

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

<p>GEORGE R. MICHELL, MICHELL NORTH LLC, MICHELL.BRADLEY LLC, BERLIN FOODS LLC, and UTICA FOODS LLC,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>McDONALD’S CORPORATION, and McDONALD’S USA, LLC, JOSEPH CHICZEWSKI, JEFF ROTH, and JOHN CRONAN</p> <p style="text-align: center;">Defendants.</p>	<p>Civil No.: 1:24-cv-3442 (NGG) (PK)</p> <p>Hon. Nicholas G. Garaufis</p>
<p>McDONALD’S CORPORATION,</p> <p style="text-align: center;">Counter-Claimant,</p> <p style="text-align: center;">v.</p> <p>GEORGE R. MICHELL, MICHELL NORTH LLC, MICHELL.BRADLEY LLC, BERLIN FOODS LLC, and UTICA FOODS LLC,</p> <p style="text-align: center;">Counter-Defendants.</p>	<p>Hon. Peggy Kuo</p> <p>Jury Trial Demanded</p>

FIRST AMENDED COMPLAINT

Plaintiffs George R. Michell, Michell North LLC, Michell.Bradley LLC, Berlin Foods, LLC, and Utica Foods, LLC, by their attorneys, complain against Defendants McDonald’s Corporation and McDonald’s USA, LLC (collectively “McDonald’s), Joseph Chiczewski, Jeff Roth, and John Cronan:¹

NATURE OF CASE

¹Plaintiffs file this First Amended Complaint as a matter of right under Fed.R.Civ.P. 15(a)(1)(B) with a one-day extension to do so by agreement with Defendants.

1. George R. Michell (“George Michell” or “Michell”), a Hispanic American, is a successful Owner/Operator of thirty-seven (37) McDonald’s restaurants in New York, Connecticut, Massachusetts, and New Jersey.

2. By agreement with McDonald’s in 2003, Michell also developed, owns, and operates eight (8) non-McDonald’s restaurants and bars (known in McDonald’s parlance as “Special Venues”) at Bradley International Airport in Windsor Locks, Connecticut (“Bradley Airport” or the “airport”).

3. Michell brought his daughter Larisa Michell into his business and intended that Larisa would become a McDonald’s Owner/Operator on her own through McDonald’s “Next Gen” program whereby the adult children of franchisees like Michell can become Owners/Operators of their own McDonald’s restaurants after they work in their parents’ McDonald’s restaurants and progress through the Next Gen program.

4. On or about November 9, 2022, McDonald’s revealed its wrongful scheme to coerce Michell to sell his 37 McDonald’s restaurants for at least \$100 million less than fair market value. Through Defendant Chiczewski McDonald’s declared that Michell no longer complied with McDonald’s “Owner/Operator Involvement Standard”, but this claim was arbitrary, capricious, asserted in bad faith based on alleged reasons that were false or greatly exaggerated, and a pretext for disparate treatment in violation of Michell’s civil rights; and in putting the scheme into practice, McDonald’s grossly departed from its own stated policies and procedures.

5. To further its scheme against Michell:

- a. McDonald’s is wrongfully applying *ex post facto* a new version of the Owner/Operator Involvement Standard that did not become effective until 2023 to Michell’s alleged conduct in 2021 and 2022. By McDonald’s intent and design, the 2023 (and 2024) versions of McDonald’s Owner/Operator Involvement Standard are inherently arbitrary and capricious.

- b. McDonald's wrongfully punished Larisa Michell by stating that Larisa could not become an Owner/Operator until Michell sold all his McDonald's restaurants at the coerced sale prices McDonald's was insisting on and left the system. As recently as April 2024, McDonald's offered to approve Larisa's purchase of five (4) McDonald's restaurants but only if Michell surrendered to McDonald's wrongful demands.
- c. McDonald's is intentionally and wrongfully causing Michell to suffer the loss of his eight "Special Venue" restaurants and bars at Bradley Airport. In 2023, these Special Venues generated nearly \$12 million in revenue generating profit for both Michell and McDonald's, and in recent years, Michell spent nearly \$4 million to upgrade them in the reasonable expectation that he and McDonald's were working together to secure their mutually profitable long-term future at Bradley Airport.

6. George Michell is a self-made man, proud of his heritage as a Hispanic American, who built his McDonald's and non-McDonald's businesses over 34 years of hard work and dedication to the McDonald's brand, to his employees, and to the communities in which his establishments serve. On May 9, 2024, to protect his family, his employees, and his legacy as a successful Hispanic business owner being subjected to unconscionable and disparate treatment, Michell filed this lawsuit alleging state law claims under statute and common law, and for disparate treatment and retaliation in violation of his civil rights under 42 U.S.C. § 1981 ("§1981").

7. On or about October 10, 2024, after Michell sued, McDonald's filed a bad faith counterclaim that is unlawful retaliation and additional disparate treatment in violation of §1981, and additional arbitrary and capricious conduct in breach of Michell's franchise agreements.

8. Michell seeks actual and punitive damages, declaratory and injunctive relief, costs and attorneys' fees, and all other relief available under law.

PLAINTIFFS

9. Plaintiff George R. Michell ("Michell") is a Mexican American citizen residing in New Canaan, Connecticut. He has been a McDonald's Owner/Operator since 1990. Through

multiple limited liability companies (LLCs), Michell owns and operates thirty-seven (37) McDonald's restaurants in New York, Connecticut, Massachusetts, and New Jersey.

10. Michell is the principal member of four LLC plaintiffs through which he owns and operates five of his franchised McDonald's restaurants that have received formal notice of non-renewal by McDonald's:

- a. Plaintiff Michell.Bradley LLC ("Michell.Bradley") is a Connecticut limited liability company with its principal place of business at Bradley Airport in Windsor Locks, Connecticut, where it owns and operates the McDonald's restaurant in the airport concourse as McDonald's Store #28784.² Michell acquired this McDonald's restaurant in 2003, and through his operating company, he subleases the restaurant premises from McDonald's, which holds a master concessionaire lease(s) from the Connecticut Airport Authority for these locations:
 - i. Michell's franchise agreement (and sub-lease) for his Bradley Airport McDonald's restaurant was dated April 19, 2003.
 - ii. On or about January 29, 2021, Michell and McDonald's amended this franchise agreement by extending its expiration to April 23, 2023.
 - iii. On or about March 29, 2023, Michell and McDonald's amended this franchise agreement a second time by providing "[t]he term is amended to expire January 31, 2025, unless terminated under the provisions of the Franchise as amended" and agreed that "[a]ll terms of the Franchise as amended remain in full force and effect and are ratified and confirmed." There have been no further amendments. Michell's Bradley Airport McDonald's franchise will expire on January 31, 2025, unless renewed by McDonald's.
- b. Plaintiff Michell North LLC is a Delaware limited liability company with its principal place of business in New York. It owns and operates two McDonald's restaurants that Michell acquired in November 2009:
 - i. McDonald's Store #11727 at 1814 Central Ave, Albany, New York 12205, at premises sub-leased from McDonald's. The franchise agreement for this restaurant will expire, if not renewed by McDonald's, on June 27, 2025.

² McDonald's assigns a "Store #" to each McDonald's restaurant and also to each "Special Venue" identified below in ¶13.

- ii. McDonald's Store #10953 at 3700 State St. Schenectady, New York 12304, at premises leased from McDonald's. The franchise agreement for this restaurant will expire, if not renewed by McDonald's, on December 28, 2025.
- c. Plaintiff Berlin Foods LLC is a Connecticut limited liability company with its principal place of business in Connecticut. It operates one McDonald's restaurant (McDonald's Store #148) at 2375/2355 Berlin Turnpike Newington, Connecticut 06111, on premises it leases from McDonald's. Michell acquired this restaurant on or about August 22, 2001. The franchise agreement for this restaurant will expire, if not renewed by McDonald's, on December 28, 2026.
- d. Plaintiff Utica Foods LLC is a New York limited liability company with its principal place of business in New York. It owns and operates one McDonald's restaurant (McDonald's Store #11542) at 1656 Utica Avenue, Brooklyn, New York 11234 in premises subleased from McDonald's. Michell acquired this restaurant in August 2017. The franchise agreement for this McDonald's restaurant will expire, if not renewed by McDonald's, on November 19, 2027.

11. In addition to the LLC plaintiffs named in ¶¶ 10(a)-(d), Michell is the principal member of other privately held LLC's that own and operate his other franchised McDonald's restaurants. All members of Michell's LLC's that own and operate his McDonald's restaurants are family members or trusts that Michell established to benefit his family.

12. In addition to his McDonald's restaurant at Bradley Airport, and by agreement with McDonald's in 2003, Michell developed, owns, and operates eight non-McDonald's restaurants/bars at Bradley Airport (collectively the "Special Venues"). These Special Venues, their McDonald's-assigned store numbers, and their menu offerings include:

- a. Fresh City (McDonald's Store #30494), which serves salads, wraps, and stir fry and offers vegan options.
- b. Papa Gino's Pizza (McDonald's Store #30495), which serves pizza.
- c. D'Angelos Grilled Sandwiches (McDonald's Store #35503), which serves other grilled sandwiches (not hamburgers or chicken sandwiches like McDonald's) and salads.
- d. Black Bear Saloon (McDonald's Store #34394) is a sports bar serving pub food.

- e. Samuel Adams Brewhouse (formerly Cask & Barrel Bistro) (McDonald's Store #34514) is a bar serving pub food.
- f. Phillips Seafood Restaurant (McDonald's Store #35028) is a regional chain serving crab cakes and "Maryland style" seafood and serves alcohol.
- g. Two Roads Taproom (McDonald's Store #30497) is a bar serving locally brewed craft beers and offering pub food.
- h. TravelTini (McDonald's Store #35504) is a high-end bar that also serves pub food.

13. Michell's subleases for his eight Special Venues at Bradley Airport will expire, if not renewed, on January 31, 2025 (having been extended in 2021 and 2023 concurrent with the amendments of Michell's Bradley Airport McDonald's restaurant franchise agreement.

14. All acts and omissions by Defendants directed at Michell are also directed at the particular Michell operating company for the specific McDonald's restaurant(s) or Special Venues affected by the act or omission; and all acts and omissions by Defendants directed at a particular Michell operating company for specific McDonald's restaurant(s) or Special Venues are also directed at Michell personally. Collectively, Michell and his operating companies are referred to in McDonald's parlance, and in this Complaint, as the "Michell Organization."

DEFENDANTS

15. McDonald's Corporation ("McDonald's Corp.") is a Delaware corporation with its principal place of business in Chicago. Through subsidiaries, it owns or franchises McDonald's restaurants worldwide. McDonald's Corp. has significant involvement in, and control over its subsidiaries including McDonald's USA including decision-making about the McDonald's restaurant system that caused or enabled the conduct giving rise to this Complaint.

16. Defendant McDonald's USA, LLC ("McDonald's USA") is a Delaware limited liability company and a subsidiary of McDonald's Corp. sharing headquarters in Chicago, Illinois

with McDonald's Corporation, that operates and franchises McDonald's restaurants in the United States. (Together, the corporate defendants are "McDonald's" unless otherwise indicated).

17. In or about October 2022, Defendant Joseph Chiczewski ("Chiczewski") became McDonald's Field Vice-President at its Field Office in Stamford, Connecticut that governs Michell's McDonald's restaurants. In or about August 2024, McDonald's removed Chiczewski from this Field Office by transferring him to the corporate headquarters in Illinois.

18. Defendant Jeff Roth ("Roth") is an Operations Officer for McDonald's. From July 2018 through September 30, 2020, Roth was Michell's "Franchise Business Partner" on behalf of McDonald's. From October 2020 through January 15, 2024, Roth was McDonald's Operations Officer for the Empire and New England Co-Ops in which some of Michel restaurants participate. On January 16, 2024, Roth became McDonald's Operations Officer for the New York Metro and Susquehanna Co-Ops where other Michell restaurants participate.

19. Defendant John Cronan ("Cronan") was McDonald's Operations Officer for the New York Metro and Susquehanna Co-Ops (in which some of Michell's franchised McDonald's restaurants participate) from November 2021 through December 2023, when McDonald's transferred him to a new position in California.

20. Under *respondeat superior*, the acts and omissions by McDonald's officers, employees, and agents, including but not limited to Chiczewski, Roth, and Cronan, are alleged against McDonald's.

JURISDICTION

21. The Court has federal question jurisdiction under 28 U.S.C. §1331, 42 U.S.C. §1981 and 42 U.S.C. §1988; and the Court has supplemental jurisdiction over Michell's state law claims arising from a common nucleus of operative facts.

VENUE

22. Under 28 U.S.C. § 1391(b), venue in the Eastern District of New York is proper since a substantial part of the events or omissions giving rise to the claims occurred in this District.

FACTS COMMON TO ALL COUNTS

23. The McDonald's System grew from one McDonald's restaurant franchise in 1953 to over 40,000 McDonald's restaurants doing business world-wide. In the United States, about 95% of all McDonald's restaurants are franchised to Owner/Operators.

24. At most franchised McDonald's restaurants in the United States including those owned and operated by Michell, McDonald's owns (or is the lessee) of the real estate and leases (or subleases) it to the Owner/Operator in exchange for the payment of rent that is usually based on an agreed percentage of sales. McDonald's determines the rent as a percentage of sales at each location. There is not a uniform percentage rent nationally.

25. The McDonald's franchise agreement establishes the franchise relationship between McDonald's and its franchisees. These franchise agreements are contracts of adhesion, drafted by McDonald's, and not negotiated with individual Owner/Operators.

26. Most McDonald's Owner/Operators including Michell signed "conventional" franchise agreements which usually provide a 20-year term. Exceptions are made to conform to leases that have shorter terms, *e.g.*, Michell's Bradley Airport McDonald's franchise had an eighteen (18) year term (2003-2021) concurrent with McDonald's master lease before the leases and the franchise agreement were extended to 2023, and then to January 31, 2025).

27. McDonald's franchise agreements give McDonald's vast discretionary power over an Owner/Operator's economic success. Without limitation:

- a. McDonald's decides whether a franchisee may acquire additional McDonald's restaurants (which McDonald's calls "growth").

- b. McDonald's decides whether to attempt to terminate a franchisee before the expiration of the franchise term; and
- c. McDonald's decides whether to renew the franchisee for an additional term upon the end of the franchise term (which was formerly called "Rewrite" and is now called granting a "New Term" in McDonald's parlance).

28. Section 15 of McDonald's franchise agreements require franchisees to obtain McDonald's approval before selling a franchised McDonald's restaurant. This provision confers vast discretionary power upon McDonald's to affect the price a selling Owner/Operator may receive for his or her franchised McDonald's restaurant. Without limitation:

- a. McDonald's might not approve a proposed sale to a particular buyer at any price (and in recent years McDonald's has implemented a "growth policy" that limits the pool of potential buyers among existing Owner/Operators).
- b. McDonald's might not approve a proposed sale at an intended price.
- c. McDonald's can depress the price a reasonable buyer might pay for a franchised McDonald's restaurant if it becomes known that McDonald's has declared the seller ineligible for franchise renewal or is attempting or threatening to terminate the franchisee; or that the franchisee has otherwise fallen into disfavor by McDonald's.
- d. McDonald's can also depress the price a reasonable buyer might pay for a franchised McDonald's restaurant if it becomes known that McDonald's is likely to exercise its right of first refusal after a franchisee submits a proposed franchise sale to McDonald's for approval.

29. Section 1(c) of McDonald's franchise agreements allow McDonald's to establish "standards and policies" for restaurant operations and other parts of the franchise relationship.

30. Section 28(h) of McDonald's franchise agreements states that "[n]o future franchise or offers of franchises for additional McDonald's restaurants, other than this franchise, have been promised to franchisee and any other franchise offer shall only be in writing, executed by an officer or franchising director of McDonald's, and identified as a Franchise Agreement or Rewrite Commitment Letter" (now called a "New Term Commitment Letter"). By this contract language,

McDonald's intentionally incentivizes its Owner/Operators to strive to obtain a "Rewrite [New Term] Commitment Letter" before their franchises expire to preserve the value of their restaurants as going concerns and to avoid the loss of equity that would result from non-renewal, or from being pressured to sell at coerced sale prices to avoid a threatened non-renewal.

31. In conjunction with providing the incentive under Section 28(h) to obtain Rewrite [New Term] Commitment Letters" before their franchises expire, McDonald's exercises its discretion under Section 1(c) to incentivize its Owner/Operators to continue, for the entire 20-year franchise term, to reinvest in their restaurants and maintain the highest standards of quality, service, and cleanliness.

32. For McDonald's, the Owner/Operators' continuing monetary reinvestment in their restaurants and continued maintenance of the highest standards of quality, service, and cleanliness over the entire 20-year term is important to the success of the McDonald's System and critical to McDonald's success as the franchisor. Without the incentive of franchise renewal, it is highly foreseeable to McDonald's that Owner/Operators would slack off as their franchise terms near expiration and would resist reinvestment without enough time to recoup the investment.

33. For Owner/Operators such as Michell, continued reinvestment as franchise terms near expiration makes sense but only if McDonald's can be trusted to exercise its contractual discretion honestly and fairly in setting the standards the Owner/Operator must meet to obtain franchise renewal and applying those standards honestly and fairly.

34. McDonald's discretionary power under the franchise agreements creates an inherent potential for abuse by McDonald's on a system-wide basis and/or directed at the Field Office level against individual Owner/Operators like Michell, who, along with all McDonald's Owner/Operators must trust McDonald's to be honest, reasonable, fair, consistent, non-

discriminatory, non-retaliatory, even-handed, and to act in good faith when making discretionary decisions that the franchise agreements empower.

