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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91177807
Party	Plaintiff 7-Eleven, Inc.
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Date	03/21/2011
Attachments	Brown Dep and Exhibits.pdf ( 88 pages )(7950937 bytes )

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

7-ELEVEN, INC.,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91177807
	)	Serial No. 78/916,143
SUSAN B. BUCENELL,	)	
	)	
Applicant.	)	

**CERTIFIED  
COPY**

The Deposition of DAN J. BROWN, called by the  
opposer for examination, taken before  
Lisa E. Hibbs, a C.S.R. and a Notary Public  
within and for the State of Illinois, pursuant to  
the provisions of the United States Patent and  
Trademark Office, taken at Suite 2800, 321 North  
Clark Street, Chicago, Illinois, commencing at  
the hour of approximately 9:30 o'clock a.m. on  
the 6th day of December 2010.

1     A P P E A R A N C E S:

2  
3           FOLEY & LARDNER, LLP  
4           321 North Clark Street  
5           Suite 2800  
6           Chicago, Illinois 60654-5313  
7           (312) 832-4398

8           BY: MR. CHARLES R. MANDLY, JR.,

9                     appeared on behalf of the Opposer;

10           MS. SUSAN B. BUCENELL  
11           30623 Bittsbury Court  
12           Wesley Chapel, Florida 33543-3921  
13           (813) 333-4284,

14                     appeared via telephone pro se on behalf  
15                     of the Applicant.

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I N D E X

<u>WITNESS:</u>	<u>PAGE:</u>
Dan J. Brown,	
Direct Examination By Mr. Mandly	4
Cross Examination By Ms. Bucenell	18

<u>OPPOSER'S TRIAL</u>		
<u>EXHIBITS NO.:</u>	<u>DESCRIPTION</u>	<u>I.D.</u>
16	Screen shots from the movie <u>Say Anything</u>	6
17	Screen shots from the movie <u>Pretty Woman</u>	7
18	Screen shots from the movie <u>Reality Bites</u>	7
19	Screen shots from the movie <u>Dumb and Dumber</u>	8
20	Screen shots from the movie <u>American Pie II</u>	8
21	Screen shots from the movie <u>Baby Mama</u>	9
22	NPR transcript, July 13, 2001	9
23	Photographs depicting Shur Fine products and receipt	10
24	Photographs of Trader Joe's products and receipt	12
25	Photographs of 365 brand products and receipts	13
26	Photographs of Newman's Own brand products with two receipts	14
27	Photograph of Toats cookies and receipt	15
28	Photographs of America's Choice and Preferred Pet Products and receipts	15

09:39AM

09:45AM

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(Witness sworn.)

DAN J. BROWN,

called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MANDLY:

Q. Could you please state your full name for the record?

A. Dan J. Brown.

09:35AM

Q. And where do you live, please?

A. 600 South Dearborn, Chicago, Illinois.

Q. Are you currently employed?

A. Yes.

09:35AM

Q. And by whom are you employed?

A. Foley & Lardner.

Q. And could you tell us in what capacity you're employed by Foley & Lardner?

A. As a paralegal.

09:35AM

Q. Could you describe for us briefly the general nature of the business of Foley & Lardner, please?

A. They are a law firm.

Q. And you indicated that you're

1 employed as a paralegal. Do you have any  
2 particular specialization?

3 A. I work for the intellectual property  
4 department.

09:36AM

5 Q. And what kinds of responsibilities,  
6 employment responsibilities, do you have as a  
7 paralegal with the IP litigation department?

8 A. I assist the IP attorneys in  
9 multiple phases of litigation starting with  
10 pre-investigation through discovery and then,  
11 finally, support at trial.

09:36AM

12 Q. In connection with your employment  
13 at Foley & Lardner, were you asked to become  
14 involved in a trademark office proceeding  
15 entitled 7-Eleven, Inc., versus Bucenell?

09:36AM

16 A. Yes.

17 Q. And could you briefly describe for  
18 us what involvement your -- or excuse me. Strike  
19 that question.

09:36AM

20 Could you please briefly  
21 describe for us what you were asked to do in  
22 connection with that proceeding?

23 A. I was asked to purchase products  
24 that had the same mark for human food as for dog

1 food, I was asked to prepare screen shots from  
2 movies and asked to obtain an NPR transcript.

3 Q. And did, in fact, you engage in  
4 those activities?

09:37AM

5 A. Yes.

6 (WHEREUPON Opposer's Trial  
7 Exhibit No. 16 was marked  
8 for identification.)

9 BY MR. MANDLY:

09:37AM

10 Q. Mr. Brown, you have before you a  
11 notebook with a set of exhibits beginning with  
12 7-Eleven Trial Exhibit 16. Could you please  
13 briefly identify 7-Eleven Trial Exhibit 16?

09:37AM

14 A. Yes. That's a screen shot from the  
15 movie Say Anything.

16 Q. And you say it's a screen shot. If  
17 you could look through the whole exhibit, are  
18 there multiple screen shots, in fact, that are  
19 part of 7-Eleven Trial Exhibit 16?

09:38AM

20 A. That is correct.

21 Q. And all of those are screen shots  
22 from the film Say Anything?

23 A. Yes.

24 Q. And are these screen shots that you

1 downloaded from a copy of this film?

2 A. That is correct.

3 (WHEREUPON Opposer's Trial  
4 Exhibit No. 17 was marked  
09:38AM 5 for identification.)

6 BY MR. MANDLY:

7 Q. Mr. Brown, I would like to direct  
8 your attention to 7-Eleven Trial Exhibit 17 and  
9 ask you if you could briefly identify 7-Eleven  
09:38AM 10 Trial Exhibit 17 for us.

11 A. Yes. Those are multiple screen  
12 shots from the movie Pretty Woman.

13 Q. And these are screen shots that you  
14 downloaded?

09:38AM 15 A. Correct.

16 (WHEREUPON Opposer's Trial  
17 Exhibit No. 18 was marked  
18 for identification.)

19 BY MR. MANDLY:

09:38AM 20 Q. Could you briefly identify for us  
21 7-Eleven Trial Exhibit 18?

22 A. Yes. These are multiple screen  
23 shots from the movie Reality Bites.

24 Q. And these are screen shots that,

1 again, you downloaded?

2 A. That is correct.

3 (WHEREUPON Opposer's Trial  
4 Exhibit No. 19 was marked  
09:39AM 5 for identification.)

6 BY MR. MANDLY:

7 Q. Could you please identify for us  
8 7-Eleven Trial Exhibit 19?

9 A. Yes. Those are multiple exhibits  
09:39AM 10 from the movie Dumb and Dumber -- I mean multiple  
11 screen shots, excuse me.

12 Q. And these are screen shots that  
13 you caused to be downloaded from a copy of the  
14 film?

09:39AM 15 A. Yes.

16 (WHEREUPON Opposer's Trial  
17 Exhibit No. 20 was marked  
18 for identification.)

19 BY MR. MANDLY:

09:39AM 20 Q. I would like to direct your  
21 attention to what's been previously marked as  
22 7-Eleven Trial Exhibit 20 and ask you if you  
23 could please identify that exhibit for us.

24 A. Yes. Those are multiple screen

1 shots from the movie American Pie II.

2 Q. And these are screen shots that you  
3 downloaded?

4 A. Yes.

09:39AM

5 (WHEREUPON Opposer's Trial  
6 Exhibit No. 21 was marked  
7 for identification.)

8 BY MR. MANDLY:

09:40AM

9 Q. Directing your attention to 7-Eleven  
10 Trial Exhibit 21, could you please identify that  
11 exhibit for us?

12 A. Those are multiple screen shots from  
13 the movie Baby Mama.

09:40AM

14 Q. And these are screen shots which,  
15 again, you downloaded from a copy of the film?

16 A. Yes.

17 (WHEREUPON Opposer's Trial  
18 Exhibit No. 22 was marked  
19 for identification.)

09:40AM

20 BY MR. MANDLY:

21 Q. Mr. Brown, you have before you  
22 what's been previously marked as 7-Eleven Trial  
23 Exhibit 22. Could you please identify 7-Eleven  
24 Trial Exhibit 22 for us?

1 A. Yes. That's an NPR transcript from  
2 July 13, 2001.

3 Q. And what did you do to obtain a copy  
4 of this transcript?

09:40AM

5 A. I went to the NPR website and  
6 entered information to download the transcript.

7 Q. And what response did you get after  
8 you engaged in that activity?

09:41AM

9 A. This email which includes the  
10 transcript.

11 Q. And this is a true copy of the email  
12 that you received from National Public Radio; is  
13 that correct?

14 A. That is correct.

09:41AM

15 (WHEREUPON Opposer's Trial  
16 Exhibit No. 23 was marked  
17 for identification.)

18 BY MR. MANDLY:

09:41AM

19 Q. Mr. Brown, you have before you  
20 what's been previously marked as 7-Eleven Trial  
21 Exhibit 23. I'd ask that you please identify  
22 7-Eleven Trial Exhibit 23 for us.

23 A. Yes. These are Shur Fine brand  
24 products.

1 Q. And you say these are Shur Fine  
2 brand products. Are these actually photographs  
3 depicting various Shur Fine branded products?

4 A. Correct.

09:41AM

5 Q. Are there any other materials  
6 contained in 7-Eleven Trial Exhibit 23 other than  
7 photographs depicting specific Shur Fine  
8 products?

9 A. No.

09:42AM

10 Q. Actually, Mr. Brown, if you could  
11 take a minute and go through that exhibit,  
12 7-Eleven Trial Exhibit 23, and confirm if there  
13 are -- whether or not there are other materials  
14 other than the depictions of the products.

09:42AM

15 A. Oh, there is actually at the end of  
16 that exhibit a receipt.

17 Q. Now, the products that are depicted  
18 here, are these products that you purchased?

19 A. Yes.

09:42AM

20 Q. And you referred to a receipt.  
21 Could you read into the record the page number of  
22 the exhibit that has that receipt?

23 A. Page No. 4.

24 Q. And does this receipt record the

1 purchases that you made of various Shur Fine  
2 products?

3 A. That's correct.

09:42AM

4 Q. And those are the Shur Fine products  
5 that are depicted in the rest of the exhibit; is  
6 that correct?

7 A. Yes.

8 (WHEREUPON Opposer's Trial  
9 Exhibit No. 24 was marked  
10 for identification.)

09:43AM

11 BY MR. MANDLY:

12 Q. Mr. Brown, I direct your attention  
13 to 7-Eleven Trial Exhibit 24 and ask you if you  
14 could identify that exhibit for us, please.

09:43AM

15 A. Yes. Those are exhibits of Trader  
16 Joe's products with a receipt.

17 Q. And when you say they're an exhibit  
18 of Trader Joe's products, in fact, these are  
19 photographic depictions of certain Trader Joe's  
20 branded products; is that correct?

09:43AM

21 A. Yes.

22 Q. And you also mentioned this is  
23 together with a copy of a receipt?

24 A. Yes.

1 Q. Now, are these products that you  
2 purchased?

3 A. Yes.

4 Q. And the receipt that's at the end of  
09:43AM 5 the exhibit, what page is that of the exhibit,  
6 please?

7 A. Page 3.

8 Q. And is this -- does this receipt  
9 record the purchases that you made of the  
09:43AM 10 products that are depicted in the exhibit?

11 A. Yes.

12 (WHEREUPON Opposer's Trial  
13 Exhibit No. 25 was marked  
14 for identification.)

09:43AM 15 BY MR. MANDLY:

16 Q. I would like to turn your attention  
17 to what's been previously marked as 7-Eleven  
18 Trial Exhibit 25 and ask you if you can identify  
19 that for the record.

09:44AM 20 A. Yes. Those are photographs of 365  
21 brand products with a receipt at the end.

22 Q. And, in fact, are these 365 branded  
23 products which you purchased?

24 A. Correct.

1 Q. And I note that there are multiple  
2 receipts at the end of that exhibit. Could you  
3 just read into the record the pages where those  
4 receipts appear, please?

