

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  
Joanna Kozubal, State Bar No. 237960  
375 Potrero Avenue #5  
San Francisco, CA 94103  
TELEPHONE NO.: 415-864-6962 FAX NO. (Optional): 650-636-9791  
E-MAIL ADDRESS (Optional):  
ATTORNEY FOR (Name): Plaintiff Alex Kolenko, Trustee

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Mateo  
STREET ADDRESS 400 County Center  
MAILING ADDRESS  
CITY AND ZIP CODE: Redwood City, CA 94063  
BRANCH NAME:

PLAINTIFF: Alex Kolenko, Trustee  
DEFENDANT: PATRICK FERNANDEZ COSTA  
 DOES 1 TO 10

FOR COURT USE ONLY  
**FILED**  
SAN MATEO COUNTY  
APR 08 2016  
Clerk of the Superior Court  
*[Signature]*  
DEPUTY CLERK

COMPLAINT — UNLAWFUL DETAINER\*  
 COMPLAINT  AMENDED COMPLAINT (Amendment Number): \_\_\_\_\_

CASE NUMBER:  
CLJ212484

Jurisdiction (check all that apply):  
 ACTION IS A LIMITED CIVIL CASE  
Amount demanded  does not exceed \$10,000  
 exceeds \$10,000 but does not exceed \$25,000  
 ACTION IS AN UNLIMITED CIVIL CASE (amount demanded exceeds \$25,000)  
 ACTION IS RECLASSIFIED by this amended complaint or cross-complaint (check all that apply):  
 from unlawful detainer to general unlimited civil (possession not in issue)  from limited to unlimited  
 from unlawful detainer to general limited civil (possession not in issue)  from unlimited to limited

1. PLAINTIFF (name each):  
Alex Kolenko, Trustee  
alleges causes of action against DEFENDANT (name each):  
PATRICK FERNANDEZ COSTA
2. a. Plaintiff is (1)  an individual over the age of 18 years. (4)  a partnership.  
(2)  a public agency. (5)  a corporation.  
(3)  other (specify):  
b.  Plaintiff has complied with the fictitious business name laws and is doing business under the fictitious name of (specify):
3. Defendant named above is in possession of the premises located at (street address, apt. no., city, zip code, and county):  
53A STATION AVE, DALY CITY, CALIFORNIA 94014, San Mateo County
4. Plaintiff's interest in the premises is  as owner  other (specify):
5. The true names and capacities of defendants sued as Does are unknown to plaintiff.
6. a. On or about (date): October 23, 2010 defendant (name each):  
PATRICK FERNANDEZ COSTA  
(1) agreed to rent the premises as a  month-to-month tenancy  other tenancy (specify): 1 year  
(2) agreed to pay rent of \$ 900 payable  monthly  other (specify frequency):  
(3) agreed to pay rent on the  first of the month  other day (specify):  
b. This  written  oral agreement was made with  
(1)  plaintiff. (3)  plaintiff's predecessor in interest.  
(2)  plaintiff's agent. (4)  other (specify):

\* NOTE: Do not use this form for evictions after sale (Code Civ. Proc., § 1161a). Page 1 of 3

