

CAUSE NO. 110469-B-CV

Ladarius Johnson, Irma Lopez, Pedro Lopez, §
Terri Bracey, Roshawn Polite, Brandi West, §
Brittney Arrieta, §

Plaintiffs

vs.

Tyson Foods, Inc.

Defendant

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IN THE DISTRICT COURT OF

POTTER COUNTY, TEXAS

181st TH JUDICIAL DISTRICT

ORIGINAL PETITION

Plaintiffs, Ladarius Johnson, Irma Lopez, Pedro Lopez, Terri Bracey, Roshawn Polite, Brandi West, Brittney Arrieta (“Plaintiffs”) complain of Tyson Foods, Inc. (“Tyson”); and will respectfully show the Court the following:

I.

NATURE OF ACTION

1. This is an action to recover damages after Plaintiffs contracted COVID-19 while working at Tyson’s meatpacking plant in Amarillo, Texas.

II.

DISCOVERY

2. Discovery in this matter may be conducted under Level 2 of the Texas Rules of Civil Procedure.

III.

JURISDICTION AND VENUE

- 3. Plaintiffs’ claims arise under the laws of Texas.
- 4. The Court has jurisdiction over this case because Plaintiffs seek damages within

the jurisdictional limits of this Court. Additionally, Plaintiffs bring their claims under Texas state law and do not seek to make any claims that are pre-empted by federal law. Put differently, Plaintiffs allege that Defendants failed to provide them with a safe place to work and failed to follow appropriate guidelines and recommendations to avoid the spread of COVID-19.

5. Venue is proper in this County pursuant to Texas Civil Practice and Remedies Code Section 15.002(a)(1) because the acts or omissions giving rise to this suit occurred in this County.

IV.

PARTIES

6. Plaintiff Ladarius Johnson is a resident of Texas. Plaintiff worked at Tyson's Amarillo, Texas facility and contracted COVID-19 because of the unsafe working conditions at the Amarillo, Texas facility.

7. Plaintiff Irma Lopez is a resident of Texas. Plaintiff worked at Tyson's Amarillo, Texas facility and contracted COVID-19 because of the unsafe working conditions at the Amarillo, Texas facility.

8. Plaintiff Pedro Lopez is a resident of Texas. Plaintiff worked at Tyson's Amarillo, Texas facility and contracted COVID-19 because of the unsafe working conditions at the Amarillo, Texas facility.

9. Plaintiff Terri Bracey is a resident of Texas. Plaintiff worked at Tyson's Amarillo, Texas facility and contracted COVID-19 because of the unsafe working conditions at the Amarillo, Texas facility.

10. Plaintiff Roshawn Polite is a resident of Texas. Plaintiff worked at Tyson's Amarillo, Texas facility and contracted COVID-19 because of the unsafe working conditions at the Amarillo, Texas facility.

11. Plaintiff Brandi West is a resident of Texas. Plaintiff worked at Tyson's Amarillo, Texas facility and contracted COVID-19 because of the unsafe working conditions at the Amarillo, Texas facility.

12. Plaintiff Brittney Arrieta is a resident of Texas. Plaintiff worked at Tyson's Amarillo, Texas facility and contracted COVID-19 because of the unsafe working conditions at the Amarillo, Texas facility.

13. Defendant Tyson Foods, Inc. ("Tyson") is a foreign corporation that does a substantial amount of business in Texas. Specifically, Tyson owns and operates the Tyson facility located in Center, Texas. Thus, the Court has specific jurisdiction over Tyson for its negligent conduct that occurred in the State of Texas. Tyson can be served through its registered agent: CT Corporation System, at 1999 Bryan St., Ste. 900 Dallas, Texas 75201.

V.

FACTS

14. Plaintiffs worked at the Tyson meatpacking plant in Amarillo, Texas. In spring of 2020, the COVID-19 pandemic began sweeping the United States. Many States and Counties began implementing proactive safety measures to prevent the spread of COVID-19.

15. In Texas, Governor Abbott issued a stay-at-home order for the State of Texas that took effect on April 2, 2020. Despite the stay-at-home order, Plaintiffs were required to continue working at the Tyson meatpacking plant in Amarillo, Texas after April 2, 2020. Plaintiffs also worked at the Amarillo, Texas meatpacking plant prior to April 2, 2020.

16. Both prior to April 2, 2020, and after April 2, 2020, Tyson failed to take adequate precautions to protect the workers at its meatpacking facilities, including the Amarillo, Texas meatpacking facility. Even when the rest of the country and the State of Texas were taking

significant precautions to prevent the spread of COVID-19 even prior to April 2, 2020, Tyson did not do the same thing. And even after April 2, 2020, Tyson still required its employees to come to work and did not provide adequate precautions or protections to help protect its employees from COVID-19.

