IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

MANUEL ESQUIVEL, individually and as a representative of a class of similarly situated persons, on behalf of the WHATABURGER 401(K) SAVINGS PLAN (f/k/a the Whataburger Profit Sharing and 401(k) Savings Plan),

Plaintiff,

v.

WHATABURGER RESTAURANTS LLC, et al.,

Defendants.

Case No. 5:24-cy-310-XR

NOTICE OF APPEAL

Notice is hereby given that Plaintiff Manuel Esquivel, individually and as a representative of a class of similarly situated persons, on behalf of the Whataburger 401(K) Savings Plan (f/k/a the Whataburger Profit Sharing and 401(k) Savings Plan), appeals to the United States Court of Appeals for the Fifth Circuit from the final judgment of the district court entered in this action on November 8, 2024. This appeal incorporates the Order Granting Defendants' Motion to Dismiss (ECF No. 31) and Final Judgment (ECF No. 32).

Dated: December 9, 2024

Respectfully submitted, /s/ John S. "Jack" Edwards, Jr. John S. "Jack" Edwards, Jr. Texas Bar No. 24040851 Thomas R. Ajamie Texas Bar No. 00952400 Eric Chenoweth Texas Bar No. 24006989 AJAMIE LLP Pennzoil Place - South Tower 711 Louisiana, Suite 2150 Houston, TX 77002

Telephone: (713) 860-1600

Facsimile: (713) 860-1699 Email: jedwards@ajamie.com

tajamie@ajamie.com echenoweth@ajamie.com

James C. Shah Alec J. Berin

MILLER SHAH LLP

1845 Walnut Street, Suite 806 Philadelphia, PA 19103 Telephone: (866) 540-5505 Facsimile: (866) 300-7367 Email: jcshah@millershah.com

ajberin@millershah.com

James E. Miller Laurie Rubinow MILLER SHAH LLP

65 Main Street

Chester, CT 06412

Telephone: (866) 540-5505 Facsimile: (866) 300-7367

Email: jemiller@millershah.com lrubinow@millershah.com

Don Bivens

DON BIVENS PLLC

15169 N. Scottsdale Road, Suite 205 Scottsdale, AZ 85254 Telephone: (602) 708-1450

Email: don@donbivens.com

Attorneys for Plaintiff, the Plan, and the Proposed Class

CERTIFICATE OF SERVICE

I, Jack Edwards, hereby certify that the foregoing document was electronically filed and served on all counsel of record by operation of the Court's CM/ECF system on this date.

Dated: December 9, 2024 /s/ Jack S. "Jack" Edwards, Jr.

Jack S. "Jack" Edwards, Jr.