

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

ROBERT REPOSA,

Plaintiff,

v.

CIVIL ACTION NO.: _____

BOAR'S HEAD PROVISIONS CO., INC.,

Defendant.

COMPLAINT

Plaintiff, by counsel, hereby moves this Court for judgment and execution against the Defendant as follows:

1. Plaintiff, Robert Reposa, is, and at all relevant times has been, a resident of the Commonwealth of Virginia.
2. At all relevant times, the Plaintiff has resided in Smithfield, Virginia, which is in the Eastern District of Virginia and specifically in the Norfolk Division.
3. The Defendant, Boar's Head Provisions Co., Inc. (hereinafter "Boar's Head"), is, and at all relevant times has been, a corporation organized and existing under the laws of the State of Florida with its principal place of business within the State of Florida, but which transacts considerable business within the State of Virginia and, more specifically, within the Norfolk Division of the Eastern District.
4. Jurisdiction is appropriate in this court pursuant to 28 USC §1332(a) in that the matter in controversy exceeds \$75,000, exclusive of interest and costs, and this action is one between citizens of different states.

5. Venue is appropriate in this court pursuant to 28 USC §1391 in that this is the district in which this claim arose.

6. On or about the last few days of July 2024, the Plaintiff purchased Boar's Head meat products from a Kroger located in Smithfield, Virginia.

7. On or about July 19, 2024, the United States Food and Drug Administration (FDA) announced that there was an investigation into a multi-state outbreak of confirmed cases of Listeria.

8. Ultimately the Center for Disease Control (CDC) identified the Defendant, Boar's Head, and its products as a source of the Listeria outbreak.

9. Later, the Boar's Head facility located in Jarratt, Virginia, was identified as a more particular source of the contamination and outbreak.

10. Upon information and belief, the Defendant's facilities have been cited numerous times for non-compliance of food safety requirements.

11. The Defendant, Boar's Head, has an obligation to prepare its food products in a safe manner so as to do everything possible to avoid any food contamination.

12. The Defendant warrants that its food products are safe and are fit for the usual and ordinary purpose (specifically eating) for which they are marketed.

13. As is evidenced by the numerous violations by the Defendant of its food safety requirements, specifically at the Jarratt, Virginia, facility, but also at others, the Defendant negligently and grossly negligently failed to maintain safe practices in preparing its products.

14. The Defendant certainly knew of the unsanitary practices that were present at its facilities as it was preparing food for consumption.

15. Notwithstanding said knowledge, the Defendant, through its employees, simply continued to put food products into the chain of commerce to be purchased by consumers.

16. Ultimately, Plaintiff purchased such a product and became frighteningly ill with Listeria, which resulted in his hospitalization and the resulting problems which flowed therefrom.

17. Specifically, on August 8, 2024, Plaintiff presented to a Velocity Urgent Care with complaints of severe stomach pain, vomiting, fever, chills, and extreme diarrhea. At that time, he was unaware of his exposure to Listeria.

18. After not recovering, Plaintiff then presented himself to Sentara Norfolk General Hospital on August 13, 2024, with the same complaints, still not knowing that he had been exposed to Listeria. He was subsequently transferred to Sentara Heart Hospital on August 16, 2024.

19. Ultimately, it was determined that not only was he exposed to the bacteria, but he did, in fact, have Listeria.

20. Because of his previous heart issues, his exposure to Listeria was extraordinarily dangerous and resulted in his hospitalization of 14 days. Plaintiff continues to suffer to this day and likely has suffered permanent damage as a result of this exposure.

COUNT I

21. Plaintiff adopts and realleges all the preceding paragraphs as if repeated herein.

22. At all times, the Defendant was in the business of producing, manufacturing, marketing, supplying, and selling food to the public.

23. As set out above, there was a manufacturing defect when the product left the Defendant's possession and control and the product itself was defective in that it contained

Listeria.

24. The presence of Listeria made the product unreasonably dangerous.

25. The Defendant failed to take precautions to prevent the Listeria and failed to give adequate warnings of its products dangers.

