

12-Person Jury

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

SONIA ACUÑA, ADRIANA ALVAREZ,  
LAKARA BAILEY, DESHAWN BELL,  
BRENDA CARBAJAL, TERESA  
CERVANTES, CARLOS DeLEON, JOSEFINA  
GARDUNO, ELVIRA GONZALEZ, DESIREA  
JOHNSON, YOLANDA LEYVA, MARTINA  
ORTEGA, GRACIELA RIVERA, DIANA  
THOMAS, MARIA TORRES, IESHIA  
TOWNSEND, and REYNA VASQUEZ,

Plaintiffs,

v.

McDONALD'S CORPORATION,  
McDONALD'S USA, LCC, McDONALD'S  
RESTAURANTS OF ILLINOIS, INC.,  
NELSON ENTERPRISES, INC., JOKAT CO.,  
INC., NORNAT V, INC., HQ 39148, LLC,  
KARAVITES RESTAURANT 5895, INC.,  
BRITTLAN V, LLC, INFINITE BUENA VIDA,  
LLC, NORNAT, INC., RMC ADAMS-WELLS,  
LLC, RMC LOOP ENTERPRISES, LLC,  
NORNAT IX, INC., and OMAKIN  
RESTAURANTS LLC

Defendants.

Hearing Date: 3/20/2020 10:00 AM - 10:00 AM  
Courtroom Number: 2410  
Location: District 1 Court  
Cook County, IL

No. 2019CH13477

IN CHANCERY  
FOR INJUNCTION

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COMPLAINT

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Plaintiffs Sonia Acuña, Adriana Alvarez, Lakara Bailey, Deshawn Bell, Brenda Carbajal, Teresa Cervantes, Carlos DeLeon, Elvira Gonzalez, Josefina Garduno, Desirea Johnson, Yolanda Leyva, Martina Ortega, Graciela Rivera, Diana Thomas, Maria Torres, Ieshia Townsend, and Reyna Vazquez state as their complaint against Defendants McDonald's Corporation, McDonald's USA, LCC, McDonald's Restaurants of Illinois, Inc., Nelson Enterprises, Inc., Jokat Co., Inc., Nornat V, Inc., Karavites Restaurant 5895, Inc., Brittlan V, LLC, Infinite Buena Vida, LLC, Nornat, Inc., RMC Adams-Wells, LLC, RMC Loop Enterprises, LLC, Nornat XI, Inc., and Omakin Restaurants LLC:

### **JURISDICTION AND VENUE**

1. This complaint alleges violations of Illinois common law for negligence. This Court maintains jurisdiction over this action under 735 Ill. Comp. Stat. 5/2-209(a)(1), (2), and (3), because Defendants have transacted business within Illinois, committed tortious acts within Illinois, and own, use, or possess real estate situated within Illinois.

2. Venue is proper in this judicial district under 735 Ill. Comp. Stat. 5/2-101 because Defendants are residents of this county and the facts underlying this complaint substantially occurred in this county.

### **INTRODUCTION**

3. Plaintiffs work at McDonald's restaurants in the Chicago area. They bring this case because they and their coworkers face a daily risk of violence while at work. Defendants have been and continue to be negligent in failing to protect their workers from this risk.

4. Plaintiffs are regularly exposed to violent and criminal behavior by customers. At the McDonald's restaurants where Plaintiffs work, the following incidents—among many others—have occurred: a customer jumped over the counter and threatened employees with a gun; a customer jumped over the counter, disrobed, and threw kitchen equipment at workers; customers exposed their genitals to Plaintiffs, made lewd comments to them, and groped them; a customer hit a Plaintiff on the back with a “Wet Floor” sign; a customer pushed a Plaintiff against the wall and spit in her face; a dead body and large amounts of blood were found in the bathroom.

5. Plaintiffs suffered physical and psychological harm from the violence they experienced while working at McDonald's restaurants. Those who continue to work at the restaurants fear that they will face violence in the future.

6. The incidents described in this complaint are not random or unforeseeable. Rather, they are part of a citywide and nationwide pattern at McDonald's restaurants. Further, they are the result of choices made by McDonald's that undermine safety.<sup>1</sup>

7. In the Chicago area, emergency service providers receive more than 20 calls per day, on average, from McDonald's restaurants. Violence at McDonald's restaurants in Chicago is regularly reported in the media. For example, in May 2019, the media reported that a person was shot and killed in a McDonald's restaurant. In April 2019, the media

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<sup>1</sup> As described further below, Defendants McDonald's Corporation and McDonald's USA LLC are corporate entities that jointly run the McDonald's system in the United States. We refer to these entities collectively as “McDonald's.” We use the term “McDonald's restaurants” to refer to restaurants operated under the McDonald's brand. Many McDonald's restaurants are operated under franchise agreements with McDonald's, and we refer to these restaurants at times as “Franchise Stores.” Other McDonald's restaurants are operated by wholly-owned subsidiaries of McDonald's, and we refer to these restaurants at times as “Corporate Stores.”

reported that a security guard at a McDonald's restaurant was assaulted; police had been called to the same store location more than thirty times in the previous month.

8. Nationwide, according to another recent article, American local news outlets deliver a new report on violence at a McDonald's restaurant roughly every 36 hours, on average. Yet, since most violent crimes go unreported, the actual incidence of violence is likely much higher than local news reflects.

9. At the highest levels of the company, McDonald's is aware of the security risks faced by workers at McDonald's restaurants. McDonald's has a nationwide security team whose top official has acknowledged the obligation of McDonald's to protect workers from crime and violence. Further, McDonald's receives detailed crime reports from a company called CAP Index, which describes itself as "the leader in crime risk forecasting."

10. Yet, McDonald's has failed to protect workers from these risks. For example, to increase profits, Defendants decided to keep their stores open late at night, when the risk of crime increases substantially. But Defendants ignore best practices for the safe operation of late-night businesses.

11. Many recommended security practices relate to the physical design of business premises. For example, experts recommend placing strong physical barriers between workers and customers in late-night businesses, but Defendants have torn down or lowered check-out counters as part of a nationwide remodeling effort. Experts also recommend ensuring high visibility into and out of business premises, but Defendants have plastered their windows with advertising material, thereby impairing visibility.

12. Aside from the physical design of business premises, experts emphasize the need for comprehensive employee training, but Defendants have failed to provide even the most basic security training to most of their workers and managers.

13. Plaintiffs have also been put at risk by other policies implemented by Defendants. For example, when violent incidents occur, store managers have discouraged Plaintiffs from calling law enforcement authorities, seemingly out of a misguided belief that a police presence would repel customers.

14. Plaintiffs bring claims both against McDonald's and against the operators of the McDonald's restaurants where they work. Because McDonald's controls many of the factors giving rise to the risk of violence faced by Plaintiffs, any effective relief must require McDonald's to cease its negligent conduct.

15. McDonald's selects the locations of all McDonald's restaurants and owns or leases the property on which those restaurants operate. Indeed, according to the company's corporate filings, McDonald's makes approximately one third of its revenue by leasing or subleasing such property to franchisees.

16. McDonald's also controls and coordinates the physical design of McDonald's restaurants, a critical factor leading to the high risk of violence faced by Plaintiffs.

17. Further, McDonald's trains all managers, including those who work at Franchise Stores, at "Hamburger University," which it operates. McDonald's also controls training material used by other employees at both corporate-owned and franchised stores. And McDonald's dictates many of the other policies that have given rise to Plaintiffs' injuries.

18. For their part, restaurant operators implement the mandates issued by McDonald's and thus share liability for the harmful effects of those dictates.

19. Defendants have been negligent in violation of Illinois law through their disregard for the safety of Plaintiffs and their co-workers. Plaintiffs therefore seek injunctive relief requiring Defendants to protect employees from violence at work.

20. In addition, Plaintiffs seek monetary relief from McDonald's. Although damages claims against employers are preempted by the Illinois workers' compensation system, employees may seek damages from other entities that have contributed to their injuries. Here, McDonald's disclaims any employment relationship with Plaintiffs, so Plaintiffs are entitled to seek damages from McDonald's.

### **PARTIES**

21. McDonald's Corporation is a Delaware corporation with its principal place of business located at 110 North Carpenter Street, Chicago, Illinois. It operates and franchises McDonald's restaurants.

22. McDonald's USA, LLC is a Delaware corporation with its principal place of business located at 110 North Carpenter Street in, Chicago. It is a wholly owned subsidiary of McDonald's Corporation. It franchises McDonald's restaurants (referred to as "Franchise Stores") and operates other McDonald's restaurants through wholly-owned subsidiaries (referred to as "Corporate Stores.>").

23. As noted above in footnote 1, this Complaint refers collectively to McDonald's Corporation and McDonald's USA, LLC as "McDonald's."

