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CLERK - SUPERIOR COURT  
SAN DIEGO COUNTY

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10 Attorneys for Plaintiff

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF SAN DIEGO  
13

14 SANJAY ISRANI, Individually and on Behalf )  
of All Others Similarly Situated, )

Case No. **37-2009-00060992-CU-BT-NC**

15 Plaintiff, )

CLASS ACTION

16 vs. )

COMPLAINT FOR BREACH OF  
FIDUCIARY DUTY

17 RUBIO'S RESTAURANTS, INC., )  
18 RALPH S. RUBIO, )  
KYLE A. ANDERSON, )  
19 DANIEL E. PITTARD, )  
TIMOTHY J. RYAN, )  
20 CRAIG S. ANDREWS, )  
WILLIAM R. BENSYL, )  
21 LOREN C. PANNIER, )  
ALEX MERUELO and )  
22 DOES 1-25, inclusive, )

23 Defendants. )

1 Plaintiff, by his attorneys, alleges as follows:

2 **SUMMARY OF THE ACTION**

3 1. This is a stockholder class action brought by plaintiff on behalf of the public holders of  
4 Rubio's Restaurants, Inc. ("Rubio's" or the "Company") common stock. The action is brought against  
5 the members of the Company's Board of Directors ("Board") and Alex Meruelo ("Meruelo"), the  
6 Company's largest individual shareholder, arising out Meruelo's attempt, along with Levine Leichtman  
7 Capital Partners IV, L.P. (collectively with Meruelo, the "Buyout Group"), to acquire the Company for  
8 \$8 per share (the "Proposed Buyout"), which is an inadequate and unfair amount.

9 2. The Company was founded in 1983 by defendant Ralph S. Rubio ("Ralph Rubio"), the  
10 Company's Chairman. The Company, together with its subsidiaries, owns and operates a chain of  
11 Mexican restaurants in the United States. Rubio's restaurants offer Mexican cuisine. As of March 19,  
12 2009, the Company owned and operated 190 fast-casual Mexican restaurants, 2 licensed locations, and  
13 3 franchised restaurants in California, Arizona, Nevada, Colorado, and Utah. The Company is  
14 headquartered in Carlsbad, California.

15 3. Meruelo is a beneficial owner of nearly 12% of the outstanding shares of the Company.  
16 Combining Meruelo's 12% with the nearly 32% that is beneficially owned by other insiders, the Buyout  
17 Group would have nearly 50% of the shares already locked up in favor of the Proposed Buyout, thus  
18 limiting what, if anything, shareholders could do to prevent the unfair sale.

19 4. The Proposed Buyout might be palatable if, after a fair process, fair and nonpreclusive  
20 terms were reached, including a price that reflected the Company's true value. Coming off of a dismal  
21 2008 for the entire restaurant sector, shares of the Company had receded to nearly \$2 per share.  
22 However, buoyed by record results coming into the first half of 2009, including a string of five straight  
23 quarters of growth, as well as a 9% increase in year-over-year revenue, the Company's share price had  
24 tripled to \$6 per share right before the announcement of the offer. Thus, the timing of the Proposed  
25 Buyout is no accident, either. Defendants and the Buyout Group saw the rapidly increasing share price  
26 as a threat to the leverage that the low share price afforded them and acted very quickly to cap the price  
27 at \$8 per share lest they lose the opportunity to take the Company private on terms that favored their  
28 interests.



1           14. Defendant Daniel E. Pittard (“Pittard”) is the Company’s President and Chief Executive  
2 Officer (“CEO”) and was at all relevant times a director of the Company.

3           15. Defendant Timothy J. Ryan (“Ryan”) is and was at all relevant times a director of the  
4 Company.

5           16. Defendant Craig S. Andrews (“Andrews”) is and was at all relevant times a director of  
6 the Company.

7           17. Defendant William R. Bensyl (“Bensyl”) is and was at all relevant times a director of the  
8 Company.

9           18. Defendant Loren C. Pannier (“Pannier”) is and was at all relevant times a director of the  
10 Company.

11           19. The defendants named above in ¶¶12-18 are sometimes collectively referred to herein as  
12 the “Individual Defendants.”

