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13 SUPERIOR COURT OF CALIFORNIA  
14 COUNTY OF EL DORADO

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16 COUNTY OF EL DORADO, a political  
17 subdivision of the State of California; and THE  
18 PEOPLE OF THE STATE OF CALIFORNIA,  
19 by and through David A. Livingston, County  
Counsel for County of El Dorado,

20 Plaintiffs,

21 vs.

22 JENNETTE H. WALDOW, an individual;  
JENNETTE H. WALDOW DBA APPLE  
23 BISTRO; INTERNATIONAL FARMERS  
KITCHEN LLC, a California Limited Liability  
24 Company DBA APPLE BISTRO; THOMAS  
INMAN, an individual; DANETTE INMAN, an  
25 individual; THOMAS INMAN and DANETTE  
INMAN DBA DANETTE'S BRICK OVEN  
26 PUB, and DOES 1 through 100,

27 Defendants.

Case No. **21 CV 0122**

**COMPLAINT FOR:**

1. Violations of California Health and Safety Code §§ 114381 and 114405;
2. Violation of County of El Dorado's Environmental Health Permit Ordinance, Chapter 8.05 of the El Dorado County Ordinance Code;
3. Public Nuisance (Code of Civil Procedure § 731);

[Plaintiffs are exempt from filing fees under Gov. Code § 6103]

Assigned to  
Judge Dylan Sullivan  
For all purposes

**FILED**

NOV 08 2021

EL DORADO COUNTY SUPERIOR COURT  
BY Randi Corrasa (DEPUTY)

1 Plaintiffs COUNTY OF EL DORADO and THE PEOPLE OF THE STATE OF  
2 CALIFORNIA, by and through David A. Livingston, County Counsel for County of El Dorado  
3 (collectively, "Plaintiffs") hereby allege in their Complaint against Defendants JENNETTE H.  
4 WALDOW, an individual; JENNETTE H. WALDOW, doing business as APPLE BISTRO;  
5 INTERNATIONAL FARMERS KITCHEN LLC, a California Limited Liability Company, doing  
6 business as APPLE BISTRO; THOMAS INMAN, an individual; DANETTE INMAN, an  
7 individual; THOMAS INMAN and DANETTE INMAN doing business as DANETTE'S BRICK  
8 OVEN PUB; and DOES 1 THROUGH 100, inclusive (collectively, "Defendants") as follows:

9 **NATURE OF THE ACTION**

10 1. Pursuant to state law and local ordinances, it is unlawful to operate a restaurant in the  
11 County of El Dorado ("the County") without a valid and subsisting permit issued by the County  
12 Environmental Management Department ("County EMD").

13 2. Defendants in this action are owners, operators and/or managers of two restaurants  
14 located in the County known as "Apple Bistro" and "Danette's Brick Oven Pub." The permits to  
15 operate Apple Bistro and Danette's Brick Oven Pub were suspended, and then revoked, by County  
16 EMD in 2020.

17 3. Although County EMD ordered both restaurants to close in 2020 upon suspension of  
18 their permits, neither restaurant closed. Instead, they continued to operate, and currently do operate,  
19 unlawfully without a permit and in active defiance of state law and County ordinances.

20 4. Notwithstanding the fact that their continued operation is illegal, members of the  
21 public who patronize Apple Bistro and/or Danette's reasonably assume that, by their continued  
22 operation, valid permits exist to operate these restaurants, and that both restaurants are subject to  
23 routine health and safety inspections necessary to obtain and maintain a valid permit to operate a  
24 restaurant in the County. In fact, no such permits exist, and no such inspections are taking place  
25 because these restaurants do not have permits and have been ordered to close.

26 5. As Defendants have defied orders to close, and most recently ignored a cease-and-  
27 desist letter made in a final effort to avoid filing this action, the County has no choice but to come to  
28

1 this Court to request that it enjoin Defendants' unlawful conduct and issue any and all further relief  
2 necessary to protect the health and safety of the public.

3 **THE PARTIES**

4 6. Plaintiff County of El Dorado is a political subdivision of the State of California.

5 7. Plaintiff The People of the State of California are hereby represented by and through  
6 David A. Livingston, County Counsel for the County of El Dorado, who acts on their behalf  
7 pursuant to Code of Civil Procedure section 731.

