No Veggies for Reggie

By Reg P. Wydeven September 30, 2006

When I was growing up, my mom wouldn't let me leave the kitchen table until I ate all of my vegetables. I remember looking across the table at my dad's plate and the only vegetables he was eating were the onions on his cheeseburger. As she dined on her cauliflower and broccoli, my mom explained that vegetables would make me grow big and strong. To a five-year-old, her argument wasn't very convincing, seeing as she's 5'1" and my dad's almost 6'5".

Thankfully I got some of my dad's genes and made it to 6'1". Now that I have children of my own, I eat asparagus, sweet potatoes, corn and squash to set a good example. And my mom thinks it's hysterical when my kids refuse to eat their vegetables.

However, after the recent E. coli outbreak linked to spinach, it looks like my dad and I may have been right about vegetables.

The federal Food and Drug Administration's Center for Food Safety and Applied Nutrition is investigating the outbreak that has caused 146 people in 23 states to become sick and one person to die. According to the Centers for Disease Control, Wisconsin has reported the most cases of E. coli infections, as well as the lone fatality. Common symptoms associated with an E. coli infection include bloody diarrhea and abdominal cramping.

New Mexico Department of Health officials may have found a 'smoking gun' in the outbreak: a tainted bag of Dole baby spinach left in the refrigerator of a victim of the bacteria. After completing "DNA fingerprinting" tests on the spinach, officials were able to match the strain of the bacteria - E. coli O157:H7 - to the strand implicated in the outbreak.

Natural Selection Foods, LLC, which packs Dole spinach, has since recalled all of its spinach products with expiration dates from August 17 to October 1. The bag, however, led investigators to nine farms in Monterey, San Benito and Santa Clara counties in California's greater Salinas Valley, where the Dole spinach comes from.

California produces 74% of America's fresh spinach, and roughly 75% of that spinach comes from Salinas Valley. Investigators visited farms in Salinas Valley seeking signs of past flooding or cases in which contaminated surface areas had come into contact with crops. They also were looking for potential sources of bacteria inside packing plants.

Officials are warning consumers to avoid bagged spinach. But some consumers are taking it one step further.

The owners of Hamilton's Restaurant in suburban Chicago have sued Natural Selection Foods for \$40 in damages because they had to throw out a batch of Dole spinach due to the E. coli outbreak. The restaurant isn't seeking punitive damages, they simply want to be reimbursed for the cost of the lost spinach.

The lawyers that have filed the products liability lawsuit are hoping other consumers that had to throw out Dole spinach will come forward so they can turn the suit into a class action. At least two personal injury lawsuits have also been filed in New York and California over illnesses allegedly related to the infected spinach. More lawsuits are expected to follow.

Because the spinach just might have touched the other vegetables in the grocery store's produce section, Dad and I are sticking with cheeseburgers just to be safe.

This article originally appeared in the Appleton Post-Crescent newspaper and is reprinted with the permission of Gannett Co., Inc. © 2006 McCarty Law LLP. All rights reserved.