

1 Thomas A. Saenz (State Bar No. 159430)
Denise Hulett (State Bar No. 121553)
2 Andres Holguin-Flores (State Bar No. 305860)
MEXICAN AMERICAN LEGAL DEFENSE
3 AND EDUCATIONAL FUND
634 S. Spring St., 11th Floor
4 Los Angeles, CA 90014
Telephone: (213) 629-2512
5 Facsimile: (213) 629-0266

6 *Attorneys for Plaintiff*
Russell Aguilar
7
8
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 RUSSELL AGUILAR,

13 Plaintiff,

14 vs.

15 HOUSING AUTHORITY OF THE
16 COUNTY OF MARIN, HOUSING
AUTHORITY OF THE COUNTY OF
17 MARIN BOARD OF
COMMISSIONERS, BERNADETTE
18 STUART, and ROBERT HALF
INTERNATIONAL, INC.,

19 Defendants.

Case No.

COMPLAINT

DEMAND FOR JURY TRIAL

Action Filed: January 30, 2019

20
21 **INTRODUCTION**

22 Plaintiff Russell Aguilar alleges as follows:

23 1. This civil action challenges discrimination and retaliation in employment by
24 HOUSING AUTHORITY OF THE COUNTY OF MARIN, HOUSING AUTHORITY OF THE
25 COUNTY OF MARIN BOARD OF COMMISSIONERS, BERNADETTE STUART, and
26 ROBERT HALF STAFFING AGENCY (collectively “Defendants”) against RUSSELL
27 AGUILAR (“Plaintiff”). Plaintiff Aguilar was subjected to a hostile work environment, wrongful
28 discharge, and conspiracy. Defendants discriminated against Plaintiff Aguilar on the basis of

1 Plaintiff Aguilar’s Latino race, national origin, and perceived sexual orientation and also
2 retaliated against him for complaining about discrimination. Defendants’ unlawful employment
3 discrimination and related conduct violated Title VII of the Civil Rights Act of 1964, 42 U.S.C.
4 § 1981, 42 U.S.C. § 1985(3), California’s Fair Housing and Employment Act, and common law
5 prohibitions on wrongful discharge. *See* 42 U.S.C. §§ 1981, 1985(3), 2000e *et seq.*; CAL. GOV’T
6 CODE § 12940 *et seq.*

7 **JURISDICTION AND VENUE**

8 2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1343(a), and
9 1367, as well as under 42 U.S.C. §§ 1983 and 1988. Under 28 U.S.C. § 1391(b), venue is proper
10 because Defendants reside or are headquartered in the Northern District of California and the
11 events giving rise to the claims occurred in this district.

12 **PARTIES**

13 **Plaintiff**

14 3. Plaintiff RUSSELL AGUILAR is Latino, and he resides in the Northern District of
15 California and worked for Defendants during the events alleged in this action.

16 **Defendants**

17 4. Defendant MARIN HOUSING AUTHORITY (“Marin Housing Authority” OR
18 “MHA”) is a public corporation that operates public housing in Marin County, California and is
19 located in the Northern District of California. Defendant Marin Housing Authority employed
20 Plaintiff Aguilar when it engaged in the conduct challenged in this action.

21 5. Defendant HOUSING AUTHORITY OF THE COUNTY OF MARIN BOARD
22 OF COMMISSIONERS (“MHA Board”) governs the Marin Housing Authority. The MHA
23 Board consists of seven members – the five members of the Marin County Board of Supervisors
24 and two public housing tenants.

25 6. Defendant BERNADETTE STUART is the Property Manager of Public Housing
26 for the Marin Housing Authority. Defendant Stuart was Plaintiff Aguilar’s direct supervisor and
27 manager when Defendants engaged in the conduct alleged in this action. As property manager,
28 Defendant Stuart’s position required her to use her independent judgment. Defendant Stuart had

1 the responsibility and authority to hire, discipline, and discharge MHA employees, including
2 Plaintiff Aguilar. Defendant Stuart also had the responsibility and authority to act on and address
3 MHA employees' complaints. Finally, Defendant Stuart had the responsibility and authority to
4 direct MHA employees' daily work activities, including Plaintiff Aguilar's daily work activities.

