

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

CASE NO. 07-21221-CIV-ALTONAGA/TURNOFF

RENEE BLASZKOWSKI, AMY HOLLUM, PATRICIA DAVIS, SUSAN PETERS, DEBORAH HOCK, MIKE FLOYD, BETH WILSON, CLAIRE KOTZAMPALTIRIS, DONNA HOPKINS-JONES, NICOLE PIAZZA, MARIAN LUPO, JANE HERRING, JO-ANN MURPHY, STEPHANIE STONE, PATRICIA HANRAHAN, DEBBIE RICE, ANN QUINN, SHARON MATHIESEN, SANDY SHORE, CAROLYN WHITE, LOU WIGGINS, MICHELLE LUCARELLI, RAUL ISERN, DANIELE VALORAS, individually and on behalf of others similarly situated,

Plaintiffs/Class Representatives,

vs.

MARS, INC., MARS PETCARE US, INC., PROCTOR AND GAMBLE, CO., THE IAMS CO., COLGATE PALMOLIVE COMPANY, HILL'S PET NUTRITION, DEL MONTE FOODS, CO., NESTLE USA INC., NESTLE PURINA PETCARE CO., NESTLE S.A., NUTRO PRODUCTS INC., MENU FOODS, INC., MENU FOODS INCOME FUND, DOANE PET CARE ENTERPRISES, INC., PUBLIX SUPERMARKETS, INC., NEW ALBERTSON'S INC., ALBERTSON'S LLC, THE KROGER CO. OF OHIO, SAFEWAY INC., H. E. BUTT GROCERY COMPANY, MEIJER INC., MEIJER SUPER MARKETS, INC., THE STOP & SHOP SUPERMARKET COMPANY, PETCO ANIMAL SUPPLIES STORES, INC., PET SUPERMARKET, INC., PET SUPPLIES "PLUS," PET SUPPLIES PLUS/USA INC., PETSMAART INC., TARGET CORP., WAL-MART STORES, INC.,

Defendants.

**DEFENDANT MEIJER, INC.'S
MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION**

Defendant Meijer, Inc. files this Motion to Dismiss the Corrected Amended Class Action Complaint under Federal Rule of Civil Procedure 12(b)(2) for lack of personal jurisdiction. In support, Meijer, Inc. states:

1. As this Court is aware, the plaintiffs have filed a putative class-action (corrected amended) complaint against twenty-six defendants that makes various allegations concerning the manufacturing and marketing practices of the entire pet food industry in the United States. The core of the plaintiffs' attack is the claim that the commercial pet food industry advertises its dog and cat food products as healthy and nutritious without disclosing allegedly harmful ingredients.

2. The plaintiffs, however, do not allege that any one of them purchased food sold or manufactured by Meijer, Inc. in the State of Florida.

3. The plaintiffs do not allege that Meijer, Inc. ever advertised in Florida.¹

4. The plaintiffs' Corrected Amended Class Action Complaint includes only one specific allegation as to Meijer, Inc. and an entity they have named "Meijer Supermarkets, Inc.", which has now been dismissed:

Defendant, Meijer Inc., is a Michigan corporation with its principal place of business in Grand Rapids, Michigan² and Defendant Meijer Supermarkets, Inc., is a Michigan corporation with its principal place of business in Grand Rapids, Michigan (collectively "Meijer"). Meijer is in the business of manufacturing, producing, distributing, advertising and/or selling Defendant pet food products. Meijer markets and sells the Defendant Manufacturers' brands of commercial pet food in its grocery stores in Michigan and other states. Meijer adopts the marketing representations of the Defendant Manufacturers by placing point of purchase advertising at or near the Defendant Manufacturers [sic] pet food in its retail stores. Meijer markets and advertises its commercial pet food with the intent to induce consumers to purchase its products. (*See* Corrected Amended Class Action Complaint at ¶ 46.)

5. In fact, Meijer, Inc.:

¹ Subject to this motion, Meijer joins in the comprehensive motion to dismiss submitted by all defendants under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).

² *See* Exhibit A at ¶ 3 (confirming allegation).

- a. does not own or operate any grocery stores in Florida;
 - b. is not qualified to do business in Florida;
 - c. does not have a principal place of business in Florida;
 - d. does not have any offices or agents in Florida;
 - e. does not own or lease tangible personal or real property in Florida;
 - f. does not have a telephone listing, bank account or mailing address in Florida; and
 - g. at all times relevant to the allegations in the action, did not engage in any advertisement, marketing or sale of pet food or other products from retail stores located in the State of Florida. (*See* Exhibit A, affidavit of Robert VerHeulen (“Verheulen Aff.”) at ¶¶ 4-7.)
6. “Meijer SuperMarkets, Inc.” does not exist as a legal entity. (VerHeulen Aff. at ¶ 8.)

MEMORANDUM OF LAW

Meijer, Inc. adopts and incorporates by reference the Motion to Dismiss filed by the Defendant H.E. Butt Grocery Company (“HEB”), as the analysis in HEB’s Motion to Dismiss applies equally here.

As shown, Meijer, Inc. has no contacts, and has had no contact, with the State of Florida. It meets none of the requirements of Florida’s long-arm statute. Fla. Stat. § 48.193. The plaintiffs’ operative pleading in this action also fails to satisfy the requirements of the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Meijer, Inc. respectfully requests that the Court dismiss the plaintiffs’ Corrected Amended Class Action Complaint as to Meijer, Inc. for lack of personal jurisdiction.

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Dated: September 20, 2007

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of September 2007, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to all counsel of record identified on the attached Service List.

/s/ Jason Joffe
Jason Joffe

CERTIFICATE OF SERVICE

RENEE BLASZKOWSKI, ETC., ET AL., VS. MARS, INC., et al.
Case No. 07-21221-CIV-ALTONAGA/TURNOFF

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