

Fill in this information to identify the case:

Debtor name: Tulsa/169 Catering Co., Inc
United States Bankruptcy Court for the District of Kansas at Kansas City
Case number (if known): 16-21195

See Appendix A to bar date notice for list of debtors and case numbers.

RECEIVED
DEC 28 2016
BMC GROUP
If you have already filed a proof of claim with the Bankruptcy Court or BMC, you do not need to file again.
THIS SPACE IS FOR COURT USE ONLY

Official Form 410
Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense, except for administrative expenses under 11 U.S.C. § 503(b)(9).

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

The original of this completed form (faxes not accepted), together with accompanying documentation, must be either (a) delivered to the Claims and Noticing Agent at the address set forth on the Bar Date Notice, or (b) filed using the online Document Filing System (CM/ECF) of the United States Bankruptcy Court for the District of Kansas, in either event so as to be received no later than 5:00 p.m. CST on the December 23, 2016.

Part 1: Identify the Claim

1. Who is the current creditor? Tom Erbar
Name of the current creditor (the person or entity to paid for this claim)
Other name the creditor used with the debtor _____

2. Has this claim been acquired from someone else?
 No
 Yes. From whom? _____

3. Where should notices and payments to the creditor be sent?
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)
Where should notices to the creditor be sent?
Name Tom Erbar
Number Street 801 Anity Lane
City State ZIP Code EL RENO Ok 73036
Where should payments to the creditor be sent? (if different)
Name _____
Number Street _____
City State ZIP Code _____
Contact phone 405-308-5119
Contact email tom.erbar@coxinet.net
Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____

4. Does this claim amend one already filed?
 No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM/DD/YYYY

5. Do you know if anyone else has filed a proof of claim for this claim?
 No
 Yes. Who made the earlier filing? _____



Part 2: Give information about the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ 2058.87 Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.
See "Attachment A"

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.

Nature of property:
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____

Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____%
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)? No

Yes. Check all that apply:

<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	Amount entitled to priority \$ _____
<input type="checkbox"/> Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. §507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)? No

Yes. Indicate the amount of your claim arising from the value of any goods received by the Debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

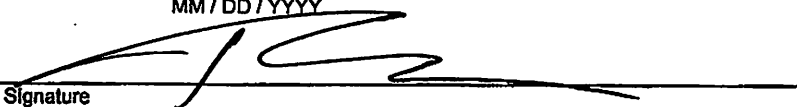
I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 12-21-2016
MM/DD/YYYY

Signature 

Print the name of the person who is completing and signing this claim:

Name Tom Erbar
First name Middle name Last name

Title _____

Company _____
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 801 Amity Lane
Number Street


El Reno OK 73036
City State ZIP Code

Contact phone 405-308-5119 Email tomerbar@coxinet.net

ATTACHMENT "A"

Claimant: Tom Erbar

This claim is for violation of the Oklahoma Consumer Protection Act and for breach of contract, all resulting from overcharges on the sale by the Bankrupt entity of alcoholic mixed beverages in excess of the advertised price for same and the inclusion requirements of 37 Okla. Stat. §576(B). The nature of the claim is set forth in detail within the attached (redacted) Petition. Supporting documentation is included with the Petition. The penalty imposed by the OCPA is included in the claim as well as the overcharge amount, and costs of filing/service.



TOM ERBAR

AUG 05 2011

**IN THE DISTRICT COURT OF CANADIAN COUNTY
STATE OF OKLAHOMA**

BY _____

DEPUTY

Gladys Erbar and Tom Erbar, individuals,

Plaintiffs,

vs.

Case No. CJ-2011-159

A. Aguirre LLC; Aaron Warren Enterprise Inc; Abuelita Rosa, a Mexican restaurant Inc.; Abuelo's International LP; A & D Production Inc; Adair's Enterprises Inc; Adair's Byrd LLC; Ada Pizzeria, Inc; A G Enterprises Inc; Agave LLC; Alkhatib, Inc.; Aloha Garden Restaurant & Club Inc; Alvarado's Mexican Restaurant #2 Inc; American Bistro Inc; American Golf Corporation; American Ranch Holidays, Inc.; AMF Bowling Centers Inc; Amici's Italian Eatery LLC; Andales Restaurant Corporation; Andolini's LLC; Anna & Jin, Inc; AOS Ventures LLC; A-Sensu, an unincorporated business association formerly in Tulsa, Oklahoma; Association of Food Enthusiasts; Aunt Pittypat's Parlor Inc; Avila, Sanjuana; Ay Mamacita LLC; Ayala, Juan Manuel; Bacchus Enterprises Inc; Bakeries Unlimited LLC; Bashkimi, Yksel; Bass Pro Outdoor World LLC; BB & E Partners- Quail Springs, LLC; Be Our Guest LLC; Belle Isle Restaurant & Brewing Company Limited Partnership; Benso, Vittorio; Benvenuti's LLC; Bespoke Catering Inc.; Bianco's Italian Restaurant Inc; Biga LLC; Biltmore Hotel Oklahoma Inc; Bin 73 Corp.; Bistro LLC; Bistro 305 LLC; BLM Enterprises LLC; Blue Moon Bakery Inc; Boca Concepts LLC; Bodean Inc; Bolero LLC; Bonefish/Colorado Limited Partnership; Boston Deli & Grill Inc; Boulevard Steakhouse Inc; Boyd Street Library LLC; Bradley Acceptance Company LC; Brady Tavern LLC; Brahma Management Inc; Bramasole "Our Little Italy," LLC; Bravo's Mexican Grill Inc; Brazos Restaurant Acquisition Corp; BRE Amerisuites Property LLC; Brickhugger Restaurants LLC; Brinker Oklahoma, Inc; Brix Restaurant & Sports Lounge LLC; Bubba's, an unincorporated business association near Durant, Oklahoma; Burning Hills Hotel LLC; Burrito Concepts LLC; B & V Enterprises Inc; Bwitched Inc; Cabab N' Curry Inc; Cabo del Sol OKC LLC; Café Alley, Inc; Cafe' do Brazil Inc; Cafe Ole' Company; Cafe' 501 LLC; Café 501 Classen Curve OKC LLC; Cajun Eats LLC; Camarena Inc; Capstar Oklahoma Beverage Corporation; Caramel Bakery and Dessert Bar LLC; Carlito's Café-Yukon LLC;

Carlos & Willy's Inc; Carrabba's Broken Arrow Limited Partnership; Carrabba's Colorado-I Limited Partnership; Carrabba's Dallas-I Limited Partnership; Carter, Diane; Casa Blanca South LLC; Casa Perico Inc; Casa Soto, Inc; Castle Falls, an unincorporated business association in Oklahoma City, Oklahoma; Catering Connection Inc; Cattlemen's Steakhouse Inc; Cavanaugh's Pub LLC; Caz's Chowhouse Incorporated; CCB Holdings LLC; CC Ops-Edmond LLC; CC Ops I-240 LLC; CC Ops-Midwest City LLC; CDG Cabrera Inc; Celebrity Club Inc; Central Club Operators Inc; Cepeda, Ismail; Cha Cha's LLC; Chalak- M & M-OK 1 LLC; Chalak- M & M-OK 2 LLC; Cha Time Chopstix LLC; Charleston's - Broken Arrow LLC; Charleston's - Edmond LLC; Charleston's of Meridian Inc; Charleston's of Norman Inc; Charleston's of Tulsa Inc; Charleston's S OKC LLC; Charleston's -Tulsa II LLC; Charlie Newton's Inc.; Cheddars Casual Café Inc; Cheeseburger-Ohio Limited Partnership; Cherry Street Wraps Inc; Chica's Restaurant Inc; Chimi's Inc; Chi Pie LLC; CHQ Enterprises Inc.; Cimarron Steak House of Oklahoma City, Ltd., a Limited Partnership; City Express Co; CJM Enterprises Inc; Clegar Inc; Cleveland Hospitality LLC; CM Foods Inc; CNN, LLC; Coach House Restaurant LLC; Cocina de Marie Inc; Colocoline II Inc; Compadres LLC; Concord Neighborhood Corporation; Coolgreens Inc; Coolgreens II LLC; Corky's Inc; Cosmo Café LLC; Costa Azul Inc; Costello's Restaurants LLC; Costilla, Katherina; Covarrubias, Martin Ortgea; Cowboy Dining LLC; CQM Inc; CR of Bricktown LLC; CR of Edmond LLC; CR of S. OKC LLC; Crab Addison Inc; Cracker Mex, Inc; Crusty Bread LLC; Cummings Restaurant Group Inc; Cummings Two LLC; Daggs, Adrienne; Dalesandro's LLC; Dave & Buster's of Oklahoma Inc; De Atilano LLC; Deep Deuce Grill LLC; Deep Fork Holdings LLC; Deloera, Jesus; Denco Enterprises Inc; Diego's Mexican Food LLC; Dios Inc; Disc Systems, Inc.; Diversified Concepts Inc; DLH Ventures, LLC; DNC Hospitality Management of Oklahoma LLC; Doe's Eat Place Tulsa LLC; Don Serapios LLC; Driftwood Beverage Oklahoma LLC; DRVines LLC; DT Management LLC; Duke's Southern Kitchen, LLC; Duke's Sports Grill of Oklahoma LLC; Duncan Hotel LLC; EASNO Corporation; Eateries Inc; Echota Club Inc; Ed Hicks Enterprises Inc; Edmond Culinary Ltd; E & J Restaurants LLC; El Arco, Inc.; El Charrito Inc; El Charro Inc; El Chico Restaurants of America Inc; El Greco LLC; El Maguey, Inc.; El Parian Mexican Restaurant Corporation; El Patio of Ponca City Inc; El Rancho Grande Mexican Food LLC; El Tapatio Inc; El Tapatio Restaurant Inc;