24. McDonald's Restaurants of Illinois, Inc., is an Illinois corporation with its principal place of business in Illinois. It is a wholly-owned subsidiary of McDonald's USA LLC and operates Corporate Stores in Illinois, including the Corporate Store located at 2609 S. Kedzie Ave. in Chicago.

25. Across Illinois, there are approximately 615 McDonald's restaurants, of which approximately 47 are Corporate Stores. In the Chicago area, there are approximately 100 Franchise Stores and 30 Corporate Stores.

26. As described further below, Franchise Stores are generally located on land and in buildings owned by McDonald's and are operated pursuant to strict requirements imposed by McDonald's.

27. Defendant Nelson Enterprises, Inc., is an Illinois corporation that owns and operates a Franchise Store at 111 W. Madison St., Oak Park, Illinois.

28. Defendant Jokat Co., Inc., is an Illinois corporation that owns and operates a Franchise Store at 2827 S. Cicero Ave., Cicero, Illinois.

29. Defendant Nornat V, Inc., is an Illinois corporation that owns and operates a Franchise Store at 36 W. 95th St. in Chicago.

30. Defendant HQ 39148, LLC, is an Illinois corporation that owns and operates a franchise store at 1035 W. Randolph St. in Chicago, inside the McDonald's global headquarters.

31. Defendant Karavites Restaurant 5895, Inc., is an Illinois corporation that owns and operates a Franchise Store at 1004 W. Wilson in Chicago.

32. Defendant Brittlan V, LLC, is an Illinois corporation that owns and operates Franchise Stores at 1443 E. 87th St., Chicago, Illinois and 9560 S. Halstead St in Chicago.



33. Defendant Infinite Buena Vida, LLC, is an Illinois corporation that owns and operates a Franchise Store at 2425 E. 79th St. in Chicago.

34. Defendant Nornat, Inc., is an Illinois corporation that owns and operates a Franchise Store at 9211 S. Commercial in Chicago.

35. Defendant RMC Adams-Wells, LLC, is an Illinois corporation that owns and operates a Franchise Store at 180 W. Adams in Chicago.

36. Defendant RMC Loop Enterprises, LLC, is an Illinois corporation that owns and operates a Franchise Store at Union Station, 225 S. Canal St. in Chicago.

37. Defendant Nornat XI, Inc., is an Illinois corporation that owns and operates a Franchise Store at 6900 S. Lafayette Ave. in Chicago.

38. Defendant Omakin Restaurants LLC is an Illinois corporation that owns and operates a Franchise Store at 5015 W. Madison St. in Chicago.

39. The Defendants described in paragraphs 27 to 38 above are collectively referred to in this Complaint as the "Franchisee Defendants."

40. Plaintiff Sonia Acuña is a resident of Illinois. She has worked at the McDonald's restaurant at 5015 W. Madison St. in Chicago for six years.

41. Plaintiff Adriana Alvarez is a resident of Illinois. She has worked at the McDonald's restaurant at 2827 S. Cicero Ave. in Cicero for eight years.

42. Plaintiff Lakara Bailey is a resident of Illinois. She has worked at the McDonald's restaurant at 9560 S. Halsted St. in Chicago for approximately four years.

43. Plaintiff Deshawn Bell is a resident of Illinois. He worked at the McDonald's restaurant at 111 West Madison in Oak Park for approximately ten years until January 17, 2019.

44. Plaintiffs Brenda Carbajal, Martina Ortega, and Maria Torres are residents of Illinois. Carbajal worked at the McDonald's restaurant at 36 W. 95th St. in Chicago for approximately one year, until April 2019. Ortega and Torres currently work at that restaurant.

45. Plaintiff Teresa Cervantes is a resident of Illinois. She works at the McDonald's restaurant at 1035 W. Randolph in Chicago, inside the McDonald's global headquarters.

46. Plaintiffs Carlos DeLeon, Yolanda Leyva, and Reyna Vasquez are residents of Illinois. They work at the McDonald's restaurant at 180 W. Adams St. in Chicago.

47. Plaintiff Josefina Garduno is a resident of Illinois. She works at the McDonald's restaurant inside Union Station, 225 S. Canal St. in Chicago.

48. Plaintiff Elvira Gonzalez is a resident of Illinois. She works at the McDonald's restaurant at 1004 W. Wilson in Chicago.

49. Plaintiff Desirea Johnson is a resident of Illinois. She works at the McDonald's restaurant at 2609 S. Kedzie Ave. in Chicago.

50. Plaintiff Graciela Rivera is a resident of Illinois. She has worked at the McDonald's restaurant at 9211 S. Commercial Ave. in Chicago for seven years.

51. Plaintiff Diana Thomas is a resident of Illinois. She worked at the McDonald's restaurant at 6900 S. Lafayette Ave in Chicago from approximately 2017 to 2019. Thomas currently works at a different McDonald's restaurant.

52. Plaintiff Ieshia Townsend is a resident of Illinois. She works at the McDonald's restaurant at 2425 East 79th Street in Chicago.

## FACTUAL ALLEGATIONS

### I. **Plaintiffs have experienced violence at work and reasonably fear for their safety.**

53. As described below, many Plaintiffs have been the victims of violence in the workplace. Others have witnessed violence at work and, as a result, fear for their safety in the future.

54. Plaintiff Elvira Gonzalez was assaulted twice while working at the McDonald's restaurant at 1004 W. Wilson in Chicago. She has repeatedly asked restaurant management for protection against customer abuse and assault, but management has refused to intervene.

- a. Gonzalez was mopping outside a locked bathroom in late summer or early fall of 2018 when a man began to yell at her. The man then picked up a "Wet Floor" sign and hit Gonzalez with it. Gonzalez still has pains in her neck and back from the attack.
- b. The shift manager did not call the police following this attack. Gonzalez told the store manager the next day and he said he would call the police if the man returned to the restaurant. However, when the man returned and Gonzalez pointed him out to the manager, he still refused to call the police.
- c. On a later occasion, when Gonzalez was cleaning inside the men's bathroom, a different man came in, exposed himself to her, and groped her. She ran out, screamed, and told the manager the customer was trying to molest her. The manager laughed and said there was nothing wrong with that and she should let him "make love to you."

- d. The man who exposed himself to Gonzalez and groped her has returned to the store more than once and has verbally harassed Gonzalez. But managers have refused to call the police and have told her that there is nothing wrong with somebody "flattering" her that way.

55. Plaintiff Graciela Rivera has been assaulted by customers on multiple occasions while working at the McDonald's restaurant at 9211 S. Commercial Ave. in Chicago. In addition, she has witnessed other acts of violence in the restaurant. She has repeatedly asked restaurant management for protection against customer abuse, but managers have refused to intervene and have instead mocked her.

- a. In approximately the spring of 2019, Rivera was cleaning the men's bathroom when a man entered the bathroom. As Rivera tried to leave, the man exposed himself to her and urinated on her. Rivera told her manager, but the manager laughed at her and told her that it was her fault because "she likes to look at men's [private parts]." The man who urinated on her is a regular customer who continues to visit the restaurant on a near daily basis.
- b. Also around spring 2019, another regular customer grabbed Rivera by the shirt collar in the store lobby and put his hand down her shirt to grab at her chain necklace. As the man continued to feel down her shirt, he told Rivera she should not have her chain out because someone might try to steal it. Rivera reported the incident to her manager immediately, but he laughed at her and told her she should have just let the customer touch her. The manager also told her that the cameras in the lobby, which should have captured the assault, do not work.

- c. Shortly afterwards, the same customer put a large rock on the hood of Rivera's car. Rivera asked the manager to look at the camera footage from the parking lot, but the manager told her that he could not make out the man's license plate so nothing could be done.
- d. Around September 2019, Rivera saw a man seated at a table when two men entered the store from different doors and proceeded to attack him. The two assailants beat the man's head against the floor. The manager did nothing, but three female employees tried to intervene. One of the assailants pushed one of the employees into a chair, injuring her elbow.

56. Plaintiff Lakara Bailey has been assaulted by a customer and stalked by another customer while working at the McDonald's restaurant at 9560 S. Halsted St. in Chicago.

- a. A customer threw a sandwich at Bailey's face through the drive-thru window. Bailey tried to walk away from the drive-thru window after the attack, but a manager grabbed Bailey's arm to prevent her from doing so.
- b. In September 2019, a regular at the restaurant approached one of Bailey's co-workers with a picture of Bailey and asked to see her. There was a security guard on duty, but he remained seated at a table, and laughed when the man asked for Bailey. The following day, a co-worker called Bailey to tell her that the man was looking for her. Bailey was disturbed and expressed her concern to the manager. On information and belief, a McDonald's District Supervisor told the store manager that Bailey should not have been told the man was looking for her.

57. Plaintiff Teresa Cervantes has been abused by customers on several occasions while working at the McDonald's restaurant at 1035 W. Randolph in Chicago. She has repeatedly asked restaurant management for protection against customer abuse and assault, but management has refused to intervene.

