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16 JASPREET DHILLON, ROBERT ELKINS, and MANINDER "PAUL" LOBANA,  
individually, and on behalf of others similarly situated

17 **UNITED STATES DISTRICT COURT**  
18 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
19 **WESTERN DIVISION**  
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21 SERGE HAITAYAN, JASPREET  
22 DHILLON, ROBERT ELKINS, and  
23 MANINDER "PAUL" LOBANA,  
individually, and on behalf of others  
similarly situated,

24 Plaintiffs/Counterdefendants,

25 vs.

26 7-ELEVEN, INC., a Texas corporation,

27 Defendant/Counterclaimant.  
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Case No.: 2:17-cv-7454 JFW (JPRx)

**PLAINTIFFS/  
COUNTERDEFENDANTS'  
ANSWER TO DEFENDANT/  
COUNTERCLAIMANT'S  
COUNTERCLAIM**

**DEMAND FOR JURY TRIAL**

1 Plaintiffs/Counterdefendants SERGE HAITAYAN, JASPREET DHILLON,  
2 ROBERT ELKINS, and MANINDER “PAUL” LOBANA, individually, and on  
3 behalf of others similarly situated (“Plaintiffs”), respond to the correspondingly  
4 numbered paragraphs of Defendant/Counterclaimant 7-Eleven, Inc.’s (“7-Eleven”)  
5 Counterclaim (“Counterclaim”).

6 For convenience, Plaintiffs use in this Answer the section headings contained in  
7 the Counterclaim. However, Plaintiffs make no admission as to any allegations  
8 contained in those headings.

9 **PARTIES**

10 1. Plaintiffs admit that 7-Eleven is a Texas corporation with its principal  
11 place of business in Irving, Texas.

12 2. Plaintiffs admit that Plaintiffs’ Amended Complaint alleges that each  
13 Plaintiff is a resident of California, and that Plaintiffs are, in fact, each residents of the  
14 State of California.

15 **JURISDICTION AND VENUE**

16 3. Plaintiffs admit that this Court has subject matter jurisdiction over the  
17 Counterclaim pursuant to 28 U.S.C. § 1367.

18 4. Plaintiffs admit that there is complete diversity of citizenship between  
19 Plaintiffs and 7-Eleven.

20 5. Plaintiffs admit that venue is proper in this District by virtue of Plaintiffs’  
21 commencement of this action, and pursuant to 28 U.S.C. § 1391.

22 **FACTUAL BACKGROUND**

23 6. Plaintiffs admit that 7-Eleven enters into Individual Store Franchise  
24 Agreements with individuals and entities, who are granted the right to operate 7-  
25 Eleven franchises (“franchisees”) using 7-Eleven’s systems and trademarks, all as set  
26 forth in Franchise Agreements and voluminous other incorporated materials  
27 referenced therein, including, but not limited to, the 7-Eleven On-Line Systems  
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1 Support Guide (“Support Guide”), the 7-Eleven Operations Manual (“Operations  
2 Manual”), the 7-Eleven Foodservice Operations Manual (“Foodservice Operations  
3 Manual”), and 7-Eleven Initial, Ongoing and Employee Training materials (“Training  
4 Materials”). An example of a Franchise Agreement is attached as Exhibit “A” to  
5 Plaintiffs’ Amended Complaint (“Franchise Agreement”). Plaintiffs lack knowledge  
6 or information sufficient to form a belief as to the truth of the allegations contained in  
7 paragraph 6 of 7-Eleven’s Counterclaim that the franchise agreement attached as  
8 Exhibit “A” to 7-Eleven’s Counterclaim is an accurate “example” of a Franchise  
9 Agreement 7-Eleven has used in California. With respect to the remaining allegations  
10 contained in paragraph 6, they constitute conclusions of law to which no responsive  
11 pleading is required and/or Plaintiffs lack knowledge or information sufficient to form  
12 a belief as to the truth thereof. To the extent that these remaining allegations may be  
13 deemed to allege facts and not conclusions of law, they are denied.

14 7. Plaintiffs admit that, from time to time, 7-Eleven revises its Franchise  
15 Agreement and that, to Plaintiffs’ knowledge, 7-Eleven has not made any revisions to  
16 its form franchise agreement still in use that are materially relevant to the  
17 Counterclaim and like matters raised in Plaintiffs’ Amended Complaint. With respect  
18 to any remaining allegations contained in paragraph 7, they constitute conclusions of  
19 law to which no responsive pleading is required and/or Plaintiffs lack knowledge or  
20 information sufficient to form a belief as to the truth thereof. To the extent that these  
21 remaining allegations may be deemed to allege facts and not conclusions of law, they  
22 are denied.

23 8. Plaintiffs admit that paragraph 1(5), first sentence, of the Franchise  
24 Agreement states that the franchisee “recognize[s] the advantages of the 7-Eleven  
25 system and wish to obtain a franchise for a 7-Eleven store.” With respect to any  
26 remaining allegations contained in paragraph 8, they constitute conclusions of law to  
27 which no responsive pleading is required and/or Plaintiffs lack knowledge or  
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1 information sufficient to form a belief as to the truth thereof. To the extent that these  
2 remaining allegations may be deemed to allege facts and not conclusions of law, they  
3 are denied.

4 9. Plaintiffs deny that 7-Eleven accurately quoted Paragraph 2 of the  
5 Franchise Agreement as set forth in paragraph 9 of the Counterclaim, in that the word  
6 “or” should be “on” in the phrase “or our behalf” as set forth in the quoted portion of  
7 paragraph 9 at subsection 2(c)(ii). Plaintiffs admit that the remainder of the quoted  
8 language in paragraph 9, as corrected above, is set forth in all forms of the franchise  
9 agreement to the extent of Plaintiffs’ current knowledge about the content of franchise  
10 agreements within the scope of the claims raised in Plaintiffs’ Amended Complaint.

