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IN THE THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAH

TRAVIS and AIMEE KNORR, husband and
wife,

Plaintiffs,

vs.

G-ENTERPRISES, INC, d/b/a JIMMY
JOHN's, a Utah corporation,

Defendants.

**COMPLAINT
(JURY TRIAL DEMANDED)**

(Tier 3)

Plaintiffs TRAVIS and AIMEE KNORR (“plaintiffs”) complain against Defendant G-ENTERPRISES INC., d/b/a JIMMY JOHN’S (“Jimmy John’s”) as follows:

PARTIES

1. Travis and Aimee Knorr are residents of the State of Utah.
2. G-Enterprises, Inc. d/b/a, Jimmy John’s (hereinafter “Jimmy John’s”) is a corporation organized and existing under the laws of the State of Utah, with its corporate headquarters and principal place of located 144 East 2580 South, Ste. A, St. George, Utah 84790.

At all times relevant to this complaint, Jimmy John's owned and operated the Jimmy John's restaurant located at 13893 Bangerter Parkway, Draper, Utah 84020.

JURISDICTION AND VENUE

3. The Third Judicial District Court in and for Salt Lake County, State of Utah, has jurisdiction of the claims asserted below pursuant to the provision of §78A-5-102, Utah Code Ann. (1953 as amended).

4. Venue is properly laid before the Third Judicial District Court in and for Salt Lake County, State of Utah, pursuant to the provisions of §78B-3-307, Utah Code Ann. (1953 as amended), in that the causes of action alleged below arose within Salt Lake County, State of Utah.

5. Pursuant to Rule 26(c)(3), of the New Utah Rules of Civil Procedure, the amount in controversy exceeds \$300,000.00, qualifying this claim for a Tier 3 standard discovery.

GENERAL ALLEGATIONS

THE JIMMY JOHN'S E. COLI OUTBREAK

6. The CDC, public health and regulatory officials in several states, and the U.S. Food and Drug Administration are investigating a multistate outbreak of *E. coli* O103 infections linked to clover sprouts.

7. As of March 17, 2020, 39 people infected with the outbreak strain of *E. coli* O103 have been reported from six states: Florida (1); Illinois (6); Iowa (3); Missouri (1); Texas (1); and Utah (27).

8. Illnesses started on dates ranging from January 6, 2020 to March 2, 2020. Ill people range in age from 1 to 79 years, with a median age of 28. Fifty-three percent of ill people are female. Two people have been hospitalized. No Deaths have been reported.

9. Epidemiologic, traceback, and laboratory evidence indicate that clover sprouts are the source of this outbreak. State and local public health officials are continuing to interview ill people to determine what they ate and other exposures they had in the week before their illness started. Sixteen (59%) of 27 people interviewed reported eating sprouts. Fourteen (58%) of 24 people interviewed reported eating sprouts at a Jimmy John's restaurant.

10. Jimmy John's LLC reported that all of their restaurants stopped serving clover sprouts on February 24, 2020.

11. The FDA Identified the outbreak strain of *E. coli* O103 in samples of Chicago Indoor Garden products that contain sprouts. On March 16, 2020, Chicago Indoor Garden recalled all products containing red clover sprouts.

12. FDA's traceback investigation has shown that a common seed lot was used to grow the sprouts recalled by Chicago Indoor Garden and the sprouts that were served at Jimmy John's locations where people sickened in the current outbreak reported eating. The same seed lot was also used to grow sprouts linked to an outbreak of the same strain of *E. coli* O103 infections in 2019. The investigation is ongoing.

A HISTORY OF JIMMY JOHN'S SPROUTS-RELATED OUTBREAKS

13. **Sprouters Northwest, Jimmy John's Restaurants Clover Salmonella Sprouts Outbreak 2010.** 7 Sickened – Sprouters Northwest of Kent, WA, issued a product recall after the company's clover sprouts had been implicated in an outbreak of *Salmonella* Newport in Oregon and Washington. At least some of the cases had consumed clover sprouts while at a Jimmy John's restaurant. Concurrent with this outbreak, a separate outbreak of *Salmonella*, serotype I 4,5,12,i- ; involving alfalfa sprouts served at Jimmy John's restaurants was under investigation. The recall of Northwest Sprouters products included: clover; clover and onion; spicy sprouts; and deli sprouts.

The Sprouters Northwest products had been sold to grocery stores and wholesale operations in Washington, Oregon, Idaho, Alaska, British Columbia, Saskatchewan, and Alberta. The FDA inspection found serious sanitary violations.

