

EXHIBIT 1

STATE OF NORTH CAROLINA

Mecklenburg County

File No.

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Chris Herr and Lisa Soler

Address

c/o Strianese PLLC, 401 North Tryon St., 10th Fl.

City, State, Zip

Charlotte NC 28202

VERSUS

Name Of Defendant(s)

Orange Bakery, Inc., Rheon Automatic Machinery Co.,
Takashi Numao, and Yoshiaki Okazaki

CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

Date Original Summons Issued

05-19-2016

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Takashi Numao
17751 Cowan Avenue
Irvine, CA 92614

Name And Address Of Defendant 2

Yoshiaki Okazaki
13400 Reese Blvd. W.
Huntersville NC 28078

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

Christopher Strianese, Esq.

Strianese PLLC

401 North Tryon St., 10th Floor

Charlotte NC 28202

Date Issued

Time

☐ AM

☒ PM

Signature

☐ Deputy CSC

☒ Assistant CSC

☐ Clerk Of Superior Court

☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM

☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

AOC-CV-100, Rev. 6/11

(Over)

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RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
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- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Other manner of service (specify)

☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
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- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Other manner of service (specify)

☐ Defendant WAS NOT served for the following reason:

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return
Date Received	Name Of Sheriff (Type Or Print)
Date Of Return	County Of Sheriff

STATE OF NORTH CAROLINA

Mecklenburg County

File No.

16 CS 9147

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Chris Herr and Lisa Soler

Address

c/o Strianese PLLC, 401 North Tryon St., 10th Fl.

City, State, Zip

Charlotte NC 28202

VERSUS

Name Of Defendant(s)

Orange Bakery, Inc., Rheon Automatic Machinery Co.,
Takashi Numao, and Yoshiaki Okazaki

CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

Date Original Summons Issued

05-19-2016

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Orange Bakery, Inc.
17751 Cowan Avenue
Irvine, CA 92614

Name And Address Of Defendant 2

Rheon Automatic Machinery Co.
17751 Cowan Avenue
Irvine, CA 92614

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

Christopher Strianese, Esq.

Strianese PLLC

401 North Tryon St., 10th Floor

Charlotte NC 28202

Date Issued

5-19-16

Time

1:51

☐ AM☒ PM

Signature

☐ Deputy CSC☒ Assistant CSC☐ Clerk Of Superior Court☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

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Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

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Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

Service Fee Paid \$	Signature Of Deputy Sheriff Making Return
Date Received	Name Of Sheriff (Type Or Print)
Date Of Return	County Of Sheriff

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

CHRIS HERR AND LISA SOLER,

Plaintiffs,

- against -

ORANGE BAKERY, INC., RHEON
AUTOMATIC MACHINERY CO., TAKASHI
NUMAO, YOSHIKI OKAZAKI

Defendants.

Civil Action No. 16 CV 8914/7

COMPLAINT

Jury Trial Demanded

INTRODUCTION

1. Defendants, who are in the business of manufacturing and distributing food products, knowingly and intentionally put at risk the lives, health, and well-being of thousands of consumers. Plaintiffs Chris Herr and Lisa Soler are whistleblowers who have been subjected to retaliation by Defendants because they complained about and opposed Defendants' unlawful conduct.

2. Defendants have been manufacturing and selling food products without conducting the required safety testing for deadly bacteria such as E. Coli and Listeria. To cover up their outrageous conduct, Defendants created forged testing documentation and have knowingly and repeatedly lied to auditors/investigators from the United States Food and Drug Administration ("FDA") and the Safe Quality Food Institute ("SQF"). Despite being given every opportunity to comply with the law, Defendants continued their scheme of selling potentially tainted food products knowing that those products were intended to be consumed by the public.

3. Defendants have also, upon information and belief, committed a massive fraud upon their customers – which include well-known brands and retailers such as Rich Products, Whole Foods, Sam's Club (via an intermediary called Bake One), Ralph's Grocery (Kroger), US Foods Service, Sysco, and many more – as well as the public, by falsely claiming to have done the required food safety testing. Upon information and belief, Defendants' customers would not have bought Defendants' products if they were aware that those products were not being subjected to the required safety testing. Rather than conduct the testing, Defendants forged results for tests that they never conducted in order to falsely obtain SQF and other certifications that they then used to promote their products. Plaintiffs are in possession of forged testing documents that Defendants created to make it appear as though Silliker Laboratories, an independent testing laboratory, was conducting safety testing on Defendants' products.

