

RETURN DATE: June 25, 2024

ANGELA JOSEPHINE BAXENDALE AND LOUIS  
GRANDELLI, AS ADMINISTRATORS OF THE  
ESTATE OF ÓRLA RUTH BAXENDALE

V.

STEW LEONARD'S DANBURY, LLC, STEW  
LEONARD'S HOLDINGS, LLC, STEW LEONARD  
JR., DAVID POLLARD, PETER TOURNAS, BRET  
CHERRY, MARIO ORTIZ, CHRIS NEMER,  
ANNEMARIE CLARKE aka ANNEMARIE CLARKE  
GOCHEE, SERGIO ROCHA and COOKIES UNITED  
LLC

SUPERIOR COURT

J.D. OF WATERBURY

May 23, 2024

### **INTRODUCTION**

1. This is a civil action arising out of the tragic death of ÓRLA RUTH BAXENDALE a twenty-five-year-old woman who died as a result of the gross negligence and reckless indifference to the rights of others and an intentional and wanton violation of those rights by the defendants, STEW LEONARD'S DANBURY, LLC, STEW LEONARD'S HOLDINGS, LLC, STEW LEONARD JR., DAVID POLLARD, PETER TOURNAS, BRET CHERRY, MARIO ORTIZ, CHRIS NEMER, ANNEMARIE CLARKE aka ANNEMARIE CLARKE GOCHEE, SERGIO ROCHA (hereinafter the "Stew Leonard's Defendants") and COOKIES UNITED LLC, by manufacturing, packaging, labeling, distributing, and entering into the stream of commerce, Florentine Cookie(s) which contained, among other things, undeclared peanuts and other known allergens.

2. The aforementioned cookie(s) were consumed on January 11, 2024, by ÓRLA RUTH BAXENDALE, an innocent victim with a lifelong history of known severe peanut allergy and who, like all consumers, relied upon the manufacturer and seller to properly label the package sold to the general public.

3. The failure to properly label the package prior to the distribution and sale of the Florentine Cookie(s) was grossly negligent, intentional, reckless, callous, indifferent to human life, and a wanton violation as the manufacturer and seller were required under the law to properly declare the ingredients.

4. On July 20, 2023, approximately six months prior to this tragic death, no less than eleven employees of the Stew Leonard's Defendants, were notified by email of the change in ingredients, including the addition of peanuts to the cookie recipe, by the defendant cookie manufacturer, COOKIES UNITED LLC.

5. The Stew Leonard's Defendants were informed by email on July 20, 2023, that the ingredients had changed and that the cookie(s) "now contain peanuts." They were provided with updated labels including an updated ingredient listing/nutrition fact panel which stated that the cookies contained, among other things, peanuts. Despite the email notification of these changes, the Stew Leonard's Defendants ignored the email and never changed the label or the nutrition fact panel and never properly updated the packaging.

6. On October 13, 2023, or thereabout, the subject cookie(s) were sent by the defendant cookie manufacturer, COOKIES UNITED LLC, to the Stew Leonard's Defendants in bulk packaging which contained a label indicating that the cookie(s) contained, among other known allergens, peanuts. This notification, like the emails before it, was completely ignored.

7. On January 11, 2024, after ÓRLA RUTH BAXENDALE ingested the Florentine Cookie, she experienced an anaphylactic reaction causing shortness of breath, difficulty breathing and swallowing, dizziness, wheezing, chest tightness, lightheadedness, increased heartrate, sudden weakness, feeling of doom and dread with accompanying terror, cardiac arrest, loss of consciousness and death.

8. The evidence of Stew Leonard's liability for both compensatory and punitive damages is startling and overwhelming. The evidence clearly shows that a deadly cookie sold and packaged by Stew Leonard's killed ÓRLA RUTH BAXENDALE who was in the prime of her life and caused her parents Angela and Simon Baxendale to suffer the loss of their child, yet, Stew Leonard's has failed to take responsibility for the senseless and preventable tragedy of ÓRLA RUTH BAXENDALE's death. While Stew Leonard's claims to have a "philosophy built around an acronym for S.T.E.W.: Satisfy the Customer; Teamwork gets It done; Excellence makes it better; Wow makes it fun" their actions in this matter starkly betray the self-promotion philosophy they claim to uphold.

#### **DEFENDANTS' BLAME GAME AND ATTEMPTED COVER-UP**

9. After ÓRLA RUTH BAXENDALE's death and more specifically on January 23, 2024, the Stew Leonard's Defendants issued a press release placing the blame squarely on the cookie manufacturer, COOKIES UNITED LLC. In its press release, which has since been taken off their website, they stated "We have very strict food safety practices and one of them is having all proper ingredients listed on our labels. Unfortunately, we are buying these cookie(s) from a company who never told us they changed the ingredients. We sold them in good faith and one customer was affected." This statement proved to be false.

10. On January 23, 2024, the defendant, COOKIES UNITED LLC, in response to the aforementioned press release, the defendant, COOKIES UNITED LLC, issued their own, stating "We need to point out that Stew Leonard's was notified by Cookies United in July of 2023 that this product now contains peanuts and all products shipped to them have been labeled accordingly. This product is sold under the Stew Leonard's brand and repackaged at their facilities. The incorrect label was created by, and applied to, their product by Stew Leonard's."

11. Further, on January 24, 2024, the defendant, COOKIES UNITED LLC, issued a second press release wherein it stated: “Further to Cookies United’s press release from January 23, 2024, and the accusations from Stew Leonard’s that the peanut ingredient was not disclosed to them, attached is the communication from July 20, 2023, sent to eleven (11) Stew Leonard’s employees” providing the new labels and nutrition fact panel.

12. Immediately thereafter Stew Leonard’s Defendants removed their press release of January 23, 2024, from their website.

### **ADMISSIONS OF GUILT**

13. On January 24, 2024, a video press release was released by the Stew Leonard’s Defendants, wherein Stew Leonard Jr. admitted liability by stating that the cookie ingested by the plaintiffs’ decedent, ÓRLA RUTH BAXENDALE, was purchased from one of their stores and that said cookie contained peanuts and other known allergens which had not been previously disclosed.

14. Stew Leonard Jr. also admitted that the label on the Florentine Cookie(s) failed to list that the cookie(s) contained peanuts, that they sold approximately five-hundred packages of the Florentine Cookie(s) that were labeled falsely and in violation of statutory requirements, and that they were illegally mislabeled in violation of law and official and accepted rules.

### **REGULATORS ATTRIBUTE ÓRLA RUTH BAXENDALE’S DEATH DIRECTLY TO DEFENDANTS**

15. On January 23, 2024, the Connecticut Consumer Protection Food, Standards and Product Safety Division (DCP) and the Connecticut Department of Public Health (DPH) issued a statement wherein it stated that consumers with peanut allergies should not consume Florentine Cookie(s) sold at Stew Leonard’s store and that the Florentine Cookie(s) contained undeclared peanuts. DCP Commissioner Bryan T. Cafferelli stated “This is a heartbreaking tragedy that

should never have happened.”

16. DPH Commissioner Manisha Juthani, MD stated that the packaging should have contained “Correct labeling so that people who have food allergies can appropriately protect themselves is of utmost importance. I am devastated to learn of this incident and will work with partners to ensure that we can protect people with food allergies. I cannot stress enough the importance of food allergy awareness so that an avoidable tragedy like this doesn’t happen again.”

17. According to the DCP, “Packaged products other than raw, uncut produce (fruits and vegetables) must comply with requirements under the Federal Fair Packaging and Labeling Act and the Federal Food, Drug and Cosmetic Act as modified by the Federal Nutrition Labeling and Education Act of 1990. These provisions have been adopted by the State of Connecticut. State requirements as specified by the federal acts cannot differ from the federal requirements.”

