

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

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

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

Plaintiffs,

vs.

MARS, INCORPORATED, *et al.*,

Defendants.

**DECLARATION OF ROBERT C. MARDIAN III IN SUPPORT OF DEFENDANT
NATURA PET PRODUCTS, INC.'S MOTION TO COMPEL RESPONSES BY
JO-ANN MURPHY AND CINDY TREGOE TO NATURA'S THIRD SET OF
INTERROGATORIES; AND PATRICIA DAVIS TO NATURA'S FOURTH SET
OF INTERROGATORIES**

1. I, Robert C. Mardian III, am over the age of 18 and have personal knowledge of the facts set forth herein or know of such facts from my review of the case files for this action, which are maintained by my office in the normal course of business. I am counsel for defendant Natura Pet Products, Inc., and admitted *pro hac vice* in this action.

2. From September 24-27, 2008, Natura took the depositions of plaintiffs. Patricia Davis, Cindy Tregoe and Jo-Ann Murphy.

3. Subsequent to the depositions, Natura sent to the plaintiffs interrogatories.

4. Plaintiffs requested extensions within which to respond to discovery. Natura agreed so long as plaintiffs promised to provide substantive responses to each request.

5. Attached hereto as Exhibit A is a true and correct copy Natura's Third Set of Interrogatories to Plaintiff Cindy Tregoe dated October 23, 2008.

6. Attached hereto as Exhibit B is a true and correct copy of Cindy Tregoe's Responses Natura's Third Set of Interrogatories to Plaintiff Cindy Tregoe dated November 24, 2008.

7. Attached hereto as Exhibit C is a true and correct copy Natura's Third Set of Interrogatories to Plaintiff Jo-Ann Murphy dated October 23, 2008.

8. Attached hereto as Exhibit D is a true and correct copy of Jo-Ann Murphy's Responses Natura's Third Set of Interrogatories to Plaintiff Jo-Ann Murphy dated November 24, 2008.

9. Attached hereto as Exhibit E is a true and correct copy Natura's Fourth Set of Interrogatories to Plaintiff Patricia Davis dated October 23, 2008.

10. Attached hereto as Exhibit F is a true and correct copy of Patricia Davis' Responses Natura's Fourth Set of Interrogatories to Plaintiff Patricia Davis dated November 24, 2008.

I declare the above under penalty of perjury under the laws of the United States of America on this 29th day of December, 2008 in Rancho Santa Fe, California.



Robert C. Mardian III

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

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

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

Plaintiffs,

vs.

MARS, INCORPORATED, *et al.*,

Defendants.

**DEFENDANT NATURA PET PRODUCTS, INC.'S THIRD SET OF
INTERROGATORIES TO PLAINTIFF CINDY TREGOE**

Defendant Natura Pet Products, Inc, by their undersigned attorneys, propound the following interrogatories upon Plaintiff Cindy Tregoe and request that they be answered separately, fully, and under oath within thirty days of service pursuant to Federal Rule of Civil Procedure 33 and Local Rule 26.1.G.

DEFINITIONS

1. The words "you," "yours" and/or "yourselves" mean Plaintiff Cindy Tregoe and any spouse, relative, directors, officers, employees, agents, investigators, representatives or other persons or entities acting, or purporting to act, on behalf of Plaintiff Cindy Tregoe.
2. The singular shall include the plural and vice versa; the terms "and" or "or" shall be both conjunctive and disjunctive; and the term "including" mean "including without limitation."
3. "Date" shall mean the exact date, month and year, if ascertainable or, if not, the best approximation of the date (based upon relationship with other events).

4. The word "document" shall mean any writing, drawing, graph, chart, recording, electronically stored information, photograph, or other data compilation from which you can obtain information that is in your actual or constructive possession, custody, care or control, which pertains directly or indirectly, in whole or in part, either to any of the subjects listed below or to any other matter relevant to the issues in this action, or which are themselves listed below as specific documents, including, but not limited to: correspondence, memoranda, notes, messages, email communications, instant messages, electronic postings, weblogs, diaries, minutes, books, reports, charts, ledgers, invoices, receipts, computer printouts, PowerPoint or other software or computer-based presentations, microfilms, video tapes or tape recordings, transcripts of video tapes or tape recordings, pet food packaging, pet food labels, advertisements, transcripts of advertisements, point of sale information, veterinarian or hospital invoices, reports or records.

5. "Agent" shall mean: any agent, employee, officer, director, attorney, independent contractor or any other person acting at the direction of or on behalf of another.

6. "Person" shall mean any individual, corporation, proprietorship, partnership, trust, association or any other entity.

7. The words "pertain to" or "pertaining to" mean: relates to, refers to, contains, concerns, describes, embodies, mentions, constitutes, constituting, supports, corroborates, demonstrates, proves, evidences, shows, refutes, disputes, rebuts, controverts or contradicts.

8. "Pet" shall mean any cat or dog for which you purchased or provided food at any time since May 9, 2003.

9. "Food" shall mean any food, whether or not marketed for pets, that is consumed by pets, including items commonly identified in the marketplace as pet treats.

10. The term “action” shall mean the case entitled *Renee Blaszkowski, et al. v. Mars, Inc., et al.*, Case No. 07-21221, pending in the United States District Court for the Southern District of Florida.

11. The term “Complaint” shall mean the operative complaint filed in this action.

12. The word “identify”, when used in reference to a document (including electronically stored information), means and includes the name and address of the custodian of the document, the location of the document, and a general description of the document, including (1) the type of document (*e.g.*, letter or memorandum) and, if electronically stored information, the software application used to create it (*e.g.*, MS Word or MS Excel Spreadsheet); (2) the general subject matter of the document or electronically stored information; (3) the date of the document or electronically stored information; (4) the author of the document or electronically stored information; (5) the addressee of the document or electronically stored information; and (6) the relationship of the author and addressee to each other.