35. From 1990 through 2022, Michell trusted McDonald's to be fair in exercising its contractual discretion under the franchise agreements and relied on McDonald's course of dealing with its Owners/Operators whereby decisions on franchise renewal would be made fairly and objectively, and that Owner/Operators would be given a reasonable opportunity to correct any deficiencies in their performance before a harsh decision such as non-renewal was imposed with finality.

McDonald's National Franchising Standards

36. From 2018 through December 31, 2022, McDonald's implemented six National Franchising Standards that Owner/Operators had to meet to remain eligible for growth and renewal. These included the:

- a. Building The Business Through Guest Satisfaction Standard.
- b. Operations Standard.
- c. People Standard.
- d. Financial Standard.
- e. Reinvestment Standard.
- f. Owner/Operator Involvement Standard.

37. In McDonald's National Franchising Standards in effect from 2018 through December 31, 2022, McDonald's stated (without limitation) that:

- a. "The six National Franchising Standards (the "Standards") are the basis for all franchising decisions including growth and rewrite and eligibility for participation in certain programs."
- b. "The Standards have been developed for the purpose of identifying those Owner/Operators with whom McDonald's desires to grow and/or enter into new franchise relationships. ... *Owner/Operators must meet each Standard and be in compliance with the Franchise Agreement to be considered eligible for growth and rewrite ...*" (Emphasis added); and

- c. “Based upon our ongoing business relationship with our Owner/Operators as well as knowledge and experience with their restaurants, McDonald’s Regional Management will determine whether we desire to maintain and grow that franchise relationship.”

38. In the McDonald’s National Franchising Standards in effect from 2018 through December 31, 2022, McDonald’s referred to the periodic “Business Reviews” it provides to its Owner/Operators and stated that “[o]ne of the many required outcomes of the Owner/Operator Business Review is the communication whether the Owner/Operator meets the [National Franchising] Standards. Regional Management will make a determination and communicate eligibility for growth and rewrite during the Business Review.”

39. In footnotes to its National Franchising Standards (as of 2018), McDonald’s added a disclaimer stating that “[t]hese are internal guidelines that McDonald’s may apply, modify or eliminate as it deems appropriate. They are not intended to and do not create or modify any contract rights or obligations. As always, those rights are determined only by the McDonald’s signed, written Franchise Agreements.”

40. Under McDonald’s National Franchising Standards in effect from 2018 through December 31, 2022, and consistent with its course of dealing with Owner/Operators since Michell entered the McDonald’s franchise system in 1990, McDonald’s defined its National Franchising Standards objectively.

41. In further exercise of its discretion under Section 1(c) to create franchising standards and policies, and consistent with its incentivization of Owner/Operators to strive to obtain “Rewrite [New Term] Commitment Letters” under Section 28(h) of its franchise agreements, McDonald’s publishes a “New Term Policy” (formerly the “Rewrite Policy”) with the intent by McDonald’s that franchisees rely on this policy and remain incentivized to reinvest in

their restaurants and maintain the highest standards of quality, service, and cleanliness, even as their franchises near expiration.

42. Under McDonald's New Term Policy in effect in 2023, and consistent with its course of dealing with its franchisees since Michell entered the McDonald's franchise system in 1990, McDonald's stated:

In "year 17" of the standard 20-year franchise agreement, "if the Owner/Operator has consistently met the [National Franchising] Standards over the course of the franchise term, the Field Office will recommend to the New Term Committee that a new term offer be made to the Owner/Operator."

43. In footnotes to its 2023 New Term Policy, McDonald's added a disclaimer stating "[t]his New Term Policy is not part of the Franchise Agreement. It is subject to change by McDonald's. Its application will differ depending upon the various facts and circumstances involved and it is not a contract right between Owner/Operators and McDonald's."

44. As additional parts of its established course of dealing since 1990 when Michell entered the McDonald's franchise system:

- a. McDonald's would inform an Owner/Operator of objective requirements the Owner/Operator must meet to cure any deficiency in complying with the National Franchising Standards.
- b. McDonald's designates an Ombudsman who can try to resolve disagreements that inevitably arise in franchise relationships. The McDonald's Ombudsman would historically provide a written decision or recommendation regarding the grievance or controversy that the Ombudsman was asked to address, enabling the Owner/Operator to appeal to higher Officers within McDonald's if desired. The McDonald's Ombudsman program has historically succeeded in resolving franchising disagreements without litigation.

McDonald's Does Not Want to be a Joint Employer

45. Section 16 of McDonald's franchise agreements (including those signed by Michell) provides that the franchisee is "not an agent of McDonald's" ... franchisee is an

“independent contractor” ... and “Franchisee and McDonald’s are not and do not intend to be partners, associates, or joint employers in any way ...”

46. Consistent with Section 16, McDonald’s strives to maintain the independent contractor status of its Owner/Operators and to avoid becoming a joint employer of its Owner/Operators’ employees in the franchised restaurants; and in a course of dealing since at least 1990 when Michell joined the McDonald’s franchise system, McDonald’s has often reminded its franchisees that it is not a joint employer and that franchisees must avoid doing anything that could be used against McDonald’s on the joint employer issue.

47. McDonald’s desire to not be the joint employer of its Owner/Operator’s employees in the franchised restaurants became more urgent in 2014 after the National Labor Relations Board (NLRB) sought to broaden the definition of “joint employer” to include franchisors such as McDonald’s. Since 2014, on information and belief, McDonald’s has devoted substantial time, effort, and resources to oppose this initiative by the NLRB and relatedly, McDonald’s reminded its franchisees not to take steps that could be perceived as creating joint employer status.

48. Related to its desire to maintain the Owner/Operators’ independent contractor status and avoid joint employer liability, McDonald’s does not set the retail prices for the food and drinks sold in franchised McDonald’s restaurants. However, McDonald’s recommends that its Owner/Operators use the price recommendation services of a nationally recognized firm (Deloitte) that McDonald’s authorizes to use its registered Golden Arches trademark when communicating written price recommendations to Owner/Operators such as Michell.

The Next Gen Program

49. As another part of its established course of dealing in place since at least 2018, McDonald’s offers the adult children of existing Owner/Operators who have worked in the

restaurants to become next generation (“Next Gen”) Owners/Operators by meeting defined qualifications.

The Success of the Michell Organization

50. From 1990 through 2017, Michell acquired multiple McDonald’s restaurants including thirty-seven (37) that he continues to own and successfully operate. This is a considerable accomplishment as relatively few McDonald’s Owner/ Operators acquire ten (10) or more McDonald’s restaurants.

51. Michell entered and has remained in the McDonald’s franchise system understanding and agreeing to the written franchise agreement(s) and the established course of dealing.

52. Since 1990, before the events alleged in this Complaint, Michell had the reasonable expectation McDonald’s would exercise its discretion under the franchise agreements in ways that are honest, reasonable, fair, consistent, non-discriminatory, non-retaliatory, even-handed, and to act in good faith.

53. In building his portfolio of McDonald’s restaurants, Michell consistently worked hard to cultivate good business relations with McDonald’s and with McDonald’s encouragement, he viewed the franchise relationship as a partnership in which franchisor and franchisee work together to enhance the brand’s reputation in the markets that Michell served, and to mutually profit. Michell showed leadership, the courage to take on challenging restaurants and non-traditional concepts, and a track record of substantial and continuing reinvestment.

54. As of 2022, Michell and his companies were consistently top quintile performers in comparisons among multi-unit McDonald’s restaurant owners. This was highly praiseworthy in the McDonald’s System.

Michell's Compliance with National Franchising Standards & Franchise Agreements

55. At all relevant times, for each of his McDonald's restaurants, and for each Bradley Airport Special Venue, Michell and his operating companies have performed or substantially performed all of their material obligations under their franchise agreements and other contracts with McDonald's.

56. Before November 2022, McDonald's never claimed that Michell failed to comply with any of McDonald's National Franchising Standards.

57. Before November 2022, McDonald's never refused to renew any of Michell's franchise agreements or other contracts when their terms came up for expiration or renewal.

58. Before October 10, 2024 (after the filing by Michell of this lawsuit on May 9, 2024), McDonald's never asserted breach by Michell of any of his franchise agreements or other contracts; and never tried to terminate any of his franchises or other contracts during their terms.

Michell's Success as a Minority Owner/Operator

59. Michell's heritage as a Mexican American is well-known to McDonald's, as Michell is active in the McDonald's Hispanic Owner/Operators Association ("MHOA"), and the Michell Organization has been and remains one of the largest Hispanic Owner/Operators of McDonald's restaurants in the United States.

60. McDonald's over the years has devoted public relations resources in promoting Michell as a praiseworthy example of how minorities can succeed in McDonald's franchise ownership. For example, Michell has been featured in Albany's Latino Magazine as a McDonald's Hispanic Leader and in Univision segments on Hispanic Heritage; and he has been presented as a McDonald's success story on CNBC and in the Wall Street Journal; and the Michell Organization was featured by McDonald's on the front page of McDonald's Management News.

Larisa Michell

61. Larisa Michell, the adult daughter of George Michell, has extensive managerial experience in the Michell Organization's restaurants and was qualified to enter into the Company's "Next Generation" program whereby the children of successful Owner/Operators may become restaurant owners themselves.

62. Larisa Michell was and remains qualified to become a Next Generation Owner/Operator of multiple McDonald's restaurants; and in April 2024, McDonald's stated it would approve Larisa's acquisition of five of Michell's McDonald's restaurants but only if Michell agreed to McDonald's below market value offer for thirty (30) of his restaurants.³

Bigger Bolder Vision 2020

63. In or about 2017, McDonald's announced a new program, "Bigger, Bolder Vision 2020" ("BBV 2020") whereby McDonald's required its Owner/Operators in the USA to make large and unprecedented reinvestments in their restaurants to conform to the Company's evolving visions for the brand in terms of restaurant appearance and technology, without limitation.

64. In announcing BBV 2020 during a meeting at its headquarters in Chicago, the president of McDonald's USA explained (in substance) that BBV 2020 was a new direction for McDonald's, that Owner/Operators who did not embrace the new vision and reinvest at the required levels should leave, but Owner/Operators who participated would be rewarded over the long term as McDonald's valued business partners.

65. After announcing BBV 2020, McDonald's continued to impose new requirements in technology and other categories that have required more reinvestment by its Owner/Operators.

³³ McDonald's was also prepared to approve the sale of two restaurants to Tyrone Davis, a senior Michell management executive who has been with Michell since his first McDonald's restaurant.

66. In announcing BBV 2020 and other programs since 2017, McDonald's did not provide its Owner/Operators with projected returns on investment (ROI), a fact that, among others, generated controversy among McDonald's franchisees. McDonald's demanded that its Owner/Operators trust the Company's leadership in imposing these new spending programs.

67. Michell agreed to place his trust in McDonald's and embraced BBV 2020. Since 2017, Michell and his various operating companies spent over \$20 million in improvements to 36 of their franchised McDonald's restaurants to meet new requirements announced by McDonald's:

- a. Only one of Michell's McDonald's restaurants (McDonald's Store #13068, at 880 Coney Island Avenue, Brooklyn, New York), was not included in this reinvestment due to its then-pending lease expiration.
- b. At McDonald's Store #148, at 2375/2355 Berlin Turnpike Newington, Connecticut 06111, Michell continued to reinvest in this franchised restaurant in 2022 to meet McDonald's requirements at that location, in addition to having reinvested in that location in 2018 to meet McDonald's requirements.

The Bradley Airport Special Venues

68. In or about 2003, McDonald's entered into a master concessionaire agreement with the Connecticut Airport Authority (CAA) that allowed for a franchised McDonald's restaurant and required McDonald's to provide other restaurants and bars, offering diverse food and drinks, throughout the airport concourse. McDonald's agreement with the CAA was set to expire in 2021, but it was extended until 2023, then extended again until January 31, 2025.

69. In 2003, McDonald's needed an Owner/Operator who was qualified, ready, willing, and able to operate a McDonald's restaurant *and* develop and operate the non-McDonald's restaurants and bars that McDonald's had agreed to supply. Michell accepted this role and through Michell.Bradley, he developed the eight (8) Special Venues identified in ¶12.

70. Michell has performed well and enjoyed positive business relationships at Bradley Airport. In 2023, Michell's Special Venues generated almost \$12,000,000 in revenue and remain

profitable in 2024 for all concerned parties including McDonald's which receives premium rent payments from Michell for the Special Venues.

71. Beginning in or about 2017 and continuing into 2024, at the direct request of his lessor (McDonald's) Michell reinvested over \$4 million in his Bradley Airport Special Venues. Michell understood the CAA was asking for these improvements. Michell further understood from McDonald's that he and McDonald's were working together to meet the joint goal of continuing their relationship at Bradley Airport for another full term of 18 years beyond 2021, and that the lease extensions (from 2021 to 2023 and from 2023 to 2025) were first steps for this purpose.

72. Michell would not have committed to his Special Venues reinvestment if he had any reason to suspect McDonald's would change course in 2024 and interfere with his opportunity to continue operating these investments after January 31, 2025.

Michell's Business Review Report Dated April 19, 2022

73. In or about April 2022, Michell received a Business Review Report from McDonald's dated April 19, 2022, written by John Cronan (McDonald's Operations Officer) and Stephen Monahan (McDonald's Franchise Business Partner) in which McDonald's declared that Michell complied with the six National Franchising Standards published by McDonald's in 2018.

74. In his April 19, 2022, Business Review Report from McDonald's:
- a. McDonald's objectively concluded Michell met the Operations, Reinvestment, Financial, People, and Building the Business Through Guest Satisfaction Standards.
 - b. McDonald's objectively concluded Michell met the Owner/Operator Involvement Standard because he "participated in McDonald's meetings, conventions, rallies and events each year," "attended an Owner/Operator based HU training class within the past 10 years," and "participated on a McDonald's system team within the past 18 months."
 - c. McDonald's noted objectively that Michell "remain[s] current in the business by participating in McDonald's meetings, conventions, and events, whether virtually

or in person;” Michell is “a participating member of OPNAD and [his] local Co-Op Business Unit;” and Michell’s “organization is involved in and gives back to the communities where your restaurants are located. We acknowledge your contributions and sponsorship of community events;” and

- d. McDonald’s commented on ways Michell should strive to improve his Owner/ Operator Involvement going forward, stating that Michell should communicate more directly on his own when attending McDonald’s business meetings or his Business Reviews and rely less on his management team in communicating with McDonald’s.

75. In the April 19, 2022, Business Review Report, McDonald’s made no criticism of Michell, and offered no suggestions for improvement:

- a. Based on the content, style, or timing of any of Michell’s communications with McDonald’s before April 19, 2019.
- b. On subjective topics such as whether Michell had “positive” involvement with McDonald’s or fellow Owner/Operators of whether he contributed to the System in a manner that was “collaborative” and “constructive.”
- c. On the need to protect the brand and avoid bad publicity.
- d. On the need to communicate information to McDonald’s that could result in publicity that is damaging to the brand; or
- e. On the need to inform McDonald’s of pending labor or employment law cases brought by or on behalf of employees at the franchised restaurants.

76. Michell’s April 19, 2022, Business Review Report confirmed that McDonald’s had similarly considered Michell compliant with National Franchising Standards in 2017, 2018, and 2021.

77. In expressly declaring Michell eligible for growth and rewrite (franchise renewal), McDonald’s was concurrently declaring Michell compliant with the National Franchising Standards *and* his franchise agreements as of April 19, 2022. (See ¶37(b)).

78. After his receipt of the April 19, 2022, Business Review Report, Michell remained eligible for growth and rewrite (franchise renewal) and as intended by McDonald’s, Michell

continued to rely on his eligibility as he continued to invest in his restaurants in ways that benefitted McDonald's and his organization.

**McDonald's Changes Its New Term Policy and
National Franchising Standards**

79. In or about June 2022, McDonald's announced that its historic "rewrite" practices would be replaced by a "New Term Policy" that would "go into effect in as part of the 2026 New Term offer decisions that are made beginning in 2023." In this announcement:

- a. McDonald's stated that "[o]bjective criteria will be determine whether a new 20-year franchise term will be granted."
- b. McDonald's stated that it would provide "revised" National Franchising Standards (but while McDonald's stated that it would be changing its "People", "Operations" and "Finance" Standards, but did not state that there would be revisions to the Owner/Operator Involvement Standard).

80. On information and belief, many McDonald's Owners/Operators criticized the announced "New Term" policy, but not Michell, who did not perceive a threat to his McDonald's restaurants; and who has always strived to cooperate with the company.

81. On or about January 1, 2023, McDonald's implemented an updated Owner/Operator Involvement Standard as part of its new 2023 National Franchising Standards. But contrary to its system-wide representation in June 2022, the new Owner/Operator Involvement Standard did not provide "[o]bjective criteria will be determine whether a new 20-year franchise term will be granted." By McDonald's intent and design, the new Owner/Operator Involvement Standard effective January 1, 2023, was subjective and ambiguous by design, such that Owner/Operators are exposed to a materially increased risk of arbitrary, capricious, subjective, inconsistent, abusive, and discriminatory decision-making by McDonald's, or by its field officers who are authorized to determine, without limitation, whether an Owner/Operator:

- a. Fails to maintain a “*mutually beneficial working relationship* with McDonald’s Company staff.”
- b. Fails to be sufficiently “*participating*” and “*positive*” when attending various business or team meetings.
- c. Fails to “*act with the highest standards of honesty, integrity, courtesy, professionalism, and ethical conduct in all direct and indirect dealings with the Company ... and in all situations where the Brand could be connected to the Owner/Operator’s conduct.*”
- d. Fails to “*communicates in a timely, open, and transparent manner, especially regarding issues that impact the Brand.*”
- e. Fails to be sufficiently “*collaborative and constructive*” and ... “*gain the trust and support of other Owner/Operators, suppliers, and the Company alike ...*”

(Emphasis added).

