

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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Case Number: CGC-16-553270

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COMPLAINT

ISABELLE FAITHHAUER VS. SCULLY HELMETS, INC. ET AL

001C05489872

Instructions:

Please place this sheet on top of the document to be scanned.

FOR COURT USE ONLY

FILEDSuperior Court of California
County of San Francisco

JUL 27 2016

CLERK OF THE COURT

BY: [Signature]
Deputy Clerk

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Daniel Feder, SBN 130867
The Law Office of Daniel Feder
332 Pine Street, Suite 700

San Francisco, CA 94104

TELEPHONE NO.: 415-391-9476

FAX NO.: 415-391-9432

ATTORNEY FOR (Name): Isabelle Faithauer

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco

STREET ADDRESS: 400 McAllister Street

MAILING ADDRESS:

CITY AND ZIP CODE: San Francisco, CA 94104

BRANCH NAME:

CASE NAME: Faithauer v. Skully, et al

CIVIL CASE COVER SHEET☒ **Unlimited**
(Amount
demanded
exceeds \$25,000)☐ **Limited**
(Amount
demanded is
\$25,000 or less)**Complex Case Designation**☐ **Counter** ☐ **Joinder**
Filed with first appearance by defendant
(Cal. Rules of Court, rule 3.402)

CASE NUMBER:

CGC-16-553270

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:

Auto Tort

- ☐
- Auto (22)
-
- ☐
- Uninsured motorist (46)

**Other PI/PD/WD (Personal Injury/Property
Damage/Wrongful Death) Tort**

- ☐
- Asbestos (04)
-
- ☐
- Product liability (24)
-
- ☐
- Medical malpractice (45)
-
- ☐
- Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

- ☐
- Business tort/unfair business practice (07)
-
- ☐
- Civil rights (08)
-
- ☐
- Defamation (13)
-
- ☐
- Fraud (16)
-
- ☐
- Intellectual property (19)
-
- ☐
- Professional negligence (25)
-
- ☐
- Other non-PI/PD/WD tort (35)

Employment

- ☒
- Wrongful termination (36)
-
- ☐
- Other employment (15)

Contract

- ☐
- Breach of contract/warranty (06)
-
- ☐
- Rule 3.740 collections (09)
-
- ☐
- Other collections (09)
-
- ☐
- Insurance coverage (18)
-
- ☐
- Other contract (37)

Real Property

- ☐
- Eminent domain/Inverse
-
- condemnation (14)
-
- ☐
- Wrongful eviction (33)
-
- ☐
- Other real property (26)

Unlawful Detainer

- ☐
- Commercial (31)
-
- ☐
- Residential (32)
-
- ☐
- Drugs (38)

Judicial Review

- ☐
- Asset forfeiture (05)
-
- ☐
- Petition re: arbitration award (11)
-
- ☐
- Writ of mandate (02)
-
- ☐
- Other judicial review (39)

Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)

- ☐
- Antitrust/Trade regulation (03)
-
- ☐
- Construction defect (10)
-
- ☐
- Mass tort (40)
-
- ☐
- Securities litigation (28)
-
- ☐
- Environmental/Toxic tort (30)
-
- ☐
- Insurance coverage claims arising from the
-
- above listed provisionally complex case
-
- types (41)

Enforcement of Judgment

- ☐
- Enforcement of judgment (20)

Miscellaneous Civil Complaint

- ☐
- RICO (27)
-
- ☐
- Other complaint (not specified above) (42)

Miscellaneous Civil Petition

- ☐
- Partnership and corporate governance (21)
-
- ☐
- 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.
- ☐
- Large number of separately represented parties d.
- ☐
- Large number of witnesses
-
- b.
- ☐
- Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e.
- ☐
- Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
-
- c.
- ☐
- Substantial amount of documentary evidence f.
- ☐
- 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): 12

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: July 26, 2016

Daniel Feder, SBN 130867

(TYPE OR PRINT NAME)

[Signature]
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)**BY FAX****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

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief from Late Claim
Other Civil Petition

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

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

NOTICE TO DEFENDANT: SKULLY HELMETS, INC.; SKULLY,
(AVISO AL DEMANDADO): INC.; MARCUS WELLER; MITCHELL
WELLER; and DOES 1 through 50, inclusive,

YOU ARE BEING SUED BY PLAINTIFF: ISABELLE FAITHHAUER, an
(LO ESTÁ DEMANDANDO EL DEMANDANTE): individual

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), 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), the California Courts Online Self-Help Center (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), 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), en el Centro de Ayuda de las Cortes de California, (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 Francisco County Superior Court
400 McAllister Street

San Francisco, CA 94104

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):

Daniel Feder, SBN 130867

415-391-9476 415-391-9432

The Law Office of Daniel Feder

332 Pine Street, Suite 700

San Francisco, CA 94104

DATE:

(Fecha) **JUL 27 2016**

CLERK OF THE COURT Clerk, by _____, Deputy
(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)).