13. “Identify” or “state the identity of”, when used with respect to a natural person or pet (as defined above), means to provide the following:

- a. full name and any alias, including user names, screen names and registered reader names used in connection with posting comments to websites;
- b. current or last known home address;
- c. current or last known business address;
- d. current or last known employment position; and
- e. relationship if any, to the parties in this action.

INSTRUCTIONS

1. You shall answer each interrogatory fully, in writing and under oath, unless it is objected to, in which event the reasons for the objections shall be stated in lieu of an answer. Your answers shall include all information available to you, including hearsay, which is in the possession,

custody, or control of you, your agents, or attorneys. If you cannot provide all of the information requested in each interrogatory, you should provide the information which you can provide and explain all efforts made to obtain the information which you are unable to provide.

2. If you object to fully identifying a document, electronically stored information or oral communication because of a privilege, you must nevertheless provide the following information pursuant to Local Rule 26.1.G.3.(b), unless divulging the information would disclose the privileged information:

- a. the nature of the privilege claimed (including work product);
- b. if the privilege is being asserted in connection with a claim or defense governed by state law, the state privilege rule being invoked;
- c. the date of the document, electronically stored information or oral communication;
- d. if a document: its type (*e.g.*, letter or memorandum) and, if electronically stored information, the software application used to create it (*e.g.*, MS Word or MS Excel Spreadsheet), and the custodian, location, and such other information sufficient to identify the material for a subpoena *duces tecum* or a production request, including where appropriate the author, the addressee, and, if not apparent, the relationship between the author and addressee;
- e. if an oral communication: the place where it was made, the names of the persons present while it was made, and, if not apparent, the relationship of the persons present to the declarant; and
- f. the general subject matter of the document, electronically stored information or oral communication.


3. You are under a continuous obligation to supplement your answers to these interrogatories under the circumstances specified in Federal Rule of Civil Procedure 26(e).

INTERROGATORIES

8. Identify each misrepresentation of fact which you contend Natura Pet Products, Inc. has made to you.
9. For each misrepresentation of fact identified in your response to Interrogatory No. 8, describe the circumstances in which the representation was made, including the date and manner the representation was made to you.

Date: October 23, 2008

Respectfully submitted,



ROBERT C. MARDIAN III

rmardian@hcesq.com

**HENDERSON, CAVERLY, PUM &
CHARNEY LLP**

P.O. Box 9144

16236 San Dieguito Road, #4-13

Rancho Santa Fe, CA 92067

Tel: 858-756-6342/ Fax: 858-756-4732

Jeffrey S. York

E-mail: *jyork@mcguirewoods.com*

Michael M. Giel

E-mail: *mgiel@mcguirewoods.com*

McGUIRE WOODS LLP

50 N. Laura Street, Suite 3300

Jacksonville, Florida 32202

Telephone: (904) 798-2680

Facsimile: (904) 360-6330

*Attorneys for Defendant Natura Pet Products,
Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was sent via electronic mail to all counsel on the attached service list on October 23, 2008.



Robert C. Mardian III

SERVICE LIST

CATHERINE J. MACIVOR

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

Attorneys for Plaintiffs

PATRICK N. KEEGAN

pkeegan@keeganbaker.com

JASON E. BAKER

jbaker@keeganbaker.com

KEEGAN & BAKER, LLP

4370 La Jolla Village Drive, Ste 640

San Diego, CA 92122

Telephone: 858-552-6750

Facsimile: 858-552-6749

Attorneys for Plaintiffs

EDGAR R. NIELD

enield@nieldlaw.com

4370 La Jolla Village Drive, Ste 640

San Diego, CA 92122

Telephone: 858-552-6745

Facsimile: 858-552-6749

Attorney for Plaintiffs

EXHIBIT B

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.

**PLAINTIFF CINDY TREGOE'S RESPONSES TO DEFENDANT NATURA PET
PRODUCT'S THIRD SET OF SPECIAL INTERROGATORIES**

Pursuant to Rule 33(b) of the Federal Rules of Civil Procedure, Plaintiff Cindy Tregoe ("Plaintiff") hereby responds to Defendant Natural Pet Products, Inc. ("Natura") Third Set of Special Interrogatories, as follows:

GENERAL RESPONSES

1. Plaintiff's response is made to the best of Plaintiff's present knowledge, information, and belief. The investigation and discovery of Plaintiff's claims are ongoing, and consequently, the parties may learn additional facts presently unknown, or may locate additional documents presently not identified, which may alter or invalidate or require the supplementation of this response. This response is at all times subject to such additional or different information that discovery or further investigation may disclose and, while based on the present state of Plaintiff's recollection, is subject to such refreshing of recollection, and such additional knowledge of facts, as may result from further discovery or investigation.

2. No admission of any nature whatsoever is to be implied or inferred from Plaintiff's response. The fact that this response may contain answers or admissions to certain interrogatories or questions should not be taken as an admission or concession of the existence of any facts set forth or assumed by such interrogatories or questions, or that such response constitutes evidence of any such fact as set forth or assumed.

3. Plaintiff reserves all objections or other questions as to the competency, relevance, materiality, privilege or admissibility as evidence in any subsequent

proceeding in or trial of this or any other action for any purpose whatsoever of this response and any answer or document or thing identified or produced in response to the Natura's special interrogatories.

4. Plaintiff reserves the right to object on any ground at any time to such other or supplemental special interrogatories as the Natura may at any time propound involving or relating to the subject matter of these special interrogatories.

