

Clancy Burch

From: Rossi, Michele <MRossi@peircelaw.com>
Sent: Wednesday, March 04, 2020 8:40 AM
To: Drew Falkenstein; Bill Marler; Clancy Burch
Subject: FW: Approval Confirmation Submission ID: 1452643 CaseID: TMP1048202

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From: webmaster.pro@county.allegheny.pa.us [<mailto:webmaster.pro@county.allegheny.pa.us>]
Sent: Wednesday, March 4, 2020 09:54 AM
To: Rossi, Michele
CC : promail@county.allegheny.pa.us
Subject : Approval Confirmation Submission ID: 1452643 CaseID: TMP1048202

Approval Details

***Please be advised that dockets have been accepted by the
Allegheny County Department of Court Records, Civil/Family Division for Case
Number:GD-20-003544***

***Dockets filed for Temporary Case Number:TMP1048202
have been assigned to Permanent Case number:GD-20-003544***

Submission ID: 1452643

Status: Approved

Case Number: GD-20-003544

Case Description: Maley vs Big Plan Group LLC etal

Filing Date/Time: 3/3/2020 2:19:22 PM

Docket Details are as follows:

ClientID	Filed By	Sequence nbr	Docket Type Code	Docket Type	Fees
079502-24575	DAR85752	1	COMPL	Complaint	373.75

Payment Type : DrawDown - PEIRCE

Civil/Family Division Amount :203.75

Sheriff's Amount :170

Total Amount :373.75

Receipt NO :8192005

*****contact civil@alleghenycounty.us within 10 days on any issues *****

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**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

GRATIA MALEY, as legal guardian of J.M., G.D. NO.
a minor,

PLAINTIFF'S COMPLAINT

Plaintiff,

CODE:

v.

FILED ON BEHALF OF PLAINTIFF,
GRATIA MALEY, as legal guardian of J.M.,
a minor

BIG PLAN GROUP, LLC, a Pennsylvania
limited liability company, d/b/a Moe's
Restaurant & Tex Mex Grill and/or Moe's
Southwest Grill; MONTEVERDE'S, INC., a
Pennsylvania corporation; and JOHN DOES,
growers, shippers, and distributors,

Counsel of Record for this Party:

D. Aaron Rihn, Esquire
PA I.D. No.: 85752

Defendants.

Robert Peirce & Associates, P.C.
Firm I.D. No.: 839

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JURY TRIAL DEMANDED

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

GRATIA MALEY, as legal guardian of J.M., G.D. NO.
a minor,

Plaintiff,

JURY TRIAL DEMANDED

v.

BIG PLAN GROUP, LLC, a Pennsylvania
limited liability company, d/b/a Moe's
Restaurant & Tex Mex Grill and/or Moe's
Southwest Grill; MONTEVERDE'S, INC., a
Pennsylvania corporation; and JOHN DOES,
growers, shippers, and distributors,

Defendants.

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice were served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE OR KNOW A LAWYER, THEN YOU SHOULD GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE
ALLEGHENY COUNTY BAR ASSOCIATION
11TH FLOOR KOPPERS BUILDING
436 7th AVENUE
PITTSBURGH, PA 15219

TELEPHONE: 412-261-5555

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

GRATIA MALEY, as legal guardian of J.M., G.D. NO.
a minor,

JURY TRIAL DEMANDED

Plaintiff,

v.

BIG PLAN GROUP, LLC, a Pennsylvania
limited liability company, d/b/a Moe's
Restaurant & Tex Mex Grill and/or Moe's
Southwest Grill; MONTEVERDE'S, INC., a
Pennsylvania corporation; and JOHN DOES,
growers, shippers, and distributor,

Defendants.

PLAINTIFF'S COMPLAINT

The Plaintiff, GRATIA MALEY, as legal guardian of J.M., a minor, by and through her counsel of record, D. Aaron Rihn of Robert Peirce & Associates, P.C., and R. Drew Falkenstein of Marler Clark, LLP (pending admission *pro hac vice*), alleges and complains as follows:

PARTIES

1. Along with her minor child J.M., Plaintiff Gratia Maley is a resident of the Commonwealth of Pennsylvania, residing at 114 Breckenridge Drive, Wexford, Allegheny County, Pennsylvania 15090.

