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TYRESE GIBSON, ERIC MORA AND

MANUEL HERNANDEZ

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – CENTRAL DISTRICT

TYRESE GIBSON, an individual; ERIC
MORA, an individual; MANUEL
HERNANDEZ, an individual;

Plaintiffs,

v.

THE HOME DEPOT, INC., a Delaware
Corporation, and DOES 1-10, inclusive,

Defendants.

CASE NO. **23STCV18952**

COMPLAINT FOR:

- (1) VIOLATION OF UNRUH CIVIL
RIGHTS ACT, CIVIL CODE §§51, 52;
- (2) NEGLIGENT HIRING, SUPERVISION
AND/OR RETENTION

DEMAND FOR JURY TRIAL

1 Plaintiffs Tyrese Gibson (“Gibson”), Eric Mora (“Mora”) and Manuel Hernandez (“Hernandez”)
2 (collectively, “Plaintiffs”), by and through their attorneys, Lavelly & Singer Professional Corporation,
3 respectfully make the following claims and allege as follows:

4 **INTRODUCTION**

5 1. The Home Depot, Inc. (“The Home Depot”) reported \$160 Billion in annual sales in 2022.
6 Despite the company’s runaway success, discriminatory mistreatment and consumer racial profiling
7 persist in its stores. Gibson, one of the most recognizable Black actors and musicians in the United States,
8 and his associates, craftsmen Mora and Hernandez, experienced outrageous discriminatory mistreatment
9 and consumer racial profiling first-hand inside The Home Depot retail store in West Hills, California on
10 February 11, 2023. While Plaintiffs attempted to make an in-store purchase, store clerks purposely
11 interfered with and refused to process the transaction based on their groundless suspicion of Gibson,
12 Mora and Hernandez arising from their skin color, and, in the case of Mora and Hernandez, their national
13 origin as well.

14 2. The Home Depot has refused to take any responsibility for discriminating against Gibson,
15 Mora and Hernandez, or to acknowledge the pain, humiliation and anguish caused by the company.
16 Instead, The Home Depot doubled down, lawyered-up, and treated Gibson, Mora and Hernandez and
17 what happened to them as not worthy of any due consideration – instead inferring that they are the
18 problem. In short, The Home Depot invited this civil rights lawsuit. This is the absolute height of
19 hypocrisy for a company that disingenuously promotes itself to the world as “an environment of mutual
20 respect that is free of harassment and discrimination” and that “prohibits discrimination or harassment on
21 the basis of race, religion, creed, color, national origin” to engender favor with the public and
22 shareholders.

23 3. Gibson, Mora and Hernandez are taking a stand against The Home Depot to hold it
24 accountable. The company needs to understand that there are consequences for discriminatory
25 mistreatment and consumer racial profiling. Plaintiffs are committed to doing their part to advance civil
26 rights and put an end to the despicable practice of discriminatory mistreatment and consumer racial
27 profiling at The Home Depot, and, by extension, all retail stores.

1 4. The Unruh Civil Rights Act, California Civil Code sections 51 and 52 (“Unruh Act” or
2 the “Act”), provides protection for all persons within the jurisdiction of California from arbitrary and
3 intentional discrimination by all California business establishments. It expressly provides that: “All
4 persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color,
5 religion, ancestry, national origin, disability, medical condition, genetic information, marital status,
6 sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal
7 accommodations, advantages, facilities, privileges, or services in all business establishments of every
8 kind whatsoever.” Cal. Civ. Code § 51. Civil Code section 52 provides: “Whoever denies, aids or incites
9 a denial, or makes any discrimination or distinction contrary to Section 51 . . . is liable for each and every
10 offense for the actual damages, and any amount that may be determined by a jury, or a court sitting
11 without a jury, up to a maximum of three times the amount of actual damage . . . and any attorney’s fees
12 that may be determined by the court in addition thereto, suffered by any person denied the rights provided
13 in Section 51.” Cal. Civ. Code § 52(a). Section 52 also authorizes “any person aggrieved by” conduct of
14 resistance to the full enjoyment of any of the rights described in this section to request “preventive relief,
15 including an application for a permanent or temporary injunction, restraining order, or other order . . . as
16 the complainant deems necessary to ensure the full enjoyment of the rights described in this section.”
17 Cal. Civ. Code § 52(c)(3).

