



2. Upon information and belief, Defendant SUPERIOR HOTELS OF WEST TEXAS, LLC (“SUPERIOR”), is a limited liability company organized under the laws of the State of Texas, which holds its principal place of business at 3165 South Danville Drive, Abilene, Texas 79605, and whose registered agent for service is Dayakar Dasi Reddy at the same address. SUPERIOR is, and at all relevant times was, the owner of the real property located at 3165 South Danville Drive, Abilene, Texas 79605.

3. Upon information and belief, Defendant JAGDEEPAK SARKARIA (“SARKARIA”) is an individual and resident of Texas, formerly a registered agent for SUPERIOR, its designated representative under SUPERIOR’s franchise agreement with Choice Hotels, and a charter officer and/or current or former member of SUPERIOR.

4. Upon information and belief, Defendant GURBHEJ SANDHU (“SANDHU”) is an individual and resident of New York, and a current or former member of SUPERIOR.

5. Upon information and belief, Defendant SUKHRAJ KAUR (“KAUR”) is an individual and resident of New York, and a charter officer and/or current or former member of SUPERIOR.

6. Upon information and belief, Defendant GURDIAL SINGH (“SINGH”) is an individual and resident of New York, and a charter officer and/or current or former member of SUPERIOR.

7. Upon information and belief, Defendants each and all regularly conduct business activity, and/or at all relevant times conducted business activity, in this state and district, including but not limited to, *inter alia*, engaging in the provision of hotel/motel services at 3165 South Danville Drive, Abilene, Texas 79605, pursuant to a franchise agreement entered into with Choice Hotels, as described further herein.

8. Upon information and belief, at all times herein mentioned, each of the Defendants was the agent of each of the other Defendants, and, in doing the things herein alleged, was acting within the course and scope of such agency, and with the permission and the consent of its co-defendants.

**JURISDICTION AND VENUE**

9. This Court has both diversity and federal question jurisdiction over this case.

10. This Court has diversity jurisdiction in this matter pursuant to 28 U.S.C. §1332(a) because the amount in controversy exceeds \$75,000.00 and the parties are citizens of different States.

11. This Court has original jurisdiction over the Lanham Act claims in this action pursuant to 15 U.S.C. §1121 and 28 U.S.C. §§1331, 1338(a).

12. This Court has original jurisdiction in this case pursuant to 28 U.S.C. §1338(b) because this civil action asserts a claim of unfair competition joined with a substantial and related claim under the trademark laws.

13. This Court has supplemental jurisdiction over the state and common law claims in this action pursuant to 28 U.S.C. §1367(a) because those claims are so related to the Lanham Act claims so as to form part of the same case or controversy under Article III of the United States Constitution.

14. Upon information and belief, each of the defendants has sufficient contacts with this state and district such that this Court's exercise of personal jurisdiction over them comports with traditional notions of fair play and substantial justice.

15. Venue is proper in this Court pursuant to 28 U.S.C. §1391.

**CHOICE HOTELS AND THE QUALITY FAMILY OF MARKS**

16. Choice Hotels is in the business of franchising hotels.

17. Choice Hotels can trace its roots to the 1930's when it was comprised of a small chain of roadside hotels. Since that time, Choice Hotels has grown to become one of the largest and most successful lodging franchisors in the world.

18. Choice Hotels is now a publically traded company with approximately 6,000 franchised hotels.

19. Choice Hotels offers high value, mid-priced, hotel and motel services under such well known brands as COMFORT INN®, COMFORT SUITES®, QUALITY®,

SLEEP INN®, CLARION®, MAINSTAY SUITES®, SUBURBAN EXTENDED STAY HOTEL®, ECONO LODGE®, CAMBRIA SUITES®, and RODEWAY INN®.

20. Choice Hotels and/or its predecessor in interest have been offering lodging services under a family of COMFORT INN® and COMFORT SUITES® marks for several decades.

21. Choice Hotels is the owner of several United States Trademark Registrations for its “COMFORT family of marks,” as is defined herein below.

22. Choice Hotels is the owner of United States Trademark Registration No. 1,788,677 (hereinafter “the ‘677 Registration”) for the COMFORT trademark in International Class 42. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 1, and incorporated herein by this reference.

23. Choice Hotels is the owner of United States Trademark Registration No. 1,522,980 (hereinafter “the ‘980 Registration”) for the COMFORT & Design trademark in International Class 42. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 2, and incorporated herein by this reference.