2. Defendant Big Plan Group, LLC, d/b/a Moe's Restaurant & Tex Mex Grill or Moe's Southwest Grill (hereinafter Moe's Wexford), a limited liability company organized and existing under the laws of the Commonwealth of Pennsylvania, at all relevant times owned and operated the Moe's restaurant located at 10339 Perry Highway, Wexford, Allegheny County,

Pennsylvania 15090.

3. Defendant Monteverde's, Inc., a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, at all relevant times owned and operated a produce distribution business at 2 Rutgers Road, Crafton, Allegheny County, Pennsylvania 15205.

4. The identities and residences of Defendants John Does grower, shipper, and distributor are not presently known. These Defendants, at all relevant times, owned and operated business entities that grew, harvested, distributed, and sold romaine lettuce grown and processed in the Yuma, Arizona growing regions, which includes certain nearby locations in California along the Arizona border.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action because all known or reasonably identifiable parties reside within the Commonwealth of Pennsylvania and arises out of an incident that took place in the Commonwealth of Pennsylvania.

6. Venue is proper in this Court because the Defendants regularly conduct business within the County of Allegheny.

GENERAL ALLEGATIONS

Prior Outbreaks Linked to Lettuce and Other Leafy Greens

7. *E. coli* O157:H7 outbreaks associated with lettuce and other leafy greens are by no means a new phenomenon. Outlined below is a list of foodborne pathogen outbreaks involving contaminated lettuce or leafy greens just within the past ten years:

Date	Causative Agent	Illnesses Reported	Source
Mar. 2018	<i>E. coli</i> O157:H7	219	Romaine lettuce

Nov. 2017- Dec. 2017	<i>E. coli</i> O157:H7	41, 1 death	Romaine lettuce
Dec. 2015-Jan. 2016	<i>Listeria monocytogenes</i>	19, 1 death	Package salads
Apr. 2015	<i>Escherichia coli</i> , Shiga toxin-producing	7	Prepackaged leafy greens
Mar. 2015	<i>E. coli</i> O157:H7	12	Leafy greens
Jul. 2014	<i>E. coli</i> O111	15	Salad/cabbage served at Applebee's and Yard House (Minnesota)
Oct. 2013	<i>E. coli</i> O157:H7	33	Pre-packaged salads and sandwich wraps (California)
Jul. 2013	<i>E. coli</i> O157:H7	94	Lettuce served at Federico's Mexican Restaurant
Jul. 2013	<i>Cyclospora</i>	140 (Iowa); 87 (Nebraska)	Salad mix, cilantro
Dec. 2012 – Jan. 2013	<i>E. coli</i> O157:H7	31	Shredded lettuce from Freshpoint, Inc.
Oct. 2012	<i>E. coli</i> O157:H7	33	Leafy greens salad mix (Massachusetts)
Apr. 2012	<i>E. coli</i> O157:H7	28	Romaine lettuce
Dec. 2011	<i>Salmonella</i> Hartford	5	Lettuce; roast beef
Dec. 2011	Norovirus	9	Lettuce, unspecified
Oct. 2011	<i>E. coli</i> O157:H7	58	Romaine lettuce

Oct. 2011	<i>E. coli</i> O157:H7	26	Lettuce
Aug. 2011	N/A	8	Lettuce; onions; tomatoes
Jul. 2011	<i>Cyclospora cayatenensis</i>	99	Lettuce based salads
Jun. 2011	Norovirus	23	Garden salad
Apr. 2011	<i>Salmonella</i> Typhimurium	36	Multiple salads
Feb. 2011	Norovirus	24	Garden salad
Jan. 2011	Norovirus	93	Lettuce; salad, unspecified
Jul.-Oct. 2010	<i>Salmonella</i> Java	136	Salad vegetable
May 2010	<i>E. coli</i> O145	33 (26 lab-confirmed)	Romaine Lettuce grown in Arizona
Apr. 2010	<i>Salmonella</i> Hvittingfoss	102	Lettuce, tomatoes, and olives served at Subway restaurants
Jan. 2010	<i>E. coli</i>	260	Lettuce grown in France

The 2018 *E. coli* O157:H7 Outbreak Linked to Romaine Lettuce from Yuma

8. On April 13, 2018, the CDC announced a multi-state outbreak of *E. coli* O157:H7 linked to the consumption of romaine lettuce products produced in the Yuma, Arizona growing region. Ultimately, the investigation by the CDC, FDA, and local and state health agencies determined that at least 240 people from 37 states had been sickened in the outbreak.