09:44AM

5 A. Sure. Page 5, Page 6, Page 7.

6 Q. And do these receipts reflect the  
7 purchases that you made of the 365 products that  
8 appear earlier in the exhibit?

9 A. Yes.

09:44AM

10 (WHEREUPON Opposer's Trial  
11 Exhibit No. 26 was marked  
12 for identification.)

13 BY MR. MANDLY:

09:44AM

14 Q. I would like to direct your  
15 attention to what's been marked as 7-Eleven Trial  
16 Exhibit 26 and ask you if you can identify that  
17 exhibit for us, please.

18 A. These are photographs of Newman's  
19 Own brand products with two receipts at the end.

09:45AM

20 Q. And are these products that you  
21 purchased?

22 A. Yes.

23 Q. And the receipts at the end, do  
24 these record the purchases of the products that

1 you made that are depicted earlier in the  
2 exhibit?

3 A. Yes.

4 (WHEREUPON Opposer's Trial  
09:45AM 5 Exhibit No. 27 was marked  
6 for identification.)

7 BY MR. MANDLY:

8 Q. I would like to direct your  
9 attention to what's been previously marked as  
09:45AM 10 7-Eleven Trial Exhibit 27 and ask you if you can  
11 identify that for us, please?

12 A. Yes. This is a photograph of Toats  
13 cookies with the receipt at the end.

14 Q. And did you purchase these Toats  
09:45AM 15 cookies?

16 A. I did.

17 Q. And does the receipt at the end  
18 record your purchase of those Toats cookies?

19 A. Yes.

09:46AM 20 (WHEREUPON Opposer's Trial  
21 Exhibit No. 28 was marked  
22 for identification.)

23 BY MR. MANDLY:

24 Q. I would like to direct your

1 attention to 7-Eleven Trial Exhibit 28 and ask  
2 you if you can identify that exhibit for us.

3 A. Twenty-eight are photographs of  
4 America's Choice products. Also contained are  
5 Preferred Pet Products and receipts.

09:46AM

6 Q. So the products that are depicted in  
7 7-Eleven Trial Exhibit 28, did you purchase those  
8 products?

9 A. Yes.

09:46AM

10 Q. And did you, yourself, travel to a  
11 particular store to purchase these products?

12 A. No.

13 Q. Did you, in fact, purchase them  
14 online?

09:47AM

15 A. Yes.

16 Q. Now, directing your attention to  
17 what I believe should be marked as Page 3 of that  
18 exhibit, could you identify the document that is  
19 Page 3 of this exhibit?

09:47AM

20 A. That is a screen shot of the website  
21 where I purchased the America's Choice product.

22 Q. And which particular product was  
23 that?

24 A. America's Choice Dog Food, chicken

1 and rice.

2 Q. And this is the product -- or excuse  
3 me.

4 This is the online display  
09:47AM 5 that you were actually looking at when you placed  
6 the order for that pet product; is that correct?

7 A. Yes.

8 Q. And directing your attention to what  
9 I think will be Page 5 of the exhibit, could you  
09:48AM 10 identify that document for us, please?

11 A. That's a screen shot of the  
12 America's Choice product I purchased online.

13 Q. And what particular product is that,  
14 please?

09:48AM 15 A. Dog Treats, Dental Bones.

16 Q. And, again, this is a depiction of  
17 the screen shot, the online screen shot that you  
18 were actually viewing at the time you made the  
19 purchase of that product; is that correct?

09:48AM 20 A. Yes.

21 Q. And directing your attention to the  
22 last page of the exhibit, the receipt, does this  
23 receipt accurately reflect the purchases that you  
24 made online of the various America's Choice

1 products?

2 A. Yes.

3 MR. MANDLY: I don't have any  
4 further questions.

09:49AM

5 CROSS EXAMINATION

6 BY MS. BUCENELL:

7 Q. Okay. Mr. Brown?

8 A. Yes.

09:49AM

9 Q. For the record, my name again is Sue  
10 Bucenell and I am the owner-operator and inventor  
11 of Healthy Gulp. I'm also the applicant in this  
12 matter and I'm representing myself.

09:49AM

13 So I'm going to -- I just have  
14 a couple of follow-up questions, and if you don't  
15 understand my question, please feel free to let  
16 me know; okay?

17 A. Okay.

09:49AM

18 Q. Several of the exhibits that were  
19 entered into evidence reflect the purchase of  
20 products from stores that currently sell brands  
21 of products that have the same mark for both  
22 their pet products as well as their food  
23 products; is that correct?

24 A. Yes.

1 Q. Does 7-Eleven currently have pet  
2 products that carry 7-Eleven or the gulp mark on  
3 them?

4 MR. MANDLY: Objection; beyond the  
5 scope of the direct. You can answer the  
6 question if you know.

7 Also, I object because  
8 there's a lack of foundation that this  
9 witness would know what 7-Eleven sells, but  
10 if you understand the question, you can  
11 answer it.

12 THE WITNESS: I don't know.

13 BY MS. BUCENELL:

14 Q. Well, when you worked -- in the  
15 scope of what you were doing, what 7-Eleven's  
16 attorneys asked you to do for this particular  
17 case, did you have the opportunity to shop at any  
18 of 7-Eleven's stores?

19 MR. MANDLY: Objection; vague and  
20 ambiguous.

21 BY MS. BUCENELL:

22 Q. As an employee of Foley & Lardner  
23 that represents 7-Eleven, have you either during  
24 the scope of this particular case or outside of

1 the scope of this case do you have the  
2 opportunity to shop in 7-Eleven stores?

3 MR. MANDLY: I'm going to object  
4 to the question. It's beyond the scope of  
5 the direct.

09:51AM

6 The witness can answer it  
7 although I think that you've already  
8 elicited testimony regarding what 7-Eleven  
9 does directly from 7-Eleven employees, but  
10 I'll let the witness answer the question.  
11 Do you want the question back?

09:51AM

12 THE WITNESS: Yes, please.

13 BY MS. BUCENELL:

14 Q. Either in the scope of your  
15 involvement in this particular case or outside of  
16 your involvement in this particular case, have  
17 you had the opportunity to shop in 7-Eleven  
18 stores?

09:51AM

19 MR. MANDLY: Same objections. You  
20 can answer it.

09:51AM

21 THE WITNESS: Yes.

22 BY MS. BUCENELL:

23 Q. Are you aware if 7-Eleven currently  
24 sells any pet products?

1 MR. MANDLY: Objection; beyond the  
2 scope of the direct.

3 THE WITNESS: I don't know.

09:52AM

4 MS. BUCENELL: Okay. I have  
5 nothing further.

6 MR. MANDLY: I don't have any  
7 further questions. Thank you, Dan.

8 Off the record.

09:52AM

9 MS. BUCENELL: Thank you,  
10 Mr. Brown.

11 (Witness excused.)

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AND FURTHER DEPONENT SAITH NOT

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7-ELEVEN, INC.,	)	
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v.	)	Opposition No. 91177807
	)	Serial No. 78/916,143
SUSAN B. BUCENELL,	)	
	)	
Applicant.	)	

I, DAN J. BROWN, state that I have read the foregoing transcript of the testimony given by me at my deposition on the 6th day of December 2010, and that the said transcript constitutes a true and correct record of the testimony given by me at said deposition except as I have so indicated on the errata sheets provided herein.

*Dan J. Brown*  
-----  
DAN J. BROWN

SUBSCRIBED AND SWORN TO  
before me this 21 day  
of December, 2010.

*J. Marie Olsen*  
-----  
NOTARY PUBLIC



1 STATE OF ILLINOIS )  
 ) SS:  
2 COUNTY OF C O O K )  
3

4 I, Lisa E. Hibbs, a Certified  
5 Shorthand Reporter and Notary Public within and  
6 for the County of Cook and State of Illinois, do  
7 hereby certify that heretofore, to-wit, on the  
8 6th day of December 2010, personally appeared  
9 before me commencing at 9:35 a.m. and ending at  
10 9:52 a.m. at Suite 2800, 321 North Clark Street  
11 in the City of Chicago, County of Cook, and State  
12 of Illinois, DAN J. BROWN, a witness called by  
13 the Opposer in a certain cause now pending and  
14 undetermined in the United States Patent And  
15 Trademark Office, wherein 7-ELEVEN, INC., is the  
16 Opposer and SUSAN B. BUCENELL is the Applicant.

17 I further certify that the said  
18 witness, DAN J. BROWN, was by me first duly sworn  
19 to testify the truth, the whole truth and nothing  
20 but the truth in the cause aforesaid; that the  
21 testimony then given by DAN J. BROWN was by me  
22 reduced to writing by means of machine shorthand  
23 in the presence of said witness and afterwards  
24 transcribed and the foregoing is a true and

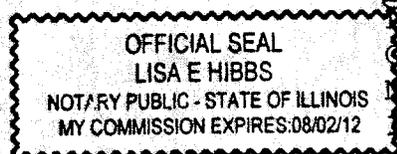
1 DAN J. BROWN as aforesaid.

2 I further certify that the reading  
3 and signing of the deposition was not waived, and  
4 the deposition was submitted to counsel for the  
5 Opposer for signature.

6 I further certify that the taking of  
7 this deposition was pursuant to notice, and that  
8 there were present at the taking of the  
9 deposition, counsel as hereinbefore set forth.

10 I further certify that I am not  
11 counsel for nor in any way related to any of the  
12 parties to this suit, nor am I in any way  
13 interested in the outcome thereof.

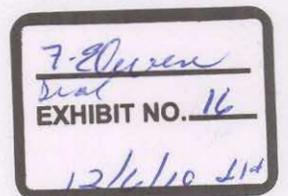
14 In testimony whereof, I have  
15 hereunto set my hand and affixed my notarial seal  
16 this 13th day of December 2010.



*Lisa E. Hibbs*  
Lisa E. Hibbs  
SR License No. 084-003112  
Notary Public, Cook County  
Illinois

7-Eleven Trial Exhibit 16

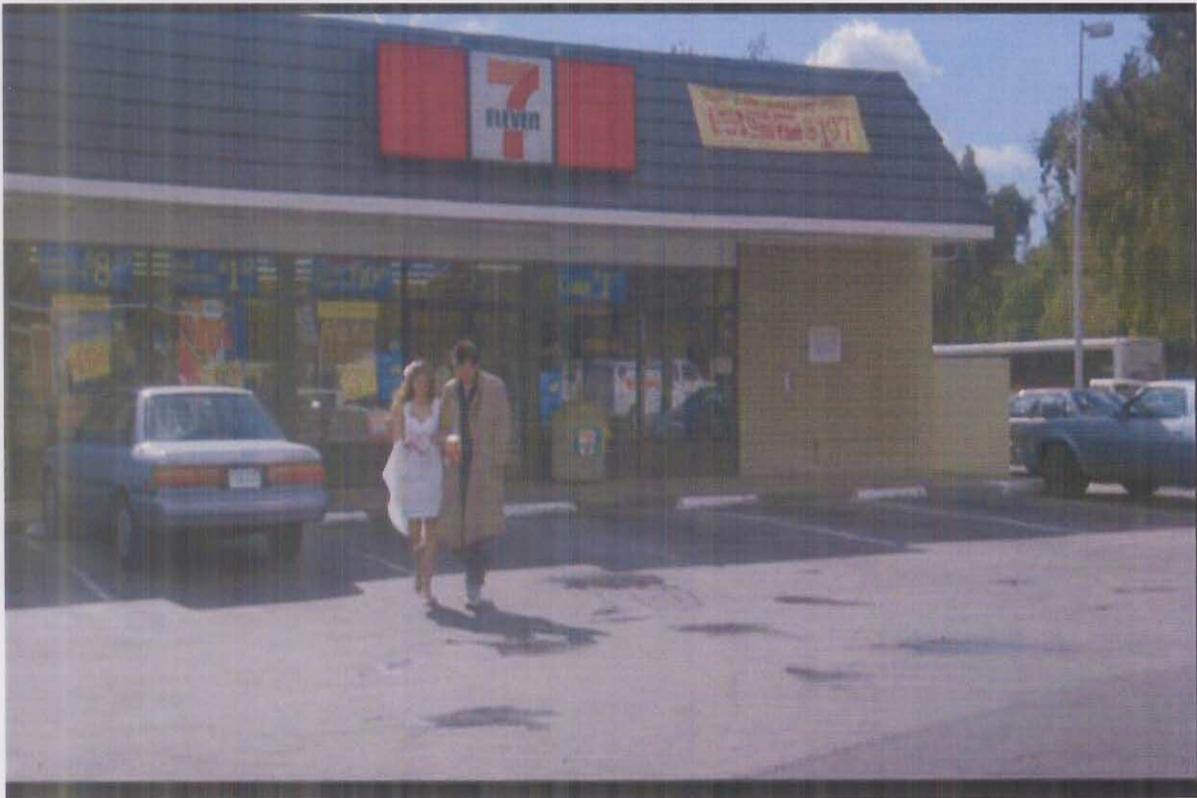
7-Eleven, Inc. v. Bucenell  
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Say Anything