14. Multistate Salmonella Outbreak, Tiny Greens Organic Farm, Jimmy John's Restaurants Alfalfa Sprouts 2010. 140 Sickened – On December 17, the Illinois Department of Health announced that an investigation was underway into an outbreak of *Salmonella*, serotype I4,[5],12:i:-. Many of the Illinois patients had eaten alfalfa sprouts at various Jimmy John's restaurants in the Illinois counties of Adams, Champaign, Cook, DuPage, Kankakee, Macon, McHenry, McLean, Peoria, and Will counties. The sprouts were suspected to be the cause of the illnesses. On Dec. 21 that year Jimmy John Liautaud, the owner of the franchised restaurant chain, requested that all franchisees remove all sprouts from the menu as a “precautionary” measure. On Dec. 23, the Centers for Disease Control revealed that outbreak cases had been detected in other states and that the outbreak was linked with eating alfalfa sprouts from a nationwide sandwich chain. On Dec. 26, preliminary results of the investigation indicated a link to eating Tiny Greens' Alfalfa Sprouts at Jimmy John's restaurant outlets. The FDA subsequently advised consumers and restaurants to avoid Tiny Greens Brand Alfalfa Sprouts and Spicy Sprouts produced by Tiny Greens Organic Farm of Urbana, Illinois. The Spicy Sprouts contained alfalfa, radish and clover sprouts. On January 14, 2011, it was revealed that the FDA had isolated *Salmonella* serotype I4,[5],12:i:- from a water runoff sample collected from Tiny Greens Organic Farm; the *Salmonella* isolated was indistinguishable from the outbreak strain. The several FDA inspections of the sprout growing facility revealed factors that likely led to contamination of the sprouts.

15. **CW Sprouts, Inc., SunSprout Sprouts, “restaurant chain (Chain A),” a.k.a. Jimmy John’s Salmonella Outbreak 2009.** 256 Sickened – In February, Nebraska Department of Health and Human Services officials identified six isolates of *Salmonella* Saintpaul. Although this is a common strain of *Salmonella*, during 2008, only three cases had been detected in Nebraska and only four subtypes of this outbreak strain had been identified in 2008 in the entire USA. As additional reports were made, a case control study was conducted; alfalfa sprout consumption was found to be significantly related to illness. The initial tracebacks of the sprouts indicated that although the sprouts had been distributed by various companies, the sprouts from the first cases originated from the same sprouting facility in Omaha, NE. Forty-two of the illnesses beginning on March 15 were attributed to sprout growing facilities in other states; these facilities had obtained seed from the same seed producer, Caudill Seed Company of Kentucky. The implicated seeds had been sold in many states. On April 26, the FDA and CDC recommended that consumers not eat raw alfalfa sprouts, including sprout blends containing alfalfa sprouts. In May, FDA alerted sprout growers and retailers that a seed supplier, Caudill Seed Company of Kentucky, was withdrawing all alfalfa seeds with a specific three-digit prefix. Many of the illnesses occurred at “restaurant chain (Chain A),” according to the CDC, which generally does not identify specific business.

16. **Jimmy John’s Restaurant Alfalfa Sprouts and Iceberg Lettuce E. coli Outbreak 2008.** 28 Sickened – Several University of Colorado students from one sorority became ill with symptoms of bloody diarrhea and cramping. Additional illnesses were reported. *E. coli* O157:NM(H-) was determined to be the cause. Consumption of alfalfa sprouts at the Jimmy John’s Restaurants in Boulder County and Adams County were risk factors for illness. In addition, the environmental investigation identified Boulder Jimmy John’s food handlers who were infected with *E. coli* and who had worked while ill. The health department investigation found a number of

critical food handling violations, including inadequate handwashing. The fourteen isolates from confirmed cases were a genetic match to one another.

TRAVIS KNORR'S E. COLI ILLNESS

17. The plaintiffs, by and through this reference, hereby incorporate paragraphs nos. 1 through 16, above, as if fully set forth herein.

18. Travis and Aimee Knorr reside in Draper, Utah.

19. On February 21, 2020, Travis ordered a Billy Club sandwich (“the Sandwich”) from the Jimmy John’s located at 13893 Bangerter Parkway in Draper, Utah. The Sandwich was delivered to his work where he subsequently consumed the Sandwich upon its arrival.

20. On February 26, Travis began experiencing the onset of *E. coli* symptoms, including abdominal cramping and diarrhea. His symptoms eventually grew in severity to the point that he had to leave his work early on February 27.

21. Travis visited his family physician on March 2 because his symptoms continued unabated. His doctor started him on an antibiotic for a possible *C. diff* infection, and also sent him home with a stool kit to be returned for further analysis. Travis returned the stool sample to his physician the next day.

22. On March 6, 2020, Travis’s physician notified him that his stool sample tested positive for *E. coli*.

23. After learning of his diagnosis, Travis went to Mountain Point Medical Center emergency room. Scans and blood work revealed he was suffering from acute kidney failure, and he was admitted on March 8, 2020 for treatment and additional testing and observation.

24. Travis's kidney function steadily improved into March 10, when he was finally discharged from the hospital. That same day, the Utah County Health department contacted Travis about his *E. coli* exposure and illness.

25. Unfortunately, Travis began experiencing a relapse of diarrhea and abdominal cramping on March 14, 2020, prompting him to eventually return to his family physician on March 17, 2020. His doctor performed additional kidney function blood tests and collected another stool sample.

26. Travis also attended an appointment with his gastroenterologist on March 20, who proscribed medication for his stomach cramping.

