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7 Attorneys for Plaintiff ROSA ROMERO HERNANDEZ

8 UNITED STATES DISTRICT COURT  
 9 SOUTHERN DISTRICT OF CALIFORNIA

Case No. 00 57 2257 IEG WMc

11 ROSA ROMERO HERNANDEZ,

12 Plaintiff,

13 vs.

14 SAMAD ATTISHA and YVONNE ATTISHA,

15 Defendants.

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL BASED UPON:

- 16 1. VIOLATIONS OF FAIR LABOR STANDARDS ACT;
- 17 2. INVOLUNTARY SERVITUDE;
- 18 3. TRAFFICKING WITH RESPECT TO PEONAGE, SLAVERY, INVOLUNTARY SERVITUDE, OR FORCED LABOR;
- 19 4. ALIEN TORTS CLAIM ACT;
- 20 5. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS;
- 21 6. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS; AND
- 22 7. CONVERSION

24 Plaintiff, Rosa Romero Hernandez, for her claims against Defendants Samad Attisha and  
 25 Yvonne Attisha, individually and jointly, alleges as follows:

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

COPY

1 **I. THE PARTIES**

2 1. Plaintiff ROSA ROMERO HERNANDEZ ("Plaintiff") is a Mexican citizen certified as  
3 a victim of human trafficking under Section 107(b) of the Trafficking Victims Protection Act of 2000.  
4 A true and correct copy of Plaintiff's certificate is attached to this complaint as **Exhibit A**. Plaintiff is  
5 currently assisting in the investigation and prosecution of a severe form of trafficking.

6 2. On information and belief, Defendant Mr. SAMAD ATTISHA is an individual and  
7 resident of San Diego County, California.

8 3. On information and belief, Defendant Mrs. YVONNE ATTISHA is an individual and  
9 resident of San Diego County, California. On further information and belief, Defendants SAMAD  
10 ATTISHA and YVONNE ATTISHA are married to one another. Mr. and Mrs. Attisha collectively are  
11 referred to as "Defendants."

12 4. On information and belief, there exists, and at all times herein mentioned existed, a  
13 unity of interest and ownership between Defendants such that any individuality or separateness  
14 between the Defendants has ceased and each of the Defendants is the alter ego of the other Defendant.  
15 During the course of the events at issue in this litigation, Defendants have operated as if they were  
16 intertwined and engaged in actions as though they are one entity.

17 **II. JURISDICTION AND VENUE**

18 5. This action is based upon violations of the Fair Labor Standards Act, involuntary  
19 servitude, trafficking with respect to peonage, slavery, involuntary servitude, or forced labor, Aliens  
20 Tort Claims Act, negligent infliction of emotional distress, intentional infliction of emotional distress,  
21 and conversion. The amount in controversy exceeds \$75,000, exclusive of interest and cost. This  
22 action is between citizens of a state and a citizen of a foreign state. This Court has subject matter  
23 jurisdiction under 28 U.S.C. §§ 1331, 1332(a)(2), and 1367.

24 6. Personal jurisdiction over Defendants is proper because Defendants are now and, at all  
25 relevant times have been, residents of San Diego County, California. On further information and  
26 belief, Defendants now own, and at all relevant times have owned, several businesses in the state of  
27 California, County of San Diego.

28 7. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(1) and (2).

1 **III. FACTUAL BACKGROUND**

2 8. On information and belief, from at least 2002, Defendants began searching for a  
3 domestic servant through their secretary, Sonia, to serve in their house in San Diego County,  
4 California. Sonia found Plaintiff in the city of Nikolas Romero, Mexico, through a mutual friend in or  
5 about 2002.

6 9. To entice Hernandez to work for Defendants, Sonia told Plaintiff that Defendants  
7 agreed to pay Plaintiff \$7 per hour to work as a baby sitter for their infant daughter. Sonia further told  
8 Plaintiff that she would only be responsible to work from 10 a.m. to 6 p.m.

9 10. Sonia did not arrange for a valid working visa for Plaintiff. Instead, Sonia informed  
10 Plaintiff that should she arrive in the United States without a valid visa, Defendants promised to "fix  
11 her papers." Sonia further promised to arrange for Plaintiff's transportation across the border to  
12 Defendants' house. On information and belief, Defendants, through Sonia, arranged for counterfeit  
13 travel documents to be provided to Plaintiff so she could travel to the United States.

14 11. On or about May 18th, 2002, Hernandez was transported by coyotes to the United  
15 States and began working for Defendants. From that time on until approximately July 23, 2008,  
16 Plaintiff was forced to act as a domestic servant to Defendants, performing all household chores and  
17 housekeeping duties.

