

CASE NO. \_\_\_\_\_

MARWAN SANTINA,

Plaintiff,

v.

S & D CARWASH HOUSTON, LLC  
(formerly known as S & D CARWASH  
MANAGEMENT, LLC) doing business  
as QUICK QUACK CAR WASH,

Defendant.

§ IN THE DISTRICT COURT OF

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HARRIS COUNTY, TEXAS

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\_\_\_\_\_ JUDICIAL DISTRICT

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**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff MARWAN SANTINA (hereinafter referred to as "Plaintiff") makes the following allegations in support of his claims against Defendant S & D CARWASH HOUSTON, LLC (formerly known as S & D CARWASH MANAGEMENT LLC) doing business as QUICK QUACK CAR WASH (hereinafter collectively referred to as "Defendant").<sup>1</sup>

**I. DISCOVERY CONTROL PLAN**

1. Discovery in this case should be conducted in accordance with a discovery control plan under Rule 190.3 of the Texas Rules of Civil Procedure (i.e., Level 2).

**II. STATEMENT OF RELIEF**

2. Pursuant to Rule 47(c) of the Texas Rules of Civil Procedure, Plaintiff seeks monetary relief over \$200,000.00, but not more than \$1,000,000.00. Damages are in excess of the minimum jurisdictional limits of this Court.

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<sup>1</sup> On the Texas Secretary of State's website, it states that S & D Carwash Management, LLC forfeited its existence. However, S & D Carwash Houston, LLC is currently in existence. Both entities have the same address identified, which is 1380 Lead Hill Road, Suite 260, Roseville, California 95661. Upon information and belief, both of these entities have done and/or are doing business as QUICK QUACK CAR WASH. As such, based upon information and belief, all of these identified businesses are essentially the same. Thus, for purposes of this Petition, these businesses are one and the same.

### **III. PARTIES**

3. Plaintiff (who is an employee within the meaning of Chapter 21 of the Texas Labor Code) is an individual that resides in Richmond, in Fort Bend County, Texas. During Plaintiff's employment with Defendant, he performed work in Harris County, Texas.

4. Defendant (who is an employer within the meaning of Chapter 21 of the Texas Labor Code) is a domestic limited liability company that is authorized to do business in Texas with its principal office location listed as 13811 Frio Cold Springs Court, Cypress, Texas 77429. Defendant can be served through its registered agent for service of process, Todd Kimball, located at 13811 Frio Cold Springs Court, Cypress, Texas 77429, or wherever Defendant may be found.

### **IV. JURISDICTION AND VENUE**

5. This Court has jurisdiction over this case because the damages sought in this case exceed the minimum jurisdictional limits of this Court.

6. This Court has personal jurisdiction over Defendant because Defendant is registered to do business in Texas and regularly conducts business in Harris County, Texas. As such, personal jurisdiction over Defendant in this Court would not offend traditional notions of fair play and substantial justice.

7. Pursuant to § 15.002 of the Texas Civil Practice and Remedies Code, venue is proper in Harris County, Texas because Harris County, Texas is the county of Defendant's principal office in Texas. Additionally, a substantial part of the events or omissions giving rise to the matter in controversy before this Court occurred in Harris County, Texas.

### **V. CONDITIONS PRECEDENT**

8. All conditions precedent have been performed or have occurred. Tex. R. Civ. P.  
54.

9. Plaintiff has exhausted all administrative remedies. Specifically, Plaintiff dually filed a Charge of Discrimination with the Texas Workforce Commission – Civil Rights Division and the Equal Employment Opportunity Commission within one hundred eighty (180) days of the date of Defendant’s wrongful and unlawful conduct. Plaintiff is filing this Petition within sixty (60) days from his receipt of the Texas Workforce Commission – Civil Rights Division’s “Notice of Complainant’s Right to File Civil Action”. Furthermore, this Petition is being filed on or before two (2) years from the date that Plaintiff dually filed the Charge of Discrimination with the Texas Workforce Commission – Civil Rights Division and the Equal Employment Opportunity Commission.