18 5. The purpose of the Unruh Act is to create and preserve “a nondiscriminatory environment
19 in California business establishments by ‘banishing’ or ‘eradicating’ arbitrary, invidious discrimination
20 by such establishments.” *Angelucci v. Century Supper Club*, 41 Cal. 4th 160, 167 (2007) (citing *Isbister*
21 *v. Boys’ Club of Santa Cruz, Inc.*, 40 Cal. 3d 72, 75-76 (1985)). “The Act stands as a bulwark protecting
22 each person’s inherent right to ‘full and equal’ access to ‘all business establishments.’” *Angelucci*, 41
23 Cal. 4th at 167 (citing Cal. Civ. Code § 51 and *Isbister*, 40 Cal. 3d at 75); *see also Thurston v. Omni Hotels*
24 *Mgmt. Corp.*, 69 Cal. App. 5th 299, 306 (2021). “A business establishment’s unequal, race-based
25 treatment of its customers is unlawful under the Unruh Act—even if its customers are not denied services.
26 This is true whether the discriminatory treatment is verbal, physical, or financial. Thus, in the context of
27 alleged racial discrimination, the dispositive question under the Unruh Act is whether the plaintiff faced
28

unequal treatment on account of his or her race that members of other races did not experience.” *Smith v. BP Lubricants USA Inc.*, 64 Cal. App. 5th 138, 154 (2021).

6. The conduct of The Home Depot flies in the face of the Unruh Act, and its transgressions are inexcusable. Due to The Home Depot’s failure and refusal to take any accountability for these unlawful actions, the pain and humiliation experienced by Gibson, Mora and Hernandez at the West Hills store on February 11, 2023 must be remedied in a court of law.

PARTIES, JURISDICTION AND VENUE

7. Plaintiff TYRESE GIBSON is, and at all times relevant hereto has been, an individual who resides in Fulton County, State of Georgia.

8. Plaintiff ERIC MORA is, and at all times relevant hereto has been, an individual who resides in the County of Los Angeles, State of California.

9. Plaintiff MANUEL HERNANDEZ is, and at all times relevant hereto has been, an individual who resides in the County of Los Angeles, State of California.

10. On information and belief, Defendant THE HOME DEPOT, INC. is, and at all times relevant hereto has been, a Delaware corporation authorized to do business in the State of California and operating in the County of Los Angeles, State of California.

11. Plaintiffs are presently unaware of the true names and capacities of the defendants sued herein as Does 1 through 10, inclusive, and therefore sue said defendants by fictitious names. Plaintiffs will amend this Complaint to allege the true names and capacities of such fictitiously named defendants when their names and capacities have been ascertained. Plaintiffs are informed and believe and based thereon, allege that each of the fictitiously named defendants is responsible in some manner for the occurrences, acts and omissions alleged herein and that Plaintiffs’ damages were proximately caused by their conduct. Hereinafter, The Home Depot and Doe Defendants 1 through 10, inclusive, will sometimes be referred to collectively as “Defendants.”

12. Plaintiffs are informed and believe, and based thereon allege, that Defendants, and each of them, were the agents, employees, partners, joint-venturers, co-conspirators, owners, principals and employers of the remaining Defendants, and each of them, and are, and at all times herein mentioned were, acting within the course and scope of that agency, partnership, employment, conspiracy, ownership

1 or joint venture. Plaintiffs are further informed and believe and based thereon allege that the acts and
2 conduct herein alleged of each such Defendant were known to, authorized by, and/or ratified by the other
3 Defendants, and each of them.

4 13. Plaintiffs are informed and believe, and thereupon allege, that at all relevant times,
5 Defendants acted in concert, conspired and agreed among themselves to commit the wrongful acts and
6 practices alleged in this Complaint, and that such wrongful acts and practices were committed pursuant
7 to and in furtherance of such conspiracy and agreement, and with the consent and approval of each of the
8 Defendants. Plaintiffs are informed and believe, and thereupon allege, that each of the Defendants are
9 liable as a direct participant, co-conspirator and/or aider and abettor of the wrongful acts and practices
10 alleged herein.

11 14. Jurisdiction is proper in the Superior Court of the State of California for the County of Los
12 Angeles pursuant to Section 410.10 of the California Code of Civil Procedure, and because the amount
13 in controversy exceeds the minimum jurisdiction of the Court.

14 15. Venue is proper in the County of Los Angeles, California pursuant to Section 395 of the
15 California Code of Civil Procedure because one or more Defendants reside or are located in Los Angeles
16 County at the commencement of this action, and because events or occurrences giving rise to the claims
17 alleged in the Complaint took place in the County of Los Angeles.

