

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY

JENNIFER CANO, Individually and as the Administrator of the ESTATE OF PEDRO CANO RODRIGUEZ, KIMBERLY CANO, Individually, and PETER JUNIOR CANO, Individually,

Plaintiffs,

vs.

TYSON FOODS, INC.; TYSON FRESH MEATS, INC.; JOHN H. TYSON; SAMUEL DEAN BANKS; NOEL WHITE; TOM BROWER; ELIZABETH CROSTON; STEPHEN R. STOUFFER; BRENT R. MCELROY; ED MCATEE; SCOTT LITTLE; DOUG WHITE; LAURIE GARCIA; and AMANDA BROWN,

Defendants.

Case No. _____

PETITION AT LAW

(Jury Demanded)

Plaintiffs, Jennifer Cano, Individually and as the Administrator of the Estate of Pedro Cano Rodriguez; Kimberly Cano, Individually; and Peter Junior Cano, Individually, for their cause of action against Defendants, Tyson Foods, Inc.; Tyson Fresh Meats, Inc.; John H. Tyson; Samuel Dean Banks; Noel White; Elizabeth Croston; Tom Brower; Stephen R. Stouffer; Brent R. McElroy; Ed McAtee; Scott Little; Doug White; Laurie Garcia; and Amanda Brown, hereby state as follows:

PARTIES

1. Pedro Cano Rodriguez (“Pedro”) died intestate on April 14, 2020, at the age of 51 years old. Pedro was a resident of Columbus Junction, Louisa County, Iowa, at the time of his death. His estate (Case No. ESPR 017257) is pending in the Iowa District Court in and for Louisa County, Iowa.

2. At all material times, Pedro was an employee of Tyson Fresh Meats working at the Tyson Plant described below.

3. Jennifer Cano (“Jennifer”) is the adult daughter of Pedro, and, at all material times, Jennifer has been a resident of Columbus City, Iowa. Jennifer is the duly appointed Administrator of the Estate of Pedro Cano Rodriguez. A copy of Jennifer’s appointment as Administrator is attached hereto as Exhibit 1.

4. Kimberly Cano (“Kimberly”) is the adult daughter of Pedro, and, at all material times, she has been a resident of Cedar Rapids, Iowa.

5. Peter Junior Cano (“Peter”) is the adult son of Pedro, and, at all material times, he has been a resident of Iowa City, Iowa.

6. Tyson Foods, Inc. (“Tyson Foods”) is a Delaware corporation with its principal place of business in Springdale, Arkansas.

7. Tyson Fresh Meats, Inc. (“Tyson Fresh Meats”) is a Delaware corporation with its principal place of business in Springdale, Arkansas. Tyson Fresh Meats is the owner of a pork meatpacking plant located at 16198 IA-70, Columbus Junction, IA 52738 (“Tyson Plant”).

8. Tyson Fresh Meats is a wholly owned subsidiary of Tyson Foods (hereinafter collectively referred to as “Tyson”).

9. Tyson is vicariously liable for the acts and omissions of its agents, including, but not limited to, its employees, officers, directors and representatives.

10. Upon Plaintiffs’ information and belief, at all material times, Defendant John H. Tyson has been the Chairman of the Board for Tyson Foods.

11. Upon Plaintiffs’ information and belief, at all material times, Defendant Noel W. White has been the Chief Executive Officer of Tyson Foods.

12. Upon Plaintiffs' information and belief, at all material times, Defendant Samuel Dean Banks has been President and a Director of Tyson Foods.

13. Upon Plaintiffs' information and belief, at all material times, Defendant Tom Brower has been the Senior Vice President of Health and Safety for Tyson Foods.

14. Upon Plaintiffs' information and belief, at all material times, Defendant Elizabeth Croston has been the Executive Communications Manager for Tyson Foods.

15. Upon Plaintiff's information and belief, at all material times, Defendant Steve Stouffer has been Group President of Tyson Fresh Meats and has reported to President Samuel Dean Banks.

16. Upon Plaintiffs' information and belief, at all material times, Defendant Brent McElroy has been the plant manager for the Tyson Plant, and he has resided in Iowa City, Johnson County, Iowa.

17. Upon Plaintiffs' information and belief, at all material times, Defendant Ed McAtee has been the plant superintendent for the Tyson Plant, and he has resided in Ely, Linn County, Iowa.

