



CITY ATTORNEY DENNIS HERRERA

NEWS RELEASE

FOR IMMEDIATE RELEASE
MONDAY, JANUARY 30, 2012

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Herrera, SFPD target illicit drug trafficking, nuisances at two Tenderloin markets

Lawsuits seek one-year closure, thousands in penalties for operating 'safe haven' for drug dealers in proximity to schools, senior centers

SAN FRANCISCO (Jan. 30, 2012)—City Attorney Dennis Herrera was joined by San Francisco Police Chief Greg Suhr at a news conference this morning to announce the filing today of civil lawsuits against two Tenderloin markets for facilitating rampant illicit drug trafficking in close proximity to schools, playgrounds, daycare centers, and senior housing. The litigation follows undercover police investigations that for more than two years documented numerous instances in which the markets operated as virtual safe havens for the sale of cocaine, crack, heroin, prescription painkillers and other drugs. Both markets were also found to have engaged in the purchase and resale of stolen merchandise, according to the city's complaints.

Defendants Barah Market (also known as "Azaal Market"), at 200 Leavenworth Street, and Razan Deli, at 391 Ellis Street, have been the subject of a combined 182 calls for police service during 2011 alone, and are believed to have played a role in hundreds of other nearby incidents requiring a police response. Herrera is seeking court orders to close both businesses for a period of one year; civil penalties of \$25,000 each for maintaining a public nuisance; additional penalties of \$2,500 for each act of unlawful business practices; disgorgement of all profits from illegal activities; restitution; and attorneys' fees and costs—including costs of the investigation. The dual lawsuits filed in San Francisco Superior Court this morning allege multiple violations of the California Drug Abatement Act, Unfair Competition Law, and other state and local laws.

"The markets we are suing today have played central roles in drug dealing and other crimes that have afflicted this neighborhood for too long," said Herrera. "Barah Market and Razan Deli are profiting illegally from a drug trade that devastates human lives, and puts enormous burdens on our police and public health services. Their lawlessness shows contempt for the health and safety of neighbors—especially nearby children and seniors—and diminishes this neighborhood's quality of life. I'm very grateful for the opportunity to work with the San Francisco Police Department under the leadership of Chief Greg Suhr. Their excellent work has enabled us to build a strong factual basis for our litigation, which we hope will go a long way toward protecting residents and improving the neighborhood."

"We are grateful to City Attorney Herrera and his office for bringing suit against these two businesses," said San Francisco Police Chief Greg Suhr. "The SFPD and the CAO, on behalf and with the support of San Francisco's affected neighborhoods, work together to identify irresponsible businesses and bring

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them into compliance. There is no place in this City for businesses that allow, engage in, and/or support criminal activity.”

PDF copies of the complaints are available for download from the City Attorney’s Web site at the following URL: <http://www.sfcityattorney.org/>.

###

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10 CALIFORNIA

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SAN FRANCISCO
13 UNLIMITED JURISDICTION

14 CITY AND COUNTY OF SAN
15 FRANCISCO, a Municipal Corporation, and
the PEOPLE OF THE STATE OF
16 CALIFORNIA, by and through Dennis J.
Herrera, City Attorney for the City and County
17 of San Francisco,

18 Plaintiffs,

19 vs.

20 JABER A. ALGAHIM, an individual and
DBA AZAAL MARKET, DOE 1 through
21 DOE 50,

22 Defendants.

Case No.

COMPLAINT FOR INJUNCTIVE AND OTHER
RELIEF

Type of Case: (42) Other Complaint

23
24 The CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, and the PEOPLE
25 OF THE STATE OF CALIFORNIA, by and through San Francisco City Attorney DENNIS J.
26 HERRERA (collectively "Plaintiffs"), file their Complaint against Defendants JABER A. ALGAHIM,
27 an individual and d/b/a AZAAL MARKET, and DOE ONE through DOE FIFTY (collectively

1 "Defendants"). Plaintiffs hereby allege as set forth below:

2 **INTRODUCTION**

3 1. This action arises out of Defendants' ownership, lease, use, maintenance, operation and
4 management of Azaal Market¹, a commercial business located on the ground floor of 200
5 Leavenworth Street, Assessor's Block 0338, Lot 013, San Francisco, California ("Azaal"), on the
6 northeast corner of Turk and Leavenworth Streets. The northeast corner of Turk and Leavenworth
7 Streets is notorious for high incidents of crime, including the sale and use of illegal narcotics

8 2. Defendants contribute to the problems on this corner by maintaining a safe haven at
9 Azaal for drug dealers and users. Defendants permit the sale, service, storage, and possession of
10 controlled substances at Azaal. Drug dealers routinely loiter inside, and in front of, Azaal, attracting
11 large groups of drug users to the area.

12 3. Defendants' ongoing violations of law contribute to an increased neighborhood
13 presence of illicit drug users and dealers and a panoply of general public nuisance conditions related to
14 the ingestion and sale of illegal drugs, such as assaults, the accumulation of drug paraphernalia refuse
15 on sidewalks, and loitering. Defendants' maintenance of Azaal as a public nuisance threatens the
16 health and safety of the surrounding neighborhood which includes a primary school and a daycare
17 center, a school bus stop, two parks, housing for senior citizens, and a host of families with small
18 children who live nearby.

19 4. Defendants also operate Azaal in an illegal manner by knowingly purchasing stolen
20 products for resale at Azaal.

21 5. By allowing controlled substances to be sold, served, stored, kept, manufactured, or
22 given away at Azaal, Defendants have maintained the Property as a *per se* public nuisance, in violation
23 of the state Drug Abatement Law, California Health and Safety Code Sections 11570-11587, and
24 California Civil Code Sections 3479, 3480, 3491, and 3494.

25 6. By maintaining Azaal in repeated violation of applicable state and local laws and as a

26 _____
27 ¹ While Azaal at 200 Leavenworth Street is legally registered as Azaal Market, "Barah Market"
28 is still posted on the outside of Azaal. Consequently, Azaal Market is also commonly known in the
community as "Barah Market".

1 public nuisance, Defendants have demonstrated a conspiracy to, and a pattern and practice of,
2 engaging in unfair and unlawful business practices in violation of the Unfair Competition Law
3 ("UCL"), California Business and Professions Code Sections 17200-17210.