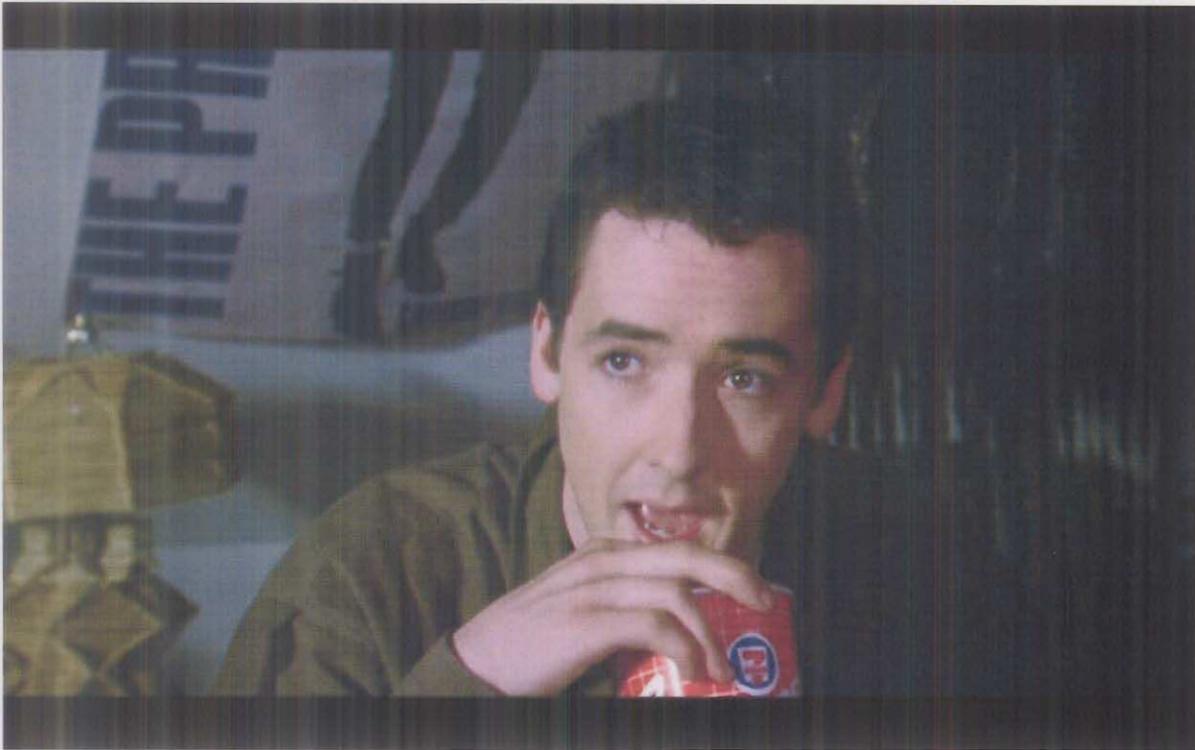
Say Anything



Say Anything



Say Anything

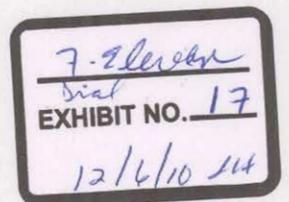


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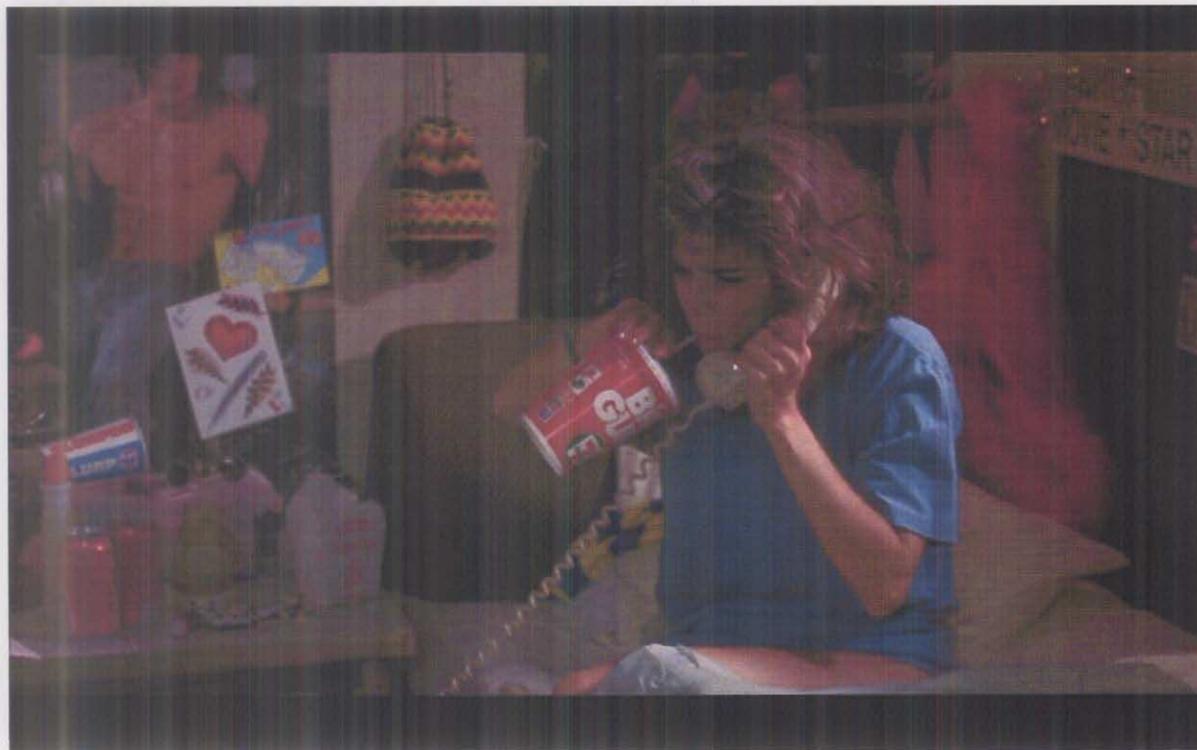
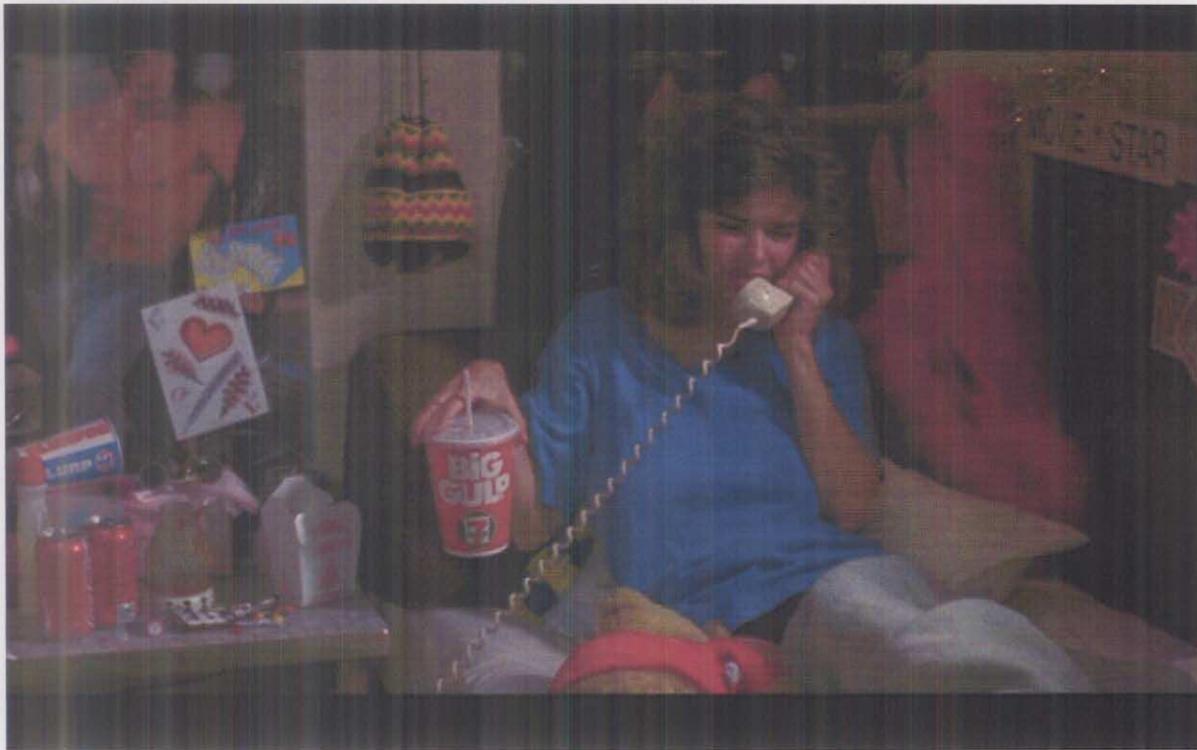