El Tequila LLC; El-Tesoro Inc; El Vallarta Mexican Restaurant of Miami LLC; El Vallarta's Mexican Restaurant, an unincorporated business association in Cleveland, Oklahoma; El Vallarta of Jay LLC; El Vallarta of Vinita LLC; El Viejo's Mexican Grill LLC; El 7 Marez Inc.; Elam Enterprises Inc; Elias, Christopher; Elias, Tyrone; Elmore, Jerry W.; Enchilada Kings LLC; Engard Inc; Enid Wings, LLC; Espada International Inc; Essential Services, Inc; Famous Dave's Ribs Inc; Fancy That LLC; FAP Inc; F. G. Ventures, LLC; Fiesta Mambo, LLC; Fifty-Five Degrees Food & Wine Inc; Fine Dining LLC; Finn's Inc; Fireplace Club, Inc; Fireside Dining, an unincorporated association in Love County, Oklahoma; First Down Entertainment of Norman LP; Fishermen's Cove, Inc; Fleming's / Southmidwest I Limited Partnership; Flip's Restaurant Inc; Flores, Jaime Angel; Flores, Salvadore; FMPRG # 601 LLC; FMPRG # 602 LLC; FMPRG # 603 LLC; FMPRG # 615 LLC; FOKL, LLC; Food & Beverage IV Inc; Food Fun and Fitness Inc; Forest Ridge Development Limited Partnership; Fourth Floor Investments Inc.; Fox & Hound of Oklahoma Inc; Fratli's Inc; Freddie Paul's Steakhouse Inc; Freddie's Incorporated; Freddie's #2 Inc; Freeman, Krista; FRKRJ Inc.; Fuente Grande II Inc; Fuji Inc; FWHI Beverage Co Inc; Gaberino's Homestyle Italian Restaurant, LLC; Gabriella's, an unincorporated business association formerly in Oklahoma City, Oklahoma; Gage's Steak House LLC; Gaijin Sushi Campus Corner LLC; Galvan, Alberto; Gamboa, Antonio Hernandez; Gameday BA LLC; Garduno's Corporation; Gazmend Inc.; G E T Fondue LLC; Gibbens, Deborah Kay; Gimenez, Inc; Girasole Tuscan Grill LLC; GKL Inc; GMRI Inc; Go Fish Restaurant Group-I LLC; Golden India Palace Inc., also known as The Palace of Golden India LLC; Gomez, Enrique; Goodwin, Thais; Gopuram Taste of India Inc; Go West Restaurant LLC; Great Logos Inc; Green, Billy; Green Apple LLC; Griffith, Justin; Griggs, Robert; Grill Concepts Management Inc; G T Chung Yuang Inc; Guicho Corporation; Gusto LLC; Gutierrez, Jorge A.; Habanero's Inc; Hajdari, Beqir; Harbor House Restaurant LLC; Harris, Judy; Haunted House Inc; Henry Hughes II Corporation; Henry Hughes III Corporation; Hernandez, Martha P.; Hey Mambo LLC; Hickman, Floyd & Floyd Inc; Hideaway Restaurant Inc; Hideaway-2 Inc; High Seas LLC; H & K Paul Incorporated; HMC Beverage Company; Hodges, Monique; Hongkong Inc; Hooters of Oklahoma City LLC; Hooters of Oklahoma City Inc.; Hooters of Bricktown LLC;

Hooters of Bricktown Inc.; Hosier, Edwin E.; Hospitality Ventures Management LLC; Hotel Phillips Management Company; Houligan Enterprises Inc.; Hou Yu Zhang Brothers, Inc; Howard, Eric V.; Hoyak Ltd; HTSG-Bricktown LLC; Huang, Li Feng; Indian Hills Inn Restaurant & Club Inc; Indigo Joe's of Tulsa LLC; Inn at Price Tower Inc.; Interstate Hotels LLC; Interurban of Yukon Limited Partnership; Interurban Restaurant of Edmond Limited Partnership; Irma's Fine Food LLC; Irma's II Inc; Iron Starr OU LLC; ITR Norman LLC; ITR OKC LLC; IU of Norman Inc; IU of NW OKC Inc; IU of South OKC LLC; Ivey Brookside LLC; Izakaya Inc; J Corp; Jamil's T-Bone Club LTD; Jamshidi, Mina; JAW Enterprises LLC; JBJ Properties Inc; JBJ Restaurant Group LLC; Jeff P Bobst Inc; Jeonju Restaurant LLC; J. Herron LLC; JIN Corporation; Joel Brentlinger Ent. LLC; Jones & Brown, Inc.; Joseph T Hicks Enterprises Inc; Joshko Inc; JR'S-Moore LLC; JS Champlin LLC; Ju, Shu Hung; Junior's Inc; K & A Enterprises Inc; Kaiser's American Bistro, Inc.; Kampco Carinos Number 1 LLC; Kampco Carinos Number 2 LLC; Kampco JCs Number 3 LLC; Kampco JCs Number 4 LLC; Kampco JCs Number 7 LLC; Kampco JCs Number 8 LLC; Kang's Asian Kitchen Inc; Kang's Restaurant Group Incorporated; Karrie's Kaboose Club LLC; Kathryn Pemberton LLC; Kchao & Kchao Hospitality LLC; Kenworthy Investments and Properties LLC; Khalsa Inc; Khazana Inc.; Kim & Lee Enterprises Inc; King, Nelson; Kingpin Entertainment Group LLC; Krystal Enterprises LLC; KTK Angus Steakhouse, LLC; Kusum, Inc; K2 Consulting LLC; La Baguette Inc; La Casita de Hoover's LLC; La Fiesta Mexican Restaurant Corporation; La Mansion Inc; La Musica LLC; Ladykit Inc; Landry's Seafood House-Oklahoma Inc; Lanna Inc; Lean Gourmet LLC; Lee, Robert E., Jr; Lee, Yong Dae; Leelawadee LLC; Leisure Hospitality Management Inc.; Lemongrass LLC; Liberty D's LLC; Lindo Veracruz, LLC; Little General LLC; Little Italy Restaurant Group Inc; Live to Eat Inc; LNR Hotels LLC; Lola's LLC; Lone Star Steakhouse & Saloon of Oklahoma Inc; Los Amigos Mexican Restaurant, Inc; Los Arcos, an unincorporated business association in Edmond, Oklahoma; Los Charros Inc; Los Dos Amigos, an unincorporated association in Norman, Oklahoma; Los Hermanos Mexican Restaurant LLC; Los Mejores Amigos, an unincorporated association in Ada, Oklahoma; Los Nopales LLC; Los Ranchos Restaurant LLC; Los Sabinos Mexican Restaurant LLC; Los Tres Amigos LLC; Lottinville's Wood

