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MUNTU DAVIS, M.D., M.P.H., in his capacity as Health Officer of Los Angeles,
10 and THE PEOPLE OF THE STATE OF CALIFORNIA

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

13 COUNTY OF LOS ANGELES, a political
subdivision of the State of California;
14 MUNTU DAVIS M.D., M.P.H., in his
capacity as Health Officer for Los Angeles
15 County; and THE PEOPLE OF THE STATE
OF CALIFORNIA, by and through
16 RODRIGO A. CASTRO-SILVA, County
Counsel for the County of Los Angeles,

17 Plaintiffs,

18 v.

19 LUCANNA, LLC, a California limited
liability company d/b/a NOVO CAFÉ;
20 MASSIMO FORTI, an individual; TINA
FORTI, an individual a/k/a TINA PASHA;
21 AND DOES 1 THROUGH 50, inclusive,

22 Defendants.
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24
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CASE NO. **22STCV00378**

COMPLAINT FOR:

**(1) VIOLATION OF EMERGENCY
HEALTH OFFICER ORDERS;**

**(2) PUBLIC NUISANCE ABATEMENT
(LOS ANGELES COUNTY CODE §§
1.23.010 ET SEQ.; 8.04.932 ET SEQ.;
11.02.010 ET SEQ.)**

**(3) OPERATING ON A SUSPENDED OR
REVOKED PUBLIC HEALTH PERMIT
(LOS ANGELES COUNTY CODE §§
8.04.932, 8.04.943; HEALTH & SAFETY
CODE §§ 114381, 114405)**

**(4) PUBLIC NUISANCE ABATEMENT
(CODE OF CIVIL PROCEDURE § 731);**

**(5) UNLAWFUL BUSINESS PRACTICES
(BUSINESS AND PROFESSIONS CODE §
17200 ET SEQ.)**

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1 Plaintiffs County of Los Angeles (the "County"), Muntu Davis, M.D., M.P.H. ("Dr. Davis"
2 or "County Health Officer"), and the People of the State of California, by and through Rodrigo A.
3 Castro-Silva, County Counsel for the County of Los Angeles (the "People") (collectively, the
4 "Plaintiffs") hereby allege in their Complaint (the "Complaint") against Defendants LUCANNA,
5 LLC, a California limited liability company d/b/a NOVO CAFÉ; MASSIMO FORTI, an
6 individual; TINA FORTI, an individual a/k/a TINA PASHA; and DOES 1 THROUGH 50,
7 inclusive (collectively, "Defendants"), as follows:

8 **I. NATURE OF THE ACTION**

9 1. Coronavirus disease 2019 ("COVID-19"), caused by the highly contagious novel
10 coronavirus SARS-CoV-2, has caused an unprecedented worldwide public health crisis. Since the
11 beginning of the pandemic in early 2020, more than 53 million people in the United States have
12 contracted COVID-19 and over 820,355 people have died from the disease. As of January 3,
13 2022, the County of Los Angeles reported 1,757,522 total cases of COVID-19 and 27,647 total
14 deaths resulting from COVID-19 in the County.

15 2. As of January 3, 2022, the County of Los Angeles is in the midst of an alarming
16 surge of COVID-19 infection fueled by the highly transmissible Omicron variant of the
17 coronavirus. On December 30, 2021 alone, the County reported 20,198 new cases of COVID-19,
18 one of the highest daily case counts of the pandemic, and the County is currently experiencing a
19 steadily increasing test positivity rate and 7-day average of hospitalized COVID-19 confirmed
20 patients.

21 3. Despite the rampant spread of this deadly virus, Defendants compromised, and
22 continue to compromise, the public's health and safety by operating their restaurant in violation of
23 state law, County Health Orders, and Los Angeles County Codes. Furthermore, while the vast
24 majority of restaurants in the County complied with emergency health orders and safety
25 restrictions during the pandemic, Defendants engaged, and continue to engage in, unfair business
26 practices by ignoring and violating such orders and restrictions.

27 4. In March 2020, State and County officials declared a state of emergency. Using the
28 authority granted to them by state law, state and local health officers have issued emergency

1 orders restricting activities that pose the most risk for spreading COVID-19. Health officials have
2 continuously modified the orders as the situation evolved.

3 5. The virus that causes COVID-19 spreads easily through person-to-person contact.
4 Because it is spread through respiratory droplets, the risk of transmission is increased when people
5 are in close proximity for a substantial period of time. There are also significant risks of
6 transmission from persons who are asymptomatic or pre-symptomatic. For this reason, County
7 officials have restricted operations at a variety of establishments. Defendants have flouted the
8 rules by offering indoor and outdoor dining at their restaurant, failing to comply with COVID-19
9 safety measures, and operating with a suspended or revoked health permit. Defendants' actions
10 are putting the health of their workers, customers, and the community at risk.

11 6. Defendants' actions constitute a public nuisance, and must be stopped.

12 **II. THE PARTIES**

13 **A. Plaintiffs**

14 7. Plaintiff County of Los Angeles is a charter county and a political subdivision of
15 the State of California.

16 8. Plaintiff Muntu Davis, M.D., M.P.H., is the duly appointed health officer for the
17 County.

18 9. Plaintiff People of the State of California are hereby represented by and through
19 RODRIGO A. CASTRO-SILVA, County Counsel for the County of Los Angeles, who acts on
20 their behalf pursuant to Business and Professions Code section 17204 and Code of Civil Procedure
21 section 731.

22 **B. Defendants**

23 10. Defendant Lucanna, LLC, owns and operates the Novo Café restaurant ("Novo
24 Café"), located at 30770 Russell Ranch Rd., Ste. G, Westlake Village, California, 91362, and
25 more particularly described by Assessor's Parcel Number ("APN") 2054-030-120 ("Property").

26 11. Defendants Massimo Forti and Tina Forti a/k/a Tina Pasha are members of
27 Lucanna, LLC, and reside and do substantial business in Los Angeles County.