#### **VI. NO FEDERAL CLAIMS AT ISSUE**

10. Plaintiff is not asserting any federal claims in this Petition. Additionally, Plaintiff is not seeking any damages and/or remedies regarding a federal claim.

#### **VII. FACTS**

11. Plaintiff is a Lebanese male of Muslim descent. Plaintiff is not African American. At one point, Defendant’s Human Resources Director, Kenneth Williams (who is African American), told Plaintiff that he thought Plaintiff was Hispanic (i.e., non-African American).

12. With a long and distinguished career in retail management, Defendant hired Plaintiff as a Regional Operations Manager. Plaintiff was very successful in his position when he worked for Defendant. During Plaintiff’s employment with Defendant, he worked seven (7) days per week, which included working after hours and on weekends. Defendant never wrote Plaintiff up or disciplined him in any manner. In fact, Plaintiff received an excellent ninety (90) day evaluation during his employment.

13. During Plaintiff’s employment with Defendant, he hired Amanda Smith (who

became one of Defendant's African American managers) and worked with at least one other African American manager. Plaintiff's supervisor, Alan Hakes, wanted him to terminate Ms. Smith, as she was not meeting her numbers. Plaintiff thought Ms. Smith had potential and went to bat for her with Mr. Hakes, including Plaintiff asking Mr. Hakes if he could give her extra time before terminating her so that Plaintiff could work with Ms. Smith in order to try to make her become successful. Mr. Hakes agreed to allow Plaintiff time to work with Ms. Smith.

14. During Plaintiff's employment, he was always interviewing for manager positions as Mr. Hakes always wanted to be ready to hire another manager, if needed. Plaintiff interviewed one (1) woman on three (3) occasions. The last time that Plaintiff interviewed said woman, he did so with Mr. Hakes. Apparently, Ms. Smith saw Plaintiff and Mr. Hakes interviewing said woman; and, apparently, Ms. Smith thought said woman was being interviewed to take over her position (which was not the case). Despite this, Ms. Smith left Defendant's store without permission from management, did not call Defendant, did not show up for work, and did not answer the telephone calls from Defendant (via Plaintiff). Not knowing if Ms. Smith was going to return to work, Plaintiff decided to have someone cover Ms. Smith's shifts for the weekend that was approaching.

15. Thinking her job was in jeopardy, apparently, Ms. Smith contacted Mr. Williams to falsely complain that Plaintiff told Ms. Smith not to hire "coloreds or covered." When Mr. Williams called Plaintiff about Ms. Smith's alleged complaint, Mr. Williams asked Plaintiff if he said that to her. Plaintiff truthfully denied same. Plaintiff further informed Defendant (via Mr. Williams) that: (a) not only did Plaintiff not make the alleged disparaging comment, but that he would never use the word "colored," especially since Plaintiff's mother is a person of color (who, as an Islamic female, wears a head covering called a hijab); (b) Plaintiff had previously hired Ms. Smith (who was African American) and also worked with another African American manager; and

(c) the only comment that Plaintiff made regarding hiring was to make sure that Ms. Smith include everyone in consideration for employment.

16. In Plaintiff's career, he has hired different races, genders, and national origins; and, that the only decisions that Plaintiff made in regard to employment decisions were based on who was best for the job (regardless of race, gender, national origin, etc.).

17. Shortly before the situation that led to Plaintiff's termination, the tragic situation occurred in Minnesota where George Floyd died after a police officer held him down with his knee on his neck. On a regular basis, Defendant held conference calls with its Chief Executive Officer and the regional leaders. Those conversations were very specific and almost solely about numbers for each region. Defendant did not allow conversations about employees, employees' performance, or social issues on those telephone calls. Despite said formality, in one (1) telephone call, Mr. Williams asked to speak and spoke about the death of Mr. Floyd, which led to Mr. Williams to begin weeping. While Mr. Floyd's death was tragic, speaking about it in the meeting was not appropriate.