17. Thousands of Tyson employees have been exposed to COVID-19 at Tyson's meatpacking facilities. Upon information and belief, at least 7,100 Tyson employees have contracted COVID-19, and at least 24 employees have died as a result of exposure to COVID-19 at Tyson's meatpacking facilities.

18. In Texas, Tyson chose not to provide its employees with workers compensation insurance. Instead, Tyson has implemented a program called WISP or Workplace Injury Settlement Program wherein Tyson pressures employees to sign releases before providing injury benefits. In many cases, Tyson then pays limited, if any benefits, once its employees have signed away their right to sue.

19. Tyson's conduct, effectuated through the named Defendants in this lawsuit, was negligent and grossly negligent and was the cause of the underlying incident.

VI.

CAUSES OF ACTION

A. Negligence and Gross Negligence.

20. Plaintiffs repeat and re-alleges each allegation contained above.

21. Defendant is negligent and grossly negligent for the following reasons:

- a. Failed to provide a safe work environment.
- b. Requiring Plaintiffs to continue working at the meatpacking plant when it was no longer safe to do so due to COVID-19;

- c. Failed to provide adequate PPE to the workers at the meatpacking plant;
- d. Failed to implement adequate precautions and social distancing at the meatpacking plant;
- e. Failed to follow guidelines set forth by the WHO and CDC with regard to COVID-19 at the meatpacking plant;
- f. Failed to warn of the dangerous conditions at the meatpacking regarding COVID-19;
- g. Failure to properly train Tyson employees at the meatpacking plant;
- h. Failure to provide adequate medical treatment;
- i. Allowed and required individuals who were infected with COVID-19 to continue to work at the meatpacking plant infecting other individuals; and
- j. Other acts deemed negligent and grossly negligent.

22. Defendant owed Plaintiffs a legal duty of the foregoing.

23. Defendant breached these duties, and as a direct and proximate result of Defendant's breaches of duty caused serious bodily injury to Plaintiffs, resulting in the following damages: physical pain, mental anguish, physical impairment, past and future medical expenses, loss of earning capacity, and loss of services. Because of the severity and degree of Plaintiffs' injuries, Plaintiffs' will incur significant future medical expenses as a result of Defendant's negligent and grossly negligent conduct.

24. Further, Defendant is liable for its grossly negligent conduct. Defendant's actions and/or omissions, when viewed objectively, exposed Plaintiffs to an extreme degree of risk with no regard for the probability and magnitude of the potential harm. Defendant also had actual, subjective awareness of the risk involved, yet chose to proceed in conscious indifference to the

rights, safety, and welfare of Plaintiffs. Thus, Plaintiffs are entitled to exemplary damages against Defendant.

VII.

DAMAGES

25. As a result of said occurrences, Plaintiffs sustained severe injuries to their bodies, lungs, and respiratory system in general, which resulted in physical pain, mental anguish, and other medical problems. Plaintiffs have sustained severe pain, physical impairment, discomfort, mental anguish, and distress. In all reasonable probability, Plaintiffs' physical pain, physical impairment and mental anguish will continue indefinitely.

26. Plaintiffs are also entitled to punitive damages because the aforementioned actions of Defendant was grossly negligent. Plaintiffs' injuries were caused by malicious, willful, reckless, or wanton acts or omissions of Defendant, or alternatively the gross negligence of Defendant's employees, agents or representatives.

VIII.

JURY TRIAL

27. Plaintiffs hereby requests a trial by jury on all claims and submits their jury fee herewith.

IX.

PRAYER

28. Plaintiffs pray that this citation issue and be served upon Defendant in a form and manner prescribed by law, requiring Defendant appear and answer, and that upon final hearing, Plaintiffs have judgment against Defendant in a total sum in excess of the minimum jurisdictional limits of this Court, plus pre-judgment and post-judgment interests, all costs of Court, and all such

other relief to which Plaintiffs show themselves justly entitled. As required by Rule 47 of the Texas Rules of Civil Procedure, Plaintiffs affirmatively state that they seek damages in excess of \$1,000,000 and prays for relief and judgment, as follows:

- a. Compensatory damages against Defendant;
- b. Actual damages;
- c. Consequential damages;
- d. Pain and suffering;
- e. Exemplary damages;
- f. Past and future mental anguish;
- g. Past and future impairment;
- h. Past and figure disfigurement;
- i. Loss of wages past and future;
- j. Loss of earning capacity;
- k. Interest on damages (pre- and post-judgment) in accordance with law;
- l. Plaintiffs' reasonable attorneys' fees;
- m. Costs of court;
- n. Expert witness fees;
- o. Costs of copies of depositions; and
- p. Such other and further relief as the Court may deem just and proper.

Respectfully Submitted,

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