

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER	)	CASE NO.: 2019-CP-18-00234
	)	
Kelly Forrester, Sonya Bolen, and Stephanie	)	
Watson, Individually and as	)	
Class Representative,	)	
	)	
Plaintiff,	)	<b>AMENDED SUMMONS</b>
	)	
v.	)	
	)	
La Carreta, Inc.,	)	
	)	
Defendant.	)	

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to the Complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint, judgment by default will be rendered against you for the relief demanded in the Complaint.

**PIERCE, SLOAN, WILSON,  
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s/ Carl E. Pierce, II  
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February 20, 2019  
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER	)	CASE NO.: 2019-CP-18-00234
	)	
Kelly Forrester, Sonya Bolen, and Stephanie	)	
Watson, Individually and as	)	
Class Representative,	)	
	)	
Plaintiff,	)	<b>AMENDED COMPLAINT</b>
	)	(Jury Trial Demanded)
v.	)	
	)	
La Carreta, Inc.,	)	
	)	
Defendant.	)	

The Plaintiffs, complaining of the conduct of the Defendant herein, allege as follows:

**CLASS ALLEGATIONS**

1. Plaintiff, Kelly Forrester, is an individual and resident of Dorchester County, South Carolina.
2. Plaintiff, Sonya Bolen, is an individual and resident of Dorchester County, South Carolina.
3. Plaintiff, Stephanie Watson, is an individual and resident of South Carolina.
4. La Carreta, Inc., (hereinafter “La Carreta”) is, upon information and belief, a South Carolina corporation with its principal place of business located in Dorchester, South Carolina.
5. At all times pertinent herein, Defendant La Carreta was engaged in the business of selling or introducing into the stream of commerce food products intended for human consumption in the County of Dorchester.
6. Plaintiffs were injured after they consumed food at La Carreta located at 1580 Old Trolley Road A, Summerville, SC 29485.
7. Upon information and belief, Plaintiffs contracted norovirus from food consumed at La Carreta.
8. Plaintiffs are representatives of a proposed class consisting of the following:

All South Carolina residents who consumed food at La Carreta between November and December of 2018 and who suffered gastrointestinal illnesses or other injuries arising from the food they consumed at the restaurant.

9. Upon information and belief, at least 290 known people became ill after consuming food at La Carretta between November and December of 2018.
10. The proposed class is so numerous that joinder of all members is impractical.
11. As set forth herein, there are questions of law and fact which are common to the class.
12. In short, La Carretta is liable for all damages sustained to each member of the class after consuming food at their restaurant.
13. The claims of the representative parties are typical of the claims of the class, and any defenses asserted by Defendant would be typical to the entire class.
14. The class representatives will fairly and adequately protect the interests of the class.
15. The amount in controversy exceeds one hundred dollars for each member of the class.
16. The class action is the only vehicle to prevent inconsistent and varying adjudications with respect to individual class members.
17. The class action is the superior method to fairly and efficiently adjudicate this controversy in that it would avoid the possibility of 290 separate cases.
18. Venue and jurisdiction are proper in this Court.

### **FACTUAL ALLEGATIONS**

19. That between November and December of 2018, Plaintiffs and all class members purchased food at La Carreta located at 1580 Old Trolley Road A, Summerville, SC 29485.
20. That between November and December of 2018, Plaintiffs and all class members consumed the food they purchased from La Carreta.
21. That, as a result of consuming the food they purchased from La Carreta, Plaintiffs and all class members became ill and required medical treatment or were in danger of becoming ill and

requiring medical treatment.

22. That Plaintiffs and all class members became severely ill and suffered personal injuries, including but not limited to dehydration, vomiting, diarrhea, and gastric pain, all of which has caused and may in the future cause Plaintiffs and all class members to suffer great physical pain and suffering, mental anguish, emotional distress, loss of enjoyment of life, and substantial economic loss.

**FOR A FIRST CAUSE OF ACTION**

(Strict Liability in Tort Under South Carolina Code § 15-73-10)

23. Plaintiffs repeat and reallege all of the above paragraphs and all subsequent paragraphs as if each were set forth herein verbatim.

24. That at all relevant times, Defendant La Carreta was engaged in the business of selling food to consumers at their restaurant.

25. That the food reached Plaintiffs and all class members without substantial change in the condition in which it was prepared.

26. That the above-referenced food was intended for human consumption, and Defendant La Carreta knew, or should have known, that the product was to be consumed without inspection for defects by the consumer.

27. That the above-referenced food, at the time obtained by Plaintiffs and all class members, was unfit for consumption, defective, and unreasonably dangerous, because of its contamination with a foreign substance.

28. That the above-referenced food, was defective, unfit for consumption, and unreasonably dangerous when it left Defendant La Carreta's control and was in violation of S.C. Code § 39-25-10 et seq.

29. That such acts by Defendant La Carreta were the proximate cause of Plaintiffs' and class members' aforementioned injuries, and such acts were wanton, willful, reckless, negligent and

grossly negligent, and such acts were without regard for the safety of Plaintiffs, class members, and others using their products.

30. That, as a further direct and proximate result of Defendant La Carreta's actions and/or inactions, Plaintiffs are informed and believe that they and each class member are entitled to judgment against Defendant in an appropriate amount of actual damages, together with punitive damages, the costs of this action, all applicable interest, and such other and further relief as this Court deems just and proper.

