

1 **TO THE COURT, AND TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:**

2 At the time and place above stated, or as soon thereafter as the matter may be heard, Defendant
3 will, and does hereby, demur to the Complaint herein for failure and inability to state a cause of action, failure
4 to state ultimate facts indicating ability to defeat defenses, and uncertainty.

5 This Demurrer will be and is made on the following grounds shown on the face of the Complaint:

6
7 1. Failure to state a claim upon which relief can be granted in the following ways:

8 (a) No notice attached to the Complaint complies with the requirements of the Mobilehome
9 Residency Law ("MRL") as to being addressed to Defendant or having any statement made in the Complaint
10 as to why notices addressed to someone other than Defendant constitute notices required to be served on
11 Defendant, and therefore the Complaint does not have the required basis of notice before filing an unlawful
12 detainer. These requirements are that management:

13 . . .set forth in a notice of termination, the reason relied upon for the termination with specific facts to
14 permit determination of the date, place, witnesses, and circumstances concerning that reason. Neither
15 reference to the section number or a subdivision thereof, nor a recital of the language of this article will
16 constitute compliance with this section. Civil Code § 798.57

17 Exhibit 1 to the Complaint purports to be a Standard Residential Agreement for a Term of Less Than 12
18 Months applying to the mobilehome rental space where Defendant's mobilehome is parked; Exhibit 2 purports
19 to be a Three-Day Notice applicable to the case stated in the Complaint; and Exhibit 3 purports to be a Proof
20 of Service of that Three-Day Notice and a blank Prejudgment Claim of Right to Possession, which does not
21 state who it was served on, if anyone other than one of the same persons involved in Exhibits 1 and 2, who
22 are not Defendant and whom the Complaint does not explain as to why Defendant should be or is by law
23 sued for Unlawful Detainer based on notices allegedly served only on this other person. The Complaint
24 therefore states no cause of action for Unlawful Detainer.

25 Furthermore, no notice referred to in the Complaint cures the defect of not applying to
26 Defendant or explaining how Defendant is legally obligated to cure alleged failure to pay rent of another
27 person, either. No notice or letter attached to the Complaint contains the reason relied upon for the
28 termination with specific facts to permit determination of the date, place, witnesses, and circumstances
concerning that reason, as required by Civil Code § 798.57, supra.

1 One cannot determine by reading any notice attached to the Complaint what actions of
2 Defendant are claimed to have violated, how, and what, if anything, Plaintiffs ever asked Defendant to do
3 in order to avoid an unlawful detainer action such as the current one. This also means the condition
4 precedent to being able to file an unlawful detainer under the MRL has not been satisfied, so unless
5 Plaintiffs can show a specific notice was given to Defendant before the action was filed, this Demurrer
6 must be sustained without leave to amend;

7 (b) The notices attached to the Complaint do not show compliance with the MRL, in Civil Code §
8 798.55(b)(1), which requires them to be served as provided in C.C.P. § 1162, which requires personal
9 service, which is not alleged in the Complaint, unless certain exceptions also not alleged in the Complaint are
10 met. In fact, there is no allegation in the Complaint that any notice was served in any way on Defendant
11 Berhane Habte, or that Plaintiffs even attempted to serve personally as required any notice on Defendant
12 Berhane Habte, although the Complaint admits in ¶ 5 that Plaintiffs know Defendant is a resident of the
13 mobilehome on the mobilehome space at issue in the Complaint;

14 (c) Plaintiffs have alleged no ultimate facts to state a cause of action upon which relief can be
15 granted in the Complaint in that Plaintiffs have not alleged compliance with Civil Code § 798.15 (c) requiring
16 a copy of the MRL to be attached as an exhibit and incorporated into the rental agreement by reference, and
17 in fact the rental agreement attached to the Complaint as Exhibit 1 does not contain a copy of the MRL
18 attached so Plaintiffs cannot allege compliance, and Plaintiffs have not alleged compliance with Civil Code §
19 798.16 (b), which provides that Management shall return an executed copy of the rental agreement to the
20 homeowner within 15 business days after management has received the rental agreement signed by the
21 homeowner, so unless Plaintiffs can show ability to allege compliance, this Demurrer must be sustained
22 without leave to amend;

