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MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

**BEFORE THE JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

IN RE PET FOODS PRODUCTS LIABILITY LITIGATION | No. MDL DOCKET NO. 1850

**PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION FOR  
TRANSFER OF ACTIONS TO THE CENTRAL DISTRICT OF CALIFORNIA AND  
FOR CONSOLIDATED OR COORDINATED PRETRIAL PROCEEDINGS PURSUANT  
TO 28 U.S.C. §1407**

Plaintiff Dawn Howe in the Central District of California action, *Howe v. Menu Foods Limited, et al*, No. CV07-02060 GHK (AJWx), plaintiffs Dennis Lee Townsend and Glenna Townsend in the Central District of California action, *Townsend v. Menu Foods Limited, et al*, No. ED CV07-398 GHK (AJWx), plaintiff Alexander Nunez in the District of New Jersey action, *Nunez v. Menu Foods Limited*, No. 07CV1490 (NLH), plaintiff Richard Chamberlain in the Central District Court of California action, *Chamberlain v. Nestle S.A.*, No. CV07-2476 FMG (SSx), and plaintiff Mark Golding in the District of New Jersey action, *Golding v. Menu Foods Limited, et al*, No. 07CV01521 (NLH), (collectively, "Plaintiffs"), respectfully move the Panel for an Order pursuant to 28 U.S.C. §1407 to transfer the pending cases identified in the schedule of actions filed concurrently, as well as any cases subsequently filed involving similar facts or claims, to the United States District Court for the Central District of California, and to consolidate and coordinate the cases for pretrial proceedings before the Honorable George H. King, to whom the low numbered case is assigned in the Central District of California.

## I. BACKGROUND

Defendants Menu Foods and Nestle Purina, as well as other pet food manufacturers, (collectively, the “Pet Food Manufacturers”), produced and sold contaminated dog and cat food which caused serious illness and death to household pets. Many of the pet foods manufactured by the Pet Food Manufacturers and sold by retailers such as Wal-Mart, Petsmart, and Giant, are part of nationwide recalls, which lists continue to grow. *See Exhibits A-I.* The piecemeal, ever-expanding recalls leave concerned pet owners confused and uncertain of which products are safe for their pets to consume.

Plaintiffs brought their respective actions on behalf of all persons in the United States who purchased contaminated dog or cat food manufactured by Menu Foods and/or Nestle Purina, which were recalled or will be recalled. These products caused serious illness or death in many pets, including Plaintiffs’ pets.

At least sixty-four cases, to the best of Plaintiffs’ knowledge, have been filed against the Pet Food Manufacturers, in both state and federal courts, alleging similar causes of actions and seeking similar relief as Plaintiffs. The related actions all arise from the same or similar nucleus of operative facts as Plaintiffs’ cases. Each action will involve substantially similar discovery, with the same or similar documents and witnesses. Discovery has not commenced in Plaintiffs’ cases or any of the related actions.

Since these cases require same or similar questions of law and facts to be determined by a court of law, prompt action by the Panel to transfer and consolidate these actions will promote their just and efficient prosecution and judicial economy and serve the convenience of the parties.

## II. ARGUMENT

### A. Transfer And Consolidation Of All Actions Is Appropriate Under 28 U.S.C. §1407

28 U.S.C. §1407 provides for transfer of actions to one district for coordinated or consolidated pretrial proceedings where actions pending in different districts involve one or more common questions of fact. 28 U.S.C. §1407(a). The Panel authorizes consolidation where transfers will promote the convenience of the parties and witnesses, and the just and efficient conduct of the action. *Id.* The purpose of the multidistrict litigation process is to “eliminate the potential for contemporaneous pretrial rulings by coordinate district and appellate courts in multidistrict related civil actions.” *In re Multidistrict Private Civ. Treble Damage Litig.*, 298 F. Supp. 484, 491-92 (J.P.M.L. 1968). Consolidation is especially important in class actions where the “potential for conflicting, disorderly, chaotic” action is greatest. *Id.* at 493. Transfer of related actions to a single district for pretrial proceedings avoids conflicting pretrial discovery and ensures uniform and expeditious treatment in the pretrial procedures. *In re Phenylpropanolamine (PPA) Prods. Liab. Litig.*, 460 F.3d 1217, 1230 (9th Cir. 2006).

Transfer is appropriate here because many common questions of fact and law exist. The cases listed in the schedule of actions (the “Actions”) all arise from the same or similar nucleus of operative facts, and each seeks determination of, among other things:

1. whether the contaminated pet foods manufactured by the Pet Food Manufacturers were materially defective in design and formulation;
2. whether the Pet Food Manufacturers failed to properly test the contaminated pet food products prior to market entry;
3. whether the Pet Food Manufacturers negligently, recklessly, or intentionally delayed initiating recalls of the contaminated pet foods;

4. whether the Pet Food Manufacturers breached their duty of care to Plaintiffs and other Class members;
5. whether the Pet Food Manufacturers breached any contract or warranty, express or implied, relating to their sale of contaminated pet food;
6. whether the contaminated pet food manufactured by the Pet Food Manufacturers caused Plaintiffs' and other Class members' pets to fall ill or die;
7. whether the Pet Food Manufacturers were unjustly enriched as a result of their wrongful conduct;
8. whether Plaintiffs and other Class members are entitled to compensatory damages; and
9. whether Plaintiffs and other Class members are entitled to punitive damages.

Determination of these and other commons issues in a single district will benefit the parties and witnesses, and promote the just and efficient prosecution of the Actions. Without transfer and consolidation of the Actions, the danger of inconsistent rulings exists, and judicial inefficiency, overlapping discovery, and unnecessary expense will certainly result. Transfer and coordination is especially appropriate as formal discovery has not yet commenced in any of the Actions. As such, transfer and consolidation of the Actions to a single district is appropriate for the just and efficient prosecution of the actions and the convenience of the parties and witnesses.

**B. The Central District of California Is The Appropriate Forum For Transfer And Consolidation**

In determining the most appropriate transferee forum, the Panel will consider, among other things, the number of actions pending in the district, the location of witnesses and documents, the stage of pretrial proceedings, whether a related government investigation or action is pending, whether the district is in an accessible metropolitan area, the status of the civil docket, and the experience of the transferee judge in handling multidistrict litigation. *See e.g., In re Educ. Testing Serv. Plt 7-12 Test Scoring Litig.*, 350 F. Supp. 2d 1363, 1365 (J.P.M.L. 2004) (Panel found district appropriate where four of thirteen actions were already pending in the district, the district provided an accessible, metropolitan location, the district had favorable caseload conditions, and the judge had experience managing multidistrict litigation); *In re Wheat Farmers Antitrust Class Action Litig.*, 366 F. Supp. 1087, 1088 (J.P.M.L. 1973) (Panel considered the conveniences of the parties and witnesses, location of relevant documents, stage of pretrial proceedings, and the status of civil dockets); *In re Peruvian Road Litig.*, 380 F. Supp. 796, 798 (J.P.M.L. 1974) (while both districts were appropriate, Panel chose the District of Idaho because of the judge's familiarity with the issues raised by defendants and because of the significantly lighter civil action docket of that court); *In re Tri-State Crematory Litig.*, 206 F. Supp. 2d 1376, 1378 (J.P.M.L. 2002) (in selecting the transferee court, the Panel considered the location of the crematory central to the allegations, the criminal investigation, the likely location of relevant documents, witnesses and other evidence, and where the actions were filed); *In re Foundry Resins Antitrust Litig.*, 342 F. Supp. 2d 1346, 1347 (J.P.M.L. 2004) (Panel considered, among other things, the presence of a government investigation in choosing the transferee district).

Transfer of the Actions to the Central District of California for consolidated pretrial proceedings is appropriate here because transfer will serve the convenience of the parties and promote just and efficient conduct of the Actions. The Central District of California is particularly appropriate because a number of the Actions are currently pending in this district.

Defendant Nestle's U.S. headquarters, as well as manufacturer Nutro Products, Inc., which has been named a defendant in other Actions, are located in this district. Thus, witnesses and documents are likely located in this district as well. Additionally, the Food and Drug Administration, U.S. Department of Agriculture, and California Department of Health Services are conducting investigations into a hog farm confirmed to have received contaminated pet food scraps in California. Consolidation of the Actions in the Central District of California will thus aid in the coordination of efforts likely to occur between the government investigations and the Actions. The Central District of California also provides a metropolitan location, easily accessible to all parties and witnesses, both domestic and foreign.

The Central District of California is also appropriate because of the status of its civil dockets. The median time to disposition in the Central District was 7.2 months last fiscal year, while the District of New Jersey, where some similar Actions have been filed, averaged 8.2 months. *See Exhibits J-K.* The median time to trial in the Central District of California was 21.3 months, while it took nearly a year longer in the District of New Jersey, at approximately 33.0 months. Because a case is more likely to be expeditiously handled in the Central District of California, transfer of the Actions to the Central District is appropriate.

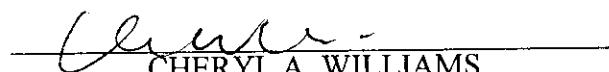
The Honorable George H. King, to whom the low numbered case, *Sexton v. Menu Foods*, is assigned, has considerable experience managing class actions and complex litigation matters. *See, e.g., In re Nat'l Golf Props. Secs. Litig.*, No.: CV 02-1383-GHK (complex securities class action) and *Dagher v. Saudi Ref. Inc.*, No. CV-99-06114(GHK) (complex anti-trust action). Judge King's twelve years of experience on the bench and reputation for expeditious handling of matters makes the Central District of California as the forum for transfer and consolidation for pretrial proceedings all the more appropriate. On the other hand, the Honorable Noel L. Hillman, to whom the low numbered case in the District of New Jersey is assigned, has been on the bench for less than a year, and thus, does not have the experience and expertise Judge King has amassed over the years in presiding over complex matters such as this one.

### III. CONCLUSION

At least sixty-four cases have been filed against Menu Foods, Nestle Purina, and other pet food manufacturers alleging defendants manufactured and sold contaminated pet food products which caused illness or death in household pets. These Actions all arise out of the same or similar nucleus of operative facts, allege similar claims, and seek similar relief. Without transfer and coordination of the Actions, judicial inefficiency, overlapping discovery, and unnecessary expense will certainly result, and the danger of inconsistent rulings may arise. As such, plaintiffs Howe, the Townsends, Nunez, Chamberlain, and Golding respectfully request transfer and consolidation or coordination of the Actions to the Central District of California, in order to promote just and efficient prosecution of the Actions and serve the convenience of the parties.

DATED: April 27, 2007

MILBERG WEISS & BERSHAD LLP  
 JEFF S. WESTERMAN  
 SABRINA S. KIM  
 CHERYL A. WILLIAMS  
 MICHIYO MICHELLE FURUKAWA

  
 CHERYL A. WILLIAMS

One California Plaza  
 300 South Grand Ave., Suite 3900  
 Los Angeles, CA 90071  
 Telephone: (213) 617-1200  
 Facsimile: (213) 617-1975  
 Email: [jwesterman@milbergweiss.com](mailto:jwesterman@milbergweiss.com)  
[skim@milbergweiss.com](mailto:skim@milbergweiss.com)  
[cwilliams@milbergweiss.com](mailto:cwilliams@milbergweiss.com)  
[mfurukawa@milbergweiss.com](mailto:mfurukawa@milbergweiss.com)

Counsel for Plaintiffs: Dawn Howe, Dennis Lee Townsend, Glenna Townsend, Alexander Nunez, Richard Chamberlain, and Mark Golding.

**Before the Judicial Panel on Multidistrict Litigation**  
**MDL-1850 - In re Pet Foods Products Liability Litigation**

**SCHEDULE OF ACTIONS**

<b>Case Captions</b>	<b>Court</b>	<b>Civil Action No.</b>	<b>Judge</b>
<b>Plaintiffs:</b> Kirby Cooper  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods Midwest Corporation, Menu Foods South Dakota, Inc., Menu Foods, Inc., Menu Foods Holdings, Inc., and Wal-Mart Stores, Inc.	W.D. Arkansas	4:2007cv04036	Harry F. Barnes
<b>Plaintiffs:</b> Charles Ray Sims and Pamela Sims  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods Midwest Corporation, menu Foods South Dakota Inc., Menu Foods, Inc., Menu Foods Holdings, Inc.	W.D. Arkansas	5:2007cv05053	Jimm Larry Hendren
<b>Plaintiffs:</b> Richard Scott and Barbara Widen  <b>Defendants:</b> Menu Foods, Menu Foods Income Fund, Menu Foods Gen Par Limited, Menu Foods Limited Partnership, Menu Foods Operating Partnership, Menu Foods Midwest Corporation, Menu Foods South Dakota; Menu Foods, Inc., Menu Foods Holdings, Inc. and Wal-Mart Stores, Inc.	W.D. Arkansas	5:2007cv05055	Robert T. Dawson

Case Captions	Court	Civil Action No.	Judge
<p><b>Plaintiffs:</b> Sandra L. Gray, Nick Jackson and Deena Jackson</p> <p><b>Defendants:</b> Menu Foods, Menu Foods Income Fund, Menu Foods Gen Par Limited, Menu Foods Limited Partnership, Menu Foods Operating Partnership, Menu Foods Midwest Corporation, Menu Foods South Dakota; Menu Foods, Inc., Menu Foods Holdings, Inc., Wal-Mart Stores, Inc. and Xuzhou Anying Biologic Technology Development Co. Ltd.</p>	W.D. Arkansas	5:2007cv05065	Robert T. Dawson
<p><b>Plaintiffs:</b> Shirley Sexton</p> <p><b>Defendants:</b> Menu Foods Inc., Menu Foods Income Fund, Menu Foods Midwest Corporation, Suzhou Textile Import and Export Company, Xuzhou Anying Biologic Technology Development</p>	C.D. California	2:2007cv01958	George H. King
<p><b>Plaintiffs:</b> Paul Randall Johnson and Tammy Navarrete</p> <p><b>Defendants:</b> Menu Foods Inc., and Menu Foods Income Fund</p>	C.D. California	2:2007cv01987	George H. King
<p><b>Plaintiffs:</b> Lois Grady and Kaye Steinsapir</p> <p><b>Defendants:</b> Foods, Inc., Menu Foods Income Fund, Menu Foods Limited, Menu Foods Midwest Corp., Menu Foods Operating Limited Partnership, Menu Foods, Inc., Nutro Products, and Petco Animal Supplies, Inc.</p>	C.D. California	2:2007cv02253	Dean D. Pregerson

