

APRIL 29, 2014

US Foods, Inc. dba US Foods -- Rosemont, IL --

Class action against US Foods to move forward

The U.S. Supreme Court entered a ruling April 28 denying US Foods Inc's request to halt a class action lawsuit alleging the company violated the Racketeering Influenced and Corrupt Organizations (RICO) Act by fraudulently inflating prices on food products sold to over 75,000 customers throughout the United States.

The lawsuit against US Foods was originally filed in 2006 by a Connecticut-based hospital, however, over time additional parties joined the suit.

In November, 2011, the U.S. District Court for the District of Connecticut entered a ruling granting class action status in the case, however, US Foods filed an appeal on that ruling in 2012 in the Second Circuit Court of Appeals. In August, 2013 the appeals court entered a judgment agreeing with the district court's decision, leading US Foods to file its case with the U.S. Supreme Court this past January.

The lawsuit, which will now move forward in the U.S. District Court for the District of Connecticut, alleges a scheme to defraud whereby US Foods falsely inflated the prices it charged to its cost-plus customers since at least 1998 through the use of shell companies, sham transactions and phony invoices. The law suit alleges US Foods implemented its scheme on a nationwide scale, effectively stealing hundreds of millions of dollars from innocent customers across the country, including thousands of hospitals and restaurants.

Specifically, the litigation alleges US Foods was able to falsely inflate the cost component of the prices charged to its customers by operating and controlling companies called "value added service providers" and conspiring with the owners of those companies. The suit alleges the value added service providers companies pretended to buy and then re-sell food to US Foods at a higher invoice cost and to provide US Foods with fraudulent invoices.

According to the suit, US Foods used the fraudulent invoices to falsely inflate the cost component of the price charged to its costplus customers. The lawsuit alleges that as part of the operation of the fraudulent invoices system, after receiving payment from US Foods, the value added service providers companies would secretly kick back this falsely inflated amount.

The litigation filed conveys that over a period of several years, US Foods and others used the value added service providers companies to purchase almost \$8.5 billion in products and overcharge US Foods' cost-plus customers. The class action suit seeks an order directing US Foods to pay treble the amount of damages suffered by the plaintiffs. (#392089)