

JURISDICTION AND VENUE

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

2.2 Venue in the United States District Court for the Southern District of New York is proper pursuant to 28 U.S.C. § 1391(b)(1) because Defendant resides in this judicial district and 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to Plaintiff's claims and causes of action occurred in this judicial district.

FACTUAL BACKGROUND

What is *Salmonella*?

3.1 It has long been said that, in 1885, pioneering American veterinary scientist, Daniel E. Salmon, discovered the first strain of *Salmonella*. Actually, though, Theobald Smith, research-assistant to Dr. Salmon, discovered the first strain of *Salmonella*—*Salmonella Choleraesuis*. But being in charge, Dr. Salmon received all of the credit.¹

3.2 Today, the number of known serotypes of *Salmonella* bacteria totals over two thousand. And in recent years, concerns have been raised, as particular strains of *Salmonella* have become resistant to traditional antibiotics.

3.3 There are two *Salmonella* species: *Salmonella enterica* (*S. enterica*) and *Salmonella bongori* (*S. bongori*). *S. bongori* strains predominantly colonize cold-blooded reptiles, whereas *S. enterica* strains are capable of infecting both humans and mammals.²

¹ Kass EH. (1987). A brief perspective on the early history of American infectious disease epidemiology. *Yale J Biol Med.* 60(4):341-8.

² Hernandez, A. K. C. *Salmonella bongori*. Poultry and Avian Diseases. *Encyclopedia of Agriculture and Food Systems*. <https://www.sciencedirect.com/topics/agricultural-and-biological-sciences/salmonella-bongori>.

3.4 Based on factors such as morphology, structure, mode of reproduction, and other criteria, the two species are further classified into subgroups called serotypes or serovars. More than 2,600 serotypes have been described for *Salmonella*, and they are characterized by the type(s) of animal they are found in or by the clinical symptoms they cause.³ Of these, less than 100 are responsible for most human *Salmonella* infections.⁴

Where Does *Salmonella* Come From?

3.5 *Salmonella* are widely distributed in nature and are found in the intestinal tract of wild and domesticated animals and in humans. *Salmonella* poisoning can occur when a person ingests contaminated fecal particles transmitted by another infected human or animal.⁵

3.6 *Salmonella enterica* serotypes Typhi, Sendai, and Paratyphi A, B, or C are found exclusively in humans. These serotypes, collectively referred to as typhoidal *Salmonella*, cause enteric fever (also known as typhoid or paratyphoid fever if caused by serotypes Typhi or Paratyphi, respectively).⁶ Most often, enteric fever is acquired through ingestion of food or water contaminated with human feces. Most U.S. residents who are diagnosed with typhoidal *Salmonella* are infected while traveling abroad in areas where typhoid fever and paratyphoid fever are common.

3.7 Three types of vaccines against *S. Typhi* are commercially available, although there is still not a single licensed vaccine available against *S. Paratyphi A*.⁷ Persons planning to travel

³ Boore AL, *et al.* (2015). *Salmonella enterica* Infections in the United States and Assessment of Coefficients of Variation: A Novel Approach to Identify Epidemiologic Characteristics of Individual Serotypes, 1996–2011. *PLoS One*. 10(12): e0145416

⁴ Besser JM. (2018). *Salmonella* epidemiology: a whirlwind of change. *Food Microbiol.* 71:55-9.

⁵ Chiu, C.-H. (2019). *Salmonella, Non-Typhoidal Species (S. Choleraesuis, S. Enteritidis, S. Hadar, S. Typhimurium)*. <http://www.antimicrobe.org/b258.asp>.