4. Defendants' outrageous conduct was not the result of mistake, error, or inadvertence; it was willful and intentional. Plaintiffs Chris Herr and Lisa Soler, who are, respectively, a current top-salesperson and a former SQF Practitioner and Quality Control employee, complained repeatedly to Defendants' executives about Defendants' illegal conduct. Defendants' executives responded by telling Plaintiffs that they did not have the time to, and did not want to spend the money to, conduct the required safety testing. When Plaintiffs continued to protest, Defendants' executives reduced Mr. Herr's compensation and physically assaulted Ms. Soler resulting in her resigning her employment.

5. Significantly, documentary evidence proves Plaintiffs' claims. Plaintiff Herr complained in an email correspondence to one of Defendants' executives:

I have been in the food industry all of my life and this is the first time that I have ever seen anything like this....I'm only involved because this gross swab testing misconduct and falsification of documents goes far and above negligence it borders [sic] on criminal conduct.

Following this complaint, the company's executive responded: "Hi, Chris. I just explained to Mr. Numao [Orange Bakery's President] how big faking the documents in the production department is and we need to fix this system asap." Thereafter, another executive emailed Mr. Herr complaining that he, and not Orange Bakery's President, Mr. Numao, would be the fall-guy for the company's unlawful practices.

6. Yet, after many months of Plaintiffs' protests, Defendants have refused to remedy their unlawful conduct. In this action, Plaintiffs seek damages for Defendants' unlawful conduct. In addition, Plaintiffs seek a permanent injunction prohibiting Defendants from selling any food products in or from the state of North Carolina without conducting the safety testing mandated by applicable law.

PARTIES, JURISDICTION, AND VENUE

7. Plaintiff Chris Herr is an adult individual residing in Mecklenburg County, North Carolina, and is a resident and citizen of the state of North Carolina. Plaintiff Herr is currently a top-salesperson of Orange Bakery.

8. Plaintiff Lisa Soler is an adult individual residing in Gaston County, North Carolina, and is a resident and citizen of the state of North Carolina. Plaintiff Soler was, until she was forced to resign, a SQF practitioner and quality assurance employee for Orange Bakery.

9. Defendant Orange Bakery, Inc. ("Orange Bakery") is, upon information and belief, a California corporation. Defendant Orange Bakery has an office location and manufacturing facility in Mecklenburg County, North Carolina.

10. Defendant Rheon Automatic Machinery Co. ("Rheon") is, upon information and belief, a Japanese company. Upon information and belief, Rheon does business in the state of North Carolina. Rheon exercises operational control over Orange Bakery, and the corporations

have overlapping executives and management and intertwined balance sheets. Rheon executives played a significant role in the allegations contained in this action, including by directly retaliating against Plaintiffs for the protected conduct engaged in by Plaintiffs. Rheon was also fully aware of Orange Bakery's wanton and reckless violations of law and, at minimum, adopted and ratified Orange Bakery's illegal conduct. At all relevant times Rheon, through its control over Orange Bakery, had the power and authority to cause Orange Bakery to cease the unlawful conduct complained of in this action but did nothing to remedy the unlawful conduct. Upon information and belief, Rheon is a multi-national, multi-billion dollar, food machine processing corporation that knew or should have known that its conduct would create a substantial risk of injury to the public.

11. Defendant Takashi Numao ("Numao") is, upon information and belief, an adult individual residing in the state of California. Numao is the President of Defendant Orange Bakery and, upon information and belief, an executive of Rheon. Numao was aware of, participated in, and, upon information and belief, directed the unlawful conduct of Orange Bakery in the state of North Carolina as alleged in this action.

12. Defendant Yoshiaki Okazaki ("Okazaki") is, upon information and belief, an adult individual who is a resident of the state of North Carolina. Okazaki is a plant manager for Defendant Orange Bakery. Okazaki participated in and, upon information and belief, directed the unlawful conduct of Orange Bakery in the state of North Carolina as alleged in this action. Okazaki physically assaulted Plaintiff Soler in the state of North Carolina.

13. This Court has jurisdiction over the parties and the subject matter of this dispute. All of the Defendants engaged in unlawful conduct in the state of North Carolina, or tortious and unlawful conduct that caused injury to North Carolina residents and citizens.

