

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.

DECLARATION OF CATHERINE J. MACIVOR

I, Catherine J. MacIvor, declare and state the following is true and correct under penalty of perjury:

1. My name is Catherine J. MacIvor. I am over the age of eighteen and I have personal knowledge of all of the facts contained herein.

2. I am a partner at the law firm of Maltzman Foreman, P.A. and have been licensed to practice in Florida for sixteen (16) years. I am a member in good standing of the Florida Bar as well as the United States Supreme Court, the First, Fifth, Ninth and Eleventh Circuit Courts of Appeal and the Southern District of Florida. I am co-lead counsel for the Plaintiffs in this case.

3. I have reviewed the Defendant Natura Pet Products, Inc.'s ("Natura") Opposition to the Plaintiffs' to the Plaintiffs' Motion to Add and/or Substitute Arna Cortazzo as a Plaintiff/Class Representative as well as the Declaration of Kristen Caverly.

4. Ms. Caverly's Declaration misrepresents a number of material facts in this case, all of which will be discussed specifically below.

5. As for the scheduling of depositions, while it is true that Ms. Caverly originally noticed the Plaintiffs depositions on April 28, 2008, what she omits to advise the Court is that she failed to wait for the undersigned to respond regarding mutually convenient dates prior to setting them. There was one telephone conference prior to unilaterally setting 30 depositions, at which time I advised Ms. Caverly that since defense counsel had offices all over the United States, that it actually made more sense to have the depositions in mutually convenient locations, particularly where some of the Plaintiffs were caring for some very ill cats and dogs and it would present a great hardship for all of them to travel to Miami. I also advised Ms. Caverly that I had extensive conflicts with the deposition schedule that she proposed because I had two cases set for trial in August at that time, *Levenshon v. Raritan Engineering*, Case No. 03-22138 (09) S. D. Florida and *Katzen, et al. v. Colonial Yacht, Inc., et al.*, Case No. 05-61664-CIV-TORRES. In addition to a 10 day trip to Taiwan in June 2008 for depositions in the *Levenshon* case, I had at least three depositions scheduled each week between the beginning of May and mid-July 2008 in both of these cases in order to meet pre-trial deadlines. I further advised Ms. Caverly that I would have to contact each of the Plaintiffs to come up with a proposed schedule.¹ In fact, at the time that Ms. Caverly unilaterally sent the notices to me while I was away, she acknowledged in an e-mail that she knew that the depositions would not go forward at the date and time set forth in the Plaintiffs' Deposition Notices. See Email from K. Caverly attached hereto as Exhibit "A." Rather than refusing to cooperate, as Ms. Caverly's Declaration states, the e-mail underscores

¹ In fact, since I had sent out a Notice of Unavailability, Ms. Caverly was well aware that I would be out of town at the time that she unilaterally noticed thirty (30) Plaintiff depositions. [DE 348]. A May 1, 2008 e-mail confirms that the depositions were noticed without regard to conflicts about which Ms. Caverly had already been advised. See 5/1/2008 e-mail from Catherine J. MacIvor to Kristen Caverly attached hereto as Exhibit "A."

that the Plaintiffs' counsel was at all times trying to work with Ms. Caverly regarding the depositions.

6. In fact, I immediately commenced contacting the Plaintiffs to set up a deposition schedule that would be mutually convenient for all parties, and would allow sufficient time to produce the massive documentation that the Defendants had requested in their discovery requests to the Plaintiffs and which would work with the schedules of the Plaintiffs' counsel and the Plaintiffs. I was able to confer with thirty (30) Plaintiffs about these depositions, determine the amount of time it would take to produce the broad requested discovery responses and provide a proposed schedule within approximately two (2) weeks that would allow sufficient time to respond to the Defendants' discovery requests so that they would have documents and discovery responses in sufficient time to review them prior to taking the Plaintiffs' depositions.² See letter to K. Caverly attached hereto as Exhibit "C."

