

ELY, KADISON & QUINN

LAWYERS
550 SOUTH FLOWER STREET
LOS ANGELES 17, CALIFORNIA
MADISON 6-1314

Plaintiff

ATTORNEYS FOR

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

GENERAL BAKING COMPANY, a
New York corporation,

Plaintiff,

vs.

ANNETTE BECKER, WOODROW COLEMAN,
GERALD FARBER, JAY FRANK, MARI
GOLDMAN, F. DANIEL GRAY, ROBERT
HALL, BRUCE HARTFORD, RICHARD
THOMSON, SHELIA TOMLINSON,
NON-VIOLENT ACTION COMMITTEE,
JOHN DOES I THROUGH L, JANE
DOES I THROUGH L,

Defendants.

No. 840711

DECLARATION OF
RUSSEL I. KULLY

RUSSEL I. KULLY declares:

I am an attorney at law of the law firm of Ely, Kadison
& Quinn, counsel for plaintiff herein within the state of California,
and am fully familiar with the files herein.

On or before July 2, 1964, I received information that
defendants herein intended to conduct a demonstration at the coffee
shop of plaintiff located at 5665 Wilshire Boulevard, Los Angeles,
California (the "Wilshire coffee shop" herein). I arrived at the
Wilshire coffee shop at approximately 4:00 o'clock p.m. on July 2,
1964 and departed at approximately 8:30 o'clock p.m. on the same
date. In the intervening period, I was at all times on or about
the premises of said coffee shop and had occasion at no less

1 frequently than ten minute intervals to observe the conduct of the
2 defendants described hereinbelow.

3 Upon arriving at said coffee shop, I conferred with and
4 instructed Gordon E. Anderson, an investigator and process server
5 who had been engaged by plaintiff to act as process server of the
6 papers described herein and William Banks, a free lance photographer
7 who had been engaged by plaintiff to take motion picture photographs
8 at the Wilshire coffee shop.

9 While at the Wilshire coffee shop on said date, I observed
10 the following actions and conduct of each of the named defendants
11 listed hereinbelow.

12 1. Defendant Annette Becker: Defendant Annette Becker
13 (defendant "Becker" herein) arrived at the Wilshire coffee shop at
14 approximately 6:30 p.m. on July 2, 1964 and remained therein until
15 approximately 8:20 p.m.. Defendant Becker was promptly identified
16 to me and while defendant Becker remained in the lobby of the Wilshir
17 coffee shop, I directed Gordon E. Anderson immediately to effect ser-
18 vice upon her of the Temporary Restraining Order and Order to Show
19 Cause, Complaint for Injunction, Declaration of William Banks in
20 Support of Application for Injunctive Relief, Declaration of Robert
21 A. Minium in Support of Application for Injunctive Relief, and Memo-
22 randum of Points and Authorities in Support of the Application for
23 Injunctive Relief Pendente Lite (hereinafter collectively referred to
24 as the "pleadings"). In accordance with my directions and under my
25 direct supervision, Mr. Anderson exhibited to defendant Becker the
26 original summons issued herein and handed to her a copy of the plead-
27 ings. The service of the pleadings upon defendant Becker was photo-
28 graphed by motion picture photographs made by William Banks.

29 Defendant Becker was seated at a table at approximately
30 6:35 p.m. and remained at such table until she and the other defend-
31 ants herein departed from the Wilshire coffee shop at approximately
32 8:20 p.m.. While in the Wilshire coffee shop, defendant Becker

1 ordered one or more beverages but did not order a complete meal,
2 and on one or more occasions after defendant Becker had been at her
3 table more than thirty minutes, an employee, or employees, of plain-
4 tiff requested defendant Becker to vacate her table so as to make
5 it available to other customers of plaintiff, many of whom were
6 waiting and had waited for a considerable period of time in order to
7 obtain a table. Defendant Becker declined to surrender her table
8 until she departed from said coffee shop as aforesaid.

