

JAN 5, 05

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MARK MONSOUR,
SHEILA MONSOUR
and MONSOUR'S, INC.)
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)
)
Plaintiffs,)
)
)
)
v.)
)
)
MENU MAKER FOODS, INC.,)
)
)
Defendant.)
_____)

Case No. 05-1204-MLB

PLAINTIFFS' INITIAL DISCLOSURES

COME NOW plaintiffs, by and through their attorneys of record, Dustin L. DeVaughn and Richard W. James of McDonald, Tinker, Skaer, Quinn and Herrington P.A., and make the following initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1).

A. WITNESSES

- 1) Mark Monsour
Former President/Owner Monsour's, Inc.
606 Victoria
Pittsburg, Kansas 66762

Mr. Monsour will testify regarding all negotiations with defendant regarding the Asset Purchase Agreement. He will also provide evidence as to produce and dry/frozen goods involved in the negotiation between the parties and all sales to defendant. Mr. Monsour will testify about the conduct of the defendant and the damages sustained by the plaintiffs.

- 2) Sheila Monsour
Owner Monsour's, Inc.
110 Kennedy
Frontenac, Kansas 66763

Ms. Monsour will testify regarding damages in this matter.



- 3) Dennis Hughes
P. O. Box 775
Willard, Missouri 65781

Mr. Hughes was an employee of Monsour's Inc. and has knowledge regarding the interaction between the two companies including the production of produce and its quality to Menu Maker Foods, Inc. Mr. Hughes has knowledge of the actions of Mr. Orr and his review of the produce.

- 4) Matthew J. Warford
1924 Fillmore Avenue, Apt. B
Norman, Oklahoma 73072

Mr. Warford was the buyer in frozen goods for Monsour's Inc. and has knowledge of Menu Maker Foods, Inc.'s evaluation of the goods prior to the Asset Purchase Agreement. He also has knowledge of the sale of goods between the two companies after the Asset Purchase Agreement and the amount of goods actually purchased by Menu Maker Foods, Inc.

- 5) Leroy Kruger
Monet, Missouri

Mr. Kruger is a retired USDA inspector who evaluated the produce that was being sent by Monsour's to Menu Maker Foods, Inc. in accordance with USDA standards and noted its quality. Mr. Kruger is also knowledgeable about produce that was returned by Menu Maker Foods, Inc. as allegedly defective goods.

- 6) Ed Fairchild
Current Address Unknown

Mr. Fairchild has knowledge regarding the trucks utilized and the transportation procedures of Menu Maker Foods, Inc.

- 7) Peter Monsour
Pittsburg, Kansas 66762

Mr. Monsour was an officer in Monsour's Inc. and will testify about its operation and the sales agreement.

- 8) Curtis Johnson
114 Kennedy Street
Frontenac, Kansas 66763

Mr. Johnson was a sales manager and has knowledge of the operation of Monsour's Inc. and the actions of defendant.

- 9) Kyle Robertson
1617 Clark Avenue
Parsons, Kansas 67357

Mr. Robertson was a sales person for Monsour's Inc.

- 10) Kelcy Hurst
710 W. Euclid Street
Pittsburg, Kansas 66762

Mr. Hurst was a sales person for Monsour's Inc.

- 11) Any other witnesses that may be called by defendant to testify.

B. CORRESPONDENCE AND DOCUMENTS

See attached itemization and document index attached to this pleading.

C. COMPUTATION OF DAMAGES

- 1) Plaintiffs assert a breach of contract related to the purchase of plaintiffs' inventory of dry and frozen goods for damages in the amount of \$725,000 plus pre- and post judgment interest, attorney fees and costs of this action.
- 2) Plaintiffs assert a breach of contract claim against defendant regarding the best efforts of defendant to assist Monsour's in the sale as outlined in the agreement in the amount of \$300,000 plus pre- and post judgment interest, attorney fees and costs of this action.
- 3) Plaintiffs assert a breach of contract for the sale of produce in the amount of \$2,687,360 plus pre- and post judgment interest, attorney fees and costs of this action.
- 4) Plaintiffs assert a breach of contract claim in regard to defendant's conduct in transporting the produce as outlined in a contract and damages in the amount of \$2,687,360 plus pre- and post judgment interest, attorney fees and costs of this action.

- 5) For plaintiffs' fraud claim against defendant, plaintiffs seek damages in the amount of \$3,712,360 plus pre- and post judgment interest, attorney fees and costs of this action.
- 6) Plaintiffs seek punitive damages in the amount of \$5,000,000.

D. INSURANCE INFORMATION

Not applicable.

Respectfully submitted,



Dustin L. DeVaughn, #16559

Richard W. James, #19822

Attorneys for Plaintiffs

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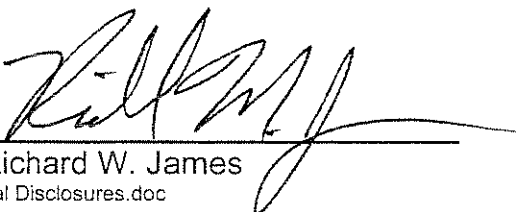
rjames@mtsgh.com

CERTIFICATE OF SERVICE

The undersigned certifies that on this 5th day of October, 2005, a true and correct copy of the above and foregoing was e-mailed and hand delivered on October 6, 2005

to:

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MONSOUR'S, INC. v. MENUMAKER FOODS, INC.

