

COPY

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17 ATTORNEYS FOR PLAINTIFF  
18 GREGORY MEISSNER

19 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
20 IN AND FOR THE COUNTY OF SANTA CLARA  
21 UNLIMITED JURISDICTION

22 GREGORY MEISSNER,  
23  
24 Plaintiffs,

25 v.

26 SERGIO BECERRA CRUZ and LOURDES  
27 GARCIA BECERRA dba MARISCOS SAN  
28 JUAN NO. 3, SERGIO'S RESTAURANTS,  
INC., and DOES 1-20, inclusive,

Defendants.

CASE NO. **115CV287122**

**COMPLAINT FOR DAMAGES**

- 1<sup>st</sup> Cause of Action: Negligence
- 2<sup>nd</sup> Cause of Action: Strict Product Liability
- 3<sup>rd</sup> Cause of Action: Negligence Per Se
- 4<sup>th</sup> Cause of Action: Breach of Implied Warranty

**DEMAND FOR JURY TRIAL**

29 COMES NOW the Plaintiff, GREGORY MEISSNER, by and through his counsel of record,  
30 EUSTACE DE SAINT PHALLE of RAINS LUCIA STERN, PC, and WILLIAM D. MARLER of  
31 MARLER CLARK, L.L.P., P.S., (*pro hac vice pending*) and alleges and complains as follows by way of his  
32 Complaint.

ENDORSED

2015 OCT 21 P 2:58

David H. Montseim, Clerk of the Superior Court  
S. ACKARD  
Clerk

FAXED



1 also occur. Young children, the elderly, and HIV – infected individuals with CD4 count < 200 are more  
2 likely to have severe symptoms including dehydration, bacteremia, and seizures.

3 7. The source of *Shigella* bacteria is the excrement (feces) of an infected individual that is  
4 ultimately ingested by another person. The infectious material is spread to new cases by person-to-person  
5 contact or via contaminated food or water. Approximately 20% of the nearly 450,000 cases of shigellosis  
6 that occur annually in the U.S are foodborne-related. Generally, the food preparer is the individual who  
7 contaminates the food, but food may also become contaminated during processing. Contamination of  
8 drinking water by *Shigella* is a problem that more often occurs in the developing world, but swimming  
9 pools and beaches in the U.S. can become contaminated by infected individuals. No group of individuals  
10 is immune to shigellosis, but certain individuals are at increased risk, particularly small children. Persons  
11 infected with HIV experience shigellosis much more commonly than other individuals.

#### 12 **Shigella Outbreak at Marisco's San Juan Restaurant**

13 8. According to a Public Health Warning, on Saturday afternoon, October 17, 2015, the Santa  
14 Clara County Public Health Department was notified by a local hospital of 5 patients with fever and  
15 diarrhea who had all eaten at the same restaurant. Subsequent case finding has revealed a total of over two  
16 dozen individuals with fever and diarrhea who ate at Mariscos San Juan restaurant (205 N. 4th Street) in  
17 downtown San Jose on Friday October 16 or Saturday October 17. The restaurant was closed on the  
18 morning of Sunday, October 18, 2015 and remains closed.

19 9. Of the ill persons, over a dozen have tested positive for *Shigella* by PCR, and one has a  
20 blood culture growing *Shigella sonnei*; almost all of the reported cases have required hospital admission, and  
21 11 are in intensive care. There are other individuals who were seen and not admitted or who were ill but  
22 did not seek medical attention.

#### 23 **Gregory Meissner's Illness**

24 10. Gregory Meissner purchased a take-out order of food at the defendants' restaurant located  
25 at 205 N. 4th Street, San Jose, California, on or about Friday, October 16, 2015. He ordered the ceviche  
26 tostada, and consumed it shortly after picking it up.

27 11. The following morning, October 17, 2015, Mr. Meissner fell ill with severe gastrointestinal  
28 symptoms, including chills, abdominal cramps, diarrhea, fever, a severe headache, dizziness, and malaise.

1 That evening, he was taken to the emergency department of O'Connor Hospital in San Jose, where he was  
2 diagnosed with bacterial enteritis. Mr. Meissner remained at the emergency department for approximately  
3 7 hours before being discharged at 1:00 AM on Sunday, October 18, 2015.

4 12. Mr. Meissner continues to suffer from the effects of his Shigellosis illness, which was  
5 proximately caused by his consumption of *Shigella*-contaminated food manufactured and sold by the  
6 defendants on October 16, 2015.