5 7. Defendant ROBERT HALF INTERNATIONAL INC., DBA ROBERT HALF
6 STAFFING AGENCY ("Robert Half Staffing Agency") is a corporation that helped facilitate
7 Defendant Marin Housing Authority's hiring of Plaintiff Aguilar and later conspired with MHA
8 to, and did, terminate Plaintiff Aguilar on behalf of the Marin Housing Authority. Defendant
9 Robert Half Staffing Agency is incorporated in Delaware and maintains its headquarters in Menlo
10 Park, California.

11 **FACTUAL ALLEGATIONS**

12 8. Upon information and belief, Defendant Robert Half Staffing Agency obtains
13 applications for employment for Defendant Marin Housing Authority through a contract with
14 Defendant Marin Housing Authority.

15 9. On or around February 26, 2018, Plaintiff Aguilar applied for a job posted by
16 Defendant Marin Housing Authority on Defendant Robert Half Staffing Agency's website. An
17 employee from Defendant Robert Half Staffing Agency contacted Plaintiff Aguilar to inform him
18 that it had forwarded Plaintiff Aguilar's job application to Defendant Marin Housing Authority.

19 10. As MHA Property Manager, Defendant Stuart had the responsibility and authority
20 to hire MHA employees. On or around February 27, 2018, Defendant Stuart, an MHA supervisor
21 and manager, interviewed Plaintiff Aguilar and offered him a job at the Marin Housing Authority
22 as a Maintenance Operations Specialist. Plaintiff Aguilar accepted Defendant Stuart's offer.

23 11. Beginning sometime in or around February 27, 2018, Defendant Marin Housing
24 Authority's employees, including Defendant Stuart, subjected Plaintiff Aguilar to a hostile work
25 environment because he is Latino and after he complained about what he perceived to be
26 workplace discrimination.

27 12. Defendant Stuart had the responsibility and authority to direct Plaintiff Aguilar's
28 daily work activities and instructed that Plaintiff Aguilar attend Marin Housing Authority

1 community meetings.

2 13. On or around February 27, 2018, at a community meeting at the Golden Gate
3 Village, which is part of the Marin Housing Authority, community members subjected Plaintiff
4 Aguilar to anti-Latino remarks. Plaintiff Aguilar felt at risk and unsafe because he did not believe
5 that any other Latinos were present at the meeting.

6 14. Defendant Stuart had the responsibility and authority to act on and address an
7 MHA employee's complaint.

8 15. Plaintiff Aguilar complained to Defendant Stuart, an MHA supervisor and
9 manager, that he was concerned about the anti-Latino remarks by community members. Plaintiff
10 Aguilar reasonably believed that the anti-Latino remarks qualified as workplace discrimination
11 and contributed to a hostile work environment. Defendant Stuart dismissed Plaintiff Aguilar's
12 complaint, responding that she did not think that the remark was discriminatory and that she was
13 not offended by the remark.

14 16. Following Plaintiff Aguilar's complaints, Defendant MHA's employees, including
15 Defendant Stuart, continued to subject Plaintiff Aguilar to a pattern of discriminatory harassment.

16 17. On or around February 28, 2018, Defendant Stuart, Plaintiff Aguilar, and a
17 contractor from a pest control company went into residential units at Golden Gate Village to
18 search for rats and other pests. A discussion arose about immigration and language after Plaintiff
19 Aguilar translated for a resident who was concerned about the rats. As he left the unit, Plaintiff
20 Aguilar mentioned that he was glad that he had an opportunity to practice his Spanish. Defendant
21 Stuart responded, "If they come here, from other cultures, Spanish, Latino, whatever, they need to
22 learn the language, if they want to stay!" "They have to assimilate; how can you assimilate if you
23 don't speak English?" Plaintiff Aguilar felt that his safety was at risk because he was the only
24 Latino present.