5. Plaintiff will respond to each special interrogatory requesting identification of documents with documents currently in her possession.

GENERAL OBJECTIONS

Plaintiff makes the following general objections, whether or not separately set forth in response to each and every special interrogatory, to each and every definition, and to each and every special interrogatory made in Natura's third set of special interrogatories:

1. Plaintiff objects to all interrogatories insofar as any such interrogatory seeks identification of documents or information protected by the attorney-client privilege and the attorney-client work product doctrine. Such documents or information will not be produced in response to the Natura's interrogatories, and any inadvertent production thereof shall not be deemed a waiver of any privilege with respect to such documents or information or of any work produce doctrine which may attach thereto.

2. Plaintiff objects to all interrogatories to the extent that they are unreasonably cumulative, duplicative and/or disproportionate subjecting Plaintiff to unreasonable and undue annoyance, oppression, burden, and expense.

3. Plaintiff objects to all interrogatories to the extent that they seek identification of all documents, all witnesses or all information in support of Plaintiff's claims at this stage of the litigation of this action subjecting Plaintiff to unreasonable and undue annoyance, oppression, burden, and expense.

4. Plaintiff objects to the introductory definitions and instructions to the Natura's interrogatories to the extent said definitions or instructions purport to enlarge, expand, or alter in any way the plain meaning and scope of any specific interrogatory on the ground that such enlargement, expansion, or alteration renders said interrogatory vague, ambiguous, unintelligible, unduly broad, and uncertain.

5. Plaintiff objects to all instructions, definitions and interrogatories to the extent that they seek identification of documents or information not currently in Plaintiff's possession, custody or control, or refer to persons, entities or events not known to Plaintiff, on the grounds that such instructions, definitions, or interrogatories seek to require more of Plaintiff than any obligation imposed by law, would subject Plaintiff to unreasonable and undue annoyance, oppression, burden, and expense, and would seek to

impose upon Plaintiff an obligation to investigate or discover information or material from third parties or sources who are equally accessible to Natura.

6. Plaintiff objects to all instructions, definitions and interrogatories to the extent they seek identification of documents or information on a continuing basis, on the grounds that such instructions, definitions and interrogatories seek unilaterally to impose an obligation to provide supplemental information greater than the required by the Federal Rules of Civil Procedure, seek information that is beyond the scope of permissible discovery (not relevant to the subject matter or likely to lead to discovery of admissible evidence), and would subject Plaintiff to unreasonable and undue annoyance, oppression, burden, and expense. Therefore, all such instructions, definitions and interrogatories will not be regarded as continuing in nature.

GENERAL OBJECTIONS & RESPONSES TO SPECIAL INTERROGATORIES

Without waiving or limiting in any manner any of the foregoing General Responses and General Objections, but rather incorporating them into each of the following responses to the extent applicable, Plaintiff responds to the specific special interrogatories of Natura's third set of special interrogatories as follows:

Special Interrogatory No. 8:

Identify each misrepresentation of fact which you contend Natura Pet Products, Inc. has made to you.

Response to Special Interrogatory No. 8:

Plaintiff objects to this interrogatory on the grounds that it vague, ambiguous and overly broad. It is also cumulative in that it seeks information already testified to by the plaintiff during her deposition of November 25, 2008. In that regard it has also been asked and answered and is therefore argumentative and harassing. Without waving these objections, Plaintiff responds as follows:

Natura has made misleading and untrue representations concerning the nature and quality of its pet food products and omitted information concerning the content of its products. Further they misrepresented or concealed on the packaging of their products what ingredients were used in their products including, failing to reveal that some of their products included rendered ingredients. They have misrepresented themselves as being a great food for dogs.

Unfortunately Natura still has not yet produced all of the documentation requested by the plaintiff's concerning prior versions of its website and other advertising material. Once those materials are produced they may reveal additional misrepresentations, falsehoods and material omissions Natura has made concerning its pet food products.

Special Interrogatory No. 9:

For each misrepresentation of fact identified in your response to Interrogatory No. 8, describe the circumstances in which the representation was made, including the date and manner the representation was made to you.

Response to Special Interrogatory No. 9:

Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous, overly board and burdensome and is cumulative in that it seeks information already testified to by the plaintiff during her deposition of September 25, 2008. In that regard it has also been asked and answered and is therefore argumentative and harassing. Without waving these objections, Plaintiff responds as follows:

I can not recall whether the representations set out above were made on Natura's website I looked at in approximately the 2005 to 2006 time frame. The packaging materials I looked prior to the time I purchased the Natura products did not disclose all of the ingredients included in those products.

Dated: November 24, 2008

Law Offices of Edgar R. Nield



Edgar R. Nield, Esq.
Attorney for Plaintiffs

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.

VERIFICATION

I, Cindy Tregoe, declare and state foregoing responses to third set of interrogatories are true and correct under penalty of perjury.

Executed on November 24, 2008.

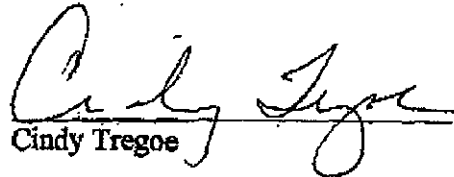

Cindy Tregoe

EXHIBIT C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

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

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

Plaintiffs,

vs.

MARS, INCORPORATED, *et al.*,

Defendants.

**DEFENDANT NATURA PET PRODUCTS, INC.'S THIRD SET OF
INTERROGATORIES TO PLAINTIFF JO-ANN MURPHY**

Defendant Natura Pet Products, Inc, by their undersigned attorneys, propound the following interrogatories upon Plaintiff Jo-Ann Murphy and request that they be answered separately, fully, and under oath within thirty days of service pursuant to Federal Rule of Civil Procedure 33 and Local Rule 26.1.G.

