

PLAINTIFFS' PRESS RELEASE ON SETTLEMENT OF McDONALD'S TRANS FAT LITIGATION

February 11, 2005

This statement is made by Stephen L. Joseph. He is the founder and President of BanTransFats.com and the attorney for Plaintiff BanTransFats.com in its representative action against McDonald's for injunctive relief. He is also the attorney for Plaintiff Katherine Fettke in the separate class action against McDonald's for damages.

About partially hydrogenated oils

Partial hydrogenation is an industrial process that changes the molecular configuration and properties of oils used for baking and frying and other purposes. Partial hydrogenation creates trans fatty acids ("trans fats") in the oil. This is by far the most dangerous type of fat. We need to eliminate partially hydrogenated oils from our food supply as soon as possible.

Denmark has effectively imposed a ban. Oils and fats are forbidden on the Danish market if they contain more than 2% trans fat.

Canada is now moving towards a ban. In November 2004, the Canadian House of Commons, in a bipartisan vote, passed a motion calling on the Government of Canada "to enact regulation, or if necessary present legislation that effectively eliminates processed trans fats, by limiting the processed trans fat content of any food product sold in Canada to the lowest level possible." In response, the Government of Canada announced that it was establishing a task force to develop "recommendations for both an appropriate regulatory framework and for the introduction and widespread use of healthy alternatives to achieve the objective of limiting trans fat content in foods sold in Canada to the lowest levels possible."

In January 2005, the U.S. Department of Agriculture and the U.S. Department of Health and Human Services (HHS) issued the *Dietary Guidelines for Americans 2005*. The *Dietary Guidelines* include the following recommendation:

Consume 10 percent of calories from saturated fatty acids and less than 300 mg/day of cholesterol, and keep trans fatty acid consumption as low as possible.

The *Dietary Guidelines* also contain the following strong message to the food industry:

Because trans fatty acids produced in the partial hydrogenation of vegetable oils account for more than 80 percent of total intake, the food industry has an important role in decreasing trans fatty acid content of the food supply.

Tommy Thompson, the Secretary of HHS, said at a news conference on the *Dietary Guidelines* that the U.S. Food and Drug Administration may recommend that daily intake of trans fat be less than 2 grams, perhaps less than 1 gram. In effect, that would mean totally avoiding any food containing partially hydrogenated oils.

BanTransFats.com strongly supports the Bush Administration's message about the danger of trans fat and the absolute need to remove partially hydrogenated oils from the food supply.

The lawsuits against McDonald's

McDonald's announced in September 2002 that it was voluntarily changing to a cooking oil with less trans fat and that the change would be completed by February 2003. However, McDonald's encountered operational issues and the oil was not changed. Plaintiffs claimed in the lawsuits that McDonald's did not take sufficient steps to inform the public that it had not changed the oil.

While there is a difference of opinion regarding whether McDonald's gave effective notice to its customers that the oil was not changed, McDonald's deserves recognition and credit for having achieved a reduction in the trans fat levels in its chicken products and for working diligently over the last two years to test additional cooking oils. Hopefully, McDonald's will be successful soon in replacing its cooking oil with a trans fat-free alternative.

Terms of the settlement

The settlement requires McDonald's to give effective notice to the public that the oil was not changed. This was the goal of the lawsuit filed by BanTransFats.com, which is being fully achieved through this settlement.

Pursuant to the class action, McDonald's will donate \$7 million to the American Heart Association, to be used exclusively for any or all of the following activities based on the Association's judgment as to the most effective use of the funds:

- A. Public education regarding trans fat.
- B. Encouraging substitution of partially hydrogenated oils by the food industry.
- C. Holding conferences on health issues associated with trans fat and the substitution of partially hydrogenated oils.
- D. Other activities regarding the impact of trans fat on public health.

McDonald's is also required to spend up to \$1.5 million on publishing notices to ensure that the public knows the status of its trans fat initiative. If the cost of publishing the

notices is less than \$1.5 million, the difference will be donated to the American Heart Association.

McDonald's will pay \$7,500 to BanTransFats.com, and \$7,500 to Plaintiff Katherine Fettke which she is donating to charity.

McDonald's will pay legal fees, costs and expenses to Plaintiffs' counsel, in an amount to be determined by the court, which will be separate from and in addition to the \$7 million donation to the American Heart Association and the \$1.5 million to notify McDonald's customers about the delay.

The California Superior Court for Marin County has entered an order preliminarily approving the settlement. A notice of class action settlement will be published nationwide and a settlement website will be created to provide information to members of the class.

Changing the cooking oils used in restaurants

This settlement should focus media and consumer attention on the issue of partially hydrogenated cooking oils used in many restaurants, not just McDonald's. Restaurants and other food service establishments account for about 38% of the fats in our food supply.

All restaurants using partially hydrogenated cooking oil should switch to non-partially hydrogenated oil at the earliest possible time. Independent restaurant owners or managers should ask their foodservice distributor to supply trans fat-free cooking oil.

BanTransFats.com made Tiburon in California America's "First Trans Fat-Free City." All of the restaurants in Tiburon now use trans fat-free cooking oils. There are green heart stickers on the windows of the restaurants telling customers that the cooking oil is trans fat-free. None of the restaurants experienced any problems making the change. This should serve as an example to the entire restaurant industry.

Finally, a word to consumers: when eating out, always ask whether the cooking oil that is used in the restaurant is "partially hydrogenated."

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