

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.

**AMENDED RE-NOTICE OF TAKING CORPORATE REPRESENTATIVE
DEPOSITION OF THE KROGER CO. OF OHIO *DUCES TECUM* AS TO PERSONAL
JURISDICTION PURSUANT TO RULE 30(b)(6)**

PLEASE TAKE NOTICE that undersigned counsel will take the deposition of:

NAME: The person or persons at The Kroger Co. of Ohio, with the most knowledge concerning the topics set forth in Exhibit "A" and to produce at the deposition the documents set forth in Exhibit "B."

DATE AND TIME: To Be Agreed Upon

LOCATION: To Be Agreed Upon

Upon oral examination before a Notary Public, or any other officer, authorized by law to take depositions in the State of Florida. The oral examination(s) will continue from day to day until completed. The deposition(s) is/are being taken pursuant to Federal Rule of Procedure 30(b)(6) for the purpose of discovery and for the use at trial.

Dated: December 15, 2007
Miami, Florida

Respectfully submitted,

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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served by Electronic Mail this 15th day of December, 2007 to all counsel of record on the attached service list.

Catherine J. MacIvor

Exhibit "A"

1. The corporate structure of Kroger Co. of Ohio today, including predecessor company(ies), parent(s) and subsidiary(ies), past and present.

2. The business relationship between Kroger Co. of Ohio and any other company in which Kroger Co. of Ohio has an ownership interest, including any other companies that do or did business in Florida since 2000.

3. As for each company identified as responsive to category 2 above, Kroger Co. of Ohio's knowledge and/or understanding of the extent of any other companies' business operations in Florida since 2000.

4. All agreements entered into between and/or among Kroger Co. of Ohio and the following entities from 2000 to the present which mention, concern or relate to retail sales in Florida or to Florida residents, the provision or procurement of supplies from Florida, the distribution of goods or services in Florida, advertisement(s) which appear nationwide or in Florida, production or acquisition of goods and/or services in Florida (regardless of whether "Florida" is mentioned by name in any such agreement) including but not limited to:

- a) Florists' Transworld Delivery, Inc.;
- b) Littman Jewelers;
- c) Meyer or Fred Meyer Jewelry;
- c) Tom Thumb Food Stores;
- d) Tom Thumb Food & Pharmacy;
- e) Any third parties with which Kroger Co. of Ohio does or did business since 2000.

5. Kroger Co. of Ohio's suppliers in Florida from 2000 to present.

6. Kroger Co. of Ohio's business dealings in Florida, including, but not limited to, retail operations from 2000 to present.

7. Any business dealings in Florida transacted by or through any Kroger Co. of Ohio subsidiary, affiliate and/or agent, including, but not limited to through websites; email customer lists; online purchase forms; freight and shipping information; credit card offer(s) for payment of services and/or products offered over the internet; agreements with any affiliate(s), agent(s), subsidiary(ies) or any third party to process, ship and/or deliver products to Florida residents.

8. Communications to and from the Florida Department of State from 2000 to the present on behalf of Kroger Co. of Ohio including, but not limited to: -

- a. The purpose for Kroger Co. of Ohio's registration to do business in Florida;
- b. Any and all registered agents in Florida; and
- c. The identity(ies) of registered agents in Florida.

9. Whether Kroger Co. of Ohio has been involved in any lawsuits in Florida federal or state courts from 2000 to present, and, if so, the nature of the proceedings.

10 Any and all information relating to Kroger Co. of Ohio's pharmacists who have been employed in Florida from 2000 to the present.

11. The job description, duties and responsibilities of any Kroger Co. of Ohio's employees in Florida from 2000 to the present, including pharmacists.

12. Kroger Co. of Ohio's corporate structure, including but not limited to, the number of employees in Florida; contracts which involve personnel, goods or services which are procured from Florida, delivered in Florida or pass through Florida; suppliers in the state of Florida; and type(s) of business operation(s) in the state of Florida from 2000 to present.

