

2. Between 2006 and 2011, each Plaintiff and member of the Class entered into a standard five-year “Joint Venture General Manager Employment and Confidentiality Agreement” and “Joint Venture General Manager Compensation Plan” with Panera. The Agreement and Plan were form contracts drafted by Panera. The relevant terms of the individual Agreements and Compensation Plans between Panera and each Plaintiff and member of the Class were, in all material respects, identical or substantially identical.

ANSWER: Defendants admit Plaintiffs entered into “Joint Venture General Manager Employment and Confidentiality Agreements” and “Joint Venture General manager Compensation Plans” with Defendant Panera, LLC, which were drafted by Defendant, Panera LLC. Those documents speak for themselves. Defendants deny the existence of any “Class” and deny the remaining allegations in Paragraph 2.

3. Together, the JV GM Agreement and Plan comprised the “final, complete, and exclusive agreement between [the JV GM] and Panera with respect to any bonus, incentive plan, or other compensation.”

ANSWER: Defendants admit Plaintiffs entered into “Joint Venture General Manager Employment and Confidentiality Agreements” and “Joint Venture General manager Compensation Plans” with Defendant Panera, LLC. Those documents speak for themselves. Defendants deny the remaining allegations in Paragraph 3.

4. These contracts provided that the JV GM would receive a small annual salary for five years, and, at the end of the fifth year, a percentage share of her café’s profits in the form of a “one-time JV GM Buyout” payment. In plain terms, the contracts required that the amount of the Buyout was to be determined in accordance with specific provisions set forth in the Plan, which turned on the profitability of the JV GM’s café. Pursuant to those provisions, the greater

the difference between the profits generated by the JV GM's café and the applicable pre-determined "profit hurdle", the greater the Buyout amount.

ANSWER: Defendants admit that Plaintiffs entered into an agreement titled "Employment and Confidentiality Agreement" and a plan titled "Joint Venture General Manager Compensation Plan" with Defendant Panera, LLC. Those documents speak for themselves. Defendants deny all remaining allegations in Paragraph 4.

5. Neither the Plan nor the Agreement placed a cap or ceiling on the amount of the Buyout payment, or authorized Panera to reduce the amount of the Buyout payment below the amount required by the Plan. Indeed, the Plan forbade Panera from reducing any JV GM's Buyout payment without a written modification or waiver of the relevant contractual provisions, signed by the JV GM.

ANSWER: Defendants admit that Plaintiffs entered into an agreement titled "Employment and Confidentiality Agreement" and a plan titled "Joint Venture General Manager Compensation Plan" with Defendant Panera, LLC. Those documents speak for themselves. Defendants deny all remaining allegations in Paragraph 5.

6. Panera did not obtain any such written modifications or waivers signed by Plaintiffs or other members of the Class. Panera therefore had a contractual duty to make Buyout payments to each Plaintiff and Class member in the full amount determined in accordance with the provisions of the Plan.

ANSWER: Defendants admit that Plaintiffs entered into an agreement titled "Employment and Confidentiality Agreement" and a plan titled "Joint Venture General Manager Compensation Plan" with Defendant Panera, LLC. Those documents speak for

themselves. Defendants further deny the existence of any “Class” and deny all remaining allegations in Paragraph 6.

7. Panera did not comply with this contractual duty. Instead, beginning no later than January 2012, Panera unilaterally imposed a “cap” on the Buyout payments it made to JV GMs. The purpose and effect of this action, instituted and approved by Panera’s senior executives, was to reduce the amount of the Buyout payments it made to Plaintiffs and the Class below the amount required by the Plan.

ANSWER: Defendants admit Defendant Panera, LLC implemented a cap on Buyout payments to JV GMs in 2012. Defendants deny the existence of any “Class,” and deny the remaining allegations in Paragraph 7.

8. In so doing, Panera enriched itself by depriving these employees of compensation they had bargained for and earned.

ANSWER: Defendants deny the allegations in Paragraph 8.

9. Panera is liable for its actions, which constitute material breach of contract and fraud.

ANSWER: Defendants deny the allegations in Paragraph 9.

10. Plaintiffs, individually and on behalf of the proposed Class, bring this action to recover damages, costs of suit, and reasonable attorneys’ fees arising from Panera’s willful misrepresentations and refusal to perform its contractual obligations.

ANSWER: Defendants admit that Plaintiffs both purport to bring claims against Defendants on behalf of themselves and a “proposed Class” and that Plaintiffs seek to recover damages and obtain injunctive relief, costs of suit, and attorneys' fees. Defendants deny that Plaintiffs – or any putative class member – have a viable cause of action against

them, that a class action is appropriate, and that Plaintiffs are entitled to any of the relief sought. Defendants deny all remaining allegations in Paragraph 10.

11. The Court has personal jurisdiction over Panera because Panera maintains its principal place of business in Missouri. The Court also has personal jurisdiction pursuant to the Agreements at issue in this Complaint, which provide that “each party hereto agrees to submit to the exclusive personal jurisdiction and venue of the state and federal courts in the State of Missouri . . . for resolution of all disputes and causes of action arising out of this agreement.”

ANSWER: Paragraph 11 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants admit that the Court has personal jurisdiction over them. Defendants further state that the documents attached to Plaintiffs’ Complaint speak for themselves. Defendants deny all remaining allegations in Paragraph 11.

12. The Court has subject matter jurisdiction over this class action pursuant to 28 U.S.C. § 1332(d). Diversity of citizenship exists between each of the named Plaintiffs and the Defendants, and less than one-third of the members of the proposed Class are citizens of Missouri. Based upon the nature and extent of the business involved, Plaintiffs believe that there are at least one hundred Class members and that the amount in controversy exceeds \$5 million, exclusive of interest and costs.

ANSWER: Paragraph 12 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants admit that diversity exists between Defendants and Plaintiffs. Defendants deny that Plaintiffs – or any purported class member – have any viable claims against it and further deny that a class action is appropriate. Defendants are without sufficient knowledge or information to form

a belief about Plaintiffs' alleged beliefs, but deny the allegations that there are at least one hundred "Class members" and that the amount in controversy exceeds \$5 million. Defendants deny all remaining allegations in Paragraph 12.

13. Alternatively, the Court has subject matter jurisdiction over this class action pursuant to 28 U.S.C. § 1332(a) and 28 U.S.C. § 1367(a). Diversity of citizenship exists between each of the named Plaintiffs and the Defendants. The Court has original jurisdiction over the claims of at least one of the named Plaintiffs, because the amount in controversy as to at least one of the named Plaintiffs exceeds \$75,000, exclusive of interests and costs. The Court therefore has supplemental jurisdiction over the claims of all other class members, because their claims are so related to the claims within the Court's original jurisdiction that they form part of the same case or controversy.

ANSWER: Paragraph 13 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants admit that diversity of citizenship exists between Defendants and Plaintiffs but deny the remaining allegations in Paragraph 13.

14. The Court has subject matter jurisdiction over the named Plaintiffs' individual claims pursuant to 28 U.S.C. § 1332(a). Diversity of citizenship exists between each named Plaintiff and the Defendants, and the amount in controversy as to each named Plaintiff exceeds \$75,000, exclusive of interest and costs.

ANSWER: Paragraph 14 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny that, to the extent Plaintiffs' class claims fail, the Court should exercise supplemental jurisdiction over their individual claims.

15. Alternatively, the Court has subject matter jurisdiction over the named Plaintiffs' individual claims pursuant to 28 U.S.C. § 1332(a) and 28 U.S.C. § 1367(a). Diversity of citizenship exists between each named Plaintiff and the Defendants. The Court has original jurisdiction over the claims of at least one of the named Plaintiffs, because the amount in controversy as to at least one named Plaintiff exceeds \$75,000, exclusive of interest and costs. The Court therefore has jurisdiction over the claims of the other Plaintiffs because their claims are so related to the claims within the Court's original jurisdiction that they form part of the same case or controversy.

ANSWER: Paragraph 15 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants admit that diversity of citizenship exists between Defendants and Plaintiffs but deny the remaining allegations in Paragraph 15.

