

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**ALICIA DIEDERICH, Individually, and)
As Parent and Next Friend of P.G., a)
Minor,)**

Plaintiff,)

vs.)

CASE NO. CIV-20-54-HE

**HILAND DAIRY FOODS COMPANY,)
L.L.C.,)**

Defendant.)

COMPLAINT

Comes now the Plaintiff, Alicia Diederich, individually, and as parent and next friend of P.G., a minor, and for her Complaint and Jury Demand state as follows:

NATURE OF THE ACTION

1. This is an action for compensatory damages as a result of the Defendant’s actions or inactions, which resulted in serious and disabling personal injuries to the minor Plaintiff, P.G.

PARTIES

2. Plaintiff Alicia Diederich and her minor daughter, P.G., were and are citizens of the State of Oklahoma. Both reside in Midwest City, Oklahoma.

3. Defendant Hiland Dairy Foods Company, L.L.C., (hereinafter referred to as “Defendant Hiland”) is a citizen of the State of Illinois and the State of Missouri. Defendant Hiland is a foreign for-profit limited liability company incorporated in the State of Illinois with its principal place of business located in the State of Missouri. Defendant

Hiland may be served by virtue of its registered service agent in the State of Oklahoma: Corporation Service Company, 10300 Greenbriar Place, Oklahoma City, Oklahoma 73159.

4. This Court has jurisdiction of the subject matter of this litigation as all parties are diverse from one another and the amount in controversy exceeds \$75,000.00 as required by 28 U.S.C. § 1332.

5. Pursuant to 28 U.S.C. §1391, venue is proper as Defendant Hiland Dairy is subject to personal jurisdiction in the Western District of Oklahoma and a substantial part of the events or omissions giving rise to the claims asserted herein occurred in Norman, Oklahoma, which lies within the Western District of Oklahoma.

FACTS

6. Defendant Hiland is in the business of producing dairy products for customers primarily located in the states of Oklahoma, Texas, Arkansas, Missouri, Kansas, Nebraska, and Iowa.

7. Defendant Hiland, according to its website, operates 17 plants and 51 distribution centers across its operating region consisting of the states of Oklahoma, Texas, Arkansas, Missouri, Kansas, Nebraska, and Iowa.

8. Defendant Hiland owns and operates a facility in Norman, Oklahoma, located in Cleveland County.

9. On January 17, 2021, the facility owned and operated by Defendant Hiland in Norman, Oklahoma, reported to the United States Food & Drug Administration that certain products sold and distributed from the Norman, Oklahoma facility were contaminated.

10. Defendant Hiland's facility in Norman, Oklahoma, sold and distributed certain products that contained food-grade sanitizers.

11. Defendant Hiland reported to the United States Food & Drug Administration that protocols were not followed at the Norman, Oklahoma facility, which resulted in "a small amount of one product being incorrectly filled."

12. The specific product that was incorrectly filled with a food-grade sanitizer was one-half pint 1% low fat chocolate milk.

13. Defendant Hiland has reported to various agencies that the food-grade sanitizer inserted into the chocolate milk containers was Synergex, which is a chemical used to clean surfaces and dairy processing equipment.

14. The affected products, chocolate milk containers, were sold, distributed and/or otherwise placed into the stream of commerce to institutional customers throughout Oklahoma and Texas by Defendant Hiland.

15. One of the institutional customers that received affected products of 1% low fat chocolate milk was SSM Health St. Anthony Hospital – Oklahoma City.

16. On or about January 15, 2021, minor P.G. was a patient admitted to SSM Health St. Anthony Hospital – Oklahoma City.

17. On or about January 15, 2021, minor P.G., while a patient at SSM Health St. Anthony Hospital – Oklahoma City, consumed affected product of 1% low fat chocolate milk sold, distributed, and/or otherwise placed into the stream of commerce by Defendant Hiland.

18. As a result of her consumption of affected product sold, distributed, and/or otherwise placed into the stream of commerce by Defendant Hiland, the minor child, P.G. suffered serious and disabling personal injuries.

CLAIM FOR RELIEF – DEFECTIVE PRODUCT

19. Plaintiffs incorporate and re-allege the foregoing paragraphs.

20. The aforementioned chocolate milk sold and distributed by Defendant Hiland and consumed by the minor P.G. was defective and not reasonably fit for the ordinary purposes for which the product was sold.

21. The aforementioned chocolate milk sold and distributed by Defendant Hiland was contaminated by a food-grade sanitizer.

22. The contaminant contained in the aforementioned chocolate milk, a food-grade sanitizer, is not the type of substance that a consumer would expect to be found in chocolate milk.

23. The contaminant contained in the aforementioned chocolate milk, a food-grade sanitizer, was inserted into the chocolate milk containers while the product was in the control of Defendant Hiland.

24. As a result of the defective product sold and distributed by Defendant Hiland and consumed by the minor P.G., Defendant Hiland is strictly liable to Plaintiff for any and all injuries and damages suffered by the Plaintiff and her minor daughter, P.G.

25. As a direct and proximate result of the defects existing in the chocolate milk consumed by the minor P.G., which was manufactured, distributed, sold and/or placed into the stream of commerce by Defendant Hiland, Plaintiff's minor daughter, P.G., suffered

severe injuries to mind and body resulting in the following elements of damages: pain, suffering, mental anguish, disfigurement, medical expenses, loss of quality of and loss of enjoyment of life, and has been damaged in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00).

DAMAGES

26. Plaintiff incorporates by reference the preceding allegations here.

27. As a result of Defendant's selling and distribution of a defective product complained of herein, Plaintiff's minor daughter, P.G., incurred the following damages:

- a. Bodily injuries requiring medical treatment;
- b. Physical pain and suffering;
- c. Mental anguish and emotional distress; and
- d. Past and future medical bills and other related expenses for medical treatment and services.

WHEREFORE, Plaintiff prays for judgment against the Defendant in excess of the amount necessary for federal jurisdiction in diversity of citizenship cases; for compensatory; pre-judgment interest; for attorney's fees and costs; and for all other just and proper relief to which they may prove entitled.

Respectfully submitted,

s/ Andy J. Campbell
Glendell D. Nix, OBA No. 13747
L. Ray Maples, OBA No. 18472
Andy J. Campbell, OBA No. 30512
MAPLES, NIX & DIESELHORST
15401 N. May Avenue
Edmond, Oklahoma 73013
Tel: 405-478-3737
Fax: 405-513-5005
Email: glendell@mndlawnfirm.com
andy@mndlawnfirm.com
ray@mndlawnfirm.com

and

Christian M. Zeaman, OBA #18887
15401 N. May Avenue
Edmond, OK 73013
T: (405)601-3000
F: (888)691-6906
Email: Christian@zeamanlaw.com
ATTORNEYS FOR PLAINTIFF

JURY TRIAL DEMANDED