25 18. Sometime thereafter, when Plaintiff Aguilar was working in the MHA
26 maintenance shop with Defendant MHA's maintenance employees, a maintenance employee
27 began using homophobic epithets in Plaintiff Aguilar's presence. Upon information and belief,
28 MHA Defendants perceived Plaintiff Aguilar to be gay.

1 19. Plaintiff Aguilar complained to Defendant Stuart that an MHA employee used
2 homophobic epithets at the workplace. Defendant Stuart responded that Plaintiff Aguilar should
3 get used to rough shop talk, should not let things get under Plaintiff Aguilar's skin, and should
4 leave work early if he did not want to hear the maintenance employee's discriminatory remarks.
5 Thereafter, Plaintiff Aguilar felt discouraged to raise future complaints about workplace
6 discrimination because of Defendant Stuart's response.

7 20. On or around March 6, 2018, an MHA maintenance employee subjected Plaintiff
8 Aguilar to anti-Latino and anti-immigrant remarks. An MHA maintenance employee said,
9 "Mexicans, illegals they can come across the border, and rape or, murder, they just send them
10 back across the border and they come back and do it again!" Plaintiff Aguilar felt that his safety
11 was at risk as the only Latino present at the time.

12 21. Upon information and belief, on or before Friday, March, 9, 2018, Defendant
13 Stuart contacted Defendant Robert Half Staffing Agency to discuss Plaintiff Aguilar's MHA
14 employment. During that conversation, Defendants Stuart and Robert Half Staffing Agency
15 agreed to terminate Plaintiff Aguilar's MHA employment.

16 22. On Friday, March 9, 2018, a Defendant Robert Half Staffing Agency employee
17 called Plaintiff Aguilar shortly after Plaintiff Aguilar returned home from his work shift at MHA.
18 A Defendant Robert Half Staffing Agency employee named Ben called Plaintiff Aguilar on
19 Defendant Stuart's behalf to inform Plaintiff Aguilar that he was fired from his position at MHA.

20 23. Another Defendant Robert Half Staffing Agency employee and supervisor, Luisa
21 McInnis, told Plaintiff Aguilar that Defendant MHA fired him because Defendant Stuart thought
22 that Plaintiff Aguilar was not a good fit for Defendant MHA because of Plaintiff Aguilar's
23 comment to Defendant Stuart after the community meeting with the Golden Gate Village
24 residents. A Defendant Robert Half Staffing Agency employee and Supervisor McInnis told
25 Plaintiff Aguilar that his file indicated that he received high marks for job performance.

26 24. Defendant MHA employees' and Defendant Stuart's treatment of Plaintiff Aguilar
27 led him to fear for his safety and the safety of the Latino employees that he supervised at MHA.

28 25. MHA community members' anti-Latino remarks and MHA employees' anti-

1 Latino and anti-gay remarks also contributed to a work environment that Plaintiff Aguilar
2 perceived as hostile and abusive.

3 26. As a result of his employment at Defendant MHA, Plaintiff Aguilar suffers from
4 emotional harm, including increased anxiety, decreased appetite, lower self-esteem, sleep
5 deprivation, gastrointestinal issues, and fear.

6 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

7 27. Plaintiff Aguilar timely exhausted his administrative remedies by filing complaints
8 against Defendants with the County of Marin, the Economic Opportunity Employment
9 Commission (EEOC), and the California Department of Fair Employment and Housing (DFEH).
10 Plaintiff Aguilar subsequently received right-to-sue notices from the County of Marin, EEOC,
11 and DFEH.

12 **FIRST CLAIM**

13 **Retaliation**

14 **Title VII, 42 U.S.C. § 2000e-3**

15 **(Against Defendants MHA, MHA Board, and Stuart)**

16 28. Plaintiff Aguilar re-alleges and incorporates by reference the allegations set forth
17 in all prior paragraphs of this Complaint.

18 29. Plaintiff Aguilar was an employee of Defendant MHA.

19 30. Plaintiff Aguilar engaged in protected activities when he complained to Defendant
20 Stuart, an MHA supervisor and manager, about workplace discrimination, specifically anti-Latino
21 and anti-gay slurs.

