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9
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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

16 JULIE TARRY, }
17 Plaintiff, }
18 v. }
19 NAKED JUICE CO. OF GLENDOURA, }
20 INC., a corporation, NORTH CASTLE }
21 PARTNERS, a limited liability company, }
22 TOM HICKS, an individual, MONTY }
23 SHARMA, an individual and DOES 1 }
24 through 50, inclusive, }
25 Defendants. }

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CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

DEC 13 2005

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

BC 344426

Case No.

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(h)];
- (3) WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;
- (4) INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS;
- (5) NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS;
- (6) BATTERY;
- (7) NEGLIGENT HIRING, RETENTION AND SUPERVISION

DEMAND FOR TRIAL BY JURY

1 Plaintiff JULIE TARRY (hereinafter "MS. TARRY" or "PLAINTIFF"), as an
2 individual, complains and alleges as follows:

3

4 **JURISDICTION AND VENUE**

5

6 1. The Court has personal jurisdiction over the defendants because they are
7 residents of and/or doing business in the State of California.

8

9 2. Venue is proper in this county in accordance with Section 395(a) of the
10 California Code of Civil Procedure because the defendants, or some of them, reside in this
11 county, and the injuries alleged herein, or some of them, occurred in this county. Venue is
12 further appropriate in this county in accordance with Section 395(a) and Section 395.5 of the
13 California Code of Civil Procedure because defendants and PLAINTIFF contracted to
14 perform their obligations in this county, because the contract was entered into in this county,
15 because the liability, obligation and breach occurred within this county, and because the
16 principal places of business of defendants, or some of them, are situated in this county.
17 Venue is further appropriate in this county in accordance with Section 12965(b) of the
18 California Government Code because the unlawful practices alleged by PLAINTIFF in
19 violation of the California Fair Employment and Housing Act [Cal. Gov't Code §§ 12940, et
20 seq.] were committed in this county.

21

22

23 **PARTIES**

24

25 3. MS. TARRY is an individual who resides and, at relevant times during
26 the events alleged herein, resided in San Bernardino County and regularly commuted to Los
27 Angeles County during the course of her employment with Defendants.

1 4. MS. TARRY is informed and believes, and thereon alleges, that
2 defendants NAKED JUICE COMPANY CO. OF GLEN DORA, INC. (hereinafter "NAKED
3 JUICE" and/or "COMPANY"), NORTH CASTLE PARTNERS, LLC (hereinafter "NORTH
4 CASTLE PARTNERS") and DOES 1 through 50, and each of them, are, and at all times
5 herein mentioned were, corporations, limited liability companies, unincorporated
6 associations, partnerships or other business entities qualified to do business and/or doing
7 business in the State of California. MS. TARRY is further informed and believes, and
8 thereon alleges, that said defendants are and were, at all relevant times mentioned herein,
9 "employer[s]" within the meaning of Sections 12926(d) and 12940(j)(4)(A) of the California
10 Government Code.

11
12 5. MS. TARRY is informed and believes, and thereon alleges, that
13 defendant NORTH CASTLE PARTNERS owns, controls and finances defendant NAKED
14 JUICE. MS. TARRY is further informed and believes, and thereon alleges, that defendant
15 NORTH CASTLE PARTNERS and defendant NAKED JUICE are, together, an integrated
16 enterprise, containing interrelation of operations, common management and centralized
17 control of labor relations. MS. TARRY is further informed and believes, and thereon
18 alleges, that defendants NAKED JUICE and NORTH CASTLE PARTNERS are joint
19 employers.

20
21 6. MS. TARRY is informed and believes, and thereon alleges, that
22 defendant TOM HICKS (hereinafter "HICKS") is an individual who, at all relevant times
23 herein mentioned, was employed as the President of defendant NAKED JUICE. As such,
24 defendant HICKS, at all relevant times herein mentioned, held direct supervisory authority
25 over MS. TARRY and was a director, officer, member and/or managing agent of defendants,
26 and each of them.

27
28

1 7. MS. TARRY is informed and believes, and thereon alleges, that
2 defendant MONTY SHARMA (hereinafter "SHARMA") is an individual who, at all relevant
3 times herein mentioned, was employed as the Chief Executive Officer of defendant NAKED
4 JUICE. As such, defendant HICKS, at all relevant times herein mentioned, was a director,
5 officer, member and/or managing agent of defendants, and each of them.

6

7 8. The true names and capacities, whether corporate, associate, individual
8 or otherwise of defendants DOES 1 through 50, inclusive, are unknown to MS. TARRY,
9 who therefore sues said defendants by such fictitious names. Each of the defendants
10 designated herein as a DOE is negligently or otherwise legally responsible in some manner
11 for the events and happenings herein referred to and caused injuries and damages
12 proximately thereby to MS. TARRY, as herein alleged. MS. TARRY will seek leave of
13 Court to amend this Complaint to show their names and capacities when the same have been
14 ascertained.

15

16 9. At all times herein mentioned, defendants, and each of them, were the
17 agents, representatives, employees, successors and/or assigns, each of the other, and at all
18 times pertinent hereto were acting within the course and scope of their authority as such
19 agents, representatives, employees, successors and/or assigns and acting on behalf of, under
20 the authority of, and subject to the control of each other.

21

22

23 **FACTS COMMON TO ALL CAUSES OF ACTION**

24

25 10. On or about May 3, 2004, MS. TARRY commenced employment with
26 defendant NAKED JUICE as its Director of Marketing. In her position, MS. TARRY's
27 direct supervisor was defendant HICKS.