7. After the Plaintiffs' sent Ms. Caverly a proposed deposition schedule on May 14, 2008, the parties continued to negotiate and the Defendants sent a proposed stipulation to me in mid-June. At the same time, the undersigned was in the process of preparing 28 responses to the Defendants' extensive discovery requests and reviewing documentation provided by the Plaintiffs to determine what if any objections to make to the responses (which amounted to in excess of 33,000 documents). The Plaintiffs also agreed to produce information in advance of the responses per agreement with defense counsel so that they could subpoena vet records in sufficient time prior to the proposed first round of Plaintiff depositions. Moreover, a draft of the stipulation was finally provided by Ms. Caverly on July 2, 2008. At that time, the responsibility

² In fact, not only did Natura have the benefit of the discovery responses as promised, but also had the benefit of over 33,000 documents that the Defendants requested from the Plaintiffs, which has far exceeded production from all Defendants in this case to date, including Natura which has not produced a single document or responded to any discovery despite the fact that discovery was first requested in April 2008.

for finalizing the stipulation shifted to co-counsel, Patrick Keegan, who had appeared in this case in June 2008 because the undersigned was preparing for trial and attending depositions in the *Levenshon* case, which was set for trial during the first week of August.

8. At the same time, Mr. Keegan was also in the process of reviewing and analyzing the settlement reached in *In re Pet Food Products Liability Litigation*, CIV No. 07-2867 (NLH/AMD), a Multi-District Litigation case relating to the deaths and illness of cats and dogs from ingesting pet food laced with cyanuric acid and melamine. After his review, he determined that a stay of the case would be appropriate because “[i]t would be an obvious waste of the parties’ and judicial resources of the Miami Court for the Defendant, Mars Incorporated, and every other defendant in this case except for Defendant Natura Pet Products to continue to seek written discovery responses, issue subpoenas of related third parties, and take the depositions of the named plaintiffs other than [those who purchased and fed Natura products] if the claims of these other named plaintiffs could be released in the Menu Foods Case if the Menu Foods Case settlement is finally approved by the New Jersey Court in November of this year.” See Letter from Patrick Keegan to all Defendants dated July 11, 2008, attached hereto as Exhibit “C.”

9. The Plaintiffs then sought a Stay of this case as to all non-Natura claims because, as Mr. Keegan noted, the Menu Foods settlement was so broad as to encompass claims within this litigation. [DE 421]. The Court denied the Motion without prejudice and invited the Plaintiffs to confer with the Defendants about staying the entire case and not just all non-Natura claims. [DE 424]. The Plaintiffs filed a renewed Motion to Stay based on the Court’s ruling because, as Mr. Keegan noted in his Motions and correspondence to all Defendants, “it does not make economic sense nor would it preserve judicial economy to go forward with claims that may ultimately be released in the Menu Foods litigation settlement.” [DE 437]. While I did not

attend the hearing because I was scheduled to appear at a pre-trial conference in the *Levenshon* case on the same date and time, I was advised that the Defendants conceded that the release language would bar at least some of the claims while, at the same time, they have refused to stipulate that all of the non-Natura claims would not be subject to dismissal if the settlement is ultimately finally approved.

10. At that hearing, the Court ruled that a stay would not be granted. [DE 443].

11. During the pendency of the rulings on Motion for Stay, Patrick Keegan continued to negotiate the Stipulation for the Plaintiffs' Depositions. While the Defendants' did file a Motion to Compel, at no time did the Plaintiffs ever refuse to produce a Plaintiff for deposition. In fact, Mr. Keegan worked out an agreement with the Defendants whereby the initial round of depositions would be taken in September and not the first week of August, which gave the Plaintiffs sufficient time to conclude production of the over 33,000 documents that they requested from the Plaintiffs. The stipulation was filed on July 31, 2008. [DE 442]. Only non-Natura Plaintiffs depositions had been rescheduled and all other depositions remained unchanged.

12. After the Court denied both Motions for Stay and in view of the Defendants refusal to stipulate that the claims in this case would not be encompassed within the broad settlement language in the Menu Foods case settlement, the Plaintiffs had no choice but to make the decision as to dismiss non-Natura claims. The Plaintiffs contacted the Defendants in early August to try to determine whether they would agree to dismiss the non-Natura Plaintiffs claims while at the same time allowing those who have claims against Menu Foods for the 2007 pet food recalls to make claims. An agreement has finally been reached in principal and that issue should be resolved by the end of the week.