14. Venue is proper in Mecklenburg County. Plaintiff Herr resides in Mecklenburg County and Plaintiffs work or worked in Mecklenburg County during the time when the relevant acts took place. Defendants do business in Mecklenburg County, and their acts or omissions caused injury to Mecklenburg County residents.

15. The amount in controversy exceeds \$25,000, this Court's minimum jurisdictional amount, exclusive of the attorneys' fees, costs, and interest sought in this action.

16. All conditions precedent to the filing of this suit, if any, have been performed, excused, waived, or otherwise satisfied.

FACTUAL ALLEGATIONS

17. Defendant Orange Bakery manufactures and sells raw food products. Among other things, Orange Bakery sells raw dough products utilized to bake and sell bread based products, as well as the bread based products themselves. These products include, among others, croissants, danishes, bread, pastries, strudel, and cookies.

18. Orange Bakery does not sell its products directly to the consumer. Instead, Orange Bakery sells its products to distributors and retailers, including well-known brands such as Whole Foods, Rich Products and Sam's Club (via Bake One), Ralph's Grocery (Kroger), US Foods Service, and Sysco, who then distribute or sell Orange Bakery's products to the consumer.

19. Orange Bakery's operations are substantial. Upon information and belief, the company has several manufacturing locations in California, as well as a manufacturing facility in North Carolina. Orange Bakery has, upon information and belief, millions of dollars in gross annual sales volume. Upon information and belief, Orange Bakery has sold hundreds of thousands, if not millions, of units of its food products.

20. The distributors and retailers who buy products from Orange Bakery to re-sell to the public have a national reach. For example, Rich Products is a leading national distributor of food products and is one of the largest privately held corporations in the country, with annual sales of several billion dollars. According to Rich Product's website, "Rich's is a leading supplier and solutions provider to the food service, in-store bakery and retail marketplaces." Rich's products "can be found in kitchens and bakeries around the world." Similarly, Sam's Club is a national retailer with over 600 retail locations in 47 states, and annual sales revenue in the tens of billions of dollars. Whole Foods is a world leader in natural and organic foods, with 443 stores in North America and the United Kingdom. According to Whole Foods, the company "seeks out the finest natural and organic foods available" and "maintains the strictest quality standards in the industry." Upon information and belief, US Foods Service and Sysco are among the largest and most well-recognized food distributors in the country.

21. By virtue of its access to these well-know and well-respected distribution and retail channels, Orange Bakery has a massive platform for its food products and, as a result, the ability to foist its dangerous products on an unsuspecting public.

**Food Safety Testing Requirements
and the Potentially Deadly Consequences of Non-Compliance**

22. Food products, especially raw food products, are dangerous when not manufactured and tested in a safe manner.

23. For this reason, the government has imposed rigorous food safety, licensing, and testing standards that manufacturers and sellers of food products must comply with in order to sell food products to the public.

24. In 2011, the United States Congress passed, and the President signed into law, the Food Safety Modernization Act ("FSMA"). The FSMA was passed in response to many

reported incidents of food-borne illnesses, which cost the food industry billions of dollars in recalls, lost sales, and legal expenses, and constituted a risk to the general health and well-being of the public. In 2011, the Center for Disease Control and Prevention ("CDC") estimated that each year 48 million people (1 in 6 Americans) get sick, 128,000 people are hospitalized; and 3,000 people die of food-borne illnesses and diseases.

25. To combat this public health concern, the FSMA introduced a series of food safety regulations, and greatly expanded the power of the FDA to monitor, inspect, and regulate food manufacturers and sellers. Among other things, the FSMA set mandatory preventive controls for food facilities, mandatory product safety standards, and mandatory inspection frequency standards. In addition, the FSMA provides the FDA with access to safety testing records that food manufacturers are required to maintain, and requires certain food testing to be carried out by independent accredited laboratories. Significantly, the FSMA empowered the FDA with mandatory recall authority for certain food products. The FSMA also required the FDA to undertake more than a dozen rulemakings and issue at least 10 guidance documents, as well as a host of reports, plans, strategies, standards, and notices. In sum, the FSMA was one of the most aggressive pieces of legislation ever passed to combat the plague of food-borne illnesses and diseases.