18. Further, according to the DCP, “Federal law requires that all labels contain at least four elements. These elements must be clear and conspicuous and located according to federal requirements. The four elements are: 1) The common or usual name of the product. Example: “Strawberry Jam” 2) The net quantity contained with the package, e.g., less tare in English and Metric unit declaration. Tare is equal to the weight of the packaging. 3) Declaration of responsibility, including the name and address of the processor or distributor, e.g., "Processed by," "Manufactured by," or "Distributed for" followed by the name of the processor/manufacturer. Name and full address including street address are required unless the processor is listed in a telephone directory. If so, the processor's name, town and state is an acceptable format. 4) Declaration of contents in order of predominance in the product by weight with the largest component occurring first, e.g., “Strawberries, sugar, spices.” Of particular importance is whether the product contains any of the top 8 allergens which must be listed by their common names. The

allergens are: Milk, Eggs, Peanuts, Tree nuts (such as almonds, cashews, walnuts), Fish (such as bass, cod, flounder), Shellfish (such as crab, lobster, shrimp), Soy, Wheat.”

19. According to the FDA the nine major food allergens are peanuts, wheat, soybeans, sesame milk, eggs, fish, crustacean shellfish, and tree nuts.

20. The Stew Leonard’s Defendants and COOKIES UNITED LLC violated, among other things, the FDA Model Food Code, ANSI Z Standards, and ISO 22000 standards.

**STEW LEONARD’S INADEQUAE SYSTEMS:  
BROKEN, UNRELIABLE, and DEADLY LABELING and PACKAGING PRACTICES**

21. On and before January 11, 2024, the systems in place at Stew Leonard’s used by them to maintain and update the proper labels was broken, unreliable, inherently dangerous, undependable, untrustworthy, erratic, and deplorable, in that not only were the subject cookie(s) mislabeled because the packaging failed to state that the cookies contained peanuts, but also because the very same packaging failed to include other known allergens which Stew Leonard’s knew about because they were sent labels from COOKIES UNITED LLC in July 2023 indicating the known allergens of peanuts and eggs but failed to include that information on that packaging. The manufacturer had informed Stew Leonard’s that the Florentine Cookie(s) contained peanuts and egg however, Stew Leonard’s never included this known allergen on their labels for the Florentine Cookie(s). It was not until the death of ÓRLA RUTH BAXENDALE and the involvement of the public authorities that Stew Leonard’s recalled the Florentine Cookie(s) because they contained well known allergens, both peanuts and eggs.

22. Additionally, further proof of the broken, unreliable, inherently dangerous, undependable, untrustworthy, erratic, and deplorable, systems in place to identify known food allergens at Stew Leonard’s are additional recalls that were done only after the death of ÓRLA RUTH BAXENDALE. On February 5, 2024, Stew Leonard’s recalled its chicken salad and sliced

chicken because the products “may contain undeclared milk.” The products were sold in Stew Leonard’s deli department for about eighteen months between August 2022 - January 29, 2024. The recall included: Sliced and Shaved Chicken, Sliced and Shaved Buffalo Chicken, Chicken Salad, Chicken Salad Sub Sandwich, Buffalo Chicken Salad, Boom Boom Chicken Salad, Cape Cod Chicken Salad, Lite Chicken Salad. Another recall was issued on January 27, 2024 for Rainbow Cookies because the labels did not show all non-allergen ingredients. All of these recalls demonstrate that the systems in place at Stew Leonard’s to maintain and update the proper labels were broken, unreliable, inherently dangerous, undependable, untrustworthy, erratic, and deplorable.

23. Additionally, further proof of the broken, unreliable, inherently dangerous, undependable, untrustworthy, erratic, and deplorable, systems in place to identify known food allergens at Stew Leonard’s are additional recalls that were done only after the death of ÓRLA RUTH BAXENDALE. On March 15, 2024, Stew Leonard’s recalled its Apple Crisp made with Honeycrisp Apples (whole and half pies) and its No Sugar Apple Pie. These items were recalled because the Apple Crisp Made with Honeycrisp Apples “may contain undeclared milk and the No Sugar Added Apple Pie may contain undeclared eggs.” These products were sold in Stew Leonard’s bakery department for more than seven months. All of these recalls demonstrate that the systems in place at Stew Leonard’s to maintain and update the proper labels were broken, unreliable, inherently dangerous, undependable, untrustworthy, erratic, and deplorable.

### **PARTIES**

24. ÓRLA RUTH BAXENDALE was a twenty-five-year-old accomplished dancer who moved to New York from East Lancashire, UK to pursue her career. She was a scholarship student at the Alvin Ailey School and performed in many successful productions and was widely

considered a superstar in the dance community. She was a successful graduate who left behind her mother, Angela Baxendale, father, Simon Baxendale, sisters, Ciara and Niamh Baxendale, and brother, Rowan Baxendale.

25. On or about March 19, 2024, ANGELA JOSEPHINE BAXENDALE of Helmshore, Rossendale, United Kingdom and LOUIS GRANDELLI of New York, New York were appointed as Co-Administrators of the Estate of the deceased ÓRLA RUTH BAXENDALE by the Surrogate's Court of the State of New York, New York County. A copy of the Letters of Administration dated March 19, 2024, is attached hereto as Exhibit "A".

26. At all times relevant, the defendant, STEW LEONARD'S DANBURY, LLC, was a domestic limited liability company with its principal office located at 100 Westport Avenue, Norwalk, Connecticut 06851 operating as a grocery store located at 99 Federal Road, Danbury, Connecticut, 06811, that purchased, labeled, distributed and sold cookie(s), and specifically, Florentine Cookie(s), that would be consumed by the general public.

27. At all times relevant, the defendant, STEW LEONARD'S HOLDINGS, LLC, was a domestic limited liability company with its principal office located at 100 Westport Avenue, Norwalk, Connecticut 06851 that purchased, labeled, distributed, and sold cookie(s), and specifically, Florentine Cookie(s), that would be consumed by the general public.

28. At all times relevant, the defendants, STEW LEONARD JR., DAVID POLLARD, PETER TOURNAS, BRET CHERRY, MARIO ORTIZ, CHRIS NEMER, ANNEMARIE CLARKE aka ANNEMARIE CLARKE GOCHEE, and SERGIO ROCHA, were employed by the defendants, STEW LEONARD'S DANBURY, LLC, STEW LEONARD'S HOLDINGS, LLC, and were involved in the purchasing, labeling, packaging, distributing, and selling of cookie(s), and specifically, Florentine Cookie(s), that would be consumed by the general public.



29. Stew Leonard, Jr. is the President and CEO of Stew Leonard's, DAVID POLLARD is the Purchasing Administrator of Stew Leonard's, PETER TOURNAS is the Chief Buyer of Stew Leonard's, BRET CHERRY is the Store Manager of Stew Leonard's, MARIO ORTIZ is the Bakery Clerk of Stew Leonard's, CHRIS NEMER is the Director of Store Operation of Stew Leonard's, ANNEMARIE CLARKE aka ANNEMARIE CLARKE GOCHEE is the Bakery Manager of Stew Leonard's, and SERGIO ROCHA is the Bakery Manager of Stew Leonard's. Additionally, Carl Danielson, Hery Escoto, Crystal Farrell, and Alyssa Bianco were Stew Leonard's employees in New York and were sent the aforementioned email dated July 20, 2023 regarding the addition of peanuts to the ingredients and the new label and nutritional fact panel.