24. Choice Hotels is the owner of United States Trademark Registration No. 3,050,364 (hereinafter “the ‘364 Registration”) for the COMFORT & Wave Design trademark in International Class 43. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 3, and incorporated herein by this reference.

25. Choice Hotels is the owner of United States Trademark Registration No. 3,240,557 (hereinafter “the ‘557 Registration”) for the COMFORT CARE ESSENTIALS trademark in International Class 3. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 4, and incorporated herein by this reference.

26. Choice Hotels is the owner of United States Trademark Registration No. 1,712,481 (hereinafter “the ‘481 Registration”) for the COMFORT HOTEL trademark in International Class 42. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 5, and incorporated herein by this reference.

27. Choice Hotels is the owner of United States Trademark Registration No. 3,050,881 (hereinafter “the ‘881 Registration”) for the COMFORT HOTEL trademark in International Class 43. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 6, and incorporated herein by this reference.

28. Choice Hotels is the owner of United States Trademark Registration No. 1,707,467 (hereinafter “the ‘7467 Registration”) for the COMFORT HOTEL & Design trademark in International Class 42. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 7, and incorporated herein by this reference.

29. Choice Hotels is the owner of United States Trademark Registration No. 3,050,880 (hereinafter “the ‘880 Registration”) for the COMFORT HOTEL & SUITES trademark in International Class 43. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 8, and incorporated herein by this reference.

30. Choice Hotels is the owner of United States Trademark Registration No. 3,231,180 (hereinafter “the ‘1180 Registration”) for the COMFORT HOTEL & SUITES & Wave Design trademark in International Class 43. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 9, and incorporated herein by this reference.

31. Choice Hotels is the owner of United States Trademark Registration No. 3,050,860 (hereinafter “the ‘860 Registration”) for COMFORT HOTEL & Wave Design trademark in International Class 43. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 10, and incorporated herein by this reference.

32. Choice Hotels is the owner of United States Trademark Registration No. 1,315,180 (hereinafter “the ‘5180 Registration”) for the COMFORT INN trademark in International Class 42. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 11, and incorporated herein by this reference.

33. Choice Hotels is the owner of United States Trademark Registration No. 1,448,467 (hereinafter “the ‘8467 Registration”) for COMFORT INN trademark in International

Class 16. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 12, and incorporated herein by this reference.

34. Choice Hotels is the owner of United States Trademark Registration No. 3,050,882 (hereinafter “the ‘882 Registration”) for the COMFORT INN trademark in International Class 43. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 13, and incorporated herein by this reference.

35. Choice Hotels is the owner of United States Trademark Registration No. 2,264,702 (hereinafter “the ‘702 Registration”) for the COMFORT INN & SUITES trademark in International Class 42. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 14, and incorporated herein by this reference.

36. Choice Hotels is the owner of United States Trademark Registration No. 3,050,883 (hereinafter “the ‘883 Registration”) for the COMFORT INN & SUITES trademark in International Class 43. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 15, and incorporated herein by this reference.

37. Choice Hotels is the owner of United States Trademark Registration No. 3,050,868 (hereinafter “the ‘868 Registration”) for the COMFORT INN & SUITES & Wave Design trademark in International Class 43. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 16, and incorporated herein by this reference.

38. Choice Hotels is the owner of United States Trademark Registration No. 3,050,363 (hereinafter “the ‘363 Registration”) for the COMFORT INN & Wave Design trademark in International Class 43. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 17, and incorporated herein by this reference.

39. Choice Hotels is the owner of United States Trademark Registration No. 3,050,866 (hereinafter “the ‘866 Registration”) for the COMFORT INN & Wave Design (color) trademark in International Class 43. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 18, and incorporated herein by this reference.

40. Choice Hotels is the owner of United States Trademark Registration No. 1,265,290 (hereinafter “the ‘290 Registration”) for the COMFORT INNS trademark in International Class 42. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 19, and incorporated herein by this reference.

41. Choice Hotels is the owner of United States Trademark Registration No. 3,050,877 (hereinafter “the ‘877 Registration”) for the COMFORT RESORT trademark in International Class 43. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 20, and incorporated herein by this reference.

