

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.

**EVIDENTIARY OBJECTION BY NATURA PET PRODUCTS, INC. TO
DECLARATION OF ARNA CORTAZZO AND EXHIBIT ATTACHED THERETO**

Natura Pet Products, Inc. (“Natura”) hereby objects to the Declaration and Amended Declaration of Arna Cortazzo executed on September 3, 2008, and the exhibit attached thereto. (D.E. 467, 468.) Natura generally objects to the Amended Declaration of Arna Cortazzo and exhibit attached thereto to the extent that it is offered for consideration with Plaintiffs’ Reply Brief in support of their Motion to Add and/or Substitute Arna Cortazzo as a Plaintiff/Class Representative. Plaintiffs are barred from offering any new arguments and evidence with their Reply other than rebuttal arguments and evidence strictly limited to the rebuttal of matters raised in the opposition. *See* Local Rule 7.1.C; *see also* *Martinez v. Weyerhaeuser Mortg. Co.*, 959 F. Supp. 1511, 1515 (S.D. Fla. 1996); *Fisher v. Ciba Specialty Chems. Corp.*, 238 F.R.D. 273, 311 n.82 (S.D. Ala. 2006). After failing to submit any evidence in support of their original moving papers, Plaintiffs have attempted to introduce evidence for the first time in their Reply. However, the submitted evidence largely does not respond to new issues raised in the opposition, but is rather offered to support issues initially raised in the original moving papers. The evidence is thus inappropriate and should not be considered in the ruling upon the motion.

Natura’s specific objections are as follows:

1. **Paragraph 3:**

...I am an advocate for animal rights and feel strongly that the Defendants, and in particular Natura Pet Products, Inc., (“Natura”), misrepresented the pet food that the sold in their marketing materials, through store representatives and packaging. Moreover, Natura’s pet food makes cats and dogs ill and causes pets to die.

Natura objects to the above as (i) irrelevant, (ii) lacking foundation, and (iii) improper lay opinion. *See Fed. R. Evid. 402, 602, 701.*

2. **Paragraph 4:**

I believe that my dogs and cats became ill from consuming this food because they suffered illness as a result of consuming the pet food, including weight loss, kidney problems, a fungus in the brain, neurological problems, rashes and vomiting.

Natura objects to the above as (i) irrelevant, (ii) lacking foundation, and (iii) improper lay opinion. *See Fed. R. Evid. 402, 602, 701.*

3. **Paragraph 4:**

I also believe that Natura’s marketing falsely presented their products to me, including statements on their website that the content of the food is what I would eat myself as best evidenced by Exhibit “10” of the lawsuit. This is deceptive at best and would be better characterized as fraud since the ingredients are not human grade at all.

Natura objects to the above as (i) irrelevant, (ii) lacking foundation, (iii) hearsay, and (iv) improper lay opinion. *See Fed. R. Evid. 402, 602, 701, 802.*

4. **Paragraph 5:**

Additionally, I believe that Natura marketed Evo as a very high end product when, in fact, it contains the very same “meat” that other manufacturers use that has been deemed unfit for human consumption while charging a high price for what has been marketed as human grade pet food.

Natura objects to the above as (i) irrelevant, (ii) lacking foundation, (iii) hearsay, and (iv) improper lay opinion. *See Fed. R. Evid. 402, 602, 701, 802.*

5. **Paragraph 6:**

I have reviewed the Fourth Amended Complaint and agree with its contents as to Defendant Natura and believe that I was damaged by Natura’s false and fraudulent advertising, by being charged a higher price for pet food that is the same or very similar to cheaper brands that are not marketed as “premium” and

because my pets became ill as a result of ingesting Natura's pet food between May 9, 2003 and May 9, 2007.

Natura objects to the above as (i) irrelevant, (ii) lacking foundation, (iii) hearsay, and (iv) improper lay opinion. *See* Fed. R. Evid. 402, 602, 701, 802.

6. Exhibit "A" attached to the Declaration of Arna Cortazzo.

Natura objects to the exhibit in its entirety, which purports to be the unverified interrogatory responses of a non-party because it is (i) unauthenticated. *See* Fed. R. Evid. 901. Natura further objects to the exhibit as (ii) hearsay and (iii) irrelevant. *See* Fed. R. Evid. 402, 802.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 11, 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, except for unrepresented plaintiffs Rice and MacDonald who will each be served by U.S. Mail on September 12, 2008 in a manner authorized by law at the addresses indicated below as required by the Court.

s/ Michael M. Giel

Attorney

CERTIFICATE OF SERVICE

**RENEE BLASZKOWSKI, ET AL., VS. MARS, INCORPORATED, ET AL.
Case No. 07-21221-CIV-ALTONAGA/TURNOFF**

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