



PRESS RELEASE - Ron Simon & Associates Files First Salmonella Lawsuit Against Tarheel Q Restaurant

Date | June 26, 2015

Ron Simon & Associates Files First Salmonella Lawsuit Against Tarheel Q Restaurant

Today the national food safety law firm of Ron Simon & Associates, along with local counsel Janet, Jenner & Suggs, filed a lawsuit stemming from salmonella-contaminated food served by the Tarheel Q restaurant located in North Carolina on U.S. 64 West in Lexington.

A copy of the lawsuit is attached.

The lawsuit was filed against the restaurant in Davidson County, North Carolina, on behalf of Greensboro resident Vanessa Rohrl.

Vanessa Rohrl consumed a BBQ sandwich from Tarheel Q on June 15, 2015 and thereafter began to experience vomiting, abdominal cramps, diarrhea, headaches, fever, and chills. Vanessa, who was on a camping trip, was forced to call an ambulance, which transported her from the Forrest Lake Campground to Lexington Hospital's Emergency Room. After receiving treatment and stabilization, she returned home.

When her symptoms did not resolve, she was forced to seek additional treatment with a local physician who diagnosed her with salmonella poisoning from Tarheel Q restaurant.

Vanessa is still recovering from her illness.

Health department investigators subsequently interviewed Vanessa, along with other Tarheel Q victims, and linked her to the Tarheel Q salmonella outbreak

Tarheel Q – 127 Victims and Counting

Contaminated food served at Tarheel Q has now been linked to at least 127 illnesses. So far, at least 7 have been hospitalized. The victims purchased food from Tarheel Q between June 6th and 21st.

Tarheel Q's owner, Trey Payne, has been cited several times in recent years for failing to keep foods at the proper temperatures. The restaurant is now closed, and likely will reopen on Monday. Investigators are still trying to determine how the salmonella was introduced into the food at Tarheel Q.

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

Lead attorney Ron Simon, who represents Vanessa Rohrl and a number of other Tarheel Q victims, issued the following statement today: "Given its past behavior of improperly reheating BBQ meats for use day-to-day, and being cited for failing to keep food at the proper temperatures on several occasions, this is a wake-up call for Tarheel Q and other restaurants. Through this lawsuit, we will work to ensure that these safety failures do not happen again."

Mr. Simon and his law firm have established a Tarheel Q Salmonella Claim 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 Tarheel Q salmonella outbreak and ongoing litigation, please contact Ron Simon directly at (713) 819-8116 or ron@rsaalaw.com.

STATE OF NORTH CAROLINA

File No.

Davidson County

In The General Court Of Justice
District Superior Court Division

Name And Address Of Plaintiff 1
Vanessa Rohrl
2609 Kingsmill RD
Greensboro, NC 27407

GENERAL

CIVIL ACTION COVER SHEET

INITIAL FILING SUBSEQUENT FILING

Rule 5(b), General Rules of Practice For Superior and District Courts

Name And Address Of Attorney Or Party, If Not Represented (complete for initial appearance or change of address)

Jacob H. Raehn
500 Taylor Street, Suite 301
Columbia, SC 29201

Name And Address Of Plaintiff 2

VERSUS

Name Of Defendant 1
Tarheel Q, Inc.

Telephone No. 803.726.0050 Cellular Telephone No. 843.384.4277

NC Attorney Bar No. 48397 Attorney E-Mail Address JRaehn@myadvocates.com

Summons Submitted Yes No

Initial Appearance in Case Change of Address

Name Of Defendant 2

Name Of Firm
Janet, Jenner & Suggs, LLC

FAX No. 803.727.1059

Counsel for
All Plaintiffs All Defendants Only (list party(ies) represented)

Summons Submitted Yes No

Jury Demanded In Pleading
Complex Litigation

Amount in controversy does not exceed \$15,000
Stipulate to arbitration

TYPE OF PLEADING

(check all that apply)

- Amend (AMND)
Amended Answer/Reply (AMND-Response)
Amended Complaint (AMND)
Assess Costs (COST)
Answer/Reply (ANSW-Response) (see Note)
Change Venue (CHVN)
Complaint (COMP)
Confession Of Judgment (CNJF)
Consent Order (CONS)
Consolidate (CNSL)
Contempt (CNTP)
Continue (CNTN)
Compel (CMPL)
Counterclaim (CTCL) Assess Court Costs
Crossclaim (list on back) (CRSS) Assess Court Costs
Dismiss (DISM) Assess Court Costs
Exempt/Waive Mediation (EXMD)
Extend Statute Of Limitations, Rule 9 (ESOL)
Extend Time For Complaint (EXCO)
Failure To Join Necessary Party (FJNP)