4 **PARTIES AND SUBJECT PROPERTY**

5 7. Plaintiff City and County of San Francisco (the "City") is a municipal corporation
6 organized and existing under and by virtue of the laws of the State of California, and is a city and
7 county.

8 8. The CITY brings this action under California Civil Code Sections 3479, 3480, 3491,
9 3494; and California Code of Civil Procedure Section 731.

10 9. Plaintiff PEOPLE OF THE STATE OF CALIFORNIA, by and through Dennis J.
11 Herrera, City Attorney of the City and County of San Francisco, brings this action pursuant to
12 California Health and Safety Code Sections 11570 – 11587 (the "Drug Abatement Act"), California
13 Business and Professions Code Sections 17200-17210 (the "Unfair Competition Law"), California
14 Civil Code Sections 3479, 3480, 3491, 3494, and California Code of Civil Procedure Section 731.

15 10. From at least March 2009 to the present, Defendants JABER A. ALGAHIM, an
16 individual and d/b/a AZAAL MARKET have been the owners and managers of Azaal, a commercial
17 business located in the City and County of San Francisco.

18 11. Azaal is a market, engaging in the retail sale of food and tobacco items, and is subject
19 to the permit requirements under San Francisco Health Code sections 1009.52-1009.53.

20 12. Defendants DOE ONE through DOE FIFTY are sued herein under fictitious names.
21 Plaintiffs do not at this time know the true names or capacities of said defendants, but pray that the
22 same may be alleged herein when ascertained.

23 13. At all times herein mentioned, each Defendant was an agent, servant, employee,
24 partner, franchisee and joint venturer of each other defendant and at all times was acting within the
25 course and scope of said agency, service, employment, partnership, franchise and joint venture.
26 Actions taken, or omissions made, by Defendants' employees or agents in the course of their
27 employment or agency at Azaal are considered to be actions or omissions of Defendants for the

1 purposes of this Complaint.

2 **GENERAL ALLEGATIONS**

3 14. Azaal serves as a safe haven for drug dealers to conduct their illegal business.
4 Numerous known drug dealers loiter directly in front of and inside Azaal on a daily basis with no
5 effort by Defendants to dissuade them. Hand-to-hand drug sales routinely occur in the front doorway
6 of Azaal with no effort by Defendants to dissuade them.

7 15. Drug dealers routinely walk into Azaal when police cars drive by. When the police
8 drive away, the dealers return outside to continue their trade. In order to walk into Azaal, it is often
9 necessary to maneuver around numerous drug dealers who stand right at the entrance to Azaal, with no
10 effort by Defendants to dissuade them.

11 16. Defendants are not only aware of the numerous drug sales that occur in and around
12 Azaal, but also allow and facilitate such sales to the extent that dealers feel safe conducting their
13 business in and around Azaal.

14 17. Defendants' ongoing violations of law at Azaal contribute to an increased neighborhood
15 presence of illicit drug users and dealers and a panoply of general public nuisance conditions related to
16 the ingestion and sale of illegal drugs, such as assaults, the accumulation of drug paraphernalia refuse
17 on sidewalks, and loitering. Individuals walking by Azaal, including children on their way to nearby
18 schools, have to step over human feces and used drug paraphernalia and maneuver around dealers who
19 approach passerby offering drugs for sale.

20 18. Defendants' maintenance of Azaal as a public nuisance threatens the health and safety
21 of the surrounding neighborhood which includes a primary school and a daycare center, a school bus
22 stop, two parks, housing for senior citizens, and a host of families with small children who live nearby.
23 The situation in this area has so deteriorated that, on weekdays, officers from the Tenderloin Police
24 Station routinely conduct fixed post positions during the hours that children board and exit at the bus
25 stop.

26 19. The problems caused by Defendants' illegal activities require constant police attention,
27 thereby draining valuable police resources that cannot be devoted to other areas.

1 20. Since at least September 2009 to the present, Defendants have permitted Azaal to be
2 used for the sale of narcotics and narcotics paraphernalia and have engaged in the purchase and sale of
3 stolen property as follows:

4 a. On September 10, 2009, an undercover officer from the San Francisco Police
5 Department ("SFPD") purchased oxycodone from a drug dealer in front of Azaal.

6 b. On October 28, 2009, an undercover officer from the SFPD purchased cocaine and
7 heroin from two different drug dealers inside Azaal in full view of Defendants.

8 c. On March 10, 2011, an undercover officer from the SFPD went to Azaal with a bag of
9 what he represented to Defendants as merchandise stolen from Walgreens. Defendants
10 purchased the merchandise. Defendants told the officer to return with additional merchandise,
11 and he would purchase those items as well.

12 d. On April 9, 2011, officers of the SFPD witnessed two men standing in front of Azaal,
13 inspecting heroin in their hands. Officers arrested both men for possession of heroin.

14 e. On April 11, 2011, an undercover officer of the SFPD purchased heroin from a man
15 right in front of Azaal. The officer arrested the man for selling heroin.

16 f. On May 24, 2011, an undercover officer of the SFPD went to Azaal with a bag of what
17 he represented to Defendants as merchandise stolen from Walgreens. Defendants purchased
18 the merchandise. Defendants asked the officer to bring more items in the future, but to take the
19 Walgreens sticker off of each item.

20 g. On May 24, 2011, a woman standaing on the corner of Leavenworth and Turk offered
21 to sell oxycodone to an undercover officer of the SFPD. The officer declined. Another officer
22 later saw the same woman standing right in front of Azaal. It appeared that the woman had
23 something stuffed into her bra and the officer asked her to shake it out. When she did so,
24 plastic stuck out of the side of her bra. She was taken into custody and searched, and officers
25 discovered oxycodone, heroin, hydromorphone and \$316.00 in cash in her left bra cup. The
26 woman was arrested.

