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ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT
11/3/2025 2:51 PM
By: Julian Cornejo, DEPUTY

12 **SUPERIOR COURT OF CALIFORNIA**

13 **COUNTY OF SAN BERNARDINO**

14 MARLA KLAPPER, on behalf of the State
15 of California and Aggrieved Employees,

16 Plaintiff,

17 vs.

18 J & J SNACK FOODS CORP. OF
19 CALIFORNIA; and DOES 1 through 10,
20 Inclusive,

21 Defendants.

Case No. CIVSB2532212

**COMPLAINT FOR CIVIL PENALTIES
PURSUANT TO LABOR CODE § 2699(a) & (f)
OF THE PRIVATE ATTORNEYS GENERAL
ACT OF 2004**

[UNLIMITED JURISDICTION]

Plaintiff Marla Klapper (“Klapper”), on behalf of the State of California and Aggrieved Employees (defined below), complains and alleges as follows:

SUMMARY

1. Klapper, on behalf of the State of California and other Aggrieved Employees, brings this enforcement action pursuant to the Private Attorneys General Act of 2004, as amended (“PAGA”), against Defendant J & J Snack Foods Corp. of California, and Does 1 through 10, inclusive (“J&J” or “Defendants”) on behalf of J&J’s current and former employees for civil penalties resulting from J&J’s violations of the Labor Code as described herein.

2. This civil enforcement action arises from J&J’s failure to maintain safe working conditions at its 44,000 square foot churro production facility in Colton, California, as well as J&J’s failure to reimburse all necessary business expenses under Labor Code § 2802.

3. J&J is a food processing company which makes, among other things, packaged snack foods such as churros distributed for mass production.

4. J&J employs numerous workers at its churro-making facility in Colton.

5. During the relevant time period, J&J fails to maintain a safe workplace by, among other things, exposing its workforce in the Colton facility to unsafe levels of ammonia, allowing commercial-grade fryers to remain in disrepair and burn cooking oil, which in turn causes smoke exposure, and permitting other environmental hazards such as improper ventilation, unsafe heat levels, and physical safety hazards such as grease/oil slip hazards.

6. J&J has not only an ethical, but also a legal obligation under the Labor Code to take appropriate measures to ensure a safe and healthful workplace for its employees.

7. However, J&J systematically endangers its employees’ health and safety on a daily basis.

8. J&J’s disregard for its employees’ health and safety has severe consequences.

9. During the relevant time period, J&J likewise requires Klapper and other Aggrieved Employees to incur necessary business expenses in order to do their jobs for J&J, including requiring such employees to use their personal vehicles for work-related travel, use their personal

cell phones for work, and purchase reliable home internet data plans, but does not reimburse Klapper and Aggrieved Employees for these necessary business expenses.

JURISDICTION & VENUE

10. This Court has jurisdiction over the State of California’s claims for civil penalties, by and through Klapper as the deputized PAGA representative, pursuant to the California Constitution, Article VI, section 10, which grants the Superior Court “original jurisdiction on all other causes” except those given by statute to other courts. The statutes under which this Action is brought do not specify any other basis for jurisdiction.

11. On August 13, 2025, Klapper electronically submitted her written notice, via online submission, to the Division of Occupational Safety and Health (“DOSH”) and sent J&J a copy by certified mail in accordance with Labor Code § 2699.3(b)(1).

12. Klapper likewise submitted her written notice to the Labor and Workforce Development Agency (“LWDA”) via online submission.

13. More than 14 calendar days passed following Klapper’s submission to DOSH, and DOSH took no action, issued any citation, or initiated an investigation.

14. On August 29, 2025, Klapper electronically filed her written PAGA Notice with the LWDA in conformity with Labor Code § 2699.3(c).

15. More than 65 calendar days passed since Klapper submitted her PAGA Notice without any response or investigation by the LWDA or DOSH.

16. A true and correct copy of Klapper’s LWDA Notice is attached herein as **Exhibit A**, which is incorporated herein by reference.

17. A true and correct copy of Klapper’s DOSH submission is attached within Exhibit A as Exhibit 1, and is likewise incorporated herein by reference.

18. The Court has general personal jurisdiction over J&J because it is a California corporation with its principal place of business located in Vernon, California.

19. Venue is proper in this judicial district and County pursuant to CCP §§ 393 and/or 395.5.

20. J&J maintains its food production facility in San Bernardino County.

21. J&J conducts business in San Bernardino County, employs Aggrieved Employees in San Bernardino County, and therefore liability under PAGA arises in San Bernardino County.

PARTIES

22. Klapper is an adult individual residing in Texas.

23. Klapper was employed by J&J as a health, safety, and environment manager in J&J's churro manufacturing plant from approximately October 2023 to September 2024.

24. Klapper worked for J&J in Colton, California.

25. In her position as a safety manager, Klapper's primary job duties included overseeing J&J's food safety, inspecting J&J's facility for health and safety violations, quality assurance, environmental health safety, and sanitation management at the churro-manufacturing facility in Colton.

26. Klapper brings this action on behalf of the State of California and on behalf of all of J&J's current and former employees who suffered one or more Labor Code violations Klapper suffered, which are enumerated in Labor Code §§ 2698, *et seq.*, and who worked for J&J any time since one year and 65 days before the filing of this Complaint until final resolution of this Action.

27. These employees are referred to as the "Aggrieved Employees."

28. Klapper is an "Aggrieved Employee" within the meaning of Labor Code § 2699(c) because J&J employed her, and she suffered one or more of the alleged Labor Code, Cal/OSHA, and/or Wage Order violations committed by J&J within the relevant limitations period.

