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Superior Court of California
County of Los Angeles

JUL 08 2020

Sherri R. Carter, Executive Officer/Clerk of Court
By Steven Drew, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

HENRY EPHRIAM,
ALISIA RAMIREZ,
GLORIA MAPP-PARKER, and
YOLANDA PETTY,
RANDAL ODUMS,
SERGIO BALLON,
RICARDO RAMIREZ,
CRESCENCIO PERERA,
individually and on behalf of others similarly situated,

Plaintiffs,

vs.

RALPHS GROCERY COMPANY,
FOOD 4 LESS OF CALIFORNIA, INC., and
DOES 1-50,

Defendants.

CASE NO.: **20STCV25845**

CLASS ACTION:

COMPLAINT

1. Public Nuisance;
2. Declaratory Judgment;
3. Unfair and Unlawful Business Practices.

1 Plaintiffs, individually and on behalf of all other similarly-situated individuals, allege:

2 **INTRODUCTION**

3 1. Placing profit before safety, Defendants’ cavalier attitude toward the deadly
4 COVID-19 pandemic resulted in ***one hundred confirmed employees contracting this virus in***
5 ***Defendant’s Compton facility alone***, as well as wide-spread community transmission. Due to
6 testing inaccuracies and the prevalence of asymptomatic cases, the actual number of infections is
7 likely much higher. Despite this alarming transmission rate, Defendants still refuse to implement
8 adequate safety protocols designed to ensure the safety of their employees and the public. This is
9 an action for public nuisance and other public-health related claims under state and local law
10 stemming from Defendants’ ongoing failure to protect their captive workforce from the deadly
11 COVID-19 pandemic.

12 2. COVID-19 is a highly contagious respiratory disease caused by the novel
13 coronavirus, impacting billions of people around the globe. According to the California
14 Department of Public Health, those infected with COVID-19 can suffer from fever, chills,
15 shaking chills, cough, difficulty breathing, sore throat, body or muscle aches, loss of taste or
16 smell, diarrhea, and loss of appetite.¹ According to the Centers for Disease Control and
17 Prevention (CDC), “[l]ong-standing systemic health and social inequities have put some members
18 of racial and ethnic minority groups at increased risk of getting COVID-19 or experiencing severe
19 illness, regardless of age.”² The dangers of this disease are especially prevalent in locations such
20 as the Ralphs/Food 4 Less distribution center at issue in this lawsuit where employees are forced
21 to work in close proximity without adequate and consistent use of protection such as masks,
22 gloves, facial shields, and hand sanitizer, under the direction of supervisors and managers who
23 hide information about the extent of workers’ exposure to the virus, and who fail to adequately
24 protect their employees from COVID-19.

25
26 ¹ See <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Workplace-Outbreak-Employer-Guidance.aspx> (last visited 6/25/20).

27 ² <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/racial-ethnic-minorities.html> (last visited 6/25/20).

1 3. Plaintiff Henry Ephriam, a long-term employee of Defendants, tested positive for
2 COVID-19 after Defendants gave him false and misleading information about contact with an
3 infected coworker, and therefore exposed him to this terrible disease. He experienced painful,
4 debilitating symptoms including a high fever, headache, shortness of breath, and chest pain. The
5 severity of his medical condition required that Mr. Ephriam be hospitalized for four days, with
6 doctors at one point advising him to go on a ventilator. Even though medical treatment permitted
7 Mr. Ephriam to recover from the more incapacitating conditions caused by the virus, he is still
8 experiencing lingering symptoms, including shortness of breath along with the anxiety that those
9 conditions, or worse, may return.

10 4. Plaintiff Alisia Ramirez, an inventory clerk who worked for Defendants for over
11 four years, contracted COVID-19 at work as a result of Defendants' failures to adequately protect
12 her and her coworkers, and by providing false or incomplete information to her and her
13 colleagues about their risks. As a result of these failures, Ms. Ramirez received her positive
14 diagnosis while at Defendants' workplace, and after being told by her managers that she could
15 return to work.

16 5. Plaintiff Gloria Mapp-Parker is Mr. Ephriam's fiancée, and she contracted
17 COVID-19 from him. She and Mr. Ephriam were gravely concerned that they might pass the
18 virus onto their vulnerable, seven-month-old baby and other children.

19 6. Plaintiff Yolanda Petty has been forced to work in hazardous conditions close to
20 sick coworkers as the pandemic raged, fearing for her health and even her life.

21 7. Plaintiff Randal Odums is an 11 year employee of Defendants. Because of his job
22 responsibilities, he came into contact with a number of individuals, including Plaintiff Ephriam,
23 who had tested positive for the virus. Odums works in a constant state of fear given Defendants'
24 continued failure to provide adequate safeguards for their employees.

25 8. Plaintiff Sergio Ballon has worked for Defendants for twenty-six years and works
26 in sanitation. Ballon tested positive for COVID-19 on May 18, 2020 and has been out of work
27 ever since. Ballon had to be hospitalized because of the virus, and experienced symptoms
28 including body aches, loss of taste and smell, fatigue, and a cough. Ballon unfortunately

1 transmitted the virus to his wife.

