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10 ROYAL APPLIANCE MFG. CO. d/b/a TTI
11 FLOOR CARE NORTH AMERICA

12 UNITED STATES DISTRICT COURT
13 SOUTHERN DISTRICT OF CALIFORNIA

15 SUSAN PHILLIPS, EKATERINI
CAMPOS, ROBERT JELLINEK,
16 JANINE HARRISON, Individually
And On Behalf Of Others Similarly
17 situated,

18 Plaintiffs,

19 v.

20 ROYAL APPLIANCE MFG. CO.
d/b/a HOOVER,

21 Defendant.
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23
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Case No. 3:21-cv-00987-WQH-KSC

**DEFENDANT’S NOTICE OF
MOTION AND MOTION TO
DISMISS CLASS ACTION
COMPLAINT UNDER FED. R. CIV.
P. 9(b) AND MOTION FOR A MORE
DEFINITE STATEMENT UNDER
FED. R. CIV. P. 12(e)**

Hon. William Q. Hayes

Date: July 6, 2021
Courtroom: 14B

**NO ORAL ARGUMENT UNLESS
REQUESTED BY THE COURT**

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26 TO THIS HONORABLE COURT, ALL PARTIES, AND THEIR
27 ATTORNEYS OF RECORD: Please take notice that on July 6, 2021, or as soon
28 thereafter as counsel may be heard by the above-entitled court, located at 333 W.

1 Broadway, San Diego, California 92101, Defendant Royal Appliance Mfg. Co.
2 d/b/a TTI Floor Care North America, erroneously sued herein as Royal Appliance
3 Mfg. Co. d/b/a Hoover will move and hereby moves the Court for an order
4 dismissing each cause of action in the Class Action Complaint pursuant to Federal
5 Rule of Civil Procedure 9(b). Alternatively, if the Court denies Defendant's
6 motion to dismiss, Defendant will move and hereby moves the Court for an order
7 granting its motion for a more definite statement pursuant to Federal Rule of Civil
8 Procedure 12(e).

9 This motion is made on the following grounds:

10 Plaintiffs fail to state with particularity the circumstances of the alleged
11 fraud, as required by Rule 9(b). Plaintiffs do not include the specific language set
12 forth in any of the documents giving rise to the alleged fraud, nor do they attach
13 copies thereof. Ultimately, the pleadings do not allege the misrepresentations with
14 sufficient particularity. Therefore, Plaintiff's SBA, CLRA, and UCL claims
15 should be dismissed pursuant to Rule 9(b).

16 In addition, Plaintiffs' contradictory, unintelligible, and vague pleadings
17 foreclose the possibility of a good faith response by Royal Appliance.
18 Accordingly, if this Court should deny Defendant's motion to dismiss under Rule
19 9(b), Defendant requests the Court grant the instant motion for a more definite
20 statement pursuant to Rule 12(e).

21 This Motion is made pursuant to this Notice of Motion and Motion, the
22 accompanying Memorandum of Points and Authorities in support thereof, all
23 other papers submitted herewith, the pleadings and papers on file in this action, all
24 matters judicially noticeable, and such other evidence as this Court may allow.

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Dated: June 1, 2021

RILEY SAFER HOLMES & CANCELIA LLP

By: /s/ Joshua L. Roquemore
Jeffrey R. Williams
Joshua L. Roquemore
Attorneys for Defendant
ROYAL APPLIANCE MFG. CO. d/b/a
TTI FLOOR CARE NORTH AMERICA

PROOF OF SERVICE

1
2 **Case Name:** Phillips, et al. v. Royal Appliance Mfg. Co.

3 **Case Number:** 3:21-cv-00987-WQH-KSC

4 STATE OF CALIFORNIA, COUNTY OF ORANGE

5 I am employed in the County of Orange, State of California. I am over the
age of 18 and not a party to the within action. My business address is: 100
6 Spectrum Center Drive, Suite 440, Irvine, CA 92618.

7 On **June 1, 2021**, I caused the foregoing document(s) described as:

8 **DEFENDANT'S NOTICE OF MOTION AND MOTION TO DISMISS**
9 **CLASS ACTION COMPLAINT UNDER FED. R. CIV. P. 9(b) AND**
10 **MOTION FOR A MORE DEFINITE STATEMENT UNDER FED. R. CIV.**
11 **P. 12(e)** to be served on all interested parties in this action as follows:

<p>11 KAZEROUNI LAW GROUP, APC Abbas Kazerounian 12 245 Fischer Avenue, Unit D1 13 Costa Mesa, CA 92626</p>	<p>Attorneys for Plaintiff Phone: 800-400-6808 Fax: 800-520-5523 Email: ak@kazlg.com</p>
<p>14 KAZEROUNI LAW GROUP, APC Jason A. Ibey 15 321 N. Mall Drive, Suite R108 16 St. George, Utah 84790</p>	<p>Attorneys for Plaintiff Phone: 800-400-6808 Fax: 800-520-5523 Email: jason@kazlg.com</p>
<p>17 BLACK OAK LAW FIRM Adib Assassi 18 1100 W. Town and Country Rd., Suite 19 1250 20 Orange, CA 92868</p>	<p>Attorneys for Plaintiff Phone: 800-500-0301 Fax: 800-500-0301 Email: adib@blackoaklaw.com</p>

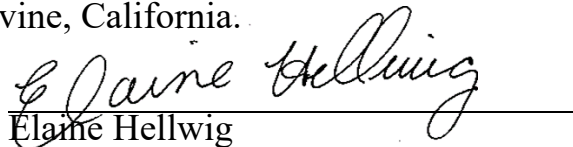
21
22 BY CM/ECF NOTICE OF ELECTRONIC FILING: I caused said
23 document(s) to be served by means of this Court's electronic transmission of the
24 Notice of Electronic filing through the Court's transmission facilities, to the parties
and/or counsel who are registered CM/ECF Users set forth in the service list
obtained from this Court.

25 BY MAIL - As follows: I am "readily familiar" with the firm's practice of
26 collection and processing correspondence for mailing. Under that practice it would
be deposited with U.S. Postal Service on that same day with postage thereon fully
27 prepaid at Irvine, California in the ordinary course of business. I am aware that on
motion of the party served, service is presumed invalid if postal cancellation date or
postage meter date is more than one day after date of deposit for mailing in affidavit.

28 FEDERAL - I declare that I am employed in the office of a member of the

1 bar of this Court at whose direction the service was made.

2 Executed on **June 1, 2021**, at Irvine, California.

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4 Elaine Hellwig

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