

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 06-CV-02528-JLK-CBS

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BRAY et al.,

Plaintiffs,

vs.

QFA ROYALTIES LLC,

Defendant.

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**SUPPLEMENTAL DECLARATION OF PLAINTIFF  
RICHARD NEWKIRK ON DECEMBER 21, 2006**

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I, Richard Newkirk, declare as follows:

1. At approximately 3:30 p.m. on December 19, 2006, I received information concerning the Court's Order issued that day. I was also informed that legal counsel for Quiznos had, roughly one-hour earlier, represented to my counsel that I could immediately resume ordering food supplies. At approximately 3:45 p.m. on that date I contacted Mile Hi, the authorized supplier for Quiznos, in order to place a food supplies order. Mile High indicated I was not authorized to receive Quiznos' products and that they would not fill my order.

2. I re-contacted Mile High on December 19, 2006 at 4:30 p.m. They again stated they did not have authorization to accept the food order. I asked them to immediately check directly with Quiznos while I waited on the telephone. After several minutes they returned and said they would proceed with the order.

3. Midday the following day, on December 20, 2006 I again contacted Mile High about the order that had been place. I was informed that it had been “held” because I was not authorized to order Quiznos products. I recounted to the Mile High representative the previous events and communications and, again, requested they check directly with Quiznos concerning my status. When the telephone call was resumed several minutes, they informed me that the food order was now approved and would go out the following day.

4. Weather conditions have apparently blocked the food shipments from leaving the Denver area and I have yet to receive any food supplies following the Court’s Order

5. From my experience, had my order been properly accepted on Tuesday afternoon, it would have shipped out on Wednesday, prior to the storm.

6. I contacted Mile High on Thursday morning, December 21, 2006 and spoke with “Cristy,” who indicated that they will not be able to get my order to me until next Wednesday, December 27, 2006. There remains a possibility that supplies could be air-shipped on Friday, December 22, 2006, which Mile High is investigating.

7. Due to lack of supplies, I will be forced to close my stores on beginning Saturday, December 23, 2006. The two days immediately preceding and the day immediately following Christmas would normally be busiest days of the year for me.

8. I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Dated this 21<sup>th</sup> day of December, 2006.

s/ Richard Newkirk

Richard Newkirk