**FOR A SECOND CAUSE OF ACTION**

(Negligence/Gross Negligence)

31. Plaintiffs repeat and reallege all of the above paragraphs and all subsequent paragraphs as if each were set forth herein verbatim.

32. That Defendant La Carreta was negligent, willful, careless, wanton, or grossly negligent in one or more of the following particulars:

- a. In selling or supplying tainted food;
- b. In failing to properly train or instruct their workers in the dangers of working with food that could create contamination;
- c. In failing to properly supervise and inspect their workers to make sure that they could safely make and/or package food intended for human consumption without first contaminating it;
- d. In failing to inspect the food offered for sale on their premises prior to being sold to the public to ensure that it was fit for human consumption and not contaminated;
- e. In generally failing to uphold the accepted standards, procedures, rules, and customs of the food handling industry;

- f. In failing to establish reasonable rules and protocols for the preparation and service of food at their restaurant so that the likelihood of selling and serving contaminated food would be reduced;
- g. In violating S.C. Code § 39-25-100 by selling adulterated food which contained a deleterious substance which may and did render said food injurious to health;
- h. In violating state, federal, or local statutes or ordinances regarding the sale of perishable foods;
- i. In participating in the manufacture, sale, or delivery, holding, or offering for sale of food that is adulterated in violation of S.C. Code § 39-25-30;
- j. In adulterating food in violation of S.C. Code § 39-25-30;
- k. In receiving in commerce food that is adulterated and then delivering said food for pay or otherwise to consumers in violation of S.C. Code § 39-25-30;
- l. In failing to warn Plaintiffs and class members that the food offered for sale may contain substances harmful to health;
- m. In other aspects to be proved at the trial of this case; and
- n. In failing to take the degree of care and caution that a reasonable and prudent person would have taken under the circumstances then and there prevailing, all of which was the direct and proximate causes of the injuries and damages suffered by Plaintiffs.

33. That such acts by Defendant La Carreta was the proximate cause of Plaintiffs' and each class members' aforementioned injuries, and such acts were wanton, willful, reckless, negligent and grossly negligent, and such acts were without regard for the safety of Plaintiffs, class members, and others using their products.

34. That, as a further direct and proximate result of Defendant La Carreta's actions and/or inactions, Plaintiffs are informed and believe that they and each class member are entitled to judgment against Defendant in an appropriate amount of actual damages, together with punitive damages, the costs of this action, all applicable interest, and such other and further relief as this Court deems just and proper.

**FOR A THIRD CAUSE OF ACTION**

(Negligence Per Se & Strict Liability - S.C. Code § 39-25-10 et seq.)

35. Plaintiffs repeat and reallege all of the above paragraphs and all subsequent paragraphs as if each were set forth herein verbatim.

36. That Defendant La Carreta was in violation of S.C. Code § 39-25-10 et seq. as stated above and in the following particulars:

- a. Defendant manufactured, sold, or delivered, held, or offered for sale food that was adulterated, in violation of S.C. Code § 39-25-30;
- b. The food contained a deleterious substance which rendered it injurious to Plaintiffs' and class members' health;
- c. The food consisted in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or was otherwise unfit for food;
- d. The food was produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to Plaintiffs' and class members' health;

37. That such violation(s) constitutes negligence per se.

38. That such acts by Defendant La Carreta was the proximate cause of Plaintiffs' and class members' aforementioned injuries, and such acts were wanton, willful, reckless, negligent and

grossly negligent, and such acts were without regard for the safety of Plaintiffs, class members, and others using their products.

39. That, as a further direct and proximate result of Defendant La Carreta's actions and/or inactions, Plaintiffs are informed and believes that they and all class members are entitled to judgment against Defendant in an appropriate amount of actual damages, together with punitive damages, the costs of this action, all applicable interest, and such other and further relief as this Court deems just and proper.

**FOR A FOURTH CAUSE OF ACTION**  
(Breach of Express and Implied Warranties)

40. Plaintiffs repeat and reallege all of the above paragraphs and all subsequent paragraphs as if each were set forth herein verbatim.

41. That at one time, or various times, Defendant La Carreta expressly and impliedly warranted that the food products they sold were wholesome and fit for human consumption.

42. That, by virtue of Defendant La Carreta's sale of food for use by an ultimate consumer, Defendant expressly and impliedly warranted that the food they sold was merchantable and fit for the purpose intended.

43. That these expressed and implied warranties became part of the basis of the bargain and were relied upon.

44. That Defendant La Carreta's expressed and implied representations that the food was safe, of merchantable quality, and fit for the purpose intended were false.

45. That the food was not merchantably fit for its intended purpose.

46. That such acts by Defendant La Carreta were the proximate cause of Plaintiffs' and class members' aforementioned injuries, and such acts were wanton, willful, reckless, negligent and grossly negligent, and such acts were without regard for the safety of Plaintiffs, class members, and others using their products.



47. That, as a further direct and proximate result of Defendant La Carreta's actions and/or inactions, Plaintiffs are informed and believes that they and each class member are entitled to judgment against Defendant in an appropriate amount of actual damages, together with punitive damages, the costs of this action, all applicable interest, and such other and further relief as this Court deems just and proper.

**WHEREFORE**, Plaintiffs pray for a trial by jury and for the following:

- i. Certification of the aforementioned class;
- ii. Judgment against Defendant La Carreta for actual and punitive damages, jointly and severally, in an amount to be determined by the jury;
- iii. For the costs of this action; and
- iv. For such other and further relief as this court deems just and proper.

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