

Companies, Inc., is therefore a citizen of the States of Delaware and Idaho. At all times relevant to this action, Albertson Companies, Inc., owned and operated the Safeway grocery stores located in the Des Moines, Washington area.

3. At all times relevant to this action, Defendant KeHE Distributors, LLC, was a Delaware limited liability company with its principal place of business in Naperville, Illinois. On information and belief, KeHE's only member is Brandon Barnholt, who resides in Naperville, Illinois. Therefore, KeHE Distributors, LLC is a citizen of the States of Illinois and Delaware.

4. At all times relevant to this action, Defendant KeHE Distributors, Inc., was a Delaware corporation with its principal place of business in Naperville, Illinois. Therefore, KeHE Distributors, Inc. is a citizen of the States of Delaware and Illinois.

5. At all times relevant to this action, Defendant KeHE Enterprises, LLC, was a Delaware corporation with its principal place of business in Naperville, Illinois. Therefore, KeHE Enterprises, LLC is a citizen of the States of Delaware and Illinois.

6. At all times relevant to this action, Defendant World Finer Foods, Inc. was a Delaware corporation with its principal place of business located in Bloomfield, New Jersey. World Finer Foods, Inc. is therefore a citizen of the States of Delaware and New Jersey.

7. At all times relevant to this action, Defendant World Finer Foods, LLC was a Delaware corporation with its principal place of business in Catonsville, Maryland. World Finer Foods, LLC is therefore a citizen of the States of Delaware and Maryland.

JURISDICTION AND VENUE

8. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332(a) because the matter in controversy exceeds \$75,000.00, exclusive of costs, it is between citizens of different states, and because the Defendants have certain minimum contacts

with the State of Washington such that maintenance of the suit in this district does not offend traditional notions of fair play and substantial justice.

9. Venue in the United States District Court for the Western District of Washington is proper pursuant to 28 USC § 1391(a)(1) and (2) because the Defendants are subject to personal jurisdiction in this judicial district, and because a substantial part of the events or omissions giving rise to the Plaintiffs' claims and causes of action occurred in this judicial district.

FACTS

The Outbreak

10. In March 2017, the Food and Drug Administration (FDA) and the Centers for Disease Control and Prevention (CDC), along with state and local health officials, attributed a multi-state outbreak of Shiga toxin-producing *Escherichia coli* O157:H7 to I.M. Healthy brand SoyNut Butter.

11. Epidemiologic investigation by federal, state, and local public health officials, including Centers for Disease Control and Prevention (CDC) and Food and Drug Administration (FDA), found that at least 32 people had acquired *E. coli* O157:H7 infections by consuming contaminated I.M. Healthy SoyNut Butter. This included residents of Arizona (4), California (5), Florida (2), Illinois (1), Massachusetts (1), Maryland (1), Missouri (1), New Jersey (1), Oregon (11), Virginia (2), Washington (2), and Wisconsin (1). Twelve individuals were hospitalized due to their infection, and nine developed hemolytic uremic syndrome (HUS).

12. The I.M. Healthy brand of soy nut butter products identified as the contaminated food item in this outbreak were produced jointly by The SoyNut Butter Company and Dixie Dew Products, Inc., at a facility owned by Dixie Dew in Kentucky. On March 28, 2017, once the epidemiologic investigation described previously had identified I.M. Healthy brand soy nut butter

products as the source of the outbreak, the Food and Drug Administration (FDA) conducted a comprehensive investigation at the Dixie Dew facility. Among other things, the FDA found:

- a. grossly insanitary conditions;
- b. food contact surfaces, floors, walls, and ceilings in the soy nut butter processing and packaging rooms were heavily coated with soy nut butter build-up from previous production runs;
- c. that Dixie Dew does not routinely wash and sanitize smaller pipes, pipe fittings, gaskets, seals, “or the rubber _____ plug” when broken down following a production run;
- d. that Dixie Dew does not conduct a kill step for SoyNut Butter product remaining in its mixing kettle leftover from a production run;
- e. that certain equipment in the facility routinely shuts off during processing—approximately one to two times per day—and that the problem has persisted for approximately 15 years despite repeated maintenance intended to correct the problem;
- f. that a thermometer used during the production of the subject product has never been verified for accuracy;
- g. that a temperature probe and chart recorder used during the production process for the subject product does not function properly and has not been used for well over a year;
- h. that Dixie Dew’s food safety testing program is problematic—among other things, due to the failure to perform microbial testing where necessary to identify possible food contamination;
- i. that FDA inspectors found that testing materials on hand at Dixie Dew had expired in July 2016 and October 2015
- j. that Dixie Dew had a fly infestation problem, and that small apparent flies and fly larvae, too numerous to count, were inside an unplugged chest freezer;

