

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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**DECLARATION OF PLAINTIFF BRAD FIX**

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I, Brad Fix, declare as follows:

1. I serve on the board of directors of the Toasted Subs Franchisee Association, Inc. ("TSFA"). My mother Jan Fix and I own all the membership units in B, J and F LLC ("BJ&F"), which is an entity that transacts business with Quiznos on our behalf in relation to certain matters. BJ&F owns and operates Quiznos Store No. 770, which is located at 2101 Brooks Street, Missoula, Montana 59801. It also owns and operates Quiznos Store No. 701, which is located at 135 W. Idaho Street, Kalispell, Montana 59901. My mother and I own and operate Quiznos Store No. 353, which is located at 1001 E. Broadway Street, Unit 3, Missoula, Montana 59802. My mother is not active in the management of the TSFA.

2. Attached to this Declaration as Exhibit A are true and correct excerpts of the March 31, 1997 Franchise Agreement governing Quiznos Store No. 353. Attached to this Declaration as Exhibit B are true and correct excerpts of the July 31, 2002 Franchise Agreement governing Quiznos Store No. 701. The Fixes do not possess a copy of the August 3, 1998

Franchise Agreement governing Quiznos Store No. 770, but believe it is substantially similar to the others. The full Franchise Agreements for these three stores are otherwise nearly identical with the full agreement filed as Exhibit A to the Jihad Majed Declaration in this matter.

3. On December 11, 2006, I received three letters from Frederic C. Cohen, Esq., an attorney with DLA Piper in Chicago, Illinois. Each letter is dated December 8, 2006 and purports to terminate the franchise relationship with Quiznos in relation to Quiznos Store Nos. 353, 701 and 770. Attached to this Declaration as Exhibits C, D, and F, are true and correct copies of Mr. Cohen's letters.

4. If Quiznos' threatened termination takes effect, BJ&F, as well as my mother and I, will face irreparable harm, including, among other things, the impairment of our ability to maintain marketplace position and loss of goodwill. In addition, Quiznos' cure proposal threatens to impose a chilling effect on our First Amendment rights because under the proposal, BJ&F, my mother and I can avoid termination of the franchises only if we agree to Quiznos' coercive demand for compelled speech and restrictions on our rights to free speech and to associate. It is difficult, if not impossible, to calculate damages for the cessation of franchise operations due to the inherent nature of these harms.

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

Dated this 18<sup>th</sup> day of December, 2006.

s/ Brad Fix  
Brad Fix