42. Choice Hotels is the owner of United States Trademark Registration No. 3,231,176 (hereinafter “the ‘176 Registration”) for the COMFORT RESORT & Wave Design trademark in International Class 43. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 21, and incorporated herein by this reference.

43. Choice Hotels is the owner of United States Trademark Registration No. 1,712,482 (hereinafter “the ‘482 Registration”) for the COMFORT SUITES trademark in International Class 42. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 22, and incorporated herein by this reference.

44. Choice Hotels is the owner of United States Trademark Registration No. 3,155,206 (hereinafter “the ‘206 Registration”) for the COMFORT SUNSHINE trademark in International Class 30. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 23, and incorporated herein by this reference.

45. Choice Hotels is the owner of United States Trademark Registration No. 3,164,021 (hereinafter “the ‘021 Registration”) for the COMFORT SUNSHINE trademark in International Class 43. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 24, and incorporated herein by this reference.

46. Choice Hotels is the owner of United States Trademark Registration No. 2,665,525 (hereinafter “the ‘525 Registration”) for the CS COMFORT SUITES & Design

trademark in International Class 42. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 25, and incorporated herein by this reference.

47. Choice Hotels is the owner of United States Trademark Registration No. 3,449,308 (hereinafter “the ‘308 Registration”) for the CS COMFORT SUITES & Design (color) trademark in International Class 43. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 26, and incorporated herein by this reference.

48. Choice Hotels is the owner of United States Trademark Registration No. 1,792,058 (hereinafter “the ‘058 Registration”) for the Comfort Sun Design trademark in International Class 42. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 27, and incorporated herein by this reference.

49. Choice Hotels is the owner of United States Trademark Registration No. 3,050,867 (hereinafter “the ‘867 Registration”) for the Comfort Color Wave Design trademark in International Class 43. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 28, and incorporated herein by this reference.

50. Choice Hotels is the owner of United States Trademark Registration No. 4,279,333 (hereinafter “the ‘333 Registration”) for the COMFORT SUITES word mark in International Class 43. A true and correct copy of the corresponding Certificate of Registration is attached hereto as Exhibit 29, and incorporated herein by this reference.

51. Since the inception of their use, the trademarks described in paragraphs above and corresponding exhibits (hereinafter collectively the “COMFORT Family of Marks”), have been used by Choice Hotels, its predecessors, and its licensed franchisees in connection with the provision of the highest value hotel and motel services. Each of the COMFORT family of marks are famous and highly distinctive, and are recognized by the public as identifying Choice Hotel’s goods and/or services.

52. Choice Hotels has used the COMFORT Family of Marks throughout the United States and has heavily advertised and promoted them. These marks have developed and represent valuable, substantial, and exclusive goodwill and reputation inuring to Choice Hotel’s



benefit. Choice Hotels has always exercised great care, skill, and diligence in maintaining uniform standards of high quality for its goods and services bearing the COMFORT Family of Marks. The reputation associated with and the goodwill developed in the COMFORT Family of Marks in the United States are of high value to Choice Hotels.

53. Each registration identified in the COMFORT Family of Marks remains active, valid, and enforceable.

**THE CHOICE HOTELS / SUPERIOR, ET AL. FRANCHISE AGREEMENT**

54. On or about February 15, 2006, Choice Hotels entered into a Franchise Agreement with Defendants, jointly and severally, which permitted Defendants to operate a COMFORT SUITES® hotel franchise at 3165 South Danville Drive, Abilene, Texas 79605 (hereinafter “the Subject Property”). A true and correct copy of the Franchise Agreement is attached hereto as Exhibit 30.

55. The Franchise Agreement specifically and non-exclusively licensed some or all of the COMFORT Family of Marks to Defendants only for so long as the Franchise Agreement remained in effect.

56. The Franchise Agreement provides that Defendants are required to make specified payments to Choice Hotels, including affiliation fees and certain monthly fees, including but not limited to royalty fees, reservation fees, data communication fees, and marketing fees.

57. The Franchise Agreement permitted Choice Hotels to terminate the Franchise Agreement for a variety of reasons including, but not limited to, non-payment of the required fees and certain quality control issues.

58. Section 11 of the Franchise Agreement provides that upon termination, Defendants must immediately discontinue any and all use of the COMFORT Family of Marks licensed thereunder, or any word or mark similar to such marks, and including for the identification of the hotel at the Subject Property.