2 9. Plaintiff Ricardo Ramirez works for Defendants as an equipment operator.
3 Ramirez tested positive on May 26, 2020 due to his exposure at work. Ramirez in fact got tested
4 three times, and was likely exposed between May 22, 2020 and May 26, 2020. During that time,
5 Defendants failed to provide adequate gloves, employees were forced to use the same shared time
6 clock and computers, and Defendants failed to provide sufficient information about who had
7 become infected or at least indicate the departments involved. Further, there were many times
8 when there was no sanitizer available and employees were and are forced to work in close
9 proximity to one another. Unfortunately, because of these failures, Ramirez not only contracted
10 COVID-19 himself, he in fact spread the virus to his girlfriend.

11 10. Crescencio Perera worked for Defendants for approximately 21 years. As a result
12 of Defendant's failures to protect its workers, Perera developed COVID-19 on May 14, 2020,
13 experiencing symptoms including shaking, fever, sleeplessness, breathing problems, (gasping for
14 air and coughing), and headaches. Unfortunately, Perera brought the virus home and transmitted
15 it to his wife, daughter, brother, and nephew. Perera's wife in turn transmitted the virus to her
16 father, who passed away.

17 11. Plaintiffs seek injunctive and declaratory relief to remedy Defendants' dangerous,
18 unreasonable, and unjustifiable policies and practices in response to the COVID-19 pandemic
19 which not only exposed their employees to an unreasonable risk of harm, but facilitated the
20 spread of this deadly disease to the community at large through their reckless indifference.

21 12. Los Angeles is currently a COVID-19 hotspot in California, with 88,262 cases and
22 3,171 deaths in Los Angeles County as of June 22, 2020. This is directly attributable to situations
23 like Defendants' failure to combat COVID-19 in their Compton distribution center. Defendants'
24 policies and procedures, including the acts and omissions alleged herein, thereby created or
25 substantially assisted in the creation of an actionable public nuisance under California Civil Code
26 § 3480, causing substantial, life-threatening, and entirely foreseeable and preventable harms to
27 the health and safety of Plaintiffs, all community members and the general public. An employer's
28 failure to protect its workforce can result in tragedies which are reasonably and entirely

1 foreseeable based upon publicly available data and information, as infections transmitted at work
2 can spread like wildfire throughout the population. Employees, their families, and those who live
3 in the broader community may become seriously ill and/or die because Defendants refused to
4 change their practices in the face of this catastrophic pandemic.

5 **JURISDICTION AND VENUE**

6 13. The Superior Court of the State of California has jurisdiction in this matter because
7 Defendants are a California corporation and/or have their principle place of business in California
8 that regularly conduct business in California. No federal question is at issue in this lawsuit.
9 Plaintiffs' claims are solely based upon California law.

10 14. Venue is proper in this judicial district and Los Angeles County, California
11 because plaintiffs Henry Ephriam, Alisia Ramirez, Gloria Mapp-Parker, and Yolanda Petty each
12 reside, worked, and/or continue to work in Los Angeles County; because Defendants maintain
13 offices, stores, and facilities and transact business in Los Angeles County, including at the
14 distribution center where Plaintiffs were employed and suffered the harms alleged herein; and
15 because Defendants' wrongful conduct that is the subject of this action for public nuisance affects
16 Plaintiffs and other persons similarly situated in Los Angeles County.

17 **PARTIES**

18 15. Plaintiff Henry Ephriam has worked at the Ralphs/Food 4 Less distribution center
19 for many years, including during early 2020 when COVID-19 began spreading throughout Los
20 Angeles County. On May 10, 2020, Mr. Ephriam learned that a coworker in his department
21 tested positive for the virus. Mr. Ephriam is informed and believes and on such basis alleges that
22 Defendants knew of this positive test of their employee and were in a superior position with
23 regard to that knowledge vis-a-vis their employees. Despite this actual knowledge and the then-
24 available data and information and rather than taking necessary precautions and providing
25 accurate information to their workers about the risks of exposure by a co-worker that had been
26 working in their midst, Defendants exacerbated the risk by falsely claiming that this infection was
27 an "isolated incident." Further, Defendants required employees to attend safety huddles, in close
28 proximity to one another, up until early May, 2020.

1 16. On May 11, Mr. Ephriam went home from work and took a nap. He woke up with
2 a fever of 104 degrees. Because he knew he had been exposed to the virus at work, Mr. Ephriam
3 took a COVID-19 test that evening. He learned that he had tested positive on May 13. Mr.
4 Ephriam’s initial symptoms included high fever and headache. As his illness progressed, Mr.
5 Ephriam developed shortness of breath and chest pain. His fiancée, Plaintiff Gloria Mapp-Parker,
6 was forced to call paramedics, who rushed Mr. Ephriam to the hospital, where he stayed for four
7 days. Doctors advised him to go on a ventilator but Mr. Ephriam ultimately declined because of
8 the disastrous effects ventilators can have on the body. Mr. Ephriam has been fortunate enough
9 to largely recover from COVID-19, but he still experiences difficulty breathing.

