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Testimony of

Mr. Wayne Reaves

October 16, 2003

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Statement of Wayne Reaves
Owner, Manna Enterprises, Inc.
t/a Jack's Family Restaurants, Anniston, AL
On behalf of the National Restaurant Association
Administrative Oversight and the Courts Subcommittee
of the Senate Judiciary Committee
U.S. Senate
October 16, 2003

Thank you, Mr. Chairman. Chairman Sessions and members of the Committee, my name is Wayne Reaves and I am the owner of Manna Enterprises, Inc. in Anniston, Alabama. I own and operate 7 quick-service restaurants operating in the region as Jack's Family Restaurants. I am testifying here today on behalf of the National Restaurant Association, which is the leading business association for the restaurant industry, to offer my support for S. 1428 - the Commonsense Consumption Act of 2003. Together with the National Restaurant Association Educational Foundation, the Association's mission is to represent, educate, and promote a rapidly growing industry that is comprised of 870,000 restaurant and foodservice outlets employing 11.7 million people around the country. As a member of the Board of Directors of the Association, I am pleased to say that our nation's restaurant industry is the cornerstone of the economy, careers and community involvement.

Mr. Chairman, I'd first like to start by giving you a very brief background on my business. I proudly have spent my entire professional career working in the restaurant industry for Jack's Family Restaurants. Jack's is a quick-service concept that serves breakfast, lunch and dinner with a wide variety of options on our menu. I started out working in Jack's as a cook back in high school and was promoted to General Manager of the store shortly after I graduated. Out of high school, I was drafted and served in the Army before returning to Jack's where I worked my way up the management ladder. Today, as the only Jack's franchisee, I own and operate 7 restaurants. And while I am certainly not the only one to work their way up in our industry, it is more rewarding and gratifying to have done so within the same concept for over three decades. The restaurant industry has been very good to me and I hope to one day pass my business on to my son so that he can hopefully share the same experiences, rewards and challenges that I have.

However, one of the challenges that the restaurant-and-foodservice industry has been confronted with recently is the string of frivolous lawsuits being filed against our industry, claiming they are the cause of some individuals' overweight- or obesity-related health conditions. These senseless and baseless attempts by representatives of the trial bar are nothing more than a distraction from finding sensible solutions to this very complex issue, and are a clear abuse of our judicial system.

The issue of obesity is a very serious and multi-faceted issue. However, certain special interest groups, along with these trial attorneys, are looking for scapegoats and trying to target food as the culprit to the obesity issue. To blame the restaurant-and-foodservice industry is overly simplistic, and is clearly underscored by the fact that 76 percent of meals are eaten at home. I'm not a dietician, but I do know that dietary experts agree that all foods can be part of a balanced diet. Therefore, it doesn't mean that one must give up certain foods, it means setting limits on how much and how often.

The American public also sees through the trial bar's misguided approach and understands the frivolity of these irresponsible lawsuits. And, I'm pleased to share the good news that personal responsibility remains a strong American value. In a Gallup poll conducted in July, 89 percent of Americans indicated that the food industry should not be blamed for issues of obesity and overweight. Also, according to National Restaurant Association research, an overwhelming 95 percent of Americans feel they are qualified to make their own decisions on what to order when dining out. And, we are also fortunate that common sense has prevailed with the ruling in September by Judge Robert Sweet in New York, dismissing the most recent lawsuit against a restaurant chain claiming it caused obesity among some Americans.

There is no doubt in my mind that trial attorneys will persist in trying to file other similar lawsuits, as they have made no secret of their intentions to continue their efforts. As you may be aware, this past June, members of the trial bar community convened a three-day workshop in Boston entitled "Legal Approaches to the Obesity Epidemic". Some of the same individuals who were associated with the tobacco litigation played significant roles at the workshop.

Mr. Chairman, in the simplest of terms, this type of legal action, if permitted to go forward, could be very costly to my business. It would only take one lawsuit of this nature to potentially put me out of business and take away all that I have worked for. As a franchisee of a larger chain, I operate much like any other independent small businessman. And if I were to face one of these suits, I would be responsible for defending myself and for bearing the brunt of any judgment against me. As a businessman who employs 196 individuals, this is a grave concern of mine. For more than half of my employees, the job I provide them serves as the primary source of income for their families. My employees depend on their job for their livelihoods - and so do their

families

But beyond the costs of defending a potential suit and the risks to my business that go along with it, there are other significant and detrimental effects. For instance, the mere threat of such a suit can have a direct impact on the cost of insuring my business. Insurance companies have acknowledged that they are watching these lawsuits very closely, and they recognize that this litigation is very much a factor in how they may price future liability products for food companies. One insurance industry publication has even coined the phrase "food fright" in discussing this recent legal phenomenon and its potential repercussions in the insurance markets. The foodservice industry accounts for 4% of our nation's GDP. If this type of litigation is not kept in check, there could not only be negative consequences for the foodservice industry, but for our nation's economy.

In the restaurant industry, clearly the customer comes first. However, the thought that an individual can file a lawsuit based in part on a voluntary choice he/she has made regarding where and what to eat is disturbing. Perhaps no other industry offers a greater variety of choices to consumers than restaurants. And, one of the many strengths of the restaurant industry is the broad spectrum of cuisines and culinary options that customers are offered.

In any one of our nation's 870,000 restaurants, consumers have the opportunity, flexibility and freedom to choose among a variety of high quality, safe, healthy and enjoyable types of cuisine. And once a customer enters a restaurant, he or she is presented with an array of choices designed to accommodate any individual's tastes and preferences. Customers are also capable of customizing their meals, whether it is food-preparation method or substitution of food items to meet their dietary needs. And, as you may know, more and more restaurants have recently announced new menu items or "healthier" options. But, let me be clear in underscoring that the restaurant industry is driven by consumer demand. These recent changes by various companies are in response to American consumers and the marketplace - not by the threat of potential litigation.

The lawsuits we are discussing this afternoon not only fail to acknowledge the voluntary nature of the choices customers make, they also do not address the fundamental issue of personal responsibility. I believe it is important to recognize that personal responsibility, moderation, and physical activity are all key ingredients to a healthy lifestyle.

Mr. Chairman, with 11.7 million employees, the restaurant industry is our nation's largest employer outside of government. If these lawsuits are permitted to go forward, they could very simply jeopardize my livelihood, my employees and my customers - whose freedom of choice would be infringed upon. Additionally, I fear for the industry and the impact these lawsuits could have on the economy. Sen. McConnell is to be commended for introducing S. 1428 which would help prevent these misguided lawsuits in the future. More attention needs to be paid to educating the American public on the importance of healthy lifestyles, moderation, and personal responsibility, not more senseless litigation.

Mr. Chairman and members of the Committee, thank you again for this opportunity to appear before you today.
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