

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CASE NO. 07-21221 CIV ALTONAGA/BROWN

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

Plaintiffs/Class Representatives,

vs.

MARS INC., *et al.*,

Defendants.

**PLAINTIFFS' FIRST REQUEST FOR PRODUCTION
OF DOCUMENTS AND THINGS TO DEFENDANT THE IAMS CO.**

Pursuant to Federal Rule of Civil Procedure 34, the Plaintiffs hereby request the Defendant, The Iams Co. ("Iams"), to produce and make available for inspection and duplication, in response to each numbered paragraph, all documents specified herein which are in your possession, custody, or control or in the possession, custody or control of your agents or attorneys. You are requested to make such production within 30 days, or such other time as agreed, at the offices of Maltzman Foreman, PA, 2 S. Biscayne Blvd., Miami, Florida 33131.

INSTRUCTIONS

1. "Iams," "Defendant", "you", and "your" refer to, The Iams Co., any subsidiary, parent, or predecessor or other names under which The Iams Co. has conducted business, and its employees, officers, agents, and all other persons acting, understood to act, or purporting to act on its behalf under its direction or control.

2. The term "document" means any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including, but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intra-office telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts, returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, canceled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or natural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, recordings, motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation emails, tapes, cassettes, discs and records).

3. The term "all documents" means every document or group of documents as above defined that are known to you or that can be located or discovered by reasonably diligent efforts.

4. As used herein the singular shall include the plural, the plural shall include the singular, and masculine, feminine and neuter shall include each of the other genders.

5. When producing the documents, please keep all documents segregated by the file in which the documents are contained and indicate the name of the file in which the documents are contained and the names of the documents being produced.

6. In the event such file(s) or document(s) has (have) been removed for the purposes of this action or for some other purpose, please state the name and address of the person who removed the file, the title of the file and each sub-file, if any, maintained within the file, and the present location of the file.

7. If you choose to withhold any documents from production for inspection and copying on the ground of privilege or the like, it is requested that, in addition to identifying the documents so withheld, you state the grounds for withholding the documents.

8. As used herein, "reflecting to," "referring to" and "relating to" shall mean comprising, directly or indirectly mentioning or describing, pertaining or referring to, being connected with, reflecting upon or resulting from the stated subject matter.

9. Further, electronic records should be provided as follows:

- a. The documents should be provided in native electronic format if that is a common and widely used format. If the native format is unavailable or it is not common and widely used then the documentation can be provided in another electronic format such as PDF.
- b. When producing electronic documents include all original and unaltered metadata, including file system metadata. If necessary this information can be supplied in a separate document.
- c. All of the data should be provided on a read only media such as CD or DVD that is appropriately labeled. Each file on the media should have its digital fingerprint, such as MD5 hash or SHA-1 hash, determined and that value recorded in a document that is contained on the media.

- d. If the same media is used for producing different data sources then each source, such as individual workstations, servers, and backup tapes whether onboard any ship or shore based facility, should be provided in separate folders on the media and the source and period covered by the data identified.

DEFINITIONS

1. "AAFCO" is the American Association of Feed Control Officials.
2. "APPMA" is the American Pet Products Manufacturers Association.
3. "BHA" is butylated hydroxyanisole.
4. "BHT" is butylated hydroxytoluene.
5. "BSE" is bovine spongiform encephalopathy.
6. "Co-packer" is a company or companies that manufacture commercial pet food for any brand that you market to the American public
7. "CVM" is the Center for Veterinary Medicine at the Food and Drug Administration
8. "FDA" is the Food and Drug Administration
9. "PFI" is the Pet Food Institute

RELEVANT TIME PERIOD

The relevant time period, for purposes of these discovery requests, is January 1, 2003 to the present, if not specifically stated in the request and unless otherwise noted.

DOCUMENTS AND THINGS TO BE PRODUCED

1. Any and all documents in your possession setting forth any factual information relating to any named Plaintiff in this case.
2. Any and all documents in your possession setting forth any factual information relating to any former named Plaintiff in this case.
3. Any and all documents in your possession setting forth any factual information relating to any named Defendant in this case regarding any issue in this case.
4. Any and all documents in your possession setting forth any factual information relating to any former named Defendant in this case regarding any issue in this case.

