

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.

**MALTZMAN FOREMAN PA AND KEEGAN AND BAKER, LLP'S
MOTION TO WITHDRAW AS COUNSEL OF RECORD
FOR PLAINTIFF LISA MACDONALD**

Pursuant to S.D. Fla. L.R. 7.1 and 11.1, and Rule 4-1.16(b) of the Model Rules of Professional Conduct, the undersigned counsel and the law firm of Maltzman Foreman, P.A. and Keegan, LLP and Baker respectfully request this Court to grant them leave to Withdraw as Counsel of Record for Plaintiff Lisa MacDonald, and in support thereof, states as follows:

I. Introduction

Lisa MacDonald retained the law firm of Maltzman Foreman to represent her in the above styled class action litigation on approximately July 31, 2007. The last communication that any attorney at the law firm of Maltzman Foreman had with Lisa MacDonald was approximately at the end of December 2007. From the end of 2007 until present, counsel at the law firm of Maltzman Foreman have repeatedly attempted to

contact Lisa MacDonald by telephone and email communication to no avail. Lisa MacDonald has never responded to any of these communications.

On June 17, 2008, the undersigned sent a letter to Lisa MacDonald's last known address via certified mail and via Federal Express, which informed her of the need to contact the undersigned if she wished to remain an active litigant in the case. The letter also notified her that if she failed to respond to the letter, counsel would have no choice but to seek to withdraw from representing her. The post office returned the certified letter to Maltzman Foreman, with a message from the United States Postal Service, stating: "Moved Left No Address, Unable To Forward, Return To Sender." See Exhibit "A" attached hereto.

Even after the above-referenced letter was returned, the undersigned continued to try to locate through alternate means to no avail. In light of the fact that Lisa MacDonald ceased communications, it has become impossible to continue to represent her in this matter.

II. Representation of Lisa MacDonald has been rendered unreasonably difficult and there is good cause to withdraw

Rule 4-1.16 of the Rules Regulating the Florida Bar allows for counsel to withdraw from representation if: (1) withdrawal can be accomplished without material adverse effect on the interests of the client; (2) the client insists upon taking action that the lawyer considers repugnant, imprudent, or with which the lawyer has a fundamental disagreement; (3) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled; (4) the representation will result in an

unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or (5) other good cause for withdrawal exists.

Given the fact that Lisa MacDonald has not informed counsel at Maltzman Foreman PA of her whereabouts or responded to any communication, representation of Lisa MacDonald has been rendered impossible, and is sufficient legal grounds for withdrawal under Rule 4-1.16(4). *Beard v. Shuttermart of Cal., Inc.*, 2008 U.S. Dist. LEXIS 10575, *7 (S.D. Cal. Feb. 13, 2008) (“A client's repeated failure to communicate with counsel in not responding to phone calls and written communication is sufficient to be considered conduct making it unreasonably difficult for counsel to carry out the litigation.”); *Benefield v. City of New York*, 2006 NY Slip Op 26482, *3 (N.Y. Sup. Ct. 2006) (“Conflicts of interest, and a failure to communicate with the attorney, may be added to the list of reasons which may justify counsel's withdrawal. A client who fails to respond to communications from his or her attorney may render continued representation unreasonably difficult.”); *Nat'l Career College, Inc. v. Spellings*, 2007 U.S. Dist. LEXIS 50705, *8 (D. Haw. July 11, 2007) (granting motion to withdraw based on based on “Plaintiffs' failure to communicate on all aspects of handling the case”). Furthermore, by failing to communicate with counsel, Lisa MacDonald has failed to fulfill her obligations to counsel at Maltzman Foreman and has provided good cause for withdrawal

III. Conclusion

For the reasons set forth more specifically above, the undersigned counsel and law firm of Maltzman Foreman, P.A. and Keegan and Baker, LLP respectfully request this Court to enter an Order granting their Motion to Withdraw as Counsel for Plaintiff Lisa MacDonald, and for all other relief that this Court deems just and proper.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(3)

Prior to filing this Motion and pursuant to this Court's local rules, the undersigned hereby certifies that she conferred with Defendants' representative and was advised that the Defendants take no position as to the motion.

