



1 stores in violation of the Ordinance.

2 4.

3 On information and belief, Jacksons employed surveillance cameras and facial  
4 recognition technology (the “Security System”) to identify and screen individuals who visit its  
5 stores, including its Portland, Oregon locations after the Ordinance went into effect. Upon  
6 information and belief, this technology is employed to assist in the identification and prosecution  
7 of shoplifters.

8 5.

9 But, as the city of Portland has recognized, the technology behind the automated Security  
10 System is deeply flawed. It has been proven to wrongly identify people as criminals, and these  
11 errors disproportionately affect women and people of color.<sup>1</sup> Thus, customers may find  
12 themselves stopped by security or prevented from entering a Jacksons store merely for having  
13 the wrong facial features or skin color. What’s more, customers may not even be aware that they  
14 are being screened by facial recognition technology as they attempt to enter a store.

15 6.

16 Plaintiffs Norby and May, and all others similarly situated, were subjected to this face  
17 recognition technology in Jacksons’ Portland locations. Defendant is therefore using face  
18 recognition technologies in violation of the Ordinance.

19 7.

20 Accordingly, Plaintiffs Norby and May, and all other members of the Class they seek to  
21 represent, have been injured and suffered damages. Plaintiffs bring this action to recover  
22 statutory damages and for a permanent injunction against further use of the face recognition  
23 software in the City of Portland, Oregon.

24  
25 \_\_\_\_\_  
26 <sup>1</sup> Vox, *Why algorithms can be racist and sexist*, Rebecca Heilweil,  
[https://www.vox.com/recode/2020/2/18/21121286/algorithms-bias-discrimination-facial-  
recognition-transparency](https://www.vox.com/recode/2020/2/18/21121286/algorithms-bias-discrimination-facial-recognition-transparency) (accessed 09/30/2022).

**PARTIES**

8.

Plaintiff Brian Norby is a resident and domiciliary of Oregon, living in Portland, Oregon.

9.

Plaintiff Jacqueline May is a resident and domiciliary of Oregon, living in Portland, Oregon.

10.

Defendant Jacksons Food Stores, Inc., is an American convenience store chain organized and existing under the laws of the State of Idaho and headquartered in Meridian, Idaho.

11.

Jacksons is one of the largest privately held corporations in Idaho and operates 230+ convenience stores across six states in the American west. Jacksons stores are “single service stations,” operating jointly with gas station brands Chevron, Shell, and Texaco.<sup>2</sup> Within the City of Portland, Defendant has approximately 33 store locations.<sup>3</sup>

**JURISDICTION AND VENUE**

12.

This Court has general subject-matter jurisdiction over this class action pursuant to ORCP 4. This Court has personal jurisdiction over the parties because Plaintiffs submit to the jurisdiction of the court and are Oregon residents, and Jacksons has systematically and continually conducted business in the City of Portland, Oregon, and throughout the State of Oregon, such that suit in the State and this County is foreseeable.

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<sup>2</sup> <https://jacksons.com/about>

<sup>3</sup> <https://jacksons.com/locations>

13.

Venue is proper under ORS 14.090 because Jackson's conducts business in Multnomah County and the conduct giving rise to this action took place in the city of Portland, Oregon. Plaintiffs are informed and believe that Jackson's continues to use facial recognition technology within the city of Portland, in violation of the Ordinance.

**FACTUAL ALLEGATIONS**

**I. THE FACIAL RECOGNITION BAN**

14.

On September 9, 2020, Portland Mayor Ted Wheeler and the Portland City Council unanimously voted to pass two ordinances that prohibit the use of face recognition technologies in Portland, Oregon.<sup>4</sup> One of those ordinances bans the use of face recognition technologies by City bureaus, and the other bans their use "in places of public accommodation by any private entity within the boundaries of the city of Portland." CCPO 34.10.030. The second ordinance is the subject of this action.

15.

The Ordinance describes "Face Recognition" as "the automated searching for a reference image in an image repository by comparing the facial features of a probe image with the features of images contained in an image repository." CCPO 34.10.020(A).

16.

The Ordinance describes "Face Recognition Technology" as "automated or semi-automated processes using Face Recognition that assist in identifying, verifying, detecting, or characterizing facial features of an individual or capturing information about an individual based on an individual's face." CCPO 34.10.020(B).