⁶ Ohad eGal-Mor, Erin C Boyle, & Guntram A. Grassl. (2014). Same species, different diseases: how and why typhoidal and non-typhoidal *Salmonella enterica* serovars differ. *Frontiers in Microbiology*, 5. <https://doi.org/10.3389/fmicb.2014.00391>

⁷ *Id.*

outside of the United States are advised to find out if a vaccine for typhoid fever is recommended (see www.cdc.gov/travel). CDC estimates *Salmonella* bacteria cause about 1.35 million infections, 26,500 hospitalizations, and 420 deaths in the United States every year. Food is the source for most of these illnesses.⁸

3.8 Most *Salmonella* infections are caused by eating contaminated food. One study found that 87% of all confirmed cases of *Salmonella* are foodborne. Foods of animal origin, including meat, poultry, eggs, or dairy products can become contaminated with *Salmonella*. Eating uncooked or inadequately cooked food—or food cross contaminated with uncooked or undercooked products—can lead to human infections. As explained in a comprehensive report issued by the U.S. Department of Agriculture’s Economic Research Service:

Salmonella contamination occurs in a wide range of animal and plant products. Poultry products and eggs are frequently contaminated with *S. Enteritidis*, while beef products are commonly contaminated with *S. Typhimurium*. Other food sources of *Salmonella* may include raw milk or other dairy products and pork.

3.9 In the past two decades, consumption of produce, especially sprouts, tomatoes, fruits, leafy greens, nuts, and nut butters, has been associated with *Salmonella* illnesses.⁹ The surface of fruits and vegetables may be contaminated by human or animal feces. Changes in food consumption and production, as well as the rapid growth of international trade in agricultural products, have facilitated the transmission of *Salmonella* associated with fresh fruits and vegetables.

⁸Centers for Disease Control and Prevention. “*Salmonella*.” <https://www.cdc.gov/salmonella/index.html#:~:text=CDC%20estimates%20Salmonella%20bacteria%20cause,%2C%20fever%2C%20and%20stomach%20cramps>.

⁹ National Typhoid and Paratyphoid Fever Surveillance Annual Summary, 2015.” Centers for Disease Control and Prevention, 6 Nov. 2018. Available at: <https://www.cdc.gov/typhoid-fever/reports/annual-report-2015.html>.

3.10 In the United States, *Salmonella* is the second most commonly isolated bacterial pathogen when laboratory diagnosis of diarrhea is sought.¹⁰ However, passive laboratory surveillance, which uses voluntary reporting by health care providers and facilities, captures only a fraction of illnesses that actually occur. Furthermore, only a small proportion of illnesses are confirmed by laboratory testing and reported to public health agencies. Thus, researchers rely on quantitative statistical modeling to estimate the incidence of foodborne illness. These estimates are used to direct policy and interventions.

What are the Symptoms of Salmonellosis?

3.11 *Salmonella* infections can produce a broad range of disease, from no symptoms to severe illness. The most common clinical presentation is acute gastroenteritis. Symptoms commonly include diarrhea and abdominal cramps, often accompanied by fever of 100°F to 102°F (38°C to 39°C). More serious infections may also involve bloody diarrhea, vomiting, headache, and body aches.¹¹

3.12 The incubation period, or the time from ingestion of the bacteria until the symptoms start, is generally 6 to 72 hours; however, there is evidence that in some situations the incubation can be longer than 10 days. People with salmonellosis usually recover without treatment within three to seven days. Nonetheless, *Salmonella* bacteria can persist in the intestinal tract and stool for many weeks after the resolution of symptoms—on average, one month in adults and longer in children.¹²

¹⁰ “National Enteric Disease Surveillance: *Salmonella* Annual Report, 2016.” Centers for Disease Control and Prevention, 28 Feb. 2018. Available at: <https://www.cdc.gov/nationalsurveillance/pdfs/2016-Salmonella-report-508.pdf>.

¹¹ “*Salmonella*.” Centers for Disease Control and Prevention, 24 Jun. 2020. Available at: <https://www.cdc.gov/salmonella/>.

¹² *Id.*

Treatment of Salmonellosis

3.13 *S. Typhi* and *S. Paratyphi* are capable of causing systemic illness if they invade the bloodstream (termed “bacteremia”). “Septicemia” or “sepsis” (bloodstream infection or “blood poisoning”) occurs if the bacteria multiply in the blood and cause the immune system to respond by activating inflammatory mechanisms. This may result in the development of “systemic inflammatory response syndrome,” or “SIRS.” By definition, SIRS includes tachycardia, tachypnea, fever, and abnormal white blood cell count.