11 10. Plaintiffs re-state the admissions in paragraph 9 of this Answer. With  
12 respect to the remaining allegations contained in paragraph 10, they constitute  
13 conclusions of law to which no responsive pleading is required. To the extent that  
14 these remaining allegations may be deemed to allege facts and not conclusions of law,  
15 they are denied, although Plaintiffs admit that they wanted 7-Eleven’s rights and  
16 conduct to be consistent with creating and maintaining an independent contractor  
17 relationship between 7-Eleven and Plaintiffs, but Plaintiffs allege and believe that,  
18 based upon 7-Eleven’s contractual rights and/or conduct, Plaintiffs are not and have  
19 not been independent contractors since at least October 12, 2013.

20 11. Plaintiffs deny the allegations of paragraph 11.

21 12. The allegations contained in paragraph 12 constitute conclusions of law  
22 to which no responsive pleading is required. To the extent that the allegations  
23 contained in paragraph 12 may be deemed to allege facts, they are denied.

24 13. Plaintiffs admit the allegations contained in paragraph 13.

25 14. Plaintiffs deny the allegations contained in paragraph 14.

26 15. Plaintiffs deny the allegations contained in paragraph 15.

27 16. Plaintiffs re-state the admissions in paragraph 9 of the Answer. With  
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1 respect to the remaining allegations contained in paragraph 16, they constitute  
2 conclusions of law to which no responsive pleading is required. To the extent that  
3 these remaining allegations may be deemed to allege facts and not conclusions of law,  
4 they are denied.

5 17. Plaintiffs deny the allegations contained in paragraph 17.

6 18. Plaintiffs deny the allegations of the first sentence of paragraph 18. With  
7 respect to the remaining allegations contained in paragraph 18, they constitute  
8 conclusions of law to which no responsive pleading is required. To the extent that  
9 these remaining allegations may be deemed to allege facts and not conclusions of law,  
10 they are denied, although Plaintiffs admit that 7-Eleven would be prohibited from  
11 receiving remuneration contrary to California law.

12 **FIRST COUNTERCLAIM**

13 19. Plaintiffs repeat and re-allege their answers above to 7-Eleven's  
14 repetition and re-alleging of prior allegations in paragraph 19.

15 20. Plaintiffs admit the allegations contained in paragraph 20.

16 21. Plaintiffs deny the allegations contained in paragraph 21.

17 **JURY DEMAND**

18 Plaintiffs acknowledge 7-Eleven's request for trial by jury on all claims triable  
19 by jury. Plaintiffs hereby re-assert their request for the same, including as to 7-  
20 Eleven's Counterclaim.

21 **7-ELEVEN'S PRAYER FOR RELIEF**

22 Plaintiffs deny that 7-Eleven is entitled to any relief, monetary, equitable or  
23 otherwise.

24 **AFFIRMATIVE DEFENSES**

25 Without waiving or excusing the burden of proof of 7-Eleven, or admitting that  
26 Plaintiffs have any burden of proof as to the Counterclaim, Plaintiffs assert the  
27 following affirmative defenses to the Counterclaim.

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**FIRST DEFENSE**

7-Eleven has failed to state a claim for which relief may be granted.

**SECOND DEFENSE**

7-Eleven’s claims are barred, in whole or in part, by the doctrines of waiver, estoppel, unclean hands and/or laches.

**THIRD DEFENSE**

7-Eleven has failed to comply with the requirements imposed by its franchise agreements and other agreements ancillary or collateral thereto.

**FOURTH DEFENSE**

7-Eleven’s claims for relief are barred, in whole or in part, because the relief sought was caused by 7-Eleven’s own wrongful acts and/or omissions in breach of its franchise agreements and otherwise.

**FIFTH DEFENSE**

After-acquired evidence of 7-Eleven’s misconduct, if discovered, may bar some or all of 7-Eleven’s claims, allegations or alleged damages.

**SIXTH DEFENSE**

7-Eleven is barred from recovery because any damages sustained by 7-Eleven were caused by 7-Eleven’s own conduct, and/or conduct which 7-Eleven approved, authorized, ratified, permitted, voluntarily provided or to which it consented.

**SEVENTH DEFENSE**

Plaintiffs lack knowledge or information sufficient to form a belief as to whether they have other, as yet unstated, defenses. Plaintiffs reserve the right to assert, and hereby give notice that they intend to rely upon any other defense(s) that may become available or appear during discovery or otherwise, and reserve the right to amend their Answer to assert any such defense.

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**PRAYER FOR RELIEF**

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WHEREFORE, Plaintiffs pray for judgment against 7-Eleven as follows:

1. That 7-Eleven take nothing by way of its Counterclaim;
2. That 7-Eleven is not entitled to any damages, penalties, restitution, injunctive relief, declaratory relief or any other legal or equitable remedy due to any act or omission of Plaintiffs;
3. That the Counterclaim be dismissed, in its entirety, with prejudice;
4. That judgment be entered in favor of Plaintiffs and against 7-Eleven on the entire Counterclaim, including a denial of all claims requesting the recovery of costs and/or attorney’s fees incurred by 7-Eleven in connection with this action; and
5. For any other and further relief that the Court may deem just and proper.

Respectfully submitted,

Dated: December 20, 2017

**CULP & DYER, LLP**  
**RUPAL LAW**

**POPE, BERGER,**  
**WILLIAMS & REYNOLDS, LLP**  
By: /s/ Stephanie Reynolds  
Timothy G. Williams  
Stephanie Reynolds  
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and on behalf of others similarly situated