13. On March 4, 2017, as a result of epidemiologic and environmental evidence indicating that its soy nut butter products were the source of the outbreak, The SoyNut Butter Company recalled I.M. Healthy Original Creamy Soy Nut Butter with “best by” dates July 5, August 30, and August 31, 2018. This recall also included individual portion cups of the same product with best by dates in July, August, and November 2018.

14. On March 7, 2017, The SoyNut Butter Company expanded its recall to include all varieties of I.M. Healthy soy nut butters and all varieties of I.M. Healthy granola products, regardless of production or best by date.

15. Plaintiffs were one of multiple claims for personal injuries against The SoyNut Butter Company and Dixie Dew as a result of this outbreak. Both companies filed for Chapter 7 bankruptcy, and the assets of these companies available to satisfy personal injury claims arising from this outbreak, including Plaintiffs', were insufficient to fairly compensate the claimants.

16. At all times relevant to this action, Defendants KeHE Distributors, LLC, KeHE Distributors, Inc., and KeHE Enterprises, LLC were all alter egos of one another and are referred to collectively as "Defendant Kehe" in this complaint. These entities jointly or independently distributed I.M. Healthy SoyNut Butter. On information and belief, Brandon Barnholt is a primary member and/or officer of all of these entities. There thus exists a unity of interest and ownership between these related entities, the exact relationship of which is not fully known by Plaintiffs, and all are liable in this action.

17. At all times relevant to this action, Defendants World Finer Foods, Inc. and World Finer Foods, LLC were alter egos of one another and are referred to collectively as "Defendant World Finer" in this complaint. These entities jointly or independently distributed I.M. Healthy SoyNut Butter. On information and belief, Brandon Barnholt is a primary member and/or office of all of these entities. There thus exists a unity of interest and ownership between these related entities, the exact relationship of which is not fully known by Plaintiffs, and both are liable in this action.

18. Defendants Kehe and World Finer are distributors of various food products to retail stores and foodservice locations nationally. Defendants Kehe and World Finer each acquired and distributed recalled soy nut butter products, including to Safeway and other retail stores nationally.

19. With regard to the contaminated jar of I.M. Healthy Soy Nut Butter that Plaintiffs purchased at Safeway, as described below, World Finer acquired this product from The SoyNut Butter Company and distributed it to Kehe. Kehe then distributed the product to the Safeway store locations where Plaintiffs purchased it.

E. coli O157:H7

20. *E. coli* is an archetypal commensal bacterial species that lives in mammalian intestines. *E. coli* O157:H7 is one of thousands of serotypes *Escherichia coli*. The combination of letters and numbers in the name of the *E. coli* O157:H7 refers to the specific antigens (proteins which provoke an antibody response) found on the body and tail or flagellum respectively and distinguish it from other types of *E. coli*. Most serotypes of *E. coli* are harmless and live as normal flora in the intestines of healthy humans and animals. The *E. coli* bacterium is among the most extensively studied microorganism. The testing done to distinguish *E. coli* O157:H7 from its other *E. coli* counterparts is called serotyping. Pulsed-field gel electrophoresis (PFGE), sometimes also referred to as genetic fingerprinting, is used to compare *E. coli* O157:H7 isolates to determine if the strains are distinguishable. A technique called multilocus variable-number tandem repeat analysis (MLVA) is used to determine precise classification when it is difficult to differentiate between isolates with indistinguishable or very similar PFGE patterns.

21. *E. coli* O157:H7 was first recognized as a pathogen in 1982 during an investigation into an outbreak of hemorrhagic colitis associated with consumption of hamburgers from a fast food chain restaurant. Retrospective examination of more than three thousand *E. coli* cultures obtained between 1973 and 1982 found only one (1) isolation with serotype O157:H7, and that was a case in 1975. In the ten (10) years that followed there were approximately thirty (30) outbreaks recorded in the United States. This number is likely misleading, however, because *E. coli* O157:H7 infections did not become a reportable disease in any state until 1987 when

Washington became the first state to mandate its reporting to public health authorities. As a result, only the most geographically concentrated outbreak would have garnered enough notice to prompt further investigation.