16. Venue is proper in this judicial district under 28 U.S.C. § 1391. Panera has its principal place of business in this district, routinely transacts business in this district, and a substantial part of the events that gave rise to this action occurred here.

ANSWER: Paragraph 16 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants admit only that their corporate headquarters lies within this District.

17. Venue is proper in the St. Louis Division under Civil L.R. 3 - 2.07 because Panera has its principal place of business in St. Louis, routinely transacts business in St. Louis, and a substantial part of the events that gave rise to this action occurred in St. Louis.

ANSWER: Paragraph 17 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants admit only that their corporate headquarters lies within this Division.

18. Missouri law applies to the claims of Plaintiffs and all Class members. Application of Missouri law is constitutional, and Missouri has strong interests in deterring unlawful business practices of resident corporations and compensating those harmed by activities occurring in and emanating from Missouri.

ANSWER: Paragraph 18 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants state that the choice of law provisions in the documents titled “Employment and Confidentiality Agreement” and “Joint Venture General Manager Compensation Plan,” attached to Plaintiffs’ Amended Complaint, speak for themselves. Defendants deny all remaining allegations in Paragraph 18.

19. The parties have agreed that Missouri law applies to the claims of Plaintiffs and all Class members. The Employment Agreements at issue in this Complaint provide that “the validity, interpretation, and performance of this Agreement shall be governed by the laws of the State of Missouri without giving effect to the principles of comity or conflicts of laws thereof.”

ANSWER: Paragraph 19 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants state that the choice of law provisions in the documents titled “Employment and Confidentiality Agreement” and “Joint Venture General Manager Compensation Plan,” attached to Plaintiffs’ Complaint, speak for themselves. Defendants deny all remaining allegations in Paragraph 19.

20. Plaintiffs' and Class members' relationship with Panera is centered in Missouri. Panera maintained (and continues to maintain) its principle place of business in St. Louis, and a substantial part of the events that gave rise to this action occurred in St. Louis.

ANSWER: Paragraph 20 contains statement or conclusions of law to which no response is required. To the extent a response is required, Defendants admit that they maintain their principal place of business in St. Louis, Missouri. Defendants deny all remaining allegations in Paragraph 20.

21. For these reasons, among others, Missouri has significant contacts, and a significant aggregation of contacts, with all parties and the acts alleged herein. Missouri's substantial interests in this action far exceed those of any other state.

ANSWER: Paragraph 21 contains statement or conclusions of law to which no response is required. To the extent a response is required, Defendants state that the choice of law provisions in the documents titled "Employment and Confidentiality Agreement" and "Joint Venture General Manager Compensation Plan," attached to Plaintiffs' Amended Complaint, speak for themselves. Defendants deny all remaining allegations in Paragraph 21.

22. Plaintiff Mark Boswell is a resident of North Carolina. From approximately January 25, 2004 until July 1, 2014, Mr. Boswell was a resident of North Carolina and worked for Panera as a Joint Venture General Manager in Concord, North Carolina. On March 4, 2009, Mr. Boswell entered into a Joint Venture General Manager Employment Agreement and Joint Venture General Manager Compensation Plan with Panera, attached hereto as Exhibit 3. As a result of Panera's conduct in violation of these contracts, Mr. Boswell has been injured and damaged in an amount to be determined by the trier of fact.

ANSWER: Defendants are without knowledge or information concerning Plaintiff Boswell's residence and therefore deny the same. Defendants admit that Plaintiff Boswell was previously employed by Defendant Panera, LLC as a Joint Venture General Manager in Concord, North Carolina from approximately January 2004 until May 21, 2014, that Plaintiff Boswell was employed by Panera from May 21, 2014 to July 9, 2014 as a Market Training Manager for Panera 2.0, and that Plaintiff Boswell entered into Joint Venture General Manager Agreement and Joint Venture General Manager Compensation Plan with Defendant Panera, LLC on or about March 4, 2009. Defendants deny all remaining allegations in paragraph 22.

23. Plaintiff David Lutton is a resident of North Carolina. From approximately January 25, 2004 until July 15, 2014, Mr. Lutton was a resident of North Carolina and worked for Panera as a Joint Venture General Manager in Matthews, North Carolina. On April 29, 2009, Mr. Lutton entered into a Joint Venture General Manager Employment Agreement and Joint Venture General Manager Compensation Plan with Panera, attached hereto as Exhibit 4. As a result of Panera's conduct in violation of these contracts, Mr. Lutton has been injured and damaged in an amount to be determined by the trier of fact.

ANSWER: Defendants are without knowledge or information concerning Plaintiff Lutton's residence and therefore deny the same. Defendants admit that Plaintiff Lutton was previously employed by Defendant Panera, LLC as a Joint Venture General Manager in Matthews, North Carolina from approximately January 2004 until July 2014, and that Plaintiff Lutton entered into Joint Venture General Manager Agreement and Joint Venture General Manager Compensation Plan with Defendant Panera, LLC on or about April 29, 2009. Defendants deny all remaining allegations in Paragraph 23.

24. Plaintiff Vickie Snyder is a resident of North Carolina. From approximately 2007 until approximately November 15, 2014, Ms. Snyder was a resident of North Carolina and worked for Panera as a General Manager or Joint Venture General Manager in Huntersville, North Carolina. On July 29, 2009, Ms. Snyder entered into a Joint Venture General Manager Employment Agreement and Joint Venture General Manager Compensation Plan with Panera, attached hereto as Exhibit 5. As a result of Panera's conduct in violation of these contracts, Ms. Snyder has been injured and damaged in an amount to be determined by the trier of fact.

ANSWER: Defendants are without knowledge or information concerning Plaintiff Snyder's residence and therefore deny the same. Defendants admit that Plaintiff Snyder was previously employed by Defendant Panera, LLC as a Joint Venture General Manager in Huntersville, North Carolina from approximately 2007 until November 2014, and that Plaintiff Snyder entered into Joint Venture General Manager Agreement and Joint Venture General Manager Compensation Plan with Defendant Panera, LLC on or about July 29, 2009. Defendants deny all remaining allegations in Paragraph 21.

25. Defendant Panera Bread Company is a Delaware corporation registered to do business in Missouri. Its corporate headquarters are located at 3630 S. Geyer Road, Suite 100, St. Louis, Missouri 63127.

ANSWER: Defendants admit that Panera Bread Company is a Delaware corporation and that it maintains its principal place of business at 3630 South Geyer Road, Suite 100, St. Louis, Missouri 63127.

26. Defendant Panera LLC is a Delaware limited liability company wholly owned by Panera Bread Company. Its principal place of business is also located at 3630 S. Geyer Road, Suite 100, St. Louis, Missouri 63127.

ANSWER: Defendants admit the allegations in Paragraph 26.

27. Panera Bread Company and Panera LLC were the joint employers of Plaintiffs and the members of the proposed Class.

ANSWER: Paragraph 27 contains a statement or conclusion of law to which no response is required. To the extent a response is required, Defendants admit that Plaintiffs were employed by Defendant Panera, LLC. Defendants deny all remaining allegations in Paragraph 27.

28. Plaintiffs bring this action on behalf of themselves and all others similarly situated (the “Class”) pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(3). The Class is defined as follows:

All natural persons who were employed as “Joint Venture General Managers” (“JV GM”) with Panera, or any affiliate or subsidiary of Panera, and who received a capped JV GM Buyout payment from Panera at any time during the period from October 29, 2009 through the date of trial (the “Class Period”). A “capped” JV GM Buyout payment is a JV GM Buyout payment made to an employee in an amount less than the total JV GM Buyout amount determined in accordance with Section 3(b) of the employee’s Joint Venture General Manager Compensation Plan with Panera.

ANSWER: Defendants admit that Plaintiffs purport to bring class action claims against them. Defendants deny that Plaintiffs – or any putative class members – have a viable cause of action against them and further deny that a class action is appropriate. Defendants further deny the existence of any “Class” and deny all remaining allegations in Paragraph 28.

