

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

HALEY HADLOCK,)	
)	
Plaintiff,)	Case No.
)	
v.)	
)	
CHIPOTLE MEXICAN GRILL, INC.,)	
a Delaware Corporation,)	
)	
Defendant.)	

PETITION

COMES NOW the plaintiff above-named, by and through her attorneys of record, Beeler Walsh and Walsh, and Marler Clark, L.L.P., P.S., and for cause of action against the defendant above-named complains, alleges, and states as follows:

I. PARTIES

1. At all times relevant hereto, the plaintiff Haley Hadlock, 25 years old, was a resident of Canadian County, Oklahoma.
2. The Defendant, Chipotle Mexican Grill, Inc., is a corporation organized and existing under the laws of the State of Delaware. Chipotle, together with its subsidiaries (collectively the “Company”), develops and operates fast-casual, fresh Mexican food restaurants. As of June 30, 2015, the Company operated 1,847 Chipotle restaurants throughout the United States. At all times relevant to the allegations contained in this Complaint, the Company was registered to do business, and did conduct business, in the State of Oklahoma. The Company manufactured and sold the food products that are the

subject of this action at its restaurant location at 765 Asp Avenue, Norman, Oklahoma.

II. JURISDICTION AND VENUE

4. This court is vested with jurisdiction over the subject matter of this cause of action pursuant to 20 O.S. § 91.

5. The venue of this action is properly in Cleveland County, pursuant to 12 O.S. § 139, because the injuries to the plaintiffs giving rise to the claims arose in Cleveland County, the defendant conducted business in Cleveland County, and the defendant is therefore a resident of Cleveland County for the purposes of this action.

III. FACTS

The Outbreak

6. From mid-October through the beginning of December 2015, a total of 55 people were infected by E. coli O26 in multiple states as a result of consuming contaminated food at Chipotle restaurants. The majority of illnesses were reported from Washington and Oregon during October 2015. The number of ill people reported from each state was as follows: California (3), Delaware (1), Illinois (1), Kentucky (1), Maryland (1), Minnesota (2), New York (1), Ohio (3), Oregon (13), Pennsylvania (2), and Washington (27).

7. In December 2015, a second outbreak of a different, rare strain of E. coli O26 was identified by public health officials, who concluded that the outbreak was associated with the consumption of contaminated food at Chipotle restaurants. A total of five people infected with this strain of E. coli O26 were reported from three states. The

number of ill people reported from each state was as follows: Kansas (1), North Dakota (1), and Oklahoma (3).

Chipotle's Other Outbreaks in 2015

8. In September 2015, Minnesota Department of Health (MDH) and Minnesota Department of Agriculture (MDA) investigators reported an outbreak of *Salmonella* Newport among customers of at least 22 different Chipotle restaurants located primarily in the Twin Cities metro area, with one in St. Cloud and one in Rochester. Meal dates ranged from August 16 to August 28, 2015. Illness onset dates occurred between August 19 and September 3. There were at least 64 outbreak-associated cases. Nine persons required hospitalization.

9. In August 2015, Ventura County Environmental Health and Ventura County Public Health Division staff investigated an outbreak of Norovirus among patrons of a Chipotle restaurant located in the Simi Valley Towne Center in California. During the week of August 18, 2015, about 300 customers and 18 restaurant employees reported symptoms. Laboratory testing of patient specimens confirmed the presence of Norovirus.

9. In or around the end of July 2015, the Chipotle restaurant located at 1415 Broadway, Seattle, Washington, which restaurant was, at all times relevant, owned and operated by the defendant, was the source of an *E. coli* O157:H7 outbreak that sickened at least five people.

10. On December 11, 2015, public health officials in Boston reported an increased number of people deemed to be norovirus cases. The recent spike in norovirus cases was ultimately linked to the consumption of contaminated food at the Chipotle Mexican Grill in Cleveland Circle in Brighton, Massachusetts. Ultimately, the outbreak claimed at least 140

victims, many of whom were students at Boston College.