DEFINITIONS

1. The words "you," "yours" and/or "yourselves" mean Plaintiff Jo-Ann Murphy and any spouse, relative, directors, officers, employees, agents, investigators, representatives or other persons or entities acting, or purporting to act, on behalf of Plaintiff Jo-Ann Murphy.
2. The singular shall include the plural and vice versa; the terms "and" or "or" shall be both conjunctive and disjunctive; and the term "including" mean "including without limitation."
3. "Date" shall mean the exact date, month and year, if ascertainable or, if not, the best approximation of the date (based upon relationship with other events).

4. The word "document" shall mean any writing, drawing, graph, chart, recording, electronically stored information, photograph, or other data compilation from which you can obtain information that is in your actual or constructive possession, custody, care or control, which pertains directly or indirectly, in whole or in part, either to any of the subjects listed below or to any other matter relevant to the issues in this action, or which are themselves listed below as specific documents, including, but not limited to: correspondence, memoranda, notes, messages, email communications, instant messages, electronic postings, weblogs, diaries, minutes, books, reports, charts, ledgers, invoices, receipts, computer printouts, PowerPoint or other software or computer-based presentations, microfilms, video tapes or tape recordings, transcripts of video tapes or tape recordings, pet food packaging, pet food labels, advertisements, transcripts of advertisements, point of sale information, veterinarian or hospital invoices, reports or records.

5. "Agent" shall mean: any agent, employee, officer, director, attorney, independent contractor or any other person acting at the direction of or on behalf of another.

6. "Person" shall mean any individual, corporation, proprietorship, partnership, trust, association or any other entity.

7. The words "pertain to" or "pertaining to" mean: relates to, refers to, contains, concerns, describes, embodies, mentions, constitutes, constituting, supports, corroborates, demonstrates, proves, evidences, shows, refutes, disputes, rebuts, controverts or contradicts.

8. "Pet" shall mean any cat or dog for which you purchased or provided food at any time since May 9, 2003.

9. "Food" shall mean any food, whether or not marketed for pets, that is consumed by pets, including items commonly identified in the marketplace as pet treats.

10. The term "action" shall mean the case entitled *Renee Blaszkowski, et al. v. Mars, Inc., et al.*, Case No. 07-21221, pending in the United States District Court for the Southern District of Florida.

11. The term "Complaint" shall mean the operative complaint filed in this action.

12. The word "identify", when used in reference to a document (including electronically stored information), means and includes the name and address of the custodian of the document, the location of the document, and a general description of the document, including (1) the type of document (*e.g.*, letter or memorandum) and, if electronically stored information, the software application used to create it (*e.g.*, MS Word or MS Excel Spreadsheet); (2) the general subject matter of the document or electronically stored information; (3) the date of the document or electronically stored information; (4) the author of the document or electronically stored information; (5) the addressee of the document or electronically stored information; and (6) the relationship of the author and addressee to each other.

13. "Identify" or "state the identity of", when used with respect to a natural person or pet (as defined above), means to provide the following:

- a. full name and any alias, including user names, screen names and registered reader names used in connection with posting comments to websites;
- b. current or last known home address;
- c. current or last known business address;
- d. current or last known employment position; and
- e. relationship if any, to the parties in this action.

INSTRUCTIONS

1. You shall answer each interrogatory fully, in writing and under oath, unless it is objected to, in which event the reasons for the objections shall be stated in lieu of an answer. Your answers shall include all information available to you, including hearsay, which is in the possession,

custody, or control of you, your agents, or attorneys. If you cannot provide all of the information requested in each interrogatory, you should provide the information which you can provide and explain all efforts made to obtain the information which you are unable to provide.

2. If you object to fully identifying a document, electronically stored information or oral communication because of a privilege, you must nevertheless provide the following information pursuant to Local Rule 26.1.G.3.(b), unless divulging the information would disclose the privileged information:

- a. the nature of the privilege claimed (including work product);
- b. if the privilege is being asserted in connection with a claim or defense governed by state law, the state privilege rule being invoked;
- c. the date of the document, electronically stored information or oral communication;
- d. if a document: its type (*e.g.*, letter or memorandum) and, if electronically stored information, the software application used to create it (*e.g.*, MS Word or MS Excel Spreadsheet), and the custodian, location, and such other information sufficient to identify the material for a subpoena *duces tecum* or a production request, including where appropriate the author, the addressee, and, if not apparent, the relationship between the author and addressee;
- e. if an oral communication: the place where it was made, the names of the persons present while it was made, and, if not apparent, the relationship of the persons present to the declarant; and
- f. the general subject matter of the document, electronically stored information or oral communication.

3. You are under a continuous obligation to supplement your answers to these interrogatories under the circumstances specified in Federal Rule of Civil Procedure 26(e).

INTERROGATORIES

8. Identify each misrepresentation of fact which you contend Natura Pet Products, Inc. has made to you.
9. For each misrepresentation of fact identified in your response to Interrogatory No. 8, describe the circumstances in which the representation was made, including the date and manner the representation was made to you.

