

<p><b>DISTRICT COURT, COUNTY OF MESA, STATE OF COLORADO</b>  125 N. Spruce Street  Grand Junction, CO 81501  (970) 257-3640</p>	<p>DATE FILED  October 31, 2024 1:47 PM  FILING ID: D1A2460EF83E7  CASE NUMBER: 2024CV30404</p>
<p><b>Plaintiff:</b> DON HOBBS, an individual,</p> <p>v.</p> <p><b>Defendants:</b> MCDONALD'S CORPORATION, a Delaware corporation; KING VENTURES I, LLC, a Colorado Corporation.</p>	<p>▲COURT USE ONLY▲</p>
<p><b>Attorneys for Plaintiff:</b></p> <p>John R. Riley, Esq., #18962  Montgomery Little &amp; Soran, PC  5445 DTC Parkway, Suite 800  Greenwood Village, CO 80111  Phone Number: (303) 773-8100  Email: jriley@montgomerylittle.com</p> <p>William D. Marler, Esq. (<i>pro hac vice</i> to be filed)  Marler Clark Inc. PS  180 Olympic Drive S.E.  Bainbridge Island, WA 98110  Phone number: (206) 346-1888  Fax Number: (206) 346-1898  Email: bmarler@marlerclark.com</p>	<p><b>Case No.:</b></p> <p><b>Division:</b></p>
<p align="center"><b>COMPLAINT AND JURY DEMAND</b></p>	

COMES NOW the Plaintiff, by and through his attorneys of record, John R. Riley of Montgomery Little & Soran, PC, and William D. Marler of Marler Clark, Inc., PS, (pending *pro hac vice* admission) and files this Complaint and alleges as follows:

**PARTIES**

1. The Plaintiff, Don Hobbs, resides in Grand Junction, Mesa County, Colorado.

2. Defendant McDonald's Corporation ("McDonald's") is a foreign corporation incorporated under the laws of Delaware and headquartered in Chicago, Illinois at 110 N. Carpenter St. Chicago, IL 60607. At all times relevant hereto, the defendant franchised and exercised operational control over the McDonald's restaurant located at 1212 North Avenue, Grand Junction, Colorado 81501.

3. Defendant King Ventures I, LLC ("King Ventures") is a corporation incorporated under the laws of the State of Colorado and with a principal office listed with the Colorado Secretary of State of 1305 Glenwood Ave, Grand Junction, CO 81501, and registered agent Douglas King located at the same address. At all times relevant hereto, King Ventures was the franchisee operating the McDonald's restaurant located at 1212 North Avenue, Grand Junction, Colorado 81501.

### **JURISDICTION AND VENUE**

4. This Court is vested with jurisdiction over the Defendants because the Defendants conduct business within the State of Colorado.

5. Pursuant to C.R.C.P. 98, venue of this action is proper in Mesa County because the cause of action arose in this county and the Defendants transacted business here.

### **GENERAL ALLEGATIONS**

#### **The Outbreak**

6. As of October 25, 2024, 75 individuals were identified as confirmed cases of *E. coli* O157:H7 among 13 states, including Colorado. The outbreak is ongoing.

7. According to the CDC, all interviewed individuals purchased and consumed food from McDonald's restaurants, and most reported having eaten a Quarter-Pounder hamburger.

8. According to a statement by McDonald's, an initial investigation indicates that slivered onions from Taylor Farms may be the source of the outbreak.

9. McDonald's has removed the slivered onions and beef patties used in the Quarter-Pounder from stores in the affected states.

#### ***E. coli* O157:H7 and Hemolytic Uremic Syndrome**

10. *Escherichia coli* is the name of a common family of bacteria, most members of which do not cause human disease. *E. coli* O157:H7 is a specific member of this family that can cause bloody diarrhea (hemorrhagic colitis) in humans. In the years since *E. coli* O157:H7 was first identified as a cause of diarrhea, this bacterium has established a reputation as a significant public health hazard.

11. *E. coli* O157:H7 lives in the intestines of cattle and other ruminants. *E. coli* O157:H7 is also notable among pathogenic bacteria for its extremely low infectious dose—that is, the number of bacteria necessary to induce infection in a person. While for most pathogenic bacteria it takes literally millions of bacterial colonies to cause illness, it is now known that fewer than 50 *E. coli* O157:H7 bacteria can cause illness in a child. The practical import is that even a microscopic amount of exposure can trigger a devastating infection.

