

STATE OF MINNESOTA
COUNTY OF BELTRAMI

DISTRICT COURT
NINTH JUDICIAL DISTRICT
PERSONAL INJURY

ROBIN SHAFFER, and
KENNETH SHAFFER,
Husband and wife.

Court File No.

Judge:

Plaintiffs,

v.

COMPLAINT

DAVI, INC., a Minnesota
corporation d/b/a "Mi Rancho,"
QUALITY EGG, LLC, an Iowa
limited liability corporation d/b/a
"Wright County Egg," and
HILLANDALE FARMS OF IOWA, INC.,
an Iowa corporation.

Defendants.

Plaintiffs, for their claims for relief, state and allege that:

1. Plaintiffs Robin and Kenneth Shaffer, husband and wife, are residents of Mantorville, Minnesota.
2. Defendant Davi, Inc., is a Minnesota corporation with its principal place of business at 677 Anne Street NW, Bemidji, Beltrami County, MN, 56601. Defendant Davi, Inc., operated a restaurant business known as "Mi Rancho" in Bemidji, Minnesota.
3. Defendant Quality Egg, LLC, (hereinafter referred to as "Wright County Egg") is an Iowa limited liability company with its principal place of business at 2674 Highway 69, Galt, Iowa, 50101. Defendant Quality Egg, LLC, was engaged in the business of manufacturing and distributing shell eggs to customers nationally and also sold various live chicken and chicken feed products to other farms, all under the name "Wright County Egg."

4. Defendant Hillandale Farms of Iowa, Inc. (hereinafter referred to as "Hillandale Farms") is an Iowa corporation with its principal place of business at 19 1/2 W Main Street, New Hampton, Iowa, 50659. Defendant Hillandale Farms was engaged in the business of manufacturing and distributing shell eggs to customers nationally.

5. On or about May 7, 2010, Robin Shaffer ate food adulterated with *Salmonella* Enteritidis at Mi Rancho restaurant in Bemidji, Minnesota.

6. Robin Shaffer became ill several days later with cramping, diarrhea and nausea. She went to her doctor on May 11, 2010. She submitted a stool sample that later tested positive for *Salmonella* Enteritidis.

7. *Salmonella* Enteritidis is a deadly foodborne pathogen. A *Salmonella* Enteritidis infection often causes severe diarrhea and abdominal cramps. In certain people, particularly children under five years of age and the elderly, the infection can be very serious, and require hospitalization. In rare cases, it can be fatal.

8. Because of her *Salmonella* Enteritidis infection, Robin Shaffer was sick for several weeks, suffered serious complications, and missed six days of work because of her illness.

9. The Minnesota Department of Health (MDH) and the Minnesota Department of Agriculture (MDA) conducted an extensive investigation into Robin Shaffer's *Salmonella* infection. The MDH and MDA determined that Robin Shaffer's infection was part of an outbreak of *Salmonella* Enteritidis at Mi Rancho restaurant. At least seven people suffered *Salmonella* Enteritidis infections in the outbreak at Mi Rancho.

10. The Mi Rancho outbreak was traced by the MDH and MDA to egg products sold to Mi Rancho by Hillandale Farms.

11. Upon information and belief, the egg products sold to Mi Rancho by Hillandale Farms were adulterated with *Salmonella* Enteritidis as a direct result of Wright County Egg's sale of contaminated feed and/or pullets to Hillandale Farms.

COUNT I – NEGLIGENCE

12. Plaintiff Robin Shaffer's *Salmonella* infection was the direct and proximate result of the carelessness and negligence of Defendant Mi Rancho, Defendant Hillandale Farms, and Defendant Wright County Egg, their employees, agents, or those acting on their behalf, consisting of, but not limited to, failure to train and properly supervise food handlers; failure to produce, distribute, store and maintain egg products safely; failure to maintain sanitary conditions including proper hand and surface cleaning; failure to prevent cross-contamination of food; failure to implement and supervise a system for assuring the safe production and handling of food products; failure to test egg products; failure to properly prepare and serve the eggs products consumed by Robin Shaffer, as well as other acts of negligence.

13. As a direct and proximate result of the negligence of Defendant Mi Rancho, Defendant Hillandale Farms, and Defendant Wright County Egg, their employees, agents, or those working on their behalf, Plaintiff Robin Shaffer sustained severe injuries to her gastrointestinal system as well as other injuries; as a result, Plaintiff Robin Shaffer has been damaged and injured in an amount greater than \$50,000.

14. As a result of the damages and injuries suffered by Robin Shaffer, Kenneth Shaffer has suffered the loss of his wife's services and companionship; that as a result of his loss of consortium, Plaintiff Kenneth Shaffer has been damaged and injured in an amount greater than \$50,000.

COUNT II – NEGLIGENCE PER SE *Minn. Stat. § 31.02*

15. Plaintiffs reassert and re-allege each and every matter and thing as set forth in the preceding paragraphs.

16. Defendant Mi Rancho, Defendant Hillandale Farms, and Defendant Wright County Egg, their employees, agents, or those working on their behalf, as providers of food

products within the State of Minnesota, had a duty to comply with the Minnesota Food Law, including Minn. Stat. § 31.02.

17. The Minnesota Food Law prohibits:

The manufacture, sale, or delivery, holding or offering for sale of any food that is adulterated or misbranded;
The adulteration or misbranding of any food;
The receipt in commerce of any food that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise. Minn. Stat. § 31.02 (2007).

Failure to comply with this section constitutes negligence *per se*.

