UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY (NEWARK VICINAGE)

CIVIL ACTION NO.: 06-CV-688 (DMC)

DEBORAH FELLNER,)
Individually and on Behalf of Those) CERTIFICATION OF KENNETH A.
Similarly Situated,) SCHOEN IN SUPPORT OF
) DEFENDANT'S MOTION
Plaintiffs,) REQUESTING JUDICIAL NOTICE
v.)
)
TRI-UNION SEAFOODS, L.L.C.,)
d/b/a CHICKEN OF THE SEA,)
)
Defendant.)
)

- I, Kenneth A. Schoen, hereby certify as follows:
- 1. I am an attorney admitted to practice law in the state and federal courts of New Jersey and a partner with the law firm of Bonner Kiernan Trebach & Crociata, LLP, counsel for defendant Tri-Union Seafoods, L.L.C. d/b/a/ Chicken of the Sea ("Defendant"), in the above-captioned matter. I am fully familiar with the factual and procedural history of this case.
- 2. I submit this certification in support of Defendant's Motion Requesting Judicial Notice in Support of Its Motion to Dismiss Plaintiff's Complaint and Motion to Dismiss Plaintiff's Class Action Allegations (hereinafter "Motion").
- 3. Because of the nature of this Motion seeking judicial notice of documents and facts that are integral to resolving the pending motions to dismiss, and because the documents are publicly available, it is submitted that no brief is necessary pursuant to L. Civ. R. 7.1(d)(4) to further the request for said judicial notice. Indeed, citations to applicable case law permitting judicial notice are listed in the footnotes to the motion submitted.

4. Annexed to the Motion as Exhibit "A" is a true and accurate copy of the publicly

available document: "What You Need to Know About Mercury in Fish and Shellfish," published

by the United States Department of Health and Human Services and the United States

Environmental Protection Agency.

5. Annexed to the Motion as Exhibit "B" is a true and accurate copy of the publicly

available document: "Backgrounder for the 2004 FDA/EPA Consumer Advisory: What You

Need to Know About Mercury in Fish and Shellfish," published by the United States Department

of Health and Human Services and the United States Environmental Protection Agency."

6. Annexed to the Motion as Exhibit "C" is a true and accurate copy of the publicly

available Letter from Lester M. Crawford, D.V.M., Ph.D., United States Commissioner of Food

and Drugs, to Bill Lockyer, Attorney General of the State of California, dated August 12, 2005,

re: a suit filed on June 21, 2004 in San Francisco Superior Court.

7. Annexed to the Motion as Exhibit "D" is a true and accurate copy of Section

540.600 of the Federal Food and Drug Administration's Compliance Policy Guide.

I certify that the foregoing statements made by me are true and I am aware that if any of

the foregoing statements made by me are willfully false, I am subject to punishment.

/s/ Kenneth A. Schoen

Kenneth A. Schoen

Dated: March 9, 2006

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