8 8. Defendant Jennette H. Waldow is an individual and is doing business as Apple Bistro.  
9 She is an owner, operator, and/or manager of Apple Bistro, a business organization of unknown  
10 form. Apple Bistro is a restaurant operating in the County of El Dorado and is located at 2740  
11 Highway 50 in Placerville, California 95667. Plaintiffs are informed and believe that Jennette H.  
12 Waldow resides in the County.

13 9. Defendant International Farmers Kitchen, LLC is a California Limited Liability  
14 Company that Plaintiffs are informed and believe is doing business as Apple Bistro. Plaintiffs are  
15 informed and believe that International Farmers Kitchen, LLC is an owner, operator, and/or manager  
16 of Apple Bistro. Defendant Jennette H. Waldow is a manager and/or member of International  
17 Farmers Kitchen, LLC, and is listed as its agent for service of process. (Jennette H. Waldow,  
18 International Farmers Kitchen, LLC, and Does 1-50 are collectively referred to hereafter as the  
19 "Apple Bistro Defendants.")

20 10. Defendants Thomas Inman and Danette Inman are individuals and are doing business  
21 as Danette's Brick Oven Pub ("Danette's"). They are owners, operators, and/or managers of  
22 Danette's, a business organization of unknown form. Danette's is a restaurant operating in the  
23 County of El Dorado and is located at 2875 Ray Lawyer Drive in Placerville, California 95667.  
24 Plaintiffs are informed and believe that Defendants Thomas Inman and Danette Inman reside in the  
25 County. (Thomas Inman, Danette Inman, and Does 51-100 are collectively referred to hereafter as  
26 the "Danette's Defendants.")

27 11. Plaintiffs are ignorant as to the true names and capacities whether individual, corporate,  
28 associate or otherwise of Defendants DOES 1 through 100, inclusive, and therefore sue such

1 Defendants by said fictitious names pursuant to Section 474 of the Code of Civil Procedure. Plaintiffs  
2 will seek leave of the Court to amend this Complaint to show the true names and capacities of said  
3 fictitiously named Defendants when these have been ascertained. Plaintiffs are informed and believe  
4 and thereon allege that each of the fictitiously named DOE Defendants is responsible in some manner  
5 for the violations and other conduct alleged herein.

6 12. Plaintiffs are informed and believe, and on that basis allege, that at all times  
7 mentioned herein, each of the Defendants was and is the agent, officer, employee, member,  
8 representative, and/or alter ego of one or more of the remaining Defendants, and, in doing the things  
9 hereinafter alleged, was acting within the scope of his, her, or its authority as such agent, officer,  
10 employee, member, representative, and/or alter ego with the permission and consent of the  
11 remaining Defendants.

12 **JURISDICTION AND VENUE**

13 13. This case is an unlimited civil case because it is not one of the proceedings described  
14 by statute as a limited civil case.

15 14. Pursuant to Code of Civil Procedure section 410.10, this action lies within the general  
16 jurisdiction of this Court, because the causes of action arise under California law and Defendants  
17 reside and/or do business within California.

18 15. Pursuant to Code of Civil Procedure sections 392, 393, and 395, venue is proper in  
19 this Court as Plaintiffs seek to enjoin unlawful conduct on property located within the County of El  
20 Dorado, and Plaintiffs are informed and believe that Defendants reside in the County of El Dorado.

21 **GENERAL ALLEGATIONS**

22 **A. The California Retail Food Code Requires a Permit to Operate a Restaurant**

23 16. The California Retail Food Code is set forth in Division 104, Part 7 of the California  
24 Health and Safety Code<sup>1</sup>, sections 113700, *et seq.* The express purpose of the Retail Food Code is to  
25 safeguard public health and provide consumers food that is safe, unadulterated, and honestly  
26 presented through adoption of science-based standards. H&S § 113703. The State Legislature has  
27 found and declared that the public health interest requires that there be uniform statewide health and

28 <sup>1</sup> Health and Safety Code provisions are referred to herein as “H&S”.

1 sanitation standards for retail food facilities to assure the people of this state that the food will be  
2 pure, safe, and unadulterated. H&S § 113705.

3 17. The County EMD is the local health agency having jurisdiction over all food facilities  
4 within the County, and as such, County EMD has primary responsibility for the enforcement of the  
5 Retail Food Code. H&S §§ 113713; 113773.

6 18. H&S § 114381(a) states: **“A food facility shall not be open for business without a**  
7 **valid permit.”**

8 19. Apple Bistro and Danette’s both qualify as a “food facility” because, among other  
9 things, they store, prepare, package, serve, vend or otherwise prepare food for human consumption  
10 at the retail level. H&S Code § 113789.