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<sup>4</sup> <https://www.portland.gov/smart-city-pdx/news/2020/9/9/city-council-approves-ordinances-banning-use-face-recognition>

1 17.

2 Put simply, face recognition technology takes an image and uses artificial intelligence  
3 and an algorithm to label and categorize the image.

4 18.

5 As the term suggests, face recognition technology is often used to identify a specific  
6 person, however, face recognition technology can be used to identify different traits about a  
7 person as well. For instance, face recognition technology can be used to identify a person’s race,  
8 gender, age, or mood.<sup>5</sup>

9 19.

10 There are three exceptions to the ordinance. First, the ordinance allows the use of face  
11 recognition technology to comply with federal, state, or local laws. Second, it permits use of  
12 face recognition technology for user verification purposes by an individual to access the  
13 individual’s own personal or employer issued communications and electronic devices. Third, it  
14 allows face recognition technology in automatic detection services in social media applications.

15 20.

16 The Ordinance was passed to combat the growing encroachment of face recognition  
17 technologies in our everyday lives. The ban responds to concerns around “privacy and  
18 intrusiveness, oversurveillance, lack of transparency, [and] gender and race bias.”

19 21.

20 As Mayor Wheeler put it: “[a]s highlighted by numerous studies, articles, and community  
21 feedback, the problems with Face Recognition Technology are almost too numerous to count,  
22 and I refuse to sit back and watch our right to privacy and our civil rights be stripped away so  
23 that corporations can make more money.”<sup>6</sup>

24  
25 <sup>5</sup> *It’s not just Google or Facebook: The freezer aisle is ad targeting you now*, Katharine  
26 Schwab, Fast Company, <https://www.fastcompany.com/90302382/its-not-just-google-or-facebook-the-freezer-aisle-is-ad-targeting-you-too>.

<sup>6</sup> *Id.*

1 22.

2 The “Purpose” section of the ordinance explains further: One of the primary issues with  
3 facial recognition technology today is that the technologies “have been shown to false identify  
4 women and People of Color on a routine basis.” CCPO 34.10.010.

5 23.

6 People of color especially have been and continue to be over-policed, over-surveilled,  
7 and wrongfully convicted of crimes at rates far higher than those of white people.<sup>7</sup> As such, large  
8 swathes of the public do not see face recognition technologies as benign enhancements to their  
9 consumer experience, but as active threats to their liberty. The City of Portland recognized as  
10 much when it instituted this Ordinance.

11 24.

12 As alleged below, Jacksons violated CCPO 34.10.030 by using Face Recognition  
13 Technologies within the boundaries of the City.

14 **II. JACKSONS USES FACIAL RECOGNITION TECHNOLOGIES IN ITS STORES**

15 25.

16 Like nearly all convenience store chains, Jacksons uses security cameras to monitor  
17 customers in its stores.

18 26.

19 These security cameras dot the stores’ ceilings and walls, offering those in “loss  
20 prevention” – the industry term for security guards – an expansive view of the store.

21 27.

22 Security camera surveillance is nothing new, closed-circuit cameras have been widely  
23 used since the 1970’s and 80’s. However, Defendant took its monitoring a step further than most.

24  
25 <sup>7</sup> Death Penalty Information Center, *Report: Black People 7.5 Times More Likely To Be*  
26 *Wrongfully Convicted of Murder than Whites, Risk Even Greater if Victim was White*,  
<https://deathpenaltyinfo.org/news/report-black-people-7-5-times-more-likely-to-be-wrongfully-convicted-of-murder-than-whites-risk-even-greater-if-victim-was-white>.

1 28.

2 On information and belief, Jacksons used automated face recognition technology in  
3 tandem with its security cameras to monitor, catalogue, and screen customers as before they enter  
4 its stores.

5 29.

6 This information came to light when KGW8, a local Portland news station, published an  
7 article in 2019 detailing Jacksons’ use of facial recognition technologies in a Portland, Oregon  
8 store location.<sup>8</sup>

9 30.