9 2. and 3. Defendants Gerald Farber and Jay Frank:
10 Defendants Gerald Farber (defendant "Farber" herein) and Jay Frank
11 (defendant "Frank" herein) arrived together at the Wilshire coffee
12 shop and were seated together at a table therein at approximately
13 4:15 p.m. on July 2, 1964. Both of said defendants remained at their
14 table until departing from the restaurant at approximately 8:20 p.m..
15 One or both of said defendants carried into the restaurant a placard
16 advising against the purchase of the plaintiff's products and such
17 placard was placed upon said defendants' table so as to be readily
18 viewable from other tables. At my direction, one of the employees
19 of plaintiff requested that said defendants remove their placard
20 from view, but said defendants declined to do so. At approximately
21 4:45 p.m., I directed Gordon E. Anderson to effect service of the
22 pleadings upon said defendants, and each of them, and he promptly
23 did so, under my direct supervision, by exhibiting the original
24 summons to each of said defendants and by handing to each of them a
25 set of the pleadings. Mr. Anderson's service of the pleadings upon
26 each of said defendants was also photographed by motion picture
27 photographs made by William Banks. While in the Wilshire coffee
28 shop, defendants Farber and Frank ordered one or more beverages and
29 pastries but did not order a complete meal. On at least two separate
30 occasions between the time of said service of the pleadings and prior
31 to 7:30 p.m. on said date, I personally advised defendants Farber
32 and Frank together that the continued exhibition of said placard

1 constituted, in my opinion, a violation of the Temporary Restraining
2 Order theretofore served upon them as did their continued conduct in
3 remaining at their table for an unreasonable period of time without
4 ordering more than a token amount of food and beverages. On the
5 first of such occasions, defendant Farber stated, smiling to me, that
6 he had not been able to read past the heading of the Temporary Re-
7 straining Order, although, to the contrary, I had been observing
8 defendant Farber closely following the service of the pleadings and
9 noticed that he and defendant Frank had been examining the pleadings
10 for a long period of time and with considerable concentration. On at
11 least one of the occasions of my statement to said defendants, I
12 directed their attention to paragraphs D and J of said Temporary
13 Restraining Order set forth at page 3 thereof and advised them that
14 such paragraphs contained the prohibitions against exhibition of
15 placards and the actions described therein as "sip-in" demonstrations.
16 Nevertheless, said defendants continued exhibiting their said placard
17 until approximately 7:30 p.m. when such placard was taken from their
18 possession and was not returned to them until they departed from the
19 restaurant. On at least three separate occasions, one or more
20 employees of plaintiff requested that defendants vacate their table
21 so that other patrons of plaintiff might be seated, but they declined
22 to do so until their departure at approximately 8:20 p.m..

23 4. Defendant Mari Goldman. Defendant Mari Goldman
24 (defendant "Goldman" herein) arrived at the Wilshire coffee shop at
25 approximately 4:15 p.m. on July 2, 1964 and was promptly seated at
26 a table, remaining there until her departure from the restaurant at
27 approximately 8:20 p.m., over four hours after she was first seated.
28 At approximately 4:47 p.m. on said date, I directed Gordon E.
29 Anderson to effect service of the pleadings upon defendant Goldman,
30 whereupon Mr. Anderson, under my direct supervision, promptly effected
31 service of the pleadings upon defendant Goldman by exhibiting to her
32 the original summons issued herein and by handing to her a copy of

1 the pleadings. Mr. Anderson's service upon defendant was also
2 photographed by motion picture photographs made by William Banks.
3 While in the Wilshire coffee shop, defendant Goldman ordered one or
4 more beverages and pastries but did not order a complete meal. It
5 is my belief, and based upon such belief I declare, that on one
6 occasion following said service of the pleadings, I specifically
7 advised defendant Goldman that her continued conduct in remaining
8 within the Wilshire coffee shop for an unreasonably long period of
9 time while ordering only a token amount of food or beverages con-
10 stituted a violation of paragraph J of the Temporary Restraining
11 Order theretofore served upon her. On no less than three occasions,
12 one or more of the employees of plaintiff, at my direction, requested
13 that defendant Goldman surrender her table and depart the Wilshire
14 coffee shop but she declined to do so, notwithstanding that there
15 were many other patrons of plaintiff waiting to be seated.

