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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

DENNIS J. KUCINICH,
12217 Milan Avenue
Cleveland, OH 44111

Plaintiff,

v.

RESTAURANT ASSOCIATES, INC.
c/o CT Corporation System
1015 15th Street, N.W. Ste. 1000
Washington, DC 20005

and

COMPASS GROUP USA, INC.
c/o CT Corporation System
1015 15th Street, N.W. Ste. 1000
Washington, DC 20005

and

PERFORMANCE FOOD GROUP CO.
c/o National Registered Agents, Inc.
2300 Hillsboro Road
Suite 305
Nashville, TN 37212

and

FOODBUY, LLC
c/o CT Corporation System
1201 Peachtree Street, N.E.
Atlanta, GA 30361

Defendants.

CIVIL ACTION NO. 0000075-11

COMPLAINT

Jury Demand Endorsed Hereon

JAN 03 2011

LAW OFFICES OF
NUREMBERG, PARIS, HELLER & MCCARTHY CO., L.P.A.
1370 ONTARIO STREET • SUITE 100 • CLEVELAND, OHIO 44113-1792

(216) 621-2300

Case: 2011 CO 000075 B
0040 0123
Dkt: CACCF

Now comes plaintiff Dennis Kucinich, by and through his attorneys, and for his
Complaint states as follows:

GENERAL AND JURISDICTIONAL ALLEGATIONS

1. Jurisdiction of this Court is founded on D.C. Code Ann., Sec. 11-921.
2. Plaintiff Dennis Kucinich is a resident of the State of Ohio.
3. Defendant Restaurant Associates, Inc. is a New York corporation in the business of operating commercial food service and restaurants, and at all times relevant hereto has been engaged in continuous and systematic business in the District of Columbia, including but not limited to conducting food service operations at the Longworth Cafeteria located in the Longworth House Office Building at Independence Avenue and South Capitol Street, and has maintained an agent for service of process in the District of Columbia, such that Restaurant Associates, Inc. is subject to this Court's general jurisdiction under D.C. Code § 13-334(a).
4. Defendant Compass Group, USA, Inc., the parent corporation of defendant Restaurant Associates, Inc., is a Delaware corporation in the business of operating commercial food service and restaurants, and at all times relevant hereto has been engaged in continuous and systematic business in the District of Columbia, including but not limited to conducting food service operations at the Longworth Cafeteria located in the Longworth House Office Building at Independence Avenue and South Capitol Street, and has maintained an agent for service of process in the District of Columbia, such that Compass Group, USA, Inc. is subject to this Court's general jurisdiction under D.C. Code § 13-334(a).
5. At all times relevant hereto, defendant Performance Food Group Company was a Tennessee corporation in the business of commercial food distribution and supply, and is subject

to this Court's jurisdiction under D.C. Code § 13-423 in that (a) Performance Food Group regularly transacted business in the District of Columbia from which the claims at issue in this action arose; (b) engaged in tortious conduct in the District of Columbia that caused tortious injury here; and (c) exercising personal jurisdiction over said defendant would not offend traditional notions of fair play and substantial justice.

6. Defendant Foodbuy, LLC is a Delaware limited liability corporation headquartered in Georgia, and at all times relevant hereto has been in the business of commercial food distribution and supply, and is subject to this Court's jurisdiction under D.C. Code § 13-423 in that (a) Foodbuy, LLC regularly transacted business in the District of Columbia from which the claims at issue in this action arose; (b) engaged in tortious conduct in the District of Columbia that caused tortious injury here; and (c) exercising personal jurisdiction over said defendant would not offend traditional notions of fair play and substantial justice.

7. At all times relevant hereto, defendants Restaurant Associates, Inc. and/or Compass Group USA, Inc. are and were in the business of providing food service for value to consumers, including but not limited to plaintiff Dennis Kucinich, at facilities located at Longworth Cafeteria located in the Longworth House Office Building at Independence Avenue and South Capitol Street.

8. At all times relevant hereto, defendants Performance Food Group, Inc. and/or Foodbuy, LLC are and were suppliers of food products to restaurant proprietors and other commercial food operators, including but not limited to defendants Restaurant Associates, Inc. and/or Compass Group USA, Inc.

9. On or about April 17, 2008, plaintiff Dennis Kucinich purchased a sandwich wrap

prepared by agents and/or employees of Restaurant Associates, Inc. and/or Compass Group USA, Inc. and containing olives supplied by defendants Performance Food Group, Inc. and/or Foodbuy, LLC.

10. Said sandwich wrap was unwholesome and unfit for human consumption, in that it was represented to contain pitted olives, yet unknown to plaintiff contained an unpitted olive or olives which plaintiff did not reasonably expect to be present in the food prepared for him, and could not visually detect prior to consumption.

11. As a result of consuming said unfit and unwholesome food, plaintiff sustained serious and permanent dental and oral injuries requiring multiple surgical and dental procedures, and has sustained other damages as well, including significant pain, suffering and loss of enjoyment.

