

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,)	
)	
<i>Plaintiff,</i>)	
)	Civil Action No.1:03-CV-00434 (HHK)
v.)	
)	
SMITHFIELD FOODS, INC.,)	
)	
<i>Defendant.</i>)	

DECLARATION OF MICHAEL J. FORQUER
(28 U.S.C. § 1746)

I, Michael J. Forquer, under penalties of perjury, state:

1. I am over the age of eighteen and fully competent to testify to the facts in this declaration. Except where otherwise noted, this declaration is based on my personal knowledge.
2. I am a paralegal in the Antitrust Division of the United States Department of Justice and have held this position since March 1978.
3. On March 31, 2003, I went to the Safeway Food & Drug located at 1747 Columbia Road, Northwest; Washington, DC 20009. During this visit, I saw the following products on the shelves:
 - a. Smithfield by Luter Lard; Smithfield Packing Co., Inc., Smithfield, VA 23430;
 - b. Smithfield by Luter Manteca; Smithfield Packing Co., Inc., Smithfield, VA 23430.
 - c. Premium Smithfield Ham Sausage; Smithfield Packing Co., Smithfield, VA 23430;
 - d. Premium Smithfield Bacon, Center Cut 40% Lower Fat Bacon; Smithfield Packing Co., Smithfield, VA 23430;

- e. Premium Smithfield Cold Cuts 97% Fat Free Cooked Ham; Smithfield Packing Co., Smithfield, VA 2430;
- f. Premium Smithfield Cold Cuts 97% Fat Free Honey Ham; Smithfield Packing Co.; Smithfield, VA 23430;
- g. Smithfield Premium Bacon Naturally Hickory Smoked Maple Flavored Bacon; Smithfield Packing Co., Smithfield, VA 23430;
- h. Smithfield Premium Bacon Naturally Hickory Smoked Thick Sliced Bacon; Smithfield Packing Co., Smithfield, VA 23430;
- i. Premium Smithfield Deli Cooked Ham; Smithfield Packing Co., Smithfield, VA 23430;
- j. Smithfield Wursthaus German Brand Bologna; Smithfield Packing Co., Smithfield, VA 23430;
- k. Premium Smithfield Deli Canadian Brand Maple Ham; Smithfield Packing Co., Smithfield, VA 23430;
- l. Premium Smithfield Pork Chef's Prime Roast, Tender 'n Easy; Smithfield Packing Co., Smithfield, VA 23430;
- m. Premium Smithfield Smoked Chops Smoked Boneless Pork Chops; Smithfield Packing Co., Smithfield, VA 23430;
- n. Premium Smithfield Pork - Pork Shoulder Picnic; Smithfield Packing Co.;
- o. Premium Smithfield Pork - Pork Neckbones; Smithfield Packing Co., Smithfield, VA 23430;
- p. Premium Smithfield Pork - Pork Feet Split; Smithfield Packing Co., Smithfield, VA 23430;
- q. Premium Smithfield Pork - Pork Feet; Smithfield Packing Co., Smithfield, VA 23430;
- r. Premium Smithfield Pork Sliced Pork Fat Back; Smithfield Packing Co., Inc., Smithfield, VA 23430;
- s. Premium Smithfield Pork - Pork Fat Back; Smithfield Packing Co., Inc., Smithfield, VA 23430, a subsidiary of Smithfield Foods, Inc.;

- t. Premium Smithfield Pork Smoked Pork Neckbones; Smithfield Packing Co., Smithfield, VA 23430;
- u. Premium Smithfield Pork Smoke Pork Hocks; Smithfield Packing Co., Smithfield, VA 23430;
- v. Premium Smithfield Turkey Smoked Turkey Necks; Smithfield Packing Co., Smithfield, VA 23430;
- w. Premium Smithfield Turkey Smoked Turkey Wings; Smithfield Packing Co., Smithfield, VA 23430;
- x. Premium Smithfield Smoked Chops; Smithfield Packing Co., Smithfield, VA 23430;
- y. Premium Smithfield Ham Center Slice Hardwood Smoked; Smithfield Packing Co., Smithfield, VA 23430;
- z. Premium Smithfield Pork Smoked Sliced Peppered Country Cured Pork Jowls; Smithfield Ham and Products Co., Smithfield, VA 23430;
- aa. Premium Smithfield Ham Half Ham Hardwood Smoked; Smithfield Packing Co., Smithfield, VA 23430;
- bb. Premium Smithfield Ham Hickory Smoked Boneless Ham; Smithfield Packing Co., Smithfield, VA 23430, www.smithfield.com;
- cc. Premium Smithfield Ham Boneless Sliced Honey Glazed Smoked Ham; Smithfield Packing Co., Smithfield, VA 23430;
- dd. Jamestown Brand Sliced Bacon, Hardwood Smoked; Smithfield Packing Co., Smithfield, VA 23430;
- ee. Gwaltney Great Dogs Chicken Franks, 3 pound pack; Gwaltney, Smithfield, VA 23430;
- ff. Gwaltney Great Dogs Chicken Franks, 1 pound pack; Gwaltney, Smithfield, VA 23430;
- gg. Gwaltney Beef Bacon; Gwaltney, Smithfield, VA 23431;
- hh. Gwaltney Hardwood Smoked Premium Sliced Bacon; Gwaltney, Smithfield, VA 23430;

