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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

Eric Stelly, an Individual,

Plaintiff,

vs.

McDonald’s Corporation,

Defendant.

Case No.

COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL

NOW COMES the Plaintiff, Eric Stelly, by and through his attorneys, **Ron Simon & Associates and Meyers & Flowers, LLC**, complaining against the Defendant, McDonald’s Corporation, and alleges as follows:

PARTIES

1. Plaintiff, Eric Stelly, is an adult and resident of Greeley, Colorado, in Weld County.
2. Defendant, McDonald’s Corporation, (“hereinafter “McDonald’s” or “Defendant”) is a Delaware corporation headquartered in Oak Brook, Illinois. It may be served through its registered agent, Prentice Hall Corporation, 801 Adlai Stevenson Drive, Springfield, IL 62703.

JURISDICTION AND VENUE

3. This Court has jurisdiction and venue over Defendant because Defendant sells and distributes products in Weld County, Colorado, and is a domestic corporation headquartered in Chicago, Cook County, Illinois.

GENERAL ALLEGATIONS

The McDonald’s E. coli Outbreak

4. On October 22, 2024, the Centers for Disease Control and Prevention (CDC), along with the Food and Drug Administration (FDA) and the U.S. Department of Agriculture’s Food Safety and Inspection Service (USDA FSIS), announced an investigation into an E. coli

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O157:H7 outbreak across numerous states. The outbreak has been linked to food items served at McDonald's restaurant outlets.

5. Health agencies continue to search for the specific ingredient or product responsible for causing the E. coli O157:H7 infections. Most affected individuals reported consuming McDonald's Quarter Pounders before falling ill, and the CDC has so far identified two suspect ingredients - slivered onions and beef – as possible sources. Other ingredients and cross-contamination also remain viable potential sources of the outbreak.

6. In response to the reported E. coli outbreak, McDonald's has temporarily suspended the use of two ingredients: fresh slivered onions and quarter-pound beef patties in affected regions. The quarter-pound beef patties are exclusively used in Quarter Pounder hamburgers, while the fresh slivered onions primarily appear in this menu item and rarely in other offerings.

7. The CDC said that McDonald's is cooperating with investigators to identify the contaminated ingredients and the scope of the outbreak to date.

8. The outbreak's scope has led to the temporary unavailability of Quarter Pounders in several states.

9. The first reported case of illness linked to this outbreak was on September 27, 2024, and the latest on October 11, 2024. Many more illnesses are expected to be reported.

10. **Locations of Affected Individuals as of October 23, 2024:**

- a. Oregon, Montana, Kansas, Missouri, Iowa, Wisconsin – 1 to 3 sick people
- b. Utah, Wyoming, Nebraska – 4 to 9 sick people
- c. Colorado – 10 to 26 sick people

11. The CDC has announced that the actual number of impacted individuals is likely much higher than the number reported so far because many people will recover without medical

intervention or do not get tested for E. coli infection.

E. coli O157:H7 Infection and Hemolytic Uremic Syndrome

12. Escherichia coli is the name of a family of bacteria, most of which do not cause human disease. E. coli O157:H7, however, is a Shiga toxin-producing strain of E. coli (otherwise known as “STEC”) that causes bloody diarrhea in humans.

13. E. coli O157:H7 lives in the intestines of cattle and other animals. E. coli O157:H7 is passed through the oral-fecal method, meaning it is passed in the feces of animals and sicken the host after ingestion. An extremely low infectious dose, with fewer than 50 E. coli O157:H7 bacteria, are needed to infect the host.

14. The most severe cases of the E. coli O157:H7 infection occur in young children and in the elderly (those 65 or older), and in those with a compromised immune system. After a susceptible individual ingests E. coli O157:H7, the bacteria attaches to the inside surface of the large intestine and initiates an inflammatory reaction of the intestine (hemorrhagic colitis).

15. E. coli O157:H7 infections often result in bloody diarrhea, nausea, and severe abdominal cramping.

16. A victim of E. coli O157:H7 usually becomes symptomatic two to four days post exposure, but in some instances, illness can begin within 24 hours or be delayed several weeks.

