

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 Defendant Natura Pet Products, Inc.'s ("Natura") Motion for Summary Judgment against Linda Brown, Tone Gaglione, Jane Herring, Deborah Hock, Raul Isern, Claire Kotzampaltiris, Michele Lucarelli, Marian Lupo, Sharon Mathiesen, Deborah

McGregor, Julie Nelson, Ann Quinn, Marlana Rucker, Sandy Shore, Stephanie Stone, Beth Wilson, Patricia Hanrahan, Donna Hopkins-Jones, Danielle Valoras, Carolyn White, and Lou Wiggins (the “non-Natura Plaintiffs”) as well as the Declaration of Kristen Caverly attached thereto.

4. On April 11, 2008, the Fourth Amended Complaint (“FAC”), which is the operative complaint in this case, was filed. [DE 349]. Paragraphs 3-32 of the FAC contain detailed allegations that each Plaintiff made against each Defendant. [DE 349 ¶¶3-32].

5. These allegations were included for the benefit of the Defendants as early as the Third Amended Complaint to avoid protracted litigation regarding standing. [DE 333 ¶¶3-32].

6. None of the allegations made by the non-Natura Plaintiffs in the FAC included Natura. [DE 349 ¶¶6-12, 14-15, 17-24, 28-29, 31-32].

7. The FAC was specifically prepared so that Paragraphs 3-32 were incorporated into each substantive Count of the FAC by the same language contained in each Count: “Plaintiffs/Class Representatives and other Class members re-allege paragraphs 1-125 as if more fully set forth herein.” [DE 349 ¶¶126, 135, 144, 155, 162, 166, 174, 180].

8. On June 30, 2008, I served Natura’s counsel with the non-Natura Plaintiffs’ Responses to Mars Incorporated’s First Set of Interrogatories which reaffirmed that none of the non-Natura Plaintiffs ever purchased or used Natura pet food.

9. As the non-Natura Plaintiffs’ Responses clearly demonstrate, the non-Natura Plaintiffs never stated that they purchased Natura products.

10. Due to the settlement agreement reached in *In re Pet Food Products Liability Litigation*, CIV NO.: 07-2867 (NLH/AMD), a Multi-District Litigation case in the

United States District Court for the District of New Jersey, which extinguished all of the claims of the non-Natura Plaintiffs, on September 12, 2008, the non-Natura Plaintiffs and the non-Natura Defendants entered into two stipulations to dismiss with prejudice the claims of the non-Natura Plaintiffs against the non-Natura Defendants. [DE 480, 481].

11. Later this same day, this Court entered two Orders granting the dismissals with prejudice to which the non-Natura Plaintiffs and the non-Natura Defendants stipulated. [DE 482, 483].

12. Upon the entry of these two Orders, every claim alleged by the non-Natura Plaintiffs was dismissed with prejudice and all of the non-Natura Defendants were dismissed from this case.

13. Because counsel for Natura was purportedly “confused” by which claims remained against her client, as a courtesy, the Plaintiffs filed a Notice of Pending and Dismissed Claims identifying with specificity which Plaintiffs still had claims against Natura and which Plaintiffs were no longer party to this suit, although the Plaintiffs had already advised Kristen Caverly that paragraphs 3-32 of the FAC made that clear. [DE 494]. It was obvious to the Plaintiffs’ counsel that Natura was not confused about the pleading and that the real intent was to use this purported “confusion” as some sort of alleged basis to claim that it is a prevailing party to seek fees and costs against these Plaintiffs who never had a claim against Natura.

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

Executed on October 27, 2008.

s/ Catherine J. MacIvor

Catherine J. MacIvor