18. Upon Plaintiffs' information and belief, at all material times, Defendant Scott Little has been a general supervisor for the Tyson Plant, and he has resided in Wapello, Louisa County, Iowa.

19. Upon Plaintiffs' information and belief, at all material times, Defendant Doug White has been a corporate safety director for the Tyson Plant, and he has resided in Storm Lake, Iowa.

20. Upon Plaintiffs' information and belief, at all material times, Defendant Laurie Garcia has been an area safety manager for the Tyson Plant, and she has resided in Sioux City, Iowa.

21. Upon Plaintiffs' information and belief, at all material times, Defendant Amanda Brown has been a safety manager for the Tyson Plant, and she has resided in Columbus Junction, Iowa.

22. Because Pedro Cano Rodriguez is deceased, the identities of all supervisors and the full chain of command at the Tyson Plant are unknown at this time. Plaintiffs anticipate discovery in this matter will lead to the discovery of additional co-employees that may appropriately be named as defendants in this matter as well.

BACKGROUND

23. Venue is proper against all Defendants, under Iowa Code Section 616.18, because at least one Defendant is a resident of Johnson County, Iowa.

24. In late 2019, a novel coronavirus, known as Severe Acute Respiratory Coronavirus 2 (SARS-CoV-2) emerged. The virus causes Coronavirus disease 2019, abbreviated as COVID-19 ("COVID-19"). According to the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention ("CDC"), COVID-19 is a respiratory illness that appears to be transmitted primarily from person to person by contact with infectious material (including respiratory droplets) or with objects or surfaces contaminated by the virus. COVID-19 can cause serious illness, including death.¹

25. In or around January of 2020, Tyson Foods formed a company coronavirus task force.

¹ <https://www.cdc.gov/coronavirus/2019-ncov/downloads/2019-ncov-factsheet.pdf>

26. On January 31, 2020, The U.S. Secretary of Health and Human Services (HHS) declared a public health emergency in response to COVID-19.

27. On March 8, 2020, Iowa Governor Kim Reynolds (“Governor Reynolds”) announced testing at Iowa’s State Hygienic Laboratory indicated there were three presumptive positive cases of COVID-19 in Johnson County, Iowa, which is a neighboring county to Louisa County where the Tyson Plant is located and is a county where Defendant McElroy and other Tyson Plant employees reside.

28. On March 9, 2020, Governor Reynolds issued a Proclamation of Disaster Emergency in response to the COVID-19 Outbreak.

29. On or about March 9, 2020, the U.S. Department of Labor Occupational Safety and Health Administration (“OSHA”) issued its key guidance to employers as to how to lessen exposure to COVID-19, in a 32-page publication entitled “Guidance on Preparing Workplaces for COVID-19”.² That publication encouraged all employers to explore whether they can establish flexible work hours to increase physical distance among employees, and suggested for workplaces that require frequent or close contact with (i.e., within six feet of) people who may be infected with SARS-CoV-2, the installation of physical barriers where feasible, and offering of personal protective equipment (“PPE”) such as gloves, gowns, face masks or shields. Those same recommendations were made in a one-page OSHA ALERT – Publication 3989 - issued at or about the same time as Publication 3990 discussed above.³

30. On March 11, 2020, the World Health Organization (WHO) declared the COVID-19 outbreak a global pandemic.

² <https://www.osha.gov/Publications/OSHA3990.pdf>

³ <https://www.osha.gov/Publications/OSHA3989.pdf>

31. A few days later, on March 13, 2020, Donald Trump, President of the United States of America, issued a proclamation that the COVID-19 outbreak in the United States constituted a national emergency beginning March 1, 2020.

32. On or about the same date, March 13, 2020, Tyson Foods suspended all U.S. commercial business travel, forbid all non-essential visitors from entering Tyson offices and facilities, and mandated that all non-critical employees at its U.S. corporate office locations work remotely, and on that same date, Tyson Foods warned investors that the spreading COVID-19 pandemic could disrupt Tyson's operations.

33. On March 14, 2020, Governor Reynolds announced the Iowa Department of Public Health ("IDPH") had determined there was community spread of COVID-19 in the state of Iowa.

34. On March 15, 2020, Governor Reynolds recommended that Iowa schools close due to "discovery of the existence of substantial community spread of COVID-19 in the state."

