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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF HAWAII

YVONNE ORTIZ, individually and on	)	Civil No. CV07-00323 DAE LEK
behalf of all other similarly situated	)	(Class Action)
persons,	)	
	)	PLAINTIFF’S NOTICE OF
Plaintiff,	)	FILING OPPOSITION TO
	)	CONDITIONAL TRANSFER
v.	)	ORDER (CTO-2) WITH
	)	JUDICIAL PANEL ON
MENU FOODS, INC., a New Jersey	)	MULTIDISTRICT LITIGATION;
Corporation; MENU FOODS	)	EXHIBIT “1”; CERTIFICATE
HOLDINGS, INC., a Delaware	)	OF SERVICE
Corporation, MENU FOODS INCOME	)	
FUND, an unincorporated Canadian	)	
business; DOE ENTITIES and	)	
INDIVIDUALS 1- 100,	)	
	)	
Defendants.	)	

**PLAINTIFF’S NOTICE OF FILING OPPOSITION  
TO CONDITIONAL TRANSFER ORDER (CTO-2)  
WITH JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

Plaintiff Yvonne Ortiz has filed an Opposition to Conditional Transfer Order (CTO-2) with the Judicial Panel on Multidistrict Litigation, objecting to the transfer of the this case as a "tag-along action" pursuant to Rule 7.4(c) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation (JPML). Exhibit "1".

**NOTICE OF OPPOSITION STAYS SERVICE AND EXECUTION OF CONDITIONAL  
TRANSFER ORDER TO TRANSFEREE COURT**

Under JPML Rule 7.4(c), upon the receipt of the notice of opposition “the Clerk of the Panel shall not transmit said [conditional transfer] order to the clerk of the transferee district court until further order of the Panel.” Because “[c]onditional transfer orders do not become effective unless and until they are filed with the clerk of the transferee district court,” Rule 7.4(e), filing the notice of opposition “stays execution of the [conditional transfer] order.” Fu’s Garden Restaurant v. Archer-Daniels-Midland Company, 2000 WL 635440, \*1 (N.D. Cal. 2000).

**TRANSFEREE COURT RETAINS JURISDICTION TO DECIDE REMAND AND STAY**

Under JPML Rule 1.5, this Court retains jurisdiction to decide the pending motions to remand and stay:

The pendency of a motion, order to show cause, conditional transfer order or conditional remand order before the Panel concerning transfer or remand of an action pursuant to 28 U.S.C. §1407 does not

affect or suspend orders and pretrial proceedings in the district court in which the action is pending and does not in any way limit the pretrial jurisdiction of that court. A transfer or remand pursuant to 28 U.S.C. §1407 shall be effective when the transfer or remand order is filed in the office of the clerk of the district court of the transferee district.

When a notice of opposition to conditional transfer order is filed, the transferee court “retains jurisdiction to decide [a pending motion to remand].” Fu’s Garden Restaurant v. Archer-Daniels-Midland Company, 2000 WL 635440, \*1 (N.D. Cal. 2000). Faulk v. Owens-Corning, Fiberglass Corp., 48 F.Supp. 2d 653, 657 n.2 (E.D. Texas Beaumont Division 1999).

**PROCEDURE IN MDL AFTER NOTICE OF OPPOSITION FILED**

Pursuant to JPML Rule 7.4(d), “[w]ithin fifteen days of the filing of its notice of opposition, the party opposing transfer shall file a motion to vacate the conditional transfer order and brief in support thereof. The Chairman of the Panel shall set the motion for the next appropriate hearing session of the Panel.” The briefing schedule for the motion is set by the clerk of the Panel. JPML Rule 7.4(c).

DATED: Honolulu, Hawaii, August 16, 2007.

/s/ Thomas R. Grande  
THOMAS R. GRANDE  
EMILY A. GARDNER  
  
Attorneys for Plaintiffs

UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

MDL NO. 1850

IN RE PET FOOD PRODUCTS LITIGATION

*Yvonne Ortiz v. Menu Foods, Inc., et al.*, D. Hawaii C.A. No. 1:07-323

**NOTICE OF OPPOSITION TO CONDITIONAL TRANSFER ORDER (CTO-2)**

Pursuant to Rule 7.4(c) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, Plaintiff Yvonne Ortiz files her Notice of Opposition to Conditional Transfer Order (CTO-2) for transfer of the above-captioned action as a "tag-along action".

Davis Levin Livingston Grande

By: 

Thomas R. Grande, Esq.  
Attorney for Plaintiff Yvonne Ortiz

Date: Honolulu, Hawaii August 15, 2007

UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

MDL NO. 1850

IN RE PET FOOD PRODUCTS LITIGATION


*Yvonne Ortiz v. Menu Foods, Inc., et al.*, D. Hawaii C.A. No. 1:07-323

**CERTIFICATE OF SERVICE**

I hereby certify that Plaintiff's Notice of Opposition to Conditional Transfer Order (CTO-2) was faxed to the Clerk of the Panel on August 15, 2006 and served by First Class Mail on August 15, 2006, upon all counsel on the Involved Counsel List attached to this Certificate of Service.

Davis Levin Livingston Grande

By:



Thomas R. Grande, Esq.  
Attorney for Plaintiff Yvonne Ortiz

Dated: Honolulu, Hawaii August 15, 2006

INVOLVED COUNSEL LIST (CTO-2)  
MDL NO. 1850  
IN RE Pet Food Products Liability Litigation

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

YVONNE ORTIZ, individually and on	)	Civil No. CV07-00323 DAE LEK
behalf of all other similarly situated	)	(Class Action)
persons,	)	
	)	
Plaintiff,	)	CERTIFICATE OF SERVICE
	)	
v.	)	
	)	
MENU FOODS, INC., a New Jersey	)	
Corporation; MENU FOODS	)	
HOLDINGS, INC., a Delaware	)	
Corporation, MENU FOODS	)	
INCOME FUND, an unincorporated	)	
Canadian business; DOE ENTITIES	)	
and INDIVIDUALS 1- 100,	)	
	)	
Defendants.	)	
	)	

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**CERTIFICATE OF SERVICE**

I hereby certify that, on the dates and by the methods of service noted below,  
a true and correct copy of the foregoing was served on the following at their last  
known addresses:

Served Electronically through CM/ECF

Chad P. Love	dl@lkhawaii.com	August 16, 2007
Barbara J. Kirschenbaum	bk@lkhawaii.com	August 16, 2007

DATED: Honolulu, Hawaii, August 16, 2007.

/s/ Thomas R. Grande

THOMAS R. GRANDE  
EMILY A. GARDNER

Attorneys for Plaintiffs