

1 John D. Winer, Esq., SBN: 091078  
Matthew Vandall, Esq., SBN: 196962  
2 Michael S. Reeder, Esq., SBN: 282193  
**WINER, BURRITT & SCOTT, LLP**  
3 1901 Harrison St., Ste. 1100  
Oakland, California 94612  
4 P: (510) 433-1000  
F: (510) 433-1001  
5 E: matthew@wmlawyers.com

FILED  
12/15/2021 2:38 PM  
Clerk of the Napa Superior Court  
By: Kelly Rose, Deputy

6 Attorneys for Plaintiffs  
LEILA MULLER  
7 RAQUEL WILLIAMSON

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF NAPA**

10 LEILA MULLER and  
RAQUEL WILLIAMSON,  
11  
12 Plaintiffs

13 vs.

14 SOLAGE MANAGEMENT, INC. d/b/a  
AUBERGE SOLAGE CALISTOGA; a  
corporation; ELIOT FERRER, an individual;  
15 and DOES 1 - 25 inclusive.

16 Defendants.  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Case No.:21CV001738

**COMPLAINT FOR DAMAGES**  
[Unlimited Jurisdiction]

1. Sexual Harassment  
[Gov. Code §§12900 *et. seq.*]
2. Failure to Take All Reasonable Steps  
to Prevent and Correct  
Discrimination, Harassment, and/or  
Retaliation  
[Gov. Code, §§12940 (h)(k)]
3. Retaliation  
[Gov. Code §§12940(h)]
4. Intentional Infliction of Emotional  
Distress
5. Assault
6. Battery

**JURY TRIAL DEMANDED;  
PUNITIVE DAMAGES SOUGHT**

1 Plaintiff alleges against Defendants and each of them:

2 **NATURE OF THIS ACTION**

3 1. This is an action for damages by Plaintiffs LEILA MULLER and RAQUEL  
4 WILLIAMSON against their former or current, respectively, employer, SOLAGE  
5 MANAGEMENT, INC. d/b/a AUBERGE SOLAGE CALISTOGA and ELIOT FERRER for causes  
6 of action relating to Sexual Harassment, Failure to Prevent Harassment, and Retaliation. Plaintiffs  
7 seek all compensatory damages to which they are entitled, including legal and equitable relief,  
8 general damages for pain and suffering, punitive damages, and statutory attorney fees.

9 **JURISDICTION AND VENUE**

10 2. Jurisdiction is proper in that Defendants reside and do business in the State of  
11 California and the unlawful employment practices complained of herein occurred in the County of  
12 Napa.

13 3. The subject matter of this action is properly heard before this Court because the  
14 amount in controversy exceeds \$25,000.00

15 4. At all times material to this Complaint, the Defendant SOLAGE MANAGEMENT,  
16 INC. d/b/a AUBERGE SOLAGE CALISTOGA [“Auberge”] operated a resort and spa under the  
17 name AUBERGE SOLAGE CALISTOGA located at 755 Silverado Trail, Calistoga, California  
18 94515 where the events giving rise to the counts alleged herein primarily took place. At all relevant  
19 times, Auberge was an employer within the meaning of California Government Code §§ 12926(d)  
20 and 12940(j)(4)(A) and employed Plaintiffs LEILA MULLER and RAQUEL WILLIAMSON.

21 5. At all times material to this Complaint, Defendant ELIOT FERRER [“Ferrer”] was  
22 a supervisor and trainer in massage therapy employed by Auberge, with instructional, supervisory,  
23 and other authority over employees at Auberge.

24 6. Defendants DOES 1 through 25 were at all times relevant herein employees, agents,  
25 supervisors or managers of Defendant. Plaintiffs are ignorant of the true names and capacities of  
26 defendants sued herein as DOES 1 through 25 inclusive, and therefore sue these defendants by such  
27 fictitious names. Plaintiffs will pray leave of this court to amend this complaint to allege their true  
28 names and capacities when ascertained.



1 questions to both Leila and Raquel -- prying into their personal lives, personal relationships, marital  
2 status, and other matters of a private nature. He often spoke to them in a sexual manner and  
3 frequently stalked them in and outside of Auberge. He often approached them intrusively,  
4 aggressively, and often in a sexual manner. His prying questions were both intrusive and offensive to  
5 both Leila and Raquel. Both felt his conduct to be intimidating, abnormal, and extremely  
6 uncomfortable.

7           16. Leila and Raquel grew more and more uncomfortable working in Ferrer's presence.  
8 His unwelcome and intrusive behavior, both verbally and physically, permeated their work  
9 environment at Auberge. His frequent questions and comments concerning their husbands, their  
10 marital relationships, their sexual and dating habits, became increasingly more offensive. He  
11 regularly asked each of them about their private lives, and frequently spoke to them on sexual  
12 subjects. He also hugged Leila and Raquel in an unwelcome manner that offended them both. When  
13 Ferrer insisted that each of them to come to his house in the evenings for special training in  
14 particular massage protocols, they refused to do so and made it clear to Ferrer that they would train  
15 with him during normal business hours only, and only at Auberge's spa facility during daytime  
16 hours.