**CHOICE HOTELS’ TERMINATION OF THE FRANCHISE AGREEMENT**

59. In or about the latter half of 2012, Defendants defaulted under the Franchise Agreement by failing to make the required franchise fee payments to Choice Hotels and failing to maintain a sufficient “likely to recommend” (“LTR”) score. Accordingly, on or about February 26, 2013, Choice Hotels issued a written notice of default to Defendants at their designated address for notices, as stated in the Franchise Agreement, which notice is attached hereto as Exhibit 31.

60. Defendants failed to cure the defaults identified in Choice Hotels’ February 26, 2013 letter, and therefore, on or about September 26, 2013, Choice Hotels gave Defendants written notice, at their designated address for notices, that it was terminating the Franchise Agreement, “effective immediately,” which Notice of Termination is attached hereto as Exhibit 32. In the same written notice, Plaintiff further advised Defendants that their “use of Choice’s proprietary marks, including but not limited to, the trade name and service mark Comfort Suites®, must cease immediately,” and that their use of such marks afterwards would constitute trademark infringement.

61. The September 26, 2013 Notice of Termination also instructed Defendants to stop using any items that bear Choice Hotels’ trademarks after the effective date of the termination of the Franchise Agreement, including, but not limited to: DOT Signs, Billboards, Property Signage, Entrance Signage, Building Signage, Local Yellow Page Ad, Airport Advertising, Lobby Display/Backdrop, Owner's plaque, Rate/Hotel Law Cards, Stationery/Guest and Office, Shower Curtains, Fire Evacuation Cards, Soap/Amenity Package, In-Room Organizers, Cups/Glasses, Van Signs, Folios, Domain Names, Name Tags, Ice Buckets, Guest Service Directory, Sani-Bags, Travel Directories, Ashtrays, Phone Plate, Info Caddy, Matches, Brochures, Rack Cards, Flyers, Guest Room Door Signage, Do Not Disturb Cards, Wastebaskets, Sanitary Toilet Strips, Pad/Pencil/Pen, Guest Comment Cards, Manner in Which Phone is Answered, Voice Mail, and Domain Names.

62. After September 26, 2013, Defendants did not comply with the cease and desist demand set forth by Plaintiff in the Notice of Termination, and instead continued using, in

commerce, without Plaintiff's consent, some or all of the COMFORT Family of Marks, including but not limited to, in connection with the sale, offering for sale, distribution, or advertising of goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, and/or to deceive, including but not limited to in, around, and for the Subject Property.

63. Specifically, Defendants continued to use and display a tall "Comfort Suites" sign at the front of their hotel at the Subject Property, and continued to answer their business telephone line with the "Comfort Suites" name in their greeting.

64. On or about October 28, 2013, Choice Hotels sent Defendants a further letter via certified mail, at their designated address for notices, reiterating that: (1) the termination of the Franchise Agreement resulted in the termination of Defendants' license to use any of the COMFORT Family of Marks; (2) Defendants were not otherwise granted license or permission the privilege of using any of the COMFORT Family of Marks, which permission could only come from Choice Hotels; and, (3) that any display and/or use of any of the COMFORT Family of Marks after termination constituted trademark infringement; and, (4) Choice Hotels demanded that Defendants cease and desist all use of the COMFORT Family of Marks. This second cease and desist letter is attached hereto as Exhibit 33.

65. The October 28, 2013 letter also included Choice Hotels' demand that Defendants provide written and photographic evidence, no later than November 8, 2013, that they were no longer using the COMFORT Family of Marks and that such were no longer in use at, and had been removed from, the Subject Property.

66. Defendants did not comply with Choice Hotels' demands on or before the November 8, 2013 deadline, or, upon information and belief, to date. In fact, on of March 27, 2014 and as of April 11, 2014, Defendants were continuing to answer their business telephone line with the "Comfort Suites" name in their greeting and were still displaying the "Comfort Suites" sign at the Subject Property in conjunction with their offer of hotel/motel services.

67. In April 2014, Choice Hotels learned that a group of hotel guests that had intended to book rooms, and indeed made reservations at a nearby, properly authorized Comfort Suites® were actually confused by Defendants use of the COMFORT Family of Marks and erroneously checked in at Defendants' hotel instead of the properly authorized Comfort Suites®. Defendants concealed from these guests the fact that they were not an authorized "Comfort Suites," and instead represented themselves as a Choice Hotels franchisee, and thus accepted payment from the guests for accommodations at the Subject Property, which payment was directed by the guests to "Comfort Suites."