28

1 11. As part of the COMPANY's offer of employment, MS. TARRY was
2 provided the option of working from her home two days per week in order to avoid the long
3 commute from her home in Palm Springs, California to her office at the Corporate
4 Headquarters in Glendora, California, approximately 100 miles each way. Corporate
5 Headquarters were later relocated to Azusa, California, which posed the same commuting
6 problem for MS. TARRY. The COMPANY also provided hotel accommodations near its
7 headquarters for MS. TARRY during the first year of her employment with Defendants.
8

9 12. On a continuous and ongoing basis throughout MS. TARRY's
10 employment up through the date of her wrongful termination, defendant HICKS and other
11 managerial employees of NAKED JUICE fostered, approved, encouraged and participated in
12 a workplace culture and practice of excessive alcohol consumption, intoxication, sexual
13 harassment, and lewd and unsafe conduct. At work-related events, it was common for
14 defendant HICKS and other managers and employees to consume alcohol to the point of
15 inebriation and to engage in sexually harassing, misogynistic, and offensive behavior. As set
16 forth in greater detail below, the COMPANY and defendant HICKS, by virtue of his own
17 conduct and example, as well as his approval and condonation of the conduct of other
18 managers and employees, subjected MS. TARRY to a continuous, pervasive, severe and
19 ongoing hostile, offensive, and unwelcome pattern and practice of sexually harassing and
20 discriminatory conduct, which created a hostile and intimidating work environment.
21 Defendant HICKS engaged in such conduct, or permitted such conduct to exist, while acting
22 in the course and scope of his employment with NAKED JUICE and/or in carrying out its
23 policies and practices. Such conduct includes, but is not limited to, those allegations
24 contained herein.
25

26 13. In or around July 2004, defendant HICKS informed MS. TARRY that
27 his wife had asked him for a divorce. From July 2004 up through and including the date of
28 MS. TARRY's unlawful termination in August 2005, defendant HICKS routinely made

1 degrading comments about his wife, and women in general, at the weekly Monday morning
2 staff meetings. Among other things, he routinely called his ex-wife a “bitch” or “fucking
3 bitch” and referred to women in general as “bitches” who are only good for shopping and
4 spending money. Referring to his ex-wife, he threatened that the “bitch won’t get anything.”
5 When another manager announced, in or around May 2005, that he was also getting divorced,
6 defendant HICKS permitted and, indeed, encouraged him to make similar comments about
7 his ex-wife and women in general. Recognizing the offensive nature of his statements,
8 defendant HICKS would occasionally order MS. TARRY, “Julie, cover your ears!”
9

10 14. It was well known throughout the COMPANY that defendant HICKS
11 maintained an overriding, fraternity-like allegiance to a group of male employees, some of
12 whom (in addition to defendant HICKS) were the main instigators of, and participants in, the
13 excessive alcohol consumption, intoxication, sexual harassment, and lewd and unsafe
14 conduct that regularly occurred at COMPANY events, meetings, retreats and other functions.
15 Defendant HICKS’ posse of male employees were regarded as “untouchable.” Because they
16 were protected by defendant HICKS, they could engage in any kind of lewd, vulgar,
17 dangerous, sexually offensive and/or harassing conduct with impunity and without fear of
18 reprisal or discipline by the COMPANY. Defendant HICKS’ inner sanctum of male
19 employees were also rewarded with preferential treatment in the form of promotions and
20 other benefits, whether or not their performance warranted such actions.
21

22 15. During one COMPANY meeting, defendant HICKS, his posse of male
23 employees, and a group of senior managers consumed alcohol to the point of intoxication. In
24 fact, several people were losing their balance and “falling down drunk.” Defendant HICKS,
25 and two other male employees, removed their pants and exposed their bare buttocks to MS.
26 TARRY, badgering her to take pictures of them in “mooning” position, which she refused to
27 do. Defendant HICKS then grabbed MS. TARRY and, making physical contact with her,
28 forcibly attempted to remove her pants. Several employees intervened and pulled defendant

1 HICKS off of MS. TARRY.

2

3 16. On one occasion during a COMPANY retreat in Lake Arrowhead, the

4 COMPANY chartered a boat for a one hour cruise. As was customary at COMPANY events,

5 the COMPANY ensured that a virtually endless supply of alcohol was readily available on

6 the boat and throughout the retreat. Even though participants were encouraged to use

7 restrooms prior to the cruise, a male employee, Ben Rumpza (who was part of defendant

8 HICK's inner sanctum of protected male employees) in full view of all of the attendees

9 (including HICKS), lowered his pants, took out his penis and urinated off the side of the

10 boat. MS. TARRY later learned that the COMPANY's Chief Financial Officer had

11 encouraged Mr. Rumpza and had, in fact, offered (i.e., "bet") him \$20 to engage in such

12 conduct. To the surprise of many other employees, Mr. Rumpza was soon thereafter

13 promoted to the position of San Diego Area Business Manager.

14

15 17. Instead of being reprimanded for his inappropriate behavior on the boat,

16 Mr. Rumpza was respected, and, in fact, treated as legend among the COMPANY's

17 managerial employees and policy makers because of his willingness to engage in outrageous

18 conduct. Indeed, on one occasion, when the COMPANY's General Counsel and Vice

19 President of Human Resources, Marc Ruth, gave a presentation to hundreds of employees

20 about the importance of making retirement account contributions, he opened his presentation

21 with a joke about urination, and then invoked Mr. Rumpza's lewd and offensive conduct on

22 the cruise in order to "break the ice" and invoke laughter.

23

24 18. During the same COMPANY retreat at which Mr. Rumpza publicly

25 urinated off the boat, another employee, Ritchie Katz, in the presence of defendant HICKS,

26 made incessant lewd sexual remarks to MS. TARRY and repeatedly asked her if she and

27 another female employee were "lesbians."

1 19. On a regular basis, COMPANY employees, with the participation and
2 approval of defendant HICKS and other senior executives, regularly took, shared and
3 distributed lewd and offensive photographs, including, among other things, photographs of
4 employees at COMPANY events. During the Lake Arrowhead retreat, for example, the
5 Office Manager distributed a photograph of Ritchie Katz, which was taken during the course
6 of a prior COMPANY meeting. In the photograph, Mr. Katz was lying on his back,
7 completely naked, on a chaise lounge with three NAKED JUICE bottles placed, pointing
8 upward, in his crotch area in front of his penis, clearly depicting erect phallic symbols. MS.
9 TARRY, who was shown the photograph, was extremely offended, embarrassed and upset.
10 MS. TARRY was also disgusted by the vile depiction and denigration of the COMPANY's
11 product.

12
13 20. Defendant HICKS, himself, made a point of viewing and showing
14 sexually offensive photographs and internet websites to MS. TARRY in the workplace in a
15 manner that was designed to, and did, offend MS. TARRY and make her feel uncomfortable.
16 For example, on one occasion, defendant HICKS showed MS. TARRY a picture of a carrot
17 that was depicted as a phallic symbol. On another occasion, defendant HICKS showed MS.
18 TARRY a website containing naked women and suggested that NAKED JUICE become a
19 sponsor of the website.