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Kelly Finestone  <b>Defendants:</b> Menu Foods Inc., Petco Animal Supplies Inc., and The IAMS Company	C.D. California	2:2007cv02338	Christina A. Snyder
<b>Plaintiffs:</b> Dawn Howe  <b>Defendants:</b> Menu Foods Limited, Menu Foods Inc., Menu Foods Midwest Corporation, Menu Foods Income Fund, Menu Foods South Dakota, Inc., Menu Foods Holdings, Inc. and Menu Foods Operating Trust	C.D. California	CV 07-2060 GHK (AJWx)	George H. King
<b>Plaintiffs:</b> Dennis Townsend and Glenna Townsend  <b>Defendants:</b> Chemnutra Inc., Menu Foods Holdings Inc., Menu Foods Inc., Menu Foods Income Fund, Menu Foods Limited, Menu Foods Midwest Corporation, Menu Foods South Dakota Inc., Nestle Holdings Inc. Nestle Purina Petcare Co., Nestle SA, Nestle USA Inc.	C.D. California	ED CV 07-398 GHK (AJWx)	George H. King
<b>Plaintiffs:</b> Richard Chamberlain  <b>Defendants:</b> Chemnutra Inc., Nestle Holdings Inc. Nestle Purina Petcare Co., Nestle SA, Nestle USA Inc. and Xuzhou Anying Biologic Technology Development Company Ltd.	C.D. California	2:07-cv-02476-FMC-SS	Florence-Marie Cooper

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Sherry Ingles  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods Midwest Corporation, Menu Foods South Dakota Inc., Menu Foods, Inc.,	N.D. California	3:2007cv01809	Maxine M. Chesney
<b>Plaintiffs:</b> Robert Payne and Steve Bartilucci  <b>Defendants:</b> Menu Foods, Inc., The Proctor & Gamble Company, Petco Animal Supplies, Inc., and Safeway, Inc.	S.D. California	3:2007cv00705	John A. Houston
<b>Plaintiffs:</b> Diane Swarberg  <b>Defendants:</b> The Iams Company, and Menu Foods Holding Inc.	S.D. California	3:2007cv00706	Barry Ted Moskowitz
<b>Plaintiffs:</b> Emily Tompkins  <b>Defendants:</b> Menu Foods Midwest Corporation, Menu Foods Income Fund, Menu Foods Limited, Menu Foods Inc., Menu Foods Holdings, Inc., The Procter & Gamble Company, The Iams Company, Safeway Inc., The Kroger Co., Petco Animal Supplies, Inc., Petco Animal Supplies Stores, Inc.	D. Colorado	1:2007cv00736	John L. Kane
<b>Plaintiffs:</b> Lauri A. Osborne  <b>Defendants:</b> Menu Foods, Inc.	D. Connecticut	3:2007cv00469	Robert N. Chatigny

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Maria Teresa Ferrarese  <b>Defendants:</b> Menu Foods Inc., Menu Foods Midwest Corporation, Menu Foods Income Fund and Menu Foods Limited	M.D. Florida	2:2007cv00235	John E. Steele
<b>Plaintiffs:</b> Satoru Waldhauer  <b>Defendants:</b> Menu Foods Inc., Menu Foods Income Fund and Wal-Mart Corporation	N.D. Florida	3:2007cv00131	M. Casey Rodgers
<b>Plaintiffs:</b> Christina Troiano  <b>Defendants:</b> Menu Foods, Inc. and Menu Foods Income Fund	S.D. Florida	0:2007cv60428	James I. Cohn
<b>Plaintiffs:</b> Stephen Donnelly and Jennifer Hirni  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Holdings, Inc., Menu Foods Midwest Corporation, Chemnutra Inc., Chemnutra LLC, Xuzhou Anying Biologic Technology Development Company Ltd., Suzhou Textile Import and Export Company	S.D. Florida	1:2007cv20955	Joan A. Lenard
<b>Plaintiffs:</b> Larry Klimes, Paul Lavoie and Richard Mueller  <b>Defendants:</b> Menu Foods	D. Idaho	1:2007cv00160	Mikel H. Williams

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Dawn Majerczyk  <b>Defendants:</b> Menu Foods, Inc.	N.D. Illinois	1:2007cv01543	Wayne R. Anderson
<b>Plaintiffs:</b> Mara Brazilian  <b>Defendants:</b> Menu Foods Inc., Menu Foods Income Fund, Menu Foods Limited, Menu Foods Midwest Corporation	D. Maine	2:2007cv00054	George Z. Singal
<b>Plaintiffs:</b> Lidia Rodrigues  <b>Defendants:</b> Menu Foods Inc., Menu Foods Midwest Corporation, Menu Foods Income Fund and Menu Foods Limited	D. Massachusetts	1:2007cv10745	Edward R. Harrington
<b>Plaintiffs:</b> Stephanie Rozman  <b>Defendants:</b> ChemNutra, Inc., Menu Foods Holdings, Inc., Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Limited, Menu Foods Limited, Menu Foods Midwest Corporation, Nutro Products, Inc., PetsMart, Inc., and Petco Animal Supplies Stores, Inc.	D. Minnesota	0:2007cv01808	Ann D. Montgomery
<b>Plaintiffs:</b> Marion Streczyn  <b>Defendants:</b> Menu Foods Income Fund, and Menu Foods, Inc.,	D. Nevada	3:2007cv00159	Larry R. Hicks

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Jared Workman, and Mark and Mona Cohen  <b>Defendants:</b> Menu Foods Limited, Menu Foods Inc., and Menu Foods Midwest Corporation	D. New Jersey	1:2007cv01338	Noel L. Hillman
<b>Plaintiffs:</b> Suzanne Thomson and Robert Trautman  <b>Defendants:</b> Menu Foods Income Fund and Menu Foods Inc.	D. New Jersey	1:2007cv01360	Noel L. Hillman
<b>Plaintiffs:</b> Larry Wilson  <b>Defendants:</b> Menu Foods Holdings, Inc., Menu food Income Fund, Menu Foods Midwest Corporation, Menu Foods, Inc., Suzhou Textile Import and Export Company	D. New Jersey	1:2007cv01456	Noel L. Hillman
<b>Plaintiffs:</b> Paul Richard and Jennifer Richard, Charles Kohler and Alicia Kohler  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods Limited, Menu Foods Holdings, Inc., Menu Foods, Inc., Menu Foods Midwest Corporation, Menu Foods South Dakota, Inc., ABC Partnerships, XYZ Corporations	D. New Jersey	1:2007cv01457	Noel L. Hillman
<b>Plaintiffs:</b> Linda Tinker  <b>Defendants:</b> Chemnutra, Inc., Menu Foods Income Fund, Menu Foods, Inc.	D. New Jersey	1:2007cv01468	Noel L. Hillman

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Janice Bonier, Guy Britton, Tammy Matthews  <b>Defendants:</b> Menu Foods Income Funds, Menu Foods, Inc. and Menu Foods Midwest Corporation	D. New Jersey	1:2007cv01477	Noel L. Hillman
<b>Plaintiffs:</b> Julie Hidalgo  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Midwest Corporation and Menu Foods South Dakota Inc.	D. New Jersey	1:2007cv01488	Noel L. Hillman
<b>Plaintiffs:</b> Alexander Nunez  <b>Defendants:</b> Menu Foods Limited, Menu Foods Inc., Menu Foods Midwest Corporation, Menu Foods Income Fund, Menu Foods South Dakota, Inc. and Menu Foods Holdings, Inc.	D. New Jersey	1:2007cv01490	Noel L. Hillman
<b>Plaintiffs:</b> Mark Golding  <b>Defendants:</b> Menu Foods Limited, Menu Foods Inc., Menu Foods Midwest Corporation, Menu Foods Income Fund, Menu Foods South Dakota, Inc. and Menu Foods Holdings, Inc.	D. New Jersey	1:2007cv01521	Noel L. Hillman
<b>Plaintiffs:</b> Troy Gagliardi  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Midwest Corporation and Menu Foods South Dakota Inc.	D. New Jersey	1:2007cv01522	Noel L. Hillman

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Kami Turturro  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Midwest Corporation and Menu Foods South Dakota Inc.	D. New Jersey	1:2007cv01523	Noel L. Hillman
<b>Plaintiffs:</b> Peggy Schneider  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Limited and Menu Foods Midwest Corporation	D. New Jersey	1:2007cv01533	Noel L. Hillman
<b>Plaintiffs:</b> Leslie Berndl and Jim and Terri Moses  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Funds, and Menu Foods Midwest Corporation	D. New Jersey	1:2007cv01553	Noel L. Hillman
<b>Plaintiffs:</b> Jayme Pittsonberger  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Midwest Corporation, Menu Foods Income Fund and Menu Foods Limited	D. New Jersey	1:2007cv01561	Noel L. Hillman
<b>Plaintiffs:</b> David Carter  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Midwest Corporation, Menu Foods Income Fund and Menu Foods Limited	D. New Jersey	1:2007cv01562	Noel L. Hillman

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Jim Bullock  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Midwest Corporation, Menu Foods Income Fund and Menu Foods Limited	D. New Jersey	1:2007cv01579	Noel L. Hillman
<b>Plaintiffs:</b> Christina Johnson  <b>Defendants:</b> Menu Foods, Inc.	D. New Jersey	1:2007cv01610	Noel L. Hillman
<b>Plaintiffs:</b> James Conner and Frances Nash  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Funds, and Menu Foods Midwest Corporation	D. New Jersey	1:2007cv01623	Noel L. Hillman
<b>Plaintiffs:</b> Matt Long  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods Limited, Menu Foods Holdings, Inc., Menu Foods, Inc., Menu Foods Midwest Corporation, Chemnutra, Inc.	D. New Jersey	1:2007cv01624	Noel L. Hillman
<b>Plaintiffs:</b> Chantelle Conti and Cheri Cutler  <b>Defendants:</b> Menu Foods Limited, Menu Foods Inc., and Menu Foods Midwest Corporation	D. New Jersey	1:2007cv01638	Noel L. Hillman

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Steven Freeman  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Midwest Corporation and Menu Foods South Dakota Inc.	D. New Jersey	1:2007cv01646	Noel L. Hillman
<b>Plaintiffs:</b> Karen Pirches and Dinitrise Hicks  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods Midwest Corporation, Menu Foods South Dakota, Inc., Menu Foods, Inc., Menu Food Limited	D. New Jersey	1:2007cv01685	Noel L. Hillman
<b>Plaintiffs:</b> Diana Diedrich  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Midwest Corporation and Menu Foods South Dakota Inc.	D. New Jersey	1:2007cv01700	Noel L. Hillman
<b>Plaintiffs:</b> Todd Sokolwski  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Fund, and The Iams Company	D. New Jersey	1:2007cv01709	Noel L. Hillman
<b>Plaintiffs:</b> Michele McCullough  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods, Inc, Menu Foods Holdings, Inc., and Menu Foods Midwest Corporation	D. New Jersey	1:2007cv01710	Noel L. Hillman

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Steve Colquitt and Marianna Cutter  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Midwest Corporation and Menu Foods South Dakota Inc.	D. New Jersey	1:2007cv01738	Noel L. Hillman
<b>Plaintiffs:</b> Luke deBarathy  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods, Inc, Menu Foods Holdings, Inc., Menu Foods Midwest Corporation, Xuzhou Anying Biologic Technology Development Company Ltd., Suzhou Textile Import and Export Company	D. New Jersey	1:2007cv01739	Noel L. Hillman
<b>Plaintiffs:</b> Loren and Kay Byers, and Camilla Brankov  <b>Defendants:</b> Menu Foods Income Fund, Menu Foods, Inc., Menu Foods Midwest Corporation, Menu Food Limited, Menu Foods Operating Limited Partnership and Menu Foods South Dakota Corporation	D. New Jersey	1:2007cv01747	Noel L. Hillman
<b>Plaintiffs:</b> Lynne Carestio  <b>Defendants:</b> Menu Foods Limited, Menu Foods, Inc., and Menu Foods Midwest Corporation	D. New Jersey	1:2007cv01762	Noel L. Hillman
<b>Plaintiffs:</b> Gregory Boehm  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Genpar Limited (aka Menu Foods Limited) and Menu Foods Income Fund	N.D. Ohio	1:2007cv01018	Peter C. Economus

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Carol Brown  <b>Defendants:</b> Menu Foods, Inc., Menu Foods Income Fund, Menu Foods Midwest Corporation and Menu Foods South Dakota Inc.	D. Rhode Island	1:2007cv00115	Mary M. Lisi
<b>Plaintiffs:</b> Lizajean Holt, donna Lefebvre, Debra LeRoy and Kim Leonard  <b>Defendants:</b> Menu Foods, Inc.	E.D. Tennessee	3:2007cv00094	Thomas W. Phillips
<b>Plaintiffs:</b> Barbara Light  <b>Defendants:</b> Menu Foods Income Fund	E.D. Tennessee	3:2007cv00098	Thomas W. Phillips
<b>Plaintiffs:</b> Tom Whaley  <b>Defendants:</b> Menu Foods, The Iams Company, Dog Food Producers Numbers 1-50 and Cat Food Producers Numbers 1-50	W.D. Washington	2:2007cv00411	Ricardo S. Martinez
<b>Plaintiffs:</b> Stacey Heller, Toinette Robinson, David Rapp, and Cecily and Terrence Mitchell  <b>Defendants:</b> Menu Foods	W.D. Washington	2:2007cv00453	John C. Coughenour
<b>Plaintiffs:</b> Audrey Kornelius and Barbara Smith  <b>Defendants:</b> Menu Foods	W.D. Washington	2:2007cv00454	Marsh J. Pechman

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiffs:</b> Suzanne F. Johnson and Craig R. Kleemann  <b>Defendants:</b> Menu Foods	W.D. Washington	2:2007cv00455	John C. Coughenour
<b>Plaintiffs:</b> Michele Suggett and Don James  <b>Defendants:</b> Menu Foods, The Iams Company, Eukanuba, Dog Food Producers Numbers 1- 50 and Cat Food Producers Numbers 1-50	W.D. Washington	2:2007cv00457	Ricardo S. Martinez

**EXHIBIT “A”**

## PRESS RELEASE

**Menu Foods Income Fund****Menu Foods Income Fund**

TSX:

MEW.UN

[Stock Quote](#)[Stock Chart](#)[Other Recent News](#)**March 16, 2007****Menu Foods Income Fund Announces Precautionary Dog and Cat Food Recall**

TORONTO, ONTARIO--(CCNMatthews - March 16, 2007) -

NOT FOR RELEASE OVER US NEWSPWIRE SERVICES

Attention Business/Financial Editors

Menu Foods Income Fund (the "Fund") (TSX:MEW.UN) today announced the precautionary recall of a portion of the dog and cat food it manufactured between December 3, 2006 and March 6, 2007. The recall is limited to "cuts and gravy" style pet food in cans and pouches manufactured at two of the Fund's United States facilities. These products are both manufactured and sold under private-label and are contract-manufactured for some national brands.