29. Klapper and the other Aggrieved Employees were employees of J&J at all relevant times, within the meanings set forth in the Labor Code and applicable Wage Order(s).

30. J & J Snack Foods Corporation of California is a domestic corporation with its principal place of business located in Vernon, California.

31. J&J may be served with process through its registered agent: **C T Corporation System, 330 North Brand Boulevard, Suite 700, Glendale, California.**

32. The true names and capacities, whether a corporation, agent, individual, or otherwise, of DOES 1 through 10, are unknown to Klapper, who therefore sues said Defendants by such fictitious names. Each Defendant designated herein as a DOE is negligently or otherwise

legally responsible in some manner for the events and happenings referred to herein and thereby proximately caused injuries and damages to Klapper as alleged herein. Klapper will seek leave of the Court to amend this Complaint to show their true names and capacities when the same have been ascertained.

33. At all times mentioned here, Does 1 through 10 were the agents, representatives, employees, successors, and/or assigns of Defendants and at all times pertinent hereto were acting within the course and scope of their authority as such agents, representatives, employees, successors, and/or assigns.

34. At all relevant times, Does 1 through 10 are considered Klapper's and the Aggrieved Employees' "employer" within the meaning prescribed in the Labor Code.

35. At all relevant times, Klapper and the other Aggrieved Employees are considered "employees" of Does 1 through 10 within the meaning prescribed by the Labor Code.

36. Klapper is informed and believes that at all relevant times herein mentioned, Defendants and/or DOES 1 through 10 are and were individuals doing business in the State of California. As such and based upon all the facts and circumstances incident to Defendants' business in California, Defendants are subject to the Labor Code.

FACTUAL ALLEGATIONS

37. J&J is a food manufacturing company which produces numerous kinds of well-known snack foods and baked goods, including Hola Churros, Dippin' Dots, and other food products.

38. J&J operates a number of these food facilities in California, including J&J's churro production facility located in Colton, California.

39. J&J's facility in Colton produces churros on a large scale for consumer consumption.

40. In order to manufacture and produce these churros, and to meet their business objectives, J&J employs workers like Klapper and the other Aggrieved Employees.

41. Klapper worked as a safety manager for J&J from approximately October 2023 through September 2024 in the Colton-based churro facility. Klapper also occasionally worked remotely from her home.

Unreimbursed Business Expenses

42. J&J requires Klapper and other Aggrieved Employees to incur various expenses in order to do their jobs.

43. For instance, J&J requires Klapper and other Aggrieved Employees to use their personal vehicles to travel for work-related purposes such as off-site training courses.

44. J&J does not reimburse Klapper and the other Aggrieved Employees for their mileage incurred during these business-related trips.

45. J&J requires Klapper and other Aggrieved Employees who work in managerial positions to use their personal cell phones to do their jobs with J&J, but J&J does not reimburse these employees for the use of their personal cell phones.

46. J&J also requires Klapper and other Aggrieved Employees who occasionally work from home to maintain reliable home internet connections and internet data plans, as well as purchase various home office furnishings, to do their jobs remotely.

47. J&J does not reimburse Klapper or the other Aggrieved Employees for these remote work business expenses purchased for J&J's benefit.

48. J&J does not reimburse Klapper and the other Aggrieved Employees for these necessary work expenditures.

49. Klapper and the other Aggrieved Employees suffered unreimbursed business expenses and other harm as a result of J&J's practices.

Cal/OSHA Violations

50. J&J subjects Klapper and the other Aggrieved Employees to unsafe and unhealthy work conditions in violation of Labor Code §§ 6400, *et seq.*

51. The churro-production facility where Klapper worked in Colton is a large food production plant of approximately 44,000 square feet in size.

52. J&J manufactures and produces churros at this Colton facility for large-scale distribution and consumer consumption.

53. Making churros at such a large scale is a multi-step process. A simplified version of the process is as follows:

- a. The basic ingredients are prepared in the “scratch mix”;
- b. The “scratch mix” then goes to the mixer to mix the product into the base churro dough;
- c. The dough then goes to the extruder machine to shape the dough into a long tube-like churro shape;
- d. The dough-version of the churro then goes into the fryer, which uses cooking oil to fry the dough;
- e. From the fryer, the churro then goes to the “spiral” chiller to freeze the churro;
- f. The frozen/chilled churro then goes to the packaging station; and
- g. Finally, the packaged churro product goes through a metal detection process to ensure consumer safety

54. Klapper observed, on multiple occasions, that J&J’s spiral chillers have refrigerant leaks (specifically, on Spiral 1 and Spiral 2) which results in ammonia entering the closed facility.

55. The Aggrieved Employees in the facility are, and were, exposed to unacceptably high levels of ammonia for extensive periods throughout the workday.

56. Klapper was exposed to the ammonia on multiple occasions during her routine inspections of the floor, and therefore was aggrieved by J&J’s conduct.

57. Klapper reported these leaks and ammonia exposure to J&J on multiple occasions, but J&J did not repair the root cause of the leaks or otherwise properly ameliorate the ammonia exposure using filters, protective gear, or otherwise.

58. Klapper also observed, on numerous occasions, that J&J’s large, commercial-grade fryers are in disrepair.

59. The fryers used at J&J's churro production facility are older models and therefore not up to newer safety standards.

60. Replacement parts for the older fryers are also not readily available.

61. J&J allows these older-model fryers to remain in disrepair while Aggrieved Employees utilize them to fry the churros in large quantities.

62. As a result of the state of disrepair of the fryers, the fryers used by J&J at the churro facility regularly burn cooking oil used to fry the churros, causing smoke to rise and infiltrate the facility and expose Aggrieved Employees, including Klapper, to unsafe and unhealthy working conditions.