17           17. Despite Ferrer's knowing that Raquel was married and Leila was in a long term  
18 relationship, he persisted in his invasive, aggressive, and intimidating behavior toward them. He  
19 frequently offered to take them out to restaurants, sent emails to Leila extolling his love for her, and  
20 expressed anger when his advances or offers were rebuffed. In every aspect of Ferrer's behavior as  
21 Plaintiffs' supervisor, Ferrer evidenced that he was seeking more than a working relationship with  
22 them.

23           18. Continuing throughout 2019, Ferrer's verbal demeanor toward Plaintiffs became  
24 noticeably more intrusive, intimidating, and offensive. He began to stalk Leila, made personal trips  
25 to her hometown, took pictures of her high school, and related back to her his imaginations of her  
26 schooldays there. He offered to provide Leila free massages, lavished her with gifts including  
27 chocolates, bracelets, necklaces, and books, and approached her at night while lurking in wait for her  
28

1 departure from work. He persisted in sending her personal emails and text messages and offered to  
2 purchase clothing.

3 19. By June 2019, Leila decided to complain about Ferrer's conduct to Auberge's Human  
4 Resources department. Raquel initially dissuaded Leila from doing so, out of fear for the kind of  
5 retaliation she had observed being taken against other female employees following similar  
6 complaints to Auberge about sexual harassment.

7 20. About August 2019, Leila determined it was imperative to speak up to Auberge's  
8 management about Ferrer's offensive behavior. She conveyed her concerns at first to Tim Hamilton,  
9 a lead supervisor at Auberge. She made clear to Hamilton that she felt uncomfortable in Ferrer's  
10 presence -- that he was "creepy," annoying, aggressive and offensive. She conveyed also that she  
11 was extremely uncomfortable working near him. Further, she indicated that she was concerned for  
12 her safety in his presence.

13 21. About September 2019, Leila again conveyed her concerns about Ferrer to Auberge's  
14 Human Resources director, Helen Brown, and her assistant Lisol Petsas. Raquel similarly  
15 complained to Brown, though she did so anonymously out of fear that Ferrer would learn about her  
16 complaints and retaliate against her in some way.

17 22. Despite these notices to Auberge's lead supervisor and its Human Resources  
18 Director, Ferrer continued his aggressive and offensive behavior toward Plaintiffs.  
19 Following Auberge's purported warnings to Ferrer, He persisted in his intimidating and sexually  
20 intrusive actions toward Plaintiffs. Both Leila and Raquel observed that Ferrer would often hug or  
21 otherwise touch other young female employees inappropriately and in a similarly intrusive manner.  
22 He often cornered Leila, asking personal questions about her private life or on other personal,  
23 nonwork-related subjects. On such occasions, Leila made clear to Ferrer that his conduct was  
24 intimidating and offensive and that it had to stop. Both Leila and Raquel also continued to make  
25 clear to Auberge's management, including Helen Brown, that they remained highly uncomfortable  
26 working near Ferrer and that they feared for their safety in his presence.

27 23. Ferrer, however, persisted in his aggressive and offensive conduct toward Leila and  
28 Raquel. Both felt his behavior to be increasingly intrusive and directed toward prying into their

1 personal and non-work-related matters. This led both of them to avoid Ferrer whenever they could.  
2 In particular, Leila would often hide from Ferrer in the treatment rooms, awaiting his departure from  
3 the area before resuming her work.

4 24. Following their complaints about Ferrer, Brown interviewed both Leila and Raquel as  
5 well as lead supervisor Tim Hamilton. When Brown later questioned Ferrer about the complaints of  
6 sexual harassment against him, he admitted to sending personal emails, admitted being told that  
7 Plaintiffs were uncomfortable working near him, and admitted that his conduct was inappropriate.  
8 Auberge's investigation resulted in a finding of sexual harassment. Brown assured both Leila and  
9 Raquel that Auberge would take all steps to protect them against further harassment from Ferrer, by  
10 termination if necessary. This included Brown's confirming that Auberge would adjust Ferrer's  
11 work schedule so as not book him on shifts working with or near Plaintiffs or at consecutive  
12 treatment times in the same treatment room. Thereafter, Auberge failed to take appropriate remedial  
13 action to prevent Ferrer from continuing to harass Leila and Raquel.