5. Any and all documents that you intend to use to support any and all defenses that you have raised, or intend to raise, in this lawsuit.
6. Documents reflecting the identities of any persons with knowledge of any of the issues raised in this lawsuit, including their personnel files, research studies that they have conducted or supervised, and advertising that they have reviewed and/or approved.
7. All documents that will be relied upon by any fact witness prior to or at the time of trial.
8. All documents that will be relied upon by any expert prior to, or at the time of trial.
9. All Board of Directors minutes and documents sent to officers and Board members regarding marketing practices and procedures, prices, promotional strategy and any competitor's pet food or treat marketing, prices and promotional strategy.
10. All documents relating to internal investigations, reviews, evaluations or analyses reflecting the accuracy of your marketing and advertising for any of your pet food brands.
11. All speeches, presentations made or submitted to any consumer groups, government agencies, industry or trade groups by you or on your behalf.
12. All documents sent to or received from any branch of the United States government.
13. All documents sent to or received from any branch of the United States government by any third party on your behalf.
14. All documents sent to or received from any branch of any state government.
15. All documents sent to or received from any branch of any state government by any third party on your behalf.
16. All documents setting forth your policies and procedures for document retention, including but not limited to, e-mail, research and development, correspondence, testing, analyses and financial information.
17. All documents that relate to the destruction or retention of any document that relates to the issues in this lawsuit since May 9, 2007.
18. All documents that relate to the destruction or retention of any document that relates to the issues in this lawsuit between May 9, 2003 and May 9, 2007.
19. Policy and procedure manuals relating to document retention policies.
20. E-mails and memoranda regarding document retention policies.

21. Any and all agreements that you have entered into with any and all “co-packers.” i.e., a company or companies that manufacture commercial pet food for any brand that you market to the American public.
22. Copies of all correspondence to and from you and any and all “co-packers” in which you have entered into agreements for the manufacture of any brand of pet food that you market to the American public within the past ten (10) years.
23. Copies of all documents reflecting instructions given to “co-packers” regarding the manufacturing of pet food, including but not limited to, any and all specific ingredients, quality control, testing and inspection.
24. All documents indicating what, if any, quality control instructions any co-packers have been given regarding the manufacture of any brand of pet food.
25. All documents indicating instructions regarding the specific ingredient content and manufacturing of pet food given to any co-packers with which you have entered into agreements within the past ten (10) years.
26. Any and all indemnity agreements entered into between you and any co-packer with whom you have entered into an agreement for the past ten (10) years.
27. All marketing and/or sales information provided to you by each co-packer describing the benefits or advantages of using the co-packer to manufacture any of your brands of pet food.
28. All marketing and sales information provided to you by each co-packer with which you have entered into agreements, whether written or oral, for the past ten (10) years.
29. All marketing and sales information provided to you by each co-packer with which you have entered into agreements, whether written or oral, for the past ten (10) years.
30. Policy and procedure manuals regarding manufacturing standards and practices for your pet food.
31. Policy and procedure manuals regarding manufacturing standards and practices for your pet food for co-packers.
32. Policy and procedure manuals regarding manufacturing standards and practices for your pet food with companies from which you purchase rendered material to be used in pet food.
33. Policy and procedure manuals regarding manufacturing standards and practices for your pet food with companies from which any third party purchases rendered material to be used in your pet food.

34. Documents indicating that you have inspected the rendering facilities from which you purchase rendered material to be used in your pet food, including when, where, what was specifically inspected and notes, memoranda or any other document relating to such inspection.
35. Documents revealing the tests you performed and information gathered on each and every brand of pet food manufactured and produced by you for quality assurance, wholesomeness, to ensure that it is fit for its intended purpose and is free of any substance that could cause harm to a dog.
36. Documents revealing the tests you performed and information gathered on each and every brand of pet food manufactured and produced by you for quality assurance, wholesomeness, to ensure that it is fit for its intended purpose and is free of any substance that could cause harm to a cat.
37. Documents revealing the test(s) you performed and information gathered on each and every brand of pet food manufactured and produced by a co-packer for quality assurance, wholesomeness, to ensure that it is fit for its intended purpose and is free of any substance that could cause harm to a dog.
38. Documents revealing the test(s) you performed and information gathered on each and every brand of pet food manufactured and produced by a co-packer for quality assurance, wholesomeness, to ensure that it is fit for its intended purpose and is free of any substance that could cause harm to a cat.
39. Documents revealing the tests you performed and information gathered on each and every material produced by a rendering facility for quality assurance, wholesomeness, to ensure that it is fit for its intended purpose and is free of any substance that could cause harm to a dog.
40. Documents revealing the tests you performed and information gathered on each and every material produced by a rendering facility for quality assurance, wholesomeness, to ensure that it is fit for its intended purpose and is free of any substance that could cause harm to a cat.
41. Documents that list or otherwise indicate whether you own and/or operate manufacturing facilities for producing your pet food.
42. Documents that list or otherwise indicate all co-packers with which you do business to manufacture and produce any brand of your pet food.
43. Documents that list or otherwise indicate all rendering facilities with which you do business for use in any brand of your pet food.
44. All documents reflecting the rendering companies with which you do business currently.