Grille LLC; Louie's at Brookhaven, LLC; Louie's Bar and Deli LLC; Louie's - Edmond LLC; Louie's - Highland Park LLC; Louie's - Jenks LLC; Louie's - Lynn Lane LLC; Louie's - Meridian LLC; Louie's-NW OKC LLC; Louie's On The Lake LLC; Louie's - Stillwater LLC; Louie's-Tulsa LLC; Louie's - Western LLC; Louie's - Yukon LLC; Ludivine LLC; Luigiano's Inc; Luigi's, an unincorporated business association in Ardmore, Oklahoma; M & M Liquor Company Inc; Mac Acquisition LLC; Mahogany LLC; Mahogany-OKC LLC; Maki, Chin; Mama Mia Enterprises LLC; Mama Roja LLC; Mamaveca LLC; Mama Veca II LLC; Mamasita's of Oklahoma City No.1, Ltd, an Oklahoma Limited Partnership; Manchego LLC; Mansour's Italian & American Cafe' Inc; Manzo LLC; MAPS LLC; Maraca's Mexican Café, LLC; Marcus and Kathy Leavell Corporation; Marcus Skirvin Inc; Marley's Pizzeria LLC; Marquez, Alfredo; Mathis Holloway LLC; May 1414 LLC; Mayberry Restaurants Inc; Maycow LLC; Mayo ABC, LLC; Mazel Tov Inc; McGill's 61st Inc; McNellie's LLC; Memorial Mexican LLC; Metro Restaurant Associates Inc; MexBrothers Inc; Mexicali Border Café Inc; Mi Casa Mexican Enterprises LLC; Michael V's Inc; Midtown Café Corp; Mi Ranchito Inc; Misal of India West Inc; Mis En Place LLC; Miss Addie's Inc; MIT Co LLC; MJ Richardson's LLC; ML & Sons LLC; MMSH-OKC, LLC; Moccasin Manufacturing & Import Company, Inc; Mock, Marla Denise; Molly's Inc; Monsivais, Maria Carmen; Monterey's Acquisition Corp.; Monterrey Mexican Restaurants of Oklahoma Inc; Moon Dance Inc; Moon Lake Inc; Mora, Jesus; Mora Enterprises Inc; Mr. Mambo LLC; Muggs of Oklahoma City, No. 2, Inc; Munoz, David; Museum of Art Cafe' Inc; Muskogee Jasper's Inc; Nadill Enterprises Incorporated; Nagoya Inc; Naifeh's Fine Food's LLC; Napoli's of Chickasha, an unincorporated business association in Chickasha, Oklahoma; Napoli's of Chickasha, Inc.; Napoli's of Claremore LLC; Napoli's of Duncan, an unincorporated business association in Duncan, Oklahoma; Napoli's Italian Food Restaurant LLC; Napoli's of Enid, LLC; Napoli's of Muskogee LLC; Napoli's of Ponca City, Inc.; Napoli's of Sapulpa Inc.; Napolis of Tahlequah, Inc; Napoli's of Tulsa Inc; Napoli's Shala-Rexhepi Inc; National Restaurant Development Inc; New Century Investments IV LLC; New Century Investments V LLC; New Apple Inc; Nguyen, Carol; Nguyen, Dinh; Nino's LLC; NJSM LLC; Noble House LLC; Nomad II Inc; Nonna's LLC; North Country LLC; Nudeal

Enterprises LLC; Nuevo Arizona Mexican Restaurant LLC; Nueva Vallarta Mexican Restaurant, an unincorporated business association in Cushing, Oklahoma; OHT IV LLC; OINK, Inc; OK Apple Inc; OK Beverage Corp of Kentucky; OK Fondue LLC; OK Wings LLC; OKC Courtyard Catering Co., Inc; OKC/Myriad Gardens Catering Co Inc; Oklahoma Magic, Limited Partnership; Okura Sushi & Grill Inc; Old Germany Restaurant Inc; Ole LLC; Olmos, Francisco; Olvera, Jose M.; OM Entertainment LLC; OMB Inc; One Hundred Five Degrees, LLC; OPIA Entertainment Group LLC; Oriental Kitchens LLC; Osaka Sushi KDBT Inc; OTB Acquisition LLC; Othello's of Edmond LLC; Othello's of Norman LC; Othello's West LLC; Outback/Heartland I Limited Partnership; Outback/Heartland II Limited Partnership; Ozarus Inc; Pachinko Parlor Beverage Corp.; Pacific Hotel Concessions LLC; Pacific Pier Inc; PACL Inc; Palace Café LLC; Palermo, Inc; Papa D's Steakhouse LLC; Papa Gjorgjo, an unincorporated business association in Ada, Oklahoma; Papa Gjorgjo LLC; Paradise Restaurant Group LLC; Paseo Grill LLC; Pauls Place LLC; Payne Hospitality, LLC; Pearl's Bricktown Inc; Pearl's I-240 Club Inc; Pei Wei Asian Diner Inc; Pepper's Grill Inc; Pepper's Grill (Claremore) Inc; Pete's Place of Krebs, Inc; Peyton's Place, LLC; P F Changs China Bistro Inc; PG I-240 South LLC; PG Moore LLC; Phoenix Asian Diner LLC; Pizza Hut of Southeast Kansas, Inc.; PKM LLC; Planetary Palettes LLC; Playa Azul Inc; PMD Investments LLC; Poblano Grill LLC; Poblano Grill Midwest City LLC; Pointe Vista Golf LLC; Pointe Vista Marinas LLC; POK I Beverage Services LLC; POK II Beverage Services LLC; Pollman Enterprises Inc; Polo's Authentic Mexican Restaurant Inc; Polo's of Ardmore Inc; Ponca City Hotel Inc; Portobello Inc; Premier Hospitality Group LLC; Prina Entertainment Inc; Pug Mahone Enterprises, Inc.; Queen of Sheba, an unincorporated business association in Oklahoma City, Oklahoma; QVZ LLC; Ramiro's Mexican Restaurant LLC; Ramos, David Lee; Rare Hospitality International Inc; R B Chimi's LLC; Red Prime Steakhouse LP; Red River Southwestern Chophouse LLC; Red Robin International Inc; Redrock Canyon Grill LC; Redrock Canyon Grill-Tulsa LLC; Republic Gastropub LLC; Residual Inc; Restaurant Biz Inc; Restaurant Concepts, LLC; Richard Clark & Co LLC; Riders Inc; Riffel, Loren D.; Rios, Cesar; RJK Enterprises Inc; Road House Bar and Grill, an unincorporated association in Durant, Oklahoma; Rocket Hawg Inc; Rockinbird

Enterprises LLC; Rococo NP LLC; Rodolfo's Inc; Rodolfo's Mexican Restaurant Inc; Rodza, Inc; Rollco LLC; Roma Foods Inc; Roma Italian Restaurant, an unincorporated business association in Durant, Oklahoma; Roma's Italian Restaurant LLC; Romo Company; Rosati, Sauve & Associates LLC; Roth, Garrett C.; Royal Bavaria Corporation; R & R Inc.; RST Restaurants LLC; Rue Bourbon LLC; Runamuk Inc; RWC Investments LLC; Ryan, Terry Eugene; Rzepczynski, Margaret; Sage Gourmet LLC; Sakura Japanese Restaurant LLC; Salita's, Inc; Saltgrass Inc; San Marcos Mexican Restaurant Inc; Santiago's Mexican Café Inc; Savory Chef LLC; Sayre Lodging Enterprise LLC; SB Restaurant Co; Scoville's LLC; Second Street Restaurant Group LLC; Sellers Marketing Company Inc; Senor Tequila Inc; Shat Management LLC; Shift-N-Winds Inc; Shiki LLC; Shiv Hospitality LLC; Shogun OKC LLC; Shogun Tul LLC; Siegi's Sausage House Inc.; Sierra 65 LLC; Sigma Restaurant Group LLC; Signature Grill LLC; Sinbad, LLC; SJS Hospitality LLC; Smart Thai Corp.; SML Management Company, LLC; Smokehouse Restaurant LLC; Smoke On Cherry Street LLC; Sodexo Operations LLC; Sogo Rox Eateries LLC; Solis, Joe; Sooner Restaurants LLC; Sooners or Later Inc; Soto, Carlos; South of the Border Mexican Café LLC; Spaghetti Warehouse Restaurants of America, Inc; Spam Inc; Specialty Restaurants Inc; Spitfire Grill LLC; SQ Enterprises Inc.; Steak & Catfish LLC; Steakmacher LLC; Sternad, Bruce R.; Steve's Rib Inc Edmond; Suenos Oklahoma City LLC; Sumo, Inc; SW Food Concepts LLC; Sweet Basil LLC; SWH Oklahoma Inc; Tabani OKC CRO LLC; TADJ Inc; T & A Enterprises Inc; Taj Food Service, Inc; Tarahumara's Cafe' & Cantina LLC; Tavern Ventures I, LLC; TCE I LLC; TCE II LLC; TCE III LLC; TCE IV LLC; Te Kei's LLC; Ten Star Pizza Inc.; Texas Roadhouse Holdings LLC; Texas Roadhouse of Stillwater OK LLC; Thach, Sophen; Thai Stop Bistro LLC; The Avalon Corporation; The Brook Restaurant and Bar Company; The Brook South Restaurant Limited Partnership; The Cheesecake Factory Restaurants Inc; The Cigar Box LLC; The Cliff at Cedarvale, LLC; The Consortium on Western LLC; The Cooked Goose Café LLC; The C-World LLC; The Goucho of Tulsa Oklahoma Inc; The Lipe Company; The Masters Kitchen Inc.; The Mediterranean Grill LLC; The Original VI LLC; The Painted Desert Inc; The Polo Grill Inc; The Rib Crib BBQ Inc;