MADONNA CARANTO

NOTICE TO THE PERSON SERVED: You are served

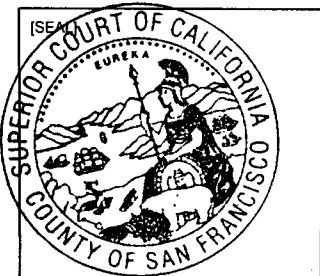
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

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):

BY FAX



1 Daniel Feder (SBN 130867)
2 **LAW OFFICES OF DANIEL FEDER**
3 332 Pine Street, Suite 700
4 San Francisco, CA 94104
Telephone: (415) 391-9476
Facsimile: (415) 391-9432

5 Attorneys for Plaintiff,
6 Isabelle Faithauer

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **FOR THE COUNTY OF SAN FRANCISCO**
9 **[UNLIMITED JURISDICTION]**

FILED
Superior Court of California
County of San Francisco

JUL 27 2016

CLERK OF THE COURT
BY: [Signature] Deputy Clerk

BY FAX

10 ISABELLE FAITHHAUER, an individual,
11 Plaintiff,

12 v.

13 SKULLY HELMETS, INC.; SKULLY,
14 INC.; MARCUS WELLER; MITCHELL
15 WELLER; and DOES 1 through 50,
inclusive,

16 Defendants.

Case No.: **CGC-16-553270**

COMPLAINT FOR DAMAGES

1. Violation of CFRA
2. Wrongful Termination in Violation of Public Policy
3. Wrongful Termination in Violation of Public Policy
4. Defamation
5. Defamation per se
6. Intentional Interference with Contractual Relations
7. Intentional Interference with Prospective Economic Advantage
8. Injunctive Relief
9. Failure to Pay Overtime Wages
10. Failure to Pay All wages upon Separation
11. Failure to Provide Meal and Rest Period and wages
12. Failure to Provide Accurate Wage Statements

DEMAND FOR JURY TRIAL

22 Plaintiff Isabelle Faithauer (hereafter "Plaintiff" or "Faithauer") complains as follows:

- 23 1. Plaintiff is an individual over the age of 18 and is a resident of the State of
24 California.

1 2. Plaintiff is informed and believes and thereon alleges that Defendant SKULLY
2 HELMETS, INC. is a Delaware Corporation with its principal place of business in San
3 Francisco, California..

4 3. Plaintiff is informed and believes and thereon alleges that Defendant SKULLY
5 INC. is a Delaware Corporation with its principal place of business in San Francisco,
6 California.

7 4. Plaintiff is informed and believes and thereon alleges that Defendant SKULLY
8 INC. uses the dba SKULLY HELMETS, INC. and SKULLY HELMETS, INC. uses the dba
9 SKULLY INC. Defendants SKULLY HELMETS, INC. and SKULLY HELMETS, INC. are
10 hereafter collectively referred to as "SKULLY."

11 5. Marcus Weller is an individual who resides in San Francisco, California, and is
12 one of the founders of SKULLY. At all times relating to Plaintiff's employment, Marcus
13 Weller was an officer and director of SKULLY.

14 6. Mitchell Weller is an individual who resides in San Francisco, California, and
15 is one of the founders of SKULLY. During Plaintiff's employment, Mitchell Weller was an
16 office and/or director of SKULLY. Marcus Weller and Mitchell Weller are collectively
17 referred to herein as "The Wellers."

18 7. The true names and capacities, whether individual, corporate, associate or
19 otherwise of DOES 1 through 50, inclusive, are unknown to Plaintiff. Plaintiff therefore sues
20 such defendants by such fictitious names and will amend this complaint to insert their true
21 names and capacities when ascertained. Plaintiff is informed and believes, and thereon
22 alleges, that each such fictitiously named defendant is in some manner, means or degree,
23 connected with the matters alleged and is liable to Plaintiff thereon.

24 8. Plaintiff is informed and believes, and thereon alleges, that at all times herein
25 mentioned each of the defendants was the agent and/or employee of each of the remaining

1 defendants and, in doing the things hereinafter alleged, was acting within the course and
2 scope of such agency and/or employment.

