERMAN" or  
27 "PLAINTIFF"), as an individual, complains and alleges as follows:  
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[illegible]

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1                   5.       MS. EMERMAN is informed and believes, and thereon alleges, that defendant  
2 FRANCESCO GRILLO (hereinafter "GRILLO") is an individual who, at all relevant times herein  
3 mentioned, was employed as the General Manager of Amalfi Ristorante and, as such, held direct  
4 supervisory authority over MS. EMERMAN. MS. EMERMAN is further informed and believes,  
5 and thereon alleges, that, at all relevant times herein mentioned defendant GRILLO was a partner in  
6 ownership of the Amalfi Ristorante and/or managing member of the COMPANY. MS. EMERMAN  
7 is further informed and believes, and thereon alleges, that defendant GRILLO was a director, officer,  
8 member and/or managing agent of defendants, and each of them.

9  
10                   6.       MS. EMERMAN is informed and believes, and thereon alleges, that defendant  
11 M.D. SWEENEY (hereinafter "SWEENEY") is an individual who, at all relevant times herein  
12 mentioned, was a partner in ownership of the Amalfi Ristorante and/or managing member of the  
13 COMPANY. As such, defendant SWEENEY was a director, officer, member and/or managing  
14 agent of defendants, and each of them, and held supervisory authority over MS. EMERMAN.

15  
16                   7.       MS. EMERMAN is informed and believes, and thereon alleges, that defendant  
17 ADAM COROLLA (hereinafter "COROLLA") is an individual who, at all relevant times herein  
18 mentioned, was a partner in ownership of the Amalfi Ristorante and/or managing member of the  
19 COMPANY. As such, defendant COROLLA was a director, officer, member and/or managing agent  
20 of defendants, and each of them, and held supervisory authority over MS. EMERMAN.

21  
22                   8.       Defendants SWEENEY, GRILLO and COROLLA are, and at all relevant  
23 times were, the majority members and owners of the AMALFI GROUP. MS. EMERMAN is  
24 informed and believes, and thereon alleges, that there exists, and at all times herein mentioned,  
25 existed a unity of interest and ownership between defendant AMALFI GROUP, on the one hand, and  
26 defendants SWEENEY, GRILLO and COROLLA, on the other. MS. EMERMAN is further  
27 informed and believes, and thereon alleges, that defendants SWEENEY, GRILLO and COROLLA  
28 completely control and dominate, and at all times mentioned herein, controlled and dominated the

1 affairs of the AMALFI GROUP such that any individuality and separateness between them have  
2 ceased and that defendants SWEENEY, GRILLO and COROLLA are the alter egos of the AMALFI  
3 GROUP. Among other things, they have utilized corporate assets for personal purposes, have  
4 commingled personal and corporate funds and assets, have undercapitalized the corporation, have  
5 personally guaranteed corporate obligations, and have failed to observe corporate formalities, and  
6 have taken unlawful distributions pursuant to Section 500 of the California Corporations Code.  
7 Adherence to the fiction of the separate existence of the AMALFI GROUP as an entity distinct from  
8 defendants SWEENEY, GRILLO and COROLLA would permit an abuse of the corporate privilege  
9 and would sanction a fraud or promote injustice.  
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12 9. The true names and capacities, whether corporate, associate, individual or  
13 otherwise of defendants DOES 1 through 50, inclusive, are unknown to MS. EMERMAN, who  
14 therefore sues said defendants by such fictitious names. Each of the defendants designated herein as  
15 a DOE is negligently or otherwise legally responsible in some manner for the events and happenings  
16 herein referred to and caused injuries and damages proximately thereby to MS. EMERMAN, as  
17 herein alleged. MS. EMERMAN will seek leave of Court to amend this Complaint to show their  
18 names and capacities when the same have been ascertained.  
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21 10. At all times herein mentioned, defendants, and each of them, were the  
22 agents, representatives, employees, successors and/or assigns, each of the other, and at all times  
23 pertinent hereto were acting within the course and scope of their authority as such agents,  
24 representatives, employees, successors and/or assigns and acting on behalf of, under the authority of,  
25 and subject to the control of each other.  
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1 to her breasts, her buttocks, and other parts of her body against her  
2 will;

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5 (B) Regularly calling MS. EMERMAN a "bitch" and telling her that she is  
6 "useless";

7  
8 (C) Complaining to MS. EMERMAN that "women can't do anything" and  
9 that they "should be in the kitchen making the male workers happy";  
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11  
12 (D) Telling one of MS. EMERMAN's customers that MS. EMERMAN  
13 "better treat you right even though she doesn't have all the goods,"  
14 making a reference to her breasts;

