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**IN THE SUPREME COURT OF CALIFORNIA**

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ARMIDA RUELAS, et al.,

*Plaintiffs-Respondents,*

v.

COUNTY OF ALAMEDA, et al.,

*Defendants-Petitioners*

United States Court of Appeals for the Ninth Circuit, Case No. 21-16528

Appeal from United States District Court for the Northern District of  
California, Case No. 4:19-cv-07637-JST, Hon. Jon S. Tigar

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**Proposed Brief in Support of Respondents of *Amici Curiae* ACLU,  
ACLU of Northern California, ACLU of Southern California, Fines  
and Fees Justice Center, Prison Law Office, Prison Policy Initiative,  
Roderick & Solange MacArthur Justice Center, and Worth Rises**

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## INTRODUCTION

Petitioner Aramark—a large publicly traded corporation with annual revenue exceeding \$16 billion—employs people detained in the Alameda County Jail at a plant that prepares food for the jail and other detention facilities. Even though Aramark extracts profit from this labor, it tells this Court that it can ignore the wage protections of California’s Labor Code when it operates within the Jail. In fact, it goes so far as to argue that it does not need to pay its incarcerated workers a single cent for their labor. Aramark is wrong. This Court should require it to pay its workers detained pre-trial in the Alameda County Jail in accordance with the California Labor Code.

As Respondents explain in their briefing, neither California’s Labor Code nor any other statute exempts Aramark from wage protection requirements based on the mere fact that it employs people detained pre-trial in the Jail. *Amici curiae*<sup>1</sup> do not retread the sound statutory analysis Respondents set out in their brief. Instead, they submit this brief to further expound upon the policy and practical considerations underlying the relevant statutory text.

Aramark argues that it would be “absurd” to afford the protections of the Labor Code to incarcerated people. (Aramark Op. Br. at 41 n.10.) The County, too, argues that “ordinary employment standards [are] inapplicable and inappropriate” in the Jail, which “provide[s] pretrial detainees with their everyday needs such as food, shelter, and clothing.” (County Op. Br.

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<sup>1</sup> Pursuant to California Rule of Court 8.360(f) and 8.200(c), counsel for amici curiae have submitted a motion for leave to file this brief. In addition, counsel for amici curiae certify that no party or counsel for a party authored this brief in whole or in part, and no person other than amici curiae, their members, or their counsel made a monetary contribution to its preparation or submission.



at 34-35 (quotation marks and citation omitted).) These conclusory statements ignore reality: people incarcerated in the U.S. face high costs that they cannot afford without wage protections. Food is inadequate and sometimes inedible, so incarcerated people must pay inflated prices to buy supplemental food at the commissary. They must also pay the commissary if they need certain over-the-counter medications or more than one roll of toilet paper and one small bar of soap per week. And they must pay for the phone and video calls that they need to maintain connection with their families. Most incarcerated people cannot afford these costs, meaning their families are forced to cope not only with losing their incarcerated loved one's income but also with the burden of supporting these basic needs. Incarcerated people require a fair wage to afford basic living costs and to avoid passing them along to their family members.

The statutes relevant to the Court's analysis were intended to ensure workers can provide for their basic needs and that incarcerated people can continue to provide some support to their families while behind bars. In addition to the text of the relevant statutes themselves, these underlying policy objectives and rationales make clear that wage protections of the Labor Code must apply to the people who work for Aramark while detained pre-trial in the Alameda County Jail.

## **DISCUSSION**

### **I. If the Court Finds Any Textual Ambiguity, It Should Take the Interpretation Most Consistent with the Purpose of the Relevant Statutes by Examining the Impact of Work Without Pay on Aramark's Vulnerable Incarcerated Employees and Their Families.**

The statutory text at issue here is clear: nothing exempts Aramark from the wage protections set out in the Labor Code. The broad statutory language of the Labor Code applies to people detained pre-trial who are

performing kitchen work for Aramark. (*See* Resp. Br. at 11-13.) Nothing in California Penal Code § 4019.3 addresses people employed by for-profit companies. (*See* Resp. Br. at 17.) And when Proposition 139 changed the law to permit for-profit companies to employ people held in county jails, it did not exempt those for-profit companies from the Labor Code’s requirements for that work. (*See* Resp. Br. at 24-25.) The Court need go no further in its analysis than to conclude that this plain text requires Aramark to comply with the wage protections of the Labor Code.