9. Illnesses started on dates ranging from March 13, 2018 to August 22, 2018. Ill people range in age from 1 to 93 years, with a median age of 26. Sixty-six percent of ill people

were female. Of more than 201 people with information available, 104 were hospitalized, including 28 people who developed hemolytic uremic syndrome (HUS). At least five victims died from their *E. coli* O157:H7 infections.

10. Epidemiologic analysis showed that the cause of the outbreak was contaminated romaine lettuce. Traceback analysis and investigation showed that the contaminated romaine lettuce came from the growing region that straddles the California-Arizona border at and around Yuma, Arizona, to include growing locations in the Imperial Valley, California.

11. The FDA, along with the CDC and state partners, conducted an environmental assessment in the Yuma growing region and collected samples of water, soil, and manure. CDC laboratory testing identified the outbreak strain of *E. coli* O157:H7 in water samples taken from a canal in the Yuma growing region. Whole genome sequencing analysis showed that the *E. coli* O157:H7 found in the canal water was closely related genetically to the *E. coli* O157:H7 from ill people.

12. More specifically, the canal water samples that yielded the three positive results for the outbreak strain of *E. coli* O157:H7 were taken from the Wellton Canal in the immediate vicinity of the Five Rivers Feedyard, which is one of several Wellton-area CAFOs.

13. The following is a Google Earth image of the Five Rivers Feedyard, which is the Wellton CAFO described in the FDA's Environmental Assessment Report. Leafy green growing fields, including, on information and belief, romaine lettuce fields are adjacent to the CAFO and surround it, and the Wellton Canal, on all sides.

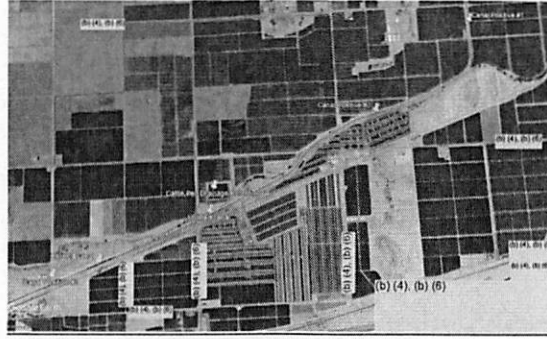


Figure 1. Wellton Irrigation Canal. This Google Earth view depicts a section of the Wellton main canal adjacent to a CAFO and locations of three outbreak-pathogen-positive irrigation water samples. The sample locations are upstream, adjacent to, and downstream of the Wellton-area CAFO. Also noted are unlined irrigation canal sections and a CAFO retention pond. Water in the canal flows from west (left) to east (right) in the figure above. The CAFO at the bottom center of Figure 1. See Figure 2 for an enlarged image of the CAFO.

14. The following is another Google Earth image of the Five Rivers Feedyard, which also appears in the FDA's Environmental Assessment Report. It depicts the locations at the Five Rivers Feedyard that tested positive for Shiga-toxin producing strains of *E. coli* during the FDA's investigation.

