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IN THE FOURTH JUDICIAL DISTRICT COURT
IN AND FOR UTAH COUNTY, STATE OF UTAH

<p>JUANA VICTORIA FLORES, individually and on behalf of ANDREA SANCHEZ; and GRISELDA ESCOBAR, an individual.</p> <p>Plaintiff,</p> <p>vs.</p> <p>BUILT BRANDS, LLC DBA BUILT BAR and; BUILT BRANDS MANAGEMENT, LLC, and DOES 1-10.</p> <p>Defendants.</p>	<p>COMPLAINT</p> <p>Case No.</p> <p>Judge:</p> <p>TIER: 3</p>
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Plaintiffs, Juana Victoria Flores (“Victoria”), Andrea Sanchez (“Andrea”), and Griselda Escobar (“Griselda”), collectively referred to as “Plaintiffs,” hereby complain against the above-named Defendants and allege as follows:

PARTIES AND JURISDICTION

1. Victoria was, at all times relevant to this action, a resident of, and domiciled in Utah County, Utah.

2. Andrea was, at all times relevant to this action, a resident of, and domiciled in Utah County, Utah.

3. Andrea was, at all times relevant to this action, a resident of, and domiciled in Utah County, Utah.

4. Built Brands is a Utah Limited Liability Company, doing business as Built Bar, with its principal place of business located at 708 S Utah Valley Dr, American Fork, UT 84003.

5. Built Brands Management is a Utah Limited Liability Company, with its principal place of business located at 708 S Utah Valley Dr, American Fork, UT 84003.

6. The incidents complained of herein occurred in Utah County.

7. The names and capacities, and or legal responsibility for the damages in this Complaint, whether individual, corporate, associate, or otherwise, of Defendants named herein as DOES 1 through 10, are unknown to Plaintiffs, who therefore sue these Defendants by such fictitious names. Plaintiffs will amend this Complaint to allege the true names, capacities and liabilities of DOES 1 through 10 when ascertained.

8. Plaintiffs are informed and believe each of the named Defendants and DOES 1 through 10, are legally responsible for the occurrences described in this pleading and the damages alleged herein were proximately caused by those Defendants and DOES 1 through 10.

9. The dispute is based in Tort, and the amounts demanded on behalf of Plaintiffs are more than \$300,000.00. Accordingly, pursuant to Rule 26, Utah Rules of Civil Procedure, Plaintiffs' claims are hereby pled under Tier Three (3).

10. This Court has jurisdiction over this matter pursuant to Utah Code Ann. § 78A-5-102.

11. Venue is proper in this Court pursuant to Utah Code Ann. § 78B-3-307.

GENERAL ALLEGATIONS

VICTORIA & ANDREA

12. Defendants are engaged in the manufacture and distribution of nutritional supplements.

13. At all relevant times described herein, Victoria was Defendants' employee and worked on Defendants' production lines.

14. The production lines are shared by at least 10 employees working in close proximity to one another.

15. On or about March 15, 2020, rumors began circulating that an individual working on one of Defendants' production lines had contracted COVID-19.

16. As these rumors intensified, Defendants held two separate meetings wherein employees, including Victoria, were issued threats of termination if they discussed anything related to a COVID-19 infection at Defendants' facilities.

17. Meanwhile, more employees stopped showing up for work.

18. Even still, Defendants never provided their employees with any type of protective equipment, such as masks, gloves, or sanitizer.

19. On or about April 5, 2020, Victoria learned of approximately four other employees who had become sick.

20. On April 7, 2020, and despite Defendants' threats of termination, Victoria sent an email to Defendants' Human Resource Department informing Defendants of the safety concerns she had for herself and Defendants' other employees: The email read as follows:

Title: "I Shannon I am really concerned."

Body Text: "I am really that too many people are sick with influenza, I understand Jorge's and De Hall's line has several people I'll."

"I believe it will be good to have a professional company clean up or fumigate. I believe the lack of ventilation keeps the place infected, we make food and we don't want more people getting sick."

"I wish the best for the company and felt I needed to let you know."

"I am really concerned Victoria."

21. Defendants neither replied to Victoria's email nor took the necessary precautions to prevent the spread of COVIDa-19, including Victoria's well-reasoned recommendations.

22. On April 8, 2020, Victoria started to develop a cough.
23. Victoria stopped working on this date.
24. On April 9, 2020, Victoria's daughter, Andrea, began showing symptoms of COVID-19. Andrea has Downs Syndrome with respiratory cardiac deficiencies. Due to her disability, Andrea is confined to her home and cannot go outside without Victoria's assistance.
25. That same day, Andrea was admitted to the University of Utah Clinic and tested for COVID-19.
26. Andrea was subsequently hospitalized, and her condition remains critical.
27. On April 10, 2020, Victoria went to Timpanogos Hospital to undergo a COVID-19 test.
28. On April 13, 2020, Victoria was informed she had tested positive for COVID-19.
29. Victoria remains under strict quarantine.

GRISELDA

30. Griselda is Victoria and Andrea's roommate.
31. On or about April 10, 2020, Griselda began having COVID-19 symptoms.
32. Knowing that both her roommates had tested positive for the virus, she decided to undergo the COVID-19 test to determine whether she had been infected.
33. On April 13, 2020, Griselda was informed that she had tested positive for COVID-19.
34. Griselda remains under strict quarantine.