35. On March 17, 2020, Governor Reynolds issued a State of Public Health Disaster Emergency, which included the closures of dine-in restaurant services, casinos, fitness centers, movie theaters and any other gatherings of ten or more persons.

36. On the same date, March 17, 2020, Defendant Chief Executive Noel White issued a press release recommending that Tyson corporate employees work from home and for employees to limit their travel, practice social distancing, avoid mass gatherings and keep their distance from others when possible. Mr. White's news release also provided for revised attendance policies for Tyson employees.⁴

⁴ <https://www.tysonfoods.com/news/news-releases/2020/3/protecting-team-members-and-our-company-ensuring-business-continuity>

37. On March 20, 2020, Defendant Stephen Stouffer, President of Tyson Fresh Meats, issued a letter to livestock suppliers that Tyson’s “beef and pork facilities continue to operate at or very near normal production rates” even though Defendant Stouffer acknowledged Tyson recommended against large gatherings for its employees “to minimize exposure and slow the progression of COVID-19.”⁵

38. On March 24, 2020, President Trump approved a major disaster declaration for the State of Iowa in response to the COVID-19 outbreak.

39. On April 2, 2020, Pedro developed COVID-19 symptoms.

40. On April 6, 2020, the Tyson Plant closed after reporting at least 24 workers had tested positive for COVID-19, and the plant did not reopen until April 21, 2020, with limited operations.

41. On April 10, 2020, Pedro was hospitalized for his symptoms related to COVID-19.

42. On April 14, 2020, Pedro died from complications of COVID-19.

43. Symptoms of COVID-19 may appear 2-14 days after exposure to the virus.⁶

44. In the period of 14 days, and even longer, before he became symptomatic on April 2, 2020, Pedro was only exposed to other people at the Tyson Plant, and the two other residents of his house. Both of those residents were themselves exposed to no one else, after March 15, 2020, except other workers at the Tyson Plant. Pedro contracted the virus as a result of exposure at the Tyson Plant.

45. By and throughout March of 2020, the fact of COVID-19 spreading by person-to-person contact, and precautions of social distancing and use of barriers and face masks to limit virus spread, were so widespread as to create certainty that Defendants were aware of that

⁵ <https://www.tysonfoods.com/sites/default/files/2020-03/Fresh%20Meats%20Supplier%20Letter.pdf>

⁶ <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>

information. There had been well publicized outbreaks happening where large numbers of people were routinely within six feet of one another, such as on cruise ships, jails and prisons, and nursing homes and similar care facilities.

46. As mentioned above, Tyson had a COVID-19 task force as early as January of 2020, which presumably kept its management and supervisors apprised of COVID-19 related developments and information.⁷

47. Defendants knew at all times material to this suit that placing workers in a confined environment less than six feet from one another, and without barriers between them, and without proper PPE, created a high risk of COVID-19 transmission.

48. Up to the time Pedro began to show symptoms of COVID-19, Defendants were aware that then known safety precautions critical to limiting the spread of COVID-19 were not being practiced at the Tyson Plant.

49. Defendants were aware of information demonstrating the high likelihood their requiring Pedro and others working in similar circumstances to work under the conditions present at the Tyson Plant, would expose them to contracting COVID-19, including, but not limited to, the following:

- a) Pedro worked less than six feet from his co-employees, and often was elbow-to-elbow with them;
- b) No mask or other COVID-19 related PPE was supplied to Pedro or his co-employees;
- c) No dividers or other physical barriers were in place between Pedro and his co-employees;
- d) No precautions had been taken at the Tyson Plant to require or even encourage Pedro or his co-employees to stay six feet apart in changing areas, break rooms, dining areas, or any other locations in the Tyson Plant;

⁷ <https://cbs2iowa.com/news/coronavirus/tyson-foods-exec-absolutely-feels-safe-visiting-plants-recovering-from-covid-19outbreaks>