22 31. Defendants MHA, Stuart, and the MHA Board (collectively “MHA Defendants”)
23 had notice of Plaintiff Aguilar’s discrimination complaints.

24 32. Defendant Stuart dismissed Plaintiff Aguilar’s complaints about workplace
25 discrimination at MHA. Defendant Stuart’s response dissuaded Plaintiff Aguilar from raising
26 future complaints about workplace discrimination at MHA.

27 33. Shortly thereafter, MHA Defendants terminated Plaintiff Aguilar because Plaintiff
28 Aguilar engaged in protected activity when he complained about workplace discrimination.

1 Alternatively, Plaintiff Aguilar's complaints about workplace discrimination were a motivating
2 factor in MHA Defendants' adverse employment actions.

3 34. Defendant Stuart decided to terminate Plaintiff Aguilar. Plaintiff Aguilar's
4 complaints about workplace discrimination were a substantial motivating factor in MHA
5 Defendants' decision to terminate Plaintiff Aguilar.

6 35. Additionally, MHA Defendants subjected Plaintiff Aguilar to adverse employment
7 actions including, but not limited to, maintenance of a hostile work environment despite Plaintiff
8 Aguilar's numerous complaints about workplace discrimination.

9 36. As a result of MHA Defendants' retaliation, Plaintiff Aguilar suffered harm,
10 including economic losses and emotional distress, in an amount to be determined at trial.

11 **SECOND CLAIM**

12 **Hostile Work Environment**

13 **Title VII, 42 U.S.C. § 2000e-3**

14 **(Against Defendants MHA, MHA Board, and Stuart)**

15 37. Plaintiff Aguilar re-alleges and incorporates by reference the allegations set forth
16 in all prior paragraphs of this Complaint.

17 38. Plaintiff Aguilar was an employee of Defendant MHA.

18 39. MHA Defendants subjected Plaintiff Aguilar to a pattern of unwelcomed racial
19 discriminatory harassment at MHA that was sufficiently severe and pervasive to alter the
20 conditions of his employment. Plaintiff Aguilar experienced fear for himself and Latino
21 employees at MHA.

22 40. MHA Defendants subjected Plaintiff Aguilar to a pattern of discriminatory
23 harassment that lasted the duration of Plaintiff Aguilar's MHA employment.

24 41. MHA Defendants' employees, including Defendant Stuart, and MHA community
25 members directed unwelcomed anti-Latino insults, jokes, and comments around or to Plaintiff
26 Aguilar because Plaintiff Aguilar is Latino.

27 42. MHA Defendants perpetrated a race-motivated and national-origin-motivated
28 pattern of discriminatory harassment against Plaintiff Aguilar that interfered with his work and

1 unjustifiably harmed the reputation of him and Latinos, which made Plaintiff Aguilar's job more
2 difficult. Plaintiff Aguilar feared for the safety of Latinos at MHA.

3 43. Plaintiff Aguilar believed that his work environment was abusive and hostile.

4 44. Any reasonable employee in Plaintiff Aguilar's circumstances would believe that
5 Defendant MHA's work environment was abusive and hostile.

6 45. Plaintiff Aguilar put MHA Defendants on notice of harassing conduct at MHA
7 when he complained to MHA management, Defendant Stuart, about racial, national-origin, and
8 anti-gay workplace discrimination, specifically community members' and MHA employees' anti-
9 Latino and anti-gay remarks.

10 46. Defendant Stuart dismissed Plaintiff Aguilar's complaints about racial, national-
11 origin, and anti-gay workplace discrimination.

12 47. MHA Defendants acquiesced in community members' and MHA employees'
13 harassing conduct by failing to take adequate remedial action after Plaintiff Aguilar complained
14 to MHA management, Defendant Stuart, about racial, national-origin, and anti-gay workplace
15 discrimination.

16 48. MHA Defendants maintained a hostile work environment at MHA when MHA
17 management failed to undertake adequate remedial action reasonably calculated to end the
18 harassing conduct.