COUNT I - NEGLIGENCE

RESTAURANT ASSOCIATES, INC. AND COMPASS GROUP USA, INC.

12. Plaintiff hereby incorporates the preceding paragraphs as if fully rewritten herein.

13. As entities engaged in the business of serving food to customers, defendants Restaurant Associates, Inc. and Compass Group USA, Inc. have a duty to exercise due care and see that food served to their customers is wholesome and fit for human consumption and may be eaten without causing injury.

14. Defendants Restaurant Associates and/or Compass Group USA, by and through their employees and/or agents, breached this duty by serving plaintiff food that was unwholesome and unfit for human consumption, in that said food contained dangerous substances, namely an olive pit, that a consumer would not reasonably expect to find in the final product served.

15. As a direct and proximate result of defendants' aforesaid negligence, plaintiff has suffered serious and permanent injuries for which he is entitled to recover damages, including but not limited to past and future dental and medical expenses, compensation for pain, suffering and loss of enjoyment and other damages.

COUNT II - NEGLIGENCE

PERFORMANCE FOOD GROUP, INC. AND FOODBUY, LLC

16. Plaintiff hereby incorporates the preceding paragraphs as if fully rewritten herein.

17. As suppliers and distributors of food products for human consumption, defendants Performance Food Group, Inc. and Foodbuy, LLC have a duty to exercise due care to see that the food products supplied are wholesome and fit for human consumption and may be eaten without causing injury.

18. Defendants Performance Food Group, Inc. and/or Foodbuy, LLC., by and through their employees and/or agents, breached this duty by supplying food subsequently consumed by plaintiff that was unwholesome and unfit for human consumption, in that said food contained dangerous substances, namely an olive pit, that a consumer would not reasonably expect to find in the final product.

19. As a direct and proximate result of defendants' aforesaid negligence, plaintiff has suffered serious and permanent injuries for which he is entitled to recover damages, including but not limited to past and future dental and medical expenses, compensation for pain, suffering and loss of enjoyment and other damages.

COUNT III – BREACH OF IMPLIED WARRANTY

RESTAURANT ASSOCIATES, INC. AND COMPASS GROUP USA, INC.

20. Plaintiff hereby incorporates the preceding paragraphs as if fully rewritten herein.

21. As entities engaged in the business of serving food to customers, defendants Restaurant Associates, Inc. and Compass Group USA, Inc. impliedly warranted that food sold by them for consumption was fit for the ordinary purposes for which such goods are used, as provided under D.C. Code § 28:2-101 *et seq.* and D.C. Code § 28:2-314 in particular.

22. Defendants Restaurant Associates and/or Compass Group USA, by and through their employees and/or agents, breached this implied warranty by serving plaintiff food that was unwholesome and unfit for human consumption, in that said food contained dangerous substances, namely an olive pit, that a consumer would not reasonably expect to find in the final product served.

23. As a direct and proximate result of defendants' aforesaid breach, plaintiff has suffered serious and permanent injuries for which he is entitled to recover damages, including but not limited to past and future dental and medical expenses, compensation for pain, suffering and loss of enjoyment and other damages.

COUNT IV – BREACH OF IMPLIED WARRANTY

PERFORMANCE FOOD GROUP, INC. AND FOODBUY, LLC

24. Plaintiff hereby incorporates the preceding paragraphs as if fully rewritten herein.

25. As suppliers and distributors of food products for human consumption, defendants Performance Food Group, Inc. and Foodbuy, LLC impliedly warranted that food sold by them for consumption, including the olives incorporated in the food provided to plaintiff, was fit for

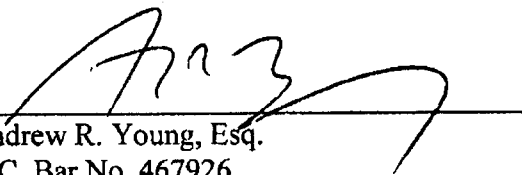
the ordinary purposes for which such goods are used, as provided under D.C. Code § 28:2-101 *et seq.* and D.C. Code § 28:2-314 in particular.

26. Defendants Performance Food Group, Inc. and/or Foodbuy, LLC., by and through their employees and/or agents, breached this implied warranty by supplying food subsequently consumed by plaintiff that was unwholesome and unfit for human consumption, in that said food contained dangerous substances, namely an olive pit, that a consumer would not reasonably expect to find in the final product.

27. As a direct and proximate result of defendants' aforesaid breach, plaintiff has suffered serious and permanent injuries for which he is entitled to recover damages, including but not limited to past and future dental and medical expenses, compensation for pain, suffering and loss of enjoyment and other damages.

WHEREFORE, plaintiff demands judgment against defendants, jointly and severally, in the sum of One Hundred Fifty Thousand Dollars (\$150,000.00), with interest and costs.

Respectfully submitted,


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