Over the past several days, the Fund has received feedback in the United States (none in Canada) raising concerns about pet food manufactured since early December, and its impact on the renal health of the pets consuming the products. Shortly after receipt of the first complaint, the Fund initiated a substantial battery of technical tests, conducted by both internal and external specialists, but has failed to identify any issues with the products in question. The Fund has, however, discovered that timing of the production associated with these complaints, coincides with the introduction of an ingredient from a new supplier. The Fund stopped using this ingredient shortly after this discovery and production since then has been undertaken using ingredients from another source.

At the same time, the Fund's largest customer, for which it manufactures on a contract basis, received a small number of consumer complaints and has initiated its own recall. Furthermore, for the time being, the customer has put future orders for cuts and gravy products on hold. This customer's cuts and gravy purchases in 2006 represented approximately 11% of the Fund's annual revenue.

"We take these complaints very seriously and, while we are still looking for a specific cause, we are acting to err on the side of caution" said Paul K. Henderson, President and CEO, Menu Foods. "We will do whatever is necessary to ensure that our products maintain the very highest quality standards."

While the number of complaints has been relatively small, Menu is taking this proactive step out of an abundance of caution, because the health and well-being of pets is paramount to the Fund.

In addition to changing suppliers, for production after March 6, the Fund has increased testing of all raw materials and finished goods. It is also working closely with regulatory authorities and its customers to learn more and will take whatever additional actions are appropriate. The Fund estimates that based on currently available information, this recall could cost between \$30 million and \$40 million, which will be financed from a combination of internally generated cash flow and bank credit facilities. Furthermore, the Fund is aggressively producing product, utilizing a different supplier for the ingredient in question, to replenish customers as quickly as possible.

In order to determine whether cat and dog food in their possession is subject to recall, consumers should refer to the list of brand names ("listed products") at [www.menufoods.com/recall](http://www.menufoods.com/recall). This will be available by 6 a.m. Saturday March 17, 2007. Products not identified on the website can continue to be used.

Menu is the leading North American private-label/contract manufacturer of wet pet food products sold by supermarket retailers, mass merchandisers, pet specialty retailers and other retail and wholesale outlets. In 2006, the Fund produced more than one billion containers.

**CONTACT INFORMATION**

Menu Foods Income Fund

Menu Foods Income Fund

Consumers

1-866-895-2708

Website: [www.menufoods.com](http://www.menufoods.com)

## **EXHIBIT “B”**



PRESS RELEASE

**Menu Foods Income Fund**

TSX: MEW.UN

INDUSTRY: Financial Services - Personal Finance, Retail - Consumer Interest

MARCH 24, 2007 - 14:09 ET

**Menu Foods Initiates Market Withdrawal of All Varieties of Recalled Wet Pet Food to Ensure Consumer Protection**

TORONTO, ONTARIO--(CCNMatthews - March 24, 2007) - As a result of reports from the FDA and various media outlets that some recalled lots of "cuts and gravy" style wet pet food remain on store shelves, Menu Foods has asked all retail outlets to immediately remove all impacted varieties of wet pet food posted at [www.menufoods.com](http://www.menufoods.com), regardless of the date code.

Menu Foods remains concerned that consumers are able to purchase recalled items.

There is no known risk from items not listed on the recall list but an abundance of caution is called for in this situation. FDA has been apprised of this action.

**CONTACT INFORMATION**

## **EXHIBIT “C”**

## All Menu Foods pet food with ChemNutra wheat gluten voluntarily recalled

TORONTO, April 5 /PRNewswire/ - In response to a news release - issued by ChemNutra Inc. during the evening of April 3, 2007 - Menu Foods today voluntarily expanded its pet food recall for selected "cuts and gravy" pet food products, manufactured back to November 8, 2006.

ChemNutra Inc., a former supplier of wheat gluten to Menu Foods, announced a recall of all wheat gluten it imported from Xuzhou Anying Biologic Technology Development Co. in Wangdien, China. As a result, Menu Foods today announced an expansion of its recall to include all products manufactured with wheat gluten purchased from ChemNutra Inc. which Menu Foods' records show was first used on November 8, 2006 and last used on March 6, 2007.

As a result of actions previously taken by Menu Foods, the vast majority of the products affected by this expansion are already off retailers' shelves. No new brands have been added. A total of 20 varieties have been added to the recall list and the additional varieties are listed below. All Menu Foods products not made with the recalled wheat gluten are safe to consume.

A complete and updated list of recalled products is available at the Menu Foods website at <http://www.menufoods.com>.

### Cat Food

Brand	Look For This Date The Bottom of Can or Back of Pouch	Variety Description	Can or Pouch	Size	UPC

### Authority

Nov/20/09	Adult Sliced Chicken/Sauce Formula 3oz	Can	3oz	37257-37359
Nov/21/09				

### Nutro Max Cat Gourmet Classics

Nov/21/08	Pouch Kitten Chicken/Tomato 3oz	Pouch	3oz	79105-36263
Nov/22/08				
Nov/21/08	Pouch Senior Whitefish/Crab 3oz	Pouch	3oz	79105-36265
Nov/22/08				

### Pet Pride

Nov/21/09	Flaked Tuna 3oz	Can	3oz	11110-80472
Nov/22/09				
Nov/20/09	Sliced Chicken/Heart/Liver 3oz	Can	3oz	11110-86261

Nov/21/09					
Nov/20/09	Sliced Turkey/Gravy 3oz	Can	3oz	11110-86257	
Nov/21/09					
Nov/20/09	Sliced Beef/Gravy 3oz	Can	3oz	11110-86264	
Nov/21/09					

**Sophistacat**

Nov/21/09	Flaked Chicken/Tuna 3oz	Can	3oz	37257-01287	
Nov/22/09					
Nov/20/09	Sliced Beef/Gravy 3oz	Can	3oz	37257-01243	
Nov/21/09					
	Sliced Chicken/Heart/Liver				
Nov/20/09	3oz	Can	3oz	37257-01285	
Nov/21/09					
Nov/20/09	Sliced Salmon/Chicken 3oz	Can	3oz	37257-01286	
Nov/21/09					

**Science Diet Feline Savory Cuts Can ( Hill's Pet Nutrition April 5, 2007 Comment on Industry News )**

Jun/19/08	Sliced Beef/Gravy 3oz	Can	3oz	52742-44120	
Jun/20/08					
Jun/19/08	Sliced Chicken/Grvy 3oz	Can	3oz	52742-44110	
Jun/20/08					
	Sliced Oceanfish/Sauce				
Jun/19/08	3oz	Can	3oz	52742-44010	
Jun/20/08					
	Sliced Senior				
Jun/19/08	Chicken/Gravy 3oz	Can	3oz	52742-46000	
Jun/20/08					

**Dog Food**

Brand	Look For This Date The Bottom of Can or Back of Pouch	Variety Description	Can or Pouch	Size	UPC

**Grreat Choice**

Nov/14/09	London Grill Cuts 13.2oz	Can	13.2oz	37257-37002	
Nov/15/09					

**Pet Pride**

Nov/28/08	Pouch Chicken Teriyaki/Gravy 5.3oz	Pouch	5.3oz	11110-84172	
Nov/29/08					
Dec/01/08	Pouch With Stew 5.3oz	Pouch	5.3oz	11110-88124	

Dec/02/08

**Springfield Prize**

	Chicken Cuts/Gravy			
Nov/14/09	13.2oz	Can	13.2oz	41380-13901
Nov/15/09				

**Stater Brothers**

	Chicken Cuts/Gravy			
Nov/14/09	13.2oz	Can	13.2oz	74175-12240
Nov/15/09				

## **EXHIBIT “D”**

## Menu Foods voluntarily recalls additional pet food made with ChemNutra wheat gluten

TORONTO, April 10 /PRNewswire/ - Prompted by reports from the US Food and Drug Administration as to the presence of melamine in cans of cuts and gravy pet food produced in Menu Foods' Canadian production facility, Menu Foods undertook an accounting of all recalled wheat gluten supplied by ChemNutra Inc. to Menu Foods in the United States.

As the result of that review, Menu Foods has identified a single interplant transfer of the ChemNutra supplied wheat gluten, shipped from Menu Foods' plant in Emporia, Kansas, to its plant in Streetsville, Ontario. This wheat gluten was subsequently used in the production of pet food in December, 2006 and January, 2007, which is being recalled by Menu Foods.

The new varieties in the United States and Canada have been added to the recall list. The latest recall group is listed below, and a complete list of recalled products, including the new items can be reviewed at <http://www.menufoods.com>.

### Cat Food

Brand	Look For This Date On The Bottom of Can or Back of Pouch	Variety Description	Can / Pouch	Size	UPC
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#### Americas Choice, Preferred Pet

Jan/2/10	Flaked Tuna 3oz	Can	3oz	54807-59114
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#### Your Pet

Dec/19/09	Sliced Beef/Gravy 3oz	Can	3oz	72036-29026
Jan/24/10				
Nov 06 09	Sliced Variety Pack 3oz	Can	3oz	72036-40013

#### Pet Pride

Dec/19/09	Sliced Beef/Gravy 3oz	Can	3oz	11110-86264
Jan/24/10				
Nov 06 09	Sliced Variety Pack 3oz	Can	3oz	11110-86003
Dec 05 09				
Dec 06 09				
Jan 23 10				
Jan 24 10				

**Laura Lynn**

Jan/2/10	Flaked Tuna 3oz	Can	3oz	86854-02407
Dec/19/09	Sliced Beef/Gravy 3oz	Can	3oz	86854-02406

**Nutriplan**

Dec/19/09	Sliced Beef/Gravy 3oz	Can	3oz	41130-06755
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**Price Chopper**

Dec/19/09	Sliced Beef/Gravy 3oz	Can	3oz	41735-12828
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**Publix**

Jan/2/10	Flaked Tuna 3oz	Can	3oz	41415-08327
Dec/19/09	Sliced Beef/Gravy 3oz	Can	3oz	41415-08827
Jan/2/10				
Jan/24/10				

**Stop & Shop Companion**

Jan/2/10	Flaked Tuna 3oz	Can	3oz	88267-00286
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**Winn Dixie**

Dec/19/09	Sliced Beef/Gravy 3oz	Can	3oz	21140-19419
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**Nutro Products**

All Dates	Chicken Cacciatore 3oz	Can	3oz	79105-35205
All Dates	Orleans Seafood Jambalaya 3oz	Can	3oz	79105-35206
All Dates	Beef Ragout 3oz	Can	3oz	79105-35207
All Dates	Alaskan Halibut/Rice 3oz	Can	3oz	79105-35221
All Dates	Kitten Chicken/Lamb 3oz	Can	3oz	79105-35202
All Dates	California Chicken 3oz	Can	3oz	79105-30011
All Dates	Lamb/Turkey Cutlets 3oz	Can	3oz	79105-30014
All Dates	Salmon/Whitefish 3oz	Can	3oz	79105-30013
All Dates	Beef/Egg 3oz	Can	3oz	79105-30015
All Dates	Turkey/Chicken Liver 3oz	Can	3oz	79105-30016
All Dates	Seafood/Tomato/Bisque 3oz	Can	3oz	79105-30017
All Dates	Hunters Stew with Duck 3oz	Can	3oz	79105-30018
All Dates	Hunters Stew with Venison 3oz	Can	3oz	79105-30019

**EXHIBIT “E”**

April 17, 2007

**Menu Foods Refines Recall List**

TORONTO, ONTARIO--(April 17, 2007) - Menu Foods

Attention Business/Financial Editors

Menu Foods has previously recalled wet cat and dog food produced with adulterated wheat gluten supplied by ChemNutra Inc. Over the past several days, Menu Foods continued a detailed analysis of production records at its Emporia, Kansas, plant as part of the US Food and Drug Administration's ongoing investigation of this adulterated wheat gluten. As a result of this work, Menu Foods advises the public:

- One additional item has been added to the recall list and is shown below
- Two additional production dates of eight varieties of pet food have been added to the recall list. These eight varieties of pet food had previously been withdrawn from the market and should already be off the retailer shelves.

An updated list of the recalled products, including this addition, is available at the Menu Foods website at <http://www.menufoods.com>.