13           20. The true names and capacities of defendants sued herein under California Code of Civil  
14 Procedure §474 as Does 1 through 25, inclusive, are presently not known to plaintiff, who therefore  
15 sues these defendants by such fictitious names. Plaintiff will seek to amend this Complaint and include  
16 these Doe defendants’ true names and capacities when they are ascertained. Each of the fictitiously  
17 named defendants is responsible in some manner for the conduct alleged herein and for the injuries  
18 suffered by the Class.

19           21. Plaintiff alleges that the Individual Defendants, separately and together, in connection  
20 with the Proposed Buyout, have violated their fiduciary duties owed to plaintiff and the other public  
21 shareholders of Rubio’s, including their duties of loyalty, good faith and fair dealing insofar as they  
22 stand on both sides of the transaction and have engaged in self-dealing to obtain for the Buyout Group  
23 financial benefits not shared by the Class. Plaintiff also alleges that defendants placed an artificial lid  
24 on the price of the stock by announcing the Proposed Buyout at an inadequate price. As a result of  
25 defendants’ self dealing and divided loyalties, neither plaintiff nor the Class will receive adequate or  
26 fair value for their Rubio’s common stock in the Proposed Buyout.

27           22. Because the Individual Defendants have breached their duties of candor, loyalty, good  
28 faith and fair dealing in connection with the Proposed Buyout, the burden of proving the inherent or

1 entire fairness of the Proposed Buyout, including all aspects of its negotiation, structure, price and  
2 terms, is placed upon defendants as a matter of law.

3 23. Each defendant herein is sued individually and as an aider and abettor and/or in his  
4 capacity as a director of Rubio's. The liability of each of the defendants arises from the fact that they  
5 have engaged in all or part of the unlawful acts, plans, schemes, or transactions complained of herein.

6 **FIDUCIARY DUTIES OF THE INDIVIDUAL DEFENDANTS**

7 24. By reason of certain defendants' positions with the Company as officers and/or directors,  
8 said individuals are in a fiduciary relationship with plaintiff and the other public stockholders of  
9 Rubio's and owe plaintiff and the other members of the Class, a duty of highest good faith, fair dealing,  
10 loyalty and full, candid and adequate disclosure.

11 25. The claims are brought under Delaware state law which requires every corporate director  
12 to act in good faith, in the best interests of a corporation and its shareholders, and to act with such care,  
13 including reasonable inquiry, as would be expected of an ordinarily prudent person. Where an offer is  
14 presented to a company, the applicable state law requires the directors to take all steps reasonably  
15 required to properly evaluate and respond accordingly to the offer. To diligently comply with this duty,  
16 the directors of a corporation may not take any action that:

- 17 (a) adversely affects the value provided to the corporation's shareholders;  
18 (b) contractually prohibits them from complying with or carrying out their fiduciary  
19 duties;  
20 (c) discourages or inhibits alternative offers to purchase the corporation or its assets;  
21 or  
22 (d) will otherwise adversely affect their duty to search and secure the best value  
23 reasonably available under the circumstances for the corporation's shareholders.

24 26. In accordance with their duties of loyalty and good faith, the Individual Defendants, as  
25 directors and/or officers of Rubio's, are obligated to refrain from:

- 26 (a) participating in any transaction where the directors' or officers' loyalties are  
27 divided;

1 (b) participating in any transaction where the directors or officers receive or are  
2 entitled to receive a personal financial benefit not equally shared by the public shareholders of the  
3 corporation;

4 (c) unjustly enriching themselves at the expense or to the detriment of the public  
5 shareholders, and/or

6 (d) unjustly entrenching themselves as managers and/or officers of the Company by  
7 failing to give adequate consideration to legitimate bids for the Company.

8 27. Plaintiff alleges herein that the Individual Defendants, separately and together, in  
9 connection with the offer, violated their fiduciary duties owed to Rubio's public shareholders including  
10 their duties of loyalty, good faith and independence, insofar as they are acting to obtain for themselves  
11 personal benefits and are not acting to maximize shareholders value.

12 28. Because the Individual Defendants have breached their duties of loyalty, good faith and  
13 independence in connection with their failure to act in good faith in considering the Proposed Buyout,  
14 the Individual Defendants, as a matter of Delaware law, have breached their fiduciary duties of good  
15 faith and fair dealing owed to the shareholders of the Company.