63. Klapper was exposed to the smoke on multiple occasions during her routine inspections of the floor, and therefore was aggrieved by J&J's conduct.

64. The smoke emanating from the fryers regularly enters closed areas, affecting all workers, including Klapper and the Aggrieved Employees.

65. There are approximately 45 workers within the affected areas at any given time.

66. Klapper reported the smoke exposure and faulty fryers to J&J on multiple occasions, but J&J did not adequately repair the fryer or replace them, and otherwise declined to take action.

67. Despite consistent smoke and ammonia exposure within the closed facility, J&J does not provide the Aggrieved Employees, including Klapper, with masks, filters, breathing apparatuses, or other protective gear to address the air contaminants.

68. The ammonia exposure and smoke exposure causes Klapper and other Aggrieved Employees to suffer physical harm, including but not limited to eye irritation and difficulty breathing.

69. Further environmental hazards include improper ventilation through J&J's churro facility, resulting in exacerbation of the ammonia and smoke exposure, as well as dangerously-high temperatures in the facility.

70. Due to improper ventilation and air conditioning, and in no small part to the facility running four large fryers with boiling oil throughout its daily operation, temperatures within J&J's

facility can rise to extreme levels, sometimes over 100 degrees Fahrenheit and at times upwards of 120 degrees.

71. Klapper reported these dangerously-high indoor temperatures to J&J.

72. Klapper and the other Aggrieved Employees are exposed to these high temperatures while they are working in J&J's facility.

73. Rather than address the ventilation and air conditioning issues, upon information and belief, J&J instead purchased a "swamp cooler" (*i.e.*, a large fan that sprays a water mist into the stream of air).

74. A "swamp cooler" is a portable fan unit that relies on evaporation and air flow to "cool" a given space, and are generally used either outdoors or indoors with open windows/doors.

75. In order for evaporative cooling to work efficiently an in indoor space, a window or door (or multiple windows and doors) should be open while the "swamp cooler" is in operation.

76. This helps increase the air flow from the cooler, while also bringing fresh air into the given space.

77. As used in J&J's churro facility, however, the "swamp cooler" does not adequately address the heat, as the facility remains closed (*i.e.*, no windows or doors are opened) and ventilation is still poor inside the facility.

78. Rather than cool the space, the "swamp cooler" increases humidity within the facility and circulates water particles near hot oil fryers, creating a potential fire hazard.

79. The "swamp coolers" also leak water onto the floor, either through a leak in the water well or through condensation on the cooler's instruments, creating slip hazards in J&J's commercial fryer facility.

80. Klapper reported these issues to J&J, but J&J did not rectify these hazards.

81. J&J's oil fryers also produce a large amount of grease on a regular basis.

82. However, Klapper observed that J&J does not have a regular or consistent grease disposal practice or schedule.

83. Due to J&J's failure to maintain proper grease maintenance in the Colton facility, the grease traps for the large fryers would consistently over-fill, become backed up, and spill out globs of congealed grease.

84. J&J's improper grease maintenance constitutes a fire hazard and sanitation hazard at the facility for Klapper and the other Aggrieved Employees.

85. Klapper slipped and fell in the facility on at least one occasion as a result of the grease exposure on the floor, as did other Aggrieved Employees.

86. The improper grease traps are a slip/fall hazard in the facility.

87. Klapper reported these grease-related issues to J&J, but J&J did not take action to ameliorate the cause(s) of the over-filled grease traps.

88. The Labor Code requires employers to take steps to protect workers from any safety hazards, including the environmental hazards found at J&J's churro facility.

89. Applicable provisions with which J&J did not comply, as described herein, include:

- a. Labor Code § 6400, which requires every employer to furnish employment and a place of employment that is safe and healthful for the employees therein;
- b. Labor Code § 6401, which requires that every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe and healthful and shall do every other thing reasonably necessary to protect the life, safety, and health of employees;
- c. Labor Code § 6401.7, which requires every employer to establish, implement, and maintain effective injury prevention programs, correct unsafe and unhealthy conditions and work practices in a timely manner, train employees, and maintain appropriate records of steps taken to implement and maintain safety programs;

- d. Labor Code § 6402, which requires that no employer shall require or permit an employee to go or be in any employment or place of employment which is not safe and healthful;
- e. Labor Code § 6403, which requires that no employer shall fail or neglect to provide and use reasonably adequate safety devices and safeguards, adopt or use reasonably adequate methods and process, or to do every other thing reasonably necessary to protect the life, safety, and health of employees;
- f. Labor Code § 6404, which requires that no employer shall occupy or maintain any place of employment that is not safe and healthful;
- g. Labor Code § 6407, which requires that every employer must comply with the occupational safety and health standards, within section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to this division, which are applicable to his own actions and conduct

90. General Industry Safety Orders propagated by Cal/OSHA establish minimum standards and apply to all employments and places of employment as defined by Labor Code § 6303. (*See* 8 CCR § 3202.)

91. J&J's policies and practices as described herein violated the following Safety and Health Standards set forth by Cal/OSHA in the California Code of Regulations, title 8:

- a. Section 3309, which requires employers to have proper ventilation, or other means of protecting employees, for trenches, tunnels, and pits inside buildings;
- b. Section 3362, which requires employers to keep workplaces and passageways clean, orderly and in a sanitary condition and to minimize the contamination of the air to avoid harmful exposures;
- c. Section 3366, which requites employers to provide washing facilities for maintaining cleanliness;
- d. Section 3382, which requires employers to provide safeguards by means of face or eye protection to employees working in locations where there is a

risk of receiving eye injuries such as burns from contact with hazardous substances inherent in the work environment;

e. Section 3387, which requires employers to provide safety devices, including protective clothing, that is capable of being easily cleaned and disinfected;

f. Section 5141, which requires employers to prevent harmful exposures to employees by engineering controls, administrative controls, or by providing respiratory protective equipment;

g. Section 5142, which requires employers to maintain and operate heating, ventilating, and air conditioning (HVAC) systems to provide basic minimum levels of air quality and temperature, operated continuously during working hours; and

h. Section 5144, which requires that employers take minimum steps to ensure safe and effective use of respirators required in the workplace due to hazards caused by environmental contaminants, such as ammonia or smoke.