The Top of the Center Inc; The Upper Crust LLC; The Victor Group LLC; The Wedge Inc; The Wedge II Inc; The Wild Fork Inc; THInc LLC; Thirtyplus LLC; Tien Inc; Tijuana's Inc; Timber Lanes Bowling Center, Inc; Tio Carlos LLC; Tio's Café Mexicano LLC; Tiscareno, Leo M.; TJW Inc; TKR LLC; TKR Catoosa LLC; TKR-Winstar LLC; Tkramer LLC; Toky Inc; Tom & Jerry Restaurants Incorporated; Tour 18 at Rose Creek LP; TP Acquisition Corp; Trappers Fish Camp Club Inc; Travis Lagaly Enterprises Inc; Tri City Mexican LLC; TriCorp Food Services Inc; T. R. M. Inc.; T.T. One Tulsa, Inc.; Tuong, Lac Le; Tucci's Inc; Tulsa Urban Inc; Tulsa/169 Catering Co. Inc; Twelve Oaks Restaurant Inc; Twin Restaurant Beverage-Oklahoma, Inc.; Two Dogs Enterprises, LLC; Two Frogs Grill Inc; Two Queen Bees LLC; Unity Management Systems Inc; Vafeas Inc; Vallarta Enterprises, LLC; Vallarta Mexican Restaurant of Mannford, an unincorporated business association in Mannford, Oklahoma; Vallarta Mexican Restaurant of Stroud, an unincorporated business association in Stroud, Oklahoma; Valley Management Inc; Van's Pig Stand Shawnee Inc; Vasquez, Jose G.; Vega Ventures Inc; Villa Ravenna LLC; Vinzant Enterprises Inc; Vinzant Enterprises of Edmond Inc; Vipal Inc; Vito's Italian Restaurant LLC; Walden, Jeff L.; Walker-McGill Brookside Inc; Wasabi Japanese Restaurant, Inc; Waterfront Grill LLC; Weaver, Jim R.; Wells, Harry E.; Western Concepts, LLC; Western Oklahoma Cafes III LLC; Which PJs LLC; Whitbread of Oklahoma LLC; White River Fish Market LLC; Whorton's Services LLC; Wine Enterprises of Oklahoma LLC; Wingsport LP; W. P. Bistro Tulsa Inc.; Wright's Family Steakhouse, Inc; WW Concepts LLC; W-2005/Fargo Hotels (Pool D) Realty LP; Yakimono Japanese Grill Express LLC; Yakiniku Mama LLC; Yamato Incorporated; Yellowtail LLC; Yokozuna, LLC; Z Inc; Zakuti, Ismail; Zannotti Investments, LLC; Zapata's Mexican Grill Inc; Zarate Ralston LLC; Zorba's Inc; Zuider Zee Inc; 2 Manatees LLC; 5D Limited Partnership; 35th & Peoria Investments LLC; 307 Northeast 2nd LLC; 326 E. Main LLC; 747 Asp Associates LLC; 801 South Air Depot LLC; 1492 New World Latin Cuisine LLC; 2737 Memorial LLC; 6509 NW Expressway, LLC; 7220 So Western LLC; and various John Does and Jane Does who may be principals of associations sued herein;

Defendants.

AMENDED PETITION

COME NOW the Plaintiffs and for their causes of action against the Defendants state:

JURISDICTION AND VENUE

1. Both plaintiffs are residents of Canadian County, Oklahoma.
2. Contractual transactions were entered into between Plaintiffs and the following named Defendants, within Canadian County, Oklahoma: AMF Bowling Centers, Inc.; A & D Productions, Inc.; Brinker Oklahoma Inc.; B & V Enterprises Inc; Carlito's Café-Yukon LLC; CHQ Enterprises Inc.; Don Serapio's LLC; Fuente Grande II Inc.; Interurban of Yukon Limited Partnership; JBJ Properties Inc; JBJ Restaurant Group LLC; Kampco Carino's Number 2, LLC; Los Amigos Mexican Restaurant #2, Inc; Los Sabinos Mexican Restaurant LLC; Louie's-Yukon LLC; Luigiano's Inc; ML & Sons LLC; OMB Inc; Sooner Restaurants LLC; Vallarta Enterprises, LLC; Valley Management Inc.; and Jim R. Weaver. Each of the Defendants named in this paragraph, have maintained and operated subject business establishments in Canadian County, Oklahoma, during applicable periods hereto.
3. All persons identified by Plaintiffs as being affected by the declaratory rulings requested herein, and whom Plaintiffs wish to bind by said declaratory rulings, are named as parties Defendant herein, pursuant to Title 12, Section 1653(A).
4. Additionally, since there are individual defendants who are being sued herein in their respective individual capacity(ies), one of them (to-wit: Jim R. Weaver) is properly sued in Canadian County as a resident or a person who may be served therein, pursuant to 12 Okl. Stat. §139
5. Venue for the declaratory judgments sought herein is proper in Canadian County, Oklahoma pursuant to Title 12, Section 1653(B) because suit could be maintained in Canadian County against the Defendants named in paragraph 2, above, such that proper venue for this declaratory judgment lies. Also, pursuant to Section 1653, proper venue for at least one Defendant who is an individual allows joinder of all other parties.
6. All Defendants are residents of, domesticated in, and/or registered and doing business in Oklahoma

and all Defendants have further subjected themselves to the application of Oklahoma law and to the jurisdiction of Oklahoma courts by applying for and agreeing to be bound by all laws and regulations related to and concerning on-premise retail liquor licenses from the Alcohol Beverage Law Enforcement Commission (hereafter "ABLE") and liquor tax permits from the Oklahoma Tax Commission (hereafter "OTC").

7. In addition to the special venue provisions pertaining to declaratory judgments, all Defendants may also be sued in Canadian County under the various provisions of Title 12 Okla. Stat. §§134, 137, 142, and 182, and/or pursuant to the cumulative provisions of §143, and/or the joinder provisions of §§2019 and 2020. As to the joinder provisions of Title 12 Okla. Stat. §2020(A)(2), all claims herein, against all parties defendant, are connected with the same subject matter of this action, involve common questions of law and fact, and are suitable and proper subjects for such joinder, in that: all of the named Defendants hold an on-premise retail liquor license (whether a "mixed beverage license" or a "combination mixed beverage-caterer license" or a "beer and wine license", all hereafter collectively referred to as "license") from ABLE and a corresponding permit from the OTC, and each of them offers mixed beverages [as defined by Title 37 Okl. Stat. §506(22); hereafter "drinks"] for sale to their customers within the consuming public; and all Defendants have breach their sales contracts with Plaintiffs, and/or have violated various provisions of the Oklahoma Consumer Protection Act, Title 15 §§ 751 *et seq* (hereafter "OCPA") by overcharging Plaintiffs in various ways as set forth hereinbelow.
8. All acts complained of, and all sites where such acts occurred, are within the State of Oklahoma, and the District Court of Canadian County has jurisdiction over the parties and over the causes of action brought hereunder by Plaintiffs.
9. Certain Defendants which are unincorporated associations, are being sued under the common appellation they use in transacting their business, pursuant to Title 12 Section 182. Such common appellations are set forth in the style of this cause and in the respective exhibits attached hereto, and names of individuals known or alleged by Plaintiffs to be associated with such "common appellation unincorporated associations" are as follows:

A-Sensu, an unincorporated business association formerly in Tulsa, Oklahoma, composed at least in part of Roger Earl carter and Kiat T. Jaziwiec;