30. At all relevant times, the defendant, COOKIES UNITED LLC, was a New York domestic limited liability company located at 141 Freeman Avenue, Islip, New York 11751. COOKIES UNITED LLC manufactured, labeled, distributed, and sold cookie(s).

## COMPLAINT

### **COUNT ONE:**

**WRONGFUL DEATH PURSUANT TO CONN. GEN. STAT. § 52-555  
ANGELA JOSEPHINE BAXENDALE AND LOUIS GRANDELLI, AS  
ADMINISTRATORS OF THE ESTATE OF ÓRLA RUTH BAXENDALE  
v. STEW LEONARD'S DANBURY, LLC, STEW LEONARD'S HOLDINGS, LLC,  
STEW LEONARD JR., DAVID POLLARD, PETER TOURNAS, BRET CHERRY,  
MARIO ORTIZ, CHRIS NEMER, ANNEMARIE CLARKE aka ANNEMARIE  
CLARKE GOCHEE, and SERGIO ROCHA**

1-30. Plaintiffs hereby incorporate and reallege as if fully set forth herein Paragraphs 1 – 30 of the foregoing opening section.

31. This is a wrongful death claim, brought pursuant to Conn. Gen. Stat. § 52-555.

32. At all times relevant, the Stew Leonard's Defendants had a contract with the defendant, COOKIES UNITED LLC, for the manufacture and purchase of, among other things, cookie(s), and specifically Florentine Cookie(s), that would be distributed, sold, and then

consumed by the general public.

33. At all times relevant, the Stew Leonard's Defendants had a purchase order with the defendant, COOKIES UNITED LLC, for the manufacture and purchase of, among other things, cookie(s), and specifically Florentine Cookie(s), that would be distributed, sold, and then consumed by the general public.

34. At all times relevant, the Stew Leonard's Defendants purchased, labeled, distributed, and sold Florentine Cookie(s) to the general public.

35. The Stew Leonard's Defendants purchased, labeled, distributed, and sold the Florentine Cookie that was consumed by ÓRLA RUTH BAXENDALE on January 11, 2024.

36. On January 11, 2024, and sometime prior thereto, the Stew Leonard's Defendants failed to properly label and/or warn the general public that the Florentine Cookie(s) distributed and sold at the aforementioned grocery store contained, among other things, peanuts.

37. On January 11, 2024, ÓRLA RUTH BAXENDALE consumed the aforementioned Florentine Cookie.

38. On January 11, 2024, after ÓRLA RUTH BAXENDALE ingested the Florentine Cookie, she experienced an anaphylactic reaction causing shortness of breath, difficulty breathing and swallowing, dizziness, wheezing, chest tightness, lightheadedness, increased heartrate, sudden weakness, feeling of doom and dread with accompanying terror, cardiac arrest, loss of consciousness and death and was emergently transported to New Milford Hospital.

39. On January 11, 2024, ÓRLA RUTH BAXENDALE died of complications of anaphylaxis due to peanut food allergy.

40. The Stew Leonard's Defendants were careless and negligent in causing ÓRLA RUTH BAXENDALE's severe injuries and death, in one or more of the following ways:

- a. Ignored, disregarded, failed to heed, and neglected the July 20, 2023, letter from the defendant, COOKIES UNITED LLC, which informed of the change in ingredients to add peanuts and which provided the necessary and proper label and nutrition fact panel;
- b. From the period of July 20, 2023, through and including the decedent's death they continued to ignore the July 20, 2023 letter from the defendant, COOKIES UNITED LLC which informed of the change in ingredients to add peanuts and which provided the necessary and proper label and nutrition fact panel;
- c. From the period of July 20, 2023, through the decedent's death, they failed to recall the Florentine Cookie(s);
- d. Failed to adequately and properly label that the Florentine Cookie(s) contained peanuts;
- e. Failed to adequately and properly warn that the Florentine Cookie(s) contained peanuts;
- f. Failed to promptly notify the general public that the Florentine Cookie(s) contained peanuts;
- g. Failed to inform the general public that the Florentine Cookie(s) contained peanuts;
- h. Failed to adequately and properly test the Florentine Cookie(s);
- i. Distributed the Florentine Cookie(s) without proper labels;
- j. Distributed the Florentine Cookie(s) without proper warnings;
- k. Failed to follow up with the Florentine Cookie(s) manufacturer regarding the ingredients of the Florentine Cookie(s);
- l. Failed to review the ingredients of the Florentine Cookie(s);

- m. Failed to promptly notify its agents, servants, representatives, and employees that the Florentine Cookie(s) contained peanuts;
- n. Failed to inform its agents, servants, representatives, and employees that the Florentine Cookie(s) contained peanuts;
- o. Failed to advise its agents, servants, representatives, and employees that the Florentine Cookie(s) contained peanuts;
- p. Failed to maintain proper records regarding the ingredients of the Florentine Cookie(s);
- q. Failed to audit the Florentine Cookie(s);
- r. Failed to follow the FDA Model Food Code;
- s. Failed to follow ANSI Z standards;
- t. Failed to follow ISO 22000 standards;
- u. Failed to follow the rules, regulations, standards and protocols for the sale and distribution of the Florentine Cookie(s).

41. As a result of the gross negligence and reckless indifference to the rights of others and an intentional and wanton violation of those rights by the Stew Leonard's Defendants, ÓRLA RUTH BAXENDALE sustained profound personal injuries and losses, including, but not limited to:

- a. Anaphylactic reaction causing shortness of breath;
- b. Difficulty breathing and swallowing;
- c. Dizziness;
- d. Wheezing;
- e. Chest tightness;

- f. Lightheadedness;
- g. Increased heartrate;
- h. Sudden weakness;
- i. Feeling of doom and dread;
- j. Fear of impeding death;
- k. Terror;
- l. Unconsciousness;
- m. Cardiac arrest;
- n. Loss of consciousness;
- o. Antemortem pain and suffering;
- p. Destruction of the ability to enjoy life's activities;
- q. Destruction of earning capacity;
- r. Multi-organ failure;
- s. Pain and suffering;
- t. Psychological, physiological, neurological, and death sequelae;
- u. Death.

42. As a further direct and proximate result of the aforementioned injuries, ÓRLA RUTH BAXENDALE has been permanently deprived of her ability to carry on and enjoy life's activities and her earning capacity has been permanently destroyed.

43. As a further direct and proximate result of the aforementioned injuries and death of ÓRLA RUTH BAXENDALE, the Estate of ÓRLA RUTH BAXENDALE has incurred expenses for medical care and treatment and funeral costs all to its financial loss.

**COUNT TWO:**

**WRONGFUL DEATH PURSUANT TO CONN. GEN. STAT. § 52-555**

**ANGELA JOSEPHINE BAXENDALE AND LOUIS GRANDELLI, AS  
ADMINISTRATORS OF THE ESTATE OF ÓRLA RUTH BAXENDALE  
v. COOKIES UNITED LLC**

1-43. Plaintiffs hereby incorporate and reallege as if fully set forth herein Paragraphs 1 – 43 of the foregoing opening section.

44. This is a wrongful death claim, brought pursuant to Conn. Gen. Stat. § 52-555.

45. At all times relevant, the defendant, COOKIES UNITED LLC, its agents, servants, representatives, and employees, (hereinafter collectively “COOKIES UNITED LLC”) had a contract with the Stew Leonard’s Defendants for the manufacture, purchase, and distribution of cookie(s), and specifically Florentine Cookie(s), that would be distributed, sold, and then consumed by the general public.