20
21 21. When MS. TARRY complained to defendant HICKS that wages paid to
22 outside consultants (who reported to her and her subordinates) far exceeded the wages she
23 and her subordinate employees earned, defendant HICKS responded in a flagrantly sexist
24 manner, asking MS. TARRY, argumentatively, "Don't you have a husband that works?"

25
26 22. Defendant NAKED JUICE also gave preferential treatment to female
27 employees and contractors who engaged in sexual relations with defendant HICKS and/or his
28 posse of employees. Among other things, MS. TARRY, who purportedly had the authority

1 to hire an agency to redesign the COMPANY's website, was pressured by defendant HICKS
2 to hire an agency that she had not recommended. MS. TARRY is informed and believes, and
3 thereon alleges, that she was pressured to hire that agency, over her own recommendation,
4 because defendant HICKS was having a sexual relationship with the owner of the agency.
5 Defendant HICKS told MS. TARRY that he would not support her decision to hire another
6 agency. She was also warned by two different Senior Vice Presidents of Sales that hiring any
7 other agency would be a "career limiting move."

8

9 23. During a COMPANY trip to the Sundance Film Festival in January
10 2005, defendant HICKS, over MS. TARRY's objection, arranged for coed lodging of
11 employees in one house. Throughout the course of their stay, defendant HICKS freely
12 strutted around the house either in his underwear or with just a towel wrapped around his
13 waist, made vulgar sexual comments, consumed alcohol to the point of intoxication, and slept
14 on the living room floor in his underwear.

15

16 24. Defendant HICKS routinely invited Alan George, a Senior Financial
17 Analyst of defendant NORTH CASTLE PARTNERS (the private equity investment firm that
18 owns, finances and controls defendant NAKED JUICE and oversees its management), to
19 attend COMPANY functions and retreats. Mr. George regularly engaged in, participated in
20 and instigated the sexually offensive conduct, and other dangerous and hazardous activities
21 that were part and parcel of the COMPANY's workplace culture. Indeed, Mr. George, while
22 inebriated, even instigated a fist fight with a male employee, which stemmed from their
23 mutual sexual interest in one of the COMPANY's female employees during the Lake
24 Arrowhead retreat.

25

26 25. MS. TARRY is informed and believes, and thereon alleges, that
27 principals of defendant NORTH CASTLE PARTNERS (some of whom are also members of
28 defendant NAKED JUICE's Board of Directors) knew or should have known of defendants

1 HICKS' propensity to engage in sexually offensive conduct, debauchery and excessive
2 alcohol consumption as well as his pattern of encouraging such conduct at COMPANY
3 events. MS. TARRY is further informed and believes, and thereon alleges, that defendant
4 NORTH CASTLE PARTNERS knew that Mr. George attended NAKED JUICE events for
5 the primary purpose of participating in such conduct.

6

7 26. During the COMPANY trip to the Sundance Film Festival in January
8 2005, Mr. George told a female employee to "blow me" when she politely requested that he
9 refrain from smoking in the COMPANY vehicle. Defendant HICKS was present and
10 laughed in an approving and participatory manner. Mr. George also verbally attacked a
11 female convenience store employee because she would not sell him beer "after hours" (i.e.,
12 after the existing legal curfew for selling alcohol). Among other things, Mr. George called
13 her a "cunt" and told her that he could pay her more money than she would ever make at that
14 "crappy job" by "buying" and "selling" her (implying that she should be a prostitute and
15 work for Mr. George). Again, defendant HICKS was present and laughed in an approving
16 and participatory manner. Some of the female employees were so upset by Mr. George's
17 mistreatment of the convenience store employee, and defendant HICKS' condonation of such
18 demeaning behavior, that they were in tears when they reported the incident to MS. TARRY.
19 At least one of the employees who reported the incident was on the verge of resignation.

20

21 27. During the COMPANY trip to the Sundance Film Festival, MS.
22 TARRY attended a work-related dinner event with defendant HICKS. Defendant HICKS
23 also invited two of his male friends to the event. During the dinner, defendant HICKS
24 scanned the room for women he was sexually attracted to, while making overt sexual remarks
25 to his male friends and commenting on his desire to "party" with them. Among other things,
26 such conduct included the following remarks to his colleagues in the presence of MS.
27 TARRY:

28

- 1 (a) "Nice piece of ass";
- 2 (b) "Can you get me some of that";
- 3 (c) "Can you get her phone number";
- 4 (d) "Bring her over to me"; and
- 5 (e) "Let's go party with her".

6 MS. TARRY, extremely upset and offended, left the table before the main course arrived,
7 exited the restaurant and went back to the COMPANY rental house.

8

9 28. During the same COMPANY trip to the Sundance Film Festival,
10 defendant HICKS hired a young female (who was under the legal age for alcohol
11 consumption) to work at COMPANY events and stay in the COMPANY rental house. Mr.
12 George (of defendant NORTH CASTLE PARTNERS), with the knowledge and approval of
13 defendant HICKS, purchased strong alcoholic beverages for the female employee, knowing
14 that she was under the legal age for alcohol consumption. The female employee also
15 confided in MS. TARRY that she was upset about an incident in which she was subjected to
16 inappropriate sexual conduct by defendant HICKS. She complained that after asking
17 defendant HICKS if she could see a picture he was viewing on his cell phone, defendant
18 HICKS said, "I'll show you a picture. How about a picture of my penis."

19

20 29. During the COMPANY trip to the Sundance Film Festival, in addition
21 to expecting employees to wake up at 6:00 a.m. every morning and work until midnight, the
22 COMPANY's workplace culture placed a premium on all night "partying" and alcohol
23 consumption – employees were expected and encouraged to participate or else be frowned
24 upon. As a result of insufficient sleep, MS. TARRY came down with bronchitis and left
25 Park City one day early to return home. When MS. TARRY returned to work, she
26 complained to personnel in the Human Resources Department about the inappropriate sexual
27 conduct and other unlawful and unsafe activities that she and other employees were subjected
28 to during the COMPANY trip.

1 30. MS. TARRY believed the COMPANY's practice, promotion and
2 encouragement of excessive alcohol use, including the consumption by under-age minors,
3 created a hazardous environment to the health and safety of herself and other such that (a)
4 Officers, senior management and other employees were often so inebriated at COMPANY
5 events, retreats and functions that they were falling down; (b) Employees had to be assisted
6 back to their rooms and beds because they were on the verge of passing out or deemed by
7 their co-workers to be "out of control"; (c) Alcohol was used by senior management and
8 others to further the sexual predation of female employees at COMPANY events; (d)
9 Alcohol-induced employees became lewd, boisterous and belligerent, resulting in fist fights
10 and other violent conduct that, at times, required police intervention; and (e) MS. TARRY,
11 herself, was subjected to battery and sexual assault by inebriated male employees, including
12 defendant HICKS.

