

of Cook, State of Illinois, and the events alleged in this Complaint occurred in the County of Cook, State of Illinois.

1.4 Venue is proper in Cook County because the Plaintiff resides and the Defendant does business in the County of Cook.

II. STATEMENT OF FACTS

2.1 Salmonella

2.1.1 *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 human or animal feces. Contaminated foods usually look and smell normal. Contaminated foods are often of animal origin, 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.

2.1.2 Once in the lumen of the small intestine, the bacteria penetrate the epithelium, multiply, and enter the blood within 6-72 hours. As few as 15-20 cells of *Salmonella* bacteria can cause salmonellosis or a more serious typhoid-like fever. 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 most susceptible to disease and suffer the most severe symptoms.

2.1.3 The acute symptoms of *Salmonella* gastroenteritis include the sudden onset of nausea, abdominal cramping, and diarrhea lasting several days. The diarrhea often turns bloody. There is no real cure for *Salmonella* infection, except treatment of the symptoms. Persons with severe diarrhea may require rehydration, often with intravenous fluids.

2.1.4 Persons with diarrhea usually recover completely, although it may be several

months before bowel habits return entirely to 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 development is called Reiter's syndrome or reactive arthritis, and it can last for months or years, sometimes leading to chronic arthritis that is difficult to treat. Antibiotic treatment does not make a difference in whether the person later develops arthritis.

2.2 Supermercado Rivera Salmonella Outbreak

2.2.1 As of March 7, 2019, the Chicago Department of Public Health (CDPH) is investigating an outbreak of Salmonella, a bacteria that is a common cause of food poisoning. At least six people associated with the outbreak consumed carnitas or other foods purchased on February 23 or 24, 2019, from the Supermercado Rivera kitchen counter located at 4334 W. 51st St., Chicago.

2.2.2 CDPH advised people who had bought carnitas or other food and frozen it for later consumption to discard all food purchased from the kitchen counter on February 23 or 24.

2.2.3 CDPH performed an environmental assessment of the grocery store and provided guidance on safe food handling practices and environmental cleaning to prevent further spread of disease. Implicated food items were no longer available at the store as of March 1, 2019 and there has been no evidence that food made after this date was contaminated.

2.2.4 CDPH continues to monitor closely for additional reports of illness.

2.3 The Plaintiff's Injuries

2.3.1 Roman Caballero ate carnitas from Supermercado Rivera for lunch on February 24, 2019.

2.3.2 On February 25, Roman woke up in the early morning with extreme nausea. His symptoms progressed to vomiting, diarrhea, and abdominal cramps over the next few hours.

2.3.3 Roman sought medical attention on February 26 and was eventually diagnosed with *Salmonella*.

2.3.4 As a result of his *Salmonella* infection, Roman suffered significant physical injury, economic loss, medical bills, pain and suffering, loss of normal life, lost wages, and emotional distress.

III. CAUSES OF ACTION

COUNT I—STRICT PRODUCT LIABILITY

3.1 The Plaintiff incorporates the preceding paragraphs of this Complaint, by this reference, as if each and every of these paragraphs were set forth here in its entirety.

3.2 The Defendant manufactured, distributed, and sold the adulterated food that injured the Plaintiff and caused him to become infected with *Salmonella*.

3.3 Food and drink that is contaminated with *Salmonella* is unsafe when put to the use reasonably foreseeable considering the nature of the product. Namely, *Salmonella*-contaminated food and drink is unfit for human consumption.

3.4 The food that the Plaintiff purchased from the Defendant was contaminated with *Salmonella*. The Plaintiff's consumption of the contaminated food caused him to become infected with *Salmonella* and to suffer injuries as a direct and proximate result.

3.5 The food that the Plaintiff purchased and consumed was contaminated with *Salmonella* when it left the Defendant's control.

3.6 The Defendant is strictly liable to the Plaintiff for the harm proximately caused by its manufacture and sale of an unsafe and defective food product.

WHEREFORE, the Plaintiff prays for judgment against the Defendant Supermercado Rivera in an amount in excess of the minimum amount required to establish jurisdiction in the

COUNT II—NEGLIGENCE

3.7 The Plaintiff incorporates the preceding paragraphs of this Complaint, by this reference, as if each and every of these paragraphs were set forth here in its entirety.

3.8 The Defendant designed, manufactured, distributed, and sold food products that were adulterated with *Salmonella* bacteria, a potentially deadly pathogen. These products, as a result of adulteration, were unfit for human consumption, and were not reasonably safe as designed, constructed, manufactured, and sold.