16 **CLASS ACTION ALLEGATIONS**

17 29. Plaintiff brings this action on his own behalf and as a class action pursuant to §382 of the  
18 California Code of Civil Procedure on behalf of all holders of Rubio's stock who are being and will be  
19 harmed by defendants' actions described below (the "Class"). Excluded from the Class are defendants  
20 herein and any person, firm, trust, corporation, or other entity related to or affiliated with any defendant.

21 30. This action is properly maintainable as a class action.

22 31. The Class is so numerous that joinder of all members is impracticable. According to  
23 Rubio's SEC filings, there were in excess of 10 million shares of Rubio's common stock outstanding as  
24 of April 27, 2009.

25 32. There are questions of law and fact which are common to the Class and which  
26 predominate over questions affecting any individual Class member. The common questions include,  
27 *inter alia*, the following:

28

1 (a) whether the Individual Defendants have breached their fiduciary duties of  
2 undivided loyalty, independence or due care with respect to plaintiff and the other members of the Class  
3 as a result of their consideration of the Proposed Buyout;

4 (b) whether defendants are attempting to obtain personal benefits for themselves at  
5 the expense of the Company's public shareholders;

6 (c) whether defendants are attempting to unjustly enrich themselves and other  
7 insiders or affiliates of Rubio's as a result of their efforts to sell the Company to the Buyout Group;

8 (d) whether the Individual Defendants have breached any of their other fiduciary  
9 duties to plaintiff and the other members of the Class in connection with their consideration of the  
10 Buyout Group proposal, including the duties of good faith, diligence, candor and fair dealing; and

11 (e) whether defendants, in bad faith and for improper motives, have impeded or  
12 erected barriers to discourage any other offers for the Company or its assets.

13 33. Plaintiff's claims are typical of the claims of the other members of the Class and plaintiff  
14 does not have any interests adverse to the Class.

15 34. Plaintiff is an adequate representative of the Class, has retained competent counsel  
16 experienced in litigation of this nature and will fairly and adequately protect the interests of the Class.

17 35. The prosecution of separate actions by individual members of the Class would create a  
18 risk of inconsistent or varying adjudications with respect to individual members of the Class which  
19 would establish incompatible standards of conduct for the party opposing the Class.

20 36. Plaintiff anticipates that there will be no difficulty in the management of this litigation.  
21 A class action is superior to other available methods for the fair and efficient adjudication of this  
22 controversy.

23 37. Defendants have acted on grounds generally applicable to the Class with respect to the  
24 matters complained of herein, thereby making appropriate the relief sought herein with respect to the  
25 Class as a whole.

#### 26 **BACKGROUND TO THE OFFER**

27 38. Rubio's, despite being public, has always been about the Company's Chairman, Ralph  
28 Rubio who founded the Company in 1983. Ralph Rubio controls and dominates the Board and is



1 rewarded handsomely for his emeritus role in the company he founded. For example, Ralph Rubio was  
2 paid nearly \$250,000 for attending nine board meetings in 2008. To put that amount into perspective,  
3 Ralph Rubio was paid only \$300,000 for his service as interim CEO in 2006. To put Ralph Rubio's  
4 compensation into even better perspective, the Board's annual compensation is \$80,000. Thus, the  
5 Board has limited interest in retaining their less than lucrative positions and even less in protecting  
6 shareholders.

7 39. Coming off of a dismal 2008 for the entire restaurant sector, shares of the Company had  
8 receded to nearly \$2 per share. However, buoyed by record results coming into the first half of 2009,  
9 the Company's share price tripled to \$6 per share right before the announcement of the offer.

10 40. The Company's shareholders understandably were delighted with the turnaround and  
11 were looking forward to sharing in the lucrative upside the Company's equity interests were beginning  
12 to represent. Of course, this rapid acceleration in share price also was a concern for defendants and the  
13 Buyout Group, as they saw the improvement as a loss of the leverage that the low share price afforded  
14 them.

