

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

**PENELOPE BAIM BLOCK, BRIJ M.  
SHARMA, CHARANJIT SINGH,  
LISA M. BERTINI, VANDANA  
MAKKER, BALA M. KRISHNA,  
TY C. GERHARDT, and JEFFREY  
ZIMMERMAN, et al.,**

Plaintiffs,

v.

**McDONALD'S CORPORATION,**

Defendant.

01 CH 9137

Judge Richard Siebel

CLASS ACTION

**DECLARATION OF MARK ALAN  
EPSTEIN IN OPPOSITION TO THE  
RECOMMENDED ALLOCATION OF  
CY PRES FUNDS.**

I, MARK ALAN EPSTEIN, declare the following to be true:

I am a resident of Chicago, Illinois, and although I support the settlement terms described by McDonald's Corporation in the above-captioned action, I **strongly object** to the "RECOMMENDED ALLOCATION OF THE *CY PRES* FUNDS" attached to the DECLARATION OF CORY FEIN dated September 24, 2002, which outlines the proposed disbursement of the \$10 million fund. McDonald's Corporation prepared this recommended allocation with the assistance of various people, such as Cory Fein. Mr. Fein is an attorney who claims to represent the interests of the Plaintiff class, however it is clear from his declaration that he is NOT doing that, but rather representing the interests of McDonald's corporation. In the following paragraphs, I will refer to this recommended allocation as the "MCDONALD'S RECOMMENDED ALLOCATION".

I have been a vegetarian my entire life (born 1964). Both my maternal and paternal grandparents adopted a vegetarian lifestyle in the 1930s. My parents have been

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ALLOCATION OF *CY PRES* FUNDS.

vegetarians their entire lives, and my sisters and their children are all vegetarians as well. The reason a vegetarian diet has been adopted so thoroughly in my family stems primarily from the health benefits of plant-based foods.

Although my formal education is in the fields of mathematics and computer science (BS, MS, University of Chicago), I have become very active in non-profit work related to vegetarian nutrition and the environment. I serve on the Boards of the American Natural Hygiene Society, Inc. (d/b/a the National Health Association [NHA]), EarthSave International, Inc.[ESI], and Sustain, Inc.

I am the President of the Board of the NHA, a 501(c)(3) non-profit membership health organization founded in 1948. The mission of the NHA is to communicate the scientifically based health benefits of a plant-based diet. The NHA sponsors educational seminars and conferences, produces a quarterly magazine and newsletter, and publishes and distributes educational books on the values of vegetarianism. The NHA has members in all 50 states, some of who have been members for the 54 years since the organization's founding.

I am the Treasurer of the Board of ESI, a 501(c)(3) non-profit membership organization which was founded in the late 1980s to educate the public on the relationship between their food choices and their health, the environment, and animal suffering. ESI began as a result of the enormous interest in John Robbins' book *Diet for a New America*. ESI works through its numerous local chapters all over the country to directly educate individuals on the importance of shifting towards a vegetarian diet. Through exhaustive research and documentation, John Robbins' recent book *The Food Revolution* has become a central resource for all vegetarian advocates.

I also serve on the Board of Sustain, a 501(c)(3) non-profit communications firm that very successfully works with non-profits all over the country in assisting them with their communications needs. Unlike the NHA and ESI, Sustain is not directly a non-

profit vegetarian organization; nevertheless, my role with Sustain has helped to keep me informed with the work of numerous non-profit organizations working in the areas of environmental sustainability. As you may be aware, there are numerous environmental benefits that are a direct result of people choosing a vegetarian diet, in addition to the individual health benefits they will experience.

After reviewing the MCDONALD'S RECOMMENDED ALLOCATION, I am strongly disturbed that some major vegetarian organizations, such as the NHA and ESI, were not recommended to receive any of the *Cy Pres* funds. There are many excellent organizations working to educate the public on the various benefits of a vegetarian diet, and it is my understanding that the purpose of the settlement in this class action is to provide a meaningful amount of funding for those organizations to extend their work. To fully serve the class plaintiffs, the goal should be to put these *Cy Pres* funds to the widest benefit of the entire class. Thus, limiting the distribution to a small number of organizations is contrary to the spirit of the settlement. Additionally, the organizations receiving monies should have a clear alliance with the plaintiff class and should be effective at reaching the largest number of people with their vegetarian information. The MCDONALD'S RECOMMENDED ALLOCATION fails on both of these points.

