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**FILED**  
**Superior Court Of California,**  
**Sacramento**  
**10/12/2010**  
amacias  
By \_\_\_\_\_, Deputy  
Case Number:  
**34-2010-00089116**

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SACRAMENTO

Department  
Assignments  
Case Management 45  
Law and Motion 53  
Minors Compromise 24

10 LARS SEQUEIRA and GREG ADLER,

11 Plaintiffs,

12 vs.

13 TRE NIGHTCLUB, LLC d/b/a TRE; and  
14 DOES 1 through 100,

15 Defendants.

Case No.

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF FOR:**

- 16 1. Violation of Civil Code § 51 - The Unruh  
Civil Rights Act;
- 17 2. Violation of Civil Code § 51.6 - The  
Gender Tax Repeal Act of 1995;
- 18 3. Negligence;
- 19 4. Violation of the Unfair Competition Law -  
"Unlawful" Conduct - Bus. & Prof. Code  
§§17200 et seq.
- 20 5. Violation of the Unfair Competition Law -  
"Unfair" Conduct - Bus. & Prof. Code  
§§17200 et seq.

**UNLIMITED JURISDICTION**

21 Plaintiffs allege upon information and belief as follows:

22 **NATURE AND BASIS OF ACTION**

23 1. Plaintiffs bring these claims as a result of defendant's discriminatory "Ladies Night  
24 Out" event held at defendant's Tre nightclub on March 12, 2009. Despite the many State of  
25 California statutes, California Supreme Court rulings, and California Department of Alcoholic  
26 Beverage Control regulations requiring businesses to treat consumers equally based on protected  
27 personal characteristics such as race, sex, sexual orientation, or religion, defendant brazenly treated  
28 male and female patrons unequally based on their sex.

1           2.       On March 12, 2009, defendant's Tre nightclub hosted an event that (1) gave free  
2 entrance to only women before 11 p.m., and (2) gave discounted beverages to only women in the  
3 form of "Tre Dollars" that could be applied toward the purchase of beverages.

4           3.       Defendant treated plaintiffs and all other similarly situated male patrons unequally  
5 this evening based on their sex by requiring only men to pay a \$10 cover charge before 11 p.m.  
6 Plaintiffs were admitted to the nightclub before 11 p.m. and required to pay the discriminatory cover  
7 charge while female patrons admitted before 11 p.m. were admitted for free. Additionally, only  
8 female patrons were given Tre Dollars to apply toward their bar tab.

9           4.       In the seminal California case on sex-based promotions, *Koire v Metro Car Wash*  
10 (1985) 40 Cal.3d 24, the California Supreme Court unanimously held Ladies' Day and Ladies' Night  
11 promotions that charged men more than women violated the Unruh Civil Rights Act. *Koire* ruled  
12 "the Legislature established that arbitrary sex discrimination by business is *per se* injurious" and  
13 "differential pricing based on sex may be generally detrimental to both men and women, because it  
14 reinforces harmful stereotypes." *Id* at 33.

15           5.       Ladies' Night promotions not only treat men and women unequally, but they also set  
16 back the equal rights movement and perpetuate harmful stereotypes about women, such as the  
17 following: (1) all women are genetically incapable of earning as much money as men; (2) all women  
18 agree it is acceptable for women to be used by nightclubs and bars as sexual bait; (3) all women  
19 enjoy being subsidized by strange men in nightclubs and bars by having men indirectly pay for  
20 women's cover charges, drinks, or food; (4) all women enjoy being patronized by nightclubs and  
21 bars because women are unable to pay for their cover charge, drinks, or food; (5) all women support  
22 a bar giving free drinks to women but not to men; and (6) all women do not believe women and men  
23 should be treated equally.

24           6.       *Koire*'s holding was upheld by the California Supreme Court in its latest opinion on  
25 Ladies' Night promotions, *Angelucci v Century Supper Club* (2007) 41 Cal.4th 160, wherein the  
26 Court unanimously ruled victims of a sex-based promotion – men who were charged more than  
27 women to enter a business establishment – did not have to affirmatively assert their right to equal  
28 treatment to have a discrimination claim under the Unruh Act. That is, men or women discriminated

1 against by a business do not have to ask the offending business "May I please be treated equally to  
2 your male/female patrons" to have standing to bring an Unruh Act or Gender Tax Repeal Act claim.

