

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 1:07-21221-CIV-ALTONAGA/BROWN

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

vs.

MARS, INCORPORATED, *et al.*,
Defendants.

**INTERIM OPPOSITION TO PLAINTIFFS' MOTION TO ADD AND/OR
SUBSTITUTE ARNA CORTAZZO AS A PLAINTIFF/CLASS REPRESENTATIVE**

Defendant Natura Pet Product, Inc. ("Natura") opposes Plaintiffs' Motion to Add and/or Substitute Arna Cortazzo as a Plaintiff/Class Representative in this action on the following grounds and requests leave for formal briefing of this motion before the Court rules.

1. If proposed Plaintiff Cortazzo, who purports to have purchased Natura products in Florida, is added to this case, Natura will be prejudiced. For example, all named Plaintiffs have pled a claim under Florida's Deceptive and Unfair Trade Practices Act against Defendant Natura Pet Products, Inc. Plaintiffs now admit that no Plaintiff named in the Fourth Amended Complaint purchased Natura products in Florida, which will result in judgment for Natura on this claim and allow Natura an award of attorneys' fees and costs against all of the named Plaintiffs.

2. Natura will be prejudiced because discovery has been ongoing in this action since April; Defendants have conducted extensive written discovery on Plaintiffs, including motions to compel; Defendants have completed their subpoenas of third party vet records; and Natura is only now – August 25 – taking the deposition of the first named Plaintiff. It has taken four

months; two denied stay motions; and a motion to compel to get a single Plaintiff to sit for deposition. Further, Natura is taking the only scheduled Miami depositions this week, August 25 and August 29, and Natura's lead trial counsel is not located in this District. With class motions and the close of discovery only a few months away, any change in the parties and deposition schedule at this late stage will require additional discovery and costs and make it more difficult for Natura to meet the Court's schedule, which Natura wants to maintain so that this case can be promptly resolved on the merits.

3. Natura will be prejudiced if Ms. Cortazzo is allowed to join and her claims relate back to the filing of the complaint against Natura as she will gain nearly a year on claims otherwise barred by the statute of limitations.

4. The time for addition of parties was once extended by the Court and that extended deadline passed many months ago. Plaintiffs have shown no cause why proposed plaintiff Cortazzo could not have been added to the case before the January 2008 deadline. Not being needed earlier for jurisdiction is not good cause to add parties just because some Plaintiffs are now abandoning their claims.

5. Plaintiffs' counsel did not meet and confer regarding this motion pursuant to Rule 7.1. In an email on August 21, 2008, Catherine MacIvor wrote:

Based on the dismissals, we are also seeking to add and/or substitute a Plaintiff, Arna Cortazzo, as to Defendant Natura only. Please advise as to your position by close of business tomorrow.

No information at all was provided as to Ms. Cortazzo (who apparently is a Florida attorney), her purchases or her explanation of why she could not have joined the case prior to the deadline to add parties. Counsel for Natura responded on August 22 that it opposed adding any parties. Natura did not limit its reasons for the objection as plaintiffs' counsel represented to the Court;

Plaintiffs' counsel did not even inquire as to Natura's reasons. Plaintiffs' counsel then filed the motion on Friday after working hours knowing that Natura's counsel would be conducting Plaintiff Peters' deposition on Monday and perhaps would not even be able to respond before the Court ruled on the motion as unopposed. Such a pitiful effort to meet and confer should not satisfy Rule 7.1.

Natura will be prejudiced by the addition of any parties at this late date, but particularly parties with unique claims against Natura such as Ms. Cortazzo is represented to have and which would otherwise be time barred from much of the class period represented by the currently named plaintiffs. Natura respectfully requests that the Court deny the motion or allow Natura time to fully brief the issues presented before ruling on the motion.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 25, 2008, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the counsel so indicated on the attached Service List.

s/Jeffrey S. York

Attorney

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