7-Eleven Trial Exhibit 17

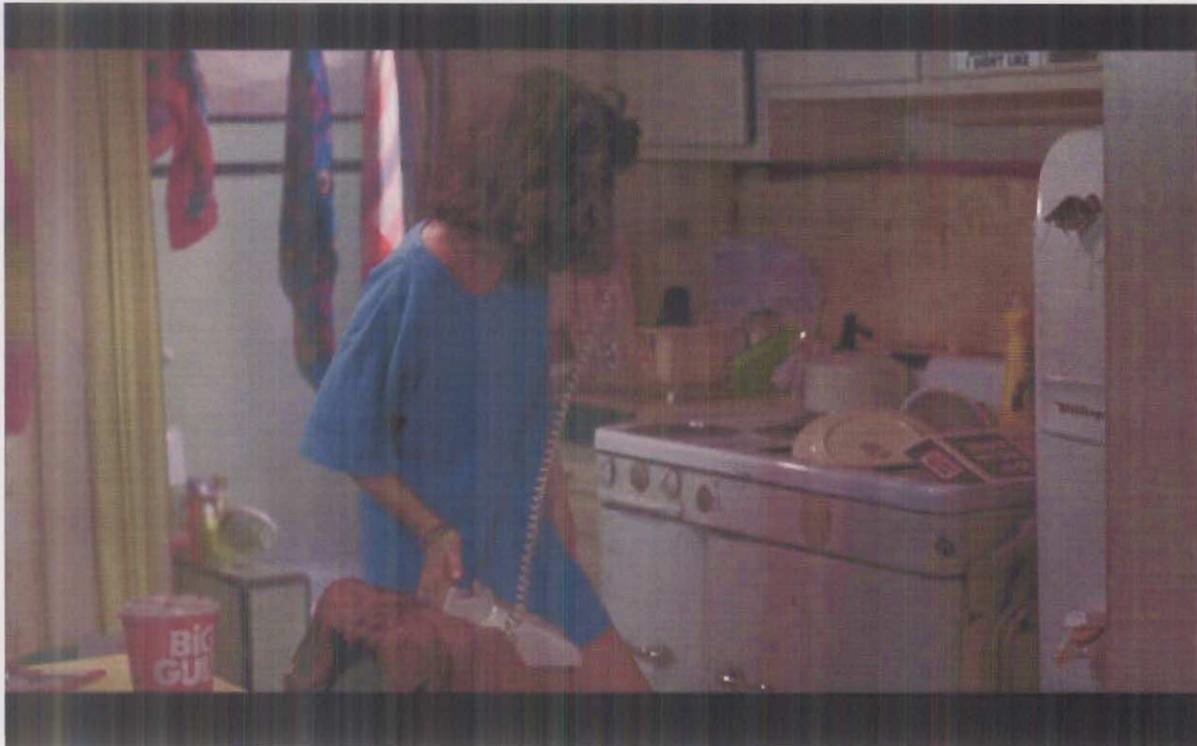
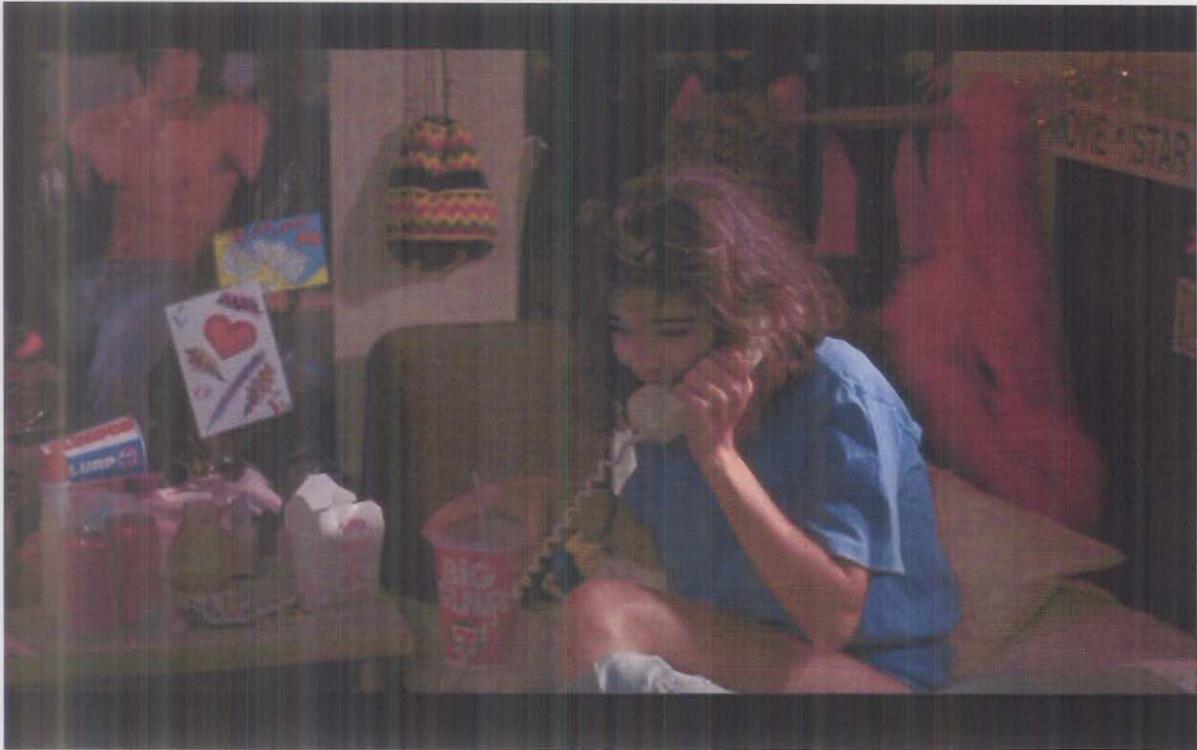
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Opposition No. 91177807



Pretty Woman

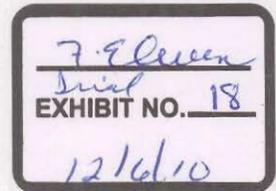


Pretty Woman

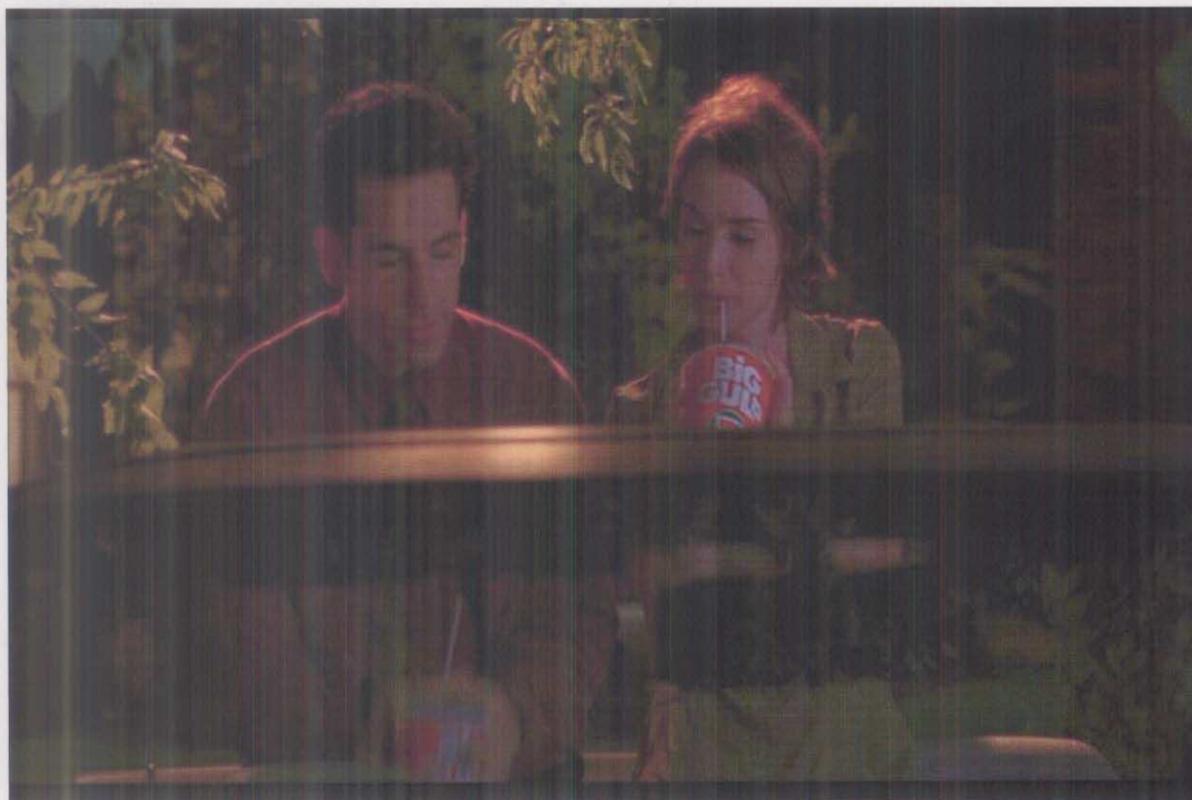
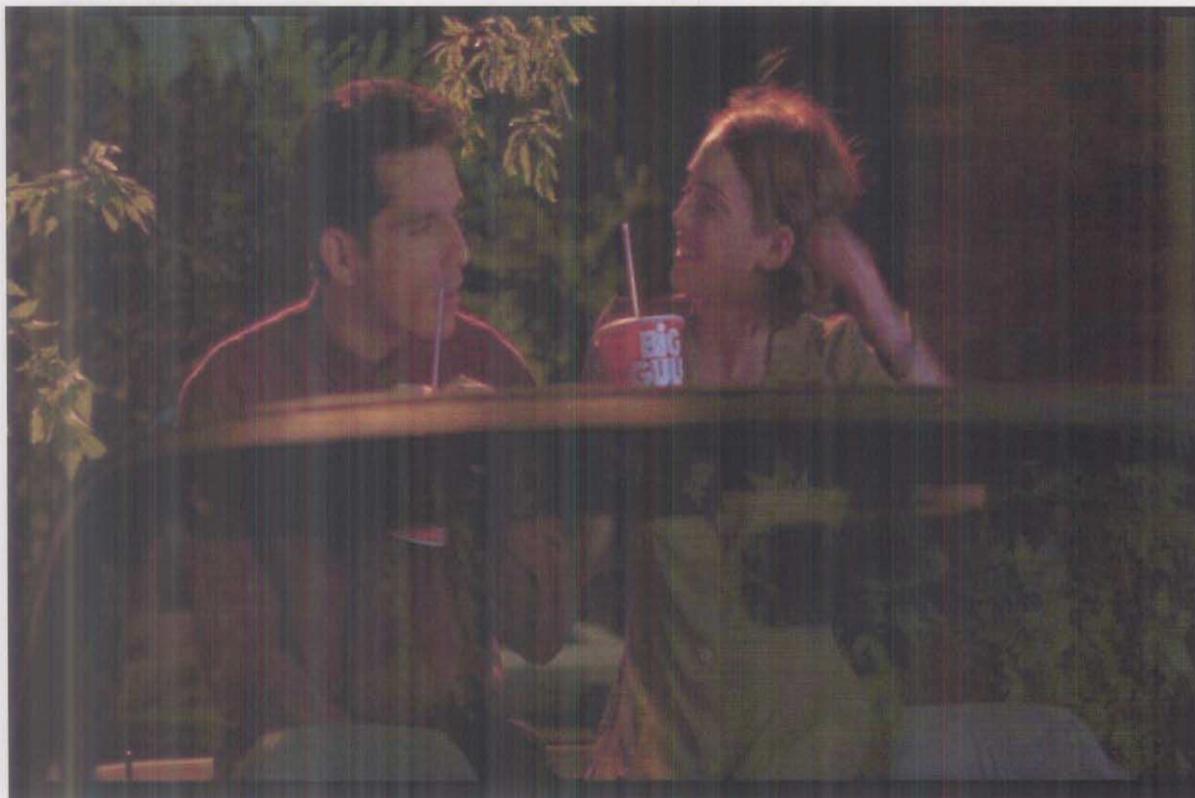


