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12 *Attorneys for Defendant*  
 13 *The Kroger Co.*

14  
 15 **UNITED STATES DISTRICT COURT**  
 16  
 17 **CENTRAL DISTRICT OF CALIFORNIA**  
 18  
 19 **WESTERN DIVISION**

20 SONYA VALENZUELA, individually  
 21 and on behalf of all others similarly  
 22 situated,

23 Plaintiff,

24 vs.

25 THE KROGER CO., an Ohio  
 26 Corporation; and DOES 1 through 25,  
 27 inclusive,

28 Defendants.

Case No. 2:22-cv-6382

**DEFENDANT’S NOTICE OF  
 REMOVAL**

[From the Superior Court of California,  
 County of Los Angeles, No.  
 22STCV25119]

Compl. Filed: August 3, 2022  
 Action Removed: September 7, 2022

1 **TO THE CLERK AND TO PLAINTIFF AND HER ATTORNEYS:**

2 **PLEASE TAKE NOTICE** that defendant The Kroger Co. hereby removes  
3 this action from the Superior Court of the State of California for the County of Los  
4 Angeles to the United States District Court for the Central District of California.  
5 Kroger is entitled to remove this action to federal district court pursuant to 28  
6 U.S.C. §§ 1332, 1441, and 1446 based on the following:

7 **State Court Action**

8 1. On August 3, 2022, plaintiff Sonya Valenzuela commenced a putative  
9 class action in the Superior Court of the State of California in and for the County of  
10 Los Angeles, captioned *Valenzuela v. The Kroger Co.*, Case No. 22STCV25119  
11 (the State Court Action). A true and correct copy of the complaint in the State  
12 Court Action is attached hereto as **Exhibit 1** (the Complaint). Ms. Valenzuela  
13 served the Complaint on Kroger on August 8, 2022.

14 2. In the Complaint, Ms. Valenzuela alleges Kroger surreptitiously  
15 recorded and stored customers' interactions with a customer service "chatbot" on  
16 Kroger's website, then shared these interactions with a third-party technology  
17 vendor. (Compl. ¶¶ 14–18.) Ms. Valenzuela characterizes the chatbot as  
18 "wiretapping technology," and claims Kroger's use of the chatbot violates the  
19 California Invasion of Privacy Act (CIPA), California Penal Code § 631. (*Id.* ¶ 27.)  
20 Ms. Valenzuela brings this claim on behalf of a putative class of "[a]ll persons  
21 within California, who (1) within one year of the filing of this Complaint visited  
22 Defendant's website, and (2) whose electronic communications were caused to be  
23 intercepted, recorded, monitored, and/or shared by Defendant without prior  
24 consent." (*Id.* ¶ 19.) Ms. Valenzuela seeks statutory damages, punitive damages,  
25 and injunctive relief, as well as attorneys' fees. (*Id.* at p. 7.)

26 3. In addition to the pleadings and filings mentioned above, all other  
27 pleadings, processes, and orders served upon or received by Kroger in the State  
28 Court Action or found on the docket in that action are attached hereto.

- 1 a. The Complaint is attached hereto as **Exhibit 1**;
- 2 b. The Summons is attached hereto as **Exhibit 2**;
- 3 c. The Civil Case Cover Sheet is attached hereto as **Exhibit 3**;
- 4 d. The Notice of Case Assignment is attached hereto as **Exhibit 4**;
- 5 e. The Notice to Plaintiff is attached hereto as **Exhibit 5**; and
- 6 f. A copy of the docket in the State Court Action is attached hereto  
7 as **Exhibit 6**.

8 4. The State Court Action is removable to this Court because the Court  
9 has original jurisdiction and the Central District of California encompasses the  
10 location in which the State Court Action is currently pending (*i.e.*, Los Angeles,  
11 California). *See* 28 U.S.C. § 1332(d)(2); 28 U.S.C. § 1441(a) (“[A]ny civil action  
12 brought in a State court of which the district courts of the United States have  
13 original jurisdiction, may be removed by the defendant . . . to the district court of  
14 the United States for the district and division embracing the place where such action  
15 is pending.”).

