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6 Attorneys for Defendants  
 MENU FOODS INCOME FUND; MENU FOODS, INC.; MENU FOODS MIDWEST  
 7 CORPORATION; AND MENU FOODS SOUTH DAKOTA, INC.

8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA

Gordon & Rees LLP  
 275 Battery Street, Suite 2000  
 San Francisco, CA 94111

11 SHERRY INGLES, individually and on Behalf of )  
 All Others Similarly Situated, )

12 Plaintiff, )

13 vs. )

14 MENU FOODS INCOME FUND; MENU FOODS, )  
 15 INC.; MENU FOODS MIDWEST )  
 CORPORATION; and MENU FOODS SOUTH )  
 16 DAKOTA, INC. )

17 Defendants. )

CASE NO.: 3:07-cv-01809-MMC  
**STIPULATION AND ~~PROPOSED~~**  
**ORDER STAYING ALL**  
**PROCEEDINGS AND FOR**  
**PRESERVATION OF EVIDENCE**

The Honorable Maxine M. Chesney

Gordon & Rees LLP  
275 Battery Street, Suite 2000  
San Francisco, CA 94111

1 WHEREAS, this case is one of over seventy (70) putative class actions filed in this court  
2 and several other courts throughout the country for damages and injunctive relief, arising from  
3 the manufacture, distribution and/or sale of pet food products allegedly by and through  
4 Defendants Menu Foods Income Fund, Menu Foods, Inc., Menu Foods Midwest Corporation and  
5 Menu Foods South Dakota, Inc. (hereinafter collectively referred to as "Menu Foods").

6 WHEREAS, actions are currently pending in the Western District of Washington, Eastern  
7 District of Tennessee, Northern District of Illinois, Western District of Wisconsin, Western  
8 District of Arkansas, District of New Jersey, Northern District of Florida, Southern District of  
9 Florida, Middle District of Florida, District of Massachusetts, District of Connecticut, Central  
10 District of California, District of Rhode Island, District of Maine, Northern District of California,  
11 District of Nevada, District of Idaho, and Northern District of Ohio. Specifically, the pending  
12 cases allege that Menu Foods sold contaminated pet food to the general public and individuals  
13 whose pets consumed this pet food and sustained injuries and/or death.

14 WHEREAS, on March 30, 2007, four (4) separate motions for transfer and coordination  
15 or consolidation pursuant to 28 U.S.C. § 1407 were filed by four (4) different groups of  
16 plaintiffs. Plaintiff Shirley Sexton filed the first MDL motion, seeking to transfer her case and  
17 numerous other cases involving alleged injuries and/or death arising out of the purchase and/or  
18 consumption of pet food manufactured by Defendants to the Central District of California.  
19 Plaintiff Christina Troiano filed the second MDL motion, seeking transfer to the Southern  
20 District of Florida. Plaintiffs Tom Whaley, Stacey Heller, Toinette Robinson, David Rapp,  
21 Cecily and Terrance Mitchelle, Suzanne E. Johnson, Craig R. Klemann, Audrey Kornelius,  
22 Barbara Smith, Michelle Suggett and Don James, filed their MDL motion to transfer the cases to  
23 the Western District of Washington. Finally, Plaintiffs Jayme Pittsonberger, David Carter, and  
24 Jim Bullock filed their MDL motion to transfer the cases to the District of New Jersey.

25 WHEREAS, on March 30, 2007, Plaintiff Shirley Ingles filed a products liability action  
26 in the Northern District of California, alleging that Plaintiff's pet sustained injuries and/or death  
27 as a result of the purchase and/or consumption of pet food manufactured by Menu Foods.

28 ///

1 WHEREAS, on April 12, 2007, the Judicial Panel on Multidistrict Litigation (“JPML”)  
2 issued a Notice of Hearing Session for May 31, 2007, to consider the MDL motions  
3 (“Collectively known as MDL 1850 - *In re Pet Food Products Liability Litigation*). The JPML  
4 will determine whether all actions, including this action, should be transferred and coordinated  
5 and/or consolidated under 28 U.S.C. § 1407 for pretrial proceedings.

6 WHEREAS, the parties believe that in the short intervening time between now and a  
7 decision by the MDL Panel on transfer and coordination and/or consolidation, a stay of these  
8 proceedings will conserve party and judicial resources.

9 IT IS HEREBY STIPULATED by and between the Plaintiff and Defendants, through  
10 their designated counsel that this matter, including the deadlines for the parties to participate in  
11 class certification and other pretrial proceedings, be stayed pending the establishment of *In re:*  
12 *Pet Food Products Liability Litigation*, MDL Docket No. 1850, and the potential subsequent  
13 transfer of this case for coordinated pretrial proceedings with other actions pending throughout  
14 the country.

15 All parties shall, during the pendency of the stay of this matter, comply with their duty to  
16 preserve all evidence that may be relevant to this action. This duty extends to documents,  
17 electronic data, and tangible things in the possession, custody and control of the parties to this  
18 action, and any employees, agents, contractors, or carriers who possess materials reasonably  
19 anticipated to be the subject of discovery in this action. “Preservation” is to be interpreted  
20 broadly to accomplish the goal of maintaining the integrity of all documents, data and tangible  
21 things reasonably anticipated to be the subject of discovery under Federal Rules of Civil  
22 Procedure 26, 45 and 56(e) in this action. Preservation includes taking reasonable steps to  
23 prevent the partial or full destruction, alteration, testing, deletion, shredding, incineration,  
24 wiping, relocation, migration, theft, or mutation of such material, as well as negligent or  
25 intentional handling that would make material incomplete or inaccessible. If the business  
26 practices of any party involve the routine destruction, recycling, relocation, or mutation of  
27 materials, the party must, to the extent practicable for the pendency of this order, either:

- 28 i) halt such business practices;

- 1 ii) sequester or remove such material from the business process; or
- 2 iii) arrange for the preservation of complete and accurate duplicates or copies of such
- 3 material, suitable for later discovery if requested.

4 IT IS SO STIPULATED.

5 Respectfully submitted,

6 Dated: May \_\_\_\_, 2007

LERACH COUGHLIN STOIA GELLER  
7 RUDMAN & ROBBINS LLP

8 By: \_\_\_\_\_

9 Shawn A. Williams  
10 Attorneys for Plaintiff SHERRY INGLES,  
11 individually and on Behalf of All Others  
12 Similarly Situated

13 Respectfully submitted,

14 Dated: May \_\_\_\_, 2007

GORDON & REES LLP

15 By: \_\_\_\_\_


16 Carrie A. Lubinski  
17 Attorneys for Defendants MENU FOODS  
18 INCOME FUND; MENU FOODS, INC.;  
19 MENU FOODS MIDWEST  
20 CORPORATION; AND MENU FOODS  
21 SOUTH DAKOTA, INC.

22 **ORDER**

23 PURSUANT TO STIPULATION, IT IS SO ORDERED.

24 Dated: May 16, 2007

25 By: \_\_\_\_\_

26   
27 Maxine M. Chesney  
28 Judge of the U.S. District Court

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275 Battery Street, Suite 2000  
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