3.14 When the bacteria involved are *S. Typhi* or *S. Paratyphi*, this serious illness is called enteric typhoid, or paratyphoid fever. Symptoms may start gradually and include fever, headache, malaise, lethargy, and abdominal pain. In children, it can present seemingly innocuously as a non-specific fever. The incubation period for *S. Typhi* is usually 8 to 14 days, but it can range from three to 60 days. For *S. Paratyphi* infections, the incubation period is similar to that of nontyphoidal *Salmonella*—one to 10 days.¹³

3.15 Medical treatment is acutely important, though, if the patient becomes severely dehydrated or if the infection spreads from the intestines. Persons with severe diarrhea often require re-hydration, usually with intravenous (IV) fluids. But antibiotics are not necessary or indicated unless the infection spreads from the intestines, at which time the infection can be treated with ampicillin, gentamicin, trimethoprim/sulfamethoxazole, or ciprofloxacin. Unfortunately, though, some *Salmonella* bacteria have become resistant to antibiotics, largely as a result of the use of antibiotics to promote the growth of feed animals.¹⁴

¹³ Miller, S. and Pegues, D. “*Salmonella* Species, Including *Salmonella Typhi*” in Mandell, Douglas, and Bennett’s Principles and Practice of Infectious Diseases, Sixth Edition, Chap. 220, pp. 2636-50 (2005).

¹⁴ Medalla, F., Gu, W., Mahon, B. E., Judd, M., Folster, J., Griffin, P. M., & Hoekstra, R. M. (2016). Estimated Incidence of Antimicrobial Drug-Resistant Nontyphoidal *Salmonella* Infections, United States, 2004-2012. *Emerging infectious diseases*, 23(1), 29–37. <https://doi.org/10.3201/eid2301.160771>

Reactive Arthritis

3.16 Formerly referred to as Reiter syndrome, the term reactive arthritis refers to an inflammation of one or more joints, following an infection localized at a site distant from the affected joints. The predominant site of the infection is the gastrointestinal tract. And reactive arthritis can be post-infection, meaning that the infection may not be active when diagnosed. Several bacteria, including *Salmonella*, can cause reactive arthritis.¹⁵ And although the resulting joint pain and inflammation can resolve completely over time, permanent joint damage can occur.¹⁶

3.17 The symptoms of reactive arthritis include pain and swelling in the knees, ankles, feet, and heels. Less frequently, the upper extremities may be affected, including the wrists, elbows, and fingers. Tendonitis (inflammation of the tendons) or enthesitis (inflammation where tendons attach to the bone) can occur. Other symptoms may include prostatitis, cervicitis, urethritis (inflammation of the prostate gland, cervix, or urethra), conjunctivitis (inflammation of the membrane lining the eyelid), or uveitis (inflammation of the inner eye). Ulcers and skin rashes are less common.

3.18 Symptoms can range from mild to severe and can occur anywhere from three days to six weeks after the antecedent infection and may involve one or more joints, though usually six or fewer. Although most cases recover within a few months, some continue to experience complications for years. Treatment focuses on relieving the symptoms.¹⁷

¹⁵See “Reactive Arthritis.” *Questions and Answers About*. N.p., n.d. Web. 12 Nov. 2015.

¹⁶*Id.*

¹⁷“Reactive Arthritis.” National Institute of Arthritis and Musculoskeletal and Skin Diseases, Oct. 2016. Available at: <https://www.niams.nih.gov/health-topics/reactive-arthritis>.

Irritable Bowel Syndrome

3.19 Irritable bowel syndrome (IBS) is a functional disorder of the gastrointestinal tract. The hallmark symptoms of IBS are abdominal pain and altered bowel habits, ranging from constipation to diarrhea, or alternating diarrhea and constipation. Abdominal pain is usually crampy in nature, but character and sites can vary. In some patients, the pain is relieved by defecation but, in others, defecation may worsen the pain. Additional symptoms may include bloating, straining at stools, and a sense of incomplete evacuation.