Dated: August 21, 2008
Miami, FL

S/ Catherine J. MacIvor

CATHERINE J. MACIVOR (FBN 932711)
cmacivor@mlegal.com
MALTZMAN FOREMAN, PA
One Biscayne Tower
2 South Biscayne Boulevard -Suite 2300
Miami, Florida 33131
Tel: 305-358-6555 / Fax: 305-374-9077

PATRICK N. KEEGAN
pkeegan@keeganbaker.com
JASON E BAKER
jbaker@keeganbaker.com
KEEGAN & BAKER, LLP
4370 La Jolla Village Drive
Suite 640
San Diego, CA 92122
Tel: 858-552-6750 / Fax 858-552-6749

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that the foregoing was electronically filed with the Clerk of the Court via CM/ECF on this 21 day of August, 2008. 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.

S/ Catherine J. MacIvor

Catherine MacIvor

SERVICE LIST

CASE NO. 07-21221 ALTONAGA/Brown

CATHERINE J. MACIVOR

cmacivor@mflegal.com

JEFFREY B. MALTZMAN

jmaltzman@mflegal.com

JEFFREY E. FOREMAN

jforeman@mflegal.com

DARREN W. FRIEDMAN

dfriedman@mflegal.com

MALTZMAN FOREMAN, PA

One Biscayne Tower
2 South Biscayne Boulevard -Suite 2300
Miami, Florida 33131
Tel: 305-358-6555 / Fax: 305-374-9077

Attorneys for Plaintiffs

EDGAR R. NIELD

enield@nieldlaw.com

4370 La Jolla Village Drive
Suite 640
San Diego, CA 92122
Telephone: 858-552-6745
Facsimile: 858-552-6749

Attorney for Plaintiffs

LONNIE L. SIMPSON

E-Mail: Lonnie.Simpson@dlapiper.com

S. DOUGLAS KNOX

E-Mail: Douglas.knox@dlapiper.com

DLA PIPER US LLP

100 N. Tampa Street, Suite 2200
Tampa, Florida 33602-5809
Telephone: (813) 229-2111
Facsimile: (813) 229-1447

*Attorneys for Defendants Menu Foods, Inc.
and Menu Foods Income Fund*

PATRICK N. KEEGAN

pkeegan@keeganbaker.com

JASON E BAKER

jbaker@keeganbaker.com

KEEGAN & BAKER, LLP

4370 La Jolla Village Drive
Suite 640
San Diego, CA 92122
Telephone: 858-552-6750
Facsimile: 858-552-6749

Attorneys for Plaintiffs

ALEXANDER SHAKNES

E-Mail: Alex.Shaknes@dlapiper.com

AMY W. SCHULMAN

E-Mail: Amy.schulman@dlapiper.com

DLA PIPER US LLP

1251 Avenue of the Americas
New York, New York 10020
Telephone: (212) 335-4829

*Attorneys for Defendants Menu Foods, Inc.
and Menu Foods Income Fund*

WILLIAM C. MARTIN

E-Mail: william.martin@dlapiper.com

**DLA PIPER RUDNICK GRAY CARY
US LLP**

203 North LaSalle Street
Suite 1900
Chicago, Illinois 60601-1293

*Attorneys for Defendants Menu Foods, Inc.
and Menu Foods Income Fund*

MARK C. GOODMAN

mgoodman@ssd.com

SQUIRE, SANDERS & DEMPSEY LLP

One Maritime Plaza

Suite 300

San Francisco, CA 94111-3492

Telephone: (415) 954-0200

Facsimile: (415) 393-9887

Attorneys for Defendants PETCO Animal Supplies Stores Inc., PetSmart, Inc., Wal-Mart Stores, Inc. and Target Corporation

JOHN B.T. MURRAY, JR.

E-Mail: jbmurray@ssd.com

ROBIN L. HANGER

E-Mail: rlhanger@ssd.com

BARBARA BOLTON LITTEN

blitten@ssd.com

SQUIRE, SANDERS & DEMPSEY LLP

1900 Phillips Point West

777 South Flagler Drive

West Palm Beach, Florida 33401-6198

Telephone: (561) 650-7200

Facsimile: (561) 655-1509

Attorneys for Defendants PETCO Animal Supplies Stores Inc., PetSmart, Inc., Wal-Mart Stores, Inc. and Target Corporation

JEFFREY S. YORK

E-Mail: jyork@mcguirewoods.com

MICHAEL GIEL

E-Mail: mgiel@mcguirewoods.com

McGUIRE WOODS LLP

50 N. Laura Street, Suite 3300

Jacksonville, FL 32202

Telephone: (904) 798-2680

Facsimile: (904) 360-6330

Attorneys for Defendant Natura Pet Products, Inc.