But to the extent the Court finds any ambiguity in the text, the policy goals underlying the Labor Code, Penal Code § 4019.3, and Proposition 139 lead to the same conclusion.

This Court set out its approach to statutory construction in another case addressing the Labor Code: “if the [statutory] language allows more than one reasonable construction, we may look to such aids as the legislative history of the measure and maxims of statutory construction.” (*Martinez v. Combs* (2010) 49 Cal. 4th 35, 51, as modified (June 9, 2010).) It continued: “[i]n cases of uncertain meaning, we may also consider the consequences of a particular interpretation, including its impact on public policy.” (*Ibid.*)

The same approach applies to statutory language adopted by the voters through an initiative. When the text of a voter initiative is ambiguous, courts “look to the overall context of the initiative, take into account that it was adopted to reform an existing scheme, and look to the ballot materials as a tool to deduce voter intent.” (*People v. Henderson* (2022) 14 Cal. 5th 34, 52, as modified (Feb. 1, 2023).) In applying that analysis to the statutes relevant in this case, the Court should be particularly wary of Petitioners’ arguments that implications or omissions in Proposition 139 modified the background rule that the Labor Code applies

broadly to labor performed for private companies. (*Ibid.* at 53 [“We cannot presume that the voters intended the initiative to effect a change in law that was not expressed or strongly implied in either the text of the initiative or the analyses and arguments in the official ballot pamphlet.”] [quotation marks and citation omitted].)

The intent underlying each of the relevant statutes requires the Court to examine the costs faced by people incarcerated in California’s jails and the burdens these costs place on their families. This Court has already explained the policy considerations underlying the Labor Code. It looked to ballot materials explaining that employees “should be certain of a living wage—a wage that insures for them the necessary shelter, wholesome food and sufficient clothing.” (*Martinez, supra*, 49 Cal. 4th at 54.)

Similarly, Penal Code § 4019.3 was enacted in recognition of the need to pay incarcerated workers fairly for their work. (Analysis of Senate Bill 139 (June 10, 1959) (from the Hugo Fisher Papers, 1958-1962, UCLA Library, Department of Special Collections) [“Prisoners assigned to honor farms can now be paid a small wage. The services of men working in the jail kitchens, laundry, or various maintenance assignments are of equal value.”].) And the ballot materials for Proposition 139 set out policy goals including “[r]equir[ing] inmate wages be comparable to non-inmate wages for similar work” and allowing for a portion of incarcerated workers’ wages to go to “family support.” (Voter Information Guide for 1990, General Election (1990) UC Hastings Scholarship Repository at 64, [https://repository.uchastings.edu/cgi/viewcontent.cgi?article=2056&context=ca\\_ballot\\_props](https://repository.uchastings.edu/cgi/viewcontent.cgi?article=2056&context=ca_ballot_props).) The purposes of the three relevant statutes thus require a consideration of the costs that people in California jails must pay to provide for their necessities and their families’ well-being, and what wage would be fair for the work they perform.

