

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Center for Science in the Public Interest

Plaintiff,

v.

Burger King Corporation,  
5505 Blue Lagoon Drive  
Miami, FL 33126,

Defendant.

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) Civil Action No. 07 CV-1092 (RJL)  
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) Judge Richard J. Leon  
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SUPPLEMENTAL AFFIDAVIT OF JONATHAN MUHTAR

I, Jonathan Muhtar, hereby affirm under penalty of perjury:

1. I am the Director of Product Marketing for Burger King Corporation ("BKC") and have personal familiarity with the facts set forth herein. I submit this Supplemental Affidavit to respond to certain matters raised by plaintiff with respect to my Affidavit of June 13, 2007 (the "Affidavit").

2. In paragraphs 7 and 8 of my Affidavit, I described the measures required to replace the partially hydrogenated oils used in Burger King restaurants with trans fat-free cooking oils. While BKC has begun to roll out trans fat-free oils in the United States and intends to supply trans fat-free oils to all its United States and Canadian restaurants by the end of next year, Washington, D.C. is not scheduled for conversion until the later stages of the rollout. Based on BKC's experience to date in areas where the rollout has been completed, the incremental cost of conversion to trans fat-free cooking oils is between \$3,000 and \$6,000 per restaurant per year. This is in addition to the developmental and research costs described in my Affidavit. Given that there are seven

Burger King franchised restaurants in Washington, D.C., the total incremental cost would be between \$21,000 and \$42,000 to convert to the use of trans fat-free cooking oils in Washington, DC.

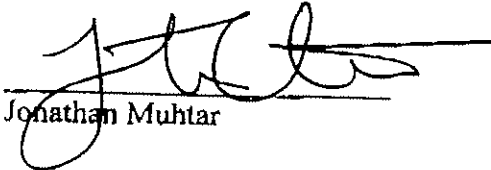
3. In paragraphs 9 through 11 of my Affidavit, I described the measures necessary to eliminate sources of artificial trans fats in the pre-prepared "par-fried" food products and baked goods that Burger King franchisees purchase from approved suppliers and sell at Burger King restaurants. BKC is still in the research and testing stage for the elimination of artificial sources of trans fats from these products. Based on the preliminary results of our product development process, new, completely trans fat-free par fried french fries (one of the biggest parts of a BKC restaurant's entire menu mix) will likely cost approximately \$1,000 per year in additional incremental food costs per Burger King restaurant. Thus, the total incremental cost for french fries alone would be \$7,000 per year for the seven BKC restaurants in Washington, D.C. Development of new completely trans fat-free versions of the other 12 par-fried and baked good products in BKC's menu mix is likely collectively to result in additional annual incremental food costs at least as great as those for french fries. This is in addition to costs BKC would incur in sourcing, testing, consumer testing, contract negotiations and supply chain adjustments with dozens of suppliers. These research and development costs alone would cost BKC in excess of \$75,000.00

4. In paragraph 12 of my Affidavit, I estimated that discontinuing use of par fried products and baked goods that contain trans fats (in the event that CSPI obtained its requested injunctive relief and BKC could not develop satisfactory trans fat-free products in time) would result in a loss of sales of at least \$250,000 per restaurant per year. The

typical Burger King restaurant operates on a 70% gross margin. Thus, the loss of \$250,000 in sales per restaurant equates to a decrease in gross profit margin of \$175,000 per restaurant. For some restaurants, the impact on profitability of such a substantial reduction in gross profit margin could be sufficient to force the closure of the restaurant.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed at Miami, Florida on August 17 2007.



Jonathan Muhtar