10 17. Mr. Ephriam was out sick from work for fourteen days. Despite informing them
11 of his positive diagnosis, Defendants did not ask him to get tested again upon his return, or ask
12 for a doctor’s note saying that he had recovered and was no longer contagious. When Mr.
13 Ephriam informed Defendants of his positive test results, he gave them a list of about twenty
14 coworkers he had come into contact with. However, Defendants did not take any steps to protect
15 those workers by letting them all know that they had been exposed to COVID-19, so that they
16 could in turn take steps to seek medical attention and to protect others from exposure. Mr.
17 Ephriam reached out to those coworkers himself, and many confirmed that they had no idea that
18 they had been exposed to the virus. These individuals only knew to get tested because Mr.
19 Ephriam shared the news of his own diagnosis, and suggested they get tested as well. About ten
20 of those employees in fact tested positive as a result of Defendants’ actions. Despite the fact that
21 over one hundred employees, and untold family members, have contracted the virus, employees
22 still need to come into close contact with one another on many occasions throughout their shifts,
23 including on the platform where drivers are signed out. In addition, computer terminals are
24 located right next to one another, and all receivers need to use the same terminals without plastic
25 shielding or proper cleaning.

26 18. Plaintiff Alisia Ramirez worked for Defendants for over four years as an inventory
27 clerk in Defendants’ Compton facility. She developed symptoms on May 13, 2020. Fearing for
28 herself, and her daughter who has asthma, Ms. Ramirez called in sick on May 15th. At that time,

1 she began hearing from her coworkers about multiple positive tests results. Nonetheless,
2 Monique from human resources told her that she was okay to return to work. Monique later
3 called her back and told her to get tested, which Plaintiff did on May 16th. At one point, another
4 supervisor, Becky Moreno, told Plaintiff that she was cleared to return on May 23rd. However,
5 even though Ms. Ramirez did not have her results back, Monique cleared her to come back to
6 work on May 26, 2020. Ms. Ramirez got her test results while working for Defendants at 10:00
7 on May 26, 2020. Upon receiving her results, Ms. Ramirez was placed off of work for another
8 five days, until she received additional (negative) tests results. Ms. Ramirez returned to work on
9 May 31st but was dismayed and frightened to see that the Defendants still failed to take adequate
10 precautions. There are simply too many Purell wipes to go around, and, on June 29th, 2020,
11 Defendants in fact removed the sanitizer dispenser from the inventory office. When she
12 complained, her boss told her, “why should inventory be so special?” Temperature checks were
13 inconsistent (at best), masks were not mandatory, and gloves were only available upon request.
14 Further, sanitizer spray bottles were frequently unavailable or difficult to re-fill. Other sanitizer
15 dispensers seemed to have been watered down, as they dispensed runny liquid that did not have
16 the distinctive smell.

17 19. Plaintiff Gloria Mapp-Parker is Mr. Ephriam’s fiancée. She contracted COVID-19
18 from Mr. Ephriam in mid-May 2020. Ms. Mapp-Parker experienced headaches, body chills, lost
19 her sense of taste and smell for over a month, and experienced headaches and shortness of breath.
20 The shortness of breath was particularly frightening for her, as she has asthma. Gloria and Mr.
21 Ephriam have a seven-month-old baby, and she also has two other children who live with them.
22 Both parents were terrified that they might pass on the virus to their children or succumb to the
23 illness, leaving their children without parents. Fortunately, the baby and other children remained
24 healthy although they were required to quarantine themselves for extended periods of time.

25 20. Plaintiff Yolanda Petty has worked for Defendants for more than thirty years.
26 Currently, she is employed as an inventory clerk. While Ms. Petty has not tested positive for
27 COVID-19 yet, but she suffered the stress, anxiety, and sadness of watching so many of her
28 coworkers fall ill, as well as worrying for her own health and that of her family and community.

1 She worked in close proximity to many of the workers who have tested positive for COVID-19,
2 and has a reasonable and actual fear that Defendants' policies and practices exposed and will
3 expose her to COVID-19.

4 21. Plaintiff Randal Odums is an 11 year employee of Defendants. Because of his job
5 responsibilities, he came into contact with a number of individuals, including Plaintiff Ephriam,
6 who had tested positive for the virus. Odums was forced to quarantine for three days because of
7 his contact with Ephriam. Fortunately, Odums tested negative. However, upon his return to
8 work, Odums was forced to work in the same department, receiving, where a number of
9 individuals had tested positive. Odums remains extremely concerns about his safety, and the
10 safety of his children, because of Defendants' continued failures to protect him and his coworkers
11 from this virus. This includes the failure to provide enough cleaning supplies, the fact that
12 employees still need to use shared scanner guns, the fact that it appears that the sanitizer has been
13 water-down and rendered ineffective, the lack of sanitizer wipes readily accessible, and the fact
14 that Defendants no longer provide any information about exposures and outbreaks.

15 22. Plaintiff Sergio Ballon works for Defendants in sanitation. Ballon tested positive
16 for COVID-19 on May 18, 2020 and has been out of work ever since. Ballon had to be
17 hospitalized because of the virus, and experienced symptoms including body aches, loss of taste
18 and smell, fatigue, and a cough. Ballon unfortunately transmitted the virus to his wife because of
19 Defendants' failure to protect him, which included the failure to provide sufficient gloves, which
20 could only be obtained from supervisors, the failure to provide enough sanitizer or cleaning
21 solution, and the failure to provide adequate training and education.

