



PRESS RELEASE - Ron Simon & Associates Files First Food Poisoning Lawsuit Against Sunnyside Childcare Center

Date | June 25, 2015

Ron Simon & Associates Files First Lawsuit Against Sunnyside Childcare Center

Today the national food safety law firm of Ron Simon & Associates filed the first lawsuit stemming from the Sunnyside Childcare food poisoning outbreak in Montgomery, AL.

A copy of the lawsuit is attached.

The lawsuit was filed against the Sunnyside Childcare Center in the District Court of Montgomery County, AL, on behalf of Montgomery residents Janelle Hamilton and her son, Arquise.

Arquise was one of the thirty children hospitalized after being picked up from the summer camp program at Sunnyside. Janelle had dropped her three sons off at the center around 8:00 a.m., where they remained until just before 3 p.m. When Cora Hamilton, Arquise's grandmother, went to pick up the boys, she was shocked that scores of children around the facility were vomiting and suffering nausea and diarrhea. On the way home, Arquise passed out in the car and Cora took him to Baptist South Hospital.

Doctors admitted Arquise and transferred him to the pediatric wing, where he continued to suffer violent episodes of vomiting and diarrhea. Officials from the Alabama Department of Human Resources interviewed Janelle and several other concerned parents of victims at the hospital.

The investigation into the Sunnyside Childcare Center outbreak is ongoing, but reports indicate that at least 86 children were sickened on Tuesday. At least 30 have been hospitalized, with all but two reportedly discharged as of today.

The health department investigation has currently uncovered *Staphylococcus aureus*, or "Staph," in four different samples from the center. Stool tests of victims are still pending, but the illnesses suffered by the children are consistent with bacterial infection. The results of the stool cultures will be announced in the coming days.

Attorney Ron Simon Issues Statement for Victims, Sets up Claim Center

Lead attorney Ron Simon, who represents Janelle Hamilton, Arquise Hamilton, and several other Sunnyside Childcare Center victims, issued the following statement today: "It is terribly unfortunate that so many children were sickened in this outbreak. Through this lawsuit and others, we will determine exactly where food safety failures occurred and how they can be prevented in the future."

Mr. Simon and his law firm have established a Sunnyside Childcare Claims Center to assist victims in the outbreak. The Claims Center can be reached toll-free at 1-888-335-4901.

About Ron Simon

Over the last 20 years, Ron Simon and his colleagues have prosecuted thousands of food poisoning cases for victims across the United States. His work has resulted in numerous upgrades to food safety procedures in Fortune 500 companies and in legislation designed to protect consumers from dangerous food-borne pathogens.

Mr. Simon and his clients have been featured on NBC, ABC, CBS, CNN, FOX and virtually all other major television networks and print media. Mr. Simon has collected over \$600,000,000 for his clients. He regularly publishes articles about food safety and litigation at www.foodpoisoningnews.com which are read by viewers in over 180 countries.

Through litigation, media commentary, and his food poisoning publications, Mr. Simon relentlessly challenges food manufacturers, distributors, and restaurants to do a better job in making our food safe.

For media inquiries or more information on the Sunnyside Childcare Center outbreak and ongoing litigation, please contact Ron Simon directly at (713) 819-8116 or ron@rsaalaw.com.



AlaFile E-Notice

03-CV-2015-901024.00

To: NOLAN E. AWBREY
nolan@rileyjacksonlaw.com

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

JANELLA HAMILTON AS NEXT FRIEND OF ARQUISE HAMILTON, A MINOR V. SUNNYS
03-CV-2015-901024.00

The following complaint was FILED on 6/25/2015 3:36:31 PM

Notice Date: 6/25/2015 3:36:31 PM

TIFFANY B. MCCORD
CIRCUIT COURT CLERK
MONTGOMERY COUNTY, ALABAMA
251 S. LAWRENCE STREET
MONTGOMERY, AL 36104

334-832-1260

**COVER SHEET
CIRCUIT COURT - CIVIL CASE**

(Not For Domestic Relations Cases)

Case Number:
03-CV-201

Date of Filing:
06/25/2015



ELECTRONICALLY FILED
6/25/2015 3:36 PM
03-CV-2015-901024.00
CIRCUIT COURT OF
MONTGOMERY COUNTY, ALABAMA
TIFFANY B. MCCORD, CLERK

GENERAL INFORMATION

IN THE CIRCUIT OF MONTGOMERY COUNTY, ALABAMA

JANELLA HAMILTON AS NEXT FRIEND OF ARQUISE HAMILTON, A MINOR v. SUNNYSIDE CHILD CARE

First Plaintiff: Business Individual
 Government Other

First Defendant: Business Individual
 Government Other

NATURE OF SUIT:

TORTS: PERSONAL INJURY

- WDEA - Wrongful Death
- TONG - Negligence: General
- TOMV - Negligence: Motor Vehicle
- TOWA - Wantonnes
- TOPL - Product Liability/AEMLD
- TOMM - Malpractice-Medical
- TOLM - Malpractice-Legal
- TOOM - Malpractice-Other
- TBFM - Fraud/Bad Faith/Misrepresentation
- TOXX - Other: _____