DEFENDANTS CORPORATE PHILOSOPHY

35. It was Defendants' corporate philosophy to place profits over people by knowingly, intentionally and recklessly operating their business in violation of Federal, State, County and Municipality orders regarding the operation of businesses during the COVID-19 pandemic.

36. It was Defendants' corporate philosophy to place profits over people by knowingly, intentionally and recklessly threatening employment termination if employees raised safety concerns regarding COVID-19.

37. It was Defendants' corporate philosophy to place profits over people by knowingly, intentionally and recklessly refusing to provide their employees with personal protective equipment.

38. It was Defendants' corporate philosophy to place profits over people by knowingly, intentionally and recklessly refusing to suspend operations in order to sanitize their facilities.

39. It was Defendants' corporate philosophy to place profits over people by knowingly, intentionally and recklessly ignoring safety warnings from their employees.

40. It was Defendants' corporate philosophy to place profits over people by knowingly, intentionally and recklessly exposing their customers to Covid-19 through their acts and omissions described herein.

41. Defendants' acts and omissions, as describe herein, were motivated by their sole desire to increase their profitability and net worth.

FIRST CLAIM FOR RELIEF

(Negligence / Willful Misconduct / Reckless Infliction of Harm / Gross Negligence)

42. Plaintiffs incorporate by reference and re-allege all preceding paragraphs as if fully set forth herein.

43. Defendants owed a duty to follow all applicable safety rules promulgated by Federal, State, County and Municipal governments intended to protect their employees and the community from harm or death.

44. Defendants owed a duty to protect their employees and the community by acting as a reasonable and responsible employer would under similar circumstances.

45. Defendants owed a duty to protect their employees and the community by ceasing business operations.

46. Defendants owed a duty to protect their employees and the community by providing employees personal protective equipment.

47. Defendants owed a duty to protect their employees and the community by having adequate policies and procedures specifically designed to prevent the contraction and spread of Covid-19 at their facilities.

48. Defendants owed a duty to protect their employees and the community by adequately sanitizing their facilities.

49. Defendants owed a duty to protect their employees and the community by offering a safe working environment, free from threats of termination if employees raised safety concerns.

50. Defendants owed a duty to their employees and the community to recognize, consider, and heed their employees' valid safety warnings.

COMPLAINT

Flores et al. v. Built Brands, LLC et al.

Case No.

Page 7 of 10

51. Defendants breached the aforementioned duties.

52. Defendants failed to observe even slight care.

53. Defendants' acts and omissions were reckless to a degree that showed willful misconduct to the consequences of such acts and omissions.

54. Defendants knew a breach of the duties described herein would result in the harms and losses described below.

55. As a direct and proximate cause of the allegations contained herein, Plaintiffs have suffered general and special damages in an amount to be ascertained at the time of trial, subject to proof, which damages include but are not limited to emotional pain, great physical pain, injuries, past and future medical expenses, past and future mental anguish and suffering, permanent stigma, permanent impairment, loss of dignity, depression, feelings of hopelessness, despair, isolation, loneliness, diminished earning capacity, lost wages, diminished life expectancy, etc.

SECOND "THEORY OF RECOVERY"

(Respondeat Superior)

56. Plaintiffs incorporate by reference and re-allege all preceding paragraphs as if fully set forth herein.

57. Any acts or omissions alleged herein, that may be attributed to Defendants' employee(s) and/or agents, were performed within the employee(s)/agent(s) scope of employment as the conduct was (1) the general kind of work the employee(s) were employed to do; (2) occurred substantially within working hours and within the normal work area; and (3) were motivated, at least in part, by the purpose of serving Defendants' interests.

58. As a direct and proximate cause of the allegations contained herein, Plaintiffs have suffered general and special damages in an amount to be ascertained at the time of trial, subject to proof, which damages include but are not limited to emotional pain, great physical pain, injuries, past and future medical expenses, past and future mental anguish and suffering, permanent stigma, permanent impairment, loss of dignity, depression, feelings of hopelessness, despair, isolation, loneliness, diminished earning capacity, lost wages, past and future household services, diminished life expectancy, etc.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs prays for judgment against Defendants as follows:

1. For all damages to which Plaintiffs are entitled, in an amount to be ascertained at the time of trial, subject to proof, which damages include but are not limited to emotional pain, great physical pain, injuries, past and future medical expenses, mental anguish and suffering, permanent stigma loss of dignity, depression, feelings of hopelessness, despair, isolation, loneliness, permanent impairment, diminished earning capacity, lost wages, past and future household services, diminished life expectancy, etc.
2. For punitive damages.
3. For pre-judgment and post-judgment interest.
4. For such other relief as may be deemed fair and equitable under the circumstances.

DATED this 13th day of May, 2020.

GUTIERREZ & ASSOC. PLLC

/s/Juan Carlos Gutierrez

Juan Carlos Gutierrez

Attorney for Plaintiffs

COMPLAINT

Flores et al. v. Built Brands, LLC et al.

Case No.

Page **10** of **10**