19 49. Defendant Stuart decided to terminate Plaintiff Aguilar. Plaintiff Aguilar's
20 complaints about workplace discrimination were, at least, a substantial or motivating factor in
21 Defendant Stuart's decision to terminate Plaintiff Aguilar.

22 50. As a result of MHA Defendants' maintenance of a hostile work environment,
23 Plaintiff Aguilar suffered harm, including economic losses and emotional distress, in an amount
24 to be determined at trial.

25 ///

26 ///

27 ///

28 ///

THIRD CLAIM

Retaliation

42 U.S.C. § 1981(b)

(Against Defendants MHA, MHA Board, and Stuart)

1
2
3
4
5 51. Plaintiff Aguilar re-alleges and incorporates by reference the allegations set forth
6 in all prior paragraphs of this Complaint.

7 52. Plaintiff Aguilar was an employee of Defendant MHA.

8 53. Plaintiff Aguilar engaged in protected activities when he complained to Defendant
9 Stuart, an MHA supervisor and manager, about workplace discrimination, specifically anti-Latino
10 and anti-gay slurs.

11 54. MHA Defendants had notice of Plaintiff Aguilar's discrimination complaints.

12 55. Defendant Stuart dismissed Plaintiff Aguilar's complaints about workplace
13 discrimination at MHA and Defendant Stuart's response dissuaded Plaintiff Aguilar from raising
14 future complaints about workplace discrimination at MHA.

15 56. Shortly thereafter, MHA Defendants breached their contract with Plaintiff Aguilar
16 when they terminated Plaintiff Aguilar because Plaintiff Aguilar engaged in protected activity
17 when he complained about workplace discrimination. Alternatively, Plaintiff Aguilar's
18 complaints about workplace discrimination were a motivating factor in MHA Defendants'
19 adverse employment action.

20 57. Defendant Stuart decided to terminate Plaintiff Aguilar. Plaintiff Aguilar's
21 complaints about workplace discrimination were, at least, a substantial or motivating factor in
22 MHA Defendants' decision to terminate Plaintiff Aguilar.

23 58. Additionally, MHA Defendants subjected Plaintiff Aguilar to adverse employment
24 actions including, but not limited to, maintenance of a hostile work environment despite Plaintiff
25 Aguilar's numerous complaints about workplace discrimination.

26 59. As a result of the MHA Defendants' retaliation, Plaintiff Aguilar suffered harm,
27 including economic losses and emotional distress, in an amount to be determined at trial.
28

FOURTH CLAIM

Hostile Work Environment

42 U.S.C. § 1981(b)

(Against Defendants MHA, MHA Board, and Stuart)

1
2
3
4
5 60. Plaintiff Aguilar re-alleges and incorporates by reference the allegations set forth
6 in all prior paragraphs of this Complaint.

7 61. Plaintiff Aguilar was an employee of Defendant MHA.

8 62. MHA Defendants' employees, including Defendant Stuart, directed anti-Latino
9 insults, jokes, and comments around or to Plaintiff Aguilar because Plaintiff Aguilar is Latino.

10 63. MHA Defendants, including Defendant Stuart, MHA employees, and community
11 members, perpetrated a race-motivated and national-origin-motivated pattern of unwelcomed
12 discriminatory harassment against Plaintiff Aguilar that interfered with his work and unjustifiably
13 harmed the reputation of him and Latinos, which made Plaintiff Aguilar's job more difficult.

14 64. MHA Defendants' conduct was motivated by Plaintiff Aguilar's race because the
15 anti-Latino comments were made when Plaintiff Aguilar was the only Latino present.

16 65. MHA Defendants subjected Plaintiff Aguilar to a pattern of discriminatory
17 harassment that lasted the duration of Plaintiff Aguilar's MHA employment.

18 66. Plaintiff Aguilar believed that his work environment was abusive and hostile.

19 67. Any reasonable employee in Plaintiff Aguilar's circumstances would believe that
20 Defendant MHA's work environment was abusive and hostile.