14 25. Brown further represented to Leila and Raquel that Auberge had taken such  
15 disciplinary action as would correct or prevent further harassment from Ferrer. That did not occur,  
16 and Auberge did not follow through with its assurances to Plaintiffs. Auberge did in fact continue to  
17 assign Ferrer to work on shifts in close proximity to Plaintiffs, either at the same time and in  
18 treatment rooms as Plaintiffs or at consecutive times in the same room. Leila frequently found that  
19 she was assigned to work in the same room with Ferrer or on shifts immediately following his that  
20 involved working in his proximity. This only exacerbated Plaintiffs' fear that Ferrer would disregard  
21 the warnings given to him, persist in his aggressive and offensive conduct toward Leila and Raquel,  
22 and continue to do so without regard to their growing discomfort and concern for their safety in his  
23 presence. Furthermore, Auberge also took clients scheduled for Leila and transferred them to Ferrer.  
24 On or around January 21, 2019, Leila sent a text message to Brown, asking for clarification:

25 ...they moved [Leila's assignment] to him [Ferrer]. I would like in  
26 writing something stating what date [Ferrer] is not supposed to be  
27 working at solage. Because apparently things are unclear and I am  
28 the one losing money because of it... I can barely survive in this  
slow season as ... my check last pay period is less than half of

1                    what I normally get. This isn't right. . . I want a meeting with [all  
2                    managers] and you so we are all very clear on this issue.

3                    And later, about September 2019 when the issue of Ferrer's work schedule remained unresolved  
4                    and he was booked with a client requesting Leila's services, Leila writes again to Brown:

5                    . . . sorry to have to be writing you about this again. I . . . had . . . a  
6                    specific request booked for today...my only appointment for the  
7                    day so I needed it, [but] they moved it to Eliot [Ferrer] so it's past  
8                    my scheduled time. Why is he getting added on my days and  
9                    taking money directly out of my pocket and my children's mouths?

10                  Human Resources assistant Lisol Petsas replies:

11                  I'm sorry that it still feels uncomfortable for you... I will be there  
12                  tomorrow [at the overlapping session with Ferrer] so that you are  
13                  not together.

14                  26.        The more Leila and Raquel attempted to distance themselves from Ferrer, the more  
15                  Ferrer would persist in stalking them. When Ferrer cornered Leila and questioned why she was not  
16                  speaking to him, she warned him specifically that his conduct was offensive and unwelcome and that  
17                  she wanted it to stop. When Leila or Raquel resisted Ferrer's advances, however, Ferrer grew  
18                  noticeably upset and angry. His angry demeanor was further shown in his reactions when Leila and  
19                  Raquel declined his invitations for special massage training at his home. When Leila developed  
20                  vertigo following her returning to work from pregnancy leave, Ferrer offered to give her free  
21                  massages. Leila refused. Ferrer then offered to pay Raquel to give Leila free massages. Raquel also  
22                  refused.

23                  27.        As of October 2019, despite Auberge's purported investigation and warnings to  
24                  Ferrer regarding his continuing offensive conduct, Ferrer persisted. He continued to stalk Leila and  
25                  to approach both Leila and Raquel in close physical proximity. On numerous occasions, he lurked  
26                  after-hours at night in the dark of Auberge's parking lot, for Raquel to arrive or depart the premises  
27                  for or from her work shift. He continued to react angrily when one or the other of them avoided his  
28                  physical contact or refused his offers. Ferrer also waited for and stalked Raquel on multiple  
29                  occasions when Leila was not there. Both Leila and Raquel grew more and more uncomfortable in  
30                  Ferrer's presence, and they feared for their safety.

1 28. Raquel continued to convey her concerns about Ferrer's offensive behavior to both  
2 Hamilton and Brown. These included his lurking in wait, in the dark of a parking lot for her.

3 29. Raquel learned that Brown had promised Leila that Auberge would no longer book  
4 Ferrer to work near them or their clients at the same time or in the same room. However, Brown  
5 failed to follow through with Auberge's assurances to them that it would adjust Ferrer's schedule to  
6 keep him from working near either Leila or Raquel in booking their clients.

7 30. As a direct consequence of the acts alleged above, Leila and Raquel had to hire  
8 the services of an attorney. They incurred and continue to incur legal expenses and attorneys'  
9 fees, and are entitled to an award of attorneys' fees and costs pursuant to Government Code  
10 section 12965(b). They are presently unaware of the precise amount of these expenses and  
11 fees and pray leave of court to amend this Complaint when the amounts are more fully known.

12 WHEREFORE Plaintiffs pray for judgment as set forth below.

13 **FIRST CAUSE OF ACTION**  
14 **Sexual Harassment in Violation of Gov. Code § 12900 et. seq.**  
15 **[Against Defendants Auberge and Ferrer]**

16 31. The allegations set forth in paragraphs 1 through 30, inclusive, are re-alleged and  
17 incorporated herein by reference as though fully set forth herein.

18 32. Within the time provided by law, Plaintiffs filed charges with the DFEH, in full  
19 compliance with these sections, received right-to-sue letters, and commenced action within a timely  
20 manner.