68. Plaintiff is informed and believes and based thereon alleges that Defendants continue to use in commerce, without Plaintiff's consent, one or more of the COMFORT Family of Marks in connection with the sale, offering for sale, distribution, or advertising of goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, and/or to deceive, and actually has caused confusion, mistake, and/or deception, including but not limited to in, around, and for the Subject Property.

69. A photograph taken at the Subject Property on or about March 27, 2014, reflecting Defendants' use of one or more of the COMFORT Family of Marks, is attached hereto as Exhibit 34.

70. Upon information and belief, Defendants willfully and with full knowledge that the Franchise Agreement has been terminated, displayed and used in commerce, and continues to display and use in commerce, one or more of the COMFORT Family of Marks without Plaintiff's consent.

71. The display and use of one or more of the COMFORT Family of Marks by Defendants has irreparably damaged, and unless enjoined by this Court will continue to irreparably damage, the value and valuable good will associated with Choice Hotels and the COMFORT Family of Marks.

**FIRST CAUSE OF ACTION**  
**Infringement of Federally Registered Trademark (15 U.S.C. §1114)**  
**(Against All Defendants)**

72. Choice Hotels refers to and incorporates herein by this reference each and every allegation in the foregoing paragraphs, as well as those in the paragraphs that follow, as though fully set forth herein.

73. Choice Hotels is the owner of the COMFORT Family of Marks which it uses in connection with the provision of hotel and motel services.

74. Choice Hotels licensed the COMFORT Family of Marks to Defendants, non-exclusively and on a limited basis, as part of the Franchise Agreement only, which agreement and license were terminated on or about September 26, 2013.

75. Despite receiving multiple, written notices regarding the lack of Plaintiff's authority or consent to any use of the COMFORT Family of Marks, Defendants continued to use, and do continue to use, one or more of COMFORT Family of Marks in commerce, including at the Subject Property, specifically including but not limited to the '482 Registration, the '333 Registration, the '525 Registration, and the '308 Registration.

76. Upon information and belief, Defendants had and have actual knowledge of the COMFORT Family of Marks owned by Choice Hotels and, without the consent of Choice Hotels, knowingly, willfully, intentionally, and deliberately used the COMFORT Family of Marks in commerce.

77. Defendants' use of the COMFORT Family of Marks was and/or is likely to cause confusion, mistake, or deception in violation of Section 32 of the Lanham Act, 15 U.S.C. §1114(1).

78. The acts of Defendants as described herein constitute infringement and/or contributory infringement of one or more of the COMFORT Family of Marks.

79. As a direct and proximate cause of the herein-described infringing acts of Defendants, Choice Hotels has been actually damaged in an amount to be determined at trial, but believed to be in excess of \$75,000.00.

80. Choice Hotels is also entitled to recover its damages, the profits of Defendants, and the cost of the action under 15 U.S.C. §1117.

81. In addition, because Choice Hotels has suffered and will continue to suffer irreparable harm as a result of Defendants' actions, and has no adequate remedy at law with respect to this injury, Choice Hotels is entitled to injunctive relief under 15 U.S.C. §1116. The acts of Defendants as described herein have caused and will continue to cause serious irreparable injury to Choice Hotels and to the goodwill associated with the COMFORT Family of Marks unless restrained and enjoined by this Court.

82. The acts of Defendants as described herein have been knowing, intentional, wanton, willful, malicious, and oppressive, and thus warrant this case being designated as exceptional under 15 U.S.C. §1117 and the imposition of treble damages and an award of attorneys' fees in favor of Choice Hotels.

**SECOND CAUSE OF ACTION**  
**False Designation of Origin (15 U.S.C. §1125(a))**  
**(Against All Defendants)**

83. Choice Hotels refers to and incorporates herein by this reference each and every allegation in the foregoing paragraphs, as well as those in the paragraphs that follow, as though fully set forth herein.

84. Defendants had actual knowledge of the COMFORT Family of Marks owned by Choice Hotels and, without the consent of Choice Hotels, knowingly, willfully, intentionally, and deliberately used the COMFORT Family of Marks in commerce.