10 According to the report, the system, through facial recognition, screens customers as they  
11 attempt to enter the store, locking those out whose faces have been catalogued on a blacklist.  
12 When approaching the store, customers are presented with a sign that tells them to “LOOK AT  
13 CAMERA FOR ENTRY” and that “Facial Recognition [is] in Use.”<sup>9</sup>



21 31.

22 The company behind the facial recognition technology deployed at Jacksons’ Portland  
23 locations is Blue Line Technology (“Blue Line”).

24 <sup>8</sup> KGW8, *Portland gas station using facial recognition technology to curb crime*,  
25 [https://www.kgw.com/article/news/local/portland-gas-station-using-facial-recognition-  
26 technology-to-curb-crime/283-8ce9f30a-2ac8-4c07-9ea9-11518a75e40a](https://www.kgw.com/article/news/local/portland-gas-station-using-facial-recognition-technology-to-curb-crime/283-8ce9f30a-2ac8-4c07-9ea9-11518a75e40a) (accessed  
11/08/2022).

<sup>9</sup> *Id.*

32.

Blue Line sells its facial recognition technologies in a hardware and software package. The hardware is a digital security camera, and the software is called “First Line Facial Recognition.”<sup>10</sup>

33.

As Blue Line puts it: “First Line software uses high-quality, high-resolution, digital security cameras that capture images as people walk up to the camera.”<sup>11</sup> The software then deploys a “facial matching algorithm” to determine whether the face in front of the camera matches a face on file with Jacksons. Customers are unable to enter a location using one of these systems without first subjecting themselves to it.<sup>12</sup>

34.

Jacksons used this facial recognition technology in three of its Portland, Oregon store locations.<sup>13</sup>

### III. FACIAL RECOGNITION TECHNOLOGIES

35.

Facial recognition is a way of identifying or confirming an individual’s identity using their face. Facial recognition systems can be used to identify people in photos, videos, or in real-time.<sup>14</sup>

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<sup>10</sup> Blue Line Technology, *First Line Facial Recognition – FLFRS*, <https://bluelinetechology.com/products/first-line-facial-recognition-flfrs/> (accessed 11/08/2022).

<sup>11</sup> *Id.*

<sup>12</sup> Red Tail, *Convenience Chain Adds Facial Recognition at More Portland Stores*, Kate Kaye, <https://redtailmedia.org/2020/01/27/convenience-chain-adds-facial-recognition-at-more-portland-stores/> (accessed 11/08/2022).

<sup>13</sup> *Id.*

<sup>14</sup> Kaspersky, *What is facial recognition?*, <https://www.kaspersky.com/resource-center/definitions/what-is-facial-recognition> (accessed 10/03/2022).



36.

The identification occurs by use of an artificial intelligence, a type of software algorithm which is trained to do certain tasks. Typically, an artificial intelligence is trained to recognize specific objects in an image – an apple, for instance. This is accomplished by “showing” the algorithm hundreds or thousands of images of an apple in different scenes and under different lighting situations, and then having the algorithm identify apples in new images. Eventually, the algorithm “learns” what an apple is and can identify it in any image with a high degree of success. Similarly, algorithms can be trained to recognize whenever a face has appeared in an image.

37.

However, facial recognition asks more of the algorithm. Rather than just recognizing that a face is in the image, the algorithm is tasked with identifying the specific person. This is a significantly more difficult task because the algorithm has not been shown hundreds of images of a specific individual’s face. Typically, just a single image of a specific face has been placed on a “watch list” for the algorithm, and it must attempt to recognize a customer based on that image.<sup>15</sup> Thus, the algorithm must not only learn how to recognize a face, but to distinguish between faces. One popular methodology for distinguishing faces is called “facial landmark detection.”

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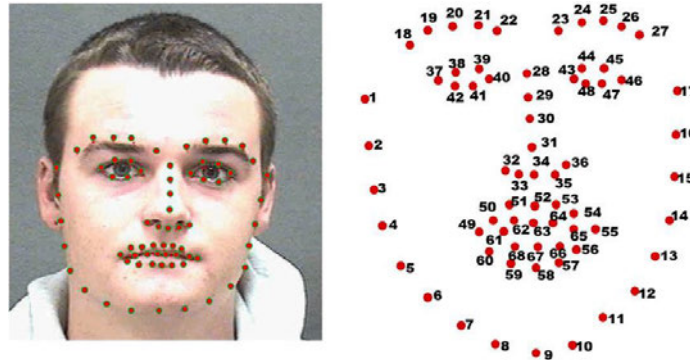
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<sup>15</sup> *Id.*

38.

