

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS

SUPERIOR COURT
C.A. NO: 06-1963-B

| | |
|---------------------------------|---|
| WHITE CITY SHOPPING CENTER, LP, |) |
| |) |
| Plaintiff, |) |
| |) |
| v. |) |
| |) |
| P.R. RESTAURANTS, L.L.C., |) |
| |) |
| Defendants. |) |
| |) |
| |) |

AFFIDAVIT OF KERRY J. BYRNE

I, Kerry J. Byrne, hereby depose and say as follows:

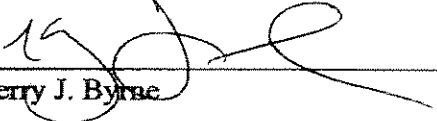
1. I have been a food and drinks writer for the Boston Herald since 1998. My food and drinks writing has also appeared in publications such as Epicurious.com (the website for Gourmet Magazine), Esquire Magazine, Boston Magazine, Yankee Magazine and many other food and drink publications. I consider myself to be an expert on culinary issues.

2. A sandwich is, by any definition I have ever seen, something that stacks layers of meat, cheese, vegetables and condiments between two layers of bread. A burrito, on the other hand is, simply put, a burrito. It is a separate and distinct product.

3. I know of no one in the culinary industry who would consider a burrito to be a sandwich.

4. I also believe that a burrito is viewed as distinct from a sandwich in terms of public perception. To put it anecdotally, nobody would say that they are going to the burrito shop to get sandwich, or conversely, that they are going to the sandwich shop to get a burrito.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 23 DAY OF
OCTOBER, 2006.


Kerry J. Byrne

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