85. Defendants' use of the COMFORT Family of Marks was and/or is likely to cause confusion, mistake, or deception in violation of Section 43 of the Lanham Act, 15 U.S.C. §1125(a).

86. Upon information and belief, Defendants used, and continue to use, one or more of the COMFORT Family of Marks in commerce, specifically including but not limited to the '482 Registration, the '333 Registration, the '525 Registration, and the '308 Registration.

87. Such use constitutes a false designation of origin, and/or a false or misleading description and/or representation of fact, which is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association between Choice Hotels and Defendants, or as to the source, origin, sponsorship, or approval of the services or commercial activities of the Defendants by Choice Hotels.

88. As a direct and proximate cause of Defendants' acts, as described herein, Choice Hotels has been actually damaged in an amount to be determined at trial, but believed to be in excess of \$75,000.00.

89. Choice Hotels is also entitled to recover its damages, the profits of Defendants, and the cost of the action under 15 U.S.C. §1117.

90. In addition, because Choice Hotels has suffered and will continue to suffer irreparable harm as a result of Defendants' actions, and has no adequate remedy at law with respect to this injury, Choice Hotels is entitled to injunctive relief under 15 U.S.C. §1116. The acts of Defendants, as described herein, have caused and will continue to cause serious irreparable injury to Choice Hotels and to the goodwill associated with the COMFORT Family of Marks unless restrained and enjoined by this Court.

91. The acts of Defendants, as described herein, have been knowing, intentional, wanton, willful, malicious, and oppressive, and thus warrant this case being designated as exceptional under 15 U.S.C. §1117 and the imposition of treble damages and an award of attorneys' fees in favor of Choice Hotels.

**THIRD CAUSE OF ACTION**  
**Texas Common Law Trademark Infringement**  
**(Against All Defendants)**

92. Choice Hotels refers to and incorporates herein by this reference each and every allegation in the foregoing paragraphs, as well as those in the paragraphs that follow, as though fully set forth herein.

93. Defendants have used, and upon information and belief continue to use, the COMFORT Family of Marks at the Subject Property in connection with the sale, offering for

sale, and advertising of hotel and motel services, which is likely to deceive or cause confusion or mistake as to the source or origin of the services; therefore, Defendants' acts constitute infringement under the Texas Trademark Act.

94. The conduct of Defendants as described herein has injured Choice Hotels in an amount to be determined at trial and has caused and threatens to cause irreparable injury to Choice Hotels for which there is no adequate remedy at law. Choice Hotels will continue to be so damaged in the absence of relief from this Court. The acts of Defendants, as described herein, have furthermore been and continue to be knowing, intentional, wanton, willful, malicious, and oppressive, and based on information and belief have resulted from fraud, malice or gross negligence.

**FOURTH CLAIM FOR RELIEF**  
**Texas Common Law Unfair Competition**  
**(Against All Defendants)**

95. Choice Hotels refers to and incorporates herein by this reference each and every allegation in the foregoing paragraphs, as well as those in the paragraphs that follow, as though fully set forth herein.

96. Defendants have used, and upon information and belief continue to use, the COMFORT Family of Marks in commerce in connection with the provision of hotel and motel services at the Subject Property. Defendants' use was intended to mislead the public and lead to confusion and mistake. Defendants' actions constitute unfair competition under the common law of Texas.

97. The conduct of Defendants as described herein has injured Choice Hotels in an amount to be determined at trial, and has caused and threatens to cause irreparable injury to Choice Hotels for which there is no adequate remedy at law. Choice Hotels will continue to be so damaged in the absence of relief from this Court. The acts of Defendants, as described herein, have furthermore been and continue to be knowing, intentional, wanton, willful, malicious, and oppressive and based on information and belief have resulted from fraud, malice or gross negligence.