13. The first Plaintiffs depositions of Susan Peters and Renee Blaszkowski went forward as scheduled last week by agreement.³ Paragraph 5 of Ms. Caverly's declaration contains a blatant misrepresentation to wit: "Plaintiffs' counsel even refused to produce claimed Natura-purchasing plaintiff for depositions (sic) on September 3, 2008[,] claiming her unavailability and rescheduled for September 26, 2008, requiring a second amended deposition notice." [DE 463-2 ¶5, p. 2]. In fact, it was Ms. Caverly who sought to change the dates of Plaintiffs Susan Peters and Renee Blaszkowski's depositions when advised that the Plaintiffs' counsel had inadvertently not been notified that the deposition was going forward on September 3, 2008. See relevant portions of emails attached hereto as composite Exhibit "D." Ms. Caverly agreed that Plaintiff Yvonne Thomas would be produced for deposition in September at a time when the depositions would occur sequentially and would not require significant down time in between depositions. Exhibit "D." There was no prejudice at all to Natura, and the Plaintiffs have never refused to produce any Plaintiff for deposition except those whose claims are about to be dismissed.

14. While it is true that Plaintiff Patricia Davis' discovery does not reflect that she purchased Natura brand pet food, it was clearly my understanding through interviews conducted with staff that Plaintiff Davis had purchased Natura pet food at the time that Natura was added as a party and thereafter. Plaintiff Raul Isern was never listed in the pleadings as having purchased Natura products. While I did not personally prepare every Plaintiffs' discovery responses, which were extensive, once I became aware of the fact that Mrs. Davis had not purchased Natura

³ As discussed *supra*, several depositions scheduled for the first week of August were rescheduled for September 2008 by agreement of the parties while the parties were waiting for rulings on the Motion for Stay and because the Plaintiffs were still producing 33,000 documents to the Defendants so that they would be prepared for these depositions.

products, which was recently and after January 16, 2008, the Plaintiffs sought to substitute a Florida Plaintiff.

15. Further, I simply had no basis to know, prior to January 16, 2008, that a settlement agreement was forthcoming in the Menu Foods litigation. Consequently, there was no way for me to know that this settlement agreement would encompass much of the Plaintiffs' claims in this case or cause the need for an additional Plaintiff, particularly where I had plead a defendant class.

16. Ms. Arna Cortazzo contacted my law firm in June 2008 about her interest in being added to the lawsuit. No one from my law firm had ever contacted her prior to her telephone call to my law firm, and the email attached as Exhibit "C" to Ms. Caverly's Declaration was only sent to those who had previously contacted my law firm about legal advice, or representation and participation in this lawsuit prior to the time that the e-mail was sent. It was not addressed to any person who had not contacted my law firm to obtain legal advice from the law firm about their rights concerning pet food purchases or participation in this lawsuit. Ms. Caverly's Declaration and Natura's Response clearly reveal that she has absolutely no basis to "infer" that this was solicitation at all. A law firm simply cannot solicit those who have contacted the lawyer about representation and participation in a lawsuit.

17. It is outrageous for Natura and its counsel to suggest that my law firm violated Florida ethics rules through solicitation when there is absolutely no evidence to support such a statement. In sixteen (16) years, I have only once suggested that lawyers in a case have violated bar rules, and that claim was supported by uncontradicted deposition testimony from the plaintiff and a Declaration from the former Chief Justice of the Florida Supreme Court indicating that a violation had indeed occurred. Filing a document that suggests that lawyers violate bar rules

based upon a suspicion that a violation may have occurred is outrageous and in and of itself should be subject to sanctions.

