

52. Through Defendants' marketing, labeling, and sales, Defendants knew that Plaintiffs and Class members would purchase the recalled pet food at issue for the ordinary purpose of feeding their pets.

53. Defendants manufactured, labeled, advertised, sold, and distributed the recalled pet foods at issue for the ordinary purpose for which it was purchased by Plaintiffs.

54. Plaintiffs and Class members purchased and used the recalled pet foods for the ordinary purposes for which such goods are sold, namely feeding them to their pets.

55. Plaintiffs and Class members relied upon Defendants' representations and claims in purchasing the recalled pet foods.

56. The recalled pet foods purchased by Plaintiffs and Class members were unfit for their ordinary purpose when sold. In fact, such pet foods were contaminated and caused severe illness and/or death of the pets that consumed them. Therefore, Defendants breached the implied warranty of merchantability in the sale of the recalled pet foods at issue.

57. Plaintiffs and members of the Class sustained damages as a proximate result of said breach of warranty.

COUNT III - NEGLIGENCE

58. Plaintiffs incorporate by reference the preceding paragraphs as if they were fully set forth herein.

59. Defendants owed a duty to pet owners who purchased its products to ensure that their pet food was safe for pets to consume and free from contamination, such that no pets consuming these products would be injured or die as a result of such consumption.

60. Defendants breached said duty as described herein above when they failed to

adhere to proper safety standards and failed to properly ensure the safety of their products when they sold contaminated pet food, proximately causing damage to Plaintiffs and members of the Class.

61. As a proximate result of the Defendants' conduct described herein, Plaintiffs and members of the Class have suffered damages as a result and continue to suffer damages as a result.

JURY DEMAND

Plaintiffs hereby request a trial by jury on all issues triable by right before a jury.

PRAYER FOR RELIEF

THEREFORE, Plaintiffs pray for judgment as follows:

1. That this Court certify this action as a Class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3), and appoint Plaintiffs and their counsel to represent the Class;
2. That this Court enter judgment and award damages in favor of Plaintiffs and the Class, and against Defendants under the theories alleged herein;
3. That this Court establish a fund for the medical monitoring of Plaintiffs' pets to discover and treat the extent of kidney damage these pets have suffered as a result of consuming Defendants' recalled pet food;
4. That this Court award Plaintiffs all attorneys' fees, expenses and costs of this suit;
5. That this Court award Plaintiffs pre-judgment and post-judgment interest at the maximum rate allowable by law, compounded daily; and

6. That this Court grant such other, further, and different relief that the Court deems necessary, just, and proper.

Dated: March 22, 2007

Respectfully submitted,

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Attorneys for Plaintiffs and the Class

Schedule A

Recalled Menu Foods' Pet Food Brands¹

¹ http://www.menufoods.com/recall/product_cat.html, accessed March 21, 2007;
http://www.menufoods.com/recall/product_dog.html, accessed March 21, 2007.

Menu Foods Income Fund



- Home
- Recall Information**
- Press Release
- Cat Product Information
- Dog Product Information

Recalled Dog Product Information Recall Information 1-866-895-2708

Menu Foods
& Falconer
Spartanburg
Canada, LLC

1. Americas Choice, Preferred Pate
2. Authority
3. Award
4. Best Choice
5. Big Bet
6. Big Red
7. Bloom
8. Cedille
9. Companion
10. Dorocyles Market Basket
11. Eukanuba
12. Food Man
13. Great Companion
14. Great Choice
15. Hannaford
16. Mill Country Fare
17. Hy-Vee
18. Jams
19. Laura Lynn
20. Loving Meals
21. Melrose Main Choice
22. Mighty Dog Rouch
23. Mixables
24. Nutroplan
25. Nutro Max
26. Nutro Natural Choice
27. Nutro Ultra
28. Nutro
29. Of Roy Canada
30. Of Roy US
31. Paws
32. Pet Essentials
33. Pet Pride - Good n Meaty
34. Presidents Choice
35. Price Chopper
36. Priority Canada
37. Priority US

38. Public
39. Roche Brothers
40. Save-A-Lot
41. Schmucks
42. Shep Dog
43. Springfield Price
44. Sonnet
45. Stater Brothers
46. Stop & Shop Comparison
47. Toys Companion
48. Weeman's Butcher
49. Weis Total Pet
50. Western Family US
51. White Rose
52. Winn Dixie
53. Your Pet

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MENU FOODS INCOME FUND



- Home
- Recall Information
- Pet Recall
- Cat Product Information
- Dog Product Information

Recalled Cat Product Information Recall Information 1-866-895-2708

1. America's Choice Preferred Pets
2. Authority
3. Best Choice
4. Companion
5. Compliments
6. Demolias Market Basket
7. FelineLife
8. Fine Feline Cat
9. Food Line
10. Foodtown
11. Giant Companion
12. Hannaford
13. Hill Country Fare
14. Hy-Vee
15. Jays
16. Laura Lynn
17. LFL Pet
18. Loving Meals
19. Mother's Main Choice
20. Nutrition
21. Nutra Max Gourmet Classics
22. Nutra Natural Choice
23. Peavey
24. Pet Pride
25. President's Choice
26. Price Chopper
27. Priority US
28. Save-A-Lot
29. Schnucks
30. Science Diet Feline Savory Oats Cans
31. Sophisticat
32. Social Kitty Canada
33. Social Kitty US
34. Springfield Price
35. Sprout
36. Stop & Shop Companion
37. Top's Companion

Menu Foods
8 Falconer
Streetville
Canada L1

- 38. Wegmans
- 39. Wfs.Total.Pct
- 40. Wegmans.Family.US
- 41. White Rose
- 42. Winn-Dixie

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