22 23. Plaintiff Ricardo Ramirez works for Defendants as an equipment operator.
23 Ramirez tested positive on May 26, 2020 due to his exposure at work. Ramirez in fact got tested
24 three times, and was likely exposed between May 22, 2020 and May 26, 2020. During that time,
25 Defendants failed to provide adequate gloves, employees were forced to use the same shared time
26 clock and computers, and Defendants failed to provide sufficient information about who had
27 become infected or at least indicate the departments involved. Further, there were many times
28 when there was no sanitizer available and employees were and are forced to work in close

1 proximity to one another. Unfortunately, because of these failures, Ramirez spread the virus to
2 his girlfriend.

3 24. Crescencio Perera worked for Defendants for approximately 21 years. He is
4 currently employed in sanitation. As a result of Defendant's failures to protect its workers,
5 including the lack of social distancing and protective gear, Perera developed symptoms of
6 COVID-19 on May 14, 2020. Since that time, Perera has been forced to go to urgent care on
7 multiple occasions, experiencing symptoms including shaking, fever, sleeplessness, breathing
8 problems, (gasping for air and coughing), and headaches. Unfortunately, Perera brought the virus
9 home and transmitted it to his wife, daughter, brother, and nephew. Perera's wife in turn
10 transmitted the virus to her father, who passed away. He has not returned to work since, as he has
11 not fully recovered.

12 25. Plaintiffs are informed and believe, and thereon allege, that at all times relevant
13 herein, Defendant RALPH'S GROCERY COMPANY ("RALPHS") is an Ohio corporation
14 whose principal place of business is in California, that RALPHS is authorized to do business in
15 the State of California, and that RALPHS conducts business in the State of California.
16 Specifically, RALPHS maintains offices and facilities and conducts business in the County of Los
17 Angeles, State of California.

18 26. Plaintiffs are informed and believe, and therefore allege, that Defendant Food 4
19 Less of California, Inc. is a California corporation with its principal place of business and
20 corporate headquarters in Compton, California.

21 27. The true names and capacities of Does 1 through 50, inclusive, are unknown to
22 Plaintiffs at this time, and Plaintiffs therefore sue such Doe Defendants under fictitious names.
23 Plaintiffs are informed and believe, and thereon allege, that each Defendant designated as a Doe
24 is in some manner responsible for the occurrences alleged herein, and that Plaintiffs' injuries and
25 damages, as alleged herein, were proximately caused by the conduct of such Doe Defendants.
26 Plaintiff will seek leave of the Court to amend this complaint to allege the true names and
27 capacities of such Doe Defendants when ascertained.

28 28. Plaintiffs are informed and believe, and thereon allege, that each and every act and

1 omission alleged herein was performed by, and/or attributable to, all Defendants, each acting as
2 agents and/or employees of, and/or under the direction and control of, each of the other
3 Defendants, and that said acts and failures to act were within the course and scope of said agency,
4 employment, and/or direction and control.

5 29. As a direct and proximate result of Defendant's unlawful actions, Plaintiffs and
6 members of their communities have suffered, and continue to suffer, from COVID-19's terrible
7 and potentially fatal effects.

8 FACTUAL ALLEGATIONS

9 30. COVID-19 is the infectious disease caused by the novel coronavirus. COVID-19
10 commonly causes symptoms including fever, chills, dry cough, fatigue, muscle or body aches,
11 headaches, loss of taste or smell, sore throat, congestion, nausea or vomiting, and diarrhea.³ In
12 severe cases, COVID-19 causes difficulty breathing and chest pain, requiring emergency medical
13 care.⁴ According to the World Health Organization (WHO), about one in five COVID-19
14 patients become seriously ill.⁵ COVID-19 can also cause serious complications including
15 pneumonia, organ failure, heart problems, acute respiratory distress, blood clots, acute kidney
16 injury, and additional viral and bacterial infections.⁶

17 31. The virus that causes COVID-19 is highly contagious. It mainly spreads through
18 person-to-person contact through respiratory droplets produced when an infected person coughs,
19 sneezes, or talks. The risk of person-to-person spread increases when people are in close contact
20 with each other. COVID-19 is also spreading quickly and easily in communities in many areas.

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23 ³ CDC, "Coronavirus Disease 2019 (COVID-19): Frequently Asked Questions
24 <https://www.cdc.gov/coronavirus/2019-ncov/faq.html#Basics>

25 ⁴ *Id.*

26 ⁵ WORLD HEALTH ORGANIZATION, "Q&A on Coronaviruses (COVID-19)," Apr. 17, 2020,
27 <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/question-and-answers-hub/q-a-detail/q-a-coronaviruses>.

28 ⁶ MAYO CLINIC, "Coronavirus Disease 2019 (COVID-19)," <https://www.mayoclinic.org/diseases-conditions/coronavirus/symptoms-causes/syc-20479963> (last visited June 26, 2020).

1 This is termed “community spread.”⁷

2 32. COVID-19 is also easily spread by those who are pre-or asymptomatic. Therefore,
3 health officials urge all individuals to undertake proper social distancing and hygiene measures to
4 prevent the virus’ spread even among people who do not exhibit symptoms.

