

Robie G. Russell
Russell Law Offices
76 South Main Street
Seattle, WA 98101
(206) 621-2102
ISBA No. 2405

William D. Marler
Marler Clark, L.L.P., P.S.
1301 Second Avenue, Suite 2800
Seattle, WA 98101
(206) 346-1888
WSBA No. 17233
Pro Hac Vice Pending

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

ALICE JESSUP,

Plaintiff,

vs.

BOISE CONSUMER COOPERATIVE, INC.,
d/b/a BOISE CO-OP,

Defendant.

COMPLAINT FOR DAMAGES

JURY DEMAND

COMES NOW the Plaintiff, Alice Jessup, by and through her attorneys of record, Robie G. Russell of Russell Law Offices, and William D. Marler of Marler Clark, LLP, PS (pro hac vice pending), for cause of action against the Defendant, Boise Consumer Cooperative, Inc., d/b/a Boise Co-op, to respectfully allege as follows:

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PARTIES, JURISDICTION, AND VENUE

1. The Plaintiff, Alice Jessup, (“Plaintiff”) at all times material to this action, lived in Boise, Ada County, Idaho.

2. The Defendant, Boise Consumer Cooperative, Inc., d/b/a Boise Co-op, (“Defendant”) operates a grocery store and a restaurant, located in Boise, Ada County, Idaho, where it manufactures and sells food.

GENERAL FACT ALLEGATIONS

Salmonella

3. *Salmonella* is an enteric bacterium, which means that it lives in the intestinal tracts of humans and other animals. *Salmonella* bacteria are usually transmitted to humans by eating foods contaminated with other human or animal feces. Contaminated foods are often of animal origin, such as beef, poultry, milk, or eggs, but all foods, including vegetables, may become contaminated. An infected food handler who neglects to wash his or her hands with soap and warm water after using the bathroom may also contaminate food.

4. Once in the lumen of the small intestine, the *Salmonella* bacteria penetrate the epithelium, multiply, and enter the blood within 24 to 72 hours. As few as 15-20 cells of *Salmonella* bacteria can cause salmonellosis, an infection caused by *Salmonella*. Variables such as the health and age of the host, and virulence differences among the serotypes, affect the nature and extent of the illness. Infants, elderly, hospitalized, and immune suppressed persons are the populations that are the most susceptible to disease, and suffer the most severe symptoms.

5. The acute symptoms of *Salmonella* gastroenteritis include the sudden onset of nausea, abdominal cramping, and bloody diarrhea and mucous over a period of days. A fever is

usually present. There is no real cure for *Salmonella* infection, except treatment of the symptoms. Persons with severe diarrhea may require rehydration, often with intravenous fluids.

6. Persons with diarrhea usually recover completely, although it may be several months before their bowel habits are entirely normal. A small number of persons who are infected with *Salmonella* will go on to develop pains in their joints, irritation of the eyes, and painful urination. This is called Reiter's syndrome or reactive arthritis. It can last for months or years, and can lead to chronic arthritis, which is difficult to treat. Antibiotic treatment does not make a difference in whether or not the person later develops arthritis. A person may become a carrier of *Salmonella*.

The Outbreak

7. As of the date of this filing, the Central District Health Department (CDHD) estimates that *Salmonella* has sickened over 280 people after consuming contaminated food manufactured and sold by the Defendant. Most illnesses have occurred in June 2015.

8. The CDHD is currently continuing to investigate the outbreak. DHD has indicated that reports of *Salmonella* illness have come in from outside of Idaho as well, because the Defendant sells its deli products at Boise Airport terminal kiosks.

9. On or about June 15, 2015, CDHD reported that lab tests conducted on several food samples from the deli at Defendant's establishment have tested positive for *Salmonella*. Contaminated foods included tomatoes, onions, and raw turkey. Defendant closed its deli, and has warned consumers to discard any foods purchased from the deli after June 1, 2015.

Alice Jessup's Salmonella Infection and Illness

10. On or about June 7, 2015, Alice Jessup purchased a chicken salad sandwich from a kiosk at the Boise Airport that sold sandwiches prepared by Boise Co-Op. She ate the sandwich, which, unknown to her, was contaminated, by *Salmonella* bacteria.

11. Ms. Jessup began to experience symptoms from her *Salmonella* infection on Monday, June 8, 2015 in the early evening, while she was in California visiting family, who she had not seen since the previous Christmas. Initial symptoms included abdominal cramps and diarrhea. At this point, Ms. Jessup was approximately 28 weeks pregnant.

12. Ms. Jessup soon developed a slight fever and headache as well. Over the next several days, she continued to suffer from severe diarrhea—at its worst, occurring almost hourly.

13. On or about Wednesday, June 10, 2015, Ms. Jessup arose from bed in the early morning hours and informed her mother that she needed to be taken to the hospital. Her mother, a registered nurse, observed that Ms. Jessup was badly dehydrated, and agreed that she needed medical help. Ms. Jessup was also concerned for the well being of the fetus.

14. In the emergency department, Ms. Jessup was immediately transferred to the maternal ward. She went through triage and received intravenous fluids for rehydration. She was attached to a baby monitor as well. Ultimately, she was discharged and advised to take Imodium for the diarrhea and Tylenol for the fever.

