

NORTH CAROLINA
CLEVELAND COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. _____

AMIE WESTFALL, individually, and as)
guardian ad litem for DOMINIC)
WESTFALL, a minor;)
)
Plaintiffs,)
)
vs.)
)
THE CLEVELAND COUNTY FAIR, INC.,)
a North Carolina corporation; and CIRCLE)
G. RANCH, a Tennessee corporation,)
)
Defendants.)
_____)

**COMPLAINT AND JURY
TRIAL DEMAND**

The plaintiffs, by and through their counsel of record, Mark C. Kurdys of ROBERTS & STEVENS, P.A. and William D. Marler (pending admission pro hac vice) of MARLER CLARK, allege and complain as follows:

I. PARTIES

1.1 Plaintiff AMIE WESTFALL at all times material hereto was a resident of Maiden, Lincoln County, North Carolina. She is also the parent of the minor plaintiff, DOMINIC WESTFALL. The plaintiff Amie Westfall, as the parent of Dominic Westfall, is a person of suitable age, discretion, and commitment to qualify for appointment as his guardian ad litem and, as a result, has been appointed to act as the same.

1.2 The defendant, CLEVELAND COUNTY FAIR, INC., (“Cleveland County Fair”) is a properly licensed North Carolina corporation, and owns and operates the Cleveland County Fair, in Shelby, Cleveland County, North Carolina. The Cleveland County Fair at all times

material hereto was carrying on its ordinary course of corporation business, i.e. the business of owning, managing and operating the Cleveland County Fair in Shelby, Cleveland County, North Carolina, in September and October, 2012, and as such was doing business in Cleveland County, North Carolina.

1.3 The defendant CIRCLE G RANCH (“Circle G Ranch”), is a properly licensed Tennessee corporation, with the principle address of 831 Thorn Grove Pike, Strawberry Plains, Tennessee, 37871. This defendant at all times material hereto was carrying on its ordinary course of business, i.e. the business of owning and operating a petting zoo at the Cleveland County Fair in Shelby, Cleveland County, North Carolina, in September and October, 2012, and as such was doing business in Cleveland County, North Carolina.

II. JURISDICTION AND VENUE

2.1 This court is vested with original jurisdiction over the defendants, as corporations doing business and maintaining a place of business within the State of North Carolina.

2.2 The venue of this action is proper in Cleveland County, pursuant to N.C. Gen. Stat. Sections 1-79 and 1-80, because the cause of action arose within this county, and because at all times material hereto the defendants transacted business here, and thus are deemed to be residents of Cleveland County for these purposes.

III OUTBREAK FACTS

3.1 The 2012 Cleveland County Fair operated from September 27 to October 7, 2012, in Shelby, North Carolina.

3.2 Among the exhibits and attractions at the 2012 Cleveland County Fair was a petting zoo and animal exhibit, operated and managed by the defendant Circle G. Ranch.

3.3 On October 11, 2012, health officials announced that four confirmed cases of E. coli could be related to North Carolina's Cleveland County Fair, which ended Sunday, October 7, 2012. Investigators roped off areas of the Cleveland County fairgrounds to collect soil and other samples to determine the cause of the E. coli illnesses.

3.4 With a near record attendance of 175,797 people, the 87th annual Cleveland County Fair ran September 27 through October 7. The Cleveland County Fair Association leased the fairgrounds from the county. In 2012 the event included five animal petting areas, an activity often associated with bacterial outbreaks.

3.5 By October 28, there was a total number of 101 known E. coli O157:H7 cases associated with the outbreak connected with the Cleveland County fair, according to the the North Carolina Department of Health. Preliminary findings from state and local health department investigations showed that animal exposure was a likely source of the bacteria, said Department of Health officials.

3.6 Ultimately, approximately 106 people fell ill with E. coli O157:H7 infections associated with the Cleveland County Fair. These included a 2-year-old Gastonia boy who died as a direct result of his infection. Other children spent weeks in the hospital, some in the intensive care unit with hemolytic uremic syndrome. A 12-year-old Cherryville boy was finally released from Levine Children's Hospital after 35 days in treatment.

3.7 On November 9, North Carolina state health investigators officially declared the fair's petting zoo exhibit to be the cause of the outbreak. Runoff from rains during the duration of the fair likely helped spread the bacteria to other areas of the fairgrounds.

IV. E. coli O157:H7 INFECTIONS

Nature of Illness

4.1 *Escherichia coli* are 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 twenty two 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.

