

1 **TORRES LAW GROUP**
2 SUITE 2A, 130 ASPINALL AVENUE
3 HAGÁTÑA, GUAM 96910
4 TELEPHONE: (671) 477-9891-3
5 FACSIMILE: (671) 472-2601

6 *Attorneys for Defendant*

7 IN THE DISTRICT COURT OF GUAM

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9 OSAMU IGARASHI,

10 Plaintiff,

11 vs.

12 H.I.S. GUAM, INC.,

13 Defendant.

CIVIL CASE NO. CV21-00025

**ANSWER TO CLASS ACTION
COMPLAINT AND JURY DEMAND**

14
15 COMES NOW, Defendant, H.I.S. GUAM, INC. ("Defendant"), by and through its
16 Attorney, Phillip Torres, Esq. of Torres Law Group, and hereby Answers Plaintiff OSAMU
17 IGARASHI's Class Action Complaint and Jury Demand regarding the federal Worker
18 Adjustment and Retraining Notification Act ("WARN").

19 **FIRST DEFENSE**

20 Defendant admits the allegations contained in paragraphs 1, 2, 12, 13, 19, 25, 30 and
21 31 of the Complaint.

22 **SECOND DEFENSE**

23 Defendant denies the allegations contained in paragraphs 5, 6, 17, and 21, 26, 27, 28,
24 29, and 36 of the Complaint.

25 **THIRD DEFENSE**

26 Defendant is without sufficient information and knowledge to form a belief as to the
27 truth or falsity of the allegations, or the allegations are too vague to comprehend,
28 contained in paragraphs 7, 8 including all subparts, 9, 14, 20, 22, 23, 24, and 38 of the

1 Complaint; and, accordingly denies the same.

2 **FOURTH DEFENSE**

3 With respect to paragraph 3 of the Complaint, Defendant admits Venue but denies
4 acts constituting a violation of WARN.

5 **FIFTH DEFENSE**

6 With respect to paragraph 4 Defendant admits the case is brought as a federal class
7 action but denies the remainder of the allegations in the paragraph.

8 **SIXTH DEFENSE**

9 With respect to paragraph 10 Defendant admits the class action pleading is
10 authorized by statute but denies that the action is appropriate.

11 **SEVENTH DEFENSE**

12 With respect to paragraph 11 Defendant admits Plaintiff was a full time employee
13 with benefits but denies the remainder of the paragraph.

14 **EIGHTH DEFENSE**

15 With respect to paragraph 15 Defendant admits Plaintiff was employed and
16 terminated on or about May 31, 2020 but denies the remainder of the paragraph.

17 **NINTH DEFENSE**

18 With respect to paragraph 16 Defendant denies that it has more than 100 full time
19 employees and admits the remainder of the paragraph.

20 **TENTH DEFENSE**

21 With respect to paragraphs 32, 33, 34 and 35 of the Complaint, Defendant admits
22 Exhibit "A" which speaks for itself.

23 **ELEVENTH DEFENSE**

24 With respect to paragraph 37 of the Complaint, Defendant admits that more than
25 60 days elapsed between Executive Order 2020-04 and May 30, 2020 but denies the
26 remainder of the paragraph.

27 **TWELFTH DEFENSE**

28 With respect to paragraph 18 of the Complaint, Defendant realleges and

1 incorporates its responses previously set forth herein.

2 **THIRTEENTH DEFENSE**

3 Defendant denies any and all relief requested by the Plaintiffs.

4 **FOURTEENTH DEFENSE**

5 Defendant denies each and every allegation not generally admitted or denied above.

6 *First Affirmative Defense*

7 Plaintiffs' Complaint fails to state a claim upon which relief can be granted.

8 *Second Affirmative Defense*

9 Plaintiff's claims are barred, in whole or in part, as a class action because they do not
10 meet the requirements under Rule 23 of the Federal Rules of Civil Procedure.

11 *Third Affirmative Defense*

12 Plaintiff's claims are barred, in whole or in part, because the layoffs and
13 terminations are subject to the COVID-19 natural disaster exemption.

14 *Fourth Affirmative Defense*

15 Plaintiff's claims are barred, in whole or in part, because the economic downturn
16 invokes the unforeseen business exemption circumstances due to sudden and unexpectedly
17 ongoing, dramatic, unexpected events outside Defendant's control which also effects the
18 notice requirement.

19 *Fifth Affirmative Defense*

20 Plaintiff's claims are barred because Defendant does not fall within the employment
21 requirements of the WARN Act.

22 *Sixth Affirmative Defense*

23 Plaintiff's claims are barred by the business judgment rules and the actions and non-
24 actions relative to WARN were done in good faith.

25 *Seventh Affirmative Defense*

26 Defendant has not knowingly or voluntarily waived any applicable affirmative
27 defenses and reserves the right to assert and rely on such other applicable affirmative
28 defenses as may become available or apparent during discovery proceedings.