7-Eleven Trial Exhibit 18

7-Eleven, Inc. v. Bucenell  
Opposition No. 91177807



Reality Bites



Reality Bites



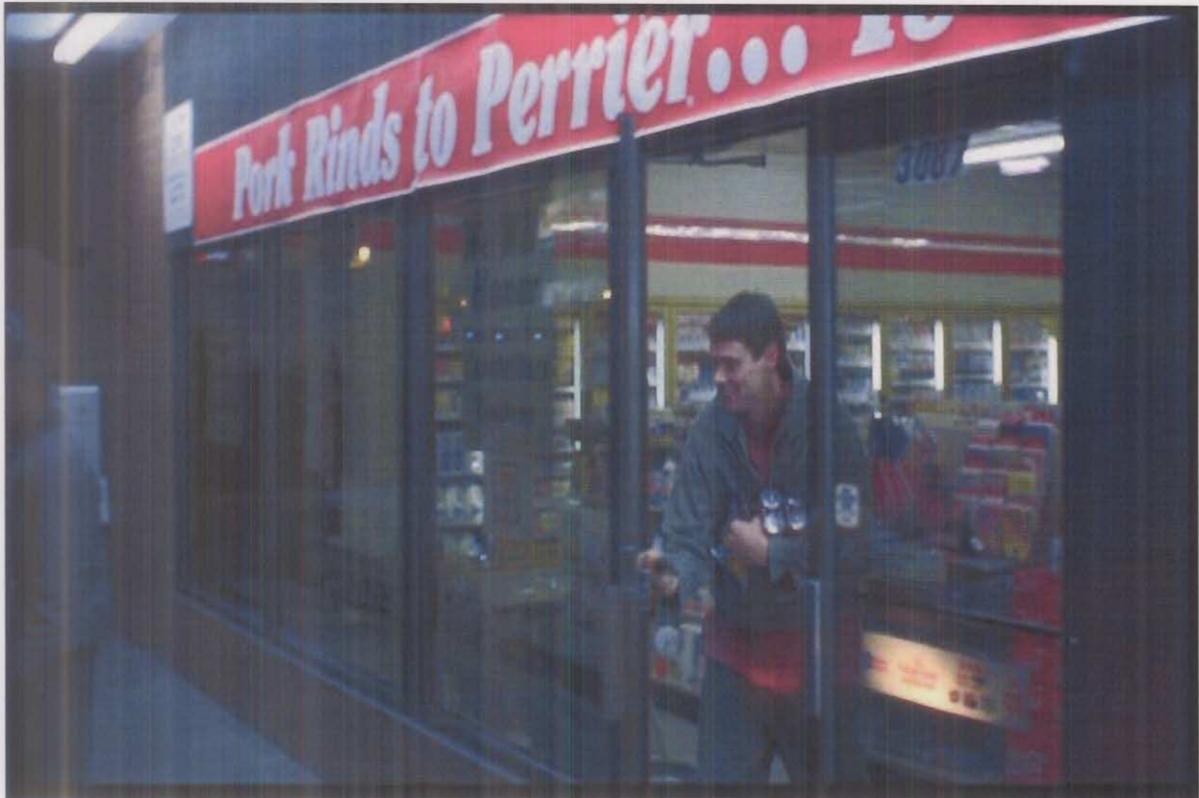
Reality Bites



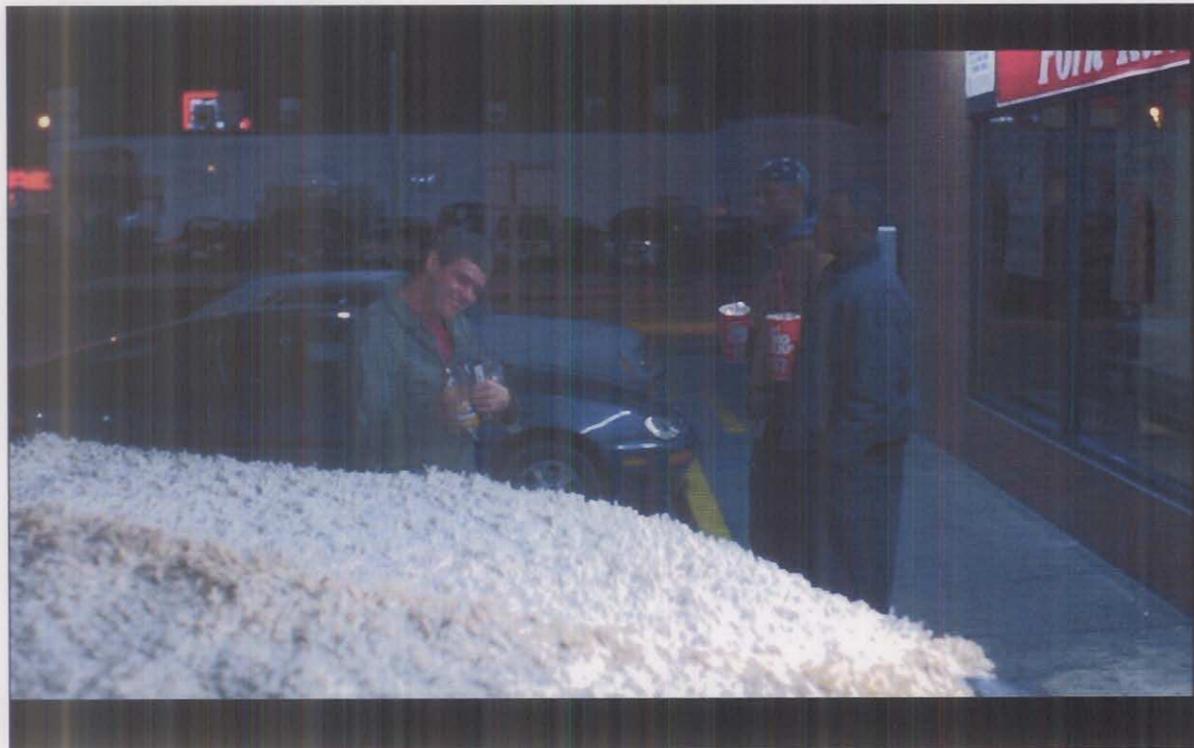
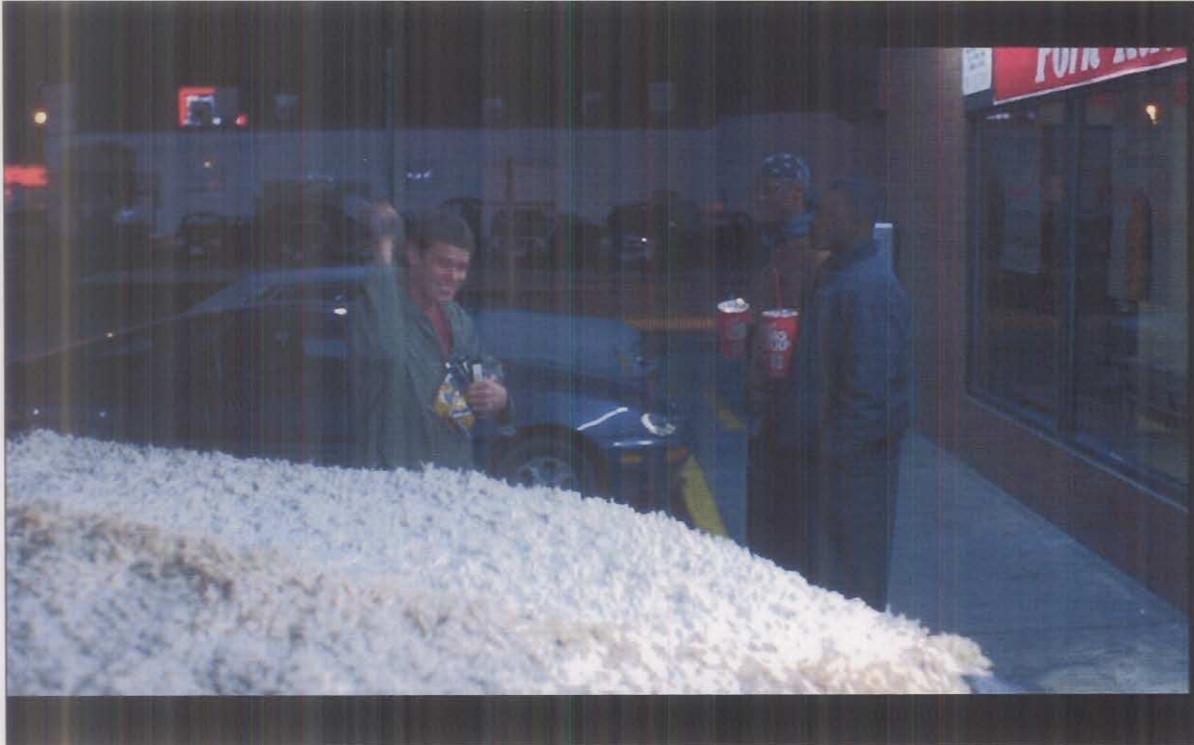
7-Eleven Trial Exhibit 19

7-Eleven, Inc. v. Bucenell  
Opposition No. 91177807

7-Eleven  
Serial  
EXHIBIT NO. 19  
12/6/10



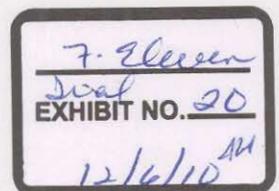
Dumb & Dumber





7-Eleven Trial Exhibit 20

7-Eleven, Inc. v. Bucenell  
Opposition No. 91177807



American Pie II



American Pie II



American Pie II



American Pie II



7-Eleven Trial Exhibit 21

7-Eleven, Inc. v. Bucenell  
Opposition No. 91177807

*7-Eleven*  
EXHIBIT NO. *21*  
*12/16/10*

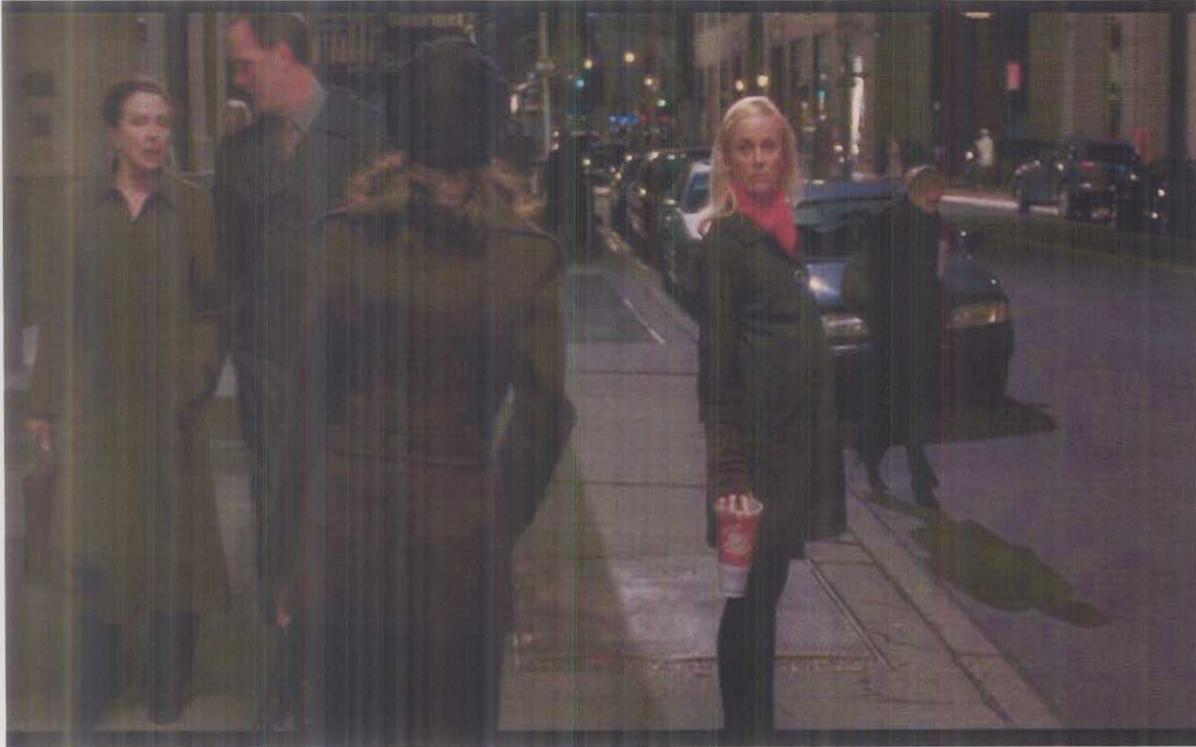
Baby Mama



Baby Mama



Baby Mama



7-Eleven Trial Exhibit 22

7-Eleven, Inc. v. Bucenell  
Opposition No. 91177807

7-Eleven  
Bucenell  
EXHIBIT NO. 22  
12/6/10 24

Brown, Daniel J.

From: Kristen Hartmann [KHartmann@npr.org]

Date: Thursday, December 02, 2010 9:37 AM

To: Brown, Daniel J.

Subject: NPR Transcript: All Things Considered, July 13, 2001

Here is the transcript, as you requested. Should you want to hear the audio of the piece, please click here:

<http://www.npr.org/templates/story/story.php?storyId=1125857> and click on the "Real Media" button to the right of the grey box.

If we can be of any further assistance, please let us know.