5 33. Scientists use many different data points to track COVID-19’s spread. One of the
6 most important is the R_0 , which is a measure of how contagious a virus is. The R_0 value
7 represents the number of new infections that result from a single case. In April 2020, the CDC
8 calculated an R_0 value of 5.7—meaning that that a single person infected with COVID-19 is
9 likely to infect five or six others without preventative measures in place.⁸

10 34. While contracting COVID-19 is dangerous for everyone, some groups are more
11 likely to experience a severe case than others. People over age 65 and people of any age with
12 underlying medical conditions including chronic lung disease, asthma, being
13 immunocompromised, obesity, diabetes, chronic kidney disease, and liver disease, are at high risk
14 of developing a severe COVID-19 infection.⁹

15 35. According to the CDC, long-standing systemic health and social inequities have
16 put Black, Latino, and other racial and ethnic minority groups at an increased risk of contracting
17 COVID-19, and of developing more severe cases.¹⁰ Hospitalization rates are highest among
18 Native American, Black, and Latino people, respectively.¹¹ A May 2020 study by researchers at
19 Yale and the University of Pittsburgh showed that Black people are 3.5 times more likely to die
20 of COVID-19 than White people. Latinos are nearly twice as likely to die of the virus as White
21

22 ⁷ CDC, “Coronavirus Disease 2019 (COVID-19): Frequently Asked Questions,
23 <https://www.cdc.gov/coronavirus/2019-ncov/faq.html#Basics> (last updated June 24, 2020).

24 ⁸ Steven Sanche et al., “High Contagiousness and Rapid Spread of Severe Acute Respiratory
25 Syndrome Coronavirus 2,” CDC (Apr. 7, 2020), https://wwwnc.cdc.gov/eid/article/26/7/20-0282_article

26 ⁹ *Id.*

27 ¹⁰ CDC, “COVID-19 in Racial and Ethnic Minority Groups,”
28 <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/racial-ethnic-minorities.html>, last visited June 26, 2020.

¹¹ *Id.*

1 people.¹² The CDC explains that minority groups are more likely to suffer from severe cases of
2 COVID-19 and even die of the virus because of many intersecting and socially-entrenched
3 inequalities, including being more likely to work in “essential industries,” including warehouses
4 and grocery stores.¹³

5 36. While COVID-19 spread nationally and internationally in January and February
6 2020, the virus’ true danger became apparent to the public in Los Angeles County, the State of
7 California, and the United States as a whole in early March 2020. On March 4, 2020, the Los
8 Angeles County Board of Supervisors and the Department of Public Health declared a local
9 health emergency in response to the novel coronavirus. That same day, Governor Gavin Newsom
10 declared a state of emergency and instituted measures to protect Californians from the virus’
11 spread.

12 37. On March 11, 2020, the World Health Organization (WHO) declared COVID-19 a
13 global pandemic. Two days later, President Donald Trump declared a national state of
14 emergency due to the pandemic’s rapid escalation.

15 38. On March 19, 2020, Los Angeles County issued a “Safer at Home” mandate to
16 combat the spread of this deadly illness. This order instructed all Los Angeles County business to
17 close unless they were designated as an “essential business,” like a grocery store or supplier and,
18 directed all residents to stay home unless they worked for an essential business or were
19 performing essential activities.

20 39. Later that day, Governor Newsom issued Executive Order N-33-20, a statewide
21 stay-at-home order instructing all California residents to stay home unless they worked for an
22 essential business like a grocery store or supplier, or were performing essential activities, so that
23 Californians could continue to have access to necessities like food.

24 40. The CDC recognized the serious threat of COVID-19 transmission in the
25

26 ¹² Bill Hathaway, “New Analysis Quantifies Risk of COVID-19 to Racial, Ethnic Minorities,”
27 YALE NEWS (May 19, 2020), <https://news.yale.edu/2020/05/19/new-analysis-quantifies-risk-covid-19-racial-ethnic-minorities>.

28 ¹³ CDC, “COVID-19 in Racial and Ethnic Minority Groups,” *supra* note 4.

1 workplace. It released guidance for businesses and employers to safely respond to the pandemic
2 declaring that, “Businesses and employers can prevent and slow the spread of COVID-19 within
3 the workplace. Employers should respond in a way that takes into account the level of disease
4 transmission in their communities and revise their business response plans as needed.” CDC
5 recommendations to prevent and reduce COVID-19 transmission among employees include:
6 actively encouraging sick employees to stay home; considering conducting daily in-person or
7 virtual health checks; identifying where and how workers might be exposed to COVID-19 at
8 work; taking immediate action if an employee is suspected or confirmed to have COVID-19 by
9 disinfecting contaminated surfaces and notifying employees who have been exposed; and
10 educating employees about steps they can take to protect themselves at work and at home.¹⁴

11 41. The Occupational Safety and Health Administration (OSHA) released guidance on
12 safe workplace operations during the COVID-19 pandemic. OSHA instructs that “it is important
13 for all employers to plan now for COVID-19,” by developing an infectious disease preparedness
14 and response plan; implementing basic infection prevention measures like promoting frequent and
15 thorough hand washing and sanitization and encouraging workers to stay home if they are sick;
16 developing policies and procedures for prompt identification and isolation of sick people;
17 developing, implementing, and communicating about workplace flexibilities and protections; and
18 implementing workplace controls such as installing high-efficiency air filters and providing
19 personal protective equipment.¹⁵

20 42. The CDC recommends that all persons wear protective face coverings in public
21 settings when physical distancing measures are difficult to maintain.¹⁶

22 43. On May 14, 2020, Los Angeles County Public Health Director Barbara Ferrer
23

24 ¹⁴ CDC, “Plan, Prepare and Respond to Coronavirus Disease 2019,”
25 <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>.