92. J&J is required under California law to provide protective equipment (PPE) to its employees. (*See* Lab. Code §§ 6401, 6403; 9 CCR § 3380(d).)

93. Moreover, it is well-established that the Labor Code requires employers to do so at their own expense. (*See Bendix Forest Prods. v. Occupational Safety & Health Div.* (1979) 25 Cal.3d 465, 470–473 [analyzing Labor Code §§ 6401 and 6403, discussing “the primacy of the employer’s responsibility for the safety of employees,” and citing *Oakland Police Officers Ass’n v. City of Oakland* (1973) 30 Cal. App. 3d 96].) This is true even where an employee supplies her own protective equipment.

94. Throughout the relevant time period, J&J repeatedly ignored and/or failed to implement proper ventilation or provide proper PPE to alleviate the hazardous conditions outlined herein, including ammonia exposure, smoke exposure, and high heat conditions.

95. Klapper’s experiences exemplify J & J’s failure to provide a healthy and safe work environment.

96. Indeed, as the health and safety manager, Klapper was front and center in not only experiencing these unsafe conditions firsthand during her routine inspections of the facility, but also in witnessing their effects on the other Aggrieved Employees.

97. Klapper likewise reported these hazardous conditions to J&J on multiple occasions.

98. Despite being put on notice of these hazardous and unsafe conditions, including unsafe ammonia exposure and high-heat conditions to its workers, J&J declined to take remedial action or provide PPE to alleviate the health concerns.

99. J&J employs many workers who are at high risk of ammonia exposure, smoke exposure, high heat exposure, slip-and-fall hazards, and fire hazards from grease trap maintenance issues.

100. J&J, as a matter of policy and practice, *inter alia*: (1) fails to implement an adequate workplace-specific plan; (2) does not provide employees with adequate training on the various hazards described herein; (3) does not provide adequate ventilation or HVAC engineering solutions; (4) fails to keep the floors of its facility reasonably clean and grease-free; (5) fails to update its ventilation systems; and (6) fails to provide sufficient PPE.

101. In sum, J&J fails to follow public health guidelines or comply with the law to provide a safe and healthful work environment for its workers, including Klapper and the other Aggrieved Employees.

Pre-Suit Administrative Procedure Compliance

102. On August 13, 2025, Klapper submitted a Cal/OSHA Workplace Safety Complaint to DOSH in accordance with Labor Code § 2699.3(b). (*See* Exhibit A-1.)

103. Klapper also submitted a copy of her Workplace Safety Complaint to the LWDA via electronic submission and to J&J via certified mail in conformity with Labor Code § 2699.3(b). (*Id.*)

104. Under Labor Code § 6309, DOSH is required to investigate a complaint from an employee no later than 3 working days after an allegation of a serious violation or 14 calendar days after an allegation of a non-serious violation.

105. DOSH is required to “inform the complainant, whenever his or her identity is known, of any action taken by the division in regard to the subject matter of the complaint, and the reasons for the action, within 14 calendar days of taking any action.” (Lab. Code § 6309.)

106. Where an inspection or investigation does not occur within the time set by Labor Code § 6309, Section 2699.3(c) of the Labor Code governs the rest of the administrative exhaustion process for health and safety-related PAGA claims. (*See Sprewell v. Federal Express Corp.* (C.D. Cal. May 19, 2021) No. 2:20-cv-11612-SVW-AGR, 2021 4706703, at *4–5 [“Because the Division failed to meet the 3- and 14-day deadlines in section 6309, the provisions of subdivision (c) apply to Defendant’s alleged violations.”].)

107. More than 14 calendar days passed following submission of Klapper’s Workplace Safety Complaint and DOSH did not respond or take any action with respect to Klapper’s Workplace Safety Complaint.

108. DOSH failed to meet the 3- and 14-day deadlines under Labor Code § 6309.

109. Klapper therefore complied with the first procedural requirement under Labor Code § 2699.3(b)(1).

110. Because DOSH failed to inspect or investigate the alleged violations, the provisions of Labor Code § 2699.3(c) applies to the determination of the alleged violation. (Lab. Code § 2699.3(b)(2)(B); *see also Sprewell, supra*, 2021 WL 4706703, at *5.)

111. On August 28, 2025, Klapper submitted a PAGA Notice to the LWDA in conformity with the requirements of Labor Code § 2699.3(b)(2)(B) and (c) advising of her intent to pursue civil penalties on behalf of the State of California and Aggrieved Employees for the various Labor Code violations described in her letter, including the civil penalties available for Cal/OSHA violations under Labor Code §§ 6400, *et seq.* (*See Exhibit A.*)

112. Klapper’s PAGA Notice included the specific provisions of the Labor Code alleged to have been violated, including the facts and theories supporting the alleged violations. (*Id.*)

113. Klapper’s PAGA Notice alleged violations of Labor Code § 2802 for failure to reimburse necessary business expenditures. (*Id.*)

114. Klapper's PAGA Notice also alleged violations of Labor Code §§ 6400, 6401, 6401.7, 6402, 6403, and 6404. (*Id.*)

115. At no point did DOSH, or the Department of Industrial Relations, or the LWDA issue a notice of intent to investigate with regard to Klapper's Workplace Safety Complaint or her PAGA Notice.