18 12. Plaintiff made no income for her first year of employment because Defendants took her  
19 salary, alleging she had to pay back Sonia, who allegedly paid \$1,500 to the coyotes and \$200 for  
20 Plaintiff's airfare to the United States. Plaintiff's entire first year's wages were returned to

21 Defendants, who told Plaintiff that they had reimbursed Sonia for the \$1,700.

22 13. Plaintiff was forced into involuntary domestic servitude for Defendants, often working  
23 up to 14.5 hours per day in Defendants' home for less than California or Federal minimum wage.  
24 Since 2002, Plaintiff was subject to the continuous control of Defendants. Plaintiff was forced to  
25 perform all household and domestic responsibilities. Defendants exercised strict control over Plaintiff  
26 and her performance of duties that included cooking, cleaning, babysitting, doing laundry, yardwork,  
27 and all housekeeping duties.

1 14. Throughout Plaintiff's employment, Defendants made clear to Plaintiff that she was not  
2 free to leave and had to work for them. Defendants confiscated Plaintiff's passport, informed Plaintiff  
3 that she would be in trouble if the police or immigration authorities saw her, and made her feel that she  
4 had to hide if any third parties approached their residence.

5 15. On information and belief, on or about July 23, 2008, Plaintiff was rescued from  
6 Defendants by the United States Immigration and Customs Enforcement, who were thereafter  
7 investigated for their human trafficking activities. Plaintiff was certified as a victim of human  
8 trafficking under Section 107(b) of the Trafficking Victims Protection Act of 2000 on September 30,  
9 2008. Attached as **Exhibit A** is a certification that Plaintiff is a victim of human trafficking under  
10 Section 107(b) of the Trafficking Victims Protection Act of 2000.

11 16. Plaintiff now brings this action to recover the damages and wages she is rightfully  
12 owed.

13 17. At all times relevant, Plaintiff was employed by Defendants SAMAD ATTISHA and  
14 YVONNE ATTISHA at their home located in La Mesa, California.

15 18. Plaintiff performed domestic services for Defendants approximately one hundred and  
16 one (101) hours per week, working seven (7) days a week, every week, for over six (6) years. Plaintiff  
17 was compensated below minimum wage, and was not provided overtime pay.

18 19. Defendants never informed Plaintiff of her rights, including her employment rights.

19 **IV: CAUSES OF ACTION**

20 **FIRST CAUSE OF ACTION**

(Violation of Fair Labor Standards Act [29 U.S.C. ch. 8 *et seq.*])

21 20. Plaintiff realleges Paragraphs 1 through 19 and hereby incorporates these paragraphs as  
22 though fully set forth and alleged herein.

23 21. Plaintiff performed domestic services for Defendants approximately one hundred and  
24 one (101) hours per week, working seven days a week, every week, for over six (6) years. Plaintiff  
25 was compensated well below minimum wage for the amount of work performed.  
26

27 22. The actions of Defendants constitute a failure to pay minimum wage under the Fair  
28 Labor Standards Act.



1 30. The acts of Defendants were willful and wanton, malicious, oppressive, and justify the  
2 awarding of punitive damages.

3 **THIRD CAUSE OF ACTION**  
4 (Trafficking with Respect to Peonage, Slavery, Involuntary Servitude, or Forced Labor  
5 [18 U.S.C. § 1590(A)])

6 31. Plaintiff realleges Paragraphs 1 through 30 and hereby incorporates these paragraphs as  
7 though fully set forth and alleged herein.

8 32. In 2002, Defendants sent their secretary Sonia to search for a Mexican domestic servant  
9 for their home in La Mesa, California. In 2002, Defendants ordered their secretary, Sonia, to solicit  
10 Plaintiff to work in the United States, to pay coyotes and the airfare for transporting Plaintiff across the  
11 border, and to falsely promise Plaintiff that Defendants would “fix her papers” when she arrived in the  
12 United States without a valid working visa. Further, Defendants confiscated Plaintiff’s salary to  
13 reimburse Sonia for the cost of illegally transporting Plaintiff to the United States. Defendants acted  
14 with the purpose of forcing Plaintiff into involuntary servitude in violation of 18 U.S.C. § 1584.

15 33. The acts of Defendants were willful and wanton, malicious, oppressive, and justify the  
16 awarding of punitive damages.

17 **FOURTH CAUSE OF ACTION**  
18 (Alien Torts Claim Act [28 U.S.C. § 1350])

19 34. Plaintiff realleges Paragraphs 1 through 33 and hereby incorporates these paragraphs as  
20 though fully set forth and alleged herein.

21 35. Based upon facts alleged above, Plaintiff, a Mexican citizen, was a victim of  
22 involuntary servitude for of over six (6) years, a tort universally punishable under the law of nations.  
23 Plaintiff is a certified victim of Trafficking Victims Protection Act of 2000, designed to protect victims  
24 of human trafficking, also a tort universally punishable under the law of nations.