26. Among the deadliest of the food-borne illnesses and diseases are those spawned by E. Coli and Listeria. E. Coli (formally, Escherichia Coli) is a facultatively anaerobic, rod-shaped, bacteria. Among other things, E. Coli can cause gastroenteritis, neonatal meningitis, hemolytic-uremic syndrome, and a host of food-borne illnesses and diseases. Certain strands of E. Coli also produce a Shiga toxin that, according to the CDC, infects over 250,000 Americans

each year. People of all ages can be infected, but young children and the elderly are more likely to develop severe symptoms from the infection.

27. Listeria is also a facultatively anaerobic, rod-shaped, bacteria. Listeria causes the bacterial disease Listeriosis, a serious infection caused by eating food contaminated with the bacteria. The disease primarily affects pregnant women, newborns, adults with weakened immune systems, and the elderly. Listeriosis is a serious disease, the overt form of which has a case-fatality rate of approximately 20%. Listeriosis can also manifest as sepsis and meningitis. In cases where the bacteria has spread to the bloodstream or central nervous system, treatment can be difficult and can require intravenous delivery of high-dose antibiotics and hospitalization.

28. E. Coli and Listeria outbreaks have recently caused public health disasters. For example, between 2014 and 2016 frozen vegetables produced by a company called CRF Frozen Foods that were sold under various brand names were alleged to have caused a Listeria outbreak. As a result, approximately 358 consumer products sold under 42 separate brands were recalled by the FDA nationwide. By the time the recall was complete, nearly a dozen people had been hospitalized. Similarly, in 2016, the Department of Justice announced an investigation of Dole Food Co. Inc. linked to an alleged Listeria outbreak from packaged salad products. The outbreak allegedly made 33 people sick and killed four people between May 2015 and February 2016. Also in 2016, the CDC announced that two E. Coli outbreaks allegedly linked to food chain Chipotle had effected nearly 60 people across 14 states.

29. Given the serious health concerns posed by food-borne illnesses and diseases, the FSMA and FDA mandate that food manufacturers conduct regular and rigorous safety testing of their products. This testing can include, among others, taking surface bacterial samples with culture-swabs ("Swab-Testing") and water-testing.

Defendants Wantonly and Outrageously Stop Safety Testing Their Food Products

30. Silliker, an affiliate or division of Merleux NutriSciences Company, is a third-party company that provides food manufacturers with testing, auditing, researching, and training services to help assure the safety of food products. According to its website, Silliker is a leading internationally accredited food testing and consulting laboratory.

31. Historically, Silliker was the laboratory engaged by Orange Bakery to conduct the required safety testing of Orange Bakery's food products. After conducting the testing, Silliker would provide Orange Bakery with, among other things, a "Certificate of Analysis." The Certificate of Analysis provided a "positive" or "negative" finding for Listeria and other bacteria. In addition, the Certificate of Analysis provided a score for "temperature received" and a finding for the "Condition" of the food product. The Certificate of Analysis also had identifying information such as the manufacturing plant, testing identification number, and laboratory identification number so that any food products that failed testing could be identified and tracked.

32. At some point, however, believed to be prior to January 1, 2015, Defendants stopped submitting their food products for safety testing to Silliker or any other testing laboratory.

33. Instead, Defendants obtained blank Silliker "Certificate of Analysis" forms, and **forged the forms to show "negative" results for Listeria and other bacteria based on testing that was never done.**

34. Defendants' executives, including Defendants' executives in their California plants, circulated the blank "Certificate of Analysis" forms with handwritten instructions to their subordinates, including Plaintiff Soler, on how to forge the forms to give Defendants a passing

score for testing that was never done. For example, one handwritten instruction directed the employee to replace “ZZ Insert Here” with the word “Sampled” despite the fact that nothing was “sampled.” Similarly, the handwritten instructions directed Defendants’ employees to list the “test date” as “day after it was ‘received.’” The handwritten notes also directed Defendants’ employees to provide a temperature testing score of “3.0, 3.5, 4.0, or 4.5” for testing that was never done.

35. In sum, Defendants stopped testing their food products for Listeria and other deadly bacteria and created forged documentation to make it appear as though the testing was being conducted.

36. But no safety testing was done on Defendants’ products before Defendants sold them into the stream of commerce. Instead, Defendants intentionally played “Russian Roulette” with people’s lives and health in order to save time and money by foregoing legally required safety testing.