13. Any manufacture, distribution, promotion, advertisement or sale of any product by Kroger Co. of Ohio in Florida or targeted to Florida residents from 2000 to present.

14. Any contract entered into by Kroger Co. of Ohio for purchase or lease of real property located in Florida from 2000 to present.

15. Any use of storage facilities in Florida by Kroger Co. of Ohio from 2000 to the present.

16. Shipments of any product(s) to and from Florida by Kroger Co. of Ohio from 2000 to present.

17. Kroger Co. of Ohio's utilization of any Florida port or airport for export, import, or shipment of any product from 2000 to present including quantities of products, dollar value of products and descriptions of products passing through Florida.

18. Bank accounts and/or investment accounts held by Kroger Co. of Ohio in Florida from 2000 to present.

19. Bank accounts and/or investment accounts held by Kroger Co. of Ohio's subsidiaries, affiliates, agent(s) and/or sister company(ies) in Florida from 2000 to present.

20. Internet sales by Kroger Co. of Ohio to Florida residents from 2000 to present, including but not limited to identifying each and every website associated with Kroger Co. of Ohio and the type of products sold on each website, the quantity, the number of Florida residents accessing the website(s), the number of times Florida residents have requested information regarding services offered and the number of times representatives of Kroger Co. of Ohio, their

agents and/or third parties have responded to Florida resident internet inquiries, any “800” numbers to service on-line buyers, email addresses for customer inquiries, all online accounts opened by Florida residents, all marketing materials and any other communications sent to Florida residents’ email accounts; information regarding the transfer of funds for website(s) purchase(s); electronic confirmations of purchases; all search engines where Kroger Co. of Ohio has paid to be marketed; the geographic limitations of the website(s), if any, product information on Kroger Co. of Ohio websites.

21. The number of Florida residents who have accessed the Kroger Co. of Ohio websites from 2000 to the present.

22. The number of times Florida residents have requested information regarding Kroger Co. of Ohio’s goods and/or services through Kroger Co. of Ohio’s website(s).

23. The number of times Kroger Co. of Ohio’s representatives have responded to Florida residents regarding services/products sold by Kroger Co.

24. The number of sales and/or transactions that have resulted from on-line submissions from Florida residents.

25. Whether Kroger Co. of Ohio offers products or services for sale over the internet.

26. Whether Kroger Co. of Ohio has an “800” service telephone number to assist on-line buyers.

27. Whether Kroger Co. of Ohio websites have e-mail addresses where customer assistance or customer queries can be directed.

28. Any inquiries sent to the e-mail address referenced in 27 since 2000.

29. Any responses from the e-mail address referenced in 27 since 2000.

30. Whether Kroger Co. of Ohio websites have the capability for Florida residents to open accounts and/or register at the websites and, if so, whether Florida residents have opened any accounts or registered with the websites since 2000.

31. Whether the websites have a page(s) for Florida residents to transmit funds over the websites for the purchase of goods and/or services.

32. The number of Florida residents who have transmitted funds through Kroger Co. of Ohio websites for the purchase of goods and/or services since 2000.

33. Whether Kroger Co. of Ohio offers account summaries, statements or histories over the internet to Florida residents since 2000, including past purchases.

34. Whether Kroger Co. of Ohio provides electronic confirmation of purchases and/or transactions to Florida residents since 2000.

35. Whether Kroger Co. of Ohio provides Florida residents with product information by email or web posting since 2000.

36. Advertising by Kroger Co. of Ohio on search engines or in other media in Florida since 2000.

37. Any geographical limitation on Kroger Co. of Ohio websites.

38. The number of Florida residents who have purchased products over the internet from Safeway, Inc.'s website(s) since 2000.

39. The number of transactions and/or sales that have taken place between Kroger Co. of Ohio and Florida residents over the internet since 2000 and the total gross dollar amount of the transactions and/or sales.

40. The percentage and gross dollar amount of total sales to Florida residents by year since 2000 and the total gross dollar amount of Kroger Co. of Ohio's total sales nationwide by year since 2000.