Bubba's, an unincorporated business association near Durant, Oklahoma, composed at least in part of Jerry Hagler and Benjamin jay Merrill;

Café Alley, an unincorporated association in Ardmore, Oklahoma, composed at least in part of Gary Jackson and Jeannine Jackson, and Jasyn Norton and Samantha Norton;

Castle Falls, an unincorporated business association in Oklahoma City, Oklahoma, composed at least in part of Amy Rollins and Ralph D. Rollins;

El Vallarta's Mexican Restaurant, an unincorporated business association in Cleveland, Oklahoma, composed at least in part of Jesus Esparza, Luis Miguel Esparza, and Imelda Esparza;

Fireplace Dining, an unincorporated association in Love County, Oklahoma, composed at least in part of Gary Jackson and Jeannine Jackson;

Gabriella's, an unincorporated business association formerly in Oklahoma City, Oklahoma, composed at least in part of Peter Seay and Kelli Seay;

Los Arcos, an unincorporated business association in Edmond, Oklahoma, composed at least in part of Fernando Garcia and Rene Diaz Hernandez;

Los Dos Amigos, an unincorporated association in Norman, Oklahoma, composed at least in part of Javier Ruiz and Maria Ruiz;

Los Mejores Amigos, an unincorporated association in Ada, Oklahoma, composed at least in part of Benigno (Benny) Ruiz and Carmen Ruiz;

Luigi's, an unincorporated business association in Ardmore, Oklahoma, composed at least in part of Donika Abazaj and Antonio Haxhiraj;

Napoli's of Chickasha, an unincorporated business association in Duncan, Oklahoma, composed at least in part of Dren Dibra and Petrit Dobroshi;

Napoli's of Duncan, an unincorporated business association in Duncan, Oklahoma, composed at least in part of Avnior Dalipi, Petrit Dobroshi, and Xhemajl Hashani;

Nueva Vallarta Mexican Restaurant, an unincorporated business association in Cushing, Oklahoma, composed at least in part of Jesus Esparza, Luis Miguel Esparza, and Imelda Esparza;

Papa Gjorgjo, an unincorporated business association in Ada, Oklahoma, composed at least in part of George (Nafi) Veliu and Gay Harrison-Veliu;

Queen of Sheba, an unincorporated business association in Oklahoma City, Oklahoma, composed at least in part of Begib Younis, Mimi Younis, and Askale T. Gabreselassie;

Road House Bar and Grill, an unincorporated association in Durant, Oklahoma, composed at least in part of Adam Cole and Ingrid Cole;

Roma Italian Restaurant, an unincorporated business association in Durant, Oklahoma, composed at least in part of Gzim Krasniqi and Tony Krasniqi;

Vallarta Mexican Restaurant of Mannford, an unincorporated business association in Mannford, Oklahoma, composed at least in part of Jesus Esparza, Luis Miguel Esparza, and Imelda Esparza;

Vallarta Mexican Restaurant of Stroud, an unincorporated business association in Stroud, Oklahoma, composed at least in part of Ramon Macias and Imelda Esparza;

Such named individuals are liable as a matter of law for damages and costs assessed against such

entities, as being part of and responsible for such unincorporated associations, as are any other

individuals whose association with any such unincorporated associations becomes known and proven during the course of this litigation.

REQUESTED DECLARATORY JUDGMENT RULINGS

10. The remedies sought by each plaintiff depend upon and are ancillary and subsequent to this Court making requested declaratory judgments concerning the meaning and construction of the applicable statutory provisions and their proper application in determining the rights of the various parties in relation to the allegations set forth hereinbelow. Plaintiffs request that the Court issue the following specific declaratory rulings, which will impact the various manners and methods in which various Defendants have overcharged the Plaintiffs:
- A. The liquor tax imposed by Title 37 Section 576 is a direct tax upon the sale of a mixed beverage, and as such it is charged to the customer. The customer pays the tax to the retailer, who collects it from the customer and remits it to the state.
 - B. These declaratory rulings apply to all sales of all types of "mixed beverages", which are defined as any beverage composed in whole or part of any alcoholic beverage, including beer containing more than 3.2% of alcohol by weight, wine containing more than 1/2 of 1% alcohol by weight, sake, spirits other than wine or beer which contain more than one-half of one percent (1/2 of 1%) alcohol measured by volume and obtained by distillation, including without limitation whiskey, brandy, rum, gin, vodka, liqueurs, cordials and fortified wines and similar compounds, and also including every liquid or solid containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by human beings, but not including low-point ("3.2") beer.
 - C. Each defendant herein, by obtaining an on-premise license from ABLE and by obtaining a permit from and participating in the collection and remitting of liquor taxes with OTC, has submitted itself to and is bound by all provisions of applicable statutory and regulatory laws relating to the collection, remitting, and related features of the referenced liquor tax regimen.
 - D. The retailer has the option either to charge and collect the tax as part of ("within") the stated price of the mixed beverage, or to add the tax "on top of" the stated price, except if its price is advertised. When the price is advertised, the statute applies special rules.
 - E. The "advertised price" as used in Title 37 Section 576, means the price of a mixed beverage offered for sale, which price is made known to the public prior to the sale of such mixed drink by any means whatsoever, which advises, announces, apprises, commands, gives notice of, informs, makes known, publishes, or calls attention to such price. Advertisement of the price includes any written, oral, or graphic statement made by the seller in any manner in connection with the price of such mixed beverage. Examples of methods and mediums of price advertisement include statements and representations that are: made in a newspaper or other publication; or broadcast on radio or television; or are available on any part of the internet; or are contained in any notice, handbill, sign, catalog, menu, drink list, or letter to which the consuming public has access.

- F. The advertised price (as defined above) of a mixed beverage already includes the liquor tax within such advertised price.
 - G. The sale of a mixed beverage whose price is advertised (as defined above) is not subject to the imposition of any additional liquor tax,
 - H. The sale of a mixed beverage whose price is advertised (as defined above) is subject to no more than the applicable sales tax rate to be applied only upon that part of the advertised price which is other than the liquor tax (that is, 100/113.5 of the advertised price), or in other words at a rate no greater than 88.106% of the applicable sales tax rate for the locality.
 - I. The effect of the above declarations means that the total of any and all taxes imposed by the seller upon the sale of a mixed beverage whose price is advertised (as defined above) cannot exceed 88.106% of the applicable sales tax for the locality.
 - J. If a mixed beverage is not price-advertised, and no liquor tax is explicitly charged thereon no more than 88.106% of the applicable sales tax for the locality may be imposed upon such sale.
 - K. Proper application of the sales tax and liquor tax within the context of these declaratory rulings must be made at the proper rates, and such taxes may not be imposed at a higher rate than allowed by statute (13.5% liquor tax and the sales tax rate for each different locale as established by the OTC with reference to the state-wide Oklahoma rate of 4.5% and the addition of appropriate and lawful county and municipality rates thereto).
 - L. Attempts to contractually alter the legislative scheme concerning advertising, pricing, payment, and collection of the liquor tax are void as against public policy.
 - M. Employment of a percentage rate for calculation of either the sales tax and/or the liquor tax which is higher, respectively, than the applicable sales tax rate for the locale and/or the 13.5% statutory liquor tax rate, is an excessive charge against the buyer of any drink upon which such alleged tax rate is assessed.
11. Based upon, and subsequent to, the determination and issuance of the declaratory rulings sought above, Plaintiffs seek additional and further ancillary relief as allowed by Title 12 Section 1655, same being the following causes of action for breach of contract, tortious or bad faith breach of contract, and violations of OCPA. Such claims will be asserted specifically as to each Defendant, based on the pertinent evidentiary facts available as to and against each such Defendant in light of the declaratory judgments rulings which the Court may issue. In respect to these additional forms of relief, Plaintiffs state as follows:

FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

12. Each of the Defendants herein holds a license from the ABLE commission and is subject to certain laws, rules and regulations promulgated by the State of Oklahoma (“rules”) with regard to on-premise sales of drinks to their customers, as set forth and established in the declaratory rulings requested above.
13. In summary, the applicable rules require, in pertinent parts, that said sales are subject to the following requirements:
- (a) All sales are subject to a 13½ % “gross sales excise tax” (“liquor tax”);
 - (b) The liquor tax is a direct tax which to be collected from the consumer upon each sale;
 - (c) If the drink is price-advertised, such advertised price must include the liquor tax;
 - (d) Applicable sales tax for the jurisdiction in which the sale is made must also be collected from the consumer;
 - (e) The sales tax cannot be applied to the liquor tax, or to any portion of the total sales transaction which represents the liquor tax;
 - (f) Further, a sales tax cannot be applied upon and against any other tax.
14. As a condition of obtaining its ABLE license, each Defendant has sworn under oath that it will become familiar with and obey all regulations propounded with regard to sales of mixed drinks, including the rules set forth above, and will take necessary steps to ensure that all employees likewise know and obey such rules. As such, each Defendant is deemed charged with knowledge of all applicable laws and also concerning damages to the general consuming and purchasing public which could result as a direct consequence of violation of such rules, including without limitation overcharges directly related thereto.
15. Each Defendant has entered into a sales transaction with the Plaintiffs as set forth with specific details of such transaction(s) being listed on “Exhibit A”, which exhibit is incorporated herein and

made a part hereof. Damages, as explained herein, are sought for each transaction and each "store" listed in said exhibit. The table found at "Exhibit A" shows, respectively: each Defendant; each on-premise retail dispensary operated by such defendant; the date and identifying ticket number for the transaction relied upon by Tom Erbar as the basis for his claim(s) in this suit; the date and identifying ticket number for the transaction relied upon by Gladys Erbar as the basis for her claim(s) in this suit; and a final column with two letters. The first letter represents the nature of Tom Erbar's transaction and the second letter represents the nature of Gladys Erbar's transaction. The respective meaning and signification of each letter is as follows:

"A" indicates a transaction wherein the defendant price-advertised the purchased drink and then charged a second liquor tax and a full (not pro-rated) sales tax on the advertised price;

"E" indicates a transaction wherein the defendant price-advertised the purchased drink and then charged a second liquor tax on the advertised price;

"I" indicates a transaction wherein the defendant price-advertised the purchased drink and then charged a full (not pro-rated) sales tax on the advertised price;

"Q" indicates a transaction wherein the price of the purchased drink was not advertised, but the defendant nevertheless charged a full (not pro-rated) sales tax on the stated price of the drink as shown on the ticket.

"M" indicates a transaction wherein the price of the purchased drink was charged a rate of sales tax and/or liquor tax in excess of the appropriate legal rate in effect at the transaction where said transaction occurred.

Reference is made to the declaratory judgment request portion of this petition for further explanation of the meaning of "A", "E", "I", "Q", and "M" in the context of damages sought for wrongful overcharges within this lawsuit. Additionally, in some instances one and/or the other of Plaintiffs has a claim or claims in excess of, and additional to the one listed in Exhibit A, against the same Defendant for the same store/transaction, and in such event the extra claims are indicated under the right column "key" with the number of additional claims and the initial (T or G) of the respective Plaintiff.

16. That each such transaction complained of herein, has resulted in the Plaintiffs being charged an excessive and unlawful amount for the purchased mixed drink, in violation of one or more of the rules set forth above, and also in violation of applicable laws referenced herein with regard to contracts, consumer transactions, and the legal rules and protections afforded to same.
17. Such practices also constitute violations of the Oklahoma Consumer Protection Act, set forth infra.

CAUSE OF ACTION FOR TORTIOUS AND BAD FAITH BREACH OF CONTRACT

All pertinent previous allegations are made a part hereof. Subsequent and ancillary to the requested declaratory rulings, at such procedurally appropriate time Plaintiffs will move for appropriate summary judgments or other ancillary proceedings against each Defendant, as indicated by the facts particular to each such Defendant. Plaintiffs' claims for tortious breach of contract generally include the following factual allegations general to all Defendants:

18. Each sale by each Defendant constitutes a contract between each Defendant and this Plaintiff.
19. Each Defendant is charged by law to exercise good faith and fair dealing with regard to its contractual relations, including each mixed drink sale contract into which it enters.
20. That when each Defendant disregards any of the applicable declaratory rulings construing the rules stated herein, and instead charges its customers (including Plaintiffs herein) a total price which is in violation of and excessive of the price which would lawfully and properly be charged with due respect and observance of said rules, such Defendant is overcharging its customer(s) and is also breaching its contractual duties including without limitation, the duties of good faith and fair dealing.
21. Plaintiffs seek damages against each Defendant in the amount which each respective Defendant overcharged Plaintiff with regard to such sales, together with all ancillary and related costs and damages to Plaintiff and also including damages for the tort of bad faith breach of contract, the

aggregate of such damages being in excess of Ten Thousand Dollars (\$10,000) for each offensive transaction.

SECOND CAUSE OF ACTION FOR VIOLATIONS OF CONSUMER PROTECTION ACT

All pertinent previous allegations are made a part hereof. Subsequent and ancillary to the requested declaratory rulings, at such procedurally appropriate time Plaintiffs will move for appropriate summary judgments or other ancillary proceedings against each Defendant, as indicated by the facts particular to each such Defendant. Plaintiffs' claims for violations of the OCPA generally include the following factual allegations general to all Defendants:

22. Each Defendants' actions, in addition to being breaches of contract and bad faith breaches of contract in tort, are also violations of the OCPA, as to the following specific definitions of violations, to-wit:

(a) advertising, knowingly or with reason to know, the subject of a consumer transaction with intent not to sell it as advertised [Section 753 (8) of the Act]; and/or

(b) making false or misleading statements of fact, knowingly or with reason to know, concerning the price of the subject of a consumer transaction or the reason for, existence of, or amounts of price reduction [Section 753 (11) of the Act]; and/or

(c) committing a deceptive trade practice which is a misrepresentation, omission or other practice that has deceived or could reasonably be expected to deceive or mislead a person to the detriment of that person [Section 752 (13), pursuant to Section 753 (20)]; and/or

(d) committing an unfair trade practice which offends established public policy or is unethical, oppressive, unscrupulous or substantially injurious to consumers [Section 752 (14), pursuant to Section 753 (20)]; and/or

(e) knowingly causing a charge to be made by any billing method to a consumer for services which

the person knows was not authorized [Section 753 (25).

23. Plaintiffs ask for damages under the OCPA in an amount including for all costs and expenses authorized pursuant to Paragraph A of Title 15 Section 761.1.
24. Paragraph B of Title 15 Section 761.1 provides a civil penalty of up to Two Thousand Dollars (\$2,000.00), as set by the court, for each violation found to be unconscionable in the court's consideration, including the factors present herein, namely, (1) that the offender had reason to know, or took advantage of the fact that the consumer was reasonably unable to protect his interest in the transaction; (2) that the price charged was excessive compared to the price legally obtainable for the same product by transactions at establishments which observed applicable laws relating thereto; and/or (4) that the defendant knew or should have known that the transaction was one-sided in favor of the violating defendant. Plaintiff alleges all transactions complained of herein were unconscionable. Further, all transactions were also unconscionable not only pursuant to the above listed factors, but because of and by virtue of each Defendant's violation of its sworn duties and promises to observe and uphold the conditions of licensure upon which the underlying license of each Defendant was premised.
25. Plaintiffs each seek further judgment in the sum of Two Thousand Dollars (\$2,000.00) for each such violation by each Defendant as allowed by Section 761.1(B) thereof, and determined by the court to be unconscionable.

**ADDITIONAL FEES SOUGHT FOR DEFENSES AND/OR MISREPRESENTATIONS
OF FACT, OR UNFOUNDED ASSERTIONS OF LAW, ALL PURSUANT TO
AND SET FORTH AT TITLE 15 SECTION 761.1(a)**

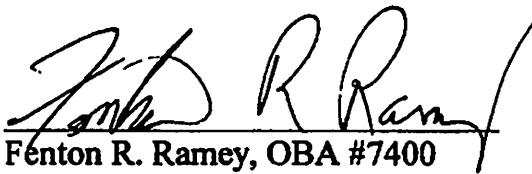
26. Plaintiffs, and each of them, note that the referenced section of the OCPA provides for an award of up to Ten Thousand Dollars (\$10,000.00) for each instance of known misstatement of fact or

bad faith or unfounded assertion of law, and Plaintiffs put all Defendants on notice of this provision and Plaintiffs' intention to request that same be invoked, in the event same may become applicable.