18 **FACTS COMMON TO ALL CAUSES OF ACTION**

19 16. Gibson, Mora and Hernandez were subjected to outrageous discriminatory mistreatment
20 and consumer racial profiling at The Home Depot retail store located at 22855 Victory Blvd., West Hills,
21 California 91307 (Store #1070).

22 17. On the evening of February 11, 2023, Gibson, Hernandez and Mora approached the
23 cashiers' register together to complete the purchase of materials for an ongoing project at Gibson's
24 residence. Gibson is a long-time customer of The Home Depot and over time he has purchased no less
25 than One Million Dollars' (\$1,000,000.00) worth of materials from the company. Mora and Hernandez
26 regularly provide construction services to Gibson in connection with his projects. In this capacity, they
27 have patronized The Home Depot, particularly the West Hills store, on many occasions over the years.
28

1 18. The cashier was very slow scanning items and the process took twenty minutes. Then, the
2 cashier insisted that all items be re-scanned because of a purported glitch in the system. While the cashier
3 re-ran the scanning of the merchandise (a process that extended another twenty minutes), Gibson was
4 approached by shoppers who recognized him from his roles in motion pictures. Not wanting to create a
5 disturbance in the store with his fans, Gibson decided it would be better to wait in his vehicle, which was
6 parked outside. Gibson communicated to the cashier that he would proceed to the parking lot, and that
7 Mora and Hernandez would be completing the purchase transaction with his credit card. The cashier
8 acknowledged Gibson and said he understood. Gibson asked the cashier if the cashier needed anything
9 further from him to complete the transaction. The cashier said no, and that Gibson could leave.

10 19. However, when Mora and Hernandez presented Gibson's credit card to pay for the
11 materials, the cashier refused to complete the purchase transaction. Mora and Hernandez called Gibson
12 using FaceTime video, and passed the phone to the cashier. Gibson, appearing on video, again authorized
13 the purchase transaction. Despite this, the cashier continued to refuse to complete the transaction. Gibson
14 returned to the inside of the store, again authorized payment and asked why the cashier refused the
15 transaction. He also asked to speak with the store manager. The cashier gave no reasonable explanation
16 other than repeating "store policy" and demanded to see a form of identification. The manager refused
17 to speak with Gibson in person. It was only after significant heated discussion with the cashier that
18 Gibson was finally able to complete the transaction.

19 20. The actions of the cashier and manager were discriminatory based on race and origin.
20 There is no other plausible explanation for the mistreatment of Plaintiffs. The transaction was refused,
21 despite Gibson's repeated authorizations, because of Plaintiffs' skin color and, in the case of Mora and
22 Hernandez, also because of their national origin. This is a clear and deplorable instance of discriminatory
23 mistreatment and consumer racial profiling. The treatment of Gibson, Mora and Hernandez by The Home
24 Depot was humiliating and demeaning.

25 **FIRST CAUSE OF ACTION**

26 **VIOLATION OF UNRUH CIVIL RIGHTS ACT, CAL. CIV. CODE §§ 51-52**

27 **(All Plaintiffs Against All Defendants)**

28 21. Plaintiffs incorporate by reference Paragraphs 1-20 inclusive, hereof as though fully set

1 forth herein.

2 22. The Unruh Act provides that all persons, regardless of their race, color, ancestry and/or
3 national origin, “are entitled to the full and equal accommodations, advantages, facilities, privileges, or
4 services in all business establishments[.]” Cal. Civ. Code § 51(b). To establish a cause of action under
5 the Unruh Act the following elements are required: (1) a protected class; (2) a business establishment;
6 (3) discriminatory business practices; and (4) discriminatory intent. California Civil Code section 52(a)
7 provides: “Whoever denies, aids or incites a denial, or makes any discrimination or distinction contrary
8 to Section 51 is liable for each and every offense for the actual damages suffered by any person denied
9 the rights provided in Section 51.” Cal. Civ. Code § 52(a).

10 23. Gibson is Black, and Mora and Hernandez are both Hispanic men of Mexican national
11 origin. Gibson, Mora and Hernandez are each within classes protected by the Unruh Act.

12 24. Defendant The Home Depot is a corporation and a national retailer of home improvement
13 products and services. Defendant The Home Depot is a business establishment for the purposes of the
14 Unruh Act.

15 25. On February 11, 2023, Defendants subjected Plaintiffs, and each of them, to a
16 discriminatory business practice with discriminatory intent when refusing to, or otherwise preventing,
17 Plaintiffs from completing their purchase transaction at Defendant The Home Depot’s West Hills retail
18 store, as described above.