4.2 *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 amount 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.

4.3 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 attaches 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.

4.4 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.

4.5 *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.

4.6 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. HUS is an extremely complex process that researchers are still trying to fully explain. 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.

4.7 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. The illness is a living nightmare for the patients and families, and leaves a painful memory for survivors that lingers long after the acute illness had passed.

Previous *E. coli* O157:H7 outbreaks linked to fairs and petting zoos

4.8 A significant number of prior *E. coli* O157:H7 outbreaks have been linked

to similar county fairs, dairy farms, and petting zoos. Some of those outbreaks are identified below:

(a) In 1994 an outbreak of seven cases of *E. coli* O157:H7 infection was associated with a visit to a farm in Leicestershire, United Kingdom. A joint study was conducted between environmental health officers and the local veterinary investigation center of the Ministry of Agriculture, Fisheries and Food. The investigation found that the common factor linking all the cases was a visit to a farm visitor center in the three weeks before the onset of the illnesses. The epidemiological data supported this link, as the strains of *E. coli* O157:H7 isolated from nine animals on the farm were indistinguishable from those isolated from the human samples. This report concluded that the most likely cause of this outbreak was direct human contact with animals. The probability of contracting disease was increased by poor hand washing facilities, and a lack of information provided to the visitors on the importance of maintaining personal hygiene.

(b) In July, 1997, there was an *E. coli* O157:H7 outbreak associated with a farm in the United Kingdom. A *E. coli* O157:H7 infection was observed in three children, one who lived on an open farm and two who visited the farm during school parties. Two of the three children developed HUS and one suffered from severe neurological impairment. Isolates collected from the three children and from all environmental samples were indistinguishable by molecular typing, providing evidence of the link between the human contact with the farm and the outbreak.

(c) In 1998 there was an outbreak of *E. coli* O157:H7 associated with a large Canadian agricultural fair. The British Columbia Center for Disease Control sent all *E. coli* O157:H7 isolates from a local outbreak to an outside laboratory for molecular

sub-typing (BC Center for Disease Control, March, 1999). Nine *E. coli* O157:H7 samples from the area shared a common genotype. Three of these individuals were hospitalized, though none developed hemolytic-uremic syndrome (HUS). Seven of the nine had onset of illness within ten days of visiting the agricultural fair.

(d) An outbreak of hemorrhagic colitis due to *E. coli* O157:H7 was identified among the visitors to the Puyallup Fair in Puyallup, Washington, during September of 1998 (CDC Memorandum, March 1999). Two children were initially confirmed as being ill from *E. coli* O157:H7. The Communicable Disease State Epidemiologist at the Washington State Department of Health mentioned in a news release immediately after the detection of two confirmed cases at the Puyallup Fair that health officials were looking for food borne exposure as well as possible contamination at the animal petting areas and on water rides.

(e) The New York State Department of Health investigated what is believed to be the largest outbreak of waterborne *E. coli* O157:H7 illness in United States history occurring at a fair in Washington County, New York, in August of 1999 (New York State Department of Health, March, 2000). A total of 781 persons were identified with suspected infections of *E. coli* O157:H7 and/or *Campylobacter jejuni*. Of these cases, 127 persons were culture confirmed to be ill with *E. coli* O157:H7, 71 individuals were hospitalized, 14 persons exhibited hemolytic uremic syndrome (HUS), and 2 people died. A household telephone survey indicated that the number of people infected by either pathogen after visiting the Washington County Fair might be as high as 2,800. The environmental and site investigation indicated that unchlorinated water from a well serving the southwestern portion of the fairgrounds was contaminated with *E. coli* O157:H7 (DOH News, 1999).

(f) In 1999 there was a large outbreak of *E. coli* O157:H7 associated with an agricultural fair conducted between September 10 and 19, 1999, in Ontario, Canada. An investigation indicated that 7 cases of *E. coli* O157:H7 infections were associated with animal contact at the agricultural pavilion of the regional fair. Sub-typing revealed that five of the seven cases were extremely uncommon *E. coli* O157:H7 PT 27 while the remaining two were common *E. coli* O157:H7 PT 14. The *E. coli* O157:H7 PT 27 pattern matched with three samples from goats and one sample from sheep from the traveling petting zoo. The results from this case control study strongly suggested that the goats and sheep from the petting zoo were the source of the *E. coli* O157:H7.