**Dog Food**

Brand	Look For This Date On The Bottom of Can or Back of Pouch	Variety Description	Can / Pouch	Size	UPC
Natural Life	Nov/22/09	Vegetarian 13.2oz	Can	13.2oz	12344-07114

Menu Foods  
 Consumers  
 1-866-895-2708  
 Website: [www.menufoods.com](http://www.menufoods.com)

## **EXHIBIT “F”**



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## Purina to voluntarily withdraw Mighty Dog® 5.3 ounce pouch products in response to Menu Foods recall

### No other Purina products affected

St. Louis, Missouri, March 16, 2007

Nestlé Purina PetCare Company today announced that as a precautionary measure, it is voluntarily withdrawing its 5.3 ounce Mighty Dog® brand pouch products that were produced by Menu Foods, Inc. from December 3, 2006\*\* through March 14, 2007. This withdrawal is in response to the recall initiated earlier today by Menu Foods, a contract manufacturer that does limited business with Purina as well as with other pet food manufacturers. Only Mighty Dog 5.3 ounce pouch products are being withdrawn by Nestlé Purina, including those pouches contained in multi-packs. Importantly, no Mighty Dog canned products, or any other Purina products are affected by Menu's recall.

While Purina has no indication of any product quality or safety issues specifically related to our Mighty Dog pouch products, Purina is taking this proactive action out of an abundance of caution in response to the Menu Foods recall.

Consumers who have the indicated Mighty Dog 5.3 ounce pouch products should discontinue feeding them to their dogs and can receive the full replacement value of the withdrawn products by calling 1-800-551-7392.

The Mighty Dog pouch products and pouches in multi-pack cartons have code dates of 6312 through 7073, followed by the plant code 1798. This information should be checked on the bottom or back panel of the individual pouches. Specifically, if the code following the "Use By" date begins with four numbers from 6312 to 7073 followed by the plant code 1798, then the pouch is included in this voluntary withdrawal.

Purina regrets any inconvenience and apologizes for any concern caused by this product withdrawal. The Company will continue to take any and all actions necessary to ensure the quality and safety of our products.

\*\* On April 5, 2007, Menu Foods amended its recall to include all cuts and gravy pet food products produced by Menu from November 8, 2006, through March 14, 2007. This amendment does not affect Nestlé Purina's voluntary recall of Mighty Dog brand pouch products, as directions previously given by Nestlé Purina were to remove all Mighty Dog pouch products from retail shelf, regardless of date code.

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## **EXHIBIT “G”**



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## An Update from Nestlé Purina PetCare Company About the Menu Foods Recall

March 23, 2007

We at Nestlé Purina PetCare Company know the reports of pet food recalls and withdrawals over the past week have been very concerning and at times confusing for pet owners, who want to ensure the safety of the food they are feeding their beloved pets.

We want to take this opportunity to reassure you that *Mighty Dog* pouch products are the **ONLY Purina®** brand products affected by Menu Foods' recall. Nestlé Purina stands behind the high-quality of our pet foods, and all Purina brand cat food products and all other Purina brand dog food products, including *Mighty Dog* canned products, can continue to be fed to your pets with complete confidence.

On Friday, March 16, Nestlé Purina PetCare issued its [press release](#) announcing the voluntary withdrawal of our *Mighty Dog*® brand pouch-packaged products that were produced by Menu Foods from Dec. 3, 2006\*\*, through March 14, 2007. While we had no indication of any product quality or safety issues specifically related to our *Mighty Dog* pouch products at that time, we are proactively withdrawing these products as a precautionary measure, because the well-being of pets and the safety and efficacy of our products are our top priorities.

We also want to apologize for any difficulty you may have had in reaching us by phone this week. While we have dedicated numerous additional phone lines, people and other resources exclusively for this purpose, we understand that the volume of calls still has occasionally exceeded our system capacity.

We have prepared some [Frequently Asked Questions](#) that may be helpful to your understanding of this situation, and we will update these questions as more information becomes available. If you have other questions or concerns, please continue to call our Office of Consumer Affairs directly at 1-800-551-7392.

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## **EXHIBIT “H”**



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## Alpo® Brand Prime Cuts In Gravy Canned Dog Food Voluntary Nationwide Recall

### No Dry Purina Products Involved

St. Louis, Missouri, March 30, 2007

Nestlé Purina PetCare Company today announced it is voluntarily recalling all sizes and varieties of its ALPO® Prime Cuts in Gravy wet dog food with specific date codes. The Company is taking this voluntary action after learning today that wheat gluten containing melamine, a substance not approved for use in food, was provided to Purina by the same company that also supplied Menu Foods. The contamination occurred in a limited production quantity at only one of Purina's 17 pet food manufacturing facilities.

Earlier today the FDA announced the finding of melamine in products related to the March 16 Menu Foods recall, and advised Purina of the source of the contaminated supply. Purina then determined that it had received some quantity from the suspect supplier. The company proactively notified the FDA and immediately began this recall process.

Purina is confident that the contaminated wheat gluten has been isolated to this limited production quantity of ALPO Prime Cuts canned products.

The recalled 13.2-ounce and 22-ounce ALPO Prime Cuts cans and 6-, 8-, 12- and 24-can ALPO Prime Cuts Variety Packs have four-digit code dates of 7037 through 7053, followed by the plant code 1159. Those codes follow a "Best Before Feb. 2009" date.\*\* This information should be checked on the bottom of the can or the top or side of the multi-pack cartons.

Purina's 5.3-ounce *Mighty Dog*® pouch products, manufactured by Menu Foods, were previously withdrawn from the market as a precaution on March 16 as part of the Menu Foods recall. ONLY *Mighty Dog* pouch products and specific date codes of ALPO Prime Cuts canned dog food are being recalled.

**Importantly, no Purina brand dry pet foods are affected by the recall - including ALPO Prime Cuts dry.** In addition, no other Purina dog food products, no Purina cat food products, Purina treat products or Purina Veterinary Diet products are included in this recall, nor have been impacted by the contaminated wheat gluten supply.

Consumers should immediately stop feeding ALPO Prime Cuts products with the above-listed date codes to their dogs and consult with a veterinarian if they have any health concerns with their pet.

Purina guarantees all of its products, and consumers can receive the full replacement value of the recalled products. Consumers can visit us at [www.purina.com](http://www.purina.com) or call 1-800-218-5898 to receive more information.

Purina is fully cooperating with the FDA and made the decision to voluntarily recall this product in consultation with the FDA.

At Purina, nothing is more important to us than the health and well-being of the pets whose nutrition has been entrusted to us by their owners, and we deeply regret this unfortunate situation. We will continue to take any and all actions necessary to ensure the quality and safety of our products.

\*\* Due to a product name change in early 2007, this voluntary recall also covers one item with the same date code labeled as ALPO® Prime Entrees in Gravy with Chicken, Rotini Pasta & Vegetables.

Recall questions? View our [FAQ page](#)

[Press Release - March 23, 2007](#)

[Press Release - March 16, 2007](#)

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## **EXHIBIT “I”**

## Del Monte Pet Products Voluntarily Withdraws Specific Product Codes of Pet Treats and Wet Dog Food Products in the United States

### » Recalled Products in Canada [Click Here](#)

April 6, 2007—As a precautionary measure, Del Monte Pet Products is voluntarily recalling select product codes of its pet treat products sold under the *Jerky Treats*®, *Gravy Train*® Beef Sticks and *Pounce Meaty Morsels*® brands as well as select dog snack and wet dog food products sold under private label brands. A complete list of affected brands and products is below.

No other Del Monte Pet Products treats, biscuits or wet dog food products are impacted by this recall, and no Del Monte dry cat food, dry dog food, wet cat food or pouched pet foods are subject to this voluntary recall.

The Company took this voluntary recall action immediately after learning from the FDA that wheat gluten supplied to Del Monte Pet Products from a specific manufacturing facility in China contained melamine. Melamine is a substance not approved for use in food. The FDA made this finding as part of its ongoing investigation into the recent pet food recall. Del Monte Pet Products has proactively engaged and fully cooperated with the FDA since the start of its investigation.

Del Monte Pet Products has not used wheat gluten from this manufacturing facility in China in any other pet products except those described below. The adulterated ingredients were used in a limited production quantity over the last three months for those items identified by specific product codes below. This recall removes all Del Monte Pet Products with wheat gluten procured from this manufacturing facility from retail shelves. Del Monte did not use product from this supplier prior to the recall period in question and has since discontinued sourcing product from this manufacturing facility.

Consumers should discontinue feeding the products with the Product Codes detailed below to their pets.

Del Monte Pet Products are 100% guaranteed and all voluntarily recalled products will be refunded.

Del Monte Pet Products customers can contact our Consumer Hotline at (800) 949-3799 for further information about the recall and for instructions on obtaining a product refund. Consumers can also click on the "**Contact Us**" button and submit the Contact Us form, including UPC number, product name, Best By Date, and manufacturing code information (located under the Best By date). Consumers may also write to us at:

Del Monte  
P.O. Box 80  
Pittsburgh PA 15230-0080

### Following is a COMPLETE and UPDATED list of Del Monte Pet Products and Best Buy Dates that have been voluntarily recalled in the United States.

#### BRANDED

##### Jerky Treats Beef Flavor Dog Snacks\*

\* *Jerky Treats No Wheat Beef (production code TP7B06) is not part of the recall*

#### Production Code/Best By Date

Code:	TP7B06	TP7B07	TP7B08	TP7B09	TP7B10
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Best By:	Aug 06 08	Aug 07 08	Aug 08 08	Aug 09 08	Aug 10 08
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Code:	TP7B15	TP7B16	TP7C05	TP7C06
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Best By:	Aug 15 08	Aug 16 08	Sep 02 08	Sep 03 08
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##### Gravy Train Beef Sticks Dog Snacks

Code:	TP7B19	TP7B20
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Best By:	Aug 19 08	Aug 20 08
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##### Pounce Meaty Morsels Moist Chicken Flavor Cat Treats

Code:	TP7C12
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Best By:	Sep 09 08
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**PRIVATE LABEL**

	<b>Production Code/Best By Date</b>				
<b>Ol' Roy Beef Flavor Jerky Strips Dog Treats</b>	Code: TP7B06	TP7B07	TP7B08	TP7C05	TP7C06
	Best By: Aug 06 08	Aug 07 08	Aug 08 08	Sep 02 08	Sep 03 08
	Code: TP7C07	TP7C08			
	Best By: Sep 04 08	Sep 05 08			
<b>Ol' Roy Beef Flavor Snack Sticks Dog Treats</b>	Code: TP7B19	TP7B20	TP7B21	TP7C08	TP7C09
	Best By: Aug 19 08	Aug 20 08	Aug 21 08	Sep 05 08	Sep 06 08
	Code: TP7C10				
	Best By: Sep 07 08				
<b>Ol' Roy with Beef Hearty Cuts in Gravy Dog Food</b>	Code: BC6M21				
	Best By: Dec 21 09				
<b>Ol' Roy with Beef Hearty Strips in Gravy Dog Food</b>	Code: BC7A19				
	Best By: Jan 19 10				
<b>Ol' Roy Country Stew Hearty Cuts in Gravy Dog Food</b>	Code: BC6M15				
	Best By: Dec 15 09				
<b>Dollar General Beef Flavored Jerky Strips Dog Treats</b>	Code: TP7C05	TP7C06	TP7C07	TP7C08	
	Best By: Sep 02 08	Sep 03 08	Sep 04 08	Sep 05 08	
<b>Dollar General Beef Flavored Beef Sticks Dog Treats</b>	Code: TP7B20	TP7B21	TP7C08	TP7C09	TP7C10
	Best By: Aug 20 08	Aug 21 08	Sep 05 08	Sep 06 08	Sep 07 08
<b>Happy Tails Beef Flavor Jerky Strips</b>	Code: TP7B08	TP7B09			
	Best By: Aug 08 08	Aug 09 08			
<b>Happy Tails Meaty Cuts with Beef in Gravy Dog Food</b>	Code: BC7A29				
	Best By: Jan 29 10				
<b>Happy Tails Beef Flavor Beef Sticks</b>	Code: TP7C08	TP7C09			
	Best By: Sep 05 08	Sep 06 08			

**Recalled Products in Canada****DLM Foods Canada Corp. Voluntarily Withdraws *Jerky Treats Dog Snacks Beef Flavour* with the Best Before Date of 16.08.08**

TORONTO, April 2, 2007 - As a precautionary measure, DLM Foods Canada Corp. is voluntarily withdrawing *Jerky Treats*® Dog Treats Beef Flavour with the best before date of 16.08.08. Consumers should discontinue feeding this product and return affected products to their store for a refund. No other DLM Foods Canada Corp. products are subject to this voluntary withdrawal.

The Company took this voluntary withdrawal action after learning from the U.S. Food & Drug Administration (FDA) that wheat gluten supplied to DLM Foods Canada Corp. from a specific manufacturing facility in China contained melamine. Melamine is a substance not approved for use in food in the United States. The FDA made this finding as part of its ongoing investigation into the recent pet food recall in the United States. DLM Foods Canada Corp. conferred with the Canadian Food Inspection Agency today to coordinate the details of this voluntary withdrawal as it applied to the Canadian market.

The adulteration occurred in a limited production quantity indicated by the one best before date of *Jerky Treats Dog Treats Beef Flavour* product line mentioned above. This withdrawal removes all DLM Foods Canada Corp. pet products

with wheat gluten procured from this manufacturing facility from retail shelves.

No other DLM Foods Canada Corp. products are subject to this voluntary withdrawal. The affected products comprise less than one-tenth of one percent of DLM Foods Canada Corp. annual pet food and pet treat production.

DLM Foods Canada Corp. has not used wheat gluten from this manufacturing facility in China in any other pet products except those described above.

DLM Foods Canada Corp. products are 100% guaranteed and all returned product will be refunded. For further information about DLM Foods Canada Corp. consumers can contact our Consumer Affairs at 1-866-657-6929.

As part of the pet community, we value the health and well-being of pets, and we deeply regret this situation. We will continue to take any and all actions necessary to ensure the quality and safety of our products.