46. At all times relevant, the defendant, COOKIES UNITED LLC, had a purchase order with the Stew Leonard’s Defendants, for the manufacture, purchase, and distribution of cookie(s), and specifically Florentine Cookie(s), that would be distributed, sold, and then consumed by the general public.

47. At all times relevant, the defendant, COOKIES UNITED LLC, manufactured, distributed, and sold Florentine Cookie(s), to the Stew Leonard’s Defendants, wherein the defendant, COOKIES UNITED LLC, knew and/or should have known that the Florentine Cookie(s) would be distributed, sold, and then consumed by the general public.

48. The defendant, COOKIES UNITED LLC, manufactured, distributed, and sold the Florentine Cookie that was consumed by ÓRLA RUTH BAXENDALE on January 11, 2024.

49. On January 11, 2024, and sometime prior thereto, the defendant, COOKIES UNITED LLC, failed to properly label and/or warn that the Florentine Cookie(s) contained, among other things, peanuts.

50. On January 11, 2024, ÓRLA RUTH BAXENDALE consumed the aforementioned Florentine Cookie.

51. On January 11, 2024, after ÓRLA RUTH BAXENDALE ingested the Florentine Cookie, she experienced an anaphylactic reaction causing shortness of breath, difficulty breathing and swallowing, dizziness, wheezing, chest tightness, lightheadedness, increased heartrate, sudden weakness, feeling of doom and dread with accompanying terror, cardiac arrest, loss of consciousness and death, and was emergently transported to New Milford Hospital.

52. On January 11, 2024, ÓRLA RUTH BAXENDALE died of complications of anaphylaxis due to peanut food allergy.

53. COOKIES UNITED LLC was negligent, causing ÓRLA RUTH BAXENDALE's severe injuries and death, in one or more of the following ways:

- a. Failed to properly notify the Stew Leonard's Defendants, Chief Safety Officer that there was a change in the ingredients and labeling for the subject Florentine Cookie(s);
- b. Failed to adequately and properly label that the Florentine Cookie(s) contained peanuts;
- c. Failed to adequately and properly warn that the Florentine Cookie(s) contained peanuts;
- d. Failed to promptly notify the general public that the Florentine Cookie(s) contained peanuts;
- e. Failed to inform the general public that the Florentine Cookie(s) contained peanuts;
- f. Failed to promptly notify the Stew Leonard's Defendants, that the Florentine Cookie(s) contained peanuts;

- g. Failed to inform the Stew Leonard's Defendants, that the Florentine Cookie(s) contained peanuts;
- h. Failed to adequately and properly test the Florentine Cookie(s);
- i. Distributed the Florentine Cookie(s) without proper labels;
- j. Distributed the Florentine Cookie(s) without proper warnings;
- k. Failed to follow up with the Stew Leonard's Defendants, that the Florentine Cookie(s) contained peanuts;
- l. Failed to disclose the ingredients of the Florentine Cookie(s);
  - a. Failed to audit the Florentine Cookie(s);
  - b. Failed to follow the FDA Model Food Code;
  - c. Failed to follow ANSI Z standards;
- m. Failed to follow ISO 22000 standards;
- n. Failed to label the containers properly for the Florentine Cookie(s);
- o. Failed to follow the rules, regulations, standards and protocols for the sale and distribution of the Florentine Cookie(s);

54. As a direct and proximate result of the gross negligence and reckless indifference to the rights of others and an intentional and wanton violation of those rights by the Stew Leonard's Defendants, ÓRLA RUTH BAXENDALE, sustained profound personal injuries and losses, including, but not limited to:

- a. Anaphylactic reaction causing shortness of breath;
- b. Difficulty breathing and swallowing;
- c. Dizziness;
- d. Wheezing;



- e. Chest tightness;
- f. Lightheadedness;
- g. Increased heartrate;
- h. Sudden weakness;
- i. Feeling of doom and dread;
- j. Fear of impeding death;
- k. Terror;
- l. Unconsciousness;
- m. Cardiac arrest;
- n. Loss of consciousness;
- o. Antemortem pain and suffering;
- p. Destruction of the ability to enjoy life's activities;
- q. Destruction of earning capacity;
- r. Multi-organ failure;
- s. Pain and suffering;
- t. Psychological, physiological, neurological, and death sequelae;
- u. Death.

55. As a further direct and proximate result of the aforementioned injuries, ÓRLA RUTH BAXENDALE has been permanently deprived of her ability to carry on and enjoy life's activities and her earning capacity has been permanently destroyed.

56. As a further direct and proximate result of the aforementioned injuries and death of ÓRLA RUTH BAXENDALE, the Estate of ÓRLA RUTH BAXENDALE has incurred expenses for medical care and treatment and funeral costs all to its financial loss.

**COUNT THREE:**

**ANGELA JOSEPHINE BAXENDALE AND LOUIS GRANDELLI, AS ADMINISTRATORS OF THE ESTATE OF ÓRLA RUTH BAXENDALE v. STEW LEONARD'S DANBURY, LLC, STEW LEONARD'S HOLDINGS, LLC, STEW LEONARD JR., DAVID POLLARD, PETER TOURNAS, BRET CHERRY, MARIO ORTIZ, CHRIS NEMER, ANNEMARIE CLARKE aka ANNEMARIE CLARKE GOCHEE, and SERGIO ROCHA**

1-56. Plaintiffs hereby incorporate and reallege as if fully set forth herein Paragraphs 1 – 56 of the foregoing opening section.

57. This is a Products liability claim, brought pursuant to Conn. Gen. Stat. § 52-572m et seq.

58. The Stew Leonard's Defendants conducted business in the state of Connecticut, and produced, tested, manufactured, constructed, designed, formulated, prepared, assembled, packaged, labeled, installed, marketed, sold, and distributed Florentine Cookie(s) containing peanuts with the intent and/or reasonable expectation that such products would be consumed in the state of Connecticut.

59. On January 11, 2024, and sometime prior thereto, the Stew Leonard's Defendants produced, tested, manufactured, constructed, designed, formulated, prepared, assembled, packaged, labeled, installed, marketed, sold and distributed Florentine Cookie(s) containing peanuts, for the consumption of the general public.

60. On January 11, 2024, and sometime prior thereto, the Florentine Cookie(s) containing peanuts, that were produced, tested, manufactured, constructed, designed, formulated, prepared, assembled, packaged, labeled, installed, marketed, sold and distributed by the Stew Leonard's Defendants, for the consumption of the general public did not contain warnings or instructions that the aforementioned cookie(s) contained peanuts.

61. The Stew Leonard's Defendants produced, tested, manufactured, constructed,

designed, formulated, prepared, assembled, packaged, labeled, installed, marketed, sold, and distributed the Florentine Cookie consumed by the plaintiffs' decedent, ÓRLA RUTH BAXENDALE on January 11, 2024.

62. On January 11, 2024, and sometime prior thereto, the Stew Leonard's Defendants failed to properly label, warn, and instruct that the Florentine Cookie(s) produced, tested, manufactured, constructed, designed, formulated, prepared, assembled, packaged, labeled, installed, marketed, sold and distributed at the aforementioned grocery store contained, among other things, peanuts.

63. On January 11, 2024, ÓRLA RUTH BAXENDALE consumed the aforementioned Florentine Cookie.

64. On January 11, 2024, after ÓRLA RUTH BAXENDALE ingested the Florentine Cookie she experienced anaphylactic reaction causing shortness of breath, difficulty breathing and swallowing, dizziness, wheezing, chest tightness, lightheadedness, increased heartrate, sudden weakness, feeling of doom and dread with accompanying terror, cardiac arrest, loss of consciousness and death, and was emergently transported to New Milford Hospital.