(g) A press release by the Snohomish Health District, Communicable Disease Control (June, 2000) reported five cases of bacterial diarrhea caused by *E. coli* O157:H7 in children in Snohomish County in May 2000. Three of the children visited a petting farm several days before they became sick. The fourth child did not visit the petting zoo, but was found to live on another farm where cattle were raised. MMWR weekly (April 2001) reported that an investigation of the farm by Snohomish Health District (SHD) and Washington Department of Health revealed that the children were allowed to touch young poultry, rabbits and goats. Children brought their own lunches and ate approximately 50 feet from the penned animals. The Health District believed that the three children visiting the petting zoo acquired the bacterial diarrhea due to the lack of adequate hand washing facilities available. MMWR weekly (April 2001) also reported that no signs were posted to instruct the visitors to wash their hands after touching the animals.

(h) In 2000, researchers investigated an *E. coli* O157:H7 outbreak associated with the county fair in Medina County, Ohio. In this case control study 43

culture confirmed *E. coli* O157:H7 cases were identified. The environmental investigation suggested that contamination of a section of the water distribution system supplying various vendors was most consistent with the localization of the pathogenic exposure. Water samples collected for this study did not indicate any coliforms. However, a Halloween event was arranged on the same fairgrounds where the Medina County Fair was held, during which five children developed *E. coli* O157:H7 infection. These children consumed the water-based products during the fair and showed the same PFGE pattern as that observed in Medina County Fair. The researchers concluded that the county fair exposure was significantly associated with the *E. coli* O157:H7 outbreaks. The report recommended that guidelines be developed for safer interactions between animals, humans, and the environment. These recommendations could include improving public awareness of risk and prevention strategies, identifying high-risk animals, and controlling their contact with humans through identifying interaction activities and groups at greater risk.

(i) In 2000, there was an outbreak of *E. coli* O157:H7 among visitors to a dairy farm in Pennsylvania in September, 2000. A case control study among the visitors was conducted to identify the risk factors of infection, along with a household survey to determine the rates of diarrhea illness. The total number of confirmed or suspected *E. coli* O157:H7 cases were determined to be 51. The median age among the patients was four. Eight of the cases developed hemolytic uremic syndrome (HUS). The environmental investigation indicated that 28 of 216 cattle (13%) on the farm were carrying *E. coli* O157:H7 that yielded an identical pattern when analyzed by pulsed field gel electrophoresis to that observed for the isolates of the patients. The organism was also recovered from various surfaces in public access areas of the farm.

(j) In 2001, there was an outbreak of *E. coli* O157:H7 among visitors to the Merrymead Farm petting zoo in Worcester, Pennsylvania. In all, 16 children who had visited the zoo contracted *E. coli* O157:H7 and it was suspected that another 45 people became ill from the bacteria. An investigation indicated that one week after visiting the zoo, one of the children came down with violent stomach cramps and was hospitalized. A few days later, and after being released from the hospital, the patient was diagnosed with kidney failure. It is believed that 26 cows on the farm were carrying the *E. coli* O157:H7 bacteria and that exposure may have occurred as visitors rode in a wagon which was caked with mud and animal manure, or as they touched animals that may have been infected.

(k) In 2001, the Ozaukee County Public Health Department and Wisconsin Department of Health and Family Services investigated an outbreak of *E. coli* O157:H7 associated with animals at the Ozaukee County Fair in August, 2001. A total of 59 *E. coli* O157:H7 cases were identified in this outbreak, with 25 laboratory confirmed cases (25 “primary cases” and 34 probable cases). Bacteriological testing of water at the Ozaukee County fairgrounds and the Fireman’s park did not indicate presence of *E. coli* O157:H7, though 10 of the 36 samples collected from the Ozaukee County Property showed elevated levels of total coliforms. The environmental investigation focused primarily on testing water samples from the livestock buildings, livestock washing stations, runoffs from settling basin, grass filter strip, manure storage area, fishing pond and streams. A total of 19 surface water samples, and eight sediment samples, were collected from the pond and stream on the fairgrounds property. All tested negative for *E. coli* O157:H7. Public health officials attributed the outbreak to animal contact in the petting zoo at the county fair (Cole et al, 2001).