29. These persons constitute a class so numerous that joinder is impracticable. Plaintiffs do not, as yet, know the exact size of the Class because such information is in the exclusive control of Panera. Based upon the nature and extent of the business involved, Plaintiffs believe that there are at least one hundred Class members, and that Class members are geographically dispersed throughout the United States. Joinder of all members of the Class, therefore, is not practicable.

ANSWER: Paragraph 29 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny there is any “Class” or “Class members.” Defendants deny all remaining allegations in Paragraph 29.

30. Joinder is also impracticable as Panera currently employs many members of the proposed class. These persons are unlikely to pursue individual claims against Panera for fear of losing their jobs.

ANSWER: Paragraph 30 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny there are any “members of the proposed class.” Defendants deny all remaining allegations in Paragraph 30.

31. Because Panera acted uniformly in connection with all plaintiffs, this action presents questions of law and fact common to all members of the class, and which predominate over any questions affecting only individual members of the Class.

ANSWER: Paragraph 31 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny there is any “class” or “members of the class.” Defendants deny all remaining allegations in Paragraph 31.

32. The questions of law or fact common to the Class include but are not limited to:

- a. whether Panera's implementation of the JV GM Buyout cap constitutes a material breach of the JV GM Employment Agreement and Compensation Plan;
- b. whether Panera fraudulently induced Plaintiffs and the Class to enter into the JV GM Employment Agreement and Compensation Plan and accept employment with Panera;
- c. whether Plaintiffs and the Class suffered damages as a result of Panera's conduct;
- d. the difference between the JV GM Buyout payments that Plaintiffs and the Class received from Panera, and the JV GM Buyout payments that Plaintiffs and the Class would have received in the absence of the wrongful and fraudulent acts alleged herein;
- e. the type and measure of damages suffered by Plaintiffs and the Class.

ANSWER: Paragraph 32 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny there is any "Class." Defendants deny all remaining allegations in Paragraph 32.

33. These and other questions of law and fact are common to the Class, and predominate over any questions affecting only individual Class members.

ANSWER: Paragraph 33 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny there is any "Class" or "Class members." Defendants deny all remaining allegations in Paragraph 33.

34. The impacts of the offenses committed by Panera are common to all Plaintiffs and members of the Class. Plaintiffs' claims are typical of the claims of the Class. Each named

Plaintiff has a substantial financial interest in this action, and the interests of the named Plaintiffs are neither coincident with nor adverse to the class they represent. Therefore, these named Plaintiffs will adequately protect the interests of the class.

ANSWER: Paragraph 34 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny there is any “Class.” Defendants deny all remaining allegations in Paragraph 34.

35. Plaintiffs have retained counsel competent in class action litigation to represent themselves and the Class.

ANSWER: Paragraph 35 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny there is any “Class.” Defendants deny all remaining allegations in Paragraph 35.

36. At all times relevant, Panera utilized standard form employment agreements and rigid compensation practices that applied uniformly to all or nearly all Class members. Therefore, class-wide evidence is capable of showing that Panera’s conduct violated its contractual obligations generally, and that this violation affected all or virtually all Class members.

ANSWER: Paragraph 36 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny there is any “Class” or “Class members.” Defendants deny all remaining allegations in Paragraph 36.

37. This class action is superior to the alternatives, if any, for the fair and efficient adjudication of this controversy. Prosecution as a class action will eliminate the possibility of repetitive litigation. There will be no material difficulty in the management of this action as a class action. Class treatment also permits the adjudication of claims by individual Class members

throughout the nation who could not otherwise afford to individually litigate breach of contract and fraud claims in the contractually required Missouri forum against these large corporate Defendants. By contrast, prosecution of separate actions by individual Class members would generate unnecessary litigation costs and create the risk of inconsistent or varying adjudications, establishing incompatible standards of conduct for Panera.

ANSWER: Paragraph 37 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny there is any “Class” or “Class members.” Defendants deny all remaining allegations in Paragraph 37.

38. It is desirable to concentrate the litigation of these claims in this forum, which was contractually selected and designated by Panera and agreed to by all Class members, in order to avoid the time and expense of individualized litigation. The cost of individualized litigation, both on the parties and the Missouri courts, would be substantial. Individualized litigation would magnify the expense and delay to all parties and the court system in multiple rounds of discovery and multiple scheduling orders and multiple trials of the issues in this case. By contrast, the conduct of this action as a class action presents no management difficulties, efficiently conserves the resources of the parties and the court system, and protects the rights of each class member.

ANSWER: Defendants deny there is any “Class” or “Class members.” Defendants deny all remaining allegations in Paragraph 38.

39. Beginning in 2004, Panera experienced a dramatic reduction in the percentage of stores that were franchise owned, and a corresponding increase in its reliance on company-owned stores to drive growth. Between 2005 and 2014, the percentage of company-owned stores

to total stores increased from 30% to 49%, and the number of company-owned stores nearly tripled, from 311 stores to 867 stores.

ANSWER: Defendants admit that between 2005 and 2014, Defendants experienced growth in the number of company-owned stores. Defendants deny the remaining allegations in Paragraph 39.

40. This change threatened to dramatically impact Panera's earnings. Indeed, Panera had a near 100% profit margin on franchisee stores, while company-owned stores generated profit margins of only 19%.

ANSWER: Defendants admit their franchisee stores generate different profit margins than their company-owned stores. Defendants deny the remaining allegations in Paragraph 40.

41. In approximately 2004, Panera's increasing reliance on company-owned stores prompted it to institute Panera's Joint Venture Program, the primary goal of which was to improve Panera's profit margins at its company-owned stores. In furtherance of this purpose, the Panera created and offered standard "Joint Venture" contracts that promised key employees a specific percentage share of the profits at the cafes where they worked.

ANSWER: Defendants admit Panera, LLC created a Joint Venture Program and entered "Joint Venture General Manager Employment Agreements" and "Joint Venture Compensation Plans" with certain employees. Defendants deny the remaining allegations in Paragraph 41.

42. In approximately 2004, Panera began offering the standard Joint Venture General Manager Employment Agreement and Compensation Plan, attached as Exhibits 1 and 2, to recruit and retain general managers to run Panera's company-owned stores. Panera continued to

offer this JV GM Employment Agreement and Compensation Plan until approximately 2011. These contracts had a duration of five years.

ANSWER: Defendants admit Panera, LLC entered “Joint Venture General Manager Employment Agreements” and “Joint Venture Compensation Plans,” similar to those attached as Exhibits 1 and 2 to Plaintiffs’ Amended Complaint, with certain employees and that one purpose of the agreements was to retain those employees to run Defendants’ company-owned bakery-cafés. Defendants deny the remaining allegations in Paragraph 42.

43. Between approximately 2006 and 2011, each Plaintiff and member of the Class entered into a standard JV GM Employment Agreement and Compensation Plan, attached as Exhibits 1 and 2, with Panera.

ANSWER: Defendants admit that Plaintiffs entered into the agreement titled “Employment and Confidentiality Agreement” and plan titled “Joint Venture General Manager Compensation Plan” with Defendant Panera, LLC that are attached to the Amended Complaint. Those documents speak for themselves. Defendants deny the existence of any “Class” and deny all remaining allegations in Paragraph 43.

44. Pursuant to these contracts, each Plaintiff and Class member agreed to be employed by Panera as the Joint Venture General Manager (“JV GM”) of a company-owned café for five years, with managerial responsibility for all of the café’s daily operations, and supervisory responsibility over all other employees at the café.

ANSWER: Defendants admit that Plaintiffs entered into the agreement titled “Employment and Confidentiality Agreement” and plan titled “Joint Venture General Manager Compensation Plan” with Defendant Panera, LLC that are attached to the

Amended Complaint. Those documents speak for themselves. Defendants are without sufficient information to form a belief as to any agreement that may have been entered into by unnamed “Class Members” and therefore deny the same. Defendants deny the existence of any “Class” and deny all remaining allegations in Paragraph 44.

45. On March 4, 2009, named Plaintiff Mark Boswell and Panera entered into a JV GM Employment Agreement and Compensation Plan, attached as Exhibit 3, pursuant to which Boswell agreed to be employed by Panera as the JV GM of a Panera café in Concord, North Carolina.