27 h. On May 25, 2011, an undercover officer of the SFPD went to Azaal with another bag of
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1 merchandise allegedly stolen from Walgreens. Defendants purchased the merchandise.
2 Defendants then walked the officer around Azaal to show additional merchandise that the
3 officer should bring the next time. As Defendants showed the officer the needed items, the
4 officer saw multiple drug deals occurring right in front of Azaal, in full view of Defendants.
5 The officer then approached one of the dealers outside Azaal and asked to buy drugs. The
6 dealer walked into Azaal and asked Defendants whether the officer was "good". Defendants
7 told the dealer that the officer was "good." The dealer then sold two tablets of OP 40s (an
8 opiate-based painkiller) to the officer. Another dealer then approached the officer and offered
9 to sell him OC 80s (Oxycontin). The officer agreed to the buy, but insisted that the sale
10 happen inside Azaal. The officer and the dealer then went inside Azaal. As the sale was being
11 conducted, Defendants told them to move the sale outside. They then moved directly outside
12 the front door of Azaal and completed the transaction.

13 i. On May 29, 2011, an undercover officer of the SFPD was approached by a drug dealer
14 on Leavenworth Street who offered to sell him percocet. When the officer handed the man a
15 \$20.00 bill, he gave the officer 3 pills and told him he would get more and walked toward the
16 corner of Turk and Leavenworth Street, in front of Azaal. Another man then approached the
17 first man and said, "five O," the street term for police. The two men then walked away and the
18 other officers in the area placed the two men under arrest.

19 j. On October 1, 2011, an undercover officer was approached by a drug dealer on the 100
20 block of Jones Street. The officer asked to buy Oxycodone. The dealer told the officer that he
21 did not have any, but he could take the officer to someone who did have what the officer
22 wanted. The dealer then took the officer to Azaal. Inside Azaal, the dealer approached another
23 dealer, and obtained Oxycodone. The first dealer then came out of Azaal and sold the
24 Oxycodone to the officer.

25 k. On October 19, 2011, officers saw a man and a woman conduct a drug sale right in
26 front of Azaal. When officers arrested the man and woman, they found them both in possession
27 of heroin.

1 stored, or possessed controlled substances at Azaal and/or permitted the sale, storage, possession,
2 manufacture, consumption or distribution of controlled substances at Azaal. Such conduct constitutes
3 a nuisance as a matter of law pursuant to California Health and Safety Code Section 11570.

4 23. Pursuant to California Health and Safety Code Section 11581, Plaintiffs request that the
5 Court close Azaal for one year and impose civil penalties of \$25,000.00 against each Defendant to
6 prevent Defendants from continuing to maintain a nuisance at Azaal.

7 24. Unless said nuisance is abated, the residents and citizens of the City and County of San
8 Francisco and the People of California will suffer irreparable injury and damage, in that said
9 conditions will continue to be dangerous to the life, safety or health of those who live and work near
10 Azaal and the general public.

11 25. Plaintiffs have no adequate remedy at law in that damages alone are insufficient to
12 protect the public from the present injury and harm caused by the conduct described above.

13 **SECOND CAUSE OF ACTION**

14 **FOR PUBLIC NUISANCE BROUGHT BY PLAINTIFFS PEOPLE OF THE STATE OF**
15 **CALIFORNIA AND CITY AND COUNTY OF SAN FRANCISCO AGAINST ALL**
16 **DEFENDANTS**

17 **(Civil Code Section 3479 et seq.)**

18 26. Plaintiffs hereby incorporate by reference paragraphs 1 through 25 as though fully set
19 forth herein.

20 27. Plaintiffs bring this action pursuant to Code of Civil Procedure Section 731 and Civil
21 Code Section 3494.

22 28. By permitting the above described injurious, illegal, annoying and disruptive activities
23 to occur and exist at Azaal, Defendants have caused and maintained a continuing public nuisance
24 within the meaning of California Civil Code Section 3479 and 3480. These activities are injurious to
25 health and offensive to the senses so as to interfere with the comfortable enjoyment of life or property
26 in an entire community or neighborhood.

27 29. At all times herein mentioned, Defendants had notice and knowledge that Azaal
28 constituted a public nuisance.

30. Plaintiffs have no adequate remedy at law in that damages are insufficient to protect the

1 public from the present danger and harm caused by the conditions described above.

2 31. Plaintiffs are informed and believe that Defendants will continue to maintain Azaal in
3 the above-described condition as a public nuisance.

4 32. Unless said nuisance is abated, the surrounding community and neighborhood, and the
5 residents and citizens of the City and County of San Francisco, will suffer irreparable injury and
6 damage, in that said conditions will continue to be injurious to the enjoyment and the free use of the
7 life and property of said citizens and residents of the City and County of San Francisco.

8 **THIRD CAUSE OF ACTION**
9 **FOR UNFAIR AND UNLAWFUL BUSINESS PRACTICES BROUGHT BY PLAINTIFF**
10 **PEOPLE OF THE STATE OF CALIFORNIA AGAINST ALL DEFENDANTS**
11 **(California Business and Professions Code Sections 17200-17210)**

12 33. Plaintiff hereby incorporates by reference paragraphs 1 through 33 as though fully set
13 forth herein.

14 34. Plaintiff brings this cause of action in the public interest in the name of the People of
15 the State of California, pursuant to Business and Professions Code Section 17200, *et seq.*, in order to
16 protect the residents and owners of properties adjoining Azaal, as consumers and competitors of the
17 services provided by Defendants, from the unlawful and unfair business practices committed by
18 Defendants in the operation of Azaal within the City and County of San Francisco, State of California.

19 35. The violations of law described herein have been and are being carried out wholly or in
20 part within the City and County of San Francisco. The actions of Defendants are in violation of the
21 laws and public policies of the City and County of San Francisco and the State of California, and are
22 inimical to the rights and interest of the general public.

23 36. Defendants are now engaging in and, for a considerable period of time and at all times
24 pertinent to the allegations of this Complaint, have engaged in, unfair and unlawful business practices
25 prohibited by California's Unfair Competition Law by managing and operating Azaal in violation of
26 the following laws:

- California Health and Safety Code Sections 11570 -11587 by permitting the sale, storage, possession, manufacture, consumption or distribution of controlled substances at Azaal;
- California Civil Code Sections 3479 and 3480 by maintaining a public nuisance at Azaal; and
- California Penal Code section 496 by knowingly purchasing and selling stolen property.

37. As a direct and proximate result of the foregoing acts and practices, Defendants have received income, profits, and other benefits, which they would not have received if Defendants had not engaged in the violations of the Unfair Competition Law described in this Complaint.

