

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  
unicorporated Canadian business; Doe Entities  
and Individuals 1- 100,

Defendants.

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

DECLARATION OF EMILY A.  
GARDNER

DECLARATION OF EMILY A. GARDNER

I, Emily A. Gardner do hereby declare:

1. I am an attorney licensed to practice law in all courts in the State of Hawaii, am the attorney of record for all named Plaintiffs in the above-noted case and make the following statements based on my personal knowledge and am competent to testify thereto.
2. My office is located at suite 402 of the Dillingham Transportation Building, at 735 Bishop Street in Honolulu. Beginning on Monday, August 20, 2007, a strange chemical odor and/or fumes became quite noticeable among several tenants of the fourth floor of the building. Some people vomited from exposure to whatever the causative agent was, several experienced other physical symptoms

including sore throats, chest pains, headaches, difficulty breathing and an odd metallic taste in their mouths.

3. On or about Tuesday, August 21, 2007, the fumes became unbearable in my office and posed a significant distraction to work. I experienced an extreme amount of burning in my eyes and nasal passages, along with a terrible headache that persisted. I contacted the building management office immediately and was told they were “working on” resolving the problem.
4. On or about Wednesday, August 22, 2007, I attempted to work in my office, but found that the odors/vapors/causative agent was even stronger than the day before. I soon left, after finding my office uninhabitable. I contacted both building management and the Department of Health, Indoor Air Pollution office at this time. Later that evening, I became extremely nauseated and experienced difficulty breathing.
5. On or about Thursday, August 23, 2007, I went to see a doctor. After examining me the doctor told me that my nasal passages and airways appeared unusually irritated and swollen. The doctor drew a blood sample and prescribed a steroid spray to help keep my airways open so that I could breathe more comfortably. The doctor also cautioned me against further exposure to the causative agent and urged me not to return to the building for at least two days, or preferably not until the matter had been resolved.
6. On or about Friday, August 24, 2007, I asked my husband to go to my office and download several of my computer files onto a portable hard-drive and e-mail some documents to me so that I could work from home, which I did.

7. I filed both Plaintiffs' Motion for Remand and Plaintiffs' Opposition to Defendants' Motion to Stay, from our home computer on Sunday, August 26, 2007. I did my best to comply with the filing deadlines as set forth in Locale Rules 7.4 and 6.1 under the circumstances presented, which I could not have foreseen or prevented.
8. Attached hereto as Exhibit "1" is a true and correct copy of the note from the Dr. Marc Albertson, M.D., stating that I should not return to my building until after August 24, 2007.

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

DATED: HONOLULU, HAWAII, AUGUST 28, 2007.

/s/ Emily A. Gardner  
EMILY A. GARDNER