25 36. The acts of Defendants were willful and wanton, malicious, oppressive, and justify the  
26 awarding of punitive damages.

**FIFTH CAUSE OF ACTION**  
(Intentional Infliction of Emotional Distress)

1  
2  
3 37. Plaintiff realleges Paragraphs 1 through 36 and hereby incorporates these paragraphs as  
4 though fully set forth and alleged herein.

5 38. Defendants' conduct toward Plaintiff consisted of engaging in continuous and  
6 systematic psychological abuse and threats. Defendants' conducts were atrocious and utterly  
7 intolerable in a civilized community. Defendants' conduct was intentional and/or with reckless  
8 disregard of the probability of causing Plaintiff severe emotional distress.

9 39. As a proximate and direct result of Defendants' conduct Plaintiff suffered severe  
10 emotional distress, anxiety, pain and suffering, physical injuries, physical sickness, incurred medical  
11 expenses, future medical expenses, attorney's fees, and other damages in the sum to be determined at  
12 the time of trial.

13 40. Plaintiff is informed, believes, and based thereon, alleges that the conducts of  
14 Defendants were outrageous, and were done with oppression and malice. For the forgoing reasons,  
15 Plaintiff is entitled to punitive and exemplary damages against Defendants for their acts.

16 **SIXTH CAUSE OF ACTION**  
17 (Negligent Infliction of Emotional Distress)

18 41. Plaintiff realleges Paragraphs 1 through 40 and hereby incorporates these paragraphs as  
19 though fully set forth and alleged herein.

20 42. Defendants acted negligently toward Plaintiff by way of engaging in continuous and  
21 systematic acts of psychological abuse causing her exhaustion, mental anguish, stress, and torment.

22 43. Defendants' conduct caused Plaintiff serious emotional stress.

23 44. As a proximate and direct result of Defendants' conduct, Plaintiff suffered severe  
24 emotional distress, anxiety, pain and suffering, physical injuries, physical sickness, incurred medical  
25 expenses, future medical expenses, attorney's fees, and other damages in the sum to be determined at  
26 the time of trial.

1 45. Plaintiff is informed, believes, and based thereon, alleges that the conducts of  
2 Defendants were outrageous, and were done with oppression and malice. For the forgoing reasons,  
3 Plaintiff is entitled to punitive and exemplary damages against Defendants for their acts.

4 **SEVENTH CAUSE OF ACTION**  
5 (Conversion)

6 46. Plaintiff realleges Paragraphs 1 through 45 and hereby incorporates these paragraphs as  
7 though fully set forth and alleged herein.

8 47. In or about 2005, Defendants unlawfully took possession of Plaintiff's passport,  
9 Plaintiff's personal property, hid it, and refused to return it to Plaintiff despite Plaintiff's requests.

10 48. Defendants' acts were intentional, wanton and malice, oppressive, with the sole intent  
11 of restricting Plaintiff's freedom hereby justifies Plaintiff the award of punitive damages.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff Rosa Romero Hernandez prays for relief as follows:

- 14 1. For compensatory damages according to proof;
- 15 2. For interest at the prevailing legal rate;
- 16 3. For an award of back wage of at least \$125,809.00, according to proof;
- 17 4. For prejudgment interest on lost wages;
- 18 5. For general damages according to proof;
- 19 6. For special damages according to proof;
- 20 7. For punitive damages according to proof;
- 21 8. For costs and fees incurred by Plaintiff as permitted by statute, including reasonable
- 22 attorney's fees, expert fees, and costs of suit, in obtaining the benefits due Plaintiff; and
- 23 9. For any such other and further relief as the Court deems just and proper.

1 Dated: October 2, 2009

HOWREY LLP  
MICHAEL J. STIMSON

2  
3  
4 By: 

5 Michael J. Stimson  
6 Andrew S. Dallmann  
7 Michael Chou  
8 HOWREY LLP  
9 Attorneys for Plaintiff  
10 ROSA ROMERO HERNANDEZ  
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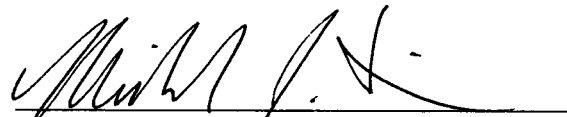
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**DEMAND FOR JURY TRIAL**

Plaintiff ROSA ROMERO HERNANDEZ requests a Trial by Jury on all claims pleaded herein.

Dated: October 2, 2009

HOWREY LLP  
MICHAEL J. STIMSON

By:   
Michael J. Stimson  
Andrew S. Dallmann  
Michael Chou  
HOWREY LLP  
Attorneys for Plaintiff  
ROSA ROMERO HERNANDEZ

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