

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

Case no. 07-21221-CIV-ALTONAGA-TURNOFF

RENEE BLASZKOWSKI, *et al.*,

Plaintiffs

vs.

MARS, INC., *et al.*,

Defendants.

**PLAINTIFFS' RESPONSE TO CERTAIN DEFENDANTS'
MOTION FOR CONTINUANCE OF SCHEDULING HEARING**

Plaintiffs, Renee Blaszkowski *et al.*, respectfully request this Court to deny Defendants, Mars, Incorporated, Procter and Gamble Co., Colgate-Palmolive Co., Del Monte Foods Co., Nestle USA, Inc., Nutro Products, Inc., PETCO Animal Supplies, Inc., and Wal-Mart Stores, Inc.'s Motion ("Defendants") to Continue Scheduling Hearing and states:

This Court originally ordered the parties' to provide the Court with a Joint Scheduling Report by June 7, 2007. [DE 7]. Based on some of the Defendants' Motions for Extension of Time for thirty (30) days to comply with the Court's Scheduling Order, allowed the additional time and scheduled a hearing on July 6, 2006. [DE 57].

Some of the Defendants have again requested an extension of time to comply with the Order based upon two grounds: local counsel for Defendant Nutro has a scheduling conflict and some of the Defendants believe that the Plaintiffs' Amended Complaint will "affect decisions about scheduling dates." [DE 103].

The Plaintiffs/Class Representative request that the Motion be denied for all of the following reasons:

1. None of the Defendants' counsel raised scheduling conflicts at the time that the Order was entered on June 7, 2006. While the Defendants Motion did not state that this was a pre-existing court appearance that could not otherwise be scheduled given the late timing of the Motion, presumably Nutro's local counsel can make arrangements for another lawyer in local counsel's firm to attend a scheduling conference so that it does not have to be postponed and the Scheduling Order delayed again.

2. Plaintiff/Class Representative, Renee Blaszkowski, a resident of Michigan, has made arrangements to attend this hearing as a representative for the Plaintiffs. It would cause her great inconvenience if this hearing were to be continued at this late date.

3. The Defendants have been aware for several weeks that the undersigned planned to be on vacation during that week, but because the Plaintiffs want to move the case along, the undersigned has made arrangements to be at the hearing notwithstanding vacation plans. If there was a valid conflict which would necessitate the continuance of this hearing based upon one individual's unavailability, the undersigned presumes that it could have, and should have, been brought to the Plaintiff's counsel's attention well before now.

4. The Plaintiffs' counsel and the Defendants have been consulting about a proposed Joint Scheduling Report twice over the last three (3) weeks. The Plaintiffs' counsel and representatives of the Defendants discussed the scheduling tracks and discovery twice and appeared to come to certain verbal agreements and noted certain differences several weeks ago during the initial telephone conference. A one and a half page draft Joint Scheduling Report has been created and was sent to the undersigned by certain of the Defendants on Thursday June 28,

2007, that is exactly what the Plaintiffs' counsel and Defendants' spoke about on the very first conference call. There is no reason to believe that it cannot be finalized on Monday, given that despite the undersigned's vacation, the undersigned will be available to finalize the Joint Scheduling Report.

5. The Defendants have offered no reason why they believe that the filing of an Amended Complaint in this action will "affect decisions about scheduling dates."

As discussed in the Plaintiffs/Class Representatives' Response in opposition to the last motion to delay submitting a Joint Scheduling Report [DE 56], the Plaintiffs/Class Representatives are opposed to these lengthy delays and request that the hearing go forward as Ordered three (3) weeks ago for all of the reasons set forth above.

WHEREFORE, the Plaintiffs/Class Representatives respectfully request this Court to enter an Order denying the Defendants, Mars, Incorporated, Procter and Gamble Co., Colgate-Palmolive Co., Del Monte Foods Co., Nestle USA, Inc., Nutro Products, Inc., PETCO Animal Supplies, Inc., and Wal-Mart Stores, Inc.'s, Motion for Continuance of Scheduling Hearing and for all other relief that the Court deems just and proper.

Respectfully submitted,

s/ Catherine J. MacIvor
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 30, 2007, I electronically filed the foregoing document with the Clerk of 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 electronic Notices of Electronic Filing.

SERVICE LIST

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