#### 15 THE OFFER

16 41. On October 14, 2009, the Buyout Group made a non-public and unsolicited offer to  
17 acquire Rubio's for \$8 per share, a mere dollar more per share than the stock had traded at as recently as  
18 September 28, 2009. The Company released only the barest of details:

#### 19 **Rubio's® Restaurants, Inc. Receives an Unsolicited Letter Outlining 20 a Proposal to Acquire All Outstanding Common Stock**

21 Rubio's® Restaurants, Inc. today announced that its Board of Directors had received an  
22 unsolicited letter, dated October 13, 2009, from a group consisting of Alex Meruelo and  
23 his affiliates and Levine Leichtman Capital Partners IV, L.P. outlining a proposal to  
24 acquire all of the Company's outstanding common stock for \$8.00 per share. The Board  
25 intends to consider the letter consistent with its fiduciary duties to act in the best  
26 interests of the Company's stockholders.

27 42. Shareholders and the market were provided little detail for a reason. The announcement  
28 was nothing more than an attempt by defendants to cap the Company's share price. The share price had  
29 dipped and was likely to rebound with the overall market, which itself was rebounding on strong signals  
30 that the worst of the recession was over. Restaurant shares, which had suffered the most in the current  
31 downturn, are the most likely candidates to be rapidly buoyed by the good news.



1           43. Unfortunately for shareholders, the Buyout Group is led by defendant Meruelo, a  
2 beneficial owner of nearly 12% of the outstanding shares of the Company who has had aspirations of  
3 taking the Company private for his own benefit for a number of years and has the inside track to  
4 enrolling the insiders in his vision. Indeed, combining Meruelo's 12% with the nearly 32% that is  
5 beneficially owned by insiders, the Buyout Group would have nearly 50% of the shares already in its  
6 favor, making the Proposed Buyout almost a *fait accompli*. It is clear from Meruelo's revised Schedule  
7 13D that he leveraged his long and cozy insider relationship with the Company to get to this point:

8           Item 4. Purpose of the Transaction.

9           Item 4 of the Schedule 13D is hereby amended and restated in its entirety as follows:

10           "Historically, the Reporting Persons acquired shares of Common Stock for  
11 investment purposes. The Reporting Persons from time to time have reviewed their  
12 investment in the Company on the basis of various factors, including the Company's  
13 business, financial condition, results of operations and prospects, general economic and  
14 industry conditions, the securities markets in general and those for the Common Stock  
15 in particular, as well as other developments and other investment opportunities.

16           As investors in the Company, the Reporting Persons have had general  
17 discussions with representatives of the Company from time to time regarding various  
18 matters relating to the business and operations of the Company. On February 18, 2009,  
19 Mr. Meruelo and a business associate met with the Chief Executive Officer and Chief  
20 Financial Officer of the Company. During the meeting, they discussed the general  
21 business and direction of the Company, including, without limitation, (i) Mr. Meruelo's  
22 belief that the Company should not be public, (ii) Mr. Meruelo's general interest in  
23 acquiring the Company at some point in the future and (iii) the plans or intentions of  
24 other major stockholders regarding their ownership of Common Stock. Notwithstanding  
25 the foregoing, no formal plans, proposals or offers were discussed or made to the  
26 Company during the February 18, 2009 meeting.

27           On October 13, 2009, the Reporting Persons and LLC entered into the Letter  
28 Agreement and jointly submitted a letter to the Company outlining the proposed  
Transaction (the "Proposal Letter"). The Proposal Letter is attached as Exhibit 10.2 to  
this Schedule 13D and is incorporated herein by reference. In the Proposal Letter, the  
Reporting Persons and LLC request that the Company enter into a proposed  
exclusivity agreement (the "Proposed Exclusivity Agreement") on or before October 20,  
2009 pursuant to which the Company will not, among other things, solicit, initiate or  
encourage the submission of proposals or offers relating to the acquisition of the  
Company's securities until the earlier of 45 days after it enters into the Proposed  
Exclusivity Agreement or the date on which a definitive agreement with respect to the  
Transaction is entered into. The Proposed Exclusivity Agreement is filed as Exhibit  
10.3 to this Schedule 13D and is incorporated herein by reference. Along with the  
Proposal Letter, the Reporting Persons and LLC also submitted to the Company a  
proposed initial draft Agreement and Plan of Merger (the "Draft Merger Agreement")  
for its consideration. There are no binding agreements between the Reporting Persons  
and the Company with respect to the Transaction.