21 33. At all times mentioned herein, Government Code sections 12900, *et. seq.* was in  
22 full force and effect and were binding on Defendants. These sections require Defendants to refrain  
23 from discriminating against or harassing any employee on the basis of sex, and to take all reasonable  
24 steps necessary to prevent discrimination and harassment.

25 34. The acts or omissions of Defendants, and each of them, as described more fully  
26 above, constitute a pattern and continuous course of severe and pervasive, unwanted harassment of  
27 Plaintiffs on the basis of sex in violation of Government Code sections 12940(j)(1).

28 35. The unlawful and unwanted harassment of Plaintiffs by Defendant Ferrer created an  
oppressive, hostile, intimidating and/or offensive work environment for Plaintiffs and each of them,

1 and interfered with their emotional well-being and ability to perform their duties and responsibilities.  
2 The unlawful harassment was sufficiently severe and/or pervasive as to materially alter the terms and  
3 conditions of Plaintiffs employment, and to create an abusive working environment.

4 36. A reasonable person in Plaintiffs' circumstances would have considered the work  
5 environment hostile and/or abusive.

6 37. As a direct and proximate result of the unlawful conduct of Defendants, Plaintiffs  
7 were harmed and suffered, and each continues to suffer, special damages including, but not limited  
8 to, losses in earnings, bonuses, employment benefits, earning capacity, opportunities for employment  
9 advancement and work experience, and other damages to be proven at the time of trial.

10 38. As a direct and proximate result of the unlawful conduct of Defendants, and each  
11 of them, Plaintiffs were harmed and suffered, and continue to suffer, general damages including but  
12 not limited to shock, embarrassment, humiliation, emotional distress, and other damages to be  
13 proven at the time of trial.

14 39. The conduct of Defendants, and each of them, was a substantial factor in causing  
15 Plaintiff's harm.

16 40. Defendants, and each of them, committed the acts herein alleged maliciously,  
17 fraudulently, and oppressively with the wrongful intention of injuring Plaintiffs from  
18 an improper and evil motive amounting to malice, and in conscious disregard of the rights of  
19 Plaintiffs. Plaintiffs are informed and believe and thereon allege that Auberge knew of  
20 the probable injurious consequences of Ferrer's continued employment, including  
21 unlawful harassment, but deliberately failed to avoid these consequences by intentionally  
22 choosing to continue his employment and by failing to restrain him, despite ample notice, from  
23 engaging in unlawful, discriminatory harassment. Such conduct was also authorized and/or  
24 ratified by an officer, director or managing agent of Auberge and/or Does 1 - 50. As a  
25 result of Defendants' willful, knowing, and intentional harassment and/or retaliation against  
26 Plaintiffs, they seek an award of punitive and exemplary damages in an amount according to proof.



1           46.           As a direct and proximate result of the unlawful conduct of Defendant  
2 Auberge Defendant Ferrer, Plaintiffs were harmed and suffered, and continue to suffer, special  
3 damages including, but not limited to, losses in earnings, bonuses, employment benefits, earning  
4 capacity, opportunities for employment advancement and work experience, and other damages  
5 to be proven at the time of trial.

6           47.           As a direct and proximate result of the unlawful conduct of Defendants, and each  
7 of them, Plaintiffs were harmed and suffered, and continue to suffer, general damages including but  
8 not limited to shock, embarrassment, humiliation, emotional distress, and other damages to be  
9 proven at the time of trial.

10          48.          The conduct of Defendant Auberge and Defendant Ferrer, and each of them, was  
11 a substantial factor in causing Plaintiff's harm.

12          49.          Defendants Auberge and Ferrer, and each of them, committed the acts herein  
13 alleged maliciously, fraudulently, and oppressively with the wrongful intention of injuring  
14 Plaintiffs from an improper and evil motive amounting to malice, and in conscious disregard of  
15 the rights of Plaintiffs. Plaintiffs are informed and believe, and thereon allege that Defendant  
16 Auberge knew of the probable injurious consequences of Defendant Ferrer's continued  
17 employment, including unlawful harassment, but deliberately failed to avoid these consequences  
18 by deliberately choosing to continue his employment and by failing to restrain him, despite  
19 ample notice, from engaging in unlawful, discriminatory harassment. Such conduct was also  
20 authorized and/or ratified by an officer, director or managing agent of Defendant Auberge and/or  
21 Does 1 - 50. As a result of Defendant Auberge willful, knowing, and intentional harassment and/or  
22 retaliation against Plaintiffs, they seek an award of punitive and exemplary damages in an  
23 amount according to proof.

24          50.          As a direct consequence of the acts alleged above, Leila and Raquel had to hire  
25 The services of an attorney. Plaintiffs incurred and continue to incur legal expenses and  
26 attorneys' fees, and are entitled to an award of attorneys' fees and costs pursuant to Government  
27 Code section 12965(b). Plaintiffs are presently unaware of the precise amount of these expenses  
28 and fees and prays leave of court to amend this Complaint when the amounts are more fully

1 known.