Petitioners do not dispute that these factors are relevant to the Court’s determination. Instead, they state in conclusory fashion that Aramark’s workers have no need for income. Alameda County states that “ordinary employment standards [are] inapplicable and inappropriate” in the Jail because it “provide[s] pretrial detainees with their everyday needs such as food, shelter, and clothing.” (County Op. Br. at 34-35 [quotation marks and citation omitted].) Aramark takes the similar view that it need not pay incarcerated workers because “county governments are required to provide for the health and welfare of persons incarcerated in county jails regardless of their ability to earn wages.” (Aramark Op. Br. at 46-47.) These statements are contrary to logic: just as other private employers cannot decline to pay minimum wage to people who receive public support such as Section 8 housing or Supplemental Nutrition Assistance Program benefits, Aramark cannot point to any provision of shelter or food in the Jail as a reason to deny its workers minimum wage. These cursory statements also ignore the reality: petitioners—and other government and private actors in county jail systems across California—have put into place systems that extract profit from the people they detain, and leave detained people in a financial position that would be untenable without wage protection.

**A. Incarcerated People Must Pay Inflated Prices to Buy Basic Necessities from the Commissary.**

Incarcerated people routinely pay inflated prices to obtain basic necessities. Although jails, prisons, and detention centers cannot deprive those they incarcerate of “adequate food, clothing, shelter, and medical care,” (*see Farmer v. Brennan* (1994) 511 U.S. 825, 832), they nonetheless require certain clothing, hygiene products, food items, and healthcare

materials to be purchased from a private vendor, through the commissary.<sup>2</sup> Members of the public may assume, mistakenly, that this commissary functions as a source of luxury or comfort items. In reality, it is a necessary supplement to the grossly inadequate food and items that facilities provide:

Consider: If your only bathing option is a shared shower area, aren't shower sandals a necessity? Is using more than one roll of toilet paper a week really a luxury (especially during periods of intestinal distress)? Or what if you have a chronic medical condition that requires ongoing use of over-the-counter remedies (e.g., antacid tablets, vitamins, hemorrhoid ointment, antihistamine, or eye drops)? All of these items are typically only available in the commissary, and only for those who can afford to pay.<sup>3</sup>

Specific data on commissary spending is limited, but as one example, a study found that people in Massachusetts state prisons spent \$215,057 on over 245,000 bars of soap in fiscal year 2016.<sup>4</sup> This worked out to an average annual expenditure of \$22 per person for just soap (equivalent to 25 bars of soap), even in a system that supposedly provided enough soap free of charge.<sup>5</sup>

The bulk of commissary spending covers food to supplement the inadequate diets provided to incarcerated people. After the number of people incarcerated in the U.S. skyrocketed over the 1980s and 1990s, prison systems attempted to limit cost increases by sharply cutting their

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<sup>2</sup> (Raher, *The Company Store and the Literally Captive Market: Consumer Law in Prisons and Jails* (Winter 2020) 17 *Hastings Race & Poverty L.J.* 3, 17-18.)

<sup>3</sup> (Raher, *The Company Store: A Deeper Look at Prison Commissaries* (May 2018) Prison Policy Initiative, <https://www.prisonpolicy.org/reports/commissary.html>.)

<sup>4</sup> (*Ibid.*)

<sup>5</sup> (*Ibid.*)

already meager food budgets.<sup>6</sup> Some facilities now spend an average of less than a dollar per meal.<sup>7</sup> Attempts at cost-cutting have ruinous results on people’s ability to obtain adequate nutrition behind bars. For example, from 2020 through 2022, the Orange County Jail system shut its kitchen and began serving bologna sandwiches—sometimes rotten—for three meals per day.<sup>8</sup> Public records act requests revealed that between this change and population decreases, the jail shaved \$1 million from its annual food budget.<sup>9</sup> People held in the Texas prison system recently reported similarly deficient sack meals and were able to provide photos—for example:

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<sup>6</sup> (See Butterfield, *States Putting Inmates on Diets to Trim Budgets*, New York Times (Sept. 30, 2003), <https://www.nytimes.com/2003/09/30/us/states-putting-inmates-on-diets-to-trim-budgets.html>.)

<sup>7</sup> (Smith, *What Prison Food Is Really Like Around the United States* (March 2, 2023) The Daily Meal, <https://www.thedailymeal.com/1213267/what-prison-food-is-really-like-around-the-united-states/>.)