16 **The Action Is Removable Under the Class Action Fairness Act,**  
17 **28 U.S.C. § 1332(d)**

18 5. This Court has original jurisdiction pursuant to the Class Action  
19 Fairness Act of 2005 (CAFA). CAFA was enacted based on Congress’s concern  
20 that “cases involving large sums of money, citizens of many different States, and  
21 issues of national concern, have been restricted to State courts even though they  
22 have national consequences.” 151 Cong. Rec. S1086-01, S1103 (Feb. 8, 2005).  
23 CAFA’s purpose is to allow “[f]ederal court consideration of interstate cases of  
24 national importance . . . .” 28 U.S.C. § 1711, stat. note, subd. (b)(2).

25 6. “[N]o antiremoval presumption attends cases invoking CAFA, which  
26 Congress enacted to facilitate adjudication of certain class actions in federal court.”  
27 *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014).

28 //

1 7. CAFA extends federal jurisdiction over class actions where: (1) any  
2 member of the proposed class is a citizen of a state different from any defendant  
3 (*i.e.*, minimal diversity exists); (2) there are at least 100 members in all proposed  
4 plaintiff classes combined; (3) the amount in controversy exceeds \$5,000,000; and  
5 (4) no exception to jurisdiction applies. *See* 28 U.S.C. § 1332(d). As explained  
6 below, this case meets each of these requirements.

7 ***The Minimal Diversity Requirement Is Satisfied***

8 8. A putative class action is removable based on diversity jurisdiction if  
9 “any member of a class of plaintiffs is a citizen of a State different from any  
10 defendant . . . .” 28 U.S.C. § 1332(d)(2)(A).

11 9. Ms. Valenzuela is a citizen and resident of California. (Compl. ¶ 7.)  
12 The putative class Ms. Valenzuela seeks to represent also comprises citizens of  
13 California. (*Id.* ¶ 19.)

14 10. Kroger is a corporation incorporated in Ohio and has its principal place  
15 of business in Cincinnati, Ohio. A corporation is a citizen of every state in which it  
16 is incorporated and of the state it has its principal place of business. *See* 28 U.S.C.  
17 § 1332(c)(1). Thus, Kroger is a citizen of Ohio for determining minimal diversity.

18 11. Therefore, sufficient (and minimal) diversity of citizenship exists  
19 between the relevant parties in this case.

20 ***Ms. Valenzuela’s Proposed Class Exceeds 100 Members***

21 12. This action is a proposed “class action” under 28 U.S.C.  
22 § 1332(d)(1)(B), which is defined as “any civil action filed under rule 23 of the  
23 Federal Rules of Civil Procedure or similar State statute or rule of judicial  
24 procedure authorizing an action to be brought by 1 or more representative persons  
25 as a class action . . . .”

26 13. To remove a class action under CAFA, “the number of members of all  
27 proposed plaintiff classes in the aggregate” must be at least 100. 28 U.S.C.  
28 § 1332(d)(5)(B).

1 14. Ms. Valenzuela seeks to represent a class composed of “[a]ll persons  
2 within California, who (1) within one year of the filing of this Complaint visited  
3 Defendant’s website, and (2) whose electronic communications were caused to be  
4 intercepted, recorded, monitored, and/or shared by Defendant without prior  
5 consent.” (Compl. ¶ 19.)

6 15. According to Ms. Valenzuela’s Complaint, absent class members  
7 number in the tens of thousands, “if not more.” (*Id.* ¶ 20.) This exceeds the 100-  
8 member threshold.