3.9 The Defendant owed a duty to all persons who were the eventual consumers of its product, as well as all persons foreseeably at risk of secondary transmission of disease, to manufacture and sell food that was safe to eat, was not adulterated with potentially harmful pathogens like *Salmonella*, and that was not in violation of applicable food and safety regulations.

3.10 The Defendant owed a duty to all persons who were the eventual consumers of its products, as well as all persons foreseeably at risk of secondary transmission of disease, to maintain its premises in a sanitary and safe condition so that no one eating food produced at the Defendant's premises would be exposed to, or infected by, a potentially harmful pathogen like *Salmonella*. The Defendant also owed a duty to all persons who were the eventual consumers of its products to use wholesome ingredients, and to source those ingredients from entities who use reasonable care in the growth, harvest and distribution of those products, in the production of food for sale to the public.

3.11 The Defendant breached the duties it owed to persons who were the eventual consumers of its products, as well as all persons foreseeably at risk of secondary transmission of

disease, by committing the following acts and omissions of negligence:

3.11.1 Failing to adequately maintain or monitor the sanitary conditions of its food, drink, water, premises, and employees;

3.11.2 Failing to properly operate the locations where it manufactured its food in a safe, clean, and sanitary manner;

3.11.3 Failing to prevent the transmission of *Salmonella* from its food, drink, water, premises, or employees, to the ultimate consumers of its products, and those foreseeably at risk of secondary transmission of disease;

3.11.4 Failing to properly train its employees and agents on how to prevent the transmission of *Salmonella* on its premises, or in its food, drink and water;

3.11.5 Failing to properly supervise its employees and agents to prevent the transmission of *Salmonella* on its premises, or in its food, drink and water;

3.11.6 Manufacturing and selling adulterated food in violation of 410 ILCS 620/3.2;

3.11.7 Storing, offering, and delivering food in violation of 410 ILCS 620/3.1 and 410 ILCS 620/3.4;

3.11.8 Failing to maintain its premises in a clean, sanitary, and healthful manner in violation of 410 ILCS 650/1 and 410 ILCS 650/2; and

3.11.9 Failing to properly and carefully select and monitor the entities from which it purchased and received raw materials used in the production of the products.

3.12 The Defendant is strictly liable to the Plaintiff for the harm proximately caused by its manufacture and sale of an unsafe and defective food product.

WHEREFORE, the Plaintiff prays for judgment against the Defendant Supermercado Rivera in an amount in excess of the minimum amount required to establish jurisdiction in the Law Division of the Circuit Court of Cook County, Illinois.

COUNT III—BREACH OF WARRANTY

3.13 The Plaintiff incorporates the preceding paragraphs of this Complaint, by this reference, as if each and every of these paragraphs were set forth here in its entirety.

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

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

3.16 The Defendant breached its express and implied warranties with regard to the food it manufactured and that was ultimately consumed by the Plaintiff.

3.17 The Defendant is strictly liable to the Plaintiff for the harm proximately caused by its manufacture and sale of an unsafe and defective food product.

WHEREFORE, the Plaintiff prays for judgment against the Defendant Supermercado Rivera in an amount in excess of the minimum amount required to establish jurisdiction in the Law Division of the Circuit Court of Cook County, Illinois.

Respectfully submitted,

Plaintiff,

By: 

One of Plaintiff's Attorneys
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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

ROMAN CABALLERO, individually)
)
Plaintiff,)
)
v.) No.
)
SUPERMERCADO RIVERA, INC. d/b/a)
Supermercado Rivera,)
)
Defendant.)

AFFIDAVIT

The undersigned, one of the Attorneys for the Plaintiffs herein, states that this is a civil action seeking money damages in excess of ONE HUNDRED THOUSAND (\$100,000.00) DOLLARS.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes that same to be true.

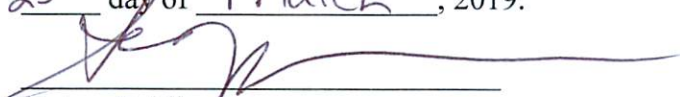
Respectfully Submitted,

By: 

One of Plaintiff's Attorneys
NEWLAND & NEWLAND, LLP

Subscribed and sworn before me this

25th day of March, 2019.



Notary Public

FILED DATE: 3/25/2019 1:00 PM 2019L003172