23 (d) Plaintiffs have alleged no ultimate facts to state a cause of action upon which relief can be
24 granted in the Complaint. Plaintiffs allege only that they served notices of alleged failure to pay rent due upon
25 someone other than Defendant, and then they make no connection between whatever happened after that
26 and Defendant. This Demurrer must be sustained with leave to amend only if Plaintiffs claim they can state
27 facts showing some connection between what they allege in the Complaint and Defendant, such that relief on
28 the Complaint could be granted;

(e) Even if the Complaint sufficiently alleged Defendant had been served with a specific notice in
compliance with the MRL and had failed to do whatever he had been doing wrong or failed to do whatever he
was alleged to be required to do to avoid an unlawful detainer, the Complaint states no ultimate facts

1 sufficient to counter Defendant's defense as alleged in Case No. BC 483237, a related case which Defendant
2 asks the Court to declare related to this one by filing concurrently herewith a Notice of Related Case(s), that
3 Defendant's conduct is constitutionally protected, has legitimate purpose, and raises no health and safety
4 issues, and that Plaintiffs' actions against Defendant constitute harassment of a tenant in violation of the MRL
5 and are retaliatory and constitute constructive eviction for which he is entitled to damages against Plaintiff in
6 this case, Defendants in that case. If Plaintiffs had any facts to counter any of these claims, surely Plaintiffs
7 would have suggested at least one such fact in all the notices and letters attached to the Complaint, or at
8 least mentioned one in the Complaint somewhere. This Demurrer must therefore be sustained without leave
9 to amend unless Plaintiffs can show the Court how ultimate facts can be alleged showing Plaintiffs' actions
10 are not being enforced by state action of eviction so as to invoke color of law to interfere with Defendant's
11 constitutional rights; and

12 (f) Moreover, the Complaint fails to allege compliance with the Santa Monica Rent Control
13 Charter Amendment as to an unlawful detainer against Defendant, since Complaint ¶ 8 states the Complaint
14 is in compliance with § 1806(a) thereof in seeking to terminate a tenancy because “[t]he tenant has failed to
15 pay the rent to which the landlord is entitled under the rental housing agreement and this Article,” but nothing
16 in the Complaint shows either that Defendant is a tenant or that Defendant has failed to pay the rent to which
17 the landlord is entitled under the rental housing agreement and the Santa Monica Rent Control Charter
18 Amendment. This Demurrer must therefore, as to this ground like the other grounds alleged above, be
19 sustained with leave to amend only if Plaintiffs claim they can state facts showing some connection between
20 what they allege in the Complaint and Defendant, such that relief on the Complaint could be granted; and

21 2. Uncertainty, on the following ground:

22 Even if all the above were incorrect, the Complaint fails to set forth facts sufficient for Defendant to be
23 able to prepare a defense, for all the reasons given above in section 1 (a) through (f), as he does not know
24 what actions he has taken or not taken are claimed to have led to this unlawful detainer, how, and when,
25 according to what witnesses, in what circumstances, and what he was being asked to do to stop violating
26 whatever notice he is claimed to have been given, and then what actions he continued to take or did not take
27 after he got notice are claimed to be the basis for this unlawful detainer, so Plaintiffs' Complaint is uncertain
28 and this Demurrer must be sustained on that basis as well.

29 This Demurrer will be and is based on the pleadings and documents on file in this matter; the attached
30 Separate Statement; the attached Memorandum of Points and Authorities; the Notice of Related Case(s) filed

1 concurrently herewith; and such other evidence and argument as shall be allowed by the Court at the hearing
2 on this matter.

3 DATED: July 5, 2012

Respectfully submitted,

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Berhane Habte
Defendant in pro per

SEPARATE STATEMENT OF GROUNDS FOR DEMURRER

1
2 1. Failure to state a claim upon which relief can be granted in the following ways:

3 (a) No notice attached to the Complaint complies with the requirements of the Mobilehome
4 Residency Law ("MRL") in Civil Code § 798.57 as to being addressed to Defendant or having any statement
5 made in the Complaint as to why notices addressed to someone other than Defendant constitute notices
6 required to be served on Defendant, and therefore the Complaint does not have the required basis of notice
7 before filing an unlawful detainer.