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1 12. The Defendants named as Does 1 through 50, inclusive, are sued and designated by
2 fictitious names pursuant to Section 474 of the Code of Civil Procedure, for the reason that their
3 true names and capacities are unknown by the County. Plaintiffs will amend this complaint to
4 show the true names and capacities of such defendants fictitiously named when ascertained.
5 Plaintiffs are informed and believe, and thereon allege, that each of the Doe Defendants is
6 responsible in some manner for the violation of the Health Orders, Los Angeles County Code, and
7 state law herein alleged.

8 13. Plaintiffs are informed and believe, and on that basis alleges, that at all times
9 mentioned herein, each of the Defendants was and is the agent, officer, employee, member,
10 representative, or alter ego of one or more of the remaining Defendants, and, in doing the things
11 herein after alleged, was acting within the scope of his, her, or its authority as such agent, officer,
12 employee, member, representative, or alter ego with the permission and consent of the remaining
13 Defendants.

14 **III. JURISDICTION AND VENUE**

15 14. This case is an unlimited civil case because it is not one of the proceedings
16 described by statute as a limited civil case.

17 15. Pursuant to Code of Civil Procedure section 410.10, this action lies within the
18 general jurisdiction of this Court, because the causes of action arise under the California law and
19 Defendants reside and/or do business within California.

20 16. Moreover, pursuant to Los Angeles Superior Court Local Rule 2.3 and Code of
21 Civil Procedure sections 392, 393, and 395, venue is proper in the Los Angeles Superior Court,
22 Central District, as Plaintiffs are seeking to enjoin unlawful conduct occurring on a property
23 located in Los Angeles County.

24 **IV. FACTUAL ALLEGATIONS**

25 **A. The COVID-19 Health Orders**

26 17. The County (and the country) is facing an unprecedented public health crisis due to
27 the spread of COVID-19. Beginning in March 2020, federal, state, and local authorities issued a
28

1 series of emergency orders to try to slow the spread of COVID-19 and avoid overwhelming the
2 statewide healthcare system.

3 18. On March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency in
4 California as a result of COVID-19.

5 19. That same day, the Los Angeles County Board of Supervisors proclaimed a local
6 emergency. The County Health Officer, Dr. Muntu Davis, also declared a local health emergency.

7 20. Since March 2020, state and local officials have issued emergency health orders,
8 which have been revised several times, based on evolving public health conditions.

9 21. On November 25, 2020, the County of Los Angeles Department of Public Health
10 issued the "Reopening Safer at Work and in the Community for Control of COVID-19: Blueprint
11 for a Safer Economy Tier 1 Surge Response" (the "Reopening Safer Health Order").

12 22. Among other health and safety measures, the Reopening Safer Health Order
13 prohibited in-person indoor and outdoor dining at restaurants. Research has demonstrated that
14 transmission of COVID-19 can occur in outdoor settings.¹ This is why it is recommended that
15 individuals wear face coverings whenever they are in close proximity to one another, regardless of
16 whether they are indoors or outdoors. Dining with others creates a situation where (a) non-
17 household members are gathering in close proximity to each other, (b) not wearing masks, and (c)
18 eating, drinking, and projecting their voices (and respiratory and aerosol droplets) toward each
19 other typically for periods of more than 15 minutes. Being in close proximity to an unmasked
20 infected person for a prolonged period of time presents a high risk of COVID-19 infection.

21 23. The Reopening Safer Health Order remained in effect until January 29, 2021. On
22 January 29, 2021, the County of Los Angeles Department of Public Health's "Reopening Safer at
23 Work and in the Community for Control of COVID-19: Blueprint for a Safer Economy Tier 1
24 Surge Response Revised Order" (the "Revised Health Order") went into effect.

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26 ¹ Weed & Foad, Rapid Scoping Review of Evidence of Outdoor Transmission of COVID-
27 19, doi: <https://doi.org/10.1101/2020.09.04.20188417>; *See also* Qian, Mia, Liu, Zheng, Luo & Li,
Indoor transmission of SARVS-CoV-2 (doi: <https://doi.org/10.1101/2020.04.04.20053058>).

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1 24. The Revised Health Order continued to prohibit situations where the virus spreads
2 easily and required restaurants to take certain precautions including, but not limited to: (a)
3 requiring employees to wear face coverings and a face shield at all times when interacting with
4 customers and in the customer service area; (b) limiting outdoor dining tables to six (6) persons
5 from the same household; (c) requiring all outdoor dining tables be positioned eight (8) feet apart;
6 and (d) requiring all televisions remain off.

7 25. The Revised Health Order remained in effect until June 14, 2021. On June 15,
8 2021, the County of Los Angeles Department of Public Health issued the "A Safer Return
9 Together at Work and in the Community" Health Order ("Safer Return Health Order") which, in
10 connection with the State terminating the Blueprint for a Safer Economy and entering into a new
11 phase of the COVID-19 pandemic, and based on increasing COVID-19 vaccination coverage and
12 the success of Los Angeles County and the State in lowering transmission of the virus that causes
13 COVID-19, removed the local capacity limits on business and other sectors, local physical
14 distancing requirements, and other previously required safety modifications. The Safer Return
15 Health Order remained in effect until October 7, 2021.

16 26. On October 7, 2021, the County of Los Angeles Department of Public Health's
17 Order "Responding Together at Work and in the Community" ("Current Health Order") went into
18 effect. The Current Health Order was issued based on the facts that: since June 15, 2021, and after
19 the retiring of the State's Blueprint for a Safer Economy, community transmission of COVID-19 in
20 Los Angeles County had rapidly increased from "Low" to "High"; and Centers for Disease Control
21 and Prevention indicators showed continuously high daily new cases of COVID-19 to a level that
22 indicates high community transmission of the virus.

