

**ONTARIO
SUPERIOR COURT OF JUSTICE**

IN THE MATTER OF a Claim under the
Class Proceedings Act, 1992, S.O. 1992, c. 6

BETWEEN:

HENRIETTA VELDMAN

Plaintiff

and

FAMEE FURLANE OF HAMILTON

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT(S)

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This

will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. If you wish to defend this proceeding but are unable to pay legal fees, legal aid may be available to you by contacting a local legal aid office.

Date *June 13, 2007* Issued by *Shanda Fay*
Local Registrar

Address of court office:
45 Main Street East
Suite 110
Hamilton, Ontario
L8N 2B7

TO **FAMEE FURLANE OF HAMILTON**
P.O. Box 59
3457 Hendershott Rd
Binbrook, Ontario
L0R 1C0

CLAIM

1. The Plaintiff claims on his own behalf and on behalf of all Class Members:
 - (a) Damages for negligence and breach of duty as set out below, in the amount of \$1,000,000.00;
 - (b) Punitive, aggravated and exemplary damages;
 - (c) Prejudgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
 - (d) Post judgment interest in accordance with section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
 - (e) The costs of this proceeding on a substantial indemnity basis, plus applicable goods and services tax; and,
 - (f) Such further and other relief as to this Honourable Court may deem just and appropriate in the circumstances.

THE PARTIES

2. The Plaintiff is an individual residing in the City of Stoney Creek, in the Province of Ontario.

3. The Defendant, FAMEE FURLANE OF HAMILTON, is a non-share capital corporation incorporated pursuant to laws of the Province of Ontario, with offices of business at 3457 Hendershott Road, Binbrook, Ontario.

WEDDING RECEPTION

4. On July 15, 2006, FAMEE FURLANE OF HAMILTON held a Wedding Reception dinner (the "Wedding Reception") at its premises, 3457 Hendershott Road, Binbrook, Ontario, L0R 1C0, the food catering for which was provided by FAMEE FURLANE OF HAMILTON.

5. Approximately 152 people attended the Wedding Reception.

6. Food served to attendees was contaminated with salmonella poisoning and/or other bacteria causing many individuals to fall ill shortly after attending the event and ingesting the contaminated food.

SITUATION OF THE REPRESENTATIVE PLAINTIFF

7. The Plaintiff attended the Wedding Reception dinner at FAMEE FURLANE OF HAMILTON on July 15, 2006.
8. The Plaintiff states that she ingested food that was contaminated.
9. The Plaintiff fell severely ill shortly after attending the event and ingesting the contaminated food, which illness was directly caused by the contaminated food being consumed.
10. The Plaintiff states that she has suffered damages as a result of the negligence of the Defendant, particulars of which are as set out below.

NEGLIGENCE

11. The Plaintiff and Class Members state that the Defendant had a duty of care to them to ensure that food served at the Wedding Reception was free from bacteria and contamination and safe for human consumption.

12. The Plaintiff and Class Members state that their damages as set out below were caused or contributed to directly by the negligence and breach of duty of the Defendant, particulars of which are as follows:

- (i) It was negligent in that food provided to the Plaintiff and Class Members at the Wedding Reception was contaminated with bacteria and not safe for human consumption;
- (ii) It failed to employ sufficient and competent catering and/or food-preparation staff to ensure that food served at the Wedding Reception was free from bacteria and contamination and safe for human consumption;
- (iii) It failed to monitor and supervise its food-preparation staff and caterer to ensure that food served at the Wedding Reception was free from bacteria and contamination and safe for human consumption;
- (iv) It was negligent in employing, retaining and/or engaging a caterer and in monitoring the caterer's practices and competence, in order to ensure that food served at the Wedding Reception was free from bacteria and contamination and safe for human consumption.

- (v) It was negligent in the handling of food and/or its transportation, storage and preparation, and in failing to ensure that food served at the Wedding Reception was free from bacteria and contamination and safe for human consumption;
- (vi) It was negligent in that the food served at the Wedding Reception was in fact contaminated and was not appropriate or safe for human consumption.

DAMAGES

13. The Plaintiff and Class Members state that they have suffered damages as a result of the negligence and breach of duty of the Defendants as described above, specifically, at a minimum, severe diarrhea, vomiting, fever, nausea, chills, headaches and abdominal pain, typically 12 to 36 hours after ingesting the contaminated food. Symptoms typically last four to seven days and can lead to severe dehydration.

14. Some Class Members were required to seek and obtain medical assistance including hospitalization in the most severe cases.

15. Some Class Members suffered out-of-pocket losses including loss of income due to lost time from work.

16. The Plaintiff and Class Members state that the conduct of the Defendants is such that it shocks the community in the circumstances, and that such conduct warrants the condemnation of this Court via an award of punitive, aggravated and exemplary damages.

THE CLASS

17. The Plaintiff proposes that the Class herein be defined as follows:

Any person having suffered food poisoning as a result of consumption of contaminated food served at the FAMEE FURLANE OF HAMILTON banquet centre on July 15, 2006.

18. The Plaintiff has learned that there are more than 62 such individuals.

19. The Plaintiff hereby requests that the Defendant provide the names and contact information with respect to all Class Members known to them, and indeed with respect to all individuals who were in attendance at the July 15, 2006 Wedding Reception.

LEGISLATION

20. The Plaintiff and Class Members plead and rely upon the provisions of the *Class Proceedings Act*, S.O. 1992, c. C.6, the *Courts of Justice Act*, R.S.O. 1990, c. C.43 and the *Negligence Act*, R.S.O. 1990, c. N.1.

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Solicitors for the Plaintiff

HENRIETTA VELDMAN
Plaintiff

v.

FAMEE FURLANE OF HAMILTON
Defendant

Court File No. 07-31842

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT HAMILTON

STATEMENT OF CLAIM

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