65. On January 11, 2024, ÓRLA RUTH BAXENDALE died of complications of anaphylaxis due to peanut food allergy.

66. The Florentine Cookie(s) were provided by the Stew Leonard's Defendants in the state of Connecticut and were provided for the consumption of the general public, with the reasonable expectation that the Florentine Cookie(s) were to be consumed in the State of Connecticut, and they were so consumed in the State of Connecticut.

67. The Florentine Cookie(s) were shipped by the Stew Leonard's Defendants, pursuant to contracts finalized in Connecticut, between the Stew Leonard's Defendants, and the

defendant, COOKIES UNITED LLC, which were understood to be executed in Connecticut, and which were in fact executed in Connecticut by delivery of the Florentine Cookie(s).

68. At all relevant times, the Stew Leonard's Defendants owed the plaintiffs' decedent, ÓRLA RUTH BAXENDALE, the duty to manufacture, construct, design, formulate, prepare, assemble, install, test, warn, instruct, market, package, and label the Florentine Cookie(s) in such a manner and which the exercise of reasonable care, so as to prevent exposing the general public to undeclared peanuts.

69. At all relevant times, the Stew Leonard's Defendants had a duty to warn consumers or intended consumers of the Florentine Cookie(s) of defects which it knew or should have known in the exercise of ordinary care existed in the Florentine Cookie(s), which defects rendered the Florentine Cookie(s) unreasonably dangerous for consumption.

70. At all relevant times, the dangerous, hazardous, and defective condition of the Florentine Cookie(s) was latent, and the plaintiffs' decedent, ÓRLA RUTH BAXENDALE, was not capable of realizing the dangerous condition and could not have discovered the dangerous condition with a reasonable inspection.

71. Prior to the sale of the Florentine Cookie(s), the Stew Leonard's Defendants knew of the extreme dangers presented by the Florentine Cookie(s).

72. Prior to the sale of the Florentine Cookie(s), the Stew Leonard's Defendants were notified of injuries sustained by numerous other individuals consuming the Florentine Cookie(s) due to their defective and unsafe nature.

73. At all relevant times, the Stew Leonard's Defendants were, or in the exercise of reasonable care should have been aware of the evidence of the change of ingredients, but nevertheless maintained a practice of not disclosing to customers all of its ingredients. The Stew

Leonard's Defendants were aware the preventable and foreseeable injuries had been caused by the change of ingredients.

74. The plaintiffs' decedent, ÓRLA RUTH BAXENDALE, injuries would not have occurred had the Florentine Cookie(s) been properly produced, tested, manufactured, constructed, designed, formulated, prepared, assembled, packaged, labeled, installed, marketed, sold, and distributed.

75. It was the continuing duty of the Stew Leonard's Defendants to advise and warn purchasers and consumers, and all prior purchasers and consumers of all dangerous, characteristics, potentialities and/or defects discovered or discoverable subsequent to their initial packaging, marketing, distribution, and sale of the Florentine Cookie.

76. The Stew Leonard's Defendants knew or should have known that the Florentine Cookie(s) with peanuts were inherently dangerous to those who consumed the Florentine Cookie(s) with peanut allergies.

77. The Stew Leonard's Defendants are further liable to the plaintiffs and plaintiffs' decedent in that they:

- a. Knew, or with the exercise of reasonable care, should have known that the Florentine Cookie(s) contained peanuts which is dangerous and deadly to consumers who have peanut allergies;
- b. Failed to warn the general public of the known or reasonably foreseeable dangers of consuming the Florentine Cookie(s);
- c. Knew, or it was reasonably foreseeable, that the Florentine Cookie(s) would be consumed by the general public;
- d. Failed to provide the general public with the knowledge of what would be

reasonably safe and sufficient warning and/or label;

- e. Failed to test the Florentine Cookie;
  - f. Failed to place as a safer product into the stream of commerce which would have prevented the plaintiffs' decedent, ÓRLA RUTH BAXENDALE death;
  - g. Breached the warranty of merchantability to the general public when the Stew Leonard's Defendants warranted, either expressly or impliedly, to be free from peanuts, when in truth, they were not;
  - h. Included peanuts in the Florentine Cookie(s) when adequate substitutes were available;
  - i. Placed Florentine Cookie(s) containing peanuts into the stream of commerce when adequate substitutes were available;
  - j. Included peanuts in the Florentine Cookie(s) even though it was completely foreseeable and could or should have been anticipated that person(s) with peanut allergies would consume the Florentine Cookie(s);
  - k. Included peanuts in the Florentine Cookies when the Stew Leonard's Defendants, knew or should have known that the peanuts would cause an allergic reaction upon consumers with peanut allergies;
  - l. Failed to recall or cease selling the Florentine Cookie(s) which the Stew Leonard's Defendants had manufactured, constructed, designed, formulated, prepared, assembled, installed, tested, marketed, packaged, labeled, sold, and distributed;
  - m. Failed to follow the rules, regulations, standards, protocols and safeguards to reduce or eliminate exposure of the Florentine Cookie(s) to person(s) with peanut allergies;
- and

n. Such other acts and/or omissions as may be shown proper at the time of trial.

78. The Stew Leonard's Defendants failed to provide proper, adequate, and correct warnings and information concerning the ingredients of the Florentine Cookie(s) to person(s) consuming them.

79. The Stew Leonard's Defendants failed to provide proper, adequate, and correct warnings and instructions or safety precautions to be observed by consumers who would reasonably and foreseeably come into contact with the Florentine Cookie(s);

80. Any warnings, information and/or instructions of safety precautions were improper and inadequate in that, among other things, the Stew Leonard's Defendants failed to adequately and reasonably to apprise consumers and person(s) coming into contact and consuming the Florentine Cookie(s) of the full scope and danger to their health of contact and consumption of the Florentine Cookie(s) and risk of an allergic reaction to peanuts.

81. At the time of manufacture, distribution, marketing, advertising, distribution, sale, and continuing thereafter, the Florentine Cookie(s) were in a defective, dangerous, and unreasonable condition for use in that the Stew Leonard's Defendants:

- a. Improperly and/or inadequately manufactured, constructed, designed, formulated, prepared, assembled, installed, tested, warned, instructed, marketed, packaged, labeled, distributed, and sold the Florentine Cookie(s);
- b. Failed to properly inspect and/or test the Florentine Cookie(s);
- c. Failed to properly warn and/or place warnings or instructions to the consumer, and purchaser about the hazards and dangers associated with the Florentine Cookie(s), either before or after the sale;
- d. Failed to establish proper and adequate safety design, and risk management to the

manufacturing of the Florentine Cookie(s); and

- e. Advertised, marketed and/or promoted its Florentine Cookie(s) when it knew or should have known of its unsafe and dangerous propensities.

82. The above-described conditions were a substantial factor in producing the plaintiffs' decedent ÓRLA RUTH BAXENDALE's injuries and damages and death hereinbefore alleged.

83. The Stew Leonard's Defendants, its agents, servants, representatives, and employees expressly warranted, by way of, among other things, advertising, promotional campaigns, brochures, literature, marketing plans, trade name, and goodwill that the Florentine Cookie(s) were among other things:

- a. Safe and fit for its intended purposes and/or consumption;
- b. Safe and fit for its particular purpose;
- c. Safe and fit for consumption by the general public;
- d. Free from peanuts; and
- e. Safe and fit for reasonable and expected consumption.

84. The Stew Leonard's Defendants breached these express warranties as described above in providing Florentine Cookie(s) that were not safe and fit as warranted.

85. The breach of these express warranties was a substantial factor in producing and causing the plaintiffs' decedent ÓRLA RUTH BAXENDALE injuries and damages and death as alleged.