18. Aside from merely asking Plaintiff about Ms. Smith's alleged complaint, Mr. Williams did not conduct any investigation regarding Ms. Smith's false allegations about Plaintiff. Instead, Mr. Williams seemed to overcompensate on the race issue by terminating Plaintiff's employment after his complaints. Interestingly, Defendant did not terminate Ms. Smith's employment even though she abandoned her job.

19. As part of terminating Plaintiff's employment, Defendant then fabricated a false termination write up about Plaintiff by stating that he was mocking managers in a meeting. To the contrary, corporate culture trickles down – Mr. Hakes mocked Plaintiff in front of his employees in a regional meeting. Not only is this an illegitimate business reason for terminating Plaintiff, but

it appears that Defendant had already been planning to replace Plaintiff with someone outside of his protected class; and, specifically, by someone that is African American.

20. Thus, Plaintiff was wrongfully terminated because of his race and national origin and because of the complaints he made to Defendant about being discriminated against because of his race and national origin.

## **VIII. CAUSES OF ACTION**

### **FIRST CAUSE OF ACTION**

#### **Violation of the Texas Commission on Human Rights Act - Race Discrimination**

21. Plaintiff hereby realleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

22. At all relevant times, Plaintiff belonged to a protected class because of his race (i.e., Lebanese of Muslim descent).

23. Plaintiff was qualified for the position that he held when he was employed by Defendant. Plaintiff possessed the requisite skill, education, experience, and/or training for the position. Specifically, at the time of Plaintiff's termination, he had been successfully working for Defendant (and had not been disciplined during his employment).

24. As set forth above, Defendant treated other similarly-situated employees that were outside of Plaintiff's protected class more favorably than Plaintiff because of his race. Ultimately, after being continuously discriminated against throughout his employment with Defendant because of Plaintiff's race, he was terminated. Thus, Defendant subjected Plaintiff to an adverse employment action when he was terminated.

25. Defendant intentionally discriminated against Plaintiff because of his race with respect to his compensation, terms, conditions, and/or privileges of employment.

26. As a result of Defendant's intentional unlawful actions, it violated Chapter 21 of the Texas Labor Code when it discriminated against Plaintiff because of his race.

27. As a result of Defendant's unlawful conduct, Plaintiff suffered damages and continues to suffer harm. Thus, Plaintiff is entitled to all legal and equitable remedies available for Defendant's violation of Chapter 21 of the Texas Labor Code, including (but not limited to) lost earnings, lost benefits, other financial losses, punitive damages, attorneys' fees, and costs. Plaintiff has suffered and continues to suffer impairment to his name and reputation, humiliation, embarrassment, emotion and physical distress, and mental anguish. The damages that Plaintiff has suffered due to Defendant's intentional unlawful actions are within the jurisdictional limits of this Court.

## **SECOND CAUSE OF ACTION**

### **Violation of the Texas Commission on Human Rights Act – National Origin Discrimination**

28. Plaintiff hereby realleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

29. At all relevant times, Plaintiff belonged to a protected class because of his national origin (i.e., Lebanese of Muslim descent).

30. Plaintiff was qualified for the position that he held when he was employed by Defendant. Plaintiff possessed the requisite skill, education, experience, and/or training for the position. Specifically, at the time of Plaintiff's termination, he had been successfully working for Defendant (and had not been disciplined during his employment).

31. As set forth above, Defendant treated other similarly-situated employees that were outside of Plaintiff's protected class more favorably than Plaintiff because of his national origin. Ultimately, after being continuously discriminated against throughout his employment with

Defendant because of Plaintiff's national origin, he was terminated. Thus, Defendant subjected Plaintiff to an adverse employment action when he was terminated.

32. Defendant intentionally discriminated against Plaintiff because of his national origin with respect to his compensation, terms, conditions, and/or privileges of employment.

