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9
10
11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
13

<p>14 TAYLOR FITZGERALD, individually and 15 as Parent and Guardian of R.B., a Minor 16 Child, 17 18 19 Plaintiffs, 20 v. 21 PAPA MURPHY’S INTERNATIONAL, 22 LLC, a Foreign Corporation d/b/a PAPA 23 MURPHY’S TAKE N BAKE; DOES 1 24 through 10, inclusive; and ROE ENTITIES 1 25 through 10, inclusive, 26 Defendants.</p>	<p>27 Case No. _____</p> <p>28 COMPLAINT Jury Trial Requested</p>
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29 NOW comes Plaintiff, TAYLOR FITZGERALD, individually and on behalf of R.B., a
30 minor child, who, by and through his attorneys of record, Craig Murphy and the law firm of
31 Murphy & Murphy Law Offices, and alleges upon information and belief as follows:

32 **PARTIES**

33 1. Plaintiffs TAYLOR FITZGERALD and R.B., a Minor child, are residents of
34 Rocklin, California. Plaintiffs reside within the jurisdiction of this Court and are citizens of the
35 State of California.

36 2. Defendant, PAPA MURPHY’S INTERNATIONAL LLC, d/b/a PAPA
37 MURPHY’S TAKE N BAKE (hereinafter, “PAPA MURPHY’S) is a Delaware corporation
38 headquartered in Vancouver, Washington. Therefore, PAPA MURPHY’S INTERNATIONAL,

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1 LLC is a citizen of the States of Delaware and Washington.

2 3. Defendant DOE 1 is the true and proper business entity that was the
3 franchisee/owner of the Papa Murphy's Take n Bake restaurant located at 4819 Granite Drive,
4 Rocklin, California 95677. Upon information and belief, DOE 1 owned and operated said Papa
5 Murphy's restaurant at all times relevant to this matter. At this time, after diligent search,
6 Plaintiffs are unaware of the ownership and actual business name of the franchisee/owner.
7 However, as stated above, it is believed and therefore alleged that DOE 1 is responsible for the
8 acts and omissions of Defendant Papa Murphy's restaurant in whole or in part as specified
9 herein. Plaintiffs will ask leave of this Court to insert the true name and capacity for Defendant
10 DOE 1 when the true name and capacity of the DOE 1 is learned by Plaintiffs.

11 4. Defendant ROE ENTITY 1 is the true and proper business entity that was the
12 grower and supplier of the romaine lettuce from the Yuma, Arizona growing region supplied to
13 the Papa Murphy's restaurant located at 4819 Granite Drive, Rocklin, California 95677. Upon
14 information and belief, ROE ENTITY 1 supplied the romaine lettuce at all times relevant to this
15 matter. At this time, after diligent search, Plaintiffs are unaware of the ownership and actual
16 business name of the lettuce grower/supplier. However, as stated above, it is believed and
17 therefore alleged that ROE ENTITY 1 is responsible for the acts and omissions of Defendant
18 Papa Murphy's restaurant in whole or in part as specified herein. Plaintiffs will ask leave of this
19 Court to insert the true name and capacity for Defendant ROE ENTITY 1 when the true name
20 and capacity of the grower/supplier is learned by Plaintiffs.

21 5. DOES 2 through 10 inclusive are persons, and ROE ENTITIES 2 through 10 are
22 corporations, related subsidiary or parent entities, associations, or business entities, whose true
23 names and identities and capacities are unknown to Plaintiffs at this time. The DOE Defendants
24 are individual persons acting on behalf of or in concert with, or at the direction of, any of the
25 Defendants. The ROE Defendants may be corporations, associations, partnerships, subsidiaries,
26 holding companies, owners, predecessor or successor entities, joint ventures, parent corporations,
27 related business entities or the employer of any of the Defendants. Each named Defendant and
28 the DOE and ROE Defendants are legally responsible for the events and happenings stated in

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1 this Complaint, and thus proximately caused injury and damages to Plaintiffs. In particular, said
 2 DOE and ROE Defendants are responsible in full or in part for the growing, distribution,
 3 processing, preparation, contamination, and sale of the ingredients in and the romaine lettuce
 4 sold to or by Defendant Papa Murphy’s restaurant. Plaintiffs will ask leave of this Court to insert
 5 the true names and capacities for such DOE and ROE Defendants when discovered to substitute
 6 those true names as defendants into these proceedings for said DOE and ROE Defendants.