(check all that apply)

- Failure To State A Claim (FASC)
Implementation Of Wage Withholding In Non-IV-D Cases (OTHR)
Improper Venue/Division (IMVN)
Including Attorney's Fees (ATTY)
Intervene (INTR)
Interplead (OTHR)
Lack Of Jurisdiction (Person) (LJPN)
Lack Of Jurisdiction (Subject Matter) (LJSM)
Modification Of Child Support In IV-D Actions (MSUP)
Notice Of Dismissal With Or Without Prejudice (VOLD)
Petition To Sue As Indigent (OTHR)
Rule 12 Motion In Lieu Of Answer (MDLA)
Sanctions (SANC)
Set Aside (OTHR)
Show Cause (SHOW)
Transfer (TRFR)
Third Party Complaint (list Third Party Defendants on back) (TPCL)
Vacate/Modify Judgment (VCMD)
Withdraw As Counsel (WDCN)
Other (specify and list each separately)

NOTE: All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must either include a General Civil (AOC-CV-751), Motion (AOC-CV-752), or Court Action (AOC-CV-753) cover sheet.

CLAIMS FOR RELIEF

- | | | |
|------------------------------------------------------------|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| <input type="checkbox"/> Administrative Appeal (ADMA) | <input type="checkbox"/> Limited Driving Privilege - Out-Of-State Convictions (PLDP) | <input checked="" type="checkbox"/> Product Liability (PROD) |
| <input type="checkbox"/> Appointment Of Receiver (APRC) | <input type="checkbox"/> Medical Malpractice (MDML) | <input type="checkbox"/> Real Property (RLPR) |
| <input type="checkbox"/> Attachment/Garnishment (ATTC) | <input type="checkbox"/> Minor Settlement (MSTL) | <input type="checkbox"/> Specific Performance (SPPR) |
| <input type="checkbox"/> Claim And Delivery (CLMD) | <input type="checkbox"/> Money Owed (MNYO) | <input type="checkbox"/> Other (specify and list each separately) |
| <input type="checkbox"/> Collection On Account (ACCT) | <input type="checkbox"/> Negligence - Motor Vehicle (MVNG) | |
| <input type="checkbox"/> Condemnation (CNDM) | <input checked="" type="checkbox"/> Negligence - Other (NEGO) | |
| <input type="checkbox"/> Contract (CNTR) | <input type="checkbox"/> Motor Vehicle Lien G.S. 44A (MVLN) | |
| <input type="checkbox"/> Discovery Scheduling Order (DSCH) | <input type="checkbox"/> Possession Of Personal Property (POPP) | |
| <input type="checkbox"/> Injunction (INJU) | | |

Jack H. Kuehn
Signature Of Attorney/Party

Date 6/26/15

FEES IN G.S. 7A-308 APPLY
Assert Right Of Access (ARAS)
Substitution Of Trustee (Judicial Foreclosure) (RSOT)
Supplemental Procedures (SUPR)

PRO HAC VICE FEES APPLY
Motion For Out-Of-State Attorney To Appear In NC Courts In A Civil Or Criminal Matter (Out-Of-State Attorney/Pro Hac Vice Fee)

No.	<input type="checkbox"/> Additional Plaintiff(s)

No.	<input type="checkbox"/> Additional Defendant(s)	<input type="checkbox"/> Third Party Defendant(s)	Summons Submitted
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

Plaintiff(s) Against Whom Counterclaim Asserted

Defendant(s) Against Whom Crossclaim Asserted

STATE OF NORTH CAROLINA

File No.

Davidson County

In The General Court Of Justice
District Superior Court Division

Name Of Plaintiff: Vanessa Rohrl
Address: 26009 Kingsmill Road
City, State, Zip: Greensboro, NC 27407

VERSUS

Name Of Defendant(s): Tarheel Q, Inc.

CIVIL SUMMONS
ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1: Tarheel Q, Inc. through its registered agent, Trey Payne, 6835 US Highway 64 West, Lexington, NC 27295

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

- 1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff): Jacob H. Raehn, Janet, Jenner & Suggs, LLC, 500 Taylor Street, Suite 301, Columbia, SC 29201

Date Issued, Time, Signature, Deputy CSC, Assistant CSC, Clerk Of Superior Court

ENDORSEMENT (ASSESS FEE)
This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement, Time, Signature, Deputy CSC, Assistant CSC, Clerk Of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

<i>Date Served</i>	<i>Time Served</i> <input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Name Of Defendant</i>
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- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- Other manner of service (*specify*)

- Defendant WAS NOT served for the following reason:

DEFENDANT 2

<i>Date Served</i>	<i>Time Served</i> <input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Name Of Defendant</i>
--------------------	-------------------------------------------------------------------------------	--------------------------

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- Other manner of service (*specify*)

- Defendant WAS NOT served for the following reason.