15  
16 (E) Grabbing MS. EMERMAN's buttocks and otherwise making  
17 derogatory remarks and gestures in front of customers; and  
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19  
20 (F) As set forth further below, ordering MS. EMERMAN to come to his  
21 office and telling her, "Elizabeth, there are two reasons why I ask a  
22 woman to come to my office . . . either to be fucked or to be fired.  
23 And you are not being fired."  
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25  
26 14. In addition to verbally and physically harassing MS. EMERMAN, defendant  
27 GRILLO, acting on a the basis of sexual stereotypes, took tables away from her service section in the  
28 RESTAURANT and gave them to male waiters, telling MS. EMERMAN that women can't handle

1 as many tables as men.  
2

3  
4 15. In or around June 2004, MS. EMERMAN walked to the wine closet near the  
5 bar in order to retrieve a bottle of wine and/or other items. When MS. EMERMAN opened the door  
6 to the wine closet, which was unlocked, she was startled to find defendant GRILLO engaging in oral  
7 sex with one of the female waitresses. Defendant GRILLO, one of the few individuals who had the  
8 key and the authority to lock the wine closet door, slammed the door against MS. EMERMAN's  
9 body. MS. EMERMAN, embarrassed and humiliated, turned around and walked away.  
10

11  
12 16. MS. EMERMAN, shocked at finding AMALFI RISTORANTE's General  
13 Manager engaged in oral sex in the wine closet, reported the incident to the RESTAURANT's  
14 bartender.  
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16  
17 17. The next day, when MS. EMERMAN arrived at AMALFI RISTORANTE,  
18 defendant GRILLO yelled at MS. EMERMAN in a hostile manner. He then reprimanded MS.  
19 EMERMAN for reporting defendant GRILLO's sexual encounter in the wine room to the bartender  
20 and accused her of "spreading rumors."  
21

22 18. Immediately thereafter, defendant GRILLO ordered MS. EMERMAN to come  
23 into his office. When MS. EMERMAN asked why she was being summoned to his office, defendant  
24 GRILLO, conditioning her continued employment upon her submission to his sexual desires, told  
25 her:  
26

27 "Elizabeth, there are two reasons why I ask a woman to come to my office . . . either  
28 to be fucked or to be fired. And you are not being fired."

1                   19.     MS. EMERMAN refused to go into defendant GRILLO's office. In response,  
2 he immediately removed her from the work schedule for that week. When MS. EMERMAN asked  
3 GRILLO whether she would be back on the schedule the following week, he responded: "I'm not  
4 putting you back on the schedule – You're fired." MS. EMERMAN's employment was terminated,  
5 effective immediately.  
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8                   20.     MS. EMERMAN is informed and believes, and thereon alleges, that defendant  
9 AMALFI GROUP, defendant SWEENEY and defendant COROLLA knew, or should have known,  
10 of defendant GRILLO's propensity to engage in sexually harassing, discriminatory, hostile, offensive  
11 and degrading conduct towards those with whom he worked, supervised and otherwise came into  
12 contact.  
13

14  
15                  21.     At the end of February 2005, MS. EMERMAN went to AMALFI  
16 RISTORANTE to obtain her IRS Form W2 for tax year 2004 (Defendants had failed to send it to her  
17 in the mail). While she was on the premises, AMALFI RISTORANTE's new General Manager  
18 offered her her job back at the RESTAURANT. In encouraging her to return, the General Manager  
19 attempted to calm MS. EMERMAN's fears by assuring her that defendant GRILLO had left  
20 AMALFI RISTORANTE.  
21

22  
23                  22.     In light of her previous harassment to which she was subjected, MS.  
24 EMERMAN advised the General Manager that she would need some time to think about the job  
25 offer. After two weeks of deliberation and emotional and mental preparation, MS. EMERMAN,  
26 who had been looking for a job, decided to accept the offer and re-commenced her employment with  
27 Defendants at AMALFI RISTORANTE.  
28



1                   23.     To MS. EMERMAN'S dismay, upon returning to work at the AMALFI  
2 RISTORANTE, she promptly recognized that Defendants had failed to alleviate the hostile and  
3 intimidating environment that existed there. From the first day she returned to the workplace, MS.  
4 EMERMAN was subjected to a continuous pattern of verbal and physical sexual harassment by a  
5 group of male employees, who worked together in the kitchen. Such conduct included, without  
6 limitation, the following:  
7