(l) In 2001, 23 cases of *E. coli* O157:H7 infection were identified associated with the attendance at the Lorain County Fair, Ohio. A number of additional cases of diarrhea were identified as likely due to secondary transmission from primary cases. The memorandum strongly associated presence at the Cow Palace, Lorain County, with the bacterial diarrhea. The environmental and site investigation indicated that visible manure was present on the ground in at least one area of the barn floor. Out of 54 environmental samples, 23 tested positive for Shiga toxin producing *E. coli* O157:H7. Samples from the doorways, rails, bleachers and sawdust exhibited an identical fingerprint pattern when analyzed by PFGE.

(m) The Ohio Wyandot County Health Department received a report of an *E. coli* O157:H7 outbreak in September, 2001. A total of 92 cases were identified, including 27 laboratory-confirmed *E. coli* O157:H7 infections. Two cases were diagnosed with hemolytic uremic syndrome. 88 cases reported attending Wyandot County Fair before becoming ill. The source of the outbreak was not fully identified; however, the most likely source was believed to be contact with infected cattle. Disinfecting areas that house cattle, removal of fecal contamination from contact surfaces, and exclusion of calves or cows from petting areas were recommended. Active surveillance at the fairground during the local fair or at any large gathering, along with strengthening measures to prevent water contamination, was suggested.

(n) The biggest *E. coli* O157:H7 outbreak in Oregon state history occurred during the Lane County Fair in August, 2002. Approximately 82 persons became sick, with 74 confirmed and 8 presumed cases tied to the outbreak. Nearly two-thirds of the cases involved children under six years old. 22 children were hospitalized, and 12 of these developed Hemolytic Uremic Syndrome (HUS), a potentially deadly

complication of an *E. coli* O157:H7 infection. Following an extensive investigation by the Oregon Health Services, the outbreak was traced back to attendance at the Lane County Fair. The outbreak was further traced back to the goat and sheep exposition hall at the fairgrounds. Samples taken of the floor and spots up high in that barn were tested, and some tested positive for the *E. coli* O157:H7 strain.

(o) In 2004, at least 24 visitors to the Fort Bend County Fair in Rosenberg, Texas, contracted *E. coli* O157:H7 through exposures while attending the fair. All of the patients were either fair exhibitors or visitors to the animal exhibits. Investigation revealed that the outbreak strain of *E. coli* O157:H7 was found only in animal exhibit areas, pointing to direct or indirect livestock contact as the most likely source of human infection.

(p) In October, 2004, as many as 108 visitors to the North Carolina State Fair, in Wake County, North Carolina contracted *E. coli* O157:H7 through exposure to animals at a petting zoo. Multiple environmental samples taken from the petting zoo tested positive for a genetically indistinguishable strain of *E. coli* O157:H7 as the infected visitors.

(q) Since then, the following *E. coli* outbreaks have also been associated with exposure at petting zoos and animal exhibits:

February 2005, Florida, Petting Zoo, *E. coli* O157:H7, 67 cases;

July 2005, Arizona, Petting Zoo, *E. coli* O157:H7, 2 cases;

October 2005, California, Petting Zoo, *E. coli* O157:H7, 6 cases;

April 2006, North Carolina, Farm Visit, Non-O157 STEC, 11 cases;

May 2007, Florida, Petting Zoo, Non-O157 STEC, 7 cases;

August 2007, Minnesota, State Fair, *E. coli* O157:H7, 8 cases;

October 2007, New Hampshire, Petting Zoo, Non-O157 STEC, 5 cases;
January 2009, Colorado, Petting Zoo, E. coli O157:H7, 30 cases;
May 2009, Florida, Petting Zoo, E. coli O157:H7, 7 cases;
July 2009, Indiana, County Fair, E. coli O157:H7, 6 cases;
October 2009, Minnesota, Petting Zoo, E. coli O157:H7, 2 cases;
June 2011, Washington, Farm Visit, E. coli O157:H7, 6 cases;
October 2011, North Carolina, State Fair, E. coli O157:H7, 25 cases; and
October 2012, Washington, Petting Zoo, E. coli O157:H7, 10 cases.