21 68. MHA Defendants subjected Plaintiff Aguilar to a pattern of unwelcomed
22 discriminatory harassment at MHA that was sufficiently severe and pervasive to alter the
23 conditions of his employment. Plaintiff Aguilar experienced fear for himself and other Latino
24 employees at MHA.

25 69. Plaintiff Aguilar put MHA Defendants on notice of harassing conduct at MHA
26 when he complained to MHA management, Defendant Stuart, about racial, national-origin, and
27 anti-gay workplace discrimination, specifically community members' and MHA employees' anti-
28 Latino and anti-gay remarks.

1 70. As a manager and supervisor, Defendant Stuart had a duty and the authority to take
2 remedial action reasonably calculated to end the harassing conduct at MHA.

3 71. Defendant Stuart dismissed Plaintiff Aguilar's complaints about racial, national-
4 origin, and anti-gay workplace discrimination.

5 72. MHA Defendants acquiesced in community members' and MHA employees'
6 harassing conduct by failing to take adequate remedial action after Plaintiff Aguilar complained
7 to MHA management, Defendant Stuart, about racial, national-origin, and anti-gay workplace
8 discrimination.

9 73. MHA Defendants maintained a hostile work environment at MHA when MHA
10 management failed to undertake adequate remedial action reasonably calculated to end the
11 harassing conduct.

12 74. As a result of MHA Defendants' maintenance of a hostile work environment,
13 Plaintiff Aguilar suffered harm, including economic losses and emotional distress, in an amount
14 to be determined at trial.

15 **FIFTH CLAIM**

16 **Retaliation**

17 **CAL. GOV'T CODE § 12940 *et seq.***

18 **(Against Defendants MHA, MHA Board, and Stuart)**

19 75. Plaintiff Aguilar re-alleges and incorporates by reference the allegations set forth
20 in all prior paragraphs of this Complaint.

21 76. Plaintiff Aguilar was an employee of Defendant MHA.

22 77. Plaintiff Aguilar engaged in protected activities when he complained to Defendant
23 Stuart, an MHA supervisor and manager, about workplace discrimination, specifically anti-Latino
24 and anti-gay slurs.

25 78. MHA Defendants had notice of Plaintiff Aguilar's discrimination complaints.

26 79. Defendant Stuart dismissed Plaintiff Aguilar's complaints about workplace
27 discrimination at MHA, and Defendant Stuart's response dissuaded Plaintiff Aguilar from raising
28 future complaints about workplace discrimination at MHA.

1 80. Shortly thereafter, MHA Defendants terminated Plaintiff Aguilar because Plaintiff
2 Aguilar engaged in protected activity when he complained about workplace discrimination.
3 Alternatively, Plaintiff Aguilar's complaints about workplace discrimination were a motivating
4 factor in MHA Defendants' adverse employment action.

5 81. Defendant Stuart decided to terminate Plaintiff Aguilar. Plaintiff Aguilar's
6 complaints about workplace discrimination were, at least, a substantial or motivating factor in
7 MHA Defendants' decision to terminate Plaintiff Aguilar.

8 82. Additionally, MHA Defendants subjected Plaintiff Aguilar to adverse employment
9 actions including, but not limited to, maintenance of a hostile work environment despite Plaintiff
10 Aguilar's numerous complaints about workplace discrimination.

11 83. As a result of MHA Defendants' retaliation, Plaintiff Aguilar suffered harm,
12 including economic losses and emotional distress, in an amount to be determined at trial.

13 **SIXTH CLAIM**

14 **Hostile Work Environment**

15 **CAL. GOV'T CODE § 12940 *et seq.***

16 **(Against Defendants MHA, MHA Board, and Stuart)**

17 84. Plaintiff Aguilar re-alleges and incorporates by reference the allegations set forth
18 in all prior paragraphs of this Complaint.

19 85. Plaintiff Aguilar was an employee of Defendant MHA.

20 86. MHA Defendants subjected Plaintiff Aguilar to a pattern of unwelcomed racial
21 discriminatory harassment at MHA that was sufficiently severe and pervasive to alter the
22 conditions of his employment. Plaintiff Aguilar experienced fear for himself and Latino
23 employees at MHA.