41. The number of hits on Kroger Co. of Ohio's websites from Florida residents since 2000.

42. Whether the website requires Florida residents to accept the terms, obligations, and/or conditions for purchase before the transaction can be finalized.

43. Whether the Kroger Co. of Ohio websites offer terms and conditions for sale over the internet.

44. Whether the Kroger Co. of Ohio websites are or have been advertised on the internet since 2000.

45. Whether any Kroger Co. of Ohio advertising is restricted geographically.

46. Whether Kroger Co. of Ohio offers Florida residents email offers, including, but not limited to, those Florida residents who have registered and/or opened an account since 2000.

47. Whether Florida residents' personal information relating to on-line use of Kroger Co. of Ohio websites is retained for marketing and/or other purposes, including, but not limited to, names and addresses, since 2000.

48. Forms for purchases for Florida residents to make purchases online through Kroger Co. of Ohio websites.

49. Freight and/or shipping information available on the Kroger Co. of Ohio websites.
50. Whether Kroger Co. of Ohio offers credit cards to pay for products and/or services offered for sale over the internet.
51. Whether Kroger Co. of Ohio collaborates with any entity for deliveries, shipping and/or processing of the internet orders to Florida residents.
52. Whether Kroger Co. of Ohio contracts with agents and/or third party entities located in Florida for the purpose of processing and/or delivering orders to Florida residents.
53. Internet sales by Kroger Co. of Ohio's, subsidiary(ies), agent(s) or sister company(ies) to Florida residents from 2000 to present.
54. Revenue earned by Kroger Co. of Ohio from its subsidiary(ies), agent(s) or sister company(ies) from internet sales to Florida residents from 2000 to present.
55. Names and identities of any and all Florida residents who have registered their names and Email addresses with Kroger Co. of Ohio through Kroger Co. of Ohio's or any other Kroger Co. of Ohio-related web site from 2000 to present, including but not limited to, the type of goods and/or services provided.
56. The names and addresses of all Florida residents who have been issued a discount card from 2000 to present by Kroger Co. of Ohio, or its affiliates, agents or subsidiaries, which cards can be used at Kroger Co. of Ohio's stores.
57. All marketing materials or emails sent by Email or mail by or on behalf of Kroger Co. of Ohio to Florida residents from 2000 to present.
58. Offices or storage facilities maintained in Florida by Kroger Co. of Ohio, its subsidiary(ies), agent(s) or sister company(ies) from 2000 to present.
59. Leases held by Safeway, Inc., for personal property located in Florida from 2000 to present, including, but not limited to, computer software or hardware or vehicles.
60. Leases held by Kroger Co. of Ohio's, subsidiary(ies), agent(s) or sister company(ies) for personal property located in Florida from 2000 to present, including, but not limited to, computer software or hardware or vehicles.
61. Any agent(s) for Kroger Co. of Ohio, of any kind present in Florida from 2000 to present.
62. Any officer(s) or employee(s) of Kroger Co. of Ohio, residing in Florida from 2000 to present.

63. Any officer(s) or employee(s) of Kroger Co. of Ohio's, subsidiary(ies), agent(s) or sister company(ies) residing in Florida from 2000 to present.

64. All communications between employees of Kroger Co. of Ohio, and any Kroger Co. of Ohio subsidiary(ies), agent(s) or sister company(ies) in Florida from 2000 to present.

65. Payroll records for officer(s) or employee(s) of Kroger Co. of Ohio, residing in Florida from 2000 to present.

66. Business travels to Florida by officers and/or employees of Kroger Co. of Ohio, including frequency and duration of such travels and purpose of such travels, from 2000 to present.

67. Kroger Co. of Ohio's, operation of any business in Florida, directly or through a parent(s), affiliate(s), business partner(s), agent(s), subsidiary(ies) or sister corporation, from 2000 to present.

68. Any telephone listing(s) held by Kroger Co. of Ohio, its parent(s), affiliate(s), business partner(s) agent(s), subsidiary(ies) or sister corporation(s) in Florida from 2000 to present.

