

Kelly Finestone v. Menu Foods Inc et al

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1 Jean M. Lawler (SBN 91254)  
 jlawler@murchisonlaw.com  
 2 Gina E. Och (SBN 170520)  
 goch@murchisonlaw.com  
 3 **MURCHISON & CUMMING, LLP**  
 801 South Grand Avenue, 9th Floor  
 4 Los Angeles, California 90017-4613  
 Telephone: (213) 623-7400  
 5 Facsimile: (213) 623-6336

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6 William P. Donovan, Jr. (SBN 155881)  
 william.donovan@dlapiper.com  
 7 **DLA PIPER US LLP**  
 1999 Avenue of the Stars, Fourth Floor  
 8 Los Angeles, California 90067-6022  
 Telephone: (310) 595-3046  
 9 Facsimile: (310) 595-3346

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 CLERK U.S. DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA  
 LOS ANGELES

10 UNITED STATES DISTRICT COURT  
 11 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

13 KELLY FINESTONE, on behalf of  
 herself, similarly situated consumers,  
 14 and the general public,

15 Plaintiffs,

16 vs.

17 MENU FOODS, INC., a Canadian  
 Corporation, THE IAMS COMPANY,  
 18 an Ohio Corporation, PETCO  
 ANIMAL SUPPLIES, INC., a  
 19 Delaware Corporation, et al.,

20 Defendants.

CASE NO. CV-07-02338 CAS (CWx)

**JOINT STIPULATION AND  
 PROPOSED ORDER REGARDING  
 ORDER STAYING ALL  
 PROCEEDINGS AND FOR  
 PRESERVATION OF EVIDENCE**

Judge: Hon. Christina A. Snyder  
 Ctrm: 5 (2<sup>nd</sup> Floor, Spring Street)

23 WHEREAS, this Court entered an Order Staying All Proceedings and for  
 24 Preservation of Evidence on June 15, 2007, which incorporated certain provisions of a  
 25 Consent Order entered in *Workman v. Menu Foods Ltd.*, Case No. 07-CV-01338 pending  
 26 in the United States District Court for the District of New Jersey related to contact by  
 27 Defendant Menu Foods Inc. with potential class members (the "New Jersey Consent  
 28 Order").

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1           **WHEREAS**, the parties to the New Jersey Consent Order have stipulated that it  
2 has unintended consequences that arguably prohibit the Menu Foods from: responding to  
3 *pro se* litigation, responding to legislative inquiries, acknowledging receipt of written  
4 inquiries from potential claimants simply by advising them that the Menu Foods cannot  
5 comment at this time, or communicating with attorneys representing claimants in  
6 litigation or potential litigation related to the recall.

7           **WHEREAS**, the parties to the New Jersey Consent Order believed it necessary  
8 and appropriate to resolve the those unintended consequences by a joint stipulation to the  
9 United States District Court for the District of New Jersey.

10           **WHEREAS**, the parties to this Action believe it necessary and appropriate to seek  
11 the same clarification with regard to the Order Staying All Proceedings and for  
12 Preservation of Evidence.

13           **IT IS HEREBY STIPULATED** by and between Plaintiff and Menu Foods,  
14 through their designated counsel, that the Order Staying All Proceedings and for  
15 Preservation of Evidence be amended to permit the following:

- 16           (1) Menu Foods is permitted to have contact with pet owners who have  
17 instituted litigation against the company and are proceeding *pro se*.  
18 Further, Menu Foods is permitted to settle claims of the respective *pro se*  
19 litigants and may use information obtained from the respective *pro se*  
20 plaintiffs to do so;
- 21           (2) If Menu Foods receives an inquiry from a pet owner and it becomes  
22 apparent that the person is addressing litigation, or the Menu Foods product  
23 recall that is the subject of litigation, Menu Foods may respond that an  
24 order prohibits it from commenting on the matter at this time, but that it  
25 hopes to do so in the near future and that it will respond to the inquiry at  
26 that time;
- 27           (3) Menu Foods may respond to inquiries from legislators on behalf of  
28 constituents regarding the litigation or the Menu Foods recall;

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(4) The Consent Order continues to provide no limitation with Menu Foods' ability to communicate with counsel for any member of the putative class.  
**IT IS SO STIPULATED.**

DATED: July 3, 2007.

**KING & FERLAUTO, LLP**

By: William T. King  
WILLIAM T. KING  
THOMAS M. FERLAUTO  
Attorneys for Plaintiff,  
KELLY FINESTONE

DATED: July 3, 2007.

**MURCHISON & CUMMING, LLP**

By: Gina Och  
JEAN M. LAWLER  
GINA E. OCH  
Attorneys for Defendant,  
MENU FOODS, INC.

**O R D E R**

Pursuant to Stipulation,  
**IT IS SO ORDERED.**

DATED: 7/9/07

Christina A. Snyder  
**THE HONORABLE CHRISTINA A. SNYDER**  
**UNITED STATES DISTRICT JUDGE**

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(4) The Consent Order continues to provide no limitation with Menu Foods' ability to communicate with counsel for any member of the putative class.

**IT IS SO STIPULATED.**


DATED: July 3, 2007.

**KING & FERLAUTO, LLP**

By: \_\_\_\_\_  
WILLIAM T. KING  
THOMAS M. FERLAUTO  
Attorneys for Plaintiff,  
KELLY FINESTONE

DATED: July 3, 2007.

**MURCHISON & CUMMING, LLP**

By:  \_\_\_\_\_  
JEAN M. LAWLER  
GINA E. OCH  
Attorneys for Defendant,  
MENU FOODS, INC.

**O R D E R**

Pursuant to Stipulation,  
**IT IS SO ORDERED.**

DATED: \_\_\_\_\_

\_\_\_\_\_  
**THE HONORABLE CHRISTINA A. SNYDER**  
**UNITED STATES DISTRICT JUDGE**