7 **FIRST CAUSE OF ACTION**  
8 **NEGLIGENCE**

9 **(Against Defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba**  
10 **MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20)**

11 13. By this reference, paragraphs 1 through 12 of this Complaint are fully incorporated as if  
12 each and every one of these paragraphs was set forth here in its entirety.

13 14. Defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba  
14 MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20, were negligent in  
15 manufacturing, distributing and selling food products that were not reasonably safe because adequate  
16 warnings or instructions were not provided, including but not limited to the warning that the food product  
17 may contain *Shigella*, and thus should not be given to, or consumed by, people.

18 15. Defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba  
19 MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20 had a duty to  
20 comply with all statutory and regulatory provisions that pertained or applied to the manufacture,  
21 distribution, storage, labeling, and sale of food products, including, but not limited to, California's  
22 Sherman Food, Drug and Cosmetic Laws and the California Health and Safety Code, which bans the  
23 manufacture, sale and distribution of any "adulterated" food.<sup>1</sup> Defendants SERGIO BECERRA CRUZ  
24 and LOURDES GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3, SERGIO'S  
25 RESTAURANTS, INC., and DOES 1-20 failed to do so. Plaintiff was among the class of persons  
26 designed to be protected by the statutory and regulatory provisions pertaining to the defendants SERGIO

27 \_\_\_\_\_  
28 <sup>1</sup> The other states in which the subject product was sold to the plaintiffs also expressly prohibit the sale of any adulterated food products. *See* Ariz. Stat. § 36-904, Nev. Rev. Stat. 585-300, New Mex. Stat. 25-2-10, Haw. Rev. Stat. § 328-6, and Colo. Rev. Stat. § 25-5-402.

1 BECERRA CRUZ and LOURDES GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3,  
2 SERGIO'S RESTAURANTS, INC., and DOES 1-20's manufacture, distribution, storage, labeling and  
3 sale of their food.

4 16. Defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba  
5 MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20 had a duty to use  
6 supplies and/or raw materials in producing the food product which were in compliance with applicable  
7 federal, state, and local laws, ordinances and regulations, which were from safe and reliable sources, which  
8 were clean, wholesome and free from spoilage and adulteration, and which were safe for human  
9 consumption, but failed to do so. Defendants SERGIO BECERRA CRUZ and LOURDES GARCIA  
10 BECERRA dba MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20  
11 also had a duty to consumers of their products to produce their products using reasonable care, but  
12 breached this duty as well.

13 17. Defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba  
14 MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20 were negligent in  
15 the selection of their material and ingredient suppliers, or other subcontractors, and failed to adequately  
16 supervise them, or provide them with adequate standards in writing, and as a result, purchased and used  
17 products contaminated with *Shigella*.

18 18. More specifically, defendants SERGIO BECERRA CRUZ and LOURDES GARCIA  
19 BECERRA dba MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20  
20 owed a duty to properly supervise, train, and monitor their employees, or the employees of their agents or  
21 subcontractors, in the preparation of the products it sold, doing so to ensure compliance with the each  
22 defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba MARISCOS SAN  
23 JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20's own specifications and performance  
24 standards, as well as to ensure compliance with all applicable health regulations, including the FDA's  
25 Good Manufacturing Practices regulations, 21 C.F.R. Part 110, Subparts (A)-(G). Defendants SERGIO  
26 BECERRA CRUZ and LOURDES GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3,  
27 SERGIO'S RESTAURANTS, INC., and DOES 1-20 breached all of these duties, and plaintiff was  
28 injured as a direct and proximate result of such breaches.

1           19. Under applicable state law, food is adulterated if it contains a “poisonous or deleterious  
2 substance which may render it injurious to health.” *Shigella* is such a substance. Thus, by either  
3 manufacture, distribution, storage, or sale of the subject product or the subject product’s ingredients,  
4 defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba MARISCOS SAN  
5 JUAN NO. 3, SERGIO’S RESTAURANTS, INC., and DOES 1-20 breached their statutory and  
6 regulatory duties, and plaintiff was injured as a direct and proximate result of such breaches.

7           20. Defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba  
8 MARISCOS SAN JUAN NO. 3, SERGIO’S RESTAURANTS, INC., and DOES 1-20 breached the  
9 aforementioned duties as alleged above, which breach constituted the proximate cause of injury to the  
10 plaintiff.