17. While most victims of E. coli O157:H7 recover within a few weeks, in about 10% of population, E. coli O157:H7 infections can develop into HUS, a life threatening complication in which the destruction of red blood cells and platelets associated with clotting lead to acute renal failure due to the formation of micro-thrombi that occlude microscopic blood vessels that make up the filtering units within the kidneys. There is no known therapy to halt the progression of HUS, and most victims require dialysis. HUS is fatal in about 5% of the victims. In those who survive,

HUS patients often require blood transfusions, dialysis, and in some cases, one or more kidney transplants.

Plaintiff's Illness

18. On October 4, 2024, Plaintiff purchased and consumed food from his local McDonald's at 2912 W. 10th St., in Greeley, Colorado.

19. On October 6, 2024, within the standard incubation period for E. coli O157:H7, he became ill with the symptoms of Shiga Toxin-Producing E. coli (STEC).

20. By October 8th, Plaintiff was forced to seek medical attention, and presented to the Emergency Room at UCHealth in West Greeley, where doctors took a stool culture.

21. Plaintiff was found to be positive for E. coli O157:H7, and his physician referred him to the Centers for Gastroenterology.

22. Plaintiff's stool sample was forwarded to the county health department, and he was contacted by the health department and questioned about food he had consumed in the days prior to becoming ill. Health investigators noted his consumption of food from McDonald's.

23. Health investigators confirmed that Plaintiff was part of the McDonald's E. coli outbreak.

24. As of the filing of this lawsuit, Plaintiff continues to recover from the effects of E. coli food poisoning.

COUNT I
(Strict Products Liability)

25. At all times, Defendant was in the business of importing, manufacturing, distributing, and marketing food, including onions, beef, and Quarter Pounders (hereinafter "products").

26. There was a manufacturing defect in the products when they left Defendant's

possession and control. The products were defective because they contained *E. coli*. The presence of *E. coli* was a condition of the products that rendered them unreasonably dangerous.

27. There was a marketing defect in the products when they left Defendant's possession and control. The products were defective because they contained *E. coli*, and Defendant failed to give adequate warnings of the products' dangers that were known or by the application of reasonably developed human skill and foresight should have been known. Defendant also failed to give adequate warnings and instructions to avoid such dangers. Defendant's failure to provide such warnings and instructions rendered the products unreasonably dangerous.

28. Defendant's conduct was a direct, proximate, and producing cause of Plaintiff's injuries and damages set forth below.

29. Defendant is therefore strictly liable for manufacturing, distributing, and marketing defective and unreasonably dangerous products and introducing them into the stream of commerce.

30. Defendant's conduct was a direct, proximate, and producing cause of Plaintiff's injuries and damages, including but not limited to damages in the past and future for the following: pain and suffering, mental anguish, physical impairment, physical disfigurement, loss of enjoyment of life, medical and pharmaceutical expenses, travel and travel-related expenses, emotional distress, lost wages, lost earning capacity, loss of consortium, attorneys' fees (to the extent recoverable) and other general, special, ordinary, incidental and consequential damages as would be anticipated to arise under the circumstances.

WHEREFORE, Plaintiff prays for judgment against Defendant in excess of \$50,000.00 as follows:

- a. Past and future economic and non-economic damages;
- b. Court costs;

- c. Pre- and post-judgment interest at the highest rate allowed by law; and
- d. For such other relief as the Court deems just and proper.

COUNT II
(Negligence and Negligence Per Se)

31. Plaintiff hereby repeats and re-alleges paragraphs 1 through 24 as though fully set forth herein.

32. Defendant owed Plaintiff a duty of ordinary care in the manufacture, preparation, testing, packaging, marketing, storing, holding, distribution, and selling of the products in question. Further, Defendant owed Plaintiff the duty of warning or instructing Plaintiff of potentially hazardous or life-threatening conditions with respect to the products.

33. Defendant breached its duty in one or more of at least the following ways:

- a. negligently manufacturing, preparing, distributing, and marketing the products;
- b. failing to properly test the products before placing them into the stream of commerce;
- c. failing to prevent human, insect, and/or animal feces from coming into contact with the products;
- d. failing to store, package, hold, or prepare the products or their ingredients in a manner to prevent them from becoming contaminated with filth which could render them injurious to health;
- e. failing to adequately monitor the safety and sanitary conditions of its premises;
- f. failing to apply their own policies and procedures to ensure the safety and sanitary conditions of its premises;

- g. failing to adopt and/or follow recommended good manufacturing practices;
- h. failing to take reasonable measures to prevent the transmission of *E. coli* and related filth and adulteration from its premises;
- i. failing to properly train and supervise their employees and agents to prevent the transmission of *E. coli* and related filth and adulteration from its premises;
- j. failing to warn Plaintiff and the general public of the dangerous propensities of the products, particularly that they were contaminated with *E. coli*, despite knowing or having reason to know of such dangers; and
- k. failing to timely disclose post-sale information concerning the dangers associated with the products.