9 ***The Amount in Controversy Exceeds \$5,000,000***

10 16. Where, as here, “the plaintiff’s complaint does not state the amount in  
11 controversy, the defendant’s notice of removal may do so.” *Dart Cherokee*, 574  
12 U.S. at 84. To establish the amount in controversy, a notice of removal “need not  
13 contain evidentiary submissions.” *Id.* Rather, “a defendant’s notice of removal  
14 need include only a plausible allegation that the amount in controversy exceeds the  
15 jurisdictional threshold.” *Id.* at 89.

16 17. For purposes of removal only, and without conceding Ms. Valenzuela  
17 or the putative class are entitled to any damages, remedies, or penalties whatsoever,  
18 the aggregated claims of the putative class, as pleaded in the Complaint, exceed the  
19 jurisdictional amount of \$5,000,000 exclusive of interest and costs. *See* 28 U.S.C.  
20 § 1332(d)(2); *see also Lewis v. Verizon Commc’ns, Inc.*, 627 F.3d 395, 397 (9th Cir.  
21 2010) (removing defendant need only show “the potential damages could exceed  
22 the jurisdictional amount”); *Woods v. CVS Pharmacy, Inc.*, 2014 U.S. Dist. LEXIS  
23 13339, at \*5 (C.D. Cal. Jan. 30, 2014) (“The ultimate inquiry is what amount is put  
24 ‘in controversy’ by the plaintiff’s complaint, not what a defendant will actually  
25 owe.”) (alterations and quotations omitted).

26 18. The Complaint seeks statutory damages pursuant to California Penal  
27 Code § 631(a), which allows for a fine of \$2,500 per CIPA violation. (Compl. at p.  
28 7; *see id.* ¶ 31 (Ms. Valenzuela seeks “statutory damages of at least \$2,500.00 per

1 violation”).) Ms. Valenzuela also alleges she “believes the number [of absent class  
2 members] to be in the tens of thousands, if not more.” (*Id.* ¶ 20.) Even assuming  
3 each putative class member used the chat box only once, these allegations put at  
4 least \$25,000,000 in controversy (\$2,500 x 10,000 putative class members). Thus,  
5 without conceding that Ms. Valenzuela’s alleged measure of damages would be the  
6 proper measure of relief for any of her claims, or that she or any putative class  
7 member are entitled to any relief, it is reasonably possible Kroger could be liable  
8 for statutory damages exceeding \$5,000,000. This alone suffices to meet the CAFA  
9 amount in controversy threshold. *See Aram Adzhikosyan v. AT&T Corp.*, 2021 U.S.  
10 Dist. LEXIS 241791, at \*9 (C.D. Cal. Dec. 17, 2021) (amount in controversy met  
11 where CIPA statutory damages exceeded \$5,000,000).

12 19. The Complaint also seeks “punitive damages” pursuant to California  
13 Civil Code § 3294, which allows for punitive or “exemplary” damages in the case  
14 of “oppression, fraud, or malice.” (Compl. at p. 7.) At least one court has awarded  
15 punitive damages pursuant to California Civil Code § 3294 at a rate of \$2,500 per  
16 CIPA offense. *See Condon v. Condon*, 2008 U.S. Dist. LEXIS 145224, at \*20  
17 (C.D. Cal. June 6, 2008). This is well within the range of appropriate punitive  
18 damages recognized in this Circuit. *See Guadarrama v. Chadorbaff*, 2018 U.S.  
19 Dist. LEXIS 226401, at \*28–29 (C.D. Cal. Apr. 30, 2018) (“Although, the  
20 appropriate ratio of punitive to compensatory damages will vary from case to case,  
21 many courts in the Ninth Circuit have found a ratio of three to one appropriate.”)  
22 (citations omitted). Thus, without conceding that Ms. Valenzuela’s alleged measure  
23 of damages would be the proper measure of relief for any of her claims, or that she  
24 or any putative class member are entitled to any relief, it is reasonably possible  
25 Kroger could be liable for punitive damages exceeding \$5,000,000.