23 27. The Current Health Order continues to require that all persons wear face masks
24 while in indoor public settings and businesses, with limited exceptions, as a precautionary measure
25 due to the high level of community transmission of COVID-19. Among other requirements, the
26 Current Health Order requires restaurants to: (a) require all patrons, customers, and guests to wear
27 masks when indoors (except when actively eating or drinking), regardless of their vaccination
28 status; (b) post clearly visible and easy to read signage, with or without having an employee

1 present, at all entry points for indoor and outdoor settings to communicate the masking
2 requirements for patrons, customers, and guests; and (c) maintain a valid public health permit to
3 operate. The Reopening Safer Health Order, Revised Health Order, Safer Return Health Order,
4 and Current Health Order shall hereinafter collectively be referred to as the "Health Orders".

5 **B. Defendants' Violations of state law, the Health Orders, and Los Angeles**
6 **County Code**

7 28. Despite the Health Orders, multiple warnings, written directives, citations,
8 suspension and revocation of their public health permit, and health officer closure orders,
9 Defendants continued and continue to operate Novo Café in violation of those orders and the law.

10 29. Defendants' refusal to comply with the Health Orders was and is in violation of the
11 law entitling Plaintiffs to, among other things, injunctive relief.

12 30. The Health Orders are necessary to protect the health and safety of the residents of
13 the County and the public at large, and immediate and irreparable injury will result if Defendants
14 do not comply.

15 31. On December 22, 2020, a Los Angeles County Department of Public Health
16 inspector ("public health inspector") inspected Novo Café and observed that Novo Café was
17 operating outdoor dining in violation of the Reopening Safer Health Order. The public health
18 inspector issued a citation and written directive to Defendants Lucanna, LLC d/b/a Novo Café, and
19 Massimo Forti requiring corrective action.

20 32. On December 29, 2020, a public health inspector re-inspected and confirmed Novo
21 Café was continuing outdoor dining in violation of the Reopening Safer Health Order. The public
22 health inspector issued a citation and written directive to Defendants Lucanna, LLC d/b/a Novo
23 Café, and Massimo Forti requiring corrective action.

24 33. On December 31, 2020, a public health inspector re-inspected Novo Café and
25 observed the restaurant was still operating outdoor and indoor dining in violation of the Reopening
26 Safer Health Order. The public health inspector suspended Novo Café's Public Health Permit for
27 its repeated non-compliance with the Health Order. The public health inspector issued a citation
28 and written directive to Defendants Lucanna, LLC d/b/a Novo Café, and Massimo Forti requiring

1 corrective action, including discontinuing operation due to suspension of Novo Café's Public
2 Health Permit.

3 34. On January 3, 2021, a public health inspector re-inspected Novo Café and observed
4 Novo Café was still operating outdoor and indoor dining in violation of the Reopening Safer
5 Health Order, and also operating on a suspended Public Health Permit. The public health
6 inspector issued a citation and written directive to Defendants Lucanna, LLC d/b/a Novo Café, and
7 Massimo Forti requiring corrective action.

8 35. On January 5, 2021, a public health inspector re-inspected Novo Café and observed
9 Novo Café was still operating outdoor and indoor dining, and still operating on a suspended Public
10 Health Permit. Furthermore, the inspector observed Novo Café employees not wearing face
11 coverings while contacting seated customers without masks. The public health inspector issued a
12 citation and written directive to Defendants Lucanna, LLC d/b/a Novo Café, and Massimo Forti
13 requiring corrective action.

14 36. On January 6, 2021, a public health inspector re-inspected Novo Café and observed
15 continuing violations of: operation of indoor and outdoor dining, employees not wearing face
16 coverings while contacting seated customers, and operating on a suspended Public Health Permit.
17 Defendant Massimo Forti told the public health inspector that Novo Café was not going to close
18 and he would not stop serving food and drinks indoors or outdoors. The public health inspector
19 issued a citation and written directive to Defendants Lucanna, LLC d/b/a Novo Café and Massimo
20 Forti requiring corrective action.

21 37. On January 7, 2021, January 8, 2021, January 10, 2021, January 12, 2021, January
22 13, 2021, January 14, 2021, January 15, 2021, January 16, 2021, January 17, 2021, January 19,
23 2021, January 20, 2021, January 21, 2021, January 22, 2021, January 23, 2021, January 24, 2021,
24 January 26, 2021, January 27, 2021, January 28, 2021, January 29, 2021, January 30, 2021,
25 January 31, 2021, and February 2, 2021, a public health inspector(s) re-inspected Novo Café and
26 observed continuing violations of (among other violations): operation of indoor and outdoor
27 dining, employees not wearing face coverings while contacting customers, and operating on a
28 suspended Public Health Permit. On each date listed in this paragraph, the public health inspector

1 issued a citation and written directive to Defendants Lucanna, LLC d/b/a Novo Café requiring
2 corrective action.

3 38. On January 27, 2021, a permit revocation hearing was held by the Department of
4 Public Health for Novo Café's Public Health Permit.

5 39. On February 2, 2021, Novo Café's Public Health Permit was revoked for, among
6 other violations, continually operating indoor and outdoor dining during the COVID-19 pandemic
7 in violation of Health Orders. Defendants Lucanna, LLC d/b/a Novo Café, Massimo Forti, and
8 Tina Forti were provided a written notice to cease all restaurant operations and remain closed until
9 Novo Café obtains a new permit. Defendants did not appeal the revocation.