**PRAYER FOR RELIEF**

A. That Defendants have each and all infringed, and/or contributorily infringed, and/or induced the infringement of, one or more of the marks in the COMFORT family of marks, including but not necessarily limited to, the marks appearing in: the ‘677 Registration; the ‘980 Registration; the ‘364 Registration; the ‘557 Registration; the ‘481 Registration; the ‘881 Registration; the ‘7467 Registration; the ‘880 Registration; the ‘1180 Registration; the ‘860 Registration; the ‘5180 Registration; the ‘8467 Registration, the ‘882 Registration, the ‘702 Registration, the ‘883 Registration, the ‘868 Registration, the ‘363 Registration, the ‘866 Registration, the ‘290 Registration, the ‘877 Registration, the ‘176 Registration, the ‘482 Registration, the ‘206 Registration, the ‘021 Registration, the ‘525 Registration, the ‘308 Registration, the ‘058 Registration, the ‘867 Registration, and the ‘333 Registration; and any mark(s) confusingly similar thereto or derivative thereof;

B. That Defendants, jointly and severally, along with their agents, employees, servants, representatives, and attorneys, and all those in active concert or participation with them, be preliminarily, permanently, and forever enjoined from using any of the marks in the COMFORT family of marks, including but not necessarily limited to, the marks appearing in: the ‘677 Registration; the ‘980 Registration; the ‘364 Registration; the ‘557 Registration; the ‘481 Registration; the ‘881 Registration; the ‘7467 Registration; the ‘880 Registration; the ‘1180 Registration; the ‘860 Registration; the ‘5180 Registration; the ‘8467 Registration, the ‘882 Registration, the ‘702 Registration, the ‘883 Registration, the ‘868 Registration, the ‘363 Registration, the ‘866 Registration, the ‘290 Registration, the ‘877 Registration, the ‘176 Registration, the ‘482 Registration, the ‘206 Registration, the ‘021 Registration, the ‘525 Registration, the ‘308 Registration, the ‘058 Registration, the ‘867 Registration, and the ‘333 Registration; and any mark(s) confusingly similar thereto or derivative thereof;

C. Directing an accounting of profits and damages resulting from Defendants’ trademark infringement, and trebling of such damages under the trademark laws because of the knowing, intentional, willful, and wanton nature of Defendants’ conduct;

D. That Choice Hotels be awarded judgment for damages against Defendants, jointly and severally, resulting from violation of Section 32 of the Lanham Act (15 U.S.C. § 1114) and Section 43 of the Lanham Act (15 U.S.C. § 1125(a)) respectively, including:

- 1) all profits received by Defendants as a result of their acts of infringement, false designation of origin, and unfair competition, and other actions complained of herein;
- 2) all damages sustained by Choice Hotels as a result of Defendants acts of infringement, false designation of origin, and unfair competition, and other actions complained of herein, including but not limited to lost profits, loss of goodwill, and actual damages;
- 3) the trebling and increase of the damages described above, to three times the amount awarded, in view of Defendants' knowing, intentional, wanton, and willful infringement; and,
- 4) in light of the deliberate and willful actions of Defendants, the designation of this action an exceptional case, thereby entitling Choice Hotels to an award of all reasonable attorneys' fees, costs, and expenses incurred by Choice Hotels in this action, pursuant to 15 U.S.C. § 1117, and an award of such relief;

E. Injunctive relief as a result of Defendants' acts of trademark infringement, unfair competition and false designation of origin, including but not limited to an order requiring Defendants to remove any and all of the COMFORT Family of Marks from their premises, property, and business operations and enjoining any and all future unauthorized use of same.

F. That Choice Hotels be awarded judgment for money damages, in an amount to be determined at trial, against Defendants, for their violation of applicable Texas common laws;

G. That Choice Hotels be awarded judgment against Defendants for money damages, and three times that amount due to Defendants' bad faith conduct, or any alternative relief under the applicable Texas common laws;

- H. That exemplary damages be awarded against Defendants and in favor of Plaintiff;
- I That Choice Hotels be awarded its attorneys' fees, costs, and expenses of suit; and
- J. That this Court award to Choice Hotels any and all other relief not here enumerated that this Court should deem just, equitable, and/or proper.

**DEMAND FOR JURY TRIAL**

Plaintiff Choice Hotels hereby demands a jury trial on all issues as to which a jury is available, as provided by Rule 38 of the Federal Rules of Civil Procedure.

Dated: April 17, 2014.

Respectfully submitted,

**GORDON & REES LLP**

By: /s/ B. Ryan Fellman

**B. RYAN FELLMAN**

Texas State Bar No. 24072544

rfellman@gordonrees.com

**ATTORNEY IN CHARGE**

2100 Ross Avenue, Suite 2800

Dallas, Texas 75201

Telephone: 214.231.4660

Facsimile: 214.461.4053

**ATTORNEYS FOR PLAINTIFF  
CHOICE HOTELS INTERNATIONAL,  
INC.**