Defendants Use Falsified Documents to Fraudulently Deceive Regulators and SQF

37. The FDA and SQF have conducted audits/investigations of Defendants’ facilities.

38. During the FDA and SQF audits, employees of the FDA and SQF have made on-site visits to Defendants’ locations to inspect Defendants’ facilities and to review Defendants’ safety documentation and records.

39. Defendants fraudulently deceived the regulators and SQF by providing the regulators with forged and falsified documentation for safety testing that had never been done, including the forged Silliker “Certificate of Analysis” documents.

40. Upon information and belief, in this way, Defendants intended to, and in fact were able to, deceive the government regulators and SQF into believing the required safety testing was being done.

41. Upon information and belief, if the applicable regulators had known the truth, they would not have permitted Defendants to continue selling their food products without conducting the required safety testing.

42. Upon information and belief, if the applicable regulators had known the truth, they may have required a recall of those products of Defendants that had been sold into the market without the legally mandated safety testing.

43. In addition, upon information and belief, Defendants have represented themselves as having obtained SQF Certification. According to SQF, an SQF Certification requires “suppliers to provide verifiable proof that robust food safety control systems have been effectively implemented.” Upon information and belief, obtaining SQF Certification requires rigorous adherence to SQF’s standards and procedures.

44. Upon information and belief, obtaining SQF Certification, or a similar certification, is critical for food manufacturers who wish to sell their products to well-known and well-recognized brands. Upon information and belief, it would be impracticable for large food retailers to themselves audit and ensure the safety standards of all of their food manufacturers and providers. As a result, many of the large food retailers require a food manufacturer to obtain an SQF Certification, or similar certification, before they will do business with the manufacturer.

45. Defendants’ SQF Certification was, in substantial part, based upon Defendants’ lies and their forged and fraudulent documents. Upon information and belief, if SQF had known the truth, it would have never provided Defendants with an SQF Certification. Upon information

and belief, if Defendants had not obtained an SQF Certification, they would have not been able to access certain large distribution and retail platforms in order to sell their potentially tainted food products to an unsuspecting public.

Defendants Perpetrate a Fraud Upon Their Customers and the Public

46. Defendants do business with a number of large and well-respected food distributors and food retailers, including Rich Products, Whole Foods, Sam's Club (via Bake One), Ralph's Grocery (Kroger), US Foods Service, and Sysco.

47. Over the years, these distributors and retailers have spent millions of dollars purchasing food products from Defendants.

48. Plaintiff Herr is a top-salesperson for Orange Bakery and has many years of experience in the industry. As such, he is familiar with the buying practices and requirements of Defendants' distribution and retail customers.

49. Upon information and belief, Defendants' distribution and retail customers would not have bought Defendants' products, nor paid Defendants millions of dollars for those products, if they had known that Defendants' products were not being properly safety tested and that Defendants' SQF Certification was a sham.

50. Upon information and belief, after these large and well-respected distributors and retailers purchased Defendants' products, they re-sold them to the general public through their distributor channels and hundreds of retail locations nationwide.

51. As such, by defrauding their distribution and retail customers, Defendants used their customers as a conduit to sell their potentially tainted food products to an unsuspecting public.

52. Upon information and belief, Defendants have potentially caused millions upon millions of dollars in damages, and untold and potentially unquantifiable damage to the brands, of any distributor or retailer who they duped into re-selling their potentially tainted products.

53. Even worse, people have consumed these products. Upon information and belief, it is often difficult when people become sick from bacteria or other food-borne illnesses for them to identify the product that caused their illness.

54. Accordingly, it may be that members of the public have been made sick by Defendants' products and have not yet identified Defendants' products as the cause of their illness.

Defendants' Filthy Warehouse and Non-Compliance with OSHA Regulations Increases the Risk of Food Contamination

55. The danger of Defendants' failure to conduct the required safety testing is compounded by the fact that Defendants do not produce their food products in a clean and professional manufacturing facility.

56. To the contrary, Defendants' manufacturing facility in Huntersville, North Carolina, is filthy, and Defendants' manufacturing employees do not observe best food quality standards or even comply with OSHA regulations.

57. Among other things, Defendants' employees frequently fail to wear the proper protective and sanitary gear when handling food products, including gloves, masks, and hair nets.

58. Defendants' Huntersville, North Carolina manufacturing facility is or was filthy and contained dirt, garbage, mold, insects, and other potential food contaminants.