3 9. The Wellers used the corporate entities of SKULLY in such a fraudulent
4 manner as to render the corporate entity a sham. The various "corporations" have common
5 management and pay practices, share labor and materials including a distribution and billing
6 system, and operate a common marketing system. As to the various corporations and non-
7 corporations, there exists a unity of interests and ownership that the separate personalities of
8 the individual Defendants and the Corporate Defendants no longer exist. The Wellers
9 intermingled personal funds with corporate funds and used the corporation as a tool to pay
10 their personal expenses. Plaintiff is further informed and believes and thereon alleges that the
11 various corporations were never fully organized or perfected, and they are undercapitalized
12 and/or a mere "shell." Plaintiff is further informed and believes that the Defendants failed to
13 observe corporate formalities including maintaining minutes and failure to contribute
14 sufficient capital and Defendants and individual Defendants share common funds. Based on
15 this, an inequity would result if the corporations were not viewed as alter egos of each other
16 and the individual Defendants, including the inability on the part of the corporate entities to
17 satisfy a potential judgment in this case which seeks wages and derivative penalties. Further,
18 the individual Defendants are liable as they engaged in tortuous acts outside of the agency
19 relationship they had with the various corporations under which authority they were acting .

20 10. In or about May, 2014, Plaintiff began working for Defendants as an assistant
21 responsible for working with Marcus Weller and Mitchell Weller to perform tasks essential
22 the management of SKULLY. Among other responsibilities, Plaintiff was assigned
23 responsibility for managing the books of SKULLY, at the direction and under the supervision
24 of the Wellers. These bookkeeping responsibilities included entering records of income and
25 expenses into the accounts payable and accounts receivable ledges of SKULLY. It also

1 included managing payroll, writing checks on the company's operating account, and using the
2 company's credit cards for various business purposes related to the operation of SKULLY. of
3 the Wellers, who wears multiple hats for defendants. Plaintiff was hired by Marcus Weller
4 and Mitchell Weller.

5 11. Plaintiff consistently worked more than 50 hours each week. However, she was
6 not paid overtime. On several occasions, Plaintiff complained to the Wellers that she was not
7 being properly compensated for working overtime hours and, further, that she was not
8 permitted to take her meal and rest breaks in accordance with California law. The Wellers
9 ignored her complaints.

10 12. During her employment, the Weller's routinely demanded that Plaintiff engage
11 in fraudulent bookkeeping practices designed to defraud investors in SKULLY into believing
12 that SKULLY funds were being used for business purposes, when in fact, the funds were used
13 to pay the personal living expenses of the Wellers. The Wellers used SKULLY corporate
14 accounts as their personal "piggy banks," and demanded that Plaintiff conceal the true nature
15 of the expenses by entering them in SKULLY'S books to make it appear that the expenses
16 were incurred for legitimate business expenses, which in fact they were clearly not. The
17 following are examples of just some of the fraudulent bookkeeping entries that Plaintiff was
18 required to generate, over her strong objections, in order to keep her job: For example:

19 a. Rent for personal apartment of Marcus Weller and Mitchell Weller in San
20 Francisco Marina district was written off to the accountants as corporate housing.

21 b. Security deposits for apartment in Dogpatch used by the Wellers was paid
22 by SKULLY.

23 c. Moving expenses and painting expenses for the Weller's move from the
24 Marina to Dogpatch were paid by SKULLY.

25 d. Weekly apartment cleaning for Marcus Weller and Mitchell Weller.

1 e. Personal grocery bills of Marcus Weller and Mitchell Weller expensed to
2 SKULLY through SKULLY's AMEX card.

3 f. All restaurant meals of Marcus Weller and Mitchell Weller expensed to
4 SKULLY through SKULLY's AMEX card.

5 g. Personal technologies, such as Apple Iphone, iPad, mini-iPad, TV, watch
6 GoPro were all ordered by Marcus Weller via SKULLY's AMEX card.

7 h. A payout of \$80,000 to a former co-founder of SKULLY was made and not
8 properly recorded on the company books. Mitchell Weller asked Plaintiff to cover up this
9 transaction, and to conceal it from the accountants of SKULLY, by recording the expense as a
10 reimbursement for expenses during a trip to China.

11 i. SKULLY would often grant gifts valuing in excess of \$500 without
12 declaring them to reporter Kym McNicholas for features of SKULLY in her social media, and
13 Collette Davis for being in the SKULLY hero video.

14 k. In January, 2015, Marcus Weller attended a Mai Tai and Extreme tech
15 Challenge at a cost of approximately \$13,000 in Las Vegas for three days.

16 l. During January, 2015, Marcus Weller took a non-business related trip to
17 Southern California, where he rented a Lamborghini for the week-end, and expensed it to
18 SKULLY.

19 m. In March, 2015, Marcus Weller received a traffic violation driving his
20 Audi R8, also purchased by SKULLY. Marcus Weller required Plaintiff to take driving
21 school on his behalf. A cost of \$450 to an attorney was expensed to SKULLY because
22 driving school was not through an approved vendor.

23 n. Four motorcycles were purchased by SKULLY, two of which were for the
24 Wellers' personal use. Insurance for the motorcycles were also charged to SKULLY.

