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*Bloomberg.com*

## **McDonald's Must Face Obesity Suit by Teenagers (Update3)**

**January 25, 2005**

**Tom Becker**

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Retrieved 01/26/05 from

<http://www.bloomberg.com/apps/news?pid=10000103&sid=a8b1x0zSkGWg&refer=us>

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Jan. 25 (Bloomberg) -- McDonald's Corp., the world's largest fast-food chain, must face a suit by New York teenagers who claim the company hid the health risks of Chicken McNuggets and other foods and made them obese, an appeals court ruled.

The court overruled U.S. District Judge Robert Sweet's decision to dismiss the suit, which seeks billions of dollars in damages. He ruled it failed to allege enough facts connecting McDonald's food and their obesity. The New York-based court vacated the decision and said the children and their lawyers should be allowed to collect evidence to support their case.

The ruling clears the way for the teenagers, Ashley Pelman and Jazlen Bradley, to demand documents from McDonald's and gives them more leverage in any settlement talks. The suit is the first complaint accusing a fast-food chain of hiding health risks of their food to be considered by a judge.

The decision "is going to scare the hell out of McDonald's and every other fast-food company," said John Banzhaf, a consultant on the suit who helped initiate litigation against tobacco companies 30 years ago. "We can now demand a lot of their secret documents."

The teenagers said they ate at McDonald's restaurants three to five times a week over a 15-year period. The suit claimed the company hid the health risks of Big Macs, Chicken McNuggets and other foods high in fat and cholesterol in 1987 advertisements in the U.S. and brochures circulated in Britain.

McDonald's said there was no evidence the teenage plaintiffs, one of whom was born in 1988, saw the ads. The company also defended the accuracy of its ads.

'Common Sense'

"As we have consistently said, common sense tells you this particular case makes no sense," McDonald's spokesman Walt Riker said. "We are confident this frivolous suit will once again be dismissed. The key issue remains personal responsibility, and making informed choices."

Samuel Hirsch, a lawyer representing the teenagers, didn't immediately return a call seeking comment.

Sweet twice dismissed the suit, most recently in September 2003. The appeal was heard in October 2004.

Sweet dismissed the suit because the teenagers failed to say whether there was a connection between their obesity and their consumption of McDonald's food. The appeals court, reviewing the New York State consumer law under which the lawsuit was brought, said that's an issue to be addressed later in the course of the lawsuit.

'Super Size Me'

The decision came the same day that the movie "Super Size Me," a documentary in which director Morgan Spurlock eats only at McDonald's Corp. restaurants for 30 days and gains 25 pounds, was nominated for an Academy Award.

"I hate to see this lawsuit coming, just because it's more bad press for the whole industry," said Peter Goldman, who helps manage about \$1 billion at Chicago Asset Management, including McDonald's shares. "McDonald's is not holding a gun to anyone's head. I think they are doing the right thing. They are taking the menu the right way."

McDonald's is trying to switch to lower-fat fry oil and phased out Super size fries and soft drinks to counter criticism of its food.

Other lawsuits against fast food restaurants have settled, said Banzhaf, a George Washington University professor who, with his students, entered into a \$12 million pact resolving a suit against McDonald's over the way the chain cooked its French fries.

In 1994, a jury awarded nearly \$2.7 million to an 81-year-old woman who got third-degree burns from McDonald's coffee. The amount was reduced to \$480,000 on appeal.

"It's a shame that the courts will now have to spend more time and money teaching a few money-hungry lawyers what the rest of us have known since kindergarten," Center for Consumer Freedom Executive Director Richard Berman said in a statement. "Individuals are responsible for their own food choices." The Center for Consumer Freedom is a nonprofit coalition of restaurants, food companies, and consumers.

Court of Appeals Docket #03-9010-cv Pelman v. McDonald's Corp.

To contact the reporter on this story:  
Tom Becker in the U.S. Bankruptcy Court in New York at [tbecker5@bloomberg.net](mailto:tbecker5@bloomberg.net).

To contact the editor responsible for this story:  
Patrick Oster at [poster@bloomberg.net](mailto:poster@bloomberg.net).