OTHER CIVIL FILINGS (cont'd)

- MSXX - Birth/Death Certificate Modification/Bond Forfeiture
Appeal/Enforcement of Agency Subpoena/Petition to Preserve
- CVRT - Civil Rights
- COND - Condemnation/Eminent Domain/Right-of-Way
- CTMP-Contempt of Court
- CONT-Contract/Ejectment/Writ of Seizure
- TOCN - Conversion
- EQND- Equity Non-Damages Actions/Declaratory
Judgment/Injunction Election Contest/Quiet Title/Sale For
Division
- CVUD-Eviction Appeal/Unlawful Detainer
- FORJ-Foreign Judgment
- FORF-Fruits of Crime Forfeiture
- MSHC-Habeas Corpus/Extraordinary Writ/Mandamus/Prohibition
- PFAB-Protection From Abuse
- FELA-Railroad/Seaman (FELA)
- RPRO-Real Property
- WTEG-Will/Trust/Estate/Guardianship/Conservatorship
- COMP-Workers' Compensation
- CVXX-Miscellaneous Circuit Civil Case

TORTS: PERSONAL INJURY

- TOPE - Personal Property
- TORE - Real Property

OTHER CIVIL FILINGS

- ABAN - Abandoned Automobile
- ACCT - Account & Nonmortgage
- APAA - Administrative Agency Appeal
- ADPA - Administrative Procedure Act
- ANPS - Adults in Need of Protective Services

ORIGIN: F **INITIAL FILING**

A **APPEAL FROM
DISTRICT COURT**

O **OTHER**

R **REMANDED**

T **TRANSFERRED FROM
OTHER CIRCUIT COURT**

HAS JURY TRIAL BEEN DEMANDED? Yes No

RELIEF REQUESTED: **MONETARY AWARD REQUESTED** **NO MONETARY AWARD REQUESTED**

ATTORNEY CODE: AWB001

6/25/2015 3:36:10 PM

/s/ NOLAN E. AWBREY

MEDIATION REQUESTED: Yes No **Undecided**



IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

JANELLE HAMILTON, Individually and
 on behalf of ARQUISE HAMILTON, a
 Minor

Plaintiffs,

vs.

SUNNYSIDE CHILD CARE CENTER

Defendant.

Case No.

CV: _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs JANELLE HAMILTON, Individually and on behalf of ARQUISE HAMILTON, by and through their counsel of record **Ron Simon & Associates and Nolan Awbrey**, allege and complain as follows:

I. PARTIES

1. Plaintiffs JANELLE HAMILTON, Individually and on behalf of ARQUISE HAMILTON are residents of Montgomery, Alabama.

2. Defendant SUNNYSIDE CHILD CARE CENTER (hereinafter "Sunnyside") is an entity located at 3874 South Court Street, Montgomery, Alabama 36105. It may be served through its owner, Thelma Thomas, at that location.

JURISDICTION AND VENUE

3. This Court has jurisdiction and venue over Defendant because it is a company headquartered in Montgomery County, Alabama, and because the consumption of the tainted products and injuries giving rise to this lawsuit occurred in Montgomery County, Alabama.

GENERAL ALLEGATIONS

4. Plaintiffs hereby incorporate paragraphs 1 through 3 above.

The Sunny Side Childcare Outbreak

5. On June 23, 2015, nearly a hundred kids were in attendance at a summer camp

offered by Defendant, an unlicensed Church operated facility that provides summer camps and prepares food at a kitchen on premises. The kitchen at Sunnyside served food to the children at about 11 a.m., but by about 2:30 p.m., many were evincing the symptoms of severe food poisoning.

6. By the time parents showed up to collect their young ones, all under the age of 10, kids were vomiting, suffering nausea, and suffering abdominal pain. It was clear that something was terribly wrong. Parents were frightened and many began to rush to local area hospitals.

7. By that evening, the two local ERs looked like war zones, and even the Mayor of Montgomery came to visit. He spoke with many of the parents as health officials conducted interviews with the parents of the 86 children identified – at least 30 were admitted to the hospital. By Thursday, local reports indicated that all but two had been discharged.

8. Sunnyside has now been closed pending culmination and remedial action vis-à-vis the outbreak of an unknown pathogen. Preliminary testing showed that *Staphylococcus aureus* (or *Staph*) was present in food taken from both Sunnyside locations. *Staph* has been known to cause food poisoning when a food handler contaminates food or the equipment and surfaces on which food is prepared. These bacteria multiply quickly at room temperature to produce a toxin that causes illness.

9. The stool cultures remain pending, with authorities also considering *Salmonella* bacteria as another possible pathogen. Tests for norovirus were negative. Results of the stool cultures are to be announced by health officials in the coming days.

Plaintiff Arquise Hamilton's Food Poisoning Illness

10. On June 23, 2015, Janelle dropped Arquise and her two other sons off at Sunnyside at about 8 a.m. Both other sons, ages 4 and 8, did not eat the food provided by Defendant.