<i>Service Fee Paid</i> \$	<i>Signature Of Deputy Sheriff Making Return</i>
<i>Date Received</i>	<i>Name Of Sheriff (Type Or Print)</i>
<i>Date Of Return</i>	<i>County Of Sheriff</i>

STATE OF NORTH CAROLINA
COUNTY OF DAVIDSON

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

VANESSA ROHRL, an Individual,
Plaintiff,
vs.
TARHEEL Q, INC.
Defendant.

Case No.

**PLAINTIFF'S ORIGINAL COMPLAINT
JURY TRIAL DEMANDED**

Plaintiff VANESSA ROHRL, by and through her counsel of record **Ron Simon & Associates and Janet, Jenner & Suggs**, allege and complain as follows:

I. PARTIES

1. Plaintiff VANESSA ROHRL is an adult and resident of Greensboro, North Carolina.
2. Defendant TARHEEL Q, INC. is a North Carolina corporation headquartered in Lexington, North Carolina. It may be served through its registered agent, Trey Payne, at 6835 US Highway 64 West, Lexington, North Carolina 27295.

JURISDICTION AND VENUE

3. This Court has jurisdiction and venue over Defendant because it is a domestic company headquartered in Davidson County, North Carolina and because purchases of the tainted products and injuries giving rise to this lawsuit occurred in Davidson County, North Carolina.

GENERAL ALLEGATIONS

4. Plaintiff hereby incorporates paragraphs 1 through 3 above.

About Salmonella

5. *Salmonella* is an enteric bacterium, which means that it lives in the intestinal tracts of human and other warm-blooded animals, including cattle. *Salmonella* bacteria are

usually transmitted to humans who consume foods contaminated with animal feces. Such foods usually look and smell normal, meaning that a consumer has no warning of the fact of contamination.

6. After being ingested, *Salmonella* bacteria travel to the lumen of the small intestines, then penetrate the epithelium, multiply, and enter the blood. This infection process – also referred to as the incubation period – usually takes 6 to 72 hours for the onset of symptoms. As few as 15-20 cells of *Salmonella* bacteria can cause infection.

7. The acute symptoms of *Salmonella* gastroenteritis (or *Salmonellosis*) include nausea, vomiting, diarrhea, fever, abdominal cramping and/or stomach pain, dysuria, muscle pain, fatigue, and dehydration. The duration of acute symptoms is typically four to seven days.

8. If medical treatment is provided to an infected person, it is typically treatment of the symptoms, such as prescribing anti-nausea or anti-diarrhea medications. Some physicians prescribe antibiotics. More severe cases may require intravenous fluids for treatment of dehydration, usually in an emergency room or urgent-care setting. The elderly, infants, and those with impaired immune systems are more likely to experience a severe illness or death from ingesting *Salmonella* bacteria.

9. More serious cases of salmonellosis are also linked to cases where the particular strain of *Salmonella* bacteria is resistant to traditional antibiotics, leading to more prolonged illness and often other complications.

10. In cases of prolonged or acute gastroenteritis, long-term side-effects, such as irritable bowel syndrome (IBS) or irritable bowel disease (IBD), can develop, leading to the need for long-term medical treatment and care.

The Salmonella Outbreak

11. On June 23, 2015, the Davidson County Health Department, the North Carolina Division of Public Health, and the Davie County Health Department began investigating a salmonella outbreak linked to patrons of the Tarheel Q after at least 30 restaurant patrons reported symptoms that included diarrhea, abdominal pain, fever, nausea and vomiting. The

patrons had consumed food at Tarheel Q between June 6th and June 21st.

12. As of the filing of this lawsuit, the North Carolina's Division of Public Health has raised the number of victims to 127, 15 of whom have tested positive for salmonella. The serotype has not yet been announced. Many more have pending stool cultures. So far at least 7 victims have been hospitalized. The victims come from at least a dozen different North Carolina counties and 6 other states.

