

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 07-20955-CIV-LENARD

STEPHEN DONNELLY and JENNIFER :
HIRNI, On Behalf of Themselves and :
All Others Similarly Situated, :

Plaintiffs, :

v. :
:

MENU FOODS, INC., a New Jersey :
corporation, MENU FOODS INCOME :
FUND, MENU FOODS HOLDINGS, :
INC. and MENU FOODS MIDWEST :
CORPORATION, a Delaware corporation, :
CHEMNUTRA LLC, XUHOU ANYING :
BIOLOGIC TECHNOLOGY :
DEVELOPMENT COMPANY LTD., :
SUZHOU TEXTILE IMPORT AND :
EXPORT COMPANY, :

Defendants. :

**STIPULATION AND ORDER
GRANTING DEFENDANT-S MOTION TO STAY PROCEEDINGS**

WHEREAS, this case is one of over sixty (60) putative class actions filed in this court and several other courts throughout the country for damages and injunctive relief, arising from the manufacture, distribution and/or sale of pet food products by Defendants, Menu Foods Income Fund, Menu Foods, Inc., Menu Foods Holdings, Inc., and Menu Foods Midwest Corporation (Collectively referred to as Menu Foods®) and Chemnutra, LLC, Xuhou Anying Biologic Technology Development Company Ltd.; and Suzhou Textile Import and Export Company;

{RDM/013804.0109/L4123667_1}
RDM/013804.0109/L4123630_1

WHEREAS, on March 30, 2007, a Motion to Transfer and Coordinate or Consolidate Action Pursuant to 28 U.S.C. ' 1407 to the Central District of California with the Judicial Panel on Multidistrict Litigation (AMDL Panel@) was filed by Plaintiff, Shirley Sexton.

WHEREAS, on March 30, 2007, a Motion to Transfer and Coordinate or Consolidate Action Pursuant to 28 U.S.C. § 1407 to the Southern District of Florida with the Judicial Panel on Multidistrict Litigation by Plaintiff, Christine Troiano.

WHEREAS, on March 30, 2007, a Motion to Transfer and Coordinate or Consolidate Action Pursuant to 28 U.S.C. § 1407 to the Western District of Washington with the Judicial Panel on Multidistrict Litigation by Plaintiffs, Tom Whaley, Stacey Heller, Toinette Robinson, David Rapp, Cecily and Terrance Michelle, Suzanne E. Johnson, Craig R. Klemann, Audrey Kornelius, Barbara Smith, Michelle Suggett and Don James.

WHEREAS, the MDL Panel will determine whether all actions, including this action, should be transferred and coordinated and/or consolidated under 28 U.S.C. ' 1407 for pretrial proceedings. The MDL Panel has set this matter for hearing on May 31, 2007 in Las Vegas, Nevada; and

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

IT IS HEREBY STIPULATED by and between the Plaintiff and Defendants, Menu Foods Income Fund, Menu Foods, Inc., Menu Foods Holdings, Inc., and Menu Foods Midwest Corporation, through their designated counsel that this matter, including the deadlines for the parties to participate in class certification and other pretrial proceedings, be stayed pending the establishment of *In re: Pet*

Food Products Liability Litigation, MDL Docket No. 1850, and the potential subsequent transfer of this case for coordinated pretrial proceedings with other actions pending throughout the country.

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

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

IT IS SO STIPULATED.

Dated: May 1, 2007

Respectfully submitted,

SHEPHERD, FINKELMAN, MILLER
& SHAH, LLC

By: *S/ Scott R. Shepherd*

Scott R. Shepherd
Attorneys for Plaintiff

Dated: May 1, 2007

Respectfully submitted,

ADORNO & YOSS, LLP

By: *s/ Robert D. McIntosh*

Robert D. McIntosh
Attorney for Menu Foods Defendants

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2007, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: /s/ **Robert D. McIntosh**

Robert D. McIntosh (FBN: 115490)

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Defendants.

Case No. 07-20955-CIV-LENARD

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

The Honorable Joan A. Lenard
United States District Court Judge

DONNELLY v. MENU FOODS, et al
SERVICE LIST – 07-20955-CIV-LENARD

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