8 (b) The notices attached to the Complaint do not show compliance with the MRL, in Civil Code §
9 798.55(b)(1), which requires them to be served as provided in C.C.P. § 1162, which requires personal
10 service, which is not alleged in the Complaint, unless certain exceptions also not alleged in the Complaint are
11 met. In fact, there is no allegation in the Complaint that any notice was served in any way on Defendant
12 Berhane Habte, or that Plaintiffs even attempted to serve personally as required any notice on Defendant
13 Berhane Habte, although the Complaint admits in ¶ 5 that Plaintiffs know Defendant is a resident of the
14 mobilehome on the mobilehome space at issue in the Complaint;

15 (c) Plaintiffs have alleged no ultimate facts to state a cause of action upon which relief can be
16 granted in the Complaint in that Plaintiffs have not alleged compliance with Civil Code § 798.15 (c) requiring
17 a copy of the MRL to be attached as an exhibit and incorporated into the rental agreement by reference, and
18 in fact the rental agreement attached to the Complaint as Exhibit 1 does not contain a copy of the MRL
19 attached so Plaintiffs cannot allege compliance, and Plaintiffs have not alleged compliance with Civil Code §
20 798.16 (b), which provides that Management shall return an executed copy of the rental agreement to the
21 homeowner within 15 business days after management has received the rental agreement signed by the
22 homeowner;

23 (d) Plaintiffs have alleged no ultimate facts in the Complaint to state a cause of action upon
24 which relief can be granted in that Plaintiffs allege only that they served notices of alleged failure to pay rent
25 due upon someone other than Defendant, and then they make no connection between whatever happened
26 after that and Defendant;

27 (e) Even if the Complaint sufficiently alleged Defendant had been served with a specific notice in
28 compliance with the MRL and had failed to stop whatever he had been doing wrong or failed to do whatever
he was alleged to be required to do to avoid an unlawful detainer, the Complaint states no ultimate facts
sufficient to counter Defendant's defense as alleged in Case No. BC 483237, a related case which Defendant

1 asks the Court to declare related to this one by filing concurrently herewith a Notice of Related Case(s), that
2 Defendant's conduct is constitutionally protected, has legitimate purpose, and raises no health and safety
3 issues, and that Plaintiffs' actions against Defendant constitute harassment of a tenant in violation of the MRL
4 and are retaliatory and constitute constructive eviction for which he is entitled to damages against Plaintiff in
5 this case, Defendants in that case; and

6 (f) Moreover, the Complaint fails to allege compliance with the Santa Monica Rent Control
7 Charter Amendment as to an unlawful detainer against Defendant, since Complaint ¶ 8 states the Complaint
8 is in compliance with § 1806(a) thereof in seeking to terminate a tenancy because “[t]he tenant has failed to
9 pay the rent to which the landlord is entitled under the rental housing agreement and this Article,” but nothing
10 in the Complaint shows either that Defendant is or is not a tenant, that Defendant owes Plaintiffs any rent,
11 that Defendant was served with the notices condition precedent to eviction under the Charter Amendment if
12 he did owe Plaintiffs any rent, or that Defendant has failed to pay rent to which the landlord is entitled under
13 the rental housing agreement and the Santa Monica Rent Control Charter Amendment; and

14 2. Uncertainty, on the following ground:

15 The Complaint fails to set forth facts sufficient for Defendant to be able to prepare a defense, for all the
16 reasons given above in section 1 (a) through (f).

17 DATED: July 5, 2012

Respectfully submitted,

18
19 Berhane Habte
20 Defendant in pro per

1 A demurrer shall distinctly specify the grounds upon which any of the objections to the complaint,
2 Complaint, or answer are taken. Unless it does so, it may be disregarded.

3 For purposes of a demurrer, the factual allegations of a pleading must be accepted as true. (*Aubry v.*
4 *Tri-City Hospital Dist.* (1992) 2 Cal.4th 962, 967.) Nonetheless, none of the factual allegations made in the
5 Complaint herein except the admission he is a resident of the subject mobilehome space applies to
6 Defendant.

