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IN THE THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAH

YEIMI CORONA and MARGARITA MATIAS, and JOHN AND JANE DOES 1-50, Plaintiffs, v. PRIME SNAX CORP, Defendant.	**COMPLAINT** Case No. 210906631 Judge Kent Holmberg

Plaintiffs complain and allege for cause of action against Defendant as follows:

VENUE AND JURISDICTION

1. The acts upon which this Complaint is based occurred entirely or substantially in Salt Lake County, Utah.

TIER ELECTION

2. Plaintiffs allege damages consistent with "Tier 3" limits on standard fact discovery under Rule 26(c)(5) of the Utah Rules of Civil Procedure.

PARTIES

3. Plaintiff Yeimi Corona is an individual who resides in Salt Lake County, Utah, and was personally injured as alleged in the paragraphs below.

4. Plaintiff Margarita Matias is an individual who resides in Salt Lake County, Utah, and was personally injured as alleged in the paragraphs below.

5. John and Jane Does 1-50 are persons residing in Utah who were similarly injured in a like manner at Defendant's workplace who may be added at a later time individually or collectively.

6. Defendant Prime Snax Corp. is a company based in Salt Lake County, Utah, who at all relevant times, was Plaintiffs' employer of record.

FACTUAL ALLEGATIONS

7. Defendant Prime Snax Corp. is a company that produces beef jerky snacks and offers various flavors smoked varieties of beef jerky and other meat snacks.

8. Defendant employs workers to help manufacture its product and runs several shifts to fulfill orders and produce its product for sale.

9. Many of the workers that Defendant employees are foreign, migrant workers who are less familiar with their right to work in a safe work environment and because of their immigration status, are less likely to complain when unsafe workplace conditions develop as they did in this case.

10. At or around 7 a.m. on June 21, 2021, workers, including named plaintiffs, arrived for the day to begin their work.

11. On this particular day, plaintiffs saw that a tarp had been hung in the production area and learned that a smoker or stove of some kind had been installed. Shortly after their arrival, workers noticed smoke coming from behind the tarp.

12. Plaintiffs and other workers were not allowed to go behind the tarp to identify the source of the smoke. From the smell, however, it appeared and upon information and belief, was understood that the company and its principals, supervisors and/or agents were burning charcoal or something similar as the smoke was dark with a heavy odor.

13. It is well known that it is unsafe and potentially deadly to burn charcoal or similar combustible items indoors without adequate ventilation.

14. During this time, there was inadequate ventilation in the work area to keep workers safe from poisonous, toxic fumes. While fans were running in the production area, they were merely shifting the smoke around the workplace. No windows or doors were open and after a while, thick smoke filled the production area.

15. Plaintiffs would later note that their masks and masks of coworkers began to darken from the smoke they were breathing.

16. Upon information and belief, defendant and its principals, supervisors and/or agents had disconnected the smoke alarm/sprinkler system so as to not interfere with this particular meat smoking project.

17. Upon information and belief, if the smoke alarms/sprinkler system were actively online, they would have activated to warn workers of a toxic smoke situation.

18. In disconnecting these warning systems, defendant was acting under the belief that workers would in fact breathe in smoke that would normally trigger alarms to go off and activate an evacuation. In disabling these alarms, defendant's principals, supervisors and agents intended that its workers, including plaintiffs, would ingest poisonous, injurious smoke into their systems in furtherance of completing this particular smoked meat project.

19. Not unexpectantly, as the day wore on, plaintiffs and other workers started getting sick and plaintiffs and other workers began advising defendant's management around 10:30 a.m. of the same. Management was defensive when confronted with these legitimate health concerns and told plaintiffs and other workers to keep working.

20. By its actions, Defendant caused and intended plaintiffs and its workers to remain in a toxic smoke environment where personal injury was certain to happen and where personal injury did in fact happen.

21. Efforts were made multiple times by plaintiffs and other workers to advise management of the worsening situation and increasing feelings of sickness among the workers. For example, when one worker said she needed to go home because they weren't feeling well, defendant's supervisors told them not to leave so they could get paid for the day.

22. Thus, by using economic pressure, they caused and intended to keep plaintiffs and other workers in a toxic smoke environment where personal injury was certain to happen and where personal injury did in fact happen.

23. As plaintiffs' exposure continued, various workers reported they were about to pass out and that their heads hurt.

24. Following these worker complaints, the workers, including plaintiffs, assembled upstairs to have a meeting about the toxic smoke problem. At this time, most of the workers, including plaintiffs, wanted to leave.