38. As a direct and proximate result of the foregoing acts and practices, Defendants have obtained a competitive unfair advantage over similar businesses that have not engaged in such practices.

39. Plaintiff has no adequate remedy at law in that damages are insufficient to protect the public from the harm caused by the conditions described in this Complaint.

40. Unless injunctive relief is granted to enjoin the unfair and unlawful business practices of Defendants, Plaintiff will suffer irreparable injury and damage.

41. By engaging in unfair and unlawful business practices described herein, Defendants are each subject to civil penalties in the amount of \$2,500.00 per violation, pursuant to California Business and Professions Code Section 17206.

PRAYER

WHEREFORE, Plaintiffs pray that:

Declaratory Relief

1. Azaal be declared a public nuisance in violation of Civil Code Sections 3479 and 3480 and California Health and Safety Code Sections 11570 -11587;

2. Defendants be declared to have engaged in unfair and unlawful business acts and practices in violation of California Business and Professions Code Sections 17200-17210;

1 10. Defendants, and each of them, inclusive, be enjoined from spending, transferring,
2 encumbering, or removing from California any money received from Azaal or in payment for the
3 unfair and unlawful acts alleged in the Complaint;

4 **Penalties**

5 11. the Court impose civil penalties of \$25,000.00 against each Defendant to prevent them
6 from continuing to maintain a nuisance at Azaal, pursuant to California Health and Safety Code
7 Section 11581;

8 12. pursuant to Business and Professions Code Section 17206, Defendants be ordered to
9 each pay a civil penalty of \$2,500.00 for each act of unfair and unlawful competition in violation of
10 Business and Professions Code Sections 17200-17210;

11 13. Defendants be ordered to each pay an additional civil penalty of \$2,500.00 for every act
12 of unfair competition that harmed an elderly or disabled person pursuant to Business and Professions
13 Code Section 17206.1;

14 14. pursuant to Business and Professions Code Section 17203, Defendants be ordered to
15 disgorge all profits obtained through their unfair and unlawful business practices in violation of
16 Business and Professions Code Sections 17200-17210;

17 15. Defendants be ordered to pay restitution for money obtained through an unfair business
18 practice to those persons in interest from whom the property was taken, pursuant to California
19 Business and Professions Code Section 17203 and *People v. Beaumont Investment, Ltd., et al.* (2003)
20 111 Cal.App.4th 102, 134-136;

21 **Fees and Costs**

22 16. Defendants be ordered to pay reasonable attorney's fees and costs, including the cost of
23 investigation and discovery, pursuant to California Civil Code section 3496(c) and *City of Oakland v.*
24 *McCullough* (1996) 46 Cal.App.4th 1, 4.

25 17. Plaintiffs be awarded their costs incurred herein pursuant to Code of Civil Procedure
26 Section 1032; and

27 18. the Court grant such other and further relief as this Court should find just and proper.

28 Dated:

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DENNIS J. HERRERA
City Attorney
ALEX G. TSE
Chief Attorney
JENNIFER E. CHOI
JERRY THREET
Deputy City Attorneys

By: _____
JENNIFER E. CHOI
JERRY THREET

Attorneys for Plaintiffs
PEOPLE OF THE STATE OF CALIFORNIA and
CITY AND COUNTY OF SAN FRANCISCO

1 **PROOF OF SERVICE**

2 I, Morris Allen, declare as follows:

3 I am a citizen of the United States, over the age of eighteen years and not a party to the above-
4 entitled action. I am employed at the City Attorney's Office of San Francisco, 1390 Market Street
Building, 1390 Market Street, Sixth Floor, San Francisco, CA 94102.

5 On January 30, 2012, I served the following document(s):

6 **NAME OF DOCUMENT**

7 on the following persons at the locations specified:

8 J. Scott Weaver, Esq.
9 Wartelle, Weaver & Schreiber
369 Pine Street, Suite 506
San Francisco, CA 94104

Kevin K. Cholakian
Colin R. Hatcher
Richard Dana
Cholakian and Associates
400 Oyster Point Blvd., Suite 415
South San Francisco, CA 94080

10
11 in the manner indicated below:

12 **BY UNITED STATES MAIL:** Following ordinary business practices, I sealed true and correct copies of
13 the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with
the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's
14 Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed
for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

15 **BY PERSONAL SERVICE:** I sealed true and correct copies of the above documents in addressed
16 envelope(s) and caused such envelope(s) to be delivered by hand at the above locations by a professional
messenger service. **A declaration from the messenger who made the delivery** **is attached** or **will be**
17 **filed separately with the court.**

18 **BY OVERNIGHT DELIVERY:** I sealed true and correct copies of the above documents in addressed
19 envelope(s) and placed them at my workplace for collection and delivery by overnight courier service. I am
readily familiar with the practices of the San Francisco City Attorney's Office for sending overnight deliveries. In
20 the ordinary course of business, the sealed envelope(s) that I placed for collection would be collected by a courier
the same day.

21 **BY FACSIMILE:** Based on a written agreement of the parties to accept service by fax, I transmitted true and
22 correct copies of the above document(s) via a facsimile machine at telephone number Fax #' to the persons and the
fax numbers listed above. The fax transmission was reported as complete and without error. The transmission
23 report was properly issued by the transmitting facsimile machine, and **a copy of the transmission report** **is**
attached or **will be filed separately with the court.**

24 I declare under penalty of perjury pursuant to the laws of the State of California that the
foregoing is true and correct.

25 Executed January 30, 2012, at San Francisco, California.

26 _____
27 Morris Allen
28 _____

1 DENNIS J. HERRERA, State Bar #139669
City Attorney
2 ALEX G. TSE, State Bar #152348
Chief Attorney
3 Neighborhood and Resident Safety Division
JENNIFER E. CHOI, State Bar #184058
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8 Attorneys for Plaintiffs
9 CITY AND COUNTY OF SAN FRANCISCO
and PEOPLE OF THE STATE OF
10 CALIFORNIA

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
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13 UNLIMITED JURISDICTION

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26 HERRERA (collectively "Plaintiffs"), file their Complaint against Defendants WALID
27 ABDELRAHMAN, an individual and d/b/a RAZAN DELI AND GROCERY, and DOE ONE through

1 DOE FIFTY (collectively "Defendants"). Plaintiffs hereby allege as set forth below:

2 **INTRODUCTION**

3 1. This action arises out of Defendants' ownership, lease, use, maintenance, operation and
4 management of Razan Deli and Grocery, a commercial business located on the ground floor of 391
5 Ellis Street, Assessor's Block 0332, Lot 012, San Francisco, California ("Razan"). Razan is open 24
6 hours a day. Razan is located within the 300 block of Ellis Street and close to the corner of Ellis and
7 Jones Streets. Both areas are notorious for high incidents of crime and nuisance activity, including the
8 sale and use of illegal narcotics.

