

Finding Fault In Tainted Egg Cases Difficult, At Best

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DES MOINES, Iowa (AP) — Thousands of people likely were sickened by salmonella-contaminated eggs from two Iowa companies last summer, but lawyers said far fewer have the proof needed for a successful lawsuit and most cases filed will be settled out of court.

So far, attorneys in Seattle, Houston, Chicago and Minneapolis have filed at least 10 cases related to recalls by Wright County Egg and Hillandale Farms of Iowa. The companies recalled 550 million eggs in August after a salmonella outbreak was traced to their farms.

The Centers for Disease Control and Prevention linked at least 1,600 illness to the eggs, and CDC spokeswoman Lola Russell said for every case reported there may be up to 30 more.

Lawyers said they know of hundreds of people who claim they became sick after eating eggs, but the challenge for victims is proving they became ill because they ate contaminated eggs.

"Without a positive culture, it's difficult to link egg consumption to the illness," said Bill Marler, a Seattle attorney who has filed six cases in Iowa. "Just because you bought eggs and got sick, it's probably not enough to prove a case."

One of Marler's clients, 30-year-old Sarah Lewis, of Freedom, Calif., said her life hasn't been the same since she ate a custard tart made with contaminated eggs last spring. Since then, she's been hospitalized twice, continues to have chronic diarrhea and vomiting and has developed ulcerative colitis.

She's lost 30 pounds and must take 10 medications a day.

"It's taken its toll," said Lewis, who has two daughters, ages 7 and 5. "You try not to be cranky and have a positive attitude, but it's hard. I just want to be me."

An inspection of the Iowa egg farms after the salmonella outbreak found dead chickens, insects, rodents and mounds of manure. The farms were restricted from selling eggs except to breaker facilities that pasteurized the eggs.

In October, the FDA allowed Hillandale Farms to resume selling eggs but told Wright County Egg it could be closed if it doesn't clean up.

Marler said his office has more than 100 other cases that "are most likely related" to the outbreak.

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"Whether we file all of them or most of them, that's a tactical decision," he said.

Ron Simon, whose law firm in Houston has filed one case in Texas, said he has 150 more clients who became ill from the outbreak. He called it the largest food-borne outbreak in U.S. history, topping salmonella outbreaks that resulted in peanut butter recalls in 2007 and 2009.

Attorneys are examining claims and gathering information to verify that people who became ill had the same strain of salmonella that was found at the egg farms, Simon said. He predicted few cases would ever reach a courtroom.

"In these cases, where you have a genetic match to the egg, there is no dispute they're liable," Simon said of the egg companies. "The discussion does not focus on liability. It focuses on damages because you have a DNA match."

He said if a case can't be resolved, attorneys will file a lawsuit.

"But in large-scale litigation like this, it's not very often," Simon said.

Hinda Mitchell, a spokeswoman for Wright County Egg, declined comment.

Sarah Brew, the attorney for Hillandale, said few lawsuits are filed in most food-borne cases, with most complaints being settled out of court.

"But it's a little too early to make that call in this outbreak," Brew said.

Brew said Hillandale has filed responses to some lawsuits, asserting restaurants who used Hillandale eggs are to blame for contamination that led to customers getting sick. She declined further comment.

States generally have a one to three-year statute of limitations to file cases.

"Historically ... people get agreements with the defendants that the statute of limitations is not running on these cases to give them time to negotiate," Simon said.

Ryan Osterholm, an attorney with Minneapolis-based PritzkerOlsen, has filed one lawsuit in Minnesota and said he has received up to five calls a day from people claiming to have become sick from eating tainted eggs. But like the other attorneys, Osterholm said it can be difficult to prove.

"Not until we do more research and find out it's the same strain as what was found in the eggs can we be sure they are part of this outbreak," Osterholm said.

Pamela Sotoodeh, a Chicago attorney who filed a lawsuit in federal court in Illinois on behalf of six plaintiffs, is the only attorney seeking class-action status for the case. She said that process could take two to three years.

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