ANSWER: Defendants admit that, on or about March 4, 2009, Plaintiff Boswell entered into the Joint Venture General Manager Employment and Confidentiality Agreement and the Joint Venture General Manager Compensation Plan, which are attached as Exhibit 3 to Plaintiffs’ Amended Complaint. Those documents speak for themselves. Defendants deny the remaining allegations in Paragraph 45.

46. On April 29, 2009, named Plaintiff David Lutton and Panera entered into a JV GM Employment Agreement and Compensation Plan, attached as Exhibit 4, pursuant to which Lutton agreed to be employed by Panera as the JV GM of a Panera café in Matthews, North Carolina.

ANSWER: Defendants admit that, on or about April 29, 2009, Plaintiff Lutton entered into the Joint Venture General Manager Employment and Confidentiality Agreement and the Joint Venture General Manager Compensation Plan which are attached as Exhibit 4 to Plaintiffs’ Amended Complaint. Those documents speak for themselves. Defendants deny the remaining allegations in Paragraph 46.

47. On July 29, 2009, named Plaintiff Vickie Snyder and Panera entered into a JV GM Employment Agreement and Compensation Plan, attached as Exhibit 5, pursuant to which Snyder agreed to be employed by Panera as the JV GM of a Panera café in Huntersville, North Carolina.

ANSWER: Defendants admit that, on or about July 29, 2009, Plaintiff Snyder entered into the Joint Venture General Manager Employment and Confidentiality Agreement and the Joint Venture General Manager Compensation Plan which are attached as Exhibit 5 to Plaintiffs' Amended Complaint. Those documents speak for themselves. Defendants deny the remaining allegations in Paragraph 47.

48. During the Class Period, Panera employed Plaintiffs and the Class as JV GMs pursuant to these contracts to manage the daily operations of its company-owned cafes.

ANSWER: Defendants admit Defendant Panera, LLC previously employed Plaintiffs as JV GMs. Defendants deny the existence of any "Class" or "Class Period," and deny the remaining allegations in Paragraph 48.

49. The JV GM Employment Agreement and Compensation Plan were form contracts drafted by Panera. The relevant terms of the individual JV GM Agreements and Plans between Panera and each Plaintiff and member of the Class were, in all material respects, identical.

ANSWER: Defendants admit that Plaintiffs entered into an agreement titled "Employment and Confidentiality Agreement" and a plan titled "Joint Venture General Manager Compensation Plan" with Defendant Panera, LLC, which were drafted by Defendant Panera, LLC. Those documents speak for themselves. Defendants deny the existence of a "Class," and deny all remaining allegations in Paragraph 49.

50. Together, the Agreement and Plan comprised the “final, complete, and exclusive agreement between [the JV GM] and Panera with respect to any bonus, incentive plan, or other compensation.” (See Ex. 1, JV GM Agreement at J 1; Ex. 2, JV GM Compensation Plan at §5(d).)

ANSWER: Defendants admit that Plaintiffs entered into the agreement titled “Employment and Confidentiality Agreement” and plan titled “Joint Venture General Manager Compensation Plan” with Defendant Panera, LLC that are attached to the Amended Complaint. Those documents speak for themselves. Defendants deny all remaining allegations in Paragraph 50.

51. These contracts provided that the JV GM would receive a small annual salary for five years, and, at the end of the fifth year, a “one-time JV GM Buyout” payment. (See Ex. 2 at §3.)

ANSWER: Defendants admit that Plaintiffs entered into the agreement titled “Employment and Confidentiality Agreement” and plan titled “Joint Venture General Manager Compensation Plan” with Defendant Panera, LLC that are attached to the Amended Complaint. Those documents speak for themselves. Defendants deny all remaining allegations in Paragraph 51.

52. The Plan provided three requirements for the receipt of the JV GM Buyout payment. As of the date of the Buyout payment, the JV GM had to be (1) an employee of Panera, (2) performing the duties of a JV GM, and (3) not in breach of her employment or other agreement with Panera. (See Ex. 2 at §3(a).)

ANSWER: Defendants admit that Plaintiffs entered into the agreement titled “Employment and Confidentiality Agreement” and plan titled “Joint Venture General

Manager Compensation Plan” with Defendant Panera, LLC that are attached to the Amended Complaint. Those documents speak for themselves. Defendants deny all remaining allegations in Paragraph 52.

53. Each Plaintiff and member of the Class satisfied all requirements to receive a JV GM Buyout payment. Panera was therefore required to make a JV GM Buyout payment to each Plaintiff and member of the Class.

ANSWER: Defendants deny the existence of any “Class,” deny that each Plaintiff satisfied all the requirements to receive a JV GM Buyout payment, and deny all remaining allegations in Paragraph 53.

54. Panera determined and acknowledged that each Plaintiff and member of the Class satisfied these requirements, because it made a JV GM Buyout payment to each of them. The reason for this action is that those payments were less than what Panera had represented they would be, and less than what Panera was contractually required to pay.

ANSWER: Defendants deny the existence of any “Class,” deny that they acknowledged each Plaintiff satisfied the requirements to receive a JV GM Buyout payment, and deny all remaining allegations in Paragraph 54.

55. These contracts required that the amount of the JV GM Buyout payment was to be determined in accordance with a specific formula set forth in Section 3(b) of the Plan, which turned on the profitability of the JV GM’s café. Pursuant to that formula, the greater the difference between the profits generated at the JV GM’s café and the applicable pre-determined “Profit Hurdle”, the greater the Buyout amount. (See Ex. 2 at §3(b).)

ANSWER: Defendants admit that Plaintiffs entered into the agreement titled “Employment and Confidentiality Agreement” and plan titled “Joint Venture General

Manager Compensation Plan” with Defendant Panera, LLC that are attached to the Amended Complaint. Those documents speak for themselves. Defendants deny all remaining allegations in Paragraph 55.

56. Neither the Plan nor the Agreement placed a cap or ceiling on the amount of the JV GM Buyout, or authorized Panera to reduce the amount of the Buyout payment below the full amount required by Section 3(b) of the Plan.

ANSWER: Defendants admit that Plaintiffs entered into the agreement titled “Employment and Confidentiality Agreement” and plan titled “Joint Venture General Manager Compensation Plan” with Defendant Panera, LLC that are attached to the Amended Complaint. Those documents speak for themselves. Defendants deny all remaining allegations in Paragraph 56.

57. Indeed, the contracts forbade such behavior. In plain and unambiguous terms, the Plan provided that “[n]o modification or waiver shall be valid unless in writing signed by the party against whom the same is sought to be enforced.” (See Ex. 2 at §5(d).) The Plan thus barred Panera from reducing the amount of any JV GM’s Buyout payment without a written modification or waiver of the Buyout provisions, signed by the JV GM.

ANSWER: Defendants admit that Plaintiffs entered into the agreement titled “Employment and Confidentiality Agreement” and plan titled “Joint Venture General Manager Compensation Plan” with Defendant Panera, LLC that are attached to the Amended Complaint. Those documents speak for themselves. Defendants deny all remaining allegations in Paragraph 57.

58. The Buyout provisions and “no modification” provisions were material terms of these contracts, because they governed the amount of compensation Plaintiffs and the Class were entitled to receive as employees of Panera.

ANSWER: Paragraph 58 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny the existence of any “Class” and deny all remaining allegations in Paragraph 58.

59. The Buyout payments were wages earned by Plaintiffs and members of the Class and a material component of their compensation.

ANSWER: Paragraph 59 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 59.

60. During the Class Period, each Plaintiff and member of the Class had a contractual right to receive a JV GM Buyout payment pursuant to the JV GM Compensation Plan.

ANSWER: Defendants admit that Plaintiffs entered into the plan titled “Joint Venture General Manager Compensation Plan” with Defendant Panera, LLC that are attached to the Amended Complaint. Those documents speak for themselves. Defendants further admit that Plaintiffs each received “JV GM Buyout” payments in 2014. Defendants deny the existence of any “Class” and deny all remaining allegations in Paragraph 60.

61. Panera did not obtain any written modifications or waivers of the Plan’s Buyout provisions signed by Plaintiffs or other members of the Class. Panera therefore had a contractual duty to make a JV GM Buyout payment to each Plaintiff and Class member in the full amount determined in accordance with Section 3(b) of the Plan.