All best,  
Kristen  
NPR Services

## Transcript

Show Date: 2001-07-13  
 Display Timing: 00:03:30  
 Segment Number: 9  
 Series: ATC  
 Trans. Title: ANALYSIS: 7-ELEVEN'S NEW X-TREME GULP DRINK CONTAINER  
 Cat. Title: 7-ELEVEN INTRODUCES 3-POUND DRINK CALLED X-TREME GULP

LINDA WERTHEIMER, host:

If summertime makes you think of long hot days and tall cool drinks, your local 7-Eleven has an offer for you. The convenience store's offering what they call the X-treme Gulp, three pounds of your favorite liquid refreshment in a giant insulated mug. It's huge, it's red and turns heads on busy city streets. We asked several people what they thought of the thirst quencher. We begin with Yvette Patovanage(ph), a clerk at a 7-Eleven here in downtown Washington. Ms. YVETTE PATOVANAGE (Clerk, 7-Eleven): It's heavy. When it's full, it holds a lot. It holds a lot. It holds maybe like a small bag--not really a small bag of ice, but close to it--a seven-pound bag of ice because the cup is so wide and big and deep.

*SOUNDBITE OF ICE DROPPING INTO DRINK CONTAINER*

Mr. TIM MATSON: I'm Tim Matson from Frederick, Maryland. Really you should only drink this if you know there's a rest stop within about 20 minutes because I can't imagine anyone being able to hold this much liquid for a half-hour. I mean, I just don't know how big my bladder is, but it's definitely not this large.

Ms. ROBIN SHAFFORD: My name's Robin Shafford(ph). I think it's a really cool container, but, you know, to hold--I have a plastic bag with some things from the gift shop at the Smithsonian in one hand, so I'm trying to hold it in on hand, and it's hard to keep it level as you hold it with just one hand.

*SOUNDBITE OF ICE DROPPING INTO DRINK CONTAINER*

Mr. DAVID KITCHIN: David Kitchin from Crofton, Maryland. And I'd definitely say this is too big for a car 'cause you can't really put it in a cup holder. So it looks a little bulky to me.

Ms. ANDREA TEOLA: My name is Andrea Teola(ph) and I'm from Cleveland, Ohio. This doesn't look like it's for children. It's much too heavy. But I could carry it.

WERTHEIMER: Whatever consumers say, 7-Eleven says the X-treme Gulp is a hit. John Ryckevick(ph) is the category manager for Slurpee and Fountains at 7-Eleven. He explained how the X-treme came to be.

Mr. JOHN RYCKEVICK (7-Eleven): We saw a need to actually exceed the customer's expectations when we think about cold beverages. And one of the things that most regular cups that everyone carries--they don't have a lot of insulation properties. So we worked very closely--I worked very closely in 7-Eleven with one of our key suppliers,

12/3/2010



Aladdin Industries, who's well-known for making thermoses, and we came up with the idea of something that would hold cold longer than anything out there.

WERTHEIMER: I wondered if perhaps you might be planning, perhaps, as your next promotion the X-treme Big Cup holder(ph)? And what are you supposed to do with this thing?

Mr. RYCKEVICK: This question came up in the beginning quite a bit. This definitely doesn't fit in a normal cup holder within a car. The best way to do it is seat belt it next to you.

WERTHEIMER: How do you imagine your customers would use this thing? I mean, what is it really for?

Mr. RYCKEVICK: There's nothing that makes me feel better as I'm driving around--you have seen it just like I have.

UPS trucks typically have their door open. I just get a smile on my face when I look in and see an X-treme Gulp mug sitting on the counter of a UPS truck. I know he's going to enjoy that all day long because he filled it up in the morning at 7-Eleven, and it's gonna to get him through his day.

WERTHEIMER: John Ryckevick, thanks very much.

Mr. RYCKEVICK: You're very welcome.

WERTHEIMER: John Ryckevick is category manager for Slurpee and Fountains for 7-Eleven. We reached him at 7-Eleven headquarters in Dallas.

*SOUNDBITE OF MUSIC*

NOAH ADAMS (Host): It's ALL THINGS CONSIDERED from NPR News.

*NPR transcripts are created on a rush deadline by a contractor for NPR. This copy may not be in its final form and may be updated or revised in the future. Please be aware that the authoritative record of NPR's programming is the audio.*

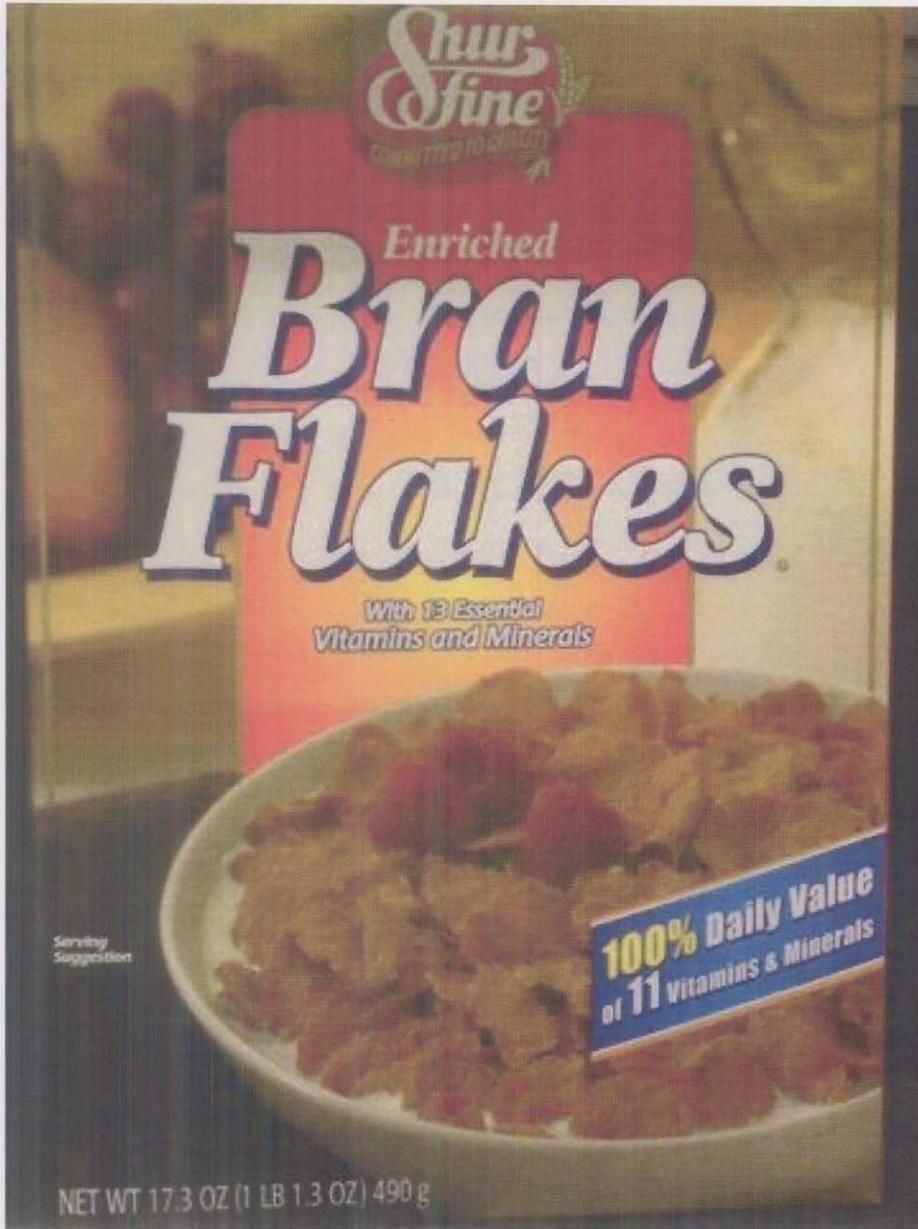
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7-Eleven Trial Exhibit 23

7-Eleven, Inc. v. Bucenell  
Opposition No. 91177807

7-Eleven  
trial  
EXHIBIT NO. 23  
12/4/10 lit







# TISCHLER FINER FOODS

WWW.TISCHLERFINERFOODS.COM

HOURS: M-F 8AM-8PM

SAT. 8AM-6PM

SUN. 8:00AM-6PM

\*\*\*\*\*

Purchase \$7.95

Lane # 01      Checker # 10  
11/26/10 8:47    Ref # 010455

\*\*\*\*\*

# TISCHLER FINER FOODS

WWW.TISCHLERFINERFOODS.COM

HOURS: M-F 8AM-8PM

SAT. 8AM-6PM

SUN. 8:00AM-6PM

## GROCERY

SF BRAN FLAKES            \$2.39 L F  
SF INST OATML APL-CN    \$2.19 L F

## NON FOOD

SF CHUNK DOG FOOD        \$2.99 H

BALANCE DUE              \$7.95  
CREDIT CARD              \$7.95

[S] \*\*\*\*\*004

Seq. # = 550138

CHANGE                    \$0.00

TAX-CODE	TAXABLE-VAL	TAX-VALUE
LOW TAX	\$4.58	\$0.10 L
HIGH TAX	\$2.99	\$0.28 H
TOTAL TAX		\$0.38

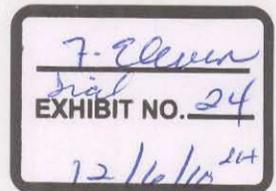
CO010 #0037 8:47:14 26NOV2010  
S00001 R001

## THANK YOU

FOR SHOPPING WITH TISCHLER'S  
8 BROADWAY \* BROOKFIELD \* 485-3222  
YOU DON'T KNOW WHERE YOU ARE GOING

7-Eleven Trial Exhibit 24

7-Eleven, Inc. v. Bucenell  
Opposition No. 91177807









# TRADER JOE'S

44 East Ontario Street  
Chicago IL 60611  
Store #696 - (312) 951-6369

OPEN 8:00AM TO 10:00PM DAILY

CHUNKY BEEF CANNED DOG FOOD	1.09 T
CHUNKY BEEF CANNED DOG FOOD	1.09 T
CHILI BEEF 99% FAT FREE	1.99 T
CHILI BEEF 99% FAT FREE	1.99 T

SUBTOTAL	\$6.16
STATE TAX 1	\$0.07
STATE TAX 2	\$0.21
<b>TOTAL</b>	<b>\$6.44</b>
AMEX	\$6.44

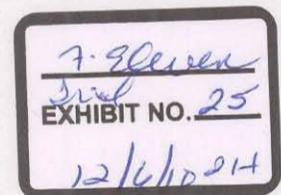
,696,,00,  
 11-21-2010 11:48AM  
 REFERENCE #: 867204