- 8                   (A)     Aggressively touching and groping her breasts, buttocks, legs and  
9                             other parts of her body when she walked by;  
10  
11                  (B)     Making kissing sounds and other sexually suggestive noises;  
12  
13                  (C)     Saying "oh baby" and other sexually charged words and phrases, while  
14                             crudely staring at MS. EMERMAN's body;  
15  
16                  (D)     Telling MS. EMERMAN that she "would be good in bed";  
17  
18                  (E)     Repeatedly asking MS. EMERMAN to go out on dates with them  
19                             despite her telling them "no" and that she has a boyfriend;  
20  
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23                   24.     MS. EMERMAN complained to the General Manager on several occasions  
24 about being touched, groped and verbally harassed by the kitchen staff, requesting that corrective  
25 action be taken to stop the harassment. Despite the General Manager's assurances that action would  
26 be taken, MS. EMERMAN continued to be harassed by the same male employees. Several times  
27 after repeating her complaints, the General Manager told MS. EMERMAN, "I still need to do that,"  
28

1 or "I haven't gotten around to it yet."

2  
3 25. On or about May 6, 2005, MS. EMERMAN, as a favor to Ivy, the General  
4 Manager, was filling in as the hostess. When she walked into the kitchen to place a delivery order,  
5 many of the male staff leered at her in a sexually aggressive manner. MS. EMERMAN felt  
6 particularly intimidated and vulnerable because she was the only female employee working that  
7 evening. She complained to the on-duty Assistant Manager, Steve, about the harassing conduct in  
8 the kitchen. Steve made light of her complaint, laughed, and told her he was too busy making drinks  
9 at the bar "to hear stupid things like that." Steve then told MS. EMERMAN "that's your job" and  
10 instructed her to "get back to work."  
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13  
14 26. On the same evening, at the end of her shift, as instructed earlier by Ivy, MS.  
15 EMERMAN asked the Assistant Manager, Steve, for her wages from the shift. Steve said he was too  
16 busy and did not give MS. EMERMAN her wages. MS. EMERMAN waited for approximately 30  
17 minutes for Steve to give her the cash that she was supposed to receive at the end of her shift  
18 according to Ivy. Steve kept saying that he was "too busy" and did not give MS. EMERMAN her  
19 wages. MS. EMERMAN finally left without receiving her wages from Steve.  
20  
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22 27. On or about May 7, 2005, when MS. EMERMAN arrived at the  
23 RESTAURANT to begin her shift, only one day after complaining about being sexually harassed, the  
24 Assistant Manager, Steve, told MS. EMERMAN that she was fired, emphasizing his frustration that  
25 she kept bothering him while he was bar tending. MS. EMERMAN immediately called Ivy, the  
26 General Manager, who informed MS. EMERMAN that Steve and defendant SWEENEY had made  
27 the decision together to fire her.  
28

1           28.     Prior to the filing of this action, MS. EMERMAN filed a complaint with the  
2 Department of Fair Employment and Housing ("DFEH") alleging that the acts of defendants, and  
3 each of them, established a violation of the Fair Employment and Housing Act, Government Code  
4 Section 12900 et. seq., and has received the requisite right to sue letters.  
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7           29.     MS. EMERMAN has been generally damaged in an amount within the  
8 jurisdictional limits of this Court.  
9

10                               **FIRST CAUSE OF ACTION**

11                               **SEXUAL/GENDER HARASSMENT AND DISCRIMINATION**

12                               **(Cal. Gov't Code § 12940)**

13                               **(Against All Defendants)**  
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16           30.     MS. EMERMAN realleges and incorporates by reference paragraphs 3  
17 through 29, as though set forth in full.  
18  
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20           31.     In perpetrating the above-described actions, the defendants, and each of them,  
21 including DOES 1 through 50 and/or their agents and employees, subjected MS. EMERMAN to  
22 unlawful *quid pro quo* and hostile environment sexual harassment in violation of California  
23 Government Code Section 12940 et seq. Defendants, their agents, and supervisors, knew or should  
24 have known of the unlawful sexual harassment conduct, failed to take immediate and appropriate  
25 corrective action and otherwise failed to abide by their statutory duty to take all reasonable steps to  
26 prevent harassment from occurring. The harassment was sufficiently pervasive and severe as to alter  
27 the conditions of MS. EMERMAN'S employment and to create a hostile, intimidating and/or  
28

1 abusive work environment.