DOCUMENT INDEX

BATES NO.	DESCRIPTION OF DOCUMENT
9996-9999	Non-Disclosure Agreement dated 09/24/01
10000	Income Statement YTD With Projection
10001	Projected Balance Sheet for Years 2002 and 2003
10002-10003	Balance Sheet as of 12/29/01
10004	Statement of Operations for 11/25/01-12/29/01
10005-10006	MenuMaker Price Comparison
10007-10019	Asset Purchase Agreement
10020-10022	Agreement
10023-10030	Non-Competition Agreement
10031-10042	Estimated Purchases (By Week) for MenuMaker from Monsours
10043-10050	MenuMaker Produce Purchases from 2/12/02 to 03/25/02 prepared by Peter Monsour III
10051-10053	Handwritten notes dated 03/25/02
10054-10059	Handwritten notes by Mark Monsour dated 03/11/02 to 03/22/02
10060-10061	Handwritten notes by USDA Inspector 03/24/02
10062-10063	Handwritten notes by Dennis Hughes dated 03/26/02
10064	Notes by Matt Warford dated 03/26/02
10065	Proforma Statement dated March 2002
10066-10070	Handwritten notes by USDA Inspector dated 03/27/02
10071-10073	Customer Usage Report for MenuMaker Produce
10074	Letter by USDA Inspector Leland Krueger dated 04/03/02
10075	Action of Director of MenuMaker Foods, Inc.
10076	Certification of MenuMaker Foods, Inc.
10077	Monsour's Inc - MenuMaker Foods, Inc. List of Current Jobbers
10078-10082	Non-Competition Agreement Map of Applicable Territories
10083-10084	Food Service Inventory as of 01/14/02 (\$1,109,219.09)
10085-10142	Food Service Goods Purchased by MenuMaker Foods
10143-10145	Certified Copy of Resolution (executed copy)
10146-10158	Asset Purchase Agreement (executed copy)
10159-10164	Lease
10165-10181	Asset Purchase Agreement
10182-10184	Non-Competition Agreement (original-executed)
10185-10187	Non-Competition agreement (original-executed)
10188-10192	Lease (original-executed)
10193-10195	Non-Competition Agreement
10196-10198	Agreement (executed copy)
10199	Letter to Mark Monsour from Tom Yoakam (copy)
10200-10202	Letters & receipt from Secretary of State (original)
10203-10209	Notes

10210	Copy of Secretary of State letter
10211	Letter to Kansas Dept. of Revenue from Mark Monsour
10212-10214	Information from internet
10215-10216	ST-36 Kansas Retailers' Sales Tax Return
10217-10220	Monsour's, Inc. Waiver of Notice & Consent to Holding (original-executed)
10221-10269	Accts Rec. 4-11-02
10270-10271	Bank of America letter to Monsour
10272-10273	Accounts Receivable
10274-10280	Statement of Operations
10281-10302	Accts Pay 4-11-02
10303	Monsour's Inc. 4-11-02 Produce Accts Payable
10304-10306	Monsour's Inc. Statement of Operations
10307-10317	Stmt of Operations up to 11-24-01
10318-10371	Monsour's accts payable aged trial balance
10372-10381	Income from Lease of Bldg.
10382-10384	Monsour Invoice
10385-10389	Phone contact lists for Monsour & MenuMaker
10390-10437	Credit given to MenuMaker
10438-10439	Notes on purchase
10440-10473	Salesman Recap
10474-10625	Invoices
10626-10650	Stock Status Report
10651-10665	Fax from MenuMaker to Monsour 2/7/02
10666-10676	"MenuMaker Foods to Help Monsours Sell"
10677	Notes
10678-10742	Inventory Valuation *1 4/10/02
10743-10774	MenuMaker's Dry Foods Inventory as of 3/26/02
10775-10887	Stock Status Report 4/14/02
10888-10962	Monsour Invoices from 2/11/02 – 4/4/02
10963	Memo 4/18/00 from Gene Fields
10964	Notes
10965	Inspection tape (will be made available for viewing at plaintiff's counsel's office)
10966-11076	Photos
11077-11087	Folder of Graves MenuMaker Business Building Plan 2002
11088-11102	Salesman Open Item Accounts Receivable Trial Balance
11103-11107	Order Change Audit Report
11108-11119	Monsour Reports
11120-11228	Inventory Transactions
11229-11233	Accounts Receivable Summary Trial Balance
11234-11282	Salesman Accounts Receivable
11283-11467	Salesman Accounts Receivable
11468-11555	Financial Statements 1/26/2002 – 5/25/2002
11556-11746	Financial Statements 2001-5/2002