KRISTEN E. CAVERLY

E-Mail: kcaverly@hcesq.com

HENDERSON & CAVERLY LLP

16236 San Dieguito Road, Suite 4-13

P.O. Box 9144 (all US Mail)

Rancho Santa Fe, CA 92067-9144

Telephone: 858-756-6342 x)101

Facsimile: 858-756-4732

Attorneys for Natura Pet Products, Inc.

OMAR ORTEGA

Email: ortegalaw@bellsouth.net

DORTA & ORTEGA, P.A.

Douglas Entrance

800 S. Douglas Road, Suite 149

Coral Gables, Florida 33134

Telephone: (305) 461-5454

Facsimile: (305) 461-5226

Attorneys for Defendant Mars, Inc. and Mars Petcare U.S. and Nutro Products, Inc.

ALAN G. GREER

agreer@richmangreer.com

RICHMAN GREER WEIL

BRUMBAUGH MIRABITO &

CHRISTENSEN

201 South Biscayne Boulevard

Suite 1000

Miami, Florida 33131

Telephone: (305) 373-4000

Facsimile: (305) 373-4099

Attorneys for Defendants The Iams Co.

BENJAMIN REID

E-Mail: bried@carltonfields.com

ANA CRAIG

E-Mail: acraig@carltonfields.com

CARLTON FIELDS, P.A.

100 S.E. Second Street, Suite 4000

Miami, Florida 33131-0050

Telephone: (305)530-0050

Facsimile: (305) 530-0050

Attorneys for Defendants Hill's Pet Nutrition, Inc.

KARA L. McCALL

kmccall@sidley.com

SIDLEY AUSTIN LLP

One S. Dearborn Street

Chicago, ILL 60633

Telephone: (312) 853-2666

Attorneys for Defendants Hill's Pet Nutrition, Inc.

SHERRIL M. COLOMBO

E-Mail: scolombo@cozen.com

COZEN O'CONNOR

200 South Biscayne Boulevard

Suite 4410

Miami, Florida 33131

Telephone: (305) 704-5945

Facsimile: (305) 704-5955

Attorneys for Defendant Del Monte Foods Co.

JOHN J. KUSTER

jkuster@sidley.com

JAMES D. ARDEN

jarden@sidley.com

SIDLEY AUSTIN LLP

787 Seventh Avenue

New York, New York 10019-6018

Telephone: (212) 839-5300

Attorneys for Defendants Hill's Pet Nutrition, Inc.

RICHARD FAMA

E-Mail: rfama@cozen.com

JOHN J. McDONOUGH

E-Mail: jmcdonough@cozen.com

COZEN O'CONNOR

45 Broadway

New York, New York 10006

Telephone: (212) 509-9400

Facsimile: (212) 509-9492

Attorneys for Defendant Del Monte Foods

DANE H. BUTSWINKAS

E-Mail: dbutswinkas@wc.com

PHILIP A. SECHLER

E-Mail: psechler@wc.com

THOMAS G. HENTOFF

E-Mail: thentoff@wc.com

PATRICK J. HOULIHAN

E-Mail: phoulihan@wc.com

AMY R. DAVIS

adavis@wc.com

JULI ANN LUND

jlund@wc.com

WILLIAMS & CONNOLLY LLP

725 12th Street, N.W.

Washington, DC 20005

Telephone: (202)434-5000

Attorneys for Defendants Nutro Products, Inc. Mars, Incorporated and Mars Petcare U.S.