25 o. Mitchell Weller's original Dodge Viper was purchased by SKULLY and

1 claimed for insurance following an accident. It was later replaced with a new Viper, also
2 purchased by SKULLY.

3 p. A three bedroom apartment on Indiana Street in San Francisco was rented
4 by SKULLY for corporate housing. Wellers' brother, Mike Weller, used the three bedroom
5 apartment for himself for three months at \$6,200 per month were paid for by SKULLY.
6 SKULLY paid over \$15,000 for Mike Weller to move to California with his family, whereas
7 it offered other employees only \$2500.

8 q. After Mike Weller moved out of the three bedroom corporate housing
9 apartment, Marcus Weller and Mitchell Weller moved into that apartment, with new
10 furniture TVs, etc. brought in at SKULLY's cost.

11 r. In May, 2015, Marcus Weller began a World Tour whereby some of the
12 charges were brought to Plaintiff's attention by accountants of SKULLY: approx. \$2000 for
13 limos in Florida; approx. \$2000 for strip club De Ja Vu; Marcus Weller stayed in Hawaii in
14 June, 2015, for an extra week after the World Tour, at SKULLY's expense; in Hawaii, Marcus
15 Weller expensed \$2,345 worth of paintings to SKULLY.

16 s. In October, 2015, Marcus Weller took a day at Laguna Seca to race with
17 other CEOs in Silicon Valley. Extensive amounts were spent on various items.

18 t. In fall, 2015, Marcus Weller and Mitchell Weller booked non-refundable
19 trip to Bermuda. Marcus Weller was not pleased with Bermuda, so he booked on 24 hours
20 notice a flight to Hawaii, first class, at SKULLY's expense.

21 13. In or about July of 2015, Plaintiff notified SKULLY'S accountants and the
22 newly hired fully time bookkeeper of the fraudulent bookkeeping entries made by the
23 Wellers. In response, the Wellers retaliated against Plaintiff by demoting her from the
24 position of a personal assistant for Marcus Weller and Mitchell Weller to office manager.
25 The purported reason for the demotion was the claim that Plaintiff revealed salary information

1 to persons not entitled to receive that information. This claim was false. In fact, the Wellers
2 demoted Plaintiff in part because she refused to participate in the Weller's campaign of
3 entering false and misleading statements in the company's books with respect to the nature of
4 the expenses being incurred by the Wellers. Plaintiff repeatedly told the Wellers that the
5 bookkeeping entries were fraudulent, and that investors were entitled to receive truthful
6 information about the purposes for which the expenses were being incurred.

7 14. In September 2015, SKULLY's accountants and bookkeeper continued their
8 investigation to determine the true nature of the expenses incurred by the Wellers. They
9 questioned Plaintiff more aggressively about personal expenses of Marcus Weller and
10 Mitchell Weller. Plaintiff answered the questions verbally, face to face and provided true and
11 correct information about the actual purposes for the fraudulently recorded expenses incurred
12 by the Wellers.

13 15. In October/November, 2015, SKULLY hired a Vice President of Finance.
14 Plaintiff was being asked more questions about personal expenses of Marcus Weller and
15 Mitchell Weller, paid for by SKULLY. The Wellers were notified of the answers that
16 Plaintiff provided to the Vice President, and others, in response to their skeptical inquiries
17 into the bookkeeping entries made by the Wellers.

18 16. In November of 2015, plaintiff's son was diagnosed with Autism. Plaintiff
19 began bringing her son to work on Fridays, with approval of Mitchell Weller and Marcus
20 Weller. When Marcus Weller brought his puppy to work one Friday, he told plaintiff to put
21 her "dog on a leash so [he] can let his kid run around." Marcus Weller made other comments
22 about Plaintiff's son being "sick." Marcus Weller was unhappy about Plaintiff taking time off
23 to go to doctor appointment for her autistic son.

24 17. Plaintiff took a one week vacation, pre-approved by SKULLY, to Disneyland
25 in December, 2015. Upon her return she was terminated by SKULLY.

1 18. After her termination, SKULLY offered Plaintiff a severance package, which
2 Plaintiff declined. One of the terms of this severance package was a requirement that
3 Plaintiff not disclose any information pertaining to the Wellers fraudulent use of company
4 funds to any person outside of SKULLY. Plaintiff refused to accept this "hush money."
5 Plaintiff is informed and believes and thereon alleges that Marcus Weller and/or Mitchell
6 Weller were angry because Plaintiff did not accept SKULLY's severance package.

7 19. A few weeks after being terminated by SKULLY, Plaintiff found a new job.
8 While working at her new job, the Wellers called Plaintiff's new employer and told the new
9 employer that Plaintiff was untrustworthy and dishonest. They told the new employer that
10 Plaintiff had been terminated for disclosing confidential financial information. could not
11 handle confidential information. As a result of the Weller's defamatory comments, Plaintiff
12 was fired from her new job.