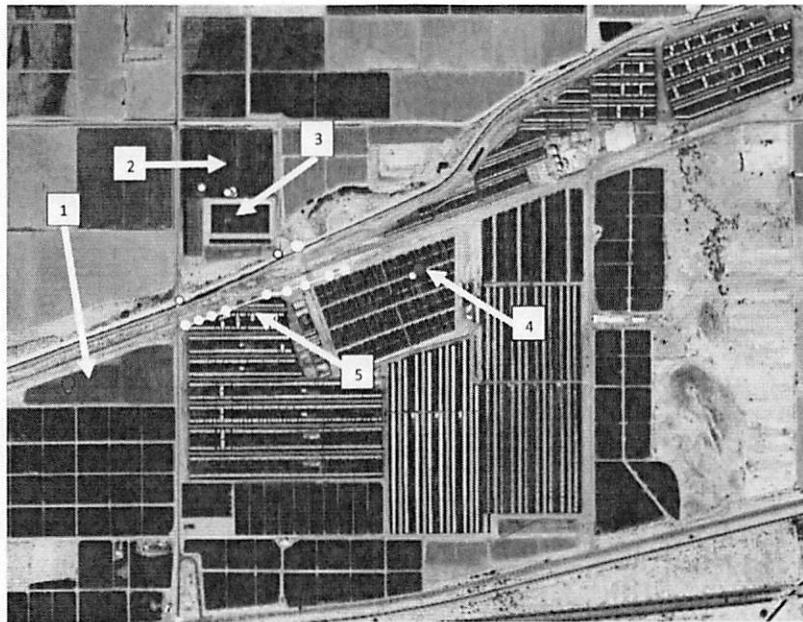


Figure 2. Overview of Wellton area CAFO and adjacent canal property. Including West (1) and North (2) Composting Facilities, North retention pond (3), fresh manure sampling location of steer feeding pens (4), Drag Swabs and soil samples along feedlot perimeter fence-line (5). Circles represent EA team sampling locations (compost and manure). Red circles indicate samples that were positive for STECs. No samples were positive for the outbreak strain.

15. Water from the Wellton canal used to irrigate romaine lettuce crops implicated in the 2018 *E. coli* O157:H7 outbreak was not treated or disinfected in any way.

***E. coli* O157:H7 Infection and Hemolytic Uremic Syndrome**

16. *Escherichia coli* are the name of a common family of bacteria, most members of which do not cause human disease. *E. coli* O157:H7 is a specific member of this family that can cause bloody diarrhea (hemorrhagic colitis) in humans. In the years since *E. coli* O157:H7 was first identified as a cause of diarrhea, this bacterium has established a reputation as a significant public health hazard.

17. *E. coli* O157:H7 lives in the intestines of cattle and other ruminants. *E. coli* O157:H7 is also notable among pathogenic bacteria for its extremely low infectious dose—that is, the number of bacteria necessary to induce infection in a person. While for most pathogenic bacteria it takes literally millions of bacterial colonies to cause illness, it is now known that fewer than 50 *E. coli* O157:H7 bacteria can cause illness in a child. The practical import is that even a microscopic amount of exposure can trigger a devastating infection.

18. The most severe cases of the *E. coli* O157:H7 infection occur in young children and in the elderly, presumably because the immune systems in those age populations are the most vulnerable. After a susceptible individual ingests *E. coli* O157:H7, the bacteria attach to the inside surface of the large intestine and initiates an inflammatory reaction of the intestine. What ultimately results is the painful bloody diarrhea and abdominal cramps characteristic of the intestinal illness.

19. The mean incubation period (time from ingestion to the onset of symptoms) of *E. coli* O157:H7 is estimated to be two to four days (range, 1-21 days). Typically, a patient with an acute *E. coli* O157:H7 infection presents with abdominal cramps, bloody diarrhea, and vomiting. The duration of diarrhea in children with *E. coli* O157:H7 infections are significantly longer than that of adults.

20. *E. coli* O157:H7 can produce a wide spectrum of disease from mild, non-bloody diarrhea to severe bloody diarrhea accompanied by excruciating abdominal pain to life-threatening complications. In most infected individuals, the intestinal illness lasts about a week and resolves without any long-term effects. Antibiotics do not appear to aid in combating these infections, and recent medical studies suggest that antibiotics are contraindicated for their risk of provoking more serious complications. Apart from good supportive care, which should include close attention to hydration and nutrition, there is no specific therapy.

21. About 10% of individuals with *E. coli* O157:H7 infections (mostly young children) go on to develop hemolytic uremic syndrome (HUS), a severe, potentially life-threatening complication. The essence of the syndrome is described by its three central features: destruction of red blood cells, destruction of platelets (those blood cells responsible for clotting), and acute renal failure due to the formation of micro-thrombi that occlude microscopic blood vessels that make up the filtering units within the kidneys.