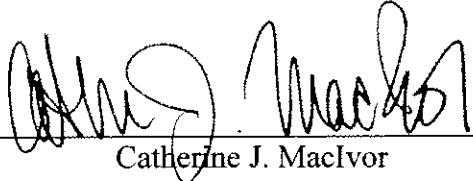
18. As for Ms. Caverly's statements concerning the Rule 7.1 conference, I originally contacted Ms. Juli Lund about dismissals since she was serving as the representative for all Defendants on that issue. I sent the e-mail referenced in Ms. Caverly's declaration to Juli Lund and had several telephone discussions with Ms. Lund about the request to substitute Ms. Cortazzo as to Defendant Natura only. While I was having those discussions, Ms. Caverly sent me an e-mail indicating that she would not agree to the substitution or addition of any Plaintiffs and that she had informed Juli Lund of same without giving a reason for her opposition. I continued to have discussions with Juli Lund as the representative of the Defendants about the reasons why the Defendants would not agree and set forth the reason that was provided to me in the Rule 7.1 certificate. Ms. Caverly now argues that there was no bona fide meet and confer regarding this issue when she acknowledges that I contacted the Defendants' representative Juli Lund and Ms. Caverly separately advised that she would not agree to the relief requested. While I did ask Ms. Lund as to the rationale for objecting, there is nothing in Local Rule 7.1 that requires a party to pursue all of the reasons why a party will not agree to a motion after the party has clearly and unequivocally stated that the party will not agree to the relief sought. Ms. Caverly failed to indicate that she wanted any separate communication regarding this issue beyond her refusal to agree to all or part of the relief requested and thus all further discussions continued with Ms. Lund. Ms. Caverly also never sought any information about Ms. Cortazzo.

19. Finally, Ms. Caverly inexplicably attached a web page from proposed Plaintiff Cortazzo's website indicating that she practices animal rights law and products liability. All this demonstrates is that she is a more than adequate proposed class representative because she has

the legal prowess to meaningfully participate in this case, she is passionate about preserving the rights of cats and dogs and those who care for them, and she understands complex products liability litigation. This only supports every reason why Ms. Cortazzo should be added as a Plaintiff since she is fully capable of assisting the Plaintiffs' counsel in zealously prosecuting this case on behalf of the Plaintiffs and the putative class.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 3, 2008.



Catherine J. MacIvor

Catherine J. MacIvor

From: Kristen Caverly [kcaverly@hcesq.com]
Sent: Monday, April 28, 2008 5:21 PM
To: Catherine J. MacIvor
Cc: ABrown@ssd.com; acraig@carltonfields.com; ADavis@wc.com; adober@akingump.com; agoodwin@ssd.com; agreer@richmangreer.com; alan.fry@akerman.com; alexander.shaknes@dlapiper.com; BLitten@ssd.com; breid@carltonfields.com; bwright@ficlaw.com; cahoover@hhlaw.com; CALicko@HHLAW.com; ckalil@aballi.com; cristen.rose@dlapiper.com; csalup@patinolaw.com; dbutswinkas@wc.com; djireland@ficlaw.com; dlagrua@cozen.com; dtamarazzo@patinolaw.com; ecarrigan@akingump.com; edhogan@hhlaw.com; frothrock@shb.com; hugh.turner@akerman.com; jarden@sidley.com; jbmurray@ssd.com; jerry.trippitelli@dlapiper.com; jkuster@sidley.com; JLund@wc.com; jmcdonough@cozen.com; jmullen@cozen.com; jnegovan@cozen.com; jpoyer@aballi.com; jrenzi@ssd.com; JReuss@lanealton.com; jweinstein@ssd.com; jyork@mcguirewoods.com; kmccall@sidley.com; Laura.L.Daly@supervalu.com; lchasteen@ficlaw.com; lonnie.simpson@dlapiper.com; lsanom@ficlaw.com; mary.gately@dlapiper.com; mek@kubickidraper.com; mgoodman@ssd.com; mlberge@hhlaw.com; morton.ws@pg.com; MWaller@lanealton.com; phoulihan@wc.com; plascala@shb.com; psechler@wc.com; RCTroyer@hhlaw.com; rd@kubickidraper.com; rfama@cozen.com; richard.segal@pillsburylaw.com; RLHanger@ssd.com; rpatino@patinolaw.com; rteslik@akingump.com; rwheeler@cozen.com; scolombo@cozen.com; thentoff@wc.com; Tony Farmani