- e) No implementation or enforcement of appropriate cleaning, sanitizing and disinfecting practices were in place at the Tyson Plant to reduce exposure or shield Pedro and his co-employees from COVID-19;
- f) Tyson had not provided adequate training or instruction to Pedro and his co-employees to minimize the risk of spreading COVID-19, including, but not limited to, failing to adequately train or instruct Tyson Plant employees, including those with limited or non-existent English language abilities, concerning how to reduce and prevent the spread of COVID-19 and adequately train and instruct Tyson Plant employees concerning revised sick leave and attendance policies due to COVID-19;
- g) Tyson did not provide reasonable screening of employees arriving for their shifts for symptoms of COVID-19 and were not developing adequate return-to-work criteria for employees infected with or exposed to COVID-19 or criteria for exclusion of sick or symptomatic employees;
- h) Pedro's job role was as a "floater" who would temporarily fill the spot of another employee who needed to leave their spot on the kill floor for some limited amount of time. That fill-in could last from minutes to hours. Each time Pedro moved, he was exposed to a new set of co-employees in the six-foot radius around him, and his likelihood of exposure increased with each new proximate exposure to potentially infected co-employees;
- i) Tyson did not slow production to operate with a reduced work force at the Tyson Plant;
- j) Tyson did not properly inform Tyson Plant employees who had close contact with suspected or confirmed positive COVID-19 cases;
- k) Tyson did not properly develop or implement adequate testing and workplace contact tracing of positive COVID-19 employees at the Tyson Plant;
- l) Tyson did not abide by all state and federal rules, regulations and guidance designed to reduce and prevent the spread of COVID-19; and
- m) Otherwise failed to develop or implement worksite assessments, testing and screening/monitoring and other strategies to identify COVID-19 risks and prevention strategies at the Tyson Plant;

50. Despite Defendants' knowledge of the circumstances described above, Defendants required Pedro to work under the above described conditions, and thus be subject to contracting COVID-19 as a result.

51. Despite the fact that Defendants were aware that known safety precautions critical to limiting the spread of COVID-19 were not being practiced at the Tyson Plant, certain Defendants made multiple false and/or misleading statements concerning Tyson employee safety, including, but not limited to, the following:

- a. On March 17, 2020, in Defendant Chief Executive Noel White's news release discussed above, he claimed Tyson was "diligent about educating team members about the virus and ways to avoid catching it."
- b. On March 20, 2020, in Defendant Stephen Stouffer's letter to livestock suppliers, he claimed, "Tyson team members' health remains a top priority at all times" and that Tyson would address its "business and policies with the utmost care"⁸
- c. In April of 2020, Defendant John H. Tyson ran a full-page advertisement in the New York Times, Washington Post, and Arkansas Democrat-Gazette about plants being "forced to close" as further discussed below.