In my role of Board service for several important vegetarian organizations, I have become widely familiar with the non-profit groups that work in this area. I have traveled to many conferences and seminars, read large numbers of publications and educational materials, and researched extensively on the Internet. I have been very well informed on many vegetarian issues my entire life, and have taken an active role in understanding the scope of the non-profit vegetarian community since I joined the Board of the NHA in 1994. As an aside, my mother served on the Board of the NHA in the 1960s, and this too has added to my overall viewpoint of the various non-profit vegetarian organizations.

In the MCDONALD'S RECOMMENDED ALLOCATION for the \$6 million of the settlement monies directed to go to the benefit of vegetarian organizations, merely 12 groups have been included. Given my understanding of the universe of non-profit vegetarian groups, I can assure you that this is neither a representative selection based upon the type of work being done nor an effective selection based upon the quality of work being done. Some of the groups included do good work, however this is most definitely NOT the case for the entire list, nor are the amounts of money recommended a reasonable reflection of the caliber or effectiveness of the work performed. A central imperative in this allocation should be that the organizations that receive funding should work towards the benefit of the wide range and diversity of the full plaintiff class. This characteristic is absent from the MCDONALD'S RECOMMENDED ALLOCATION.

It appears clear to me that McDonald's Corporation implemented an unfair and biased strategy in determining the MCDONALD'S RECOMMENDED ALLOCATION. Information was neither solicited in a uniform manner from all the candidate vegetarian groups nor was a uniform selection criteria applied among those organizations from which information was received. For instance, upon reading the MCDONALD'S RECOMMENDED ALLOCATION which was attached to the declaration of Cory Fein, the NHA inquired as to the reason Mr. Fein believed the NHA was excluded from receiving any of the *Cy Pres* funds. Mr. Fein curtly replied, "Obviously, we have a limited amount of money to work with and cannot include every worthy group that contacts us." He provided no objective mechanism that was utilized to support the exclusion of the NHA, an organization whose history of work in the vegetarian movement establishes itself as a much better candidate recipient than many included in the MCDONALD'S RECOMMENDED ALLOCATION.

Based upon my unique role within the vegetarian non-profit community, I can state clearly that the MCDONALD'S RECOMMENDED ALLOCATION does NOT

fairly serve the interests of the plaintiff class, the class that was damaged by McDonald's and brought forward this complaint, the class whose interests this McDonald's settlement has an obligation to serve. As such, I request that the Court take control of the \$10 million *Cy Pres* fund and appoint an independent group to handle the distribution of these monies. In the management of such distribution, I request that the Court make every reasonable effort to make certain that each candidate non-profit vegetarian organization is given an equal opportunity to submit a proposal to receive a portion of such funds. Additionally, the independent group administering the allocations should be required to transparently and openly communicate the reasons that lead to their recommendation.

In the event that the Court prefers to coordinate distribution of the *Cy Pres* funds directly, I would respectfully propose that the Court allocate the \$6 million of *Cy Pres* funds earmarked for "vegetarian organizations" pursuant to EXHIBIT A, attached hereto, which lists a number of qualified vegetarian organizations and outlines an allocation that would be fair, reasonable, adequate, and equitable to the vast majority of class members.

I declare under penalty of perjury under the laws of the State of Illinois, that the foregoing is true and correct to the best of my knowledge.

Respectfully submitted in Chicago, Illinois on this 28th day of October 2002.

MARK ALAN EPSTEIN

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**EXHIBIT A**

**Proposed re-allocation of Cy Pres funds:**

**Vegetarian Organizations: \$6,000,000**

Vegetarian Resource Group	\$ 200,000
ADAF	\$ 0
Preventive Medicine Research Institute	\$ 500,000
North American Vegetarian Society	\$ 150,000
Vegetarian Vision, Inc.	\$ 0
The American Vegan Society	\$ 100,000
Loma Linda University	\$ 0
Tufts University	\$ 0
UNC, Chapel Hill, Dept. of Nutrition	\$ 0
Muslim Consumer Group for Food Products	\$ 0
IFANCA	\$ 0
Sound Vision Foundation	\$ 0
National Health Association	\$ 800,000
Program for Lifetime Nutrition at Cornell University	\$ 800,000
EarthSave International	\$ 800,000
Farm Animal Reform Movement	\$ 500,000
Physicians Committee for Responsible Medicine	\$ 500,000
Institute of Nutrition Education and Research	\$ 500,000
Youth for Environmental Sanity	\$ 450,000
PETA	\$ 200,000
Vegan Outreach	\$ 200,000
Vegan Action	\$ 200,000
Nailith Foundation – Grassroots Veganism/Stepaniak program	\$ 50,000
Nailith Foundation -- Maimonides Hunger Project	\$ 50,000

**EXHIBIT A**