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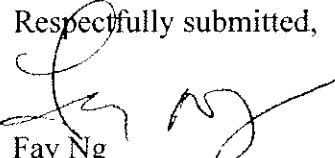
Hon. Chester J. Straub
Hon. Rosemary S. Pooler
Hon. Sonia Sotomayor
United States Court of Appeals
for the Second Circuit
500 Pearl Street
New York, New York

Re: New York State Restaurant Ass'n v. New York City Bd. of Health,
Case No. 08-1892-cv

Your Honors:

At this morning's argument, you asked whether the New York City Department of Health and Mental Hygiene ("DOHMH") would be willing to extend the time during which it will not seek monetary fines for violations of Health Code §81.50 should this Court deny plaintiff's motion for a stay. I was instructed to confer with DOHMH and to advise you of its response this afternoon.

DOHMH has always been willing to work with the restaurant industry in the implementation of this important public health initiative. It voluntarily agreed not to seek fines for violations of Health Code §81.50 for a period of six weeks after its effective date because the NYSRA represented that its members would require that amount of time to come into compliance with the calorie posting requirement once it became the law. This "no fines" period will end on June 6, 2008. During today's oral argument, plaintiff's counsel represented that some restaurants might not be able to post calories by June 6, 2008 because they have not done the necessary calculations. DOHMH will agree to extend the "no fines" period until July 18, 2008, six weeks beyond June 6, 2008. During this period, DOHMH will inspect and issue Notices of Violations, but will not impose fines for violations of Health Code §81.50.

Respectfully submitted,

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