Date: October 23, 2008

Respectfully submitted,



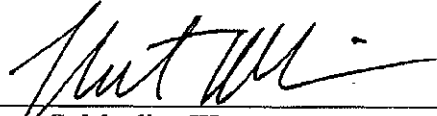
ROBERT C. MARDIAN III
rmardian@hcesq.com
**HENDERSON, CAVERLY, PUM &
CHARNEY LLP**
P.O. Box 9144
16236 San Dieguito Road, #4-13
Rancho Santa Fe, CA 92067
Tel: 858-756-6342/ Fax: 858-756-4732

Jeffrey S. York
E-mail: *jyork@mcguirewoods.com*
Michael M. Giel
E-mail: *mgiel@mcguirewoods.com*
McGUIRE WOODS LLP
50 N. Laura Street, Suite 3300
Jacksonville, Florida 32202
Telephone: (904) 798-2680
Facsimile: (904) 360-6330

*Attorneys for Defendant Natura Pet Products,
Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was sent via electronic mail to all counsel on the attached service list on October 23, 2008.



Robert C. Mardian III

SERVICE LIST

CATHERINE J. MACIVOR

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

Attorneys for Plaintiffs

PATRICK N. KEEGAN

pkeegan@keeganbaker.com

JASON E. BAKER

jbaker@keeganbaker.com

KEEGAN & BAKER, LLP

4370 La Jolla Village Drive, Ste 640

San Diego, CA 92122

Telephone: 858-552-6750

Facsimile: 858-552-6749

Attorneys for Plaintiffs

EDGAR R. NIELD

enield@nielddlaw.com

4370 La Jolla Village Drive, Ste 640

San Diego, CA 92122

Telephone: 858-552-6745

Facsimile: 858-552-6749

Attorney for Plaintiffs

EXHIBIT D

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.

**PLAINTIFF JO ANN MURPHY'S RESPONSES TO DEFENDANT NATURA PET
PRODUCT'S THIRD SET OF SPECIAL INTERROGATORIES**

Pursuant to Rule 33(b) of the Federal Rules of Civil Procedure, Plaintiff Jo Ann Murphy ("Plaintiff") hereby responds to Defendant Natural Pet Products, Inc. ("Natura") Third Set of Special Interrogatories, as follows:

GENERAL RESPONSES

1. Plaintiff's response is made to the best of Plaintiff's present knowledge, information, and belief. The investigation and discovery of Plaintiff's claims are ongoing, and consequently, the parties may learn additional facts presently unknown, or may locate additional documents presently not identified, which may alter or invalidate or require the supplementation of this response. This response is at all times subject to such additional or different information that discovery or further investigation may disclose and, while based on the present state of Plaintiff's recollection, is subject to such refreshing of recollection, and such additional knowledge of facts, as may result from further discovery or investigation.

2. No admission of any nature whatsoever is to be implied or inferred from Plaintiff's response. The fact that this response may contain answers or admissions to certain interrogatories or questions should not be taken as an admission or concession of the existence of any facts set forth or assumed by such interrogatories or questions, or that such response constitutes evidence of any such fact as set forth or assumed.

3. Plaintiff reserves all objections or other questions as to the competency, relevance, materiality, privilege or admissibility as evidence in any subsequent

proceeding in or trial of this or any other action for any purpose whatsoever of this response and any answer or document or thing identified or produced in response to the Natura's special interrogatories.

4. Plaintiff reserves the right to object on any ground at any time to such other or supplemental special interrogatories as the Natura may at any time propound involving or relating to the subject matter of these special interrogatories.

5. Plaintiff will respond to each special interrogatory requesting identification of documents with documents currently in her possession.

GENERAL OBJECTIONS

Plaintiff makes the following general objections, whether or not separately set forth in response to each and every special interrogatory, to each and every definition, and to each and every special interrogatory made in Natura's third set of special interrogatories:

1. Plaintiff objects to all interrogatories insofar as any such interrogatory seeks identification of documents or information protected by the attorney-client privilege and the attorney-client work product doctrine. Such documents or information will not be produced in response to the Natura's interrogatories, and any inadvertent production thereof shall not be deemed a waiver of any privilege with respect to such documents or information or of any work produce doctrine which may attach thereto.

2. Plaintiff objects to all interrogatories to the extent that they are unreasonably cumulative, duplicative and/or disproportionate subjecting Plaintiff to unreasonable and undue annoyance, oppression, burden, and expense.

3. Plaintiff objects to all interrogatories to the extent that they seek identification of all documents, all witnesses or all information in support of Plaintiff's claims at this stage of the litigation of this action subjecting Plaintiff to unreasonable and undue annoyance, oppression, burden, and expense.

4. Plaintiff objects to the introductory definitions and instructions to the Natura's interrogatories to the extent said definitions or instructions purport to enlarge, expand, or alter in any way the plain meaning and scope of any specific interrogatory on the ground that such enlargement, expansion, or alteration renders said interrogatory vague, ambiguous, unintelligible, unduly broad, and uncertain.

5. Plaintiff objects to all instructions, definitions and interrogatories to the extent that they seek identification of documents or information not currently in Plaintiff's possession, custody or control, or refer to persons, entities or events not known to Plaintiff, on the grounds that such instructions, definitions, or interrogatories seek to require more of Plaintiff than any obligation imposed by law, would subject Plaintiff to unreasonable and undue annoyance, oppression, burden, and expense, and would seek to

impose upon Plaintiff an obligation to investigate or discover information or material from third parties or sources who are equally accessible to Natura.

6. Plaintiff objects to all instructions, definitions and interrogatories to the extent they seek identification of documents or information on a continuing basis, on the grounds that such instructions, definitions and interrogatories seek unilaterally to impose an obligation to provide supplemental information greater than the required by the Federal Rules of Civil Procedure, seek information that is beyond the scope of permissible discovery (not relevant to the subject matter or likely to lead to discovery of admissible evidence), and would subject Plaintiff to unreasonable and undue annoyance, oppression, burden, and expense. Therefore, all such instructions, definitions and interrogatories will not be regarded as continuing in nature.