13 20. Plaintiff suffered damages in an amount according to proof, including but not
14 limited to lost wages, 2,500 shares in SKULLY, which were voided by SKULLY, severe
15 emotional distress.

16 21. The conduct of SKULLY constitutes malice, oppression or fraud, and justifies
17 an award of punitive damages in an amount according to proof.

18 22. Venue is proper in this Court because the acts and events set forth in this
19 Complaint occurred in whole or in part in the county of San Francisco, California.

20 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

21 23. In June, 2015, Plaintiff filed a complaint with the Department of Fair
22 Employment and Housing (DFEH) and received an immediate right-to-sue letter.

23
24 **FIRST CAUSE OF ACTION**
25 **VIOATION OF CALIFORNIA FAMILY RIGHTS ACT (CFRA)**
 (Government Code § 12945.2)
 AGAINST SKULLY

1 24. Plaintiff incorporates paragraphs 1 through 22 as though fully set forth herein.

2 25. Defendants are an employer which regularly employs more than 50 employees
3 within the United States or its territories.

4 26. At all times mentioned herein, Plaintiff was eligible for benefits under the
5 California Family Rights Act ("CFRA").

6 27. Defendants approved Plaintiff going to doctor appointments for her son, who
7 has autism.

8 28. Notwithstanding, Defendants terminated Plaintiff's position with SKULLY
9 because she brought her son to doctor appointments, in violation of CFRA.

10 29. As a proximate result of Defendants' wrongful acts, Plaintiff has suffered and
11 continues to suffer substantial monetary losses incurred; and has suffered and continues to
12 suffer emotional distress in an amount according to proof at the time of trial.

13 30. Defendants, and each of them, did the acts alleged herein maliciously,
14 fraudulently and oppressively, with the wrongful intent to injure Plaintiff, from an improper
15 and evil motive amounting to malice, and in conscious disregard of Plaintiff's rights. The
16 acts complained of were known to, authorized and ratified by Defendants. Plaintiff is
17 therefore entitled to recover punitive damages from Defendants, and each of them, in an
18 amount according to proof at the time of trial.

19 WHEREFORE, Plaintiff prays for judgment as more fully set forth herein.

20
21 **SECOND CAUSE OF ACTION**
22 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**
 AGAINST SKULLY

23 **THIRD CAUSE OF ACTION**
24 **RETALIATION IN VIOLATION OF LABOR CODE §1102.5 AGAINST SKULLY**

25 31. Plaintiff incorporates paragraphs 1 through 22 as though fully set forth herein.

1 32. Defendants retaliated against Plaintiff for her opposition to Defendants
2 fraudulent accounting practices, which constituted mail and wire fraud, tax evasion, and
3 violation of applicable securities laws, and of Delaware security law provisions prohibiting
4 to fraudulent activities. Defendants terminated Plaintiff's employment because plaintiff
5 answered questions about Marcus Weller and Mitch Weller's personal expenses wrongfully
6 being paid by SKULLY. Defendants' stated reason for the termination, performance, was a
7 pretext for the discriminatory reasons for her termination, which were the actual reasons she
8 was fired.

9 33. As a proximate result of Defendants' wrongful acts, Plaintiff has suffered and
10 continues to suffer substantial monetary losses incurred; and has suffered and continues to
11 suffer extreme emotional distress in an amount according to proof at the time of trial.

12 34. Defendants, and each of them, did the acts alleged herein maliciously,
13 fraudulently and oppressively, with the wrongful intent to injure Plaintiff, from an improper
14 and evil motive amounting to malice, and in conscious disregard of Plaintiff's rights. The
15 acts complained of were known to, authorized and ratified by Defendants. Plaintiff is
16 therefore entitled to recover punitive damages from Defendants, and each of them, in an
17 amount according to proof at the time of trial.

18 WHEREFORE, Plaintiff prays for judgment as more fully set forth herein.

19
20 **FOURTH CAUSE OF ACTION**
21 **DEFAMATION**
22 **AGAINST ALL DEFENDANTS**

23 35. Plaintiff incorporates paragraphs 1 through 22 as though fully set forth herein.

24 36. Defendants contacted Plaintiff's new employer and advised that Plaintiff could
25 not handle confidential information.

 37. Defendants knew or understood that this claim was false and defamatory, and

1 would harm Plaintiff in her occupation.

2 38. As a proximate result of Defendants' wrongful acts, Plaintiff has suffered and
3 continues to suffer substantial monetary losses incurred; and has suffered and continues to
4 suffer extreme emotional distress in an amount according to proof at the time of trial.