Follow Up Flag: Follow up

Flag Status: Orange

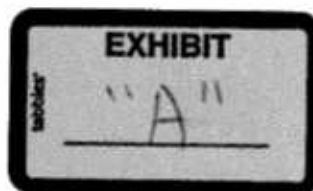
Attachments: Deposition Notice - Herring.pdf; Deposition Notice - Blaszkowski.pdf; Deposition Notice - Brown.pdf; Deposition Notice - Damron.pdf; Deposition Notice - Davis.pdf; Deposition Notice - Gaglione.pdf; Deposition Notice - Hanrahan.pdf; Deposition Notice - Nelson.pdf; Deposition Notice - Herring.pdf; Deposition Notice - Hock.pdf; Deposition Notice - Hopkins-Jones.pdf; Deposition Notice - Isern.pdf; Deposition Notice - Kotzampaltiris.pdf; Deposition Notice - Lucarelli.pdf; Deposition Notice - Lupo.pdf; Deposition Notice - MacDonald.pdf; Deposition Notice - Mathiesen.pdf; Deposition Notice - McGregor.pdf; Deposition Notice - Murphy.pdf; Deposition Notice - Wilson.pdf; Deposition Notice - Nelson.pdf; Deposition Notice - Peters.pdf; Deposition Notice - Quinn.pdf; Deposition Notice - Rice.pdf; Deposition Notice - Rucker.pdf; Deposition Notice - Shore.pdf; Deposition Notice - Stone.pdf; Deposition Notice - Thomas.pdf; Deposition Notice - Tregoe.pdf; Deposition Notice - Valoras.pdf; Deposition Notice - White.pdf; Deposition Notice - Wiggins.pdf

Cathy,

Thank you for talking with me and Phil last Wednesday. In furtherance of our efforts to schedule plaintiffs' depositions, attached are deposition notices with the dates defendants' propose. We have set them in Miami as we suggested, but we are open to working with you on the dates and locations as we discussed on Wednesday. I realize that you are out of the office and that the depositions will not begin on May 12 as noticed, so I will not expect a response until you provide us with your proposed schedule on May 6.

Kristen

Kristen E. Caverly, Partner
Henderson & Caverly LLP
16236 San Dieguito Road, Suite 4-13
P.O. Box 9144 (all US Mail)



9/2/2008

Rancho Santa Fe, CA 92067-9144
858-756-6342 x)101
858-756-4732 fax

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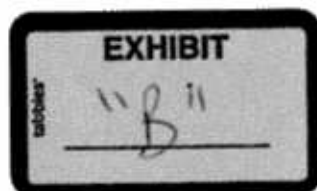
9/2/2008