9 2. Defendants contribute to the problems in the 300 block of Ellis Street and the
10 surrounding neighborhood by maintaining a safe haven at Razan for drug dealers and users.
11 Defendants permit the sale, service, storage, and possession of controlled substances and drug
12 paraphernalia at Razan. Drug dealers routinely loiter inside, and in front of, Razan, attracting large
13 groups of drug users to this area.

14 3. Defendants' ongoing violations of law contribute to an increased neighborhood
15 presence of illicit drug users and dealers and a panoply of general public nuisance conditions related to
16 the ingestion and sale of illegal drugs, such as assaults, the accumulation of drug paraphernalia refuse
17 on sidewalks, and loitering. Defendants' maintenance of Razan as a public nuisance threatens the
18 health and safety of the surrounding neighborhood which includes a local children's playground, two
19 primary schools, housing for senior citizens, and a host of families with small children who live
20 nearby.

21 4. Defendants also operate Razan in an illegal manner by knowingly purchasing stolen
22 products for resale at Razan, and by selling illegal drug paraphernalia.

23 5. By allowing controlled substances to be sold, served, stored, kept, manufactured, or
24 given away at Razan, Defendants also have maintained the Property as a *per se* public nuisance, in
25 violation of the state Drug Abatement Law, California Health and Safety Code Sections 11570-11587,
26 and California Civil Code Sections 3479, 3480, 3491, and 3494.

27 6. By maintaining Razan in repeated violation of applicable state and local laws and as a
28

1 public nuisance, Defendants have demonstrated a conspiracy to, and a pattern and practice of,
2 engaging in unfair and unlawful business practices in violation of the Unfair Competition Law
3 ("UCL"), California Business and Professions Code Sections 17200-17210.

4 **PARTIES AND SUBJECT PROPERTY**

5 7. Plaintiff City and County of San Francisco (the "City") is a municipal corporation
6 organized and existing under and by virtue of the laws of the State of California, and is a city and
7 county.

8 8. The CITY brings this action under California Civil Code Sections 3479, 3480, 3491,
9 3494; and California Code of Civil Procedure Section 731.

10 9. Plaintiff PEOPLE OF THE STATE OF CALIFORNIA (the "PEOPLE"), by and
11 through Dennis J. Herrera, City Attorney of the City and County of San Francisco, brings this action
12 pursuant to California Health and Safety Code Sections 11570 – 11587 (the "Drug Abatement Act"),
13 Business and Professions Code Sections 17200-17210 (the "Unfair Competition Law"), Civil Code
14 Sections 3479, 3480, 3491, 3494, and Code of Civil Procedure Section 731.

15 10. From at least May 29, 2007 to the present, Defendants WALID ABDELRAHMAN, an
16 individual, and DBA RAZAN DELI AND GROCERY, have been the owners and managers of Razan,
17 a commercial business located in the City and County of San Francisco.

18 11. Razan is ostensibly a deli and convenience store, engaging in the sale of items such as
19 snack foods and tobacco. Because of its retail sale of tobacco, Razan is subject to the permit
20 requirements under San Francisco Health Code sections 1009.52-1009.53.

21 12. Defendants DOE ONE through DOE FIFTY are sued herein under fictitious names.
22 Plaintiffs do not at this time know the true names or capacities of said defendants, but pray that the
23 same may be alleged herein when ascertained.

24 13. At all times herein mentioned, each Defendant was an agent, servant, employee,
25 partner, franchisee and joint venturer of each other Defendant and at all times was acting within the
26 course and scope of said agency, service, employment, partnership, franchise and joint venture.
27 Actions taken, or omissions made, by Defendants' employees or agents in the course of their
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1 employment or agency at Razan are considered to be actions or omissions of Defendants for the
2 purposes of this Complaint.

3 **GENERAL ALLEGATIONS**

4 14. Razan is open and operates 24 hours a day, seven days a week, but has relatively little
5 inventory or merchandise for sale. It essentially serves as a safe haven for drug dealers to conduct
6 their illegal business.

7 15. Drug dealers and users loiter persistently in front of Razan, and also loiter inside Razan
8 for extended periods of time, talking in a familiar manner to the employees who work in Razan. Drug
9 dealers also enter the store to avoid detection by police officers.

10 16. On numerous occasions, when police officers have visibly approached Razan, users
11 loitering in front of Razan leave the general vicinity, while the dealers either leave the area or duck
12 inside Razan. On numerous occasions, Defendants have even closed and locked the security gate of
13 Razan with the dealers still inside. When police officers leave the area, Defendants re-open the gate
14 and the drug dealers resume their position in front of Razan.

15 17. Between the hours of 2:00 a.m. and 6:00 a.m., Razan is the only establishment open in
16 the 300 block of Ellis Street. During these hours, Razan still continues to attract large groups of drug
17 dealers and buyers who congregate and loiter in and around Razan.

18 18. Defendants' ongoing violations of law at Razan contribute to an increased
19 neighborhood presence of illicit drug users and dealers and a panoply of general public nuisance
20 conditions related to the ingestion and sale of illegal drugs, such as assaults, the accumulation of drug
21 paraphernalia refuse on sidewalks, and loitering. Individuals walking by Razan, including children on
22 their way to nearby schools, have to step over human feces and used drug paraphernalia and maneuver
23 around dealers who approach passerby offering drugs for sale.

24 19. Defendants' maintenance of Razan as a public nuisance threatens the health and safety
25 of the surrounding neighborhood which includes a local children's playground, two primary schools,
26 housing for senior citizens, and a host of families with small children who live nearby.

27 20. The problems caused by Defendants' illegal activities require constant police attention,
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1 thereby draining valuable police resources that cannot be devoted to other areas. In 2011 alone, Razan
2 generated 118 calls for service to the SFPD. The calls ranged from a shooting and assaults to
3 suspicious persons loitering in the area.

