

SAMPLE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

John Doe,

Case No. 3:20 CV 5578

Plaintiff,

PLAINTIFF STATEMENT
OF DISPUTED FACTS

-vs-

Jane Roe,

Defendant.

INTRODUCTION

This case arises from a food-poisoning incident at a party. Plaintiff asserts one claim of negligence against Defendant. Defense counsel notified Plaintiff's counsel that Defendant intends to move for summary judgment. In compliance with the Court's Summary-Judgment Protocol, counsel for both sides met and conferred about the merits of the proposed motion. Plaintiff contends a summary-judgment motion would fail and now provides this Statement of Disputed Facts.

LEGAL STANDARD

The law of the State of Ames governs this case. To prevail in a negligence action under Ames law, a plaintiff must prove four elements: duty, breach, causation, and harm. *See Jordan v. Thomas*, 18 Ames St. 3d 346, 348 (2012).

DISPUTED ISSUES OF MATERIAL FACT

Plaintiff understands that Defendant concedes the duty and harm elements. Thus, the parties dispute only breach and causation. These disputes are genuine and material for the following reasons:

Breach

- Sally Anderson told Defendant about Plaintiff's severe peanut allergy (Doc. 22 at 5).
- Defendant offered her homemade casserole to Plaintiff at the party, and she did not tell Plaintiff it contained peanuts (Doc. 24 at 16–17).
- Although Defendant claims she did not know the casserole contained peanuts, in the State of Ames “one who prepares a meal is charged with knowledge of the ingredients.” *Bryant v. Bell*, 49 Ames St. 56, 59 (1997).
- The morning of the party, a neighbor looked through Defendant's kitchen window and saw Defendant preparing a casserole (Doc. 27 at 42).
- A jury could reasonably conclude Defendant made the casserole and negligently offered it to Plaintiff, who did not know it contained peanuts.

Causation

- Within five minutes of eating Defendant's casserole, Plaintiff experienced breathing difficulties (Doc. 20 at 15). An ambulance then took him to the hospital (*id.*).
- Plaintiff's serious injuries were caused by an allergic reaction (Doc. 29 at 2).
- Plaintiff has only two known allergies: peanuts and shellfish (Doc. 20 at 13–15).
- Although Plaintiff came in contact with shellfish minutes before eating Defendant's casserole (Doc. 20 at 14), a jury could reasonably conclude the casserole, not the shellfish, caused his allergic reaction. *See Curry v. Irving*, 587 Ames App. 4th 234, 237 (2019).