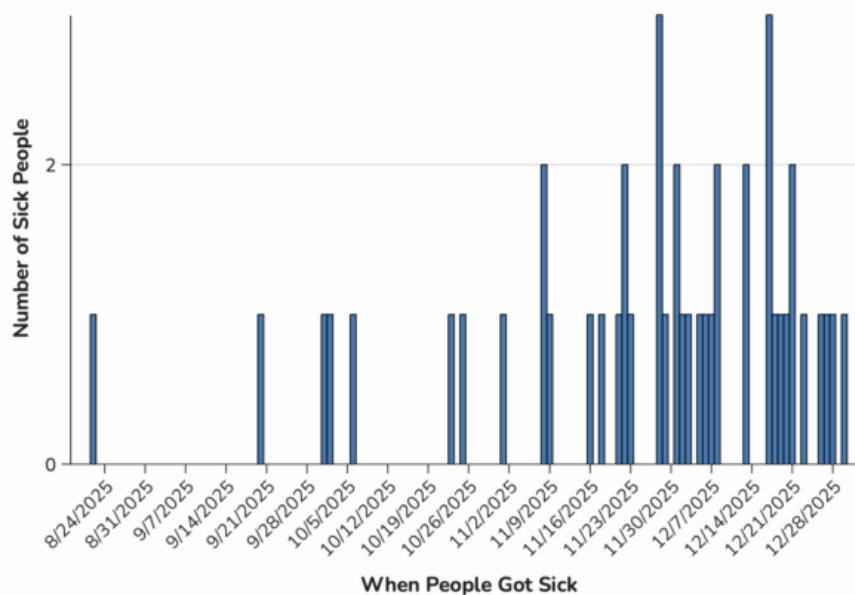
3.20 The observation that the onset of IBS symptoms can be precipitated by gastrointestinal infection dates back to the 1950s. Mechanisms are not known but include changes in the microbiome, use of antibiotics to treat the infection, and an increase in enteroendocrine cells.

3.21 Another consequence of infective gastroenteritis is the disruption of normal gut flora. Studies on postinfectious IBS have provided etiological insights into the pathogenesis of IBS. It is well documented that following infective gastroenteritis, more than 10% of affected individuals go on to develop postinfectious IBS.¹⁸ The risk of postinfectious IBS appears greater with bacterial gastroenteritis compared to viral gastroenteritis.

***Salmonella* Outbreak linked to Live it Up brand Super Greens supplement powders**

3.22 As of January 14, 2026, 45 people infected with the outbreak strain of *Salmonella* have been reported from 21 states: Alabama 1, Connecticut 1, Delaware 1, Iowa 1, Maine 1, Michigan 1, Missouri 1, Nebraska 1, Pennsylvania 1, Tennessee 1, Utah 1, Washington 1, Massachusetts 2, New York 2, South Carolina 2, Vermont 2, Minnesota 3, Ohio 3, Illinois 4, Kentucky 4 and Wisconsin 11.

¹⁸Ng, Q. X., Soh, A., Loke, W., Lim, D. Y., & Yeo, W. S. (2018). The role of inflammation in irritable bowel syndrome (IBS). *Journal of inflammation research*, 11, 345–349. <https://doi.org/10.2147/JIR.S174982>.



3.25 On January 14, 2026, Live it Up informed the Food and Drug Administration (FDA) that they would initiate a voluntary recall. The Centers for Disease Control and Prevention (CDC) is advising people not to eat, sell, or serve recalled Live it Up brand Super Greens supplement powders.

Plaintiff's Illness

4.1 Plaintiff was a regular consumer of Defendant Superfoods, Inc.'s Super Greens supplement powder. Plaintiff had been purchasing the product from Defendant since 2023, and received his most recent order of products on or about January 15, 2026.

4.2 On or about January 16, 2026, Plaintiff consumed the supplement powder and on or about January 17, 2026, Plaintiff began to feel ill, ultimately experiencing symptoms of diarrhea, stomach cramping, fever, muscle aches and fatigue. As Plaintiff's symptoms persisted, on or about January 25, 2026, he sought medical care at Northern Light Mercy Walk-In Care in Gorham, Maine, and yet again on or about January 27, 2026, he was further treated at the Northern

Light Mercy Hospital in Portland, Maine. It appears that he had been diagnosed (incorrectly) with pneumonia.

4.3 Still not correctly diagnosed, Plaintiff's situation did not improve and on January 31, 2026, Plaintiff was hospitalized at Northern Light Mercy Hospital in Portland, Maine. He endured multiple tests, blood draws, "no or water" restrictions and other procedures. Ultimately, he received a diagnosis of *Salmonella* poisoning, complicated by a dangerous abscess located on his spine, close to his aorta. Providers cultured Plaintiff's abscess which revealed that the abscess itself had become infected with *Salmonella*.