11. At about 2:45 p.m., Cora (grandma) went to pick up the boys. Arquise was obviously not well, and he passed out in the car.

12. Cora took Arquise to Baptist South Hospital where doctors admitted him for

treatment and monitoring. By the time Janelle arrived at the hospital, the ER was flooded with victims. Doctors admitted Arquise, sent him to the pediatric wing of the hospital, and aggressively treated his symptoms and worked to hydrate him after repeated episodes of vomiting and ongoing diarrhea.

13. Doctors discharged Arquise on June 24th to convalesce at home.

FIRST CAUSE OF ACTION

(Strict Products Liability)

14. Plaintiffs hereby incorporate paragraphs 1 through 13 above.

15. At all times, Defendant was in the business of manufacturing, distributing, serving, and marketing food.

16. There was a manufacturing defect in the food when it left Defendant's possession and control. The food was defective because it contained a pathogen that rendered it unreasonably dangerous.

17. There was a marketing defect in the food when it left Defendant's possession and control. The food was defective because it contained a pathogen that rendered it unreasonably dangerous, and Defendants failed to give adequate warnings of the product's 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 food unreasonably dangerous.

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

19. Defendant is therefore strictly liable for manufacturing, distributing, serving, and marketing defective and unreasonably dangerous food and introducing it into the stream of commerce.

SECOND CAUSE OF ACTION

(Negligence and Negligence Per Se)

20. Plaintiffs hereby incorporate paragraphs 1 through 19 above.

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

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

- a. negligently manufacturing, preparing, serving, and marketing food;
- b. failing to properly test the food before placing it into the stream of commerce;
- c. failing to prevent human, insect, and/or animal feces from coming into contact with the food;
- d. failing to store, package, hold, or prepared the food or its ingredients in a manner to prevent it from becoming contaminated with filth which could render it injurious to health;
- e. failing to adequately monitor the safety and sanitary conditions of their premises;
- f. failing to apply their own policies and procedures to ensure the safety and sanitary conditions of their premises;
- g. failing to adopt and/or follow recommended good manufacturing practices;
- h. failing to take reasonable measures to prevent the transmission of bacteria and related filth and adulteration from their premises;
- i. failing to properly train and supervise their employees and agents to prevent the transmission of bacteria and related filth and adulteration from their premises;

- j. failing to warn Plaintiffs and the general public of the dangerous propensities of the food, particularly that it was contaminated with bacteria, 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 food.

23. 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 food or its 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.

24. Plaintiffs were members of the classes sought to be protected by the regulations and statutes identified above.

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

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

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

THIRD CAUSE OF ACTION

(Breach of Implied Warranties)

28. Plaintiffs hereby incorporate paragraphs 1 through 27 above.

29. Defendant is a merchant who produces, manufactures, serves, and markets food to consumers. Plaintiffs are consumers.

30. Defendant breached the implied warranty of merchantability by impliedly

warranting that their food was of merchantable quality and fit for human consumption when it was not due to the conditions under which it was prepared, packaged, and held and due to the presence of bacteria. Plaintiffs reasonably relied upon Defendant's skill and judgment as to whether the food was of merchantable quality and fit for human consumption.

31. Defendant breached the implied warranty of fitness for a particular purpose, by holding out unreasonably dangerous food to the public as being safe when they knew or had reason to know that the deli food was not safe and that the public would consume the food.

32. Defendant did not disclaim these implied warranties.

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

DAMAGES

34. Plaintiffs hereby incorporate paragraphs 1 through 33 above.

35. Defendant's conduct was a direct, proximate, and producing cause of Plaintiffs' 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, punitive and/or exemplary damages and attorneys' fees (to the extent recoverable) and other general, special, ordinary, incidental and consequential damages as would be anticipated to arise under the circumstances.

36. WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

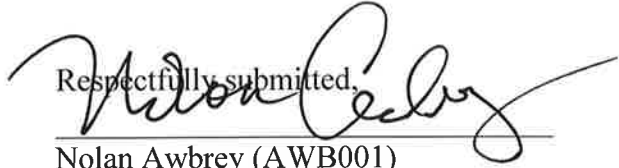
- a. Past and future economic and non-economic damages;
- b. Punitive and/or exemplary damages;
- c. Court costs;
- d. Pre- and post-judgment interest at the highest rate allowed by law; and
- e. For other general and special relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs request and demand a trial by a struck jury.

Dated: June 25, 2015

Respectfully submitted,



Nolan Awbrey (AWB001)

Riley & Jackson, P.C.

RON SIMON & ASSOCIATES

Ron Simon

800 Gessner, Suite 1240

Houston, Texas 77024

Tel: (713) 335-4900

Fax: (713) 335-4949

(Pending Pro Hac Vice)

Attorneys for Plaintiffs

OF COUNSEL:

RILEY & JACKSON, P.C.

3530 Independence Drive

Birmingham, Alabama 35209

nolan@rileyjacksonlaw.com

Tel: (205) 879-5000

Fax: (205) 879-5901