13

14 31. In or around February, 2005, Defendant HICKS – the President of the
15 COMPANY – and other senior management belittled and made a mockery of the Human
16 Resources Department's one futile attempt to implement well-needed sexual harassment
17 training. On February 16, 2005, for example, defendant HICKS attended a training session
18 that was also attended by MS. TARRY. During the training, HICKS joked about the
19 hypothetical examples that were presented, ridiculed participants (including MS. TARRY),
20 and was contentious and exasperated when told that certain types of behavior were
21 inappropriate. He refused to approach the training with any degree of seriousness and, by
22 virtue of his conduct and example, sent a message to the other participants that they were free
23 to do the same. His disruptions undermined the efforts of MS. TARRY and others to
24 participate in a serious and meaningful discussion about sexual harassment and reduced the
25 training to a mockery.

26

27 32. On or around February 17, 2005 – the day immediately following the
28 sexual harassment training – defendant HICKS and other COMPANY officers and

1 managerial employees continued to perpetuate a sexually hostile environment as if the
2 training had never existed. At a COMPANY sales training session that was held that day,
3 which was attended by HICKS and all other members of senior management, the Senior Vice
4 President of Operations told vulgar jokes about male genitalia. The one female employee
5 who was present was extremely offended and reported the inappropriate conduct to Human
6 Resources personnel.

7

8 33. In or around late February 2005 – several days following the sexual
9 harassment training session – senior management, including defendant HICKS and MS.
10 TARRY, attended a national sales dinner. During the event, a male employee, during his
11 presentation to the group, proudly recounted a story about a co-worker, who had urinated in a
12 bedroom while intoxicated at a COMPANY event. He even physically demonstrated the
13 story – he put his finger through the zipper of his pants, made a gesture like he was holding
14 his penis, and pretended he was urinating. Rather than discipline the employee, defendant
15 HICKS and other senior managers, appeared to be entertained by the vulgar presentation and
16 laughed in an approving manner. At the same dinner, another male employee and two male
17 cohorts, emboldened by the COMPANY's approval and condonation of sexually
18 inappropriate and vulgar conduct, asked a female employee to show them her nipples.

19

20 34. In or around April 2005, defendants NORTH CASTLE PARTNERS
21 and NAKED JUICE hired a new Chief Executive Officer, defendant Monty Sharma.
22 Defendant SHARMA was the former CEO of EAS, a company previously owned by
23 NORTH CASTLE PARTNERS. Defendants also hired a new Human Resources Director,
24 John Fishbach, who was likewise a former EAS employee.

25

26 35. On or about May 19, 2005, during a COMPANY event in Palm
27 Springs, approximately fifty (50) COMPANY employees had dinner at a local restaurant
28 followed by live entertainment. Consistent with defendant NAKED JUICE's culture of

1 hedonism and debauchery, the function spiraled into a rowdy and chaotic “party”
2 environment, which included excessive alcohol consumption, intoxication, sexually offensive
3 behavior, and lewd and unsafe conduct. This conduct was fostered, approved, encouraged
4 and participated in by defendant HICKS and other managerial employees of NAKED JUICE.
5 Defendant HICKS, and other COMPANY officers and managerial employees, including
6 defendant SHARMA, the new CEO, promoted a fraternity party-like atmosphere by, among
7 other things, engaging in the following activities:

8

9 (a) Defendant HICKS hired two females, both under the legal
10 drinking age for drinking alcohol, to pour tequila shots for
11 COMPANY employees. The tequila servers, who also consumed
12 alcohol despite their age, wore extremely short mini skirts, tank
13 tops that blatantly revealed their cleavage, and leather holster-like
14 contraptions around their hips for holding the tequila. HICKS
15 also ensured that the women who greeted COMPANY employees
16 at the restaurant were also scantily clad and sexually provocative
17 in their appearance and demeanor. Several female employees,
18 including MS. TARRY, were offended by the demeaning
19 atmosphere of the COMPANY event;

20

21 (b) The COMPANY’s interim Chief Financial Officer offered to pay,
22 and did pay, the Office Manager, who was wearing a skirt, to do
23 a hand stand in the presence of several male employees, revealing
24 her underwear;

25

26 (c) Defendant SHARMA approached a female employee and said, “I
27 bet you don’t cross the line.” The female employee was shocked
28 and asked SHARMA to clarify if he meant “personally” or

1 “professionally.” Defendant SHARMS replied, “both,” and
2 proceeded to offer the following wager before walking away:
3 “I’ll bet you twenty dollars that tonight I’ll get you to cross the
4 line”;

5

6 (d) Defendant SHARMA told stories about his use of marijuana to
7 one female employee. While dancing in a sexually provocative
8 manner with another female employee, defendant SHARMA
9 pretended he had a marijuana joint between his fingers and made
10 gestures as if he were smoking a joint.

11

12 (e) The Senior Vice President of Human Resources and General
13 Counsel, Marc Ruth, was dancing in a sexually provocative
14 manner with a female employee who had previously been
15 assisted back to her hotel room by co-workers (because she was
16 inebriated and acting inappropriately). To the surprise of many
17 employees, the female employee (who was also rumored to have
18 had sexual intercourse with one of defendant HICKS’ inner posse
19 members during the course of the Palm Springs event) received a
20 very large promotion shortly following the event.

21

22 (f) At the end of the evening, the La Quinta Sheriffs Department
23 were called to handle a physical altercation and other debauchery
24 caused by COMPANY employees. Defendant HICKS, who was
25 inebriated, assessed the circumstances and, instead of blaming or
26 disciplining the employees, merely said, “I hate cops.” He then
27 offered his verbal approval of and, indeed, his pride in the
28 outcome of the evening, stating “It’s not a Naked Juice party until

the cops are called.”