<sup>8</sup> (Kahn, *New Report Shows OC Sheriff’s Department is giving Incarcerated People Rotting Bologna Sandwiches while Pocketing Savings*, Voice of OC (Jan. 10, 2022), <https://voiceofoc.org/2022/01/kahn-new-report-shows-oc-sheriffs-department-is-giving-incarcerated-people-rotting-bologna-sandwiches-while-pocketing-savings/>.)

<sup>9</sup> (*Ibid.*; see also The Times Editorial Board, *Editorial: Bad bologna in O.C. jail should turn your stomach too*, Los Angeles Times (Jan. 13, 2022), <https://www.latimes.com/opinion/story/2022-01-13/bad-oc-jail-food>.)



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In addition, the typical meal behind bars is unappetizing, flavorless, and lacking in any fresh ingredients—for example:

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<sup>10</sup> (Blakinger, *Ewwwww, What Is That?*, The Marshall Project (May 11, 2020), <https://www.themarshallproject.org/2020/05/11/ewwww-what-is-that>.)



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Malnutrition runs rampant across our carceral system, with incarcerated people reporting massive weight loss and resorting to eating toothpaste and toilet paper out of hunger.<sup>12</sup> These diets are even more inadequate for people with medical issues or dietary needs. For example, people with diabetes report that meals laden with refined carbohydrates leave them unable to manage their blood sugar without purchasing supplemental food.<sup>13</sup> An example of a special meal for someone with a broken jaw is pictured below—just two cups of broth:

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<sup>11</sup> (Smith, *supra* n.7.)

<sup>12</sup> (Santo & Iaboni, *What's in a Prison Meal*, The Marshall Project (Jul. 7, 2015), <https://www.themarshallproject.org/2015/07/07/what-s-in-a-prison-meal>.)

<sup>13</sup> (Carns & Weaver, *Two Cups of Broth and Rotting Sandwiches: The Reality of Mealtime in Prisons and Jails* (Nov. 23, 2022) American Civil Liberties Union, <https://www.aclu.org/news/prisoners-rights/the-reality-of-mealtime-in-prisons-and-jails>.)





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The Alameda County Jail system is no exception. Last year, people in the Alameda County Jail went on a hunger strike. They cited that the “inedible” food is “sometimes found with rodent droppings inside.”<sup>15</sup>

Inadequate prison diets force incarcerated people to buy supplemental nutrition from the only available source: the commissary. The hunger strikers protesting the poor food at the Alameda County Jail explained that people at the jail rely on the jail’s commissary to obtain adequate nutrition.<sup>16</sup> Evidence from the Orange County Jail system shows the extent of this effect. When Orange County jail facilities began serving three meals per day of bologna sandwiches, people had to turn to the

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<sup>14</sup> (*Ibid.*)

<sup>15</sup> (Lisa Fernandez, *Protest at Santa Rita Jail over ‘inedible’ food and rising commissary prices*, Fox 2 KTVU (Jan. 19, 2022), <https://www.ktvu.com/news/protest-at-santa-rita-jail-over-inedible-food-and-sheriffs-profit-on-rising-commissary-prices>)

<sup>16</sup> (*Ibid.*)

commissary to satisfy the most basic of their nutritional needs and nearly doubled their daily spending per person on commissary items, to an average of over \$8 per person daily.<sup>17</sup>

Not only do incarcerated people need to pay from their limited funds for commissary food; commissary prices are often significantly higher than prices outside of jail. The hunger strikers at the Alameda County Jail explained that the jail's sole commissary vendor uses its monopoly over sales in the jail to charge exorbitant prices—for example, \$6.75 for a container of instant coffee, \$1.69 for a bag of potato chips, and \$5 for a can of chili beans.<sup>18</sup> The jail's vendor, in turn, compensates the jail richly for this valuable monopoly, to the tune of 40% of all commissary net revenue.<sup>19</sup> By comparison, the average grocer makes a net profit margin of just 2.5% of net revenue.<sup>20</sup> The Office of Inspector General for Los Angeles County issued a report in 2019 revealing that in the Los Angeles County Jail system, where prices for essential items such as soap and toothpaste were marked up well over double the county's cost to obtain them, the jail's annual cut of commissary revenue was over \$19.5 million.<sup>21</sup>

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<sup>17</sup> (Kahn, *supra* n.8 [showing an increase in average per-person commissary spending from \$5.74 in 2019-2020 to \$8.88 in 2021-2022].)