7 **JURISDICTION AND VENUE**

8 6. This Court has jurisdiction over the subject matter of this action pursuant to 28
 9 U.S.C. § 1332(a) because the matter in controversy exceeds \$75,000.00, exclusive of costs, it is
 10 between citizens of different states, and because the Defendants have certain minimum contacts
 11 with the State of California such that maintenance of the suit in this district does not offend
 12 traditional notions of fair play and substantial justice.

13 7. Venue in the United States District Court for the Eastern District of California is
 14 proper pursuant to 28 U.S.C. § 1391(a)(2) because a substantial part of the events or omissions
 15 giving rise to the Plaintiffs’ claims and causes action occurred in this judicial district, and
 16 because the Defendants are subject to personal jurisdiction in this judicial district at the time of
 17 the commencement of the action.

18 **GENERAL ALLEGATIONS**

19 **Prior Outbreaks Linked to Lettuce and Other Leafy Greens**

20 8. *E. coli* O157:H7 outbreaks associated with lettuce and other leafy greens are by
 21 no means a new phenomenon. Outlined below is a list of *E. coli* outbreaks involving
 22 contaminated lettuce or leafy greens:

Date	Causative Agent	Illnesses Reported	Source
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

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1			
2	Apr. 2015	Escherichia coli, Shiga toxin-producing	7
3			Prepackaged leafy greens
4	Mar. 2015	E. coli O157:H7	12
5			Leafy greens
6			Salad/cabbage served at
7	Jul. 2014	E. coli O111	15
8			Applebee's and Yard House (Minnesota)
9			Pre-packaged salads
10	Oct. 2013	E. coli O157:H7	33
11			and sandwich wraps (California)
12			Lettuce served at
13	Jul. 2013	E. coli O157:H7	94
14			Federico's Mexican Restaurant
15			Salad mix, cilantro
16	Jul. 2013	Cyclospora	140 (Iowa); 87 (Nebraska)
17			Shredded lettuce from
18	Dec. 2012 – Jan. 2013	E. coli O157:H7	31
19			Freshpoint, Inc.
20			Leafy greens salad mix
21	Oct. 2012	E. coli O157:H7	33
22			(Massachusetts)
23	Apr. 2012	E. coli O157:H7	28
24			Romaine lettuce
25	Dec. 2011	Salmonella Hartford	5
26			Lettuce; roast beef
27			
28			

1				
2	Dec. 2011	Norovirus	9	Lettuce, unspecified
3	Oct. 2011	E. coli O157:H7	58	Romaine lettuce
4	Oct. 2011	E. coli O157:H7	26	Lettuce
5				
6	Aug. 2011	N/A	8	Lettuce; onions; tomatoes
7				
8				
9	Jul. 2011	Cyclospora cayatenensis	99	Lettuce based salads
10				
11	Jun. 2011	Norovirus	23	Garden salad
12				
13	Apr. 2011	Salmonella Typhimurium	36	Multiple salads
14				
15	Feb. 2011	Norovirus	24	Garden salad
16				
17	Jan. 2011	Norovirus	93	Lettuce; salad, unspecified
18				
19	Jul.-Oct. 2010	Salmonella Java	136	Salad vegetable
20				
21	May 2010	E. coli O145	33 (26 lab-confirmed)	Romaine Lettuce grown in Arizona
22				
23				
24	Apr. 2010	Salmonella Hvittingfoss	102	Lettuce, tomatoes, and olives served at Subway restaurants
25				
26				
27	Jan. 2010	E. coli	260	Lettuce grown in
28				

1			France
2			
3	Dec. 2009	Norovirus	16
4			Lettuce
5	Aug. 2009	Salmonella	27
6		Typhimurium	
7			
8			Romaine lettuce;
9			Recalls issued by
10			Tanimura & Antle, Inc.
11	Aug. 2009	Salmonella spp	124
12			(lettuce), Muranaka
13			Farm, Inc. (parsley),
14			and Frontera Produce
15			(cilantro)
16	Jul. 2009	Salmonella	145
17		Typhimurium	
18			Shredded lettuce from
19	May. 2009	Norovirus	10
20			Taylor Farms
21	Nov. 2008	E. coli O157:H7	130
22			
23	Oct. 2008	E. coli O157:H7	2
24			Chopped shredded
25			iceberg lettuce
26			(Michigan)
27	Oct. 2008	E. coli O157:H7	43 (Johnathan's
28			Family
			Lettuce