7 As shown in detail in the separate statement attached hereto, and hereinafter, the Complaint utterly
8 fails to state a claim upon which relief can be granted and fails to allege any facts showing it could survive
9 Defendant's constitutional rights challenges.

10 II

11 THE COMPLAINT FAILS TO STATE A CLAIM ON WHICH RELIEF MAY BE GRANTED FOR MANY
12 SEPARATE REASONS, MOST OF WHICH ARE IRREPARABLE, SO THIS DEMURRER SHOULD BE
13 SUSTAINED WITHOUT LEAVE TO AMEND

14 (a) No notice attached to the Complaint complies with the requirements of the Mobilehome
15 Residency Law ("MRL") as to being addressed to Defendant or having any statement made in the Complaint
16 as to why notices addressed to someone other than Defendant constitute notices required to be served on
17 Defendant, and therefore the Complaint does not have the required basis of notice before filing an unlawful
18 detainer. These requirements are that management:
19

20 . . .set forth in a notice of termination, the reason relied upon for the termination with specific facts to
21 permit determination of the date, place, witnesses, and circumstances concerning that reason. Neither
22 reference to the section number or a subdivision thereof, nor a recital of the language of this article will
23 constitute compliance with this section. Civil Code § 798.57

24 Exhibit 1 to the Complaint purports to be a Standard Residential Agreement for a Term of Less Than 12
25 Months applying to the mobilehome rental space where Defendant's mobilehome is parked; Exhibit 2 purports
26 to be a Three-Day Notice applicable to the case stated in the Complaint; and Exhibit 3 purports to be a Proof
27 of Service of that Three-Day Notice and a blank Prejudgment Claim of Right to Possession, which does not
28 state who it was served on, if anyone other than one of the same persons involved in Exhibits 1 and 2, who
are not Defendant and whom the Complaint does not explain as to why Defendant should be or is by law

1 sued for Unlawful Detainer based on notices allegedly served only on this other person. The Complaint
2 therefore states no cause of action for Unlawful Detainer.

3 Furthermore, no notice referred to in the Complaint cures the defect of not applying to
4 Defendant or explaining how Defendant is legally obligated to cure alleged failure to pay rent of another
5 person, either. No notice or letter attached to the Complaint contains the reason relied upon for the
6 termination with specific facts to permit determination of the date, place, witnesses, and circumstances
7 concerning that reason, as required by Civil Code § 798.57, supra.

8 One cannot determine by reading any notice attached to the Complaint what actions of
9 Defendant are claimed to have violated, how, and what, if anything, Plaintiffs ever asked Defendant to do
10 in order to avoid an unlawful detainer action such as the current one. This also means the condition
11 precedent to being able to file an unlawful detainer under the MRL has not been satisfied, so unless
12 Plaintiffs can show a specific notice was given to Defendant before the action was filed, this Demurrer
13 must be sustained without leave to amend;

14 (b) The notices attached to the Complaint do not show compliance with the MRL, in Civil Code §
15 798.55(b)(1), which requires them to be served as provided in C.C.P. § 1162, which requires personal
16 service, which is not alleged in the Complaint, unless certain exceptions also not alleged in the Complaint are
17 met. In fact, there is no allegation in the Complaint that any notice was served in any way on Defendant
18 Berhane Habte, or that Plaintiffs even attempted to serve personally as required any notice on Defendant
19 Berhane Habte, although the Complaint admits in ¶ 5 that Plaintiffs know Defendant is a resident of the
20 mobilehome on the mobilehome space at issue in the Complaint;

21 (c) Plaintiffs have alleged no ultimate facts to state a cause of action upon which relief can be
22 granted in the Complaint in that Plaintiffs have not alleged compliance with Civil Code § 798.15 (c) requiring
23 a copy of the MRL to be attached as an exhibit and incorporated into the rental agreement by reference, and
24 in fact the rental agreement attached to the Complaint as Exhibit 1 does not contain a copy of the MRL
25 attached so Plaintiffs cannot allege compliance, and Plaintiffs have not alleged compliance with Civil Code §
26 798.16 (b), which provides that Management shall return an executed copy of the rental agreement to the
27 homeowner within 15 business days after management has received the rental agreement signed by the
28 homeowner, so unless Plaintiffs can show ability to allege compliance, this Demurrer must be sustained
without leave to amend;