82. By McDonald’s intent and design, the above-quoted language from the 2023 Owner/Operator Involvement Standard was inherently subjective and thus subject to abusive, discriminatory, arbitrary, capricious, and inconsistent interpretation and/or application by McDonald’s in its field offices or at corporate headquarters. McDonald’s was purposefully empowering itself to target franchisees for elimination from the system for pretextual reasons. On information and belief, this was a reaction by McDonald’s to the fact that many McDonald’s Owner/Operators had expressed dissatisfaction with BBV 2020.

83. By McDonald’s intent and design, McDonald’s purported to empower itself and its local field officers to be the prosecutor, judge, jury, and executioner of an Owner/Operator’s career with McDonald’s and Next Gen family aspirations, and the equity in his or her McDonald’s restaurants:

- a. Based on inherently subjective and potentially arbitrary, capricious, retaliatory, or discriminatory whims.

- b. Without regard to an Owner/Operators' performance under objective metrics such as sales volume or McDonald's QSC standards, etc.
- c. Without regard to the Owner/Operators' reinvestments in a particular restaurant in reliance on the prospects for renewal under the previously established course of dealing.
- d. Even where there is no contention that the Owner/Operator materially breached the applicable franchise agreement(s).

84. For Owner/Operators such as Michell who own multiple McDonald's restaurants, McDonald's can declare him ineligible for renewal at any of his locations even if there was no alleged violation of the Owner/Operator Involvement Standard at that location.

85. In contrast to other National Franchising Standards that set objective requirements, McDonald's published no guidelines to ensure consistent, non-abusive, and non-discriminatory interpretation and/or application of the subjective Owner/Operator Involvement Standard; or to allow an Owner/Operator to cure a determination that he or she is not complying with the subjective Owner/Operator Involvement Standard.

86. Michell did not agree in any franchise agreement (or any other agreement) that McDonald's could engage in arbitrary, capricious, retaliatory and/or discriminatory decision-making by field officers or at the corporate headquarters under a subjective Owner/Operator Involvement Standard that could cause his loss of equity in the business he has successfully built since 1990 and/or disqualify his daughter from the Next Gen program.

McDonald's Scheme Against Michell

87. Michell did not publicly criticize McDonald's after BBV 2020 as other Owner/Operators chose to do. But on an unknown date before November 2022, McDonald's personnel in the Stamford Field Office prepared one or more "franchise plans" in which McDonald's contemplated the transfer of Michell's McDonald's restaurants to other franchisees.

88. On information and belief, it is McDonald's practice to prepare "franchise plans" contemplating a redistribution of an existing franchisee's McDonald's restaurants when there is reason to believe that franchisee wishes to sell or will be otherwise be leaving the system either voluntarily or involuntarily.

89. Before November 2022, Michell had not communicated to McDonald's any desire to sell his McDonald's restaurants or leave the system and was not aware that McDonald's was making "franchise plans" to this effect.

90. In October 2022, Michell met Joe Chiczewski, the new Vice President of the Stamford Field Office, for the first time at a McDonald's meeting in Las Vegas. This was a short, introductory meeting. Nothing of substance was discussed.

91. On or about October 31, 2022, without notice to Michell, a media outlet reported that Michell had agreed to pay approximately \$1.1 million to the New York City Department of Consumer and Worker Protection ("DCWP") to resolve claims that Michell's Brooklyn McDonald's restaurants had violated the municipal Fair Workweek Law and Earned Safe Time and Sick Time Act, and that Michell had violated the settlement of an earlier case brought under this municipal law.

92. On information and belief, many other McDonald's Owner/Operators have been accused of violating the same or similar labor or employment laws, or other labor or employment laws, and/or have been named in negative media reports. For example, in June 2022, the media reported that a Vermont franchisee (Coughlin) who in June 2022 agreed to pay \$1.6 million to settle EEOC claims of sex discrimination, harassment, and retaliation on behalf of restaurant employees who alleged the franchisee's restaurant manager inappropriately touched their genitals, breasts, and buttocks among other misconduct. On information and belief, Coughlin, who is white,

remains a McDonald's Owner/Operator and was not sanctioned by McDonald's in the way McDonald's is trying to sanction Michell.

93. On or about November 9, 2022, Chiczewski told Michell that he, Chiczewski, had concluded that based on the facts alleged in ¶91, Michell did not meet the Owner/Operator Involvement Standard because he had not informed McDonald's of the DCWP case before the resolution of that case resulted in adverse publicity.

94. Never before announcing this conclusion had Chiczewski visited any of Michell's McDonald's restaurants and as alleged above, Chiczewski and Michell had met face to face only once and very briefly. Assessment of compliance with the Owner/Operator Involvement Standard without talking to the Owner/Operator and visiting his or her restaurants was arbitrary and capricious and a deviation from McDonald's course of dealing.

95. On multiple occasions, including in his testimony in this case on September 25, 2024, Chiczewski admitted that Michell being accused of violating municipal law in the DCWP case itself was not a problem for McDonald's. (R.49 at 364:13-365:6). The problem, according to Chiczewski, was the adverse publicity that caught McDonald's off guard because Michell had not informed McDonald's about the DCWP case. (*Id.*). But never after Michell's settlement of the DCWP case was publicized on October 31, 2022, did McDonald's issue any public statements seeking to protect the McDonald's brand.

96. The problem giving rise to the DCWP cases had been that certain software recommended by McDonald's to its franchisees (the "Deputy" software program) was inadequate to enable the franchisee to meet the enhanced record-keeping requirements imposed on restaurant owners by the Fair Workweek Law. But rather than blame McDonald's for the software problem, Michell resolved the DCWP cases on his own and without informing McDonald's that the DCWP

cases had been filed against him based on his understanding (which was based on his three decades as a McDonald's Owner/Operator and communications from McDonald's over the years) that McDonald's expected its franchisees to resolve labor or employment law cases involving the franchisee's restaurant employees, on their own, without notifying or involving McDonald's, because McDonald's adamantly intends to avoid being deemed a joint employer.

97. In further conversation in November 2022:

- a. Chiczewski told Michell that McDonald's wants Michell out of the system and that Michell should sell all of his McDonald's restaurants.
- b. Chiczewski offered to purchase all of Michell's McDonald's restaurants at prices Michell believed was at least \$100 million less than fair market value; and
- c. Chiczewski stated that if Michell did not sell his McDonald's restaurants, McDonald's would not renew his restaurants as Michell's franchise agreements expire.
- d. Chiczewski told Michell that Larisa Michell would have to apply to become an Owner/Operator through the "Registered Applicant" program that is available to members of the general public who wish to become McDonald's franchisees (and not as a Next Gen candidate). Chiczewski made it clear that Larisa would only be approved to become a McDonald's Owner/Operator if Michell sold his McDonald's restaurants and left the system as Chiczewski was demanding.

98. In making these statements about Larisa Michell, Chiczewski and McDonald's were intentionally holding Larisa's future as a McDonald's Owner/Operator hostage to their scheme to drive her father, Michell, out of the system at coerced-sale prices. Worse, Chiczewski and McDonald's were intentionally disregarding McDonald's stated policy in McDonald's "Next Generation & Spousal Program" that stated:

If an organization becomes ineligible while a candidate is in training, McDonald's will place the candidate on hold for a maximum of one year. If the organization does not regain eligibility status within 12 months, the candidate will be removed from the NG/SP program. If eligibility is regained within the 12 month time period, the hold will be removed and the candidate will resume the training program.

99. Violating their own stated policy, Chiczewski and McDonald's were not placing Larisa Michell "on hold" for twelve months, and even that action would have been premature as of November 2022 because McDonald's had not yet formally declared the Michell Organization ineligible (that development would not occur until January 2023). As of November 2022, Chiczewski and McDonald's were clearly threatening that Larisa would never be approved as an Owner/Operator until Michell sold his restaurants and left the system. Not only was this in violation of the stated policy, but it was also blatant disparate treatment against a Hispanic Owner/Operator and his daughter, for on information and belief, McDonald's has allowed white Next Gen candidates to become Owner/Operators despite their parents' organizations encountering eligibility issues. Discovery will be needed to develop these facts.

100. Chiczewski repeated the substance of his statements as alleged in ¶¶ 94-95, 97 on multiple occasions; and he rejected attempts by Michell to negotiate a partial sale of his restaurants, to be coupled with a path towards restored eligibility for future renewals, and which was intended by Michell as possible good faith compromise, and not as an admission of any guilt.

101. On multiple occasions after Chiczewski criticized Michell for the adverse publicity following Michell's resolution of the DCWP case, Michell tried to explain to Chiczewski that he had not informed McDonald's about the DCWP case because Michell understood that based on its fear of being deemed a joint employer, McDonald's wanted no connection to labor law or employment law cases brought by or on behalf of the employees in the franchised restaurants. In addition to multiple verbal conversations, Michell put this explanation in writing in an email he sent to Chiczewski on February 17, 2023, when Michell explained that "labor issues at franchisee stores are franchisee matters" because "McDonald's has always taken the position that they are not a joint employer, and the franchisees are independent business owners." Michell copied his

February 17, 2023, email to Myra Doria at McDonald's corporate, to whom Chiczewski reports, and Mason Smoot, another McDonald's executive, to make his position known to officers above Chiczewski's level.

102. No one from McDonalds ever told Michell that Michell's understanding about McDonald's fear of being named a joint employer was wrong. Likewise, no one from McDonald's identified any prior communications that Michell should have been aware of, in which McDonald's stated that McDonald's expected to be informed of cases such as the DCWP case. There were no such communications.

103. Furthermore, by January 2022 (about 10 months before Michell resolved the DCWP case), McDonald's was aware that Michell had unsuccessfully defended a case brought by the National Labor Relations Board (NLRB), after an NLRB administrative law judge ruled against Michell on or about December 30, 2021; and this adverse ruling in the NLRB case was the subject of unfavorable publicity on or about January 1, 2022.

104. Like the DCWP case, Michell did not bring the NLRB case to McDonald's attention based on Michell's understanding of McDonald's fear of being deemed a joint employer. Michell had been consistent in his conduct towards McDonald's in the NLRB and the DCWP cases. And significantly:

- a. By April 2021, McDonald's knew of the then-pending NLRB case after it was reported in the media that this case was pending and awaiting decision by the NLRB.
- b. After McDonald's learned of the pending NLRB case against Michell in April 2021 from the media (assuming it had no prior knowledge before then by checking the NLRB docket):
 - i. No one from McDonald's criticized Michell for adverse publicity mentioning the NLRB case in April 2021.

- ii. No one from McDonald's sought any more information from Michell about the NLRB case in the interval from April 2021 through January 1, 2022, when the NLRB decision against Michell was reported in the media; and
 - iii. No one from McDonald's advised Michell on any alleged need to coordinate to respond to possible future publicity when the case was decided
- c. After January 1, 2022, when the NLRB decision against Michell was reported in the media:
- i. No one from McDonald's criticized Michell for not informing it of the case before the adverse ruling on December 30, 2021; and
 - ii. No one from McDonald's criticized Michell for failing to bring this adverse ruling to McDonald's attention in the interval between December 30, 2021 and January 1, 2022, when the adverse ruling was reported in the media.

105. Furthermore, no one from McDonald's claimed in 2022 or before this lawsuit that the NLRB case demonstrated non-compliance by Michell with the Owner/Operator Involvement Standard or breaches by Michell of his franchise agreement for the single restaurant involved in the NLRB case.

106. Furthermore, in his Business Review Report dated April 19, 2022, in which McDonald's concluded that Michell complied with the Owner/Operator Involvement Standard and his franchise agreements, McDonald's did not mention the NLRB case or the bad publicity that had occurred in April 2021 and in January 2022 and which was known to McDonald's before it issued the April 2022 Business Review Report.

107. The 2018 version of the Owner/Operator Standard that was applicable at the time of Michell's Business Review Report dated April 19, 2022, remained in place as of November 2022, when Chiczewski claimed that Michell was not compliant.

108. In summary, there was nothing in his more than 30 years as a McDonald's Owner/Operator that would have put a reasonable Owner/Operator in Michell's position on notice that McDonald's had expected to be informed of cases such as the DCWP case before Michell's resolution of that case that resulted in adverse publicity (that Michell did not know of in advance). McDonald's could have *easily* put into writing such a directive to Michell after the NLRB case, or to all Owner/Operators generally, but it never did so (most likely because, precisely as Michell reasonably understood and believed, McDonald's does not want to create evidence of communications that could be used to support an argument by labor unions or governmental agencies that McDonald's is a joint employer).

Michell Complains of Disparate Treatment

109. In one or more of their conversations after Chiczewski criticized Michell for the adverse publicity following Michell's resolution of the DCWP case, Michell complained to Chiczewski that McDonald's was guilty of disparate treatment because many other McDonald's franchisees had been sued in comparable cases (or worse cases) and/or caused adverse publicity. The Vermont sexual harassment case that was settled for \$1.6 million (in a settlement that was reported in the media) as alleged above is but one example. Discovery will be needed to develop these facts.

110. In his conversations with Chiczewski, Michell also cited McDonald's treatment of Larisa Michell as disparate treatment. Michell asked Chiczewski why he and his family were being singled out and openly questioned whether it is because he is Hispanic. Chiczewski became angry and did not answer Michell's questions about disparate treatment.

111. In his February 17, 2023, email (see ¶101), Michell copied the president of McDonald's Hispanic Owner/Operators' Association (in addition to copying higher ranking

officers at McDonald's corporate) to highlight his concerns of disparate racial treatment, which he put into writing in this email. But no one from McDonald's attempted to refute Michell's claim of disparate racial treatment.

112. From November 2022 onward, Michell was shocked and outraged by Chiczewski's demand that he sell his McDonald's restaurants and leave the system. He was further shocked and outraged by the price Chiczewski was offering, which he believed was more than \$100,000,000 less than fair market value. He was further shocked and outraged by the perceived disparate treatment that Chiczewski refused to discuss, and by the fact that Chiczewski was holding Larisa Michell's Next Gen progress hostage to his unjustified demand that Michell exit the system by selling his restaurants substantially below their fair market value.

113. Michell did not agree to McDonald's demands, but out of concern for his daughter, concern for his employees, and seeking to salvage his three decades of hard work building his organization and the substantial equity he has earned in his restaurants, Michell attempted after November 2022, to negotiate with McDonald's, but without success. But in their arrogant belief they are the potentates and Michell is a mere (Hispanic) franchisee, Defendants doubled down after November 2022, in their arbitrary, capricious, and discriminatory efforts to drive Michell out of this franchise system.

114. On multiple occasions after November 2022, continuing through April 2024, Chiczewski and/or Cronan confirmed that McDonald's demand is that Michell leave the McDonald's system completely before Larisa Michell may become an Owner/Operator; and that McDonald's will continue to deny new franchise terms to Michell as his franchise agreements come up for renewal.

The January 11, 2023 Change of Status Letter

115. In a “Change of Status” letter dated January 11, 2023, Defendant Chiczewski, McDonald’s Field Vice President in the Stamford Field Office, speciously alleged that Michell has a “*history*” of “*repeated inability to properly communicate and be collaborative with the Stamford Field Office*” such that, in McDonald’s opinion, Michell supposedly “no longer [met] the National Franchising Standards.”

116. Chiczewski was speciously purporting to invoke the 2023 version of the National Franchising Standards and to apply the 2023 standards retroactively to conduct in the preceding years including communications in 2021 and 2022.

117. Chiczewski used this Change of Status letter to announce that the Field Office was recommending Michell be declared ineligible for renewal and to confirm Larisa Michell’s removal from the Next Gen program.

118. McDonald’s assertion that Michell violated a National Franchising Standard based on the 2022 DCWP case (and its punishment of Larisa Michell) was wrongful, but this was only the beginning of McDonald’s pretextual scheme to manufacture false grounds to expel Michell from the franchise system and steal Michell’s hard-earned equity in his business.

119. In purporting to retroactively apply the new National Franchising Standards to two of Michell’s communications with the Field Office in 2021 and 2022, Chiczewski was engaged in a malicious campaign to declare Michell ineligible for his upcoming franchise renewals based on false, pretextual, arbitrary, capricious, and discriminatory reasons. Without limitation:

- a. There was no contention that any 2021/2022 statement by Michell was *false*.
- b. McDonald’s did not identify any prior communication giving notice to Michell that he would be violating the Owner/Operator Involvement Standard by communicating in the manner that he did; and
- c. There was there nothing disrespectful in Michell’s communications by any objective standard.

120. Michell protested the January 11, 2023, Change of Status Letter to no avail. Without limitation, Michell pointed out the fact that two white Owner/Operators (Tom Parker and Paul Hendel) had settled with New York City after being charged with comparable labor law violations, and their cases had generated similar media publicity, but to Michell's knowledge, McDonald's had not sanctioned them. McDonald's ignored and did not refute Michell's claim of racially disparate treatment.