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		Restaurant), 21 (Little Red Rooster Restaurant), 12 (M.T. Bellies Restaurant)	
Oct. 2008	Norovirus	64	Tomato relish, lettuce- based salad
Aug.-Sep. 2008	E. coli O157:H7	74	Lettuce from Aunt Mid's Produce Company (California)
Aug.-Oct. 2008	E. coli O157:H7	13	Spinach (Oregon)
May. 2008	E. coli O157:H7	10	Prepackaged lettuce
May. 2008	E. coli O157:H7	6	Pre-packaged salad
May 2008	E. coli O157:H7	9	Lettuce (California, U.S.)
Apr. 2008	Salmonella Branderup	12	Green salad, tomato
Jul. 2007	Shigella sonnei	72	Salad
Jul. 2007	E. coli O157:H7	26	Lettuce
Feb. 2007	Norovirus	8	Lettuce

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1				
2	Jan. 2007	Norovirus	9	Salad
3	Nov. 2006	E. coli O157:H7	78	Lettuce
4				
5	Oct. 2006	E. coli O157:H7	205	Pre-packaged baby spinach from Dole Food Company (California)
6				
7				
8				
9	Sep. 2006	Norovirus	9	Salad
10				
11	Sep. 2005	E. coli O157:H7	34	Prepackaged bagged lettuce from Dole Food Company
12				
13				
14	Jun. 2006	Salmonella Typhimurium	18	Lettuce, tomatoes
15				
16				
17	Oct. 2005	E. coli O157:H7	12	grapes, green; lettuce, prepackaged
18				
19	Nov. 2004	E. coli O157:H7	6	Lettuce, unspecified
20				
21	Jul. 2004	Salmonella Newport	97	Iceberg lettuce
22				
23	Nov. 2003	E. coli O157:H7	19	Spinach, unspecified
24				
25	Oct. 2003	E. coli O157:H7	16	Spinach, unspecified
26				
27	Sep. 2003	E. coli O157:H7	51	Lettuce-based salads, unspecified
28				

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1				
2	Nov. 2002	E. coli O157:H7	60	Romaine lettuce
3				Romaine lettuce from
4	Jul. 2002	E. coli O157:H7	32	Spokane Produce
5				(Washington)
6				
7	Jul. 2002	E. coli O157:H7	55	Caesar salad
8				
9	Nov. 2001	E. coli O157:H7	20	Lettuce-based salads,
10				unspecified
11	Oct. 2000	E. coli O157:H7	6	Salad
12				
13	May 2000	Campylobacter		
14		jejuni	13	Salad
15				
16	May 2000	Norovirus	3	Salad
17				
18	Feb. 2000	Norovirus	7	Salad
19				
20	Oct. 1999	E. coli O157:H7	45	Lettuce, salad
21				
22	Oct. 1999	E. coli O157:H7	47	Salad
23				
24	Oct. 1999	Norovirus	16	Salad
25				
26	Sep. 1999	E. coli O157:H11	6	Lettuce
27				
28	Sep. 1999	Norovirus	115	Lettuce
	Sep. 1999	E. coli O111:H8	58	Salad

1	Aug. 1999	Norovirus	25	Salad
2				
3	May 1999	Norovirus	28	Salad
4				
5	Feb. 1999	E. coli O157:H7	72	Lettuce
6				
7	May 1998	E. coli O157:H7	2	Salad
8				
9	May 1996	E. coli O157:H7	61	Lettuce
10				
11	Oct. 1995	E. coli O153:H46	11	Lettuce
12				
13	Sep. 1995	E. coli O153:H47	30	Lettuce
14				
15	Sep. 1995	E. coli O157:H7	21	Lettuce
16				
17	Jul. 1995	E. coli O153:H48	74	Lettuce

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

17 9. As of May 8, 2018, 149 cases in 29 states: Alaska (8), Arizona (8), California
18 (30), Colorado (2), Connecticut (2), Florida (1), Georgia (5), Idaho (11), Illinois (2), Kentucky
19 (1), Louisiana (1), Massachusetts (3), Michigan (4), Minnesota (10), Mississippi (1), Missouri
20 (1), Montana (8), New Jersey (8), New York (4), North Dakota (2), Ohio (3), Pennsylvania (20),
21 South Dakota (1), Tennessee (1), Texas (1), Utah (1), Virginia (1), Washington (7), and
22 Wisconsin (2). Six are reported ill in Canada.

23 10. Illnesses started on dates ranging from March 13, 2018 to April 25, 2018. Ill
24 people range in age from 1 to 88 years, with a median age of 30. Sixty-five percent of ill people
25 are female. Of 129 people with information available, 64 (50%) have been hospitalized,
26 including 17 people who developed hemolytic uremic syndrome, a type of kidney failure. One
27 death was reported from California.

