

1
2
3
4
5
6
7
8
9
10

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING**

MADISON LEE SOLLARS, an Individual,) NO.
)
)
)
Plaintiff,)
)
vs.) **COMPLAINT FOR PERSONAL**
) **INJURY AND DAMAGES**
)
THE YARROW GROUP, LLC, d/b/a)
8 EVERGREENS, a Washington Limited)
Liability Company)
)
Defendant.)

11 COMES NOW the plaintiff, MADISON LEE SOLLARS, by and through her attorneys of
12 record, the MARLER CLARK law firm, and alleges as follows:

13 **I. PARTIES AND JURISDICTION**

14 1.1 The plaintiff, MADISON LEE SOLLARS (“the plaintiff”), resides in King County,
15 Washington.

16 1.2 The defendant, THE YARROW GROUP, LLC, a Washington limited liability
17 company, d/b/a EVERGREENS restaurant (“the defendant”), at all material times owned and
18 operated the establishment located at 106 1st Ave S, Seattle, Washington 98104. The defendant at all
19 times material hereto was carrying on in its ordinary course of business of the company, and was in
20 the business of the manufacture, distribution, preparation, service, and sale of food to its store
21 customers at that location, and as such was doing business in Seattle, Washington.

1 **Prior *E. coli* Outbreaks Linked to Romaine Lettuce and Other Leafy Greens**

2 2.5 *E. coli* O157:H7 outbreaks associated with lettuce and other leafy greens are by no
3 means a new phenomenon. Outlined below is a list of *E. coli* outbreaks involving contaminated
4 lettuce or leafy greens in the past decade:

5

Date	Vehicle	Etiology	Confirmed Cases	States/Provinces
Sept. 2009	Lettuce: Romaine or Iceberg	<i>E. coli</i> O157:H7	29	Multistate
Sept. 2009	Lettuce	<i>E. coli</i> O157:H7	10	Multistate
April 2010	Romaine	<i>E. coli</i> O145	33	5:MI, NY, OH, PA, TN
Oct. 2011	Romaine	<i>E. coli</i> O157:H7	60	Multistate
April 2012	Romaine	<i>E. coli</i> O157:H7	28	1:CA Canada
June 2012	Romaine	<i>E. coli</i> O157:H7	52	Multistate
Sept. 2012	Romaine	<i>E. coli</i> O157:H7	9	1:PA
Oct. 2012	Spinach and Spring Mix Blend	<i>E. coli</i> O157:H7	33	Multistate
Apr. 2013	Leafy Greens	<i>E. coli</i> O157:H7	14	Multistate
Aug. 2013	Leafy Greens	<i>E. coli</i> O157:H7	15	1:PA
Oct. 2013	Ready-To-Eat Salads	<i>E. coli</i> O157:H7	33	Multistate

Date	Vehicle	Etiology	Confirmed Cases	States/Provinces
Apr. 2014	Romaine	<i>E. coli</i> O126	4	1:MN
Apr. 2015	Leafy Greens	<i>E. coli</i> O145	7	3:MD, SC, VA
June 2016	Mesclun Mix	<i>E. coli</i> O157:H7	11	3:IL, MI, WI
Nov. 2017	Leafy Greens	<i>E. coli</i> O157:H7	67	Multistate and Canada
Mar. 2018	Romaine	<i>E. coli</i> O157:H7	219	Multistate and Canada
Nov. 2018	Romaine	<i>E. coli</i> O157:H7	88	Multistate and Canada
Sept. 2019	Romaine	<i>E. coli</i> O157:H7	23	Multistate
Nov. 2019	Romaine	<i>E. coli</i> O157:H7	104	Multistate and Canada

The *E. coli* O157:H7 bacteria

2.6 *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.

2.7 *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

1 of bacteria necessary to induce infection in a person. While for most pathogenic bacteria it takes
2 literally millions of bacterial colonies to cause illness, it is now known that fewer than 50 *E. coli*
3 O157:H7 bacteria can cause illness in a child. The practical import is that even a microscopic amount
4 of exposure can trigger a devastating infection.

5 2.8 The most severe cases of the *E. coli* O157:H7 infection occur in young children and
6 in the elderly, presumably because the immune systems in those age populations are the most
7 vulnerable. After a susceptible individual ingests *E. coli* O157:H7, the bacteria attach to the inside
8 surface of the large intestine and initiates an inflammatory reaction of the intestine. What ultimately
9 results is the painful bloody diarrhea and abdominal cramps characteristic of the intestinal illness.

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

14 2.9 *E. coli* O157:H7 can produce a wide spectrum of disease from mild, non-bloody
15 diarrhea, to severe bloody diarrhea accompanied by excruciating abdominal pain to life-threatening
16 complications. In most infected individuals, the intestinal illness lasts about a week and resolves
17 without any long-term effects. Antibiotics do not appear to aid in combating these infections, and
18 recent medical studies suggest that antibiotics are contraindicated for their risk of provoking more
19 serious complications. Apart from good supportive care, which should include close attention to
20 hydration and nutrition, there is no specific therapy.

1 2.10 About 10% of individuals with *E. coli* O157:H7 infections (mostly young children)
2 go on to develop hemolytic uremic syndrome (HUS), a severe, potentially life-threatening
3 complication. The essence of the syndrome is described by its three central features: destruction of
4 red blood cells, destruction of platelets (those blood cells responsible for clotting), and acute renal
5 failure due to the formation of micro-thrombi that occlude microscopic blood vessels that make up
6 the filtering units within the kidneys.