- a. Cervantes is regularly required to clean the women's and men's bathrooms. On several occasions, Cervantes was cleaning inside the men's bathroom when men entered and exposed themselves to her in a sexual manner.
- b. One man has exposed himself to Cervantes on a number of occasions and told her on one occasion, in approximately fall of 2019, that he would "wait for you outside." Cervantes told the manager about this incident and asked for protection when she left the restaurant that night. But the manager said that was not his job.
- c. When Cervantes has told managers about this and other similar incidents, the managers have responded that they cannot do anything. When Cervantes continued to complain, managers have said she should get a new job if she does not like this one.
- d. There are no locks on the bathrooms, and the store does not provide signs that Cervantes can post to show that the bathrooms are not available while being cleaned. She sometimes uses a "Wet Floor" sign to indicate that the bathroom is being cleaned, but customers often ignore it. Further, managers have told Cervantes she is not allowed to use the sign, while declining to provide her any other option for protecting herself when cleaning bathrooms.

- e. On or around October 2, 2019, Cervantes asked an UberEats driver to get off a table he was sitting on. The driver verbally assaulted her, followed her toward the bathroom where she was cleaning and yelled at her, as did another customer. About 30 minutes later, a manager told her, someone called the restaurant and said that they would come and kill everyone in the store. The manager did not call police. The customer returned the next day and laughed at Cervantes in a taunting manner.

58. Plaintiffs Brenda Carbajal, Martina Ortega, and Maria Torres have witnessed customer attacks and threats toward employees, and fights between customers, while working at the McDonald's restaurant at 36 W. 95th St. in Chicago.

- a. The restaurant lowered its service counter in April 2018, which led to several instances of customers climbing on top of or over the counter to attack employees.
- b. On December 30, 2018, Carbajal and Torres witnessed parts of an incident in which a male customer harassed a female customer and jumped over the service counter to threaten employees. The customer had a gun, which he waved at employees, and he physically assaulted another customer.
- c. Carbajal has frequently seen customers throw items at workers. On one occasion, a manager responded by throwing items back at the customer. When Carbajal questioned another manager about safety, the manager instructed her to fight back by throwing anything available at the customers, including hot oil from the fryer. Carbajal, shocked at the instruction, asked if the restaurant actually wanted her to throw items at customers, and asked

whether the company would defend her if she hurt a customer in the process.

The manager responded that Carbajal was on her own if she injured a customer.

- d. Carbajal and Ortega witnessed a customer jump over the service counter, take off her clothes, and throw equipment at workers.
  - e. In September 2018, Torres saw an angry customer jump over the service counter. When a worker confronted the customer, he grabbed the worker by the arms, shook her, and said when she got off work he was going to beat her.
  - f. Also in September 2018, Torres saw a customer throw items from the service counter at an employee and then grab the employee from across the counter.
59. Plaintiff Sonia Acuña has witnessed and been affected by violence while

working at the McDonald's restaurant at 5015 W. Madison St. in Chicago.

- a. Acuña works in the kitchen during the overnight shift.
- b. It is common for customers to come to the restaurant intoxicated during her shift and to act violently.
- c. In January or February 2019, a dead body was found in the restaurant's restroom. Acuña went into the restroom after the police left with the body. She saw blood everywhere.
- d. In February 2019, a customer pepper sprayed employees working the registers at the restaurant. Acuña, who was in the back kitchen at the time, could not breathe because of the spray. The restaurant manager was present, but did not call the police.



- e. On another occasion, in approximately March 2019, prior to Acuña's shift, a drive-thru customer entered the store, accessed the register area, and physically assaulted a worker. Acuña arrived after the customer had left and saw a large amount of blood in the restaurant as a result of the assault. The employee had to be taken away in an ambulance.
- f. Acuña has witnessed customers throw coffee at co-workers approximately once a month. Managers are aware of these instances, but do not call the police.

60. Plaintiff Ieshia Townsend has witnessed violent acts while working at the McDonald's restaurant at 2425 East 79th Street in Chicago. Customers regularly threaten employees. In approximately the summer of 2019, Townsend witnessed a customer threaten to jump over the counter and slap an employee. On information and belief, on another occasion in the summer of 2019, a customer threatened to shoot employees, and in the summer of 2018, a customer tried to pull an employee outside through the drive-thru window. The restaurant manager has admitted to Townsend that there is not enough security in the store.

61. Plaintiffs Carlos DeLeon, Yolanda Leyva, and Reyna Vasquez witnessed a customer attack a co-worker on May 30, 2019 at the McDonald's restaurant at 180 W. Adams St. in Chicago. The restaurant has split service counters with no barrier to the employees-only area, which allowed the customer to enter and attack the worker in that area. The assailant knocked the employee to the ground and continued throwing punches at the worker while other customers tried to intervene. The employee suffered a

concussion. The Plaintiffs heard from a coworker that the manager said that she would suspend anyone who mentioned the incident.

62. Plaintiff Deshawn Bell saw customers assault employees on several occasions at the McDonald's restaurant at 111 West Madison in Oak Park. In approximately May 2018, July 2018, and September 2018, Bell saw customers come through an open counter into the work area and assault employees. In addition, two to three times per month, Bell saw customers throw food at employees.

63. Plaintiff Adriana Alvarez has witnessed several verbal and physical attacks by customers on employees while working at the McDonald's restaurant at 2827 S. Cicero Ave. in Cicero, and she has heard from coworkers of other attacks. For example, on one occasion, an upset customer punched a cup holder stand in anger, causing it to fall on an employee. Approximately once per month, Alvarez has heard customers threaten employees by making statements such as, "I'll wait for you after work." Alvarez is also aware that a customer at her store pulled an employee's hair through the drive-thru window.

64. Plaintiff Desirea Johnson has witnessed numerous physical attacks by customers on employees while working at the McDonald's restaurant at 2609 S. Kedzie Ave. in Chicago, a Corporate Store.

- a. At least three times per week, Johnson has seen customers aggressively throw coffee, soda, or food at coworkers. On other occasions, Johnson has seen customers spit at coworkers, throw eggs at them, or shoot a paintball gun at a coworker.

- b. Johnson has also seen a customer walk angrily into the work area behind the counter, yell at employees, and grab a bag of food that did not belong to him. Johnson ran to the back of the store because she feared that the customer had a gun.
- c. Customers are regularly drunk or high in the store, and drug paraphernalia is found in the bathroom.

65. Plaintiff Diana Thomas has regularly witnessed violent and threatening behavior by gang members while working at the McDonald's restaurant at 6900 S. Lafayette Ave. in Chicago.

- a. On one occasion, Thomas witnessed a gang member throw a full container of soda at the manager. The container landed in hot grease used to make French fries, splattering grease everywhere.
- b. Thomas has also witnessed a gang member spit on a coworker.
- c. Thomas heard from a shift manager that a drunk man climbed through the drive-thru window, walked around the kitchen area, and yelled at employees. The man escaped by climbing back out the window.
- d. Although the store previously employed an unarmed security guard, it stopped using the guard approximately a year ago. Afterwards, gang members began to appear more frequently in the store, typically congregating in groups, selling drugs and threatening employees.

66. Plaintiff Josefina Garduno was threatened with a gun while working at the McDonald's restaurant at Union Station in Chicago. In November 2019, a man stood near the entrance to the restaurant, pointed a gun at Garduno, and threatened to kill her. After

leaving briefly, the man returned, screamed at Garduno and other employees, and continued to threaten them. The man was eventually arrested, but Garduno was never interviewed by the restaurant's management about the incident. On other occasions, as well, Garduno has witnessed customers harassing or threatening co-workers.

67. Plaintiffs Alvarez, Bailey, Ortega, Torres, Cervantes, DeLeon, Leyva, Vasquez, Garduno, Gonzalez, Johnson, Rivera, and Townsend continue to work at the McDonald's restaurants where they experienced violent and threatening behavior by customers. As a result, each of these Plaintiffs fears for their future safety.

**II. McDonald's knows that violence is prevalent at the restaurants where Plaintiffs work and recognizes its obligation to address such violence.**

68. McDonald's is liable for the harm suffered by Plaintiffs. As described in this section, McDonald's knows or should know that Plaintiffs and their coworkers face a significant risk of violence, and McDonald's has recognized its legal duty to prevent such violence. As described in Section III, McDonald's controls factors that have increased this risk of violence, often acting contrary to recommended best practices.

**A. McDonald's knows or should know that Plaintiffs and their coworkers face a significant risk of violence.**

69. As noted above, roughly every 36 hours on average, American local news outlets deliver a new report on violence at a McDonald's restaurant. Such reports are common in the Chicago area. For example, in 2019, the Chicago media has reported that a person was shot and killed in a McDonald's restaurant and that a security guard at a McDonald's restaurant was assaulted.