121. Nor did McDonald's ever try to explain or justify its application of the 2023 Owner/Operator Involvement Standard to pre-2023 conduct.

122. Likewise, McDonald's made no attempt to justify its retroactive contention that Michell had not met the Owner/Operator Involvement Standard based on conduct that preceded his Business Review Report Dated April 19, 2022, when McDonald's affirmed his compliance with that standard. Furthermore, McDonald's revisionist history increased after the filing of this lawsuit when Chiczewski attempted to add even more pre-April 19, 2022, events to the list of Michell's alleged non-compliance with the Owner/Operator Involvement Standard even though (as alleged above) there was no such criticism in the 2022 Business Review, which was the occasion designated by McDonald's when compliance with the standards was determined.

123. Based on the January 2023 Change of Status Letter, Chiczewski and the McDonald's Field Office recommended that McDonald's New Term Committee deny renewal to the four McDonald's restaurants identified in ¶10 (a), (b), and (c). But this formality was only a charade because Chiczewski had made clear in November 2022 that Michell would *not* receive any franchise renewals going forward.

124. None of the four McDonald's restaurants that were formally recommended for non-renewal in January 2023 had been part of the DCWP case that supposedly caused Michell to

become ineligible for renewals. McDonald's identified no operational issues, and no breaches of the franchise agreement, regarding these four restaurants. McDonald's identified no criticisms as to the way Michell successfully owns and operates his McDonald's restaurants at these locations.

125. In the same January 2023 change of status letter, the McDonald's Field Office also recommended that McDonald's deny renewal to Michell's eight (8) non-McDonald's Special Venues at Bradley Airport identified in ¶12 (even though these are not McDonald's franchises). But they identified no alleged no criticisms of his operations of the Bradley Airport Special Venues.

The Coney Island Avenue Board of Health Incident

126. On or about July 5, 2023, after McDonald's malicious scheme to drive Michell out of the McDonald's system was well underway, the New York City health department briefly closed Michell's McDonald's restaurant at 880 Coney Island Avenue, Brooklyn, New York (McDonald's Store #13068), after a walk-in refrigerator broke down. This incident, while regrettable, was not unusual in the quick service restaurant world. This restaurant had not been included in the recent wave of reinvestments because its lease was expiring, and hence an old refrigerator failed without warning. The refrigeration was quickly corrected, the restaurant quickly re-opened, and it remains open. This time, because the franchise agreement requires the restaurants to be open, the Michell Organization promptly told McDonald's about the closure and kept the Company posted as it quickly re-opened. But despite Michell's timely communication, McDonald's misrepresented this event to add to its false narrative that Michell has a history of allegedly failing to properly communicate with McDonald's in violation of the Owner/Operator Involvement Standard.

127. On July 21, 2023, McDonald's wrongfully accused Michell of "lack of candor in disclosing the full nature" of the violations cited by the New York Department of Health in

mentioning the refrigerator but failing to mention that the inspector also found mice droppings and filth flies. But McDonald's was wrong:

- a. The only reason Store #13068 on Coney Island Avenue was temporarily closed was the malfunctioning refrigerator. Some flies and mice droppings were seen, as is common in big city restaurants despite professional pest control arrangements being in place, but the observed pest problem did *not* rise to the level of requiring restaurant closure under established board of health standards.
- b. Michell's team mentioned the pests to Stephen Monahan, McDonald's Franchise Business Partner, who was more interested in getting the restaurant to reopen.
- c. Still, as McDonald's appoints itself the prosecutor, judge, jury, and executioner in interpreting its standards, it disregarded Michell's explanations as repeated here, and added its false and self-serving conclusions about this incident to its "narrative" that Michell has an alleged "lack of candor" history.

128. On or about July 21, 2023, McDonald's placed Coney Island Avenue Store #13068 in an internal cure process even though the refrigeration problem had been corrected and the restaurant had reopened with the board of health's permission. Michell overcame this issue despite McDonald's irregularities in applying the cure process.

129. Both the 2022 DCWP case and the brief 2023 restaurant closure due to the refrigeration failure were fairly common incidents in the McDonald's franchise system and in the operation of quick service restaurants generally. Both incidents were promptly and professionally resolved. Neither detracts one whit from the conclusion that for more than 30 years Michell and his organization have been outstanding, high-quality operators. McDonald's seized on these incidents as pretexts to destroy the Michell Organization one restaurant at a time, as restaurants come up for renewal, or to coerce Michell into selling all his McDonald's restaurants at forced sale prices.

130. In 2023 and 2024, McDonald's then denied Michell a full and fair Ombudsman process. Michell invoked this time-honored informal dispute resolution procedure, but instead a

newly appointed Ombudsman deferred to the whims of the field office whose abusive conduct gave rise to Michell's grievance.

131. On or about August 25, 2023, McDonald's informed Michell of its final decision to not offer Michell new terms for the four restaurants identified in ¶1 (a) to (c) and the eight (8) non-McDonald's Special Venues at Bradley Airport (that McDonald's was purporting to treat as McDonald's franchises).

Further Escalation by McDonald's

132. In February 2024, McDonald's escalated its scheme to drive Michell out of the system by announcing it would not renew the Utica Avenue McDonald's restaurant in Brooklyn (identified in ¶10(d)) for the same reasons it had asserted in its August 2023 announcement of its final decision not to renew the four McDonald's restaurants and other licensed restaurants/bars identified in ¶10(a) to (c). In announcing this decision, McDonald's identified no operational issues, and no breaches of the franchise agreement, regarding the Utica Avenue McDonald's restaurant.

133. McDonald's also asserted in early 2024 that the Stamford Field Office will recommend that two additional Michell restaurants will be denied renewal in 2028; and Chiczewski continues to make it clear to Michell that he will never be renewed at any of his McDonald's locations, and that the Company will continue to hold Larisa Michael's Next Gen career hostage until Michell leaves the system.

False Criticism of Michell Regarding Migrant Workers

134. In 2023 and 2024, Roth and Chiczewski continued in distorting and misrepresenting Michell's communications in their effort to falsely claim he is in continuing

violation of the Owner/Operator Involvement Standard and to otherwise insult and demean Michell.

135. For example, in January 2024 Roth falsely accused Michell of announcing (at the “Maximizing Growth” meeting of McDonald’s Owner/Operators in Sarasota, Florida on or about January 18, 2024), an alleged plan by Michell to violate state or federal law by hiring migrants who had recently arrived in Florida but who allegedly would not be eligible to work in the United States. But contrary to Roth, Michell did *not* advocate the unlawful hiring of migrants or anyone else; and Roth knew or should have known that Michell was not advocating the violation of any laws.

136. In advocating the *lawful* hiring of migrants who are eligible to work in the states where Michell’s McDonald’s restaurants are located, Michell was echoing the welcoming attitude McDonald’s has expressed to its Owners/Operators including Michell since 2022 or earlier, as evidenced (without limitation) by emails Michell exchanged with Kenya Handy-Hilliard of McDonald’s on October 11, 2022, *after* Handy-Hilliard communicated McDonald’s enthusiasm for the “Employment of Migrants” in a Webex meeting that McDonald’s had invited the Owner/Operators in Michell’s region to participate. These emails are reprinted below:

From: Handy-Hilliard Kenya <kenya.handy-hilliard@us.mcd.com>
Sent: Tuesday, October 11, 2022 5:08 PM
To: Michell George (US Partners) <george.Michell@partners.mcd.com>
Subject: RE: Employment of Migrants

Great! Roy Iraci will be your contact in the City. Nellie Thomas is your contact in Yonkers and Julio is your contact in Albany. They will be working out a hiring day or something of that nature, once we get things straightened out with the Mayor and the Governor.



Kenya Handy-Hilliard
Manager, Government Relations I Mobile: +1.929.813.0209

Kenya.Handy-Hilliard@us.mcd.com

From: Michell George (US Partners) <george.Michell@partners.mcd.com>
Sent: Tuesday, October 11, 2022 9:18 AM
To: Handy-Hilliard Kenya <kenya.handy-hilliard@us.mcd.com>
Subject: Employment of Migrants

Kenya,

Please add us to the list of interested operators. We have stores in Brooklyn, Yonkers and the Albany NY area as well as NJ.

George Michell

From: Handy-Hilliard Kenya <kenya.handy-hilliard@us.mcd.com>

Sent: Tuesday, October 11, 2022 9:03 AM

To:

REDACTION⁴

Subject: McDonald's Empire/NY Metro Government Relations Update

137. Ignoring McDonald's express policy to welcome the *lawful* hiring of recently arrived migrants, Roth sought to punish Michell for acting consistently with the company's announced policy by falsely accusing Michell of seeking to hire migrants *unlawfully* and to elevate his purposeful or reckless misrepresentation of Michell's words into alleged evidence of Michell's alleged continuing failure to comply with the inherently subjective Owner/Operator Involvement standard, the pretextual basis by which the Defendants including Roth are scheming to steal the equity value of Michell's business from Michell and his family.

⁴ The names and email addresses of more than 140 persons on the "to" and "cc" lines of Handy-Hilliard's email (including Michell) are redacted for privacy. Each of these persons is believed to be a McDonald's employee or McDonald's Owner/Operator or the employee of an Owner/Operator.

138. Roth's targeting of Michell on the issue of migrant hiring was disparate treatment and racially hostile.

False Criticism of Michell's Retail Pricing

139. In July 2023, Michell and McDonald's were criticized in the media after Michell raised the retail price of the Big Mac combo meal above \$18.00 at the Darien turnpike McDonald's restaurant. However, Michell's pricing was reasonable in view of his costs of doing business at that location and in view of the pricing by his competitors at that location.

140. On February 8, 2024, Jeff Roth of McDonald's falsely suggested that Michell was deficient in not utilizing industry-standard advisors when setting his retail prices at his McDonald's restaurants on the turnpike in Connecticut; but Michell subscribes to a Deloitte pricing recommendation service that McDonald's recommends to its franchisees (and allows Deloitte to display McDonald's registered Golden Arches trademark) on the pricing recommendations that it communicates to McDonald's franchisees; and Michell's pricing is consistent with Deloitte's advice.

141. By January 31, 2023, Deloitte had recommended to Michell that he price his Big Mac combo meal at the Darien turnpike restaurant above \$18.00.

142. Michell had priced his Big Mac combo meal above \$18.00 at the Darien turnpike restaurant at Deloitte's recommendation for five months before it became the subject of media attention. McDonald's had ample notice that Michell had priced above \$18.00 but had not complained; and McDonald's profited by collecting a service fee as a percentage of Michell's gross sales.

143. Michell had no reason to know his pricing would attract publicity.

144. McDonald's had never warned franchisees not to cross any particular pricing points.

145. No version of McDonald's Owner/Operator Involvement Standard addresses the subject of franchisee pricing.

146. On information and belief, Michell's pricing caused no loss of sales.

147. Roth also criticized Michell for allegedly making too much money at his turnpike restaurants but ignored Michell's costs and competitive circumstances.

148. Roth's and McDonald's true purpose was (A) to strong arm Michell into lowering his retail prices at that location, a purpose McDonald's wishes to obfuscate as it seeks to maintain the public impression it plays no role in retail pricing decisions by its Owner/Operators; and (B) to continue the false narrative that Michell does not meet the Owner/Operator Involvement Standard.

**McDonald's Leverages Michell's Special Venues
as Part of Its Scheme to Force Michell Out of the System**

149. In early 2024, Michell learned that McDonald's did not intend to reapply for the master concessionaire lease at Bradley Airport which allows Michell (as subtenant) to operate his successful Special Venues. McDonald's has claimed that this was a "business decision" but McDonald's never explained the alleged business reasons. At all times since 2003, McDonald's received rental income from each of Michell's Special Venues. There was no contention (and nor could there be) that McDonald's was losing money on Michell's Special Venues or that being Michell's sub-lessor for the Special Venues was consuming McDonald's resources that could be more profitably redirected elsewhere.

150. Michell quickly informed Chiczewski that to protect his substantial business relationships and investments at Bradley Airport, Michell would independently apply to the to the

Connecticut Airport Authority (CAA) for a master concessionaire lease to commence in January 2025, when the present master lease(s) held by McDonald's expires. Michell also informed Chiczewski he would sublease to McDonald's for the operation of a continued McDonald's restaurant at the airport (if McDonald's brought in a different Owner/Operator for the airport location).

151. In response, Chiczewski told Michell that McDonald's would "support" Michell's bid to become the master concessionaire if Michell agreed to sell his McDonald's restaurants at the below market price Chiczewski was insisting on. In taking this position, Chiczewski and McDonald's believed and intended that McDonald's lack of "support" for Michell's bid (coupled with McDonald's "support" for other bidders) would cause the CAA to reject Michell's bid.

152. Michell had not yet secured McDonald's "support", but he submitted his bid to the CAA on April 16, 2022, which was the deadline to apply, to avoid the loss of nearly \$12 million in revenue (that is likely to increase in future years) and to recoup his recent investments of nearly \$4 million in improvements. Because Michell enjoys good business relationships at Bradley Airport, he was hopeful that his bid might be approved and he remained hopeful McDonald's would "support" him in becoming the Master Concessionaire, which would not have required McDonald's to renew his Bradley Airport McDonald's' restaurant franchise.

153. At no time before Michell submitted his application to the CAA had McDonald's communicated the position that Michell was supposedly forbidden from submitting his bid without McDonald's approval. Nor did Michell realize before submitting his bid to the CAA that McDonald's was committed to destroying his investment in his Special Venues if he refused to wave the white flag of surrender and sell all of his McDonald's restaurants at coerced sale prices. But on or about April 20, 2024, Chiczewski falsely claimed he did not know Michell would be

independently applying for the master concessionaire lease; and Chiczewski announced that unless Michell sells all his McDonald's restaurants as Chiczewski has demanded since November 2022, McDonald's would attempt to block Michell from continuing to operate his Special Venues after January 2025 or seek other relief against Michell if he refuses to abandon his Special Venues.

154. Chiczewski went so far as to assert that McDonald's would prefer to abandon the opportunity for a continued McDonald's restaurant at Bradley Airport rather than acquiesce in Michell obtaining the master lease to preserve his profitable Special Venues.

155. In threatening to pull the McDonald's brand out of Bradley Airport, to punish or leverage Michell, McDonald's acted contrary to its own business interests. However, the windfall McDonald's would wrongfully reap if it were to force Michell to sell his McDonald's restaurants at forced sale prices, as McDonald's demands, would likely exceed McDonald's lost income in abandoning the airport. McDonald's intends to profit from its wrongful scheme against Michell.

156. On information and belief, McDonald's lack of "support" for Michell's bid coupled with its "support" for other bids caused the CAA to reject Michell's bid to become the next master concessionaire at Bradley Airport and doomed Michell's opportunity to preserve his highly profitable Special Venues. On further information and belief, McDonald's communicated its opposition to Michell's bid to the CAA in one or more ways. Discovery will be necessary to develop these facts.

Through the Filing of this Lawsuit

157. Through the date of this lawsuit (May 9, 2024):
- a. Faced with McDonald's escalation, Michell explored the possibility of resolution without litigation, but his efforts to remain in the McDonald's franchise system are being rebuffed.
 - b. McDonald's continued to assert false narratives at every chance possible to bolster its claim that Michell did not meet the Owner/Operator Involvement standard.

- c. McDonald's repeatedly ignored Michell's efforts to communicate and work professionally with McDonald's to address any of its alleged concerns.
- d. McDonald's refused to define a path for Michell to cure his alleged violations of the Owner/Operator Involvement Standard.
- e. McDonald's further punished Michell by refusing to give him a list of McDonald's approved Owner/Operators whom the Company might approve as potential buyers, thus preventing Michell from trying to sell any of his stores on his own hoping to obtain fair market value.
- f. McDonald's refused to rescind its bad faith, discriminatory decision to punish or leverage Michell by removing his daughter, Larisa Michell, from the Company's Next Generation Program.

158. Michell has notice from other owner/operators that McDonald's campaign against Michell is well-known among McDonald's Owner/Operators. This means there is likely no fair market to sell his McDonald's restaurants even if he wanted to sell as McDonald's has intentionally created a forced sale atmosphere.

159. Before this case, Michell had no grievances with McDonald's that rose to the level of attempted resolution through the Ombudsman program; and he had no litigation with McDonald's. He has been an exemplary Owner/Operator since 1990 who has been betrayed by an arrogantly abusive and discriminatory franchisor that believes it can steal the equity value of his McDonald's restaurants (and destroy Michell's equity and future income in the Special Venues) without consequences.

McDonald's Unlawful Retaliation

160. On October 10, 2024, McDonald's filed a Counterclaim against Michell seeking declaratory judgment that Michell is in material breach of his franchise agreements and subject to franchise terminations. (R. 51.)

161. McDonald's Counterclaim contradicts McDonald's prior positions that the conduct of Michell that McDonald's now alleges rises to the level of material breach, repeated breach, or

any breach, as McDonald's never claimed breach at the time any of this alleged conduct occurred (and McDonald's affirmed in April 2022 that Michell was not in breach when it announced that Michell remained eligible for growth and renewal).

162. McDonald's Counterclaim contradicts testimony given by Defendant Chiczewski at the hearing on Plaintiffs' Rule 65 motion, where Defendant Chiczewski admitted that the fact that Michell had two DWCP cases in New York (the second resulting in the approximate \$1.1 million dollar settlement) and a 2021 adverse decision from the NLRB were not violations of McDonald's Owner/Operator Involvement Standard. (R. 49, 364:25-6.)

