

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

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

RENEE BLASZKOWSKI,  
AMY HOLLUB and  
PATRICIA DAVIS,

Plaintiffs,

vs.

MARS INC., PROCTOR & GAMBLE CO.,  
et al.,

Defendants.

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**PETCO ANIMAL SUPPLIES, INC.'S MOTION FOR ENLARGEMENT OF TIME  
TO FILE JOINT SCHEDULING REPORT**

Defendant PETCO Animal Supplies, Inc. ("PETCO"), pursuant to Rule 6(b), Federal Rules of Civil Procedure, respectfully moves for an extension of time to file a joint scheduling report ("Report") and joint proposed scheduling order ("Proposed Order") up to and including July 16, 2007. The grounds for this motion are as follows:

1. The Court's Order Requiring Scheduling Report and Certificates of Interested Parties, entered on May 16, 2007, directed the parties to file a Report and Proposed Order in compliance with Local Rule 16.1 by June 7, 2007.

2. Judging from the Complaint, this is an unusually large and complex case: a putative nationwide class action on behalf of millions of pet owners who supposedly purchased pet foods, over an unspecified period of years, that the defendants allegedly distributed while using purportedly misleading advertising. Complaint ¶ 109 *et seq.* The Complaint is a broadside against the whole American pet foods industry; plaintiffs evidently selected the fifteen named

defendants as many of the largest manufacturers and U.S. distributors. The Complaint contains broadly sweeping contentions about the alleged behavior and practices not only of the named defendants but of the entire industry. *See* Complaint ¶¶ 4 – 21, 24, 36, 44 – 47, and 61 – 85. Plaintiffs demand relief including actual and consequential damages, punitive damages, disgorgement, and attorneys' fees, which one can expect they will allege amount altogether to tens of millions of dollars if not more.

3. Through counsel, PETCO began discussing with plaintiffs and its co-defendants the provisions of a Joint Report and Proposed Order and submits that it is simply too early in this sprawling lawsuit to reach consensus on a Report and Proposed Order that will prove meaningful and durable. Indeed, the futility of a premature effort is demonstrated by the drafts plaintiffs' counsel furnished of a proposed Report circulated late on June 5, 2007, and a suggested Proposed Order emailed just today. The draft Report stated little, and the draft Proposed Order (copy attached as Exhibit "A" hereto) was simply a form with blanks for each of the many deadlines. PETCO instead suggested to plaintiffs that the parties move for an enlargement, but plaintiffs refused. As a result, it appears that all defendants so far served are filing such motions over plaintiffs' opposition.

4. Further, PETCO only recently retained undersigned counsel of record. PETCO's counsel needs additional time to review and comment on plaintiffs' suggested Report and Proposed Order, and to seek all parties' agreement to the extent that proves possible. For PETCO to prepare and file a Report and Proposed Order unilaterally now would be a hardship for it without contributing to the consensus Local Rule 16.1 encourages.

5. In addition, based on PETCO's information and belief, some of the defendants in this case have not yet been served, or served very recently, and their respective counsel may require or suggestion changes to or provisions for a Report and Proposed Order.

6. The Court has recently granted PETCO, Pet Supermarket, Inc., Publix Supermarkets, Inc., Petsmart Inc. and Wal-Mart Stores, Inc. an extension of time to respond to the Complaint until July 5, 2007.

7. This Motion is made in good faith and not for any purpose of undue delay.

8. PETCO believes that July 16, 2007, would be a practical deadline for the parties to develop and work to reach agreement on a Report and Proposed Order that will contribute to effective management of this case. A proposed order to that effect is attached as Exhibit "B".

WHEREFORE, for all the reasons set forth above, PETCO respectfully request that this Court grant it an extension to file a Scheduling Report until July 16, 2007.

**CERTIFICATION OF GOOD FAITH ATTEMPT TO RESOLVE**

Counsel for PETCO hereby certifies that, prior to filing this motion, he conferred with Plaintiffs' counsel in a good faith effort to resolve the issues raised in the motion but no agreement was reached. Specifically, through an exchange of emails, PETCO counsel suggested that plaintiffs move for an enlargement pending appearance of all defendants; plaintiffs declined.

Dated: June 6, 2007.

Respectfully submitted,

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Inc. and Wal-Mart Stores, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on June 6, 2007, the foregoing was electronically filed 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.

By: /s/ Robin Lea Hanger  
Robin Lea Hanger

**CERTIFICATE OF SERVICE**

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

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**EXHIBIT "A"**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CASE NO. 07-21221 ALTONAGA/Turnoff

RENEE BLASZKOWSKI,  
AMY HOLLUB and  
PATRICIA DAVIS,  
individually and on behalf of  
others similarly situated,

vs.