16 5. Defendant Bruce Hartford. Defendant Bruce Hartford
17 (defendant "Hartford" herein) arrived at the Wilshire coffee shop at
18 approximately 5:30 p.m., carrying with him a placard advising against
19 the purchase of plaintiff's products. While still in the waiting
20 room of the Wilshire coffee shop, I directed Gordon E. Anderson to
21 effect service of the pleadings upon Hartford, whereupon Mr. Anderson
22 promptly so acted by exhibiting to defendant Hartford the original
23 summons and handing to him a copy of the pleadings. Defendant Hart-
24 ford refused to take possession of the pleadings and permitted them
25 to fall and remain at his feet while waiting to be seated. Mr.
26 Anderson's service upon defendant Hartford was also photographed by
27 motion picture photographs made by William Banks. Defendant Hartford
28 was promptly seated and remained in the Wilshire coffee shop until
29 approximately 8:20 p.m. when he departed from said restaurant. Upon
30 being seated, defendant Hartford placed his placard opposite him so
31 that it could be read by bystanders. On one or more occasions there-
32 after, I advised defendant Hartford that his actions, in my opinion,

1 constituted one or more violations of the Temporary Restraining Order
2 and advised him that he continued so to act as his own risk. Defend-
3 ant Hartford declined to remove his sign but, to the contrary, it
4 remained in full view all or a substantial portion of the time in
5 which he was seated. Defendant Hartford, similarly to the defend-
6 ants described above, ordered a token amount of beverages and/or
7 food during his stay in the restaurant. Defendant Hartford was also
8 asked by one or more employees of plaintiff on several occasions to
9 surrender his table so that other waiting patrons of plaintiff could
10 be seated, but he declined to do so until his said departure.

11 6. Defendant Richard Thomson. Defendant Richard Thomson
12 (defendant "Thomson" herein) arrived at the Wilshire coffee shop at
13 approximately 4:15 p.m. on July 2, 1965 and was promptly seated at
14 a table therein. At approximately 4:47 p.m. on said date, I directed
15 Gordon E. Anderson to effect service of the pleadings upon defendant
16 Thomson, whereupon Mr. Anderson, under my direct supervision, prompt-
17 ly effected service of the pleadings upon defendant Thomson by ex-
18 hibiting to him the original summons issued herein and by handing
19 to him a copy of the pleadings. Mr. Anderson's service upon defend-
20 ant was again photographed by motion picture photographs made by
21 William Banks. Defendant Thomson remained at the table until approxi-
22 mately 8:20 p.m. when he departed from the Wilshire coffee shop after
23 having remained at his table for over four hours. During his approxi-
24 mate four hours stay in said coffee shop, defendant Thomson sipped
25 one or more cups of coffee and little or nothing else. It is my
26 belief, and based upon such belief I declare, that on one occasion
27 following said service of the pleadings, I specifically advised
28 defendant Thomson that his continued conduct in remaining within the
29 Wilshire coffee shop for an unreasonably long period of time while
30 ordering only a token amount of food or beverages constituted a
31 violation of paragraph J of the Temporary Restraining Order thereto-
32 fore served upon him. On no less than three occasions, one or more

1 of the employees of plaintiff, at my direction, requested that
2 defendant Thomson surrender his table and depart the Wilshire
3 coffee shop.

4 On or before July 11, 1964, I was again informed that
5 defendants herein intended to conduct a further demonstration against
6 plaintiff, but, on this occasion, at the coffee shop of plaintiff
7 located at 6261 Laurel Canyon Boulevard, North Hollywood, California
8 (the "Valley coffee shop" herein). I arrived at the Valley coffee
9 shop at approximately 2:45 p.m. on July 11, 1964, and remained
10 there until approximately 7:45 p.m. when I departed from the premises.
11 Upon arriving at said Valley coffee shop, I conferred with and in-
12 structed Everett W. Brown, an investigator and process server who
13 had been engaged to act as process server of the pleadings.

14 While at the Valley coffee shop on July 11, 1964, I ob-
15 served the following actions and conduct of each of the named
16 defendants listed hereinbelow.