11           21. As a result of the defendants SERGIO BECERRA CRUZ and LOURDES GARCIA  
12 BECERRA dba MARISCOS SAN JUAN NO. 3, SERGIO’S RESTAURANTS, INC., and DOES 1-20’s  
13 negligence, the plaintiff suffered severe and permanent personal injuries, as well as economic loss.

14           22. The plaintiff has suffered general and special, incidental and consequential damages, as the  
15 direct and proximate result of the acts and/or omissions of defendants SERGIO BECERRA CRUZ and  
16 LOURDES GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3, SERGIO’S RESTAURANTS,  
17 INC., and DOES 1-20 as set forth above, which damages shall be fully proven at the time of trial,  
18 including, but not limited to, damages for loss of enjoyment of life, both past and future; medical and  
19 medical related expenses, both past and future; wage and economic loss, past and future; emotional  
20 distress, and future emotional distress; medical and pharmaceutical expenses, past and future; and other  
21 ordinary, incidental and consequential damages as would be anticipated to arise under the circumstances.

22           Wherefore, Plaintiff GREGORY MEISSNER prays for judgment against Defendants SERGIO  
23 BECERRA CRUZ and LOURDES GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3,  
24 SERGIO’S RESTAURANTS, INC., SERGIO’S RESTAURANTS, INC., and DOES 1-20, as set forth  
25 below.

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28 ///

1 **SECOND CAUSE OF ACTION**

2 **STRICT LIABILITY CLAIM – Violation of California’s Sherman Food, Drug, and Cosmetic**  
3 **Laws, California Health and Safety Code § 109875, et seq.**  
4 **(Against Defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba**  
5 **MARISCOS SAN JUAN NO. 3, SERGIO’S RESTAURANTS, INC., and DOES 1-20)**

6 23. By this reference, paragraphs 1 through 22 of this Complaint are fully incorporated as if  
7 each and every one of these paragraphs was set forth here in its entirety.

8 24. Defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba  
9 MARISCOS SAN JUAN NO. 3, SERGIO’S RESTAURANTS, INC., and DOES 1-20 are in the business  
10 of manufacturing and selling food and drink products, including the contaminated food product that is at  
11 issue herein.

12 25. Defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba  
13 MARISCOS SAN JUAN NO. 3, SERGIO’S RESTAURANTS, INC., and DOES 1-20 manufactured and  
14 sold food that was defective at the time it left defendants SERGIO BECERRA CRUZ and LOURDES  
15 GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3, SERGIO’S RESTAURANTS, INC., and  
16 DOES 1-20’s control in that it was contaminated with *Shigella*, which rendered it adulterated,  
17 unwholesome and injurious to health and unfit for human consumption. This defective condition created  
18 an unreasonable risk to people such as the plaintiff.

19 26. Defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba  
20 MARISCOS SAN JUAN NO. 3, SERGIO’S RESTAURANTS, INC., and DOES 1-20 sold the food  
21 products used by plaintiff knowing the products would be used by plaintiff without inspection for defects.

22 27. It was reasonably foreseeable to defendants SERGIO BECERRA CRUZ and LOURDES  
23 GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3, SERGIO’S RESTAURANTS, INC., and  
24 DOES 1-20 that the contaminated food, when put to its reasonably foreseeable use, would expose people  
25 such as the plaintiff to harm.

26 28. Defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba  
27 MARISCOS SAN JUAN NO. 3, SERGIO’S RESTAURANTS, INC., and DOES 1-20 prepared,  
28 distributed and sold food that was adulterated and contaminated with *Shigella* bacteria, by which the food  
was rendered adulterated, unwholesome and injurious to health, in violation of California’s Sherman Food,

1 Drug and Cosmetic Laws, California Health and Safety Code sections 109875, et seq. and particularly  
2 section 110620, and similar federal health and safety standards and regulations.

3 29. Plaintiff utilized the contaminated food product as anticipated by defendants SERGIO  
4 BECERRA CRUZ and LOURDES GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3,  
5 SERGIO'S RESTAURANTS, INC., and DOES 1-20 when he consumed it. As a proximate cause of  
6 plaintiff's use of the products in a fashion anticipated by the defendants SERGIO BECERRA CRUZ and  
7 LOURDES GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS,  
8 INC., and DOES 1-20, plaintiff suffered injury and damages as described herein. Plaintiff was injured by  
9 his consumption of contaminated, which was adulterated, contaminated, unwholesome, injurious to his  
10 health and unfit for human consumption.