70. As also noted above, in the Chicago area, emergency service providers receive more than 20 calls per day, on average, from McDonald's restaurants.

71. The number of safety incidents, however, is likely much greater than these statistics indicate. As the U.S. Department of Justice has reported, the majority of violent crimes are never reported to the authorities. Indeed, as described in this Complaint, many Plaintiffs have witnessed incidents in which managers refused to report or refused to permit others to report incidents at the McDonald's restaurants where Plaintiffs work.

72. McDonald's knows or should know of the frequent media reports of violence at McDonald's restaurants in the Chicago area and around the country.

73. McDonald's knows or should know that crime and violence are significant risks for workers at businesses like McDonald's restaurants—those open late at night, in which workers interact directly with customers, and which are often located in high-crime areas.

74. More than two decades ago, the National Institute for Occupational Safety and Health (NIOSH) published a report regarding "worker's risk for workplace assault." The report identified various "risk factors" present in McDonald's restaurants: "contact with the public," "exchange of money," "working late at night or during early morning hours," "working . . . in small numbers," and "working in high-crime areas." Excerpts from this report, printed from the NIOSH website, are attached as Exhibit A; see page 5.

75. Similarly, more than a decade ago, the Occupational Safety and Health Administration (OSHA) reported that late-night restaurants posed a risk for workplace violence. Excerpts from an OSHA website for young workers at fast food restaurants, printed from the OSHA website, are attached as Exhibit B; see pages 3-7.

**B. McDonald's has recognized its obligation to address crime and violence at franchise and corporate-owned restaurants.**

76. The actions and statements of McDonald's show that, at the highest levels of the company, it recognizes the risk of crime and violence and acknowledges its own obligation to address the problem.

77. McDonald's has created a corporate security branch that is tasked with overseeing security procedures for all McDonald's restaurants in the United States.

78. On information and belief, the McDonald's security branch has established security procedures, such as standards for parking lot lighting and reporting of criminal activity at McDonald's restaurants, which it distributes to McDonald's restaurants.

79. On information and belief, McDonald's monitors franchise restaurants' compliance with its security procedures by sending representatives to Franchise Stores.

80. McDonald's has stated publicly that it has an obligation to protect workers at McDonald's restaurants from crime and violence.

81. Rob Holm is the Senior Director of Safety and Security for the United States at Defendant McDonald's USA, LLC. In a joint interview with CAP Index President Jon Groussman, Holm stated, "our core responsibility is promoting a safe and secure work environment for employees and a place for customers for to visit . . . identifying the risk to our employees and to our customers, and then assessing that risk . . . [and] put[ing] programs and plans and processes and tools in place to mitigate the risk . . . [W]e all have that same . . . responsibilities to do that."

82. In furtherance of that responsibility, Holm stated that McDonald's partnered with CAP Index to develop crime forecasting technology for use at all McDonald's restaurants.

83. Likewise, in a public filing, McDonald's has stated "We are committed to providing a safe and healthful working environment for our employees. We require all employees to abide by safety rules and practices and to take the necessary precautions to protect themselves and their fellow employees. For everyone's safety, employees must immediately report accidents and unsafe practices or conditions to their immediate supervisors."

84. Yet, as discussed below, McDonald's has failed to fulfill the duty to protect workers from violence that McDonald's acknowledges it has.

**C. Defendants have access to detailed information regarding crime and violence faced by Plaintiffs and their coworkers.**

85. McDonald's has centralized access at a national level to detailed information about crime at McDonald's restaurants in the United States and in their surrounding area.

86. As noted above, McDonald's has publicly touted its partnership with CAP Index, a company specializing in crime risk assessment and reporting. CAP Index uses crime history data at particular geographic locations to create "CRIMECAST Reports" with "Cap Index Scores," which purport to identify crime risk at any location in the country.

87. According to public statements by CAP Index, the company worked closely with McDonald's to develop the "Restaurant Risk Assessment Management Program" or "R 2 AMP." This "comprehensive program was designed to identify and track security risks as well as provide corrective measures to be considered at specific McDonald's locations."

88. On information and belief, McDonald's developed the R 2 Amp system at the national level and used it to identify restaurants, including Franchise Stores, with elevated risks for violence. McDonald's then shared its data and the R 2 Amp system with Franchise Stores and utilized the data to implement its nationwide security policies.

89. According to public statements by CAP Index, The R 2 AMP system allows McDonald's to :

- a. Identify and rank security risks by using data such as geographic location, facility type, CAP Index Scores, and serious event history. CAP Index categorizes each McDonald's restaurant in low, medium, and high risk tiers.
- b. Standardize incident response and reporting, and track data regarding serious incidents.
- c. Use the collected data to monitor changes at each location, visualize trends, and adjust security allocations accordingly.

90. Because of its access to R 2 AMP, McDonald's was or should have been aware that the store locations where Plaintiffs worked were in high-crime areas and thus faced a particular risk of crime and violence. In addition, the Franchisee Defendants should have been aware of crime levels at the restaurants they operate.

91. Crime statistics for each McDonald's restaurant where Plaintiffs work or worked are provided below:

- a. Between March and September 2019, police were called to respond to violent or potentially violent incidents 49 times at the McDonald's restaurant at 2609 S. Kedzie Ave. in Chicago, operated by Defendant McDonald's Restaurants of Illinois. Between March and August 2019 there were 264 criminal incidents within a 1/3 mile radius of the restaurant, 93 of which were "Part I" incidents and 171 of which were "Part II" incidents.<sup>2</sup>

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<sup>2</sup> Part I crimes are criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny, motor vehicle theft, and arson. Part II crimes are other assaults, forgery and counterfeiting, fraud, embezzlement, stolen property, vandalism, weapons offenses,



- b. Between March and September 2019, police were called to respond to violent or potentially violent incidents 71 times at the McDonald's restaurant at 36 W. 95th St. in Chicago, operated by Defendant Nornat V. Between March and August 2019 there were 296 criminal incidents within a 1/3 mile radius of the restaurant, 103 of which were Part I incidents and 193 of which were Part II incidents.
- c. Between March and September 2019, police were called to respond to violent or potentially violent incidents 29 times at the McDonald's restaurant at 1004 W. Wilson in Chicago, operated by Defendant Karavites Restaurant 5895. Between March and August 2019 there were 532 criminal incidents within a 1/3 mile radius of the restaurant, 240 of which were Part I incidents and 292 of which were Part II incidents.
- d. Between March and September 2019, police were called to respond to violent or potentially violent incidents 30 times at the McDonald's restaurant at 1443 E. 87th St. in Chicago, operated by Defendant Brittlan V. Between March and August 2019 there were 177 criminal incidents within a 1/3 mile radius of the restaurant, 59 of which were Part I incidents and 118 of which were Part II incidents.
- e. Between March and September 2019, police were called to respond to violent or potentially violent incidents 16 times at the McDonald's restaurant at 9560 S. Halstead St. in Chicago, operated by Defendant Brittlan V. Between

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prostitution, other sex offenses, drug abuse violations, gambling, offenses against the family and children, driving under the influence, liquor law violations, drunkenness, disorderly conduct, and vagrancy.

March and August 2019 there were 187 criminal incidents within a 1/3 mile radius of the restaurant, 58 of which were Part I incidents and 129 of which were Part II incidents.

- f. Between March and September 2019, police were called to respond to violent or potentially violent incidents 37 times at the McDonald's restaurant at 2425 E. 79th St. in Chicago, operated by Defendant Buena Vida. Between March and August 2019 there were 511 criminal incidents within a 1/3 mile radius of the restaurant, 184 of which were Part I incidents and 327 of which were Part II incidents.
- g. Between March and September 2019, police were called to respond to violent or potentially violent incidents 62 times at the McDonald's restaurant at 9211 S. Commercial in Chicago, operated by Defendant Nornat. Between March and August 2019 there were 224 criminal incidents within a 1/3 mile radius of the restaurant, 76 of which were Part I incidents and 148 of which were Part II incidents.
- h. Between March and September 2019, police were called to respond to violent or potentially violent incidents 35 times at the McDonald's restaurant at 180 W. Adams in Chicago, operated by Defendant RMC Adams-Wells. Between March and August 2019 there were 1,341 criminal incidents within a 1/3 mile radius of the restaurant, 718 of which were Part I incidents and 623 of which were Part II incidents.
- i. Between March and September 2019, police were called to respond to violent or potentially violent incidents 64 times at the McDonald's restaurant

at 6900 S. Lafayette Ave. in Chicago, operated by Defendant Nornat XI.

Between March and August 2019 there were 438 criminal incidents within a 1/3 mile radius of the restaurant, 170 of which were Part I incidents and 268 of which were Part II incidents.