11 20. “Permit” means the document issued by the enforcement agency that authorizes a  
12 person to operate a food facility. H&S § 113851. County EMD is the enforcement agency that  
13 authorizes a person to operate a food facility within the County.

14 21. Any person who operates a food facility is required to obtain all necessary permits to  
15 conduct business, including, but not limited to, a permit issued by the enforcement agency. In  
16 addition to the penalties under Article 2 (commencing with Section 114390), violators who operate  
17 without the necessary permits are subject to closure of the food facility and a penalty not to exceed  
18 three times the cost of the permit. H&S § 114387.

19 22. “Enforcement officers” are required to enforce the Retail Food Code and all  
20 regulations adopted pursuant to it. H&S § 114390. “Enforcement officer” is defined as the director,  
21 agents, or environmental health specialists appointed by the State Public Health Officer, and all local  
22 health officers, directors of environmental health, and their duly authorized registered environmental  
23 health specialists and environmental health specialist trainees. H&S § 113774.

24 23. Any person who violates any provision of the Retail Food Code or regulation adopted  
25 pursuant to it is guilty of a misdemeanor. Each offense is punishable by a fine of not less than  
26 twenty-five dollars (\$25) or more than one thousand dollars (\$1,000) or by imprisonment in the  
27 county jail for a term not exceeding six months, or by both fine and imprisonment. H&S § 114395.

28 24. The owner, manager, or operator of any food facility is responsible for any violation

1 by an employee of any provision of the Retail Food Code or any regulation adopted pursuant to it.  
2 Each day the violation occurs is a separate and distinct offense. H&S § 114397.

3 25. A permit may be suspended or revoked by a local enforcement officer for a violation  
4 of the Retail Food Code. **Any food facility for which the permit has been suspended shall close**  
5 **and remain closed until the permit has been reinstated. Any food facility for which the permit**  
6 **has been revoked shall close and remain closed until a new permit has been issued.** H&S §  
7 114405(a).

8 **B. El Dorado County Ordinances Require a Permit to Operate a Restaurant**

9 26. The County of El Dorado’s Environmental Health Permit Ordinance is set forth in  
10 Chapter 8.05 of the El Dorado County Ordinance Code.

11 27. Under section 8.05.030 of the El Dorado County Ordinance Code, the term “permit”  
12 means a written permit or activity approval or an entitlement issued by the Department of  
13 Environmental Management approving an activity, business, premises, device or apparatus in  
14 accordance with the health, sanity or safety requirements, rules, laws, ordinances or regulations  
15 pertaining the public health and safety.

16 28. **“Food establishment[s]” and “food facility[ies]” are subject to the provisions of**  
17 **Chapter 8.05 and may be engaged in only by persons holding valid and subsisting permits**  
18 **issued by the Department of Environmental Management.** The terms “food establishment” and  
19 “food facility” are defined the same as the term “food facility” set forth in H&S § 113789.  
20 § 8.05.040.

21 29. Permits issued under Chapter 8.05 may be revoked by the Director if he or she finds  
22 that the activity has been, or is being carried on or engaged in, contrary to laws, ordinances, rules  
23 and regulations pertaining to the public health and safety, or that the activity is a threat to the public  
24 health or safety, or that the activity violates a condition of the permit. § 8.05.080.

25 30. It is unlawful and a misdemeanor punishable according to the general penalties  
26 described in Chapter 1.24 for any person, firm, partnership, association, corporation or other entity  
27 to conduct any activity described in Chapter 8.05 without a valid and subsisting permit thereunder  
28 where such permit is required, and each calendar day of conduct shall be a separate misdemeanor.

1 At the discretion of the Community Development Department, or District Attorney, the violation  
2 may be reduced to an infraction with a maximum fine of \$500.00. § 8.05.180.

3 31. Except as otherwise provided by law or ordinance, and unless the violation of a  
4 particular ordinance is specified by that ordinance to be an infraction, any person violating any of the  
5 provisions or failing to comply with any of the mandatory requirements of the ordinances of the  
6 County shall be guilty of a misdemeanor unless, in the discretion of the prosecuting attorney or  
7 agency, the matter is alleged or charged as an infraction, in which case the matter shall proceed as an  
8 infraction. A violation of ordinances of the County that is a misdemeanor shall be punishable by  
9 imprisonment in the County jail not exceeding six months or by a fine not exceeding \$1,000.00, or  
10 by both. § 1.24.010.

