

1ST CIRCUIT COURT
STATE OF HAWAII
FILED

2007 JUL 25 PM 1:52

N. ANAYA
CLERK

EMILY A. GARDNER 6891
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Attorney for Plaintiffs: 07-cv-00409-ACK-KSC Document 17-4 Filed 08/26/2007 Page 1 of 1

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

Valerie Sylvester, David Pang, Andrew Garcia,
Ruth Camargo, Chris Hubbard, Stacey Collins,
Randall Bandmann, Kelly Engle, Pam Gould and
Erik Coral-Sands

Plaintiffs,

v.

MENU FOODS, INC., a New Jersey Corporation;
MENU FOODS HOLDINGS, INC., a Delaware
Corporation, MENU FOODS INCOME FUND, an
unicorporated Canadian business; Doe Entities
and Individuals 1- 100,

Defendants.

Civil No. 07-1-0848-05 SSM
(Non-Vehicle Tort)

DECLARATION OF SERVICE;
EXHIBITS "1" AND "2"

(Menu Foods, Inc. and Menu Foods
Holdings, Inc.)

DECLARATION OF SERVICE

1. I, Emily A. Gardner, am the attorney for the Plaintiffs in the above-captioned matter.
2. I am an attorney licensed to practice law in all Courts of the State of Hawaii. I make this Declaration based upon my own personal knowledge of the matters set forth herein and am competent to testify thereto.

EXHIBIT 1

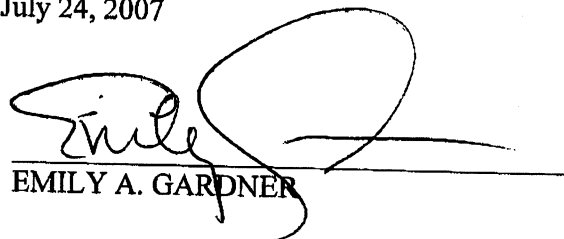
3. Attached hereto as Exhibit "1" is the original return of service affirming that the First Amended Summons to Answer the Civil Complaint and First Amended Complaint was served upon Defendant Menu Foods, Inc., a New Jersey Corporation on July 13, 2007.

Case 1:07-cv-00409-ACK-KSC Document 17-4 Filed 08/26/2007 Page 2 of

4. Attached hereto as Exhibit "2" is the original return of service affirming that the First Amended Summons to Answer the Civil Complaint and the First Amended Complaint was served on Defendant Menu Foods Holdings, Inc. a Delaware Corporation on July 9, 2007.

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

DATED: HONOLULU, HAWAII, July 24, 2007


EMILY A. GARDNER

RETURN OF SERVICE

State of Hawaii

County of Honolulu

First Circuit Court

Case Number: 07-1-0848-05 SSM

Plaintiff:

Valerie Sylvester, et al.

vs.

Defendant:

Menu Foods, Inc., a New Jersey Corporation, et al.

For:

Emily A. Gardner Attorney at Law, LLC

Case 1:07-cv-00409-ACK-KSC Document 17-4 Filed 08/26/2007 Page 3 of 3

Received by Nationwide Legal Support, Inc. to be served on Menu Foods Income Fund, 8 Falconer Drive, Streetsville, Ontario, CN L5N 1. Peter Hunt, do hereby affirm that on the 13th day of July, 2007 at 3:30 p.m., executed service by delivering a true copy of the First Amended Summons to Answer Civil Complaint; First Amended Complaint; Exhibit 1 to 3; First Amended Demand for Jury Trial; First Amended Summons to Answer Civil Complaint; in accordance with state statutes in the manner marked below:

INDIVIDUAL SERVICE: Served the within-named person.

SUBSTITUTE SERVICE: By serving MARK WIENS as CHIEF FINANCIAL OFFICER OF MENU FOODS INCOME FUND.

POSTED SERVICE: After attempting service on ___/___ at ___ and on ___/___ at ___ to a conspicuous place on the property described herein.