69. Any mailing address in Florida held by Kroger Co. of Ohio, its parent, agent(s), subsidiary(ies) or sister corporation(s), from 2000 to the present.

70. Kroger Co. of Ohio's total revenues from 2000 to the present, including but not limited to, revenue from any business in Florida.

71. Client or customer base in Florida since 2000.

72. Florida business licenses of any kind held by Kroger Co. of Ohio, or corporate officers, employees or agents of Kroger Co. of Ohio

73. Names and addresses of all officers and directors of Kroger Co. of Ohio, from 2000 to present.

74. For each officer or director listed in item 73, Kroger Co. of Ohio's knowledge of any other company or entity of which said individuals are officers or directors.

Exhibit "B"

1. All documents reflecting Kroger Co. of Ohio registered agent(s) in Florida for the past ten (10) years.

2. All documents reflecting the length of time that Kroger Co. of Ohio has maintained a registered agent in Florida.

3. All documents reflecting the identity(ies) of Kroger Co. of Ohio's registered agent(s) in Florida from 2000 to present.

4. All documents relating to Kroger Co. of Ohio having qualified to do business in Florida.

5. Each and every document in Kroger Co. of Ohio's custody or control which was filed with the Florida Department of State on behalf of Kroger Co. of Ohio and any predecessor corporation, parent, subsidiary and/or sister corporation(s) from 2000 to present.

6. Each and every document in Kroger Co. of Ohio's custody or control which reflect the corporate structure of Kroger Co. of Ohio and/or any predecessor corporation, subsidiary(ies), parent company(ies) and sister corporation(s) of Kroger Co. of Ohio from 2000 to the present.

7. Each and every document in Kroger Co. of Ohio's custody or control reflecting any and all of Kroger Co. of Ohio's business activities and operations in Florida from 2000 through the present.

8. All documents reflecting any and all of Kroger Co. of Ohio's suppliers in Florida from 2000 through the present.

9. All documents reflecting Kroger Co. of Ohio's retail activity in Florida between 2000 through the present.

10. All documents reflecting whether Kroger Co. of Ohio operated any business in Florida between 2000 through the present.

11. All documents reflecting whether Kroger Co. of Ohio engaged in any business in Florida between 2000 through the present.

12. All documents reflecting whether Kroger Co. of Ohio carried on a business and/or business venture in Florida between 2000 through the present.

13. All documents reflecting whether Kroger Co. of Ohio had any employees in Florida between 2000 through the present.

14. Each and every document in Kroger Co. of Ohio's custody or control reflecting the corporate structure of Florists' Transworld Delivery, Inc., Tom Thumb Food Stores, Tom Thumb Food & Pharmacy, Littman Jewelers, Fred Meyer Jewelers and/or the relationship between these entities and Kroger Co. of Ohio between 2000 to the present.

15. All documents reflecting the Florida suppliers for Kroger Co. of Ohio stores, from 2000 to present, including, but not limited to, purchase orders and invoices.

16. All documents which list all Kroger Co. of Ohio Florida suppliers since 2000.

17. All documents reflecting the business activities, operations and business ventures of Florists' Transworld Delivery, Inc., Tom Thumb, Tom Thumb Food Stores, Tom Thumb Food & Pharmacy in Florida Littman Jewelers and Fred Meyers Jewelers from 2000 through the present.

18. Whether Kroger Co. of Ohio entered into any leases or other written contracts in Florida or with any entities in Florida between 2000 and the present.

19. Documents reflecting all business activities engaged in or conducted by Kroger Co. of Ohio in Florida from 2000 to the present.

20. Documents reflecting any and all flower deliveries offered to Florida residents by or through Kroger Co. of Ohio and/or any parent(s), subsidiary(ies) and/or sister corporation(s).

21. All documents in Kroger Co. of Ohio's custody or control reflecting all Florida suppliers and other Florida entities which Kroger Co. of Ohio has engaged in Florida from 2000 to the present.