11 30. The plaintiff has suffered general and special, incidental and consequential damages, as the  
12 direct and proximate result of the acts and/or omissions of defendants SERGIO BECERRA CRUZ and  
13 LOURDES GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS,  
14 INC., and DOES 1-20 as set forth above, which damages shall be fully proven at the time of trial,  
15 including, but not limited to, damages for loss of enjoyment of life, both past and future; medical and  
16 medical related expenses, both past and future; wage and economic loss, past and future; emotional  
17 distress, and future emotional distress; medical and pharmaceutical expenses, past and future; and other  
18 ordinary, incidental and consequential damages as would be anticipated to arise under the circumstances.

19 Wherefore, Plaintiff GREGORY MEISSNER prays for judgment against Defendants SERGIO  
20 BECERRA CRUZ and LOURDES GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3,  
21 SERGIO'S RESTAURANTS, INC., and DOES 1-20, as set forth below.

22 **THIRD CAUSE OF ACTION**

23 **NEGLIGENCE PER SE – Violation of California's Sherman Food, Drug, and Cosmetic**  
24 **Laws, California Health and Safety Code § 109875, et seq.**  
25 **(Against Defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba**  
**MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20)**

26 31. By this reference, paragraphs 1 through 30 of this Complaint are fully incorporated as if  
27 each and every one of these paragraphs was set forth here in its entirety.

28 32. Defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba



1 MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20 were negligent in  
2 manufacturing, distributing and selling food products that were not reasonably safe because adequate  
3 warnings or instructions were not provided, including but not limited to, the warning that the food  
4 product may contain *Shigella* and thus, should not be given to, or eaten by, people.

5 33. The defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba  
6 MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20 each additionally  
7 owed a duty to comply with statutory and regulatory provisions that pertained or applied to either the  
8 import, manufacture, distribution, storage, or sale of their product or product-ingredients, including, but  
9 not limited to, California's Sherman Food, Drug, and Cosmetic Act, CA Health & Safety Code §110545,  
10 which bans the manufacture, sale and distribution of any "adulterated" food. The Federal Food, Drug,  
11 and Cosmetics Act, §402(a), as codified at 21 U.S.C. §342(a) also provides the standard for the  
12 manufacture, sale and distribution of any "adulterated" food.

13 34. Under applicable state law, food is adulterated if it contains a "poisonous or deleterious  
14 substance, which may render it injurious to health." *Shigella* is such a substance. Thus, by either  
15 manufacture, distribution, storage, or sale of the subject product, defendants SERGIO BECERRA CRUZ  
16 and LOURDES GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3, SERGIO'S  
17 RESTAURANTS, INC., and DOES 1-20 breached their statutory and regulatory duties, and the plaintiff  
18 was injured as a direct and proximate result of such breaches.

19 35. The defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba  
20 MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20's negligent acts  
21 and omissions included, but were not limited to:

22 (a) Failure to prevent the contamination of the product by *Shigella*, including the failure  
23 to implement or non-negligently perform inspection and monitoring of the product such that its  
24 adulterated condition would be discovered prior to its sale or distribution to the public for human  
25 consumption.

26 (b) Failure to properly supervise, train, and monitor their employees, or the employees  
27 of their agents or subcontractors, on how to ensure the manufacture, distribution or sale of food product  
28 free of adulteration by potentially lethal pathogens.

1 36. The state food safety regulations applicable here, and as set forth above, establish a positive  
2 and definite standard of care in the import, manufacture, distribution or sale of food, and the violation of  
3 these regulations constitutes negligence *per se*.

4 37. The plaintiff was in the class of persons intended to be protected by these statutes and  
5 regulations, and was injured as the direct and proximate result of the defendants SERGIO BECERRA  
6 CRUZ and LOURDES GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3, SERGIO'S  
7 RESTAURANTS, INC., and DOES 1-20's violation of applicable state and local food safety regulations.

8 38. The defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba  
9 MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20 breached the  
10 aforementioned duties as alleged above, which breach constituted the proximate cause of injury to  
11 plaintiff.

12 39. The plaintiff has suffered general and special, incidental and consequential damages, as the  
13 direct and proximate result of the acts and/or omissions of defendants SERGIO BECERRA CRUZ and  
14 LOURDES GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS,  
15 INC., and DOES 1-20 as set forth above, which damages shall be fully proven at the time of trial,  
16 including, but not limited to, damages for loss of enjoyment of life, both past and future; medical and  
17 medical related expenses, both past and future; wage and economic loss, past and future; emotional  
18 distress, and future emotional distress; medical and pharmaceutical expenses, past and future; and other  
19 ordinary, incidental and consequential damages as would be anticipated to arise under the circumstances.