<sup>18</sup> (Fernandez, *supra* n.15.)

<sup>19</sup> (*Ibid.*; see also Alameda County Contract with Keefe Commissary Network, LLC (Jul. 11, 2018) at Ex. B-1, p. 1, ¶ 2, <https://www.documentcloud.org/documents/21181959-commissary-contract-for-alameda-co-sheriff-2018>.)

<sup>20</sup> (See Mitchell, *Your net profit margin? Consumers think it's way higher than it is*, Supermarket News (Feb. 15, 2023), <https://www.supermarketnews.com/retail-financial/your-net-profit-margin-consumers-think-it-s-way-higher-it>.)

<sup>21</sup> (Office of Inspector General, County of Los Angeles, *Inmate Welfare Fund* (Sept. 17, 2019), 3, 6, <https://file.lacounty.gov/SDSInter/bos/supdocs/InmateWelfareFundPresentation-OIG-9-17-2019.pdf>.)

A survey of three states' prison systems showed that the average incarcerated person spent nearly \$1,000 per year on commissary items.<sup>22</sup> Spending in some California systems is likely well higher: the Los Angeles County Jail system brought in an average of over \$1,000 in annual commissions per person it held.<sup>23</sup> These commissions count only the amount the jail recovers off the top of purchases, meaning actual expenditures must be more. Incarcerated people require a wage that permits them—at a minimum—to pay for these basic necessities.

**B. Incarcerated People Must Also Pay to Stay in Contact with Their Families and Communities.**

Incarcerated people also face costs in maintaining contact with their families and communities. Studies show that maintaining close contact with family members outside of jail or prison significantly improves reentry success.<sup>24</sup>

But maintaining this contact can be expensive. The expense and time required to visit a facility in-person often is prohibitive.<sup>25</sup> Even when

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<sup>22</sup> (Raher, *supra* n.3, Table 1.)

<sup>23</sup> (Compare Office of Inspector General, *supra* n.21 at p. 3 [showing \$19.5 million in commissions] with Los Angeles County Sheriff's Department, *Custody Division Population Year End Review* (2019) at p. 3 [listing average daily populations of 16,910 in 2018 and 17,070 in 2019], [https://lasd.org/pdf/Transparency\\_Custody\\_Division\\_Population\\_2019\\_Year\\_End\\_Report.pdf](https://lasd.org/pdf/Transparency_Custody_Division_Population_2019_Year_End_Report.pdf).)

<sup>24</sup> (deVuono-powell et al., *Who Pays? The True Cost of Incarceration on Families* (2015) Ella Baker Center, at p. 10, <https://ellabakercenter.org/wp-content/uploads/2022/09/Who-Pays-exec-summary.pdf>; Friedmann, *Lowering Recidivism through Family Communication*, Prison Legal News (Apr. 2014), [www.prisonlegalnews.org/news/2014/apr/15/lowering-recidivism-through-family-communication/](http://www.prisonlegalnews.org/news/2014/apr/15/lowering-recidivism-through-family-communication/) [collecting studies].)

<sup>25</sup> (See Stuhldreher, *Op-Ed: Why phone calls from prison should be free* Los Angeles Times (Sept. 23, 2022), <https://www.latimes.com/opinion/story/2022-09-23/prison-jail-communication-california-senate-bill-1008>.)

family can visit in-person, these visits are not always available. For example, the Alameda County Jail has suspended all visits for periods of time due to COVID risk, including most recently a suspension from November 2022 into January 2023.<sup>26</sup> Many incarcerated people therefore must turn to phone and video calls to have any live contact with the outside world.

