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19 **UNITED STATES DISTRICT COURT**
20 **CENTRAL DISTRICT OF CALIFORNIA**
21 **WESTERN DIVISION**

22 ALYSSA MCDONALD, and
23 KRISTEN MATTINA, as individuals,

24 Plaintiffs,

25 v.

26 CHIPOTLE MEXICAN GRILL,
27 LLC., a Delaware Corporation; and
28 DOES 1-20, inclusive,

Defendants.

Case No.:

**COMPLAINT FOR PERSONAL
INJURIES**

IMAGED FILE

JURY TRIAL DEMANDED

Trial Date:

COME NOW the plaintiffs, Alyssa McDonald and Kristen Mattina, by and through their undersigned counsel of record, to allege and complain as follows:

PARTIES

1. The plaintiff, Alyssa McDonald, at the time of her illness, and at all times relevant to this action, resided in Ventura, California. Based on her relevant residency, Alyssa is a citizen of California for purposes of diversity jurisdiction.

1 2. The plaintiff, Kristen Mattina, at the time of her illness, and at all times
2 relevant to this action, resided in Encinitas, California. Based on her relevant residency,
3 Kristen is a citizen of California for purposes of diversity jurisdiction.

4 3. The defendant, Chipotle Mexican Grill, Inc., is a corporation organized and
5 existing under the laws of Delaware, and its corporate headquarters located in Denver,
6 Colorado. Chipotle Mexican Grill, together with its subsidiaries (collectively "Chipotle"),
7 develops and operates fast-casual, fresh Mexican food restaurants. As of June 30, 2015,
8 Chipotle operated 1,847 restaurants throughout the United States. At all times relevant to
9 the allegations contained in this complaint, the Company was registered to do business,
10 and did conduct business, in the State of California, including the restaurant that is the
11 subject of this action, located at 1555 Simi Town Center Way, Simi Valley, California.

12 4. The true names and capacities, whether individual, corporate, associate or
13 otherwise, of the defendants named herein as DOES 1-20, inclusive, are unknown to the
14 plaintiffs who, as a result, sue these defendants by such fictitious names. The plaintiffs
15 will amend this complaint to show their true names and capacities when the same have
16 been ascertained.

17 5. The plaintiffs are informed and believe and thereon allege that at all times
18 relevant to this Complaint, the defendants, were the agents or employees of their co-
19 defendants and were acting within the scope and course of their agency and employment,
20 and with the permission and consent of the other co-defendants, and that the defendants
21 are responsible in some manner for the events and happenings referred to in this
22 Complaint or otherwise proximately caused the acts, omissions or events alleged.

JURISDICTION AND VENUE

24 6. This Court has jurisdiction over the subject matter of this action pursuant to
25 28 USC § 1332(a) because the amount in controversy exceeds \$75,000, exclusive of any
26 interests and costs, and because the action is one between citizens of different states, thus
27 satisfying the requirements of complete diversity.

28 7. Venue in this judicial district is proper pursuant to 28 USC § 1391(b)(2)

1 because a “substantial part of the events or omissions giving rise to the claim” set forth in
2 this action occurred within this district.

3 FACTS

4 Norovirus

5 8. Norovirus is a member of the family Caliciviridae, a family that consists of
6 several distinct groups of viruses. Each such group was named after the places where the
7 outbreaks first occurred.

8 9. Humans are the only host of norovirus, which has several mechanisms that
9 allow it to spread quickly and easily. Norovirus infects humans through person-to-person
10 transmission or through contamination of food or water. In addition, Norovirus is able
11 to survive a wide range of temperatures and has evolved to avoid the immune system,
12 which results in outbreaks.

13 10. Norovirus illness usually develops 24-to-48 hours after ingestion. Symptoms
14 include nausea, vomiting, diarrhea, and abdominal pain, headache and low-grade fever.
15 And although symptoms usually last only one-to-two days in most healthy individuals,
16 Norovirus infections can become quite serious in children and the elderly, and those who
17 are immune-compromised.

18 11. There is no specific treatment available for Norovirus. In most healthy
19 people, the illness is self-limiting and resolves without the need for medical treatment.
20 For infants, children, elderly, and immune-compromised populations, infections can lead
21 to severe complications, including death.