22. *E. coli* O157:H7's ability to induce injury in humans is a result of its ability to produce numerous virulence factors, most notably Shiga-like toxins. Shiga toxin (Stx) has multiple variants (e.g. Stx1, Stx2, Stx2c), and acts like the plant toxin ricin by inhibiting protein synthesis in endothelial and other cells. Shiga toxin is one of the most potent toxins known. In addition to Shiga toxins, *E. coli* O157:H7 produces numerous other putative virulence factors including proteins, which aid in the attachment and colonization of the bacteria in the intestinal wall and which can lyse red blood cells and liberate iron to help support *E. coli* metabolism.

23. *E. coli* O157:H7 evolved from enteropathogenic *E. coli* serotype O55:H7, a cause of non-bloody diarrhea, through the sequential acquisition of phage-encoded Stx2, a large virulence plasmid, and additional chromosomal mutations. The rate of genetic mutation of *E. coli* O157:H7 indicates that the common ancestor of current *E. coli* O157:H7 clades likely existed some 20,000 years ago. *E. coli* O157:H7 is a relentlessly evolving organism, constantly mutating and acquiring new characteristics, including virulence factors that make the emergence of more dangerous variants a constant threat. The CDC has emphasized the prospect of emerging pathogens as a significant public health threat for some time.

24. Although foods of a bovine origin are the most common cause of both outbreaks and sporadic cases of *E. coli* O157:H7 infections, outbreak of illnesses have been linked to a wide variety of food items. For example, produce has, since at least 1991, been the source of substantial numbers of outbreak-related *E. coli* O157:H7 infections. Other unusual vehicles for *E. coli* O157:H7 outbreaks have included unpasteurized juices, yogurt, dried salami, mayonnaise, raw milk, game meats, sprouts, and raw cookie dough.

25. According to a recent study, an estimated 93,094 illnesses are due to domestically acquired *E. coli* O157:H7 each year in the United States. Estimates of foodborne acquired O157:H7 cases result in 2,138 hospitalizations and 20 deaths annually. The colitis caused by *E. coli* O157:H7 is characterized by severe abdominal cramps, diarrhea that typically turns bloody within twenty-four (24) hours, and sometimes fevers. The incubation period—which is to say the time from exposure to the onset of symptoms—in outbreaks is usually reported as three (3) to four (4) days but may be as short as one (1) day or as long as ten (10) days. Infection can occur in people of all ages but is most common in children. The duration of an uncomplicated illness can range from one (1) to twelve (12) days. In reported outbreaks, the rate of death is 0-2%, with rates running as high as 16-35% in outbreaks involving the elderly, like those that have occurred at nursing homes.

26. What makes *E. coli* O157:H7 remarkably dangerous is its very low infectious dose, and how relatively difficult it is to kill these bacteria. Unlike *Salmonella*, for example, which usually requires something approximating an “egregious food handling error, *E. coli* O157:H7 in ground beef that is only slightly undercooked can result in infection,” as few as twenty (20) organisms may be sufficient to infect a person and, as a result, possibly kill them. And unlike generic *E. coli*, the O157:H7 serotype multiplies at temperatures up to 44°F, survives freezing and thawing, is heat resistant, grows at temperatures up to 111°F, resists drying, and can survive exposure to acidic environments.

27. And, finally, to make it even more of a threat, *E. coli* O157:H7 bacteria are easily transmitted by person-to-person contact. There is also the serious risk of cross-contamination between raw meat and other food items intended to be eaten without cooking. Indeed, a principle and consistent criticism of the USDA *E. coli* O157:H7 policy is the fact that it has failed to focus on the risks of cross-contamination versus that posed by so-called improper cooking. With this

pathogen, there is ultimately no margin of error. It is for this precise reason that the USDA has repeatedly rejected calls from the meat industry to hold consumers primarily responsible for *E. coli* O157:H7 infections caused, in part, by mistakes in food handling or cooking.