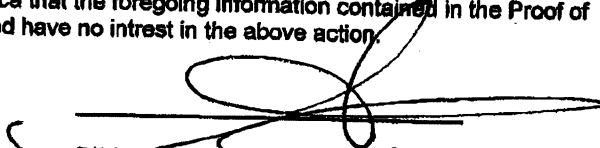
Custodian of Records: By serving _____ as _____

NON SERVICE: For the reason detailed in the Comments below.

COMMENTS: _____

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

I declare under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct. I am over the age of 18 and have no interest in the above action.


PROCESS SERVER # N/A
Appointed in accordance
with State Statutes

Nationwide Legal Support, Inc.
Dbas Eleanor's Nationwide Legal Support
18226 Ventura Blvd., Suite 208
Tarzana, CA 91356
(818) 774-9757
Our Job Serial Number: 2007001151

EXHIBIT 1

Affidavit of Process Server

VALERIE SYLVESTER

VS MENU FOODS, INC

07-1-0848-05 SSM

PLAINTIFF/PETITIONER

DEFENDANT/RESPONDENT

CASE NUMBER

BARRY EVELAND

being first duly sworn, depose and say: that I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to perform said service.

Service: I served MENU FOODS HOLDINGS, INC

Case 1:07-cv-00179-SCJ-LSP Document 17-4 Filed 08/26/2007 Page 4 of 4

with (list documents) 1 TO 3 FIRST AMENDED DEMAND FOR JURY TRIAL

by leaving with SCOTT LASCALA

PROCESS AGENT

At

Residence

NAME

RELATIONSHIP

Business

ADDRESS

CITY / STATE

C/O THE CORPORATION TRUST CO. 1209 ORANGE ST. WILMINGTON, DE

ADDRESS

CITY / STATE

On 7/9/07

DATE

AT 11:45 AM

TIME

Thereafter copies of the documents were mailed by prepaid, first class mail on

DATE

from

CITY

STATE

ZIP

Manner of Service:

Personal: By personally delivering copies to the person being served.

Substituted at Residence: By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household over the age of _____ and explaining the general nature of the papers.

Substituted at Business: By leaving, during office hours, copies at the office of the person/entity being served with the person apparently in charge thereof.

Posting: By posting copies in a conspicuous manner to the front door of the person/entity being served.

Non-Service: After due search, careful inquiry and diligent attempts at the address (es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

Unknown at Address Moved, Left no Forwarding Service Cancelled by Litigant Unable to Serve in Timely Fashion

Address Does Not Exist Other _____

Service Attempts: Service was attempted on: (1) _____

DATE

TIME

(2) _____

DATE

TIME

(3) _____

DATE

TIME

(4) _____

DATE

TIME

(5) _____

DATE

TIME

AGE

30

Sex MALE

Race W

Height 5'8

Weight 170

HAIR BLACK

SIGNATURE OF PROCESS SERVER

SUBSCRIBED AND SWORN to before me this 9TH day of JULY, 2007.

OFFICIAL SEAL

KEVIN DUNN NOTARY PUBLIC
NEW CASTLE COUNTY STATE OF DELAWARE
MY COMMISSION EXPIRES NOV. 23, 2010

SIGNATURE OF NOTARY PUBLIC

NOTARY PUBLIC for the state of DELAWARE

2007 JUL 31 PM 3: 58

N. ANAYA
CLERK

EMILY A. GARDNER 6891
Attorney at Law
Dillingham Transportation Building
735 Bishop Street, Suite 402
Honolulu, Hawai'i 96813
Telephone: (808)-540-0200
Facsimile: (808)-540-0201
Email: eagardner@hawaii7r.com

Attorney for Plaintiffs

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

Valerie Sylvester, David Pang, Andrew Garcia,
Ruth Camargo, Chris Hubbard, Stacey Collins,
Randall Bandmann, Kelly Engle, Pam Gould and
Erik Coral-Sands

Plaintiffs,

v.

MENU FOODS, INC., a New Jersey Corporation;
MENU FOODS HOLDINGS, INC., a Delaware
Corporation, MENU FOODS INCOME FUND, an
unicorporated Canadian business; Doe Entities
and Individuals 1- 100,

Defendants.