116. More than 65 days passed following Klapper's submission of her PAGA Notice without notice or intervention from the LWDA.

117. As such, Klapper has satisfied all administrative prerequisites to commence this civil enforcement action in compliance with § 2699.3(a), (b), and (c).

COUNT I

Civil Penalties Pursuant to Labor Code § 2699(a)

(Cal/OSHA Civil Penalties)

118. Klapper incorporates all other paragraphs by reference.

119. Labor Code § 2699(a) provides:

Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees.

120. At all relevant times, PAGA applied to J&J's employment of Klapper and the other Aggrieved Employees.

121. At all relevant times, PAGA provides that any provision of law under the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA for violations of the Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of her- or himself and other current or former employees pursuant to procedures outlined in Labor Code § 2699.3.

122. A civil action under PAGA may be brought by an “aggrieved employee,” meaning any person that was employed by the alleged violator within the relevant statute of limitations and against whom one or more of the alleged violations was committed.

123. Klapper was employed by J&J within the time period of one year and 65 days before the filing of this Complaint.

124. Klapper suffered each of the alleged Labor Code violations discussed herein at least once within that time frame.

125. Klapper is therefore an aggrieved employee.

126. Labor Code § 2699.3(b) and (c) govern PAGA actions for civil penalties arising from violations of the Labor Code §§ 6300, *et seq.*, which require employers to provide a safe and healthful workplace for employees.

127. Labor Code § 6427(a) provides that employers who violate Cal/OSHA may be assessed a civil penalty of up to \$12,741 for each violation deemed non-serious in nature.

128. Labor Code § 6428 provides that employers who violate Cal/OSHA may be assessed a civil penalty up to \$25,000 for each violation deemed serious in nature.

129. Labor Code § 6429 provides that employers who willfully violate Cal/OSHA may be assessed a civil penalty up to \$124,709 for each willful violation.

130. Klapper, on behalf of the State and the Aggrieved Employees, seeks civil penalties in the amounts described under Labor Code §§ 6427, 6428, and 6429 for each violation of the alleged Cal/OSHA provisions within the relevant statutory period.

131. Klapper seeks the aforementioned penalties on behalf of the State and the other Aggrieved Employees as set forth in Labor Code § 2699(g) and (i).

132. J&J is liable to the Aggrieved Employees and the State of California for the civil penalties set forth in this Complaint, with interest thereon.

133. Klapper is also entitled to an award of attorneys’ fees and costs as set forth below.

134. Wherefore, Klapper and the Aggrieved Employees request relief as hereinafter provided.

COUNT II**Civil Penalties Pursuant to Labor Code § 2699(f)****(Lab. Code § 2802 Violations)**

135. Klapper incorporates all other paragraphs by reference.

136. Labor Code § 2699(f) provides:

For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

137. Labor Code § 2802 requires employers to indemnify employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties.

138. To the extent that any violation alleged herein does not carry penalties under Labor Code § 2699(a), Klapper seeks civil penalties pursuant to Labor Code § 2699(f) for the Aggrieved Employees for each pay period in which such employee was aggrieved, in the amounts established by Labor Code § 2699(f).

139. Klapper seeks civil penalties under Labor Code § 2699(f) for J&J's violations of Labor Code § 2802.

140. Pursuant to Labor Code § 2699.3(a)(1) and (2), Klapper provided the LWDA with notice of her intention to file this claim on August 29, 2025.

141. More than sixty-five (65) calendar days have passed without notice from the LWDA. Thus, Klapper satisfied all administrative prerequisites to commence this civil enforcement action to address J&J's violations of Labor Code § 2802.

142. Klapper seeks the aforementioned penalties on behalf of the Aggrieved Employees and the State of California as set forth in Labor Code § 2699(g) and (i).

143. Labor Code § 2699(f)(2) provides a civil penalty of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation of a Labor Code provision that does

not provide for a civil penalty if, at the time of the violation, the employer employs one or more employees. Labor Code § 2699(f)(2) provides for a civil penalty of two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation of a Labor Code provision that does not provide a civil penalty if, at the time of the violation, the employer employs one or more employees.

144. J&J is liable to the State of California and Aggrieved Employees for the civil penalties set forth in this Complaint.

145. Klapper is also entitled to an award of attorneys' fees and costs.

146. Wherefore, Klapper and the Aggrieved Employees request relief as hereinafter provided.

RELIEF REQUESTED

WHEREFORE, Klapper, on behalf of the State of California and the Aggrieved Employees, seeks the following relief:

- a. A Declaratory Judgment that J&J violated Labor Code §§ 2802, 6400, 6401, 6401.7, 6402, 6403, and 6404;
- b. An Order awarding civil penalties against J&J to the fullest extent provided for by PAGA;
- c. An award of attorneys' fees, costs, and expenses as provided by the Labor Code, including Section 2699(g)(1), Code of Civil Procedure § 1021.5, and/or any other applicable law;
- d. Pre- and post-judgment interest on any amounts awarded at the highest applicable rates allowed by law; and
- e. For such other and further relief as the Court deems just and proper.

1 Date: November 3, 2025

2 **LAUREL EMPLOYMENT LAW APC**

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4 Joshua I. White, Esq.
5 William M. Hogg, Esq.

6 *Attorneys for Klapper, on behalf of the State of*
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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO**
Klapper, et al. v. J & J Snack Foods Corp. of Cal., et al.