3 36. During the course of the evening at the COMPANY event in Palm
4 Springs on May 19, 2005, one of MS. TARRY's female employees, Claudia, who had been
5 drinking COMPANY-provided tequila shots and other alcohol from the "open bar", was
6 dancing in a sexually suggestive manner with several male employees. San Diego Area
7 Business Manager, Ben Rumpza (whose fiancée also worked for the COMPANY), and
8 Claudia began kissing, provocatively and extensively, in full public view. A number of
9 Claudia's co-workers were appalled by the public spectacle and complained that Mr. Rumpza
10 was taking advantage of Claudia, who was clearly inebriated. MS. TARRY finally
11 intervened and pleaded with Claudia to stop embarrassing herself.

13 37. Later in the evening, Mr. Rumpza, who had been consuming alcohol and
14 was intoxicated, approached MS. TARRY and said, “We need to talk.” Mr. Rumpza raised
15 his voice and proceeded to speak in a belligerent and threatening manner: “You aren’t my
16 fucking mother. You aren’t my fucking fiancée. Don’t ever interfere with me and Claudia
17 again.” When MS. TARRY tried to ignore him and walk away, Mr. Rumpza forcibly
18 grabbed her left shoulder, squeezed her tightly with his hand and forcefully spun her around
19 to face him. MS. TARRY, in fear for her safety, broke away from his grip, began crying, and
20 ran to some of her co-workers to inform them that she had been assaulted by Mr. Rumpza.
21 Mr. Rumpza continued to pursue MS. TARRY in a belligerent manner, yelling “Fuck you”
22 and other insults and epithets, until another male employee intervened and began yelling at
23 Mr. Rumpza to calm down.

25 38. MS. TARRY immediately reported the incident involving Mr. Rumpza
26 to Senior Vice President of Sales, Matt Buckley. The next morning, MS. TARRY skipped
27 the COMPANY meeting and drove home, suffering severe emotional distress because of the
28 incident. MS. TARRY informed defendant HICKS that she would not be coming into the

1 office the following week.
2
3

4 39. Several days later, defendant HICKS finally contacted MS. TARRY.
5 Rather than ask if she was injured or otherwise inquire about her well-being, HICKS relied
6 on a gender-based stereotype to explain the incident. According to defendant HICKS,
7 "Claudia drinks too much" and "Women stir up hormones in men, which causes men to act
inappropriately."

8
9 40. On or about June 6, 2005, the new CEO (defendant SHARMA)
10 repeatedly assured MS. TARRY that, despite the changes in management, her job was "safe
11 and secure" and that she was doing a good job.

12
13 41. On June 16, 2005, after a protracted delay, the COMPANY, unable to
14 deny the facts surrounding the incident with Ben Rumpza, was forced to terminate Mr.
15 Rumpza's employment.

16
17 42. Defendant HICKS and the remaining members of his inner sanctum of
18 male employees resented the fact that MS. TARRY had complained about Mr. Rumpza (a
19 member of their posse) and blamed her for Mr. Rumpza's termination. They also perceived
20 her as a threat to their continued ability to engage in, with impunity and without fear of
21 discipline, the workplace culture that permitted and encouraged excessive alcohol
22 consumption, lewd and unsafe conduct, sexual harassment and sexual predation of women.
23 Beginning immediately after MS. TARRY lodged her complaint about Mr. Rumpza and
24 escalating in intensity after Mr. Rumpza's termination, defendant HICKS engaged in a
25 campaign of retaliation and harassment against MS. TARRY. Such conduct included,
26 without limitation, the following:

27 //
28 //

- (a) Defendant HICKS made negative statements about MS. TARRY in the workplace, publicly accused her of exaggerating the incident with Mr. Rumpza, and encouraged the remaining members of his male entourage to do the same;
- (b) During a COMPANY conference call, defendant HICKS raised his voice and verbally attacked and humiliated MS. TARRY for disagreeing with his unilateral decision to withdraw a COMPANY product from the marketplace. Several employees shared their belief that defendant HICKS was merely retaliating against her because of her complaint about Mr. Rumpza. Indeed, most of the staff shared MS. TARRY's opinion about the product, and defendant HICKS' decision was later reversed by the COMPANY;
- (c) Defendant HICKS formally criticized MS. TARRY's teamwork skills in an offensive, derogatory and sexist manner, stating that employees outside of her team (i.e., his male posse) viewed MS. TARRY as a "Prima Donna."

21 43. During the last week of June 2005, MS. TARRY, so as to ensure that the
22 COMPANY's new management was notified of the sexual harassment that she and her
23 subordinate employees had been forced to endure since she began her employment with
24 defendant NAKED JUICE and to ensure that the new management took immediate and
25 appropriate steps to alleviate and remedy such conduct, lodged a complaint with the newly
26 installed Director of Human Resources, John Fischbach. Among other things, MS. TARRY
27 complained about the following: (1) the constant degrading references to women, including,
28 without limitation, "bitches", "cunts" and "nice piece of ass", (2) the continuous pattern of

1 sexually harassing and offensive conduct, as described hereinabove, to which MS. TARRY
2 and other female employees were verbally, visually and physically subjected; (3) the lewd,
3 vulgar, dangerous and sexually offensive behavior that permeated the Lake Arrowhead, the
4 Sundance Film Festival and other COMPANY events, functions and retreats; (4) defendant
5 HICKS' decision to force female and male employees to share a house during a COMPANY
6 business trip; (5) the COMPANY workplace culture that encouraged and condoned
7 excessive alcohol consumption, lewd and unsafe conduct, sexual harassment, sexual
8 predation of women, and frowned upon employees who did not participate; (6) an
9 environment that posed constant hazards to the health and safety of herself and others as a
10 result of the COMPANY's practice of promoting excessive alcohol consumption and (7) the
11 overriding allegiance of defendant HICKS to a group of male employees, some of whom
12 were the main instigators and participants (in addition to defendant HICKS) of such
13 activities, and who had always been regarded as "untouchable" (they could engage in any
14 kind of lewd, vulgar, dangerous, sexually offensive and/or harassing conduct at their whim
15 without fear of reprisal or discipline by the COMPANY because they were protected by
16 defendant HICKS).