10 40. On February 6, 2021, February 7, 2021, February 11, 2021, February 13, 2021,
11 February 17, 2021, February 19, 2021, February 23, 2021, March 2, 2021, March 4, 2021, March
12 9, 2021, March 11, 2021, March 16, 2021, March 18, 2021, March 23, 2021, March 25, 2021,
13 March 30, 2021, April 1, 2021, April 6, 2021, April 8, 2021, April 13, 2021, April 15, 2021, April
14 20, 2021, April 22, 2021, April 27, 2021, April 29, 2021, May 4, 2021, May 6, 2021, May 11,
15 2021, May 13, 2021, May 18, 2021, May 20, 2021, May 25, 2021, May 27, 2021, June 1, 2021,
16 June 3, 2021, June 8, 2021, and June 10, 2021, a public health inspector(s) re-inspected Novo Café
17 and observed continuing violations of (among other violations): operation of indoor and outdoor
18 dining (numerous patrons dining outdoors, indoors, and at the bar); employees (servers and cooks)
19 not wearing face coverings while contacting customers; failure to implement physical distancing
20 measures (e.g. floor markings, physical distancing); failure to post appropriate COVID-19
21 protocols near entrance of the business; failure to post signage informing customers of COVID-19
22 requirements at the entrance of the business; failure to discontinue providing entertainment (e.g.
23 live television); failure to post and keep "Closure" sign visible to general public and patrons; and
24 operating on a revoked Public Health Permit. On each date listed in this paragraph, the public
25 health inspector issued a citation and written directive to Defendant Lucanna, LLC d/b/a Novo
26 Café requiring corrective action.

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1 41. On February 24, 2021, the City of Westlake Village revoked Novo Café's
2 Conditional Use Permit relative to the sale of alcoholic beverages for on-site and off-site
3 consumption.

4 42. On June 15, 2021, June 17, 2021, June 22, 2021, June 24, 2021, June 29, 2021, July
5 1, 2021, July 6, 2021, July 8, 2021, July 13, 2021, July 15, 2021, July 20, 2021, July 22, 2021,
6 July 27, 2021, July 29, 2021, August 3, 2021, August 5, 2021, August 10, 2021, August 12, 2021,
7 August 17, 2021, August 19, 2021, August 24, 2021, August 26, 2021, August 31, 2021,
8 September 2, 2021, September 7, 2021, and September 9, 2021, a public health inspector(s) re-
9 inspected Novo Café and observed continuing violations of (among other violations): failure to
10 maintain Notice of Closure sign clearly visible to the general public and patrons; failure to display
11 a valid Public Health Permit; failure of employees to wear face coverings; and operating on a
12 revoked Public Health Permit. On each date listed in this paragraph, the public health inspector
13 issued a citation and written directive to Defendant Lucanna, LLC d/b/a Novo Café requiring
14 corrective action.

15 43. On November 5, 2021, the Los Angeles County Counsel sent a cease and desist
16 letter to Defendants Lucanna, LLC d/b/a Novo Café, Massimo Forti, and Tina Forti demanding
17 they immediately cease operating Novo Café without a Public Health Permit, and to stop violating
18 Health Orders and applicable laws.

19 44. On November 10, 2021, a public health inspector re-inspected Novo Café and
20 observed that Novo Café was still operating on a revoked Public Health Permit, and violating
21 Health Orders. The public health inspector observed 20 customers eating and drinking in the
22 indoor dining area, 5 customers eating and drinking at the outdoor dining area, 1 employee at the
23 front counter, 2 employees serving food and drinks, and 6 employees preparing food in the
24 kitchen. Furthermore, Novo Café failed to maintain the Notice of Closure posted and clearly
25 visible to the general public and patrons; Novo Café employees were not wearing required face
26 covers; and Novo Café failed to post signs informing customers to wear a face covering. The
27 public health inspector issued a citation and written directive to Defendant Lucanna, LLC d/b/a
28 Novo Café requiring corrective action.

1 45. On November 12, 2021, a public health inspector re-inspected Novo Café and
2 observed that Novo Café was still operating on a revoked Public Health Permit, and violating the
3 Current Health Order. The public health inspector observed 8 customers eating and drinking in
4 the indoor dining area, 6 customers eating and drinking at the outdoor dining area, 1 employee at
5 the front counter, 2 employees serving food and drinks, and 6 employees preparing food in the
6 kitchen. Furthermore, Novo Café failed to maintain the Notice of Closure posted and clearly
7 visible to the general public and patrons; Novo Café employees were not wearing required face
8 covers; and Novo Café failed to post signs informing customers to wear a face covering. The
9 public health inspector issued a citation and written directive to Defendant Lucanna, LLC d/b/a
10 Novo Café requiring corrective action.

11 46. On December 14, 16, and 18, 2021, a public health inspector(s) re-inspected Novo
12 Café and observed Novo Café was still operating on a revoked Public Health Permit, and violating
13 the Current Health Order. Novo Café failed to maintain the Notice of Closure posted and clearly
14 visible to the general public and patrons; Novo Café employees were not wearing required face
15 covers; and Novo Café failed to post signs informing customers to wear a face covering. On each
16 date listed in this paragraph, a public health inspector issued a citation and written directive to
17 Defendant Lucanna, LLC d/b/a Novo Café requiring corrective action.

18 47. Defendants have not appealed any of the approximately 97 citations that they were
19 issued by public health inspectors and the Los Angeles County Department of Public Health.

20 48. On information and belief, Defendants continuously operated Novo Café in
21 violation of Health Orders, Los Angeles County Code, and state law on a daily basis from at least
22 December 22, 2020, to the present. As of the date of the filing of this Complaint, Defendants
23 continue to operate Novo Café in violation of the Current Health Order, Los Angeles County
24 Code, and state law.

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1 **FIRST CAUSE OF ACTION**

2 **Violation of Emergency Health Officer Orders**

3 ***By the County and Dr. Davis Against All Defendants and Does 1-50***

4 49. Plaintiffs re-allege and incorporate by reference each and every one of the
5 allegations contained in Paragraphs 1 through 48 of this Complaint.

6 50. COVID-19 has created both a health emergency as defined by Health & Safety
7 Code section 101080 and a local emergency as defined by Government Code section 8558. On
8 March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency in California as a
9 result of COVID-19. The County Board of Supervisors proclaimed a local emergency the same
10 day, and Dr. Davis also declared a local health emergency.