2 WHEREFORE Plaintiffs pray for judgment as set forth below.

3 **THIRD CAUSE OF ACTION**  
4 **Retaliation**  
5 **[Against Defendant Auberge]**

6 51. The allegations set forth in paragraphs 1 through 50, inclusive, are re-alleged and  
7 incorporated herein by reference as though fully set forth herein.

8 52. Within the time provided by law, Plaintiffs filed charges with the DFEH, in full  
9 compliance with these sections, received a right-to-sue letter, and commenced action within a timely  
10 manner.

11 53. At all times herein mentioned, Government Code section 12940(h) was in full  
12 force and effect and binding on Defendant Auberge. This section prohibits retaliation because of  
13 opposition to, or making a complaint regarding, unlawful discrimination or harassment.

14 54. After Plaintiffs reported the above-described unlawful harassment to their supervisor  
15 and or other supervisors, managing agents, officers, agents and/or directors of Defendant Auberge, it  
16 retaliated against Plaintiffs by, inter alia, failing to remove Defendant Ferrer, failing to conduct an  
17 adequate investigation, not relocating Plaintiffs to a more secure work area, and otherwise taking  
18 appropriate steps to ensure that Defendant Ferrer would not continue to harass Plaintiffs, by making  
19 no change in Plaintiffs' work schedules, assignments, and/or working conditions in which Ferrer's  
20 harassment continued.

21 55. Defendant Auberge's acts and/or omissions, when taken as a whole, materially  
22 and adversely affected the terms and conditions of Plaintiffs' employment and/or were adverse  
23 employment actions, and constitute retaliation in violation of Government Code Section 12940(h).

24 56. Plaintiffs' lawful complaints of harassment were motivating reasons for  
25 Defendant Auberge's retaliatory acts, as described in detail above.

26 57. As a direct and proximate result of the unlawful retaliation against Plaintiffs  
27 described above, Plaintiffs were harmed and have suffered, and continue to suffer, special damages  
28 including, but not limited to, losses in earnings, bonuses, deferred compensation, employment

1 benefits, earning capacity, opportunities for employment advancement and work experience, and  
2 other damages to be proven at the time of trial.

3 58. As a direct and proximate result of the unlawful conduct of Defendants, and each  
4 of them, Plaintiffs were harmed and suffered, and continue to suffer, general damages including but  
5 not limited to shock, embarrassment, humiliation, emotional distress, and other damages to be  
6 proven at the time of trial.

7 59. The conduct of Defendant Auberge was a substantial factor in causing Plaintiffs  
8 harm.

9 60. Defendants Auberge and Ferrer, and each of them, committed the acts herein  
10 alleged maliciously, fraudulently, and oppressively with the wrongful intention of injuring  
11 Plaintiffs from an improper and evil motive amounting to malice, and in conscious disregard of  
12 the rights of Plaintiff. Plaintiff is informed and believes, and thereon alleges that Defendant  
13 Auberge knew of the probable injurious consequences of Defendant Ferrer's continued  
14 employment, including unlawful harassment, but deliberately failed to avoid these consequences  
15 by deliberately choosing to continue his employment and by failing to restrain him, despite  
16 ample notice, from engaging in unlawful, discriminatory harassment. Such conduct was also  
17 authorized and/or ratified by an officer, director or managing agent of Defendant Auberge and/or  
18 Does 1 - 50. As a result of Defendant Ferrer's willful, knowing, and intentional harassment and/or  
19 retaliation against Plaintiffs, they seek an award of punitive and exemplary damages in an amount  
20 according to proof.

21 61. As a direct consequence of the acts alleged above, Leila and Raquel had to hire  
22 the services of an attorney. Plaintiffs incurred and continue to incur legal expenses and attorneys'  
23 fees, and are entitled to an award of attorneys' fees and costs pursuant to Government Code  
24 section 12965(b). Plaintiffs are presently unaware of the precise amount of these expenses and  
25 fees and pray leave of court to amend this Complaint when the amounts are more fully known.

26 ///

27 ///

28 ///

**FOURTH CAUSE OF ACTION**  
**Intentional Infliction of Emotional Distress**  
**[Against Defendants Auberge and Ferrer]**

1  
2  
3       62.     The allegations set forth in paragraphs 1 through 61, inclusive, are re-alleged and  
4 incorporated by reference as though fully set forth herein.

5       63.     Defendants conduct as alleged herein was intentional, outrageous, malicious, and  
6 committed for the purpose of causing Plaintiffs to suffer humiliation, mental anguish, and severe  
7 physical and emotional distress.

8       64.     Defendant Auberge had advance knowledge of the unfitness of its employees,  
9 including but not limited to that of Defendant Ferrer, and intentionally continued to employ him and  
10 ratified the intentional, outrageous, malicious conduct as forth above after owners, officers,  
11 directors, and/or managing agents were given notice of such conduct.