22. There is no known therapy to halt the progression of HUS. The active stage of the disease usually lasts one to two weeks, during which a variety of complications are possible. HUS is a frightening illness that even in the best American medical facilities has a mortality rate of about 5%. The majority of HUS patients require transfusion of blood products and develop complications common to the critically ill.

Facts Relating to Defendants' Manufacture and Distribution of the Contaminated Romaine Lettuce Produce

23. On multiple dates in March 2018, Monteverde's received cases of chopped romaine lettuce from John Doe grower, shipper, and distributor. The cases consisted of six, two-pound bags of chopped romaine each.

24. Monteverde's was the sole supplier of chopped romaine lettuce products to Moe's Wexford throughout March 2018. On at least March 15, 16, 19, 23, 26, 28, and 30, 2018, if not other dates, Monteverde's distributed one or more cases of chopped romaine lettuce products to Moe's Wexford.

25. On or about March 26 or 27, 2018, Gratia Maley purchased a salad from Moe's Wexford for her son J.M. J.M. ordered a burrito salad bowl with chicken, onions, tomatoes, rice, pico de gallo, salsa, and chopped romaine lettuce. J.M. ate the salad bowl for dinner immediately after purchase.

26. Moe's Wexford prepared the salad bowl that Gratia Maley purchased for J.M. on March 26 or 27, 2018, using *E. coli* O157:H7-contaminated chopped romaine lettuce that it had purchased and received from Monteverde's.

27. The salad bowl that J.M. consumed on March 26 or 27, 2018 from Moe's Wexford was, therefore, contaminated by *E. coli* O157:H7, causing his infection and injuries described in more detail below.

J.M.'s Injuries

28. On or about the evening of Thursday, March 29, 2018, J.M. began to experience abdominal pains. At first, the pain was merely uncomfortable, but by the following day, it had become much more severe. J.M. was also fatigued. These symptoms persisted for a couple of days.

29. J.M.'s symptoms worsened dramatically on or about April 2, 2018. That night, he woke his mother from sleep, complaining of so much pain in his abdomen that he thought he was dying.

30. J.M. saw his pediatrician on April 3, 2018, who believed that J.M. was suffering from acute appendicitis. Gratia Maley rushed her son to the emergency department at UPMC Children's Hospital of Pittsburgh.

31. In the emergency department, J.M. was nauseated and continued to suffer from constant abdominal pain. The attending physician did not believe that J.M. was suffering from appendicitis. He was given a prescription for Zofran, an anti-nausea medication, and ultimately discharged home.

32. On April 4, 2018 J.M. began to suffer from repeated bouts of diarrhea. Around 6:00 p.m. on April 5, 2018 he yelled to his mother for assistance after noticing that the toilet bowl was full of blood. They returned immediately to the emergency department at Children's Hospital.

33. When J.M. was assessed in the emergency department, he could barely walk. He was bent over in pain. He submitted a stool sample on this date that was almost entirely composed of blood. J.M. was admitted to the hospital.

34. After admission, J.M. was given intravenous fluids for rehydration after his significant gastrointestinal losses. He was put under contact isolation precautions due to his presumed infectious condition.

35. On Saturday, April 7, 2018 while still hospitalized, the stool sample that J.M. submitted while in the emergency department tested positive for shiga-toxin. J.M. felt somewhat better the afternoon of April 7, 2018 and was ultimately discharged with a diagnosis of STEC (Shiga toxin-producing *E. coli*) infection causing bloody diarrhea and abdominal pain.

36. After discharge from Children's Hospital of Pittsburgh, J.M. recovered at home. He returned to see his pediatrician on April 17, 2018, by which time he reported no further diarrhea or abdominal pain.

37. Ultimately, the Pennsylvania Department of Health Bureau of Laboratories confirmed that J.M.'s stool sample was positive for *E. coli* O157:H7. Further, the *E. coli* O157:H7 detected in J.M.'s stool sample was determined to be a genetic match to the strain of *E. coli* O157:H7 that caused the multi-state outbreak connected to romaine lettuce from the Yuma, Arizona region.