Catherine J. MacIvor

From: Catherine J. MacIvor
Sent: Wednesday, May 14, 2008 5:38 PM
To: 'Kristen Caverly'
Cc: 'Adriana Riviere-Badell (ariviere-badell@hunton.com)'; 'Alan Graham Greer (agreer@richmangreer.com)'; 'Alexander Shaknes (alex.shaknes@dlapiper.com)'; 'Amy W. Schulman'; 'Andrew Dober'; 'Benjamin Reid (breid@carltonfields.com)'; 'Brian D. Wright (bwright@ficlaw.com)'; 'C. Richard Fulmer'; 'Carlos Salup'; 'Carol A. Licko (calicko@hhlaw.com)'; 'Cassidy Yen Dang (cyd@kubickidraper.com)'; 'Charles H. Abbott III (cabbott@gibsondunn.com)'; 'Christopher M. D'Angelo (cdangelo@wc.com)'; 'Craig A. Hoover (cahoover@hhlaw.com)'; 'Craig Kalil'; 'D. Jeffrey Ireland (djireland@ficlaw.com)'; 'Dane H. Butswinkas (dbutswinkas@wc.com)'; 'Darren Friedman'; 'Dominick v. Tamarazzo'; 'Gail E. Lees (glees@gibsondunn.com)'; 'Gary L. Justice (gjustice@gibsondunn.com)'; 'Hugh J. Turner (hugh.turner@akerman.com)'; 'James D. Arden (jarden@sidley.com)'; 'James Reuss'; 'Jason Joffe'; 'Javier Duran'; 'Jeffrey E. Foreman'; 'Jeffrey Maltzman'; 'John B. T. Murray Jr. (jbmurray@ssd.com)'; 'John F. Mullen (jmullen@cozen.com)'; 'John J. Kuster (jkuster@sidley.com)'; 'John J. McDonough (jmcdonough@cozen.com)'; 'Joshua Poyer'; 'Kara L. McCall (kmccall@sidley.com)'; 'Lonnie L. Simpson (lonnie.simpson@dlapiper.com)'; 'Marcos Jimenez'; 'Maria Kayanan (mek@kubickidraper.com)'; 'Marty Leonard Steinberg (msteinberg@hunton.com)'; 'Miranda L. Berge (mlberge@hhlaw.com)'; 'Olga M. Vieira (ovieira@carltonfields.com)'; 'Omar Ortega (oortega@dortaandortega.com)'; 'Patrick J. Houlihan (phoulihan@wc.com)'; 'Philip A. Sechler (psechler@wc.com)'; 'Ralph Patino'; 'Richard Fama (rfama@cozen.com)'; 'Robert Alwine'; 'Robert C. Troyer (rtroyer@hhlaw.com)'; 'Robert Valadez'; 'Robin Lea Hanger (rlhanger@ssd.com)'; 'Rolando Andres Diaz (rd@kubickidraper.com)'; 'Thomas G. Hentoff (thentoff@wc.com)'; 'W. Randolph Teslik'; 'William C. Martin Esq. (william.martin@dlapiper.com)'; 'William E. Wegner (wwegner@gibsondunn.com)'

Subject: Blaszkowski vs. Mars - Letter to K. Caverly regarding Plaintiffs' Depositions
Attachments: Blaszkowski - Letter to K Caverly re Plaintiffs' depo scedule.pdf

Please see attached letter.



9/2/2008

MALTZMAN FOREMAN

ATTORNEYS AT LAW

CATHERINE J. MACIVOR
PARTNER
CMACIVOR@MFLEGAL.COM

May 14, 2008

VIA ELECTRONIC TRANSMISSION

Kristin Caverly, Esquire
Henderson & Caverly LLP
16236 San Dieguito Road, Suite 4-13
Rancino Santa Fe, California 92067-9144

RE: *Blaszowski et al. vs. Mars Inc., et al.*
Case No. 07-21221 – CIV-Altonaga/Brown

Dear Kristin,

Per our prior telephone discussion, my office received your April 16, 2008 letter concerning the Plaintiffs' proposed deposition schedules when I was out of the office and at a time when I was scheduled to be out of the office again shortly thereafter (with only four (4) days in the office in between). As you know, I advised you at the time that the schedule that you proposed was not feasible for me because I have two cases that were set for trial and must attend at least two to three depositions per week through July on each of these cases. Moreover, I will be in Taiwan attending depositions in these cases for the first two weeks of June.

Per our discussion, I advised you that I would propose alternate dates that would work for the Plaintiffs and with my schedule. I also suggested that because defense counsel are located in various cities in and around the United States that we have these depositions closer to the Plaintiffs homes since many of them have companion cats and dogs that are ill and need attention and leaving them with veterinary professionals would work a hardship on not only the Plaintiffs, but it would be very stressful for their cats and dogs.

In addition to the depositions that I must attend in these other cases, I am contemporaneously working with the Plaintiffs to respond to the Defendants' very broad discovery requests, which will require the production of massive amounts of information. Even with the thirty day extension that you recently gave me, I will only be able to formally respond to them in writing and produce some of the documents, while others will have to be produced on a rolling basis. I am quite sure that the Defendants want the documents prior to the depositions and this schedule also takes that into consideration.

