

IN UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

MARK MONSOUR, SHEILA MONSOUR and MONSOUR'S, INC.	)	
	)	
	)	
Plaintiffs,	)	Case No. 05-1204-MLB
	)	
v.	)	
	)	
MENU MAKER FOODS, INC.,	)	
	)	
Defendant.	)	

**MOTION TO DISMISS WITHOUT PREJUDICE COUNTS V AND VI**

COME NOW the plaintiffs Mark and Sheila Monsour and Monsour's Inc., by and through their attorney of record, Dustin L. DeVaughn and Richard W. James of McDonald, Tinker, Skaer, Quinn and Herrington P.A., and moves this court for an Order, pursuant to Fed. R. Civ. P. 41, dismissing without prejudice plaintiffs' claims for fraud and punitive damages (Counts V and VI). In support, plaintiffs incorporate by reference their Memorandum in Support of Motion to Dismiss Without Prejudice.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 12<sup>th</sup> day of December, 2005, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

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