59. Defendants failed to comply with best practices or SQF procedures and requirements when manufacturing and handling food products.

60. Defendants failed to conduct internal inspections or properly maintain logs and other records, including logs and records concerning Defendants' machinery and supplies.

61. Defendants failed to properly conduct the required metal detector screening and adequately maintain logs of such screening.

62. In short, Defendants manufacture their food products in an environment rife for contamination prior to their failure to conduct the required food safety testing.

Plaintiffs Complain Repeatedly About Defendants' Conduct, are Subjected to Retaliation, and Plaintiff Soler is Physically Assaulted by Defendants' Executive

63. Internally, Plaintiffs have blown the whistle loudly, clearly, and repeatedly. In response, their complaints have been ignored, and they have been subjected to serious incidents of unlawful retaliation.

64. Herr is a long-time employee of Orange Bakery. Despite living with a serious illness, Herr is one of Defendants' top sales-people.

65. Soler is the former SQF practitioner and quality assurance employee for Orange Bakery.

66. Soler was hired by Orange Bakery in or about January 2015. Almost immediately, Soler began complaining about Defendants' acts and omissions described herein, including Defendants' failure to conduct the required food safety testing and the unsanitary manufacturing conditions.

67. In response, Soler was berated by Defendants' executives, who condescendingly told her that Defendants did not have the time and did not want to spend the money to conduct the required safety testing.

68. In addition, Defendants directed Soler to lie to and mislead federal regulators during those instances when the regulators conducted on-site audits of Defendants'

manufacturing facility. Defendants directed Soler to provide documents that Defendants knew to be false, forged, and fraudulent to federal regulators.

69. As Soler continued to protest Defendants' unlawful conduct, Defendants heaped abuse on her.

70. Defendants' executives cursed Soler, screamed and yelled at her, and berated her for complaining about Defendants' unlawful conduct. Defendants repeatedly threatened Soler's job for complaining, and told Soler that they would no longer hire White or African American employees because those employees complained too much, so they would only hire Asian or Mexican employees because they complained less.

71. In addition, when Soler continued to object to Defendants' unlawful conduct, Defendants' executive, Yoshiaki Okazaki, physically assaulted and battered Soler by throwing objects at her and kicking a trash can at her which stuck Soler's body.

72. Soler complained about Defendants' unlawful practices directly to Orange Bakery's President, Defendant Numao. In response, Numao berated Ms. Soler, wrote her up, demoted her, and took away her SQF and quality control responsibilities.

73. Shortly after Numao demoted Soler, Numao gathered a number of Orange Bakery employees together and required that they sign confidentiality and non-disclosure agreements. Numao's obvious purpose in doing so was to discourage the company's employees from speaking publicly about the company's violations of applicable law and regulations.

74. Finally unable to bear Defendants' abuse any longer, Soler resigned her employment with Defendants. She remains unemployed as of the date of the filing of this action.

75. Both before and after Soler resigned, Herr observed many of the same things that Soler had been complaining about internally for months. Among other things, Herr observed

that Defendants were not conducting the required safety testing for bacteria and other food contaminants.

76. Herr complained about Defendants' unlawful conduct repeatedly, both to Numao and to executives of Rheon.

77. In response, both Numao and the Rheon executives became angry with Herr for complaining and, as a result, have substantially reduced his compensation.

78. In addition, upon information and belief, Numao and the Rheon executives have been intentionally reducing Herr's compensation in order to force him to resign or to build a case to terminate his employment.

79. Plaintiffs have been severely damaged by Defendants' conduct, both financially and emotionally through the significant emotional distress caused by Defendants' acts and omissions.

80. Defendants' acts and omissions were willful, wanton, reckless, intentional, and exceeded all possible bounds of decency and tolerable conduct in a civilized society. Defendants have committed fraud and put at risk the lives and health of members of the public. As a result, Defendants are liable for substantial punitive damages.

81. Plaintiffs' damages were proximately caused by the acts or omissions of Defendants.

82. Plaintiffs are entitled to damages from Defendants, jointly and severally.

83. In addition, Plaintiffs are entitled to a permanent injunction prohibiting Defendants from selling food products in or from the state of North Carolina without conducting the required food testing.

84. All preconditions to this lawsuit have been satisfied or waived and this matter is ripe for judicial determination.

85. Plaintiffs demand all damages provided by or afforded by law or statute, including without limitation, actual, compensatory, general, special, consequential, liquidated, statutory, emotional distress, treble, punitive, or any other damages provided for or permitted by law, statute, or regulation.