86. The Stew Leonard's Defendants impliedly warranted that the product was:

- a. Fit for its particular purpose for which it was intended; and/or
- b. Of merchantable quality; and



- c. Did not contain peanuts.

87. The Stew Leonard's Defendants breached these implied warranties as described above in providing the Florentine Cookie(s) that were not fit for its particular purpose or of merchantable quality as impliedly warranted due to the defects described herein.

88. The breach of these implied warranties was a substantial factor in producing and causing the plaintiffs' decedent ÓRLA RUTH BAXENDALE injuries and damages as alleged.

89. The Stew Leonard's Defendants were negligent and careless in one or more of the following ways in that the defendants:

- a. Improperly and/or inadequately manufactured, constructed, designed, formulated, prepared, assembled, installed, tested, warned, instructed, marketed, packaged, labeled, distributed, and sold the Florentine Cookie(s);
- b. Failed to properly inspect and/or test the Florentine Cookie(s);
- c. Failed to properly warn and/or place warnings or instructions to the consumer, and purchaser about the hazards and dangers associated with the Florentine Cookie(s), either before or after the sale;
- d. Failed to establish proper and adequate safety design, and risk management to the manufacturing of the Florentine Cookie(s); and
- e. Advertised, marketed and/or promoted its Florentine Cookie(s) when it knew or should have known of its unsafe and dangerous propensities.

90. The harm, injuries, and damages suffered by the plaintiffs' decedent ÓRLA RUTH BAXENDALE was a result of the heedless and reckless disregard for the safety of consumers such as the plaintiffs' decedent ÓRLA RUTH BAXENDALE thereby creating an unreasonable risk of bodily injury to the plaintiffs' decedent ÓRLA RUTH BAXENDALE.

91. At all times relevant, the Stew Leonard's Defendants had been engaged in the business of selling Florentine Cookie(s) such as the Florentine Cookie consumed by the plaintiffs' decedent ÓRLA RUTH BAXENDALE.

92. The Stew Leonard's Defendants, through oral and written representations, represented to the general public that the Florentine Cookie(s) did not contain peanuts.

93. When making the representations described above, the Stew Leonard's Defendants actually knew, or in the exercise of reasonable care should have known, of the dangerous and defective condition of the Florentine Cookie(s).

94. The plaintiffs' decedent ÓRLA RUTH BAXENDALE relied on the knowledge, experience, and expertise of the Stew Leonard's Defendants, and was deceived by their representation.

95. The Stew Leonard's Defendants have specifically violated Conn. Agencies Regs. § 42-110b-18(e) by misrepresenting the nature, characteristics, standard ingredients, uses, benefits, quantities or qualities of merchandise or services.

96. As a direct and proximate result of the above, the Stew Leonard's Defendants were careless and negligent in causing ÓRLA RUTH BAXENDALE's severe injuries and death, in one or more of the following ways:

- a. Ignored, disregarded, failed to heed, neglected, the July 20, 2023, letter from the defendant, COOKIES UNITED LLC, which informed of the change in ingredients to add peanuts and which provided the necessary and proper label and nutrition fact panel;
- b. From the period of July 20, 2023, up and through the decedent's death they continued to ignore the July 20, 2023 letter from the defendant, COOKIES

UNITED LLC which informed of the change in ingredients to add peanuts and which provided the necessary and proper label and nutrition fact panel;

- c. From the period of July 20, 2023, up and through the decedent's death they failed to recall the Florentine Cookie(s);
- d. Failed to adequately and properly label that the Florentine Cookie(s) contained peanuts;
- e. Failed to adequately and properly warn that the Florentine Cookie(s) contained peanuts;
- f. Failed to promptly notify the general public that the Florentine Cookie(s) contained peanuts;
- g. Failed to inform the general public that the Florentine Cookie(s) contained peanuts;
- h. Failed to adequately and properly test the Florentine Cookie(s);
- i. Distributed the Florentine Cookie(s) without proper labels;
- j. Distributed the Florentine Cookie(s) without proper warnings;
- k. Failed to follow up with the Florentine Cookie(s) manufacturer regarding the ingredients of the Florentine Cookie(s);
- l. Failed to review the ingredients of the Florentine Cookie(s);
- m. Failed to promptly notify its agents, servants, representatives, and employees, that the Florentine Cookie(s) contained peanuts;
- n. Failed to inform its agents, servants, representatives, and employees, that the Florentine Cookie(s) contained peanuts;
- o. Failed to advise its agents, servants, representatives, and employees, that the Florentine Cookie(s) contained peanuts;

- p. Failed to maintain proper records regarding the ingredients of the Florentine Cookie(s);
- q. Failed to follow the rules, regulations, standards and protocols for the sale and distribution of the Florentine Cookie(s).

97. As a direct and proximate result of the carelessness and negligence of the Stew Leonard's Defendants, the Stew Leonard's Defendants are strictly liable for the profound personal injuries and losses sustained by ÓRLA RUTH BAXENDALE, including, but not limited to:

- a. Anaphylactic reaction causing shortness of breath;
- b. Difficulty breathing and swallowing;
- c. Dizziness;
- d. Wheezing;
- e. Chest tightness;
- f. Lightheadedness;
- g. Increased heartrate;
- h. Sudden weakness;
- i. Feeling of doom and dread;
- j. Fear of impeding death;
- k. Terror;
- l. Unconsciousness;
- m. Cardiac arrest;
- n. Loss of consciousness;
- o. Antemortem pain and suffering;
- p. Destruction of the ability to enjoy life's activities;

- q. Destruction of earning capacity;
- r. Multi-organ failure;
- s. Pain and suffering;
- t. Psychological, physiological, neurological, and death sequelae;
- u. Death.

98. As a direct and proximate further result of the aforementioned injuries, ÓRLA RUTH BAXENDALE, has been permanently deprived of her ability to carry on and enjoy life's activities and her earning capacity has been permanently destroyed.

99. As a direct and proximate further result of the aforementioned injuries and death of ÓRLA RUTH BAXENDALE, the Estate of ÓRLA RUTH BAXENDALE has incurred expenses for medical care and treatment and funeral costs all to its financial loss.

**COUNT FOUR:**

**ANGELA JOSEPHINE BAXENDALE AND LOUIS GRANDELLI, AS  
ADMINISTRATORS OF THE ESTATE OF ÓRLA RUTH BAXENDALE v.  
COOKIES UNITED, LLC**

1- 99. Plaintiffs hereby incorporate and reallege as if fully set forth herein Paragraphs 1 – 99 of the foregoing opening section.

100. This is a Products liability claim, brought pursuant to Conn. Gen. Stat. § 52-572m et seq.

101. The defendant, COOKIES UNITED LLC, conducted business in the state of Connecticut, and produced, tested, manufactured, constructed, designed, formulated, prepared, assembled, packaged, labeled, installed, marketed, sold and distributed Florentine Cookie(s) containing peanuts with the intent and/or reasonable expectation that such products would be consumed in the state of Connecticut.

102. On January 11, 2024, and sometime prior thereto, the defendant, COOKIES

UNITED LLC, produced, tested, manufactured, constructed, designed, formulated, prepared, assembled, packaged, labeled, installed, marketed, sold and distributed Florentine Cookie(s) containing peanuts, for the consumption of the general public.

103. On January 11, 2024, and sometime prior thereto, the Florentine Cookie(s) containing peanuts, that were produced, tested, manufactured, constructed, designed, formulated, prepared, assembled, packaged, labeled, installed, marketed, sold and distributed by the defendant, COOKIES UNITED LLC, for the consumption of the general public did not contain warnings or instructions that the aforementioned cookie(s) contained peanuts.