ITEMS 4 E, John William  
 11-21-2010 01:47PM 0696 08 8481 5140

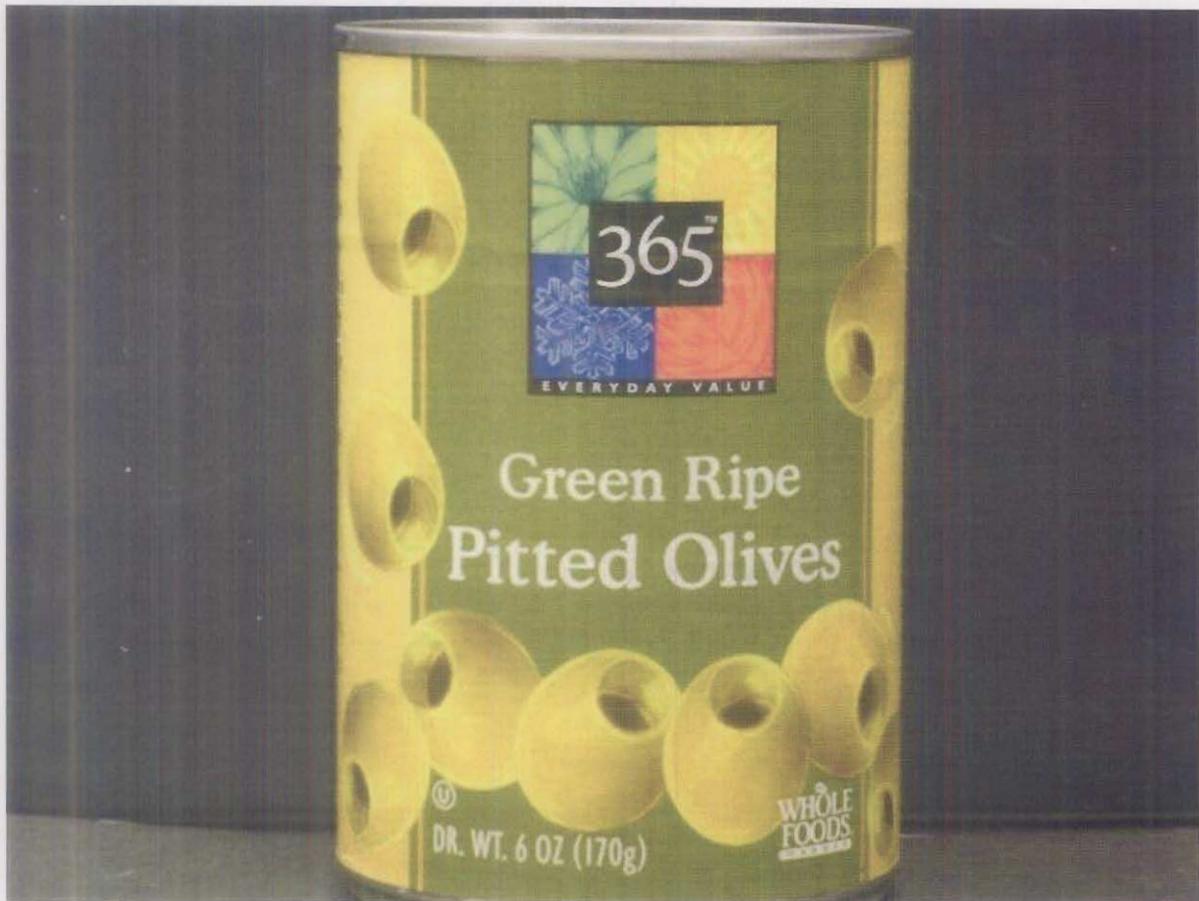
THANK YOU FOR SHOPPING AT  
 TRADER JOE'S  
[www.traderjoes.com](http://www.traderjoes.com)

7-Eleven Trial Exhibit 25

7-Eleven, Inc. v. Bucenell  
Opposition No. 91177807











# WHOLE FOODS MARKET<sup>®</sup>

1101 SOUTH CANAL  
Chicago, IL 60607 312-435-4600

365 BEEF&RICE 130Z	1.69	T
3650GBAKED BNS150Z	1.49	B
DOG FD TRK&RC12.7Z	2.49	T
3650GBAKED BNS150Z	1.49	B
365 BEEF&RICE 130Z	1.69	T
DOG FD TRK&RC12.7Z	2.49	T
NEWMAN ITAL 16Z	4.99	B
NEWMAN ITAL 16Z	4.99	B
**** TAX	1.11	BAL
		<b>22.43</b>
VF		
CHANGE		<b>.00</b>

TOTAL NUMBER OF ITEMS SOLD = 8  
11/21/10 1:19 PM 0553 05 0339 125

Your cashier today is BECKE  
Receipts are required for all refunds  
Refunds must be made within 30 days



1101 SOUTH CANAL  
Chicago, IL 60607 312-435-4600

365LMNSPKWTR33.80Z	1.69 B
365SPRWTR50.70Z	.99 B
**** TAX .25 BAL	2.93

VF

CHANGE	.00
--------	-----

TOTAL NUMBER OF ITEMS SOLD = 2  
11/26/10 10:37 AM 0553 05 0138 135

Your cashier today is TYLER  
Receipts are required for all refunds  
Refunds must be made within 30 days

# WHOLE FOODS MARKET

1101 SOUTH CANAL  
Chicago, IL 60607 312-435-4600

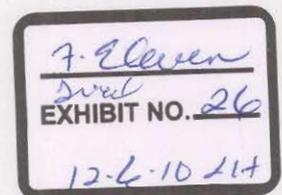
	NMN TRT TKY SP 10Z	3.69 T
	NWMN PB TREATS 10Z	3.69 T
	365 OLV GR PTD 60Z	1.99 B
	365 OLV GR PTD 60Z	1.99 B
	**** TAX .81 BAL	12.17
VF		
	CHANGE	.00

TOTAL NUMBER OF ITEMS SOLD = 4  
11/21/10 4:38 PM 0553 01 0651 128

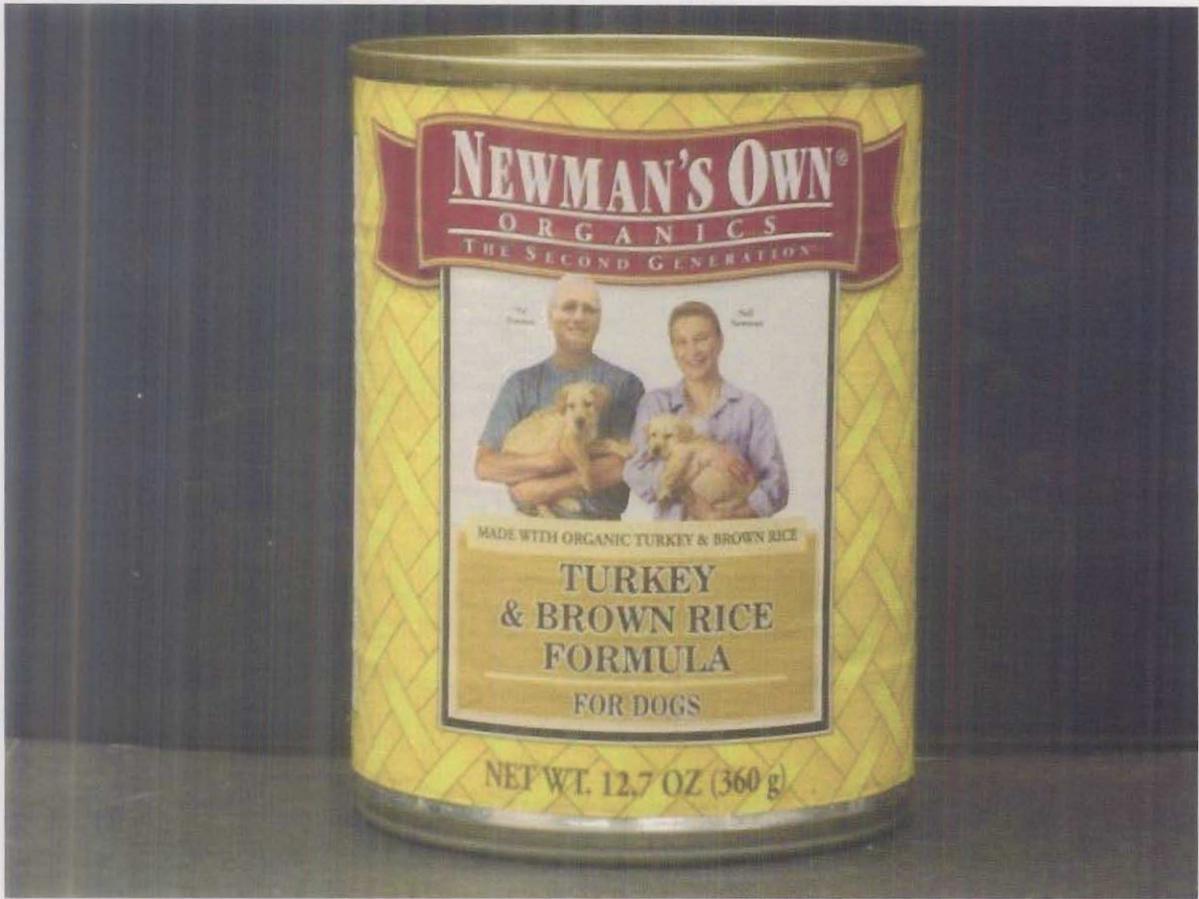
Your cashier today is SUSAN  
Receipts are required for all refunds  
Refunds must be made within 30 days

7-Eleven Trial Exhibit 26

7-Eleven, Inc. v. Bucenell  
Opposition No. 91177807









**NEWMAN'S OWN**  
ORGANICS  
THE SECOND GENERATION



*Premium*  
**DOG TREATS**

**TURKEY & SWEET POTATO**  
CHUNKY MEDIUM SIZE TREATS

Made with Organic Turkey & Organic Sweet Potatoes • No Wheat

GÂTEAUX POUR CHIENS

NET WT. 10 OZ. (284g)  
POIDS NET

# FOX & OBEL

FOOD MARKET

FOX & OBEL FOOD MARKET  
401 E. ILLINOIS, CHICAGO, IL 60611  
STORE PHONE (312) 410-7301

CASHIER  
0001 05 05697777 11/21/10 2:14pm 004  
Newman's Pretzel \$3.99 LF  
Newman's Pretzel \$3.99 LF

SUBTOTAL \$7.98  
2.25% TAX \$0.18  
TOTAL \$8.16

AMERICAN EXPRESS \$8.16

EXP: 08/14  
11/21/10 14:14  
AUTH # # 517200  
SEQ # 0143435  
LID # 05828505

CHANGE \$0.00

# OF ITEMS: 2

# WHOLE FOODS MARKET<sup>®</sup>

1101 SOUTH CANAL  
Chicago, IL 60607 312-435-4600

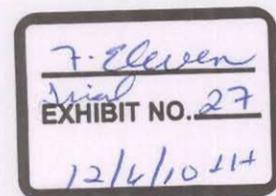
NMN TRT TKY SP 102	3.69	T
NWMN PB TREATS 102	3.69	T
365 OLV GR PTD 602	1.99	B
365 OLV GR PTD 602	1.99	B
**** TAX .81 BAL	12.17	
VF AMEX	12.17	
Acct # *****2004		
Seq # 7561		
Authorization # 527120		
CHANGE	.00	

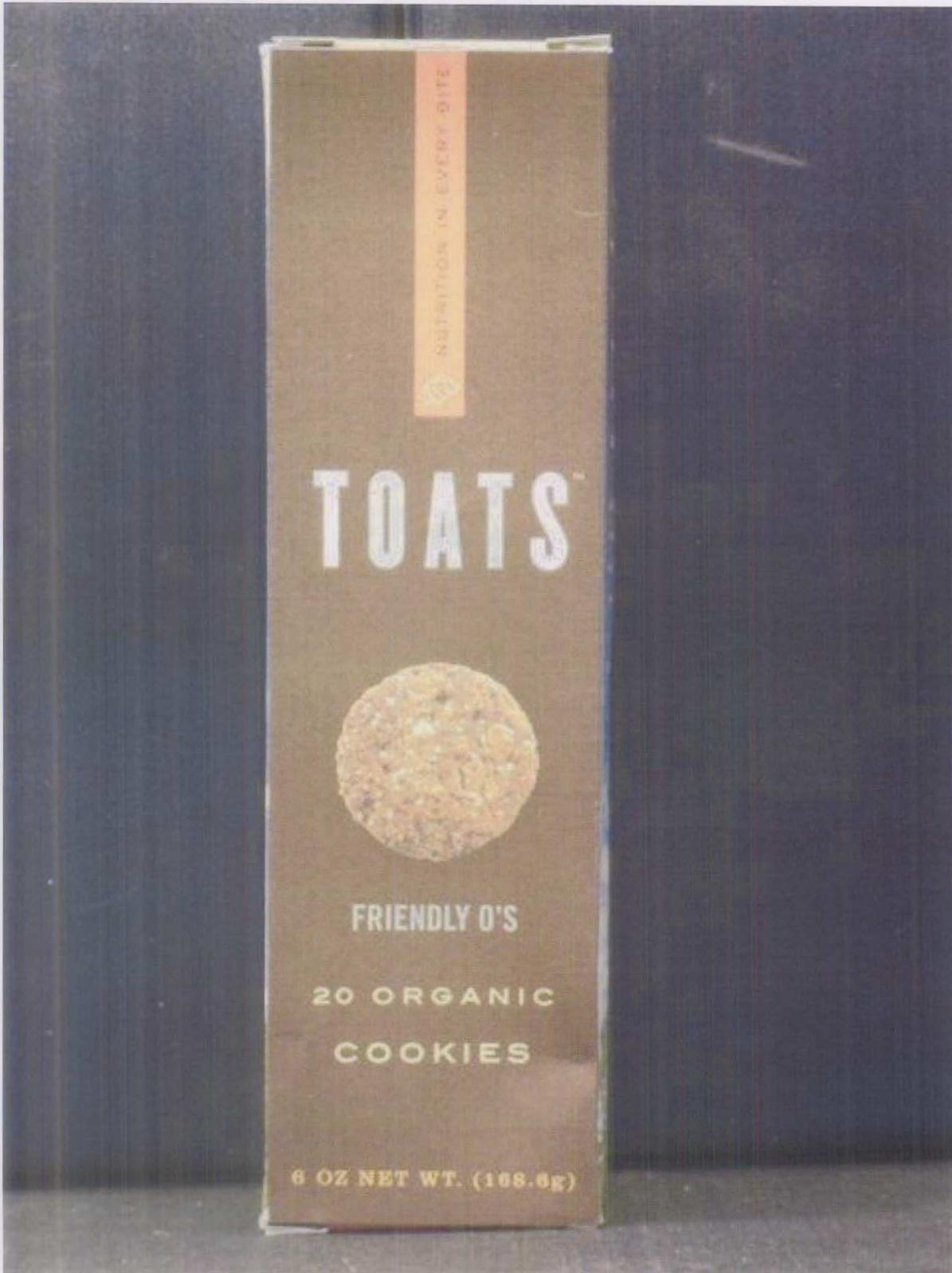
TOTAL NUMBER OF ITEMS SOLD = 4  
11/21/10 4:38 PM 0553 01 0651 128