5 39. Defendants, and each of them, did the acts alleged herein maliciously,
6 fraudulently and oppressively, with the wrongful intent to injure Plaintiff, from an improper
7 and evil motive amounting to malice, and in conscious disregard of Plaintiff's rights. The
8 acts complained of were known to, authorized and ratified by Defendants. Plaintiff is
9 therefore entitled to recover punitive damages from Defendants, and each of them, in an
10 amount according to proof at the time of trial.

11 WHEREFORE, Plaintiff prays for judgment as more fully set forth herein.

12
13 **FIFTH CAUSE OF ACTION**
14 **DEFAMATION PER SE**
AGAINST ALL DEFENDANTS

15 40. Plaintiff incorporates paragraphs 1 through 22 as though fully set forth herein.

16 41. Defendants contacted Plaintiff's new employer and advised that Plaintiff could
17 not handle confidential information.

18 42. Defendants knew or understood that this claim was false and defamatory, and
19 would harm Plaintiff in her occupation.

20 43. As a proximate result of Defendants' wrongful acts, Plaintiff has suffered and
21 continues to suffer substantial monetary losses incurred; and has suffered and continues to
22 suffer extreme emotional distress in an amount according to proof at the time of trial.

23 44. Defendants, and each of them, did the acts alleged herein maliciously,
24 fraudulently and oppressively, with the wrongful intent to injure Plaintiff, from an improper
25 and evil motive amounting to malice, and in conscious disregard of Plaintiff's rights. The

1 acts complained of were known to, authorized and ratified by Defendants. Plaintiff is
2 therefore entitled to recover punitive damages from Defendants, and each of them, in an
3 amount according to proof at the time of trial.

4 WHEREFORE, Plaintiff prays for judgment as more fully set forth herein.

5
6 **SIXTH CAUSE OF ACTION**
INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS
7 **AGAINST ALL DEFENDANTS**

8 Plaintiff incorporates paragraphs 1 through 22 as though fully set forth herein.

9 45. Plaintiff had a contractual relationship with her new employer, which
10 Defendants knew about.

11 46. Defendants interfered with that contractual relationship by contacting
12 Plaintiff's new employer and advising that that Plaintiff could not handle confidential
13 information.

14 47. Defendants intended to disrupt the contract Plaintiff had with her new
15 employer, and knew that the contract would be disrupted or substantially certain the contract
16 would be disrupted as a result of their conduct.

17 48. Plaintiff was terminated from her new job as a result of Defendants' actions.

18 49. As a proximate result of Defendants' wrongful acts, Plaintiff has suffered and
19 continues to suffer substantial monetary losses incurred; and has suffered and continues to
20 suffer extreme emotional distress in an amount according to proof at the time of trial.

21 50. Defendants, and each of them, did the acts alleged herein maliciously,
22 fraudulently and oppressively, with the wrongful intent to injure Plaintiff, from an improper
23 and evil motive amounting to malice, and in conscious disregard of Plaintiff's rights. The
24 acts complained of were known to, authorized and ratified by Defendants. Plaintiff is
25 therefore entitled to recover punitive damages from Defendants, and each of them, in an
amount according to proof at the time of trial.

WHEREFORE, Plaintiff prays for judgment as more fully set forth herein.

SEVENTH CAUSE OF ACTION
INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE
AGAINST ALL DEFENDANTS

51. 56. Plaintiff incorporates paragraphs 1 through 22 as though fully set forth herein.

52. 57. Plaintiff had an economic relationship with her new employer, which would have resulted in future economic benefits to Plaintiff, which Defendants knew about

53. 58. Defendants interfered with Plaintiff's economic relationship with her new employer by contacting Plaintiff's new employer and advising that that Plaintiff could not handle confidential information.

54. 59. Defendants intended to disrupt the economic relationship Plaintiff had with her new employer, and knew that the economic relationship would be disrupted or substantially certain the contract would be disrupted as a result of their conduct.

55. 60. Plaintiff was terminated from her new job as a result of Defendants' actions.

56. As a proximate result of Defendants' wrongful acts, Plaintiff has suffered and continues to suffer substantial monetary losses incurred; and has suffered and continues to suffer extreme emotional distress in an amount according to proof at the time of trial.

57. Defendants, and each of them, did the acts alleged herein maliciously, fraudulently and oppressively, with the wrongful intent to injure Plaintiff, from an improper and evil motive amounting to malice, and in conscious disregard of Plaintiff's rights. The acts complained of were known to, authorized and ratified by Defendants. Plaintiff is therefore entitled to recover punitive damages from Defendants, and each of them, in an amount according to proof at the time of trial.

58. WHEREFORE, Plaintiff prays for judgment as more fully set forth herein.

EIGHTH CAUSE OF ACTION
INJUNCTIVE RELIEF
AGAINST ALL DEFENDANTS

59. Plaintiff incorporates paragraphs 1 through 22 as though fully set forth herein.

1 60. Plaintiff has no adequate relief in law for the damage to her reputation in her
2 occupation is continuing at this time, and Plaintiff has no other way of controlling
3 Defendants' conduct to prevent them from contacting her employers in the future and
4 providing false information.