26 ¹⁵ “Guidance on Preparing Workplaces for COVID-19,” OSHA,
27 <https://www.osha.gov/Publications/OSHA3990.pdf>.

28 ¹⁶ “Recommendation Regarding the Use of Cloth Face Coverings, Especially in Areas of
Significant Community-Based Transmission,” CDC, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-gettingsick/cloth-face-cover.html>.

1 declared that masks were mandatory in Los Angeles County any time residents are outside the
2 home. On June 18, 2020, Governor Newsom issued an order requiring Californians to wear face
3 masks when out in public, including at work.

4 44. The Los Angeles County Department of Public Health (LADPH) also released
5 guidance on how workplaces should respond to COVID-19. This guidance specifies that when a
6 case is reported among employees, anyone who may be infected should be sent home to self-
7 isolate, and, importantly, any of their close contacts should do the same. LADPH further instructs
8 that once a COVID-19 case has been identified among employees, employers should conduct an
9 investigation to identify all close contacts associated with the workplace who were exposed to the
10 virus. This guidance also includes similar strategies to prevent the spread of COVID-19 in the
11 workplace as the CDC and OSHA recommended, including: physical distancing; mandating face
12 coverings; promotion of frequent hand washing; cleaning and disinfection of high-touch surfaces;
13 and increasing ventilation.

14 45. Defendants fell far short of these objectives and requirements in their Compton
15 distribution center. They stayed open through the pandemic without taking even the most basic
16 precautions to protect the health and safety of their employees, leading to a severe COVID-19
17 outbreak at the distribution center and public spread of the virus among employees, their family
18 members, and close contacts.

19 46. The outbreak at the Compton distribution center began in early May 2020. The
20 LADPH has found that *one hundred workers* have tested positive for COVID-19 since then.
21 Five additional employees are symptomatic, but their infections have not yet been confirmed.¹⁷
22 Even when this public health emergency became international news, and after local health
23 directives were issued, a considerable amount of time elapsed before Defendants took any steps to
24 ensure that employees did not fall ill. They repeatedly insisted that the multiple COVID-19
25 infections were “isolated incidents.” Upon hearing the news of distribution center employees
26

27 ¹⁷ LOS ANGELES COUNTY DEPARTMENT OF PUBLIC HEALTH, “COVID-19 in Los Angeles County,”
<http://publichealth.lacounty.gov/media/coronavirus/locations.htm>
28 (last updated July 8, 2020).

1 falling ill, their coworkers were fearful because they knew that all employees were in such close
2 proximity to each other that they must have been exposed to the virus.

3 47. When Defendants finally acted to combat COVID-19's spread at the distribution
4 center, those steps were inadequate, and still meant that employees had to work under unhygienic
5 and dangerous conditions. For example, Defendants eventually installed a temperature check
6 station, but oftentimes no one would be staffing it or the thermometer would be broken, forcing
7 employees to work without knowing whether or not they had fevers, thereby exposing the entire
8 workplace to COVID-19. Hand sanitizer bottles and machines were frequently empty and spray
9 bottles were and are in short supply. Defendants only allocated two masks per employee, and
10 rarely supplied an adequate number of gloves. The wearing of face masks and gloves was not
11 enforced. Defendants also refused to change their clock-in policy, whereby all workers had to
12 touch their fingerprint to the same pad in order to mark themselves present for the day. Gloves
13 blocked the machine from scanning a worker's fingerprint, and so all employees were forced to
14 touch the same surface, likely increasing their risk of contracting COVID-19. People in a
15 position of authority in workplaces comprised of essential workers have a responsibility to
16 implement measures to contain the spread of COVID-19. Defendants have facilitated the spread
17 of this deadly virus in the community through their careless actions and omissions.

18 **CLASS ACTION ALLEGATIONS**

19 48. This action, and the claims of plaintiff Mapp-Parker, are appropriately suited for a
20 class action because:

21 a. The class is a significant number. Joinder of all individuals who contracted
22 COVID-19 as a result of Defendants' acts and omissions individually would be impractical.

23 b. This action involves common questions of law and fact to the class because
24 the action focuses on Defendants' systematic course of conduct in violation of state and local law.

25 c. Plaintiffs Mapp-Parker's claims are typical of the class because
26 Defendants' acts and omissions caused her and all others similar-situation to contract COVID-19.

27 d. Plaintiff Mapp-Parker will fairly and adequately protect the interest of all

28 Class members.

1 e. A class action is superior to other available methods for fairly and
2 efficiently adjudicating the controversy.

3 **FIRST CAUSE OF ACTION**

4 **Public Nuisance—Assisting in the Creation of Substantial and Unreasonable Harm to the**
5 **Health and Safety that Affects an Entire Community or Considerable Number of Persons**
6 **[Civil Code §§ 3479, 3480, 3491, 3493; C.C.P. § 731]**
7 **(Brought by All Plaintiffs Against All Defendants)**

8 49. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
9 factual allegations set forth in this complaint.

10 50. Civil Code § 3479 defines “nuisance” as “[a]nything which is injurious to health . .
11 . or is indecent or offensive to the senses . . . so as to interfere with the comfortable enjoyment of
12 life or property.”

13 51. Civil Code § 3480 defines “public nuisance” as any nuisance that “affects at the
14 same time an entire community or neighborhood, or any considerable number of persons,
15 although the extent of the annoyance or damage inflicted upon individuals may be unequal.”