7 2.11 There is no known therapy to halt the progression of HUS. The active stage of the
8 disease usually lasts one to two weeks, during which a variety of complications are possible. HUS
9 is a frightening illness that even in the best American medical facilities has a mortality rate of about
10 5%. The majority of HUS patients require transfusion of blood products and develop complications
11 common to the critically ill.

12 **MADISON LEE SOLLARS' *E. coli* Infection**

13 2.12 The plaintiff consumed a salad on November 8, 2019, which she purchased from the
14 defendant's Evergreens restaurant Pioneer Square location at 106 1st Ave S in Seattle, Washington.

15 2.13 On November 12, 2019, the plaintiff began experiencing symptom onset, including
16 nausea, vomiting, bloody diarrhea, stomach cramps, fever, muscle aches, fatigue, and headaches.

17 2.14 The plaintiff sought medical treatment for her symptoms at Urgent Care on November
18 13 and in the Emergency room on November 14, for symptoms consistent with an *E. coli* infection.

19 2.15 The plaintiff continues to recover.

20 **III. CAUSE OF ACTION** 21 **STRICT PRODUCT LIABILITY**

1 3.1 The defendant is a product manufacturer within the meaning of the Washington
2 Product Liability Act (“WPLA” or “the Act”), RCW 7.72.010(2), and manufactured the food that
3 caused the plaintiff’s *E. coli* infection and related injuries. The *E. coli*-contaminated food consumed
4 by the plaintiff was a product within the meaning of the WPLA, RCW 7.72.010(3).

5 3.2 Under the WPLA, the defendant owed a duty to the plaintiff to manufacture a product
6 that was reasonably safe in construction, did not materially deviate from applicable design
7 specifications, or otherwise deviate in some material way from otherwise identical units in the
8 defendant’s product line.

9 3.3 Under the WPLA, the defendant owed a duty to the plaintiff to manufacture a product
10 that conformed to their implied warranties, as defined by RCW Ch. 62A, including, but not limited
11 to, the implied warranty that defendant’s food was fit for human consumption.

12 3.4 The food manufactured and sold by the defendant that caused plaintiff’s *E. coli*
13 infection, and all associated legal injuries, was not reasonably safe in construction, and did not
14 conform to defendant’s implied warranties, because it was contaminated and adulterated with, among
15 other things, *E. coli*.

16 3.5 Because the defendant’s food was not reasonably safe in construction, and did not
17 conform to defendant’s implied warranties, the defendant is strictly liable to the plaintiff for the harm
18 proximately caused by the contaminated food.

19 **IV. CAUSE OF ACTION**
20 **NEGLIGENCE**

21 4.1 The defendant manufactured, distributed and sold a product that was not reasonably

1 safe as designed or manufactured, within the meaning of the WPLA, RCW 7.72.030(1).

2 4.2 The defendant was negligent in manufacturing, distributing, and selling a product that
3 was not reasonably safe because adequate warnings or instructions were not provided including, but
4 not limited to, the warning that the food may contain *E. coli* bacteria, and thus should not be provided
5 for the purpose of human consumption.

6 4.3 The defendant had a duty to comply with all statutory and regulatory provisions that
7 pertained or applied to the manufacture, distribution, storage, labeling, and sale of their food products
8 including, but not limited to, the Federal Food, Drug, and Cosmetics Act, which bans the
9 manufacture, sale, and distribution of any “adulterated” food. The defendant breached this duty.

10 4.4 The plaintiff is among the class of persons designed to be protected by the statutory
11 and regulatory provisions pertaining to the defendant’s manufacture, distribution, storage, labeling,
12 and sale of their food.

13 4.5 The defendant owed a duty to the plaintiff to use reasonable care in the manufacture,
14 distribution, and sale of its product, to prevent contamination by *E. coli*. The defendant breached
15 this duty.

16 4.6 As a result of the defendant’s negligence, the plaintiff suffered severe and permanent
17 personal injuries, as well as economic loss.

18 **V. DAMAGES**

19 5.1 The plaintiff has suffered general, special, incidental, and consequential damages as
20 a direct and proximate result of the acts and omissions of the defendant, which damages shall be
21 fully proven at the time of trial, including, but not limited to: damages for loss of enjoyment of life,

1 both past and future; medical and medical related expenses, both past and future; travel and travel-
2 related expenses, past and future; emotional distress, and future emotional distress; pharmaceutical
3 expenses, past and future; wage and other economic damages loss; loss of consortium; and other
4 ordinary, incidental and consequential damages as would be anticipated to arise under the
5 circumstances.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, the plaintiff prays, having stated her claims in full, request judgment by this
8 court against the defendants as follows:

- 9 1. For general damages, in amounts to be proven at the time of trial;
10 2. For special damages, in amounts to be proven at the time of trial;
11 3. For costs, including her reasonable attorney fees; and
12 4. For such other and further relief as the court deems just and equitable in the
13 circumstances.

14 The plaintiff further requests that the court award the plaintiff the opportunity to amend or
15 modify the provisions of this complaint as necessary or appropriate after additional or further
16 discovery is completed, and after all appropriate parties have been served.

17
18 DATED this 16th day of December 2019.

19 MARLER CLARK, L.L.P., P.S.

20
21 

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

William D. Marler, WSBA #17233
Attorneys for Plaintiff