## **EXHIBIT “J”**

**U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE**

		12-MONTH PERIOD ENDING SEPTEMBER 30								
CALIFORNIA CENTRAL		2006	2005	2004	2003	2002	2001	Numerical Standing		
OVERALL CASELOAD STATISTICS	Filings*	12,909	14,630	16,938	14,720	15,440	15,342	U.S.	Circuit	
	Terminations	13,680	16,173	15,269	15,800	16,936	16,906			
	Pending	12,401	13,180	14,720	13,129	14,525	16,142			
	% Change in Total Filings	Over Last Year		-11.8				83	13	
		Over Earlier Years		-23.8	-12.3	-16.4	-15.9	81	13	
ACTIONS PER JUDGESHIP	Number of Judgeships	28	28	28	28	27	27			
	Vacant Judgeship Months**	53.9	24.8	2.3	23.6	63.9	57.3			
	FILINGS	Total	461	523	605	526	572	568	36	7
		Civil	397	450	515	451	490	521	18	4
		Criminal Felony	36	45	60	49	58	47	84	14
		Supervised Release Hearings**	28	28	30	26	24	-	30	11
	Pending Cases	443	471	526	469	538	598	26		7
	Weighted Filings**	518	565	651	590	584	557	24		6
	Terminations	489	578	545	564	627	626	32		7
	Trials Completed	12	13	12	14	12	14	79		11
MEDIAN TIMES (months)	From Filing to Disposition	Criminal Felony	12.4	10.3	8.2	9.4	8.6	9.1	82	14
		Civil**	7.2	7.4	7.3	7.5	7.9	7.1	10	2
	From Filing to Trial** (Civil Only)		21.3	20.5	17.8	21.2	20.0	21.0	29	4
OTHER	Civil Cases Over 3 Years Old**	Number	1,240	809	624	609	650	541		
		Percentage	11.6	7.2	5.0	5.4	5.2	3.8	79	14
	Average Number of Felony Defendants Filed Per Case		1.6	1.5	1.4	1.4	1.4	1.5		
	Jurors	Avg. Present for Jury Selection	64.08	47.33	49.01	49.49	54.63	61.75		
		Percent Not Selected or Challenged	55.7	48.3	49.4	51.6	55.5	58.8		

2006 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE													
Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	11104	994	211	2833	274	58	754	1330	497	1425	1188	80	1460
Criminal*	999	3	151	234	88	228	54	46	43	43	25	35	49

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."

## **EXHIBIT “K”**

# U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE

		12-MONTH PERIOD ENDING SEPTEMBER 30								
NEW JERSEY		2006	2005	2004	2003	2002	2001	Numerical Standing		
OVERALL CASELOAD STATISTICS	Filings*	7,275	7,539	7,567	7,270	7,555	6,972	U.S.	Circuit	
	Terminations	7,480	7,605	7,373	6,998	7,125	7,057			
	Pending	6,855	6,987	6,986	6,765	6,538	6,101			
	% Change in Total Filings	Over Last Year		-3.5				43	3	
		Over Earlier Years		-3.9	.1	-3.7	4.3	45	4	
	Number of Judgeships	17	17	17	17	17	17			
ACTIONS PER JUDGESHIP	Vacant Judgeship Months**	32.3	27.8	12.0	11.0	47.8	7.5			
	FILINGS	Total	428	444	446	428	445	410	46	
		Civil	369	387	390	370	387	369	29	
		Criminal Felony	51	48	46	48	49	41	70	
		Supervised Release Hearings**	8	9	10	10	9	-	85	
	Pending Cases		403	411	411	398	385	359	38	
	Weighted Filings**		481	493	500	486	482	463	33	
	Terminations		440	447	434	412	419	415	48	
	Trials Completed		11	10	10	10	12	11	86	
	MEDIAN TIMES (months)	Criminal Felony	12.1	10.0	9.8	9.0	9.4	8.0	81	
		From Filing to Disposition	8.2	7.3	7.6	7.9	8.4	7.5	21	
		Civil**	33.0	36.7	33.4	33.8	30.0	33.0	68	
OTHER	From Filing to Trial** (Civil Only)								4	
	Civil Cases Over 3 Years Old**	Number	306	346	252	236	231	179		
		Percentage	5.2	5.7	4.2	4.0	4.0	3.3	41	
	Average Number of Felony Defendants Filed Per Case		1.2	1.3	1.2	1.2	1.2	1.2		
	Jurors	Avg. Present for Jury Selection	88.98	75.41	40.79	51.72	41.77	51.55		
		Percent Not Selected or Challenged	39.2	38.3	24.1	40.3	37.7	38.9		

## 2006 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE

Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	6274	240	343	904	82	26	845	1031	721	377	869	39	797
Criminal*	862	3	268	48	124	176	53	39	19	22	27	28	55

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."

DECLARATION OF SERVICE BY MAIL

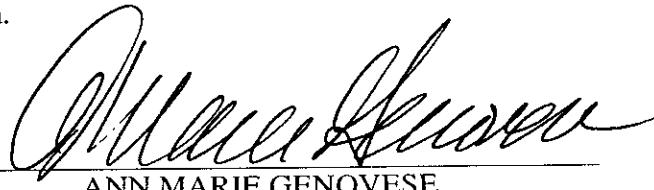
I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, employed in the County of Los Angeles, over the age of 18 years, and not a party to or interest in the within action; that declarant's business address is One California Plaza, 300 South Grand Avenue, Suite 3900, Los Angeles, California 90071-3149.

2. That on April 27, 2007, declarant served the PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION FOR TRANSFER OF ACTIONS TO THE CENTRAL DISTRICT OF CALIFORNIA AND FOR CONSOLIDATED OR COORDINATED PRETRIAL PROCEEDINGS PURSUANT TO 28 U.S.C. §1407 by depositing a true copy thereof in a United States mailbox at Los Angeles, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed on the attached Service List.

3. That there is a regular communication by mail between the place of mailing and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 27th day of April, 2007, at Los Angeles, California.



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ANN MARIE GENOVESE

**MENU FOODS**  
**MDL Docket No. 1850**  
**Service List**

<i>Counsel for Defendants</i>	
-------------------------------	--

**Lead Attorney Representing actions in New Jersey** *Menu Foods Midwest Corporation*

Gerard H. Hanson  
HILL WALLACK  
202 Carnegie Center  
Princeton, NJ 08543-5226  
Telephone: (609) 924-0808  
Email: [ghh@hillwallack.com](mailto:ghh@hillwallack.com)

*Menu Foods, Inc.*  
*Menu Foods Income Fund*  
*Menu Foods Limited*  
*Menu Foods South Dakota, Inc.*  
*Menu Foods Holdings, Inc.*

---

**Lead Attorney Representing actions in Arkansas**

Christy Comstock  
21 West Mountain Street, Suite 300  
Fayetteville, AR 72701  
Telephone: (479) 582-3382  
Email: [ccomstock@joneslawfirm.com](mailto:ccomstock@joneslawfirm.com)

*Menu Foods*  
*Menu Foods Holdings, Inc*  
*Menu Foods Midwest Corporation*  
*Menu Foods South Dakota Inc.*  
*Menu Foods, Inc.*  
*Menu Foods Income Fund*  
*Menu Foods Gen Par Limited*  
*Menu Foods Limited Partnership*  
*Menu Foods Operating Partnership*

---

**Lead Attorney Representing actions in Arkansas** *Wal-Mart Stores, Inc.*

Marshall S. Ney  
MITCHELL, WILLIAMS, SELIG, GATES &  
WOODYARD, PLLC  
5414 Pinnacle Point Drive, Suite 500  
Rogers, AR 72758  
Telephone: (479) 273-9561  
Facsimile: (479) 273-0527  
Email: [mney@mwsgw.com](mailto:mney@mwsgw.com)

---

**Lead Attorney Representing actions in Washington**

Jeffrey T. Kestle  
Gary A. Trabolsi  
GARDNER BOND TRABOLSI ST LOUIS &  
CLEMENT  
2200 6th Avenue, Suite 600  
Seattle, WA 98121  
Telephone: (206) 256-6309  
Email: [jkestle@gardnerbond.com](mailto:jkestle@gardnerbond.com)  
[gtrabolsi@gardnerbond.com](mailto:gtrabolsi@gardnerbond.com)

---

*Menu Foods*

**Lead Attorney Representing actions in Colorado**

Rachel Laine Carnaggio  
GODFREY & LAPUYADE, P.C.  
9557 S. Kingston Court  
Englewood, CO 80112-5952  
Telephone: (303) 228-0700  
Facsimile: (303) 228-0701  
Email: [carnaggio@godlap.com](mailto:carnaggio@godlap.com)

*Menu Foods Holdings, Inc.*

*Menu Foods, Inc.*  
*Menu Foods Income Fund*  
*Menu Foods Limited*  
*Menu Foods Midwest Corporation*

---

**Lead Attorney Representing actions in Connecticut**

Matthew G. Conway  
Jennifer Katz  
CONWAY & STOUGHTON  
818 Farmington Avenue  
West Hartford, CT 06119  
Telephone: (860) 523-8000  
Facsimile: (860) 523-8002  
Email: [mconway@conwaystoughton.com](mailto:mconway@conwaystoughton.com)  
[jkatz@conwaystoughton.com](mailto:jkatz@conwaystoughton.com)

---

*Menu Foods Inc.*

**Lead Attorney Representing actions in Florida**

Robert Dewitt McIntosh  
ADORNO & YOSS  
888 SE 3rd Avenue, Suite 500  
Fort Lauderdale, FL 33335-9002  
Telephone (954) 523-5885  
Facsimile: (954) 760-9531  
Email: [rdm@adorno.com](mailto:rdm@adorno.com)

---

*Menu Foods Income Fund*

*Menu Foods, Inc.*

---

**Lead Attorney Representing actions filed in Idaho    *Menu Foods (Canada)***

Stephen R. Thomas  
MOFFATT THOMAS BARRETT ROCK & FIELDS  
P.O. Box 829  
Boise, ID 83701  
Telephone: (208) 345-2000  
Facsimile: (208) 385-5384  
Email: [srt@moffatt.com](mailto:srt@moffatt.com)

---

**Lead Attorneys Representing actions filed in  
Illinois**

Edward B. Ruff, III  
Priya K. Jesani  
Michael Patrick Turiello  
PRETZEL & STOUFFER, Chtd.  
One South Wacker Drive  
Suite 2200  
Chicago, IL 60606-4673  
Telephone: (312) 346-1973  
Email: [eruff@pretzel-stouffer.com](mailto:eruff@pretzel-stouffer.com)  
[pjesani@pretzel-stouffer.com](mailto:pjesani@pretzel-stouffer.com)

***Menu Foods Acquisition Inc.***

***Menu Foods Holdings, Inc.***

***Menu Foods Income Fund***

***Menu Foods Limited***

***Menu Foods Limited Partnership***

***Menu Foods Midwest Corporation***

***Menu Foods Operating Trust***

***Menu Foods, Inc.***

---

**Lead Attorney Representing actions filed in  
Nevada**

Charles W. Spann  
PERRY & SPANN  
6130 Plumas Street  
Reno, NV 89509  
Telephone: (775) 829-2002  
Facsimile: (705) 829-1808  
Email: [cspann@perryspann.com](mailto:cspann@perryspann.com)

---

***Menu Foods, Inc.***

***Menu Foods Income Fund***

**Lead Attorney Representing actions filed in Rhode  
Island**

Thomas C. Angelone  
HODOSH, SPINELLA & ANGELONE PC  
One Turks Head Place, Suite 1050  
Providence, RI 02903  
Telephone: (401) 274-0200  
Facsimile: (401) 274-7538  
Email: [angelonelaw@aol.com](mailto:angelonelaw@aol.com)

---

***Menu Foods Income Fund***

***Menu Foods Midwest Corporation***

***Menu Foods South Dakota, Inc.***

***Menu Foods, Inc.***

---

**Lead Attorney Representing actions filed in Maine** *Menu Foods Inc.*  
Paul C. Catsos *Menu Foods Income Fund*  
THOMPSON & BOWIE *Menu Foods Limited*  
3 Canal Plaza *Menu Foods Midwest Corporation*  
P.O. Box 4630  
Portland, ME 04112  
Telephone: 774-2500  
Email: [pcatsos@thompsonbowie.com](mailto:pcatsos@thompsonbowie.com)

---

**Lead Attorney Representing actions filed in Tennessee** *Menu Foods Inc.*  
*Menu Foods Income Fund*  
Jeffrey R. Thompson  
O'NEIL, PARKER & WILLIAMSON  
P.O. Box 217  
Knoxville, TN 37901-0217  
Telephone: (865) 546-7190  
Facsimile: (865) 546-0789  
Email: [jthompson@opw.com](mailto:jthompson@opw.com)

---

**Lead Attorneys Representing actions filed in California** *Menu Foods Holding Inc.*  
*Menu Foods, Inc.*  
Susan Moriarty Hack  
HIGGS FLETCHER AND MACK  
401 West A Street, Suite 2600  
San Diego, CA 92101  
Telephone: (619) 236-1551  
Facsimile: (619) 696-1410  
Email: [hack@higglaw.com](mailto:hack@higglaw.com)

---

Don Howarth *The Iams Company*  
Suzelle M. Smith *The Proctor & Gamble Company*  
HOWARTH & SMITH  
523 West Sixth Street, Suite 728  
Los Angeles, CA 90014  
Telephone: (213) 955-9400  
Email: [dhowarth@howarth-smith.com](mailto:dhowarth@howarth-smith.com)  
[ssmith@howarth-smith.com](mailto:ssmith@howarth-smith.com)

---

---

Mordecai D. Boone  
GORDON & REES LLP  
275 Battery Street, 20th Floor  
San Francisco, CA 94111  
Telephone: (415) 986-5900  
Facsimile: (415) 986-8054  
Email: [mboone@gordonrees.com](mailto:mboone@gordonrees.com)