JOHN F. MULLEN
E-Mail: jmullen@cozen.com
COZEN O'CONNOR
1900 Market Street
Philadelphia, PA 19103
Telephone: (215) 665-2179
Facsimile: (215) 665-2013

*Attorneys for Defendant Del Monte Foods,
Co.*

ROBERT C. TROYER
E-Mail: rcroyer@hhlaw.com
HOGAN & HARTSON
1200 17th Street
One Tabor Center, Suite 1500
Denver, Colorado 80202
Telephone: (303) 899-7300
Facsimile: (303) 899-7333

*Attorneys for Defendants Nestle Purina
Petcare Co.*

JAMES K. REUSS
E-Mail: jreuss@lanealton.com
LANE ALTON & HORST
Two Miranova Place
Suite 500
Columbus, Ohio 43215
Telephone: (614) 233-4719

*Attorneys for Defendant The Kroger Co. of
Ohio*

CAROL A. LICKO
E-Mail: calicko@hhlaw.com
HOGAN & HARTSON
Mellon Financial Center
1111 Brickell Avenue, Suite 1900
Miami, Florida 33131
Telephone (305) 459-6500
Facsimile (305) 459-6550

*Attorneys for Defendants Nestle Purina
Petcare Co.*

CRAIG A. HOOVER
E-Mail: cahoover@hhlaw.com
MIRANDA L. BERGE
E-Mail: mlberge@hhlaw.com
HOGAN & HARTSON L.L.P.
555 13th Street, N.W.
Washington, D.C. 20004
Telephone: (202) 637-5600
Facsimile: (202) 637-5910

*Attorneys for Defendants Nestle Purina
Petcare Co.*

D. JEFFREY IRELAND
E-Mail: djireland@ficlaw.com
BRIAN D. WRIGHT
E-Mail: bwright@ficlaw.com
LAURA A. SANOM
E-Mail: lsanom@ficlaw.com
FARUKI IRELAND & COX
500 Courthouse Plaza, S.W.
10 North Ludlow Street
Dayton, Ohio 45402

Attorneys for Defendant The Iams Co.

W. RANDOLPH TESLIK

E-Mail: rteslik@akingump.com

ANDREW J. DOBER

E-Mail: adober@akingump.com

**AKIN GUMP STRAUSS HAUER & FELD
LLP**

1333 New Hampshire Avenue, NW
Washington, D.C. 20036
Telephone: (202) 887-4000
Facsimile: (202) 887-4288

*Attorneys for Defendants New Albertson's Inc.
and Albertson's LLC*

RALPH G. PATINO

E-Mail: rpatino@patinolaw.com

DOMINICK V. TAMARAZZO

E-Mail: dtamarazzo@patinolaw.com

CARLOS B. SALUP

E-Mail: csalup@patinolaw.com

PATINO & ASSOCIATES, P.A.

225 Alcazar Avenue
Coral Gables, Florida 33134
Telephone: (305) 443-6163
Facsimile: (305) 443-5635

*Attorneys for Defendants Pet Supplies "Plus"
and Pet Supplies Plus/USA, Inc.*

HUGH J. TURNER, JR.

E-Mail: hugh.turner@akerman.com

AKERMAN SENTERFITT & EDISON

350 E. Las Olas Boulevard
Suite 1600
Fort Lauderdale, Florida 33301-2229
Telephone: (954)463-2700
Facsimile: (954)463-2224

*Attorneys for Defendant Publix Super Markets,
Inc.*

CRAIG P. KALIL

E-Mail: ckalil@aballi.com

JOSHUA D. POYER

E-Mail: jpoyer@abailli.com

ABALLI MILNE KALIL & ESCAGEDO

2250 Sun Trust International Center
One S.E. Third Avenue
Miami, Florida 33131
Telephone: (303) 373-6600
Facsimile: (305) 373-7929

*Attorneys for New Albertson's Inc. and
Albertson's LLC*

ROLANDO ANDRES DIAZ

E-Mail: rd@kubickdraper.com

PETER S. BAUMBERGER

E-Mail: psb@kubickdraper.com

KUBICKI DRAPER

25 W. Flagler Street, Penthouse
Miami, Florida 33130-1712
Telephone: (305) 982-6708
Facsimile: (305) 374-7846

Attorneys for Defendant Pet Supermarket, Inc.

C. RICHARD FULMER, JR.

E-Mail: rfulmer@Fulmer.LeRoy.com

**FULMER, LEROY, ALBEE, BAUMANN,
&
GLASS**

2866 East Oakland Park Boulevard
Fort Lauderdale, Florida 33306
Telephone: (954) 707-4430
Facsimile: (954) 707-4431

*Attorneys for Defendant The Kroger Co. of
Ohio*