Civil No. 07-1-0848-05 SSM
(Non-Vehicle Tort)

SUPPLEMENT TO DECLARATION
OF SERVICE, filed July 25, 2007;
EXHIBIT "3"

(Menu Foods Income Fund)

SUPPLEMENT TO DECLARATION OF SERVICE

1. I, Emily A. Gardner, am the attorney for the Plaintiffs in the above-captioned matter.
2. I am an attorney licensed to practice law in all Courts of the State of Hawaii. I make this Declaration based upon my own personal knowledge of the matters set forth herein and am competent to testify thereto.

EXHIBIT 1

3. Attached hereto as Exhibit "3" is the original return of service affirming that the First Amended Summons to Answer the Civil Complaint and First Amended Complaint was served upon Defendant Menu Foods Income Fund, at 8 Falconer Drive, Streetsville, Ontario, Canada on July 13, 2007.

Case 1:07-cv-00409-ACK-KSC Document 17-4 Filed 08/26/2007 Page 6 of

4. In the Declaration of Service filed with the court on July 25, 2007, Exhibit "1" was incorrectly noticed as the original return of service affirming that the First Amended Summons to Answer the Civil Complaint and First Amended Complaint was served upon Defendants Menu Foods, Inc., a New Jersey Corporation. It was actually a faxed copy of the return of service affirming service upon Defendant Menu Foods Income Fund, at 8 Falconer Drive, Streetsville, Ontario, Canada.

5. Nationwide Legal Support, Inc., the company handling the service of the three (3) defendants in the matter had told me verbally that all three defendants had been served, and that it was, Menu Foods, Inc., the New Jersey Defendant who had been served on July 13, 2007. This miscommunication contributed to the error in the Declaration of Service that was filed on July 25, 2007.

6. As of the date of this filing, Defendant Menu Foods Income Fund in Streetsville, Ontario, Canada was served on July 13, 2007, and Defendant Menu Foods Holdings, Inc., a Delaware Corporation, was served on July 9, 2007, as provided in Exhibit "2" to the Declaration of Service filed on July 25, 2007.

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

DATED: HONOLULU, HAWAII, July 31, 2007


EMILY A. GARDNER

RETURN OF SERVICE

State of Hawaii

County of Honolulu

First Circuit Court

Case Number: 07-1-0848-05 SSM

Plaintiff:

Valerie Sylvester, et al.

vs.

Defendant:

Menu Foods, Inc., a New Jersey Corporation, et al.

For:

Case 1:07-cv-00409-ACK-KSC Document 17-4 Filed 08/26/2007 Page 7 of

Emily A. Gardner Attorney at Law, LLLC

Received by Nationwide Legal Support, Inc. to be served on Menu Foods Income Fund, 8 Falconer Drive, Streetsville, Ontario, CN L5N. I, Peter Hunt, do hereby affirm that on the 13th day of July, 2007 at 3:30 p.m., executed service by delivering a true copy of the First Amended Summons to Answer Civil Complaint; First Amended Complaint; Exhibit 1 to 3; First Amended Demand for Jury Trial; First Amended Summons to Answer Civil Complaint; in accordance with state statutes in the manner marked below:

() INDIVIDUAL SERVICE: Served the within-named person.

SUBSTITUTE SERVICE: By serving MARK WIENS as CHIEF FINANCIAL OFFICER OF MENU FOODS INCOME FUND.

() POSTED SERVICE: After attempting service on ___/___ at ___ and on ___/___ at ___ to a conspicuous place on the property described herein.

() Custodian of Records: By serving _____ as _____

() NON SERVICE: For the reason detailed in the Comments below.

COMMENTS: _____

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

I declare under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct. I am over the age of 18 and have no interest in the above action.