*Menu Foods Income Fund*  
*Menu Foods Midwest Corporation*  
*Menu Foods South Dakota Inc.*  
*Menu Foods, Inc.*

---

Jean M. Lawler  
Gina E. Och  
MURCHISON AND CUMMING  
Chase Plaza  
801 S. Grand Avenue, 9th Floor  
Los Angeles, CA 90017-4613  
Telephone: (213) 623-7400  
Facsimile: (213) 623-6336  
Email: [goch@murchison-cumming.com](mailto:goch@murchison-cumming.com)

*Foods, Inc.*  
*Menu Foods Income Fund*  
*Menu Foods Limited*  
*Menu Foods Midwest Corp.*  
*Menu Foods Operating Limited Partnership*  
*Menu Foods, Inc.*  
*Petco Animal Supplies Inc.*  
*The IAMS Company*

---

Gary L. Justice  
William E. Wegner  
GIBSON DUNN AND CRUTCHER  
333 S. Grand Ave.  
Los Angeles, CA 90071-3197  
Telephone: (213) 229-7000  
Email: [wwegner@gibsondunn.com](mailto:wwegner@gibsondunn.com)

*Nutro Products*

---

Robert Troyer  
HOGAN & HARTSON LLP  
One Tabor Center  
1200 Seventeenth Street, Suite 1500  
Denver, CO 80202  
Telephone: (303)899-7300  
Facsimile: (303) 899-7333

*Nestle*

<b>Additional Defendants</b>	
------------------------------	--

Menu Foods Gen Par Limited c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	Menu Foods Limited Partnership c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
Menu Foods Operating Partnership c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801	Wal-Mart Stores, Inc. c/o The Corporation Company 425 W. Capitol Avenue, Suite 1700 Little Rock, AR 72201
Eukanuba One Proctor & Gamble Plaza C-2 Cincinnati, OH 45202	Xuzhou Anying Biologic Technology Development Co. Ltd c/o Mr. Mao Lujun Wangdian Industrial Pei County Jiangsu Xuzhou, Jiangsu, P. R. China
Suzhou Textile Import and Export Company 201 Zhuhui Road Suzhou, Jiangsu, China 215006	Nestle USA, Inc. Nestle Holdings, Inc. c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
Nestle Purina Petcare Co. c/o CT Corporation System 120 South Central Avenue Clayton, MO 63105	Nestle, S.A. c/o Nestlé USA, Inc. 800 North Brand Blvd. Glendale, CA 91203
Chemnutra, Inc. c/o National Registered Agents, Inc. 160 Greentree Drive, Suite 101 Dover, DE 19904	

David L. Lillehaug  
FREDRIKSON & BYRON, P.A.  
200 S. Sixth Street, Suite 4000  
Minneapolis, MN 55402

*Counsel For The Menu Food Entities*

Barbara L. Croutch  
PILLSBURY WINTHROP SHAW PITTMAN LLP  
725 S. Figueroa Street, Suite 2800  
Los Angeles, CA 90017-5406

*Counsel For Petco*

Charles H. Abbott III  
 GIBSON DUNN & CRUTCHER LLP  
 333 S. Grand Avenue  
 Los Angeles, CA 90071-3197

*Counsel For Nutro Products, Inc.*

Gerard H. Hanson  
 HILL WALLACK  
 202 Carnegie Center  
 Princeton, NJ 08543-5226  
 Telephone: (609) 924-0808  
 Email: [ghh@hillwallack.com](mailto:ghh@hillwallack.com)

*Chemnutra, Inc.*

**Attorneys for Plaintiffs**

Jason M. Hatfield  
 LUNDY & DAVIS, LLP  
 300 North College Avenue, Suite 309  
 Fayetteville, AR 72701  
 Telephone: (479) 527-3921  
 Facsimile: (479) 587-9196  
 Email: [jhatfield@lundydavis.com](mailto:jhatfield@lundydavis.com)

*Sims v. Menu Foods*  
*5:07-cv-05053-JLH*  
*W.D. Arkansas*

Richard A. Adams  
 PATTON, ROBERTS, McWILLIAMS &  
 CAPSHAW  
 2900 Saint Michael Drive, Suite 400  
 Texarkana, TX 75503  
 Telephone: (903) 334-7107  
 Facsimile: (903) 334-7007  
 Email: [radams@pattonroberts.com](mailto:radams@pattonroberts.com)

*Widen v. Menu Foods*  
*5:07-cv-05055-RTD*  
*W.D Arkansas*

Jeremy Y. Hutchinson  
 Jack T. Patterson, II  
 PATTON, ROBERTS, McWILLIAMS &  
 CAPSHAW  
 111 Center Street, Suite 1315  
 Little Rock, AR 72201  
 Telephone: (501) 372-3480  
 Facsimile: (501) 372-3488  
 Email: [jhutchinson@pattonroberts.com](mailto:jhutchinson@pattonroberts.com)

Timothy Chad Hutchinson  
 WILLIAMS & HUTCHINSON, LLP  
 5417 Pinnacle Point Drive, Suite 500  
 Rogers, AR 72758  
 Telephone: (479) 464-4944  
 Facsimile: (479) 464-4946  
 Email: [thutchinson@whs-lawfirm.com](mailto:thutchinson@whs-lawfirm.com)

Sean F. Rommel  
PATTON, ROBERTS, McWILLIAMS, GREER &  
CAPSHAW, LLP  
P.O. Box 6128  
2900 St. Michael Drive  
Texarkana, TX 75505-6128  
Telephone: (903) 334-7000  
Facsimile: (903) 334-7007  
Email: [srommel@pattonroberts.com](mailto:srommel@pattonroberts.com)

James C. Wyly  
PATTON, ROBERTS, McWILLIAMS &  
CAPSHAW, LLP  
P. O. Box 6128  
Texarkana, TX 75505  
Telephone: (903) 334-7000  
Facsimile: (903) 334-7007  
Email: [jwyly@pattonroberts.com](mailto:jwyly@pattonroberts.com)

---

Jason M. Hatfield  
LUNDY & DAVIS, LLP  
300 North College Avenue, Suite 309  
Fayetteville, AR 72701  
Telephone: (479) 527-3921  
Facsimile: (479) 587-9196  
Email: [jhatfield@lundydavis.com](mailto:jhatfield@lundydavis.com)

*Cooper v. Menu Foods*  
4:07-cv-04036-HFB  
*W.D Arkansas*

---

William Gene Horton  
NOLAN, CADDELL & REYNOLDS, PA  
P.O. Box 184  
Fort Smith, AR 72902  
Telephone: (479) 782-5297  
Facsimile: (479) 782-5194  
Email: [bhorton@justicetoday.com](mailto:bhorton@justicetoday.com)

*Gray v. Menu Foods*  
5:07-cv-05065-RTD  
*W.D. Arkansas*

---

Jeffrey B. Cereghino  
BERDING AND WEIL  
3240 Stone Valley Road West  
Alamo, CA 94507  
Telephone: (925) 838-2090  
Facsimile: (925) 820-5592  
Email:

*Swarberg v. Menu Foods*  
3:07-cv-00706-BTM-POR

Eric Benink  
KRAUSE KALFAYAN BENINK AND SLAVENS  
625 Broadway, Suite 635  
San Diego, CA 92101  
Telephone (619) 232-0331  
Facsimile: (619) 232-4019

*Payne v. Menu Foods*  
*3:07-cv-00705-JAH-CAB*

Mark J. Tamblyn  
WEXLER TORISEVA WALLACE  
1610 Arden Way, Suite 290  
Sacramento, CA 95815  
Telephone: (916) 568-1100  
Email: [mjt@wtwlaw.us](mailto:mjt@wtwlaw.us)

*Sexton v. Menu Foods*  
*07-cv-01958-GHK-AJW*  
*C.D. California*

Stuart Talley  
KERSHAW CUTTER RATINOFF & YORK  
980 9th Street, 19th floor  
Sacramento, CA 95814  
Telephone: (916) 448-9800  
Facsimile: (916) 669-4499

Jeff S. Westerman  
Sabrina S. Kim  
MILBERG WEISS & BERSHAD LLP  
One California Plaza  
300 S. Grand Avenue, Suite 3900  
Los Angeles, CA 90071  
Telephone: (213) 617-1200  
Facsimile: (213) 617-1200  
Email: [jwesterman@milbergweiss.com](mailto:jwesterman@milbergweiss.com)  
[skim@milbergweiss.com](mailto:skim@milbergweiss.com)

*Howe v. Menu Foods*  
*2:07-cv-02060-SJO-PLA*  
*C. D. California*

Jeff S. Westerman  
Sabrina S. Kim  
Cheryl A. Williams  
Michiyo Michelle Furukawa  
MILBERG WEISS & BERSHAD LLP  
One California Plaza  
300 S. Grand Avenue, Suite 3900  
Los Angeles, CA 90071  
Telephone: (213) 617-1200  
Facsimile: (213) 617-1200  
Email: [jwesterman@milbergweiss.com](mailto:jwesterman@milbergweiss.com)  
[skim@milbergweiss.com](mailto:skim@milbergweiss.com)

*Townsend v. Menu Foods*  
*5:07-cv-00398-GHK-AJW*  
*C.D. California*

---

Jeff S. Westerman  
Sabrina S. Kim  
Cheryl A. Williams  
Michiyo Michelle Furukawa  
MILBERG WEISS & BERSHAD LLP  
One California Plaza  
300 S. Grand Avenue, Suite 3900  
Los Angeles, CA 90071  
Telephone: (213) 617-1200  
Facsimile: (213) 617-1200  
Email: [jwesterman@milbergweiss.com](mailto:jwesterman@milbergweiss.com)  
[skim@milbergweiss.com](mailto:skim@milbergweiss.com)

---

*Chamberlain v. Nestle SA*  
2:07-cv-02476-FMC-SS  
C.D. California

James L. Davidson  
Paul J. Geller  
Stuart Andrew Davidson  
LERACH COUGHLIN STOIA GELLER RUDMAN  
& ROBBINS  
120 E. Palmetto Park Rd., Suite 500  
Boca Raton, FL 33432  
Telephone: (561) 750-3000  
Facsimile: (561) 750-3364  
Email: [jdavidson@lerachlaw.com](mailto:jdavidson@lerachlaw.com)  
[sdavidson@lerachlaw.com](mailto:sdavidson@lerachlaw.com)  
[pgeller@lerachlaw.com](mailto:pgeller@lerachlaw.com)  
[shawnw@lerachlaw.com](mailto:shawnw@lerachlaw.com)

*Ingles v. Menu Foods*  
3:07-cv-01809-MMC  
N.D. California

Shawn A. Williams  
LERACH COUGHLIN STOIA GELLER RUDMAN  
& ROBBINS  
100 Pine Street, Suite 2600  
San Francisco, CA 94111

---

Robert M. Churella  
Robert K. Friedl  
Michael L. Kelly  
KIRTLAND & PACKARD  
2361 Rosecrans Ave., 4th Floor  
El Segundo, CA 90245  
Telephone: (310) 536-1000  
Email: [rmc@kirtland-packard.com](mailto:rmc@kirtland-packard.com)  
[rkf@kirtlandpackard.com](mailto:rkf@kirtlandpackard.com)  
[michaellkelly@earthlink.net](mailto:michaellkelly@earthlink.net)

*Paul Randolph Johnson v. Menu Foods*  
2:07-cv-01987-GHK-AJW  
C.D. California

---

Andrew H. Friedman  
Gregory D. Helmer  
HELMER AND SMITH  
723 Ocean Front Walk  
Venice, CA 90292  
Telephone: (310) 396-7714

*Grady v. Menu Foods*  
2:07-cv-02253-DDP-PLA  
C.D. California

Paul L. Hoffman  
Michael S. Morrison  
Michael D. Seplow  
SCHONBRUN DeSIMONE SEPLOW HARRIS  
AND HOFFMAN  
723 Ocean Front Walk, Suite 100  
Venice, CA 90291-3270  
Telephone: (310) 396-0731  
Facsimile: (310) 399-7040  
Email: [hoffpaul@aol.com](mailto:hoffpaul@aol.com)

---

Thomas M. Ferlauto  
William T. King  
KING & FERLAUTO  
1880 Century Park East, Suite 820  
Los Angeles, CA 90067-1627  
Telephone: (310) 552-3366  
Email: [ferlauto@pacbell.net](mailto:ferlauto@pacbell.net)

*Finestone v. Menu Foods*  
2:07-cv-02338-CAS-CW  
C.D. California

---

Bruce E. Newman  
Kevin Edward Creed  
NEWMAN, CREED & ASSOCIATES  
P.O. Box 575  
Bristol, CT 06011-0575  
Telephone: (860) 583-5200  
Facsimile: (860) 582-0012  
Email: [bnewman@newmancreedlaw.com](mailto:bnewman@newmancreedlaw.com)  
[kcreed@newmancreedlaw.com](mailto:kcreed@newmancreedlaw.com)

*Osborne v. Menu Foods*  
07-cv-00469-RNC  
D. Connecticut

---

Debra Lynn Waldhauer - *pro per*  
Satoru Waldhauer  
159 N. Audrey Circle NW  
Fort Walton Beach, FL 32548  
Telephone: (850) 243-8974

*Waldhauer v. Menu Foods*  
3:07-cv-00131-MCR-EMT  
N.D. Florida

---

James Lee Davidson  
Paul Jeffrey Geller  
Stuart Andrew Davidson  
LERACH COUGHLIN STOIA GELLER RUDMAN  
& ROBBINS  
120 E. Palmetto Park Rd., Suite 500  
Boca Raton, FL 33432  
Telephone: (561) 750-3000  
Facsimile: (560) 750-3364  
Email: [jdavidson@lerachlaw.com](mailto:jdavidson@lerachlaw.com)  
[sdavidson@lerachlaw.com](mailto:sdavidson@lerachlaw.com)  
[pgeller@lerachlaw.com](mailto:pgeller@lerachlaw.com)