104. The defendant, COOKIES UNITED LLC, produced, tested, manufactured, constructed, designed, formulated, prepared, assembled, packaged, labeled, installed, marketed, sold and distributed the Florentine Cookie consumed by the plaintiffs' decedent, ÓRLA RUTH BAXENDALE on January 11, 2024.

105. On January 11, 2024, and sometime prior thereto, the defendants, COOKIES UNITED LLC, failed to properly label, warn, and instruct that the Florentine Cookie(s) produced, tested, manufactured, constructed, designed, formulated, prepared, assembled, packaged, labeled, installed, marketed, sold and distributed at the aforementioned grocery store contained, among other things, peanuts.

106. On January 11, 2024, ÓRLA RUTH BAXENDALE consumed the aforementioned Florentine Cookie.

107. On January 11, 2024, after ÓRLA RUTH BAXENDALE ingested the Florentine Cookie, she experienced an anaphylactic reaction causing shortness of breath, difficulty breathing and swallowing, dizziness, wheezing, chest tightness, lightheadedness, increased heartrate, sudden weakness, feeling of doom and dread with accompanying terror, cardiac arrest, loss of

consciousness and death, and was emergently transported to New Milford Hospital.

108. On January 11, 2024, ÓRLA RUTH BAXENDALE died of complications of anaphylaxis due to peanut food allergy.

109. The Florentine Cookie(s) were provided by the defendant, COOKIES UNITED LLC, in the state of Connecticut, and were provided for the consumption of the general public, with the reasonable expectation that the Florentine Cookie(s) were to be consumed in the state of Connecticut, and they were so consumed in the State of Connecticut.

110. The Florentine Cookie(s) were shipped by the defendant, COOKIES UNITED LLC, pursuant to contracts finalized in Connecticut, between the Stew Leonard's Defendants and the defendant, COOKIES UNITED LLC, which were understood to be performed in Connecticut, and which were in fact performed in Connecticut by delivery of the Florentine Cookie(s).

111. At all relevant times, the defendant, COOKIES UNITED LLC, owed the plaintiffs' decedent, ÓRLA RUTH BAXENDALE, the duty to manufacture, construct, design, formulate, prepare, assemble, install, test, warn, instruct, market, package, and label the Florentine Cookie(s) in such a manner and which the exercise of reasonable care, so as to prevent exposing the general public to undeclared peanuts.

112. At all relevant times, the defendant, COOKIES UNITED LLC, had a duty to warn consumers or intended consumers of the Florentine Cookie(s) of defects which it knew or should have known in the exercise of ordinary care existed in the Florentine Cookie(s), which defects rendered the Florentine Cookie(s) unreasonably dangerous for consumption.

113. At all relevant times, the dangerous, hazardous, and defective condition of the Florentine Cookie(s) was latent, and the plaintiffs' decedent, ÓRLA RUTH BAXENDALE, was not capable of realizing the dangerous condition and could not have discovered the dangerous

condition with a reasonable inspection.

114. Prior to the sale of the Florentine Cookie(s), the defendant, COOKIES UNITED LLC, knew of the extreme dangers presented by the Florentine Cookie(s).

115. Prior to the sale of the Florentine Cookie(s), the defendant, COOKIES UNITED LLC, was notified of injuries sustained by numerous other individuals consuming the Florentine Cookie(s) due to their defective and unsafe nature.

116. At all relevant times, the defendant, COOKIES UNITED LLC, was, or in the exercise of reasonable care should have been aware of the evidence of the change of ingredients, but nevertheless maintained a practice of not disclosing to customers all of its ingredients. The defendant, COOKIES UNITED LLC, were aware the preventable and foreseeable injuries had been caused by the change of ingredients.

117. The plaintiffs' decedent, ÓRLA RUTH BAXENDALE, injuries would not have occurred had the Florentine Cookie(s) been properly produced, tested, manufactured, constructed, designed, formulated, prepared, assembled, packaged, labeled, installed, marketed, sold and distributed.

118. It was the continuing duty of the defendant, COOKIES UNITED LLC, to advise and warn purchasers and consumers, and all prior purchasers and consumers of all dangerous, characteristics, potentialities and/or defects discovered or discoverable subsequent to their initial packaging, marketing, distribution, and sale of the Florentine Cookie.

119. The defendant, COOKIES UNITED LLC, knew or should have known that the Florentine Cookie(s) with peanuts were inherently dangerous to those who consumed the Florentine Cookie(s) with peanut allergies.

120. The defendant, COOKIES UNITED LLC, are further liable to the plaintiffs and



plaintiffs' decedent in that they:

- a. Knew, or with the exercise of reasonable care, should have known that the Florentine Cookie(s) contained peanuts which is dangerous and deadly to consumers who have peanut allergies;
- b. Failed to warn the general public of the known or reasonably foreseeable dangers of consuming the Florentine Cookie(s);
- c. Knew, or it was reasonably foreseeable, that the Florentine Cookie(s) would be consumed by the general public;
- d. Failed to provide the general public with the knowledge of what would be reasonably safe and sufficient warning and/or label;
- e. Failed to test the Florentine Cookie;
- f. Failed to place as a safer product into the stream of commerce which would have prevented the plaintiffs' decedent, ÓRLA RUTH BAXENDALE death;
- g. Breached the warranty of merchantability to the general public when the defendant, COOKIES UNITED LLC, warranted, either expressly or impliedly, to be free from peanuts, when in truth, they were not;
- h. Included peanuts in the Florentine Cookie(s) when adequate substitutes were available;
- i. Placed Florentine Cookie(s) containing peanuts into the stream of commerce when adequate substitutes were available;
- j. Included peanuts in the Florentine Cookie(s) even though it was completely foreseeable and could or should have been anticipated that person(s) with peanut allergies would consume the Florentine Cookie(s);

- k. Included peanuts in the Florentine Cookies when the defendant, COOKIES UNITED LLC, knew or should have known that the peanuts would cause an allergic reaction upon consumers with peanut allergies;
- l. Failed to recall or cease selling the Florentine Cookie(s) which the defendant, COOKIES UNITED LLC, had manufactured, constructed designed, formulated, prepared, assembled, installed, tested, marketed, packaged, labeled, sold, and distributed;
- m. Failed to follow the rules, regulations, standards, protocols and safeguards to reduce or eliminate exposure of the Florentine Cookie(s) to person(s) with peanut allergies; and
- n. Such other acts and/or omissions as may be shown proper at the time of trial.

121. The defendant, COOKIES UNITED LLC, failed to provide proper, adequate, and correct warnings and information concerning the ingredients of the Florentine Cookie(s) to person(s) consuming them.

122. The defendant, COOKIES UNITED LLC, failed to provide proper, adequate, and correct warnings and instructions or safety precautions to be observed by consumers who would reasonably and foreseeably come into contact with the Florentine Cookie(s).

123. Any warnings, information and/or instructions of safety precautions were improper and inadequate in that, among other things, the defendant, COOKIES UNITED LLC, failed to adequately and reasonably to apprise consumers and person(s) coming into contact and consuming the Florentine Cookie(s) of the full scope and danger to their health of contact and consumption of the Florentine Cookie(s) and risk of an allergic reaction to peanuts.