25. Even though the workers demanded a meeting with the main supervisor Coco, this supervisor failed to address their health concerns. Instead, another supervisor relayed back to the group that Coco told her that "everything was safe" and they should all go back to work.

26. In response to this comment, one of the workers took off her smoke-stained mask and showed it to this supervisor and said: "It's not safe, look at my mask. Look at what I'm breathing. You think this is safe?" That worker then said she would be calling the fire department and left with another coworker.

27. Thus, by its continued actions and inaction to keep workers safe along with its false and reckless representations that everything was safe, Defendant caused and intended plaintiffs and its workers to remain in a toxic smoke environment where personal injury was certain to happen and where personal injury did in fact happen.

28. Following this meeting, the main supervisor Coco came up to a group of about 20 workers and hassled them, asking why they weren't working.

29. Under pressure, the workers returned to work and continued to ingest toxic fumes.

30. Again, by its continued actions and inaction to keep workers safe, Defendant caused and intended plaintiffs and its workers to remain in a toxic smoke environment where personal injury was certain to happen and where personal injury did in fact happen.

31. After a while, particularly after 12 p.m. as remaining workers' health condition was rapidly declining, workers who were feeling ill began leaving, even without management's permission.

32. Later that day in response to a worker's complaint, the fire department came and investigated. They confirmed the existence of toxic smoke and concluded that defendant had failed to provide adequate ventilation to protect its workers.

33. Meanwhile, the plaintiffs and most of the workers who were exposed to this toxic smoke environment suffered permanent injury due to their inhalation of poisonous smoke which caused neurologic and physical injury, with some of the workers requiring treatment in hyperbaric chambers to help reverse carbon monoxide poisoning.

34. Plaintiffs have been injured as alleged above as a direct and proximate cause of defendant pressuring them to work in a toxic, smoke-filled workplace without adequate ventilation that was virtually certain to cause injury and should be awarded such damages as may be allowed at trial.

FIRST CAUSE OF ACTION
-- Employer Liability --

35. Plaintiffs incorporate by reference all allegations made above.

36. The allegations complained of herein occurred while plaintiffs were in the course and scope of their employment with defendant.

37. Notwithstanding the exclusive remedy provisions of Utah Code 34A-2-105, plaintiffs make this claim against their employer due to its actions in both inflicting said personal

injuries abuse on them and in failing to protect them from it when the company had notice that its workers were becoming sick from toxic smoke inhalation.

38. In this instance, defendant had a duty to not knowingly or intentionally cause an employee injury where such an injury would be expected from toxic smoke inhalation caused by defendant's principals, supervisors and agents.

39. Upon information and belief, defendant's principals, supervisors and agents knew or should have known that burning charcoal indoors without adequate ventilation would release dangerous fumes and toxic gasses into the workplace that was virtually certain to cause personal injury.

40. Defendants breached this duty when it allowed its principals, supervisors and agents to knowingly and intentionally allow toxic smoke into the work environment without adequate ventilation where plaintiffs would be expected to be exposed to said toxic smoke when a reasonable person in plaintiff's position would know that harm was "virtually certain to result."

41. Moreover, defendant through its principals, supervisors and agents in allowing toxic smoke to fill its workspace and in compelling plaintiffs to work in the toxic workspace, desired the consequences as clearly illustrated by their disabling of smoke detectors.

42. Employer liability for knowing and intentional conduct thus attaches under *Helf v. Chevron USA, Inc.*, 2015 UT 81 and its progeny and defendant is liable for its conduct.

43. Employer liability also attaches under principles of *respondent superior* as defendant is liable for its principals', supervisors' and agents' negligent and/or wrongful and injurious actions, as alleged herein.

44. Plaintiffs have been injured as alleged above and should be awarded such damages as may be proven at trial.

REQUEST FOR JURY TRIAL

Plaintiffs demand a trial by jury and herein tenders the required jury fee.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray for judgment against defendant as follows:

A. For non-economic damages in an amount to be proven at trial;

B. For economic damages, including but not limited to, past and future medical expenses in an amount to be proven at trial;

C. For past and future vocational harms and losses as may be proven at trial;

D. For punitive damages for intentional, reckless and outrageous conduct in an amount sufficient to punish defendant for its actions and to defer other employers from engaging in like conduct.

E. For costs of suit; and

F. For such further relief as the court deems just and proper

SIGNED and DATED this 9th day of December 2021.

KRAMER LAW GROUP

/s/ Ron Kramer
RON J. KRAMER
Attorney for Plaintiffs