Please see the proposed schedule below:

PROPOSED PLAINTIFFS' DEPOSITION SCHEDULE

NEW YORK

Claire Kotzampaliris	August 4
Donna Hopkins-Jones	August 5
Yvonne Thomas	August 6
Tone Gaglione	August 7
Michelle Lucarelli	August 8

MIAMI

Pat Davis	August 26
Raul Isern	August 27
Renee Blaszkowski	August 28
Danielle Valoras	August 29
Lisa MacDonald	August 30***

LAS VEGAS

Patricia Hanrahan	September 8
Ann Quinn	September 9
Deborah Hock	September 10
Marlena Rucker	September 11
Sandy Shore	September 12

WASHINGTON, DC

Stephanie Stone	September 22
Jane Herring	September 23***
Joanne Murphy	September 24
Jennifer Damron	September 25
Carolyn White	September 26
Cindy Tregoe	September 29
Marian Lupo	September 30

ST. LOUIS

Beth Wilson	October 7
Debbie Rice	October 8
Susan Peters	October 9
Lou Wiggins	October 10
Sharon Mathiesen	October 13***

Julie Nelson

October 14

MINNEAPOLIS (in person or via video conference due to health reasons)

Linda Brown

August 18-20

The asterisks next to some Plaintiffs' names indicate that I have not confirmed that particular Plaintiff's availability yet, but expect to do so by the end of the week. Deborah McGregor will be dismissing her claim because she was recently diagnosed with an illness that will necessitate her full attention. As I am sure you can imagine, many of the Plaintiffs work and have already made other commitments prior to your request for their depositions. It took quite a bit of logistical coordination for me and them to clear dates and for me to work out this proposal. Based upon my previous notice of unavailability, I have only actually had twelve (12) business days in the office since you sent me your proposed schedule to contact thirty (30) Plaintiffs and coordinate this schedule.

Very truly yours,

Sent in her absence to avoid delay

Catherine J. MacIvor

cc: All defense counsel of record

KEEGAN & BAKER, LLP

A LIMITED LIABILITY PARTNERSHIP
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July 11, 2008

VIA EMAIL

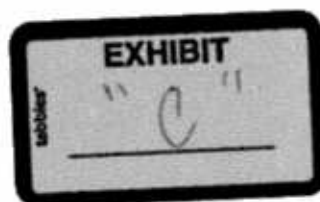
Philip A. Sechler, Esq.
WILLIAMS & CONNOLLY LLP
725 Twelfth Street, N.W.
Washington, D.C. 20005-5901

Re: Blaszkowski v. Mars, Incorporated, et al.
U.S. District Court, Southern District of Florida
Case No.: 07-21221-CIV
Our File No.: 7009

Dear Mr. Sechler:

This letter is in response to your letter dated July 10, 2008, in response to my letter dated July 9, 2008 requesting clarification and confirmation of my availability for teleconference on July 15th concerning Plaintiffs' June 30, 2008 responses to Defendant Mars Incorporated's first sets of Interrogatories and Documents, and Defendant Natura Pet Products' first set of interrogatories.

I will make myself available to confer with you on July 15th by conference call at 12:00 p.m. PT/3:00 p.m. ET. To clarify, I believe that the discovery issues and depositions noticed by Defendant Mars Incorporated, and every other defendant in this case except those that relate to the claims of named plaintiffs Jennifer Damron and Renee Blaszkowski regarding solely their purchases of pet food brands of Defendant Natura Pet Products, are moot given the preliminary approval of the class action settlement in *In Re: Pet Food Products Liability Litigation* (Civil Action No. 07-2867 (NLH) which is currently pending in the United States District Court, District of New Jersey (the "Menu Foods Case"). Therefore, we request that all named defendants agree to a discovery stay as to all other named plaintiffs (except for Jennifer Damron and Renee Blaszkowski) and all claims asserted against all other named defendants (except for Defendant Natura Pet Products) in this case until after the final approval hearing is held and an order issued determining whether or not the Menu Food Case class action settlement is granted final approval.



July 9, 2008

Philip A. Sechler, Esq.

Re: Blaszkowski v. Mars, Incorporated, et al.