- j. Between March and September 2019, police were called to respond to violent or potentially violent incidents 71 times at the McDonald's restaurant at 5015 W. Madison in Chicago, operated by Defendant Omakin Restaurants. Between March and August 2019 there were 645 criminal incidents within a 1/3 mile radius of the restaurant, 203 of which were Part I incidents and 442 of which were Part II incidents.
- k. The McDonald's restaurant at Union Station in Chicago, operated by Defendant RMC Loop Enterprises, shares an address with other businesses, making it difficult to assess 911 call data. However, between March and August 2019 there were 563 criminal incidents within a 1/3 mile radius of the restaurant, 320 of which were Part I incidents and 243 of which were Part II incidents.
- l. Plaintiffs are seeking crime data for the McDonald's restaurant at 111 W. Madison in Oak Park.
- m. Plaintiffs are seeking crime data for the McDonald's restaurant at 2827 Cicero Ave. in Cicero.

**III. McDonald's influences and controls factors that increase the risk of violence, including late-night hours, poor store design, lack of security training, and inadequate security policies.**

92. McDonald's has repeatedly made decisions that undermine the safety and security of Plaintiffs and their co-workers. In general, these decisions are made by McDonald's, at the national corporate level, and implemented by the operators of McDonald's restaurants, who thus share liability.

93. These decisions include the late-night hours of McDonald's restaurants; the unsafe physical design of McDonald's stores; the lack of adequate training for managers and line workers on safety and security issues; and the implementation of other inadequate security policies.

94. In making decisions on these matters, Defendants have acted contrary to recommendations from experts for minimizing the risk of violence in the workplace.

95. As shown below, McDonald's itself controls and influences these decisions. The actions of McDonald's show that it has chosen to prioritize profits over safety.

**A. Overview of the McDonald's system**

96. McDonald's develops, operates, maintains, franchises, and services a system of restaurants (the "McDonald's System").

97. Under the McDonald's System, while franchisees conduct day-to-day operations, McDonald's retains substantial control over the location of McDonald's restaurants, their physical design, their operations, and their security-related practices and policies.

98. McDonald's franchisees are required to enter into a franchise agreement with McDonald's. On information and belief, McDonald's enters into the same, or materially the

same, franchise agreement with each of its new franchises operating standalone stores within the United States.

99. McDonald's generally grants franchisees a right to operate a McDonald's restaurant at a specific location for a specific period of time, usually 20 years.

100. McDonald's controls the location of McDonald's restaurants. According to its public filings, McDonald's selects the site where each of its franchised restaurants will be located; franchisees do not select or approve those locations.

101. McDonald's generally owns the property and buildings where McDonald's restaurants are located, and McDonald's charges rent to franchisees.

102. McDonald's is, in large part, a real estate company. According to a recent McDonald's public filing, rental income from franchisees accounted for about one-third of the company's total revenue last year and represents a growing part of its business. Since 2016, McDonald's' rental income increased by nearly \$1 billion, to \$7.1 billion in 2018.

103. McDonald's also exercises substantial control over its franchisees through the franchise agreement. On information and belief, the material terms of the standard franchise agreement include, without limitation:

- a. a 20-year term;
- b. the sole right of McDonald's, at its discretion, to renew or extend the Franchise Agreement at the end of the term;
- c. no right of the franchisee to terminate the Agreement;
- d. the right of McDonald's to terminate the Agreement for cause, including, among others, the failure to maintain the restaurant in

- compliance with McDonald's standards, denial of access to McDonald's, or any conduct that damages the McDonald's reputation;
- e. McDonald's right of first refusal to acquire the franchisee's business by matching any offer; and
  - f. prohibitions on the franchisee's involvement in competing or similar business during the term of the franchise, and further prohibitions on involvement in competing business within 10 miles for 18 months after the termination or expiration of the franchise agreement.

104. McDonald's provides franchisees with the McDonald's Operations and Training Manual, which franchisees must use in operating their restaurants. The manual mandates operational procedures, business practices and policies, bookkeeping and accounting procedures, and methods of inventory control, among other things.

105. According to its public filings, to ensure uniformity, McDonald's requires its franchisees to use only equipment that meets standards established by McDonald's. Further, McDonald's franchisees must purchase that equipment either directly from McDonald's or from McDonald's-approved suppliers.

106. According to its public filings, McDonald's generates substantial revenue by charging its franchised restaurants a variety of fees, in addition to rent, including a monthly service fee equivalent to 4% of gross sales revenues and fees for advertising of at least 4% of gross sales, payable to local advertising cooperatives and McDonald's national advertising fund, along with various other fees.

**B. Starting in 2003, McDonald's transformed its system into a late-night business, increasing the risk of violence.**

107. Prior to 2003, fewer than one percent of McDonald's restaurants were open 24 hours a day. Meanwhile, the profits of McDonald's Corporation were stagnant. The financial growth of the company had, to that point, been fueled largely by an increasing number of store locations. But that strategy was no longer driving significant increases in profits. Consequently, McDonald's chose to focus on increasing profits at existing store locations by extending their hours.

108. Starting in 2003, McDonald's began requiring and encouraging franchises to stay open later. In the following years, more than 90 percent of McDonald's restaurants in the United States extended their hours, and around 40% of McDonald's restaurants in the United States moved to 24-hours per day service.

109. According to its model franchise agreement, McDonald's requires franchises to "[o]perate the Restaurant seven (7) days per week throughout the year and at least during the hours from 7:00 a.m. to 11:00 p.m., or such other hours as may from time to time be prescribed by McDonald's."

110. In Chicago, approximately 70% of McDonald's restaurants are open 24 hours a day. Among the stores at which Plaintiffs work or worked, most are open 24 hours a day, and all but one are open at least 20 hours a day. The sole exception is the restaurant in the McDonald's global headquarters at 1035 W. Randolph St. in Chicago, which is open 16 hours a day.

111. McDonald's restaurants are open later, on average, than other fast food restaurants. According to a study by the National Employment Law Project, McDonald's

restaurants are open an average of 20 hours and 52 minutes per day. These hours are substantially longer than McDonald's competitors, such as Taco Bell (18:10), Burger King (17:48), Sonic (16:52), Chick Fil A (14:57), and Wendy's (14:20).

112. The McDonald's national push for late-night hours fulfilled its purpose of increasing profits. The profits of McDonald's Corporation rose steadily in the years after 2003, and McDonald's executives attributed this increase to late-night operation.

113. However, late-night operation comes with a downside: it substantially increases the risk of crime and violence. It is well established that the risk of violence and crime in businesses rises dramatically during late-night hours. For example, NIOSH has recognized that "[w]orking late at night or during early morning hours" is a risk factor for workplace assault. *See* Exhibit A, at 5.

**C. McDonald's controls the design of stores but has defied best practices for preventing violence through physical design.**

114. Given its push for 24-hour operation, McDonald's should have closely studied and followed expert recommendations for the safe operation of a late-night business. But McDonald's has instead done the opposite, defying well-established best practices.

115. Many of these best practices relate to the physical design of stores. For decades, criminologists have researched how the physical design of a space, including a business, can either facilitate crime or reduce the risk of crime. They have recommended, among other things, solid physical separation between workers and customers as well as designs that maximize visibility. These recommendations and others are discussed below.

116. The physical design of stores is squarely within the control of McDonald's.



117. Through its national department known as US Restaurant Design and the architects and engineers employed in that department, McDonald's oversees the design of McDonald's restaurants. McDonald's also has Regional Construction Departments that administer construction and renovation of McDonald's restaurants around the country.

118. McDonald's publishes a "Project Manual" that serves as a guide to contractors building and renovating McDonald's restaurants. On information and belief, all McDonald's restaurants must adhere to the McDonald's guidelines for restaurant design, including the Project Manual, or McDonald's may withdraw their right to operate.

119. The Project Manual is nearly 900 pages long. It provides contractors with standards for virtually every aspect of store construction, including requirements for materials and product models. The project manual contains requirements for nearly everything about the physical structure of the restaurant and the fixtures inside.

120. When building or remodeling a store, McDonald's hires a local engineering or architecture firm that designs the stores based on McDonald's specifications in the Project Manual. Store designs drafted by engineering/architecture firms are submitted to McDonald's for review and approval.

121. As part of the franchising agreement, McDonald's requires that franchisees keep the store constructed and equipped in accordance with the building blueprints and equipment layout plans approved by McDonald's and does not allow franchisees to make any alterations, conversions, or additions to the building, equipment, or parking area without prior consent from McDonald's.

122. The Project Manual contains requirements for several design issues affecting employee safety, including counters and drive-thru windows.

123. Materials used in constructing restaurants are purchased by McDonald's itself, based on McDonald's specifications.

124. In 2017, McDonald's announced a nationwide effort to physically redesign most McDonald's restaurants. This effort was called "Experience of the Future" or "EOTF."

125. As with prior restaurant designs, McDonald's set strict design standards for franchise restaurants remodeling in accordance with EOTF. McDonald's also provided franchisees with financial incentives to convert and remodel restaurants quickly. Specifically, McDonald's agreed to cover 55 percent of the remodeling costs for franchises that complete the remodels through 2020.

