

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION**

HUS HARI BULJIC INDIVIDUALLY AND AS ADMINISTRATOR OF THE ESTATE OF SEDIKA BULJIC, HONARIO GARCIA INDIVIDUALLY AND AS ADMINISTRATOR OF THE ESTATE OF REBERIANO LENO GARCIA, AND ARTURO DE JESUS HERNANDEZ AND MIGUEL ANGEL HERNANDEZ AS CO-ADMINISTRATORS OF THE ESTATE OF JOSE AYALA,

PLAINTIFFS,

v.

TYSON FOODS, INC., TYSON FRESH MEATS, INC., JOHN H. TYSON, NOEL W. WHITE, DEAN BANKS, STEPHEN R. STOUFFER, TOM BROWER, TOM HART, CODY BRUSTKERN, JOHN CASEY, AND BRET TAPKEN.

DEFENDANTS.

Case No. 6:20-cv-02055

FIRST AMENDED COMPLAINT

INTRODUCTION

1. This case arises from Tyson Foods' fraudulent misrepresentations, gross negligence, and incorrigible, willful and wanton disregard for worker safety at its pork processing facility in Waterloo, Iowa (the "Waterloo Facility"). Despite an uncontrolled COVID-19 outbreak, Tyson required its employees to work long hours in cramped conditions. Moreover, despite the danger of COVID-19, Tyson failed to provide appropriate personal protective equipment and failed to implement sufficient social distancing or safety measures to protect workers from the outbreak. As a result, Sedika Buljic, Reberiano Garcia, Jose Ayala, and more than 1,000 other Tyson employees were infected with COVID-19 at the Waterloo Facility.

PARTIES

Plaintiffs

2. Plaintiff Hus Hari Buljic is the duly appointed Administrator of the Estate of his deceased wife, Sedika Buljic.

3. At all relevant times, Sedika Buljic was a Tyson Foods employee working at the Waterloo Facility. She died on April 18, 2020 from complications of COVID-19.

4. Hus Hari Buljic's injuries arose out of and in the course of Sedika Buljic's employment with Tyson Foods.

5. Plaintiff Honario Garcia is the duly appointed Administrator of the Estate of his deceased father, Reberiano Garcia.

6. At all relevant times, Reberiano Garcia was a Tyson Foods employee working at the Waterloo Facility. He died on April 23, 2020 from complications of COVID-19.

7. Honario Garcia's injuries arose out of and in the course of Reberiano Garcia's employment with Tyson Foods.

8. Plaintiffs Arturo de Jesus Hernandez and Miguel Angel Hernandez are the duly appointed Co-Administrators of the Estate of their deceased brother, Jose Ayala.

9. At all relevant times, Jose Ayala was a Tyson Foods employee working at the Waterloo Facility. He died on May 25, 2020 from complications of COVID-19.

10. Arturo de Jesus Hernandez and Miguel Angel Hernandez's injuries arose out of and in the course of Jose Ayala's employment with Tyson Foods.

Defendant Tyson Foods

11. Defendant Tyson Foods, Inc. is the largest meat processor in the United States.

12. Tyson Foods, Inc. is a Delaware Corporation, with its principal place of business in Springdale, Arkansas.

13. As a corporation, Tyson Foods, Inc. can act only through its agents, including its employees, officers, and directors.

14. Tyson Foods, Inc. is vicariously liable for its agents' acts and omissions within the course and scope of their agency.

15. Defendant Tyson Fresh Meats, Inc. is a Delaware Corporation, with its principal place of business in Springdale, Arkansas.

16. As a corporation, Tyson Fresh Meats can act only through its agents, including its employees, officers, and directors.

17. Tyson Fresh Meats is vicariously liable for its agents' acts and omissions within the course and scope of their agency.

18. Tyson Fresh Meats is a wholly owned subsidiary of Tyson Foods, Inc. (collectively "Tyson Foods" or "Tyson").

Executive Defendants

19. Defendant John H. Tyson is the Chairman of Tyson Foods, Inc.

20. Defendant Noel W. White is the Chief Executive Officer of Tyson Foods, Inc.

21. Defendant Dean Banks is the President of Tyson Foods, Inc.

22. Defendant Stephen R. Stouffer is the President of Tyson Fresh Meats, Inc.

23. Defendant Tom Brower is Senior Vice President of Health and Safety for Tyson Foods, Inc.

24. Hereinafter John H. Tyson, Noel W. White, Dean Banks, Stephen R. Stouffer, and Tom Brower, will be collectively referred to as the "Executive Defendants."

Supervisory Defendants

25. Defendant Tom Hart is the plant manager of the Tyson Waterloo Facility. He is required to be familiar with all aspects of the Waterloo Facility and to identify potential safety

hazards.

26. Defendant Bret Tapken is the Safety Lead of the Tyson Waterloo Facility. He is required to be familiar with all aspects of the Waterloo Facility and to identify potential safety hazards.

27. Defendants Cody Brustkern and John Casey hold upper-level management positions at the Tyson Waterloo Facility.

28. Hereinafter Tom Hart, Bret Tapken, Cody Brustkern, and John Casey will be collectively referred to as the “Supervisory Defendants.”

29. The Supervisory Defendants are required to be familiar with all aspects of the Waterloo Facility and to identify potential safety hazards.

JURISDICTION AND VENUE

30. This Court has jurisdiction over the Defendants because the acts and omissions giving rise to the Plaintiffs’ claims occurred in Black Hawk County, Iowa.¹

31. Plaintiffs certify, pursuant to IA Code § 619.18, that this action meets applicable jurisdictional requirements for amount in controversy.

32. Venue is proper under IA Code § 616.18 because the Plaintiffs sustained injuries and damages in Black Hawk County.

FACTS COMMON TO ALL CAUSES OF ACTION

The Pandemic

33. COVID-19 is an infectious respiratory disease caused by a novel coronavirus (hereinafter “COVID-19” or “the virus”).

34. COVID-19 is highly contagious.

¹ Plaintiffs filed this action in the District Court for Black Hawk County, Iowa and Defendants improperly removed to Federal Court. This case should be remanded for lack of subject matter jurisdiction.

35. COVID-19 can result in serious, long-term health complications and has resulted in more than 230,000 reported deaths in the United States to date.

36. Among these serious health complications, COVID-19 can cause inflammation in the lungs, clogging the air sacs in the lungs, limiting the body's oxygen supply and blood clots, organ failure, liver damage, intestinal damage, heart inflammation, neurological malfunction, and acute kidney disease.

37. The virus primarily spreads from person to person through respiratory droplets produced when an infected person coughs or sneezes.

38. Spread is more likely when people are in close contact with one another (i.e., within 6 feet).

39. The virus can be spread by people who are asymptomatic, pre-symptomatic, or mildly symptomatic.

40. Distinctive factors that affect workers' risk for exposure to COVID-19 in meat processing facilities include distance between workers, duration of contact and type of contact between workers.

41. The best way to prevent infection and illness is to avoid being exposed to the virus.

42. The first known COVID-19 outbreak occurred in Wuhan, Hubei province, People's Republic of China ("China").

43. Tyson Foods has extensive operations and business interests in China, and one of its subsidiaries operates a facility in Hubei province.

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