11 51. California Health and Safety Code section 101040(a) provides: "The local health
12 officer may take any preventative measure that may be necessary to protect and preserve the
13 public health from any public health hazard during any 'state of war emergency,' 'state of
14 emergency,' or 'local emergency,' as defined by Section 8558 of the Government Code, within his
15 or her jurisdiction."

16 52. Health and Safety Code section 120175 states that a health officer who knows or
17 has reason to believe that any contagious, infectious, or communicable disease exists, or recently
18 existed, "shall take measures as may be necessary to prevent the spread of the disease or
19 occurrence of additional cases."

20 53. Title 17, California Code of Regulations, section 2501(a), states "the local health
21 officer shall take whatever steps deemed necessary for the investigation and control of the disease,
22 condition or outbreak reported."

23 54. Los Angeles County Code, section 8.04.948 provides in pertinent part: "Any person
24 who, after notice, violates, or who, upon demand of the health officer, refuses or neglects to
25 conform to any rule, regulation, order or directive prescribed by the health officer, may be
26 enjoined from such violation by any court of competent jurisdiction. The remedy provided by this
27 section is cumulative to any other remedy provided by law. A civil action to enforce the provision
28 of this section may be brought by the county counsel..."

1 55. As set forth above, the County Health Officer has the authority under the law to
2 promulgate orders to protect the public health, including prohibiting the outdoor and indoor dining
3 operations at restaurants and requiring restaurants to take certain safety measures in the face of a
4 public health crisis such as the one currently faced.

5 56. Since March 2020 the County Health Officer exercised his authority to issue
6 numerous Health Orders as set forth above to protect public health and safety from COVID-19 and
7 to curtail the transmission of the highly transmissible and deadly novel coronavirus.

8 57. As set forth above and on information and belief, since at least December 22, 2020,
9 Defendants and Does 1-50 continually and on a daily basis violated, and continue to violate, the
10 Health Orders by, among other violations: operating outdoor and indoor dining at Novo Café;
11 failing to require restaurant patrons, customers, and guests to wear face coverings; failing to
12 require restaurant employees to wear face coverings; failing to post appropriate COVID-19
13 protocols near entrance of the restaurant; failing to post signage at the entrance informing
14 restaurant customers of COVID-19 requirements; failing to implement physical distancing
15 measures; failing to discontinue providing entertainment to restaurant customers; failing to display
16 a valid Public Health Permit; failing to maintain the Notice of Closure sign clearly visible to the
17 general public and patrons; failing to close, and operating on a suspended Public Health Permit;
18 failing to close, and operating on a revoked Public Health Permit; and are continuing to violate the
19 Health Orders. Defendants violated the Health Orders despite numerous demands that they cease
20 their violations immediately.

21 58. County and Dr. Davis cannot be fully compensated in damages and is without a
22 plain, speedy, or adequate remedy at law because the exact amount of damages to the general
23 public's health, safety, and welfare is not ascertainable.

24 59. Unless Defendants are restrained and enjoined by order of this court and/or the
25 court provides other equitable relief permissible by law, Defendants will continue to operate in
26 violation of the Health Orders.

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1 **SECOND CAUSE OF ACTION**

2 **Public Nuisance Abatement**

3 **(Los Angeles County Code §§ 1.23.010 *et seq.*; 8.04.930 *et seq.*; and 11.02.010 *et seq.*)**

4 ***By the County and Dr. Davis Against All Defendants and Does 1-50***

5 60. Plaintiffs re-allege and incorporate by reference each and every one of the
6 allegations contained in Paragraphs 1 through 59 of this Complaint.

7 61. Los Angeles County Code section 1.23.040, Public Nuisance Defined, states: "Any
8 condition on a property that is maintained in violation of any provision of Titles 7 through 32 of
9 this code shall be deemed unlawful and a public nuisance and may be abated as such."

10 62. Los Angeles County Code section 1.23.050, Maintaining Public Nuisance
11 Unlawful, states: "No person shall cause, maintain, or permit to be caused or maintained a public
12 nuisance, as defined in this chapter, on any property, and every day such public nuisance continues
13 shall be regarded as a new and separate violation."

14 63. Los Angeles County Code section 1.23.060, Public Nuisance Abatement, Officer
15 Responsible, states: "The County Counsel may commence an action and/or proceeding for
16 abatement, removal, or enjoinder of any public nuisance, and may take such other steps as
17 necessary and may apply to any court as may have jurisdiction to grant relief for such abatement,
18 removal, or enjoinder. Any person violating any provision of this chapter may be subject to
19 administrative enforcement, civil prosecution and/or criminal prosecution."

20 64. Los Angeles County Code section 1.23.080, Attorneys' Fees, states: "The
21 prevailing party in any action or proceeding commenced by the County to abate a public nuisance
22 shall be authorized to recover attorneys' fees. Recovery of attorneys' fees shall be limited to those
23 actions or proceedings in which the County elects, at the initiation of that individual action or
24 proceeding, to seek recovery of its own attorneys' fees. In no action or proceeding shall an award
25 of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by
26 the County in the action or proceeding."

27 65. Los Angeles County Code section 1.23.090, Civil Penalties, states in pertinent part:
28 "Any person who causes, maintains, or permits to be caused or maintained a public nuisance on

1 any property shall be liable for a civil penalty for each day or part thereof that said public nuisance
2 occurs. The County Counsel may seek the recovery of such civil penalties for the County in any
3 civil proceeding described in Section 1.23.060. (A) For each violation described in Section
4 1.23.040 that would otherwise constitute a misdemeanor under this code, the civil penalty shall not
5 exceed one thousand dollars (\$1,000)..."

6 66. Los Angeles County Code section 1.23.110, Cumulative Remedies, states: "The
7 remedies provided for in this chapter are nonexclusive and are cumulative with any other remedy
8 available to the County as provided for by law for the protection of the health, safety, and welfare
9 of the people of the County of Los Angeles."