126. According to public filings, in 2018, approximately 4,500 McDonald's restaurants in the United States were converted to EOTF, resulting in over half of U.S. McDonald's currently having EOTF. McDonald's expects to convert substantially all of the restaurants in the U.S. to EOTF by the end of 2020.

127. Despite its substantial control over store design, McDonald's has ignored recommended best practices for the safe design of late-night businesses, as we now discuss.

#### **i. Physical barriers between workers and customers**

128. One of the most basic and well-established safety recommendations for late-night businesses is to ensure "physical separation of workers from customers," according to a 1996 NIOSH report. In other words, agitated customers and others who intend to commit crimes should not have direct access to workers. See Exhibit A, at 6.

129. Within a fast food restaurant, the main physical barrier between workers and customers is the check-out counter. Cashiers and kitchen staff work behind the counter, and customers should remain in front of the counter. A customer who gets behind the counter will not only have direct access to workers but also to knives, pots, hot oil, and other items that can be used to cause significant bodily harm to workers.

130. Experts have advised that late-night businesses should design counters to serve as a protective barriers as an “important consideration[] in protecting workers.” *See* Exhibit A, at 6; Exhibit C, at 9.

131. McDonald’s, however, has taken the opposite approach. Rather than ensure strong barriers between workers and customers, McDonald’s has actively sought to lessen and remove such barriers, thereby exposing workers to a significant risk of violence.

132. First, McDonald’s has put counters in its stores that have large gaps providing any customer easy access to workers and the kitchen area. These are known as “split counters.”

133. Split counters are included in many Experience of the Future store designs. While previous McDonald's counter designs called for a long serving counter separating employees and customers, EOTF calls for separate serving stations for in-restaurant and mobile orders with empty walking space between the two counters. The passageway permits unobstructed access to the cash registers and kitchen by non-employees in the restaurant.

134. Plaintiffs Alvarez, Bailey, Bell, Cervantes, DeLeon, Vasquez, Gonzalez, Johnson, and Leyva work at McDonald’s restaurants with split counters. These stores are operated by Defendants Jokat Co., Inc., Brittlan V, LLC, Nelson Enterprises, Inc., RMC

Adams-Wells, LLC, and Karavites Restaurant 5895, Inc., and McDonald's Restaurants of Illinois, Inc.

135. As described above, Plaintiffs DeLeon, Leyva, Vasquez, Bell, and Johnson experienced incidents in which customers committed threatening or violent acts after gaining access to the area behind the counter. These incidents were caused directly by the use of split counters.

136. Aside from split counters, McDonald's has also used counters that are relatively low to the ground, making it easier for a customer to climb over the counter into the kitchen area. This, again, puts workers at risk.

137. Plaintiffs Bailey, Carbajal, Ortega, and Torres work at McDonald's restaurants with lowered counters. These stores are operated by Defendants Brittlan V, LLC and Nornat V, Inc.

138. As described above, Plaintiffs Carbajal, Ortega, and Torres experienced incidents in which customers jumped over lowered counters and committed violent or threatening acts. These incidents were caused directly by the use of lowered counters.

139. Physical separation is also important in dealing with drive-thru customers.

140. To minimize risk to employees serving drive-thru customers, drive-thru windows should be designed to prevent customers from gaining access to employees or being able to enter the store through the window.

141. For example, windows should utilize drawers that can be used to exchange money or items without allowing direct contact between workers and employees.

Windows should also have strong locks. Other important factors include the windows' size and placement (e.g., how close to the ground they are). *See* Exhibit B at 7; Exhibit C, at 9.

142. In spite of recommendations from security experts, McDonald's restaurants often utilize drive-thru windows that do not provide adequate protection to workers. For example, even in high crime area, many stores do not utilize drawers that would allow workers to avoid direct contact with customers.

143. Plaintiffs Bailey, Carbajal, Gonzalez, Ortega, Torres, and Townsend work at McDonald's restaurants with insecure drive-thru windows. These stores are operated by Defendants Brittlan V, LLC, Nornat V, Inc., Karavites Restaurant 5895, Inc., and Buena Vida, LLC.

144. As described above, Plaintiffs Bailey and Townsend experienced incidents in which customers committed violent acts through drive-thru windows. These incidents were directly caused by the use of insecure drive-thru windows.

#### **ii. Visibility**

145. Another critical recommendation for the design of late-night businesses is to ensure high visibility into and out of areas in which assaults might take place.

146. High visibility protects workers by ensuring that any security incidents can be easily seen and responded to by other employees, customers, and law enforcement. It also allows workers to identify threats before they arise.

147. Criminologists have emphasized the importance of "natural surveillance" or "surveillance through physical design," meaning that businesses should utilize "physical design mechanisms that serve to increase the risk of detection for offenders, enable evasive actions by potential victims, and facilitate intervention by police." Lawrence J. Fennelly & Timothy Crowe, *Crime Prevention Through Environmental Design* 130 (3d. Ed. 2013).

148. For example, experts advise late-night businesses to “[e]nsur[e] the customer service and cash register areas are visible from outside the establishment.” *See* Exhibit C, at 9.

149. Accordingly, late-night businesses are advised to avoid placing signage in the windows that would impair visibility. Businesses should “[l]imit[] window signs to low or high locations . . . so that workers can see incoming customers and so that police can observe what is occurring from the outside of the store.” *See* Exhibit C, at 9. Similarly, the Indiana Department of Labor has recommended “removing large posters or product displays from windows.” *See* Exhibit D, at 12.

150. Likewise, within a store, check-out counters should be located in places where they can be seen easily by other employees and customers, and where workers at the counters can see places that entail an elevated risk of violence, such as bathrooms.

151. As with physical barriers between workers and customers, McDonald’s has disregarded these security recommendations. For example, the windows at McDonald’s restaurants are often covered with advertising posters, thereby eliminating adequate visibility. As a result, workers are forced to interact with customers in low-visibility areas, exposing them to heightened risk of violence.

152. Plaintiffs Bailey, Cervantes, DeLeon, Vasquez, Gonzalez, Leyva, Rivera, and Townsend work at McDonald’s restaurants in which visibility was impaired. These stores are operated by Defendants Brittlan V, LLC, HQ 39148, LLC, RMC Adams-Wells, LLC, Karavites Restaurant 5895, Inc., Nornat, Inc., and Buena Vida, LLC. As described above, these Plaintiffs experienced violent incidents at work, which were caused by the unsafe environment created by Defendants’ actions.

### iii. Bathrooms

153. Bathrooms are a particularly high-risk area. Criminologists have long recognized that restrooms are common sites for illegal and illicit activity.

154. McDonald's has not followed best practices for security related to bathrooms. For example, bathrooms at McDonald's restaurants where Plaintiffs work are not visible to workers at the counter, thereby increasing the risk of violent incidents. In addition, when Plaintiffs clean bathrooms, they are not permitted to lock the bathroom doors.

155. Plaintiffs Cervantes, Gonzalez, and Rivera have been assaulted in bathrooms. These stores are operated by Defendants HQ 39148, LLC, Karavites Restaurant 5895, Inc. and Nornat, Inc.

#### **D. McDonald's controls employee training and has failed to provide adequate safety and security training.**

156. Aside from physical design, one of the most important steps that a business should take to protect its workers is providing adequate training to the workers and their managers.

157. NIOSH has deemed training "critical" to protect workers from workplace assault. *See Exhibit A*, at 6-7. Experts have developed detailed recommendations for training, as discussed below.

158. McDonald's substantially controls training for the workers at McDonald's restaurants.

159. McDonald's operates Hamburger University, the training center for the worldwide McDonald's System.

160. McDonald's trains franchisee owners and operators on a basic curriculum, known as the Restaurant Department Management curriculum. On information and belief,

franchisee owners and operators must complete the Restaurant Department Management curriculum to be qualified to operate a McDonald's restaurant.

161. McDonald's also requires each franchised restaurant to have at least one General Manager who has completed training at Hamburger University.

162. Employees at McDonald's restaurants have to complete training provided by McDonald's to be promoted to a crew trainer, shift manager, or first assistant manager.

163. McDonald's also provides training materials for all workers to use in McDonald's restaurants.

164. However, on information and belief, as of August 2019, McDonald's implemented no nationwide training programs on workplace violence, conflict resolution, de-escalation techniques, or other techniques that could be useful in the event of a store robbery or a customer engaging in erratic or violent conduct.

165. In failing to provide safety and security training, McDonald's has defied best practices recommended by experts, who have emphasized the importance of training that teaches workers about, among other things, the specific risks posed by a particular work site; how to reduce risk, recognize a potentially dangerous situation, de-escalate conflict, and respond to crime; and how to follow the business's violence prevention policies.