5 61. The court should issue temporary restraining order, preliminary injunction and
6 permanent injunction precluding Defendants from contacting Plaintiff's future employers to
7 discuss Plaintiff.

8 **NINTH CAUSE OF ACTION**
9 **Willful Failure to Pay All Wages and Overtime (Cal. Labor Code §§ 204, 510)**
10 **AGAINST SKULLY**

11 62. Plaintiff incorporates paragraphs 1 through 22 as though fully set forth herein.

12 63. During the course of Plaintiff's employment with defendants, Plaintiff worked
13 on average in excess of 50 hours per week.

14 64. Under California law, Defendants are required to pay wages for each hour
15 worked, and overtime wages when non-exempt employees work over eight (8) hours in a day
16 or forty (40) hours in a week by calculating the hourly rate and then computing the overtime
17 premium amount owed. Plaintiff has worked for Defendants without being paid for all hours
18 worked, regular and overtime. As alleged above, Plaintiff was owed wages for the hours he
19 worked in excess of 8 hours per day, and for overtime premium compensation for those
20 hours, which he was not paid at separation. Further, Plaintiff was owed at least one to two
21 hours per each day of his employment based on Defendants' failure to provide him with meal
22 periods or rest breaks. Defendants did not pay him these wages at termination.

23 65. As a result of Defendants' violation of statutory mandates to pay employees
24 for statutory wage requirements, as more fully set forth above, Plaintiff has been damaged in
25 an amount to be determined at trial, but which exceed the minimum jurisdictional thresholds
of this Court.

 66. Plaintiff seeks as damages all wages owed by Defendants. Plaintiff seeks an
award of pre-judgment interest on the unpaid wages set forth herein.

 67. Plaintiff has incurred, and will continue to incur, attorneys' fees and costs in

1 the prosecution of this action. Plaintiff seeks attorneys' fees under all applicable provisions
2 of law.

3 WHEREFORE, Plaintiff prays for judgment as more fully set forth below.

4 **TENTH CAUSE OF ACTION**

5 **Willful Failure to Pay All Wages Upon Separation (Cal. Labor Code §§ 201, 202, 203)**

6 68. Plaintiff re-alleges and incorporates herein by reference each and every
7 allegation contained in this complaint as though fully set forth herein.

8 69. California Labor Code sections 201 and 202 require that employers pay all
9 employees all wages immediately upon employer termination or within 72 hours after
10 employee resignation. California Labor Code § 203 provides that in instances that an
11 employer willfully fails to pay all wages owing within the proscribed time limits, the
12 employer must continue to pay the subject employee wages until it wages are paid in full. A
13 worker need not prove malice or intentional conduct in establishing their claim for waiting
14 time penalties, but rather must merely establish that the employer did not do something it
15 was obligated to do.

16 70. Plaintiff was adversely affected by Defendants' policy and practice of failing
17 to pay all wages owed, and whose employment with Defendants has subsequently ended,
18 were not paid all wages owing and as a consequence, are entitled to penalty wages, together
19 with interest thereon, and attorneys' fees and costs.

20 WHEREFORE, Plaintiff prays for judgment as more fully set forth below.

21 **ELEVENTH CAUSE OF ACTION**

22 **Failure to Provide Meal and Rest Periods and/or Wages**
23 **in lieu of (Cal. Labor Code § 226.7)**

24 71. Plaintiff re-alleges and incorporates herein by reference each and every
25 allegation contained in this complaint as though fully set forth herein.

72. As detailed more fully above, Defendants were required to provide Plaintiff
with meal and rest periods in accordance with Cal. Labor Code § 226.7 and applicable wages

orders.

73. Defendants failed to do so, and as a consequence, Plaintiff is entitled to recover an amount to be proven at trial, but not less than one additional hour of pay at the regular rate of compensation for each workday that the meal and/or rest period was not provided, as articulated in Cal. Labor Code § 226.7(b).

74. As a direct and proximate result of Defendants' failure to provide Plaintiff with either meal and rest periods or wages in lieu thereof, Plaintiff has been damaged in an amount to be proven at trial, , but which exceed the minimum jurisdictional thresholds of this Court. As these wages were owing in regular pay periods and were not forthcoming, Plaintiff is entitled to and seek an award of prejudgment interest.

75. Plaintiff has incurred, and will continue to incur, attorneys' fees and costs in the prosecution of this action. Plaintiff seeks attorneys' fees and costs under all applicable provisions of law.

WHEREFORE, Plaintiff prays for judgment as more fully set forth below.

