



PRESS RELEASE - Ron Simon & Associates Files Salmonella Lawsuit Against Boise Co-Op

Date | June 25, 2015

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Today the national food safety law firm of Ron Simon & Associates filed a lawsuit stemming from salmonella-contaminated food served by the Boise Co-Op located at 888 West Fort Street in Boise, Idaho.

A copy of the lawsuit is attached.

The lawsuit was filed against the restaurant in the District Court of Ada County, Idaho, on behalf of Boise residents Addison Kile and his mother, Karen Sufficool.

Mr. Kile and Ms. Sufficool consumed Boise Co-Op sandwiches on June 8, 2015 and began to experience severe vomiting, abdominal cramps, diarrhea, headaches, fever, and chills shortly thereafter. Karen was the first to seek medical attention, presenting to the Boise VA. After receiving treatment she returned home. When her symptoms did not resolve, she was forced to seek additional treatment from the St. Luke Emergency Room. There, both she and Addison were evaluated, tested, treated, and discharged. Both are recovering from their illnesses.

Central District Health Department investigators subsequently interviewed both victims and linked them to the Boise Co-Op salmonella outbreak.

Boise Co Op Deli Closed after Wave of Salmonella Cases

The Boise Co-Op Deli has now been linked to at least 250 confirmed salmonella cases. The victims purchased contaminated food from the deli or the airport kiosk between June 1st and 10th.

Boise Co-Op management has since confirmed that food testing performed by the Central District Health Department revealed rampant salmonella contamination. The Boise Co-Op has since admitted that “foods that were found to be contaminated include tomatoes, onions, and raw turkey.”

The owners of the Boise Co-Op posted this statement on their Facebook page: “The safety of our customers and staff is extremely important to us, so it pains us to share information concerning recalled product from our store that could impact your health.”

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

Lead attorney Ron Simon, who represents Mr. Kile, Ms. Sufficool, and several other Boise Co-Op victims, issued the following statement today: “Like so many outbreaks in the past, there were significant breakdowns in food safety at the Boise Co-Op. Through these lawsuits, we will determine exactly how the contamination occurred and ensure that those failures do not happen again.”

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

JUN 25 2015

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11 **Attorneys for Plaintiffs**

12 **CHERI COPSEY**

13 **IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT**

14 **STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

15 KAREN SUFFICOOL, an Individual, and
16 ADDISON KILE, an Individual

17 Plaintiffs,

18 vs.

19 BOISE CONSUMER COOPERATIVE,
20 INC. dba BOISE CO-OP

21 Defendant.

Case No. **CV PI 1510852**

COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL

22 Plaintiffs KAREN SUFFICOOL and ADDISON KILE, by and through their counsel of record

23 **Ron Simon & Associates and Peterson Lawyers**, allege and complain as follows:

24 **I. PARTIES**

25 1. Plaintiff KAREN SUFFICOOL is an adult and resident of Boise, Idaho.

26 2. Plaintiff ADDISON KILE is an adult and resident of Boise, Idaho.

27 3. Defendant BOISE CONSUMER COOPERATIVE, INC. dba BOISE CO-OP
28 (hereinafter "Boise Co-Op") is an Idaho corporation headquartered in Boise, Idaho. It may be served through its registered agent, Ben Kuzma, at 888 West Fort Street, Boise, Idaho.

1 **JURISDICTION AND VENUE**

2 4. This Court has jurisdiction and venue over Defendant because it is a domestic
3 corporation headquartered in Idaho, and because purchases of the tainted products and injuries giving
4 rise to this lawsuit occurred in Ada County, Idaho.

5 **GENERAL ALLEGATIONS**

6 5. Plaintiffs hereby incorporate paragraphs 1 through 4 above.

7 **About Salmonella**

8 6. *Salmonella* is an enteric bacterium, which means that it lives in the intestinal tracts of
9 human and other warm-blooded animals, including cattle. *Salmonella* bacteria are usually transmitted
10 to humans who consume foods contaminated with animal feces. Such foods usually look and smell
11 normal, meaning that a consumer has no warning of the fact of contamination.

