

IN THE _____ COURT OF _____ COUNTY
STATE OF _____

_____)	
)	
)	
Petitioner/Plaintiff,)	
)	
Vs.)	NO. _____
)	
_____)	
Respondent/Defendant)	
)	

COMPLAINT

COMES NOW, the plaintiff, and as for his Complaint, states as follows:

1. Plaintiff, _____, is a resident of _____ County, _____, and is over the age of nineteen (19) years.

2. Defendant, _____ Restaurants Corporation, doing business as _____ (hereinafter referred to as “_____”) is a domestic corporation doing business in _____ County, _____.

3. Defendant, _____ Corporation, (hereinafter referred to as “_____”) is a foreign corporation not qualified to do business in _____, but doing business in _____ County, _____.

4. Defendants, A, B, C, D and E, are those persons or entities who sold, supplied, distributed, processed, manufactured, marketed, assembled, delivered, furnished and/or placed in the stream of commerce, through their agents, servants or employees, food products, including a “_____” hamburger for plaintiff’s consumption.

5. Said Defendants, and each of them, were in the business of selling, supplying, distributing, processing, manufacturing, marketing, distributing, assembling, delivering, furnishing, and/or placing in the stream of commerce food products, including a “_____” hamburger for plaintiff’s consumption.

6. The true names and/or legal identities of A, B, C, D, and E are unknown to the plaintiff at this time but will be added by amendment when ascertained, individually and jointly, all of whom are liable to the plaintiff as set forth in this Complaint.

7. On or about the _____ day of _____, 20____, plaintiff, and invitee, purchased a “_____” from Defendant _____ at store _____ at _____ in _____ County, _____. He bit into a hamburger, swallowed some of the hamburger, began to choke on something and feared for his life. A metal wire was found in his hamburger. The plaintiff did not know of, had no reason to know of or otherwise could not have reasonably anticipated that a wire was in his hamburger. Defendant _____, and/or A, B, C, D, E, owned, operated, managed or otherwise controlled the activities at store No._____. Defendant _____ and/or A, B, C, D, E, were responsible for the condition of the meat in the “_____” hamburger.

COUNT I

(NEGLIGENCE)

8. Plaintiff adopts and incorporates paragraphs one through seven by reference as if fully set out herein.

9. Defendants, _____, _____, A, B, C, D and E, negligently sold, supplied, processed, manufactured, marketed, distributed, assembled, delivered, furnished and/or placed in the stream of commerce, through their agents, servants and/or employees, a hamburger with a foreign object in it to the plaintiff, specifically a piece of wire.

10. Defendants, _____, _____, A, B, C, D and E, negligently failed to warn or adequately warn the plaintiff of the presence of said foreign object in the hamburger before the plaintiff purchased or otherwise consumed said hamburger.

11. As a proximate result of said negligent acts or omissions of the defendants, and each of them, plaintiff feared he was going to die, experienced pain and suffering, mental anguish and incurred medical bills.

WHEREFORE, plaintiff demands compensatory damages in excess of this Court's minimal jurisdictional limits plus interest and costs.

COUNT II

(WANTONNESS)

Plaintiff adopts and incorporates paragraphs one through seven by references as if fully set out herein.

12. Defendants, _____, _____, A, B, C, D and E, wantonly sold, supplied, processed, manufactured, marketed, distributed, assembled, delivered, furnished and/or placed in the stream of commerce, through their agents, servants and/or employees, a hamburger with a foreign object in it to the plaintiff, specifically a piece of wire.

13. Defendants, _____, _____, A, B, C, D and E, wantonly failed to warn or adequately warn the plaintiff of the presence of said foreign object in the hamburger before the plaintiff purchased or otherwise consumed said hamburger.

14. As a proximate result of said wanton acts or omissions of the defendants, and each of them, plaintiff feared he was going to die, experienced pain and suffering, mental anguish and incurred medical bills.

WHEREFORE, plaintiff demands punitive and compensatory damages in excess of this Court's minimal jurisdictional limits plus interest and costs.

COUNT III

(AEMLD)

15. Plaintiff adopts and incorporates paragraphs one through seven by reference as if fully set out herein. This cause of action is brought under the “AEMLD”.

16. Defendants, _____, _____, A, B, C, D and E, sold, supplied, manufactured, marketed, distributed, assembled, delivered, furnished and/or placed in the stream of commerce, through their agents, servants and/or employees, a hamburger with a foreign object in it, specifically, a piece of wire, to the plaintiff as the ultimate consumer rendering such product unreasonably dangerous or in a defective condition. Said product was expected to, and did reach the plaintiff, as the ultimate consumer without substantial change in the condition in which it was sold.

17. As a proximate result of the hamburger’s unreasonably dangerous or defective condition which was caused by the defendants, and each of them, plaintiff thought he was going to die, experience pain and suffering, mental anguish and incurred medical bills.

WHEREFORE, plaintiff requests compensatory and punitive damages in excess of this Court’s minimal jurisdictional limits plus interest and costs.

COUNT IV

(IMPLIED WARRANTY)

18. Plaintiff adopts and incorporates paragraphs one through seven by reference as if fully set out herein.

19. Defendants, _____, _____, A, B, C, D and E, impliedly warranted that their food products, specifically, a “_____” hamburger, would be fit for human consumption or otherwise would not have a foreign object such as a wire in it. Defendants, and each of them, breached said implied warranty by selling plaintiff a hamburger with a wire in it.

20. As a proximate result of said breach of implied warranties by the defendants, and each of them, plaintiff thought he was going to die, experience pain and suffering, mental anguish and incurred medical bills.

WHEREFORE, the plaintiff requests compensatory and punitive damage in excess of this Court's minimal jurisdictional limits plus interest and costs.

COUNT V

(EXPRESS WARRANTY)

21. Plaintiff adopts and incorporates and paragraphs one through seven by reference as if fully set out herein.

22. Defendants, _____, _____, A, B, C, D and E, expressly warranted that their food products, specifically a "_____" hamburger, would be fit for human consumption or otherwise would not have a foreign object such as a wire in it. Defendants, and each of them, breached said warranty by selling plaintiff a "_____" hamburger with a wire in it.

23. As a proximate result of said breach of express warranties by the defendants, and each of them, plaintiff thought he was going to die, experienced pain and suffering, mental anguish and incurred medical bills.

WHEREFORE, plaintiff requests compensatory and punitive damages in excess of this Court's minimal jurisdictional limits plus interest and costs.

PLAINTIFF DEMANDS A TRIAL BY JURY

Respectfully submitted,

Dated: _____

Name: _____

Title:
Address:
Address:
City, State, Zip:
Phone:
Fax:
E-Mail:
Attorney No.:

CERTIFICATE OF SERVICE

I, _____, do hereby certify that I have this day mailed,
U.S. Mail, postage prepaid, a true and correct copy of the above and foregoing to
_____, at the following address;

THIS the ____ day of _____, 20____.

**PLEASE SERVE DEFENDANTS BY CERTIFIED MAIL, RETURN RECEIPT
REQUESTED AS FOLLOWS:**

**PLEASE SERVE INTERROGATORIES, AND REQUESTS FOR PRODUCTION OF
DOCUMENTS WITH THE COMPLAINT.**