33. As a result of Defendant's intentional unlawful actions, it violated Chapter 21 of the Texas Labor Code when it discriminated against Plaintiff because of his national origin.

34. As a result of Defendant's unlawful conduct, Plaintiff suffered damages and continues to suffer harm. Thus, Plaintiff is entitled to all legal and equitable remedies available for Defendant's violation of Chapter 21 of the Texas Labor Code, including (but not limited to) lost earnings, lost benefits, other financial losses, punitive damages, attorneys' fees, and costs. Plaintiff has suffered and continues to suffer impairment to his name and reputation, humiliation, embarrassment, emotion and physical distress, and mental anguish. The damages that Plaintiff has suffered due to Defendant's intentional unlawful actions are within the jurisdictional limits of this Court.

### **THIRD CAUSE OF ACTION**

#### **Violation of the Texas Commission on Human Rights Act - Retaliation**

35. Plaintiff hereby realleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

36. Plaintiff engaged in protected activity when he complained to Defendant about the discrimination that he was having to endure during his employment with Defendant because of his race and national origin.

37. After Plaintiff's complaints were made, an adverse action occurred. Specifically, Defendant retaliated against him by terminating his employment. There is a causal connection



between Plaintiff's protected activity and the adverse employment action.

38. Defendant's purported reasons for its retaliatory conduct are merely pretext for the discrimination complaints.

39. As a result of Defendant's intentional unlawful actions, it violated Chapter 21 of the Texas Labor Code when it retaliated against Plaintiff by terminating his employment after he complained to Defendant about the race and national origin discrimination that he endured while he was employed by Defendant.

40. As a result of Defendant's unlawful conduct, Plaintiff suffered damages and continues to suffer harm. Thus, Plaintiff is entitled to all legal and equitable remedies available for Defendant's violation of Chapter 21 of the Texas Labor Code, including (but not limited to) lost earnings, lost benefits, other financial losses, punitive damages, attorneys' fees, and costs. Plaintiff has suffered and continues to suffer impairment to his name and reputation, humiliation, embarrassment, emotion and physical distress, and mental anguish. The damages that Plaintiff has suffered due to Defendant's intentional unlawful actions are within the jurisdictional limits of this Court.

#### **IX. ATTORNEYS' FEES**

41. Defendant's actions and conduct, as described herein, and the resulting damage and loss to Plaintiff has necessitated Plaintiff to retain the services of Rosenberg & Associates, 3518 Travis Street, Suite 200, Houston, Texas 77002, to initiate this lawsuit. Therefore, Plaintiff seeks recovery of reasonable and necessary attorneys' fees and costs.

42. An award of reasonable and necessary attorneys' fees and costs to Plaintiff would be equitable and just; and, therefore, authorized by the Texas Civil Practice and Remedies Code § 37.009.

**X. JURY DEMAND**

43. Plaintiff hereby demands a jury trial. Pursuant to Rule 216 of the Texas Rules of Civil Procedure, Plaintiff hereby deposits with the District Clerk of Harris County, Texas the jury fee of forty dollars (\$40.00).

**XI. PRAYER**

44. WHEREFORE, Plaintiff requests that Defendant be cited to appear and answer herein. Moreover, Plaintiff requests judgment in his favor and requests that he be entitled to the following:

- a. Actual/compensatory damages;
- b. Exemplary/punitive damages;
- c. General damages;
- d. Special damages;
- e. Equitable relief;
- f. Pre-judgment interest at the highest legal rate;
- g. Post-judgment interest at the highest legal rate until paid;
- h. Attorneys' fees;
- i. All court costs; and
- j. Such other and further relief, at law or in equity, general or special to which Plaintiff may show that Plaintiff is justly entitled.

Respectfully submitted,

/s/ Gregg M. Rosenberg  
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Davina Bloom  
Texas State Bar ID: 24103913

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