22. Copies of all Summons and Complaints served on Kroger Co. of Ohio's registered Agent in Florida from 2000 to the present.

23. Documents reflecting the corporate structure and business conducted by Kroger Co. of Ohio

24. Documents reflecting the job description, duties and responsibilities of the Quality Control Specialists in Florida.

25. Documents reflecting the job description, duties and responsibilities of any pharmacists or other employees hired to work in Florida and advertisements to hire Florida employees.

26. Documents reflecting all Kroger Co. of Ohio Florida employees from 2000 to present.

27. Any and all documents reflecting the location(s) of employment for any Florida employee's offices.

28. Any and all documents reflecting appointments for any Kroger Co. of Ohio Florida employees including, but not limited to, written or electronic calendars, blackberry's, and appointment books from 2000 to present.

29. Any and all written or electronic Rolodex or list of contacts maintained by or for Safeway, Inc. Florida employees from 2000 to present.

30. Documents reflecting any announcement which was distributed to or made available to Florida residents by Kroger Co. of Ohio its parent(s), subsidiary(ies) or sister company(ies) of recalls of pet food products from 2000 to the present.

31. Documents reflecting complaints received by Kroger Co. of Ohio from consumer(s) in Florida from 2000 to the present.

32. Documents reflecting lawsuits filed against Kroger Co. of Ohio in federal or state court in Florida, from 2000 to present.

33. Any documents regarding manufacture, distribution, promotion, advertisement or sale of any product and/or services by Kroger Co. of Ohio in Florida from 2000 to present.

34. Copies of contracts, including but not limited to joint ventures, letter(s) of intent, and memorandum(a) of understanding, entered into between and amongst Kroger Co. of Ohio and the following entities relating to business activities in Florida (regardless whether the word "Florida" is mentioned in such document):

- a) Florists' Transworld Delivery;
- b) Tom Thumb;
- c) Tom Thumb Food Stores;
- d) Tom Thumb Food & Pharmacy;
- e) Littman Jewelers;
- f) Fred Meyer Jewelers; and
- g) Any third party with which Kroger Co. of Ohio does business in Florida

35. Copies of contract(s) entered into by Kroger Co. of Ohio, for purchase or lease of real property in Florida.

36. All documents reflecting use of storage facilities by Kroger Co. of Ohio, in Florida.

37. All documents reflecting purchase or sale of services in Florida by Kroger Co. of Ohio

38. Documents reflecting product(s) shipped to and from Florida from 2000 to the present.

39. Documents reflecting Kroger Co. of Ohio's utilization of ports or airports in Florida for export, import or shipment inter state of any product.
40. Documents reflecting supplies received from Florida by Kroger Co. of Ohio from 2000 to present.
41. Documents reflecting bank accounts or investment accounts held by Kroger Co. of Ohio in Florida.
42. Documents reflecting any internet sale(s) of products to Florida, including, but not limited to, the type of product(s) sold and the quantity(ies).
43. Documents reflecting the number of Florida residents who have accessed the Kroger Co. of Ohio websites.
44. Documents reflecting the number of time Florida residents who have requested information regarding Kroger Co. of Ohio's products and/or services through Company's website.
45. Documents reflecting the number of times the Company's representatives have responded to Florida residents regarding products and/or services sold by Kroger Co. of Ohio since 2000.
46. Documents reflecting the number of sales and/or transactions that have resulted from on-line orders from Florida residents
47. Documents reflecting whether Kroger Co. of Ohio offers products or services for sale over the internet to Florida residents
48. Documents reflecting whether Kroger Co. of Ohio has an "800" telephone number to assist Florida resident on-line buyers with sales, service, returns and/or for customer complaints.
49. Documents reflecting an email address available on the internet where assistance or customer queries can be directed.
50. Documents reflecting any inquiries from Florida residents sent to the e-mail address referenced in 49 above.
51. Documents reflecting any responses from Kroger Co. of Ohio to Florida residents from the e-mail address referenced in 49 above.
52. Documents reflecting whether Kroger Co. of Ohio's websites require or invite Florida residents to open an account or to register personal and financial information.