Your cashier today is SUSAN  
Receipts are required for all refunds  
Refunds must be made within 30 days

7-Eleven Trial Exhibit 27

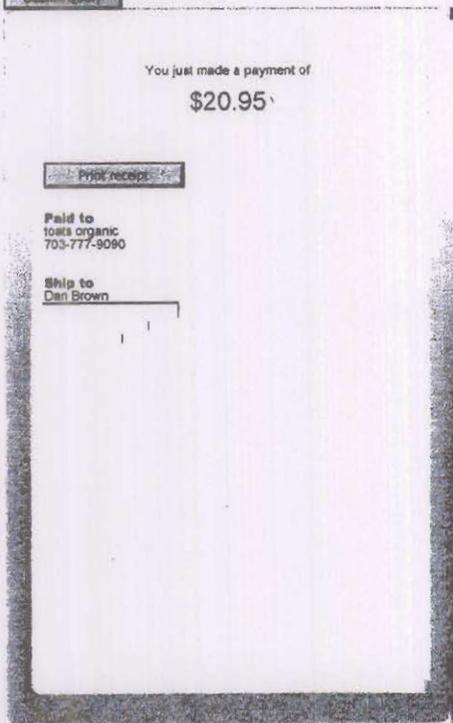
7-Eleven, Inc. v. Bucenell  
Opposition No. 91177807





**toats  
organic**

[Submit Query](#)



Thanks for your order

**PayPal**

✓ Dan, you just completed your payment.

Your transaction ID for this payment is: 8GV761031A900225D.

We'll send a confirmation email to brown3915@sbcglobal.net.

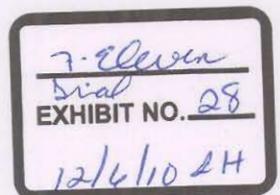
- [Go to PayPal account overview](#)
- [Add funds from your bank](#)

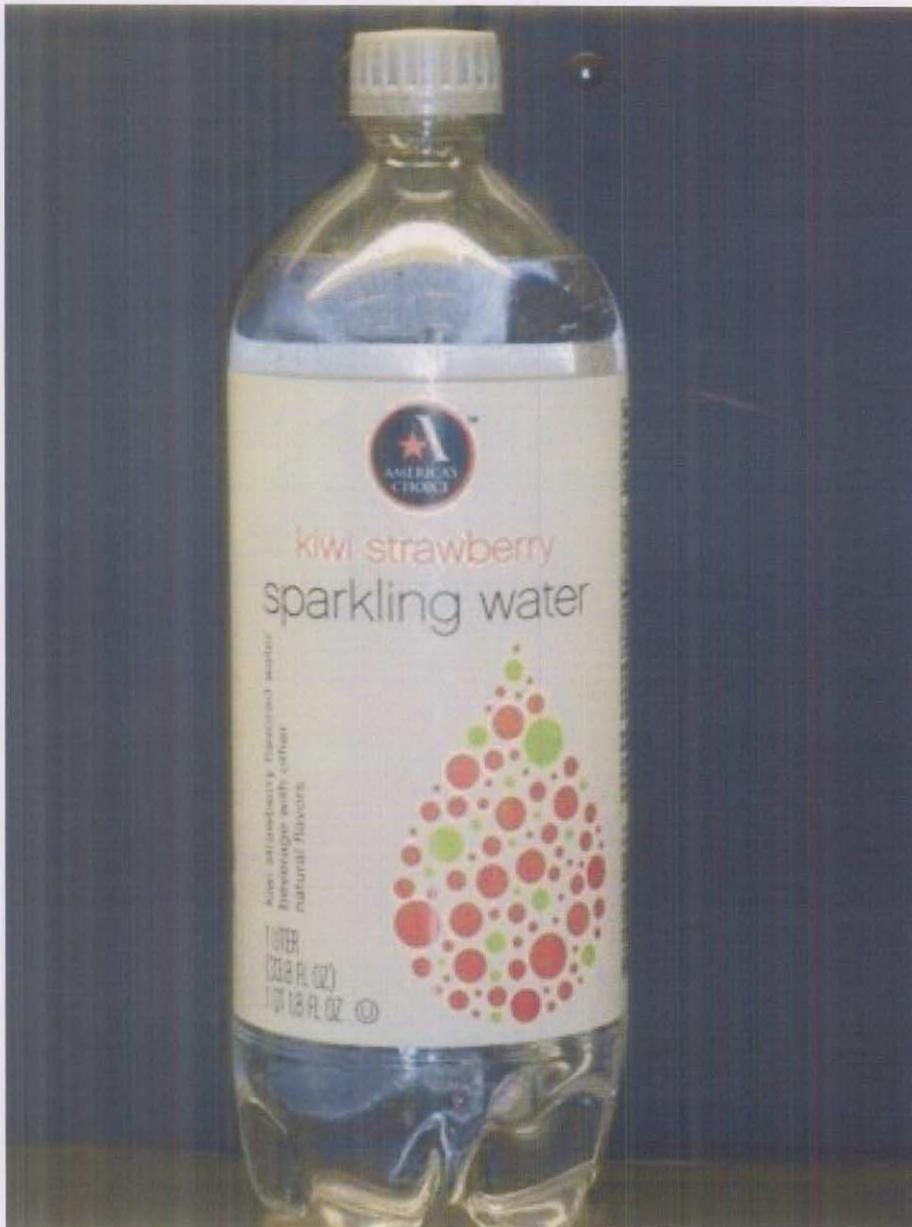
[Site Feedback](#) (0)

PayPal. The safer, easier way to pay. For more information, read our [User Agreement](#) and [Privacy Policy](#).

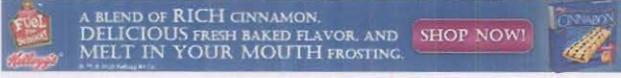
7-Eleven Trial Exhibit 28

7-Eleven, Inc. v. Bucenell  
Opposition No. 91177807









- Shop Departments
- » Grocery
  - » Health & Beauty
  - » General
  - » Store Brands
  - » Kosher
  - » Holiday
  - » Catering
  - » Specials

back to search results Search results for 'Dog Food' 1-10 of 10

Images Show: America's Choice Sort: [v]

	America's Choice Dog Food - Chicken & Rice 13.20 oz	\$0.06 Price/oz	\$0.77 Price
	America's Choice Dog Food - Chopped Beef 13.20 oz	\$0.06 Price/oz	\$0.77 Price
	America's Choice Dog Food - Chicken - Beef & Liver 13.20 oz	\$0.06 Price/oz	\$0.77 Price
	America's Choice Dog Food - Beef Slices 13.20 oz	\$0.06 Price/oz	\$0.77 Price
	America's Choice Dog Food - Beef Cuts Dinner For Dogs 13.20 oz	\$0.06 Price/oz	\$0.77 Price
	America's Choice Dog Food - Chicken & Beef For Puppies 13.20 oz	\$0.06 Price/oz	\$0.77 Price

Your Cart

Rice Mix - Beef  
Subtotal: \$1.19

Pasta - Spaghetti  
(1) Rice Mix - Beef Mix  
Pet Shop  
(1) Preferred Pet Nat.

Item Count: 2  
Est. Total: \$7.38  
View Cart Checkout

...make it new to you, your belly.

POPcorn



Dog Treats

Can't Find It?

Reserve Timeslot

Master List

Shop Departments

- > Grocery
- > Health & Beauty
- > General
- > Store Brands
- > Kosher
- > Holiday
- > Catering
- > Specials



Search results for 'Dog Treats'

Images

Show: America's Choice Sort:



America's Choice Dog Treats - Dental Bones  
12 pack  
4.50 ct

\$0.99  
Price/ct \$3.07  
Price  
(Min. Qty: 1)

[Add to Cart](#) [Save to List](#)

Reg Price: \$3.37

On Sale! Validated Shopper Club Members  
Sale price valid from Friday, Nov 26, 2010



America's Choice Preferred Pet Natural Rawhide Knotted Bone  
10 in  
1 ct

\$6.19  
Price/ct \$6.19  
Price

[Add to Cart](#) [Save to List](#)

Your Cart

Rice Mix - Beef  
Subtotal: \$1.19

Plants, Sauces, Grain  
11 Rice Mix - Beef W  
Pet Shop  
11 Preferred Pet list

With Coupon  
Est. Total: \$7.38

[View Your Cart](#) [Checkout](#)









You want lower prices.  
We Hear You.

11/23/10 12:09 PM 0298 70 0018 555

Charge File ID POB23120.827

	AC SPK WTR		.89 B
DP	BOTTLE DPST	NP	.05 F
	AC SPK WTR		.89 B
DP	BOTTLE DPST	NP	.05 F
	AC ROOT BEER	BC	.99 B
DP	BOTTLE DPST		.05 F
	AC ROOT BEER	BC	.99 B
DP	BOTTLE DPST		.05 F
	CHUNKY CHILI		1.75 F
	CHUNKY CHILI		1.75 F
	PRF PET FOOD	BC	.77 T
	PRF PET FOOD	BC	.77 T
	PREF PET BNS	BC	3.37 T
	PREF PET BNS	BC	3.37 T
MR	ONLINE DELIVRY	NP	5.00
MR	DELIVRY FEE	NP	5.95
	VALUED CUSTOMER		47727298000

2 @ .30  
 SC 4098 \$PRF PET JRK .60-T  
 2 @ 8/5.00  
 SC 6282 \$PRF PET FOO .29-T  
 2 @ .20  
 SC 6477 \$AC 2LT SODA .40-B  
 3.62 TAX .93 BAL 26.33  
 PayPal 26.33  
 CHANGE .00

COUPONS TENDERED 1.29  
 TOTAL NUMBER OF ITEMS SOLD = 10  
 11/23/10 12:09 0298 70 0018 555

SAVE MORE IN STORE WITH

ONLINE COUPONS @ WALDBAUMS.COM

\*VERIFIED TOTAL SAVINGS 1.29\*

We're going aisle by aisle, item by item, lowering prices throughout the store.

Discover a fresh new way to get your groceries ONLINE!

Waldbaums.com now available in Nassau & Suffolk.

The Food Emporium Trading Company  
Taste What The World Has To Offer  
Salsas-Eight Delicious Flavors!

\*\*\*\*\*  
 \* TODAY'S VERIFIED SAVINGS \*  
 \* \$ 1.29 \*  
 \*\*\*\*\*

7-Eleven, Inc. v. Bucenell  
Opposition No. 91177807

MY PLEASURE TO SERVE YOU ON-LINE

8