27. On March 21, Travis learned that he now suffered from a *C. Diff* infection. He was prescribed antibiotics and his doctor also informed him that his *E. coli* infection had subsided.

28. Travis continued to recover throughout the end of March and on March 24, 2020, he was again contacted by the Utah County Health Department who informed him that his *E. coli* was identified as *E. coli* O103:H2 and given the cluster codes 202002STEC002 (Utah) and 2002IAEXW-1 (CDC).

FIRST CLAIM FOR RELIEF
(Strict Liability)

29. The plaintiffs, by and through this reference, hereby incorporate paragraphs nos. 1 through 28, above, as if fully set forth herein.

30. Jimmy John's manufactured and sold the adulterated food product, i.e. the Sandwich, that is the subject of the action.

31. The adulterated food product that Jimmy John's manufactured, distributed, or sold was, at the time it left Jimmy John's control, defective and unreasonably dangerous for its ordinary and expected use because it contained *E. coli* O103, a harmful pathogen.

32. The adulterated food product that Jimmy John's manufactured, distributed, or sold reached Travis without any change in its defective condition.

33. The adulterated food product that Jimmy John's manufactured, distributed, or sold was used in the manner expected and intended, and was consumed by Travis.

34. Travis suffered injury and damages as a direct and proximate result of the defective and unreasonably dangerous condition of the adulterated food product that Jimmy John's manufactured, distributed, or sold.

35. The plaintiffs have further suffered a loss of consortium as a direct and proximate result of the defective and unreasonably dangerous condition of the adulterated food product that Jimmy John's manufactured, distributed or sold.

SECOND CLAIM FOR RELIEF
(Negligence)

36. The plaintiffs, by and through this reference, hereby incorporate paragraphs nos. 1 through 35, above, as if fully set forth herein.

37. Jimmy John's owed Travis a duty to use reasonable care in the manufacture, distribution, and sale of its food product, the observance of which duty would have prevented or eliminated the risk that Jimmy John's food products would become contaminated by *E. coli* O103 or any other dangerous pathogen.

38. Jimmy John's breached this duty.

39. Jimmy John's had a duty to comply with all statutes, laws, regulations, or safety codes pertaining to the manufacture, distribution, storage, and sale of its food products.

40. Jimmy John's failed to comply with its duty and was therefore negligent.

41. Travis is among the class of persons designed to be protected by these statutes, laws, regulations, safety codes or provision pertaining to the manufacture, distribution, storage, and sale of similar food products.

42. Jimmy John's had a duty to properly supervise, train, and monitor its employees, and to ensure its employees' compliance with all applicable statutes, laws, regulations, or safety codes pertaining to the manufacture, distribution, storage, and sale of similar food products.

43. Jimmy John's failed to do so and was therefore negligent.

44. Jimmy John's further had a duty to use 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.

45. Jimmy John's failed to do so and was therefore negligent.

46. As a direct and proximate result of Jimmy John's acts and omissions of negligence, Travis sustained injuries and damages in an amount to be proven at trial.

47. As a further direct and proximate result of Jimmy John's negligence, the plaintiffs have suffered a loss of consortium.

THIRD CLAIM FOR RELIEF
(Negligence *Per Se*)

48. The plaintiffs, by and through this reference, hereby incorporate paragraphs nos. 1 through 297, above, as if fully set forth herein.

49. Jimmy John's had a duty to comply with all applicable state and federal regulations intended to ensure the purity and safety of its food product, including the requirements of the Federal Food, Drug and Cosmetics Act (21 U.S.C. § 301 *et seq.*).

50. Jimmy John's failed to comply with the provisions of the health and safety acts identified above, and, as a result, was negligent per se in its manufacture, distribution, and sale of food adulterated with *E. coli* O103, a harmful pathogen.

51. As a direct and proximate result of conduct by Jimmy John's that was negligent per se, Travis sustained damages in an amount to be proven at trial.

52. As a further direct and proximate result of Jimmy John's negligence per se, the plaintiffs have suffered a loss of consortium.

DAMAGES

53. Plaintiffs have suffered general, special, incidental, and consequential damages as the direct and proximate result of the acts and omissions of Jimmy John's, in an amount that shall be fully proven at the time of trial. These damages include, but are not limited to: damages for general pain and suffering; damages for loss of enjoyment of life, both past and future; medical and medical related expenses, both past and future; travel and travel-related expenses, past and future; emotional distress, past and future; pharmaceutical expenses, past and future; loss of consortium, past and future; and all other ordinary, incidental, or consequential damages that would or could be reasonably anticipated to arise under the circumstances.

JURY DEMAND

Plaintiffs hereby demand a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Jimmy John's as follows:

- A. Ordering compensation for all general, special, incidental, and consequential damages suffered by the plaintiffs as a result of the Jimmy John's conduct;
- B. Awarding plaintiffs their reasonable attorneys' fees and costs, to the fullest extent allowed by law; and
- C. Granting all such additional and/or further relief as this Court deems just and equitable.

DATED this 31st day of March, 2020.

/s/ Dustin Lance _____
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