ANSWER: Paragraph 61 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants admit that JV GMs were provided with written notification of the implementation of a cap on JV GM Buyouts. Defendants deny the existence of any “Class,” and deny the remaining allegations in Paragraph 61.

62. Panera did not comply with this contractual duty. Instead, beginning no later than January 2012, Panera unilaterally imposed a “cap” on the Buyout payments it made to JV GMs. Panera’s use of a cap reduced the amount of the Buyout payments it made to Plaintiffs and the Class below the amounts required under the JV GM Compensation Plan.

ANSWER: Paragraph 62 contains a legal conclusion to which no response is required. To the extent a response is required, Defendants admit that JV GMs were provided with written notification of the implementation of a cap on JV GM Buyouts. Defendants deny the existence of any “Class,” and deny the remaining allegations in Paragraph 62.

63. The purpose and effect of this practice, instituted and approved by Panera’s executives, is that Panera willfully deprived Plaintiffs and the Class of wages they had bargained for and earned.

ANSWER: Defendants deny the existence of any “Class,” and deny the remaining allegations in Paragraph 63.

64. By drafting and entering into the Agreement and Plan with Plaintiffs and the Class, Panera represented to each Plaintiff and member of the Class that it would honor the plain terms of these contracts.

ANSWER: Defendants admit that Plaintiffs entered into the agreement titled “Employment and Confidentiality Agreement” and plan titled “Joint Venture General Manager Compensation Plan” with Defendant Panera, LLC that are attached to Plaintiffs’ Amended Complaint. Those documents speak for themselves. Defendants deny the existence of any “Class,” and all remaining allegations in Paragraph 64.

65. In particular, by drafting and entering into the Agreement and Plan with Plaintiffs and the Class, Panera represented to each Plaintiff and member of the Class that (1) Panera would make JV GM Buyout payments to them in accordance with the provisions of the Plan, and (2) Panera would not reduce any JV GM’s Buyout payment below what the Plan required without a written modification or waiver of the relevant contractual provisions, signed by each JV GM whose compensation would be reduced. Panera made these representations to each Plaintiff and member of the Class in the plain text of the JV GM Employment Agreement and JV GM Compensation Plan. (See Ex. 1 at ¶1, Ex. 2 at §3, §5(d).)

ANSWER: Defendants admit that Defendant Panera, LLC drafted and entered into the agreements with Plaintiffs titled “Employment and Confidentiality Agreement” and plans titled “Joint Venture General Manager Compensation Plan” in good faith. Those documents speak for themselves. Defendants deny the existence of any “Class,” and all remaining allegations in Paragraph 65.

66. When Panera made these representations, it did so with the intention that Plaintiffs and the Class would rely upon them by agreeing to accept employment with Panera as JV GMs and enter into the JV GM Agreement and Plan with Panera.

ANSWER: Defendants deny the existence of any “Class” and deny the remaining allegations in Paragraph 66.

67. When Plaintiffs and the Class agreed to accept employment with Panera as JV GMs and enter into the JV GM Agreement and Compensation Plan with Panera, they relied on the representations made by Panera in the plain text of these contracts.

ANSWER: Defendants deny the existence of any “Class” and deny the remaining allegations in Paragraph 67.

68. Thus, each Plaintiff and member of the Class relied on Panera’s representations that it would make JV GM Buyout payments to them in the amount required by the Plan, and that Panera would not reduce their Buyout payments below what the Plan required without their signed written consent.

ANSWER: Defendants deny the existence of any “Class” and deny the remaining allegations in Paragraph 68.

69. Panera’s representations were false because Panera did not make good on them. Panera did not make JV GM Buyout payments to Plaintiffs and the Class in accordance with the provisions of the Plan. Panera did not obtain any written modifications or waivers of the Plan signed by Plaintiffs and the Class. Instead, Panera unilaterally enforced a cap on the JV GM Buyout against each Plaintiff and member of the Class. Through its use of a cap, Panera systematically reduced every Plaintiff and Class member’s Buyout payment below the amount Panera had represented it would be in the plain text of the Plan.

ANSWER: Defendants deny the existence of any “Class,” deny making any false representations, and deny the remaining allegations in Paragraph 69.

70. Panera knew its representations were false when it made them. In particular, when Panera represented to Plaintiffs and Class — in these written contracts, signed by Panera’s Chief Operating Officer — that Panera would not reduce their Buyouts without their signed written

consent, Panera knew this representation to be false. Panera never intended to comply with its promise to each Plaintiff and Class member that it would not reduce their Buyouts without their written consent.

ANSWER: Defendants deny the existence of any “Class,” deny making any false representations, and deny the remaining allegations in Paragraph 70.

71. If Panera had intended to comply with the written representations it made to each Plaintiff and member of the Class, it would have. But Panera did not. Panera’s uniform, deliberate refusal to fulfill its identical promises to each Plaintiff and member of the Class demonstrates that Panera never intended to make good on those representations.

ANSWER: Defendants deny the existence of any “Class” and deny the remaining allegations in Paragraph 71.

72. The misrepresentations at issue are contained in the plain text of the JV GM Employment Agreement and Compensation Plan. The falsity of those representations are reflected in Panera’s Buyout report spreadsheets, which show that each Plaintiff and member of the Class received a capped Buyout, which was less than the Buyout amount determined in accordance with the provisions of the JV GM Compensation Plan.

ANSWER: Defendants deny the existence of any “Class,” deny making any false representations or misrepresentations, and deny the remaining allegations in Paragraph 72.

73. Panera made the misrepresentations at issue through its agents who devised the JV GM Agreement and Plan, and the authorized agents who signed the contracts on Panera’s behalf. Panera made the misrepresentations to the named Plaintiffs through its Chief Operating Officer, John Maguire, who signed each of the named Plaintiffs’ contracts on Panera’s behalf. As

shown on Exhibits 1 and 2, Maguire apparently also signed the contracts between Panera and each member of the Class on Panera's behalf.

ANSWER: Defendants admit that Panera, LLC's former Chief Operating Officer, John Maguire, signed the agreements titled "Employment and Confidentiality Agreement" and plans titled "Joint Venture General Manager Compensation Plan" between Panera, LLC and the Plaintiffs that are attached to Plaintiffs' Amended Complaint. Defendants deny the existence of any "Class," deny making any misrepresentations, and deny the remaining allegations in Paragraph 73.

74. Panera made the misrepresentations at issue to each Plaintiff and member of the Class on the dates that Panera's agent signed the JV GM Agreement and Plan on Panera's behalf. The misrepresentations were made to Plaintiff Boswell on March 04, 2009, to Plaintiff Lutton on April 29, 2009, and to Plaintiff Snyder on July 29, 2009. Panera's misrepresentations to other members of the Class all occurred between approximately 2006 and 2011. The specific dates of those misrepresentations to other Class members are contained in their respective contracts, which are currently in the sole possession of Panera.

ANSWER: Defendants deny the existence of any "Class," deny making any misrepresentations, and deny the remaining allegations in Paragraph 74.

75. As a direct result of Plaintiffs' and the Class members' reliance on Panera's misrepresentations in the JV GM Agreement and Compensation Plan, Plaintiffs and the Class suffered irreparable injury and monetary damages.

ANSWER: Defendants deny the existence of any "Class" and deny the remaining allegations in Paragraph 75.

76. Panera is liable for its actions, which constitute fraud in the inducement to enter into the Agreement and Plan and material breaches of contract against each Plaintiff and member of the Class.

ANSWER: Defendants deny the existence of any “Class,” deny that their actions constitute fraud, and deny the remaining allegations in Paragraph 76.

77. Pursuant to the Plan, the Buyout amount is a percentage of the difference between the total profits attributed to a JV GM’s store and the applicable pre-determined “profit hurdle” for that store. Thus, the suppression of a store’s total profits will result in a suppression of the Buyout payment to that store’s JV GM.

ANSWER: Defendants deny the allegations in paragraph 77.