4.4 *Salmonella* had entered plaintiff's blood stream, making his situation both dire and challenging to treat. Plaintiff lost approximately 22 lbs since the first onset of symptoms, dropping from 215 lbs to 193 lbs. As Plaintiff was dedicated to his physical fitness, Plaintiff's weight loss was mostly, if not all, muscle.

4.5 Finally stabilized, Plaintiff was discharged on February 4, 2026, having spent 5 days in the hospital. Following discharge, Plaintiff sought follow-up from Dr. Edward Pilkington III (MMP Adult Infectious Diseases) in South Portland, Maine, as well as Northern Light Home Care.

4.6 Since the first onset of symptoms in January 2026, Plaintiff has experienced persistent and debilitating symptoms, including extreme fatigue and ongoing back pain. He is taking Oxycodone for his significant pain as prescribed.

4.7 Plaintiff is currently recovering at his home in Gorham, Maine where he is administered antibiotics through a PICC line installed in his left arm, which is scheduled to continue until at least late March 2026.

4.8 Once home from the hospital, Plaintiff confirmed that the lot number and expiration date on the the bag of powdered greens purchased from Defendant (LOT A25JO36, EXP 10/2027) matched one on the list of products recalled by Defendant.

CAUSES OF ACTION

Strict Liability – Count I

5.1 Plaintiff incorporates the preceding paragraphs of this Complaint, by this reference, as if each and every of these paragraphs was set forth here in its entirety.

5.2 At all times relevant hereto, Defendant prepared, manufactured, packaged, distributed, and/or sold the contaminated food product that was purchased and consumed by Plaintiff, namely Super Greens supplement powder.

5.3 The adulterated product that Defendant prepared, manufactured, packaged, distributed, and/or sold was, at the time it left Defendant's control, defective and unreasonably dangerous for its ordinary and expected use by the intended public, including Plaintiff, because Defendant's product was contaminated by *Salmonella*, a bacterium dangerous to human health.

5.4 Because of its contamination by *Salmonella*, the adulterated product was not put on the market by a reasonably prudent manufacturer or seller, assuming that the manufacturer or seller knew of its dangerous condition.

5.5 The adulterated product that Defendant prepared, manufactured, packaged, distributed, and/or sold was delivered to the Plaintiff without any change in its defective condition. The adulterated product that Defendant prepared, manufactured, packaged, distributed, and/or sold was used by Plaintiff in the manner expected and intended.

5.6 Defendant owed a duty of care to the public, including Plaintiff, to prepare, manufacture, package, distribute and/or sell food that was not adulterated, that was fit for human

consumption, that was reasonably safe in construction, and that was free of pathogenic bacteria or other substances injurious to human health, including *Salmonella*. Defendant breached this duty.

5.7 Defendant owed a duty of care to the public, including Plaintiff, to prepare, manufacture, package, distribute and/or sell food that was fit for human consumption, and that was safe to consume to the extent contemplated by a reasonable consumer. Defendant breached this duty.

5.8 As a direct and proximate result of the defective and unreasonably dangerous condition of the contaminated food product that Defendant prepared, manufactured, packaged, distributed and/or sold, as set forth above, Plaintiff sustained injuries and damages in an amount to be determined at trial.

Breach of Warranty – Count II

5.9 Plaintiff incorporates the preceding paragraphs of this Complaint, by this reference, as if each and every of these paragraphs were set forth here in its entirety.

5.10 Defendant is liable to Plaintiff for breaching express and implied warranties that it made regarding the adulterated product that Plaintiff purchased and consumed. These express and implied warranties include the implied warranties of merchantability and/or fitness for a particular use. Specifically, the Defendant expressly warranted, through its sale of food to the public and by the statements and conduct of its employees and agents, that the food product it prepared, manufactured, packaged, distributed and/or sold was fit for human consumption and not otherwise adulterated with a harmful pathogen, namely *Salmonella*, and that the food product had been safely produced under sanitary conditions.