124. At the time of manufacture, distribution, marketing, advertising, distribution, sale,

and continuing thereafter, the Florentine Cookie(s) were in a defective, dangerous and unreasonable condition for use in that the defendant, COOKIES UNITED LLC:

- a. Improperly and/or inadequately manufactured, constructed, designed, formulated, prepared, assembled, installed, tested, warned, instructed, marketed, packaged, labeled, distributed, and sold the Florentine Cookie(s);
- b. Failed to properly inspect and/or test the Florentine Cookie(s);
- c. Failed to properly warn and/or place warnings or instructions to the consumer, and purchaser about the hazards and dangers associated with the Florentine Cookie(s), either before or after the sale;
- d. Failed to establish proper and adequate safety design, and risk management to the manufacturing of the Florentine Cookie(s); and
- e. Advertised, marketed and/or promoted its Florentine Cookie(s) when it knew or should have known of its unsafe and dangerous propensities;

125. The above-described conditions were a substantial factor in producing the plaintiffs' decedent ÓRLA RUTH BAXENDALE's injuries and damages and death hereinbefore alleged.

126. The defendant, COOKIES UNITED LLC, expressly warranted, by way of, among other things, advertising, promotional campaigns, brochures, literature, marketing plans, trade name, and goodwill that the Florentine Cookie(s) were among other things:

- a. Safe and fit for its intended purposes and/or consumption;
- b. Safe and fit for its particular purpose;
- c. Safe and fit for consumption by the general public;
- d. Free from peanuts; and

- e. Safe and fit for reasonable and expected consumption.

127. The defendant, COOKIES UNITED LLC, breached these express warranties as described above in providing Florentine Cookie(s) that were not safe and fit as warranted.

128. The breach of these express warranties was a substantial factor in producing and causing the plaintiffs' decedent ÓRLA RUTH BAXENDALE injuries and damages as alleged.

129. The defendant, COOKIES UNITED LLC, impliedly warranted that the product was:

- a. Fit for its particular purpose for which it was intended; and/or
- b. Of merchantable quality; and
- c. Did not contain peanuts.

130. The defendant, COOKIES UNITED LLC, breached these implied warranties as described above in providing the Florentine Cookie(s) that were not fit for its particular purpose or of merchantable quality as impliedly warranted due to the defects described herein.

131. The breach of these implied warranties was a substantial factor in producing and causing the plaintiffs' decedent ÓRLA RUTH BAXENDALE injuries and damages as alleged.

132. The defendant, COOKIES UNITED LLC, was negligent and careless in one or more of the following ways in that the defendants:

- a. Improperly and/or inadequately manufactured, constructed, designed, formulated, prepared, assembled, installed, tested, warned, instructed, marketed, packaged, labeled, distributed, and sold the Florentine Cookie(s);
- b. Failed to properly inspect and/or test the Florentine Cookie(s);
- c. Failed to properly warn and/or place warnings or instructions to the consumer, and purchaser about the hazards and dangers associated with the Florentine Cookie(s),

either before or after the sale;

- d. Failed to establish proper and adequate safety design, and risk management to the manufacturing of the Florentine Cookie(s); and
- e. Advertised, marketed and/or promoted its Florentine Cookie(s) when it knew or should have known of its unsafe and dangerous propensities.

133. The harm, injuries, and damages suffered by the plaintiffs' decedent ÓRLA RUTH BAXENDALE was a direct and proximate result of the heedless and reckless disregard for the safety of consumers such as the plaintiffs' decedent ÓRLA RUTH BAXENDALE thereby creating an unreasonable risk of bodily injury to the plaintiffs' decedent ÓRLA RUTH BAXENDALE.

134. At all times relevant, the defendant, COOKIES UNITED LLC, had been engaged in the business of selling Florentine Cookie(s) such as the Florentine Cookie consumed by the plaintiffs' decedent ÓRLA RUTH BAXENDALE.

135. The defendant, COOKIES UNITED LLC, through oral and written representations, represented to the general public that the Florentine Cookie(s) did not contain peanuts.

136. When making the representations described above, the defendant, COOKIES UNITED LLC, actually knew, or in the exercise of reasonable care should have known, of the dangerous and defective condition of the Florentine Cookie(s).

137. The plaintiffs' decedent ÓRLA RUTH BAXENDALE relied on the knowledge, experience, and expertise of the defendant, COOKIES UNITED LLC, and was deceived by their representation.

138. The defendant, COOKIES UNITED LLC, has specifically violated Conn. Agencies Regs. § 42-110b-18(e) by misrepresenting the nature, characteristics, standard ingredients, uses, benefits, quantities or qualities of merchandise or services.

139. As a direct and proximate result of the above, the defendant, COOKIES UNITED LLC, was careless and negligent in causing ÓRLA RUTH BAXENDALE's severe injuries and death, in one or more of the following ways:

- a. Failed to properly notify the Stew Leonard's Defendants, Chief Safety Officer that there was a change in the ingredients and labeling for the subject Florentine Cookie(s);
- b. Failed to adequately and properly label that the Florentine Cookie(s) contained peanuts;
- c. Failed to adequately and properly warn that the Florentine Cookie(s) contained peanuts;
- d. Failed to promptly notify the general public that the Florentine Cookie(s) contained peanuts;
- e. Failed to inform the general public that the Florentine Cookie(s) contained peanuts;
- f. Failed to promptly notify the Stew Leonard's Defendants, that the Florentine Cookie(s) contained peanuts;
- g. Failed to inform the Stew Leonard's Defendants, that the Florentine Cookie(s) contained peanuts;
- h. Failed to adequately and properly test the Florentine Cookie(s);
- i. Distributed the Florentine Cookie(s) without proper labels;
- j. Distributed the Florentine Cookie(s) without proper warnings;
- k. Failed to follow up with the defendants, the Stew Leonard's Defendants, that the Florentine Cookie(s) contained peanuts;
- l. Failed to disclose the ingredients of the Florentine Cookie(s);

- m. Failed to follow the rules, regulations, standards and protocols for the sale and distribution of the Florentine Cookie(s).

140. As a direct and proximate result of the carelessness and negligence of the defendant, COOKIES UNITED LLC, the defendant is strictly liable for the profound personal injuries and losses sustained by ÓRLA RUTH BAXENDALE, including, but not limited to:

- a. Anaphylactic reaction causing shortness of breath;
- b. Difficulty breathing and swallowing;
- c. Dizziness;
- d. Wheezing;
- e. Chest tightness;
- f. Lightheadedness;
- g. Increased heartrate;
- h. Sudden weakness;
- i. Feeling of doom and dread;
- j. Fear of impeding death;
- k. Terror;
- l. Unconsciousness;
- m. Cardiac arrest;
- n. Loss of consciousness;
- o. Antemortem pain and suffering;
- p. Destruction of the ability to enjoy life's activities;
- q. Destruction of earning capacity;
- r. Multi-organ failure;

- s. Pain and suffering;
- t. Psychological, physiological, neurological, and death sequelae;
- u. Death.

141. As a further direct and proximate result of the aforementioned injuries, ÓRLA RUTH BAXENDALE, has been permanently deprived of her ability to carry on and enjoy life's activities and her earning capacity has been permanently destroyed.

142. As a further direct and proximate result of the aforementioned injuries and death of ÓRLA RUTH BAXENDALE, the Estate of ÓRLA RUTH BAXENDALE has incurred expenses for medical care and treatment and funeral costs all to its financial loss.

THE PLAINTIFFS,

By \_\_\_\_\_  
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**PRAYER FOR RELIEF**

W H E R E F O R E, the plaintiffs claim damages in excess of fifteen thousand dollars and the following relief as further set forth below:

Plaintiffs seek relief as follows:

- A. Monetary damages;
- B. Punitive damages;
- C. Attorneys' fees'
- D. Costs;
- E. and any other relief the court deems just and proper.

This matter is within the jurisdiction of this court.

THE PLAINTIFFS,

By D. A. T.

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PLEASE ENTER THE APPERANCE OF:

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