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

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

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

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

27 11. In cases of prolonged or acute gastroenteritis, long-term side-effects, such as irritable
28 bowel syndrome (IBS) or irritable bowel disease (IBD), can develop, leading to the need for long-term

1 medical treatment and care.

2 **The Salmonella Outbreak**

3 12. Between June 1st and 10th of 2015, many of the patrons of Boise Co-Op Deli, both at the
4 main deli located at 888 West Fort Street and also those who purchased food at airport kiosks, were
5 exposed to salmonella bacteria in various products they purchased. After a short period of incubation,
6 sometimes lasting only hours, the victims began to experience symptoms including vomiting, nausea,
7 diarrhea, cramping and associated fevers, chills, and headaches. Many of these victims sought medical
8 attention, with some providing stool tests to their medical professionals. When the stool tests began to
9 return positive for *Salmonella*, the medical professionals reported the positive tests to their local health
10 agencies. Within days, local authorities became aware of a potential salmonella outbreak in the Boise,
11 Idaho area.

12 13. Based upon the eating histories of interviewed victims, the Central District Health
13 Department (CDHD), sent investigators to the Boise Co-Op. As part of the investigation, which took
14 at least two days, health officials confiscated food samples for bacterial culturing. On June 15th,
15 testing demonstrated *Salmonella* contamination on at least three food products, including onions,
16 tomatoes, and turkey meat.

17 14. The restaurant was closed for investigation and cleaning, being allowed to reopen on
18 June 19th. At the time of this filing, the CDHD investigation is ongoing to determine the exact source
19 of the *Salmonella* bacteria

20 15. At least 250 individual *Salmonella* victims have now been identified, including a
21 number who have been hospitalized.

22 **Plaintiff Addison Kile's Salmonella Illness**

23 16. On June 8, 2015, Addison consumed a sandwich prepared at the Boise Co-Op. By that
24 evening, he began to feel the effects of salmonellosis. Addison began to vomit and suffered nausea,
25 diarrhea, abdominal cramping, and the onset of fever and chills. By the next day, he was suffering
26 horrific headaches and body aches in addition to ongoing and intense diarrhea.

27 17. By June 10th, Addison became alarmed that his symptoms had not resolved. He decided
28 to go to the Saint Luke's Hospital Emergency Room for treatment. Doctors admitted Addison to the

1 hospital and the attending physician started him on IV fluids before ordering a stool culture, among
2 other tests. While most of the tests were unremarkable, the stool culture confirmed *Salmonella* due to
3 food poisoning.

4 18. The attending physician released Addison the next day, and soon thereafter health
5 department officials contacted Addison to inquire about his recent eating habits. They confirmed that
6 he had eaten food from the Boise Co-Op prior to onset of his illness.

7 **Plaintiff Karen Sufficool's Salmonella Illness**

8 19. On June 8, 2015, Karen purchased sandwiches at the Boise Co-Op for herself and her
9 adult son, Addison, which they consumed when she returned home. That evening, she began to feel
10 the full effects of salmonellosis, which included vomiting, nausea, severe diarrhea, abdominal
11 cramping, and the onset of fever, chills, and headache.

12 20. Karen attempted to stay at home for a couple of days, but soon realized that the
13 symptoms were not resolving. She decided to go to the Boise VA, but upon arrival noted the lengthy
14 wait time and headed back home. As her condition deteriorated, however, she returned and was
15 treated for symptoms of gastroenteritis.

16 21. The next day, on or about June 10th, Karen decided that both she and her son, Addison,
17 who was suffering from MS, needed to be seen again. This time, she presented, with her son, to the
18 Saint Luke's Hospital Emergency Room for treatment. The attending physician admitted her son
19 Addison, but instructed Karen to return to Boise VA where she would receive treatment as a veteran of
20 the armed forces.

21 22. Central District Health Department officials interviewed Karen after learning of her
22 exposure and diagnosis consistent with salmonellosis.

23 23. Health officials thereafter identified both Karen and Addison as victims of the Boise
24 Co-Op *Salmonella* outbreak.

25 **FIRST CAUSE OF ACTION**

26 **(Strict Products Liability)**

27 24. Plaintiffs hereby incorporate paragraphs 1 through 23 above.

28 25. At all times, Defendant was in the business of importing, manufacturing, distributing,

1 and marketing deli food.