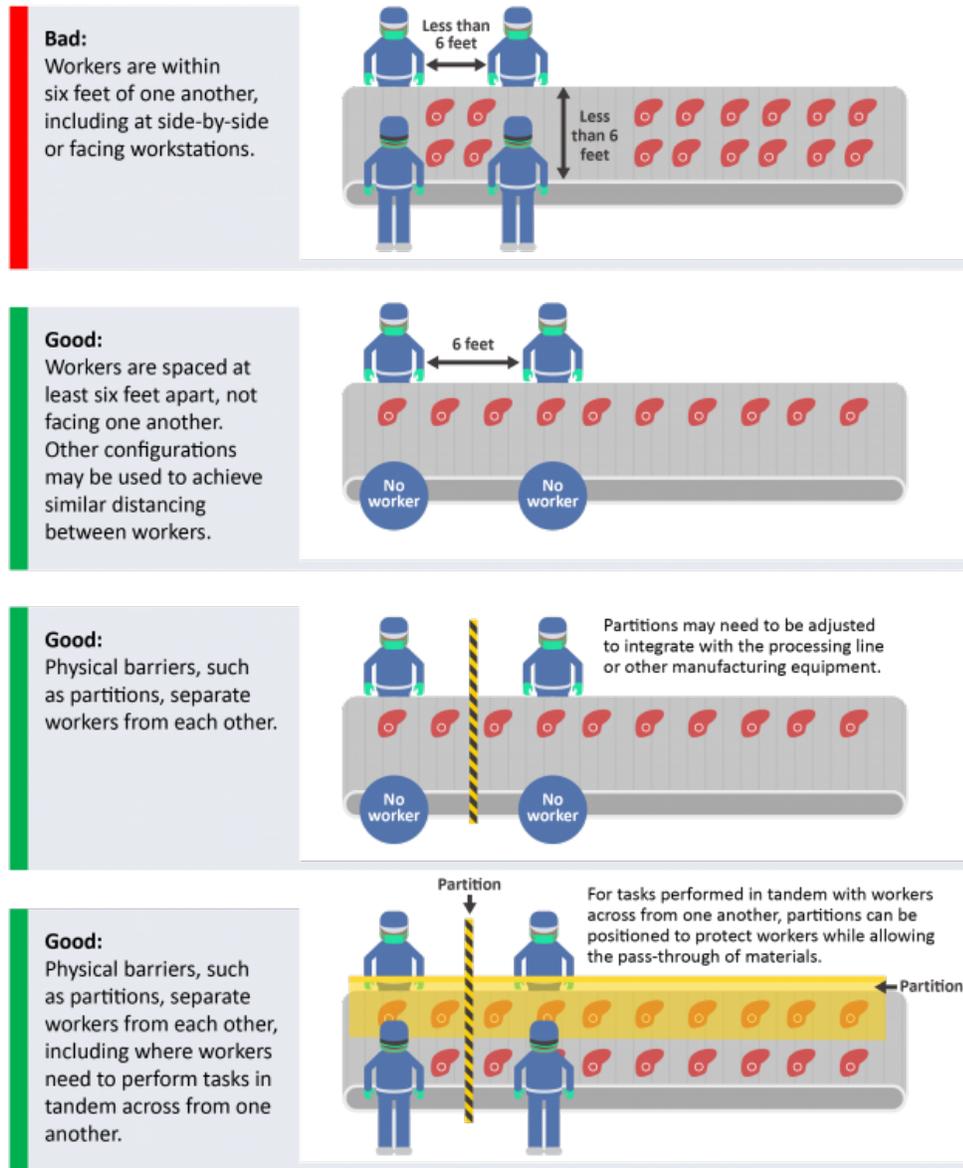
52. OSHA and the CDC followed up on the publication Guidance on Preparing Workplaces for COVID-19 (cited above), with guidance specific to "Meat and Poultry Processing Workers and Employers".⁹ While that publication was issued on or about April 26, 2020 (after Pedro had died), it simply represents application of the same guidelines contained in the March 9 Guidance on Preparing Workplaces for COVID-19 (specifically citing that publication), emphasizing the same precautions of six-foot distancing, use of face masks and PPE, and plastic barriers. Those precautions were specifically and commonsensically applied in the Meat and Poultry Processing Workers and Employers Guidance - to that industry. The meat processing guidance even included a diagram, copied below, showing three "Good" configurations and one "Bad" configuration for meat processing line workers such as Pedro was. The "Bad" configuration

⁸ <https://www.tysonfoods.com/sites/default/files/2020-03/Fresh%20Meats%20Supplier%20Letter.pdf>

⁹ <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/meat-poultry-processing-workers-employers.html>

was that most likely to lead to the spread of SARS-CoV-2. Defendants required Pedro to work under the configuration described by the CDC and OSHA as a “Bad” configuration.

How to Align Meatpacking and Meat Processing Workstations, If Feasible



53. Tyson closed the Tyson Plant four days after Pedro began to exhibit signs of having contracted COVID-19. During the plant closure, Tyson implemented many of the practices recommended in the publications identified above, including plastic barriers between employees, provision of PPE, encouragement of social distancing beyond workstations, and taking

temperatures of employees before they entered the Tyson Plant. Tyson reopened the Tyson Plant after implementing those changes and after Pedro had died.

54. Tyson's act of closing the Tyson Plant, implementing the above-referenced changes, and then reopening the plant, is an admission by it and its management, including Defendants, that the working conditions at the Tyson Plant posed an unreasonable risk of COVID-19 transmission. It also serves as an admission that Tyson's management believed precautions put in place as described above were sufficiently effective at lessening the chance of COVID-19 exposure, as to make it reasonably safe to re-open, and that Tyson had the capability of implementing those recommended safety precautions. Defendants knew it was unsafe to require Pedro to work in advance of those safety precautions being implemented.

55. Tyson operated the Tyson Plant in a manner that resulted in at least 522 known positive COVID-19 cases among Tyson Plant employees (approximately 40 percent of the Tyson Plant workforce) and at least 2 COVID-19 related deaths by May 5, 2020, despite Tyson initially reporting only 221 of the positive COVID-19 cases to the Iowa Department of Public Health.