12. The most severe cases of the *E. coli* O157:H7 infection occur in young children and in the elderly, presumably because the immune systems in those age populations are the most vulnerable. After a susceptible individual ingests *E. coli* O157:H7, the bacteria attach to the inside surface of the large intestine and initiates an inflammatory reaction of the intestine. What ultimately results is the painful bloody diarrhea and abdominal cramps characteristic of the intestinal illness.

13. The mean incubation period (time from ingestion to the onset of symptoms) of *E. coli* O157:H7 is estimated to be two to four days (range, 1-21 days). Typically, a patient with an acute *E. coli* O157:H7 infection presents with abdominal cramps, bloody diarrhea, and vomiting. The duration of diarrhea in children with *E. coli* O157:H7 infections are significantly longer than that of adults.

14. *E. coli* O157:H7 can produce a wide spectrum of disease from mild, non-bloody diarrhea, to severe bloody diarrhea accompanied by excruciating abdominal pain to life-threatening complications. In most infected individuals, the intestinal illness lasts about a week and resolves without any long-term effects. Antibiotics do not appear to aid in combating these infections, and recent medical studies suggest that antibiotics are contraindicated for their risk of provoking more serious complications. Apart from good supportive care, which should include close attention to hydration and nutrition, there is no specific therapy.

15. About 10% of individuals with *E. coli* O157:H7 infections (mostly young children) go on to develop hemolytic uremic syndrome (HUS), a severe, potentially life-threatening complication. The essence of the syndrome is described by its three central features: destruction of red blood cells, destruction of platelets (those blood cells responsible for clotting), and acute renal failure due to the formation of micro-thrombi that occlude microscopic blood vessels that make up the filtering units within the kidneys.

16. There is no known therapy to halt the progression of HUS. The active stage of the disease usually lasts one to two weeks, during which a variety of complications are possible. HUS is a frightening illness that even in the best American medical facilities has a mortality rate of about 5%. The majority of HUS patients require transfusion of blood products and develop complications common to the critically ill.

### **Don Hobbs's *E. Coli* O157:H7 Infection**

17. Mr. Hobbs visited the McDonald's restaurant located at 1212 North Avenue, Grand Junction, Colorado 81501, on several occasions in the weeks leading up to the outbreak.

On September 21, 2024, September 26, 2024, and October 2, 2024, he purchased and consumed a Quarter-Pounder with Cheese.

18. On or about October 5, 2024, Mr. Hobbs began to suffer symptoms consistent with *E. coli* O157:H7, including stomach pain and diarrhea.

19. By Tuesday, October 8, Mr. Hobbs's illness had worsened such that he consulted with Docs on Call, his primary care physician's urgent care department. He met with a physician assistant who examined him and supplied him with a take-home stool test which he completed that same evening.

20. Later that day, Mr. Hobbs had an appointment with a physician, who expressed concern regarding his ongoing severe stomach cramps, vomiting, and now-bloody diarrhea. Shortly thereafter, Plaintiff's stool sample returned a positive result for *E. coli* O157:H7.

21. On October 10, 2024, Mr. Hobbs was contacted by his local health department as a case in the McDonald's outbreak.

22. He was again contacted by his health department on October 23, 2024.

**FIRST CLAIM FOR RELIEF AGAINST DEFENDANTS**  
**(Strict Product Liability)**

23. The Plaintiff hereby incorporates paragraphs 1 through 22 by this reference as if each paragraph was set forth herein in its entirety.

24. The Defendants are product manufacturers within the meaning of the Colorado Product Liability Act, C.R.S. §13-21-401 *et seq.* The Defendants manufactured and sold the food product—McDonald's Quarter-Pounder sandwich—that was the source of the Plaintiff's *E. coli* O157:H7 infection and related illness. The *E. coli* O157:H7-contaminated sandwich that was the source of the Plaintiff's injuries was a product within the meaning of the Act.

25. Defendants' contaminated sandwich that was the source of Plaintiff's *E. coli* O157:H7 infection and related illness was defective and was unreasonably dangerous to the consumer because it was contaminated and adulterated with *E. coli* O157:H7, a potentially deadly pathogen.

26. The contaminated sandwich manufactured and distributed by the Defendants reached the Plaintiff without substantial change in the condition in which it was sold.

27. The Defendants' defective, *E. coli*-contaminated sandwich caused the Plaintiff's *E. coli* O157:H7 infection and related illness.

28. Defendants were the sellers of the defective *E. coli*-contaminated sandwich that caused the Plaintiff's *E. coli* O157:H7 infection and related illness.