28 11. Illnesses that occurred after April 17, 2018, might not yet be reported due to the

1 time it takes between when a person becomes ill with *E. coli* and when the illness is reported.
2 This takes an average of two to three weeks.

3 12. State and local health officials continue to interview ill people to ask about the
4 foods they ate and other exposures before they became ill. 102 (91%) of 112 people interviewed
5 reported eating romaine lettuce in the week before their illness started. Most people reported
6 eating a salad at a restaurant, and romaine lettuce was the only common ingredient identified
7 among the salads eaten. The restaurants reported using bagged, chopped romaine lettuce to make
8 salads. At this time, ill people are not reporting whole heads or hearts of romaine. Information
9 collected to date indicates that chopped romaine lettuce from the Yuma, Arizona growing region
10 could be contaminated with *E. coli* O157:H7 and could make people sick.

11 13. Federal and state public health officials continue to investigate this outbreak.
12 Among other things, these investigators are currently trying to determine the precise location(s)
13 at which the contaminated lettuce was grown and/or processed.

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

15 14. *Escherichia coli* is the name of a common family of bacteria, most members of
16 which do not cause human disease. *E. coli* O157:H7 is a specific member of this family that can
17 cause bloody diarrhea (hemorrhagic colitis) in humans. In the years since *E. coli* O157:H7 was
18 first identified as a cause of diarrhea, this bacterium has established a reputation as a significant
19 public health hazard.
20

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

27 16. The most severe cases of the *E. coli* O157:H7 infection occur in young children
28 and in the elderly, presumably because the immune systems in those age populations are the

1 most vulnerable. After a susceptible individual ingests *E. coli* O157:H7, the bacteria attach to
2 the inside surface of the large intestine and initiates an inflammatory reaction of the intestine.
3 What ultimately results is the painful bloody diarrhea and abdominal cramps characteristic of the
4 intestinal illness.

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

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

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

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

28 ///

R.B.'s Injuries

1
2 21. On or about April 10, 2018, R.B. consumed romaine lettuce from the Yuma,
3 Arizona growing region in a salad at the Papa Murphy's restaurant located at 4819 Granite
4 Drive, Rocklin, California 95677. The romaine lettuce was contaminated by *E. coli* O157:H7
5 bacteria, leading to R.B.'s *E. coli* O157:H7 infection and related injuries.

6 22. R.B. began feeling ill around April 12, 2018. He experienced fevers, agonizing
7 abdominal cramps, and bloody diarrhea, culminating in his admittance to Sutter General
8 Sacramento on March 14, 2018.

9 23. R.B. remained hospitalized until April 30, 2018. During his hospitalization, he
10 developed HUS, and required four blood transfusions. He also submitted a stool sample that
11 tested positive for *E. coli* O157:H7.

12 24. R.B.'s recovery continues as of the date of this complaint.

CAUSES OF ACTION

COUNT I - BREACH OF WARRANTY

13
14
15 25. The Plaintiffs incorporate by reference and make a part of this count each and
16 every foregoing paragraph of this Complaint.

17 26. Defendants produced, distributed, and sold the contaminated food product that
18 injured the Plaintiff, and caused his *E. coli* O157:H7 infection. The Defendants are, therefore,
19 manufacturers, distributors, and sellers of an adulterated food product, and the adulterated food
20 product reached the Plaintiff without substantial change from the condition in which it was sold
21 by the Defendant.

22 27. The Defendants are subject to liability to the Plaintiff for its breaches of express
23 and implied warranties made to the Plaintiff with respect to the food product sold to him,
24 including the implied warranties of merchantability and of fitness for a particular use. Further,
25 the Defendants expressly warranted, through its sale of food to the public, and by the statements
26 and conduct of its employees and agents, that the food product ultimately sold to the Plaintiff
27 was fit for human consumption, and not otherwise adulterated or injurious to health.

28 28. The food product sold by the Defendants and ultimately consumed by Plaintiff,

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1 which product was contaminated with *E. coli* O157:H7 and related filth and adulteration, would
2 not pass without exception in the trade, and was thus in breach of the implied warranty of
3 merchantability.

4 29. The Plaintiff further alleges that the contaminated food sold by the Defendants
5 and consumed by the Plaintiff was not fit for the uses and purposes intended by either the
6 Plaintiff or the Defendants, *i.e.*, human consumption, and that this product was therefore in
7 breach of the implied warranty of fitness for its intended use.