17

18 44. Immediately after MS. TARRY's complaint of sexual harassment and
19 what she believed to constitute a hostile and hazardous work environment to the new Human
20 Resources in late June 2005, the COMPANY commenced an incessant pattern of retaliatory
21 conduct, which culminated in her termination on August 2, 2005 – less than two months after
22 the new CEO had assured her that her employment was "safe and secure." Such pattern of
23 retaliatory conduct included, without limitation, the following:

24

25 (a) On or around June 29, 2005, the COMPANY stripped MS. TARRY of
26 most of her marketing staff who reported to her, undermining her level
27 of authority and depriving her of essential resources;

28

1 (b) On or around July 11, 2005, defendant HICKS notified MS. TARRY
2 that she would no longer be permitted to work from home – a benefit
3 she had enjoyed since the date of her hire – despite the fact that other
4 employees were allowed to do so;

5

6 (c) On August 2, 2005 – approximately one month after MS. TARRY
7 complained about the COMPANY'S widespread pattern and practice of
8 sexual harassment and less than two months after defendant SHARMA
9 had assured her that her employment was “safe and secure” – the
10 COMPANY abruptly fired her. MS. TARRY was informed of the
11 termination by the COMPANY's new Human Resources Director, Mr.
12 Fischbach (with whom she had lodged her sexual harassment
13 complaint), and the COMPANY's General Counsel, Marc Ruth. When
14 MS. TARRY inquired about the reason for her termination, she was
15 advised that it was due to “personality” issues.

16

17 45. Following her termination, MS. TARRY is informed and believes, and
18 thereon alleges, that defendant NAKED JUICE immediately began efforts to recruit a new
19 Director or Vice President of Marketing to fill her position and report to the President.

20

21 46. MS. TARRY is informed and believes, and thereon alleges, that
22 defendants' pattern of retaliation and their decision to terminate her employment was
23 motivated, in whole or in part, by her complaints and other efforts to oppose conduct that she
24 reasonably believed to be unlawful.

25

26 47. From the time she was hired up through and including the date of her
27 unlawful termination, MS. TARRY's had a record of excellent work performance.

28

1 48. Prior to the filing of this action, MS. TARRY filed a complaint with
2 the Department of Fair Employment and Housing (“DFEH”) alleging that the acts of
3 defendants, and each of them, established a violation of the Fair Employment and Housing
4 Act, Government Code Section 12900 et. seq., and has received the requisite right to sue
5 letters.

7 49. MS. TARRY has been generally damaged in an amount within the
8 jurisdictional limits of this Court.

FIRST CAUSE OF ACTION

SEXUAL/GENDER HARASSMENT AND DISCRIMINATION

(Cal. Gov't Code § 12940)

(Against All Defendants)

16 50. MS. TARRY realleges and incorporates by reference paragraphs 3
17 through 49, as though set forth in full.

19 51. In perpetrating the above-described actions, the defendants, and each of
20 them, including DOES 1 through 50 and/or their agents and employees, subjected MS.
21 TARRY to a continuing and ongoing pattern and practice of sexual harassment in violation of
22 California Government Code Section 12940 et seq. Defendants, their agents, and
23 supervisors, actively engaged in, facilitated, fostered, approved of, knew or should have
24 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
26 steps to prevent harassment from occurring. The harassment was sufficiently pervasive and
27 severe as to alter the conditions of MS. TARRY'S employment and to create a hostile,
28 intimidating and/or abusive work environment.

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

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

13
14 54. MS. TARRY is informed and believes, and thereon alleges, that the
15 defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing
16 and/or ratifying such acts, engaged in wilful, malicious, intentional, oppressive and
17 despicable conduct, and acted with wilful and conscious disregard of the rights, welfare and
18 safety of MS. TARRY, thereby justifying the award of punitive and exemplary damages in an
19 amount to be determined at trial.

20
21 55. As a result of defendants' acts and conduct, as alleged herein, MS.
22 TARRY is entitled to reasonable attorneys' fees and costs of suit as provided in Section
23 12965(b) of the California Government Code.

24 //
25 //
26 //
27 //
28 //

SECOND CAUSE OF ACTION

**RETALIATION FOR OPPOSING UNLAWFUL
EMPLOYMENT PRACTICES PURSUANT TO FEHA**

(Cal. Gov't Code § 12940(h))

(Against all Defendants)

56. MS. TARRY realleges and incorporates by reference paragraphs 3 through 49, and 51, as though set forth in full.

10 57. As alleged herein and in violation of California Government Code §
11 12940(h), defendants, and each of them, retaliated, discharged and otherwise discriminated
12 against MS. TARRY because she reported, complained about, and otherwise opposed
13 practices forbidden by California Government Code §12940 et. seq., including, inter alia, the
14 following: (a) the ongoing, continuous and pervasive sexual harassment that she and other
15 employees were subjected to in the workplace and at workplace events; (b) the widespread
16 practice of fostering a workplace culture that is sexually offensive and hostile toward female
17 employees; and (c) preferential treatment of male employees who perpetuate a sexually
18 offensive and hostile environment toward female employees.

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

25 59. As a further direct and legal result of the acts and conduct of defendants,
26 and each of them, as aforesaid, MS. TARRY has been caused to and did suffer and continues
27 to suffer severe emotional and mental distress, anguish, humiliation, embarrassment, fright,
28 shock, discomfort, anxiety, physical pain and suffering. The exact nature and extent of said

1 injuries is presently unknown to MS. TARRY. MS. TARRY does not know at this time the
2 exact duration or permanence of said injuries, but is informed and believes and thereon
3 alleges that some if not all of the injuries are reasonably certain to be permanent in character.
4

5 60. MS. TARRY is informed and believes, and thereon alleges, that the
6 defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing
7 and/or ratifying such acts, engaged in wilful, malicious, intentional, oppressive and
8 despicable conduct, and acted with wilful and conscious disregard of the rights, welfare and
9 safety of MS. TARRY, thereby justifying the award of punitive and exemplary damages in an
10 amount to be determined at trial.
11

12 61. As a result of defendants' acts and conduct, as alleged herein, MS.
13 TARRY is entitled to reasonable attorneys' fees and costs of suit as provided in Section
14 12965(b) of the California Government Code.
15

16 **THIRD CAUSE OF ACTION**

17 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

18 (Against all Defendants)
19

20 62. MS. TARRY realleges and incorporates by reference paragraphs 3
21 through 49, 51 and 57, as though set forth in full.
22

23 63. The termination of MS. TARRY's employment, and other adverse
24 employment actions by Defendants, and each of them, violated the fundamental public
25 policies of the State of California, which, among other things, (a) mandate that employees be
26 free from sexual harassment and discrimination, (b) prevent retaliation against those who
27 oppose sexual harassment and discrimination, and (c) prevent retaliation against those who
28 report other working conditions that they believe, in good faith, to be unsafe or hazardous.