10 67. Los Angeles County Code section 8.04.932, Business without a public health
11 license or permit prohibited, states: "No person shall engage in, conduct, manage or carry on any
12 business or other activity for which a license or permit is required by this chapter if: (A) He or she
13 does so without having, pursuant to the provisions of this chapter, procured a license or permit to
14 do so and paid the fee required; or (B) If such license or permit has expired, been suspended,
15 revoked, or denied."

16 68. Los Angeles County Code section 8.04.934, Operating without a public health
17 license or permit—Deemed misdemeanor—Penalty, states in pertinent part: "A violation
18 of Section 8.04.932 is a misdemeanor punishable by fine, or imprisonment in the county jail for a
19 period not exceeding six months, or both . . ."

20 69. Los Angeles County Code section 8.04.936, Operating without a public health
21 license or permit—Injunctive relief, states: "Any person violating Section 8.04.932 may be
22 enjoined from such violation by any court of competent jurisdiction. The remedy provided by this
23 section is cumulative to any other remedy provided by law."

24 70. Los Angeles County Code, section 8.04.942, Operating without a public health
25 license or permit—Civil penalty, states in pertinent part: "(A) Any person who violates Section
26 8.04.932 shall be liable for a civil penalty recoverable in a civil action by the county health officer:
27 (1) In an amount not less than \$100.00 for the first violation; and (2) In an amount not less than
28 \$500.00 for the second and any subsequent violation . . ."

1 71. Los Angeles County Code section 8.04.943, Public health permit suspension or
2 revocation—Notice of closure, states: "(A) Upon issuance of a written notice of suspension or
3 revocation of the public health permit by the county health officer, the health officer shall post a
4 notice of closure at the food facility so as to be clearly visible to the general public and to patrons.
5 (B) Upon issuance of the written notice of suspension or revocation of the public health permit by
6 the county health officer, the food facility shall immediately close to the general public and to
7 patrons and shall discontinue all operations until the public health permit has been reissued or
8 reinstated by order of the county health officer or until the facility no longer operates as a food
9 facility. (C) The notice of closure shall remain posted until removed by the county health officer.
10 Removal of the notice of closure by any person other than the county health officer or the refusal
11 of a food facility to close upon issuance of the written notice of suspension of the public health
12 permit is a violation of this chapter and may result in the suspension or revocation of the food
13 facility's public health permit and shall be punishable as specified in Section 8.04.930."

14 72. Los Angeles County Code section 8.04.944, Continuing violations, states: "Where
15 the conduct consisting of a violation of Section 8.04.932 or 8.04.938 is of a continuing nature,
16 each day of such conduct is a separate and distinct violation."

17 73. Los Angeles County Code section 8.04.947 provides in pertinent part: "All persons
18 shall obey all rules, regulations, orders or directives of the health officer. . ."

19 74. Los Angeles County Code section 11.02.060, Interfering with director's duties
20 prohibited, states in pertinent part: "No person . . . shall refuse to obey any lawful order of the
21 director of public health made in the performance of his duties within the power conferred upon
22 him by state law or by Division 1 of this title."

23 75. Los Angeles County Code section 11.02.080, Violation—Penalty, states:
24 "Violation of Division 1 of Title 11 is punishable by a fine of not more than \$500.00, or by
25 imprisonment in the County Jail for not more than six months, or by both such fine and
26 imprisonment. Each day during any portion of which any violation of any provision of this
27 Division 1 is committed, continued or permitted makes such violation of a separate offense."

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1 76. Los Angeles County Code, section 11.02.190 provides: "Whenever a nuisance or
2 condition endangering the public health shall be ascertained to exist on any premises, or in any
3 house, or any other place, the director shall notify in writing the person having control of or acting
4 as agent for such premises, house or other place, to abate or remove such nuisance or condition
5 within a reasonable time, to be stated on such notice. Upon the neglect or refusal of such person to
6 comply with such notice, the director may abate such nuisance or condition, and the person having
7 control of such house, premises or place, in addition to the penalties provided by this Division 1,
8 shall be liable to the county of Los Angeles for the cost of such abatement, to be recovered in a
9 civil action in any court of competent jurisdiction."

10 77. As set forth above and on information and belief, since at least December 22, 2020
11 and on an ongoing basis, Defendants and Does 1-50 continually and on a daily basis caused,
12 maintained, or permitted to be caused or maintained, a public nuisance at Novo Café by
13 committing numerous and ongoing violations of Health Orders and the Los Angeles County Code,
14 including but not limited to: operating outdoor and indoor dining at Novo Café; failing to require
15 restaurant patrons, customers, and guests to wear face coverings; failing to require restaurant
16 employees to wear face coverings; failing to post appropriate COVID-19 protocols near entrance
17 of the restaurant; failing to post signage at the entrance informing restaurant customers of COVID-
18 19 requirements; failing to implement physical distancing measures; failing to discontinue
19 providing entertainment to restaurant customers; failing to display a valid Public Health Permit;
20 failing to maintain the Notice of Closure sign clearly visible to the general public and patrons;
21 failing to close, and operating on a suspended Public Health Permit; failing to close, and operating
22 on a revoked Public Health Permit; and are continuing to violate the Los Angeles County Code
23 and Health Orders.

24 78. Defendants' violations were and continue to be a "public nuisance" as defined under
25 Los Angeles County Code section 1.23.040, and Defendants have maintained, or permitted to be
26 caused or maintained a public nuisance in violation of section 1.23.050. Therefore, the
27 Defendants are subject to court-ordered nuisance abatement, and liable to Plaintiffs for Plaintiffs'
28 costs of nuisance abatement and attorneys' fees.

1 79. Plaintiffs County and Dr. Davis cannot be fully compensated in damages and are
2 without a plain, speedy, or adequate remedy at law because the exact amount of damages to the
3 general public's health, safety, and welfare is not ascertainable.