12       65.     As a direct and proximate result of the unlawful conduct of the Defendants, Plaintiffs  
13 were harmed and suffered, and continue to suffer, special damages including, but not limited to,  
14 losses in earnings, bonuses, deferred compensation, employment benefits, earning capacity,  
15 opportunities for employment advancement and work experience, and other damages to be proven at  
16 the time of trial.

17       66.     The Defendants, and each of them, committed the acts and/or omissions herein  
18 alleged maliciously, fraudulently, and oppressively with the wrongful intention of injuring Plaintiff  
19 from an improper and evil motive amounting to malice, and in conscious disregard of the rights of  
20 Plaintiffs. Plaintiffs are informed and believe, and hereon alleges that the Defendants knew of the  
21 probable injurious consequences of Ferrer's continued employment, including unlawful harassment,  
22 but deliberately failed to avoid these consequences by intentionally choosing to continue his  
23 employment and by deliberately failing to restrain him, despite ample notice, from engaging in  
24 unlawful, discriminatory harassment. Such conduct was also authorized and/or ratified by an owner,  
25 officer, director or managing agent of the Corporate Defendants. As a result of the Defendants'  
26 willful, knowing, and intentional harassment and/or retaliation against Plaintiffs, they seek an award  
27 of punitive and exemplary damages in an amount according to proof.  
28

1 WHEREFORE Plaintiff prays for judgment as set forth below.

2 **FIFTH CAUSE OF ACTION**

3 **Assault**

4 **[Against All Defendants]**

5 67. The allegations set forth in paragraphs 1 through 66, inclusive, are re-alleged and  
6 incorporated by reference as though fully set forth herein.

7 68. As set forth above and further herein, Defendant Ferrer intended to cause harmful  
8 and/or offensive contact with Plaintiffs and each of them.

9 69. As a result of the actions of Defendant Ferrer, Plaintiffs reasonably believed that they  
10 were about to be touched in a harmful and/or offensive manner.

11 70. Plaintiffs did not consent to Defendant Ferrer's conduct.

12 71. Plaintiffs are informed and believe, and hereon allege, that these actions were  
13 approved and/or ratified by managing agents of Defendant Auberge. Defendant Auberge is therefore  
14 liable for these actions of Defendant Ferrer.

15 72. As a direct and proximate result of the unlawful conduct of the Defendants, Plaintiffs  
16 were harmed and suffered, and continue to suffer, special damages including, but not limited to,  
17 losses in earnings, bonuses, deferred compensation, employment benefits, earning capacity,  
18 opportunities for employment advancement and work experience, and other damages to be proven at  
19 the time of trial.

20 73. As a direct and proximate result of the unlawful conduct of the Defendants, and each  
21 of them, Plaintiffs were harmed and suffered, and continue to suffer, general damages including but  
22 not limited to shock, embarrassment, humiliation, emotional distress, and other damages to be  
23 proven at the time of trial.

24 74. The conduct of Defendants, and each of them, was a substantial factor in causing  
25 Plaintiffs' harm.

26 75. The Defendants, and each of them, committed the acts and/or omissions herein  
27 alleged maliciously, fraudulently, and oppressively with the wrongful intention of injuring Plaintiffs  
28 from an improper and evil motive amounting to malice, and in conscious disregard of the rights of  
29 Plaintiffs. Plaintiffs are informed and believe, and hereon allege that the Defendants knew of the

1 probable injurious consequences of Ferrer's continued employment, including unlawful harassment,  
2 but deliberately failed to avoid these consequences by intentionally choosing to continue his  
3 employment and by deliberately failing to restrain him, despite ample notice, from engaging in  
4 unlawful, discriminatory harassment. Such conduct was also authorized and/or ratified by an owner,  
5 officer, director or managing agent of Defendant. As a result of the Defendants' willful, knowing,  
6 and intentional harassment and/or retaliation against Plaintiffs, they seek an award of punitive and  
7 exemplary damages in an amount according to proof.

8 WHEREFORE Plaintiff prays for judgment as set forth below.

9 **SIXTH CAUSE OF ACTION**

10 **Battery**

11 **[Against All Defendants]**

12 76. The allegations set forth in paragraphs 1 through 75, inclusive, are re-alleged and  
incorporated by reference as though fully set forth herein.

13 77. As set forth above, Defendants Ferrer and Auberge touched Plaintiffs and/or caused  
14 Plaintiffs to be touched with the intent to harm and/or offend Plaintiffs.

15 78. Plaintiffs did not consent to the touching.

16 79. Plaintiffs were harmed and/or offended by Defendant Auberge's conduct.

17 80. A reasonable person in Plaintiffs' situation would have been offended by the  
18 touching.