3 7. The effect of defendant's conduct has been to deny plaintiffs and other male patrons  
4 equal treatment by denying them the same accommodations, advantages, facilities, privileges, or  
5 services defendant provided female patrons, thereby violating several California anti-discrimination  
6 laws, and promoting harmful negative stereotypes contrary to California law and public policy as  
7 articulated by the California Supreme Court, and as embodied in Civil Code sections 51 and 51.6,  
8 and Business and Professions Code section 125.6.

9 8. Defendant is the holder or owner of California Department of Alcoholic Beverage  
10 Control License Number 483381. ABC licensees are especially prohibited from discriminating  
11 against patrons based on the patrons' sex. Business and Professions Code section 125.6 prohibits  
12 State of California licensees, such as holders of ABC licenses, from discriminating against  
13 customers based on sex and other personal characteristics. For example, the ABC's Business  
14 Practice Information Index provides:

- 15 • While drinks may be advertised at reduced prices, these specially-priced drinks  
16 cannot be made available only to certain groups of persons (e.g., Ladies Nights  
17 specials). This violates Business and Professions Code Section 125.6.
- 18 • "Ladies Night" Promotions  
19 An advertising program, which includes an inducement for ladies to frequent licensed  
20 premises on a particular night and thereby receive meals and cocktails at reduced  
21 prices because they are "ladies" is considered discriminatory and contrary to Business  
22 and Professions Code section 125.6 and Civil Code section 51.

23 9. ABC license applications require an applicant to certify it has not and will not  
24 violate or cause or permit to be violated any provisions of the Alcoholic Beverage Control Act. Bus.  
& Prof. Code § 23952. Also, ABC Official Publication 620A, Model House Policies reads:

25 Guidelines for Writing Policies

- 26 • You may have any company policy that does not conflict with existing laws (for  
27 example, no discrimination).
- 28 • We will not promote drink specials to certain groups of people. For example, "Ladies'  
Night." (This is against the law.)





1 **SECOND CAUSE OF ACTION**

2 **VIOLATION OF UNRUH CIVIL RIGHTS ACT, CIVIL CODE SECTION 51**  
3 **UNEQUALLY PROVIDING TRE DOLLARS TO ONLY FEMALE PATRONS**

4 26. Plaintiffs incorporate in this cause of action the allegations contained in each and  
5 every preceding paragraph of this Complaint as if they were set out at length herein.

6 27. By virtue of defendant's acts and omissions as alleged herein, specifically by  
7 providing Tre Dollars to only female patrons to purchase drinks while denying Tre Dollars to  
8 plaintiffs and other male patrons, defendant intentionally made a distinction or discrimination, or at  
9 least aided in making a discrimination or distinction, against plaintiffs on the basis of sex, all as  
10 proscribed by the Unruh Civil Rights Act, codified as Civil Code section 51.

11 28. Defendant's conduct harmed plaintiffs and caused plaintiffs to sustain damages.

12 29. Defendant's conduct was a substantial factor in causing harm to plaintiffs.

13 30. Said discrimination further renders defendant subject to injunctive relief  
14

15 **THIRDS CAUSE OF ACTION**

16 **VIOLATION OF THE GENDER TAX REPEAL ACT OF 1995, CIVIL CODE SECTION 51.6**  
17 **UNEQUAL PRICING FOR ADMITTANCE INTO TRE NIGHTCLUB**

18 31. Plaintiffs incorporate in this cause of action the allegations contained in each and  
19 every preceding paragraph of this Complaint as if they were set out at length herein.

20 32. By virtue of defendant's acts concerning the sex-based admission pricing as alleged  
21 herein, defendant charged plaintiffs a higher price than defendant charged women for admission into  
22 Tre nightclub, solely on the basis of sex, all as proscribed by the Gender Tax Repeal Act of 1995,  
23 codified as Civil Code section 51.6. Plaintiffs tendered the disparate price for admission.