22 The Chipotle Norovirus Outbreak

23 12. Ventura County Public Health has reported that 98 customers and 17
24 employees of the subject Chipotle restaurant were sickened on August 18 and 19.

25 13. After customers reported the illnesses to Chipotle, the restaurant notified
26 health department officials and closed on Friday afternoon, August 18, to clean and bring
27 in new food. The restaurant reopened on Saturday for lunch.

28 14. An inspection of the Chipotle location that the health department posted

1 online on Monday set forth in detail the following referenced violations:

- 2 • The premises and/or floors, walls, or ceiling are in an unsanitary condition.
- 3 • Equipment or utensils are not clean, fully operative and in good repair.
- 4 • Flying insects were observed within the food facility.
- 5 • Food handlers employed at this facility do not possess a valid food handler card
6 and/or records documenting that food employees possess a valid food handler
7 card are not maintained by the food facility for review as required.
- 8 • Equipment is connected directly to the sewer.
- 9 • Wall and/or ceiling surfaces are deteriorated and/or damaged.
- 10 • The restroom is unclean and in disrepair.

11 Alyssa McDonald's Norovirus Infection

12 15. Alyssa McDonald purchased lunch for herself and a co-worker at the
13 Chipotle restaurant located at 1555 Simi Town Center Way, Simi Valley, California on
14 Tuesday, August 18, 2015. Once back at her office, Alyssa consumed the half chicken
15 half steak salad with black beans, brown rice, hot salsa, corn, and guacamole.

16 16. The following evening, while at a cardio-based workout, Alyssa began to
17 feel nauseated, which forced her to run to the bathroom to vomit. She almost declined to
18 drive home because her "head was spinning." And on the way home, Alyssa had to pull
19 over on the side of the freeway to vomit again. This second episode of vomiting lasted
20 for approximately ten minutes.

21 17. Once home, Alyssa immediately began to vomit again. She recalls feeling
22 that she was done feeling sick because she did not have anything left in her stomach. But
23 that is when her symptoms suddenly changed, forcing her to run to the bathroom for a
24 bout of "explosive diarrhea."

25 18. The diarrhea persisted into the evening of the following day, Wednesday,
26 August 19. Alyssa also experienced so much chest pain that she felt like she could not
27 breathe without her chest hurting. She became severely dehydrated and began to suffer
28 from chills and a fever.

19. At the time that Alyssa became ill, she had recently turned 26, and thus she
no longer had medical insurance. The lack of insurance prevented her from seeking any

1 medical attention, despite feeling as if such attention was needed.

2 20. To date, although the severity of Alyssa's symptoms has subsided, she has
3 continued to experience soft stool and diarrhea.

4 21. After her ordeal, Alyssa was contacted by the Ventura County Health
5 Department to take a stool sample that they could run laboratory tests on. Although her
6 co-worker did not become ill, Alyssa's stool sample tested positive for Norovirus.

7 **Kristen Mattina's Norovirus Infection**

8 22. Kristen Mattina purchased lunch of a tofu bowl and salsa at the Chipotle
9 restaurant located at 1555 Simi Town Center Way, Simi Valley, California on Tuesday,
10 August 18, 2015.

11 23. On August 20, Kristen began to suffer full body-aches, muscle spasms,
12 sharp stomach pains, joint pains, and diarrhea.

13 24. Because of the severity of her illness, Kristen went to her doctor the next
14 day, on August 21.

15 25. As her symptoms continued unabated, Kristen was seen in the Simi Valley
16 Emergency Room for further treatment.

17 26. Kristen continued during the course of the week to feel better, but she was
18 unable to work that week.

19 27. To date, although the severity of Kristen's symptoms has subsided, she
20 continues to experience soft stool and diarrhea.

21 **FIRST CAUSE OF ACTION**

22 **STRICT LIABILITY CLAIM**

23 **(Violation of California's Sherman Food, Drug, and Cosmetic Laws, California**
24 **Health and Safety Code ' 109875, *et seq.*)**

25 28. The defendants are in the business of manufacturing and selling food
26 products, including the contaminated products that each plaintiff consumed.

27 29. The defendants manufactured and sold food that was defective at the time it
28 left their control in that it was contaminated with Norovirus, which rendered the food

1 adulterated, unwholesome, injurious to health and unfit for human consumption. This
2 defective condition created an unreasonable risk to people such as the plaintiffs.