4 80. Unless Defendants are restrained and enjoined by order of this court and/or the
5 court provides other equitable relief permissible by law, Defendants will continue to operate their
6 restaurant in violation of the Health Orders, Los Angeles County Code, and state law.

7 81. Plaintiffs County and Dr. Davis are entitled to abate these nuisances, and recover
8 the cost of abatement from Defendants, pursuant to Los Angeles County Code sections 1.23.060,
9 8.04.948, and 11.02.190. Furthermore, each Defendant is subject to civil penalties up to \$1,000 a
10 day for each day or part thereof that said public nuisance occurred and occurs, pursuant to Los
11 Angeles County Code section 1.23.090 (A). Finally, the prevailing party is entitled to attorneys'
12 fees pursuant to section 1.23.080.

13 **THIRD CAUSE OF ACTION**

14 **Operating on a Suspended or Revoked Public Health Permit**
15 **(Violation of Los Angeles County Code §§ 8.04.932, 8.04.943, 8.04.946; Health and Safety**
16 **Code §§ 114381, 114387, 114405)**

17 *By the County and Dr. Davis Against Defendants and Does 1-50*

18 82. Plaintiffs re-allege and incorporate by reference each and every one of the
19 allegations contained in Paragraphs 1 through 81 of this Complaint.

20 83. Los Angeles County Code section 8.04.945 provides: "Any public health permit
21 issued pursuant to this chapter may be suspended or revoked in accordance with the procedures set
22 forth in California Health and Safety Code Section 113950 et seq."

23 84. Los Angeles County Code section 8.04.946(A) provides: "Any public health
24 license issued pursuant to this chapter may be suspended or revoked by the county health officer
25 for a violation of the Los Angeles County Code or the California Health and Safety Code, or both.
26 Any business or occupation for which the public health license has been suspended or revoked
27 shall close and remain closed until the license has been reinstated or reissued."

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1 85. California Health and Safety Code section 114381(a) provides: "A food facility
2 shall not be open for business without a valid permit."

3 86. California Health and Safety Code section 114405(a) provides: "A permit may be
4 suspended or revoked by a local enforcement officer for a violation of this part. Any food facility
5 or cottage food operation for which the permit has been suspended shall close and remain closed
6 until the permit has been reinstated. Any food facility or cottage food operation for which the
7 permit has been revoked shall close and remain closed until a new permit has been issued."

8 87. California Health and Safety Code section 114387 provides: "violators who operate
9 without the necessary permits shall be subject to closure of the food facility."

10 88. As set forth above and on information and belief, since December 31, 2020,
11 Defendants have continually and on a daily and ongoing basis continued to operate the Novo Café
12 restaurant after its Public Health Permit was suspended and/or revoked. Defendants failed to
13 immediately close Novo Café when its Public Health Permit was suspended, and later revoked,
14 and to maintain the Notice of Closure sign visible to the general public and patrons. As of the date
15 of this filing, Novo Café's Public Health Permit remains revoked and Defendants have failed to
16 obtain a new permit. Despite Novo Café's Public Health Permit being suspended and revoked,
17 numerous citations and written directives to close immediately, and a cease and desist letter from
18 County Counsel, Defendants continue to illegally operate Novo Café without a Public Health
19 Permit.

20 89. Plaintiffs County and Dr. Davis cannot be fully compensated in damages and are
21 without a plain, speedy, or adequate remedy at law because the exact amount of damages to the
22 general public's health, safety, and welfare is not ascertainable.

23 90. Unless Defendants are restrained and enjoined by order of this court and/or the
24 court provides other equitable relief permissible by law, Defendants will continue to illegally
25 operate Novo Café in violation of the County Code, state law, and Health Orders.

26 91. Pursuant to Los Angeles County Code section 8.04.944, where the conduct
27 consisting of a violation of sections 8.04.932 or 8.04.938 is of a continuing nature, each day of
28 such conduct is a separate and distinct violation.

1 92. Pursuant to Los Angeles County Code section 8.04.942, each Defendant should be
2 penalized for his/her/their unlawful conduct and shall be liable for a civil penalty in an amount not
3 less than \$100 for the first violation, and not less than \$500 for the second and any subsequent
4 violation.

5 **FOURTH CAUSE OF ACTION**

6 **Public Nuisance Abatement**

7 **(Code of Civil Procedure § 731)**

8 ***By the People Against All Defendants and Does 1-50***

9 93. Plaintiff People re-allege and incorporate by reference each and every one of the
10 allegations contained in Paragraphs 1 through 92 of this Complaint.

11 94. As set forth above and on information and belief, since at least December 22, 2020
12 and on an ongoing basis, Defendants and Does 1-50 continually and on a daily basis caused,
13 maintained, or permitted to be caused or maintained, a public nuisance at Novo Café by
14 committing numerous and ongoing violations of Health Orders, the Los Angeles County Code,
15 and state law, including but not limited to: operating outdoor and indoor dining at Novo Café;
16 failing to require restaurant patrons, customers, and guests to wear face coverings; failing to
17 require restaurant employees to wear face coverings; failing to post appropriate COVID-19
18 protocols near the entrance of the restaurant; failing to post signage at the entrance informing
19 restaurant customers of COVID-19 requirements; failing to implement physical distancing
20 measures; failing to discontinue providing entertainment to restaurant customers; failing to display
21 a valid Public Health Permit; failing to maintain the Notice of Closure sign clearly visible to the
22 general public and patrons; failing to close, and operating on a suspended Public Health Permit;
23 failing to close, and operating on a revoked Public Health Permit; and are continuing to violate the
24 Los Angeles County Code, state law, and Health Orders.

25 95. By failing to comply with the Health Orders, Los Angeles County Code, and state
26 law that are designated to combat the spread of COVID-19, Defendants have committed and are
27 committing a public nuisance per se.