2  
3 32. By the aforesaid acts and omissions of defendants, and each of them, MS.  
4 EMERMAN has been directly and legally caused to suffer actual damages including, but not limited  
5 to, loss of earnings and future earning capacity, attorneys' fees, costs of suit and other pecuniary loss  
6 not presently ascertained.  
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8  
9 33. As a further direct and legal result of the acts and conduct of defendants, and  
10 each of them, as aforesaid, MS. EMERMAN has been caused to and did suffer and continues to  
11 suffer severe emotional and mental distress, anguish, humiliation, embarrassment, fright, shock,  
12 pain, discomfort, anxiety, physical pain and suffering and has incurred medical bills for the treatment  
13 of these injuries. The exact nature and extent of said injuries is presently unknown to MS.  
14 EMERMAN. MS. EMERMAN does not know at this time the exact duration or permanence of said  
15 injuries, but is informed and believes and thereon alleges that some if not all of the injuries are  
16 reasonably certain to be permanent in character.  
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19  
20 34. MS. EMERMAN is informed and believes, and thereon alleges, that the  
21 defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing and/or  
22 ratifying such acts, engaged in wilful, malicious, intentional, oppressive and despicable conduct, and  
23 acted with wilful and conscious disregard of the rights, welfare and safety of MS. EMERMAN,  
24 thereby justifying the award of punitive and exemplary damages in an amount to be determined at  
25 trial.  
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1                   35.     As a result of defendants' acts and conduct, as alleged herein, MS.  
2 EMERMAN is entitled to reasonable attorneys' fees and costs of suit as provided in Section  
3 12965(b) of the California Government Code.  
4

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6                                   **SECOND CAUSE OF ACTION**  
7                                   **RETALIATION FOR OPPOSING UNLAWFUL**  
8                                   **EMPLOYMENT PRACTICES PURSUANT TO FEHA**  
9                                   **(Cal. Gov't Code § 12940(h))**  
10                                   **(Against All Defendants)**  
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13                   36.     MS. EMERMAN realleges and incorporates by reference paragraphs 3  
14 through 29, and 31 as though set forth in full.  
15

16                   37.     As alleged herein and in violation of California Government Code §  
17 12940(h), defendants, and each of them, discharged and otherwise discriminated against MS.  
18 EMERMAN because she opposed practices forbidden by California Government Code §12940 et.  
19 seq., including, inter alia, the following: (a) Refusing to submit to a *quid pro quo* sexual relationship  
20 with defendant GRILLO; and (b) Complaining that she had been sexually harassed by male  
21 employees, and otherwise opposing the ongoing sexual harassment to which she was subjected to.  
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25                   38.     By the aforesaid acts and omissions of defendants, and each of them, MS.  
26 EMERMAN has been directly and legally caused to suffer actual damages including, but not limited  
27 to, loss of earnings and future earning capacity, attorneys' fees, costs of suit and other pecuniary loss  
28 not presently ascertained.

1                   39.     As a further direct and legal result of the acts and conduct of defendants, and  
2 each of them, as aforesaid, MS. EMERMAN has been caused to and did suffer and continues to  
3 suffer severe emotional and mental distress, anguish, humiliation, embarrassment, fright, shock,  
4 pain, discomfort, anxiety, physical pain and suffering and has incurred medical bills for the treatment  
5 of these injuries. The exact nature and extent of said injuries is presently unknown to MS.  
6 EMERMAN. MS. EMERMAN does not know at this time the exact duration or permanence of said  
7 injuries, but is informed and believes and thereon alleges that some if not all of the injuries are  
8 reasonably certain to be permanent in character.  
9

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12                   40.     MS. EMERMAN is informed and believes, and thereon alleges, that the  
13 defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing and/or  
14 ratifying such acts, engaged in wilful, malicious, intentional, oppressive and despicable conduct, and  
15 acted with wilful and conscious disregard of the rights, welfare and safety of MS. EMERMAN,  
16 thereby justifying the award of punitive and exemplary damages in an amount to be determined at  
17 trial.  
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19  
20                   41.     As a result of defendants' acts and conduct, as alleged herein, MS.  
21 EMERMAN is entitled to reasonable attorneys' fees and costs of suit as provided in Section  
22 12965(b) of the California Government Code.

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(Against All Defendants)

44. By the aforesaid acts and omissions of defendants, and each of them, MS. EMERMAN has been directly and legally caused to suffer actual damages including, but not limited to, loss of earnings and future earning capacity, attorneys' fees, costs of suit and other pecuniary loss not presently ascertained.