CAUSE OF ACTION

For Breaches of Fiduciary Duty and/or Aiding and Abetting Breaches of Fiduciary Duty Against All Defendants

44. Plaintiff repeats and realleges each allegation set forth herein.

45. Defendants are structuring their discussions concerning and timing of announcements of the Proposed Buyout to benefit themselves and/or their colleagues to the detriment of Rubio's public shareholders, and/or are aiding and abetting therein. Instead of attempting to maximize shareholder value for Rubio's shareholders, defendants have taken actions in violation of applicable state law which will only serve their own interests, and the interests of Meruelo and the Buyout Group, while sacrificing the interests of Rubio's public shareholders, and/or are aiding and abetting therein.

46. The Individual Defendants were and are under a duty:

- (a) to fully inform themselves of the market value of Rubio's before taking, or agreeing to refrain from taking, action;
- (b) to act in the interests of Rubio's public shareholders;
- (c) refrain from advancing their own interests, or those of other defendants, at the expense of plaintiff and the Class;
- (d) to obtain the best financial and other terms when the Company's independent existence will be materially altered by a transaction; and
- (e) to act in accordance with their fundamental duties of due care, loyalty, candor, independence, and good faith.

47. By the acts, transactions and courses of conduct alleged herein, the Individual Defendants, individually and as part of a common plan and scheme, in breach of their fiduciary duties to plaintiff and the other members of the Class, are implementing and abiding by a process that will deprive plaintiff and other members of the Class of a fair process and the true value of their investment in Rubio's. Defendants Meruelo and Rubio's are aiding and abetting the Individual Defendants' breaches of fiduciary duty.

1           48. By reason of the foregoing acts, practices and course of conduct, the Individual  
2 Defendants failed and continue to fail to exercise the required care and diligence in the exercise of their  
3 fiduciary obligations toward plaintiff and Rubio's other public stockholders.

4           49. In light of the foregoing, plaintiff demands that the Individual Defendants, as their  
5 fiduciary obligations require, immediately:

6                   (a) act independently so that the interests of Rubio's public stockholders will be  
7 protected, including, but not limited to, the retention of truly independent advisors and/or the  
8 appointment of a truly independent Special Committee of the Board to oversee any disposition of  
9 Rubio's assets;

10                   (b) adequately ensure that no conflicts of interest exist between defendants' own  
11 interests and their fiduciary obligation to maximize stockholder value or, if such conflicts exist, to  
12 ensure that all conflicts be resolved in the best interests of Rubio's public stockholders; and

13                   (c) otherwise ensure that plaintiff and the other members of the Class receive a fair  
14 process and fair price in connection with any transaction involving Rubio's, including full and fair  
15 disclosure of all material information.

16           50. As a result of defendants' failure to take such steps to date, plaintiff and the other  
17 members of the Class have been and will be damaged in that they have been and will be prevented from  
18 obtaining a fair process or fair price for their shares.

19           51. The Individual Defendants are not acting in good faith toward plaintiff and the other  
20 members of the Class, and have breached and are continuing to breach their fiduciary duties to plaintiff  
21 and the members of the Class.

22           52. As a result of defendants' unlawful actions, plaintiff and the other members of the Class  
23 will be irreparably harmed in that they will not receive a fair process or fair value for Rubio's assets and  
24 business. Unless defendants' actions are enjoined by the Court, the Individual Defendants will continue  
25 to breach their fiduciary duties owed to plaintiff and the members of the Class, and will engage in a  
26 process that inhibits the maximization of shareholder value.

27           53. Plaintiff and the other members of the Class have no adequate remedy at law.

28

**PRAYER FOR RELIEF**

1  
2 WHEREFORE, plaintiff demands injunctive relief, in his favor and in favor of the Class and  
3 against defendants as follows:

4 A. Declaring that this action is properly maintainable as a class action;

5 B. Enjoining defendants, their agents, counsel, employees and all persons acting in concert  
6 with them from consummating the Proposed Buyout, unless and until the Company adopts and  
7 implements a procedure or process to obtain a merger providing the highest possible value for  
8 shareholders;

9 C. Directing the Individual Defendants to exercise their fiduciary duties to obtain a  
10 transaction which is in the best interests of the Company's shareholders until the process for the sale or  
11 auction of the Company is completed and the best possible consideration is obtained for Rubio's;

12 D. Awarding plaintiff the costs and disbursements of this action, including reasonable  
13 attorneys' and experts' fees; and

