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KFC Sued for Fouling Chicken with Partially Hydrogenated Oil

Lawsuit Aimed at Eliminating, or Disclosing Use of, Artery-Clogging, Chemically Altered Frying Oil

WASHINGTON—See you in court, Colonel Sanders.

That's the message delivered today to KFC, a unit of Louisville, KY-based Yum! Brands, by the nonprofit Center for Science in the Public Interest (CSPI). Today that group and the Washington, DC, law firm of Heideman Nudelman & Kalik, P.C., filed suit against the fast-food giant over its use of partially hydrogenated oil—the chemically altered, trans-fat-laden oil that kills roughly 50,000 Americans per year. The class action suit, filed in Superior Court of the District of Columbia, asks that the court prohibit KFC from using partially hydrogenated oil, or that at the very least, signs be posted in KFC outlets notifying customers that many KFC foods are high in trans fat.

“Grilled, baked, or roasted chicken is a healthy food—and even fried chicken can be trans-fat-free,” said CSPI executive director Michael F. Jacobson. “But coated in breading and fried in partially hydrogenated oil, this otherwise healthy food becomes something that can quite literally take years off your life. KFC knows this, yet it recklessly puts its customers at risk of a Kentucky Fried Coronary.”

Meals at KFC can be startlingly high in trans fat. Besides chicken, KFC's biscuits, potato wedges, pot pie, and several desserts all contain hefty amounts of trans fat from partially hydrogenated oil. Just one Extra Crispy KFC breast has 4.5 grams of trans fat. A large order of Popcorn Chicken has 7 grams of trans fat, and KFC Pot Pie contains 14 grams of trans. A typical 3-piece Extra Crispy combo meal, with a drumstick, two thighs, potato wedges, and a biscuit has a staggering 15 grams of trans fat—more trans fat than an individual should consume in a week.

The plaintiff in the case is retired physician Arthur Hoyte, of Rockville, Maryland. He had purchased fried chicken at KFC outlets in Washington, DC, and elsewhere, not knowing that KFC fries in partially hydrogenated oil.



“If I had known that KFC uses an unnatural frying oil, and that their food was so high in trans fat, I would have reconsidered my choices,” said Dr. Hoyte. “I am bringing this suit because I want KFC to change the way it does business. And I’m doing it for my son and others’ kids—so that they may have a healthier, happier, trans-fat-free future.”

Once thought to be innocuous, trans fat is now known to be more harmful than saturated fat, since it simultaneously raises one’s LDL cholesterol—which promotes heart disease—and lowers one’s HDL cholesterol—which protects against it. Small amounts of trans fat occur naturally in beef and milk, but almost 80 percent of Americans’ trans fat comes from partially hydrogenated oils. The new trans-fat labeling requirement for packaged foods, has encouraged numerous manufacturers to switch to non-hydrogenated vegetable oil.

Restaurants have been much slower to act. McDonald’s famously promised to reduce trans fat in cooking oil in 2002, though it quietly reneged on that promise in 2003. In 2004, California trial attorney Stephen Joseph filed a lawsuit against McDonald’s over its broken promise, which the company settled in 2005 by agreeing to pay \$7 million to the American Heart Association. McDonald’s still has not changed its oil.

Just last week, the Wendy’s fast-food chain announced it was switching to a non-hydrogenated mixture of corn and soybean oil in its deep-fryers, making its fried foods virtually trans-fat-free. Among major table-service chain restaurants, the 700-outlet Ruby Tuesday chain has dumped partially hydrogenated oil (in favor of canola oil). While many fast-food chains have added more healthful items to their menus, KFC’s highest profile nutrition gambit was an ill-conceived and widely ridiculed ad campaign designed to portray KFC fried chicken as a weight-loss aid and health food. Those ads—which Jacobson said “took the truth, dipped it in batter, and deep-fried it”—were pulled after CSPI filed a complaint with the Federal Trade Commission.

“District of Columbia law allows consumers to seek relief from the courts when companies fail to disclose essential facts about their products,” said CSPI litigation director Stephen Gardner. “That KFC uses the worst frying oil imaginable to prepare its chicken is something that KFC should absolutely be required to disclose at the point of purchase.”

The lawsuit asks the court to require KFC to switch to a less harmful frying oil. If the court declines to do that, it could require signs in restaurants that say “KFC fried chicken and certain other foods contain trans fat, which promotes heart disease.” Although a decision against KFC in the lawsuit would only be binding in the District of Columbia, CSPI hopes it would encourage the chain to change its practices nationwide.

“This lawsuit is meant to serve as wake-up call to the food industry that changes must be made to protect the consumer from known dangers to his or her health,” said Richard D. Heideman, senior counsel of Heideman Nudelman & Kalik, P.C.

Trans-fat levels at KFC vary widely around the world. According to research published in the *New England Journal of Medicine*, KFC chicken and potato products in Spain, Portugal, and Denmark have far less trans fat than they do in the United States, Peru, or Poland, for instance. (Hungary had the

most). Denmark restricts the use of trans fat from industrially produced sources, meaning from hydrogenation, to 2 percent of the fat in foods.

In recent months, CSPI has turned to litigation to get food companies to market their products more honestly. It has negotiated out-of-court settlements with Tropicana, Quaker, Frito-Lay, and Pinnacle Foods and was credited (along with Heideman Nudelman & Kalik) with being the catalyst for an agreement to get soda out of schools that the industry reached with former President Clinton and others. CSPI will likely soon sue Cadbury-Schweppes for rebranding 7UP as “all-natural” (it’s not) and is currently suing the maker of a fungus-based meat substitute called Quorn for failing to inform consumers that the product can cause severe vomiting, diarrhea, and breathing difficulties. Also, CSPI and the Campaign for Commercial-Free Childhood are having discussions with Kellogg about marketing junk food to young children and may ultimately sue that company and Viacom/Nickelodeon.

“It’s harder to avoid trans fat at KFC than at any other fast-food chain in America,” Jacobson said. “You can’t tell by tasting, or by looking at the food, but trans fat is almost everywhere on this menu. By frying in such a dangerous oil, KFC is making its unsuspecting consumers’ arteries Extra Crispy. CSPI would far prefer the trans-fat problem be solved through voluntary action by restaurants or regulatory action by the FDA, but neither industry nor government has acted. Hence this litigation.”

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The Center for Science in the Public Interest (CSPI) is a nonprofit health-advocacy group based in Washington, D.C., that focuses on nutrition, food safety, and pro-health alcohol policies. CSPI is supported largely by the 900,000 U.S. and Canadian subscribers to its *Nutrition Action Healthletter* and by foundation grants.