MARS INC.,  
PROCTOR AND GAMBLE CO.,  
COLGATE PALMOLIVE COMPANY,  
DEL MONTE FOODS, CO.,  
NESTLE U.S.A. INC.,  
NUTRO PRODUCTS INC.,  
MENU FOODS, INC.,  
MENU FOODS INCOME FUND,  
PUBLIX SUPERMARKETS, INC.,  
WINN DIXIE STORES, INC.,  
PETCO ANIMAL SUPPLIES, INC.,  
PET SUPERMARKET, INC.,  
PETSMART INC.,  
TARGET CORP.,  
WAL-MART STORES, INC.,

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**ORDER SETTING TRIAL AND PRE-TRIAL SCHEDULE, REQUIRING MEDIATION,  
AND REFERRING CERTAIN MOTIONS TO MAGISTRATE JUDGE**

**THIS CAUSE** is set for trial during the Court's two-week trial calendar beginning on \_\_\_\_\_ . Calendar call will be held at \_\_\_\_\_. No pre-trial conference will be held unless a party requests one no later than 30 days before the calendar call and the Court determines that one is necessary. The parties shall adhere to the following schedule:



\_\_\_\_\_ the parties shall select a mediator certified under Local Rule 16.2.B, shall schedule a time, date and place for mediation, and shall jointly **file a proposed order scheduling mediation** in the form specified by Local Rule 16.2.H. If the parties cannot agree on a mediator, they shall notify the Clerk in writing as soon as possible, and the Clerk shall designate a certified mediator on a blind rotation basis. Counsel for all parties shall familiarize themselves with and adhere to all provisions of Local Rule 16.2. Within **five (5) days** of mediation, the parties are required to file a medication report with the Court.

\_\_\_\_\_ All motions to amend pleadings or join parties are filed.

\_\_\_\_\_ Parties exchange expert witness summaries and reports required by Local Rule 16.1.K.

\_\_\_\_\_ All fact discovery is completed.

\_\_\_\_\_ Parties exchange rebuttal expert witness summaries and reports required by Local Rule 16.1K.

\_\_\_\_\_ All expert discovery must be completed.

\_\_\_\_\_ Parties must have completed mediation and filed a mediation report.

\_\_\_\_\_ All pre-trial motions other than motions *in limine* are filed.

\_\_\_\_\_ Parties submit joint pre-trial stipulation, proposed jury instructions, or proposed findings of fact and conclusions of law, and motions *in limine*.

Pursuant to 28 U.S.C. § 636 and this District's Magistrate Judge Rules, all discovery motions and non-dispositive motions filed pursuant to Federal Rules of Civil Procedure 12, 13, and 14 are referred to Magistrate Judge William C. Turnoff.

The parties may stipulate to extend the time to answer interrogatories, produce documents, and answer requests for admissions. The parties shall not file with the Court notices or motions memorializing any such stipulation unless the stipulation interferes with the deadlines set forth above. Stipulations that would so interfere may be made only with the Court's

approval. *See* Rule 29, Fed. Civ. P. In addition to the documents enumerated in Local Rule 26.1.B., the parties shall not file notices of deposition with the Court. Strict compliance with the Local Rules is expected, particularly with regard to motion practice. *See* Local Rule 7.1.

The parties shall submit their proposed jury instructions jointly, though they need not agree on each proposed instruction. Where the parties do not agree on a proposed instruction, that instruction shall be set forth in bold type. Instructions proposed only by a plaintiff shall be underlined. Instructions proposed only by a defendant shall be italicized. Every instruction must be supported by citation to authority. The parties shall use as a guide the Eleventh Circuit Pattern Jury Instructions for Civil Cases, including the directions to counsel contained therein. The parties shall submit their proposed jury instructions on paper and on a 3 ½ inch floppy disk in a format compatible with WordPerfect for Microsoft Windows-based computers. Each exhibit must be labeled in accordance with the exhibit list in the joint pre-trial stipulation and shall also bear the case number of this action.

**DONE AND ORDERED** in Chambers at Miami, Florida this \_\_\_\_ day of June 2007.

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CECILIA M. ALTONAGA  
UNITED STATES DISTRICT JUDGE

cc: Magistrate Judge William C. Turnoff  
Counsel of record

**EXHIBIT "B"**

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., PROCTOR & GAMBLE CO.,  
et al.,

Defendants.

---

**ORDER GRANTING PETCO ANIMAL SUPPLIES, INC.'S  
MOTION FOR EXTENSION OF TIME TO FILE JOINT SCHEDULING REPORT**

THIS CAUSE, having come before the Court on Defendant PETCO Animal Supplies, Inc.'s Motion for Extension of Time to File Joint Scheduling Report, and the Court, being duly advised in the premises, it is hereby:

ORDERED AND ADJUDGED:

1. Defendant PETCO Animal Supplies, Inc.'s Motion for Extension of Time to File Joint Scheduling Report is GRANTED.
2. PETCO has until July 16, 2007 to file a Joint Scheduling Report and Proposed Joint Scheduling Order.

**DONE AND ORDERED** in Chambers at Miami, Miami-Dade County, Florida this

\_\_\_\_\_ day of \_\_\_\_\_, 2007.

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CECILIA MARIA ALTONAGA  
UNITED STATES DISTRICT JUDGE

Copies: Magistrate Judge William C. Turnoff and counsel of record