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

5 27. There was a marketing defect in the deli food when it left Defendant's possession and
6 control. The deli food was defective because it contained *Salmonella*, and Defendant failed to give
7 adequate warnings of the product's dangers that were known or by the application of reasonably
8 developed human skill and foresight should have been known. Defendant also failed to give adequate
9 warnings and instructions to avoid such dangers. Defendant's failure to provide such warnings and
10 instructions rendered the deli food unreasonably dangerous.

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

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

15 **SECOND CAUSE OF ACTION**

16 **(Negligence and Negligence Per Se)**

17 30. Plaintiffs hereby incorporate paragraphs 1 through 29 above.

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

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

- 23 a. negligently manufacturing, preparing, distributing, and marketing deli food;
- 24 b. failing to properly test the deli food before placing it into the stream of
25 commerce;
- 26 c. failing to prevent human, insect, and/or animal feces from coming into contact
27 with the deli food;
- 28 d. Failing to store, package, hold, or prepare the deli food or its ingredients in a

1 manner to prevent it from becoming contaminated with filth which could render
2 it injurious to health;

3 e. failing to adequately monitor the safety and sanitary conditions of their
4 premises;

5 f. failing to apply their own policies and procedures to ensure the safety and
6 sanitary conditions of their premises;

7 g. failing to adopt and/or follow recommended good manufacturing practices;

8 h. failing to take reasonable measures to prevent the transmission of *Salmonella*
9 bacteria and related filth and adulteration from their premises;

10 i. failing to properly train and supervise their employees and agents to prevent the
11 transmission of *Salmonella* bacteria and related filth and adulteration from their
12 premises;

13 j. failing to warn Plaintiffs and the general public of the dangerous propensities of
14 the deli food, particularly that it was contaminated with *Salmonella*, despite
15 knowing or having reason to know of such dangers; and

16 k. failing to timely disclose post-sale information concerning the dangers
17 associated with the deli food.

18 33. Furthermore, Defendant had a duty to comply with all applicable health regulations,
19 including the FDA's Good Manufacturing Practices Regulations, 21 C.F.R. part 110, subparts (A)-(G),
20 and all statutory and regulatory provisions that applied to the manufacture, distribution, storage, and/or
21 sale of the deli food or its ingredients, including but not limited to, the Federal Food, Drug, and
22 Cosmetics Act, § 402(a), as codified at 21 U.S.C. § 342(a), which bans the manufacture, sale and
23 distribution of any "adulterated" food, and the Idaho Food, Drug and Cosmetic Act, Title 37,
24 especially 37-122 et. Seq.

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

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

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

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

7 **THIRD CAUSE OF ACTION**

8 **(Breach of Implied Warranties)**

9 38. Plaintiffs hereby incorporate paragraphs 1 through 37 above.

10 39. Defendant is a merchant who produces, manufactures, distributes, and markets deli
11 products to consumers. Plaintiffs are consumers.

12 40. Defendant breached the implied warranty of merchantability by impliedly warranting
13 that their deli food was of merchantable quality and fit for human consumption when it was not due to
14 the conditions under which it was prepared, packaged, and held and due to the presence of *Salmonella*.
15 Plaintiffs reasonably relied upon Defendant's skill and judgment as to whether the deli food was of
16 merchantable quality and fit for human consumption.

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

21 42. Defendant did not disclaim these implied warranties.

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

24 **DAMAGES**

25 44. Plaintiffs hereby incorporate paragraphs 1 through 43 above.

26 45. Defendant's conduct was a direct, proximate, and producing cause of Plaintiffs' injuries
27 and damages, including but not limited to damages in the past and future for the following: pain and
28 suffering, mental anguish, physical impairment, physical disfigurement, loss of enjoyment of life,

1 medical and pharmaceutical expenses, travel and travel-related expenses, emotional distress, lost
2 wages, lost earning capacity, loss of consortium, punitive and/or exemplary damages and attorneys'
3 fees (to the extent recoverable) and other general, special, ordinary, incidental and consequential
4 damages as would be anticipated to arise under the circumstances.

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

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

11 **JURY DEMAND**

12 Plaintiffs demand a jury trial for all triable claims.

13 Dated: June 25, 2015

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