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PLAINTIFF (Name): Alex Kolenko, Trustee DEFENDANT (Name): PATRICK FERNANDEZ COSTA	CASE NUMBER:
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6. c.  The defendants not named in item 6a are
- (1)  subtenants.  
 (2)  assignees.  
 (3)  other (specify):
- d.  The agreement was later changed as follows (specify):  
 Rent was lawfully increased to \$1100.00
- e.  A copy of the written agreement, including any addenda or attachments that form the basis of this complaint, is attached and labeled Exhibit 1. (Required for residential property, unless item 6f is checked. See Code Civ. Proc., § 1166.)
- f.  (For residential property) A copy of the written agreement is not attached because (specify reason):
- (1)  the written agreement is not in the possession of the landlord or the landlord's employees or agents.  
 (2)  this action is solely for nonpayment of rent (Code Civ. Proc., § 1161(2)).
7.  a. Defendant (name each):  
 PATRICK FERNANDEZ COSTA
- was served the following notice on the same date and in the same manner:
- (1)  3-day notice to pay rent or quit      (4)  3-day notice to perform covenants or quit  
 (2)  30-day notice to quit                      (5)  3-day notice to quit  
 (3)  60-day notice to quit                      (6)  Other (specify):
- b. (1) On (date): April 1, 2016                      the period stated in the notice expired at the end of the day.  
 (2) Defendants failed to comply with the requirements of the notice by that date.
- c. All facts stated in the notice are true.
- d.  The notice included an election of forfeiture.
- e.  A copy of the notice is attached and labeled Exhibit 2. (Required for residential property. See Code Civ. Proc., § 1166.)
- f.  One or more defendants were served (1) with a different notice, (2) on a different date, or (3) in a different manner, as stated in Attachment 8c. (Check item 8c and attach a statement providing the information required by items 7a-e and 8 for each defendant.)
8. a.  The notice in item 7a was served on the defendant named in item 7a as follows:
- (1)  by personally handing a copy to defendant on (date):  
 (2)  by leaving a copy with (name or description):  
    a person of suitable age and discretion, on (date):                      at defendant's  
     residence  business AND mailing a copy to defendant at defendant's place of residence on  
    (date).                                      because defendant cannot be found at defendant's residence or usual  
    place of business.
- (3)  by posting a copy on the premises on (date): February 1, 2016       AND giving a copy to a  
 person found residing at the premises AND mailing a copy to defendant at the premises on  
 (date): February 1, 2016
- (a)  because defendant's residence and usual place of business cannot be ascertained OR  
 (b)  because no person of suitable age or discretion can be found there.
- (4)  (Not for 3-day notice; see Civil Code, § 1946 before using) by sending a copy by certified or registered  
 mail addressed to defendant on (date):
- (5)  (Not for residential tenancies; see Civil Code, § 1953 before using) in the manner specified in a written  
 commercial lease between the parties.
- b.  (Name):  
 was served on behalf of all defendants who signed a joint written rental agreement.
- c.  Information about service of notice on the defendants alleged in item 7f is stated in Attachment 8c.
- d.  Proof of service of the notice in item 7a is attached and labeled Exhibit 3.

PLAINTIFF (Name): Alex Kolenko, Trustee	CASE NUMBER.
DEFENDANT(Name): PATRICK FERNANDEZ COSTA	

9.  Plaintiff demands possession from each defendant because of expiration of a fixed-term lease.
10.  At the time the 3-day notice to pay rent or quit was served, the amount of rent due was \$
11.  The fair rental value of the premises is \$ 36.66 per day.
12.  Defendant's continued possession is malicious, and plaintiff is entitled to statutory damages under Code of Civil Procedure section 1174(b). (State specific facts supporting a claim up to \$600 in Attachment 12.)
13.  A written agreement between the parties provides for attorney fees.
14.  Defendant's tenancy is subject to the local rent control or eviction control ordinance of (city or county, title of ordinance, and date of passage):

Plaintiff has met all applicable requirements of the ordinances.

15.  Other allegations are stated in Attachment 15.
16. Plaintiff accepts the jurisdictional limit, if any, of the court.

**17. PLAINTIFF REQUESTS**

- |  |   |
|--|---|
| a. possession of the premises.                                   | f. <input checked="" type="checkbox"/> damages at the rate stated in item 11 from             |
| b. costs incurred in this proceeding:                            | (date): April 2, 2016 for each day that   |
| c. <input type="checkbox"/> past-due rent of \$                  | defendants remain in possession through entry of judgment.                                    |
| d. <input checked="" type="checkbox"/> reasonable attorney fees. | g. <input type="checkbox"/> statutory damages up to \$600 for the conduct alleged in item 12. |
| e. <input type="checkbox"/> forfeiture of the agreement.         | h. <input type="checkbox"/> other (specify):  |

18.  Number of pages attached (specify): 4

**UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code, §§ 6400-6415)**

19. (Complete in all cases.) An unlawful detainer assistant  did not  did for compensation give advice or assistance with this form. (If plaintiff has received any help or advice for pay from an unlawful detainer assistant, state:)

- |  |                            |
|--|----------------------------|
| a. Assistant's name:                   | c. Telephone No.:          |
| b. Street address, city, and zip code: | d. County of registration: |
|  | e. Registration No.:       |
|  | f. Expires on (date):      |

Date: April 6, 2016

Joanna Kozubal  
 (TYPE OR PRINT NAME)

  
 (SIGNATURE OF PLAINTIFF OR ATTORNEY)


**VERIFICATION**

(Use a different verification form if the verification is by an attorney or for a corporation or partnership.)

I am the plaintiff in this proceeding and have read this complaint. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_  
 (TYPE OR PRINT NAME)

  
 (SIGNATURE OF PLAINTIFF)

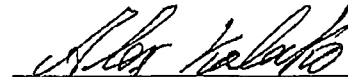
VERIFICATION

I, the undersigned do hereby declare as follows:

I am the authorized agent for the Plaintiff in the above-entitled matter. I have read the foregoing Complaint for Unlawful Detainer and know that the facts alleged in that pleading are true of my own knowledge, except as to those matters therein that are stated on information and belief, and as to those matters I believe them to be true.