53. Documents reflecting whether the websites require or invite Florida residents to transmit funds over the websites for the purchase of goods and/or services.

54. Documents reflecting whether Kroger Co. of Ohio offers account statements, order information, account histories, prior purchase histories and/or lists over the internet

55. Documents reflecting whether Kroger Co. of Ohio provides electric confirmation of purchases and/or transactions from Florida residents.

56. Documents reflecting whether Kroger Co. of Ohio provides consumers with product information to Florida residents using email or web posting.

57. Documents reflecting advertising by Kroger Co. of Ohio on search engines on the internet or in other media in Florida since 2000.

58. Documents reflecting any geographical limitation on Kroger Co. of Ohio's websites since 2000.

59. Documents reflecting the number of Florida residents who have purchased products over the internet from Kroger Co. of Ohio's websites since 2000.

60. Documents reflecting how many transactions and/or sales have taken place between Kroger Co. of Ohio and Florida residents over the internet since 2000.

61. Documents reflecting the total gross revenue of sales to Florida residents and total gross sales since 2000.

62. Documents reflecting the number of hits on Kroger Co. of Ohio's website from Florida residents since 2000.

63. Documents reflecting whether the website requires Florida residents to accept the terms, obligations and/or conditions for purchase before the transaction can be finalized.

64. Documents reflecting whether Kroger Co. of Ohio websites offers terms and conditions for sale over the internet.

65. Documents reflecting Kroger Co. of Ohio websites advertising on the internet since 2000.

66. Documents reflecting whether the website advertising is restricted geographically since 2000.

67. Documents reflecting whether Kroger Co. of Ohio offers Florida residents email offers, including but not limited to, Florida residents who have registered and/or opened an account.

68. Documents reflecting Florida resident information relating to on-line use of Kroger Co. of Ohio websites.

69. Documents reflecting forms available for Florida residents to make purchases online since 2000.

70. Documents reflecting freight/shipping information available on the Kroger Co. of Ohio websites and actual freight/shipping documents for goods sent to Florida residents since 2000.

71. Documents reflecting whether Kroger Co. of Ohio offers credit cards to pay for products/services offered for sale over the internet since 2000.

72. Documents reflecting whether Kroger Co. of Ohio collaborates with any entity regarding deliveries, shipping, or processing of internet orders to Florida residents since 2000.

73. Documents reflecting contracts with agents and/or third party entities located in Florida for the purpose of processing and/or delivering orders to Florida residents since 2000.

74. Documents reflecting use of office space for any employee or agent of Kroger Co. of Ohio in Florida, including, but not limited to storage facilities, lease of real property or personal property.

75. Documents reflecting any agency relationship between Kroger Co. of Ohio and any entity(ies) located in Florida since 2000.

76. Documents reflecting compensation paid by Kroger Co. of Ohio to any officer, employee and/or agent in Florida.

77. Documents reflecting residency, permanent or temporary, of any officer(s), employee(s) or agent(s) of Kroger Co. of Ohio in Florida from 2000 to present.

78. Documents reflecting travel or business meetings attended by officer(s), employee(s) or agents of Kroger Co. of Ohio in Florida from 2000 to present.

79. Documents reflecting any business operation(s) by Kroger Co. of Ohio or subsidiary(ies) through an agent(s) in Florida.

80. Documents reflecting telephone listing(s) held by Kroger Co. of Ohio in Florida.

81. Documents reflecting any mailing address(es) held by Kroger Co. of Ohio in Florida.

82. Documents reflecting Kroger Co. of Ohio's total yearly revenue from 2000 to present, including, but not limited to, documents reflecting total yearly revenue from sales in Florida.

83. Documents reflecting Kroger Co. of Ohio's client or customer base in Florida.

84. Copies of all Florida business licenses held by Kroger Co. of Ohio or corporate officers, employees or agents of Safeway, Inc.'s in Florida.

SERVICE LIST

CASE NO. 07-21221 ALTONAGA/Turnoff

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