

1 SUSAN M. HACK, ESQ. (Bar No. 145347)
2 HIGGS, FLETCHER & MACK LLP
3 401 West "A" Street, Suite 2600
4 San Diego, CA 92101-7913
5 TEL: 619.236.1551
6 FAX: 619.696.1410

7 Attorneys for Defendant
8 MENU FOODS, INC., a New Jersey corporation

9 Case 3:07-cv-00951-IEG-BLM Document 5 Filed 07/16/2007 Page 1 of 4

10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12 JOHN COLLIARD, as an individual
13 consumer, and on behalf of all others
14 similarly situated,

15 Plaintiff,

16 v.

17 MENU FOODS, INC., a New Jersey
18 corporation, and CHEMNUTRA, INC., a
19 Delaware corporation,

20 Defendants.

CASE NO. 07cv951 IEG (BLM)

21 NOTICE OF RELATED CASES,
22 PURSUANT TO LOCAL RULE 40.1(e)

23 CTROOM: 1
24 JUDGE: Hon. Irma E. Gonzalez
25 TRIAL DATE: Not Set

26 Defendant MENU FOODS, INC. hereby advises the Court, pursuant to Local Rule
27 40.1(e), of the following related case:

- 28 1. *Payne v. Menu Foods, Inc.*, 07cv0705 JAH (CAB).¹

In both matters, the plaintiffs contend that their pets were injured and/or died following
their consumption of Defendant's products (specifically certain brands of dog and cat food).

Defendant submits that these matters: (1) arise from the same or substantially identical
happenings or events (the consumption of Defendant's products which is alleged to have caused
injury in each case); (2) involve the same (or substantially the same) parties; (3) call for

¹ There are two other related matters in addition to *Payne* before the Honorable John A. Houston (*Swarburg v. Menu Foods* 07cv0706 JAH (CAB) and *Ford/Kramer v. Menu Foods* 07cv0734JAH (CAB)). *Payne* is the lowest numbered of all of these related cases.

1 determination of the same or substantially identical questions of law; and (4) if heard by different
2 judges would entail the unnecessary duplication of labor.

3 For these reasons, MENU FOODS, INC. requests that the "low number" rule be invoked
4 and that this matter be transferred to the Honorable John A. Houston.

5 DATED: July 16, 2007

HIGGS, FLETCHER & MACK LLP

6 Case 3:07-cv-00951-IEG-BLM Document 5 Filed 07/16/2007 Page 2 of 4

7 By: /s/ Susan M. Hack

8 SUSAN M. HACK, ESQ.

9 Attorneys for Defendant

10 MENU FOODS, INC., a New Jersey
11 Corporation
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1 SUSAN M. HACK, ESQ. (Bar No. 145347)
2 STEPHEN T. PELLETIER, ESQ. (Bar No. 231236)
3 HIGGS, FLETCHER & MACK LLP
4 401 West A Street, Suite 2600
San Diego, CA 92101-7913
TEL: 619.236.1551
FAX: 619.696.1410

5 Attorneys for Defendant
6 MENU FOODS, INC.

Case 3:07-cv-00951-IEG-BLM Document 5 Filed 07/16/2007 Page 3 of 4

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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 JOHN COLLIARD, as an individual
12 consumer, and on behalf of all others
13 similarly situated,

14 Plaintiff,

15 v.

16 MENU FOODS, INC., a New Jersey
17 corporation, and CHEMNUTRA, INC., a
Delaware corporation,

18 Defendants.

CASE NO. 07cv951 IEG (BLM)

**PROOF OF SERVICE BY
MAIL/ELECTRONIC SERVICE**

CTROOM: 1
JUDGE: Hon. Irma E. Gonzalez
TRIAL DATE: Not Set

19 I, the undersigned, declare:

20 I am a resident of the State of California and over the age of eighteen years, and not a
21 party to the within action; my business address is 401 West "A" Street, Suite 2600, San Diego,
22 California 92101. On July 16, 2007, I served the within documents:

23
24 NOTICE OF RELATED CASES, PURSUANT TO LOCAL RULE 40.1(e)

25 on the interested parties in this action, by placing true copies thereof in a separate
26 envelope addressed to each addressee, respectively, as follows:

- 27 • BY ELECTRONIC SERVICE
28

1
2 ☐ By transmitting via facsimile the document(s) listed above to the fax number(s) set
3 forth below on this date before 5:00 p.m. A copy of the transmission report issued
4 by the transmitting facsimile machine is attached hereto.

5 ☐ ((BY MAIL): I deposited such envelope in the mail at San Diego, California. The envelope was
6 mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's
7 practice for collection and processing of correspondence for mailing with the United
8 States Postal Service; and that the correspondence shall be deposited with the United
9 States Postal Service this same day in the ordinary course of business. I am aware that
10 on motion of the party served, service is presumed invalid if postal cancellation date
11 or postage meter date is more than one day after date of deposit or mailing in affidavit.
12 (CCP §§ 1013, 2015.5.) Further, notice shall be electronically mailed pursuant to
13 the Southern District of California, Electronic Case Filing Administrative
14 Policies and Procedures, on the parties as indicated below.

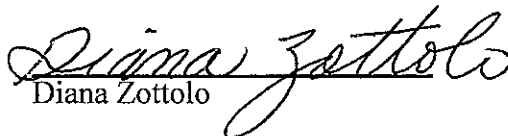
15
16 • **ELECTRONICALLY REGISTERED:**

- 17 • **Harold M Hewell**
18 hmhewell@hewell-
19 lawfirm.com,hmhewell@yahoo.com

20 I am readily familiar with the firm's practice of collection and processing correspondence
21 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same
22 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on
23 motion of the party served, service is presumed invalid if postal cancellation date or postage
24 meter date is more than one day after date of deposit for mailing in affidavit.

25 I declare under penalty of perjury under the laws of the State of California that the above
26 is true and correct.

27 Executed on July 16, 2007, at San Diego, California.

28

Diana Zottolo