24 33. Defendant's conduct harmed plaintiffs and caused plaintiffs to sustain damages.

25 34. Defendant's conduct was a substantial factor in causing harm to plaintiffs.

26 35. Said discrimination further renders defendant subject to injunctive relief.  
27  
28

1 **FOURTH CAUSE OF ACTION**

2 **VIOLATION OF THE GENDER TAX REPEAL ACT OF 1995, CIVIL CODE SECTION 51.6**

3 **UNEQUAL PRICING FOR DRINKS AT TRE NIGHTCLUB**

4 36. Plaintiffs incorporate in this cause of action the allegations contained in each and  
5 every preceding paragraph of this Complaint as if they were set out at length herein.

6 37. By virtue of defendant's acts concerning providing Tre Dollars to only female  
7 patrons to buy drinks at Tre nightclub while denying plaintiffs and other male patrons Tre Dollars as  
8 alleged herein, defendant charged plaintiffs a higher price than defendant charged women for drinks  
9 at Tre nightclub, solely on the basis of sex, all as proscribed by the Gender Tax Repeal Act of 1995,  
10 codified as Civil Code section 51.6. Plaintiffs tendered the disparate price for admission.

11 38. Defendant's conduct harmed plaintiffs and caused plaintiffs to sustain damages.

12 39. Defendant's conduct was a substantial factor in causing harm to plaintiffs.

13 40. Said discrimination further renders defendant subject to injunctive relief.

14  
15 **FIFTH CAUSE OF ACTION**

16 **NEGLIGENCE**

17 41. Plaintiffs incorporate in this cause of action the allegations contained in each and  
18 every preceding paragraph of this Complaint as if they were set out at length herein.

19 42. Defendant had a duty of care to avoid injury to plaintiffs. Specifically, defendant  
20 had a duty of care to avoid discriminating against plaintiffs based on sex.

21 43. Defendant selected, hired, retained, and contracted with persons and/or entities that  
22 harmed plaintiffs as described above.

23 44. Defendant had the authority and duty to supervise, prohibit, control, and/or regulate  
24 these persons and/or entities that harmed plaintiffs as described above.

25 45. Defendant knew or reasonably should have known that persons or entities that  
26 harmed plaintiffs as described above would harm plaintiffs.

27 46. Defendant breached its duty of care as set forth herein by (1) denying plaintiffs their  
28 right to equal treatment and by discriminating against plaintiffs as described above, and (2) failing to

1 use reasonable care in selecting, hiring, supervising, retaining, or contracting with persons or entities  
2 who would harm plaintiffs as described above.

3 47. As a direct and proximate result of defendant's negligence and negligent hiring,  
4 supervision, and retention, plaintiffs suffered damages in amounts to be proven at trial.

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6 **SIXTH CAUSE OF ACTION**

7 **VIOLATION OF BUSINESS & PROFESSIONS CODE**  
8 **SECTIONS 17200 ET SEQ. — "UNLAWFUL" CONDUCT**  
9 **(FOR VIOLATING CIVIL CODE SECTIONS 51 AND 51.6, AND BUSINESS AND**  
10 **PROFESSIONS CODE SECTION 125.6)**

11 48. Plaintiffs incorporate in this cause of action the allegations contained in each and  
12 every preceding paragraph of this Complaint as if they were set out at length herein.

13 49. Defendant's acts and practices alleged herein constitute "unlawful" conduct within  
14 the meaning of Business & Professions Code section 17200 because they violate Civil Code sections  
15 51 and 51.6, and Business and Professions Code section 125.6.

16 50. TRE NIGHTCLUB LLC, doing business as Tre, is the holder or owner of California  
17 Department of Alcoholic Beverage Control ("ABC") License Number 483381.

18 51. By virtue of its conduct alleged herein, defendant made a discrimination or  
19 restriction in the performance of its ABC-licensed activity against plaintiffs and other male patrons  
20 on the basis of sex

21 52. Defendant's "unlawful" conduct is ongoing. Therefore, pursuant to Business &  
22 Professions Code section 17203, plaintiff seek an order of this Court enjoining defendant from  
23 engaging in the unlawful business practices alleged herein.