14 E. Granting such other and further equitable relief as this Court may deem just and proper.

15 DATED: October 16, 2009

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18 DARREN J. ROBBINS  
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Attorneys for Plaintiff

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b>	
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BRANCH NAME: North County	
TELEPHONE NUMBER: (760) 201-8029	
PLAINTIFF(S) / PETITIONER(S): Sanjay Israni	
DEFENDANT(S) / RESPONDENT(S): Rubio's Restaurants, Inc. et.al.	
ISRANI VS. RUBIO'S RESTAURANTS, INC.	
<b>NOTICE OF CASE ASSIGNMENT</b>	CASE NUMBER: 37-2009-00060992-CU-BT-NC

Judge: Robert P Dahlquist

Department: N-29

**COMPLAINT/PETITION FILED:** 10/16/2009

**CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW**

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

**TIME STANDARDS:** The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.

**COMPLAINTS:** Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document.

**DEFENDANT'S APPEARANCE:** Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.)

**DEFAULT:** If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS. SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING



**SUMMONS  
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

RUBIO'S RESTAURANTS, INC., RALPH S. RUBIO,  
(See ATTACHMENT A)

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

SANJAY ISRANI, Individually and on Behalf of All Others Similarly  
Situated

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

2009 OCT 16 PM 2:41

CLERK-SAN DIEGO SUPERIOR COURT  
SAN DIEGO, CALIFORNIA

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

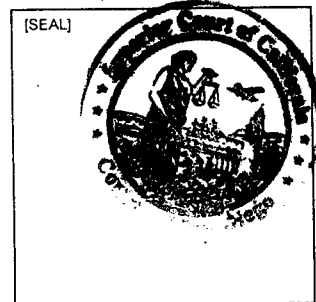
The name and address of the court is:  
(El nombre y dirección de la corte es): San Diego Superior Court/North County  
325 South Melrose, Vista, CA 92081

CASE NUMBER:  
(Número del Caso):  
**37-2009-00060992-CU-BT-NC**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Aaron W. Beard, Coughlin Stoa, et al., 655 W. Broadway, Suite 1900, San Diego, CA 92101 619/231-1058

DATE: **OCT 16 2009** Clerk, by C. Terriquez, Deputy  
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



**NOTICE TO THE PERSON SERVED:** You are served

- 1.  as an individual defendant.
- 2.  as the person sued under the fictitious name of (specify):
- 3.  on behalf of (specify):
  - under:  CCP 416.10 (corporation)  CCP 416.60 (minor)
  - CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)
  - CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)
  - other (specify):
- 4.  by personal delivery on (date):



ATTACHMENT A

Defendants (cont.)

KYLE A. ANDERSON, DANIEL E. PITTARD, TIMOTHY J. RYAN, CRAIG S. ANDREWS,  
WILLIAM R. BENSYL, LOREN C. PANNIER, ALEX MERUELO AND DOES 1-25,  
INCLUSIVE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Aaron W. Beard (228825) Coughlin Stoia Geller Rudman & Robbins LLP 655 West Broadway, Suite 1900 San Diego, CA 92101 TELEPHONE NO.: 619/231-1058 FAX NO.: 619/231-7423 ATTORNEY FOR (Name): Plaintiff Sanjay Israni		FOR COURT USE ONLY  2009 OCT 16 PM 2:42  RECEIVED SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN DIEGO
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 325 South Melrose Drive MAILING ADDRESS: CITY AND ZIP CODE: Vista, CA 92081 BRANCH NAME: North County		
CASE NAME: Israni v. Rubio's Restaurants, Inc., et al.		
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)		CASE NUMBER: <b>37-2009-00060992-CU-BT-NC</b>
<input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b> Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		JUDGE:  DEPT:


Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
<b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23)	<b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26)	<b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20)
<b>Non-PI/PD/WD (Other) Tort</b> <input checked="" type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35)	<b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)	<b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42)
<b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |   |  |
|---|--|
| a. <input checked="" type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a.  monetary    b.  nonmonetary; declaratory or injunctive relief    c.  punitive
4. Number of causes of action (specify): One
5. This case  is  is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: October 16, 2009  
 Aaron W. Beard  
 (TYPE OR PRINT NAME)

  
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2