163. McDonald's filed its Counterclaim to punish Michell for bringing this lawsuit and as further coercion for Michell to sell his McDonald's restaurants for substantially less than fair market value.

COUNT I
VIOLATIONS OF THE CONNECTICUT FRANCHISE ACT

164. Plaintiffs Michell, Michell.Bradley and Berlin Foods incorporate ¶¶ 1 through 163 as though set forth herein in Count I against McDonald's Corporation and McDonald's USA.

165. The Connecticut Franchise Act provides in Section 42-133f (entitled "Termination, or cancellation of, or failure to renew a franchise") that:

No franchisor shall, directly, or through any officer, agent or employee, terminate, cancel or fail to renew a franchise, except for good cause shown which shall include but not be limited to franchisee's default or failure to comply substantially with any material and reasonable obligation of the franchise agreement ...

Conn. Gen. Stat. Ann. § 42-133f (West).

166. McDonald's Store #28784 owned and operated by Plaintiffs Michell and Michell.Bradley at Bradley Airport in Windsor Locks, Connecticut is a franchise protected by the Connecticut Franchise Act.

167. McDonald's Store #148 owned and operated by Plaintiffs Michell and Berlin Foods on Berlin Turnpike in Newington, Connecticut is a franchise protected by the Connecticut Franchise Act.

168. McDonald's has violated the cited provisions of the Connecticut Franchise Act by announcing the non-renewal of McDonald's Stores #28784 and #148 without good cause.

169. The Connecticut Franchise Act further provides in Section 42-133g (entitled "Actions for Violation") that:

Any franchisee may bring an action for violation of sections 42-133e to 42-133g, inclusive, in the Superior Court to recover damages sustained by reason of such violation, which action shall be privileged in respect to its assignment for trial and, where appropriate, may apply for injunctive relief as provided in chapter 916. Such franchisee, if successful, shall be entitled to costs, including, but not limited to, reasonable attorneys' fees.

Conn. Gen. Stat. Ann. § 42-133g (West).

170. Plaintiffs Michell, Michell.Bradley and Berlin Foods have been substantially injured and damaged and will suffer additional damages if McDonald's violations of the Connecticut Franchise Act are not redressed.

171. Without limitation, the Plaintiffs' damages may include lost profits and/or injury to business value and loss of equity and consequential damages that are not yet determined.

172. Without limitation, Plaintiffs' consequential damages include the injury to business value and loss of equity in their Bradley Airport Special Venues, as these losses are not *merely* foreseeable to McDonald's as the consequence of McDonald's violations of the Connecticut Franchise Act. McDonald's *intended* for Michell and Michell.Bradley to suffer these consequential damages when McDonald's simultaneously announced the non-renewal of the Bradley Airport McDonald's restaurant franchise and the Bradley Airport Special Venue franchises.

173. The extent of injury and actual and consequential damages will be proven at trial.

174. In addition:

- a. The conduct of McDonald's violating the Connecticut Franchise Act creates an actual and justiciable controversy between the parties.
- b. To avoid irreparable injury, Plaintiffs Michell and Michell.Bradley pray in equity for declaratory judgment under 28 U.S.C. §2201 that McDonald's conduct violates or threatens to violate the Connecticut Franchise Act by not-renewing McDonald's Stores #28784 and #148 or purposefully causing any circumstances that would prevent these renewals from occurring.
- c. Justice requires Declaratory Judgment against McDonald's.
- d. The balance of equities favor Plaintiffs Michell, Michell.Bradley and Berlin Foods.

175. In addition:

- a. The conduct of McDonald's constituting violations of the Connecticut Franchise Act threatens irreparable injury to Plaintiffs Michell, Michell.Bradley and Berlin Foods.
- b. To avoid irreparable injury, Plaintiffs Michell, Michell.Bradley and Berlin Foods pray in equity that McDonald's, and all persons acting in concert with these corporate Defendants, be enjoined from continuing and carrying out their announced intent to violate the Connecticut Franchise Act by not-renewing McDonald's Stores #28784 and #148 or purposefully causing any circumstances that would prevent these renewals from occurring.
- c. Justice requires injunctive relief against McDonald's.
- d. The balance of equities favors Plaintiffs Michell, Michell.Bradley and Berlin Foods.

176. Because McDonald's violations of the Connecticut Franchise Act are willful and malicious, the Court should award punitive or exemplary damages against McDonald's in an amount sufficient to punish this franchisor, one of the world's largest, and deter others from like misconduct.

177. Plaintiffs reserve their election of remedies.

COUNT II

VIOLATIONS OF THE CONNECTICUT UNFAIR TRADE PRACTICES ACT

178. Plaintiffs Michell, Michell.Bradley and Berlin Foods incorporate ¶¶ 1 through 177 as though set forth herein against McDonald's Corporation and McDonald's USA.

179. Section 42-110b (a) of the Connecticut Unfair Trade Practices Act (CUPTA) provides that “[n]o person shall engage in unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce.”

180. McDonald's has engaged in conduct that constitutes a continuing violation of the CUPTA. Without limitation:

- a. As alleged in ¶¶ 118-119, 127, 134-135, 137, 140, and 148, McDonald's attempt to usurp Michell's equity in his thirty-seven (37) McDonald's restaurants is based on lies or half-truths.
- b. As alleged in ¶¶ 79-86, McDonald's falsely represented to its community of Owner/Operators (including Michell) that it would modify its National Franchising Standards to make important decisions on New Term eligibility more objective, but then McDonald's arbitrarily and capriciously changed its Owner/Operator Involvement Standard to permit its Field Officers to arbitrarily and capriciously declare that an Owner/Operator does not meet this standard for subjective reasons that were not disclosed to the Owner/Operator as potentially relevant criteria for decisions affecting eligibility for a New Term or for growth.
- c. As alleged in ¶¶ 98 and 115, McDonald's arbitrarily and capriciously declared Michell does not meet the Owner/Operator Involvement Standard based on conduct (not informing McDonald's of the DCWP case) that McDonald's had

recently confirmed does not run afoul of Owner/Operator Involvement Standard when McDonald's informed Michell he complied with the Owner/Operator Involvement Standard despite not informing McDonald's of the NLRB case.

- d. As alleged in ¶¶ 116, 119, and 121, McDonald's arbitrarily and capriciously declared Michell does not meet the Owner/Operator Involvement Standard by attempting to retroactively judge Michell's conduct in 2022 by the version of the standard that did not become effective until 2023.
- e. As alleged in ¶¶ 75-78, 119, and 161, McDonald's is wrongfully attempting to hold Michell non-compliant with the Owner/Operator Involvement Standard and in breach of his franchise agreements based on conduct preceding Michell's Business Review Report dated April 19, 2022, in which McDonald's concluded and informed Michell that he complied with the Owner/Operator Involvement Standard and his franchise agreements by declaring Michell eligible for franchise renewal at that time.
- f. As alleged in ¶¶ 124-125, and 133, McDonald's is wrongfully attempting to terminate all of Michell's franchise agreements even though the franchise agreements do not contain cross-default clauses and McDonald's does not allege any conduct that could possibly constitute breach in the vast majority of his thirty-seven (37) franchise agreements.
- g. As alleged in ¶¶ 7, 95, and 161-162, McDonald's is wrongfully attempting to terminate all of Michell's franchise agreements based on conduct or occurrences that Chiczewski admitted were not material.

- h. As alleged in ¶¶ 58, 104-105, and 161, McDonald's is wrongfully attempting to terminate all of Michell's franchise agreements based on conduct or occurrences that were not alleged to be breaches at the time they occurred.
- i. As alleged in ¶¶ 86, 98, 112, 114, and 157, McDonald's is attempting to further its scheme to steal Michell's equity in his thirty-seven (37) McDonald's restaurants by holding Larisa Michell's future as a Next Gen Owner/Operator hostage despite admitting in April 2024 that Larisa is qualified to purchase five (5) McDonald's restaurants.

181. In addition, as alleged in ¶¶ 149, 151, and 153-154, McDonald's attempted to further its scheme to usurp Michell's equity in his thirty-seven (37) McDonald's restaurants by (A) wrongfully "nonrenewing" his Bradley Airport Special Venues; (B) then withholding its "support" for Michell to become the next master concessionaire at Bradley Airport (and on information and belief engaging in other communications) with the intent of causing the CAA to reject Michell's bid; and (C) wrongfully threatening to sue Michell to enforce the non-compete clause where McDonald's has no protectible interest in preventing Michell from continuing to engage in the same conduct he has been permitted by McDonald's to engage in since 2003; and which McDonald's was willing to approve going forward but only if Michell surrenders to its scheme to force him to sell his thirty-seven (37) McDonald's restaurants at coerced sale prices.

182. In addition, as alleged in ¶¶ 109-110, 112-113, 120, and 138, McDonald's is engaged in racially hostile disparate treatment in its attempt to not renew and/or terminate all of Michell's franchise agreements.

183. As alleged in ¶¶ 4, 5, 98, 112, 157, and 159, McDonald's is engaged in all of the above conduct as part of a scheme to force Michell to sell thirty-seven (37) McDonald's restaurants

for substantially less than fair market value. This scheme is nothing less than a scheme by McDonald's to wrongfully steal the equity Michell has spent his working life building as a McDonald's Owner/Operator.

184. McDonald's conduct alleged in ¶¶ 180-182 violates the CUPTA because (A) it violates statutes such as the Connecticut Franchise Act; (B) violates common law good faith and fair dealing; (C) violates "established concepts of unfairness"; (D) is "immoral, unethical, oppressive, or unscrupulous"; and (E) it causes substantial injury to Michell.⁵

185. McDonald's violation of the CUPTA is a proximate cause of Michell's loss of equity and future profits from his eight (8) Special Venues.

186. McDonald's violation of the CUPTA is a proximate cause of Michell's threatened loss of equity and future profits from his McDonald's restaurants.

187. The CUPTA provides:

Any person who suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment of a method, act or practice prohibited by section 42-110b, may bring an action in the judicial district in which the plaintiff or defendant resides or has his principal place of business or is doing business, to recover actual damages. Proof of public interest or public injury shall not be required in any action brought under this section. The court may, in its discretion, award punitive damages and may provide such equitable relief as it deems necessary or proper.

Conn. Gen. Stat. Ann. § 42-110g (West).

188. Under the CUPTA, Plaintiffs seek actual damages for the actual and threatened loss of future profits and equity in the McDonald's restaurants that McDonald's has formally declared

⁵ Quoting from *Hartford Elec. Supply Co. v. Allen-Bradley Co.*, 250 Conn. 334, 368, 736 A.2d 824, 843 (1999).

will not be renewed and the eight Special Venues at Bradley Airport that will be lost. The extent of injury and damages will be proven at trial.

189. In addition, because McDonald's violations of the CUPTA are willful and malicious, the Court should award punitive or exemplary damages against McDonald's in an amount sufficient to punish this franchisor, one of the world's largest, and deter others from like misconduct.

190. In addition:

- a. The conduct of McDonald's violating the CUPTA creates an actual and justiciable controversy between the parties.
- b. To avoid irreparable injury, Plaintiffs Michell and Michell.Bradley pray in equity for declaratory judgment under 28 U.S.C. §2201 that McDonald's conduct violates or threatens to violate the CUPTA by not-renewing McDonald's Stores #28784 and #148 or purposefully causing any circumstances that would prevent these renewals from occurring.
- c. Justice requires Declaratory Judgment against McDonald's.
- d. The balance of equities favor Plaintiffs Michell, Michell.Bradley and Berlin Foods.

191. In addition:

- a. The conduct of McDonald's constituting violations of the CUPTA threatens irreparable injury to Plaintiffs Michell, Michell.Bradley and Berlin Foods.
- b. To avoid irreparable injury, Plaintiffs Michell, Michell.Bradley and Berlin Foods pray in equity that McDonald's, and all persons acting in concert with these corporate Defendants, be enjoined from continuing and carrying out their announced intent to violate the CUPTA by not-renewing McDonald's Stores #28784 and #148 or purposefully causing any circumstances that would prevent these renewals from occurring.
- c. Justice requires injunctive relief against McDonald's.
- d. The balance of equities favors Plaintiffs Michell, Michell.Bradley and Berlin Foods.

192. Plaintiffs reserve their election of remedies.

COUNT III

BREACHES AND ANTICIPATORY BREACHES OF FRANCHISE AGREEMENTS

193. All Plaintiffs incorporate ¶¶1 through 192 as though set forth herein against McDonald's Corporation and McDonald's USA.

194. Each Plaintiff is party to one or more enforceable franchise agreements with McDonald's USA for the operation of McDonald's restaurants.

195. Each Plaintiff has performed or substantially performed their obligations under all of their respective franchise agreements with McDonald's for each McDonald's restaurant.

196. Each Plaintiff has the right to demand substantial performance from McDonald's under all of their respective agreements with McDonald's for each McDonald's restaurant.

197. McDonald's franchise agreements are contracts of adhesion drafted by McDonald's in which McDonald's confers substantial discretion on itself in multiple areas that directly impact an Owner/Operator's opportunity for economic success and concurrent risk of economic loss, including without limitation:

- a. Setting franchising standards and policies under Section 1(c).
- b. Controlling potential franchise sales under Section 15 and thereby having the power to impact or control potential franchise sales prices.
- c. Incentivizing Owner/Operators to strive to obtain Rewrite [New Term] Commitment Letters under Section 28(h) pursuant to the standards and policies created under Section 1(c).
- d. Attempting or threatening to attempt franchise terminations under Sections 18 or 19.

198. Section 27 of McDonald's franchise agreements requires that the franchise agreements be interpreted under the law of Illinois, where McDonald's is headquartered.

199. Under applicable Illinois law (and consistent with the law in most every state as recognized in the Restatement of Contracts 2d, §205), the parties to McDonald's franchise agreements (both franchisor and franchisee) owe reciprocal duties of good faith and fair dealing to each other. As a matter of law, the implied covenant of good faith and fair dealing requires (without limitation) that the parties act with proper motive, and do not act arbitrarily or capriciously or in ways inconsistent with their mutual expectations in entering into their franchise agreements.

200. McDonald's has abused its contractual discretion and breached its implied covenant of good faith and fair dealing in multiple ways that will be proven at trial. The following paragraphs are examples and are without limitation.

201. McDonald's abused its discretion under Sections 1(c) and 28(h) and breached its duty of good faith and fair dealing under each of its franchise agreements in the United States, including those signed by Michell, when it adopted its 2023 version of the Owner/Operator Involvement Standard and its 2023 New Term Policy. Without limitation:

- a. In or around June 2022, McDonald's announced a New Term policy whereby McDonald's would adopt "New Term" (as opposed to "Rewrite") to describe the process of awarding another 20-year franchise agreement and falsely represented that "[o]bjective criteria will determine if a new 20-year franchise will be granted."
- b. But on or about January 1, 2023, McDonald's implemented an updated Owner/Operator Involvement Standard that was subjective and ambiguous and intentionally subjects franchisees to arbitrary, capricious, inconsistent, abusive, and discriminatory decision-making by McDonald's (and their field officers) in

assessing compliance with this standard and in making decisions on franchise renewal based on compliance or alleged non-compliance with this standard.

- c. By McDonald's intent and design, the 2023 Owner/Operator Involvement Standard wrongfully empowered McDonald's to be arbitrary, capricious, unreasonable, unfair, inconsistent, discriminatory, and/or retaliatory in unilaterally deciding whether an Owner/Operator is complying with this subjective standard and in giving itself the one-sided power to punish Owner/Operators that fall into disfavor, for example but without limitation, if they communicate facts or express opinions McDonald's disagrees with.
- d. The subjectivity of the 2023 Owner/Operator Involvement Standard, and hence its inherent potential for abuse by McDonald's, was far beyond the reasonable expectation of Michell, or other McDonald's Owner/Operators who joined the system in earlier years before the new standards were announced.
- e. The subjectivity of the 2023 Owner/Operator Involvement Standard, and hence its inherent potential for abuse by McDonald's, contradicted McDonald's established course of dealing with its Owner/Operators, who reasonably expected McDonald's to be objective in deciding when Owner/Operators meet the standards that determine if the Owner/Operator will be eligible for growth and renewal.
- f. That McDonald's felt it necessary to make the false, system-wide misrepresentation in June 2022 that the National Franchising Standards would be more objective when the 2023 revisions became operative demonstrates

McDonald's bad faith and its intentional betrayal of the trust that Michell and other Owner/Operators had placed in their franchisor.

- g. By McDonald's intent and design, the 2023 Owner/Operator Involvement Standard imposed an extraordinarily abusive change in McDonald's franchise relationships with each McDonald's Owner/Operator in the United States.
- h. Michell and every McDonald's Owner/Operator was injured by McDonald's adoption of the 2023 Owner/Operator Involvement Standard as every Owner/Operator was put at risk of the abuse that McDonald's has inflicted upon Michell.
- i. McDonald's adopted the 2023 Owner/Operator Involvement Standard in bad faith and with the improper motive of stifling franchisee dissent and signaling to every Owner/Operator they are now at McDonald's mercy going forward. Never again will McDonald's let its franchisees protest McDonald's initiatives such as BBV 20202. The chilling effect on McDonald's Owner/Operators intended by McDonald's cannot be overstated.

202. In 2024, McDonald's exacerbated its breaches alleged in ¶201 when it adopted the 2024 version of Owner/Operator Involvement Standard.