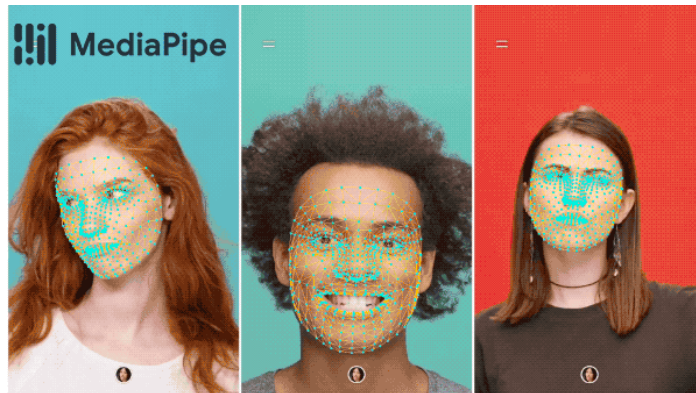
Facial landmark detection is a method of identifying specific “landmarks” on the face (eyes, nose, cheeks, etc.) for facial recognition.<sup>16</sup> Facial landmark detection uses a capture of a person’s face and plots out, typically, 68 separate points which are then analyzed to extract information about the individual.



A side-by-side depicting a reference image with dots placed around the “facial landmarks” and an image of just the dots.

39.

More advanced programs use over 400 points to create a facial “mesh” of the subject. This approach uses “machine learning to infer the 3D facial surface from a single camera input, without a dedicated depth sensor.<sup>17</sup>



Three images of faces with a “mesh” mapped onto them, the mesh has over 400 points on the facial landmarks, compared to the 68 in the image in paragraph 38.

<sup>16</sup> DataGen, *Guide: Facial Landmarks*, <https://datagen.tech/guides/face-recognition/facial-landmarks/#:~:text=Facial%20landmark%20detection%20is%20a,nose%2C%20lips%2C%20and%20others.>

<sup>17</sup> *Id.*

1 40.

2 In either case, a two-dimensional image is analyzed by software and an attempt is made  
3 to identify the specific faces in the image. This may work well for some faces, however, studies  
4 and reports have made clear that the algorithms are not perfect, and that in fact they tend to be  
5 racially and sexually biased.

6 41.

7 In 2019 the National Institute of Standards and Technology released a study which found  
8 that face recognition software produced higher rates of false positives for Black and Asian people  
9 than for whites. Indeed, the software had a false positive rate sometimes over 100-times greater  
10 than the rate for white people. The Institute researchers found “empirical evidence for the  
11 existence of [bias] in the majority of the facial recognition algorithms” they studied.<sup>18</sup> Women  
12 were also misidentified more than men, according to the study.

13 42.

14 Misidentification is even more likely in the convenience store context, where images from  
15 cameras are often low-resolution, and the exteriors of the stores themselves not perfectly lit.

16 43.

17 Thus, on top of the privacy concerns which apply to everyone, women and people of color  
18 risk being misidentified as criminals by merely existing in spaces of public accommodation, like  
19 convenience stores. This reality is precisely what led the city of Portland to institute the facial  
20 recognition ban.

21  
22  
23  
24  
25 \_\_\_\_\_  
26 <sup>18</sup> Insider, *Facial-recognition Technology has a Racial-Bias Problem, According to New  
Landmark Federal Study*, [https://www.businessinsider.com/facial-recognition-racial-bias-  
federal-study-2019-12](https://www.businessinsider.com/facial-recognition-racial-bias-federal-study-2019-12)

**IV. JACKSONS’ USE OF THE FACIAL RECOGNITION TECHNOLOGY IN ITS  
CONVENIENCE STORES VIOLATES THE ORDINANCE**

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44.

The Ordinance bans the identification, verification, detection, or characterization of a person’s face. At its core, it bans “capturing information about an individual based on an individual’s face.” CCP 34.10.020(B).