These calls—like so many aspects of life behind bars—come with fees. Even with programs that provide incarcerated people a minimum of free minutes per month, the companies that provide telecommunication services in prisons, jails, and detention centers generate \$1.4 billion in annual revenue from phone calls alone—almost all of it from fees paid by incarcerated people and the friends and family who call them.<sup>27</sup> The California Public Utilities Commission has recognized the problems of this predatory system and capped charges for phone calls at seven cents per minute. (Cal. Pub. Util. Comm’n, *CPUC Caps Phone Rates for Those Incarcerated* (Aug. 19, 2021), <https://www.cpuc.ca.gov/news-and-updates/all-news/cpuc-caps-phone-rates-for-those-incarcerated>.)<sup>28</sup> The Federal Communications Commission has likewise recognized the “excessive rates and egregious fees on phone calls” within prisons, jails,

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<sup>26</sup> (Alameda County Sheriff’s Office, *Santa Rita Jail Visiting*, <https://www.alamedacountysheriff.org/community/santa-rita-jail-visiting>.)

<sup>27</sup> (Chan et al., *The high cost of phone calls in prisons generates \$1.4 billion a year, disproportionately driving women and people of color into debt* (Jun. 30, 2021) Business Insider, <https://www.businessinsider.com/high-cost-prison-communications-driving-debt-racial-wealth-gap-2021-6>.)

<sup>28</sup> Legislation recently eliminated fees for phone calls to and from state prisons, but this legislation did not address phone calls to and from jails. (Sen. Bill No. 1008, 2021-2022, [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220SB1008](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB1008).)

and detention facilities, capping interstate phone call rates at 12-21 cents per minute, depending on the type of facility and population.<sup>29</sup> Neither of these rate caps includes video calls, which continue to cost \$6.25 per 25-minute call at the Alameda County Jail.<sup>30</sup> And even the capped rate of seven cents per minute for phone calls—under which speaking with one individual for 15 minutes once a week costs over \$50 annually—can be prohibitive or limiting to Aramark’s employees, who receive no wages.

**C. The Significant Costs of Incarceration Are Often Ruinous for Incarcerated People’s Families.**

Even incarcerated workers who receive pay report that, in almost 70 percent of cases, their wages do not cover the costs of basic necessities.<sup>31</sup> Aramark’s employees who are incarcerated at the Alameda County Jail receive no pay at all, leaving them even less able to absorb these costs. Many incarcerated people rely on money from their families to afford these basic necessities. Families of incarcerated people spend an estimated \$1.6 billion per year on commissary accounts and \$1.3 billion on phone calls.<sup>32</sup> Thus, when incarcerated people are denied adequate wages, the harms of

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<sup>29</sup> (Federal Communications Commission, *FCC Takes Next Big Steps in Reducing Inmate Calling Rates* (Oct. 22, 2015) p. 1, <https://docs.fcc.gov/public/attachments/DOC-335984A1.pdf>; 47 C.F.R. § 64.6030.)

<sup>30</sup> Counsel for *amici* obtained this rate by calling customer service for Global Tel Link, the Jail’s video visit contractor.

<sup>31</sup> (American Civil Liberties Union and University of Chicago Law School Global Human Rights Clinic, *Captive Labor: Exploitation of Incarcerated Workers* (2022) p. 72, [https://www.aclu.org/sites/default/files/field\\_document/2022-06-15-captivelaborresearchreport.pdf](https://www.aclu.org/sites/default/files/field_document/2022-06-15-captivelaborresearchreport.pdf).)

<sup>32</sup> (Wagner & Rabuy, *Following the Money of Mass Incarceration* (Jan. 25, 2017) Prison Policy Initiative, Fig. 1, <https://www.prisonpolicy.org/reports/money.html>.)

the unaffordable costs of incarceration spread beyond the walls of prisons, jails, and detention centers into the larger community.