24 53. Plaintiffs take upon themselves enforcement of these laws and pursuit of these  
25 claims. There is a financial burden involved in pursuing this action, the action is seeking to  
26 vindicate a public right, and it would be against the interests of justice to penalize plaintiffs by  
27 forcing them to pay attorneys' fees from the recovery in this action. Attorneys' fees are therefore  
28 appropriate pursuant to Code of Civil Procedure section 1021.5.



1 **SEVENTH CAUSE OF ACTION**

2 **VIOLATION OF BUSINESS & PROFESSIONS CODE**  
3 **SECTIONS 17200 ET SEQ. — “UNFAIR” CONDUCT**  
4 **(FOR VIOLATING CIVIL CODE SECTIONS 51 AND 51.6, AND BUSINESS AND**  
5 **PROFESSIONS CODE SECTION 125.6)**

6 54. Plaintiffs incorporate in this cause of action the allegations contained in each and  
7 every preceding paragraph of this Complaint as if they were set out at length herein.

8 55. Defendant’s acts and practices alleged herein constitute “unfair” conduct within the  
9 meaning of Business & Professions Code section 17200 because they contravene the Legislatively-  
10 declared public policy against discrimination on the basis of sex and gender, as reflected in Civil  
11 Code sections 51 (Unruh Civil Rights Act) and 51.6 (Gender Tax Repeal Act of 1995), and/or  
12 because the acts and practices are immoral, unethical, oppressive, unscrupulous and/or substantially  
13 injurious to consumers.

14 56. Defendant employed sharp business practices that discriminated against its patrons,  
15 thereby unfairly competing against its law-abiding competitors who did not discriminate against  
16 their patrons based on the patrons’ sex and/or who did not employ disparate cover charges based on  
17 the patrons’ sex.

18 57. Upon information and belief, defendant’s “unfair” conduct of requiring only men to  
19 pay cover charges before 11 p.m. and providing only women discounted beverages before 11 p.m. is  
20 ongoing. Therefore, pursuant to Business & Professions Code section 17203, plaintiffs seek an  
21 order of this Court enjoining defendant from engaging in the unfair business practices alleged herein.  
22 Plaintiffs take upon themselves enforcement of these laws and pursuit of these claims. There is a  
23 financial burden involved in pursuing this action, the action is seeking to vindicate a public right,  
24 and it would be against the interests of justice to penalize plaintiffs by forcing them to pay attorneys’  
25 fees from the recovery in this action. Attorneys’ fees are therefore appropriate pursuant to Code of  
26 Civil Procedure section 1021.5.  
27  
28

1 **PRAYER FOR RELIEF**

2 WHEREFORE, plaintiffs pray the court grant relief as follows:

- 3 1. For an order providing equitable and injunctive relief permanently enjoining defendant from  
4 engaging in discriminatory practices in violation of Civil Code sections 51 and 51.6, and  
5 Business and Professions Code section 125.6; plaintiffs additionally pray for such equitable  
6 and injunctive relief on behalf of the general public
- 7 2. Award plaintiffs their actual damages of \$10 each for the sex-based disparate cover charge  
8 pricing from defendant according to proof or as otherwise required by statute, plus the value  
9 of the Tre Dollars each plaintiff was denied by defendant;
- 10 3. Award plaintiffs their statutorily-mandated damages of \$4,000 each per offense from  
11 defendant according to proof or as otherwise required by Civil Code section 52 for each  
12 violation of Civil Code sections 51 and 51.6;
- 13 4. Award plaintiffs their attorneys' fees according to proof or as required and/or permitted by  
14 statute including, but not limited to, sections 52 of the Civil Code and 1021.5 of the Code of  
15 Civil Procedure;
- 16 5. For disgorgement of any profits earned on monies acquired by defendant as a result of its  
17 unlawful and unfair business practices;
- 18 6. Award plaintiffs their costs; and
- 19 7. Grant such other and further relief as the court deems just and proper.

20  
21 Dated: October 4, 2010

Respectfully submitted,

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24 By: 

Alfred G. Rava