19 26. Defendants’ conduct denied, incited a denial of, discriminated, and/or made a distinction
20 on the basis of Plaintiffs’ race, color and/or national origin that denied Plaintiffs full and equal
21 accommodations, advantages, facilities, privileges, and/or services in violation of the Unruh Act.

22 27. Defendants acted intentionally to deny, incite a denial of, discriminate, and/or make a
23 distinction on the basis of Plaintiffs’ race, color and/or national origin that denied Plaintiffs public
24 accommodations, advantages, facilities, privileges, and/or services.

25 28. A substantial motivating reason for Defendants’ conduct was Defendants’ perception of
26 Plaintiffs’ race, color and/or national origin.

27 29. Defendants’ conduct was a substantial factor in causing Plaintiffs’ harm.

28 30. As a proximate result of Defendants’ unlawful discriminatory actions, Plaintiffs have and

1 will continue to suffer great shame, humiliation, inconvenience mental suffering, and other damages, in
2 an amount subject to proof at trial, but which Plaintiffs believe are in excess of One Million Dollars
3 (\$1,000,000).

4 31. An actual controversy exists between Plaintiffs and Defendants as to the application of the
5 Unruh Act, and whether Defendants' actions violate the Unruh Act. The Unruh Act applies to Defendants
6 and prohibits Defendants' discriminatory actions.

7 32. Defendants' violation of the Unruh Act entitles Plaintiffs to recover statutory damages of
8 three times the amount of actual damages and an award of attorney's fees.

9 **SECOND CAUSE OF ACTION**

10 **NEGLIGENT HIRING, SUPERVISION AND/OR RETENTION**

11 **(All Plaintiffs Against All Defendants)**

12 33. Plaintiffs incorporate by reference Paragraphs 1-20, inclusive, hereof as though fully set
13 forth herein.

14 34. Defendants hired and retained the cashier and manager (collectively, the "Employees")
15 who were present at Defendant The Home Depot's West Hills retail store on February 11, 2023, and who
16 subjected Plaintiffs, and each of them, to a discriminatory business practice with discriminatory intent
17 when refusing to, or otherwise preventing, Plaintiffs from completing their purchase transaction, as
18 described above.

19 35. The Employees were unfit to perform the work for which they were hired.

20 36. Defendants knew or should have known that the Employees were unfit and/or incompetent
21 and that this unfitness and/or incompetence created a particular risk to others.

22 37. The Employees' unfitness and/or incompetence harmed Plaintiffs.

23 38. As described above, Defendants' negligence in hiring, screening, training, supervising
24 and/or retaining the Employees in a competent manner was a substantial factor in causing Plaintiffs'
25 harm.

26 39. As a proximate result of Defendants' negligence, Plaintiffs have and will continue to suffer
27 damages, in an amount subject to proof at trial but which Plaintiffs believe are in excess of One Million
28 Dollars (\$1,000,000).

1 40. Plaintiffs are informed and believe, and based thereon allege, that Defendants, in doing
2 the things herein alleged, had advance knowledge of the unfitness of the Employees and employed them
3 with a conscious disregard of the rights or safety of others, and acted willfully, maliciously, oppressively
4 and despicably with the full knowledge of the adverse effect of their actions on Plaintiffs, and with willful
5 and deliberate disregard of the consequences to Plaintiffs. By reason thereof, and Plaintiffs are entitled
6 to an award of punitive damages pursuant to California Civil Code section 3294(b).

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs prays for judgment against Defendants, and each of them, as follows:

- 9 1. For damages in an amount to be proven at trial but believed to be in excess of One Million
10 Dollars (\$1,000,000);
11 2. For statutory damages pursuant to California Civ. Code Section 52(a);
12 3. For attorney's fees, pursuant to California Civ. Code Section 52(a);
13 4. For punitive damages (as to the Second Cause of Action only);
14 5. A declaratory judgment declaring that the Unruh Civil Rights Act, California Civil Code
15 Section 51, applies to Defendants and that Defendants' actions violated the Unruh Civil Rights Act;
16 6. For pre-judgment and post-judgment interest; and
17 7. For such other relief as the Court may deem just and proper.

18
19 Dated: August 9, 2023

LAVELY & SINGER
PROFESSIONAL CORPORATION
TODD S. EAGAN
MELISSA Y. LERNER

22 By: /s/ Todd S. Eagan
23 TODD S. EAGAN
24 Attorneys for Plaintiffs TYRESE GIBSON, ERIC
25 MORA and MANUEL HERNANDEZ
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27
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Please take notice that Plaintiffs Tyrese Gibson, Eric Mora, and Manuel Hernandez demand a trial by jury.

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