34. Furthermore, Defendant had a duty to comply with all applicable health regulations, including the FDA's Good Manufacturing Practices Regulations, 21 C.F.R. part 110, subparts (A)-(G), and all statutory and regulatory provisions that applied to the manufacture, distribution, storage, and/or sale of the products or their ingredients, including but not limited to, the *Federal Food, Drug, and Cosmetics Act*, § 402(a), as codified at 21 U.S.C. § 342(a), which bans the manufacture, sale and distribution of any "adulterated" food, and the similar provision in the *Illinois Food, Drug and Cosmetic Act*, 10 ILCS 620 section 3, *et. seq.*

35. Plaintiff is a member of the classes sought to be protected by the regulations and statutes identified above.

36. Defendant's conduct was a direct, proximate, and producing cause of Plaintiff's injuries and damages set forth below.

37. All dangers associated with the products were reasonably foreseeable and/or

scientifically discoverable by Defendant at the time Defendant placed the products into the stream of commerce.

38. All dangers associated with the contaminated products were reasonably foreseeable and/or scientifically discoverable by Defendant at the time Defendant placed the products into the stream of commerce.

39. Defendant's conduct was a direct, proximate, and producing cause of Plaintiff's injuries and damages, including but not limited to damages in the past and future for the following: pain and suffering, mental anguish, physical impairment, physical disfigurement, loss of enjoyment of life, medical and pharmaceutical expenses, travel and travel-related expenses, emotional distress, lost wages, lost earning capacity, loss of consortium, attorneys' fees (to the extent recoverable) and other general, special, ordinary, incidental and consequential damages as would be anticipated to arise under the circumstances.

WHEREFORE, Plaintiff prays for judgment against Defendant in excess of \$50,000.00 as follows:

- a. Past and future economic and non-economic damages;
- b. Court costs;
- c. Pre- and post-judgment interest at the highest rate allowed by law; and
- d. For such other relief as the Court deems just and proper.

COUNT III
(Breach of Implied Warranties)

40. Plaintiff hereby repeats and re-alleges paragraphs 1 through 24 as though fully set forth herein.

41. Defendant is a merchant who produces, manufactures, distributes, and markets products to consumers. Plaintiff is a consumer.

42. Defendant breached the implied warranty of merchantability by impliedly warranting that its products were of merchantable quality and fit for human consumption when they were not due to the conditions under which they were prepared, packaged, and held and due to the presence of *E. coli*. Plaintiff reasonably relied upon Defendant's skill and judgment as to whether the products were of merchantable quality and fit for human consumption.

43. Defendant breached the implied warranty of fitness for a particular purpose, by holding out unreasonably dangerous products (i.e. products containing *E. coli*) to the public as being safe when they knew or had reason to know that the products were not safe and that the public would consume the products.

44. Defendant did not disclaim these implied warranties.

45. Defendant's conduct was a direct, proximate, and producing cause of Plaintiff's injuries and damages set forth below.

46. Defendant's conduct was a direct, proximate, and producing cause of Plaintiff's injuries and damages, including but not limited to damages in the past and future for the following: pain and suffering, mental anguish, physical impairment, physical disfigurement, loss of enjoyment of life, medical and pharmaceutical expenses, travel and travel-related expenses, emotional distress, lost wages, lost earning capacity, loss of consortium, attorneys' fees (to the extent recoverable) and other general, special, ordinary, incidental and consequential damages as would be anticipated to arise under the circumstances.

WHEREFORE, Plaintiff prays for judgment against Defendant in excess of \$50,000.00 as follows:

- a. Past and future economic and non-economic damages;
- b. Court costs;

- c. Pre- and post-judgment interest at the highest rate allowed by law; and
- d. For such other relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands a jury trial for all triable claims.

Dated: October 23, 2024

Meyers & Flowers

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