29. Defendants were engaged in the business of selling sandwiches for human consumption.

30. Because Defendants manufactured and sold the contaminated Quarter-Pounder sandwich that was the source of the Plaintiff's injuries, which was defective and not reasonably safe due to *E. coli* O157:H7 contamination, the Defendants are strictly liable to the Plaintiff for the harm proximately caused by their sale of a defective food product.

**SECOND CLAIM FOR RELIEF AGAINST DEFENDANTS**  
**(Breach of Warranties)**

31. The Plaintiff hereby incorporates paragraphs 1 through 30 by this reference as if each paragraph was set forth herein in its entirety.

32. Defendants owed a duty to the Plaintiff to manufacture and sell a food product—i.e. McDonald's Quarter-Pounder sandwich—that conformed to their express and implied warranties, including, but not limited to, the implied warranty of merchantability and the implied warranty of fitness for a particular use or purpose.

33. The Quarter-Pounder sandwich manufactured and sold by the Defendants that caused the Plaintiff's *E. coli* O157:H7 infection was contaminated with the *E. coli* O157:H7 bacteria. Such contaminated food products would not pass without exception in the trade, and the sale of such food products was thus in breach of the implied warranty of merchantability.

34. The sandwich manufactured and sold by the Defendants that caused the Plaintiff's *E. coli* O157:H7 infection was contaminated with the *E. coli* O157:H7 bacteria, and was not fit for the uses and purposes intended by either the Plaintiff or the Defendants, i.e., human consumption. The sale was thus a breach of the implied warranty of fitness for its intended use.

35. Because Defendants manufactured and sold Quarter-Pounder sandwiches, the condition of which breached their express and implied warranties, Defendants are liable to the Plaintiff for the harm proximately caused by their sale of contaminated food.

**THIRD CLAIM FOR RELIEF AGAINST DEFENDANTS**  
**(Negligence and Negligence *per se*)**

36. The Plaintiff hereby incorporates paragraphs 1 through 35 by this reference as if each paragraph was set forth herein in its entirety.

37. Defendants negligently manufactured, distributed and sold a food product—i.e. McDonald's Quarter-Pounder sandwich—that was not reasonably safe.

38. Defendants were negligent in manufacturing, distributing and selling Quarter-Pounder sandwiches that were not reasonably safe because adequate warnings or instructions were not provided, including, but not limited to, the warning that their product may contain *E. coli* O157:H7, and thus should not be given to, or eaten by, people.

39. Defendants had a duty to comply with all statutory and regulatory provisions that pertained or applied to the manufacture, distribution, storage, labeling, and sale of their food products, 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, but failed to do so.

40. In the manufacture and production of the product, Defendants owed to the Plaintiff a duty to use supplies and raw materials that were in compliance with applicable federal, state, and local laws, ordinances and regulations; that were from safe and reliable sources; and that were clean, wholesome, free from spoilage and adulteration, and safe for human consumption, but failed to do so.

41. The Plaintiff was among the class of persons designed to be protected by the statutory and regulatory provisions pertaining to Defendants’ manufacture, distribution, storage, labeling, and sale of food.

42. As a result of the Defendants’ negligence, and as a result of the Defendants’ violation of statutes designed to protect the Plaintiff from contaminated foods, Defendants are liable to the Plaintiff for the Plaintiff’s injuries.

### **DAMAGES**

43. The Plaintiff hereby incorporates paragraphs 1 through 42 by this reference as if each paragraph was set forth herein in its entirety.

44. The Plaintiff has suffered damages as the direct result of the tortious and unlawful acts and omissions of the Defendants, including, without limitation, past and future damages for the loss of enjoyment of life, pain and suffering, mental anxiety and distress, past and future economic loss, past and future damages for medical-related expenses, travel-related expenses, permanent physical injury, and any other damages for which the law provides relief.

### **PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff prays:

A. That the Court award the Plaintiff judgment against the Defendants in such sums as shall be determined to fully and fairly compensate the Plaintiff for all general, special, incidental, and consequential damages incurred, or to be incurred, by the Plaintiff as the direct and proximate result of the acts and omissions of the Defendants;

B. That the Court award the Plaintiff his costs, including experts fees, and reasonable attorneys’ fees incurred;

C. That the Court award such other and further relief as it deems necessary and proper in the circumstances.

DATED: October 31, 2024

MONTGOMERY LITTLE & SORAN PC

/s/ John R. Riley

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MARLER CLARK, INC.. PS

/s/ William D. Marler

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