GENERAL OBJECTIONS & RESPONSES TO SPECIAL INTERROGATORIES

Without waiving or limiting in any manner any of the foregoing General Responses and General Objections, but rather incorporating them into each of the following responses to the extent applicable, Plaintiff responds to the specific special interrogatories of Natura's third set of special interrogatories as follows:

Special Interrogatory No. 8:

Identify each misrepresentation of fact which you contend Natural Pet Products, Inc. has made to you.

Response to Special Interrogatory No. 8:

Plaintiff objects to this interrogatory on the grounds that it vague, ambiguous and overly broad. It is also cumulative in that it seeks information already testified to by the plaintiff during her deposition of November 27, 2008. Without waving these objections, Plaintiff responds as follows:

Natura made misleading representations and omissions concerning the nature and quality of its pet food products indicating such things as the ingredients used were of human quality or of human grade, something that humans could eat and of higher quality than less expensive brands. These representations were made on their website and through other printed materials used in marketing their products. Further the packaging of their products concealed what ingredients were used in their products. Still further Natura failed to disclose that it's pet food products had been found to contain glycoalkaloid toxins (chaconine and solanine) found in greening potatoes, acetaminophen and had also been found to contain feather fragments.

Unfortunately Natura still has not yet produced all of the documentation requested by the Plaintiff concerning the marketing of Natura's products during the relevant class period, including prior versions of its website and all other print and in-store advertising materials disseminated by Natura since November 2003. Once those materials are produced they may reveal additional misrepresentations, falsehoods and material omissions Natura has made concerning its pet food products.

Special Interrogatory No. 9:

For each misrepresentation of fact identified in your response to Interrogatory No. 8, describe the circumstances in which the representation was made, including the date and manner the representation was made to you.

Response to Special Interrogatory No. 9:

Plaintiff objects to this interrogatory on the grounds that it is cumulative in that it seeks information already testified to by the plaintiff during her deposition of September 25, 2008. Without waving these objections, Plaintiff responds as follows:

The representations set out above were made on Natura's website and other printed materials which I reviewed after the pet food recall in approximately March of 2007. The packaging materials I looked at immediately prior to the time I made my purchases Natura products in 2005 to 2006 time frame. .

Dated: November 24, 2008

Law Offices of Edgar R. Nield



Edgar R. Nield, Esq.
Attorney for Plaintiffs

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.

VEIFICATION

I, Jo Ann Murphy, declare and state foregoing responses to third set of
interrogatories are true and correct under penalty of perjury.

Executed on November 21, 2008.


Jo Ann Murphy

EXHIBIT E

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

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

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

Plaintiffs,

vs.

MARS, INCORPORATED, *et al.*,

Defendants.

**DEFENDANT NATURA PET PRODUCTS, INC.'S FOURTH SET OF
INTERROGATORIES TO PLAINTIFF PATRICIA DAVIS**

Defendant Natura Pet Products, Inc, by their undersigned attorneys, propound the following interrogatories upon Plaintiff Patricia Davis and request that they be answered separately, fully, and under oath within thirty days of service pursuant to Federal Rule of Civil Procedure 33 and Local Rule 26.1.G.

DEFINITIONS

1. The words "you," "yours" and/or "yourselves" mean Plaintiff Patricia Davis and any spouse, relative, directors, officers, employees, agents, investigators, representatives or other persons or entities acting, or purporting to act, on behalf of Plaintiff Patricia Davis.
2. The singular shall include the plural and vice versa; the terms "and" or "or" shall be both conjunctive and disjunctive; and the term "including" mean "including without limitation."
3. "Date" shall mean the exact date, month and year, if ascertainable or, if not, the best approximation of the date (based upon relationship with other events).

4. The word "document" shall mean any writing, drawing, graph, chart, recording, electronically stored information, photograph, or other data compilation from which you can obtain information that is in your actual or constructive possession, custody, care or control, which pertains directly or indirectly, in whole or in part, either to any of the subjects listed below or to any other matter relevant to the issues in this action, or which are themselves listed below as specific documents, including, but not limited to: correspondence, memoranda, notes, messages, email communications, instant messages, electronic postings, weblogs, diaries, minutes, books, reports, charts, ledgers, invoices, receipts, computer printouts, PowerPoint or other software or computer-based presentations, microfilms, video tapes or tape recordings, transcripts of video tapes or tape recordings, pet food packaging, pet food labels, advertisements, transcripts of advertisements, point of sale information, veterinarian or hospital invoices, reports or records.

5. "Agent" shall mean: any agent, employee, officer, director, attorney, independent contractor or any other person acting at the direction of or on behalf of another.

6. "Person" shall mean any individual, corporation, proprietorship, partnership, trust, association or any other entity.

7. The words "pertain to" or "pertaining to" mean: relates to, refers to, contains, concerns, describes, embodies, mentions, constitutes, constituting, supports, corroborates, demonstrates, proves, evidences, shows, refutes, disputes, rebuts, controverts or contradicts.

8. "Pet" shall mean any cat or dog for which you purchased or provided food at any time since May 9, 2003.

9. "Food" shall mean any food, whether or not marketed for pets, that is consumed by pets, including items commonly identified in the marketplace as pet treats.

10. The term "action" shall mean the case entitled *Renee Blasowski, et al. v. Mars, Inc., et al.*, Case No. 07-21221, pending in the United States District Court for the Southern District of Florida.