78. Pursuant to the Plan, JV GMs also received monthly “payouts” that were a percentage of the difference between the total profits attributed to the JV GM’s store and the applicable pre-determined “profit hurdle” for that store. Thus, the suppression of a store’s total profits will result in a suppression of the monthly payouts made to that store’s JV GM.

ANSWER: Defendants admit JV GMs received monthly “payouts” which were calculated based on certain criteria. Defendants deny the remaining allegations in Paragraph 78.

79. While most of the factors affecting a store’s profits, such as quality control and customer service, are within the control of the JV GM’s independent judgment and decision-making, sometimes Panera makes decisions that serve its own interests, but predictably decrease a store’s profits, which the JV GM cannot control.

ANSWER: Defendants deny the allegations in Paragraph 79.

80. In 2013, Panera selected stores in the Charlotte, North Carolina area, including Plaintiffs' stores, to implement "Panera 2.0" — a new "operating system" that entailed substantial increases in a store's operating costs.

ANSWER: Defendants admit that "Panera 2.0," a series of integrated technologies meant to enhance customer experience, was launched in the Charlotte, North Carolina area beginning in 2013. Defendants deny all remaining allegations in Paragraph 80.

81. Because increased costs at a JV GM's store decrease that store's profits, and thus, the amount of the JV GM's Buyout payment and monthly payouts, the impact of Panera 2.0 on their store profits was a critical concern for Plaintiffs in deciding whether to implement Panera 2.0 in their stores, and in deciding whether to continue their employment with Panera.

ANSWER: Defendants are without sufficient information to admit or deny the allegations concerning Plaintiffs' motivation in continuing their employment with Panera and, therefore, deny the same. Defendants deny all remaining allegations in Paragraph 81.

82. To induce Plaintiffs to implement Panera 2.0 and continue their employment, despite the negative impact of Panera 2.0 on their stores' profits, Panera promised Plaintiffs and other Charlotte area JV GMs a profit "credit" to offset the increased operating costs attributable to Panera 2.0.

ANSWER: Defendants deny the allegations in Paragraph 82.

83. Panera made this promise through its CEO, Ron Shaich, and other agents of Panera. In May or June 2013, Mr. Shaich told Plaintiffs and other JV GMs in the Charlotte market that the increased operating costs of the Panera 2.0 rollout would not affect their compensation. Mr. Shaich made these statements at a conference for Charlotte market JV GMs

regarding the Panera 2.0 rollout. Specifically, Mr. Shaich gave his “personal guaranty” that all JV GMs who implemented 2.0 “would be made whole” through the Panera 2.0 Bonus Program, which provided for a profit credit to offset the increased operating costs associated with the rollout.

ANSWER: Defendants deny the allegations in paragraph 83.

84. Subsequent to the conference, a Vice President of Panera, Tina Smith, distributed documents describing the Panera 2.0 Bonus Program to Plaintiffs and the other JV GMs.

ANSWER: Defendants admit that Panera, LLC distributed documentation regarding a “Panera 2.0 Bonus Program” to Plaintiffs and other JV GMs in the Charlotte, North Carolina market. Defendants deny the remaining allegations in paragraph 84.

85. When Plaintiffs agreed to implement Panera 2.0 in their stores, and to continue their employment, despite the negative impact on their store profits, Plaintiffs relied on the representations of Panera that it would provide a profit credit to offset the increased operating costs attributable to Panera 2.0.

ANSWER: Defendants deny the allegations in Paragraph 85.

86. Although Panera intended Plaintiffs Boswell and Lutton to rely on its representations, Panera had no intention of providing the credit. When Panera calculated the monthly payouts it made to Boswell and Lutton, Panera did not credit their respective profits to offset the increased operating costs of Panera 2.0. When Panera calculated Plaintiffs’ Buyout payments in March 2014, Panera did not credit their respective profits to offset the increased operating costs of Panera 2.0.

ANSWER: Defendants admit that in calculating their May 2014 Buyout payments, Plaintiffs Boswell and Lutton were not specifically “credited” with any offset for

any increased operating costs due to the implementation of Panera 2.0. Defendants deny any remaining allegations in Paragraph 86.

87. Because the omission of this credit suppressed the total profits attributable to Plaintiffs' cafes, the amounts of Boswell's and Lutton's respective (uncapped) Buyout payments were suppressed; and the amounts of the monthly payouts made to Boswell and Lutton were suppressed.

ANSWER: Defendants deny the allegations in Paragraph 87.

88. As a direct and proximate result of Panera's misrepresentations, Plaintiffs Boswell and Lutton suffered irreparable injury and monetary damages.

ANSWER: Defendants deny the allegations in Paragraph 88.

I. CLASS CLAIMS

COUNT ONE

BREACH OF CONTRACT

89. Plaintiffs re-allege and incorporate herein by reference each and every paragraph and allegation above as though fully set forth herein.

ANSWER: Defendants incorporate their responses to Paragraphs 1-88 as if fully set forth herein.

90. The JV GM Employment Agreement, attached as Exhibit 1, that has been executed between each member of the Class and Panera is an enforceable, express, written contract.

ANSWER: Paragraph 90 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny the existence of any "Class" and deny the remaining allegations in Paragraph 90.

91. The JV GM Compensation Plan, attached as Exhibit 2, that has been executed between each member of the Class and Panera is an enforceable, express, written contract.

ANSWER: Paragraph 90 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny the existence of any “Class” and deny the remaining allegations in Paragraph 91.

92. Both of these contracts were drafted by Panera.

ANSWER: Defendants admit the documents attached as Exhibit 1 and Exhibit 2 to Plaintiffs’ Amended Complaint were drafted by Defendant Panera, LLC.

93. Each Plaintiff and member of the Class had a valid and enforceable contract with Panera through the JV GM Agreement and Plan described above.

ANSWER: Paragraph 93 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny the existence of any “Class” and deny the remaining allegations in Paragraph 93.

94. Each Plaintiff and member of the Class satisfied all requirements to receive a JV GM Buyout payment. Panera determined and acknowledged that each Plaintiff and member of the Class satisfied these requirements, because it made a JV GM Buyout payment to each of them.

ANSWER: Paragraph 94 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny the existence of any “Class,” deny that each Plaintiff satisfied all the requirements to receive a JV GM Buyout payment, and deny the remaining allegations in Paragraph 94.

95. Pursuant to the Plan, each Plaintiff and member of the Class had a contractual right to receive a JV GM Buyout payment from Panera in the amount determined in accordance with the specific provisions set forth in the Plan.

ANSWER: Paragraph 95 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny the existence of any “Class” and deny the remaining allegations in Paragraph 95.

96. Panera did not obtain any written modifications or waivers of the Plan’s Buyout provisions signed by Plaintiffs or other members of the Class.

ANSWER: Defendants deny the existence of any “Class” and deny the remaining allegations in Paragraph 96.

97. Panera therefore had a contractual duty to make a JV GM Buyout payment to each Plaintiff and Class member in the full amount determined in accordance with the specific provisions set forth in the Plan.

ANSWER: Paragraph 97 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny the existence of any “Class” and deny the remaining allegations in Paragraph 97.

98. The Buyout payments were wages earned by Plaintiffs and the Class and a material component of their compensation.

ANSWER: Paragraph 98 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny the existence of any “Class” and deny the remaining allegations in Paragraph 98.

99. Panera materially breached its contracts with Plaintiffs and the Class by unilaterally enforcing a Buyout cap against each Plaintiff and member of the Class. Panera’s use

of the cap reduced the amounts of the Buyout payments to Plaintiffs and the Class below the amounts determined in accordance with the Plan.

ANSWER: Defendants deny the existence of any “Class” and deny the remaining allegations in Paragraph 99.

100. Panera violated its contracts with Plaintiffs and the Class because it did not make Buyout payments to Plaintiffs and the Class in the amount required by Section 3(b) of the Plan.

ANSWER: Defendants deny the existence of any “Class” and deny the remaining allegations in Paragraph 100.

101. Panera violated its contracts with Plaintiffs and the Class because it enforced the Buyout cap against each Plaintiff and member of the Class without obtaining written modifications or waivers of the Plan signed by Plaintiffs and the Class.