COMBINED PRAYER

WHEREFORE, Plaintiffs Tom Erbar and Gladys Erbar, each respectively, seek judgments against the Defendants as follows: for issuance of the requested declaratory rulings, and subsequent thereto on a Defendant-by-Defendant basis, for judgment for bad faith breach of contract in amounts as to each respective Defendant as determined at trial in excess of Ten Thousand Dollars (\$10,000.00) against each Defendant; and further for all damages allowed under the OCPA as set forth above including the further sum of Two Thousand Dollars (\$2,000.00) for each unconscionable violation committed upon each Plaintiff by each respective Defendant; and for fees and costs as allowed by law. Plaintiffs further ask for imposition of award(s) as set forth at paragraph 26, for all misstatements of fact and unfounded allegations of law as provided by statute; for their respective costs and expenses of suit and fees; and for all such other relief as may be just and proper.

Respectfully submitted this 5th day of August, 2011.



Fenton R. Ramey, OBA #7400
Attorney for Gladys Erbar
P.O. Box 850187
Yukon, Oklahoma 73085
(405) 354-1975



Tom Erbar
Plaintiff, pro se
801 Amity Lane
El Reno, Oklahoma 73036
(405) 308-5119

Defendant	Store	Tom Erbar		Gladys Erbar		Key
		Date	Ticket Identif	Date	Ticket Identif	
The Cigar Box LLC	Jenks	7-24-09	n/a	7-24-09	n/a	AA
	Broken Arrow Cherry Street	1-13-09	0002	1-13-09	0002	AA
The Cliff at Cedarvale, LLC	CliffatCedarvl	10-30-09	30029	10-30-09	30029	II
The Consortium on Western LLC						
The Cooked Goose Café LLC	The Cooked Goose	11-20-10	7	11-20-10	7	EE
The Gaucho of Tulsa Oklahoma Inc	Gauchos Brazilian Stkhouse	12-30-08	1393	12-30-08	1393	AA
The Lipe Company	El Azteca	11-8-08	1285	11-8-08	1285	AA
The Masters Kitchen Inc.	Master's Kitchen	6-25-10	0821	6-25-10	0821	EE
The Mediterranean Grill LLC	Med Grill	7-30-09	7488			I -
The Original VI LLC						
The Painted Desert Inc	Iron Starr	7-11-09	20085	7-11-09	20085	IQ
The Polo Grill Inc	Polo Grill	11-20-08	10084	11-20-08	10084	AA
The Rib Crb BBQ Inc	Enid	8-27-08	50019	8-27-08	50019	QA
	Edmond	9-9-10	20008	9-13-10	20009	AA
	Sand Springs	3-13-09	50026	3-13-09	50026	QQ
	Midwest City	3-14-09	30007			Q
	Tulsa Yale	9-1-09	20038	9-1-09	20038	AA
	Stillwater	7-25-09	50013	7-25-09	50013	II
	Ada	7-28-09	40070	7-28-09	40070	AA
The Top of the Center Inc						
The Upper Crust LLC						AA
The Victor Group LLC	Panavino	8-11-09	1145	9-11-09	1145	AA
The Wedge Inc	Wedge	4-11-09	63986	4-11-09	63986	AA
The Wedge II Inc	Wedge II	4-27-09	57498	4-27-09	57498	AA
The Wild Fork Inc						AA
THInc LLC	Gallileo's	5-10-06	7460			A -
Thirtypius LLC	Clubhouse Bar & Grill	1-3-09	2642	1-3-09	2642	II
Tien Inc	Grand House	3-6-09	0004	3-6-09	0004	AA
Tijuana's Inc		7-24-09	5274	7-24-09	5274	AA
Timber lanes Bowling Center Inc	Timber Lanes (Broken Arrow) Bowl	11-4-09	0431424	11-4-09	0431424	II
Tio Carlos LLC	Senor Tequila Edmond	9-13-09	1098	9-13-09	1098	AA
Tio's Café Mexicano LLC						
Tiscareno, Leo M.	Las Americas	8-27-09	8425	8-27-09	8425	II
TKR LLC	Toby Keith's I Love T his Bar & Grill	6-13-09	732810	6-13-09	732810	II
TKR Catoosa LLC	Hard Rock Hotel-Casino	9-12-09	24510	9-12-09	24528	II
TKR-Winstar LLC						II
Tkramer LLC	Te Kel's II	11-16-08	20011	11-16-08	20011	II
Toky Inc						
Tom & Jerry Restaurants Incorporated	Tom & Jerry's Mexi Casa	4-26-08	226	4-26-08	226	
		3-29-09	7284-25	3-29-09	7284-25	
Tour 18 at Rose Creek LP	Rose Creek	11-24-10	1477	11-24-10	1477	II

TP Acquisition Corp	Taco Cabana - Norman	5-24-09	143081	5-24-09	143081	II
	Tulsa Yale	10-16-09	157239	10-16-09	157239	II
	MacArthur	7-16-09	103470	7-16-09	103470	II
	North May	1-9-10	183372	1-9-10	183372	II
Trappers Fish Camp Club Inc	Trappers	3-27-10	318	8-26-09	376	AA
Travis Lagaly Enterprises Inc	Eduardo's	8-15-08	2032800	8-15-08	2032800	QQ
Tri City Mexican LLC	Carlito's	2-23-09	30075	2-23-09	30075	AA
TriCorp Food Services Inc	TGI Friday's	7-31-09	6833	7-31-09	6836	AA
	Quail Springs					
	OKC NWHy	8-2-09	4029	8-2-09	4029	AA
	Tulsa 41st	9-12-09	5866	9-12-09	5866	AA
	Tulsa 61 st	9-12-09	5403	9-12-09	5403	AA
TRM, INC.	El Chico La wton	10-3-09	1722	10-3-09	1722	QQ
T. T. One Tulsa, Inc.	Hanuno Sushi	3-17-10	7			
Tucci's Inc	Tucci's	7-16-11	1265	11-26-08	2349	AA
Tulsa/189 Catering Co. Inc	Renaissance Hotel & Cyprus Grill	9-19-09	2311	9-19-09	2311	
Tulsa Urban Inc	Baxter's Interuran	8-6-08	20042	8-6-08	20038	II
Tuong, Lac Le	Hu-Nan (Cassidy Sq)	6-13-05	047581	6-13-05	046581	II
Twelve Oaks Restaurant Inc	Twelve Oaks	2-3-09	n/a	2-3-09	n/a	AA
Twin Restaurant Beverage-Oklahoma Inc	Twin Peaks Tulsa	1-28-11	40084	1-28-11	40084	AA
Two Dogs Enterprises, LLC	Vmiclo's	11-2-09	20026	11-2-09	20026	II
	Zeva's	6-24-10	30081	6-24-10	30081	II
Two Frogs Grill Inc	Two Frogs	6-23-08	185856	6-23-08	185856	II
Two Queen Bees LLC	Hickory Hills Stkhs & Grill	1-17-09	3123	1-17-09	3123	QQ
Unity Management Systems, Inc	El Chico Stillwater	7-11-08	40008	7-11-08	40008	QQ
Vafeas Inc	Johnny V's	4-2-09	97499	4-2-09	97499	II
Vallarta Enterprises LLC						AA
Vallarta Mexican Restaurant of Mannford	Vallarta					
Vallarta Mexican Restaurant of Stroud	Vallarta	9-19-09	921152	9-19-09	921152	II
Valley Management Inc	Montana Mike's ElReno	8-17-10	20038	4-17-07	10004	AA
Van's Pig Stand Shawnee Inc	Van's Char-coal Room			6-13-08	20006	
Vasquez, Jose G	Lupe's (McAlester)	6-12-08	1729	6-12-08	1729	II
Vega Ventures Inc	Salas Mexican Restaurant	3-7-09	6836	3-7-09	6836	
Villa Ravenna LLC	Villa Ravenna	12-5-08	2806	12-5-08	2810	
Vinzant Enterprises Inc	Old Chicago - Midwest city	2-21-07	40070	2-21-07	40069	AA
Vinzant Enterprises of Edmond Inc	Edmond	2-3-09	30015	7-5-07	30034	AA
Vipal Inc	El Vaquero	7-11-08		7-11-08		II
	Patolino's	7-25-09	151	7-25-09	151	II
Vito's Italian Restaurant LLC		2-23-11	7091	2-23-11	7091	III