4 21. Since at least September 2010 to the present, Defendants have permitted Razan to be
5 used for the sale of narcotics and narcotics paraphernalia and have engaged in the purchase and sale of
6 stolen property as follows:

7 a. On September 27, 2010, officers from the San Francisco Police Department ("SFPD")
8 saw a man holding a bag of crack cocaine standing directly in front of Razan. Officers saw the
9 man take out a rock and hand it to a woman. The woman gave the man money. Officers
10 arrested both individuals for the drug sale.

11 b. On December 6, 2010, an undercover officer of the SFPD went to Razan with a bag of
12 Walgreens merchandise that the officer represented was stolen. The officer told Defendants
13 that his cousin worked at a Walgreens warehouse and could steal as much merchandise as
14 desired. Defendants purchased the merchandise and requested that the officer bring him
15 specific types of merchandise the next time.

16 c. On December 7, 2010, the same undercover officer went to Razan with a bag
17 containing the specific items of Walgreens merchandise requested by Defendants. Defendants
18 purchased the merchandise. Defendants told the officer that the reason Razan could purchase
19 stolen merchandise was because they did not have cameras at Razan. The officer gave his cell
20 phone number to Defendants and told Defendants to call him if he needed additional
21 merchandise.

22 d. A short time later, Defendants called the same undercover officer on the officer's cell
23 phone and left a message. On January 3, 2011, the officer called Defendants back. During the
24 conversation, Defendants requested that the officer bring additional merchandise to Razan.

25 e. On January 14, 2011, the same undercover officer went to Razan with a bag containing
26 Walgreens merchandise that Defendants had requested over the phone. Defendants purchased
27 the merchandise. When the undercover officer represented that he had access to a whole pallet
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1 of stolen merchandise, Defendant stated that he would be interested in purchasing the items.

2 As soon as the officer left Razan, Defendant closed and locked the security gate to Razan.

3 f. On May 24, 2011, the same undercover officer went to Razan and sold another bag of
4 merchandise allegedly stolen from Walgreens to Defendants. The officer asked Defendants for
5 cigarettes and a crack pipe. Defendants sold him both items. Defendants, unsolicited, asked
6 the officer if he needed drugs. When the officer answered affirmatively, Defendants walked to
7 the front door and talked to several drug dealers loitering right outside the front door of Razan.
8 Defendants then vouched for the officer and told the drug dealers to take care of the officer.
9 One of the dealers then walked into Razan and sold the officer a rock of crack cocaine in front
10 of Defendants. Defendants asked the officer if he was taken care of. The officer replied,
11 "Yes."

12 g. On May 25, 2011, the same undercover officer went to Razan and sold a bag of
13 merchandise allegedly stolen from Walgreens to Defendants. During the transaction,
14 Defendants asked the officer if he needed a pipe. When the officer replied that he did,
15 Defendants provided him with a crack pipe.

16 h. On June 20, 2011, a different officer working undercover saw a woman sell drugs to a
17 man directly in front of Razan. After the sale, the woman stood right in the doorway to Razan.
18 The officer approached the woman and purchased crack cocaine from the woman, directly in
19 front of Razan.

20 i. On July 1, 2011, officers conducting surveillance of the area saw a woman sitting on a
21 milk crate directly in front of Razan. She acted as the lookout while another man sold cocaine
22 in front of Razan.

23 j. On September 30, 2011, officers conducting surveillance of the area saw a woman walk
24 to Razan and buy cocaine base from a dealer standing in front of Razan. The officers arrested
25 the first woman. When they looked for the dealer to arrest her, the officers found her inside
26 Razan.

27 k. On November 15, 2011, officers received information that a man inside Razan was in
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1 possession of a gun. Officers went to Razan to wait for the man to exit, but the man did not
2 exit. Officers then went inside Razan, pat-searched the man, and found him in possession of a
3 loaded firearm.

4 l. On November 29, 2011, the same undercover officer from the May 25, 2011 incident
5 went to Razan with two bags of merchandise allegedly stolen from Walgreens. Defendants
6 purchased the merchandise and told the officer to bring aspirin, neosporin and Visine the next
7 time. Defendants then asked the officer if he wanted a pipe and brillo. When the officer stated
8 that he did, Defendants gave the officer a crack pipe and brillo for free. The officer then went
9 out to the front of Razan and attempted to buy drugs from two men in front of Razan. When
10 the men refused, Defendants walked out to where the officer was and told the men, "He's
11 (referring to the undercover officer) like family." The officer and one of the two men then
12 entered Razan. The man brought in another man, and the officer purchased crack cocaine from
13 the two men inside Razan, in full view of Defendant. Defendants then asked the officer, "Are
14 you good?" The officer stated he was and left Razan

15 m. On December 20, 2011, an undercover officer of the SFPD went to Razan with a bag of
16 merchandise allegedly stolen from Walgreens. Defendants purchased the merchandise. The
17 officer asked Defendants for a crack pipe. Defendants provided one to the officer. The officer
18 walked outside Razan to buy drugs, but could not locate any dealers. The officer asked
19 Defendants for assistance. Defendants walked outside and called out to a man across the street.
20 Defendants told the officer this man was reliable because he worked for a known local drug
21 dealer. Defendants, the man, and the officer walked back inside Razan. Once inside, the
22 officer asked to buy \$20 worth of cocaine. The man told the officer that "Carla" would not be
23 back for another hour, but he could look elsewhere to get the officer drugs. The officer handed
24 the man \$20. The man and the officer went outside Razan together. The officer then returned
25 to Razan to wait while the man looked for drugs for the officer. While the officer waited, he
26 asked Defendant whether he believed the man would return. Defendants told the officer that
27 the man was reliable and would return. Shortly thereafter, the man came back inside Razan
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1 and handed the officer cocaine, in full view of Defendants. The officer thanked Defendants for
2 his help and left Razan.