13. According to Davidson County Health Department's (DCHD) director, Monecia Thomas, the DCHD is working with other county and state health departments, as they continue to identify and interview other ill people in an attempt to determine the scope of the outbreak and the source of the infection.

14. The restaurant is closed as of the filing of this complaint, with plans to re-open on Monday, June 29th. The restaurant has also been cited several times in recent years for failing to keep foods at proper temperatures.

Plaintiff Vanessa Rohrl's Salmonella Illness

15. Vanessa, along with her husband Robert and her granddaughter, decided to enjoy a ten-day camping trip at Forrest Lake Campground. On June 15th, Robert stopped at the Tarheel Q to purchase two BBQ sandwiches, with coleslaw, for Vanessa. Vanessa ate those sandwiches for dinner. Unfortunately, the following evening Vanessa began to feel sick. She went to bed with the hope that it would pass by morning. Unfortunately, it did not.

16. By the next morning, Vanessa believed she needed medical treatment, but the family had chosen a campground close enough to home so her husband could commute to work during the trip. She tried to wait for him to arrive, but unfortunately had to call an ambulance when her illness progressed to the point she feared was life-threatening. She was given an IV at the campground before being transported by ambulance to Lexington Hospital.

17. The medical staff at Lexington Hospital emergency room stabilized Vanessa and discharged her with the generic diagnosis of gastroenteritis of viral etiology about six hours later.

18. For nearly a week Vanessa continued to suffer, finally returning to seek additional

medical attention on June 25th. Her physician diagnosed her with salmonella food poisoning, and prescribed antibiotics.

19. Health department officials subsequently interviewed Vanessa, along with other victims, and linked her illness to the Tarheel Q salmonella outbreak.

FIRST CAUSE OF ACTION

(Strict Products Liability)

20. Plaintiff hereby incorporates paragraphs 1 through 19 above.

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

22. There was a manufacturing defect in the food when it left Defendant's possession and control. The food was defective because it contained *Salmonella*. The presence of *Salmonella* was a condition of the product that rendered it unreasonably dangerous.

23. There was a marketing defect in the food when it left Defendant's possession and control. The food was defective because it contained *Salmonella*, and Defendant 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.

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

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

SECOND CAUSE OF ACTION

(Negligence and Negligence Per Se)

26. Plaintiff hereby incorporates paragraphs 1 through 25 above.

27. Defendant owed Plaintiff a duty of ordinary care in the manufacture, preparation,

testing, packaging, marketing, storing, holding, distribution, and selling of the food in question. Further, Defendant owed Plaintiff the duty of warning or instructing Plaintiff of potentially hazardous or life-threatening conditions with respect to the food.

28. Defendant breached its duty in one or more of at least the following ways:
 - a. negligently manufacturing, preparing, distributing, 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 prepare 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 *Salmonella* 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 *Salmonella* bacteria and related filth and adulteration from their premises;
 - j. failing to warn Plaintiff and the general public of the dangerous propensities of the food, particularly that it was contaminated with *Salmonella*, 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.

29. 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.

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

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

32. 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.

33. 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)

34. Plaintiff hereby incorporates paragraphs 1 through 33 above.

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

36. 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 *Salmonella*. Plaintiff reasonably relied upon Defendant's skill and judgment as to

whether the food was of merchantable quality and fit for human consumption.

37. Defendant breached the implied warranty of fitness for a particular purpose, by holding out unreasonably dangerous food (i.e. sandwiches produced under egregious conditions and containing *Salmonella*) to the public as being safe when they knew or had reason to know that the food was not safe and that the public would consume the food.

38. Defendant did not disclaim these implied warranties.

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

DAMAGES

40. Plaintiff hereby incorporates paragraphs 1 through 39 above.

41. 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, 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.

42. WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- a. that plaintiff Vanessa Rohrl have and recover of the defendant, for compensatory damages and personal injuries in an amount in excess of Ten Thousand Dollars (\$10,000.00).
- b. that the costs of this action be taxed to the defendants, including prejudgment interest from the date of the filing of this Complaint;
- c. that this matter be tried before a jury; and
- d. for such other and further relief as to the Court may seem just and proper.

Dated: June 26, 2015

JANET, JENNER & SUGGS, LLC

By:



JACOB H. RAEHN (NC Bar No. 48397)

500 Taylor Street, Suite 301

Columbia, SC 29201

Telephone: 803.726.0050

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RON SIMON & ASSOCIATES

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800 Gessner, Suite 124

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Telephone: 713.335.4900

Facsimile: 713.335.4949

(Pending Pro Hac Vice)

Attorneys for Plaintiff