11 32. Any person convicted of an infraction for violation of an ordinance of the County is  
12 punishable by: 1. a fine not exceeding \$100.00 for a first violation; 2. a fine not exceeding \$200.00  
13 for second violation of the same ordinance within one year; 3. a fine not exceeding \$500.00 for each  
14 additional violation of the same ordinance within one year. § 1.24.030.

15 33. Each such person shall be guilty of a separate offense for each and every day during  
16 any portion of which any violation of any provision of the ordinances of the County is committed,  
17 continued or permitted by any such person, and he or she shall be punished accordingly. § 1.24.040.

18 34. Under Section 4 of County Ordinance No. 5013, the County may pursue other  
19 remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits  
20 relating to violations of its ordinances.

21 **C. Defendants Have Operated and Continue to Operate Without a Permit**

22 35. On July 30, 2020, County EMD notified the Apple Bistro Defendants that, pursuant  
23 to El Dorado County Code § 8.05.080, the permit issued by EMD to operate Apple Bistro was  
24 temporarily suspended.<sup>2</sup> County EMD ordered Apple Bistro to immediately close under H&S §§  
25 114405 and 114409 and El Dorado County Code § 8.05.021. EMD warned the Apple Bistro  
26 Defendants that any food facility for which the permit has been suspended shall cease all food

27 \_\_\_\_\_  
28 <sup>2</sup> The permit add-on for a catering operation was also suspended at this time.

1 handling, close and remain closed until all conditions warranting the closure are corrected and their  
2 permit has been reinstated by a representative of Environmental Management. The Apple Bistro  
3 Defendants were also notified of their right to request a hearing within 15 calendar days after service  
4 of the notice of suspension to show cause why the permit suspension was not warranted, and that the  
5 failure to request a hearing within 15 calendar days would be deemed a waiver of their right to a  
6 hearing. County EMD further warned the Apple Bistro Defendants that an owner, manager or  
7 operator who failed to comply with the Closure Notice may be found guilty of a misdemeanor (under  
8 H&S § 114395), with a possible fine up to \$1,000.00 and/or imprisonment for not more than six  
9 months for each offense. The Apple Bistro Defendants were also warned that it was unlawful and a  
10 misdemeanor under § 8.05.180 to conduct any activity without a permit and may carry an additional  
11 fine of up to \$500 per day and, under H&S § 114387, has a penalty not to exceed three times the cost  
12 of the permit.

13 36. The Apple Bistro Defendants requested a hearing relating to their appeal of the permit  
14 suspension.

15 37. On August 20, 2020, County EMD provided the Apple Bistro Defendants with a  
16 Notice of Violation – Permit Revocation Hearing. The Notice indicated that Apple Bistro had been  
17 found to be in operation without a valid health permit to operate and was in violation of Division  
18 104, Part 7, Chapter 13 of the Health and Safety Code and Chapter 8.05 of the El Dorado County  
19 Health Permit Ordinance. The Notice stated that the Apple Bistro Defendants requested a hearing  
20 and that a hearing had been scheduled for August 25, 2020 via Zoom. Instructions for the Zoom  
21 hearing were provided.

22 38. The requested appeal hearing took place on August 25, 2020 via Zoom, but neither  
23 Jennette H. Waldow, International Farmers Kitchen, LLC, nor any other owner or representative of  
24 Apple Bistro, attended or otherwise appeared at the hearing. The then County EMD Director acted  
25 as the Hearing Officer at the hearing. After the hearing, the Director issued his Notice of Decision,  
26 dated September 1, 2020, to the Apple Bistro Defendants. In the Decision, the Director found,  
27 among other violations, clear and convincing evidence that proved violations of H&S §§ 114381 and  
28 114387 and El Dorado County Ordinance Code § 8.05.180 for operating the Apple Bistro without a



1 valid Health Permit, and in the absence of any information presented by the Apple Bistro Defendants  
2 to show cause why Apple Bistro's permit should not be suspended or revoked, the Director revoked  
3 the permit to operate Apple Bistro. The Director warned that each and every day that Apple Bistro  
4 operated without a valid Health Permit constituted a separate offense, subject to misdemeanor  
5 charges, under El Dorado County Code Section 1.24. Pursuant to Chapter 1.24, EMD reduced the  
6 violation(s) to an infraction. The Notice also detailed the fines that had accrued and would continue  
7 to accrue in the amount of \$500 per day for each day Apple Bistro operated without a valid permit.

