Monsour et al v. Menu Maker Foods Inc

Case 6:05-cv-01204-JTM Docu

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Exhibit O

AFFIDAVIT OF DENNIS LUTZ

- I, Dennis Lutz, assert the following under oath:
- 1. I have personal knowledge of the following information and the same is true and correct to the best of my belief.
- 2. I am a former employee of Menu Maker Foods, Inc. While employed at Menu Maker Foods, Inc. I was employed as a driver from February 2002 through August 2005.
- 3. The refrigerated trailers utilized by Menu Maker Foods, Inc. to transport produce between its Jefferson City's facility and Monsour's, Inc.'s Pittsburgh, Kansas facility were old, not well insulated and the actual reefer units would frequently quit working. In fact, many times we would have problems with the reefer units three times a week on a five day work week.
- 4. The refrigerated trailers had dual compartments. The freezer unit would be set anywhere between 0 to 5 degrees Fahrenheit. The refrigerated unit would be set at 38 degrees Fahrenheit.
- 5. Because of the poor condition of the refrigerated trailers, it was necessary for me to stop half way on my route to make certain the reefer units were still operating. Many times I would find that they were not.
- 6. I have personally observed the temperatures in the refrigerated trailers significantly lower and higher than the temperatures they were set at.
- 7. The temperature and mechanical problems with the refrigerated trailers were communicated to Menu Maker Foods, Inc. management.
- 8. The refrigerated trailers utilized by Menu Maker Foods, Inc. were not equipped with temperature alarms and did not have temperature logs that recorded the temperature fluctuations.

FURTHER AFFIANT SAYETH NAUGHT.

DEMINIS LUIZ

Date:

2-3-06