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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASHINGTON

CRYSTAL MCINTYRE, an individual,

Plaintiff,

v.

JL HANA PLUS, LLC dba SUSHI HANA 10,
SUSHI HANA, LLC, and SUSHI HANA, LLC
d/b/a SUSHI HANA, a Domestic Limited
Liability Corporation,

Defendants.

CASE NO. 17CV41149

**PLAINTIFF’S AMENDED COMPLAINT AND
DEMAND FOR JURY TRIAL**

**Strict Product Liability; Breach of Warranty;
Negligence**

**CLAIM NOT SUBJECT TO MANDATORY
ARBITRATION**

**(Prayer Amount: not to exceed \$1,000,000)
Filing fee \$531.00 pursuant to ORS 21.160(1)(c)**

CRYSTAL MCINTYRE, plaintiff, alleges as follows:

PARTIES

1.

At all times material times, Crystal McIntyre is and was a resident of Beaverton, Oregon
in Washington County.

2.

1
2 Defendants JL Hana Plus, LLC d/b/a Sushi Hana 10, Sushi Hana, LLC. and Sushi Hana
3 2, LLC, d/b/a Sushi Hana, are a Domestic Limited Liability Corporation organized and existing
4 under the laws of the State of Oregon. Defendant JL Hana Plus, LLC d/b/a Sushi Hana 10 is an
5 active Oregon corporation. Defendants Sushi Hana LLC and Sushi Hana 2, LLC d/b/a Sushi
6 Hana were administratively dissolved. Based on information and belief one or more of the
7 defendants continue the manufacturing, selling, and distributing of food and drink products for
8 consumption by the public, including the food product consumed by the plaintiff in this
9 Complaint, at its restaurant, Sushi Hana at 9009 SW Hall Blvd. #142, Tigard, OR 97223.
10

11 JURISDICTION AND VENUE

12 2.

13 Defendants conduct regular and sustained business in Washington County, Oregon.
14 Venue is proper in Washington County, Oregon because the sales at issue in this case occurred in
15 Washington County.
16

17 FACTUAL ALLEGATIONS

18 3.

19 The plaintiff, Crystal McIntyre, dined at the defendants' restaurant located at 9009 SW
20 Hall Blvd. #142, Tigard, OR 97223 on August 18, 2017.
21

22 4.

23 On August 21, 2017, the plaintiff developed severe abdominal cramping associated with
24 nausea, vomiting, and diarrhea.
25

26 5.

The plaintiff sought emergency medical treatment at Kaiser Permanente Westside

1 Medical Center in Hillsboro, Oregon and has had follow-up medical care.

2 6.

3 Plaintiff tested positive for *Salmonella* bacteria, and—based on information and belief
4 that included contact by Washington County Public Health Department—learned her
5 *Salmonella* illness had been linked to consumption of food manufactured, sold, and distributed
6 by defendants.

7 7.

8 Plaintiff was contacted again by Washington County Public Health Department and was
9 told of her link to the multi-state outbreak of *Salmonella* infections that were linked to
10 consumption of food manufactured and sold by the defendant.

11 8.

12 Plaintiff has incurred medical expenses and missed work as a result of her *Salmonella*
13 poisoning.
14

15 **FIRST CLAIM FOR RELIEF**

16 **Strict Product Liability**

17 9.

18 Defendants manufactured, distributed, and/or sold the adulterated food product that is the
19 subject of this action. The food product was defective as made because it was contaminated with
20 *Salmonella* bacteria.
21

22 10.

23 The adulterated food product that defendants manufactured and sold and that caused the
24 plaintiff's infection and related illness and injuries was, at the time that it left the defendants'
25 control, defective and unreasonably dangerous for its ordinary and expected use because it
26

1 contained *Salmonella*, a deadly pathogen.

2 11.

3 The adulterated food product that defendants manufactured and sold was delivered to the
4 plaintiff without any change in its defective condition and she used the product in the manner
5 expected and intended by consuming it.

6 12.

7 The food product that the defendants manufactured and sold was not fit for human
8 consumption, was adulterated, and was injurious to health, in that it was contaminated with the
9 *Salmonella* bacteria.

10 13.

11 Plaintiff suffered physical injury as result of consuming the defective, adulterated, and/or
12 contaminated food. Plaintiff developed a *Salmonella* infection and related illness and injury. She
13 suffered physical injury and pain and faces permanent injury, future pain, and loss of enjoyment
14 of life all to her non-economic damage in an amount to be proved at trial. Plaintiff also incurred
15 medical bills and lost wages from work, all to her economic damage in an amount to be proved
16 at trial. The extent of plaintiff's damages is unknown at this time, but based on information and
17 belief her losses, harms, and total damages will not exceed \$1 million.

18
19
20 **V. SECOND CLAIM FOR RELIEF**

21 **Breach of Warranty**

22 14.

23 Plaintiff incorporates and re-alleges ¶¶1-13

24 //

25 //

15.

1
2 Defendants breached express and implied warranties that it made regarding the
3 adulterated food product that caused the plaintiff's *Salmonella* infection and related illness and
4 injuries.

16.

5
6 These express and implied warranties include the implied warranties of merchantability
7 and fitness for a particular purpose, and the express warranty—through its sale of food to the
8 public, and by the statements and conduct of its employees and agents—that the food product
9 that it prepared and sold to the plaintiff was fit for human consumption, and not otherwise
10 adulterated or injurious to health.

17.

11
12
13 The *Salmonella*-contaminated food product that the defendants sold to her would not pass
14 without exception in the trade and was therefore in breach of the implied warranty of
15 merchantability.

18.

16
17
18 The *Salmonella*-contaminated food product that the defendants sold to her was not fit for
19 the ordinary purpose for which it is intended—i.e. human consumption—and that this food
20 product was therefore in breach of the implied warranty of fitness for a particular purpose.

19.

21
22 Plaintiff suffered the previously-mentioned injuries as a result of defendants' breaches of
23 these express and implied warranties.

24 //

25 //

THIRD CLAIM FOR RELIEF

Negligence

20.

Plaintiff incorporates and re-alleges ¶¶1-13.

21.

Defendants were negligent in one or more of the following ways that caused the previously-described injuries:

A. In failing to use reasonable care in the manufacture of its food products, and to prevent or eliminate the risk that its food products would be contaminated with *Salmonella*, or any other similarly deadly pathogen;

B. In failing to comply with statutes, laws, regulations, and safety codes pertaining to the manufacture and sale of its food products, designed to protect consumers from ingesting contaminated food;

C. In failing to reasonably supervise, train, and monitor its employees and agents, and to ensure that its employees and agents complied with all applicable statutes, laws, regulations, and safety codes pertaining to the manufacture and sale of food products; and

D. In failing to ingredients, supplies, and other constituent materials that were reasonably safe, wholesome, free of defects, and that otherwise complied with applicable federal, state, and local laws, ordinances, and regulations, and that were clean, free from adulteration, and safe for human consumption.

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1 WHEREFORE, the plaintiff prays for judgment against defendants as follows:

2 (1) Money damages as determined by a jury to fully and fairly compensate her for her
3 economic and non-economic damages, in an amount to be proved at trial that shall not exceed \$1
4 million;

5 (2) Her costs and disbursements incurred in this action; and

6 (3) Such other relief as the Court deems just.
7

8 Dated this 20th day of September, 2017.

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24 Attorneys for Plaintiff
25
26

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury.

Dated this 20th day of September, 2017.

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