18. Defendant Mi Rancho, Defendant Hillandale Farms, and Defendant Wright County Egg, their employees, agents, or those working on their behalf failed to comply with Minn. Stat. § 31.02. Such conduct constitutes negligence *per se*.

19. As a direct and proximate result of the aforementioned negligence by the defendants and each of them, Plaintiffs Robin and Kenneth Shaffer sustained damages in the amount and kind as set forth in the preceding paragraphs.

COUNT III – NEGLIGENCE PER SE 21 U.S.C. § 331

20. Plaintiffs reassert and re-allege each and every matter and thing as set forth in the preceding paragraphs.

21. Defendant Mi Rancho, Defendant Hillandale Farms, and Defendant Wright County Egg, their employees, agents, or those working on their behalf, as providers of food products in the United States of America, have a duty to comply with 21 U.S.C. § 331.

22. Through the passage of 21 U.S.C. § 331, Congress prohibited:

The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated; The adulteration or misbranding of any food, drug, device, or cosmetic in interstate commerce. The receipt in interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

Failure to comply with this section constitutes negligence *per se*.

23. Defendant Mi Rancho, Defendant Hillandale Farms, and Defendant Wright County Egg, their employees, agents, or those working on their behalf failed to comply with 21 U.S.C. § 331. Such conduct constitutes negligence *per se*.

24. As a direct and proximate result of the aforementioned negligence by the defendants and each of them, Plaintiffs Robin and Kenneth Shaffer sustained damages in the amount and kind as set forth in the preceding paragraphs.

COUNT IV - NEGLIGENCE PER SE *Minn. R. § 4626*

25. Plaintiffs reassert and re-allege each and every matter and thing as set forth in the preceding paragraphs.

26. Defendant Mi Rancho, Defendant Hillandale Farms, and Defendant Wright County Egg, their employees, agents, or those working on their behalf, are providers of food products and subject to regulation under the Minnesota Food Code, Minn. R. § 4626.

27. Defendant Mi Rancho, Defendant Hillandale Farms, and Defendant Wright County Egg, their employees, agents, or those working on their behalf failed to comply with the Minnesota Food Code. Such conduct constitutes negligence *per se*.

28. As a direct and proximate result of the aforementioned negligence by the defendants and each of them, Plaintiffs Robin and Kenneth Shaffer sustained damages in the amount and kind as set forth in the preceding paragraphs.

COUNT V – STRICT LIABILITY

29. Plaintiffs reassert and re-allege each and every matter and thing as set forth in the preceding paragraphs.

30. Defendant Mi Rancho, Defendant Hillandale Farms, and Defendant Wright County Egg were the manufacturers, distributors, and sellers of egg products that are the subject of this action.

31. At the time the egg products left Defendants' control, the products were defective and unreasonably dangerous for its ordinary and expected use.

32. The egg product responsible for Plaintiff's infection was delivered without any change in its defective condition.

33. The egg product responsible for Plaintiff's infection was used in the manner expected and intended.

34. As a direct and proximate result of the aforementioned defective product produced and sold by the defendants and each of them, Plaintiffs Robin and Kenneth Shaffer sustained damages in the amount and kind as set forth in the preceding paragraphs.

COUNT VI – BREACH OF EXPRESS WARRANTIES

35. Plaintiffs reassert and re-allege each and every matter and thing as set forth in the preceding paragraphs.

36. Defendant Mi Rancho, Defendant Hillandale Farms, and Defendant Wright County Egg expressly warranted that the egg product Plaintiff Robin Shaffer was exposed to was fit, safe, and unadulterated and did further warrant that said food was of good and merchantable quality.

37. Defendant Mi Rancho, Defendant Hillandale Farms, and Defendant Wright County Egg breached the foregoing warranties.

38. As a direct and proximate result of the aforementioned breach of express warranty by the defendants and each of them, Plaintiffs Robin and Kenneth Shaffer sustained damages in the amount and kind as set forth in the preceding paragraphs.

COUNT VII – BREACH OF IMPLIED WARRANTIES

39. Plaintiffs reassert and re-allege each and every matter and thing as set forth in the preceding paragraphs.

40. Defendant Mi Rancho, Defendant Hillandale Farms, and Defendant Wright County Egg impliedly warranted that the food consumed by Plaintiff Robin Shaffer was fit, safe, and unadulterated and did further warrant that said food was of good and merchantable quality.

41. Defendant Mi Rancho, Defendant Hillandale Farms, and Defendant Wright County Egg did breach the foregoing implied warranty.

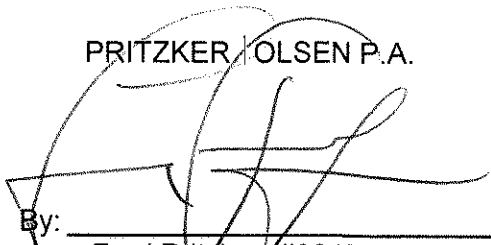
42. As a direct and proximate result of the aforementioned breach of implied warranty by the defendants and each of them, Plaintiffs Robin and Kenneth Shaffer sustained damages in the amount and kind as set forth in the preceding paragraphs

WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, in an amount greater than \$50,000.00 on behalf of Plaintiff Robin Shaffer, and in an amount greater than \$50,000.00 on behalf of Plaintiff Kenneth Shaffer together with interest, costs and disbursements incurred herein.

ACKNOWLEDGMENT

The undersigned hereby acknowledges that sanctions may be imposed pursuant to Minn. Stat. § 549.211, Subd. 1.

Date: 8/30/10

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