

Issued by the
UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

MARK MONSOUR, SHEILA MONSOUR, AND MONSOUR'S INC.

SUBPOENA IN A CIVIL CASE

v.

CASE NUMBER: 05-1204-MLB

MENU MAKER FOODS, INC.

TO: Mid Missouri Thermo King
11085 0o Highway
Boonville, Missouri 65233

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

Table with 2 columns: PLACE OF TESTIMONY, COURTROOM, DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

Table with 2 columns: PLACE OF DEPOSITION, DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects (list documents or objects): any and all records, reports, notes, statements, photographs, memoranda, and all other writings, including but not limited to: statements, notes, estimates, invoices, repair reports correspondence between the two parties, billing, aging reports, financial records, together with all records and writings in the custody and control of Mid Missouri Thermo King or any other person or entity in connection with the repair or replacement of any piece of equipment including but not limited to the refrigeration units, reefers, coolers and produce storing devices in connection with Menu Maker Foods, Inc. from 2000-present.

Table with 2 columns: PLACE (Richard W. James, S.C. #19822, McDonald Tinker Skaer Quinn and Herrington PA, 300 W. Douglas, Suite 500, Wichita, Kansas 67202), DATE AND TIME (February 6, 2006)

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

Table with 2 columns: PREMISES, DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

Table with 2 columns: ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) (Richard W. James, Attorney for Plaintiffs), DATE (January 23, 2006)

Table with 1 column: ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER (Richard W. James (#19822) McDonald, Tinker, Skaer, Quinn & Herrington, P.A., 300 W. Douglas, Suite 500, Wichita, KS 67202-2909 (316) 263-5851)

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

1 If action is pending in district other than district of issuance, state district under case number.

AO88 (Rev. 1/94) S

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

SERVED

1. Article Addressed to:

SERVED ON (PRI)

SERVED BY (PRI)

Mid Missouri  
Thermo King  
11085 Dd Highway  
Bonville, Missouri  
65233

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X *[Signature]*  Agent  Addressee  
 B. Received by (Printed Name)  
 C. Date of Delivery  
 1-26-06

D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

I declare in the Proof of 7005 1160 0004 1402 3116  
 PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Executed on 2-3-06  
 DATE

*[Signature]*  
 SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to comply production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance,
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend

trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in who behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the mmmdemanding party to contest the claim.