*Troiano v. Menu Foods*  
*0:07-cv-60428-JJC*  
*S.D. Florida*

Lawrence M. Kopelman  
KOPELMAN & BLANKMAN  
350 E. Las Olas Blvd., Suite 980  
Fort Lauderdale, FL 33301  
Telephone: (954) 462-6855  
Facsimile: (954) 462-6899

---

Scott Wm. Weinstein  
MORGAN & MORGAN, PA  
12800 University Drive, Suite 600  
P.O. Box 9504  
Ft. Myers, FL 33906  
Telephone: (239) 433-6880  
Facsimile: (239) 433-6836  
Email: [sweinstein@forthepeople.com](mailto:sweinstein@forthepeople.com)

*Ferrarese v. Menu Foods*  
*2:07-cv-00235-JES-DNF*  
*M.D. Florida*

Gary E. Mason  
THE MASON LAW FIRM, P.C.  
1225 19th Street NW, Suite 500  
Washington, DC 20036  
Telephone: (202) 429-2290  
Facsimile: (202) 429-2294  
Email: [gmason@masonlawdc.com](mailto:gmason@masonlawdc.com)

---

Scott Rhead Shepherd  
SHEPHERD FINKELMAN MILLER & SHAH  
4400 N. Federal Highway  
Lighthouse Point, FL 33064-1717  
Telephone: (954) 943-9191  
Facsimile: (954) 943-9173  
Email: [sshepherd@classactioncounsel.com](mailto:sshepherd@classactioncounsel.com)

*Donnelly v. Menu Foods*  
*1:07-cv-20955-JAL*  
*S.D. Florida*

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Bruce S. Bistline  
Philip Howard Gordon  
GORDON LAW OFFICES  
623 W. Hays  
Boise, ID 83702-5512  
Telephone: (208) 345-7100  
Facsimile: (208) 345-0050  
Email: [bbistline@gordonlawoffices.com](mailto:bbistline@gordonlawoffices.com)  
[pgordon@gordonlawoffices.com](mailto:pgordon@gordonlawoffices.com)

*Klimes v. Menu Foods*  
*1:07-cv-00160-MHW*  
*D. Idaho*

Mick Hodges  
PETERSON HODGES & HARPER  
P.O. Box 3088  
Twin Falls, ID 83303-5298  
Telephone: (208) 733-5500  
Email: [mick76hodges@aol.com](mailto:mick76hodges@aol.com)

---

John Blim  
Jay Edelson  
BLIM & EDELSON, LLC  
53 West Jackson Blvd., Suite 1642  
Chicago, IL 60604  
Telephone: (312) 913-9400  
Facsimile: (312) 913-9401  
Email: [john@blimlaw.com](mailto:john@blimlaw.com)  
[jay@blimlaw.com](mailto:jay@blimlaw.com)

*Majerczyk v. Menu Foods*  
*1:07-cv-01543*  
*N.D. Illinois*

Gino L. DiVito  
TABET DiVITO & ROTHSTEIN LLC  
209 S. La Salle Street, 7th Floor  
Chicago, IL 60604  
Telephone: (312) 762-9460  
Email: [gdivito@tdrlawfirm.com](mailto:gdivito@tdrlawfirm.com)

---

Brian R. Cunha  
BRIAN CUNHA & ASSOCIATES  
311 Pine Street  
Fall River, MA 02720  
Telephone: (508) 675-9500  
Facsimile: (508) 679-6565  
Email: [Brian@briancunha.com](mailto:Brian@briancunha.com)

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*Rodrigues v. Menu Foods*  
*1:07-cv-10745-EFH*  
*D. Massachusetts*

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Leonard M. Gulino  
Daniel J. Mitchell  
Theodore A. Small  
Michael R. Bosse  
BERNSTEIN, SHUR  
100 Middle Street  
P.O. Box 9729  
Portland, ME 04104-5029  
Telephone: (207) 774-1200  
Email: [lgulino@bssn.com](mailto:lgulino@bssn.com)  
[mbossee@bernsteinshur.com](mailto:mbossee@bernsteinshur.com)  
[dmitchell@bernsteinshur.com](mailto:dmitchell@bernsteinshur.com)  
[tsmall@bernsteinshur.com](mailto:tsmall@bernsteinshur.com)

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*Brazilian v. Menu Foods Income Fund*  
*2:07-cv-00054-GZS*  
*D. Maine*

Brian O. O'Mara  
O'MARA LAW FIRM, P.C.  
311 E. Liberty Street  
Reno, NV 89501  
Telephone: (775) 323-1321  
Facsimile: (775) 323-4082  
Email: [brian@omaralaw.net](mailto:brian@omaralaw.net)

---

*Streczyn v. Menu Foods*  
*3:07-cv-00159-LRH-VPC*  
*D. Nevada*

Bruce Daniel Greenberg  
Allyn Zissel Lite  
LITE, DEPALMA, GREENBERG & RIVAS, LLC  
Two Gateway Center, 12th Floor  
Newark, NJ 07102  
Telephone: (973) 623-3000  
Email: [bgreenberg@ldgrlaw.com](mailto:bgreenberg@ldgrlaw.com)  
[alite@ldgrlaw.com](mailto:alite@ldgrlaw.com)

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*Richard & Kohler v. Menu Foods*  
*1:07-cv-01457-NLH-AMD*  
*D. New Jersey*

Donna Siegel Moffa  
TRUJILLO RODRIGUEZ & RICHARDS  
8 Kings Highway West  
Haddonfield, NJ 08033  
Telephone: (856) 795-9002  
Email: [donna@trrlaw.com](mailto:donna@trrlaw.com)

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*Workman v. Menu Foods*  
*1:07-cv-01338-NLH-AMD*  
*D. New Jersey*

Sherrie R. Savett  
Michael T. Fantini  
Russell D. Paul  
BERGER & MONTAGUE, P.C.  
1622 Locust Street  
Philadelphia, PA 19103

---

---

Gregg D. Trautmann  
TRAUTMANN & ASSOCIATES, LLC  
262 East Main Street  
Rockaway, NJ 07866  
Telephone: (973) 316-8100  
Email: [gdt@trautmann.com](mailto:gdt@trautmann.com)

*Thomson v. Menu Foods*  
*1:07-cv-01360-PGS-RJH*  
*D. New Jersey*

---

Alan E. Sash  
McLAUGHLIN & STERN, LLP  
260 Madison Avenue  
New York, NY 10016  
Telephone: (212) 448-1100  
Facsimile: (212) 448-0066  
Email: [asash@mclaughlinstern.com](mailto:asash@mclaughlinstern.com)

*Tinker v. Menu Foods*  
*1:07-cv-01468-NLH-AMD*  
*D. New Jersey*

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Arthur N. Abbey  
Stephen T. Rodd  
Orin Kurtz  
ABBEY SPANIER RODD ABRAMS & PARADIS  
212 East 39th Street  
New York, NY 10016

---

Joseph J. DePalma  
LITE, DEPALMA, GREENBERG & RIVAS, LLC  
Two Gateway Center, 12th Floor  
Newark, NJ 07102-5003  
Telephone: (973) 623-3000  
Email: [jdepalma@ldgrlaw.com](mailto:jdepalma@ldgrlaw.com)

*Richard v. Menu Foods*  
*1:07-cv-01457-NLH-AMD*  
*D. New Jersey*

---

Joseph J. DePalma  
LITE, DEPALMA, GREENBERG & RIVAS, LLC  
Two Gateway Center, 12th Floor  
Newark, NJ 07102-5003  
Telephone: (973) 623-3000  
Email: [jdepalma@ldgrlaw.com](mailto:jdepalma@ldgrlaw.com)

*Wilson v. Menu Foods*  
*1:07-cv-01456-NLH-AMD*  
*D. New Jersey*

Mark J. Tamblyn  
WEXLER TORISEVA WALLACE  
1610 Arden Way, Suite 290  
Sacramento, CA 95815

Kenneth A. Wexler  
WEXLER TORISEVA WALLACE  
One North La Salle Street, Suite 2000  
Chicago, IL 60602

KERSHAW CUTTER & RATINOFF, LLP  
980 9th Street, 19th Floor  
Sacramento, CA 95814

---

Michael A. Ferrara, Jr.  
THE FERRARA LAW FIRM, LLC  
601 Longwood Avenue  
Cherry Hill, NJ 08002  
Telephone: (856) 779-9500  
Email: [mferrara@ferraralawfirm.com](mailto:mferrara@ferraralawfirm.com)

*Bonier v. Menu Foods*  
1:07-cv-01477-NLH-AMD  
D. New Jersey

William M. Audet  
Michael McShane  
Kevin L. Thomason  
AUDET & PARTNERS, LLP  
221 Main Street, Suite 1460  
San Francisco, CA 94105

---

Joseph J. DePalma  
LITE, DEPALMA, GREENBERG & RIVAS, LLC  
Two Gateway Center, 12th Floor  
Newark, NJ 07102-5003  
Telephone: (973) 623-3000  
Email: [jdepalma@ldgrlaw.com](mailto:jdepalma@ldgrlaw.com)

*Hidalgo v. Menu Foods*  
1:07-cv-01488-NLH-AMD  
D. New Jersey

James Lee Davidson  
Paul Jeffrey Geller  
LERACH COUGHLIN STOIA GELLER RUDMAN  
& ROBBINS  
120 E. Palmetto Park Rd., Suite 500  
Boca Raton, FL 33432

---

Joseph J. DePalma  
LITE, DEPALMA GREENBERG & RIVAS, LLC  
Two Gateway Center, 12th Floor  
Newark, NJ 07102-5003  
Telephone: (973) 623-3000  
Email: [jdepalma@ldgrlaw.com](mailto:jdepalma@ldgrlaw.com)

*Nunez v. Menu Foods*  
1:07-cv-1490-NLH  
D. New Jersey

Jeff S. Westerman  
Sabrina S. Kim  
Cheryl A. Williams  
Michiyo Michelle Furukawa  
MILBERG WEISS & BERSHAD LLP  
One California Plaza  
300 S. Grand Avenue, Suite 3900  
Los Angeles, CA 90071

---

---

Joseph J. DePalma  
LITE, DEPALMA, GREENBERG & RIVAS, LLC  
Two Gateway Center, 12th Floor  
Newark, NJ 07102-5003  
Telephone: (973) 623-3000  
Email: [jdepalma@ldgrlaw.com](mailto:jdepalma@ldgrlaw.com)

*Gagliardi v. Menu Foods*  
*1:07-cv-01522-NLH-AMD*  
*D. New Jersey*

James Lee Davidson  
Paul Jeffrey Geller  
Stuart Andrew Davidson  
LERACH COUGHLIN STOIA GELLER RUDMAN  
& ROBBINS  
120 E. Palmetto Park Rd., Suite 500  
Boca Raton, FL 33432

---

Joseph J. DePalma  
LITE, DEPALMA, GREENBERG & RIVAS, LLC  
Two Gateway Center, 12th Floor  
Newark, NJ 07102  
Telephone: (973) 623-3000  
Email: [jdepalma@ldgrlaw.com](mailto:jdepalma@ldgrlaw.com)

*Golding v. Menu Foods*  
*1:07-cv-01521-NLH-AMD*  
*D. New Jersey*

Jeff S. Westerman  
Sabrina S. Kim  
Cheryl A. Williams  
Michiyo Michelle Furukawa  
MILBERG WEISS & BERSHAD LLP  
One California Plaza  
300 S. Grand Avenue, Suite 3900  
Los Angeles, CA 90071

---

Joseph J. DePalma  
LITE, DEPALMA, GREENBERG & RIVAS, LLC  
Two Gateway Center, 12th Floor  
Newark, NJ 07102-5003  
Telephone: (973) 623-3000  
Email: [jdepalma@ldgrlaw.com](mailto:jdepalma@ldgrlaw.com)

*Turturro v. Menu Foods*  
*1:07-cv-01523-NLH-AMD*  
*D. New Jersey*

James Lee Davidson  
Paul Jeffrey Geller  
Stuart Andrew Davidson  
LERACH COUGHLIN STOIA GELLER RUDMAN  
& ROBBINS  
120 E. Palmetto Park Rd., Suite 500  
Boca Raton, FL 33432

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---

Donna Siegel Moffa  
TRUJILLO, RODRIGUEZ & RICHARDS LLP  
8 Kings Highway West  
Haddonfield, NJ 08033  
Telephone: (856) 795-9002  
Email: [donna@trrlaw.com](mailto:donna@trrlaw.com)

*Schneider v. Menu Foods*  
*1:07-cv-01533-NLH-AMD*  
*D. New Jersey*

Sherrie R. Savett  
Michael T. Fantini  
Russell D. Paul  
BERGER & MONTAGUE, P.C.  
1622 Locust Street  
Philadelphia, PA 19103

Robert A. Rovner  
Jeffrey Zimmerman  
ROVNER, ALLEN, ROVNER ZIMMERMAN &  
NASH  
175 Bustleton Pike  
Feasterville, PA 19053-6456

---

Michael A. Ferrara, Jr.  
THE FERRARA LAW FIRM, LLC  
601 Longwood Avenue  
Cherry Hill, NJ 08002  
Telephone: (856) 779-9500  
Email: [mferrara@ferraralawfirm.com](mailto:mferrara@ferraralawfirm.com)

*Berndl v. Menu Foods*  
*1:07-cv-01553-NLH-AMD*  
*D. New Jersey*

---

Gary S. Graifman  
KANTROWITZ, GOLDHAMMER & GRAIFMAN,  
ESQS.  
210 Summit Avenue  
Montvale, NY 07645  
Telephone: (201) 391-7000  
Email: [ggraifman@kgglaw.com](mailto:ggraifman@kgglaw.com)

*Pittsonberger v. Menu Foods*  
*07-cv-01561-NLH-AMD*  
*D. New Jersey*

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Robert Kaplan  
Linda Nussbaum  
Christine M. Fox  
KAPLAN FOX & KILSHEIMER LLP  
805 Third Avenue, 22nd Floor  
New York, NY 10022