- ii. Gwaltney Brown Sugar Virginia Cured Bacon; Gwaltney of Smithfield, Ltd., Smithfield, VA 23431;
 - jj. Basse's Choice Honey Cured Smoked Tavern Ham by Gwaltney; Basse's Choice Plantation Ltd.
 - kk. Gwaltney Mild Smoked Sausage (Bun length); Gwaltney, Smithfield, VA 23430;
 - ll. Gwaltney Hot n' Spicy Smoked Sausage (Bun length); Gwaltney, Smithfield, VA 23430;
 - mm. Esskay Sliced Bacon; Esskay, Inc. Baltimore, MD 21204;
 - nn. Esskay Fat Free, Lower Sodium Silver Label Ham; Esskay, Inc., Baltimore, MD 21204;
 - oo. Esskay Barbecue Sauce Loaf; Esskay, Inc., Baltimore, MD 21204;
 - pp. Esskay Beef Bologna; Esskay, Inc., Baltimore, MD 21204;
 - qq. Esskay Cooked Pork Chitterlings with sauce; Distributed by Esskay, Inc. 21204;
 - rr. Oriole Esskay Franks; Esskay, Inc., Baltimore, MD 21204;
 - ss. Redskin Beef Franks; Esskay, Inc., Baltimore, MD 21204;
 - tt. Esskay Chipped Beef; Esskay, Inc., Baltimore, MD 21204;
 - uu. Esskay Low Sodium Chipped Beef; Esskay, Inc., Baltimore, MD 21204;
4. On March 31, 2003, at 1747 Columbia Road, Northwest; Washington, DC 20009, I picked up the Safeway weekly advertisement circular for March 26 through April 1, 2003, attached hereto as Exhibit 1; Smithfield Seasoned Pork Loin Roast Peppercorn, Italian Garlic and Herb and Southwest Roast; Esskay Oriole Meat Franks; and Jamestown Sliced Bacon are advertised therein.
5. On March 31, 2003, I went to the Metro K IGA located at 1864 Columbia Road, Northwest; Washington, DC 20009. During this visit, I saw the following products on the shelves:
- a. Premium Smithfield Bacon Naturally Hickory Smoked, No Sugar Added, 25% Lower Sodium Bacon; The Smithfield Packing Co., Smithfield, VA 23430;

- b. Premium Smithfield Bacon Naturally Hickory Smoked Brown Sugar Cured Bacon; The Smithfield Packing Co., Smithfield, VA 23430;
 - c. Gwaltney Great Bolony Chicken Bologna; Gwaltney, Smithfield, VA 23430;
 - d. Gwaltney Great Sausage Fresh Pork Sausage Mild; Gwaltney, Smithfield, VA 23430;
 - e. Gwaltney Great Dogs Turkey Frankfurters; Gwaltney, Smithfield, VA 23430;
 - f. Gwaltney Great Dogs Chicken Franks; Gwaltney, Smithfield, VA 23430.
6. On March 31, 2003, I went to the Giant Food Inc. located at 4303 Connecticut Avenue, Northwest; Washington, DC 20008. During this visit, I saw the following products on the shelves:
- a. Smithfield by Luter Pork Sausage Mild; Smithfield Packing Co., Smithfield, VA 23430;
 - b. Smithfield by Luter Pork Sausage Hot; Smithfield Packing Co., Smithfield, VA 23430;
 - c. Premium Smithfield Hot Dogs Jumbo Beef Hot Dogs; Smithfield Packing Co., Smithfield, VA 23430;
 - d. Premium Smithfield Cold Cuts 97% Fat Free Honey Ham; Smithfield Packing Co., Smithfield, VA 23430;
 - e. Premium Smithfield Cold Cuts 96% Fat Free Oven Roasted Turkey Breast; Smithfield Packing Co., Smithfield, VA 23430;
 - f. Premium Smithfield Cold Cuts 97% Cooked Ham; Smithfield Packing Co., Smithfield, VA 23430;
 - g. Premium Smithfield Bacon Cracked Peppercorn; Smithfield Packing Co., Smithfield, VA 23430;
 - h. Premium Smithfield Bacon Maple Flavored Sliced Bacon; Smithfield Packing Co., Smithfield, VA 23430;
 - i. Premium Smithfield Bacon Naturally Hickory Smoked Bacon 25% Lower Sodium Bacon; Smithfield Packing Co., Smithfield, VA 23430;
 - j. Premium Smithfield Bacon Naturally Hickory Smoked Bacon; Smithfield

