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6 IN THE UNITED STATES DISTRICT COURT  
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8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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10 MIGUEL CASTANEDA, KATHERINE  
11 CORBETT, and JOSEPH WELLNER, on  
12 behalf of themselves and others similarly  
situated,

13 Plaintiffs,

14 v.

15 BURGER KING CORPORATION,

16 Defendant.  
17 \_\_\_\_\_/

No. C 08-04262 WHA

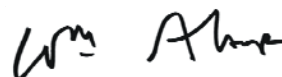
**ORDER RE PLAINTIFFS' MOTION  
FOR CLARIFICATION OF  
DECEMBER 29 ORDER**

18 An October 16 order set a schedule for discovery of the information contained in  
19 defendant's accessibility surveys including measurements and photographs of the ten stores at  
20 issue in this action. Pursuant to that order, defendant could delay turning over any of the  
21 information for each of the ten stores at issue until 70 days before the trial date for each  
22 particular store in question. A December 29 order addressed when defendant must answer  
23 plaintiffs' interrogatories. It held that to the extent that defendant could answer the  
24 interrogatories from other sources than the pre-litigation surveys, it had to answer as provided  
25 by Judge Larson's November 25 order. If information was available both in the pre-litigation  
26 surveys and in other sources, defendant had to answer as provided by Judge Larson's November  
27 25 order. To the extent that defendant's answers drew from information available *only* in the  
28 pre-litigation surveys, it could delay turning over that information for each of the ten stores at  
issue until 70 days before the trial date for each particular store in question.

1 Now plaintiff moves for clarification of the December 29 order as to whether documents  
2 other than the pre-litigation surveys — such as scope-of-work documents, photographs, and  
3 punch lists generated during defendant’s remediation work — constitute “other sources than the  
4 pre-litigation surveys.” To the extent that such materials were generated solely as part of the  
5 same remediation work that generated the information in the pre-litigation surveys, they do not  
6 constitute “other sources.” To the extent that defendant’s answers to plaintiffs’ interrogatories  
7 draw solely from such materials, it may delay answering until 70 days before the trial date for  
8 each particular store in question.

9 **IT IS SO ORDERED.**

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11 Dated: January 20, 2010.



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12 WILLIAM ALSUP  
13 UNITED STATES DISTRICT JUDGE  
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