3 30. It was reasonably foreseeable to the defendants that the contaminated food,
4 when put to its reasonably foreseeable use—that is, consumption, would expose people,
5 such as the plaintiffs, to harm.

6 31. The defendants prepared, distributed and sold food that was adulterated
7 and contaminated with Norovirus bacteria, by which the food was rendered adulterated,
8 unwholesome and injurious to health, in violation of California's Sherman Food, Drug
9 and Cosmetic Laws, California Health and Safety Code Sections 109875, *et seq.* and
10 particularly § 110620, and similar federal health and safety standards and regulations.

11 32. The plaintiffs have been injured by their consumption of food, which was
12 adulterated, contaminated, unwholesome, and injurious to their health and unfit for
13 human consumption, and as a result both defective and not reasonably safe.

14 **SECOND CAUSE OF ACTION**

15 **BREACH OF IMPLIED WARRANTY CLAIM**

16 33. The defendants impliedly warranted that the food products that the
17 plaintiffs consumed were of merchantable quality, and were safe and fit for human
18 consumption. The plaintiffs purchased and consumed the food product, and reasonably
19 relied upon the skill and judgment of defendants as to whether the products were of
20 merchantable quality and fit for human consumption.

21 34. The defendants breached these implied warranties in that defendants' food
22 products were contaminated with Norovirus. As a direct, legal and proximate result of
23 the breach of implied warranties, plaintiffs suffered and may continue to suffer injury,
24 harm, special damages and economic loss.

25 **THIRD CAUSE OF ACTION**

26 **NEGLIGENCE CLAIM**

27 35. The defendants were negligent in manufacturing, distributing and selling a
28 product which was not reasonably safe because the products were not manufactured with

1 the care sufficient to ensure the products were safe, wholesome, and fit for consumption.

2 36. The defendants had a duty to comply with all statutory and regulatory
3 provisions that pertained or applied to the manufacture, distribution, storage, and sale of
4 food products, including, but not limited to, the California's Sherman Food, Drug and
5 Cosmetic Laws, and California Retail Food Code, both of which ban the manufacture,
6 sale, and distribution of any "adulterated" food, and both of which the defendants have
7 violated by the manufacture and sale of the food products that injured the plaintiffs.

8 37. The plaintiffs are among the class of persons designed to be protected by
9 the statutory and regulatory provisions, as just alleged, that pertaining to the
10 manufacture, distribution, storage, labeling, and sale of its food.

11 38. The defendants had a duty to use supplies and raw materials in producing
12 the food product that were in compliance with applicable federal, state, and local laws,
13 ordinances and regulations, which were from safe and reliable sources, which were clean,
14 wholesome and free from spoilage and adulteration, and which were safe for human
15 consumption. The defendants breached each of these duties, causing the plaintiffs injury.

16 39. The defendants were additionally negligent in committing the violations, as
17 such violations are set forth in Paragraph 14 of the Complaint.

18 40. As a result of the defendants' negligence, the plaintiffs suffered severe and
19 continuing personal injuries, as well as economic loss.

20 **DAMAGES**

21 41. The plaintiffs have suffered general and special, incidental and
22 consequential damages, as the direct and proximate result of the acts and omissions of
23 the defendants, which damages shall be fully proven at the time of trial, including, but
24 not limited to, damages for loss of enjoyment of life, both past and future; medical and
25 medical related expenses, both past and future; wage and economic loss, past and future;
26 emotional distress, and future emotional distress; medical and pharmaceutical expenses,
27 past and future; and other ordinary, incidental and consequential damages as would be
28 anticipated to arise under the circumstances.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs pray as follows:

- 3 (1) For general damages according to proof;
- 4 (2) For medical, hospital, and related expenses according to proof;
- 5 (3) For loss of earnings according to proof;
- 6 (4) For punitive damages;
- 7 (5) For damages to the plaintiff's property;
- 8 (6) For costs of suit herein incurred; and
- 9 (7) For such other and further relief as this Court may deem proper.

10 **JURY TRIAL DEMANDED**

11 Dated: September 8, 2015

12 Respectfully submitted,

13 **QUIRK LAW FIRM, LLP**

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