EXHIBIT TE

109

Renaissance Tulsa Hotel
Merlot's Lounge
Tulsa, OK

344 CHARITY 1

CHK 2311 SEP19'09 10:50PM

REPRINT
CLOSED CHECK

2 @ 6.00

G BERINGER W ZIN 12.00

Liquor/Drink 12.00

Sales Tax 2.64

Amount Tenderd 14.64

Cash 15.00

Change Due 0.36

---344 CLOSED SEP19 10:50PM---

Gratuity _____

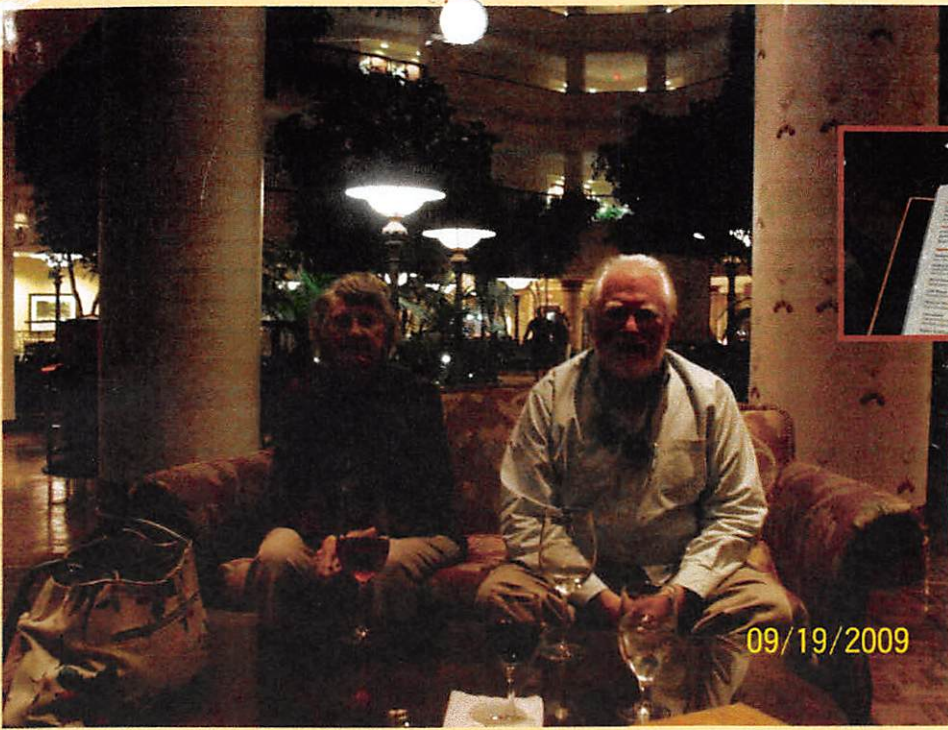
Total _____

SIGNATURE _____

Print Name _____

Room # _____

Thank You for Joining Us



Renaissance Hotel

Cyprus Bar & Grill

Tulsa/Broken Arrow 9-19-09

Very extensive wine and drink list and heavy volume. This establishment applies extra liquor tax and excess sales tax to all advertised drinks, which are a major component of all mixed drink sales.

John had a Fonseca Port as shown; Tom and Gladys each had a Beringer white zin.

Renaissance Tulsa Hotel
Merlot's Lounge
Tulsa, OK

344 CHARITY 1

CHK 2308 SEP19'09 10:33PM

REPRINT
CLOSED CHECK

1 PORT FONSECA	5.25
Liquor/Drink	5.25
Sales Tax	1.16
Amount Tenderd	6.41
Cash	10.00
Change Due	3.59

---344 CLOSED SEP19 10:34PM---

Gratuity _____

Total _____

SIGNATURE _____

Print Name _____

Room # _____

Thank You for Joining Us

CYPRUS GRILLE

After Dinner Drinks

Brandy & Cognac	
<i>Courvoisier VS</i>	6.5
<i>Hennessy VSOP</i>	10
<i>Remy Martin VSOP</i>	9.5
<i>Hennessy XO</i>	19.5
Port	
<i>Fonseca Bin 27 Vintage Character</i>	5.25
<i>Quinta do Noval 10 Year Old Tawny</i>	6.5
<i>Taylor Fladgate 20 Year Old Tawny</i>	12

PRIORITY MAIL EXPRESS™

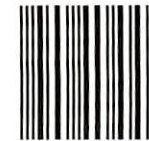
DELIVER BY
10:30 AM

Label 1030, January 2014
PSN 7690-17-000-0853

PRESS FIRMLY TO SEAL



1007



90009

U.S. POSTAGE
PAID
YUKON, OK
73099
DEC 22 16
AMOUNT

\$27.95
R2303S102299-07



EL552510507US

NATIONAL USE
HERE

RECEIVED

DEC 28 2016



UNITED STATES
POSTAL SERVICE®

PRIORITY
★ MAIL ★
EXPRESS™

BMC GROUP

CUSTOMER USE ONLY

FROM: (PLEASE PRINT) LIQUOR TAX LAWSUIT
P.O. Box 698
EL RENO, OK 73036

PHONE () 405-295-2220

PAYMENT BY ACCOUNT (if applicable)

DELIVERY OPTIONS (Customer Use Only)

SIGNATURE REQUIRED Note: The mailer must check the "Signature Required" box if the mailer: 1) Requires the addressee's signature; OR 2) Purchases additional insurance; OR 3) Purchases COD service; OR 4) Purchases Return Receipt service. If the box is not checked, the Postal Service will leave the item in the addressee's mail receptacle or other secure location without attempting to obtain the addressee's signature on delivery.

Delivery Options

No Saturday Delivery (delivered next business day)

Sunday/Holiday Delivery Required (additional fee, where available*)

10:30 AM Delivery Required (additional fee, where available*)
*Refer to USPS.com® or local Post Office™ for availability.

TO: (PLEASE PRINT) BMC GROUP INC.
ATTN: JOHN Q HAMMONS
CLAIMS PROCESSING
P.O. Box 90100
LOS ANGELES, CA. 90009

PHONE ()

ZIP + 4® (U.S. ADDRESSES ONLY)

ORIGIN (POSTAL SERVICE USE ONLY)

1-Day 2-Day Military DPO

PO ZIP Code 73099 Scheduled Delivery Date (MM/DD/YY) 12-23-16 Postage \$ 27.95

Date Accepted (MM/DD/YY) 12-22-16 Scheduled Delivery Time 10:30 AM 3:00 PM Insurance Fee \$ COD Fee \$

12 NOON

Time Accepted 11:40 AM AM PM Return Receipt Fee \$ Live Animal Transportation Fee \$

Weight 1.1 lbs. Flat Rate \$ Sunday/Holiday Premium Fee \$ Total Postage & Fees \$ 27.95

Acceptance Employee Initials AR

DELIVERY (POSTAL SERVICE USE ONLY)

Delivery Attempt (MM/DD/YY) Time Employee Signature

Delivery Attempt (MM/DD/YY) Time Employee Signature

RECEIVED

DEC 28 2016

- For pickup or USPS Tracking™, visit USPS.com or call 800-222-1811.
- \$100.00 Insurance included.

WHEN USED INTERNATIONALLY,
A CUSTOMS DECLARATION
LABEL MAY BE REQUIRED.



EP13F July 2013 OD: 12.5 x 9.5



LABEL 11-B, SEPTEMBER 2015 PSN 7690-09-000-9996

BMC GROUP ADDRESSEE COPY

District of Kansas Claims Register

[16-21142 John Q. Hammons Fall 2006, LLC](#)

Judge: Robert D. Berger **Chapter:** 11
Office: Kansas City **Last Date to file claims:** 12/23/2016
Trustee: **Last Date to file (Govt):**

<p><i>Creditor:</i> (8634713) Tom Erbar 801 Amity Lane El Reno, OK 73036</p>	<p>Claim No: 676 <i>Original Filed</i> Date: 12/29/2016 <i>Original Entered</i> Date: 12/29/2016</p>	<p><i>Status:</i> Filed by: CR Entered by: Terri Marshall Modified:</p>
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Amount claimed: \$2058.87

History:

[Details](#) [676-1](#) 12/29/2016 Claim #676 filed by Tom Erbar, Amount claimed: \$2058.87 (Marshall, Terri)

Description: (676-1) Breach of Contract

Remarks: (676-1) basis of claim is "see attachment A;" filed in case 16-21195

Claims Register Summary

Case Name: John Q. Hammons Fall 2006, LLC
Case Number: 16-21142
Chapter: 11
Date Filed: 06/26/2016
Total Number Of Claims: 1

Total Amount Claimed*	\$2058.87
Total Amount Allowed*	

*Includes general unsecured claims

The values are reflective of the data entered. Always refer to claim documents for actual amounts.

	Claimed	Allowed
Secured		
Priority		
Administrative		