8 30. As a further direct and proximate result of the conduct of Defendants and their
9 agents, servants, and/or employees as aforesaid, Plaintiff suffered an *E. coli* O157:H7 infection
10 and the adverse effects associated with the same, as described in previous paragraphs of this
11 complaint.

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

16 32. As a further direct and proximate result of the conduct of Defendants and their
17 agents, servants, and/or employees, Plaintiff suffered an inability to perform the activities of
18 daily living or some of them.

19 33. As a further direct and proximate result of the conduct of Defendants and their
20 agents, servants, and/or employees, Plaintiff was forced to expend sums of money for doctors,
21 hospitals, and/or other items necessary for his proper care and treatment.

22 **COUNT II**

23 **STRICT LIABILITY**

24 34. The Plaintiff incorporates by reference and makes a part of this Count each and
25 every foregoing paragraph of this Complaint.

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

1 breached this duty.

2 36. The Defendants owed a duty to the Plaintiff to provide adequate warnings about
3 the non-obvious danger of its food products, including warnings and instructions indicating that
4 the food might contain pathogenic bacteria, including *E. coli* O157:H7. The Defendants
5 breached this duty.

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

9 38. Because the food that the Plaintiff purchased and consumed was adulterated, not
10 fit for human consumption, not reasonably safe in design and construction, lacked adequate
11 warnings and instructions, and was unsafe to an extent beyond that contemplated by the ordinary
12 consumer, the Defendants are liable to the Plaintiff for the harm proximately caused to the him
13 by its manufacture and sale of contaminated and adulterated food products, and as such the
14 Defendants are strictly liable to the Plaintiff for such harm.

15 **COUNT III**

16 **NEGLIGENCE**

17 39. Plaintiff incorporates by reference and makes a part of this Count each and every
18 foregoing paragraph of this Complaint.

19 40. The Defendants had a duty to comply with all statutory and regulatory provisions
20 that pertained or applied to the manufacture, distribution, storage, labeling, and sale of the food
21 products that injured Plaintiff, including the applicable provisions of the Federal Food, Drug and
22 Cosmetic Act, and similar California food and public health statutes, including without limitation
23 the provisions of the California Health & Safety Code Article 5, all of which prohibit the
24 manufacture and sale of any food that is adulterated, or otherwise injurious to health.

25 41. The food product that Defendants manufactured and sold, and that the Plaintiff
26 purchased and consumed, was adulterated within the meaning of the federal Food, Drug and
27 Cosmetic Act, and similar California statutes, because it contained a deleterious substance that
28 rendered it injurious to health, *i.e.*, *E. coli* O157:H7 bacteria.

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1 42. The Defendants violated federal, state, and local food safety regulations by its
2 manufacture and sale of adulterated food. These federal, state, and local food safety regulations
3 are applicable here, and establish a positive and definite standard of care in the manufacture and
4 sale of food. The violation of these regulations constitutes negligence as a matter of law.

5 43. The Plaintiff is in the class of persons intended to be protected by these statutes
6 and regulations, and Plaintiff was injured as the direct and proximate result of the Defendants’
7 violation of applicable federal, state, and local food safety regulations.

8 44. The Defendants were negligent in the manufacture, distribution, and sale of a food
9 product that was adulterated with *E. coli* O157:H7, not fit for human consumption, and not
10 reasonably safe because adequate warnings or instructions were not provided.

11 45. Once the Defendants learned, or in the exercise of reasonable care should have
12 learned, of the dangers associated with preparing and selling food, including, but not limited to,
13 cross-contamination between foods, and the dangers associated with improperly cleaned or
14 washed food, it had a duty to warn the Plaintiff, but failed to do so.

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

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

22 47. The Defendants had a duty to properly supervise, train, and monitor its
23 employees, or the employees of its agents or subcontractors, engaged in the preparation and
24 sale of its food products, to ensure compliance with the Defendants’ operating standards and to
25 ensure compliance with all applicable health regulations. The Defendants failed to properly
26 supervise, train, and monitor these employees engaged in the manufacture, preparation and
27 delivery of the food product ultimately sold to the Plaintiff, and thus breached that duty.
28

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PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray for judgment against the Defendants as follows:

- a. Judgment for the Plaintiffs against the Defendants for just compensation in a fair and reasonable amount for the damages above set forth; and
- b. Such additional and/or further relief, including interest, costs, and reasonable attorney fees, as this Court deems just and equitable.

JURY TRIAL DEMANDED

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