1 As alleged herein, and in violation of public policy, defendants NAKED JUICE, NORTH
2 CASTLE PARTNERS, HICKS, SHARMA and DOES 1 through 50, and each of them,
3 discharged MS. TARRY from her employment, and otherwise retaliated against her, because
4 she opposed the sexual harassment and discrimination to which she and her subordinate
5 employees were subjected, and because she complained about Defendants' practices of
6 encouraging excessive alcohol consumption and intoxication at workplace events, retreats
7 and other functions, including alcohol consumption by under age minors, which she believed
8 constituted and created a hazard to the health and safety of herself and others. These
9 fundamental public policies are embodied in Section 12940, et seq. of the California
10 Government Code, Section 6210 of the California Labor Code, Section 25662 of the
11 Business and Professions Code, and various other California and federal statutes and
12 regulations.

13

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

18

19 65. As a further direct and legal result of the acts and conduct of defendants,
20 and each of them, as aforesaid, MS. TARRY has been caused to and did suffer and continues
21 to suffer severe emotional and mental distress, anguish, humiliation, embarrassment, fright,
22 shock, discomfort, anxiety, physical pain and suffering. The exact nature and extent of said
23 injuries is presently unknown to MS. TARRY. MS. TARRY does not know at this time the
24 exact duration or permanence of said injuries, but is informed and believes and thereon
25 alleges that some if not all of the injuries are reasonably certain to be permanent in character.

26

27 66. MS. TARRY is informed and believes, and thereon alleges, that the
28 defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing

1 and/or ratifying such acts, engaged in wilful, malicious, intentional, oppressive and
2 despicable conduct, and acted with wilful and conscious disregard of the rights, welfare and
3 safety of MS. TARRY, thereby justifying the award of punitive and exemplary damages in an
4 amount to be determined at trial.

5

6

7 **FORTH CAUSE OF ACTION**

8 **INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS**

9 (Against all Defendants)

10
11 67. MS. TARRY realleges and incorporates by reference paragraphs 3
12 through 49, 51, 57, and 63, as though set forth in full.

13

14 68. Defendants' conduct as described above was extreme and outrageous
15 and was done with the intent of causing MS. TARRY to suffer emotional distress or with
16 reckless disregard as to whether their conduct would cause her to suffer such distress.

17

18 69. As a further direct and legal result of the acts and conduct of defendants,
19 and each of them, as aforesaid, MS. TARRY has been caused to and did suffer and continues
20 to suffer severe emotional and mental distress, anguish, humiliation, embarrassment, fright,
21 shock, discomfort, anxiety, physical pain and suffering. The exact nature and extent of said
22 injuries is presently unknown to MS. TARRY. MS. TARRY does not know at this time the
23 exact duration or permanence of said injuries, but is informed and believes and thereon
24 alleges that some if not all of the injuries are reasonably certain to be permanent in character.

25

26 70. MS. TARRY is informed and believes, and thereon alleges, that the
27 defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing
28 and/or ratifying such acts, engaged in wilful, malicious, intentional, oppressive and

1 despicable conduct, and acted with wilful and conscious disregard of the rights, welfare and
2 safety of MS. TARRY, thereby justifying the award of punitive and exemplary damages in an
3 amount to be determined at trial.

4

5

6 **FIFTH CAUSE OF ACTION**

7

NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS

8

(Against All Defendants)

9

10 71. MS. TARRY realleges and incorporates by reference paragraphs 3
11 through 49, 51, 57, 63, and 68, as though set forth in full.

12

13 72. Defendants' conduct, as alleged above, was done in a careless or
14 negligent manner, without consideration for the effect of such conduct upon MS. TARRY's
15 emotional well-being.

16

17 73. As a further direct and legal result of the acts and conduct of defendants,
18 and each of them, as aforesaid, MS. TARRY has been caused to and did suffer and continues
19 to suffer severe emotional and mental distress, anguish, humiliation, embarrassment, fright,
20 shock, discomfort, anxiety, physical pain and suffering. The exact nature and extent of said
21 injuries is presently unknown to MS. TARRY. MS. TARRY does not know at this time the
22 exact duration or permanence of said injuries, but is informed and believes and thereon
23 alleges that some if not all of the injuries are reasonably certain to be permanent in character.

24 //

25 //

26 //

27 //

28 //

1 VI.

2 **SIXTH CAUSE OF ACTION**

3 **BATTERY**

4 (Against defendants HICKS, NAKED JUICE, NORTH CASTLE PARTNERS,
5 and DOES 1 through 50)

7 74. MS. TARRY realleges and incorporates by reference paragraphs 3
8 through 49, 51, 57, 63, 68, and 72, as though set forth in full.

10 75. By grabbing MS. TARRY, making physical contact with her, and
11 forcibly attempting to remove her pants, defendant HICKS intentionally committed acts
12 which resulted in harmful or offensive contact with MS. TARRY's person, to which MS.
13 TARRY did not consent.

15 76. By forcibly grabbing MS. TARRY's shoulder, squeezing her tightly
16 with his hand and forcefully spinning her around to face him in a belligerent manner, Ben
17 Rumpza intentionally committed acts which resulted in harmful or offensive contact with
18 MS. TARRY's person, to which MS. TARRY did not consent.

19 77. The acts described herein constitute battery, actionable under the laws of
20 California.

23 78. Defendant NAKED JUICE and NORTH CASTLE PARTNERS knew,
24 or should have known, that defendant HICKS, while in its employ as President of Naked
25 Juice, consumed excessive amounts of alcohol at COMPANY events, and had the propensity
26 to engage in, and encourage others to engage in, lewd, boisterous, belligerent, sexually
27 harassing, violent and other unsafe and hazardous conduct. Defendants NAKED JUICE and
28 NORTH CASTLE PARTNERS failed to discipline defendant HICKS or take other

1 preventative measures, thereby authorizing and ratifying the unlawful conduct, including, but
2 not limited, battery.

3

4 79. Defendant NAKED JUICE and NORTH CASTLE PARTNERS knew,
5 or should have known, Ben Rumpza and other employees, while in its employ, consumed
6 excessive amounts of alcohol at COMPANY events, and had the propensity to engage in
7 lewd, boisterous, belligerent, sexually harassing, violent and other unsafe and hazardous
8 conduct. Defendants NAKED JUICE and NORTH CASTLE PARTNERS failed to correct,
9 reverse or otherwise address the COMPANY's practice of encouraging excessive alcohol
10 consumption, or take other preventative measures, thereby authorizing and ratifying the
11 conduct, including, but not limited to, battery.