Hemolytic Uremic Syndrome (HUS)

28. *E. coli* O157:H7 infections can lead to a severe, life-threatening complication called hemolytic uremic syndrome (“HUS”). HUS accounts for the majority of the acute and chronic illness and death caused by the bacteria. HUS occurs in 2-7% of victims, primarily children, with onset five to ten days after diarrhea begins. It is the most common cause of renal failure in children. Approximately half of the children who suffer HUS require dialysis, and at least 5% of those who survive have long-term renal impairment. The same number suffers severe brain damage. While somewhat rare, serious injury to the pancreas, resulting in death or the development of diabetes, can also occur. There is no cure or effective treatment for HUS. And, tragically, as too many parents can attest, children with HUS too often die.

29. HUS is believed to develop when the toxin from the bacteria, known as Shiga-like toxin (SLT), enters the circulation through the inflamed bowel wall. SLT, and most likely other chemical mediators, attach to receptors on the inside surface of blood vessel cells (endothelial cells) and initiate a chemical cascade that results in the formation of tiny thrombi (blood clots) within these vessels. Some organs seem more susceptible, perhaps due to the presence of increased numbers of receptors, and include the kidney, pancreas, and brain. By definition, when fully expressed, HUS presents with the triad of hemolytic anemia (destruction of red blood cells), thrombocytopenia (low platelet count), and renal failure (loss of kidney function).

30. As already noted, there is no known therapy to halt the progression of HUS. HUS is a frightening complication that, even in the best American centers, has a notable mortality rate. Among survivors, at least five percent will suffer end stage renal disease (ESRD) with the resultant

need for dialysis or transplantation. But “[b]ecause renal failure can progress slowly over decades, the eventual incidence of ESRD cannot yet be determined.” Other long-term problems include the risk for hypertension, proteinuria (abnormal amounts of protein in the urine that can portend a decline in renal function), and reduced kidney filtration rate. Other long-term problems include the risk for hypertension, proteinuria (abnormal amounts of protein in the urine that can portend a decline in renal function), and reduced kidney filtration rate. Since the longest available follow-up studies of HUS victims are 25 years, an accurate lifetime prognosis is not really available and remains controversial. All that can be said for certain is that HUS causes permanent injury, including loss of kidney function, and it requires a lifetime of close medical monitoring.

L.S.’s *E. coli* O157:H7 Infection

31. The Plaintiffs purchased the I.M. Healthy SoyNut Butter product that caused the injuries giving rise to this Complaint from Safeway stores in the Des Moines, Washington area on December 2, 2016, and January 20, 2017. L.S. consumed this product on several occasions in the days leading up to the onset of her illness. This product was contaminated by *E. coli* O157:H7, causing L.S.’s severe illness.

32. On or about February 20, 2017, L.S. developed abdominal cramps and began vomiting. Her condition worsened over the next several days, and she developed severe diarrhea.

33. By March 3, 2017, L.S.’s illness had become so severe that her parents sought medical care at Valley Children’s Clinic, and then Seattle Children’s Hospital.

34. L.S. was hospitalized at Seattle Children’s Hospital on March 5, 2017.

35. L.S. developed HUS as a result of her *E. coli* infection, and she remained hospitalized until March 8, 2017.

36. After she was discharged from the hospital, her stool sample test results came back positive for Shiga toxin 2 and *E. coli* O157.

37. L.S. had follow-up appointments well into August 2018 to monitor for continued adverse effects of her *E. coli*-related HUS.

COUNT I
(Strict Products Liability)

38. The Plaintiffs incorporate the preceding paragraphs of this Complaint, by this reference, as if each of these paragraphs were set forth here in its entirety.

39. The Defendants distributed and sold the contaminated I.M. Healthy SoyNut Butter product that the Plaintiffs purchased on December 2, 2016, and January 20, 2017, from Safeway stores in the Des Moines, Washington area, which caused L.S.'s illness and injuries. This product will hereafter be called the "subject product."

40. The Defendants, and each of them, regularly purchased, distributed, and sold I.M. Healthy SoyNut Butter products. The Defendants, and each of them, purchased, distributed, and sold the subject product.

41. Food that is contaminated by *E. coli* O157:H7 is unsafe when put to its reasonably foreseeable use considering the nature of the product. Namely, *E. coli* O157:H7-contaminated food is unfit for human consumption and is thus defective in that it is unreasonably dangerous and thereby posed a serious risk of injury to consumers, including L.S.

42. The defective subject product was contaminated by *E. coli* O157:H7 when it left the control of the Defendants. L.S.'s consumption of the contaminated food caused her to become infected by *E. coli* O157:H7 and to suffer injuries as a direct and proximate result of that consumption.