EXHIBIT A



August 28, 2025

ELECTRONICALLY FILED

Attn: PAGA Administrator
Labor and Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, California 94612
PAGAfilings@dir.ca.gov

Re: Private Attorneys General Act of 2004 ("PAGA") Notice

LWDA No.: LWDA-CM-1118516-25

Employees: Marla Klapper

Employer: J & J Snack Foods Corp. of California

Dear PAGA Administrator:

Pursuant to California Labor Code § 2699.3(a)(1), Marla Klapper notifies the California Labor & Workforce Development Agency ("LWDA") that she intends to seek civil penalties pursuant to California Labor Code § 2699(a) and (f) for violations of the following provisions of the California Labor Code by J & J Snack Foods Corp. of California ("J&J"), as well as any unknown related entities involved in the alleged violations:

1. Failure to reimburse for necessary business expenses (LAB. CODE § 2802);
2. Failure to adopt reasonably adequate safety/health practices (LAB. CODE § 6401);
3. Failure to correct unsafe/unhealthy conditions in a timely manner (LAB. CODE § 6401.7);
4. Requiring employees to be in unsafe/unhealthful place of employment (LAB. CODE § 6402);
5. Neglect to use reasonably adequate methods to render employment safe (LAB. CODE § 6403); and

6. Failure to maintain safe and healthful place of employment (LAB. CODE § 6404).

Ms. Klapper, who has been aggrieved by each of J&J's violative employment practices stated above, intends to bring a civil action against J&J pursuant to PAGA on behalf of herself, the State of California, and other Aggrieved Employees. Specifically, the Aggrieved Employees at issue here are (1) all of J&J's current and former employees who incurred necessary business expenses and worked anywhere in California; and/or (2) all of J&J's current and former employees who worked at J&J's food manufacturing facility in Colton, California during the relevant statutory period.

Background of J&J:

J&J is a food manufacturing company which produces numerous kinds of well-known snack foods and baked goods, including Hola Churros, Dippin' Dots, and other food products. J&J operates a number of these food production facilities in California. J&J's food manufacturing facility in Colton, California produces churros for consumer consumption.

Background of Aggrieved Employees:

Ms. Klapper worked as a health, safety, and environment manager in J&J's churro-manufacturing plant located in Colton, California from approximately October 2023 to September 2024. J&J classified Ms. Klapper as an exempt employee and paid her on a salary rate basis.

In her position as a safety manager, Ms. Klapper's primary job duties included overseeing J&J's food safety, quality assurance, food safety, environmental health safety, and sanitation management at the churro-manufacturing facility.

The Aggrieved Employees are current and former employees of J&J who either worked anywhere in California and incurred necessary business expenses or otherwise any employee who worked at J&J's facility in Colton. Like Ms. Klapper, the Aggrieved Employees are (1) employees who incurred business expenditures that were not reimbursed by J&J or (2) employees who were affected by J&J's unsafe and unhealthy working conditions in the Colton facility as described in Ms. Klapper's August 13, 2025 complaint made to Cal/OSHA (attached as Exhibit 1 herein) and as otherwise described herein.

Allegations:

1. Unreimbursed Business Expenses

Ms. Klapper and the other Aggrieved Employees are required to incur necessary business expenditures in order to do their jobs for J&J, but are not reimbursed by J&J for all such expenses. For instance, J&J required Ms. Klapper and other Aggrieved Employees to use their personal vehicles to travel for required training courses, but were not reimbursed for their mileage. Further,

Ms. Klapper and the Aggrieved Employees who were managers were required to use their personal cell phones to do their jobs with J&J, but were not reimbursed for the use of their personal cell phones. Ms. Klapper and other Aggrieved Employees were also required to maintain home internet data plans and purchase various home office furnishings to do their jobs remotely, but were not reimbursed for these necessary purchases for J&J's benefit. Despite requiring Ms. Klapper and the other Aggrieved Employees to pay out-of-pocket for these various business expenses, among others, J&J does not reimburse these employees for such out-of-pocket expenses.

2. Cal/OSHA Violations

J&J also subjects Ms. Klapper and the other Aggrieved Employees to unsafe and unhealthy work conditions, in violation of the Labor Code §§ 6400, *et seq.* Labor Code § 2699.3(b) allows an aggrieved employee, such as Ms. Klapper, to bring a civil action alleging such violations. Ms. Klapper gave notice by online submission to the Division of Occupational Safety and Health ("DOSH"), and by certified mail to J&J, on August 13, 2025. (*See Exhibit 1.*) This satisfies the first procedural requirement under Labor Code § 2699.3(b)(1). More than 14 calendar days have passed since Ms. Klapper submitted her DOSH complaint, and she has not received any response from DOSH. To Ms. Klapper's knowledge, DOSH has not issued any citation or initiated an investigation as of the date of this notice to the LWDA. As such, Ms. Klapper may proceed with this notice to the LWDA pursuant to Labor Code § 2699.3(c). (*See Lab. Code § 2699.3(b)(2)(B).*)

The J&J facility where Ms. Klapper worked in Colton is a large food production plant approximately 44,000 square feet in size, where J&J manufactures and produces churros. Making churros at this scale is a multi-step process: (1) the basic ingredients are prepared in the "scratch mix"; (2) the "scratch mix" then goes to the mixer to mix the product into the base churro dough; (3) the dough then goes to the extruder machine to shape the dough into a long tube-like churro shape; (4) the dough-version of the churro then goes into the fryer, which uses cooking oil to fry the dough; (5) from the fryer, the churro then goes to the "spiral" chiller to freeze the churro; (6) the frozen/chilled churro then goes to the packaging station; and (7) finally, the packaged churro product goes through a metal detection process to ensure consumer safety.