16 52. To constitute a “public nuisance,” the offense against, or interference with the
17 exercise of rights common to the public must be substantial and unreasonable. *People ex rel.*
18 *Gallo v. Acuna* (1997) 14 Cal.4th 1090, 1103, 1105.

19 53. The acts and omissions of Defendants alleged herein, which caused a considerable
20 number of persons to suffer increased exposures and risks of exposures to the COVID-19 virus,
21 including but not limited to employees of the Compton warehouse, those employees’ family
22 members, the persons with whom employees resided, and the persons with whom those
23 employees came into contact, substantially and unreasonably created and substantially assisted in
24 the creation of a grave risk to public health and safety, and wrongfully and unduly interfered with
25 Plaintiffs’ comfortable enjoyment of their lives and property. *County of Santa Clara v. Atlantic*
26 *Richfield Co.*, (2006) 137 Cal.App.4th 292, 305-06.

27 54. Defendants’ acts and omissions alleged herein substantially and unreasonably
28 created or assisted in the creation of the spread and transmission of grave, life-threatening disease
and infection, the risk of spread and transmission of grave, life-threatening disease and infection

1 disease or infection, and the actual and real fear and anxiety of the spread and transmission of
2 grave, life-threatening disease and infection, all of which constitutes an actionable public
3 nuisance. See, e.g., Restatement (Second) of Torts § 821B, cmt. g (“[T]he threat of
4 communication of smallpox to a single person may be enough to constitute a public nuisance
5 because of the possibility of an epidemic; and a fire hazard to one adjoining landowner may be a
6 public nuisance because of the danger of a conflagration.”); *Birke v. Oakwood Worldwide* (2009)
7 169 Cal.App.4th 1540, 1546 (secondhand smoke in condominium complex); *County of Santa*
8 *Clara v. Atlantic Richfield Co.* (2006) 137 Cal.App.4th 292, 306.

9 55. The public nuisance caused by Defendant as alleged herein has caused and will
10 continue to cause special injury to Plaintiffs within the meaning of Civil Code section 3493, due
11 to the illness Plaintiffs have suffered and/or feared and heightened risk of exposures they faced.
12 Those harms are different from the types of harms suffered by members of the general public who
13 did not work or have direct contact with employees who worked at the Compton distribution
14 center, where one hundred employees have contracted COVID-19.

15 56. Code of Civil Procedure § 731 and Civil Code §§ 3491, 3493, and 3495 authorize
16 Plaintiffs to bring this action for injunctive relief and equitable abatement against Defendants.

17 57. Defendants’ failure to comply with minimum health and safety standards in their
18 distribution center has caused, and is reasonably certain to cause, community spread of the
19 COVID-19 infection. Such community spread has not been, and will not be, limited to the
20 physical location of the distribution center only or to employees there, as infected workers have
21 gone home and will go home to interact with their family members, co-residents, neighbors, and
22 others with whom they must necessarily interact as they undertake essential daily activities such
23 as shopping, doctor’s visits, and childcare.

24 58. This community spread has resulted in increased disease and will continue to
25 result in increased disease.

26 59. Defendants’ conduct as alleged herein unreasonably interferes with the common
27 right to public health and safety.

28 60. Defendants’ decision to remain open without ensuring minimum basic health and

1 safety standards at their distribution center, including by meeting the CDC, OSHA, Los Angeles
2 County, and other minimum public health standards necessary to stop or substantially reduce the
3 spread of COVID-19, is reasonably certain to cause further spread of COVID-19 and the
4 reasonable and severe fear of the further spread of the virus to Plaintiffs and other community
5 members.

6 61. If prompt and immediate injunctive relief is not granted, Plaintiffs face a
7 significant risk of irreparable harm in the form of physical and emotional injuries and death from
8 Defendants' continuing creation and assistance in the creation of a public nuisance. Plaintiffs
9 employed at the distribution center are particularly vulnerable to severe bodily injury or death
10 because of their workplace exposures. Their family members face special vulnerability because
11 of their constant exposure to Plaintiffs at home and tender age. Such injuries cannot be
12 adequately compensated through an award of damages or otherwise remedied at law.

13 62. The risk of injury faced by Plaintiffs outweighs the cost of the reasonable
14 measures included in Plaintiffs' proposed injunction.

15 63. Defendants and each of them are substantial contributors to the public nuisance
16 alleged herein.

17 64. Each Defendant's past and ongoing conduct is a direct and proximate cause of the
18 Plaintiff's injuries and threatened injuries.

19 65. Defendants and each of them know and should have known that their conduct as
20 alleged herein would be the direct and proximate cause of the injuries alleged herein to Plaintiffs.

21 66. Defendants' conduct as alleged herein constitutes a substantial and unreasonable
22 interference with and obstruction of public rights and property, including the public rights to
23 health, safety, and welfare of the Plaintiffs and those who came into contact with them, whose
24 safety and lives are at risk due to Defendants' failure to adopt and implement proper procedures
25 for protecting workers, customers, and others from exposure to COVID-19.

26 67. Defendants committed and continue to commit the acts alleged herein knowingly
27 and willfully.

28 68. As a proximate result of Defendants' unlawful acts and omissions, Plaintiffs have

1 been severely injured, and are entitled to an injunction to stop Defendants' harmful actions.