PROCESS SERVER # N/A
Appointed in accordance
with State Statutes

Nationwide Legal Support, Inc.
Dba Eleanor's Nationwide Legal Support
18226 Ventura Blvd., Suite 208
Tarzana, CA 91356
(818) 774-9757
Our Job Serial Number: 2007001151

EMILY A.GARDNER 6891
Attorney at Law
Dillingham Transportation Building
735 Bishop Street, Suite 402
Honolulu, Hawai'i 96813
Telephone: (808)-540-0200
Facsimile: (808)-540-0201
Email: eagardner@hawaii.rr.com

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

AUG 21 2007

at 3 o'clock and 00
SUE BEITIA CLERK

Attorney for Plaintiffs Case 1:07-cv-00409-ACK-KSC Document 17-4 Filed 08/26/2007 Page 8 of

IN THE UNITED STATES DISTRICT COURT CIRCUIT
FOR THE DISTRICT OF HAWAII

Valerie Sylvester, David Pang, Andrew Garcia,
Ruth Camargo, Chris Hubbard, Stacey Collins,
Randall Bandmann, Kelly Engle, Pam Gould and
Erik Coral-Sands

Plaintiffs,

v.

MENU FOODS, INC., a New Jersey Corporation;
MENU FOODS HOLDINGS, INC., a Delaware
Corporation, MENU FOODS INCOME FUND, an
unincorporated Canadian business; Doe Entities
and Individuals 1- 100,

Defendants.

Civil No. CV07-00409HGKSC
(Non-Vehicle Tort)

DECLARATION OF SERVICE;
EXHIBIT "1"

DECLARATION OF SERVICE

I, Emily A. Gardner, declare the following:

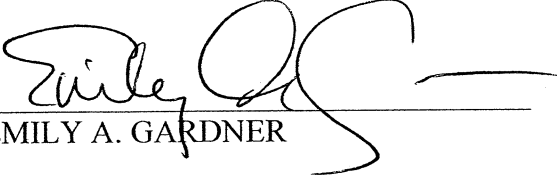
1. I, Emily A. Gardner, am the attorney for the Plaintiffs in the above-captioned matter.
2. I am an attorney licensed to practice law in all Courts of the State of Hawaii. I make this Declaration based upon my own personal knowledge of the matters set forth herein and am competent to testify thereto.

EXHIBIT 1

3. Attached hereto as Exhibit "1" is the original faxed copy return of service affirming that the First Amended Summons to Answer the Civil Complaint and First Amended Complaint was served upon Defendant Menu Foods, Inc., at 9130 Griffith Morgan Lane, Pennsauken, NJ, on August 1, 2007.

Case 1:07-cv-00409-ACK-KSC Document 17-4 Filed 08/26/2007 Page 9 of

DATED: AUGUST 21, 2007


EMILY A. GARDNER

RETURN OF SERVICE

State of Hawaii

County of Honolulu

First Circuit Court

Case Number: 07-1-0848-05 SSM

Plaintiff:

Valerie Sylvester, et al.

vs.

Defendant:

Menu Foods, Inc., a New Jersey Corporation, et al.

Case 1:07-cv-00409-ACK-KSC Document 17-4 Filed 08/26/2007 Page 10 of 10

For:

Emily A. Gardner Attorney at Law, LLLC
735 Bishop Street, Suite 402
Honolulu, HI 96813

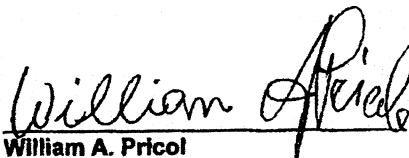
Received by Nationwide Legal Support, Inc. on the 5th day of July, 2007 at 1:58 pm to be served on **Menu Foods, Inc., 9130 Griffith Morgan Lane, Pennsauken, NJ 08118.**

I, William A. Pricol, do hereby affirm that on the **1st day of August, 2007 at 10:50 am, I:**

Served the within named company by delivering a true copy of the First Amended Summons to Answer Civil Complaint; First Amended Complaint; Exhibit 1 to 3; First Amended Demand for Jury Trial; First Amended Summons to Answer Civil Complaint; to Mary Hillman as Receptionist '

I certify that I am over the age of 18, have no interest in the above action, and am a Process Server, in good standing, in the judicial circuit in which the process was served.

I declare under penalty of perjury under the laws of the state in which the process was served that the foregoing is true and correct.



William A. Pricol
Process Server

Nationwide Legal Support, Inc.
Db a Eleanor's Nationwide Legal Support
18226 Ventura Blvd., Suite 208
Tarzana, CA 91356
(818) 774-9757
Our Job Serial Number: 2007001150

EXHIBIT 1