17 1. Defendant Becker. Defendant Becker arrived at the
18 Valley coffee shop premises at approximately 3:50 p.m. on July 11,
19 1964. At approximately 6:15 p.m., defendant Becker was seated at
20 a table in said restaurant and remained there until she and the
21 other defendants herein departed at approximately 7:35 p.m.. During
22 the approximately two and one-half hours preceding her seating,
23 defendant Becker spent most of her time wandering about and in and
24 out of the coffee shop lobby and "table-hopping" within the seating
25 area, spending the remaining portion of the time engaged in a
26 picketing demonstration on the sidewalk of said premises. At
27 approximately 6:00 p.m., while in the lobby of said restaurant, I
28 overheard defendant Becker protest to the manager of the restaurant
29 that others were being seated before her and I thereupon asked
30 defendant Becker if she was waiting to be seated. She answered,
31 somewhat evasively, that she was waiting for a friend. I thereupon
32 asked the manager if defendant Becker had been offered a table

1 previously, and he advised me that on several occasions she had
2 been offered a table either by herself or with one or more of her
3 friends, but that she had declined each said offer and made it
4 clear to him that she did not wish to be seated. The manager told
5 me that he was aware of his instructions previously received from
6 his superior, Mr. Robert Hudecek, to seat defendant Becker as
7 quickly as possible and that he had attempted to act in accordance
8 with these instructions on several occasions as aforesaid. Prompt-
9 ly upon defendant Becker being seated at approximately 6:15 p.m., I
10 went to defendant Becker's table for the purpose of advising her
11 that any "sip-in" demonstration on her part would, in my opinion,
12 constitute a further violation of the Temporary Restraining Order
13 theretofore served upon her. I commenced the conversation by ad-
14 vising defendant Becker that it obviously was not necessary for me
15 to provide her with a new copy of the Temporary Restraining Order
16 for her review so that she could refresh her memory as to the pro-
17 hibitions set forth therein since she had placed the pleadings
18 previously served upon her on the table in front of her. I there-
19 upon directed her attention to paragraph J of the Temporary Restrain-
20 ing Order and read such paragraph in its entirety and then stated
21 to her that she had had ten days to study the document and that, in
22 my opinion, she would be charged with knowledge of its contents.
23 Defendant Becker made no comment in response. While in the Valley
24 coffee shop, defendant Becker ordered and was served one dinner
25 roll and one cup of coffee, receiving a bill for 26¢.

26 2. Defendant Farber. Defendant Farber arrived at the
27 Valley coffee shop at approximately 4:05 p.m. on July 11, 1964 and
28 was promptly seated, remaining at his table until approximately
29 7:35 p.m.. At approximately 5:30 p.m., I approached the table at
30 which defendant Farber was seated, introduced myself as having
31 directed the service of the pleadings upon him on July 2, 1964, and
32 handed him a copy of the Temporary Restraining Order theretofore

1 served upon him. I thereupon read to said defendant the full text
2 of paragraph J of said Temporary Restraining Order and advised
3 defendant Farber that he had had approximately ten days to study
4 this document, and stated that, in my opinion, he would be charged
5 with knowledge of its contents, to which he made no reply. At
6 approximately 6:50 p.m., I again approached defendant Farber and
7 advised him that I was aware that he had been asked to surrender his
8 table on several occasions but had declined to do so, notwithstand-
9 ing that he had been at his table for over two and one-half hours,
10 and I stated to defendant Farber that apparently he had no intention
11 of obeying the Temporary Restraining Order. Defendant Farber again
12 made no response to my statement but purported to ignore me.
13 Defendant Farber remained at the table until approximately 7:35 p.m.
14 when he departed from the restaurant. While in said restaurant,
15 defendant Farber ordered for himself and an unknown female companion
16 an aggregate of three cups of coffee and two donuts.

17 3. Defendant Frank. Defendant Frank arrived at the
18 Valley coffee shop at approximately 4:06 p.m. and was promptly
19 seated, remaining there until his departure at 7:35 p.m.. At
20 approximately 5:30 p.m., I made the same statement to defendant
21 Frank that I had made to defendant Farber as set forth above, again
22 reading to defendant Frank the full text of paragraph J of the
23 Temporary Restraining Order. Defendant Frank's only response was
24 a "thank you". At approximately 6:50 p.m., I again approached de-
25 fendant Frank and advised him that I was aware that he had been
26 asked to surrender his table on several occasions but had refused
27 so to act, notwithstanding that he had been at the table for over
28 two and one-half hours, and stated to defendant Frank that apparent-
29 ly he had decided to pay no attention to the Temporary Restraining
30 Order, to which statement defendant Frank made no response. While
31 in the restaurant, defendant Frank ordered food and beverages re-
32 sulting in a bill of 40¢.