2 69. In addition to declaratory and injunctive relief, Plaintiffs are entitled to penalties
3 and attorney's fees and expenses pursuant to Code of Civil Procedure § 1021.5, and costs of suit.

4 70. Plaintiff Mapp-Parker and the putative class she seeks to represent, are also
5 entitled to a recovery of damages as well.

6 **SECOND CAUSE OF ACTION**
7 **Declaratory Judgment**
8 **[C.C.P. § 1060 *et seq.*]**
9 **(Brought by All Plaintiffs Against All Defendants)**

10 71. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
11 factual allegations set forth in this complaint.

12 72. An actual controversy has arisen and now exists between the parties relating to the
13 legal rights and duties of the parties as set forth above, for which Plaintiffs desire a declaration of
14 rights and other relief available pursuant to the California Declaratory Judgment Act, Code of
15 Civil Procedure § 1060 *et seq.*

16 73. A declaratory judgment is necessary and proper in that Plaintiffs contend that
17 Defendants have committed and continues to commit the violations set forth above and
18 Defendants, on information and belief, will deny that they have done so and/or that they will
19 continue to do so.

20 **THIRD CAUSE OF ACTION**
21 **Unfair and Unlawful Business Practices**
22 **[Cal. Bus. & Prof. Code §§ 17200 *et seq.*]**
23 **(Brought by All Plaintiffs Against All Defendants)**

24 74. Plaintiffs incorporate herein by specific reference, as though fully set forth, the
25 factual allegations set forth in this complaint.

26 75. Defendant's acts and omissions constituting a public nuisance as alleged herein
27 also constitute unfair and unlawful business practices under California Business and Professions
28 Code §§ 17200 *et seq.*

76. Defendants' aforementioned acts and omissions constitute business practices in

1 that Defendants have engaged in them repeatedly over a significant period of time and in a
2 systematic manner, to the detriment of Plaintiffs and to Defendants' economic benefit.

3 77. Defendants' aforementioned acts and omissions have caused physical injuries to
4 Plaintiffs.

5 78. Defendants' acts and omissions also violated the requirements of LADPH
6 directives by operating the warehouse without taking proper protective measures, including
7 providing adequate temperature checks, PPE, and soap or hand sanitizer; requiring wearing of
8 PPE; isolating individuals who had tested positive for COVID-19 from others; adequately
9 disinfecting high-touch surfaces; ensuring that all workers stayed a minimum of six feet apart
10 from each other; and informing employees when they had been exposed to the virus so that they
11 could be tested and self-isolate. Plaintiffs Ephriam, Petty, and Ramirez had no choice but to go to
12 work every day despite these dangerous conditions in order to feed their families.

13 79. Defendants' actions also constitute unfair business practices because they actively
14 and repeatedly misled Plaintiffs regarding their COVID-19 exposure. Defendants consistently
15 assured Plaintiffs that they were safe, while infections ripped through the workforce. This caused
16 one hundred employees out of about five hundred total to contract COVID-19. Many more will
17 get sick and may even die if Defendants do not change their procedures. COVID-19 is so
18 contagious that the employees who have fallen ill have surely passed the virus onto their families
19 and communities. Defendants' callous actions have actively contributed to the COVID-19
20 outbreak in Los Angeles, which is still rapidly accelerating.

21 80. Defendants have gained an unfair competitive advantage over other businesses
22 who took steps to comply with LADPH and other authorities' directives, and who have
23 adequately protected the health and safety of their employees and, by extension, everyone in the
24 community. Defendants have also made illegal profits at Plaintiffs' and the community's
25 expense. They have acted in an irresponsible and even immoral fashion in order to preserve their
26 own gains. Therefore, Plaintiffs are entitled to restitution.

27 81. As a result of Defendants' unfair and unlawful business practices, Plaintiffs have
28 been made to suffer from a terrible disease, and their lives and the lives of their families have

1 been put at risk. Therefore, Plaintiffs Ephriam, Petty, and Ramirez seek public injunctive relief
2 only, as well as attorneys' fees and expenses pursuant to Code of Civil Procedure § 1021.5, and
3 costs of suit.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiffs, individually and on behalf of all other persons similarly
6 situated, respectfully pray for relief against Defendants and Does 1 through 50, inclusive, and
7 each of them, as follows:

- 8 1. For preliminary and permanent injunctive relief enjoining Defendants from
9 continuing to engage in, and from refraining from engaging in, the wrongful acts, omissions, and
10 practices alleged herein and whose commission and omission constitute a public nuisance;
11 2. For a declaration that Defendants have committed a public nuisance by the
12 wrongful acts, omissions, and practices alleged herein;
13 3. For penalties available under the law;
14 4. For compensatory damages in an amount to be ascertained at trial for Plaintiff
15 Mapp-Parker and the putative class.
16 5. For reasonable attorney's fees and costs pursuant to Code of Civil Procedure §
17 1021.5, and/or any other applicable provisions providing for attorneys' fees and costs;
18 6. For such further relief that the Court may deem just and proper.

19
20 DATED: July 8, 2020

Respectfully submitted,

MATERN LAW GROUP, PC

21
22
23 By: 

24 _____
25 Matthew J. Matern
26 Joshua D. Boxer
27 Attorneys for Plaintiffs
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