- Packing Co., Smithfield, VA 23430;
- k. Premium Smithfield Brown Sugar Cured Bacon; Smithfield Packing Co., Smithfield, VA 23430;
 - l. Premium Smithfield Ham Sausage; Smithfield Packing Co., Smithfield, VA 23430;
 - m. Premium Smithfield Pork - Pork Neckbones; Smithfield Packing Co., Smithfield, VA 23430;
 - n. Premium Smithfield Entrees Mexican Style Shredded Pork; Smithfield Packing Co., Smithfield, VA 23430, www.smithfield.com;
 - o. Premium Smithfield Entrees Dinner Style Meatloaf; Smithfield Packing Co., Smithfield, VA 23430, www.smithfield.com;
 - p. Premium Smithfield Entrees Pork Roast with Gravy; Smithfield Packing Co., Smithfield, VA 23430, www.smithfield.com;
 - q. Smithfield Lean Generation Pork – Pork Loin Fillet Teriyaki Flavor; Smithfield Packing Co., Smithfield, VA 23430;
 - r. Smithfield Lean Generation Pork – Pork Loin Fillet Honey Barbecue Flavor; Smithfield Packing Co.;
 - s. Smithfield Lean Generation Pork – Pork Loin Fillet Italian Style Garlic & Herb; Smithfield Packing Co.;
 - t. Virginia’s Choice Mild Red Barbecue Sauce with Pork; Smithfield Ham & Products Co., Smithfield, VA 23430, www.smithfieldbbq.com;
 - u. Virginia’s Choice Mild Red Barbecue with Chicken; Smithfield Ham & Products Co., Smithfield, VA 23430, www.smithfieldbbq.com;
 - v. Virginia’s Choice Pork with Barbecue Sauce; Smithfield Ham & Products Co., Smithfield, VA 23430, www.smithfieldbbq.com ;
 - w. Premium Smithfield Ham Hardwood Smoked Ham; Smithfield Packing Co., Smithfield, VA 23430.
 - x. Gwaltney Big 8's Jumbo Beef Hot Dogs; Gwaltney, Smithfield, VA 23430;
 - y. Gwaltney Big 8's Bologna; Gwaltney, Smithfield, VA 23430;

- z. Gwaltney Great Bologna Chicken Bologna; Gwaltney, Smithfield, VA 23430;
 - aa. Gwaltney Great Bologna Turkey Bologna; Gwaltney, Smithfield, VA 23430;
 - bb. Gwaltney Bacon - Virginia Cured Hardwood, Smoked Bacon; Gwaltney, Smithfield, VA 23430;
 - cc. Gwaltney Beef Bacon; Gwaltney, Smithfield, VA 23431;
 - dd. Gwaltney Brown Sugar Bacon; Gwaltney of Smithfield, Ltd., Smithfield, VA 23431;
 - ee. Gwaltney Hardwood Smoked Premium Sliced Bacon; Gwaltney, Smithfield, VA 23430;
 - ff. Gwaltney Great Sausage Hot; Gwaltney, Smithfield, VA 23430;
 - gg. Gwaltney Great Sausage Mild; Gwaltney, Smithfield, VA 23430;
 - hh. Gwaltney Pork Fatback; Gwaltney, Smithfield, VA 23430;
 - ii. Redskins Premium Beef Franks; Esskay, Inc., Baltimore, MD 21204;
 - jj. Esskay Prosciuttini Peppered Ham; Esskay, Inc., Baltimore, MD 21204;
 - kk. Esskay Orioles; Esskay, Inc., Baltimore, MD 21204;
 - ll. Esskay Beef Franks; Esskay, Inc., Baltimore, MD 21204;
 - mm. Esskay Chipped Beef; Esskay, Inc., Baltimore, MD 21204;
 - nn. Esskay Lower Sodium Chipped Beef; Esskay, Inc., Baltimore, MD 21204;
 - oo. Esskay Sliced Bacon Lower Sodium; Esskay, Inc., Baltimore, MD 21204
7. On March 31, 2003, at 4304 Connecticut Avenue, Northwest; Washington, DC 20008, I picked up the Giant weekly advertisement circular for March 30 through April 5, 2003, attached hereto as Exhibit 2; Gwaltney Big 8's Jumbo Beef Hot Dogs; and Gwaltney Sliced Bacon, regular or Brown Sugar are advertised therein.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April __, 2003.

Michael J. Forquer
Paralegal for the United States