26 20. The Complaint also seeks attorneys’ fees. (Compl. at p. 7.) In the  
27 Ninth Circuit, the amount in controversy includes likely attorneys’ fees. *See Galt*  
28 *G/S v. JSS Scandinavia*, 142 F.3d 1150, 1155 (9th Cir. 1998). A removing

1 defendant can establish the likely attorneys’ fees by identifying cases in which  
 2 plaintiff’s counsel has requested similar fees. *See Greene v. Harley-Davidson, Inc.*,  
 3 965 F.3d 767, 774 n.4 (9th Cir. 2020) (“Based on [defendant’s] evidence that  
 4 [plaintiff’s] attorney sought 35 percent in a similar case, it is reasonable to assume  
 5 that [plaintiff’s] attorney would seek fees equal to 25 percent of the amount in  
 6 controversy if he were to prevail.”). Ms. Valenzuela’s attorneys sought attorneys’  
 7 fees equal to 25 percent of the common fund in another consumer class action  
 8 alleging California statutory violations. *See Kissel v. Code 42 Software Inc.*, 2018  
 9 U.S. Dist. LEXIS 221591, at \*13 (C.D. Cal. Feb. 20, 2018) (awarding 25 percent of  
 10 settlement fund in consumer class action challenging automatic renewal policy).  
 11 This comports with the Ninth Circuit benchmark. *See In re Bluetooth Headset*  
 12 *Prods. Liab. Litig.*, 654 F.3d 935, 941 (9th Cir. 2011) (in class actions producing a  
 13 common fund, “courts typically calculate 25% of the fund as the ‘benchmark’ for a  
 14 reasonable fee award”). Accordingly, the amount in controversy here includes  
 15 attorneys’ fees in the amount of 25 percent of the possible common fund. Because  
 16 it is reasonably possible a theoretical common fund will exceed \$10,000,000  
 17 (statutory and punitive damages), attorneys’ fees would amount to at least  
 18 \$2,500,000.

19 21. In sum, based on Ms. Valenzuela’s pleaded assertions and theories of  
 20 recovery, the amount in controversy exceeds \$5,000,000.

21 ***Exceptions to Jurisdiction Do Not Apply***

22 22. The complete diversity between Ms. Valenzuela and Kroger not only  
 23 satisfies the minimal diversity requirements under CAFA, but also precludes the  
 24 “local controversy” and “home state” exceptions in 28 U.S.C. § 1332(d)(3) &  
 25 (d)(4), exceptions for which Ms. Valenzuela would bear the burden of proof in any  
 26 event.

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**Kroger Satisfies the Requirements of 28 U.S.C. § 1446**

23. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure. *See* 28 U.S.C. § 1446(a).

24. This Notice of Removal has been filed within 30 days of service of the Complaint on Kroger, from which it was first ascertainable this case was removable pursuant to CAFA. *See* 28 U.S.C § 1446(b)(2)(3).

25. Concurrently with the filing of this Notice, Kroger is giving written notice to all adverse parties and is filing a copy of this Notice with the clerk of the Superior Court of the State of California in and for the County of Los Angeles. *See* 28 U.S.C. § 1446(d).

26. Kroger does not waive and expressly preserves all objections, defenses, and exceptions authorized by law, including but not limited to those permitted pursuant to Rule 12 of the Federal Rules of Civil Procedure.

WHEREFORE, Kroger removes the State Court Action to this Court.

DATED: September 7, 2022

DAVIS WRIGHT TREMAINE LLP

By: /s/ Jacob M. Harper

Jacob M. Harper

*Attorneys for Defendant  
The Kroger Co.*

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# EXHIBIT 1

22STCV25119

Assigned for all purposes to: Spring Street Courthouse, Judicial Officer: Kenneth Freeman

Electronically Filed by Superior Court of California, County of Los Angeles on 08/03/2022 11:37 PM Sherri R. Carter, Executive Officer/Clerk of Court, by G. Carini, Deputy Clerk

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7 Attorneys for Plaintiff and Proposed Class

8  
 9  
 10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 11 **FOR THE COUNTY OF LOS ANGELES**

12 SONYA VALENZUELA, individually and on  
13 behalf of all others similarly situated,

14 Plaintiff,

15 v.

16 THE KROGER CO., an Ohio corporation; and  
17 DOES 1 through 25, inclusive,

18 Defendants.

Case No. **22STCV25119**

**CLASS ACTION COMPLAINT FOR  
VIOLATION OF PENAL CODE § 631**

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1 **INTRODUCTION**

2 1. Plaintiff Sonya Valenzuela (“Plaintiff”) brings this action individually and on behalf of  
3 all other Californians similarly situated against Defendant for its illegal wiretapping of electronic  
4 communications with Defendant’s website www.kroger.com (the “Website”).

5 2. Unbeknownst to visitors to the Website, Defendant has secretly deployed “keystroke  
6 monitoring” software that Defendant uses to surreptitiously intercept, monitor, and record the  
7 communications (including keystrokes and mouse clicks) of all visitors to its Website. Defendant  
8 neither informs visitors nor seeks their express or implied consent prior to this wiretapping.

9 3. Defendant has violated and continues to violate the California Invasion of Privacy Act  
10 (“CIPA”), California Penal Code § 631, entitling Plaintiff and Class Members to relief pursuant  
11 thereto.

12 **JURISDICTION AND VENUE**

13 4. This Court has jurisdiction over all causes of action asserted herein.

14 5. Venue is proper in this Court because Defendant knowingly engages in activities  
15 directed at consumers in this County and engaged in the wrongful conduct alleged herein against  
16 residents of this County.

17 6. Any out-of-state participants can be brought before this Court pursuant to California’s  
18 “long-arm” jurisdictional statute.

19 **PARTIES**

20 7. Plaintiff Sonya Valenzuela is an adult resident of California.

21 8. Defendant is an Ohio corporation. Defendant does business and affects commerce  
22 within the state of California and with California residents.

23 9. The above-named Defendants, and their subsidiaries and agents, are collectively  
24 referred to as “Defendants.” The true names and capacities of the Defendants sued herein as DOE  
25 DEFENDANTS 1 through 25, inclusive, are currently unknown to Plaintiff, who therefore sues such  
26 Defendants by fictitious names. Each of the Defendants designated herein as a DOE is legally  
27 responsible for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the  
28

1 Complaint to reflect the true names and capacities of the DOE Defendants when such identities  
2 become known.

3 10. Plaintiff is informed and believes that at all relevant times, every Defendant was acting  
4 as an agent and/or employee of each of the other Defendants and was acting within the course and  
5 scope of said agency and/or employment with the full knowledge and consent of each of the other  
6 Defendants.

7 11. Plaintiff is informed and believe that each of the acts and/or omissions complained of  
8 herein was made known to, and ratified by, each of the other Defendants.

9 **FACTUAL ALLEGATIONS**

10 12. Without warning visitors or seeking their consent, Defendant has secretly deployed  
11 wiretapping software on its Website. This software allows Defendant to surreptitiously record every  
12 aspect of a visitor's interaction with the Website, including keystrokes, mouse clicks, data entry and  
13 other electronic communications.

14 13. Defendant's actions amount to the digital equivalent of both looking over a consumer's  
15 shoulder and eavesdropping on a consumer's conversation. Defendant's conduct is not only illegal, it  
16 is offensive: indeed, a recent study conducted by the Electronic Privacy Information Center, a  
17 respected thought leader regarding digital privacy, found that: (1) nearly 9 in 10 adults are "very  
18 concerned" about data privacy; and (2) 75% of adults are unaware of the true extent to which  
19 companies gather, store, and exploit their personal data. See <https://archive.epic.org/privacy/survey/>  
20 (last downloaded July 2022).

21 14. Within the past year, Plaintiff visited Defendant's Website. Plaintiff communicated  
22 with someone Plaintiff believed was a customer service representative. In reality, Defendant's  
23 Website utilizes a sophisticated "chatbot" that convincingly impersonates an actual human while  
24 encouraging consumers to share their personal information. At the same time, the Defendant  
25 simultaneously records and stores the entire conversation using secretly embedded wiretapping  
26 technology.



- 1 c. Whether Plaintiff and Class Members are entitled to statutory damages pursuant to Cal.  
2 Penal Code § 631(a);  
3 d. Whether Plaintiff and Class Members are entitled to punitive damages pursuant to Cal.  
4 Civil Code § 3294; and  
5 e. Whether Plaintiff and Class Members are entitled to injunctive relief.

6 22. TYPICALITY: As a person who visited Defendant's Website and had her electronic  
7 communications recorded, intercepted and monitored, Plaintiff is asserting claims that are typical to  
8 the Class.

9 23. ADEQUACY: Plaintiff will fairly and adequately protect the interests of the members  
10 of The Class. Plaintiff has retained attorneys experienced in the class action litigation. All individuals  
11 with interests that are actually or potentially adverse to or in conflict with the class or whose inclusion  
12 would otherwise be improper are excluded.

13 24. SUPERIORITY: A class action is superior to other available methods of adjudication  
14 because individual litigation of the claims of all Class Members is impracticable and inefficient. Even  
15 if every Class Member could afford individual litigation, the court system could not. It would be  
16 unduly burdensome to the courts in which individual litigation of numerous cases would proceed.

17 **CAUSE OF ACTION**

18 **Violations of the California Invasion of Privacy Act**

19 **Cal. Penal Code § 631**

20 25. Section 631(a) of California's Penal Code prohibits and imposes liability upon any  
21 entity that "by means of any machine, instrument, contrivance, or in any other manner," (1)  
22 "intentionally taps, or makes any unauthorized connection, whether physically, electrically,  
23 acoustically, inductively, or otherwise, with any telegraph or telephone wire, line, cable, or instrument,  
24 including the wire, line, cable, or instrument of any internal telephonic communication system," or (2)  
25 "willfully and without the consent of all parties to the communication, or in any unauthorized manner,  
26 reads, or attempts to read, or to learn the contents or meaning of any message, report, or  
27 communication while the same is in transit or passing over any wire, line, or cable, or is being sent  
28 from, or received at any place within this state" or (3) "uses, or attempts to use, in any manner, or for

1 any purpose, or to communicate in any way, any information so obtained, or who aids, agrees with,  
2 employs, or conspires with any person or persons to unlawfully do, or permit, or cause to be done any  
3 of the acts or things mentioned above in this section”.

4 26. Section 631 of the California Penal Code applies to internet communications and thus  
5 applies to Plaintiff’s and the Class’s electronic communications with Defendant’s Website. (“Though  
6 written in terms of wiretapping, Section 631(a) applies to Internet communications. It  
7 makes liable anyone who ‘reads, or attempts to read, or to learn the contents’ of a communication  
8 ‘without the consent of all parties to the communication.’ Cal. Penal Code § 631(a).” *Javier v.*  
9 *Assurance IQ, LLC*, 21-16351, 2022 WL 1744107, at \*1 (9th Cir. May 31, 2022).

10 27. The software employed by Defendant on its Website to record Plaintiff’s and the  
11 Class’s electronic communications qualifies as a “machine, instrument, contrivance, or ... other  
12 manner” used to engage in the prohibited conduct alleged herein.

13 28. At all relevant times, Defendant intentionally caused the internet communication  
14 between Plaintiff and Class Members with Defendant’s website to be tapped and recorded.

15 29. At all relevant times, Defendant willfully, and without the consent of all parties to the  
16 communication, caused to be intercepted, read or attempted to be read, logged, and stored, the contents  
17 of electronic communications of Plaintiff and Class Members with its Website, while the electronic  
18 communications were in transit over any wire, line or cable, or were being sent from or received at any  
19 place within California.

20 30. Plaintiff and Class Members did not consent to any of Defendant’s actions in  
21 implementing wiretaps on its Website, nor did Plaintiff or Class Members consent to Defendant’s  
22 intentional access, interception, recording, monitoring, reading, learning and collection of Plaintiff and  
23 Class Members’ electronic communications with the Website.

24 31. Defendant’s conduct constitutes numerous independent and discreet violations of Cal.  
25 Penal Code § 631(a), entitling Plaintiff and Class Members to injunctive relief and statutory damages  
26 of at least \$2,500.00 per violation.

27 **PRAYER FOR RELIEF**

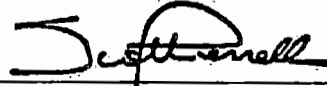
28 WHEREFORE, Plaintiff prays for the following relief against Defendant:



- 1           1.       An order certifying the Class, naming Plaintiff as the representative of the Class and
- 2 Plaintiff's attorneys as Class counsel;
- 3           2.       An order declaring Defendant's conduct violates CIPA;
- 4           3.       An order of judgment in favor of Plaintiff and the Class and against Defendant on the
- 5 cause of action asserted herein;
- 6           4.       An order enjoining Defendant's conduct as alleged herein and any other injunctive
- 7 relief that the Court finds proper;
- 8           5.       Statutory damages to Plaintiff and the Class pursuant to Cal. Penal Code § 631(a);
- 9           6.       Punitive damages to Plaintiff and the Class pursuant to Cal. Civil Code § 3294;
- 10          7.       Prejudgment interest;
- 11          8.       Reasonable attorneys' fees and costs incurred in this action pursuant to Cal. Code Civ.
- 12 Proc. § 1021.5; and
- 13          9.       All other relief that would be just and proper as a matter of law or equity, as determined
- 14 by the Court.

15 Dated: August 3, 2022

PACIFIC TRIAL ATTORNEYS, APC

16  
17 By:   
18 Scott J. Ferrell  
Attorneys for Plaintiff

# EXHIBIT 2

Electronically FILED by Superior Court of California, County of Los Angeles on 08/03/2022 11:37 PM Sherri R. Carter, Executive Officer/Clerk of Court, by G. Carini, Deputy Clerk  
22STCV25119

SUM-100

**SUMMONS  
(CITACION JUDICIAL)**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:**

**(AVISO AL DEMANDADO):**

THE KROGER CO., an Ohio corporation; and DOES 1 through 25, inclusive,

**YOU ARE BEING SUED BY PLAINTIFF:**

**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

SONYA VALENZUELA, individually and on behalf of all others similarly situated,

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

**(El nombre y dirección de la corte es):**  
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES  
312 N. Spring Street, Los Angeles, CA 90012

CASE NUMBER:  
(Número del Caso):

**22STCV25119**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

**(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):**

Scott J. Ferrell (Bar # 202091) / Victoria C. Knowles (Bar # 277231)

PACIFIC TRIAL ATTORNEYS, APC

Phone No.: (949) 706-6464

4100 Newport Place Drive, Suite 800, Newport Beach, CA 92660

Sherri R. Carter Executive Officer / Clerk of Court

DATE: 08/03/2022

Clerk, by

G. Carini

Deputy  
(Adjunto)

(Fecha)

(Secretario)

**(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)**

**(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).**



**NOTICE TO THE PERSON SERVED: You are served**

1.  as an individual defendant.
2.  as the person sued under the fictitious name of (specify):
3.  on behalf of (specify): THE KROGER CO., an Ohio corporation  
under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)  
 other (specify):
4.  by personal delivery on (date):

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