

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

| | | |
|---------------------------------|---|-----------------------------|
| VALERIE SYLVESTER; DAVID |) | CIVIL NO. CV07-00409HGKSC |
| PANG; ANDREW GARCIA; |) | (Non-Vehicle Tort) |
| RUTH CAMARGO; CHRIS |) | |
| HUBBARD; STACEY COLLINS; |) | DECLARATION OF CHAD P. LOVE |
| RANDALL BANDMANN; KELLY |) | |
| ENGLE; PAM GOULD; and |) | |
| ERIK CORAL-SANDS, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| vs. |) | |
| |) | |
| 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. |) | |
| |) | |

DECLARATION OF CHAD P. LOVE

The undersigned hereby declares that:

1. I am an attorney licensed to practice law before all the Courts in the State of Hawaii and the United States District Court, District of Hawaii; I am one of the attorneys representing Defendants MENU FOODS, INC., and MENU FOODS HOLDINGS, INC., in the above-captioned proceeding and

am competent to testify as to the matters stated herein and make this declaration upon personal knowledge except and unless stated to be upon information and belief.

2. Upon information and belief, on or about July 9, 2007, Plaintiffs served Defendant Menu Foods Holdings, Inc., with a copy of the First Amended Summons and First Amended Complaint. Upon information and belief, on or about July 13, 2007, Plaintiffs served Defendant Menu Foods, Inc., with a copy of the First Amended Summons and First Amended Complaint. Upon information and belief, as of the time of filing of this Application, Plaintiffs have not properly served Defendant Menu Foods Income Fund with the First Amended Complaint and Summons.

3. Defendants filed a "Notice of Removal" on July 27, 2007. Pursuant to Federal Rules of Civil Procedure Rule 81, Defendants answer (or other response) to the First Amended Complaint is due on Friday, August 3, 2007.

4. In accordance with LR 6.2 (which requires counsel to attempt to obtain an extension before requesting an extension from this Court), on July 30, 2007 and July 31, 2007, I contacted Plaintiffs' counsel (by telephone and email) and attempted to obtain an extension of time to answer

or otherwise respond to the First Amended Complaint. I was unable to obtain an extension.

5. This lawsuit involves claims arising out of the recent pet food recall. Upon information and belief, there are over 100 such lawsuits filed in Federal Courts around the country. On June 19, 2007, the Judicial Panel on Multipanel Litigation (“JPML”) assigned the pet food recall cases to the District of New Jersey (a true and accurate copy of the JPML decision is attached as Exhibit A). It is believed that the instant lawsuit will be “tagged” soon and transferred to the Multi District Litigation (“MDL”) action.

6. Based on the probability that this action will be transferred to the New Jersey MDL action, Defendants intend to file a “Motion to Stay All Proceedings”. This will promote judicial economy and eliminate the risk of inconsistent and/or conflicting pretrial rulings between this Court and the MDL Court on, for example, discovery issues.

7. This is the first extension requested by Defendants in this matter.

8. The requested extension will promote judicial economy by avoiding the filing and serving of pleadings while the JPML and MDL proceed; in the alternative, the requested extension will allow Defendants

time to apply for a further extension or enlargement by stipulation or duly noticed motion, if one should be necessary.

9. Defendants note that there is a related case, entitled *Yvonne Ortiz, individually and on behalf of all other similarly situated persons v. Menu Foods, Inc., a New Jersey Corporation; Menu Foods Holdings, Inc., a Delaware Corporation; Menu Foods Income Fund, an unincorporated Canadian business*, Civil No. 07-00323DAELEK. Judge Kobayashi granted an extension of time to Answer the Complaint, subsequent to which the parties entered into a Stipulation. A “Motion to Stay” and “Motion to Remand” are currently pending in that action. No answer has been filed in that action as of this time.

10. Accordingly, (a) because the deadline to Answer or otherwise respond is Friday August 3, 2007, only three full working days away, and (b) because I have been unable to obtain Plaintiffs’ agreement to an extension of time, and (c) because Defendants will be filing a “Motion to Stay All Proceedings”, and (d) because of the likely transfer of this case to the MDL action, (e) because there will be no prejudice to Plaintiffs to extend the answer/response date and (f) because there is insufficient time to file a duly noticed Motion under LR 6.2(b), Defendants file this ex parte Application and request that they be granted an extension of time to answer