TWELFTH CAUSE OF ACTION
Willful Failure to Provide Accurate Wage Statements and Maintain Accurate Pay Records
(Cal. Labor Code § 226(a), (e) & (g))

76. Plaintiff re-alleges and incorporates herein by reference each and every allegation contained in this complaint as though fully set forth herein.

77. California Labor Code section 226(a) sets forth numerous "accurate" items which must accompany furnish to employees with their paychecks ("paystubs") and which it must maintain for a period of not less than three years. Included in those items, are numerous items that Defendant did not accurately provide and retain. These items include, but are not limited to: (1) a statement of accurate gross wages earned by Plaintiff; (2) a statement of total hours worked by Plaintiff; (3) a statement of net wages earned; (4) the name and address of the legal entity that is the employer; (5) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Plaintiff has been damaged by defendants' conduct because

1 Defendants' have deprived Plaintiff of having accurate records by the minute of the exact
2 number of hours she worked for Defendants, thereby making it impossible for her to
3 calculate the exact amount of wages owed to her for the time she spent working for
4 Defendants.

5 78. Plaintiff is informed and believes and thereon alleges that Defendants' failure
6 to provide accurate information in both paystubs and in its records was a result of Defendants
7 own knowing and intentional conduct. As a direct and proximate result of Defendants'
8 failure to provide accurate information to Plaintiff about working hours and wages owing,
9 Plaintiff was injured in an amount to be proven at trial, but not less than \$50 for the initial
10 pay period in which these violations occurred and an additional \$100 per pay period
11 thereafter. (See Labor Code § 226(e).)

12 79. Plaintiff is also seeking an injunction against Defendants, pursuant to Cal.
13 Labor Code § 226(g), to prevent them from continuing to violate Section 226(a).

14 80. Plaintiff has incurred, and will continue to incur attorneys' fees and costs in the
15 prosecution of this action. Plaintiff seeks attorneys' fees under all applicable provisions of
16 law.

17 WHEREFORE, Plaintiff prays for judgment as more fully set forth below.

18 **THIRTEENTH CAUSE OF ACTION**
19 **Violations of Labor Code Section 98.6**

20 80. Plaintiff incorporates paragraphs 1 through 22 as though fully set forth herein.

21 81. Plaintiff's wrongful termination from her employment with Defendants was
22 based upon Defendants' violation of the Public Policy of the State of California as set forth
23 in Labor Code Section 98.6 in that Defendants terminated Plaintiff's employment because of
24 her complaints about Defendants' failure to pay her overtime hours. Defendants' stated
25 reason for the termination, performance, was a pretext for the discriminatory reasons for her
termination, which were the actual reasons she was fired.

82. As a proximate result of Defendants' wrongful acts, Plaintiff has suffered and

1 continues to suffer substantial monetary losses incurred; and has suffered and continues to
2 suffer extreme emotional distress in an amount according to proof at the time of trial.

3 83. Defendants, and each of them, did the acts alleged herein maliciously,
4 fraudulently and oppressively, with the wrongful intent to injure Plaintiff, from an improper
5 and evil motive amounting to malice, and in conscious disregard of Plaintiff's rights. The
6 acts complained of were known to, authorized and ratified by Defendants. Plaintiff is
7 therefore entitled to recover punitive damages from Defendants, and each of them, in an
8 amount according to proof at the time of trial.

9 WHEREFORE, Plaintiff prays for judgment as more fully set forth herein.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff makes the following demand:

12 (a) That process be issued and served as provided by law, requiring
13 Defendants, and each of them, to appear and answer or face judgment;

14 (b) For general, special, actual, compensatory and/or nominal damages, as
15 against Defendants, and each of them, in an amount to be determined at trial;

16 (c) For punitive damages in an amount to be determined at trial sufficient to
17 punish, penalize and/or deter Defendants, and each of them, from further engaging in the
conduct described herein;

18 (d) For back pay and other benefits Plaintiff would have been afforded but-for
19 Defendants', and each of their, unlawful conduct;

20 (e) For injunctive relief as described herein;

21 (f) For statutory penalties as allowed by law;

22 (g) For costs and expenses of this litigation;

23 (h) For reasonable attorneys' fees where appropriate;

24 (i) For pre and post-judgment interest on all damages and other relief
awarded herein from all entities against whom such relief may be properly awarded; and,

25 (j) For all such other relief as this Court deems just and appropriate.

1
2 Dated: July 24 2016

Law Offices of Daniel Feder

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4
5 
6 DANIEL FEDER
Attorneys for Plaintiff Isabelle Faithhauer

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8
9
10 PLAINTIFF DEMANDS TRIAL BY JURY.

11 Dated: July 24 2016

Law Offices of Daniel Feder

12 
13 DANIEL FEDER
Attorneys for Plaintiff Isabelle Faithhauer