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1 96. Based on the number of persons who have already been infected, been hospitalized,
2 and/or died because of COVID-19 in the County and the coronavirus's extremely high rate of
3 transmission, the Defendants' violations of the Health Order are egregiously injurious to the health
4 and safety of Los Angeles County residents and have likely led to and will likely continue to lead
5 to additional infections, illness, hospitalizations, and death, thus constituting a public nuisance that
6 must be abated immediately.

7 97. The People cannot be fully compensated in damages and are without a plain,
8 speedy, or adequate remedy at law because the exact amount of damages to the general public's
9 health, safety, and welfare is not ascertainable.

10 98. Unless Defendants are restrained and enjoined by order of this court and/or the
11 court provides other equitable relief permissible by law, Defendants will perpetuate the public
12 nuisance at Novo Café and in the County by continuing its operation in violation of the Health
13 Orders, Los Angeles County Code, and state law.

14 **FIFTH CAUSE OF ACTION**

15 **Unlawful Business Practices**

16 **(Business and Professions Code § 17200 – Unfair Business Practices)**

17 ***By the People Against All Defendants and Does 1-50***

18 99. Plaintiff People re-allege and incorporate by reference each and every one of the
19 allegations contained in Paragraphs 1 through 98 of this Complaint.

20 100. As set forth above and on information and belief, since December 22, 2020,
21 Defendants and Does 1-50 continually and on an on-going and daily basis violated, and continue
22 to violate, the Health Orders by, among other violations: operating outdoor and indoor dining at
23 Novo Café; failing to require restaurant patrons, customers, and guests to wear face coverings;
24 failing to require restaurant employees to wear face coverings; failing to post appropriate COVID-
25 19 protocols near entrance of the restaurant; failing to post signage at the entrance informing
26 restaurant customers of COVID-19 requirements; failing to implement physical distancing
27 measures; failing to discontinue providing entertainment to restaurant customers; failing to display
28 a valid Public Health Permit; failing to maintain the Notice of Closure sign clearly visible to the

1 general public and patrons; failing to close, and operating on a suspended Public Health Permit;
2 failing to close, and operating on a revoked Public Health Permit; and are continuing to violate the
3 Health Orders, Los Angeles County Code, and state law.

4 101. Defendants' violations of the Health Orders, Los Angeles County Code, and state
5 law, as described above, during the ongoing COVID-19 pandemic when a vast majority of other
6 restaurants in Los Angeles County abided by the law and public safety health orders, demonstrate
7 a pattern and practice of unlawful conduct constituting unlawful business practices and unfair
8 competition prohibited by Business and Professions Code sections 17200 *et seq.* and applicable
9 case law.

10 102. The People bring this action to protect the public as consumers and competitors
11 from the unlawful business practices committed by Defendants.

12 103. As a direct and proximate result of the foregoing acts and practices, Defendants
13 have received income, profit, and other benefits, which they would not have received had they not
14 violated the Health Orders, County Code, state law, and Business and Professions Code sections
15 17200 *et seq.*

16 104. By operating in violation of the Health Orders, Los Angeles County Code sections
17 1.23.050, 8.04.932, 8.04.943, 8.04.947, and 11.02.060, and Health and Safety Code sections
18 114381 and 114405(a), Defendants obtained an unfair advantage over other restaurants in Los
19 Angeles County, who were complying with such orders and laws.

20 105. The People have no adequate remedy at law in that damages are insufficient to
21 protect the public from the future danger and harm caused by the acts and practices described in
22 this Complaint.

23 106. Unless injunctive relief is granted to enjoin the future unlawful business practices
24 of the Defendants, the People will suffer irreparable injury and damage.

25 107. The People are entitled to civil penalties under Business and Professions Code
26 section 17206 of up to \$2500 per day to penalize Defendants for each of their violations which
27 constitute unfair competition.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

(1) That the operation of Novo Café be declared a continuing public nuisance pursuant to Los Angeles County Code section 1.23.040 and Civil Code sections 3479 and 3480;

(2) For temporary and permanent injunctive relief prohibiting each Defendant, as well as all of his/her/their agents, officers, and employees from operating or allowing the operation of Novo Café in a manner that violates the Health Orders;

(3) For temporary and permanent injunctive relief ordering the closure of the Novo Café restaurant until all requisite public health permits are obtained and compliance with all public health and safety laws and orders is achieved;

(4) For an abatement order requiring Defendants, as well as their agents, officers, and employees, to undertake the necessary remedial measures to bring Novo Café into compliance with state law, the Los Angeles County Code, and the Health Orders with respect to permitted restaurant operations;

(5) For injunctive relief requiring Defendants, as well as their agents, officers, and employees, to allow the County Health Officer, or his designees, to enter the subject properties to verify compliance with the Health Orders, Los Angeles County Code, and state law;

(6) That Defendants, each jointly and separately, be ordered to pay civil penalties for each day they permitted the use of the Property in a manner that violated the Los Angeles County Code, pursuant to County Code sections 1.23.090 and 8.04.942;

(7) That Defendants, each jointly and separately, be ordered to pay a civil penalty of \$2,500 for each act of unfair competition or unlawful competition pursuant to Business and Professions Code section 17206 for each day they operated their restaurant in violation of the County Code, state law, and the Health Orders;

(8) That Defendants, each jointly and separately, be ordered to pay attorneys' fees, pursuant to County Code section 1.23.080;

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(9) That Defendants, each jointly and separately, be ordered to pay the costs of the suit;

and

(10) For such other and further relief as is just and proper.

DATED: January 5, 2022

Respectfully submitted,

RODRIGO A. CASTRO-SILVA
County Counsel

By *Elliot Min*
ELLIOT H. MIN
PETER LEE

Attorneys for COUNTY OF LOS ANGELES,
MUNTU DAVIS, M.D., M.P.H., in his capacity as
Health Officer of Los Angeles, and THE PEOPLE
OF THE STATE OF CALIFORNIA