56. Defendants required Pedro to work under these conditions when Defendants knew that Tyson was not expending the resources required to implement known necessary safety precautions at the Tyson Plant before Pedro's death. After Pedro's death, Tyson did invest some of its resources, in full-page ads, prepared and signed by Defendant John H. Tyson, to run in the New York Times, Washington Post, and Arkansas Democrat-Gazette, describing plants being "forced to close" and warning that there will be limited supplies of Tyson products in grocery stores until Tyson is able to open its closed plants. What the article did not mention is the amount of pork Tyson was shipping to China at the same time. According to the New York Times, which

Tyson paid to run its full-page ad in the same month in which Pedro died, Tyson exported 1,289 tons of pork to China, the most since 2017.¹⁰

57. Defendants' requirement for Pedro to work under the conditions present at the Tyson Plant, without implementing the COVID-19 safety precautions they knew were necessary, recklessly disregarded a substantial and unnecessary risk that Pedro would be exposed to COVID-19.

58. As a result of the Defendants' conduct as described above, Plaintiffs have suffered and will continue to suffer damages, including, but not limited to, Pedro's pre-death physical and mental pain, suffering and emotional distress; Pedro's pre-death loss of functioning of the mind and body; damages to the Estate of Pedro Cano Rodriguez, including, but not limited to, lost accumulation of the Estate by virtue of Pedro's premature death and interest on funeral and burial expenses from the date of death until his likely date of death had the wrongful conduct not occurred; and loss of consortium damages to Pedro's adult children, Peter, Kimberly and Jennifer, including, but not limited to, loss of services, companionship and society resulting from Pedro's death.

59. Plaintiffs' damages exceed the jurisdictional requirement of Rule 6.105 of the Iowa Rules of Appellate Procedure.

60. Pursuant to Iowa Code Section 619.18, this action meets applicable jurisdictional requirements for amount in controversy.

¹⁰ <https://www.nytimes.com/2020/06/16/business/meat-industry-china-pork.html?referringSource=articleShare>

COUNT I
GROSS NEGLIGENCE – IOWA CODE SECTION 85.20
AGAINST TYSON FRESH MEATS CO-EMPLOYEE DEFENDANTS
STEPHEN STOUFFER, BRENT MCELROY, ED MCATEE, SCOTT LITTLE, DOUG
WHITE, LAURIE GARCIA AND AMANDA BROWN

61. Plaintiffs replead and re-allege Paragraph Nos. 1 through 60 of this Petition as though fully set forth herein.

62. The Estate of Pedro Cano Rodriguez, deceased, has the right to bring the claim set out in this Count, under Iowa's worker's compensation law, as provided in Iowa Code Chapter 85, and specifically Iowa Code Section 85.20.

63. Upon Plaintiffs' information and belief, Defendants Stephen Stouffer, Brent McElroy, Ed McAtee, Scott Little, Doug White, Laurie Garcia and Amanda Brown were employed in managerial capacities by Tyson Fresh Meats and were co-employees of Pedro at all material times.

64. The above-named Defendants knew of the peril of Pedro being exposed to COVID-19, as a result of the working conditions described above at the Tyson Plant, and they were grossly negligent as set forth in Iowa Code Section 85.20 by Defendants' acts and omissions described in Paragraph 49 and otherwise described herein.

65. The above-named Defendants knew the risk of injury to workers, such as Pedro, of contracting COVID-19, was probable as a result of the working conditions described above at the Tyson Plant. By March of 2020, it was so commonly known that COVID-19 was spread by direct person-to-person proximity, and specifically by being within six feet of another infected person, as well as potentially spreading by touching a surface on which the virus was deposited, that Defendants knew of prior accidents, consisting of COVID-19 contraction, occurring under the circumstances found at the Tyson Plant in March of 2020. Alternatively, the conditions under

which Pedro worked at the Tyson Plant, as described above, demonstrated such a clear risk of COVID-19 contraction that Defendants knew there was a high probability of injury to workers such as Pedro. Observation, experience, and common sense clearly informed Defendants that the longer Pedro worked under the conditions described above, the risk of him contracting COVID-19 passed from the realm of possibility to the realm of probability.

66. The above-named Defendants' conduct demonstrated a conscious failure to avoid the peril of Pedro contracting COVID-19 as a result of conditions present at the Tyson Plant.

67. The above-named Defendants' gross negligence amounted to such a lack of care as to amount to wanton neglect of Pedro's safety.

68. The gross negligence of the above-named Defendants was a cause of Plaintiffs' injuries and damages, and those injuries and damages are within the scope of Defendants' liability.

69. The above-named Defendants' conduct constituted willful and wanton disregard for the rights and safety of Pedro Cano Rodriguez and other workers entitling Plaintiffs to recover punitive damages.