ANSWER: Defendants deny the existence of any “Class” and deny the remaining allegations in Paragraph 101.

102. As a direct and proximate result of Panera’s conduct in violation of these contracts, Plaintiffs and all Class members have been injured and damaged in an amount to be proven at trial. The Class members are entitled to recover all damages resulting from this breach.

ANSWER: Defendants deny the existence of any “Class” and deny the remaining allegations in Paragraph 102.

103. Accordingly, Plaintiffs and the Class pray for judgment in their favor and against Panera:

- A. Declaratory relief determining the meaning and scope of the contract provisions in question and holding that Panera materially breached its contracts with Plaintiffs and the Class;

B. Awarding Plaintiffs and the Class compensatory damages in an amount to be proven at trial;

C. Awarding Plaintiffs and the Class prejudgment interest, plus costs of suit and reasonable attorney fees; and

D. Such further legal and equitable relief as the Court may deem just.

ANSWER: Defendants deny that Plaintiffs, or any purported class member, are entitled to any of the relief requested in Paragraph 103, including subparagraphs A-D.

COUNT TWO

FRAUD

104. Plaintiff re-alleges and incorporates herein by reference each and every paragraph and allegation above as though fully set forth herein.

ANSWER: Defendants incorporate their responses to Paragraphs 1-103 as if fully set forth herein.

105. To induce Plaintiffs and the Class to accept employment with Panera as JV GMs and enter into the JV GM Employment Agreement and Compensation Plan with Panera, Panera represented to each Plaintiff and member of the Class that Panera would honor the plain terms of these contracts.

ANSWER: Defendants admit that Defendant Panera, LLC entered into the agreements titled “Employment and Confidentiality Agreement” and plans titled “Joint Venture General Manager Compensation Plan” with Plaintiffs in good faith. Defendants further state that those documents speak for themselves. Defendants are without sufficient information to form a belief as to any agreement that may have been entered into by

unnamed members of the “Class” and therefore deny the same. Defendants deny the existence of any “Class” and deny all remaining allegations in Paragraph 105.

106. By drafting and entering into the JV GM Employment Agreement and Compensation Plan with Plaintiffs and the Class, Panera represented to each Plaintiff and member of the Class that it would honor the plain terms of these contracts. Panera represented to Plaintiffs and the Class that it would pay them in accordance with the provisions of the Plan, including the Buyout provisions, and that it would not reduce their compensation below what the Plan required without their written consent.

ANSWER: Defendants admit that Defendant Panera, LLC drafted and entered into the agreements titled “Employment and Confidentiality Agreement” and plans titled “Joint Venture General Manager Compensation Plan” with Plaintiffs in good faith. Defendants further state that those documents speak for themselves. Defendants are without sufficient information to form a belief as to any agreement that may have been entered into by unnamed members of the “Class” and therefore deny the same. Defendants deny the existence of any “Class” and deny all remaining allegations in Paragraph 106.

107. Panera’s representations described above were material, because the Plan governed the compensation that Plaintiffs and Class members were entitled to receive as employees of Panera.

ANSWER: Paragraph 107 contains statements or conclusions of law to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 107.

108. Panera’s representations were false. Panera did not pay Plaintiffs and Class the Buyout payments as required by the Plan. Instead, and without obtaining any written

modifications or waivers signed by Plaintiffs and the Class, Panera uniformly reduced the amounts of the Buyout payments to Plaintiffs and the Class below the amounts required by the Plan.

ANSWER: Defendants deny the existence of any “Class,” deny making any false representations, and deny the remaining allegations in Paragraph 108.

109. When Panera made these representations, it knew that they were false. In particular, when Panera represented to Plaintiffs and the Class that it would not reduce the JV GM Buyout below what the Plan required without obtaining a written modification or waiver of the Plan signed by each JV GM whose Buyout would be reduced, Panera knew this representation to be false.

ANSWER: Defendants deny the existence of any “Class,” deny making any false representations, and deny the remaining allegations in Paragraph 109.

110. When Panera made these representations, it did so with the intention that Plaintiffs and the Class would rely upon them.

ANSWER: Defendants deny the existence of any “Class,” deny making any false representations, and deny all remaining allegations in Paragraph 110.

111. When Plaintiffs and the Class agreed to enter into the JV GM Employment Agreement and Compensation Plan with Panera, they relied on Panera’s representations that it would honor the plain terms of these contracts. Plaintiffs and the Class relied on Panera’s representations that it would pay them in accordance with the provisions of the Plan, and that it would not reduce their compensation below what the Plan required without obtaining a signed modification to the Plan.

ANSWER: Defendants admit that Defendant Panera, LLC entered into the agreements titled “Employment and Confidentiality Agreement” and plans titled “Joint Venture General Manager Compensation Plan” with Plaintiffs in good faith. Defendants further state that those documents speak for themselves. Defendants are without sufficient information to form a belief as to any agreement that may have been entered into by unnamed members of a “Class” and therefore deny the same. Defendants deny the existence of any “Class” and deny all remaining allegations in Paragraph 111.

112. As employees of Panera, Plaintiffs and the Class had a right to rely on Panera’s representations.

ANSWER: Defendants deny the existence of any “Class” and deny the remaining allegations in Paragraph 112.

113. Plaintiffs and the Class did not know, and could not have known, that Panera’s representations were false.

ANSWER: Defendants deny the existence of any “Class,” deny making any false representations, and deny the remaining allegations in Paragraph 113.

114. As a direct and proximate result of their reliance on Panera’s material misrepresentations, Plaintiffs and the Class suffered irreparable injury and monetary damages.

ANSWER: Defendants deny the existence of any “Class,” deny making any misrepresentations, and deny the remaining allegations in Paragraph 114.

115. Panera’s actions described herein were willful, malicious, and without legal justification.

ANSWER: Defendants deny the allegations in Paragraph 115.

116. Accordingly, Plaintiffs and the Class pray for judgment in their favor and against Panera:

- A. Declaring that Panera's actions constitute fraud;
- B. Declaring that Panera's actions were willful, malicious, and without legal justification;
- C. Awarding Plaintiffs and the Class compensatory damages in an amount to be proven at trial;
- D. Awarding Plaintiffs and the Class prejudgment interest, plus costs of suit and reasonable attorney fees;
- E. Awarding punitive damages against Panera in an amount sufficient to deter similar conduct by Panera and others in the future; and
- F. Such further legal and equitable relief as the Court may deem just.

ANSWER: Defendants deny that Plaintiffs, or any purported class member, are entitled to any of the relief requested in Paragraph 116, including subparagraphs A-F.

II. INDIVIDUAL CLAIMS (BOSWELL AND LUTTON)

COUNT THREE

FRAUD

117. Plaintiffs re-allege and incorporate herein by reference each and every paragraph and allegation above as though fully set forth herein.

ANSWER: Defendants incorporate their responses to Paragraphs 1-116 as if fully set forth herein.

118. To induce Plaintiff Boswell and Plaintiff Lutton to implement Panera 2.0 in the stores and continue their employment, despite the negative impact of Panera 2.0 on their stores'

profits, Panera promised Plaintiffs and other Charlotte area JV GMs a profit credit to offset the increased operating costs attributable to Panera 2.0.

ANSWER: Defendants deny the allegations in Paragraph 118.

119. When Plaintiffs agreed to implement Panera 2.0 in their stores, and continue their employment, Plaintiffs relied on the representations of Panera that it would provide a profit credit to offset the increased operating costs attributable to Panera 2.0. Panera's representations were therefore material to each Plaintiff's decision to continue his employment with Panera.

ANSWER: Defendants deny the allegations in Paragraph 119.

120. As employees of Panera, Plaintiff's had a right to rely on Panera's representations.

ANSWER: Defendants deny the allegations in Paragraph 120.

121. Although Panera intended Plaintiffs to rely on its representations, Panera had no intention of providing the credit. It made these representations knowing that they were false. When Panera calculated Mr. Boswell's and Mr. Lutton's Buyout payments in March 2014, Panera did not credit their respective profits to offset the increased operating costs of Panera 2.0. When Panera calculated the monthly payouts it made to Mr. Boswell and Mr. Lutton, Panera did not credit their respective profits to offset the increased operating costs of Panera 2.0.