8 39. Notwithstanding their permit suspension and order to close on July 30, 2020,  
9 followed by the revocation of their permit on September 1, 2020, the Apple Bistro Defendants have  
10 operated, and continue to operate, Apple Bistro without a permit.

11 40. On August 11, 2020, County EMD notified the Danette's Defendants that, pursuant to  
12 El Dorado County Code § 8.05.080, the permit issued by EMD to Danette's was temporarily  
13 suspended. County EMD ordered Danette's to immediately close under H&S §§ 114405 and  
14 114409 and El Dorado County Code § 8.05.021. County EMD warned that any food facility for  
15 which the permit has been suspended shall cease all food handling, close and remain closed until all  
16 conditions warranting the closure are corrected and your permit has been reinstated by a  
17 representative of Environmental Management. The Danette's Defendants were also notified of their  
18 right to request a hearing within 15 calendar days after service of the notice of suspension to show  
19 cause why the permit suspension was not warranted, and that the failure to request a hearing within  
20 15 calendar days would be deemed a waiver of their right to a hearing. County EMD warned that an  
21 owner, manager or operator who failed to comply with the Closure Notice may be found guilty of a  
22 misdemeanor (under H&S § 114395), with a possible fine up to \$1,000.00 and/or imprisonment for  
23 not more than six months for each offense. EMD also warned that it was unlawful and a  
24 misdemeanor under § 8.05.180 to conduct any activity without a permit and may carry an additional  
25 fine of up to \$500 per day and under H&S § 114387 have a penalty not to exceed three times the  
26 cost of the permit.

27 41. On August 14, 2020, County EMD provided the Danette's Defendants with a Notice  
28 of Violation – Operating Without a Health Permit. The Notice indicated that Danette's had been

1 found to be in operation without a valid health permit to operate and was in violation of Division  
2 104, Part 7, Chapter 13 of the Health and Safety Code and Chapter 8.05 of the El Dorado County  
3 Health Permit Ordinance.

4 42. The Danette's Defendants requested a hearing relating to their appeal of the permit  
5 suspension.

6 43. On September 2, 2020, County EMD provided the Danette's Defendants with a  
7 Notice of Violation – Permit Revocation Hearing. The Notice again indicated that Danette's had  
8 been found to be in operation without a valid health permit to operate and is in violation of Division  
9 104, Part 7, Chapter 13 of the Health and Safety Code an Chapter 8.05 of the El Dorado County  
10 Health Permit Ordinance. The Notice stated that Danette's requested a hearing for September 9,  
11 2020, and that a hearing had been scheduled for September 9, 2020 via Zoom. Instructions for the  
12 Zoom hearing were provided.

13 44. On September 10, 2020, County EMD provided the Danette's Defendants with an  
14 Updated Notice of Violation – Permit Revocation Hearing. The Notice again indicated that  
15 Danette's had been found to be in operation without a valid health permit to operate and is in  
16 violation of Division 104, Part 7, Chapter 13 of the Health and Safety Code an Chapter 8.05 of the El  
17 Dorado County Health Permit Ordinance. The Updated Notice stated that Danette's requested a  
18 hearing for September 16, 2020, and that a hearing had been scheduled for September 16, 2020 via  
19 Zoom. Instructions for the Zoom hearing were provided.

20 45. The requested hearing took place on September 16, 2020 via Zoom, but neither  
21 Thomas Inman or Danette Inman, nor any other owner or representative of Danette's, attended or  
22 otherwise appeared at the hearing. The then County EMD Director acted as the Hearing Officer at  
23 the hearing. After the hearing, the Director issued his Notice of Decision, dated September 23, 2020  
24 to the Danette's Defendants. In his Decision, the Director found, among other things, clear and  
25 convincing evidence that proved violations of H&S §§ 114381 and 114387 and El Dorado County  
26 Ordinance Code § 8.05.180 for operating Danette's without a valid Health Permit, and in the absence  
27 of any information presented by the Danette's Defendants to show cause why Danette's permit  
28 should not be suspended or revoked, the Director revoked the permit to operate Danette's. The

1 Director warned that each and every day that Danette's operated without a valid Health Permit  
2 constituted a separate offense, subject to misdemeanor charges, under El Dorado County Code  
3 Section 1.24. Pursuant to Chapter 1.24, County EMD reduced the violation(s) to an infraction. The  
4 Notice also detailed the fines that had accrued and will continue to accrue in the amount of \$500 per  
5 day for each day Danette's operated without a valid permit.