4.9 In 2001, the Center for Disease Control, (CDC) issued recommendations for Farm Animal Contact. These recommendations included the following rules and guidelines:

- (a) Persons providing public access to farm animals should inform visitors about the risk for transmission of enteric pathogens from farm animals to humans, and strategies for prevention of such transmission. This should include public information and training of facility staff. Visitors should be made aware that certain farm animals pose greater risk for transmitting enteric infections to humans than others. Such animals include calves and other young ruminant animals, young poultry, and ill animals. When possible, information should be provided before the visit.
- (b) Venues should be designed to minimize risk. Farm animal contact is not appropriate at food service establishments and infant care settings, and special care should be taken with school-aged children. At venues where farm animal contact is desired, layout should provide a separate area where humans and animals interact and an area where animals are not allowed. Food and beverages should be prepared, served, and consumed only in animal-free areas. Animal petting should occur only in the interaction area to facilitate close supervision and coaching of visitors. Clear separation methods such as double barriers should be present to prevent contact with animals and their environment other than in the interaction area.
- (c) Handwashing facilities should be adequate. Handwashing stations should be available to both the animal-free area and the interaction area. Running water, soap, and disposable towels should be available so that visitors can wash their hands

immediately after contact with the animals. Handwashing facilities should be accessible, sufficient for the maximum anticipated attendance, and configured for use by children and adults. Children aged <5 years should wash their hands with adult supervision. Staff training and posted signs should emphasize the need to wash hands after touching animals or their environment, before eating, and on leaving the interaction area. Communal basins do not constitute adequate handwashing facilities. Where running water is not available, hand sanitizers may be better than using nothing. However, CDC makes no recommendations about the use of hand sanitizers because of the lack of independently verified studies of efficacy in this setting.

- (d) Hand-mouth activities (e.g., eating and drinking, smoking, and carrying toys and pacifiers) should not be permitted in interaction areas.
- (e) Persons at high risk for serious infections should observe heightened precaution. Farm animals should be handled by everyone as if the animals are colonized with human enteric pathogens. However, children aged <5 years, the elderly, pregnant women, and immunocompromised persons (e.g., those with HIV/AIDS) are at higher risk for serious infections. Such persons should weigh the risks for contact with farm animals. If allowed to have contact, children aged <5 years should be supervised closely by adults, with precautions strictly enforced.

4.10 In March, 2005 the National Association of State Public Health Veterinarians and the CDC issued guidelines for decreasing the risk of human contraction of illness through interaction with animals. These guidelines included:

- (a) The public's contact with animals should occur in settings where controls are in place to reduce the potential for injuries or disease and increase the probability that exposures will be reported, documented, and handled appropriately. The design of facilities or contact settings should minimize the risk for exposure and facilitate hand washing. Certain jurisdictions might choose to establish more restrictive recommendations in areas where animal contact is specifically encouraged (e.g., petting zoos). Requirements for the design of facilities or contact settings might include double barriers to prevent contact with animals or contaminated surfaces except for specified interaction areas. Manure disposal and wastewater runoff should occur in areas where the risk for exposure to

pedestrians is eliminated or reduced. Control methods should focus on facility design and management.

- (b) Recommendations should be applied both to settings in which animal contact is possible (e.g., county fairs) and settings in which direct animal contact is encouraged (e.g., petting zoos). However, in settings where direct animal contact is encouraged, additional precautions should be taken to reduce the risk for injuries and disease transmission.
- (c) For areas where animal contact is possible, design of the entry and exit points for animal contact areas should be planned to facilitate proper visitor flow through transition areas. These transition areas should include educational information and hand-washing facilities. Fences, gates, or other types of barriers can restrict uncontrolled access to animals and animal contact areas and ensure that visitors enter and exit through transition areas. Animal feed and water should not be accessible to the public. In addition, in buildings where animals live, adequate ventilation is essential for both animals (99) and humans.
- (d) Food and beverages. No food or beverages should be allowed in animal areas. In addition, smoking, carrying toys, and use of pacifiers, spill-proof cups ("sippy cups"), and baby bottles should not be permitted in animal areas.
- (e) Cleaning procedures. Manure and soiled animal bedding should be removed promptly. Animal waste and specific tools for waste removal (e.g., shovels and pitchforks) should be confined to designated areas restricted from public access. Manure and soiled bedding should not be transported or removed through non-animal areas or transition areas used by visitors. If this is unavoidable, precautions should be taken to avoid spillage and aerosolization. During events where animal contact is encouraged, periodic disinfection of the venue might reduce the risk for disease transmission during the event.
- (f) Supervision of children. Children should be closely supervised during contact with animals to discourage contact with manure and soiled bedding. Hand-to-mouth contact (e.g., thumb-sucking) should also be discouraged. Appropriate hand washing should be required. Additional recommendations for groups at high risk, including children aged <5 years, are outlined in this report.

