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ORIGINAL

BEFORE THE UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION


In the Matter of
WHOLE FOODS MARKET, INC.
a corporation.

Docket No. 9324
PUBLIC
DECLARATION OF BRIAN ROHTER

1 4. The period preceding Thanksgiving is the busiest week to ten days of the
2 year for our business, and the month of December is the busiest month of the year for New
3 Seasons. For New Seasons to divert employees to respond to the Whole Foods subpoena during
4 this period of the year or even to allow outsiders to have access to New Seasons' computer
5 system in order to conduct the kind of search necessary to comply with the Whole Foods

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Pursuant to 28 USC § 1746, I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on this 21st day of November, 2008 at Portland, Oregon.



BRIAN ROHTER

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served a copy of the foregoing **DECLARATION OF BRIAN**
3 **ROHTER** on:

4 James A. Fishkin
Dechert, LLP
17551 I Street, N.W.
Washington, DC 20006-2401

J. Robert Robertson
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

5 Of Attorneys for Whole Foods Market, Inc.

Of Attorneys for Federal Trade Commission

6 Matthew J. Reilly
7 Catharine M. Moscatelli
Federal Trade Commission
8 601 New Jersey Avenue, N.W.
Washington, DC 20001

9 Of Attorneys for Federal Trade Commission

10 by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed
11 to said attorney's last-known address and deposited in the U.S. mail at Portland, Oregon on the date set
forth below;

12 by sending a copy thereof via overnight courier in a sealed, prepaid envelope,
13 addressed to said attorney's last-known address on the date set forth below;

14 by faxing a copy thereof to said attorney at his/her last-known facsimile number on

15 by electronically mailed notice on the date set forth below.

16 Dated this 24 day of November, 2008.

17 **DAVIS WRIGHT TREMAINE LLP**

18 By 7
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