6 46. Notwithstanding their permit suspension and order to close on August 11, 2020,  
7 followed by the revocation of their permit on September 23, 2020, the Danette's Defendants have  
8 operated, and continue to operate, Danette's without a permit.

9 47. On October 22, 2021, the County sent a cease-and-desist letter to both the Apple  
10 Bistro Defendants and the Danette's Defendants demanding that they cease operations of Apple  
11 Bistro and Danette's. Neither restaurant ceased operations and both restaurants remain open for  
12 business as of the date of the filing of this Complaint.

13 **FIRST CAUSE OF ACTION**

14 **(Violations of California Health and Safety Code §§ 114381 and 114405)**

15 ***All Plaintiffs Against All Defendants and Does 1-100***

16 48. Plaintiffs re-allege and incorporate herein by reference each and every one of the  
17 allegations contained in Paragraphs 1 through 47 of this Complaint.

18 49. Apple Bistro and Dannette's are both "food facility[ies]" as defined in H&S §  
19 113789.

20 50. As food facilities, Apple Bistro and Danette's "shall not be open for business without  
21 a valid permit." H&S § 114381(a). Upon suspension of their permits by County EMD, Apple Bistro  
22 and Danette's were required to close and remain closed until the permit was reinstated. Upon  
23 revocation of their permits, Apple Bistro and Danette's were required to close and remain closed  
24 until a new permit had been issued. H&S § 114405(a).

25 51. In direct violation of H&S §§ 114381(a) and 114405(a), the Apple Bistro Defendants  
26 did not close Apple Bistro. Instead, Apple Bistro has been open for business without a valid permit  
27 since July 30, 2020, when County EMD suspended the permit to operate Apple Bistro. Further, the  
28 Apple Bistro Defendants have continued to operate Apple Bistro after their permit was revoked on

1 September 1, 2020 and despite the fact that a new permit to operate Apple Bistro has never been  
2 issued.

3 52. In direct violation of H&S §§ 114381(a) and 114405(a), the Danette's Defendants did  
4 not close Danette's. Instead, Danette's has been open for business without a valid permit since  
5 August 11, 2020, when County EMD suspended their permit to operate Danette's. Further, the  
6 Danette's Defendants have continued to operate Danette's after their permit was revoked on  
7 September 1, 2020 and despite the fact that a new permit to operate Apple Bistro has never been  
8 issued.

9 53. Plaintiffs cannot be fully compensated in damages and are without a plain, speedy, or  
10 adequate remedy at law because the exact amount of damage to the general public's health, safety,  
11 and welfare is not ascertainable.

12 54. Unless and until all Defendants are restrained and enjoined by order of this Court  
13 and/or the Court provides other equitable relief, Defendants will continue to illegally operate food  
14 facilities in the County in clear violation of the Retail Food Code.

15 55. WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

16 **SECOND CAUSE OF ACTION**

17 **(Violations of County of El Dorado's Environmental Health Permit Ordinance, Chapter 8.05**  
18 **of the El Dorado County Ordinance Code)**

19 ***All Plaintiffs Against All Defendants and Does 1-100***

20 56. Plaintiffs re-allege and incorporate herein by reference each and every one of the  
21 allegations contained in Paragraphs 1 through 55 of this Complaint.

22 57. Apple Bistro and Dannette's are both "food facility[ies]" as defined in section  
23 8.05.040 in Chapter 8.05 of the El Dorado County Ordinance Code. As food facilities, Apple Bistro  
24 and Danette's "may be engaged in only by persons holding valid and subsisting permits" issued by  
25 County EMD. § 8.05.040.

26 58. In direct violation of § 8.05.040, the Apple Bistro Defendants have engaged in the  
27 operation of Apple Bistro without a valid and subsisting permit since July 30, 2020.

28



1 unaware of the fact that these restaurants do not have a permit and are not subject to health and  
2 safety inspections to ensure that food being served to the public is safe. H&S § 113703.