45. All documents reflecting rendering companies with which you have done business within the past ten (10) years.
46. All documents to and from any rendering company with which you have done business in the last ten (10) years.
47. All documents reflecting any inspections conducted for any rendering company with which you have done business in the last ten (10) years.
48. All documents reflecting "good processing practices" at any rendering company with which you do business currently.
49. All documents reflecting "good processing practices" at any rendering company with which you did business for the past ten (10) years.
50. All documents relating to the contents of the rendered product that you receive from rendering company(ies) with which you currently do business, including the presence of pentobarbital, euthanized cats and dogs and dead, dying and diseased animals.
51. All documents relating to the contents of rendered product that you have received from rendering company(ies) with which you have done business for the last ten (10) years, including the presence of pentobarbital, euthanized cats and dogs and dead, dying and diseased animals.
52. Any documents reflecting membership in AAFCO and the purpose for joining, becoming a member and/or associating with AAFCO.
53. All documents from AAFCO regarding membership in AAFCO and the purpose for joining, becoming a member and/or associating with AAFCO.
54. All documents sent to AAFCO for the past ten (10) years.
55. All documents received from AAFCO for the past ten (10) years.
56. All documents that you have received from third parties that you have provided to AAFCO.
57. All documents that you have copies of that were provided by a third party to AAFCO that relate to pet food.
58. Mandatory testing conducted by AAFCO and the results of such testing and documents relating to the results of the testing.
59. Voluntary testing conducted by AAFCO and the results of such testing and documents relating to the results of the testing.

60. Mandatory testing submitted to AAFCO and the results of such testing and documents relating to the results of the testing.
61. Voluntary testing submitted to AAFCO and the results of such testing and documents relating to the results of the testing.
62. Any and all inspections of manufacturing sites conducted by AAFCO and documents relating to the results of those inspections.
63. Any and all inspections of rendering companies with which you do business by AAFCO personnel and documents relating to the results of those inspections.
64. Mandatory testing conducted by AAFCO and the results of such testing and documents relating to the results of the testing.
65. Voluntary testing conducted by AAFCO and the results of such testing and documents relating to the results of the testing.
66. Any and all inspections of manufacturing sites conducted by AAFCO and documents relating to the results of those inspections.
67. Any and all inspections of rendering companies with which you do business by AAFCO personnel and documents relating to the results of those inspections.
68. Any documents relating to the use of ethoxyquin in pet food sent to or received from AAFCO.
69. Any documents relating to the use of BHA in pet food sent to or received from AAFCO.
70. Any documents relating to the use of BHT in pet food sent to or received from AAFCO.
71. The text of any and all presentations given by Ed Mareth at any and all Pet Food Forum from 2003 through 2007.
72. Any copies of videotapes or DVD's or any other media that recorded any and all Pet Food Forum presentations given by Ed Mareth from 2003-2007.
73. Documents used by Ed Mareth at any and all pet food forum presentations from 2003-2007, including power point presentations, programs, outlines, and handouts or any other written documents.
74. All documents which Ed Mareth used as support for the statements made in the presentations at pet food forums from 2003 through 2007, including photographs, statistics or any other documents.