11. The term "Complaint" shall mean the operative complaint filed in this action.

12. The word "identify", when used in reference to a document (including electronically stored information), means and includes the name and address of the custodian of the document, the location of the document, and a general description of the document, including (1) the type of document (*e.g.*, letter or memorandum) and, if electronically stored information, the software application used to create it (*e.g.*, MS Word or MS Excel Spreadsheet); (2) the general subject matter of the document or electronically stored information; (3) the date of the document or electronically stored information; (4) the author of the document or electronically stored information; (5) the addressee of the document or electronically stored information; and (6) the relationship of the author and addressee to each other.

13. "Identify" or "state the identity of", when used with respect to a natural person or pet (as defined above), means to provide the following:

- a. full name and any alias, including user names, screen names and registered reader names used in connection with posting comments to websites;
- b. current or last known home address;
- c. current or last known business address;
- d. current or last known employment position; and
- e. relationship if any, to the parties in this action.

INSTRUCTIONS

1. You shall answer each interrogatory fully, in writing and under oath, unless it is objected to, in which event the reasons for the objections shall be stated in lieu of an answer. Your answers shall include all information available to you, including hearsay, which is in the possession,

custody, or control of you, your agents, or attorneys. If you cannot provide all of the information requested in each interrogatory, you should provide the information which you can provide and explain all efforts made to obtain the information which you are unable to provide.

2. If you object to fully identifying a document, electronically stored information or oral communication because of a privilege, you must nevertheless provide the following information pursuant to Local Rule 26.1.G.3.(b), unless divulging the information would disclose the privileged information:

- a. the nature of the privilege claimed (including work product);
- b. if the privilege is being asserted in connection with a claim or defense governed by state law, the state privilege rule being invoked;
- c. the date of the document, electronically stored information or oral communication;
- d. if a document: its type (*e.g.*, letter or memorandum) and, if electronically stored information, the software application used to create it (*e.g.*, MS Word or MS Excel Spreadsheet), and the custodian, location, and such other information sufficient to identify the material for a subpoena *duces tecum* or a production request, including where appropriate the author, the addressee, and, if not apparent, the relationship between the author and addressee;
- e. if an oral communication: the place where it was made, the names of the persons present while it was made, and, if not apparent, the relationship of the persons present to the declarant; and
- f. the general subject matter of the document, electronically stored information or oral communication.

3. You are under a continuous obligation to supplement your answers to these interrogatories under the circumstances specified in Federal Rule of Civil Procedure 26(e).

INTERROGATORIES

10. Identify each misrepresentation of fact which you contend Natura Pet Products, Inc. has made to you.
11. For each misrepresentation of fact identified in your response to Interrogatory No. 10, describe the circumstances in which the representation was made, including the date and manner the representation was made to you.

Date: October 23, 2008

Respectfully submitted,



ROBERT C. MARDIAN III

rmardian@hcesq.com

**HENDERSON, CAVERLY, PUM &
CHARNEY LLP**

P.O. Box 9144

16236 San Dieguito Road, #4-13

Rancho Santa Fe, CA 92067

Tel: 858-756-6342/ Fax: 858-756-4732

Jeffrey S. York

E-mail: *jyork@mcguirewoods.com*

Michael M. Giel

E-mail: *mgiel@mcguirewoods.com*

McGUIRE WOODS LLP

50 N. Laura Street, Suite 3300

Jacksonville, Florida 32202

Telephone: (904) 798-2680

Facsimile: (904) 360-6330

*Attorneys for Defendant Natura Pet Products,
Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was sent via electronic mail to all counsel on the attached service list on October 23, 2008.



Robert C. Mardian III

SERVICE LIST

CATHERINE J. MACIVOR

cmacivor@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

PATRICK N. KEEGAN

pkeegan@keeganbaker.com

JASON E. BAKER

jbaker@keeganbaker.com

KEEGAN & BAKER, LLP

4370 La Jolla Village Drive, Ste 640

San Diego, CA 92122

Telephone: 858-552-6750

Facsimile: 858-552-6749

Attorneys for Plaintiffs

EDGAR R. NIELD

enield@nieldlaw.com

4370 La Jolla Village Drive, Ste 640

San Diego, CA 92122

Telephone: 858-552-6745

Facsimile: 858-552-6749

Attorney for Plaintiffs

EXHIBIT F

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.

**PLAINTIFF PATRICIA DAVIS' RESPONSES TO DEFENDANT NATURA PET
PRODUCT'S FOURTH SET OF SPECIAL INTERROGATORIES**

Pursuant to Rule 33(b) of the Federal Rules of Civil Procedure, Plaintiff Patricia Davis ("Plaintiff") hereby responds to Defendant Natural Pet Products, Inc. ("Natura") Fourth Set of Special Interrogatories, as follows:

GENERAL RESPONSES

1. Plaintiff's response is made to the best of Plaintiff's present knowledge, information, and belief. The investigation and discovery of Plaintiff's claims are ongoing, and consequently, the parties may learn additional facts presently unknown, or may locate additional documents presently not identified, which may alter or invalidate or require the supplementation of this response. This response is at all times subject to such additional or different information that discovery or further investigation may disclose and, while based on the present state of Plaintiff's recollection, is subject to such refreshing of recollection, and such additional knowledge of facts, as may result from further discovery or investigation.

2. No admission of any nature whatsoever is to be implied or inferred from Plaintiff's response. The fact that this response may contain answers or admissions to certain interrogatories or questions should not be taken as an admission or concession of the existence of any facts set forth or assumed by such interrogatories or questions, or that such response constitutes evidence of any such fact as set forth or assumed.

3. Plaintiff reserves all objections or other questions as to the competency, relevance, materiality, privilege or admissibility as evidence in any subsequent

proceeding in or trial of this or any other action for any purpose whatsoever of this response and any answer or document or thing identified or produced in response to the Natura's special interrogatories.