24 87. MHA Defendants subjected Plaintiff Aguilar to a pattern of discriminatory
25 harassment that lasted the duration of Plaintiff Aguilar's MHA employment.

26 88. MHA Defendants' employees, including Defendant Stuart, and MHA community
27 members directed unwelcomed anti-Latino insults, jokes, and comments around or to Plaintiff
28 Aguilar because Plaintiff Aguilar is Latino.

1 89. MHA Defendants perpetrated a race-motivated and national-origin-motivated
2 pattern of discriminatory harassment against Plaintiff Aguilar that interfered with his work and
3 unjustifiably harmed the reputation of him and Latinos, which made Plaintiff Aguilar's job more
4 difficult. Plaintiff Aguilar feared for the safety of Latinos at MHA.

5 90. Plaintiff Aguilar believed that his work environment was abusive and hostile.

6 91. Any reasonable employee in Plaintiff Aguilar's circumstances would believe that
7 Defendant MHA's work environment was abusive and hostile.

8 92. Plaintiff Aguilar put MHA Defendants on notice of harassing conduct at MHA
9 when he complained to MHA management, Defendant Stuart, about racial, national-origin, and
10 anti-gay workplace discrimination, specifically community members' and MHA employees' anti-
11 Latino and anti-gay remarks.

12 93. As a manager and supervisor, Defendant Stuart had a duty and the authority to take
13 remedial action reasonably calculated to end the harassing conduct at MHA.

14 94. Defendant Stuart dismissed Plaintiff Aguilar's complaints about racial, national-
15 origin, and anti-gay workplace discrimination.

16 95. MHA Defendants acquiesced in community members' and MHA employees'
17 harassing conduct by failing to take adequate remedial action after Plaintiff Aguilar complained
18 to MHA management, Defendant Stuart, about racial, national-origin, and anti-gay workplace
19 discrimination.

20 96. MHA Defendants maintained a hostile work environment at MHA when MHA
21 management failed to undertake adequate remedial action reasonably calculated to end the
22 harassing conduct.

23 97. Defendant Stuart decided to terminate Plaintiff Aguilar. Plaintiff Aguilar's
24 complaints about workplace discrimination were, at least, a substantial or motivating factor in
25 Defendant Stuart's decision to terminate Plaintiff Aguilar.

26 98. As a result of MHA Defendants' maintenance of a hostile work environment,
27 Plaintiff Aguilar suffered harm, including economic losses and emotional distress, in an amount
28 to be determined at trial.

SEVENTH CLAIM

Common Law Wrongful Discharge

California's Anti-Discrimination and Anti-Retaliation Public Policies

(Against Defendants MHA, MHA Board, Stuart, and Robert Half Staffing Agency)

1
2
3
4
5 99. Plaintiff Aguilar re-alleges and incorporates by reference the allegations set forth
6 in all prior paragraphs of this Complaint.

7 100. MHA Defendants, at all material times, violated California public policies by
8 maintaining a hostile work environment that discriminated against Plaintiff Aguilar, and
9 Defendants later violated California public policies by terminating Plaintiff Aguilar in retaliation
10 for his complaints about workplace discrimination.

11 101. Defendant Stuart decided to terminate Plaintiff Aguilar. Plaintiff Aguilar's
12 complaints about workplace discrimination were, at least, a substantial or motivating factor in
13 Defendant Stuart's decision to terminate Plaintiff Aguilar.

14 102. Defendant Robert Half Staffing Agency terminated Plaintiff Aguilar on MHA
15 Defendants' behalf. Defendant Robert Half Staffing Agency had notice that Plaintiff Aguilar
16 complained to Defendant Stuart about workplace discrimination at MHA. Plaintiff Aguilar's
17 complaints about workplace discrimination to Defendant Stuart were, at least, a substantial or
18 motivating factor in Defendant Robert Half Staffing Agency's decision to terminate Plaintiff
19 Aguilar on MHA Defendants' behalf.