75. All documents reflecting problems associated with oxidized fat that support statements made by Ed Mareth in presentations at pet food forums from 2003-2007.
76. All documents reflecting problems associated with mycotoxins that support statements made by Ed Mareth in presentations at pet food forums from 2003-2007.
77. All documents reflecting quality control problems that support statements made by Ed Mareth in presentations at pet food forums from 2003-2007.
78. All documents reflecting the species of animals used in pet food to support statements made by Ed Mareth in presentations at pet food forums from 2003-2007.
79. All documents reflecting that diseased animals are used in pet food to support statements made by Ed Mareth in presentations made at pet food forums from 2003-2007.
80. All documents reflecting that spoiled meat is used in pet food to support statements made in presentations made by Ed Mareth at pet food forums from 2003-2007.
81. All documents reflecting that contaminated grains are used in pet food to support statements made by Ed Mareth in presentations made at pet food forums from 2003-2007.
82. All documents supporting Ed Mareth's presentations at pet food forums between 2003-2007 that the pet food industry should accept ultra-premium pet food.
83. All documents from any individual from the Pet Food Institute, any individual in the pet food industry or any other party relating to Ed Mareth's presentation that the pet food industry should embrace "ultrapremium" pet foods, i.e., human-grade quality.
84. All documents that support any statements made by Ed Mareth in any presentation made at any Pet Food Forum from 2003 through 2007.
85. Copies of all discussion boards relating to any presentation made by Ed Mareth from 2003-2007.
86. Copies of any and all documents relating to presentations given by Ed Mareth at any pet food forum from 2003-2007.
87. Documents reflecting any and all customer complaints from May 9, 2003 through the present, whether in electronic format, written or oral complaints recorded in any manner.
88. Documents reflecting any actions taken by your company relating to customer complaints made from May 9, 2003 to the present.
89. Any and all letters, memoranda or other documents, electronic or otherwise, directed to individuals or entities threatening to institute litigation regarding any matter related to your pet food. This request specifically includes, but is not limited to, any person who

has posted testing of the pet food on the internet, made comments about your pet food on radio, television and in newspapers, analyzed the pet food in terms of nutritional value or content or otherwise made any form of communication regarding your pet food.

90. All documents reflecting any and all marketing representations that any of your company makes, or that any of your brands of pet food, are veterinarian recommended.
91. All documents supporting any and all marketing representations that anyone in your company makes, that any of your brands of pet food are veterinarian recommended.
92. All communications sent to veterinarians regarding any or all of your commercial pet food products.
93. All communications received from veterinarians regarding any or all of your commercial pet food products.
94. All documents used by sales representatives to market to veterinarians, whether employed by you or a third party on your behalf.
95. All documents reflecting the names, addresses and telephone numbers of any and all sales representatives for any and all of your commercial pet foods to veterinarians.
96. All documents provided to sales representatives to market to veterinarians.
97. Any and all agreements entered into with veterinarians regarding your commercial pet food.
98. All documents reflecting funding for professorships in nutrition at veterinary schools.
99. Any and all material provided to veterinary students at veterinary schools regarding nutrition for cats and dogs.
100. All textbooks or other materials written or provided by you to veterinary students.
101. All materials from seminars held for veterinarians, including but not limited to, increasing the profitability of pet food sales.
102. All materials from seminars regarding increasing the profits for veterinary offices, clinics and/or hospitals.
103. Documents reflecting the total amount of money donated to veterinary schools annually for the past ten (10) years.
104. Documents reflecting the total amount of money donated to veterinary schools annually since 1980.

105. Documents reflecting the veterinary schools that received donations since 1980.
106. All promotional and marketing materials provided to veterinary students for the past ten (10) years.
107. All promotional and marketing materials provided to veterinary teaching faculty for the past ten (10) years
108. All promotional and marketing materials provided to veterinarians and veterinary hospitals for the past ten (10) years.
109. All documents reflecting any amount of money received by veterinarians, veterinary clinics and veterinary hospitals from you for promoting, selling and/or distributing any of your commercial pet food and treat products.
110. Documents reflecting endowments at veterinary schools, including but not limited to, the University of Missouri-Columbia College of Veterinary Medicine in Columbia Missouri and the American College of Veterinary Nutrition.
111. Documents reflecting all monies spent on funding research at veterinary schools.
112. Documents reflecting all monies spent on funding nutrition courses at all veterinary schools.
113. Documents and agreements reflecting any caveats or requirements of monies for funding nutrition courses.
114. Documents and/or market studies reflecting profits based on sales of pet food made through veterinary offices, clinics and veterinary hospitals.
115. Documents and/or market studies reflecting profits made based on sales of your pet food recommended by veterinarians.
116. Agreements between you and veterinarians

Respectfully submitted,

/s Catherine J. MacIvor

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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the foregoing was sent via electronic mail to all counsel on the attached service list on April 11, 2008.

/s Catherine J. MacIvor

Catherine MacIvor

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