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7 **FIRST CAUSE OF ACTION**
8 **FOR PUBLIC NUISANCE BROUGHT BY PLAINTIFFS PEOPLE OF THE STATE OF**
9 **CALIFORNIA AND THE CITY AND COUNTY OF SAN FRANCISCO AGAINST ALL**
10 **DEFENDANTS BASED ON THE SALE OF NARCOTICS AND NARCOTICS**
11 **PARAPHERNALIA AT RAZAN**

12 **(Health And Safety Code Sections 11570 -11587)**

13 22. Plaintiffs People of the State of California and the City and County of San Francisco
14 hereby incorporates by reference paragraphs 1 through 21 above, as though fully set forth herein.

15 23. Since at least September 2010, Defendants and their employees and agents have sold,
16 stored, or possessed controlled substances or paraphernalia used to ingest or inhale controlled
17 substances at Razan and/or permitted the sale, storage, possession, manufacture, consumption or
18 distribution of controlled substances at Razan. Such conduct constitutes a nuisance as a matter of law
19 pursuant to California Health and Safety Code Section 11570.

20 24. Pursuant to California Health and Safety Code Section 11581, Plaintiffs request that the
21 Court close Razan for one year and impose civil penalties of \$25,000.00 against each Defendant to
22 prevent Defendants from continuing to maintain a nuisance at Razan.

23 25. Unless said nuisance is abated, the residents and citizens of the City and County of San
24 Francisco and the People of California will suffer irreparable injury and damage, in that said
25 conditions will continue to be dangerous to the life, safety or health of those who live and work near
26 Razan and the general public.

27 26. Plaintiffs have no adequate remedy at law in that damages alone are insufficient to
28 protect the public from the present injury and harm caused by the conduct described above.

SECOND CAUSE OF ACTION
FOR PUBLIC NUISANCE BROUGHT BY PLAINTIFFS PEOPLE OF THE STATE OF CALIFORNIA AND CITY AND COUNTY OF SAN FRANCISCO AGAINST ALL DEFENDANTS
(Civil Code Section 3479 et seq.)

27. Plaintiffs hereby incorporate by reference paragraphs 1 through 26 as though fully set forth herein.

28. Plaintiffs bring this action pursuant to Code of Civil Procedure Section 731 and Civil Code Section 3494.

29. By permitting the above described injurious, illegal, annoying and disruptive activities to occur and exist at Razan, Defendants have caused and maintained a continuing public nuisance within the meaning of California Civil Code Section 3479 and 3480. These activities are injurious to health and offensive to the senses so as to interfere with the comfortable enjoyment of life or property in an entire community or neighborhood.

30. At all times herein mentioned, Defendants had notice and knowledge that Razan constituted a public nuisance.

31. Plaintiffs have no adequate remedy at law in that damages are insufficient to protect the public from the present danger and harm caused by the conditions described above.

32. Plaintiffs are informed and believe that Defendants will continue to maintain Razan in the above-described condition as a public nuisance.

33. Unless said nuisance is abated, the surrounding community and neighborhood, and the residents and citizens of the City and County of San Francisco, will suffer irreparable injury and damage, in that said conditions will continue to be injurious to the enjoyment and the free use of the life and property of said citizens and residents of the City and County of San Francisco.

THIRD CAUSE OF ACTION
FOR UNFAIR AND UNLAWFUL BUSINESS PRACTICES BROUGHT BY PLAINTIFF PEOPLE OF THE STATE OF CALIFORNIA AGAINST ALL DEFENDANTS
(California Business and Professions Code Sections 17200-17210)

34. Plaintiff hereby incorporates by reference paragraphs 1 through 33 as though fully set forth herein.

1 35. Plaintiff brings this cause of action in the public interest in the name of the People of
2 the State of California, pursuant to Business and Professions Code Section 17200, *et seq.*, in order to
3 protect the residents and owners of properties adjoining Razan, as consumers and competitors of the
4 services provided by Defendants, from the unlawful and unfair business practices committed by
5 Defendants in the operation of Razan within the City and County of San Francisco, State of California.

6 36. The violations of law described herein have been and are being carried out wholly or in
7 part within the City and County of San Francisco. The actions of Defendants are in violation of the
8 laws and public policies of the City and County of San Francisco and the State of California, and are
9 inimical to the rights and interest of the general public.

10 37. Defendants are now engaging in and, for a considerable period of time and at all times
11 pertinent to the allegations of this Complaint, have engaged in, unfair and unlawful business practices
12 prohibited by California's Unfair Competition Law by managing and operating Razan in violation of
13 the following laws:

- 14 • California Health and Safety Code Sections 11570 -11587 by permitting the sale,
15 storage, possession, manufacture, consumption or distribution of controlled substances
16 at Razan;
- 17 • California Health and Safety Code Section 11364.7 by delivering, furnishing,
18 transferring, and possessing with intent to deliver, furnish or transfer drug
19 paraphernalia, knowing or under circumstances where one reasonably should know that
20 it will be used to ingest, inhale or otherwise introduce into the human body a controlled
21 substance;
- 22 • California Civil Code Sections 3479 and 3480 by maintaining a public nuisance at
23 Razan; and
- 24 • California Penal Code Section 496 by knowingly purchasing and selling stolen
25 property.

26 38. As a direct and proximate result of the foregoing acts and practices, Defendants have
27 received income, profits, and other benefits, which they would not have received if Defendants had not

1 engaged in the violations of the Unfair Competition Law described in this Complaint.

2 39. As a direct and proximate result of the foregoing acts and practices, Defendants have
3 obtained a competitive unfair advantage over similar businesses that have not engaged in such
4 practices.

5 40. Plaintiff has no adequate remedy at law in that damages are insufficient to protect the
6 public from the harm caused by the conditions described in this Complaint.

7 41. Unless injunctive relief is granted to enjoin the unfair and unlawful business practices
8 of Defendants, Plaintiff will suffer irreparable injury and damage.

9 42. By engaging in unfair and unlawful business practices described herein, Defendants are
10 each subject to civil penalties in the amount of \$2,500.00 per violation, pursuant to California
11 Business and Professions Code Section 17206.