43. The Defendants are strictly liable to the Plaintiffs for the harm proximately caused by their distribution and sale of an unsafe and defective food product.

COUNT II
(Negligence)

44. The Plaintiffs incorporate by reference and make a part of this Count each and every foregoing paragraph of this Complaint.

45. The Defendants had a duty to comply with all statutory and regulatory provisions that pertained or applied to the distribution, storage, labeling, and sale of the food products that injured L.S., including the applicable provisions of the Federal Food, Drug and Cosmetic Act, and similar Washington food and public health statutes, including without limitation the provisions of the Washington Product Liability Act, RCW 7.72 et seq., and the Washington State Retail Food Code, chapter 246-215 WAC, all of which prohibit the sale of any food that is adulterated or otherwise injurious to health.

46. The subject product was adulterated within the meaning of the Federal Food, Drug and Cosmetic Act, and similar Washington statutes, because it contained a deleterious substance that rendered it injurious to health, i.e., *E. coli* O157:H7 bacteria.

47. The Defendants violated federal, state, and local food safety regulations by their sale of adulterated food. These federal, state, and local food safety regulations are applicable here, and establish a positive and definite standard of care in the sale of food. The violation of these regulations constitutes negligence as a matter of law.

48. L.S. is in the class of persons intended to be protected by these statutes and regulations, and L.S. was injured as the direct and proximate result of the Defendants' violation of applicable federal, state, and local food safety regulations.

49. The Defendants were negligent in the distribution and sale of a food product that was adulterated with *E. coli* O157:H7, not fit for human consumption, and not reasonably safe because adequate warnings or instructions were not provided.

50. The Defendants had a duty to sell food products that were from reliable sources and that were clean, wholesome, free from adulteration and fit for human consumption, but failed to do so, and therefore breached that duty.

51. The Defendants were negligent in the selection of suppliers, or other agents or subcontractors, and failed to adequately supervise them, or provide them with adequate standards, and, as a result, sold food that was adulterated with *E. coli* O157:H7.

52. The Defendants' various acts and omissions of negligence proximately caused L.S.'s *E. coli* O157:H7 infection and related illness, injuries, and damages.

COUNT III
(Breach of Express and Implied Warranties)

53. The Plaintiffs incorporate the preceding paragraphs of this Complaint, by this reference, as if each of these paragraphs were set forth here in its entirety.

54. By offering I.M. Healthy SoyNut Butter products for sale to the public, Defendants impliedly warranted that such products were safe to eat, that they were not adulterated with a deadly pathogen, and that the products had been safely prepared under sanitary conditions.

55. The Defendants breached these implied warranties by distributing and selling the subject product, because it was contaminated by *E. coli* O157:H7.

56. Further, the label of I.M. Healthy SoyNut Butter promises that consumers will be "Healthy" if they purchase and consume the soy nut butter.

57. By assuring the Plaintiffs that the I.M. Healthy soy nut butter was healthy and that it was a "natural product," Defendants expressly warranted that the food that they sold, distributed and supplied was fit for the Plaintiffs' consumption.

58. Defendants breached their express warranty as described above in that the food that they sold, distributed and supplied was not fit for Plaintiffs' consumption.

59. The Plaintiffs' injuries proximately and directly resulted from the Defendants' breach of express and implied warranties, and the Plaintiffs are thus entitled to recover for all actual, consequential, and incidental damages that flow directly and in a foreseeable fashion from these breaches.

DAMAGES

60. The Plaintiffs have suffered general, special, incidental, and consequential damages as a direct and proximate result of the acts and omissions of the Defendants, which damages shall be fully proven at the time of trial, including, but not limited to: damages for loss of enjoyment of life, both past and future; medical and medical-related expenses, both past and future; travel and travel-related expenses, past and future; emotional distress and future emotional distress; pharmaceutical expenses, past and future; wage and other economic damages; loss of consortium; and other ordinary, incidental, and consequential damages as would be anticipated to arise under the circumstances.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray as follows:

- (1) That the Court award the Plaintiffs judgment against Defendants for damages.
- (2) That the Court award all such other sums as shall be determined to fully and fairly compensate the Plaintiffs for all general, special, incidental, and consequential damages incurred, or to be incurred, by the Plaintiffs as the direct and proximate result of the acts and omissions of the Defendants;
- (3) That the Court award the Plaintiffs their costs, disbursements, and reasonable attorneys' fees incurred;

(4) That the Court award the 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; and

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

JURY TRIAL DEMAND

The Plaintiffs demand trial by jury on all issues raised herein.