Page No. 2

It would be an obvious waste of the parties' resources and judicial resources of the Miami Court for Defendant Mars Incorporated, and every other defendant in this case except for Defendant Natura Pet Products, to continue to seek written discovery responses, issue subpoenas of related third parties, and take the depositions of the named plaintiffs other than Jennifer Damron and Renee Blaszkowski if the claims of these other named plaintiffs could be released in the Menu Food Case if the Menu Foods Case settlement is finally approved by the New Jersey Court in November of this year. Accordingly, the named plaintiffs ask all named defendants to voluntarily agree to such a discovery stay and to inform us by no later than July 15th at 10:00 a.m. PT/1:00 p.m. ET if you would agree to stipulate to such a stay. We look forward to your response.

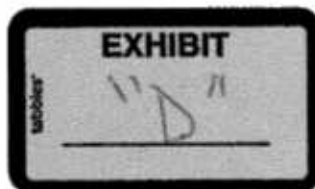
Sincerely,

Dictated, but not read

Patrick N. Keegan, Esq.

PNK/sj

cc: Catherine J. MacIvor, Esq. (by email)
All Defendants' counsel (by email)



From: Kristen Caverly [mailto:kcaverly@hcesq.com]
Sent: Friday, August 22, 2008 2:57 PM
To: Jeffrey Maltzman
Cc: Jason Baker; Patrick Keegan; Catherine J. MacIvor
Subject: RE: Natura Litigation

Jeffrey,

If it is agreeable to you, I would like to take Ms. Peters on Thursday and Ms. Blaszkowski on Friday next week or any other combination of two days next to each other that work for you. Both starting at 9am. I will also accept the offer of using your offices.

As to Ms. Thomas, I agree that she can be taken in DC on Sept. 23, Sept. 26 and I would like to move Ms. Tregoe to Sept. 23 or 26 so we have a block of 4 days in DC. The order to me is of no consequence.

Thank you for your prompt response so that I can rearrange my own travel and court reporter.

Kristen

Kristen E. Caverly, Partner
Henderson & Caverly LLP

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From: Jeffrey Maltzman [mailto:JMaltzman@mlegal.com]
Sent: Friday, August 22, 2008 11:21 AM
To: Kristen Caverly
Cc: Jason Baker; Patrick Keegan; Catherine J. MacIvor
Subject: RE: Natura Litigation
Importance: High

Dear Kristen

As you are aware, going forward Natura is the only defendant Plaintiffs are pursuing in this litigation. We are in the process of filing dismissals of all other defendants and non Natura Plaintiffs.

Over the next two weeks we currently have scheduled depositions of three class Plaintiffs (Blaskowski, Peters and Thomas) in Miami, Florida. These Plaintiffs will be dismissing their claims against all other Defendants but will maintain their claims against Natura. Although we have offered to let you reschedule these depositions in

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order to try to find dates when they could be taken sequentially (thus avoiding "down days" between the depositions) it is our understanding that you wish to proceed with these depositions as currently scheduled.

We are fine with keeping next weeks depositions of Peters and Blaskowski on calendar for next week. However, we wish to alert you that Ms. Peters departs for Miami today and that if you elect to cancel her deposition after her departure Plaintiffs will hold Natura responsible for her lost time and travel expenses. We thus are writing simply to confirm that you indeed intend to proceed with the Peters and Blaskowski depositions next week in Miami as currently scheduled. Since all other defense counsel on the case will no longer be involved, you are welcome to use our office's conference room for these depositions if you wish. Please let me know.

I also wish to give you advance notice that to date we have been unable to reach Ms. Thomas to confirm her deposition which is currently noticed for September 2nd and it appears she may be away from town. Although our office intended to contact all the Plaintiffs after the deposition schedule was negotiated to confirm each person's selected deposition date, it appears that due to an inadvertent error in our office Ms. Thomas did not receive the confirmation of her deposition date. We will thus need to reschedule her deposition unless we can reach her in the next few days. If you would prefer more certainty so you can make travel arrangements we are happy to produce her on another of the agreed deposition dates (many of which are now open since the deponents have been dismissed). Let us know your thoughts with regard to Ms. Thomas. I believe she lives closest to the DC deposition area so perhaps we could slot her into one of those available dates.

Kind regards
Jeffrey Maltzman

JEFFREY MALTZMAN

Partner

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