166. Experts have further recommended that training be delivered at least annually to all workers (including part time and temporary workers) by a qualified trainer. It should include role-playing, simulations, and drills. The training should be formally evaluated on a regular basis, at least annually, to ensure its effectiveness.

167. McDonald's does not follow these recommendations. As a result, Plaintiffs have received no training compliant with the recommendations set forth above.



168. On information and belief, Plaintiffs' managers have also received no or little relevant training, as illustrated by managers' grossly deficient response to security incidents experienced by Plaintiffs, discussed above.

169. McDonald's recognized its systemic failure to provide violence-prevention training when it announced in August 2019 that it would introduce such training. McDonald's claimed in its announcement that training would start in October 2019.

170. However, as of the filing of this Complaint, Plaintiffs have received no training that complies with the minimum standards for safety and security training set forth above.

**E. Defendants have adopted other policies and practices that increase the risk of violence.**

171. Aside from late-night hours, poor physical design, and inadequate training, Defendants have adopted other policies and practices that put Plaintiffs at risk.

172. For example, late-night businesses have long been advised to adopt cash management policies that ensure that employees will have restricted access to cash and to display prominent signage that informs customers of these policies.

173. Appropriate cash handling policies are considered one of the best way to reduce robberies.

174. Defendants do not consistently follow recommendations for cash handling. For example, Plaintiffs have observed cash reserves of over \$1,000 kept in registers.

175. Many of Plaintiffs' stores do not inform customers that the stores limit workers' access to cash.

176. Second, experts recommend that businesses maintain a policy of calling law enforcement whenever security incidents occur. However, at least some Plaintiffs have experienced incidents in which managers reused to call the police or specifically discouraged workers from calling the police.

- a. When Plaintiff Gonzalez was verbally and physically assaulted by a customer who hit her with a “Wet Floor” sign, the shift manager did not call the police. The store manager later told Gonzalez that he would call the police if the customer returned, but the customer did return on several occasions, and the manager refused to call the police.
- b. When a customer threw items at workers in Plaintiff Carbajal’s store, the manager responded by throwing items back at the customer, but did not call the police.
- c. A manager told Plaintiff Cervantes that someone had called and said he would kill everyone in the store, but the manager did not inform the police. This occurred approximately thirty minutes after Cervantes was followed and verbally assaulted by a person in the store.

177. Upon information and belief, Defendants fail to implement other recommended practices for preventing crime and violence against workers, or directly defy those recommendations. These other recommendations include: installing panic buttons and informing all workers of how and when to use them; installing and regularly monitoring camera feeds showing activity inside and around the store; having adequate staff, including security guards, in place at appropriate times; and installing elements such

as speed bumps and other pavement modifiers that make it harder to quickly enter and leave the store premises.

## CAUSES OF ACTION

### **Count One: Claim by all Plaintiffs for Negligence Against McDonald's Corporation and McDonald's USA (Direct Liability)**

178. Plaintiffs hereby incorporate by reference the allegations in each of the above paragraphs.

#### Duty

179. McDonald's voluntarily assumed a duty of care to Plaintiffs with respect to security issues. As reflected in its public statements, McDonald's has recognized the risk of violence faced by workers at McDonald's restaurants and has acknowledged the importance of security. Consequently, it established a corporate office charged with security oversight of all McDonald's restaurants in the United States, established security protocol and procedures for those restaurants; partnered with CAP Index to establish the R 2 AMP system, and used the system to manage security at all the restaurants in the McDonald's System.

180. McDonald's has acknowledged in public statements that it has a duty to protect workers from crime and violence.

181. Aside from its assumed duty to protect workers from crime and violence, McDonald's has a duty as a landowner and landlord in light of its control over certain property elements. For example, through its lease agreements with franchisees,

McDonald's restricts the franchisees' use of the land, including restricting environmental design changes to the property.

182. McDonald's also owed a duty of care to Plaintiff Desirea Johnson because McDonald's, through its wholly-owned subsidiary McDonald's Restaurants of Illinois, is the owner and operator of the Corporate Stores where she worked.

### Breach

183. McDonald's breached its duty to Plaintiffs when it took the actions described above in Section III of the Factual Allegations, which unreasonably exposed Plaintiffs to an elevated risk of crime and violence. Specifically:

- a. McDonald's imposed late night hours at the stores where Plaintiffs worked, without implementing adequate store design, employee training, or security policies.
- b. As to store design, McDonald's ignored expert recommendations and research regarding barriers between workers and customers.
- c. McDonald's acted negligently with respect to the design and placement of bathrooms, and policies regarding bathrooms.
- d. McDonald's acted negligently with respect to other elements causing an unsafe environment, including lack of visibility, non-existent or inadequate training, and unsafe store policies.

184. The cost to McDonald's of following recommended practices with respect to store design, employee training, and security policies would be far exceeded by the benefits of doing so in terms of preventing harm to workers.

### Causation

185. The actions of McDonald's created an unsafe environment in the stores in which Plaintiffs worked, which in turn permitted each of the incidents of violence described in this complaint.

186. As to store design, the absence of a strong barrier between workers and customers caused incidents of violence described in paragraphs 56, 58, 59, 60, 61, 62, 63, 64, and 65.

187. The negligence of McDonald's with respect to bathrooms caused the incidents of violence described in paragraphs 54, 55, and 57.

188. McDonald's also acted negligently with respect to other elements creating an unsafe environment, including lack of visibility, non-existent or inadequate training, and unsafe store policies. This unsafe environment caused all of the incidents described in this complaint.

189. McDonald's breach of duty was the in-fact and proximate cause of Plaintiffs' injuries.

190. Plaintiffs' injuries were foreseeable to McDonald's due to its detailed knowledge of crime statistics and incidents of violence at all McDonald's restaurants. McDonald's specifically was aware that the stores where Plaintiffs worked were located in high-crime areas, as discussed in paragraphs 85 to 91.

### Injury

191. Plaintiffs suffered significant injuries resulting from the negligence of McDonald's.

192. Gonzalez suffered injuries when customers assaulted her on two separate occasions. One customer hit her with a “Wet Floor” sign, causing pain in her neck and back that continue to this day. Another customer groped her.

193. Rivera suffered injuries when customers assaulted her on two separate occasions. One customer urinated on her and another put his hand down her shirt.

194. Bailey suffered injury when a customer assaulted her by throwing a sandwich at her.

195. Cervantes suffered injuries when customers exposed themselves to her and threatened her.

196. Acuña suffered injury when a customer pepper sprayed an employee, causing her difficulty breathing.

197. Carbajal, Ortega, Torres, Townsend, DeLeon, Leyva, Vasquez, Bell, Thomas, Johnson, and Alvarez suffered injuries when they witnessed acts of violence against their coworkers.

198. Plaintiffs seek damages as well as injunctive relief to remedy their injuries.

199. Plaintiffs have a clear and ascertainable right to be free from injuries resulting from the negligence of McDonald’s.

200. If injunctive relief is not granted, Plaintiffs face a significant risk of irreparable harm in the form of physical and emotional injuries from continuing acts of violence. Indeed, Plaintiffs are vulnerable to severe bodily injury or death from the unsafe environment in which they work. Such injuries cannot be compensated adequately by damages.

201. Plaintiffs face a constant and continuing risk of violence due to the negligence of McDonald's.

202. Such injuries cannot be adequately remedied at law through a damages claim.

203. The risk of injury faced by Plaintiffs outweighs the cost of the reasonable measures included in Plaintiffs' proposed injunction.

Wherefore, Plaintiffs seek the following relief from Defendants McDonald's Corporation and McDonald's USA:

- a. An injunction that requires them to:
  - i. Make modifications to restaurant designs, including removal of split counters, changes to drive thru widows, and changes in the design and placement of restrooms.
  - ii. Implement adequate cash handling policies.
  - iii. Implement adequate safety and security training.
  - iv. Implement any other policies necessary to protect Plaintiffs from violence at work.
  - v. Cease and desist from requiring and encouraging franchise restaurants to implement split counter designs or lowered counters.
  - vi. Cease and desist from requiring and encouraging franchise restaurants to place advertisements on restaurant windows that obstruct employees' view of customers entering the restaurant, visibility into the restaurants from the outside, or both.

- vii. Cease and desist from requiring and encouraging franchise restaurants to be open at late-night hours without adequate safety procedures and security.
  - viii. Cease and desist from implementing any other policies that negligently expose Plaintiffs to a risk of violence.
- b. Damages in excess of \$50,000 for each Plaintiff.
  - c. Any other relief the Court finds just and appropriate.

**Count Two: Claim by all Plaintiffs for Negligence Against McDonald's Corporation and McDonald's USA  
(Vicarious Liability)**

204. Plaintiffs hereby incorporate by reference the allegations in each of the above paragraphs.

205. McDonald's is vicariously liable for the negligence of the operators of the stores where Plaintiffs worked.

206. McDonald's and the store operators have a principal-agent relationship with respect to store design and security-related policies. Specifically, McDonald's controls store design and security-related policies, while franchise owners, pursuant to agreements with McDonald's, implement design and security-related policies.