203. Beginning in November 2022, McDonald's abused its discretion under Sections 1(c) and 28(h) and breached its duty of good faith and fair dealing to Michell when Chiczewski announced that Michell did not meet the Owner/Operator Involvement Standard and would not obtain Rewrite/New Term Commitment Letters as his franchises came up for renewal. This conduct by McDonald's (acting through Chiczewski) was arbitrary, capricious, subjective, not grounded in objective facts, discriminatory, inconsistent, abusive, violative of established policy

and course of dealing, and far beyond Michell's reasonable expectations for multiple reasons.

Without limitation:

- a. Chiczewski held Michell in violation of the Owner/Operator Involvement Standard in between his Business Reviews without interviewing Michell. (¶ 94).
- b. Chiczewski held Michell in violation of the Owner/Operator Involvement Standard without visiting Michell's restaurants. (¶ 94).
- c. Chiczewski held Michell in violation of the Owner/Operator Involvement Standard based on unsubstantiated and false hearsay. (R. 53 at ¶¶ 59-60.)
- d. Chiczewski held Michell in violation of the Owner/Operator Involvement Standard based on alleged conduct that had never been clearly proscribed and for which Michell had no reasonable notice would be deemed non-compliant. (¶¶ 56-58, 104-108). This included Michell's failure to inform McDonald's about the DCWP case as there had never been a direction to Michell that he must report labor or employment cases to McDonald's. (¶¶ 93, 95, 104-108,).
- e. Chiczewski held Michell in violation of the Owner/Operator Involvement Standard based on conduct preceding Michell's Business Review Report dated April 19, 2022, in which McDonald's concluded that Michell met this standard. (¶¶ 73-78, 106-108, 115, 119, 122). As of November 2022, this included Michell's post-Business Review letter in 2021, but in August 2024, in this litigation, Chiczewski speciously expanded this category to include the 2021 and 2022 publicity about labor union protests and the NLRB case decision, all

of which preceded the Michell's Business Review Report dated April 19, 2022. (Declaration of Joe Chiczewski, R. 37 at ¶16.)

- f. Chiczewski held Michell in violation of the Owner/Operator Involvement Standard based on conduct following Michell's Business Review Report dated April 19, 2022, that was comparable to his alleged conduct that preceded that review, in which McDonald's concluded that Michell met this standard (thus depriving Michell of fair notice that McDonald's would now apply a different standard and reach a different conclusion). (¶¶119-122.) This included the 2022 post-Business Review letter and Michell's failure to report the DCWP case to McDonald's which came after Michell had not reported the NLRB case, and McDonald's did not hold the NLRB case against Michell in the Business Review Report dated April 19, 2022. (¶¶ 102, 104-107, 109, 118, 124, 129.)
- g. Chiczewski held Michell in violation of the Owner/Operator Involvement Standard based on conduct (the post-Business Review letters in 2021 and 2022) that was not material and which Chiczewski and McDonald's falsely characterized. (¶¶ 95, 118-119, 126-127, 134-135, 137, 140-148).
- h. Chiczewski allegedly held Michell in violation of the Owner/Operator Involvement Standard not because of the DCWP case itself, but because Michell's settlement of that case exposed McDonald's to bad publicity; however, there was no basis to believe McDonald's could have avoided or minimized the bad publicity if it had been informed of this case before the settlement was reached. (¶¶ 93, 95, 101, 109, 120).

- i. Chiczewski held Michell in violation of the Owner/Operator Involvement Standard without considering and without responding to Michell's reasonable explanation for his conduct. (¶¶ 101). Michell in good faith believed that McDonald's fear of joint employer liability outweighed any possible desire to know about labor or employment cases that were his responsibility, and his responsibility alone, to resolve. (¶¶ 101-102).
- j. Chiczewski held Michell in violation of the Owner/Operator Involvement Standard by engaging in disparate treatment and without responding to Michell's reasonable complaint of disparate treatment, as there were many other McDonald's Owner/Operators who had similar cases and/or had been the subjects of negative publicity. (¶¶ 109-114).
- k. In November 2022, Chiczewski purported to apply the not-yet-applicable 2023 National Franchising Standards *ex post facto* to Michell's conduct in 2021 and 2022. (¶¶ 106-107, 116, 119, 121-122).
- l. In November 2022, Chiczewski purported to make final decisions that Michell's franchise agreements would not be renewed before any formal declaration of ineligibility, thus making a mockery of the alleged process that nonrenewal decisions will be made by the New Term Committee and not unilaterally by the Field Office. (¶¶ 93-94,97-100,112-114, 123).

204. From November 2022 through April 2024, McDonald's (acting through Chiczewski) abused its discretion under Sections 15 and 28(h) and breached its duty of good faith and fair dealing to Michell by demanding that Michell sell his thirty-seven McDonald's restaurants at coerced sale prices below market value based on the bad faith non-renewal decisions coupled

with McDonald's power to control the prices an Owner/Operator can obtain in the franchise sales process. (¶¶ 97-98,112,151,157,163). This conduct by McDonald's was arbitrary and capricious, unfair, unreasonable, retaliatory, discriminatory, made in bad faith, lacks proper motive, and is far beyond the contracting parties' reasonable expectations.

205. From November 2022 through April 2024, McDonald's breached its duty of good faith and fair dealing to Michell under Section 1(c) with respect to the Next Gen policy when it held Michell's daughter Larisa Michell's future as an Owner/Operator hostage to its wrongful demands that Michell sell his McDonald's restaurants at coerced sale prices below market value; and when it violated its own policy of placing Next Gen candidates on hold for 12 months before removing them from the Next Gen program. (¶¶ 97-99, 112-114, 117-118, 133, 151, 157,163). This conduct by McDonald's was arbitrary and capricious, unfair, unreasonable, retaliatory, discriminatory, made in bad faith, lacks proper motive, and is far beyond the contracting parties' reasonable expectations.

206. In addition, McDonald's breached its implied covenant of good faith and fair dealing to Michell and his companies by announcing that Michell cannot cure his alleged violations of the current Owner/Operator Involvement Standard. (¶¶ 100,157(d)). This decision by McDonald's was arbitrary and capricious, unfair, unreasonable, retaliatory, discriminatory, made in bad faith, lacks proper motive, and is far beyond the contracting parties' reasonable expectations.

207. In addition, McDonald's breached and/or anticipatorily breached its implied covenant of good faith and fair dealing to Michell by threatening that Michell's remaining franchise agreements will not be renewed as their terms subsequently expire in future years. (¶¶

97(c), 100, 114, 117, 123-125, 132-133) These threats by McDonald's are arbitrary and capricious, unfair, unreasonable, retaliatory, discriminatory, made in bad faith, and lack proper motive.

208. In addition, McDonald's breached its implied covenant of good faith and fair dealing to Michell and his companies by demanding that he sell all of his franchised McDonald's restaurants before their franchise terms expire. (¶¶ 97(c), 100, 114, 117, 123-125, 132-133). This decision by McDonald's was arbitrary and capricious, unfair, unreasonable, retaliatory, discriminatory, made in bad faith, lacks proper motive, and is far beyond the contracting parties' reasonable expectations.

209. In addition, McDonald's breached its implied covenant of good faith and fair dealing to Michell by wrongfully non-renewing Michell's "franchises" for his eight non-McDonald's Special Venues. (¶¶ 117, 123-125, 132-133). This decision by McDonald's was arbitrary and capricious, unfair, unreasonable, retaliatory, discriminatory, made in bad faith, lacks proper motive, and is far beyond the contracting parties' reasonable expectations.

210. As the direct and proximate result of McDonald's breaches and anticipatory breaches of contract as alleged herein, Michell and his companies have been substantially injured and damaged and will suffer additional damages if McDonald's breaches and anticipatory breaches are not redressed.

211. Without limitation, Plaintiffs' actual and consequential damages may include lost profits and/or injury to business value and loss of equity in their McDonald's restaurant franchises.

212. Without limitation, Plaintiffs' consequential damages may include the injury to business value and loss of equity in their Bradley Airport Special Venues, as these losses are not *merely* foreseeable as the consequence of McDonald's breaches of its franchise agreements. McDonald's *intends* for Michell to suffer these consequential damages.

213. The extent of injury and damages are not yet determined and will be proven at trial.

214. In addition:

- a. The conduct of McDonald's USA constituting actual and anticipatory breaches of contract, as alleged above, creates an actual and justiciable controversy between the parties.
- b. To avoid irreparable injury, Plaintiffs pray in equity for declaratory judgment under 28 U.S.C. §2201 that McDonald's USA has breached its franchise agreements with Plaintiffs in one or more ways alleged in this Count II.
- c. Justice requires Declaratory Judgment against McDonald's USA.
- d. Plaintiffs lack an adequate remedy at law.

215. In addition:

- a. The conduct of McDonald's USA constituting actual and anticipatory breaches of contract, as alleged above, threatens irreparable injury to Plaintiffs.
- b. To avoid irreparable injury, Plaintiffs pray in equity that McDonald's USA, and all persons acting in concert with this Defendant, be enjoined from continuing and carrying out the breaches of its franchise agreements with Plaintiffs in one or more ways alleged in this Count II.
- c. Justice requires injunctive relief against McDonald's USA and all persons acting in concert with this Defendant.
- d. Plaintiffs lack an adequate remedy at law.

216. Plaintiffs reserve their election of remedies.

COUNT IV
COMMON LAW FRAUD

217. All Plaintiffs incorporate ¶¶ 1 through 216 in this Count IV against McDonald's Corporation and McDonald's USA.

218. McDonald's franchise agreements disclaim any promise or guarantee of franchise renewal but instead establish incentives for Owner/Operators to strive to obtain Rewrite [New Term] Letters as alleged in Count III.

219. From the time Michell became an Owner/Operator until November 2022, Michell relied on a course of dealing that compliance with McDonald's (previously) objective National Franchising Standards created eligibility for franchise renewal, and once eligible, the Owner/Operator could count on being renewed absent extraordinary circumstances.

220. This course of dealing was firmly established when McDonald's launched its BBV 2020 initiative in or about 2017.

221. McDonald's took a major step toward its future when it implemented BBV 2020, but the reinvestment requirements were unprecedented, which is why the president of McDonald's USA personally reassured the Owner/Operators that the established course of dealing would remain in place and that the Owner/Operators that embraced McDonald's vision in BBV 2020 and made the unprecedented reinvestments would be rewarded long-term with franchise renewals. (¶64).

222. From 2017 forward, Michell embraced BBV 2020 as McDonald's asked and he reinvested over \$20 million in his McDonald's restaurants and nearly \$4 million more in his Bradley Airport Special Venues.

223. Michell made these reinvestments in justifiable reliance on McDonald's long-standing course of dealing (and the express promises by the president of McDonald's USA) that the established course of dealing would remain in place and that the Owner/Operators that embraced McDonald's vision in BBV 2020 and made the unprecedented reinvestments would be rewarded long-term with franchise renewals. (¶67).

224. However, many other Owner/Operators dissented from BBV 2020 and criticized McDonald's leadership. (¶¶ 64, 66, 80). This presented McDonald's with what it must have perceived to be a dilemma. It needed for its Owner/Operators to continue or even increase their levels of reinvestment and to not slack off as their franchise terms near expiration. But McDonald's also believed it needed to suppress dissent. McDonald's was determined to avoid a repeat of the opposition it encountered after BBV 2020 when it encountered unprecedented franchisee complaints about a major brand initiative.

225. On a date unknown to be determined in discovery, McDonald's knew it was going to change its established course of dealing to empower McDonald's to withhold franchise renewals from Owner/Operators that it wished to reject for subjective reasons, but McDonald's did not disclose that intent to its Owner/Operators. From that moment forward, to be determined in discovery, McDonald's was committing fraud by omission by purposefully inducing continuing franchisee reinvestment based on the course of dealing it did not intend to honor.

226. McDonald's committed fraud by omission because it wanted the Owner/Operators to continue to rely on the old course of dealing. Inducing its Owner/Operators to reinvest and strive for excellence in quality, service, and cleanliness is vitally important to the McDonald's franchise system and to McDonald's success as a franchisor. (¶¶ 32, 63-64). McDonald's cannot allow its Owner/Operators to slack off as their franchise terms approach expiration. The McDonald's System would slide into decay and the brand would be tarnished.

227. The April 2018 National Franchising Standards that were in effect until January 1, 2023, reinforced McDonald's fraud by omission. The 2018 National Franchising Standards Introduction stated that “[a]n Owner/Operator who consistently meets or exceeds the Standards is eligible to be offered a rewrite upon expiration of his/her existing franchise.” McDonald's made

it clear that meeting the then-objective National Franchising Standards meant eligibility for rewrite, and under the old course of dealing, eligibility meant that rewrite would be granted absent extraordinary circumstances. But somewhere between 2018 and 2022 the express representation that “[a]n Owner/Operator who consistently meets or exceeds the Standards is eligible to be offered a rewrite upon expiration of his/her existing franchise” became, at best, a half-truth because McDonald’s knew it would no longer honor the old course of dealing alleged above.

228. By June 2022, McDonald’s was ready to announce the New Term Policy that would become effective in January 2023. McDonald’s disclosed that under the policy that would take effect in 2023, renewal would have to be earned and should not be assumed, which was McDonald’s tacit admission that under the old course of dealing Owner/Operators that met the then-objective National Franchising Standards were going to be renewed.

229. But McDonald’s system-wide announcement of its upcoming New Term Policy was another step forward by McDonald’s in an ongoing scheme to deceive its Owner/Operators. In its June 2022 announcement, McDonald’s lacked the courage to be transparent in announcing its plan to impose a subjective 2023 Owner/Operator Involvement Standard that it could interpret *ad hoc* and intentionally apply in an arbitrary and capricious manner. Instead, McDonald’s falsely represented in June 2022 to every Owner/Operator in the United States that beginning in 2023 franchise renewals would be decided “objectively” under the 2023 New Term Policy. (¶¶ 40-44.) This was communicated to franchisees, including Michell, in a letter titled “Repositioning ‘Rewrite’ to ‘New Term’”. In the letter, McDonald’s told its Owner/Operators:

“[W]e are asking owner/operators to apply for a New Term – with expectation and assessment criteria that capture performance history. **Objective criteria will determine if a new 20-year franchise term will be granted.**”

230. This was an intentional, blatant lie. The exact opposite was true. The 2023 Owner/Operator Involvement Standard that would be used as a criteria for franchise renewal was extremely subjective to a degree never before seen by long-term Owner/Operators like Michell with more than 30 years' experience and course of dealing with McDonald's. By McDonald's intent and design, and via the 2023 Owner/Operator Involvement Standard, franchise renewal would be extremely subjective, and McDonald's Field Officers would have unprecedented power to select some Owner/Operators for growth and target other Owner/Operators for elimination whether deserved or not.

231. On information and belief, the subjectivity of the 2023 (and 2024) Owner/Operator Involvement Standards was McDonald's response to the dissent McDonald's did not welcome following the introduction of BBV 2020 and that McDonald's intends to avoid in the future. Under the 2023 (and 2024) Owner/Operator Involvement Standards, disagreeing with McDonald's could be characterized as failing to be sufficiently "*collaborative and constructive*"; not maintaining a "*mutually beneficial working relationship*"; or not being sufficiently "*positive.*" (§§ 81-83). If McDonald's deems these subjective standards are applicable, then Owner/Operators can be threatened with non-renewal and pressured to sell their restaurants at coerced sale prices.

232. Michell was deceived by McDonald's June 2022 announcement that "**[o]bjective criteria will determine if a new 20-year franchise term will be granted.**" After June 2022, Michell continued to reinvest into his McDonald's restaurants and his Special Venues. He would not have done so had he known that in November 2022, he would speciously deemed non-compliant with the Owner/Operator Involvement Standard as alleged above.

233. That McDonald's could not wait until 2023 to begin applying the 2018 Owner/Operator Involvement Standard in subjective, arbitrary ways confirms McDonald's was committing fraud by omission for an unknown period of time to be determined in discovery.

234. That McDonald's blatantly lied to the entire community of Owner/Operators in June 2022 in introducing the 2023 New Term Policy by falsely claiming it would be objective, leaves no doubt that McDonald's was acting with fraudulent intent or at a minimum with reckless disregard for the truth.

235. McDonald's changes to its New Term policy announced in June 2022 and in its National Franchising Standards effective January 1, 2023, and in the manner, McDonald's applies these revised policies and standards, were material changes.

236. Michell's reliance on the prior course of dealing, on the representations of the president of McDonald's USA introducing BBV 2020, McDonald's failure to disclose its intent to change the old course of dealing, and his reliance on McDonald's blatant misrepresentation in June 2022, was intended by McDonald's and was reasonable.

237. In furtherance of its fraud, McDonald's made false allegations against Michell, as above alleged in this Complaint, with knowledge of falsity or with reckless disregard for the truth.

238. As the direct, proximate, intended result of its fraud, McDonald's induced Michell to invest millions of dollars he will not recoup in his McDonald's restaurants and Bradley Airport Special Venues.

239. As the direct, intended, and proximate result of McDonald's fraud, Michell and his companies have been substantially injured and damaged and will suffer additional damages if McDonald's fraud is not redressed.

240. Without limitation, the Plaintiffs' damages may include lost profits and/or injury to business value and loss of equity and consequential damages pertaining to his McDonald's restaurants and Bradley Airport Special Venues that are not yet determined but will be proven at trial.

241. Defendants' intentional fraud against Michell warrants the imposition of punitive damages in an amount sufficient to punish these Defendants and deter others from like misconduct.