I declare under the penalty of perjury of the laws of the State of California that the foregoing is true and correct and is executed in San Francisco, California on the date set forth below.

Date: 4-6-16



Alex Kolenko  
Declarant

**EXHIBIT 1**



### RESIDENTIAL LEASE-RENTAL AGREEMENT AND DEPOSIT RECEIPT

RECEIVED FROM PATRICIA FERNANDES COSTA, hereinafter referred to as Tenant,  
 the sum of \$ 950 DOLLARS),  
 evidenced by 950 as a deposit which, upon acceptance of this rental agreement, the Owner of the premises, hereinafter  
 referred to as Owner, shall apply said deposit as follows:

	TOTAL	RECEIVED	BALANCE DUE PRIOR TO OCCUPANCY
Rent for the period from <u>10-23-2011</u> to <u>03-20-12</u>	\$ <u>950</u>	\$ <u>200</u>	\$ <u>750</u>
Security deposit (not applicable toward last month's rent)	\$	\$	\$
Other	\$	\$	\$
TOTAL	\$ <u>950</u>	\$ <u>200</u>	\$ <u>750</u>

In the event that this agreement is not accepted by the Owner or his authorized agent, within 3 days, the total deposit received shall be refunded.  
 Tenant hereby offers to rent from the Owner the premises situated in the City of Daly City, County of San Mateo,  
 State of CA, described as 334 Serrano Ave, upon the following TERMS and CONDITIONS:

- TERM:** The term hereof shall commence on 10-23-2011, and continue (check one of the two following alternatives):  
 until 03-20-12 for a total rent of \$ 950 dollars;  
 on a month-to-month basis thereafter, until either party shall terminate the same by giving the other party 1 days written notice delivered by certified mail.
- RENT:** Rent shall be \$ 950 per month, payable in advance, upon the 3 day of each calendar month to Owner or his authorized agent, at the following address:  
 or at such other places as may be designated by Owner from time to time. In the event rent is not paid within 3 days after due date, Tenant agrees to pay a late charge of \$ 50 plus interest at 12 % per month on the delinquent amount. Tenant further agrees to pay \$ 50 for each dishonored bank check. The late charge period is not a grace period, and Owner is entitled to make written demand for any rent if not paid when due. Any unpaid balances remaining after termination of occupancy are subject to 1 1/2% interest per month or the maximum rate allowed by law.
- MULTIPLE OCCUPANCY:** It is expressly understood that this agreement is between the Owner and each signatory jointly and severally. Each signatory shall be responsible for timely payment of rent and performance of all other provisions of this agreement.
- UTILITIES:** Tenant shall be responsible for the payment of all utilities and services, except PG&E, which shall be paid by Owner.
- USE:** The premises shall be used exclusively as a residence for no more than 3 persons. Guests staying more than a total of 4 days in a calendar year without written consent of Owner shall constitute a violation of this agreement.
- ANIMALS:** No animals shall be brought on the premises without the prior consent of the Owner.
- HOUSE RULES:** In the event that the premises are a portion of a building containing more than one unit, Tenant agrees to abide by any and all house rules, whether promulgated before or after the execution hereof, including, but not limited to, rules with respect to noise, odors, disposal of refuse, animals, parking, and use of common areas. Tenant shall not have a waterbed on the premises without prior written consent of the Owner.
- ORDINANCES AND STATUTES:** Tenant shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the use of the premises. If you are located in a rent control area, contact Rent and Arbitration Board for your legal rights.
- ASSIGNMENT AND SUBLETTING:** Tenant shall not assign this agreement or sublet any portion of the premises without prior written consent of the Owner.
- MAINTENANCE, REPAIRS, OR ALTERATIONS:** Tenant acknowledges that the premises are in good order and repair, unless otherwise indicated herein. Owner may at any time give Tenant a written inventory of furniture and furnishings on the premises and Tenant shall be deemed to have possession of all said furniture and furnishings in good condition and repair, unless he objects thereto in writing within five (5) days after receipt of such inventory. Tenant shall, at his own expense, and at all times, maintain the premises in a clean and sanitary manner including all equipment, appliances, furniture and furnishings therein and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted. Tenant shall be responsible for damages caused by his negligence and that of his family or invitees and guests. Tenant shall not paint, paper or otherwise redecorate or make alterations to the premises without the prior written consent of the Owner. Tenant shall irrigate and maintain any surrounding grounds, including lawns and shrubbery, and keep the same clear of rubbish or weeds, if such grounds are a part of the premises and are exclusively for the use of the Tenant. Tenant shall not commit any waste upon said premises, or any nuisance or act which may disturb the quiet enjoyment of any tenant in the building.
- INVENTORY:** Any furnishings and equipment to be furnished by Owner shall be set out in a special inventory. The inventory shall be signed by both Tenant and Owner concurrently with this Lease and shall be a part of this Lease.
- DAMAGES TO PREMISES:** If the premises are so damaged by fire or from any other cause as to render them untenable, then either party shall have the right to terminate this Lease as of the date on which such damage occurs, through written notice to the other party, to be given within fifteen (15) days after occurrence of such damage; except that should such damage or destruction occur as the result of the abuse or negligence of Tenant, or his invitees, then Owner only shall have the right to termination. Should this right be exercised by either Owner or Tenant, then rent for the current month shall be prorated between the parties as of the date the damage occurred and any prepaid rent and unused security deposit shall be refunded to Tenant. If this Lease is not terminated, then Owner shall promptly repair the premises and there shall be a proportionate reduction of rent until the premises are repaired and ready for Tenant's occupancy. The proportionate reduction shall be based on the extent to which the making of repairs interferes with Tenant's reasonable use of the premises.
- ENTRY AND INSPECTION:** Owner shall have the right to enter the premises: (a) in case of emergency; (b) to make necessary or agreed repairs, decorations, alterations, improvements, supply necessary or agreed services, exhibit the premises to prospective or actual buyers, mortgagees, tenants, workmen, or contractors; (c) when tenant has abandoned or surrendered the premises. Except under (a) and (c), entry may be made only during normal business hours; and at least 24 hours prior notice to Tenant.
- INDemnIFICATION:** Owner shall not be liable for any damage or injury to Tenant, or any other person, or to any property, occurring on the premises or any part thereof, or in common areas thereof, unless such damage is the proximate result of the negligence or unlawful act of Owner, his agents, or his employees. Tenant agrees to hold Owner harmless from any claims for damages, no matter how caused, except for injury or damages caused by willful act or negligence of Lessor, his agents or employees. Owner's insurance does not cover Tenant's personal property.
- PHYSICAL POSSESSION:** If Owner is unable to deliver possession of the premises at the commencement hereof, Owner shall not be liable for any damage caused thereby, nor shall this agreement be void or voidable, but Tenant shall not be liable for any rent until possession is delivered. Tenant may terminate this agreement if possession is not delivered within 1 days of the commencement of the term hereof.
- DEFAULT:** If Tenant shall fail to pay rent when due, or perform any term hereof, after not less than three (3) days written notice of such default given in the manner required by law, the Owner, at his option, may terminate all rights of Tenant hereunder, unless Tenant, within said time, shall cure such default. If Tenant abandons or vacates the property, while in default of the payment of rent, Owner may consider any property left on the premises to be abandoned and may dispose of the same in any manner allowed by law. In the event the Owner reasonably believes that such abandoned property has no value, it may be discarded. All property on the premises shall be subject to a lien for the benefit of Owner securing the payment of all sums due hereunder, to the maximum extent allowed by law.  
 In the event of a default by Tenant, Owner may elect to (a) continue the lease in effect and enforce all his rights and remedies hereunder, including the right to recover the rent as it becomes due, or (b) at any time, terminate all of Tenant's rights hereunder and recover from Tenant all damages he may incur by reason of the breach of the lease, including the cost of recovering the premises, and including the worth at the time of such termination, or at the time of an award if suit be instituted to enforce this provision, of the amount by which the unpaid rent for the balance of the term exceeds the amount of such rental loss which the Tenant proves could be reasonably avoided.
- SECURITY:** The security deposit set forth, if any, shall secure the performance of Tenant's obligations hereunder. Owner may, but shall not be obligated to, apply all portions of said deposit on account of Tenant's obligations hereunder. Any balance remaining upon termination shall be returned to Tenant. Tenant shall not have the right to apply the security deposit in payment of the last month's rent. Funds held at First Pacific 440 Stone Bluffs
- DEPOSIT REFUNDS:** The balance of all deposits shall be refunded within two weeks from date possession is delivered to Owner or his Authorized Agent, together with a statement showing any charges made against such deposits.
- ATTORNEY'S FEE AND COSTS:** In any action or proceeding involving a dispute between Owner, Tenant and/or Broker arising out of the execution of this agreement, or to collect commissions, or to enforce the terms and conditions of this agreement, or to recover possession of the premises from Tenant, the prevailing party shall be entitled to receive from the other party a reasonable attorney's fee, expert fees, appraisal fees and all other costs incurred in connection with such action or proceedings, to be determined by the court or arbitrator(s).
- WAIVER:** No failure of Owner to enforce any term hereof shall be deemed a waiver. The acceptance of rent by Owner shall not waive his right to enforce any term hereof.
- NOTICES:** Any notice which either party may give or is required to give, may be given by mailing the same, certified mail, to Tenant at the premises or to Owner at the address shown herein or at such other places as may be designated by the parties from time to time.
- HOLDING OVER:** Any holding over after expiration hereof, with the consent of Owner, shall become a month-to-month tenancy at a monthly rent of \$ \_\_\_\_\_ payable in advance and otherwise subject to the terms hereof, as applicable, until either party shall terminate the same by giving the other party thirty (30) days written notice.
- TIME:** Time is of the essence of this agreement.  ADDITIONAL TERMS AND CONDITIONS are set forth on page two.