45.

Jacksons’ use of cameras and facial matching software to scan for would-be shoplifters clearly violates the Ordinance. The cameras capture images of shoppers, use software to detect their faces, and then compares those faces with images of faces on a watch-list in order to identify certain individuals.

46.

In other words, the cameras and the software are “characterizing” or “capturing information” about customers based on their faces. CCPO Ch. 34.10.020(B).

47.

The Ordinance bans precisely this kind of facial recognition.

48.

What’s more, none of the exceptions to the Ordinance apply to Jacksons. The cameras and software are used to detect and identify customers’ faces for purposes of loss prevention. On information and belief, the technology is not needed to comply with state, federal, or local laws. Defendant does not use the Security System for employment purposes. And, finally, Defendant is not using the technology as part of a social media application.

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**V. PLAINTIFFS' EXPERIENCES**

**a. Plaintiff Norby**

49.

Plaintiff Brian Norby is an Oregon domiciliary who was exposed to Facial Recognition Technology while in the city of Portland, Oregon.

50.

On January 5, 2021, Plaintiff Norby visited the Jacksons Food Store location on Grand Avenue in Portland, Oregon. During this visit, Plaintiff Norby was required to remove his face mask and look at a camera where he was exposed to the facial recognition system prior to entering the store. On multiple occasions, prior to and following January 5, 2021, Plaintiff Norby was subjected to the same experience upon entry to the Grand Avenue location. On at least one occasion, Plaintiff Norby was informed by a Jacksons employee that facial recognition technology was in use.

51.

When Plaintiff Norby approached Defendant's store, he was exposed to Facial Recognition Technology, as described in paragraphs 25 to 48.

52.

By employing Facial Recognition Technology in its convenience stores and exposing Plaintiff to such technology, Defendant violated Plaintiff Norby's statutorily protected right to privacy.

**b. Plaintiff May**

53.

Plaintiff Jacqueline May is an Oregon domiciliary who was exposed to Facial Recognition Technology while in the city of Portland, Oregon.

1 54.

2 On January 5, 2021, Plaintiff May visited the Jacksons Food Store location on Grand  
3 Avenue in Portland, Oregon. During this visit, Plaintiff May was required to remove her face  
4 mask and look at a camera where she was exposed to the facial recognition system prior to  
5 entering the store. On multiple occasions, prior to and following January 5, 2021, Plaintiff May  
6 was subjected to the same experience upon entry to the Grand Avenue location.

7 55.

8 When Plaintiff May walked through Defendant's store, she was exposed to Facial  
9 Recognition Technology, as described in paragraphs 25 to 48.

10 56.

11 By employing Facial Recognition Technology in its convenience stores and exposing  
12 Plaintiff May to such technology, Defendant violated Plaintiff May's statutorily protected right  
13 to privacy.

14 **CLASS ALLEGATIONS**

15 57.

16 Pursuant to Oregon Rule of Civil Procedure 32, Plaintiffs seek class certification defined  
17 as follows (the "Class").

18 **All individuals who were exposed to Facial Recognition Technologies**  
19 **when they visited Jacksons store locations in Portland, Oregon on or**  
**after January 1, 2021.**

20 Excluded from the Class are Defendant and its affiliates, parents, subsidiaries, employees,  
21 officers, agents, and directors as well as any judicial officers presiding over this matter and the  
22 members of their immediate families and judicial staff.

23 58.

24 **Notice.** Pursuant to ORCP 32H, Plaintiffs sent Defendant notice of the alleged cause of  
25 action accompanied by a demand that Defendant correct or rectify the wrong.

26

1 59.

2 **Numerosity.** The number of persons within the Class is substantial, believed to amount  
3 to hundreds, if not thousands, of persons. It is, therefore, impractical to join each member of the  
4 Class as a named plaintiff. Further, the size and relatively modest value of the claims of the  
5 individual members of the Class renders joinder impractical. Accordingly, utilization of the class  
6 action mechanism is the most economically feasible means of determining and adjudicating the  
7 merits of this litigation. Moreover, the Class is ascertainable and identifiable from  
8 advertisements and self-identifying affidavits.

9 60.