WHEREFORE, Plaintiffs, Jennifer Cano, Individually and as Administrator of Pedro Cano Rodrigue; Kimberly Cano, Individually; and Peter Junior Cano, Individually, request judgment against Defendants, Stephen Stouffer, Brent McElroy, Ed McAtee, Scott Little, Doug White, Laurie Garcia and Amanda Brown, in an amount that will fully and fairly compensate them for their injuries, losses and damages, interest as provided by law, for the costs of this action, punitive damages, and for such other relief as the Court deems appropriate.

COUNT II
FRAUDULENT MISREPRESENTATION AND NON-DISCLOSURE
AGAINST ALL DEFENDANTS

70. Plaintiffs replead and re-allege Paragraph Nos. 1 through 69 of this Petition as though fully set forth herein.

71. Tyson, through its agents, including, but not limited to, the named individual Defendants in this case, had a duty to accurately inform and disclose to Pedro and his co-employees the COVID-19 outbreak at the Tyson Plant and the likelihood of injury to its employees as a result.

72. Upon Plaintiffs' information and belief, through the acts and/or omissions of its agents, including, but not limited to, the named individual Defendants, Tyson made numerous false representations and/or omissions to Pedro, other employees at the Tyson Plant and the community at large, including, but not limited to, false representations and/or omissions concerning the following:

- a. The presence and spread of COVID-19 at the Tyson Plant and other Tyson facilities where workers worked in confined areas;
- b. The number of employees infected with COVID-19 and the extent of the spread of COVID-19 at the Tyson Plant;
- c. The risks to the health and lives of Pedro and other Tyson Plant employees due to Tyson's failure to implement additional health and safety procedures;
- d. The inefficacy of safety measures implemented at the Tyson Plant;
- e. The Tyson Plant was a safe work environment;
- f. The need to keep the Tyson Plant open to avoid U.S. meat shortages, including, but not limited to, the ads run by Defendant John H. Tyson; and
- g. Public statements made by multiple Defendants, including, but not limited to, Defendants, John H. Tyson, Noel White, Samuel Dean Banks, Tom Brower, Elizabeth Croston, Stephen Stouffer and Brent McElroy, regarding the "priority" Tyson placed on the health and safety of its employees at the Tyson Plant and other Tyson facilities.

73. Defendants knew or believed the above-described representations and/or omissions were false or made the above-described representations and/or omissions in reckless disregard of whether they were true or false.

74. The above-described representations and/or omissions were material.

75. In making the above-described representations and/or omissions, Defendants intended to deceive Pedro and other employees at the Tyson Plant to induce them to continue working despite the health risks associated with working at the Tyson Plant during the COVID-19 pandemic.

76. Pedro and other employees at the Tyson Plant acted in reliance of the truth of the above-described misrepresentations and/or omissions and were justified in relying on Defendants' above-described misrepresentations and/or omissions.

77. The above-described misrepresentations and/or omissions of Defendants were a cause of Plaintiffs' injuries and damages, and those injuries and damages are within the scope of Defendants' liability.

78. Defendants' misrepresentations and/or omissions constituted willful and wanton disregard for the rights and safety of Pedro and other employees entitling Plaintiffs to recover punitive damages.

WHEREFORE, Plaintiffs, Jennifer Cano, Individually and as Administrator of Pedro Cano Rodriguez; Kimberly Cano, Individually; and Peter Junior Cano, Individually, request judgment against Defendants, Tyson Foods, Inc., Tyson Fresh Meats, Inc., John H. Tyson, Samuel Dean Banks, Noel White, Tom Brower, Elizabeth Croston, Stephen R. Stouffer, Brent R. McElroy, Ed McAtee, Scott Little, Doug White, Laurie Garcia and Amanda Brown in an amount that will fully

and fairly compensate them for their injuries, losses and damages, interest as provided by law, for the costs of this action, punitive damages, and for such other relief as the Court deems appropriate.

JURY DEMAND

Pursuant to Iowa Rule of Civil Procedure 1.902, Plaintiffs hereby demand a trial by jury of all issues triable to a jury.

/s/ Matthew L. Preston
Matthew L. Preston, AT0006314

/s/ Ann C. Gronlund
Ann C. Gronlund, AT0010933

/s/ Brad Brady
Brad J. Brady, AT0001138

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