



## Law

### Class-action lawsuit filed against meat plant, supermarkets

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NEWARK, N.J. - As government scientists searched for the source of a multistate E. coli outbreak linked to frozen hamburgers, a class-action lawsuit was filed Wednesday against the producer of the patties and supermarkets that sold them.

The lawsuit seeks unspecified monetary compensation for anyone who bought or was sickened by hamburgers made by Topps Meat Co. of Elizabeth and sold by Wal-Mart Stores Inc., Pathmark Stores Inc., ShopRite and Rastelli Fine Foods.

Topps last week recalled the 21.7 million pounds of frozen hamburgers it made over the past year, the second-largest beef recall in U.S. history.

The company, which has said it believes much of the meat has already been eaten, declined to comment on the class-action lawsuit, which was filed in U.S. District Court in Buffalo, N.Y.

Wal-Mart, based in Bentonville, Ark., declined to comment on the lawsuit, spokeswoman Sharon Weber said.

Carteret-based Pathmark also declined to comment, spokesman Richard Savner said.

ShopRite, part of Wakefern Food Corp., based in Edison, declined to comment, spokeswoman Karen Meleta said.

Rastelli, of Swedesboro, a food vendor, did not immediately return a message seeking comment.

In addition to the class-action lawsuit, at least two suits brought on behalf of individuals who claimed they were sickened by the potentially fatal bacteria have been filed since Topps recalled the patties and suspended production Sept. 25.

The U.S. Department of Agriculture is investigating in an attempt to find the source of the E. coli strain, which stems from the intestines of healthy cattle.

As of noon Tuesday, 28 people in eight states had E. coli infections matching the strain found in the Topps patties, the Centers for Disease Control and Prevention reported. None have died.

The class-action lawsuit named four individuals it said ate Topps hamburgers, three of whom became ill. One of them lived in Arkansas, where the CDC has not reported any Topps-related cases.

A lawyer on the lawsuit, Robert K. Jenner, said test results on his clients are pending to determine if they were made ill by the same strain of E. coli.

Consumers do not have to sue to get a refund. Those who bought Topps patties produced from Sept. 25, 2006, to Sept. 25, 2007, can get a refund by mailing the box's UPC code to Topps.

Jenner, based in Baltimore, said that some consumers might not have such proof.

"It's our belief that in this day and age, one would hope that a basic safe assumption is that you can go to the supermarket, buy frozen hamburger meat and not have to worry whether you'll end up in the hospital. Those that can't provide that assurance must be held accountable," Jenner said.

The CDC reported these states and number of cases: Connecticut (2), Florida (1), Indiana (1), Maine (1), New Jersey (6), New York (8), Ohio (1), and Pennsylvania (8).

Topps, which is believed to be the leading U.S. maker of frozen hamburger patties, said it sells its products to supermarkets and institutions such as schools, hospitals, restaurants and hotels.

The recall represents all Topps hamburger products with either a "sell by date" or a "best if used by date" between Sept. 25 this year and Sept. 25, 2008. All recalled products also have a USDA establishment number of EST 9748, which is on the back panel of the package or in the USDA legend. A full list of the recalled products is available at <http://www.toppsmeat.com>.

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