Case 3:07-cv-00705-JAH-CAB Document 31 Filed 05/29/2007 Page 1 of 4 1 SQUIRE, SANDERS & DEMPSEY L.L.P. Mark C. Goodman (Cal. Bar No. 154692) 2 mgoodman@ssd.com One Maritime Plaza, Suite 300 3 San Francisco, CA 94111-3492 Telephone: +1.415.954.0200 4 Facsimile: +1.415.393.9887 5 Attorneys for Defendant 6 PETCO ANIMAL SUPPLIES, INC. 7 8 IN THE UNITED STATES DISTRICT COURT 9 FOR THE SOUTHERN DISTRICT OF CALIFORNIA 10 11 ROBERT PAYNE and STEVE Case No. 07-CV-00705-JAH(CAB) BARTILUCCI. 12 Judge: The Honorable John A. Houston Plaintiffs. 13 E-FILING VS. 14 **DEFENDANT PETCO ANIMAL** MENU FOODS, INC., a New Jersey SUPPLIES, INC.'S JOINDER IN MENU 15 corporation, PETCO ANIMAL SUPPLIES, FOODS' MOTION TO STAY ALL 16 INC., a Delaware corporation, SAFEWAY, PROCEEDINGS AND MOTION FOR INC., a Delaware corporation, THE EXTENSION OF TIME TO RESPOND TO 17 PROCTER & GAMBLE COMPANY, an PLAINTIFFS' COMPLAINT Ohio corporation, and DOES 1 through 50, 18 Defendants. 19 20 Defendant PETCO Animal Supplies, Inc. ("PETCO"), through undersigned counsel, 21 pursuant to Local Rule 7.1j. hereby joins in the Notice of Motion and Motion to Stay All 22 Proceedings filed by MENU FOODS, INC. ("MENU FOODS"). Additionally, pursuant to Local 23 Rule 12.1, PETCO moves for an extension of time to respond to Plaintiffs' Complaint. 24 25 **BACKGROUND** 26 1. MENU FOODS filed its Motion to Stay on April 23, 2007 [D.E. 7]. 27 28 PETCO'S JOINDER IN MENU FOODS' MOTION TO STAY ALL PROCEEDINGS AND MOTION FOR EXTENSION OF

QUIRE, SANDERS & DEMPSEY L.L.P. One Maritime Plaza, Suite 300 San Francisco, CA 94111-3492 TIME TO RESPOND TO PLAINTIFFS' COMPLAINT - CASE NO. 07 CV 070 JAH (CAB)

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2. PETCO filed its Joint Motion for Extension of Time to File Answer or Responsive Pleading on April 26, 2007 [D.E. 10], which was granted by the Court on April 27, 2007 [D.E. 11]. MENU FOODS then obtained a further extension of time for all defendants to respond to Plaintiffs' Complaint. PETCO's response to Plaintiffs' Complaint is currently due on June 11, 2007.

JOINDER

- 3. As explained in further detail in MENU FOODS' Motion to Stay and supporting brief, which are fully incorporated and adopted herein by reference, a stay of all proceedings in this action pending a transfer decision by the Judicial Panel on Multidistrict Litigation ("JPML") and a determination of class certification by the transferor court is necessary to promote judicial economy and avoid undue prejudice to the parties. Due to the pending MDL motions and pending motions for class certification, a stay of proceedings in this case is necessary and appropriate to further the interests of judicial economy. This Court should not unnecessarily expend resources and time to supervise pre-trial proceedings and make rulings in a case, that may shortly be transferred to another district court for further pre-trial proceedings. Additionally, since this action is in the beginning stages of litigation and the JPML will be hearing the pending MDL motions on May 31, 2007, no prejudice or inconvenience will result from immediate entry of a stay.
- 4. For these reasons, PETCO respectfully requests that the Court grant the relief sought in MENU FOODS' Motion to Stay.

EXTENSION OF TIME TO RESPOND

- 5. Pursuant to Local Rule 12.1, PETCO requests that the Court extend the deadline for PETCO to respond to Plaintiffs' Complaint until twenty (20) days after the Court rules on MENU FOODS' Motion to Stay, which PETCO joins. If the Court grants the Motion to Stay, PETCO's response to the Complaint would not be due until after the stay is lifted or expires.
- 6. Plaintiffs will not be prejudiced by the granting of a stay until such time as the JPML can complete its Hearing Session. Furthermore, good cause exists for granting such an

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			Squ	uire, Sanders & Dempsey L.I	
1	PROOF OF SERVICE				
2	I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is One Maritime Plaza, Third Floor, San Francisco, California 94111-3492.				
4567	On May 29, 2007, I served the following documents described as: DEFENDANT PETCO ANIMAL SUPPLIES, INC.'S JOINDER IN MENU FOODS' MOTION TO STAY ALL PROCEEDINGS AND MOTION FOR EXTENSION OF TIME TO RESPOND TO PLAINTIFFS' COMPLAINT on interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as set forth below:				
8	VIA UNITED STATES PARTIES AS SET FOR		RT ELECTRONIC FILI	NG SERVICE ON THE	
9 10 11 12 13	Eric J. Benink, Esq. Krause Kalfayan Benink & 625 Broadway, Suite 635 San Diego, CA 92101 Telephone: (619) 232-0331 Facsimile: (619) 232-4019 David S. Casey, Jr., Esq.		Susan M. Hack, Esq. Higgs, Fletcher & Mack LLP 401 West "A" Street, Suite 2600 San Diego, CA 92101-7913 Telephone: (619) 236-1551 Facsimile: (619) 696-1410 ATTORNEYS FOR DEFENDANT		
15 16 17 18	Thomas D. Penfield, Esq. Casey Gerry Schenk Francavilla Blatt & Penfield, LLP 110 Laurel Street San Diego, CA 92101 Telephone: (619) 238-1811 Facsimile: (619) 544-9232		MENU FOODS, INC.		
19	ATTORNEYS FOR PLAI	INTIFFS			
202122	I declare under penalty of perjury under the laws of the State of California that the above is true and correct.				
23		/s/			
24		Agnes A. Gacayan			
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