Respectfully submitted,

\s\ William D. Marler

William D. Marler, WSBA #17233
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Attorney for Plaintiff

JS 44 (Rev. 02/19)

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.)

I. (a) PLAINTIFFS

Travis Stuller and Morgan Stuller, husband and wife, individually and as the parents of L.S., a minor

(b) County of Residence of First Listed Plaintiff King County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

William D. Marler, 1012 First Avenue, Fifth Floor, Seattle, WA 98104
(206) 346-1882

DEFENDANTS

Albertsons Companies, Inc, d/b/a Safeway, KeHE Distributors, LLC, KeHE Distributors, Inc., KeHE Enterprises, LLC, World Finer Foods, Inc., and World Finer Foods, LLC

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Roy Umlauf, Dave Ernst, Ashley Vulin, Adam Michael, Berry Trebach

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	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

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 PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other 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 IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 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 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 <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

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:
Plaintiff incurred damages and injuries after consuming defendant's E. coli - contaminated product

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 06/13/2019 SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

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

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Washington

Travis Stuller and Morgan Stuller, husband and wife,
individually and as the parents of L.S., a minor

Plaintiff(s)

v.

KeHE Distributors, LLC

Defendant(s)

Civil Action No. 2:19-cv-922

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Dave Ernst and Ashley Vulin, Attorneys for KeHE Distributors, LLC
Davis Wright Tremaine LLP
1300 SW Fifth Avenue, Suite 2400
Portland, OR 97201
E: daveernst@dwt.com; ashleyvulin@dwt.com

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William Dale Marler
Marler Clark LLP PS
1012 First Aveune
Fifth Flooor
Seattle, WA 98104-108

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 2:19-cv-922

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* Dave Ernst and Ashley Vulin, Attorneys for KeHE Distributors, LLC
was received by me on *(date)* 06/13/2019 .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify):* Via electronic mail

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: 06/13/2019

\s\ Marybeth Duda
Server's signature

Marybeth Duda, Paralegal
Printed name and title

Marler Clark LLP PS
1012 First Aveune
Seattle, WA 98104-1008
Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Washington

Travis Stuller and Morgan Stuller, husband and wife,
individually and as the parents of L.S., a minor

Plaintiff(s)

v.

KeHE Distributors, Inc.

Defendant(s)

Civil Action No. 2:19-cv-922

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Dave Ernst and Ashley Vulin, Attorneys for KeHE Distributors, Inc.
Davis Wright Tremaine LLP
1300 SW Fifth Avenue, Suite 2400
Portland, OR 97201
E: daveernst@dwt.com; ashleyvulin@dwt.com

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William Dale Marler
Marler Clark LLP PS
1012 First Aveune
Fifth Flooor
Seattle, WA 98104-108

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

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Signature of Clerk or Deputy Clerk

Civil Action No. 2:19-cv-922

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Date: 06/13/2019

\s\ Marybeth Duda
Server's signature

Marybeth Duda, Paralegal
Printed name and title

Marler Clark LLP PS
1012 First Aveune
Seattle, WA 98104-1008
Server's address

Additional information regarding attempted service, etc:

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UNITED STATES DISTRICT COURT

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Travis Stuller and Morgan Stuller, husband and wife,
individually and as the parents of L.S., a minor

Plaintiff(s)

v.

KeHE Enterprises, LLC

Defendant(s)

Civil Action No. 2:19-cv-922

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Dave Ernst and Ashley Vulin, Attorneys for KeHE Enterprises, LLC.
Davis Wright Tremaine LLP
1300 SW Fifth Avenue, Suite 2400
Portland, OR 97201
E: daveernst@dwt.com; ashleyvulin@dwt.com

A lawsuit has been filed against you.

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William Dale Marler
Marler Clark LLP PS
1012 First Aveune
Fifth Flooor
Seattle, WA 98104-108

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Date: 06/13/2019

Ms Marybeth Duda

Server's signature

Marybeth Duda, Paralegal

Printed name and title

Marler Clark LLP PS
1012 First Aveune
Seattle, WA 98104-1008

Server's address

Additional information regarding attempted service, etc: