

# ARTHUR CHAPMAN

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February 6, 2019

Minnesota Department of Agriculture  
Attn: Data Practices Compliance Official  
625 Robert Street North  
St. Paul, MN 55155-2538

RE: Asleson, Martin D. as Conservator of Linda Christine Miller vs. Markon Cooperative,  
Inc. and Reinhart Foodservice LLC  
Our File No.: 52306

To Whom it May Concern:

I am writing to request access to records and data maintained by the Minnesota Department of Agriculture in accordance with the rights and procedures set forth in the Minnesota Government Data Practices Act.

The particulars of the requested data are set forth in the attached form, which I understand to be the standard form for such requests.

It is expected that there will be charges associated with this processing this request and I will gladly make payment arrangements. Please let me know the estimated charges to process this request via U.S. Mail or via email (at [tjcarrigan@arthurchapman.com](mailto:tjcarrigan@arthurchapman.com)) and I will promptly make arrangements for payment. Please contact me directly if you have any questions or concerns.

Sincerely,



Timothy J. Carrigan

Enclosures: 1) Request form and 2) MN Dept. of Ag reference document



MINNESOTA DEPARTMENT  
OF AGRICULTURE

625 Robert St. N., St. Paul, MN 55155-2538  
www.mda.state.mn.us

Finance and Budget, Data Practices, Ph: 651-201-6698, Fx: 651-201-6112

M.S. CHAP. 13

# Data Request Form

REQUESTED BY		DATE	
NAME Tim Carrigan		2-6-2019	
COMPANY Arthur, Chapman, Kettering, Smetak & Pikala, P.A.			
STREET ADDRESS 81 S. Ninth Street, Suite 500			
CITY Minneapolis		STATE mn	ZIP 55402
PHONE 612-375-5905	FAX 612-339-7655		
Please give complete details of your request:  SEE REQUEST ON NEXT PAGE.			
<p>Minnesota Statutes Section 13.03, subdivision 3, authorizes us to charge fees to recover our costs to provide data including, but not limited to, costs associated with searching, compiling, copying, mailing or otherwise transmitting data. If you choose to purchase the data, follow the instructions below:</p> <ol style="list-style-type: none"> <li>Obtain purchase price of the data from the department.</li> <li>PREPAYMENT IS REQUIRED. To obtain the described data, submit payment along with a copy of this form. Upon receipt of the payment, the data will be forwarded to you.</li> </ol>			
<b>DATA COSTS:</b> *Pricing . . . .No charge for 10 pages or less. If more than 10 pages of material are produced: \$0.25 per page copying costs The first 1/2 hour of preparation time is free; \$18.00/hour after the first 1/2 hour; charges based on quarters of an hour.  Except . . . .100 or fewer pages of public data, black & white, legal or letter size \$0.25/page (\$0.50 doublesided) no other costs will be assessed  Other Data Costs: \$0.50 each for audio tape, video tape or computer disk \$0.75 for photos (per page) \$8.00 per 1000 labels \$1.00 per page for Certification cost Shipping/Postage - actual cost  *Explanation of charges: 1. There is no charge for computer or non-computer data provided to other state or federal agencies, or data provided for law enforcement purposes; provided the request is not unduly burdensome. 2. We charge for copies and staff time to make copies. (Hourly salary and fringe benefit costs of the person copying and preparing the document) 3. We do not charge for only viewing public data. 4. We do not charge for segregating public from non-public data. 5. Data costs may be changed periodically to reflect increases/decreases in actual costs.		ESTIMATED COST	INITIALS
		SOURCE CODE <b>2K30</b>	
		<b>MAKE CHECKS PAYABLE TO:</b> Minnesota Dept. of Agriculture  Send payment with this form to: Minnesota Dept. of Agriculture Attn: Cashier 625 Robert St. N. St. Paul, MN 55155-2538  NOTE: If requestor is no longer interested in obtaining described data, requestor should disregard this bill. If more than 30 days have passed since receiving this bill, and requestor is still interested in obtaining the described data, a new request must be submitted.	
COMPLETED BY	DATE	TOTAL COST	

## REQUESTS

I request all documents in the possession of the Minnesota Department of Agriculture (“the Agency”) in connection with its investigation of the source of the E. coli O157:H7 infection and illness of the individual identified as “Case 5” in the Agency’s written summary of its investigation of the April 2018 E. coli O157:H7 outbreak in Minnesota. For your reference in processing this request, I have attached the Agency’s written summary of the outbreak investigation.

More specifically, I request to obtain copies of any documents in the Agency’s files that meet any of the following criteria:

- 1) All email communications, food menus, and interview notes obtained or created by the Agency’s investigators relating to food products containing romaine lettuce that were served at “Residential Facility A” during the month of April 2018.
- 2) All purchasing and delivery records pertaining to any romaine lettuce food products that were delivered to “Residential Facility A” during the month of April 2018.
- 3) All documentation, email communications and interview notes pertaining to the foods which the individual identified as “Case 5” may have consumed during the month of April 2018.
- 4) All records of communication between the Agency’s investigators with any romaine lettuce product supplier pertaining to romaine lettuce products that may have been delivered to “Residential Facility A” during the month of April 2018.

## ***E. coli* O157:H7 Romaine Suspected - May 2018**

<b>Summary Data</b>	
Etiology	<i>E. coli</i> O157:H7
MN Cases	12 (2 deaths)
Non-MN Cases	198
Lead Epidemiologist	Amy Saupe Marijke Decuir
Lead RRT Investigator(s)	Alida Sorenson Jessica Laurent
Date of Notification	5/2/2018
Date of Corrective Action	5/2/2018
Closing Date	6/21/2018

### **Investigation Summary**

The Minnesota Department of Agriculture (MDA) Rapid Response Team (RRT) first became involved in the ongoing national outbreak of *E. coli* O157:H7 associated with consumption of romaine lettuce in late April 2018. No cases of illness had been identified in Minnesota, but the U.S. Food and Drug Administration (FDA) requested traceback of a romaine product sourced from C.H. Robinson, a licensed food broker in Eden Prairie, MN. The RRT conducted traceback and confirmed C.H. Robinson was acting as a broker and never had physical control of the product. No additional actions were requested of MDA RRT.

On 5/2/18, Minnesota Department of Health (MDH) Epidemiologist Amy Saupe notified the MDA RRT of two (2) confirmed cases of *E. coli* O157:H7 in Minnesota that matched the national cluster. The cases were suspected to have both consumed romaine lettuce at a residential care facility ("Residential Facility A" - see *Exhibit B*). City of Minneapolis Environmental Health (EH) visited the facility to conduct an environmental assessment. Romaine was used exclusively in the to-go salads (packaged in clamshells) and during two special meals on 4/4/18 and 4/11/18. City of Minneapolis interviewed kitchen staff to ensure no one was working while ill. One staff person stated that they had called their romaine distributor to ensure it was safe, and the distributor stated that the product "had not been recalled" and therefore was not a concern. All romaine lettuce onsite was embargoed by the City of Minneapolis, though inspectors reported the romaine onsite was likely from a later delivery than the suspect romaine.

MDA Inspector Charlene Gruber was assigned sample collection at Residential Facility A. Inspector Gruber visited the facility on 5/3/18 and collected four (4) bags of romaine lettuce for testing and submitted them to the MDA Microbiology Laboratory ("Micro Lab"). All samples were "not found" for *E. coli*. Leftover romaine and iceberg lettuce was disposed of by the facility. Over the next several days, additional cases of *E. coli* O157:H7 were identified by MDH and shared with MDA RRT. Additional cases had a variety of exposures, including two additional residential facilities, a school, and several restaurants. MDA RRT initiated traceback of clear romaine exposures among the new cases. All documentation tracing product outside of Minnesota was shared with FDA (see *Exhibits A-F*).

On 5/8/18, MDH issued a press release describing ten new cases identified in Minnesota and recommending consumers avoid romaine grown in the Yuma growing region, which included areas in Arizona and California. MDH suspected that the original consumer notification issued by FDA and CDC on 4/19/18 was confusing to consumers who assumed only product grown in Arizona was affected.

On 6/1/18, CDC issued an additional notification that romaine lettuce from the Yuma growing region was past shelf life and likely no longer being sold in stores or served in restaurants. CDC also shared publicly the updated number of cases and the two deaths reported among Minnesota cases.

On 6/27/18, FDA shared results from their environmental sample collection in the Yuma growing region. Environmental samples were collected along a two-mile stretch of an irrigation canal near the implicated romaine growing fields. *E. coli* O157:H7 was isolated from the irrigation water and was reported as highly related to the clinical isolates by whole genome sequencing (WGS). CDC also closed out their investigation on 6/28/18 reporting that the outbreak appeared to be over. The RRT closed the investigation.

### Important Links & References

CDC Web Posting: <https://www.cdc.gov/ecoli/2018/o157h7-04-18/index.html>

FDA Web Posting: <https://www.fda.gov/Food/RecallsOutbreaksEmergencies/Outbreaks/ucm604254.htm>

MDH Press Release: <http://www.health.state.mn.us/news/pressrel/2018/ecoli050818.html>

### Root Cause & Contributing Factors

Cases of illness consumed romaine contaminated with *E. coli* O157:H7.

FDA suspects a contaminated irrigation canal as the root cause for contamination in the Yuma growing region.

Other contributing factors include:

- Confusion among consumers and retail facilities re: CDC and FDA statements - whether the product in their possession was safe
- Mixed messages from distributors or retail facilities stating their romaine was safe because it had not been recalled

### Case Summary

Case	Age	Gender	County of Residence	Onset	Hosp.	Outcome	Exposure(s) of Interest	Traceback Outcome
1	45	F	St. Louis	4/20/18	No	Alive	<ul style="list-style-type: none"> <li>• <b>Grandma's Saloon</b> (4/17) - side salad</li> <li>• <b>Tavern on the Hill</b> - side salad</li> <li>• <b>Applebee's</b> - Oriental chicken roll-up</li> <li>• <b>Panera</b> - spicy Thai salad with chicken</li> </ul>	• N/A - too many exposures to trace

							<i>YES to romaine</i>	
2	15	F	Nobles	4/22/18	No	Alive	<ul style="list-style-type: none"> <li>• <b>PUBLIC SCHOOL E</b> - Spring Mix served weekly may have contained romaine (<i>Exhibit A</i>)</li> </ul> <i>MAYBE to romaine</i>	Product served prior to illness may have contained product from any 5 shipments from 2 suppliers outside of MN
3	59	F	Hennepin	4/23/18	Yes	Alive	<ul style="list-style-type: none"> <li>• Romaine at <b>RESIDENTIAL FACILITY A</b> (staff) (<i>Exhibit B</i>)</li> <li>• *maybe* Caesar salad at Pizza Luce (4/17)</li> <li>• *maybe* lettuce at Sheraton MPLS (4/20)</li> </ul> <i>YES to romaine</i>	Romaine traced back to numerous farms in CA and possibly AZ
4	25	F	Anoka	4/23/18	No	Alive	<ul style="list-style-type: none"> <li>• <b>Applebee's</b> (4/22) - Thai shrimp salad <u>AND</u></li> <li>• <b>RESIDENTIAL FACILITY C</b> (resident) (<i>Exhibit C</i>)</li> <li>• Romaine from <b>Wal-Mart</b></li> <li>• <b>County Market</b></li> </ul> <i>YES to romaine</i>	<ul style="list-style-type: none"> <li>• Applebee's traced to Church Bros (CA) &amp; shared with FDA</li> <li>• Numerous Marketside salad mixes at Wal-Mart</li> <li>• County Market unable to determine which Dole salad blends were purchased</li> </ul>
5	68	F	Hennepin	4/26/18	Yes	Alive	<ul style="list-style-type: none"> <li>• Romaine at <b>RESIDENTIAL FACILITY A</b></li> </ul>	Romaine traced back to numerous

							(resident) (Exhibit B)  MAYBE to romaine	farms in CA and possibly AZ
6	21	F	Beltrami	Unknown	No	Alive	LTF	N/A
7	55	M	Hennepin	4/21/18	No	Alive	<ul style="list-style-type: none"> <li>The Office Pub &amp; Grill (4/20) - fish sandwich with lettuce &amp; lettuce salad (Exhibit D)</li> </ul> YES to romaine	<ul style="list-style-type: none"> <li>Traced from Cut Fruit Express to Markon/Taylor Farms &amp; shared with FDA</li> </ul>
8	71	F	Anoka	4/19/18	Yes	Deceased	LTF	N/A
9	40	F	Crow Wing	4/26/18	No	Alive	<ul style="list-style-type: none"> <li>Romaine from Cub Foods</li> <li>Romaine from Costco</li> </ul> YES to romaine	<ul style="list-style-type: none"> <li>Multiple salad types available at Cub Foods and Costco</li> <li>Purchase history at Cub Foods indicated five (5) different purchases of products containing romaine (Exhibit E)</li> <li>No trace completed</li> </ul>
10	46	F	Anoka	5/2/18	Yes	Deceased	<ul style="list-style-type: none"> <li>RESIDENTIAL FACILITY C (resident) - possible secondary case (Exhibit C)</li> </ul> MAYBE to romaine	<ul style="list-style-type: none"> <li>Numerous Marketside salad mixes at Wal-Mart</li> <li>County Market unable to determine which Dole salad blends were purchased</li> </ul>
11	22	F	Ramsey	4/28/18	No	Alive	LTF	N/A

12	82	F	Hennepin	4/28/18	Yes	Alive	<ul style="list-style-type: none"> <li><b>RESIDENTIAL FACILITY W</b> (resident) (<i>Exhibit F</i>)</li> </ul> <p><i>NO to romaine</i></p>	<ul style="list-style-type: none"> <li>Romaine traced back to numerous farms in CA and possibly AZ</li> </ul>
13 (Separate Cluster)	28	M	Olmsted	4/22/18	No	Alive	<p><b>**Different PFGE pattern than main outbreak stx1 &amp; stx2-producing - matches CA cases; mentioned Chipotle (romaine), which matches a subcluster of the main outbreak**</b></p>	<ul style="list-style-type: none"> <li>Provided <b>Chipotle</b> restaurant invoices to FDA (<i>Exhibit G</i>)</li> </ul>

## Corrective Actions

- MDA worked with the City of Minneapolis to embargo product of concern at Residential Facility A on 5/2/18.
- MDH issued a consumer advisory on 5/8/18.

## Next Steps

N/A

## Exhibits

**Exhibit A** - Public School "E" Spring Mix (Case 2)

**Exhibit B** - Residential Facility "A" traceback (Cases 3 & 5)

**Exhibit C** - Residential Facility "C" traceback and Applebee's traceback (Case 4 & 10)

**Exhibit D** - Office Pub & Grill traceback (Case 5)

**Exhibit E** - Cub Foods purchase history (Case 9)

**Exhibit F** - Residential Facility "W" traceback (Case 12)

**Exhibit G** - Chipotle traceback (Case 13)

**Exhibit H** - Distributor Invoices