12 **PRAYER**

13 WHEREFORE, Plaintiffs pray that:

14 **Declaratory Relief**

15 1. Razan be declared a public nuisance in violation of Civil Code Sections 3479 and 3480
16 and California Health and Safety Code Sections 11570 -11587;

17 2. Defendants be declared to have engaged in unfair and unlawful business acts and
18 practices in violation of California Business and Professions Code Sections 17200-17210;

19 **Injunctive Relief**

20 3. the public nuisance be preliminarily and permanently abated in accordance with
21 California Civil Code Section 3480 *et seq.*, California Code of Civil Procedure Section 731, and
22 California Health and Safety Code Sections 11570-11587;

23 4. Razan be closed for one year pursuant to California Health and Safety Code Section
24 11581;

25 5. in the event the Court decides that any vacancy resulting from closure will be harmful
26 to the community, in lieu of closing Razan, each Defendant be ordered to pay damages in an amount
27 equal to the fair market rental value of Razan for one year to the CITY for the purpose of carrying out
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1 drug abuse treatment, prevention, and education programs pursuant to California Health and Safety
2 Code Section 11581(c)(1);

3 6. in the event that the Court does not order Razan closed, all Defendants, their agents,
4 officers, managers, representatives, employees, and anyone acting on their behalf, and their heirs and
5 assignees be preliminarily and permanently enjoined from operating, conducting, using, occupying, or
6 in any way permitting the use of Razan as a public nuisance pursuant to Civil Code Section 3480 and
7 California Health and Safety Code Sections 11570-11587;

8 7. Defendants be enjoined and restrained from occupying or operating Razan while the
9 conditions described in this Complaint exist and until all of the violations at Razan have been abated;

10 8. Defendants be ordered to cause Razan to conform to law, and maintain such structures
11 and all parts thereof in accordance with law;

12 9. pursuant to California Business and Professions Code Section 17203-17204,
13 Defendants, their agents, officers, managers, representatives, employees, and anyone acting on their
14 behalf, and their heirs, successors, and assignees be enjoined from operating, conducting, using,
15 occupying, or in any way permitting the use of Razan in the unfair and unlawful business practices
16 described in this Complaint;

17 10. Defendants, and each of them, inclusive, be enjoined from spending, transferring,
18 encumbering, or removing from California any money received from Razan or in payment for the
19 unfair and unlawful acts alleged in the Complaint;

20 **Penalties**

21 11. the Court impose civil penalties of \$25,000.00 against each Defendant to prevent them
22 from continuing to maintain a nuisance at Razan, pursuant to California Health and Safety Code
23 Section 11581;

24 12. pursuant to Business and Professions Code Section 17206, Defendants be ordered to
25 each pay a civil penalty of \$2,500.00 for each act of unfair and unlawful competition in violation of
26 Business and Professions Code Sections 17200-17210;

1 13. Defendants be ordered to each pay an additional civil penalty of \$2,500.00 for every act
2 of unfair competition that harmed an elderly or disabled person pursuant to Business and Professions
3 Code Section 17206.1;

4 14. pursuant to Business and Professions Code Section 17203, Defendants be ordered to
5 disgorge all profits obtained through their unfair and unlawful business practices in violation of
6 Business and Professions Code Sections 17200-17210;

7 15. Defendants be ordered to pay restitution for money obtained through an unfair business
8 practice to those persons in interest from whom the property was taken, pursuant to California
9 Business and Professions Code Section 17203 and *People v. Beaumont Investment, Ltd., et al.* (2003)
10 111 Cal.App.4th 102, 134-136;

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12 **Fees and Costs**

13 16. Defendants be ordered to pay Plaintiffs' reasonable attorney's fees and costs, including
14 the cost of investigation and discovery, pursuant to California Civil Code section 3496(c).

15 17. Plaintiffs be awarded their costs incurred herein pursuant to Code of Civil Procedure
16 Section 1032; and

17 18. the Court grant such other and further relief as this Court should find just and proper.

18 Dated:

19 DENNIS J. HERRERA
20 City Attorney
21 ALEX G. TSE
22 Chief Attorney
23 JENNIFER E. CHOI
24 JERRY THREET
25 Deputy City Attorneys

26 By: _____
27 JENNIFER E. CHOI
28 JERRY THREET

Attorneys for Plaintiffs
PEOPLE OF THE STATE OF CALIFORNIA and
CITY AND COUNTY OF SAN FRANCISCO

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1 **PROOF OF SERVICE**

2 I, Morris Allen, declare as follows:

3 I am a citizen of the United States, over the age of eighteen years and not a party to the above-
4 entitled action. I am employed at the City Attorney's Office of San Francisco, 1390 Market Street
Building, 1390 Market Street, Sixth Floor, San Francisco, CA 94102.

5 On January 30, 2012, I served the following document(s):

6 **NAME OF DOCUMENT**

7 on the following persons at the locations specified:

8 J. Scott Weaver, Esq.
9 Wartelle, Weaver & Schreiber
369 Pine Street, Suite 506
San Francisco, CA 94104

Kevin K. Cholakian
Colin R. Hatcher
Richard Dana
Cholakian and Associates
400 Oyster Point Blvd., Suite 415
South San Francisco, CA 94080

10
11 in the manner indicated below:

12 **BY UNITED STATES MAIL:** Following ordinary business practices, I sealed true and correct copies of
13 the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with
the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's
14 Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed
for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

15 **BY PERSONAL SERVICE:** I sealed true and correct copies of the above documents in addressed
16 envelope(s) and caused such envelope(s) to be delivered by hand at the above locations by a professional
messenger service. **A declaration from the messenger who made the delivery** **is attached** or **will be**
17 **filed separately with the court.**

18 **BY OVERNIGHT DELIVERY:** I sealed true and correct copies of the above documents in addressed
19 envelope(s) and placed them at my workplace for collection and delivery by overnight courier service. I am
readily familiar with the practices of the San Francisco City Attorney's Office for sending overnight deliveries. In
20 the ordinary course of business, the sealed envelope(s) that I placed for collection would be collected by a courier
the same day.

21 **BY FACSIMILE:** Based on a written agreement of the parties to accept service by fax, I transmitted true and
22 correct copies of the above document(s) via a facsimile machine at telephone number Fax #' to the persons and the
fax numbers listed above. The fax transmission was reported as complete and without error. The transmission
23 report was properly issued by the transmitting facsimile machine, and **a copy of the transmission report** **is**
attached or **will be filed separately with the court.**

24 I declare under penalty of perjury pursuant to the laws of the State of California that the
foregoing is true and correct.

25 Executed January 30, 2012, at San Francisco, California.

26 _____
27 Morris Allen
28 _____