- (g) Staff. Trained staff should be present in areas where animal contact is permitted to encourage appropriate human-animal interactions, reduce risk for exposure (e.g., by promptly cleaning up wastes), and process reports of injuries and exposures.
- (h) Feeding animals. If feeding animals is permitted, only food sold by the venue for that purpose should be allowed. Food sold for animal consumption should not be eaten by humans and should not be provided in containers that can be eaten by persons (e.g., ice cream cones). This policy will reduce the risk for animal bites and the probability of children eating food that has come into contact with animals.
- (i) Use of animal areas for public (non-animal) activities. Zoonotic pathogens can contaminate the environment for substantial periods. If animal areas need to be used for public events (e.g., weddings and dances), these areas should be cleaned and disinfected, particularly if food and beverages are served. Materials with smooth, impervious surfaces (e.g., steel, plastic, and sealed concrete) are easier to clean than other materials (e.g., wood or dirt floors). Removing organic material (bedding, feed, and manure) before using disinfectants is important. A list of disinfectants is included in this report.
- (j) Providing transition areas for visitors to pass through when entering and exiting animal areas is critical. The transition areas between animal and non-animal areas should be designated as clearly as possible, even if they need to be conceptual rather than physical. In these areas, information should be provided regarding the 1) prevention of infection and injury and 2) location of hand-washing facilities and instructions for visitors to wash their hands upon exiting.
- (k) Signs informing visitors that they are entering an animal area should be posted at the entrance transition areas. These signs should also instruct visitors not to eat, drink, or place their hands in their mouth while in the animal area. Visitors should be discouraged from taking strollers, baby bottles, pacifiers, food, and beverages into areas where animal contact is encouraged or where contact with animal manure or bedding can occur. Visitor traffic should be controlled to avoid overcrowding the animal area.
- (l) Exit transition areas should be marked with signs instructing the public to wash their hands. Hand-washing

stations should be available and accessible to all visitors, including children and persons with disabilities.

- (m) The risk for disease or injuries from animal contacts can be reduced by carefully managing the specific animals used for such contacts. These recommendations should be considered for management of animals in contact with the public.
- (n) Animals should be monitored daily by their owners or caretakers for signs of illness, and they should receive appropriate veterinary care. Ill animals and animals from herds with a recent history of abortion or diarrhea should not be exhibited. Animals should be housed to minimize stress and overcrowding, which can increase shedding of microorganisms. Options to reduce the burden of enteric pathogens need to be evaluated, particularly for animals that are at higher risk and that will be used in venues where animal contact is encouraged.
- (o) Animal owners should retain and use the services of a licensed veterinarian. Vaccination, preventive care, and parasite control appropriate for the species should be provided. Health certificates from a licensed veterinarian should be up-to-date according to local or state requirements for animals in areas where public contact might occur. A herd or flock inspection is a critical component of the health certificate process. Diseases for which animal screening should be considered include TB for elephants and primates, and Q fever for ruminants in birthing exhibits.
- (p) Groups at high risk for serious infection include persons with waning immunity (e.g., older adults); children aged <5 years; and persons who are cognitively impaired, pregnant, or immunocompromised (e.g., persons with human immunodeficiency virus/acquired immunodeficiency syndrome, without a functioning spleen, or on immunosuppressive therapy). Persons at high risk should take heightened precautions at any animal exhibit. In addition to thorough and frequent hand washing, heightened precautions might include avoiding contact with animals and their environment (e.g., pens, bedding, and manure). Animals of particular concern for transmitting enteric diseases include young ruminants, young poultry, reptiles, amphibians, and ill animals. For young children, risk for exposure might be reduced if they are closely supervised by adults, carried by adults in animal areas, or

have animal contact only over a barrier. These measures discourage animals from jumping on or nuzzling children and minimize contact with feces and soiled bedding.

V. PLAINTIFFS' INJURIES

5.1 Plaintiff Dominic Westfall is 18 months old, and lives in Maiden, North Carolina. He attended the Cleveland County Fair with his mother, Amie Westfall, and while there visited the Circle G Ranch petting zoo.

5.2 On September 29, 2012, Dominic Westfall fell ill with gastrointestinal symptoms. By the next day, he began suffering from fever and bloody diarrhea. Over the following few days, Dominic Westfall's condition worsened. Following a visit to his pediatrician's office, Dominic Westfall was eventually taken to the CMC Lincoln Emergency Department, in Lincoln, North Carolina.