COUNT V

PROMISSORY ESTOPPEL

(Pled in the Alternative to Count III)

242. All Plaintiffs incorporate ¶¶ 1-22, 36-44, 63-86, 219-230 as though set forth herein against McDonald's Corporation and McDonald's USA.

243. This count is pled in the alternative to Count III and is pled in response to McDonald's arguments that it does not owe Michell or other Owner/Operators a contractual duty of good faith and fair dealing in deciding whether to grant the Owner/Operator a New Term on the expiration of his or her franchise agreement(s).

244. McDonald's has expressly or impliedly promised renewal franchise agreements in exchange for Michell choosing to make optional, but substantial, monetary investments in his franchise restaurants and complying with McDonald's standards.

245. In reliance on McDonald's promises over the years since BBV 2020 (and without limitation), Michell went beyond what was required of him as a franchisee and invested:

- a. Over \$20 million in all but one of his 37 McDonald's restaurants as part of McDonald's BBV 2020 plan announced in or about 2017 as alleged in ¶¶ 63-67; and
- b. Over \$4 million in his Bradley Airport Special Venues between 2017 and continuing into 2024 as alleged in ¶¶ 68-72.

246. Michell made these investments described above in reasonable reliance that as of 2017, 2018, 2019, 2021, and April 2022, Michell met McDonald's National Franchising Standards which, according to those standards, meant Michell was eligible for rewrite / renewal.

247. The 2018 National Franchising Standards (effective from January 1, 2018 to December 31, 2022) stated (in part):

Rewrite (New Term Franchise): An Owner/Operator who consistently meets or exceeds the Standards is eligible to be offered a rewrite upon expiration of his/her existing franchise. In the event that an Owner/Operator fails to meet the Standards, a recommendation not to offer a rewrite is made to the Rewrite Committee by Regional Management.

248. McDonald's further represented in June 2022 to every Owner/Operator in the United States that beginning in 2023 franchise renewals would be decided "objectively" under the 2023 New Term Policy. This was communicated to franchisees, including Michell, in a letter titled "Repositioning 'Rewrite' to 'New Term'". In the letter, McDonald's told its Owner/Operators:

"[W]e are asking owner/operators to apply for a New Term – with expectation and assessment criteria that capture performance history. **Objective criteria will determine if a new 20-year franchise term will be granted.**"

249. Relying on McDonald's express promise that Michell was "eligible" to receive a rewrite at the expiration of his expiring franchises because of his consistent compliance with the National Franchising Standards, relying on course of dealing that for over 30 years, McDonalds granted franchise renewals to eligible franchisees, and relying on McDonald's commitment in June 2022 that it would continue to use objective criteria to determine if a New Term would be granted, Michell agreed to invest over \$20 million as alleged in ¶245. Moreover, McDonald's presented these investments as optional.

250. Michell detrimentally relied on McDonald's conditional promises of franchise renewal and Michell fulfilled the conditions stated by McDonald's to achieve franchise renewal.

251. Justice requires the enforcement of McDonald's promises of franchise renewals.

252. McDonald's must be estopped from withdrawing its promises of franchise renewals.

253. As the direct and proximate result of McDonald's wrongful repudiation of its promises of franchise renewals, Michell and his companies have been substantially injured and damaged and will suffer additional damages if McDonald's breaches and anticipatory breaches are not redressed.

254. Without limitation, Plaintiffs' actual and consequential damages may include lost profits and/or injury to business value and loss of equity in their McDonald's restaurant franchises.

255. Without limitation, Plaintiffs' consequential damages may include the injury to business value and loss of equity in their Bradley Airport Special Venues, as these losses are not merely foreseeable as the consequence of McDonald's repudiation of its promises. McDonald's intends for Michell to suffer these consequential damages if Michell fails to wave the white flag of surrender and allow McDonald's to escape liability for its repudiation of its promises on which Michell justifiably relied.

256. The extent of injury and damages are not yet determined and will be proven at trial.

257. In addition:

- a. The conduct of McDonald's USA constituting actual and anticipatory repudiation of its promises, as alleged above, creates an actual and justiciable controversy between the parties.
- b. To avoid irreparable injury, Plaintiffs pray in equity for declaratory judgment under 28 U.S.C. §2201 that McDonald's USA has wrongfully repudiated its promises to Plaintiffs in one or more ways alleged in this Count IV.

- c. Justice requires Declaratory Judgment against McDonald's USA.
 - d. Plaintiffs lack an adequate remedy at law.
258. In addition:
- a. The conduct of McDonald's USA constituting actual and anticipatory repudiation of its promises, as alleged above, threatens irreparable injury to Plaintiffs.
 - b. To avoid irreparable injury, Plaintiffs pray in equity that McDonald's USA, and all persons acting in concert with this Defendant, be enjoined from continuing and carrying out the repudiation of its promises, as alleged above in this Count IV.
 - c. Justice requires injunctive relief against McDonald's USA and all persons acting in concert with this Defendant.
 - d. Plaintiffs lack an adequate remedy at law.
259. Plaintiffs reserve their election of remedies.

COUNT VI

TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE AT SPECIAL VENUE LOCATIONS

260. Plaintiffs Michell and Michell.Bradley incorporate ¶¶ 1 through 259 as though set forth herein in this Count VI against McDonald's Corporation and McDonald's USA.

261. Michell and Michell Bradley have valuable, actual, and prospective business relationships at Bradley Airport, and have invested great time, money, and effort developing these relationships. Without limitation:

- a. From 2003 onward, Michell developed eight Special Venues at Bradley Airport including (1) Fresh City (McDonald's Store #30494); (2) Papa Gino's Pizza (McDonald's Store #30495); (3) D'Angelo's (McDonald's Store #35503); (4) Black Bear Saloon (McDonald's Store #34394); (5) Samuel Adams Brewhouse

(formerly Cask & Barrel Bistro) (McDonald's Store #34514); (6) Phillips Seafood Restaurant (McDonald's Store #35028); (7) Two Roads Taproom (McDonald's Store #30497); and (8) Traveltini (McDonald's Store #35504).

- b. Michell has franchise or licensing agreements for the first seven Special Venues with the respective third parties that developed these concepts; and Michell owns the trademark for the eighth Special Venue (Traveltini), a concept that Michell created at Bradley Airport.
- c. Michell has good business relationships with the franchisors for the first seven Special Venues and has good business relationships with the Connecticut Airport Authority's managers and employees at Bradley Airport, where Michell's teams interact with airport managers and employees every day.
- d. Michell has continued to invest in his Special Venues at Bradley Airport and planned to expand, adding another venue, if he secured a new lease or sublease.
- e. The eight Special Venues generated almost \$12 million in revenue in 2023.

262. Michell and Michell.Bradley had the reasonable expectation they could continue to own, operate, and expand their Special Venues after January 31, 2025, when the current sub-leases end. Without limitation:

- a. In recent years Michell invested nearly \$4 million into his Special Venues at the request of McDonald's and the CAA. He would not have done so but for his reasonable expectation he would continue in operation and recoup these investments.
- b. In both 2021 and 2023, Michell cooperated with McDonald's to obtain lease extensions with what he reasonably believed was a mutual understanding with

McDonald's that these extensions were first steps towards securing another 18-year term from the CAA, which awaited the CAA's master concessionaire bidding process that the CAA implemented in early 2024.

- c. The Special Venues are profitable for both Michell and McDonald's, which derives rental income from the Special Venues.
- d. Michell understands that the CAA was happy with the Special Venues and with Michell's performance.
- e. There was every probability that McDonald's and Michell could have continued their relationship at Bradley Airport beyond January 31, 2025, regarding the Special Venues. This was true even if McDonald's no longer wanted Michell to remain an Owner/Operator of McDonald's restaurants. In fact, McDonald's confirmed in April 2024 it would have "supported" Michell to remain in the Special Venues if Michell exited the McDonald's franchise system

263. McDonald's knew that Michell has valuable, actual, and prospective business relationships at his Bradley Airport Special Venues, that Michell has invested great time, money, and effort developing these relationships, and that Michell had every reasonable expectation of continuing those relationships for another 18-year term.

264. But to further its scheme to drive Michell out of the McDonald's franchise system, McDonald's intentionally interfered with Michell's prospective business relationships in his Special Venues after January 31, 2025. Without limitation:

- a. To bolster its control over the Bradley Airport Special Venues, McDonald's assigned McDonald's store numbers to them and pretends they are McDonald's "franchises", but that claim is, by law, wrong. The Special Venues are not

McDonald's franchises under the Federal Trade Commission Franchise Rule, 16 CFR Part 436.1 et seq. or under Connecticut law. These Special Venues are dissimilar to McDonald's restaurants and McDonald's owns none of the Special Venue trademarks and has no control over any part of these restaurants and bars.

- b. McDonald's wrongfully announced the non-renewal of Michell's Special Venues concurrently with its announcement that it would not renew Michell's McDonald's restaurant franchise at Bradley Airport. (¶125).
- c. McDonald's claimed reason for not renewing Michell's McDonald's restaurant franchises (his alleged non-compliance with the Owner/Operator Involvement Standard) has no application to the Special Venues as Michell has no "involvement" with McDonald's regarding the Special Venues other than paying rent.

265. In early 2024, the CAA solicited bids for the next master concessionaire at Bradley Airport after January 2025. The CAA told potential bidders they needed to keep the existing McDonald's restaurant to Bradley Airport (and bring a Dunkin' Donuts) to be selected as the next master concessionaire.

266. McDonald's claims to have made a "business decision" to not reapply to remain the master concessionaire at Bradley Airport after January 2025, even though it knew that Michell recently reinvested nearly \$4 million into his Special Venues at the airport in the reasonable belief he and McDonald's would work together to secure another 18-year term from the CAA and that both Michell and McDonald's would profit from the continuation of their existing arrangement. However:

- a. In claiming to have made this business decision, McDonald's did not explain how or why this "business decision" serves to increase McDonald's profitability or otherwise benefit McDonald's, which receives passive rental income from the Special Venues under the current arrangements.
- b. On information and belief, McDonald's did not make its claimed "business decision" to not re-apply to remain the master concessionaire at Bradley Airport until after it embarked on the scheme to drive Michell out of the McDonald's system at forced sale prices and recognized it could use the Bradley Airport Special Venues as additional leverage against Michell.

267. After learning McDonald's was not re-applying to remain the master concessionaire at Bradley Airport, Michell submitted his own bid for that position in the hope of continuing and expanding his profitable Special Venues and recouping his recent reinvestments that McDonald's had encouraged. Because Michell has good relations at Bradley Airport, he had the reasonable expectation his bid would be approved.

268. McDonald's knew Michell, if selected as master concessionaire, would sublease to McDonald's for the operation of a continued McDonald's restaurant at the airport if McDonald's brought in a different Owner/Operator for the airport location.

269. McDonald's offered to "support" Michell's bid to become the master concessionaire but only if Michell agreed to sell his McDonald's restaurants at the below market price Chiczewski and McDonald's were insisting on.

270. In offering to "support" Michell's becoming the master concessionaire, McDonald's was admitting it has no business reason to oppose Michell continuing to operate the

Special Venues he has operated since 2003 and in serving as the sub-lessor of the premises that would be sub-leased to McDonald's and other tenants such as a likely Dunkin' Donuts.

271. In offering to "support" Michell's bid, McDonald's believed and intended that support by McDonald's, or the lack thereof, would be very important to the CAA when it selected the next master concessionaire.

272. On or before April 16, 2024, the deadline for submitting bids to the CAA to be the master concessionaire, McDonald's arranged to "support" every one of the bidders (except Michell) by promising that it would lease the existing McDonald's restaurant premises from them if their bid was accepted.

273. After the April 16, 2024, bidding deadline:

- a. McDonald's (through Chiczewski) speciously claimed to be surprised that Michell submitted his bid to the CAA without McDonald's "support" after Michell refused to sell his McDonald's restaurants at the coerced sale prices McDonald's was demanding. They claim to believe that Michell was required to wave goodbye to his substantial investment in, and income stream from the Special Venues because they withheld their "support" from his bid while "supporting" all the competing bids.
- b. McDonald's (through Chiczewski) speciously threatened to sue Michell for violating his non-compete if he continued to own and operate the Special Venues and/or became the master concessionaire without their express consent even though they had no business interests to protect in making that threat.
- c. McDonald's (through Chiczewski) speciously threatened to pull the McDonald's brand out of Bradley Airport if Michell became the master concessionaire without

their express consent even though this decision would have been harmful to their business interests (losing revenue and brand presence) with no offsetting benefits to McDonald's.

274. When McDonald's "supported" each competing bid (except Michell's bid), McDonald's clearly and unambiguously communicated to the CAA that it opposed Michell.

275. Whether McDonald's communicated to the CAA its opposition to Michell beyond its act of not supporting Michell's bid but supporting the competitive bids is a question to be answered in discovery but regardless, McDonald's act of not supporting Michell's bid but supporting the competitive bids clearly and unambiguously communicated to the CAA that McDonald's opposed Michell.

276. On information and belief, McDonald's opposition to Michell as communicated to the CAA was the proximate cause in June 2024 for the CAA to reject Michell's bid to become the master concessionaire. The CAA had made plain its strong desire for the McDonald's restaurant that Michell had owned and operated since 2003 to remain at Bradley Airport. The CAA was not going to antagonize McDonald's, which was expressly threatening to pull out of Bradley Airport if Michell remained in the Special Venues or became the master concessionaire without first selling all his McDonald's restaurants at the coerced sale prices that Michell was insisting on.

277. Having been rejected by the CAA as the potential master concessionaire, Michell's final opportunity to remain the Owner/Operator of the eight Special Venues (or some of them) would have been to be selected by the successful bidder (the next master concessionaire) to continue operating some or all of the Special Venues under sublease from the next master concessionaire. This option would have made business sense for the Michell, the CAA, and the next master concessionaire given the success of Michell's Special Venues. But on further

information and belief, McDonald's communicated its opposition to Michell to the other bidders that McDonald's supported and to whom McDonald's promised to sub-lease the premises for the McDonald's restaurant at Bradley Airport. Like the CAA itself, none of the other bidders would dare risk offending McDonald's. McDonald's opposition to Michell is the most likely proximate cause that Michell will lose his Special Venues after January 31, 2025.

278. McDonald's had no business justification for opposing Michell's continuation as the Owner/Operator of the Special Venues after January 2025.

279. McDonald's had no valid business justification to oppose Michell's bid to become the next master concessionaire at Bradley Airport or to threaten Michell with legal action if he continued to pursue his bid.

280. McDonald's intentionally and maliciously made itself the proximate cause for Michell's impending loss of the eight Special Venues and the opportunity to expand his business relationships at Bradley Airport because it wished to coerce Michell to sell his McDonald's restaurants at the forced sale prices that McDonald's is demanding and then to punish Michell and inflict substantial economic injury upon him because Michell would not agree to McDonald's unconscionable demands.

281. McDonald's intentionally and maliciously made itself the proximate cause for Michell's impending loss of the eight Special Venues and the opportunity to expand his business relationships at Bradley Airport as part of its scheme against Michell that violates Connecticut statutes as alleged in Counts I and II.

282. McDonald's intentionally and maliciously made itself the proximate cause for Michell's impending loss of the eight Special Venues and the opportunity to expand his business

relationships at Bradley Airport as part of its scheme against Michell that breaches its franchise agreement with Michell as alleged in Count III.

283. McDonald's intentionally and maliciously made itself the proximate cause for Michell's impending loss of the eight Special Venues and the opportunity to expand his business relationships at Bradley Airport as part of its scheme against Michell that violates Michell's civil rights as alleged in Count VII.

284. McDonald's intentionally and maliciously made itself the proximate cause for Michell's impending loss of the eight Special Venues and the opportunity to expand his business relationships at Bradley Airport with no business justification and for no reasons other than to harm Michell.

285. As the direct and proximate result of McDonald's intentional tort alleged herein, Michell and Michell.Bradley have been substantially injured and damaged and will suffer additional damages if McDonald's tortious conduct is not redressed.

286. Without limitation, Plaintiffs' damages may include lost profits and/or injury to business value and loss of equity and consequential damages that are not yet determined. The extent of injury and damages will be proven at trial.

287. Because McDonald's tortious interference is willful and malicious, the Court should award punitive or exemplary damages against McDonald's in an amount sufficient to punish this franchisor, one of the world's largest, and deter others from like misconduct.

COUNT VII

DEPRIVATION OF CIVIL RIGHTS BY ALL DEFENDANTS

Disparate Treatment

288. All Plaintiffs incorporate ¶¶ 1 through 287 as though set forth herein in this Court VI against all Defendants.

289. Michell and his named company plaintiffs sue under Section 1981 of the Civil Rights Act of 1870, 42 U.S.C. §1981 (“Section 1981”), which provides:

a) **Statement of equal rights:**

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

b) **“Make and enforce contracts” defined**

For purposes of this section, the term “make and enforce contracts” includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

c) **Protection against impairment**

The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.

290. As a matter of law under Section 1981:

- a) McDonald’s franchise agreements and related contracts with its franchisees are “contracts” creating “contractual relationships.”
- b) Michel is a natural person of Hispanic heritage distinct from “white citizens” as that term is used in Section 1981.
- c) Section 1981 grants Michell the same legal rights as “white citizens” to make and enforce franchise agreements and other contracts with McDonald’s, including the making, performance, modification, and termination of franchise agreements and

other contracts, and the enjoyment of all benefits, privileges, terms, and conditions of their franchise relationship with McDonald's.