1                   45.     As a further direct and legal result of the acts and conduct of defendants, and  
2 each of them, as aforesaid, MS. EMERMAN has been caused to and did suffer and continues to  
3 suffer severe emotional and mental distress, anguish, humiliation, embarrassment, fright, shock,  
4 pain, discomfort, anxiety, physical pain and suffering and has incurred medical bills for the treatment  
5 of these injuries. The exact nature and extent of said injuries is presently unknown to MS.  
6 EMERMAN. MS. EMERMAN does not know at this time the exact duration or permanence of said  
7 injuries, but is informed and believes and thereon alleges that some if not all of the injuries are  
8 reasonably certain to be permanent in character.  
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12                   46.     MS. EMERMAN is informed and believes, and thereon alleges, that the  
13 defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing and/or  
14 ratifying such acts, engaged in wilful, malicious, intentional, oppressive and despicable conduct, and  
15 acted with wilful and conscious disregard of the rights, welfare and safety of MS. EMERMAN,  
16 thereby justifying the award of punitive and exemplary damages in an amount to be determined at  
17 trial.  
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19  
20                   47.     As a result of defendants' conduct as alleged herein, MS. EMERMAN is  
21 entitled to reasonable attorneys' fees and costs of suit as provided in Section 1021.5 of the California  
22 Civil Procedure Code.

23     //

24     //

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1 **FOURTH CAUSE OF ACTION**

2 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

3 (Against all Defendants)

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5  
6 48. MS. EMERMAN realleges and incorporates by reference paragraphs 3  
7 through 29, 31, 37 and 43 as though set forth in full.

8  
9 49. Defendants' conduct as described above was extreme and outrageous and was  
10 done with the intent of causing MS. EMERMAN to suffer emotional distress or with reckless  
11 disregard as to whether their conduct would cause her to suffer such distress.  
12

13  
14 50. By the aforesaid acts and omissions of defendants, as aforesaid, MS.  
15 EMERMAN has been caused to and did suffer and continues to suffer severe emotional and mental  
16 distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort, anxiety, physical pain  
17 and suffering and has incurred medical bills for the treatment of these injuries. MS. EMERMAN  
18 does not know at this time the exact duration or permanence of said injuries, but is informed and  
19 believes and thereon alleges that some if not all of the injuries are reasonably certain to be permanent  
20 in character.  
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22  
23 51. MS. EMERMAN is informed and believes, and thereon alleges, that the  
24 defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing and/or  
25 ratifying such acts, engaged in wilful, malicious, intentional, oppressive and despicable conduct, and  
26 acted with wilful and conscious disregard of the rights, welfare and safety of MS. EMERMAN,  
27 thereby justifying the award of punitive and exemplary damages in an amount to be determined at  
28

1 trial.

2  
3 **FIFTH CAUSE OF ACTION**

4 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

5  
6 (Against All Defendants)

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8 52. MS. EMERMAN realleges and incorporates by reference paragraphs 4  
9 through 29, 31, 37, 43 and 49 as though set forth in full.

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12 53. In the alternative, defendants' conduct, as alleged above, was done in a  
13 careless or negligent manner, without consideration for the effect of such conduct upon MS.  
14 EMERMAN's emotional well-being.

15  
16 54. By the aforesaid acts and omissions of defendants, and each of them, MS.  
17 EMERMAN has been caused to and did suffer and continues to suffer severe emotional and mental  
18 distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort, anxiety, physical pain  
19 and suffering and has incurred medical bills for the treatment of these injuries. MS. EMERMAN  
20 does not know at this time the exact duration or permanence of said injuries, but is informed and  
21 believes and thereon alleges that some if not all of the injuries are reasonably certain to be permanent  
22 in character.  
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3 **PRAYER FOR RELIEF**  
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5 WHEREFORE, **PLAINTIFF** prays for judgment against defendants, and each of  
6 them, as follows:

- 7 1. General damages in an amount to be proved at trial;  
8 2. Special damages in an amount to be proved at trial;  
9 3. Punitive damages in an amount appropriate to punish defendants and to make  
10 an example of defendants to the community;  
11 4. Reasonable attorneys' fees;  
12 5. Costs of suit;  
13 6. Interest;  
14 7. For such other relief as the Court deems proper.  
15  
16

17 DATED: July 8, 2005

HELMER • FRIEDMAN, LLP  
Gregory D. Helmer, P.C.  
Andrew H. Friedman, P.C.

19  
20 By:   
21 Kenneth A. Helmer  
22 Attorneys for Plaintiff  
ELIZABETH EMERMAN  
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DATED: July 8, 2005

Gregory D. Helmer

Andrew H. Friedman, P.C.

By: \_\_\_\_\_

K. H. L.

Kenneth A. Helmer

**Attorneys for Plaintiff**

ELIZABETH EMERMAN