15. Ms. Jessup returned to her parents' home, and her symptoms became worse. Her fever rose to 102 degrees, and the diarrhea continued despite taking Imodium. She had also begun having contractions a couple of days, and was becoming more and more distressed over the potential impact to the fetus.

16. Ms. Jessup returned to the hospital the evening of Thursday, June 11, 2015. She was again sent to the maternal ward and, this time, was admitted to the hospital. Ms. Jessup was in immense pain and was treated with Percocet. She was extremely fatigued, uncomfortable, dehydrated, and concerned for the health of her fetus. Ms. Jessup could get little rest, as she continued to suffer from repeat bouts of severe diarrhea.

17. Ms. Jessup would ultimately remain hospitalized until Saturday, at which point she was no longer fevered and her diarrhea had slowed somewhat. At discharge, she remained very ill and weak. She had planned to only be in California for a week before returning to Boise, but ultimately, due to her illness, had to stay in California until June 27, 2015.

18. During Ms. Jessup's hospitalization, she submitted a stool sample that tested positive for *Salmonella*. At a medical visit on June 26, 2015, she was again attached to a monitor to check the condition of the fetus before traveling back to Idaho. Fortunately, she was cleared to travel but as of the date of this filing, she continues to test positive for *Salmonella*, causing more concern about the expected delivery of her new baby on August 30, 2015. She has been informed that she may require a Cesarean section delivery.

STRICT PRODUCT LIABILITY

19. By this reference, the Plaintiff incorporates the foregoing paragraphs as if each was set forth here in its entirety.

20. At all times relevant to this action, the Defendant manufactured and sold the adulterated food product that Plaintiff purchased, and that caused Plaintiff's injuries and damages.

21. The adulterated food product that the Defendant manufactured and sold was, at the time it left the Defendant's control, defective and unreasonably dangerous for its ordinary and expected use because it was contaminated with *Salmonella*, a bacterium dangerous to human health.

22. The adulterated food product that is the subject of this action was contaminated by *Salmonella* and it therefore was in a condition that consumers had not contemplated, including the Plaintiff, and it was in a condition that rendered the product unreasonably dangerous for its ordinary and expected use.

23. The food product that is the subject of this action was expected to reach the consumers, including the Plaintiff, and be consumed by her, without substantial change. The Plaintiff used the food product in the manner expected and intended, including when he consumed it.

24. The Plaintiff suffered injury and damages as a direct and proximate result of the defective and unreasonably dangerous condition of the adulterated food product that the Defendant manufactured, distributed, and sold.

NEGLIGENCE AND NEGLIGENCE *PER SE*

25. By this reference, the Plaintiff incorporates the foregoing paragraphs as if each was set forth here in its entirety.

26. The Defendant had a duty to comply with all applicable state and federal regulations intended to ensure the purity and safety of its food product, including, but not limited to, the requirements of the Idaho Food Code. IDAPA 16.02.19.

27. The Defendant failed to comply with the provisions of the Idaho Food Code, and, as a result, was negligent per se in its manufacture and sale of food adulterated with *Salmonella*, a deadly pathogen.

28. The Defendant owed a duty to the Plaintiff to use reasonable care in the manufacture, distribution, and sale of the food products, which duty, if met, would have prevented or eliminated the risk that the Defendant's food product would become or be contaminated with *Salmonella*. The Defendant breached this duty.

29. The Defendant had a duty to properly supervise, train, and monitor employees, and to ensure compliance with all applicable statutes, laws, regulations, or safety codes pertaining to the manufacture, distribution, storage, and sale of similar food products. The Defendant breached these duties.

30. The Plaintiff suffered injury and damages as a direct and proximate result of the Defendant's acts and omissions constituting negligence and negligence *per se*.

DAMAGES

31. The Plaintiff has suffered economic and non-economic damages, both past and future, including, but not limited to: all medical bills for treatment related to *Salmonella* infection, and all other out-of-pocket costs; lost wages and lost earning capacity; emotional distress, anguish, loss of enjoyment of life, and pain and suffering; reduced life expectancy; and all other ordinary, incidental and consequential damages as would be anticipated to arise under the circumstances.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays for judgment against the Defendant as follows:

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a. Judgment for the Plaintiff against the Defendant for just compensation in a fair and reasonable amount for the damages above set forth; and

b. Such additional and/or further relief, including interest, costs, and reasonable attorney fees, as this Court deems just and equitable.

JURY DEMAND

Pursuant to the Idaho Rules of Civil Procedure 38(b), the Plaintiff demands a jury trial.

Dated this 29th day of June 2015.

Respectfully submitted,

RUSSELL LAW OFFICES

By: /s/ Robie G. Russell
Robie G. Russell – Of the Firm
Russell Law Offices
76 South Main Street
Seattle, WA 98101
(206) 621-2102
ISBA No. 2405

MARLER CLARK LLP, PS.

By: /s/ William D. Marler
William D. Marler
Marler Clark, L.L.P., P.S.
1301 Second Avenue, Suite 2800
Seattle, WA 98101
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WSBA No. 17233
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Attorneys for Plaintiffs