5.11 The *Salmonella* contaminated food product that is the subject of this action would not pass without exception in the trade and was therefore in breach of the implied warranty of merchantability.

5.12 The *Salmonella* contaminated food product that is the subject of this action was not fit for the uses and purposes intended, *i.e.*, human consumption, and the product was therefore in breach of the implied warranty of fitness for its intended use.

5.13 Defendant breached the implied warranties with regard to the contaminated food product that it sold, and that Plaintiff consumed, causing her injuries and losses.

5.14 As a direct and proximate cause of Defendant's breach of warranties, as set forth above, Plaintiff sustained injuries and damages in an amount to be determined at trial.

Negligence – Count III

5.15 Plaintiff incorporates the preceding paragraphs of this Complaint, by this reference, as if each and every of these paragraphs was set forth here in its entirety.

5.16 Defendant owed to Plaintiff a duty to use reasonable care in the preparation, manufacture, packaging, distribution, and/or sale of its food product, the observance of which duty would have prevented or eliminated the risk that Defendant's food product would be adulterated and/or otherwise become contaminated with any dangerous pathogen. Defendant, however, breached this duty and were therefore negligent.

5.17 Defendant had a duty to comply with all federal, state, and local statutes, laws, regulations, safety codes, and provisions pertaining to the preparation, manufacture, distribution, storage, and/or sale of its food product, but failed to do so, and was therefore negligent. Plaintiff was among the class of persons designed to be protected by these statutes, laws, regulations, safety

codes and provisions pertaining to the preparation, manufacture, packaging, distribution, and sale of similar food products. Defendant, however, breached this duty and were therefore negligent.

5.18 Defendant had a duty to properly supervise, train, and monitor its respective employees, and to ensure that its respective employees complied with all applicable statutes, laws, regulations, safety codes, and provisions pertaining to the preparation, manufacture, distribution, packaging, and sale of its food products. Defendant, however, breached this duty and were therefore negligent.

5.19 Defendant had a duty to use supplies, and other materials for preparation, packaging, manufacturing, and/or sale that were reasonably safe, wholesome, and free of defects, and that otherwise complied with applicable federal, state, and local laws, ordinances, regulations, codes, and provisions and that were clean, free from adulteration, and safe for food contact or use for food products. Defendant, however, breached this duty and were therefore negligent.

5.20 As a direct and proximate result of Defendant's negligence as described above, Plaintiff sustained injuries and damages in an amount to be determined at trial.

Negligence Per Se – Count IV

5.21 Plaintiff incorporates the preceding paragraphs of this Complaint, by this reference, as if each and every of these paragraphs was set forth here in its entirety.

5.22 Defendant had a duty to comply with all applicable state and federal laws and regulations designed to ensure the safety, wholesomeness, and purity of food products, including but not limited to relevant state food safety rules and the Federal Food, Drug and Cosmetics Act (21 U.S.C. § 301, *et seq.*).

5.23 In breach of this duty, Defendant failed to comply with the provisions of the relevant health and safety acts identified above, and, as a result, was negligent *per se* in its preparation, manufacture, distribution, packaging and/or sale of adulterated food.

5.24 As a direct and proximate result of conduct by Defendant that was negligent *per se*, Plaintiff sustained injuries and damages in an amount to be determined at trial.

DAMAGES

6.1 Plaintiff has suffered general, special, incidental, and consequential damages as the direct and proximate result of the acts and omissions of Defendant, in an amount that shall be fully proven at the time of trial. These damages include but are not limited to past and future pain and suffering, past and future damages for loss of enjoyment of life, past and future emotional distress, past and future medical and related expenses, including pharmaceutical expenses, travel and travel-related expenses, past and future lost wages, and all other ordinary, incidental, or consequential damages that would or could be reasonably anticipated to arise under the circumstances.

JURY DEMAND

7.1 Plaintiff hereby demands a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the Defendant as follows:

A. Ordering compensation for all general, special, incidental, and consequential damages suffered by Plaintiff because of Defendant's conduct.

B. Awarding Plaintiff costs and expenses, including reasonable attorneys' fees to the fullest extent allowed by law; and

C. Granting all such additional and/or further relief as this Court deems just and equitable.

Respectfully submitted this 14th day of March 2026.

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