10 **Commonality and Predominance.** Common questions of fact and law exists as to all  
11 Class members and predominate over any questions that affect only individual class members.  
12 These common legal and factual questions, which do not vary from Class member to Class  
13 member, and which may be determined without reference to the individual circumstances of any  
14 class member, include, but are not limited to, the following:

- 15 a. Whether the security systems at Jacksons locations in Portland, Oregon  
16 used Facial Recognition Technologies as defined by CCPO Ch.  
17 34.10.020(B).
- 18 b. Whether Plaintiffs and Class members are entitled to damages as set forth  
19 in CCPO Ch. 34.10.050(A).
- 20 c. Whether Plaintiffs and Class members are entitled to attorney's fees  
21 under CCPO Ch. 34.10.050(B).

22 61.

23 **Typicality.** Plaintiffs' claim is typical of the claims of the members of the Class  
24 in that:

- 25 a. Plaintiffs are members of the Class.





1 claims, few, if any, proposed Class members could afford to seek legal redress for the wrongs  
2 complained of herein. Absent the class action, the proposed Class members will continue to  
3 suffer losses and the violations of law described herein will continue without remedy, and  
4 Defendant will be permitted to retain the proceeds of their misdeeds. Defendant continues to  
5 engage in the unlawful, unfair, and unconscionable conduct that is the subject of this Complaint.

6 **FIRST CLAIM FOR RELIEF**  
7 **(Violation of CCPO Ch. 34.10 *et seq.*)**

8 64.

9 Plaintiffs incorporate herein by reference the allegations contained in all preceding  
10 paragraphs of this complaint.

11 65.

12 Plaintiffs bring this claim individually and on behalf of the members of the Class against  
13 Defendant.

14 66.

15 Code of the City of Portland, Oregon Chapter 34.10.030 states that a “Private Entity shall  
16 not use Face Recognition Technologies in Places of Public Accommodation within the  
17 boundaries of the City of Portland.”

18 67.

19 “Face Recognition”, as defined by CCPO Ch. 34.10.020(A), means “the automated  
20 searching for a reference image in an image repository by comparing the facial features of a  
21 probe image with the features of images contained in an image repository...”

22 68.

23 As defined by CCPO Ch. 34.10.020(B): “Face Recognition Technologies” means  
24 “automated or semi-automated processes using Face Recognition that assist in identifying,  
25 verifying, detecting, or characterizing facial features of an individual or capturing information  
26 about an individual based on an individual's face.”

1 69.

2 Jacksons is a “Private Entity” as defined by CCPO Ch. 34.10.020(E) because it is a  
3 company.

4 70.

5 Jacksons stores are “Places of Public Accommodation” as defined by CCPO Ch.  
6 31.10.020(D)(1) because the stores are places offering to the public accommodations in the form  
7 of goods and services.

8 71.

9 Jacksons stores in Portland, Oregon used security cameras and facial matching software  
10 to identify customers based on an artificial intelligence analysis of the customer’s general facial  
11 and anatomical characteristics.

12 72.

13 By using artificial intelligence and images of customers to identify them and compare  
14 them to images of customers on a watch list, the Jacksons security system uses Face Recognition.

15 73.

16 By using Face Recognition to automatically detect and characterize customers’ facial and  
17 anatomical features, Jacksons’ security system used Face Recognition Technologies.

18 74.

19 Jacksons therefore violated the City of Portland’s Facial Recognition Ban when it used  
20 its security system to subject Plaintiffs and the members of the Class to facial matching software.

21 75.

22 On October 5, 2022, prior to filing this action, Defendant was served via certified mail  
23 with a pre-suit notice letter on behalf of Plaintiffs that complied in all respects with CCPO Ch.  
24 34.10.050(b) and ORCP 32H. Plaintiffs’ counsel sent Defendant a letter advising that Defendant  
25 violated CCPO Ch. 34.10 et seq. and demanded that Defendant cease and desist its use of the  
26

1 Facial Recognition Technology and pay restitution to the Class. A true and correct copy of  
2 Plaintiffs' counsel's letter is attached hereto as **Exhibit 1**.

3 76.

4 Plaintiffs and the Class members seek damages sustained as a result of the violation, or  
5 statutory damages of \$1,000 per day for each day of the violation, whichever is greater, as set  
6 forth in CCPO Ch. 34.10.050(A), and reasonable attorney fees and costs as set forth in CCPO  
7 Ch. 34.10.050(B).

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated,  
10 respectfully request that this Court enter an Order:

- 11 1. Certifying the case as a class action on behalf of the Class defined above  
12 pursuant to ORCP 32, appointing Plaintiffs as the representative of the Class,  
13 and appointing their counsel as Class Counsel;
- 14 2. Declaring that Defendant's actions, as set out above, violated CCPO Ch. 34. 10  
15 *et seq.*;
- 16 3. Awarding compensatory damages or statutory damages of \$1,000 per day for  
17 each day of violation, whichever is greater, but totaling no less than  
18 \$10,000,000, as determined by the Court and/or jury;
- 19 4. Awarding both pre- and post-judgment interest on any amounts awarded;
- 20 5. Awarding Plaintiffs and the Class reasonable attorneys' fees and expenses and  
21 costs of suit; and
- 22 6. For such other and further relief as the Court may deem proper.

23  
24 DATED: December 1, 2022

**LARKINS VACURA KAYSER LLP**

/s/ Cody Hoesly

Cody Hoesly, OSB No. 052860

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October 5, 2022

**Via Certified Mail – Return Receipt Requested**

Jacksons Food Stores, Inc.  
3450 E Commercial Ct.  
Meridian, ID 83642

Jacksons Food Stores, Inc.  
c/o Registered Agent Solutions, Inc.  
8130 SW Beaverton Hillsdale Hwy  
Portland, OR 97225

*Re: Notice and Demand Letter Pursuant to Code of the City of Portland, Oregon (“CCPO”) Ch. 34.10 et seq.*

To Whom It May Concern:

This letter serves as a preliminary notice and demand for corrective action by Jacksons Food Stores, Inc. (“Jacksons” or “You”) pursuant to CCPO Ch. 34.10.050(B) for breach of the prohibition on the use of facial recognition technology in public accommodation related to our clients, Brian Norby and Jacqueline May (“Client”) and an Oregon class of all similarly situated persons (the “Class”) who visited Jacksons Food Stores located in Portland, Oregon. Should we not receive a response to our offer of resolution set forth below, this letter provides notice of our intent to file a class action lawsuit.

On information and belief, Jacksons employs facial recognition technology in its retail stores to identify individuals whose images appear in camera footage to permit them entry to store premises. This technology is employed to assist in the identification and prosecution of shoplifters. Mr. Norby and Ms. May visited your Jacksons location on Grand Avenue in Portland, Oregon on January 1, 2021. When Mr. Norby visited, he was required to remove his face mask for entry, and a clerk verified that facial recognition technology was in use.

Your conduct thus constitutes a violation of CCPO Ch. 34.10 *et seq.* As a result of Your violation of the above-referenced statutes, our Clients sustained injury.

On behalf of our Clients and the Class, we hereby demand that You immediately (1) cease and desist from continuing to employ facial recognition technology in your retail stores in Portland, Oregon; and (2) make full restitution to all persons who visited Jacksons retail stores located in Portland, Oregon.

BURSOR & FISHER  
P.A.

PAGE 2

We also demand that You preserve all documents and other evidence which refers or relates to any of the above-described practices including, but not limited to, the following:

1. All documents concerning the implementation and use of facial recognition technology in your retail stores;
2. All documents concerning third party contracts relating to the implementation and use of facial recognition technology in your retail stores;
3. All documents relating to the facial recognition data collected through use of facial recognition technology in your retail stores;

If You contend that any statement in this letter is inaccurate in any respect, please provide us with Your contentions and supporting documents immediately upon receipt of this letter.

Please contact me right away if You wish to discuss an appropriate way to remedy this matter. If I do not hear from You promptly, I will take that as an indication that You are not interested in doing so.

Very truly yours,



Philip L. Fraietta



If you have any questions, you should see a lawyer immediately. If you need help in finding a lawyer, you may call the Oregon State Bar's Lawyer Referral Service at 503-684-3763 or toll-free in Oregon at 800-452-7636.

DATED: December 1, 2022.

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s/ Cody Hoesly

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