4. Plaintiff reserves the right to object on any ground at any time to such other or supplemental special interrogatories as the Natura may at any time propound involving or relating to the subject matter of these special interrogatories.

5. Plaintiff will respond to each special interrogatory requesting identification of documents with documents currently in her possession.

GENERAL OBJECTIONS

Plaintiff makes the following general objections, whether or not separately set forth in response to each and every special interrogatory, to each and every definition, and to each and every special interrogatory made in Natura's fourth set of special interrogatories:

1. Plaintiff objects to all interrogatories insofar as any such interrogatory seeks identification of documents or information protected by the attorney-client privilege and the attorney-client work product doctrine. Such documents or information will not be produced in response to the Natura's interrogatories, and any inadvertent production thereof shall not be deemed a waiver of any privilege with respect to such documents or information or of any work produce doctrine which may attach thereto.

2. Plaintiff objects to all interrogatories to the extent that they are unreasonably cumulative, duplicative and/or disproportionate subjecting Plaintiff to unreasonable and undue annoyance, oppression, burden, and expense.

3. Plaintiff objects to all interrogatories to the extent that they seek identification of all documents, all witnesses or all information in support of Plaintiff's claims at this stage of the litigation of this action subjecting Plaintiff to unreasonable and undue annoyance, oppression, burden, and expense.

4. Plaintiff objects to the introductory definitions and instructions to the Natura's interrogatories to the extent said definitions or instructions purport to enlarge, expand, or alter in any way the plain meaning and scope of any specific interrogatory on the ground that such enlargement, expansion, or alteration renders said interrogatory vague, ambiguous, unintelligible, unduly broad, and uncertain.

5. Plaintiff objects to all instructions, definitions and interrogatories to the extent that they seek identification of documents or information not currently in Plaintiff's possession, custody or control, or refer to persons, entities or events not known to Plaintiff, on the grounds that such instructions, definitions, or interrogatories seek to require more of Plaintiff than any obligation imposed by law, would subject Plaintiff to unreasonable and undue annoyance, oppression, burden, and expense, and would seek to

impose upon Plaintiff an obligation to investigate or discover information or material from third parties or sources who are equally accessible to Natura.

6. Plaintiff objects to all instructions, definitions and interrogatories to the extent they seek identification of documents or information on a continuing basis, on the grounds that such instructions, definitions and interrogatories seek unilaterally to impose an obligation to provide supplemental information greater than the required by the Federal Rules of Civil Procedure, seek information that is beyond the scope of permissible discovery (not relevant to the subject matter or likely to lead to discovery of admissible evidence), and would subject Plaintiff to unreasonable and undue annoyance, oppression, burden, and expense. Therefore, all such instructions, definitions and interrogatories will not be regarded as continuing in nature.

GENERAL OBJECTIONS & RESPONSES TO SPECIAL INTERROGATORIES

Without waiving or limiting in any manner any of the foregoing General Responses and General Objections, but rather incorporating them into each of the following responses to the extent applicable, Plaintiff responds to the specific special interrogatories of Natura's fourth set of special interrogatories as follows:

Special Interrogatory No. 10:

Identify each misrepresentation of fact which you contend Natura Pet Products, Inc. has made to you.

Response to Special Interrogatory No. 10:

Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous and overly board. It is also cumulative in that it seeks information already provided during this plaintiff's deposition of September 24, 2008 and in that regard has also been asked and answered and is therefore argumentative and harassing. Without waiving these objections, Plaintiff responds as follows:

Natura made unlawful, false and misleading representations concerning the nature and quality of its pet food products which included, among other things statements such as: That they used only ingredients you'd eat yourself; that all of their dog and cat foods were of human grade; that they used only the highest quality human-grade pet food ingredients in our dog and cat food; that they used only ingredients they would feel comfortable eating themselves; and that they used only used only human grade ingredients in their products. These representations were made on their website and through other printed materials used in marketing their products. Further they misrepresented and/or concealed on the packaging of their products what ingredients were used in their products. Still further Natura failed to disclose that it's pet food products had been found to contain glycoalkaloid toxins (chaconine and solanine) found in greening potatoes, acetaminophen and had also been found to contain feather fragments.

Unfortunately Natura still has not yet produced and of the documentation requested by the plaintiff's concerning prior versions of its website and other advertising material. Once those materials are produced they may reveal additional

misrepresentations, falsehoods and material omissions Natura has made concerning its pet food products.

Special Interrogatory No. 11:

For each misrepresentation of fact identified in your response to Interrogatory No. 10, describe the circumstances in which the representation was made, including the date and manner the representation was made to you.


Response to Special Interrogatory No. 11:

Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous and overly board. It is also cumulative in that it seeks information already provided during plaintiff's deposition of September 24, 2008 and in that regard is also asked and answered, argumentative and harassing. Without waiving these objections, Plaintiff responds as follows:

Point of purchase signage relating to Natura pet food products at the store where I picked up samples of the product I used made representations to the effect that its pet food products and the ingredients used in those products were of human grade quality and something humans could or would eat themselves. I was not made aware until after I used the product samples that Natura products had they had been found to contain glycoalkaloid toxins, acetaminophen and feather fragments. Even then I was not informed by Natura.

Dated: November 24, 2008

Law Offices of Edgar R. Nield



Edgar R. Nield, Esq.
Attorney for Plaintiffs

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.

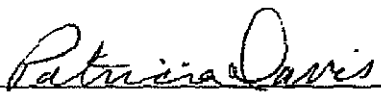
MARS INC., *et al.*

Defendants.

VERIFICATION

I, Patricia Davis, declare and state foregoing responses to fourth set of interrogatories are true and correct under penalty of perjury.

Executed on November 24, 2008.


Patricia Davis