12

13 80. As a direct and legal result of the aforesaid battery by defendant HICKS
14 and Ben Rumpza, and the acts and conduct of, and authorization and ratification by
15 defendants, and each of them, as aforesaid, MS. TARRY has been caused to and did suffer
16 and continues to suffer severe emotional and mental distress, anguish, humiliation,
17 embarrassment, fright, shock, discomfort, anxiety, physical pain and suffering. The exact
18 nature and extent of said injuries is presently unknown to MS. TARRY. MS. TARRY does
19 not know at this time the exact duration or permanence of said injuries, but is informed and
20 believes and thereon alleges that some if not all of the injuries are reasonably certain to be
21 permanent in character

22

23 81. MS. TARRY 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
25 and/or ratifying such acts, engaged in wilful, malicious, intentional, oppressive and
26 despicable conduct, and acted with wilful and conscious disregard of the rights, welfare and
27 safety of MS. TARRY, thereby justifying the award of punitive and exemplary damages in an
28 amount to be determined at trial.

VII.

SEVENTH CAUSE OF ACTION

NEGLIGENCE, HIRING, RETENTION AND SUPERVISION

(Against defendants NAKED JUICE, NORTH CASTLE PARTNERS,
and DOES 1 through 50)

82. MS. TARRY realleges and incorporates by reference paragraphs 3 through 49, 51, 57, 63, 68, and 72, and 75 through 79, as though set forth in full

10 83. When engaging in the wrongful conduct alleged herein, defendant
11 HICKS and Ben Rumpza were acting as the agents of defendants NAKED JUICE, NORTH
12 CASTLE PARTNERS and DOES 1 through 50. Defendants NAKED JUICE, NORTH
13 CASTLE PARTNERS and DOES 1 through 50 exercised control over defendant HICKS and
14 Ben Rumpza because they were employees and/or agents of defendant COMPANY and
15 subject to its rules and regulations.

17 84. MS. TARRY is informed and believes and thereon alleges that prior
18 to the time defendant COMPANY hired defendant HICKS and Ben Rumpza, it was aware, or
19 should have been aware, of their propensity to consume alcohol to the point of inebriation
20 and engage in lewd, boisterous, belligerent, misogynistic, sexually harassing, violent and
21 other unsafe and hazardous conduct. Defendants NAKED JUICE, NORTH CASTLE
22 PARTNERS and DOES 1 through 50, knew or reasonably should have known that, if hired,
23 defendant HICKS and Ben Rumpza would sexually harass COMPANY employees and
24 otherwise subject female employees to misogyny and violence. Despite such knowledge,
25 defendant COMPANY hired defendant HICKS and Ben Rumpza.

27 85. MS. TARRY is informed and believes and thereon alleges that
28 during the time defendant HICKS and Ben Rumpza were employed by or otherwise

1 performing services for defendant COMPANY, defendants NAKED JUICE, NORTH
2 CASTLE PARTNERS and DOES 1 through 50, became aware, or should have been aware,
3 of their propensity to consume alcohol to the point of inebriation and engage in lewd,
4 boisterous, belligerent, misogynistic, sexually harassing, violent and other unsafe and
5 hazardous conduct. Despite such knowledge, defendant COMPANY retained defendant
6 HICKS and Ben Rumpza.

7

8 86. Defendants NAKED JUICE, NORTH CASTLE PARTNERS and
9 DOES 1 through 50, knew or reasonably should have known that defendant HICKS and Ben
10 Rumpza engaged in the conduct alleged herein and that, as a direct and proximate result of
11 such conduct, MS. TARRY would suffer injuries as alleged herein.

12

13 87. Defendant NAKED JUICE, NORTH CASTLE PARTNERS and DOES
14 1 through 50, had the authority to supervise, prohibit, control, and/or regulate defendant
15 HICKS and Ben Rumpza so as to prevent these acts and omissions from occurring.

16

17 88. Defendants NAKED JUICE, NORTH CASTLE PARTNERS and
18 DOES 1 through 50, knew or reasonably should have known that unless they intervened to
19 protect MS. TARRY and properly supervise, prohibit, control and/or regulate the conduct
20 described herein, defendant HICKS and Ben Rumpza would perceive their acts and
21 omissions as being ratified and condoned.

22

23 89. Defendants NAKED JUICE, NORTH CASTLE PARTNERS and
24 DOES 1 through 50, failed to exercise due care by failing to supervise, prohibit, control or
25 regulate defendant HICKS and Ben Rumpza. As a direct and proximate result of these
26 defendants negligent supervision, control or regulation of defendant HICKS and Mr.
27 Rumpza, MS. TARRY has suffered and continues to suffer injuries entitling her to damages
28 in amounts to be proven at trial.

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

10 91. MS. TARRY is informed and believes, and thereon alleges, that the
11 defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing
12 and/or ratifying such acts, engaged in wilful, malicious, intentional, oppressive and
13 despicable conduct, and acted with wilful and conscious disregard of the rights, welfare and
14 safety of MS. TARRY, thereby justifying the award of punitive and exemplary damages in an
15 amount to be determined at trial.

PRAYER FOR RELIEF

19 WHEREFORE, PLAINTIFF prays for judgment against defendants, and each
20 of them, as follows:

1
2 DATED: December 13, 2005
3
4

5 HELMER • FRIEDMAN, LLP
6 Gregory D. Helmer, P.C.
7 Andrew H. Friedman, P.C.
8 Kenneth A. Helmer
9

10 By: 
11 Kenneth A. Helmer
12

13 Attorneys for Plaintiff
14 JULIE TARRY
15

16 **PLAINTIFF'S DEMAND FOR JURY TRIAL**
17

18 Plaintiff JULIE TARRY hereby demands a trial by jury.
19

20 DATED: December 13, 2005
21

22 HELMER • FRIEDMAN, LLP
23 Gregory D. Helmer, P.C.
24 Andrew H. Friedman, P.C.
25 Kenneth A. Helmer
26

27 By: 
28 Kenneth A. Helmer
29

30 Attorneys for Plaintiff
31 JULIE TARRY
32