38. J.M. is counted as a confirmed case in the outbreak by the Centers for Disease Control and Prevention. He continues to suffer from gastrointestinal difficulties and discomfort as a result of his *E. coli* O157:H7 illness.

CAUSES OF ACTION

COUNT I - BREACH OF WARRANTY

39. The Plaintiff incorporates by reference and makes a part of this Count each and every paragraph of the foregoing Counts of this Complaint.

40. The Defendants John Does and Monteverde's produced, distributed, and sold the contaminated romaine lettuce products that injured J.M.; and, using those contaminated romaine lettuce products, Moe's Wexford produced and sold the contaminated salad bowl product that J.M. consumed on March 26 or 27, 2018. These Defendants are, therefore, the manufacturers, distributors, and sellers of an adulterated food product, and the adulterated food product reached J.M. without substantial change from the condition in which it was sold by the Defendants.

41. The Defendants are subject to liability to the Plaintiff for their breaches of express and implied warranties made to the Plaintiff with respect to the food products sold to the Plaintiff, including the implied warranties of merchantability and of fitness for a particular use. Specifically, the Defendants expressly warranted, through their sale of food, and by the statements and conduct of their employees and agents, that the food products ultimately sold to the Plaintiff were fit for

human consumption and not otherwise adulterated or injurious to health.

42. The Plaintiff alleges that the food sold by the Defendants and ultimately consumed by her son J.M., which was contaminated by *E. coli* O157:H7 and related filth and adulteration, would not pass without exception in the trade and was thus in breach of the implied warranty of merchantability.

43. The Plaintiff further alleges that the contaminated food products sold by the Defendants and consumed by the Plaintiff's son were not fit for the uses and purposes intended by either the Plaintiff or the Defendants, *i.e.*, human consumption, and that these products were therefore in breach of the implied warranty of fitness for their intended use.

44. As a further direct and proximate result of the conduct of Defendants and their agents, servants, and/or employees as aforesaid, J.M. suffered an *E. coli* O157:H7 infection and the adverse effects associated with same.

45. As a further direct and proximate result of the conduct of Defendants and their agents, servants, and/or employees, J.M. was forced to endure great pain, suffering, and inconvenience and may endure same in the future. He was forced to submit to medical, medicinal, and therapeutic care and may be forced to submit to same in the future.

46. As a further direct and proximate result of the conduct of Defendants and their agents, servants, and/or employees, J.M. suffered an inability to perform the activities of daily living or some of them.

47. As a further direct and proximate result of the conduct of Defendants and their agents, servants, and/or employees, the Plaintiff was forced to expend sums of money for doctors, hospitals, and/or other items necessary for her son's proper care and treatment.

WHEREFORE, the Plaintiff demands judgment against the Defendants that will

reasonably compensate for significant injuries, pain and suffering, and other damages sustained together with attorneys' fees, interest and costs of suit in an amount that exceeds the jurisdictional amount in Allegheny County for compulsory arbitration, together with interest, prejudgment interest and costs.

COUNT II - STRICT LIABILITY

48. The Plaintiff incorporates by reference and makes a part of this Count each and every paragraph of the foregoing Counts of this Complaint.

49. The Defendants owed a duty to the Plaintiff and J.M. to manufacture and sell only food that was not adulterated, was fit for human consumption, was reasonably safe in construction, and was free of pathogenic bacteria or other substances injurious to human health. The Defendants breached this duty.

50. The Defendants owed a duty to the Plaintiff and J.M. to provide adequate warnings about the non-obvious danger of their food products, including warnings and instructions indicating that the food might contain pathogenic bacteria, including *E. coli* O157:H7. The Defendants breached this duty.

51. The Defendants owed a duty to the Plaintiff and J.M. to prepare, serve, and sell food that was fit for human consumption and that was safe to the extent contemplated by a reasonable and ordinary consumer. The Defendants breached this duty.

52. Because the food that the Plaintiff purchased and J.M. consumed was adulterated, not fit for human consumption, not reasonably safe in design and construction, lacked adequate warnings and instructions, and was unsafe to an extent beyond that contemplated by the ordinary consumer, the Defendants are liable to the Plaintiff for the harm proximately caused to Plaintiff

and J.M. by their manufacture and sale of contaminated and adulterated food products, and as such the Defendants are strictly liable to the Plaintiff for such harm.