3 68. Operating without a permit also leads to increased dangers and risks, such as lack of  
4 regulatory oversight to monitor whether standard safety practices are being adhered to. Failure to  
5 abide by these standards can lead to increases in illnesses and unsanitary practices, and thus is  
6 injurious to public health and safety in the County and in surrounding communities. Permitting such  
7 unlawful conduct could embolden other restaurants and facilities to flout the same permit  
8 requirements, which would further undermine public health and safety.

9 69. The Apple Bistro Defendants' ongoing, unlawful operation of Apple Bistro  
10 constitutes a public nuisance that should be abated.

11 70. The Danette's Defendants' ongoing, unlawful operation of Danette's constitutes a  
12 public nuisance that should be abated.

13 71. Pursuant to Code of Civil Procedure section 731, a civil action may be brought in the  
14 name of the people of the State of California to abate a public nuisance, as defined by section 3480  
15 of the Civil Code, by county counsel of any county in which the nuisance exists.

16 72. Plaintiffs cannot be fully compensated in damages and are without a plain, speedy, or  
17 adequate remedy at law because the exact amount of damages to the general public's health, safety,  
18 and welfare is not ascertainable.

19 73. Unless Defendants are restrained and enjoined by order of this Court and/or the Court  
20 provides other equitable relief permissible by law, Defendants will continue to illegally operate in  
21 violation of the Health and Safety Code and County ordinances and perpetuate a public nuisance.

22 74. WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

23 **PRAYER FOR RELIEF**

24 **WHEREFORE**, Plaintiffs pray for judgment as follows:

25 1. For injunctive relief, including but not limited to temporary restraining orders,  
26 preliminary injunctions and permanent injunctions, that: (a) requires Apple Bistro to close all  
27 operations unless and until a new permit is obtained from County EMD under Chapter 8.05 of the El  
28 Dorado County Ordinance Code; and (b) prohibits the Apple Bistro Defendants, as well as all of

1 their agents, officers, and employees, from operating or allowing the operation of Apple Bistro  
2 without a valid permit from County EMD;

3 2. For injunctive relief, including but not limited to temporary restraining orders,  
4 preliminary injunctions and permanent injunctions, that: (a) requires Danette's Brick Oven Pub to  
5 close all operations unless and until a new permit is obtained from County EMD under Chapter 8.05  
6 of the El Dorado County Ordinance Code; and (b) prohibits the Danette's Defendants, as well as all  
7 of their agents, officers, and employees, from operating or allowing the operation of Danette's Brick  
8 Oven Pub without a valid permit from County EMD;

9 3. For an order finding that the operation of Apple Bistro without valid and subsisting  
10 permit from County EMD constitutes a continuing public nuisance pursuant to Civil Code sections  
11 3479 and 3480, and for an order of abatement requiring the Apple Bistro Defendants, as well as all  
12 of their agents, officers, and employees, to undertake the necessary remedial measures to bring  
13 Apple Bistro into compliance with California Health & Safety Code and the El Dorado County  
14 Ordinance Code provisions relating to the permit requirements to operate a food facility.

15 4. For an order finding that the operation of Danette's Brick Oven Pub without valid and  
16 subsisting permit from County EMD constitutes a continuing public nuisance pursuant to Civil Code  
17 sections 3479 and 3480, and for an order of abatement requiring the Danette's Defendants, as well as  
18 all of their agents, officers, and employees, to undertake the necessary remedial measures to bring  
19 Danette's Brick Oven Pub into compliance with California Health & Safety Code and the El Dorado  
20 County Ordinance Code provisions relating to the permit requirements to operate a food facility.

21 5. For penalties against Defendants in the amount of three times the cost of the permit,  
22 or \$2,313.00 pursuant to H&S § 114387.

23 6. For fines against Defendants in an amount to be determined by the Court pursuant to  
24 El Dorado County Ordinance Code § 8.05.180 of \$500 for each day of operation of the food facility  
25 without a permit.

26 7. For attorneys' fees incurred herein;

27 8. For costs of suit and expenditures incurred herein; and

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9. For any further relief that the Court may deem just and proper.

Dated: November 8 2021

**COUNTY OF EL DORADO,  
OFFICE OF THE COUNTY COUNSEL**

By: 

DAVID A. LIVINGSTON  
Attorney for Plaintiffs  
COUNTY OF EL DORADO and THE PEOPLE  
OF THE STATE OF CALIFORNIA

Dated: November 8, 2021

**CAULFIELD LAW FIRM**

By: 

ANDREW T. CAULFIELD  
Attorney for Plaintiff  
COUNTY OF EL DORADO