11. In recent weeks, the US District Attorney's office for the Central District of California has served Chipotle with subpoenas for information relating to the above-described norovirus outbreak at Chipotle's Simi Valley, California restaurant that was the source of the outbreak. The criminal investigation is ongoing.

E. coli O26

12. *E. coli* O26 is grouped with other non-O157 Shiga toxin-producing *Escherichia coli* (STEC). Incidence of non-O157 STEC, including O26, is increasing because of increased laboratory capacity for its detection.

13. Non-O157 STEC has been reportable since 2000 and, since then, STEC O26 has accounted for 26 percent of all non-O157 STEC cases. STEC are an important cause of diarrhea and the major cause of post-diarrheal hemolytic uremic syndrome.

14. *E. coli* O26 infection is characterized by the sudden onset of abdominal pain and severe cramps, followed within 24 hours by diarrhea. As the disease progresses, the diarrhea becomes watery and then may become grossly bloody –bloody to the naked eye. Vomiting can also occur, but there is usually no fever. The incubation period for the disease (the period from ingestion of the bacteria to the start of symptoms) is typically 3 to 9 days, although shorter and longer periods are not unusual.

Plaintiff's *E. coli* O26 Infection and Resulting Illness

15. Plaintiff works near the Chipotle restaurant located at 765 Asp Ave., Norman, Oklahoma, and at the time of the outbreak that caused her illness described herein, was a regular customer of the restaurant.

16. On or about November 18, 2015, Plaintiff placed an online order with the Chipotle restaurant located at 765 Asp Ave., picked up the food at the restaurant and ate it for lunch. The food that she consumed on this date was contaminated by E. coli O26 bacteria, causing Plaintiff's infection and related illness.

17. Gastrointestinal symptoms began for Plaintiff on or about November 21, 2015. Symptoms included diarrhea, severe abdominal cramps, fatigue and other flu-like symptoms.

18. Plaintiff's symptoms worsened over the next several days, and by November 23, her diarrhea stools contained large amounts of blood, causing Plaintiff to become frightened for her life.

19. Plaintiff sought medical care on or about the morning of November 25, 2015 at Access Medical Center urgent care facility. During this visit, she submitted the stool sample that would ultimately test positive for E. coli O26. She was treated and released the same day.

20. After being discharged from Access Medical Center, Plaintiff returned home and her symptoms continued. That evening, Plaintiff's parents rushed her to the St. Anthony Healthplex Emergency Department in Mustang, Oklahoma. She was discharged the same evening.

21. Plaintiff continued to be ill over the course of the next week, suffering from the same painful symptoms. She scheduled a visit with a family physician at Mercy Hospital, where she was seen on November 30, 2015.

22. Thereafter, Plaintiff's symptoms gradually waned, but she has continued to suffer from severe lethargy and fatigue, as well as gastrointestinal discomfort. Plaintiff's illness and related injuries, physical, emotional, and economic, were proximately caused by her

consumption of *E. coli*-contaminated food at the defendant's restaurant on November 18, 2015.

IV. CAUSE OF ACTION: STRICT LIABILITY

23. The defendant owns and operates the subject Chipotle restaurant, which manufactures, distributes, and sells food products to the public. The defendant manufactured and sold the adulterated food that injured the plaintiff.

24. Food that is contaminated with *E. coli* is unsafe and thus defective when used in a reasonably foreseeable manner—*i.e.*, for human consumption

25. *E. coli*-contaminated food is unfit for human consumption, and unreasonably dangerous to an extent beyond that contemplated by the ordinary consumer.

26. The food that the plaintiff purchased and consumed, which had been produced by the defendant, was contaminated with *E. coli* and was, as a result, defective and unreasonably dangerous.

27. The food that the plaintiff consumed was contaminated with *E. coli* when it left the defendant's control.

28. Plaintiff's consumption of the contaminated food caused her to become infected with *E. coli* and suffer injury as a direct and proximate result.

29. The defendant is strictly liable to the plaintiff for her injuries and harm proximately caused by the manufacture and sale of an unsafe and defective food product.