---

William J. Pinilis  
KAPLAN FOX & KILSHEIMER LLP  
237 South Street  
Morristown, NJ 07962  
Telephone: (973) 401-1111  
Email: [wpinilis@kaplanfox.com](mailto:wpinilis@kaplanfox.com)

*Carter v. Menu Foods*  
*1:07-cv-01562-NLH-AMD*  
*D. New Jersey*

William J. Pinilis  
KAPLAN FOX & KILSHEIMER LLP  
237 South Street  
Morristown, NJ 07962  
Telephone: (973) 401-1111  
Email: [wpinilis@kaplanfox.com](mailto:wpinilis@kaplanfox.com)

*Bullock v. Menu Foods*  
*1:07-cv-01579-NLH-AMD*  
*D. New Jersey*

Laurence D. King  
KAPLAN FOX & KILSHEIMER LLP  
555 Montgomery Street, Suite 1501  
San Francisco, CA 94111

Todd M. Schneider  
SCHNEIDER & WALLACE  
180 Montgomery Street, Suite 2000  
San Francisco, CA 94104

Gary E. Mason  
Donna F. Sollen  
THE MASON LAW FIRM, LLP  
1225 19th Street, NW Suite 500  
Washington, DC 20036

Gary S. Graifman  
KANTROWITZ, GOLDHAMMER & GRAIFMAN  
210 Summit Avenue  
Montvale, NY 07645

Jeffrey A. Wigodsky  
KARP, FROSH, LAPIDUS, WIGODSKY &  
NORWIND  
1133 Connecticut Ave. NW, Suite 250  
Washington, DC 20036

Joseph M. Vanek  
VANEK, VICKERS & MASINI  
111 S. Wacker Drive, Suite 4050  
Chicago, IL 60606

---

James C. Shah  
SHEPHERD, FINKELMAN, MILLER & SHAH,  
LLC  
475 White Horse Pike  
Collingswood, NJ 08107-1909  
Telephone: (856) 858-1770  
Facsimile: (856) 858-7012  
Email: [jshah@classactioncounsel.com](mailto:jshah@classactioncounsel.com)

---

*Christina Johnson v. Menu Foods*  
*1:07-cv-01610-NLH-AMD*  
*D. New Jersey*

Scott A. George  
SEEGER WEISS, LLP  
550 Broad Street, Suite 920  
Newark, NJ 07102  
Telephone: (973) 639-9100  
Email: [sgeorge@seegerweiss.com](mailto:sgeorge@seegerweiss.com)

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*Conner v. Menu Foods*  
*1:07-cv-01623-NLH-AMD*  
*D. New Jersey*

Donna Siegel Moffa  
TRUJILLO RODRIGUEZ & RICHARDS  
8 Kings Highway West  
Haddonfield, NJ 08033  
Telephone: (856) 795-9002  
Email: [donna@trrlaw.com](mailto:donna@trrlaw.com)

---

*Long v. Menu Foods*  
*1:07-01624-NLH-AMD*  
*D. New Jersey*

Donna Siegel Moffa  
TRUJILLO RODRIGUEZ & RICHARDS  
8 Kings Highway West  
Haddonfield, NJ 08033  
Telephone: (856) 795-9002  
Email: [donna@trrlaw.com](mailto:donna@trrlaw.com)

---

*Conti v. Menu Foods*  
*1:07-cv-01638-NLH-AMD*  
*D. New Jersey*

Joseph J. DePalma  
LITE, DEPALMA, GREENBERG & RIVAS, LLC  
Two Gateway Center, 12th Floor  
Newark, NJ 07102-5003  
Telephone: (973) 623-3000  
Email: [jdepalma@ldgrlaw.com](mailto:jdepalma@ldgrlaw.com)

---

*Freeman v. Menu Foods*  
*1:07-cv-01646-NLH-AMD*  
*D. New Jersey*

William J. Pinilis  
KAPLAN FOX & KILSHEIMER LLP  
237 South Street  
Morristown, NJ 07962  
Telephone: (973) 401-1111  
Email: [wpinilis@kaplanfox.com](mailto:wpinilis@kaplanfox.com)

---

*Pirches v. Menu Foods*  
*1:07-cv-01685-NLH-AMD*  
*D. New Jersey*

Joseph J. DePalma  
LITE, DEPALMA, GREENBERG & RIVAS, LLC  
Two Gateway Center, 12th Floor  
Newark, NJ 07102-5003  
Telephone: (973) 623-3000  
Email: [jdepalma@ldgrlaw.com](mailto:jdepalma@ldgrlaw.com)

*Diedrich v. Menu Foods*  
1:07-cv-01700-NLH-AMD  
D. New Jersey

Joseph J. DePalma  
LITE, DEPALMA, GREENBERG & RIVAS, LLC  
Two Gateway Center, 12th Floor  
Newark, NJ 07102-5003  
Telephone: (973) 623-3000  
Email: [jdepalma@ldgrlaw.com](mailto:jdepalma@ldgrlaw.com)

*Sokolowski v. Menu Foods*  
1:07-cv-01709-NLH-AMD  
D. New Jersey

Joseph J. DePalma  
LITE, DEPALMA, GREENBERG & RIVAS, LLC  
Two Gateway Center, 12th Floor  
Newark, NJ 07102-5003  
Telephone: (973) 623-3000  
Email: [jdepalma@ldgrlaw.com](mailto:jdepalma@ldgrlaw.com)

*McCullouch v. Menu Foods*  
1:07-cv-01710-NLH-AMD  
D. New Jersey

Joseph J. DePalma  
LITE, DEPALMA, GREENBERG & RIVAS, LLC  
Two Gateway Center, 12th Floor  
Newark, NJ 07102-5003  
Telephone: (973) 623-3000  
Email: [jdepalma@ldgrlaw.com](mailto:jdepalma@ldgrlaw.com)

*Colquitt v. Menu Foods*  
1:07-cv-01738-NLH-AMD  
D. New Jersey

Joseph J. DePalma  
LITE, DEPALMA, GREENBERG & RIVAS, LLC  
Two Gateway Center, 12th Floor  
Newark, NJ 07102-5003  
Telephone: (973) 623-3000  
Email: [jdepalma@ldgrlaw.com](mailto:jdepalma@ldgrlaw.com)

*Debarthy v. Menu Foods*  
1:07-cv-01739-NLH-AMD  
D. New Jersey

Seth R. Lesser  
LAW OFFICES OF GENE LOCKS, PLLC  
457 Haddonfield Road, Suite 500  
Cherry Hill, NJ 08002  
Telephone: (856) 663-8200  
Email: [slesser@lockslawny.com](mailto:slesser@lockslawny.com)

*Byers v. Menu Foods*  
1:07-cv-01747-NLH-AMD  
D. New Jersey

---

Donna Siegel Moffa  
TRUJILLO RODRIGUEZ & RICHARDS  
8 Kings Highway West  
Haddonfield, NJ 08033  
Telephone: (856) 795-9002  
Email: [donna@trrlaw.com](mailto:donna@trrlaw.com)

*Carestio v. Menu Foods*  
1:07-cv-01762-NLH-AMD  
D. New Jersey

---

John T. Murray  
Dennis E. Murray, Sr.  
Leslie O. Murray  
MURRAY & MURRAY CO., LPA  
111 East Shoreline Drive  
P.O. Box 19  
Sandusky, OH 44870  
Telephone: (419) 624-3000  
Facsimile: (419) 624-0707  
Email: [jotm@murrayandmurray.com](mailto:jotm@murrayandmurray.com)  
[dms@murrayandmurray.com](mailto:dms@murrayandmurray.com)  
[lom@murrayandmurray.com](mailto:lom@murrayandmurray.com)

*Boehm v. Menu Foods*  
1:07-cv-01018-PCE  
D. Ohio

---

Jeremy Gilman  
Nicole Dorsky  
BENESCH, FRIEDLANDER, COPLAN, ARONOFF  
2300 BP Tower  
200 Public Square, Suite 2300  
Cleveland, OH 44114  
Telephone: (216) 363-4593  
Facsimile: (216) 363-4588  
Email: [jgilman@bfca.com](mailto:jgilman@bfca.com)  
[ndorsky@bfca.com](mailto:ndorsky@bfca.com)

---

Peter N. Wasylyk  
PETER N. WASYLYK - ATTORNEY AT LAW  
1307 Chalkstone Avenue  
Providence, RI 02908  
Telephone: 831-7730  
Facsimile: 861-6064  
Email: [pnwlaw@aol.com](mailto:pnwlaw@aol.com)

*Brown v. Menu Foods*  
1:07-cv-00115-ML-LDA  
D. Rhode Island

---

Garrett D. Blanchfield, Jr.  
Mark Reinhardt  
REINHARDT WENDORF & BLANCHFIELD  
332 Minnesota Street, Suite E-1250  
St. Paul, MN 55101  
Telephone: (651) 287-2100  
Email: [g.blanchfield@rwblawfirm.com](mailto:g.blanchfield@rwblawfirm.com)  
[mreinhardt@comcast.net](mailto:mreinhardt@comcast.net)

*Rozman v. Menu Foods Midwest Corp.*  
0:07-cv-01808-ADM-AJB  
Minnesota

---

Andrew S. Kierstead  
LAW OFFICE OF ANDREW S. KIERSTEAD  
1001 SW Fifth Avenue, Suite 1100  
Portland, OR 97204

Marc Stanley  
STANLEY MANDEL & IOLA, LLP  
3100 Monticello Avenue, Suite 750  
Dallas, TX 75205

---

A. James Andrews  
A. JAMES ANDREWS, ATTORNEY AT LAW  
905 Locust Street  
Knoxville, TN 37902  
Telephone: (865) 660-3993  
Facsimile: (865) 523-4623  
Email: [andrewsesq@icx.net](mailto:andrewsesq@icx.net)

Nicole Bass  
905 Locust Street  
Knoxville, TN 37902

Perry A. Craft  
CRAFT & SHEPPARD  
214 Centerview Drive, Suite 233  
Brentwood, TN 37027  
Telephone: (615) 309-1707  
Facsimile: (615) 309-1717  
Email: [perrycraft@crafsheppardlaw.com](mailto:perrycraft@crafsheppardlaw.com)

---

Dan C. Stanley  
Robert R. Kurtz  
STANLEY & KURTZ, PLLC  
422 S. Gay Street, 3rd Floor  
Knoxville, TN 37902  
Telephone: (865) 522-9942  
Facsimile: (865) 522-9945  
Email: [rkurtz@lock-net.com](mailto:rkurtz@lock-net.com)  
[dan@danchanningstanley.com](mailto:dan@danchanningstanley.com)

---

Michael David Myers  
MYERS & COMPANY  
1809 7th Avenue, Suite 700  
Seattle, WA 98101  
Telephone: (206) 398-1188  
Facsimile: (206) 398-1189  
Email: [mmyers@myers-company.com](mailto:mmyers@myers-company.com)

*Holt v. Menu Foods*  
3:07-cv-00094  
E.D. Tennessee

*Light v. Menu Foods*  
3:07-cv-00098  
E.D. Tennessee

*Whaley v. Menu Foods*  
2:07-cv-00411-RSM  
W.D. Washington

Adam Karp  
ANIMAL LAW OFFICES  
114 W. Magnolia Street, Suite 425  
Bellingham, WA 98225-4354  
Telephone: (360) 738-7273  
Facsimile: (360) 392-3936  
Email: [adam@animal-lawyer.com](mailto:adam@animal-lawyer.com)

---

Steve W. Berman  
HAGENS BERMAN SOBOL SHAPIRO  
1301 5th Avenue, Suite 2900  
Seattle, WA 98101  
Telephone: (206) 623-7292  
Email: [steve@hbsslaw.com](mailto:steve@hbsslaw.com)

*Heller v. Menu Foods*  
2:07-cv-00453-JCC  
W.D. Washington

Michael David Myers  
MYERS & COMPANY  
1809 7th Avenue, Suite 700  
Seattle, WA 98101  
Telephone: (206) 398-1188  
Facsimile: (206) 398-1189  
Email: [mmyers@myers-company.com](mailto:mmyers@myers-company.com)

---

Steve W. Berman  
HAGENS BERMAN SOBOL SHAPIRO  
1301 5th Avenue, Suite 2900  
Seattle, WA 98101  
Telephone: (206) 623-7292  
Email: [steve@hbsslaw.com](mailto:steve@hbsslaw.com)

*Kornelius v. Menu Foods*  
2:07-cv-00454-MJP  
W.D. Washington

Michael David Myers  
MYERS & COMPANY  
1809 7th Avenue, Suite 700  
Seattle, WA 98101  
Telephone: (206) 398-1188  
Facsimile: (206) 398-1189  
Email: [mmyers@myers-company.com](mailto:mmyers@myers-company.com)

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Steve W. Berman  
HAGENS BERMAN SOBOL SHAPIRO  
1301 5th Avenue, Suite 2900  
Seattle, WA 98101  
Telephone: (206) 623-7292  
Email: [steve@hbsslaw.com](mailto:steve@hbsslaw.com)

*Johnson v. Menu Foods*  
2:07-cv-00455-JCC  
W.D. Washington

Adam Karp  
 ANIMAL LAW OFFICES  
 114 W. Magnolia Street, Suite 425  
 Bellingham, WA 98225-4354  
 Telephone: (360) 738-7273  
 Facsimile: (360) 392-3936  
 Email: [adam@animal-lawyer.com](mailto:adam@animal-lawyer.com)

*Suggett v. Menu Foods*  
 2:07-cv-00457-RSM  
 W. D. Washington

Jennifer Reba Thomaidis  
 THOMAIDIS LAW, LLC  
 1866 Vine Street  
 Denver, CO 80206  
 Telephone: (303) 322-4355  
 Facsimile: (303) 322-4354  
 Email: [Jennifer@thomaidislaw.com](mailto:Jennifer@thomaidislaw.com)

*Tompkins v. Menu Foods*  
 1:07-cv-00736-JLK  
 D. Colorado

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