

FILED IN CHAMBERS  
U.S.D.C. Atlanta

JAN 20 2011

JAMES N. HATTEN, Clerk  
By: *[Signature]* Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

BROWN, et al.	)	
	)	
Plaintiffs,	)	CIVIL ACTION
	)	Case No. 1:07-CV-00741
v.	)	(RWS)
	)	
MOE'S SOUTHWEST GRILL, LLC, et al.,	)	
	)	
Defendants.	)	

**[PROPOSED] CONSENT ORDER REGARDING MODIFICATION TO  
SCOPE OF SUBPOENAS AND ORDER GRANTING PLAINTIFFS'  
MOTION TO COMPEL DISCOVERY FROM CERTAIN  
NON-PARTY SUPPLIERS RELATING TO POST-SALE DOCUMENTS**

**I. Consent Order**

In light of the Parties' agreement regarding revisions to the categories of documents sought in the subpoenas served by Plaintiffs upon certain non-party suppliers in the above-referenced matter, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

- (1) Category 1 of Exhibit A to the subpoenas shall be limited to contracts relating to the supply of products to the Moe's Southwest Grill franchise system;
- (2) Category 2 of Exhibit A to the subpoenas refers to Category 1, as revised by this Consent Order;

(3) Category 3 of Exhibit A is deleted;

(4) Category 4 of Exhibit A to the subpoenas shall be limited to correspondence and communications relating to the supply of products to the Moe's Southwest Grill franchise system;

(5) Category 5 of Exhibit A to the subpoenas shall be limited to documents relating to the supply of products to the Moe's Southwest Grill franchise system;

(6) Category 6 of Exhibit A to the subpoenas shall be limited to price lists, term sheets, pricing guides, or other documents evidencing, referring to or reflecting the prices and discounts available on products supplied by You to the Moe's Southwest Grill franchise system;

(7) Category 7 of Exhibit A to the subpoenas shall be limited to documents relating to Your products that were ultimately distributed to the Moe's Southwest Grill franchise system, including any company-owned Moe's locations or franchised Moe's locations;

(8) Category 8 of the Exhibit A to the subpoenas remains as stated;

(9) Category 9 of Exhibit A to the subpoenas shall be limited to documents reflecting the entities or persons who have copies of the Standards and Specifications;

(10) Category 10 of Exhibit A to the subpoenas shall be deleted;

(11) Category 11 of Exhibit A to the subpoenas shall be limited to documents reflecting the identity of individuals responsible for creating and/or maintaining the Standards and Specifications for products You supplied to the Moe's Southwest Grill franchise system;

(12) Category 12 of Exhibit A to the subpoenas shall be limited to Standards and Specifications for Your products that were supplied to the Moe's Southwest Grill franchise system;

(13) Category 13 of Exhibit A to the subpoenas shall be limited to documents relating to Your products that were supplied to the Moe's Southwest Grill franchise system;

(14) No non-party supplier shall be required to produce copies of any documents it previously produced in response to a prior subpoena in this matter, including in response to subpoenas that were issued in November or December 2007;

(15) Any non-party supplier producing documents in response to a subpoena in this case may designate such documents for protection in accordance with the Amended Consent Confidentiality and Protective Order, dated September 16, 2010 [DE 138], a copy of which is attached hereto as Exhibit A.

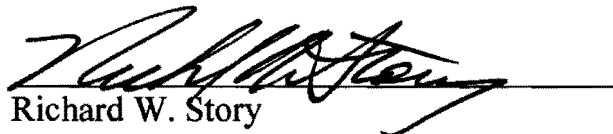
## II. Order Granting Plaintiffs' Motion To Compel

Upon consideration of Plaintiffs' Motion to Compel [DE 126], Defendants' opposition thereto, and Plaintiffs' reply in further support thereof, the Court hereby ORDERS as follows:

1. Plaintiffs' Motion to Compel, as clarified to be limited to the issue of production of documents created after the date the Moe's Southwest Grill franchise system was sold, is GRANTED;

2. Production, by Non-parties Filet of Chicken, Dairy Farmers of America, Inc., and Tyson Foods, Inc., of documents sought in the Subpoenas, as modified by the above Consent Order, shall include documents created after the date the Moe's Southwest Grill franchise system was sold to Focus Brands.

SO ORDERED, this 20th day of January, 2011

  
Richard W. Story  
United States District Judge

**CONSENTED TO (AS TO PART I):**

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