20 103. Defendants terminated, and/or caused the termination of, Plaintiff Aguilar as
21 retaliation for complaining about workplace discrimination, and/or as part of their national-origin
22 based discrimination against him.

23 104. Defendants' discharge of Plaintiff Aguilar harmed him, including economic loses
24 and emotional distress, in amounts to be determined at trial.

25 105. Defendants' actions were willful, malicious, oppressive, and committed with the
26 wrongful intent to injure Plaintiff Aguilar, and in conscious disregard of his rights.

27 ///

28 ///

EIGHTH CLAIM

Intentional Infliction of Emotional Distress

(Against Defendants MHA, MHA Board, and Stuart)

1
2
3
4 106. Plaintiff Aguilar re-alleges and incorporates by reference the allegations set forth
5 in all prior paragraphs of this Complaint.

6 107. MHA Defendants' anti-Latino and anti-gay remarks were outrageous.

7 108. Plaintiff Aguilar believed that his work environment was abusive, hostile, and
8 distressful.

9 109. MHA Defendants' comments to and around Plaintiff Aguilar caused Plaintiff
10 Aguilar to suffer emotional harm, including increased anxiety, decreased appetite, lower self-
11 esteem, sleep deprivation, gastrointestinal issues, and fear.

12 110. Any reasonable employee in Plaintiff Aguilar's circumstances would believe that
13 Defendant MHA's anti-Latino and anti-gay remarks were abusive, hostile, and distressful.

14 111. MHA Defendants' comments to and around Plaintiff Aguilar were substantial
15 factors in causing Plaintiff Aguilar to suffer emotional harm, including increased anxiety,
16 decreased appetite, lower self-esteem, sleep deprivation, gastrointestinal issues, and fear.

17 112. MHA Defendants' discriminatory comments to and around Plaintiff Aguilar were
18 made intentionally, or with reckless disregard, that Plaintiff Aguilar would suffer emotional
19 distress because the discriminatory comments were made knowing that Plaintiff Aguilar was
20 present when the conduct occurred.

21 113. MHA Defendants' discharge of Plaintiff Aguilar harmed him, including economic
22 loses and emotional distress, in amounts to be determined at trial.

23 114. MHA Defendants' actions were willful, malicious, oppressive, and committed
24 with the wrongful intent to injure Plaintiff Aguilar, and in conscious disregard of his rights.

25 ///

26 ///

27 ///

28 ///

NINTH CLAIM

Conspiracy

Conspiracy in Violation of 42 U.S.C. § 1985(3)

(Against Defendants MHA, MHA Board, Stuart, and Robert Half Staffing Agency)

115. Plaintiff Aguilar incorporates all of the allegations contained in the previous paragraphs of this complaint as though fully set forth here.

116. Defendants conspired together to terminate Plaintiff Aguilar.

117. Defendants acted willfully, deliberately, maliciously or with reckless disregard for the Plaintiff Aguilar's civil rights.

118. As a result of Defendants' acts in furtherance of the conspiracy, Plaintiff Aguilar suffered damages, including, but not limited to, loss of due process, humiliation, fear, and emotional distress. Plaintiff Aguilar is entitled to general and punitive damages in an amount to be determined at trial.

JURY DEMAND

119. Plaintiff Aguilar demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Aguilar respectfully prays that this Court enter Judgment granting Plaintiff Aguilar:

1. General damages, including compensatory damages according to proof;
2. Punitive damages according to proof;
3. Reasonable attorneys' fees and expenses of this litigation, including under 42 U.S.C § 1988;
4. Interest at the maximum legal rate for all sums awarded; and
5. Such other and further relief as the Court may deem just and proper.

///

///

///

///

1 Dated: January 30, 2019

Respectfully submitted,

2 MEXICAN AMERICAN LEGAL DEFENSE AND
3 EDUCATIONAL FUND

4 /s/ Andrés R. Holguin-Flores

5 Thomas A. Saenz

6 Denise Hulett

7 Andrés R. Holguin-Flores

8 *Attorneys for Plaintiff Russell Aguilar*

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28