ANSWER: Defendants deny the allegations in Paragraph 121.

122. Because the omission of this credit suppressed the total profits attributable to Plaintiffs' cafes, the amounts of Mr. Boswell's and Mr. Lutton's respective (uncapped) Buyout payments were suppressed; and the amounts of Mr. Boswell's and Mr. Lutton's respective monthly payouts were suppressed.

ANSWER: Defendants deny the allegations in Paragraph 122.

123. Plaintiffs did not know, and could not have known, that Panera's representations were false.

ANSWER: Defendants deny the allegations in Paragraph 123.

124. As a direct and proximate result of their reliance on Panera's material misrepresentations, Plaintiffs Boswell and Lutton suffered irreparable injury and monetary damages.

ANSWER: Defendants deny the allegations in Paragraph 124.

125. Panera's actions described herein were willful, malicious, and without legal justification.

ANSWER: Defendants deny the allegations in Paragraph 125.

126. Accordingly, Plaintiffs Mark Boswell and David Lutton prays for judgment in their favor and against Panera:

- A. Declaring that Panera's actions constitute fraud;
- B. Declaring that Panera's actions were willful, malicious, and without legal justification;
- C. Awarding Plaintiffs compensatory damages in an amount to be proven at trial;
- D. Awarding Plaintiffs prejudgment interest, plus costs of suit and reasonable attorney fees;
- E. Awarding punitive damages against Panera in an amount sufficient to deter similar conduct by Panera and others in the future; and
- F. Such further legal and equitable relief as the Court may deem just.

ANSWER: Defendants deny that Plaintiffs are entitled to any of the relief requested in Paragraph 126, including subparagraphs A-F.

COUNT FOUR

UNJUST ENRICHMENT

127. Plaintiffs re-allege and incorporate herein by reference each and every paragraph and allegation above as though fully set forth herein.

ANSWER: Defendants incorporate their responses to Paragraphs 1-126 as if fully set forth here.

128. When Plaintiff Boswell and Plaintiff Lutton implemented Panera 2.0 in the stores and continued their employment with Panera, despite the negative impact of Panera 2.0 on their stores' profits, Plaintiffs conferred a benefit on Panera.

ANSWER: Defendants deny the allegations in Paragraph 128.

129. Panera acknowledged or recognized that Plaintiffs conferred a benefit on Panera by implementing Panera 2.0 in their stores and continuing their employment with Panera.

ANSWER: Defendants deny the allegations in Paragraph 129.

130. Panera accepted and retained that benefit under circumstances in which retention without payment would be unjust. Panera induced Plaintiffs to implement Panera 2.0 in the stores and continue their employment with Panera by promising them a profit credit offset the increased operating costs of Panera 2.0., then failed to provide that credit.

ANSWER: Defendants deny the allegations in Paragraph 130.

131. As a direct and proximate result of Panera's actions, Plaintiffs Boswell and Lutton suffered irreparable injury and monetary damages, while Panera benefitted from their continued employment and implementation of Panera 2.0 in their stores.

ANSWER: Defendants deny the allegations in Paragraph 131.

132. As a direct and proximate result of Panera's actions, Panera enriched itself at the expense of Plaintiff Boswell and Plaintiff Lutton. Allowing Panera to retain that benefit without payment to Mr. Boswell and Mr. Lutton would be unjust.

ANSWER: Defendants deny the allegations in Paragraph 132.

133. Panera's actions described herein were willful, malicious, and without legal justification.

ANSWER: Defendants deny the allegations in Paragraph 133.

134. Accordingly, Plaintiffs Mark Boswell and David Lutton pray for judgment in their favor and against Panera:

- A. Declaring that Plaintiffs conferred a benefit on Panera, and that Panera accepted and retained that benefit under circumstances in which retention without payment to Plaintiffs would be unjust;
- B. Declaring that Panera's actions were willful, malicious, and without legal justification;
- C. Awarding Plaintiffs restitution in an amount to be proven at trial;
- D. Awarding Plaintiffs prejudgment interest, plus costs of suit and reasonable attorney fees;
- E. Awarding punitive damages against Panera in an amount sufficient to deter similar conduct by Panera and others in the future; and
- F. Such further legal and equitable relief as the Court may deem just.

ANSWER: Defendants deny that Plaintiffs, or any purported class member, are entitled to any of the relief requested in Paragraph 134, including subparagraphs A-F.

Defendants further deny Plaintiffs, or any purported class member, are entitled to any of the relief requested in the unnumbered paragraph beginning with “WHEREFORE” immediately following Paragraph 134.

Defendants further deny Plaintiffs, or any purported class members, are entitled to a jury trial on any claims.

GENERAL DENIAL

Defendants deny all allegations in Plaintiff’s Amended Complaint not expressly admitted herein.

AFFIRMATIVE AND OTHER DEFENSES

Defendants assert the following affirmative and other defenses without assuming any burden of production or proof that they would not otherwise have. For purposes of these Affirmative and Other Defenses, the term “Plaintiffs” includes Plaintiffs Boswell, Lutton, Snyder and any putative class member.

1. Plaintiffs’ Complaint fails, in whole or in part, to state a claim upon which relief may be granted.
2. Plaintiffs’ claims, if any, are barred, in whole or in part, by applicable statutes of limitations and/or statutes of repose.
3. Plaintiffs are estopped from pursuing the claims set forth in the Amended Complaint by reason of their own acts, omissions, and course of conduct.
4. Plaintiffs’ claims, if any, are barred, in whole or in part, by the doctrine of laches.
5. Plaintiffs are barred from seeking any equitable relief because they each have an adequate remedy at law.
6. Plaintiffs’ claims are barred by the doctrine of payment. Plaintiffs have each been

paid any monies or benefits allegedly owed.

7. Plaintiffs' damages, if any, must be reduced by any payments received under the "Joint Venture General Manager Compensation Plan."

8. Plaintiffs' damages or injuries, if any, were not proximately caused by Defendants.

9. Plaintiffs' breach of contract claim are barred by mutual mistake.

10. Plaintiffs' breach of contract claims are barred by waiver.

11. Plaintiffs' breach of contract claims are barred by cancellation and/or novation.

12. Plaintiffs' breach of contract claims are barred by the doctrine of commercial frustration.

13. Plaintiffs' breach of contract claims are barred because of one or more of the Plaintiff's own antecedent breach and/or failure to comply with conditions precedent.

14. One or more of Plaintiffs' claims is barred by the statute of frauds.

15. One or more of Plaintiffs' claims fails for lack of consideration.

16. Plaintiffs' claims are barred by the doctrines of accord and satisfaction.

17. Defendants did not make any false representations.

18. To the extent that any representations by Defendants were false, which is denied, Defendants lacked knowledge of the falsity of the representations.

19. Plaintiffs cannot show they reasonably relied upon any alleged misrepresentations, which are denied.

20. Plaintiffs cannot show that they suffered any damages as a result of their reliance on the alleged misrepresentations, which are denied.

21. Plaintiffs' claims against Defendant Panera Bread Company fail because Panera

Bread Company is in improper party, was not Plaintiffs' employer, and has no privity of contract or other relationship with Plaintiffs.

22. The Seventh and Fourteenth Amendments to the United States Constitution prohibit a jury from determining Defendants' liability and/or damages, if any, to Plaintiffs and others with whom they are allegedly "similarly situated" on a group or aggregated basis.

23. Defendants presently have insufficient knowledge or information on which to form a belief as to whether they may have additional, as yet unstated, affirmative or other defenses available. Defendants reserve the right to assert additional defenses in the event that discovery indicates they would be appropriate.

Having fully answered Plaintiffs' Amended Complaint, Defendants request the Amended Complaint be dismissed with prejudice and Defendants be awarded their costs, attorneys' fees and such other relief as may be just and proper.

Respectfully submitted,

Ogletree, Deakins, Nash, Smoak & Stewart,
P.C.

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on April 3, 2015.

/s/ Patrick F. Hulla
ATTORNEY FOR DEFENDANTS

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