26. The product left the Defendant's facility and was purchased by the Plaintiff without a substantial change in its condition.

27. The product was unreasonably dangerous at the time it was manufactured and distributed in that among other things:

- a. The product was produced in an environment which was adulterated as was evidenced by numerous deficiencies noted in the Defendant's facilities;
- b. The food product was contaminated with Listeria, and
- c. There were no warnings provided with the food product.

28. As a result of the Defendant's conduct as set out above, the defective food product was put into the chain of commerce and ultimately purchased and eaten by the Plaintiff.

29. As a direct result of the Defendant's conduct and the subsequent purchasing and eating of the product, the Plaintiff became very ill, which required his hospitalization.

30. The Defendant's conduct as set out above was both negligent, negligent per se, and a violation of its duties and obligations to the Plaintiff and others.

31. As a direct result of the Defendant's conduct, the Plaintiff suffered a significant and likely permanent injury and will continue to suffer into the future.

32. As a result of the Plaintiff's injuries, he has incurred substantial medical bills, suffered great pain, mental anguish, and inconvenience, has been unable to carry on his normal

day-to-day affairs or work at his calling, and has incurred and will incur and suffer all of the above well into the future.

WHEREFORE, the Plaintiff prays for judgment and execution against the Defendant in the amount of FOUR MILLION SIX HUNDRED FIFTY EIGHT THOUSAND FIVE HUNDRED THIRTY SEVEN AND 87/100 DOLLARS (\$4,658,537.87).

COUNT II

33. The Plaintiff adopts and realleges all the preceding paragraphs as if repeated herein.

34. As set out above, the Defendant, through governmental inspections, was well aware that its facilities were not sanitary and that it was exposing both the Plaintiff and other consumers to a substantial risk by and through the way it was manufacturing and producing its food products.

35. Notwithstanding said knowledge, the Defendant failed to take the steps necessary to have a clean, safe facility where the food products were produced.

36. The Defendant knew that by failing to remedy the defects in its manufacturing facility it was putting the Plaintiff and others at a substantial risk.

37. The Defendant's conduct in failing to rectify the situation was willful, wanton, and in reckless disregard to the rights of the Plaintiff and others.

WHEREFORE, the Plaintiff prays for judgment and execution against the Defendant in the amount of FORTY THREE MILLION FIVE HUNDRED EIGHTY SEVEN THOUSAND AND NO/100 DOLLARS (\$43,587,000.00) punitive damages.

In addition to all the above, the Plaintiff prays for pre and post-judgment interest, plus all

of his costs in proceeding with this matter.

Plaintiff requests a trial by jury.

ROBERT REPOSA

By _____

Of Counsel

Robert J. Haddad, Esq. (VSB No. 22298)
**RULOFF, SWAIN, HADDAD, MORECOCK,
TALBERT & WOODWARD, P.C.**
317 30th Street
Virginia Beach, VA 23451
P: (757)671-6000
F: (757)671-6004
rhaddad@srgslaw.com

JS 44 (Rev. 03/24)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS Robert Reposa</p> <p>(b) County of Residence of First Listed Plaintiff <u>Isle of Wight, VA</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Ruloff Swain Haddad Morecock Talbert & Woodward 317 30th Street, Va. Beach, VA 23456 / 757-671-6036</p>	<p>DEFENDANTS Boar's Head Provisions Co., Inc.</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input checked="" type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT *(Place an "X" in One Box Only)* [Click here for: Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN *(Place an "X" in One Box Only)*

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from Another District *(specify)*
 6 Multidistrict Litigation - Transfer
 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*
 28 USC §1332 (a)

Brief description of cause:
 Product Liability - Food Poisoning

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
DEMAND \$ 48,245,537.87
 CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):*

JUDGE _____ DOCKET NUMBER _____

DATE: 09/11/2024 SIGNATURE OF ATTORNEY OF RECORD: Robert J. Haddad

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____