**COUNT I: NORTH CAROLINA UNFAIR
AND DECEPTIVE TRADE PRACTICES ACT**
(All Defendants)

86. Plaintiffs repeat and reallege the allegations contained in all previous paragraphs.

87. Defendants' unlawful practices as described herein constitute a deceptive and unfair trade practice under North Carolina law.

88. Defendants, through their conduct, have breached the provisions of the North Carolina Unfair and Dnfair Trade Practices Act as codified in N.C. Gen. Stat. §§75-1.1, 75-16, and other related statutory provisions.

89. Plaintiffs are entitled to judgment against Defendants, jointly and severally, in an amount in excess of twenty-five thousand dollars (\$25,000) to be determined at trial as well as injunctive relief.

COUNT II: NEGLIGENT HIRING AND SUPERVISION
(All Defendants)

90. Plaintiffs repeat and reallege the allegations contained in all previous paragraphs.

91. Defendants Orange Bakery and Rheon have negligently hired and supervised, among others, employees Numao, Okazaki, and Chavez.

92. Defendants Numao negligently hired and supervised, among others, employees Okazaki and Chavez.

93. Defendant Okazaki negligently hired and supervised, among others, employees located in Defendants' Huntersville, North Carolina, manufacturing facility.

94. Defendants owed a duty to Plaintiffs to avoid acting in a negligent manner.

95. Defendants' negligence was the direct and proximate cause of Plaintiffs' damages.

96. Plaintiffs are entitled to judgment against Defendants, jointly and severally, in an amount in excess of twenty-five thousand dollars (\$25,000) to be determined at trial as well as injunctive relief.

COUNT III: ASSAULT AND BATTERY
(All Defendants)

97. Plaintiff Soler repeats and realleges the allegations contained in all preceding paragraphs.

98. Defendant Okazaki physically assaulted and battered Plaintiff Soler by throwing objects at her and kicking a trash can at Soler that struck Soler's body.

99. Defendants Orange Bakery, Rheon, and Numao directed, encouraged, ratified, and/or adopted the conduct of Okazaki.

100. Okazaki's conduct was undertaken in the scope of his employment and in furtherance of Defendants' business.

101. Defendants Orange Bakery, Rheon, and Numao are liable for Okazaki's conduct under a theory of respondeat superior.

102. Soler was damaged by Defendants' conduct.

103. Defendants' conduct was the direct and proximate cause of Soler's damages.

104. Soler is entitled to damages in an amount to be determined at trial.

COUNT IV: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(All Defendants)

105. Plaintiffs repeat and reallege the allegations contained in all preceding paragraphs.

106. Defendants conduct as described herein has been outrageous, willful, wanton, and beyond all bounds of decent and proper conduct in a civilized society.

107. Defendants' intentionally caused Plaintiffs severe emotional distress.

108. As a result of Defendants' acts and omissions, Plaintiffs experienced severe emotional distress, including without limitation, severe anxiety.

109. Defendants' conduct was the direct and proximate cause of Plaintiffs' damages.

110. Plaintiffs are entitled to damages from Defendants, jointly and severally, in an amount to be determined at trial.

COUNT V: CIVIL CONSPIRACY
(All Defendants)

111. Plaintiffs repeat and reallege the allegations contained in all preceding paragraphs.

112. Defendants, as part of a conspiracy, worked together and cooperated in effectuating the unlawful conduct described herein.

113. Defendants are part of a civil conspiracy.

114. Each Defendant named herein engaged in at least one overt act in furtherance of the conspiracy.

115. As the Defendants are part of a civil conspiracy, it is appropriate and equitable, as an evidentiary matter, to hold each Defendant responsible and liable for the acts of the other Defendants.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment against Defendants for: (i) all available or permitted damages provided for by law, statute, or regulation, including without limitation actual, special, general, compensatory, liquidated, statutory, emotional distress, treble, and punitive damages, pre-judgment and post-judgment interest, attorneys' fees and costs; (ii) a permanent injunction prohibiting Defendants from selling food products in or from the state of North Carolina without conducting the legally required safety testing; and (iii) for such other relief as this Court deems just and proper.

Dated: May 19, 2016

Respectfully Submitted,

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