WHEREFORE, the Plaintiff demands judgment against Defendants that will reasonably compensate for significant injuries, pain and suffering, and other damages sustained together with attorneys' fees, interest and costs of suit in an amount that exceeds the jurisdictional amount in Allegheny County for compulsory arbitration, together with interest, prejudgment interest and costs.

COUNT III - NEGLIGENCE

53. The Plaintiff incorporates by reference and makes a part of this Count each and every paragraph of the foregoing Counts of this Complaint.

54. The Defendants had a duty to comply with all statutory and regulatory provisions that pertained or applied to the manufacture, distribution, storage, labeling, and sale of romaine lettuce products, including the applicable provisions of the Federal Food, Drug and Cosmetic Act, and similar Pennsylvania food and public health statutes, including, without limitation, the provisions of the Food Act at 31 Pa. C.S. § 20.3, all of which prohibit the manufacture and sale of any food that is adulterated or otherwise injurious to health.

55. The food that Defendants manufactured and sold, and that J.M. consumed, was adulterated within the meaning of the federal Food, Drug and Cosmetic Act, and similar Pennsylvania statutes, because it contained a deleterious substance that rendered it injurious to health, *i.e.*, *E. coli* O157:H7 bacteria.

56. The Defendants violated federal, state, and local food safety regulations by their manufacture and sale of adulterated food. These federal, state, and local food safety regulations

are applicable here and establish a positive and definite standard of care in the manufacture and sale of food. The violation of these regulations constitutes negligence as a matter of law.

57. The Plaintiff's son, J.M., is in the class of persons intended to be protected by these statutes and regulations, and J.M. was injured as the direct and proximate result of the Defendants' violation of applicable federal, state, and local food safety regulations.

58. The Defendants were negligent in the manufacture, distribution, and sale of food products that were adulterated by *E. coli* O157:H7, not fit for human consumption, and not reasonably safe because adequate warnings or instructions were not provided.

59. Once the Defendants learned, or in the exercise of reasonable care, should have learned, of the dangers associated with preparing and selling food products, specifically romaine lettuce products from the Yuma, Arizona growing region, they had a duty to warn the Plaintiff and J.M., but failed to do so.

60. The Defendants had a duty to use supplies and raw materials in producing their food products that were in compliance with applicable federal, state, and local laws, ordinances and regulations, that were from reliable sources, and that were clean, wholesome, free from adulteration and fit for human consumption, but failed to do so, and therefore breached that duty.

61. The Defendants were negligent in the selection of their suppliers, or other agents or subcontractors, and failed to adequately supervise them or provide them with adequate standards, and, as a result, produced and sold food that was adulterated with *E. coli* O157:H7.

62. The Defendants had a duty to properly supervise, train, and monitor their employees, or the employees of their agents, subcontractors, and suppliers, engaged in the preparation and sale of food products, to ensure compliance with the Defendants' operating standards and product requirements, and to ensure compliance with all applicable health

regulations. The Defendants failed to properly supervise, train, and monitor these employees and entities engaged in the manufacture, preparation, and delivery of the food product ultimately sold to the Plaintiff, and thus breached that duty.

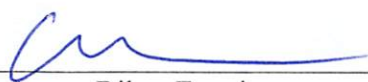
63. WHEREFORE, the Plaintiff demands judgment against Defendants that will reasonably compensate for significant injuries, pain and suffering, and other damages sustained together with attorneys' fees, interest and costs of suit in an amount that exceeds the jurisdictional amount in Allegheny County for compulsory arbitration, together with interest, prejudgment interest and costs.

DATED: March 3, 2020

Respectfully submitted,

ROBERT PEIRCE & ASSOCIATES, P.C.

BY: _____


D. Aaron Rihn, Esquire
Counsel for Plaintiff

VERIFICATION

I verify that the averments of fact made in the foregoing Plaintiff's Complaint are true and correct and based on my personal knowledge, information or belief. I understand that averments of fact in said document are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsifications to authorities.

3-3-2020

Dated



D. Aaron Rihn, Esquire