19 81. Plaintiffs are informed and believe and hereon allege that these actions were approved  
20 and/or ratified by Defendant Auberge, as is set forth above, and were approved and/or ratified by  
21 managing agents of the Defendant Auberge. Defendants and/or DOES 1 – 25 are therefore liable for  
22 these actions of Defendant Ferrer.

23 82. As a direct and proximate result of the unlawful conduct of the Defendants, Plaintiffs  
24 were harmed and suffered, and continue to suffer, special damages including, but not limited to,  
25 losses in earnings, bonuses, deferred compensation, employment benefits, earning capacity,  
26 opportunities for employment advancement and work experience, and other damages to be proven at  
27 the time of trial.

28



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- 7. For costs of suit incurred herein; and
- 8. For such other and further relief as the Court deems fair and just.

Dated: December 14, 2021

WINER, BURRITT, & SCOTT, LLP



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

John D. Winer  
Matthew P. Vandall  
Attorneys for Plaintiffs  
LEILA MULLER  
RAQUEL WILLIAMSON

# EXHIBIT A

**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

KEVIN KISH, DIRECTOR

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

December 28, 2020

**Via Email**  
leilamuller22@gmail.com

Leila Muller  
625 Sunnyvale place  
Vacaville, CA 95687

**RE: Notice Case closure and Right to Sue**  
**Case Number:** 201912-08513307  
**EEOC Number:** 37A-2020-01466-C  
**Case Name:** Muller / Auberge Solage Calistoga et al.

Dear Leila Muller:

The Department of Fair Employment and Housing (DFEH) has closed your case for the following reason: **Insufficient Evidence**. Based upon its investigation, the DFEH is unable to conclude that the information obtained establishes a violation of the statute. This does not certify that the respondent is in compliance with the statute. No finding is made as to any other issues that might be construed as having been raised by this complaint.

**This is your Right to Sue notice.** According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act (FEHA) against the person, employer, labor organization or employment agency named in the above-referenced complaint. This is also applicable to DFEH complaints that are filed under, and allege a violation of, Government Code section 12948, which incorporates Civil Code sections 51, 51.7, and 54. The civil action must be filed within one year from the date of this letter. However, if your civil complaint alleges a violation of Civil Code section 51, 51.7, or 54, you should consult an attorney about the applicable statutes of limitation.

Your complaint is **dual filed** with the United States Equal Employment Opportunity Commission (EEOC). You have a right to request the EEOC to perform a substantial weight review of our findings. This request must be made within fifteen (15) days of your receipt of this notice. Pursuant to Government Code section 12965, subdivision (d) (1), your right to sue may be tolled during the pendency of the EEOC's review of your complaint. To secure this review, you must request it in writing to the State and Local Coordinator:

EEOC Northern California  
1301 Clay Street, Suite 1170-N  
Oakland, California 94612  
(800) 669-4000

Within 10 days of receiving this letter, you may appeal this decision by emailing [appeals@dfeh.ca.gov](mailto:appeals@dfeh.ca.gov); by calling our Communication Center at 800-884-1684 (voice), 800-700-2320 (TTY) or California's Relay Service at 711; or by writing to:

Appeals Unit  
Department of Fair Employment and Housing  
2218 Kausen Drive, Suite 100  
Elk Grove, CA 95758

Your appeal should include a 1) summary as to why you disagree with the reason; and/or, 2) any new detailed information (e.g., documents, records, witness information) that supports your claim. If you appeal, the information you provide will be carefully considered.

Although the DFEH has concluded that the evidence and information did not support a finding that a violation occurred, the allegations and conduct at issue may be in violation of other laws. You should consult an attorney as soon as possible regarding any other options and/or recourse you may have regarding the underlying acts or conduct.

Should you decide to bring a civil action on your own behalf in court in the state of California under the provisions of the FEHA against the person, employer, labor organization or employment agency named in your complaint, below are resources for this. Please note that if a settlement agreement has been signed resolving the complaint, you may have waived the right to file a private lawsuit.

#### **Finding an Attorney**

To proceed in Superior Court, you should contact an attorney. If you do not already have an attorney, the organizations listed below may be able to assist you:

- The State Bar of California has a Lawyer Referral Services Program which can be accessed through its Web site at [www.calbar.ca.gov](http://www.calbar.ca.gov), or by calling (866) 442-2529 (within California) or (415) 538-2250 (outside California).
- Your county may have a lawyer referral service. Check the Yellow Pages of your telephone book under "Attorneys."

#### **Filing in Small Claims Court**

- The Department of Consumer Affairs (DCA) has a publication titled "The Small Claims Court: A Guide to Its Practical Use" online at [http://www.dca.ca.gov/publications/small\\_claims](http://www.dca.ca.gov/publications/small_claims). You may also order a free copy online, by calling the DCA Publication Hotline at (866) 320-8652, or by writing to them at: DCA, Office of Publications, Design and Editing, 1625 North Market Blvd., Suite N-112, Sacramento, CA 95834.
- The State Bar of California has information on "Using the Small Claims Court" under the "Public Services" section of its Web site located at [www.calbar.ca.gov](http://www.calbar.ca.gov).