V. CAUSE OF ACTION: NEGLIGENCE

30. The defendant designed, manufactured, distributed, and sold food products that were contaminated with *E. coli*, a harmful foodborne pathogen. The food, as a result of this

contamination, was unfit for human consumption. The food was thus defective, and was not reasonably safe as designed, constructed, manufactured, and sold.

31. The defendant owed a duty to all persons who consumed its products to manufacture and sell food that was safe to eat, that was not adulterated with harmful pathogens, like *E. coli*, and that was not in violation of applicable food and safety regulations.

32. The defendant owed a duty to all persons who consumed its products to maintain its premises in a sanitary and safe condition so that the food it manufactured and sold would not be contaminated with a harmful pathogen, like *E. coli*.

33. The defendant breached the duties owed to its customers by committing the following acts and omissions of negligence:

33.1 Failed to adequately maintain or monitor the sanitary conditions of their products, premises, and employees;

33.2 Failed to properly operate their facilities in a safe, clean, and sanitary manner;

33.3 Failed to apply their food safety policies and procedures to ensure the safety and sanitary conditions of their food products, premises, and employees;

33.4 Failed to prevent the transmission of *E. coli* to consumers of their food products;

33.5 Failed to properly train their employees and agents how to prevent the transmission of *E. coli* on its premises, or in its food products.

33.6 Failed to properly supervise its employees and agents to prevent the transmission of *E. coli* on its premises, or in its food products.

34. The defendant had a duty to comply with all statutory and regulatory provisions that pertained or applied to the manufacture, distribution, storage, labeling, and sale of its food products.

35. The defendant owed a duty to the plaintiff to use reasonable care in the manufacture, distribution, and sale of its food products. The defendant breached this duty, as well as all other duties aforementioned.

36. Plaintiff's injuries resulted directly from the defendant's negligence.

VI. CAUSE OF ACTION: BREACH OF WARRANTY

37. By offering food for sale to the general public, the defendant impliedly warranted that such food was safe to eat, that it were not adulterated with a harmful pathogen, and that the food had been safely prepared under sanitary conditions.

38. The defendant breached the implied warranties with regard to the food and drink it manufactured and sold to the plaintiff.

39. Plaintiff's injuries were directly caused by the defendant's breach of implied warranties, and the plaintiff is thus entitled to recover for all actual, consequential, and incidental damages that flow directly and in a foreseeable fashion from these breaches.

VII. DAMAGES

40. As the direct and proximate result of the defendant's acts and omissions, the plaintiff has suffered general, special, incidental, and consequential damages, which damages shall be fully proven at the time of trial.

VIII. PRAYER FOR RELIEF

WHEREFORE, the plaintiff prays as follows:

(1) That the court award the plaintiff judgment against defendant for damages in an amount in excess of \$75,000;

(2) That the court additional award all such other sums as shall be determined to fully and fairly compensate the plaintiff for all general, special, incidental and consequential damages incurred, or to be incurred, by the plaintiff as the direct and proximate result of the acts and omissions of the defendant;

(3) That the court award the plaintiff her costs, disbursements and reasonable attorneys' fees incurred;

(4) That the court award the plaintiff the opportunity to amend or modify the provisions of this complaint as necessary or appropriate after additional or further discovery is completed in this matter, and after all appropriate parties have been served; and

(6) That the court award such other and further relief as it deems necessary and proper in the circumstances.

Respectfully submitted,
BEELER, WALSH & WALSH, P.L.L.C.

Micky Walsh, OBA No. 9327
Jerry Fraley, OBA No. 10810
4508 N. Classen Boulevard
Oklahoma City, OK 73118
Telephone: (405) 843-7600
Facsimile: (405) 606-7050
-and-

R. Drew Falkenstein

Marler Clark

1301 2nd Ave., Ste. 2800

Seattle, WA 98101

Telephone: (206) 346-1888

Facsimile: (206) 346-1898

Pending Admission Pro Hac Vice

Attorneys for Plaintiffs