Ms. Klapper observed, on numerous occasions, that J&J's spiral chillers had refrigerant leaks (specifically, on Spiral 1 and Spiral 2) which resulted in ammonia entering the closed facility. The Aggrieved Employees in the facility were, and are, therefore exposed to unacceptably high ammonia levels for extensive periods. Ms. Klapper, herself, was exposed to the ammonia, and therefore was aggrieved by J&J's conduct. Ms. Klapper reported these leaks and ammonia exposure to J&J on multiple occasions, but J&J did not repair the root cause of the leaks or otherwise properly ameliorate the ammonia exposure.

Ms. Klapper also observed, on numerous occasions, that J&J's fryers were in disrepair. The commercial-grade fryers used at J&J's churro production facility were older models and therefore not up to newer safety standards. Replacement parts for the older fryers are also not readily available. The fryers used by J&J at this facility regularly burn the cooking oil used to fry the

churros, causing smoke to rise and infiltrate the facility and expose the Aggrieved Employees to unsafe and unhealthy working conditions. The smoke emanating from the fryers regularly enters closed areas, affecting all workers, including Ms. Klapper and the Aggrieved Employees. There are approximately 45 workers within the affected areas at any given time. Ms. Klapper reported the smoke to J&J on multiple occasions, but J&J did not adequately repair the fryer or replace them, and otherwise declined to take action.

Despite consistent smoke and ammonia exposure within the closed facility, the Aggrieved Employees are not provided with any masks, filters, breathing apparatuses, or other protective gear by J&J to address the ammonia exposure. The ammonia exposure caused Ms. Klapper and the other Aggrieved Employees to suffer physical harm, including eye irritation and difficulty breathing.

Further environmental hazards include improper ventilation throughout J&J's facility, resulting in dangerously-high temperatures in the facility. Due to improper ventilation and air conditioning, and in no small part to the facility running four large fryers with boiling oil throughout its operation, temperatures within the facility can rise to extreme levels, sometimes over 100 degrees Fahrenheit and at times upwards of 120 degrees. Ms. Klapper reported these dangerously-high indoor temperatures to J&J. Ms. Klapper and the other Aggrieved Employees were exposed to these high temperatures while they were in the facility. Rather than address the ventilation and air conditioning issues, upon information and belief, J&J instead purchased a "swamp cooler" (*i.e.*, a large fan that sprays a water mist into the stream of air). A "swamp cooler" is a portable fan unit that relies on evaporation and air flow to "cool" a given space, and are generally used either outdoors or with open windows/doors. In order for evaporative cooling to work efficiently in an indoor space, a window or door (or multiple windows and doors) should be open while the "swamp cooler" is in operation. This helps increase the air flow from the cooler, while also bringing fresh air into the space. As used in J&J's churro facility, the "swamp cooler" did not adequately address the heat, as the facility remained closed (*i.e.*, no windows or doors were opened) and ventilation was still poor inside the facility. Rather than cool the space, the "swamp cooler" circulated water particles near hot oil fryers, creating a potential fire hazard. The "swamp coolers" also leaked water onto the floor, creating slip hazards in a commercial fryer facility. Ms. Klapper reported these issues to J&J, but J&J did not rectify these hazards.

J&J's oil fryers also produce a large amount of grease on a regular basis. However, Ms. Klapper observed that J&J did not have a regular or consistent grease disposal practice or schedule. Due to J&J's failure to maintain proper grease maintenance in the Colton facility, the grease traps for the large fryers would consistently over-fill, become backed up, and spill out globs of congealed grease. This improper grease maintenance constituted a fire hazard and sanitation hazard at the facility for Ms. Klapper and the other Aggrieved Employees. Ms. Klapper slipped and fell in the facility as a result of the grease exposure on the floor, as did other Aggrieved Employees. The improper grease traps were a slip/fall hazard in the facility. Ms. Klapper reported these grease-related issues to J&J, but J&J did not take action to ameliorate the cause(s) of the over-filled grease

traps.

In sum, J&J has violated multiple Cal/OSHA regulations and sections of the California Labor Code. These include, but are not necessarily limited to, violation of 9 CCR § 3309, for failure to maintain proper drainage and ventilation; 8 CCR § 3362, for failure to keep the Colton facility clean, orderly, and in a sanitary condition and/or for failing to properly maintain grease traps; 8 CCR § 3366, for failure to provide adequate sanitation in the workplace; 8 CCR § 3382, for failure to provide eye and face protection to employees who are exposed to unsafe levels of ammonia and/or smoke; 8 CCR § 3387, for failure to provide adequate and reasonable protective gear/safety devices; 8 CCR § 5141, for failure to control exposure to hazardous substances, including but not limited to ammonia and/or smoke; 8 CCR § 5142, for failure to properly ventilate the facility, maintain HVAC equipment, and/or otherwise maintaining an environment in which temperatures are allowed to rise dangerously high; 8 CCR § 5144 for failure to provide respiratory protection; and California Labor Code §§ 6400(a), 6401, 6401.7, 6402, 6403, and 6404. J&J has knowingly failed to adequately safeguard and provide a healthful workplace to Ms. Klapper and the other Aggrieved Employees.

As outlined herein, Ms. Klapper and the other Aggrieved Employees are not reimbursed for all necessary business expenditures in violation of Labor Code § 2802. Ms. Klapper and the other Aggrieved Employees are also exposed to unsafe and unhealthy work environment by J&J, in violation of Labor Code §§ 6400, *et seq.* Ms. Klapper therefore intends to seek civil penalties and other relief against J&J on her own behalf, on behalf of the State of California, and on behalf of the other Aggrieved Employees pursuant to PAGA.