(d) Plaintiffs have alleged no ultimate facts to state a cause of action upon which relief can be
granted in the Complaint. Plaintiffs allege only that they served notices of alleged failure to pay rent due upon

1 someone other than Defendant, and then they make no connection between whatever happened after that
2 and Defendant. This Demurrer must be sustained with leave to amend only if Plaintiffs claim they can state
3 facts showing some connection between what they allege in the Complaint and Defendant, such that relief on
4 the Complaint could be granted;

5 (e) Even if the Complaint sufficiently alleged Defendant had been served with a specific notice in
6 compliance with the MRL and had failed to do whatever he had been doing wrong or failed to do whatever he
7 was alleged to be required to do to avoid an unlawful detainer, the Complaint states no ultimate facts
8 sufficient to counter Defendant's defense as alleged in Case No. BC 483237, a related case which Defendant
9 asks the Court to declare related to this one by filing concurrently herewith a Notice of Related Case(s), that
10 Defendant's conduct is constitutionally protected, has legitimate purpose, and raises no health and safety
11 issues, and that Plaintiffs' actions against Defendant constitute harassment of a tenant in violation of the MRL
12 and are retaliatory and constitute constructive eviction for which he is entitled to damages against Plaintiff in
13 this case, Defendants in that case. If Plaintiffs had any facts to counter any of these claims, surely Plaintiffs
14 would have suggested at least one such fact in all the notices and letters attached to the Complaint, or at
15 least mentioned one in the Complaint somewhere. This Demurrer must therefore be sustained without leave
16 to amend unless Plaintiffs can show the Court how ultimate facts can be alleged showing Plaintiffs' actions
17 are not being enforced by state action of eviction so as to invoke color of law to interfere with Defendant's
18 constitutional rights; and

19 (f) Moreover, the Complaint fails to allege compliance with the Santa Monica Rent Control
20 Charter Amendment as to an unlawful detainer against Defendant, since Complaint ¶ 8 states the Complaint
21 is in compliance with § 1806(a) thereof in seeking to terminate a tenancy because “[t]he tenant has failed to
22 pay the rent to which the landlord is entitled under the rental housing agreement and this Article,” but nothing
23 in the Complaint shows either that Defendant is or is not a tenant, that Defendant owes Plaintiffs any rent,
24 that Defendant was served with the notices condition precedent to eviction under the Charter Amendment if
25 he did owe Plaintiffs any rent, or that Defendant has failed to pay rent to which the landlord is entitled under
26 the rental housing agreement and the Santa Monica Rent Control Charter Amendment. This Demurrer must
27 therefore, as to this ground like the other grounds alleged above, be sustained with leave to amend only if
28 Plaintiffs claim they can state facts showing some connection between what they allege in the Complaint and
Defendant, such that relief on the Complaint could be granted.

/////

III

THE COMPLAINT IS ALSO UNCERTAIN FOR THE SAME REASONS IT FAILS TO STATE A PRIMA FACIE CASE UNDER THE MRL

The Complaint also fails to set forth facts sufficient for Defendant to be able to prepare a defense, for all the reasons given above in section 1 (a) through (f), as he does not know what actions he has taken or not taken are claimed to have led to this unlawful detainer, how, and when, according to what witnesses, in what circumstances, and what he was being asked to do to stop violating whatever notice he is claimed to have been given, and then what actions he continued to take or did not take after he got notice are claimed to be the basis for this unlawful detainer, so Plaintiffs' Complaint is uncertain and this Demurrer must be sustained on that basis as well as failure to state a claim on which relief can be granted.

CONCLUSION

For all the reasons stated above, Defendant's Demurrer must be sustained without leave to amend.

DATED: July 5, 2012

Respectfully submitted,

Berhane Habte
Defendant in pro per