**ENTIRE AGREEMENT:** The foregoing constitutes the entire agreement between the parties and may be modified only by a writing signed by both parties. The following Exhibits, if any, have been made a part of this agreement before the parties' execution hereof:  
 The undersigned Tenant hereby acknowledges receipt of a copy hereof.

By Patricia Fernandes Costa Real Estate Company  
 ACCEPTANCE: Patricia Fernandes Costa OWNER  
 DATED: 10-23-11  
PATRICIA FERNANDES COSTA Tenant

**EXHIBIT 2**

## SIXTY DAY NOTICE OF TERMINATION OF TENANCY

TO : PATRICK FERNANDEZ COSTA AND OTHER OCCUPANTS OF:

53A STATION AVE, DALY CITY, CALIFORNIA 94014

PLEASE TAKE NOTICE THAT your month to month tenancy at the above-described premises is hereby terminated as of the date sixty (60) days from the date of service of this Notice upon you. You are hereby required to quit and surrender possession of the premises to the owner no later than 60 days after service of this Notice. This notice supersedes any previous 60 Day Notice to Vacate which has been served upon you.


This is intended as a sixty (60) day legal notice for purposes of terminating your tenancy in accordance with California Civil Code Section 1946.1.

In the event that you have not vacated and relinquished possession within 60 days after service of this notice, you will be subject to legal proceedings being instituted against you for possession of the premises, damages, costs of suit, and attorney's fees as may be allowed by law.

**Rent for the premises is due up to and including the last day of your tenancy.**

Also, please be advised that the state law permits former tenants to reclaim abandoned personal property left at the former address of the tenant, subject to certain conditions. You may or may not be able to reclaim property without incurring additional costs, depending on the cost of storing the property and the length of time before it is reclaimed. In general, these costs will be lower the sooner you contact your former landlord after being notified that property belonging to you was left behind after you moved out.

Dated : January 31, 2016

  
\_\_\_\_\_  
Joanna Kozubal  
Attorney for the Owner  
375 Potrero Ave. #5  
San Francisco, CA 94102  
Tel: 415-864-6962



**EXHIBIT 3**

**PROOF OF SERVICE OF NOTICE TO TENANT(S)**

I served the notice checked below:

- 3 Day Notice to Pay Rent or Quit
- 3/30 Day Notice to Quit
- SIXTY DAY NOTICE OF TERMINATION OF TENANCY

to each of the following named tenants by serving it in this manner checked and set forth below:

PATRICK FERNANDEZ COSTA  
53A Station Avenue  
Daly City, Calif. 94014

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**PERSONAL SERVICE**

(CCP 1162 (1))

- By personally delivering a copy of the notice to the named tenant(s)  
on \_\_\_\_\_ at \_\_\_\_\_

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**SUBSTITUTED SERVICE**

(CCP 1162 (2))

Said tenant(s) being absent from his place of residence, and from his known place of business, by leaving a copy on the residence or usual place of business of the tenant(s) and thereafter mailing a copy to said tenant(s) at the address of the subject real property.

Date of Mailing: \_\_\_\_\_

from San Francisco, California

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**POSTING NOTICE AND MAILING**

(CCP 1162 (3))

Said tenant(s) or a person of suitable age and discretion not being found at the known place of residence and business, by POSTING a copy for each said tenant on February 1, 2016 at 4:49PM on a conspicuous place on the property therein described, and thereafter mailing a copy to said tenant(s), addressed to tenant(s) at the place where the property is situated.

Date of Mailing: February 1, 2016

from San Francisco, California

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this proof of service is executed on February 2, 2016 at San Francisco, California



NICHOLAS L. VRATARI  
Registered Process Server, #280  
San Francisco County  
819 42nd Avenue  
San Francisco, Calif 94121  
(415) 305-7784