1 4. Defendant Hartford. Defendant Hartford arrived at
2 the Valley coffee shop premises at approximately 3:50 p.m. on July
3 11, 1964 and proceeded to march in a picketing demonstration on
4 the sidewalks of the premises until entering the said coffee shop
5 and being seated at approximately 4:50 p.m.. Defendant Hartford
6 remained at his table until his departure at approximately 7:35 p.m..
7 At approximately 5:40 p.m., I approached the table at which defend-
8 ant Hartford was seated, handed him a copy of the Temporary Restraining
9 Order and read the full text of paragraph J of said Temporary
10 Restraining Order, advising him, as I had done with defendants
11 Farber and Frank, that he had had approximately ten days to study
12 the document and would, in my opinion, be charged with full knowledge
13 of its contents. Defendant Hartford made no response. At approxi-
14 mately 6:55 p.m., I again approached defendant Hartford's table
15 and advised him that he had been at the table for approximately
16 two hours and that he apparently had no intention of obeying the
17 Temporary Restraining Order and that he acted at his own risk. He
18 made no response to my statement. While in said restaurant, defend-
19 ant Hartford consumed beverages and food resulting in a bill of
20 44¢.

21 5. Defendant Shelia Tomlinson. Defendant Shelia Tomlinson
22 (defendant "Tomlinson" herein) arrived at the Valley coffee shop at
23 approximately 4:15 p.m. and was promptly seated. Defendant Tomlinson
24 was identified to me shortly thereafter and at approximately 5:25 p.m..
25 I directed Everett W. Brown to effect service of the pleadings upon
26 her and he did so immediately by exhibiting the original summons
27 issued herein and by handing her a copy of the pleadings. At the
28 time of said service, I directed defendant Tomlinson's attention to
29 the Temporary Restraining Order and, more particularly, to paragraph
30 J of the Temporary Restraining Order and read her the full text of
31 paragraph J of said Temporary Restraining Order. I asked defendant
32 Tomlinson if she had any questions and she merely shook her head.

1 Defendant Tomlinson remained at her table until departing the Valley
2 coffee shop at approximately 7:35 p.m., and while in the said
3 restaurant, she consumed one glass of juice. At approximately
4 6:57 p.m., I returned to defendant Tomlin's table and directed her
5 attention to the fact that she had been in said restaurant over
6 two and one-half hours, had consumed only one drink, and was
7 obviously violating paragraph J of the Temporary Restraining Order,
8 manifestly with full knowledge of its contents. Defendant Tomlinson
9 merely smiled and declined to respond to my statement.

10 Newsreel films were made, and are available, of the
11 service of the pleadings upon defendants herein at the Valley coffee
12 shop and of all or a substantial portion of my statements to said
13 defendants described herein.

14 I was at the Valley coffee shop from approximately
15 2:45 p.m. until approximately 7:40 p.m. on July 11, 1964. During
16 the entirety of my stay in said coffee shop, I constantly observed
17 the actions of each of the defendants described hereinabove and was
18 never out of the view of any of them for more than five minutes at
19 any one time. Copies of the pleadings were served on many other
20 defendants under fictitious name designations, many of whose actions,
21 in my opinion, constituted violations of one or more provisions of
22 the Temporary Restraining Order served upon him or her; however, I
23 believe based upon my personal observations and upon information
24 provided me that the defendants named hereinabove constitute the
25 initiators and leaders of the demonstrations and as such should be
26 held principally responsible for their actions and those of the
27 other participants, and, for that reason, plaintiff has not at this
28 time sought contempt citations for other defendants herein.

29
30 Executed on July 15th, 1964 at Los Angeles, California.

31 I declare under the penalty of perjury that the foregoing
32 is true and correct.



Russel I. Kully