

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CASE NO. 07-21221 CIV ALTONAGA/Turnoff

RENEE BLASZKOWSKI, *et al.*,
individually and on behalf of
others similarly situated,

Plaintiffs/Class Representatives,
vs.

MARS INC., *et al.*,
Defendants.

**PLAINTIFFS'/CLASS REPRESENTATIVES MOTION FOR
ENLARGEMENT OF TIME TO RESPOND TO
DEFENDANTS' MOTION TO DISMISS**

Plaintiffs/Class Representatives, Renee Blaszkowski, *et al.*, respectfully request this Honorable Court to enter an Order enlarging the time to respond to the Defendants' Consolidated Motion to Dismiss and states as follows:

1. The Plaintiffs filed their Class Action Complaint on May 9, 2009. [DE 1]. All Defendants were served within two (2) weeks and representatives of many of the defendants contacted the undersigned within 2-10 days after it was filed. While the Plaintiffs amended their Complaint on July 25, 2007 [DE 153], the factual allegations were the same. After requesting and receiving the Plaintiff's agreement to additional extensions of time to respond, the Defendants filed a Motion to Dismiss [DE 232] and a number of other Motions to Dismiss relating to Personal Jurisdiction. [DE 197, 202-03, 206, 209, 210, 212-13] on September 20, 1997.

2. At a status conference, the Court requested the Defendants to file a consolidated Motion to Dismiss and in a subsequent order set a briefing schedule which required the Plaintiff's to respond by October 29, 2007. [DE 225]. Per the Court's request, the Defendant's filed a consolidated Motion to Dismiss [DE 232] on October 12, 2006.

3. The majority of the Defendants have been on notice of the Plaintiff's claims since at least mid-May 2007 and therefore have had five (5) months to file their 78 page Consolidated Motion to Dismiss that challenges every possible issue that could be raised as to the complaint. Since the Plaintiff's do not have the resources of the legions of lawyers representing the Defendants, the Plaintiff's require additional time to respond to the Consolidated Motion to Dismiss since, despite diligent efforts, it is impossible to file a response by October 29, 2007. Additionally, the Plaintiffs are contemporaneously filing a motion for leave to conduct personal jurisdiction discovery.¹

4. The Plaintiffs' lead counsel and the person who will be responding to the Motion will also be unavailable from October 22 through November 9, 2007 and from November 19, through November 22, 2007 due to commitments that were planned prior to the filing of the Defendants Motion to Dismiss.

5. The Plaintiffs therefore request that the deadline to respond to the Defendants' Motion to Dismiss be extended until the Plaintiff's have concluded personal jurisdiction discovery, which, depending on the availability of the witnesses and depending on how quickly

¹ The Plaintiffs originally requested that any Defendant who claimed it was an improper party to the suit to provide an affidavit with the reasons for same and the Plaintiffs would consider voluntary dismissal. While no Defendant provided one, several Defendants have cooperated prior to filing the motion to dismiss by providing the Plaintiffs with information that has resulted in several voluntary dismissals. The Plaintiffs now seek personal jurisdiction discovery because discovery has not been allowed to this point and they need to test some of the statements made in the Defendants' Motion and supporting documents. If, after wither written discovery and/or a 30(b)(6) deposition limited to personal jurisdiction, the Plaintiffs are provided with information indicating that any Defendant is not a proper party, the Plaintiffs will also voluntarily dismiss those Defendants so as not to burden the Court.

documents may be produced, it is anticipated will take up to approximately December 15, 2007 to complete, which would still be far short of the Defendants' five (5) month period of time to prepare their Motion to Dismiss.

6. Even if the Court denies the Motion for Leave for Personal Jurisdiction Discovery of certain Defendants, the Plaintiffs will nevertheless require a minimum of up to and including November 30, 2007 to file the response, which would allow the Plaintiffs approximately sixty (60) days to respond to a 78 page motion that was finalized last Friday, October 12, 2007. Given that the Defendants had five (5) months to prepare the lengthy motion, involving almost every conceivable issue in the complaint, the Plaintiffs cannot prepare and file a response more quickly despite best efforts.

7. The Plaintiffs have no desire to delay the prosecution of the case but request additional time to conduct personal jurisdiction discovery so that they are not prejudiced in responding to the Defendant's Motion. Moreover, even if that motion is not granted, the Plaintiffs are working as expeditiously as possible to respond to the Motion and cannot do so prior to November 30, 2007.

WHEREFORE, the Plaintiffs respectfully request that the Court allow the Plaintiffs a sufficient period of time until after personal jurisdiction discovery has concluded to respond to the Defendant's Motion to Dismiss, particularly since discovery has been stayed, or in the alternative to allow at least up to and including November 30, 2007 to file a Response to the Motion to Dismiss and for all other relief that the Court deems just and proper.

Rule 7.1 Certificate

Prior to filing this Motion, the undersigned conferred with counsel for Nestle, Carol Licko, who, on behalf of all defense counsel, represented that they take no position on this Motion and leave resolution of this Motion to the discretion of the Court.

Dated: October 17, 2007
Miami, FL

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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the foregoing was electronically filed with the Clerk of the Court via CM/ECF on this 19 day of October 2007. We also certify that the foregoing was served on all counsel or parties of record on the attached Service List 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 Filing.

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