Ms. Klapper is represented by Laurel Employment Law APC. Laurel Employment Law APC has extensive experience in the successful litigation and resolution of employment and representative actions. A description of the work, mission, and credentials of the firms can be found at www.laurelemploymentlaw.com. Ms. Klapper and her counsel are committed to zealously pursuing redress on behalf of the State of California and all other Aggrieved Employees for the violations and civil penalties set forth above.

If I can be of any assistance, please do not hesitate to contact me. We would appreciate hearing from the LWDA at its earliest convenience, and we thank you for your careful consideration of this matter.

Sincerely,



William M. Hogg (SBN 338196)

LAUREL EMPLOYMENT LAW APC

808 Wilshire Boulevard, Suite 200

Santa Monica, California 90401

Tel: (323) 285-6131

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william@lauremploymentlaw.com

VIA CERTIFIED MAIL TO:

J&J Snack Foods Corp of California
c/o C T Corporation System
330 North Brand Boulevard, Suite 700
Glendale, California 91203

CC via EMAIL TO:

Erin D. Leach (eleach@swlaw.com)
SNELL & WILMER LLP

EXHIBIT 1



August 13, 2025

Electronically Submitted Pursuant to Cal. Lab. Code § 2699.3(b)

DOSHB@dir.ca.gov

Division of Occupation Safety & Health District Office
464 West Fourth Street, Suite 332
San Bernardino, California 92401

Re: Cal/OSHA Workplace Safety Complaint

Employees: Marla Klapper

Employer: J&J Snack Foods Corp. of California

To Whom It May Concern:

Laurel Employment Law APC currently represents Ms. Marla Klapper, a former health, safety, and environment employee of J&J Snack Foods Corp. of California ("J&J"). We write you on Ms. Klapper's behalf to report serious, willful workplace safety violations pursuant to 8 CCR § 334. As set forth below, J&J has in place multiple unsafe, unhealthful practices and operations that expose its employees to a high risk of injury, including over-exposure to ammonia, smoke, and other hazardous conditions. *See* 8 CCR § 334(c). Moreover, J&J is well aware that unsafe conditions exist for its employees, has made no reasonable efforts to eliminate those conditions, and has in some instances actively rejected requests and recommendations to implement practices that would reduce hazards to its employees. *See* 8 CCR § 334(e).

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In her position as a safety manager, Ms. Klapper's primary job duties included overseeing J&J's food safety, quality assurance, food safety, environmental health safety, and sanitation management at the churro-manufacturing facility.

The facility where Ms. Klapper worked in Colton was a large food production plant approximately 44,000 square feet in size. Making churros at this scale is a multi-step process: (1) the basic ingredients are prepared in the "scratch mix"; (2) the "scratch mix" then goes to the mixer to mix the product into the base churro dough; (3) the dough then goes to the extruder machine to shape the dough into a long tube-like churro shape; (4) the dough-version of the churro then goes into the fryer, which uses cooking oil to fry the dough; (5) from the fryer, the churro then goes to the "spiral" chiller to freeze the churro; (6) the frozen/chilled churro then goes to the packaging station; and (7) finally, the packaged churro product goes through a metal detection process to ensure consumer safety.

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evaporation and air flow to “cool” a given space, and are generally used either outdoors or with open windows/doors. In order for evaporative cooling to work efficiently in an indoor space, a window or door (or multiple windows and doors) should be open while the “swamp cooler” is in operation. This helps increase the air flow from the cooler, while also bringing fresh air into the space. As used in J&J’s churro facility, the “swamp cooler” did not adequately address the heat, as the facility remained closed (*i.e.*, no windows or doors were opened) and ventilation was still poor inside the facility. Rather than cool the space, the “swamp cooler” circulated water particles near hot oil fryers, creating a potential fire hazard. The “swamp coolers” also leaked water onto the floor, creating slip hazards in a commercial fryer facility. Ms. Klapper reported these issues to J&J, but J&J did not rectify these hazards.

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In sum, J&J has violated multiple Cal/OSHA regulations and sections of the California Labor Code. These include, but are not necessarily limited to, violation of 9 CCR § 3309, for failure to maintain proper drainage and ventilation; 28 CCR § 3362, for failure to keep the Colton facility clean, orderly, and in a sanitary condition and/or for failing to properly maintain grease traps; 8 CCR § 3366, for failure to provide adequate sanitation in the workplace; 8 CCR § 3382, for failure to provide eye and face protection to employees who are exposed to unsafe levels of ammonia and/or smoke; 8 CCR § 3387, for failure to provide adequate and reasonable protective gear/safety devices; 8 CCR § 5141, for failure to control exposure to hazardous substances, including but not limited to ammonia and/or smoke; 8 CCR § 5142, for failure to properly ventilate the facility, maintain HVAC equipment, and/or otherwise maintaining an environment in which temperatures are allowed to rise dangerously high; 8 CCR § 5144 for failure to provide respiratory protection; and California Labor Code §§ 6400(a), 6401, 6401.7, 6402, 6403, and 6404. J&J has knowingly failed to adequately safeguard and provide a healthful workplace to its employees.

We respectfully request that Cal/OSHA notify us as to whether it intends to investigate the alleged violations as soon as possible.

We thank you for your attention to this matter. If you have any questions, please do not hesitate to contact us.

Very truly yours,

LAUREL EMPLOYMENT LAW APC



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Tel: (323) 285-3161
william@lauremploymentlaw.com

cc: **VIA ONLINE SUBMISSION**

Labor and Workforce Development Agency
<https://dir.govfa.net/411>

VIA CERTIFIED MAIL TO:

J&J Snack Foods Corp of California
c/o C T Corporation System
330 North Brand Boulevard, Suite 700
Glendale, California 91203