These costs fall disproportionately on the families least able to bear them. Incarcerated people are likely to have been making less money even before they were incarcerated. For example, a study found that the median annual income before incarceration for people aged 27 to 42 was \$19,185—41% lower than their non-incarcerated peers.<sup>33</sup> Families of incarcerated people must cope not only with losing the income that their incarcerated family member once earned; they are also more likely to have been struggling financially even before their family member was incarcerated. One study of incarcerated people found that 82% grew up in the bottom half of families as ranked by income.<sup>34</sup> Similarly, another study found adults from households earning less than \$25,000 per year to be 61% more likely to have had an incarcerated family member than those from households earning over \$100,000 per year.<sup>35</sup>

The impacts on these families are devastating. A White House report found that “[t]he probability that a family is in poverty increases by nearly 40 percent while a father is incarcerated.”<sup>36</sup> Over a third of respondents to

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<sup>33</sup> (Rabuy & Kopf, *Prisons of Poverty: Uncovering the pre-incarceration incomes of the imprisoned* (Jul. 9, 2015) Prison Policy Initiative, <https://www.prisonpolicy.org/reports/income.html>.)

<sup>34</sup> (Looney et al., *Work and Opportunity Before and After Incarceration*, (Mar. 2018) Brookings Institution, p. 13, [https://www.brookings.edu/wp-content/uploads/2018/03/es\\_20180314\\_looneyincarceration\\_final.pdf](https://www.brookings.edu/wp-content/uploads/2018/03/es_20180314_looneyincarceration_final.pdf).)

<sup>35</sup> (Equal Justice Initiative, *Half of Americans Have Family Members Who Have Been Incarcerated* (Dec. 11, 2018), <https://eji.org/news/half-of-americans-have-family-members-who-have-been-incarcerated/>.)

<sup>36</sup> (*Economic Perspectives on Incarceration and the Criminal Justice System* (Apr. 2016) Executive Office of the President of the United States, at p. 5 <https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/document>

one survey of families with incarcerated members reported having gone into debt to cover phone and visitation costs alone.<sup>37</sup> Researchers who interviewed people visiting family members at San Quentin State Prison similarly found that, depending on income category, the people interviewed spent an average of 9% to 26% of their income on maintaining contact with their incarcerated family member.<sup>38</sup> Individual families report regularly spending hundreds of dollars per month on visitation, phone calls, and commissary items.<sup>39</sup>

The high costs that people face while incarcerated can do serious damage to their families. Aramark amplifies this damage by refusing to pay any wages at all—let alone fair wages—to the people it employs in the Alameda County Jail.

### CONCLUSION

People incarcerated in California’s jails and their families face significant costs that often lead to significant financial consequences. Both the relevant statutory texts and their underlying policy goals establish that Aramark—which profits from the labor of people detained pre-trial at the Alameda County Jail—should not be exempted from the wage protections of California’s Labor Code. Should the Court’s textual analysis find any ambiguity, it should interpret those statutes consistent with their purpose, and it should apply the protections of the Labor Code.

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s/CEA%2BCriminal%2BJustice%2BReport.pdf.)

<sup>37</sup> (deVuono-powell et al., *supra* n.24, at p. 9.)

<sup>38</sup> (Grinstead et al., *The Financial Cost of Maintaining Relationships with Incarcerated African American Men: A Survey of Women Prison Visitors* (Jun. 2001) *J. of Afr. Am. Men* 59, 63, 66.)

<sup>39</sup> (Lockwood & Lewis, *The Hidden Cost of Incarceration*, The Marshall Project (Dec. 17, 2019), <https://www.themarshallproject.org/2019/12/17/the-hidden-cost-of-incarceration>.)

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I declare under penalty of perjury under the laws of California that the foregoing is true and correct.

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