5.3 While hospitalized, Dominic Westfall tested positive for *E. coli* O157:H7. He also developed HUS, and on October 10 he was transferred to Levine Children's Hospital, in Charlotte. He was eventually discharged from Levine Children's Hospital on October 15, and appears be still suffering from the aftereffects of his illness.

VI CLAIM FOR RELIEF

(Negligence)

6.1 Patrons of the Cleveland County Fair who visited the Circle G Ranch exhibit had invitee status while visiting the Fair and the Circle G Ranch animal exhibit, as patrons entered the fairgrounds and the animal exhibit on business which concerned the defendants, with the express or implied consent of the defendants, and because the defendants maintained and occupied land and facilities which were open for use by the members of the public.

6.2 The defendants owed a duty of reasonable care to the exhibit patrons and plaintiffs, which included, but was not limited to: taking all reasonable precautions to insure the

safety of the patrons of the Fair and exhibit; to undertake reasonable inspection of the premises for unreasonable risks of harm to patrons of the Fair and exhibit; and to warn patrons of the Fair and exhibit of any unreasonable risks of harm.

6.3 Defendants knew, or reasonably should have known, of the risk of *E. coli* O157:H7 infection created for members of the public, including plaintiffs through foreseeable secondary transmission, by exposure to animals and an environment possibly contaminated with *E. coli* O157:H7, an unreasonable risk of harm to the exhibit patrons and the plaintiffs, and should have expected that the exhibit patrons and plaintiffs would not discover or protect themselves from that risk.

6.4 Defendants individually and/or through their employees were negligent in one or more of the following particulars which caused damage to plaintiffs as alleged in this complaint:

a. Defendants failed to exercise reasonable care under the circumstances to protect Fair and exhibit patrons and plaintiffs from the danger of exposure and contamination by *E. coli* O157:H7.

b. Defendants held the exhibit open for entry to the public, but failed to exercise reasonable care to discover that acts of third persons or animals on the fairgrounds were causing, or were likely to cause, harm to exhibit patrons and plaintiffs, creating the risk of exposure to *E. coli* O157:H7.

c. Defendants, having knowledge of the risks of exposure and contamination to members of the public, including exhibit patrons and plaintiffs, to *E. coli* O157:H7, failed to give adequate warnings to the exhibit patrons and plaintiffs of the dangers posed.

d. Defendants failed to keep the premises, and the areas surrounding its premises, in a reasonably safe condition, and sufficiently uncontaminated by *E. coli* O157:H7 to

prevent exhibit patrons and plaintiffs from incurring exposure to and poisoning by *E. coli* O157:H7.

e. Defendants failed to exercise reasonable care to inspect the premises to determine the extent to which the members of the public would be exposed to dangerous conditions caused by contamination by *E. coli* O157:H7.

VII. DAMAGES

7.1 The plaintiffs have suffered severe injury and damages as a direct and proximate result of defendants' negligent acts or omissions, in excess of \$10,000.00.

7.2 As a result of the negligence of the defendants, the minor plaintiff Dominic Westfall has suffered serious non-economic damage, including severe physical injury, pain and suffering, emotional and psychological distress arising directly from being poisoned by *E. coli* O157:H7, loss of enjoyment of life, reduced life expectancy, and other non-economic damages.

7.3 As a result of the negligence of the defendants, the plaintiffs have suffered serious economic damage, including past and future doctor, hospital and other medical expenses, past and future wage loss and reduced future earning capacity, the exact amount to be proven at trial.

7.4 Amie Westfall, as the result of the injuries to her son, Dominic Westfall, has suffered a loss of his companionship, love, affection and services as the proximate result of the negligence of the defendants.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray for the following relief:

(1) That the court award plaintiffs judgment against the defendants, jointly and severally, for an amount in excess of \$10,000, respectively, and for such sums as shall be determined to fully and fairly compensate each of the individual plaintiffs for all general, special,

incidental and consequential damages incurred, or to be incurred, by plaintiffs as the direct and proximate result of the acts and omissions of these defendants, plus interest;

(2) That the court award plaintiffs their respective costs, disbursements and reasonable attorneys' fees incurred herein;

(3) That the court award plaintiffs the opportunity to amend or modify the provisions of this complaint as necessary or appropriate after additional or further discovery is completed in this matter, and after all appropriate parties have been served;

(4) That the court direct that this matter be tried by a jury; and

(5) That the court award such other and further relief as it deems necessary and equitable in the circumstances.

SIGNED AND DATED this _____ day of November, 2012.

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