20 Wherefore, Plaintiff GREGORY MEISSNER prays for judgment against Defendants SERGIO  
21 BECERRA CRUZ and LOURDES GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3,  
22 SERGIO'S RESTAURANTS, INC., and DOES 1-20, as set forth below.

23 **FOURTH CAUSE OF ACTION**  
24 **BREACH OF IMPLIED WARRANTY**  
25 **(Against Defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba**  
26 **MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20)**

27 40. By this reference, paragraphs 1 through 39 of this Complaint are fully incorporated as if  
28 each and every one of these paragraphs was set forth here in its entirety.

41. Defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba

1 MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20 impliedly  
2 warranted that the contaminated food product was of merchantable quality, and was safe and fit for  
3 human consumption. Plaintiff purchased and consumed the food product, and reasonably relied upon the  
4 skill and judgment of defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba  
5 MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20 as to whether the  
6 products were of merchantable quality and fit for human consumption.

7 42. Defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA dba  
8 MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20 breached these  
9 implied warranties in that defendants SERGIO BECERRA CRUZ and LOURDES GARCIA BECERRA  
10 dba MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS, INC., and DOES 1-20's food  
11 products were contaminated with *Shigella*. As a direct, legal and proximate result of the breach of implied  
12 warranties, plaintiff suffered and may continue to suffer injury, harm, special damages and economic loss.

13 43. The plaintiff has suffered general and special, incidental and consequential damages, as the  
14 direct and proximate result of the acts and/or omissions of defendants SERGIO BECERRA CRUZ and  
15 LOURDES GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS,  
16 INC., and DOES 1-20 as set forth above, which damages shall be fully proven at the time of trial,  
17 including, but not limited to, damages for loss of enjoyment of life, both past and future; medical and  
18 medical related expenses, both past and future; wage and economic loss, past and future; emotional  
19 distress, and future emotional distress; medical and pharmaceutical expenses, past and future; and other  
20 ordinary, incidental and consequential damages as would be anticipated to arise under the circumstances.

21 Wherefore, Plaintiff GREGORY MEISSNER prays for judgment against Defendants SERGIO  
22 BECERRA CRUZ and LOURDES GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3,  
23 SERGIO'S RESTAURANTS, INC., and DOES 1-20, as set forth below.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, plaintiff prays as follows:

26 (1) That the court award plaintiffs judgment against each of the defendants, jointly and  
27 severally liable, in such sums as shall be determined to fully and fairly compensate plaintiffs for all general,  
28 special, incidental and consequential damages incurred, or to be incurred, by plaintiffs as the direct and

1 proximate result of the acts and omissions of the defendants;

2 (2) That the court award plaintiffs their costs, disbursements and reasonable attorneys' fees  
3 incurred;

4 (3) That the court award plaintiffs the opportunity to amend or modify the provisions of this  
5 complaint as necessary or appropriate after additional or further discovery is completed in this matter, and  
6 after all appropriate parties have been served; and

7 (4) That the court awards such other and further relief as it deems necessary and proper in the  
8 circumstances.

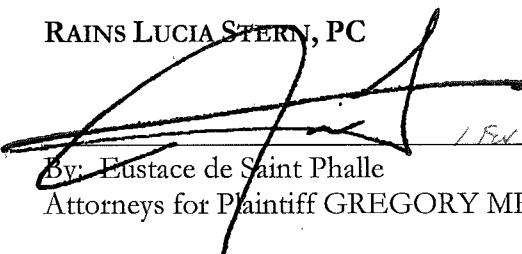
9 **DEMAND FOR JURY TRIAL**

10 As to the matters complained of herein against Defendants SERGIO BECERRA CRUZ and  
11 LOURDES GARCIA BECERRA dba MARISCOS SAN JUAN NO. 3, SERGIO'S RESTAURANTS,  
12 INC., and DOES 1-20, and each of them, Plaintiff GREGORY MEISSNER demands a trial by jury.

13 Dated: October 21, 2015

Respectfully submitted,

14 **RAINS LUCIA STERN, PC**

15   
16 By: Eustace de Saint Phalle

17 Attorneys for Plaintiff GREGORY MEISSNER