Sincerely,

*NaTasha Nolan*

NaTasha Nolan  
Associate Governmental Program Analyst  
(559) 244-4766  
natasha.nolan@dfeh.ca.gov

Cc:  
Auberge Solage Calistoga  
755 Silverado Trail N  
Calistoga, CA 94515

Eliot Ferrer  
755 Silverado Trail N  
Calistoga CA 94515

Katherine Catlos  
425 California Street, Suite 2100  
San Francisco, CA 94104-2206

# EXHIBIT B



## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

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

November 18, 2021

Matthew Vandall  
1999 Harrison Street, Suite 600  
Oakland, CA 95612

RE: **Notice to Complainant's Attorney**  
DFEH Matter Number: 202111-15408717  
Right to Sue: Williamson / Auberge Solage Calistoga et al.

Dear Matthew Vandall:

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

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

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

Sincerely,

Department of Fair Employment and Housing



## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

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

November 18, 2021

**RE: Notice of Filing of Discrimination Complaint**  
DFEH Matter Number: 202111-15408717  
Right to Sue: Williamson / Auberge Solage Calistoga et al.

To All Respondent(s):

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

This matter may qualify for DFEH's Small Employer Family Leave Mediation pilot program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free voluntary mediation service. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free voluntary mediation service. A request for mediation must be made within 30 days of receipt of the Notice of Case Closure and Right to Sue. If mediation is requested, the employee is prohibited from filing a civil action until mediation is complete. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from DFEH's receipt of a mediation request under section 12945.21 until mediation is complete. To request DFEH Small Employer Family Leave Mediation, email [DRDOnlineRequests@dfeh.ca.gov](mailto:DRDOnlineRequests@dfeh.ca.gov) and include the DFEH matter number indicated on the Right to Sue notice.

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

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing



## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

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

November 18, 2021

Raquel Williamson  
c/o Winer Burritt & Scott; 1901 Harrison Street, Suite 1100  
Oakland, CA 94612

RE: **Notice of Case Closure and Right to Sue**  
DFEH Matter Number: 202111-15408717  
Right to Sue: Williamson / Auberge Solage Calistoga et al.

Dear Raquel Williamson:

This letter informs you that the above-referenced complaint filed with the Department of Fair Employment and Housing (DFEH) has been closed effective November 18, 2021 because an immediate Right to Sue notice was requested.

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

This matter may qualify for DFEH's Small Employer Family Leave Mediation pilot program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free voluntary mediation service. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free voluntary mediation service. A request for mediation must be submitted to the DFEH within 30 days of receipt of the Notice of Case Closure and Right to Sue. If mediation is requested, the employee is prohibited from filing a civil action until mediation is complete. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from DFEH's receipt of a mediation request under section 12945.21 until mediation is complete. To request DFEH Small Employer Family Leave Mediation, email [DRDOnlineRequests@dfeh.ca.gov](mailto:DRDOnlineRequests@dfeh.ca.gov) and include the DFEH matter number indicated on the Right to Sue notice.

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

Sincerely,



## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

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

Department of Fair Employment and Housing

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

5 **In the Matter of the Complaint of**

6 Raquel Williamson

DFEH No. 202111-15408717

7                                   Complainant,

8 vs.

9 Auberge Solage Calistoga  
755 Silverado Trail N  
Calistoga, CA 94515

10 Eliot Ferrer  
755 Silverado Trail N  
11 Calistoga, CA 94515

12                                   Respondents

13 \_\_\_\_\_  
14 **1.** Respondent **Auberge Solage Calistoga** is an **employer** subject to suit under the California  
15 Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

16 **2.** Complainant is naming **Eliot Ferrer** individual as Co-Respondent(s).

17 **3.** Complainant **Raquel Williamson**, resides in the City of **Oakland**, State of **CA**.

18 **4.** Complainant alleges that on or about **October 15, 2019**, respondent took the  
19 following adverse actions:

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

22 **Complainant experienced retaliation** because complainant reported or resisted any form  
23 of discrimination or harassment and as a result was other adverse action(s).

24 **Additional Complaint Details:** Ms. Williamson began working for Auberge in 2018 and was  
25 sexually harassed by Ferrer. Ms. Williamson complained anonymously about the  
harassment which was investigated by Auberge such that Auberge has full knowledge of her

1 allegations and the nature of the harassment against Ms. Williamson and at least one of her  
2 co-workers. Following her complaint, Auberge reduced her workload, eliminated shifts and  
3 required her to be in contact with Ferrer after he admitted aspects of sexually harassing  
4 another employee.  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 VERIFICATION

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

5 On November 18, 2021, I declare under penalty of perjury under the laws of the State  
6 of California that the foregoing is true and correct.

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
**Oakland, CA**