207. For example, McDonald's controls the design of stores through the Project Manual and its design and construction requirements, as described above in Paragraphs 116 to 126. To the extent franchise owners participate in store design and construction, they do so as agents of McDonald's. Further, McDonald's controls employee training and other relevant security policies. To the extent franchise owners participate in the implementation of these policies, they do so as agents of McDonald's.



208. Alternatively, McDonald's is vicariously liable under the apparent agency doctrine because Plaintiffs reasonably assumed that a principal-agent relationship existed with respect to safety and security issues. Plaintiffs' assumption arose from, among other things, McDonald's implementation of national security policies applying to Plaintiffs, and the fact that Plaintiffs worked in McDonald's stores and in uniforms labeled with the McDonald's name and logo. A reasonable worker would assume that McDonald's was responsible for security protocols at the franchise restaurant where Plaintiffs worked. Plaintiffs relied on this assumption.

209. The operators of the stores where Plaintiffs work or worked (*i.e.*, the Franchisee Defendants and McDonald's Restaurants of Illinois) are liable as set forth in Counts Three and Four below for their participation in and implementation of unsafe security policies. McDonald's is vicariously liable for those violations.

Wherefore, Plaintiffs seek the following relief from Defendants McDonald's Corporation and McDonald's USA:

- a. An injunction that requires them to:
  - i. Make modifications to restaurant designs, including removal of split counters, changes to drive thru windows, and changes in the design and placement of restrooms.
  - ii. Implement adequate cash handling policies.
  - iii. Implement adequate safety and security training.
  - iv. Implement any other policies necessary to protect Plaintiffs from violence at work.

- v. Cease and desist from requiring and encouraging franchise restaurants to implement split counter designs or lowered counters.
  - vi. Cease and desist from requiring and encouraging franchise restaurants to place advertisements on restaurant windows that obstruct employees' view of customers entering the restaurant, visibility into the restaurants from the outside, or both.
  - vii. Cease and desist from requiring and encouraging franchise restaurants to be open at late-night hours without adequate safety procedures and security.
  - viii. Cease and desist from implementing any other policies that negligently expose Plaintiffs to a risk of violence.
- b. Damages in excess of \$50,000 for each Plaintiff.
  - c. Any other relief the Court finds just and appropriate.

**Count Three: Claim by Plaintiff Johnson for Negligence Against McDonald's Restaurants of Illinois**

210. Plaintiffs hereby incorporate by reference the allegations in each of the above paragraphs.

Duty

211. McDonald's Restaurants of Illinois owns and operates the store where Plaintiff Johnson works.

212. As a business invitor, land possessor, and employer, McDonald's Restaurants of Illinois has a duty to protect its workers from crime and violence.

### Breach

213. McDonald's Restaurants of Illinois breached its duty to Johnson when it implemented store design elements and policies mandated by McDonald's, as set forth in Section III of the Factual Allegations above.

### Causation

214. As a result of this breach of duty, Johnson suffered injuries. For example, the store design elements implemented by McDonald's Restaurants of Illinois permitted a customer to walk angrily into the work area behind the counter and threaten Johnson and other workers. Further, the restaurant's design and policies created an unsafe environment that permitted the incidents of crime and violence experienced by Johnson.

215. McDonald's Restaurants of Illinois's breach of duty was the in-fact and proximate cause of Johnson's injuries.

216. Johnson's injuries were foreseeable to McDonald's Restaurants of Illinois due to its knowledge of crime levels near its stores and incidents of violence at its stores.

### Injury

217. Johnson suffered injury when she witnessed violent assaults against her coworkers.

218. Johnson does not seek damages from McDonald's Restaurants of Illinois, which is her direct employer. However, Johnson seeks injunctive relief from McDonald's Restaurants of Illinois.

219. Johnson has a clear and ascertainable right to be free from injuries resulting from the negligence of McDonald's Restaurants of Illinois.

220. If injunctive relief is not granted, Johnson faces a significant risk of irreparable harm in the form of physical and emotional injuries from continuing acts of violence. Indeed, Johnson is vulnerable to severe bodily injury or death from the unsafe environment in which she works. Such injuries cannot be compensated adequately by damages.

221. Johnson faces a constant and continuing risk of violence due to the negligence of McDonald's Restaurants of Illinois. Such injuries cannot be remedied at law through a damages claim.

222. The risk of injury faced by Johnson outweighs the cost of the reasonable measures included in the proposed injunction.

Wherefore, Plaintiff Johnson seeks the following relief from Defendant McDonald's Restaurants of Illinois:

- a. An injunction against McDonald's Restaurants of Illinois that requires it to:
  - i. Make modifications to restaurant designs, including removal of split counters, changes to drive thru windows, and changes in the design and placement of restrooms.
  - ii. Implement adequate cash handling policies.
  - iii. Implement adequate safety and security training.
  - iv. Implement any other policies necessary to protect Plaintiffs from violence at work.

- v. Cease and desist from placing advertisements on restaurant windows that obstruct employees' view of customers entering the restaurant, visibility into the restaurants from the outside, or both.
  - vi. Cease and desist from late-night operation without adequate safety procedures and security.
  - vii. Cease and desist from implementing any other policies that negligently expose Johnson to a risk of violence.
- b. Any other relief the Court finds just and appropriate.

**Count Four: Claim by Plaintiffs Alvarez, Bailey, Ortega, Torres, Cervantes, DeLeon, Leyva, Vasquez, Garduno, Gonzalez, Johnson, Rivera, and Townsend for Negligence Against Franchisee Defendants**

223. Plaintiffs hereby incorporate by reference the allegations in each of the above paragraphs.

224. The Franchisee Defendants own and operate the stores where Plaintiffs Alvarez, Bailey, Ortega, Torres, Cervantes, DeLeon, Leyva, Vasquez, Garduno, Gonzalez, Johnson, Rivera, and Townsend work. The Franchisee Defendants are the employers of those Plaintiffs.

225. Each of these Plaintiffs pursues a claim of negligence against the Franchisee Defendant that employs the Plaintiff.

Duty

226. As a business invitor, land possessor, and employer, each Franchisee Defendant had a duty to protect its workers from crime and violence.

Breach

227. The Franchisee Defendants breached their duty to Plaintiffs when they implemented store design elements and policies mandated by McDonald's, as set forth in Section III of the Factual Allegations above.

Causation

228. As a result of this breach of duty, Plaintiffs suffered injuries, as set forth in paragraphs 186 to 190 above.

229. The Franchisee Defendants' breach of duty was the in-fact and proximate cause of Plaintiffs' injuries.

230. Plaintiffs' injuries were foreseeable to each Franchisee Defendant due to its knowledge of crime levels near its stores and incidents of violence at its store.

Injury

231. Plaintiffs suffered injuries as set forth in paragraphs 192 to 197 above.

232. Plaintiffs seek no damages from the Franchisee Defendants. Rather, Plaintiffs seeks injunctive relief from the Franchisee Defendants.

233. Plaintiffs have a clear and ascertainable right to be free from injuries resulting from the negligence of the Franchisee Defendants.

234. If injunctive relief is not granted, Plaintiffs face a significant risk of irreparable harm in the form of physical and emotional injuries from continuing acts of violence. Indeed, Plaintiffs are vulnerable to severe bodily injury or death from the unsafe environment in which they work. Such injuries cannot be compensated adequately by damages.

235. Plaintiffs face a constant and continuing risk of violence due to the negligence of the Franchisee Defendants.

236. Such injuries cannot be remedied at law through a damages claim.

237. The risk of injury faced by Plaintiffs outweighs the cost of the reasonable measures included in the proposed injunction.

Wherefore, each of the Plaintiffs identified in paragraph 224 seeks the following relief from the Franchisee Defendant that employs the Plaintiff:

- c. An injunction against that Defendant requiring it to:
  - i. Make modifications to restaurant designs, including removal of split counters, changes to drive thru windows, and changes in the design and placement of restrooms.
  - ii. Implement adequate cash handling policies.
  - iii. Implement adequate safety and security training.
  - iv. Implement any other policies necessary to protect Plaintiffs from violence at work.
  - v. Cease and desist from placing advertisements on restaurant windows that obstruct employees' view of customers entering the restaurant, visibility into the restaurants from the outside, or both.
  - vi. Cease and desist from late-night operation without adequate safety procedures and security.
  - vii. Cease and desist from implementing any other policies that negligently expose Johnson to a risk of violence.

d. Any other relief the Court finds just and appropriate.

**JURY DEMAND**

Plaintiffs demand a jury for all issues triable by a jury.

Respectfully submitted,

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Dated: November 21, 2019

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