- d) The corporate plaintiffs are "persons" owned by non-white citizens that derivatively enjoy the same legal right as corporations owned or controlled by white citizens or white citizens themselves, to the making, performance, modification, and termination of franchise agreements and other contracts with McDonald's, and the enjoyment of all benefits, privileges, terms, and conditions of its franchise relationship with McDonald's; and
- e) McDonald's is prohibited from engaging in non-governmental discrimination against non-white citizens such as Michell and his operating companies.
- f) Obtaining "rewrite" of a franchise agreement or a "new term" upon the expiration of a franchise term is to "make" a contract within the meaning of Section 1981(a) and (b).
- g) Obtaining "rewrite" of a franchise agreement or a "new term" upon the expiration of a franchise term under the parties' established course of dealing is part of "the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship" within the meaning of Section 1981(b).
- h) Being treated by McDonald's and its officers, employees and agents with honesty, integrity, and respect is part of "the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship" within the meaning of Section 1981(b).
- i) Being treated by McDonald's and its officers, employees and agents with good faith and fair dealing, in ways not arbitrary, not capricious, not unfair, not unreasonable, not inconsistent, and not beyond the scope of the contracting parties' reasonable

expectations is part of “the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship” within the meaning of Section 1981(b).

291. Without limitation, McDonald’s and the individual Defendants are required by Section 1981 to treat Michell and his companies the same as white Owner/Operators are treated in all the ways described in ¶ 290(f), (g), (h), and (i).

292. McDonald’s empowers field officers such as Chiczewski, Roth, and Cronan to represent the Company in its relationship with its Owner/Operators and empowers these field officers to exercise the Company’s broad discretion under its franchise agreements and its franchising policies, and in applying the National Franchising Standards.

293. Beginning on a date unknown to Michell, McDonald’s, acting through individual defendants Chiczewski, Roth, and Cronan, discriminatorily targeted Michell for expulsion from the McDonald’s franchise system with the intent of causing Michell and his companies to lose substantial equity in their successful McDonald’s restaurants and non-McDonald’s Bradley Airport venues.

294. Without limitation, McDonald’s and the individual Defendants engaged in a continuing violation of Section 1981 by intentionally failing to treat Michell and his companies the same as white Owner/Operators are treated in all the ways described in ¶ 290(f), (g), (h), and (i).

295. In falsely and retroactively claiming Michell fails to meet National Franchising Standards, McDonald’s and the individual Defendants violated Section 1981 by engaging in disparate treatment of Michell and his companies because of race.

296. In seeking to punish Michell for occurrences that white franchisees have not been punished for, McDonald's and the individual Defendants violated Section 1981 by engaging in disparate treatment of Michell and his companies because of race.

297. In seeking to usurp the equity value of Michell's franchised McDonald's restaurants based on false accusations and phony conclusions, McDonald's and the individual Defendants violated Section 1981 by engaging in disparate treatment of Michell and his companies because of race.

298. In holding his daughter Larisa Michell's career as a Next Gen owner hostage as leverage in their scheme to steal the value of his businesses, McDonald's and the individual Defendants violated Section 1981 by engaging in disparate treatment of Michell and his companies because of race.

299. In treating his daughter Larisa Michell differently than the white children of white operators in the Next Gen program by not pacing Larisa Michell "on hold" for twelve months before declaring her ineligible in Next Gen, which is in violation of McDonald's own policies, McDonald's and the individual violated Section 1981 by engaging in disparate treatment of Michell and his companies because of race. (¶¶ 98-99.)

300. In threatening to inflict business losses on Michell and on *themselves* by opposing Michell's effort to protect and continue his valuable established business relationships at Bradley Airport, as leverage in their scheme to steal the value of his businesses, McDonald's and the individual Defendants violated Section 1981 by engaging in disparate treatment of Michell and his companies because of race.

301. In accusing Michell of seeking to entice recent migrants largely of Hispanic heritage to come "north" from Florida then hire them in alleged violation of law, McDonald's and

the individual Defendants violated Section 1981 by engaging in disparate treatment of Michell and his companies because of race. This false criticism of was not an accident as McDonald's surely knew if of its own "employment of migrants" program being coordinated by Kenya Handy-Hilliard. It is common knowledge that many migrants are Hispanic, and thus Michell was disparately targeted for suggesting his support for a program McDonald's was sponsoring either directly or in substance. This was disparate treatment, and also it was retaliation for Michell's earlier complaints of disparate treatment.

302. In insulting Michell by falsely accusing him of acting unreasonably in setting retail prices and failing to consult advisors, McDonald's and the individual Defendants violated Section 1981 by engaging in disparate treatment of Michell and his companies because of race. This particular incident suggests that McDonald's believes Michell is less intelligent or less informed than other franchisees, a form of ugly racial stereotyping. This was disparate treatment, and also by 2024 it was retaliation for Michell's earlier complaints of disparate treatment.

303. In falsely accusing Michell of lying to McDonald's about the presence of filth flies and rodent droppings in the Coney Island Avenue restaurant in Brooklyn, McDonald's falsely tried to portray Michell as operating "dirty restaurants", which is further racial insult to a Hispanic Owner/Operator. McDonald's *knows* that despite best efforts, there will be filth flies and rodent droppings in QSR restaurants from time to time especially in urban neighborhoods where rodents are more common. McDonald's *knows* that local boards of health will tolerate a minimal presence of filth flies and/or rodent droppings before ordering a restaurant closed, which was exactly the case on Coney Island Avenue. McDonald's knew its claims against Michell on this occasion were false, but McDonald's falsely and disparately sought to label Michell as a liar who operates dirty

stores. This was disparate treatment, and also by the summer of 2023 it was retaliation for Michell's earlier complaints of disparate treatment.

304. In trying to strong-arm Michell on retail pricing and accusing him of trying to make too much money, McDonald's and the individual Defendants violated Section 1981 by engaging in disparate treatment of Michell and his companies because of race.

305. In depriving Michell of a full and fair Ombudsman process including appeal, McDonald's and the individual Defendants violated Section 1981 by engaging in disparate treatment of Michell and his companies because of race.

306. As part of their discriminatory scheme, McDonald's, acting through individual defendants Chiczewski, Roth, and Cronan, applied their written and de facto system-wide policies, standards, protocols, and programs against Michell in arbitrary, capricious, dishonest, and discriminatory ways that are not equivalently applied to White Owner/Operators.

307. As part of their discriminatory scheme, McDonald's, acting through individual defendants Chiczewski, Roth, and Cronan, engaged in lying, deception, and fraud against Michell.

308. As part of their discriminatory scheme, McDonald's, acting through individual defendants Chiczewski, Roth, and Cronan, harassed and defamed Michell and subjected him to a hostile environment.

309. McDonald's and its officers including but not limited to Chiczewski, Roth, and Cronan revealed their racial animus by repeatedly ignoring Michell's claims that they were treating him in a discriminatory manner. Without limitation:

- a. Michell raised this concern to Chiczewski in November 2022 before the change in status was formalized in January 2023.

- b. Michell raised his concern in his February 2023 email when he copied higher-ranking officers and the president of the McDonald's Hispanic Operators Association to defend himself against the false charge of not meeting the Owner/Operator Involvement Standard *and* call attention the disparate treatment he believed he was being subjected to.

310. McDonald's could have investigated Michell's claims of disparate treatment and taken steps to make sure no disparate treatment or retaliation would occur, but McDonald's chose to ignore Michell (following Chiczewski's lead after Chiczewski became angry and ended his conversation with Michell when Michell raised the topic). Defendants chose to act guilty.

311. McDonald's intentionally discriminated against Michell and his companies based on race under respondeat superior and in failing to correct the blatant discrimination of these officers after it had notice of their misconduct.

312. Prior to the events in this case, Michell was an exceptional McDonald's Owner/Operator in performance and achievement.

313. Prior to the events in this case, Michell did nothing to incur the wrath and animosity of McDonald's or the individual Defendants.

314. Michell and his organization have been, as good or better Owner/Operators than the white franchisees that received substantially better treatment by McDonald's. They deserved none of the adverse treatment inflicted on them by McDonald's and the individual Defendants.

315. As the direct and proximate result of McDonald's and the Individual Defendants violations of Section 1981, Michell and the corporate plaintiffs have and will continue to suffer substantial economic damages in amounts that will be proven at trial, and which include the loss

of past, present, and future profits, and income and/or lost equity value in McDonald's franchises in amounts to be proven at trial.

316. As the direct and proximate result of McDonald's and the individual Defendants violations of Section 1981, Michell has personally suffered intangible injury resulting from the deprivation of his civil rights.

317. As the direct and proximate result of McDonald's and the Individual Defendants violations of Section 1981, Michell has suffered emotional and physical suffering and distress, humiliation, damage to professional reputations and to future business prospects.

318. The discriminatory conduct of McDonald's and the individual Defendants was intentional and malicious, making punitive or exemplary damages necessary to punish these Defendants and to deter others from like misconduct.

COUNT VIII

DEPRIVATION OF CIVIL RIGHTS BY ALL DEFENDANTS

Retaliation

319. All Plaintiffs incorporate ¶¶ 1 through 318 as though set forth herein in this Count VIII against all Defendants.

320. As alleged in ¶ 109-111 of this Complaint, and on other occasions, Michell put Defendants on notice of his reasonable belief he was being subjected to unlawful disparate treatment in connection with the New York City municipal labor law case after Chiczewski criticized Michell about the adverse publicity in November 2022.

321. After Michell put Defendants on notice of his claim of disparate treatment, Defendants failed to investigate and/or failed to offer Michell any explanation of the alleged disparate treatment or any assurances there would be no disparate treatment going forward.

322. Instead, Defendants escalated their campaign to harass and demean Michell and to drive him out of the franchise system in all the wrongful and discriminatory ways alleged in this Complaint.

323. Defendants' conduct after Michell complained about disparate treatment was unlawful retaliation that independently violates Section 1981.

324. In addition, since Michell filed this lawsuit alleging (in part) racial discrimination on May 9, 2024, Defendants have engaged in a continuing campaign of retaliatory conduct.

325. Most egregious is Defendants' claim – as laid out in its counterclaim filed October 10, 2024 (R. 51) - that Michell has suddenly materially breached all thirty-seven of his franchise agreements. By declaring Michell in material breach, Defendants are threatening to repossess all of Michell's franchised restaurants.

326. Defendants' claim Michell has materially breached his franchise agreements is undermined by (without limitation) McDonald's past conduct. In Business Review in or around April 2022, McDonald's graded the Michell Organization and found it to be meeting the then applicable 2018 National Franchising Standards and determined the Michell Org. was eligible for growth, meaning that, as of April 2022, Michell was in compliance with his franchise agreements. And yet now, only after Michell filed his lawsuit claiming racial discrimination, Defendants claim Michel's conduct from before April 2022 is the basis (in part) of McDonald's determination that Michell is in breach.

327. As the direct and proximate result of McDonald's and the Individual Defendants retaliatory violations of Section 1981, Michell and the corporate plaintiffs have and will continue to suffer substantial economic damages in amounts that will be proven at trial, and which include

the loss of past, present, and future profits and income and/or lost equity value in McDonald's franchises in amounts to be proven at trial.

328. As the direct and proximate result of McDonald's and the individual Defendants retaliatory violations of Section 1981, Michell has personally suffered intangible injury resulting from the deprivation of his civil rights.

329. As the direct and proximate result of McDonald's and the Individual Defendants retaliatory violations of Section 1981, Michell has suffered emotional and physical suffering and distress, humiliation, damage to professional reputations and to future business prospects.

330. The retaliatory conduct of McDonald's and the individual Defendants was intentional and malicious, making punitive or exemplary damages necessary to punish these Defendants and to deter others from like misconduct.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request judgment against Defendants on Counts I through VII as follows:

I. On Count I under the Connecticut Franchise Act, Plaintiffs Michell, Michell.Bradley and Berlin Foods request the entry of judgment against McDonald's Corporation and McDonald's USA, LLC for:

- A. Actual damages to be proven at trial.
- B. Consequential damaged to be proven at trial.
- C. Punitive damages to the extent available under law.
- D. Declaratory judgment that McDonald's conduct violates or threatens to violate the Connecticut Franchise Act by not-renewing McDonald's Stores #28784 and

#148 or purposefully causing any circumstances that would prevent these renewals from occurring.

- E. The entry of an injunction under the Connecticut Franchise Act against McDonald's (and all persons acting in concert with these corporate Defendants) to prevent them from continuing and carrying out their announced intent to violate Connecticut Franchise Act by not-renewing McDonald's Stores #28784 and #148 or purposefully causing any circumstances that would prevent these renewals from occurring.

II. On Count II under the Connecticut Unfair Trade Practices Act, Plaintiffs Michell, Michell.Bradley and Berlin Foods request the entry of judgment against McDonald's Corporation and McDonald's USA, LLC for:

- A. Actual damages to be proven at trial.
- B. Consequential damaged to be proven at trial.
- C. Punitive damages to the extent available under law.
- D. Declaratory judgment that McDonald's conduct violates or threatens to violate the Connecticut Unfair Trade Practices Act.
- E. The entry of an injunction under the Connecticut Unfair Trade Practices Act against McDonald's (and all persons acting in concert with these corporate Defendants) to prevent them from continuing and carrying out their announced intent to violate the Connecticut Unfair Trade Practices Act by not-renewing McDonald's Stores #28784 and #148 or purposefully causing any circumstances that would prevent these renewals from occurring.

III. On Count III for Breaches and Anticipatory Breaches of Franchise Agreements, All Plaintiffs request the entry of judgment against McDonald's Corporation and McDonald's USA, LLC for:

- A. Actual damages to be proven at trial.
- B. Consequential damaged to be proven at trial.
- C. Declaratory Judgment that McDonald's has breached its franchise agreements with Plaintiffs in one or more ways alleged in Count III.
- D. Injunctive relief against McDonald's USA (and all persons acting in concert with this Defendant) to enjoin them from committing the breaches of contract alleged in Count III.

IV. On Count IV for Common Law Fraud, all Plaintiffs request the entry of judgment against McDonald's Corporation and McDonald's USA, LLC for:

- A. Actual damages to be proven at trial.
- B. Consequential damaged to be proven at trial.
- C. Punitive damages in an amount sufficient to punish these Defendants and deter others from like misconduct.

V. On Count V for Promissory Estoppel (brought in the alternative to Count III), all Plaintiffs request the entry of judgment against McDonald's Corporation and McDonald's USA, LLC for:

- A. Actual damages to be proven at trial.
- B. Consequential damaged to be proven at trial.
- C. Declaratory Judgment that McDonald's must be estopped from repudiating its promises of franchise renewal as alleged in Count V.

D. Injunctive relief against McDonald's USA (and all persons acting in concert with this Defendant) to estop them from repudiating their promises of franchise renewal as alleged in Count V.

VI. On Count VI for tortious interference, Plaintiffs Michell and Michell.Bradley request the entry of judgment against McDonald's Corporation and McDonald's USA for:

- A. Actual damages to be proven at trial.
- B. Consequential damaged to be proven at trial.
- C. Punitive damages in an amount sufficient to punish this Defendant and deter others from like misconduct.
- D. Injunctive relief against McDonald's USA (and all persons acting in concert with this Defendant) to enjoin them from committing the intentional tort alleged in Count V.
- E. Plaintiffs reserve their right to seek additional relief on Count VI if the Connecticut Airport Authority approves Plaintiffs for continued operation of their Special Venues, but McDonald's attempts further interference or retaliation as threatened by Chiczewski.

VII. On Count VII for Disparate Treatment in violation of 42 U.S.C. §1981, and also under 42 U.S.C. §1988, all Plaintiffs request the entry of judgment imposing joint and several liability against all Defendants for:

- A. Actual and consequential damages for economic and pecuniary injuries in amounts to be proven at trial.
- B. Actual and consequential damages for emotional distress and the intangible injury resulting from the deprivation of civil rights.

- C. Punitive damages sufficient to punish these Defendants and deter others from like misconduct.
- D. Injunctive relief against further discriminatory conduct and to prevent further injury from past and ongoing discrimination.

VIII. On Count VIII for unlawful retaliation in violation of 42 U.S.C. §1981, and also under 42 U.S.C. §1988, all Plaintiffs request the entry of judgment imposing joint and several liability against all Defendants for:

- A. Actual and consequential damages for economic and pecuniary injuries in amounts to be proven at trial.
- B. Actual and consequential damages for emotional distress and the intangible injury resulting from the deprivation of civil rights.
- C. Punitive damages sufficient to punish these Defendants and deter others from like misconduct.
- D. Injunctive relief against further discriminatory conduct and to prevent further injury from past and ongoing discrimination.

IX. In addition, to the extent available under law, on each Count, Plaintiffs request:

- A. Prejudgment interest to the extent available by law.
- B. Costs of suit.
- C. Attorneys' fees; and
- D. Such other relief available under law and deemed just and proper.

ELECTION OF REMEDIES

To the extent permitted under law, Plaintiffs reserve their elections of remedies.

JURY DEMAND

To the extent available under law, Plaintiffs demand trial by jury.

Dated: November 1, 2024

Respectfully submitted,

PLAINTIFFS

**GEORGE MICHELL,
MICHELL NORTH LLC,
MICHELL.BRADLEY LLC,
BERLIN FOODS LLC, and
UTICA FOODS LLC.**

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CERTIFICATE OF SERVICE

The undersigned certifies that on November 1, 2024, he caused to be filed the foregoing with the Clerk of the Court using the CM/ECF system which served a true and correct copy of the foregoing on the below via the CM/ECF system:

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