

THE FERRARA LAW FIRM

LAWYERS HELPING PEOPLE
SINCE 1972

Michael A. Ferrara, Jr., Esquire+
Niki A. Trunk, Esquire

+Certified by The Supreme Court Of
New Jersey as a Certified Civil Trial
Attorney

+Board Certified in Civil Trial Law By
The National Board of Trial Advocacy

All Attorneys Are Admitted to Practice
in New Jersey and Pennsylvania.

May 3, 2007

Clerk of the United States District Court
District of New Jersey
Mitchell H. Cohen US Courthouse
1 John F. Gerry Plaza, Camden 08101

**RE: Leslie Berndl and Jim and Terri Moses, et al. v.
Menu Foods, Inc, et al.
Civil Action No.: 07-cv-1553
Motion Returnable: May 18, 2007**

Dear Sir/Madam:

Enclosed please find a courtesy copy of plaintiff's response to defendant's motion to stay and notice of motion for interim appointment of liaison counsel for plaintiff's counsel that was electronically filed today in the above matter.

Thank you for your continued courtesies.

Cordially,

THE FERRARA LAW FIRM, LLC


Michael A. Ferrara, Jr.

MAF/mlz
Enclosures

cc: Gerald H. Hanson, Esquire (via electronic filing only)
William Audet, Esquire (via electronic filing only)

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5 *[Proposed] Interim Liaison Counsel*
6 *for Plaintiffs*

7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEW JERSEY**

10
11 **LESLIE BERNDL and**
12 **JIM AND TERRI MOSES; individually and**
on behalf of all others similarly situated,

13 **Plaintiffs,**

14 **v.**

15 **MENU FOODS, INC, MENU FOODS**
16 **INCOME FUNDS, and MENU FOODS**
17 **MIDWEST CORPORATION,**

18 **Defendants.**

Civil Action No. 07-CV-1553

PLAINTIFFS' "RESPONSE" TO
DEFENDANTS' MOTION TO STAY
AND NOTICE OF AND MOTION FOR
INTERIM APPOINTMENT OF
LIAISON COUNSEL FOR
PLAINTIFFS COUNSEL

1 The above Plaintiffs respectfully “respond” to the Defendants’ Motion to Stay as
2 follows:

3 The undersigned counsel has filed two class actions in this Court.

4 The Defendants seek a “stay” of the case, pending a late May 2007 hearing before the
5 MDL Panel.¹ The undersigned do not oppose the stay request, except to request that for the
6 convenience of the Court and the parties, the Court appoint, as Interim Liaison counsel for
7 Plaintiffs, New Jersey attorney Michael A. Ferrara, Jr., of the Ferrara Law Firm, LLC. See
8 attached CV of Michael Ferrara as Exhibit A.

9 The appointment of interim liaison counsel during the pendency of an MDL is common
10 practice and allows for the Court and the parties to deal with one contact person during this
11 process: “This Court has jurisdiction to decide any issues presented to it, even pending an
12 MDL ruling transferring the case. Rule 1.5, Rules of Procedure of the Judicial Panel on
13 Multidistrict Litigation. Plaintiffs need not duplicate any of these pretrial proceedings at the
14 MDL level if the threshold motions are decided here.” *Weathersby v. Lincoln Elec. Co.*, No.
15 03–0398, 2003 U.S. Dist. LEXIS 8249 AT *10–11 (D.La. May 9, 2003). During the pendency
16 of the MDL, the *Weathersby* Court granted Plaintiff’s Motion for Appointment of Liaison
17 Counsel (and Plaintiffs’ Committee). *Id.* at *26. *Accord Manual for Complex Litigation* (4th
18 Edition) ¶ 20.131.

19 In the present case, in view of the number of cases filed to date, the likelihood of
20 additional filings, and the need for continual cooperation by the parties, this appointment
21 would benefit the Court and the parties. While the MDL Panel process proceeds, this Court
22 may need to communicate with the parties and can do so by simply contacting liaison counsel,
23 who will then notify all the plaintiffs’ counsel of the Court’s requests. If the MDL Panel sends
24 the cases to this District, the interim counsel will be able to attempt to “organize” the plaintiffs
25 counsel in order to ensure the first hearing is a productive one. See *Manual for Complex*
26

27 _____
28 ¹ The Panel should be advised of the fact that Menu Foods has not sought a “stay” in all jurisdictions with pending cases. In the Northern District of Illinois, no stay motion has been filed

1 *Litigation*, (4th) ¶ 20.131. If the MDL is sent to this Court, at that time, the Court can address
2 the issue of “permanent appointment” of lead/liaison counsel (and other appointments).

3 Indeed, the District Court in Arkansas recently denied the exact same motion filed by
4 the same defendants in a similar case, noting that because it is impossible to know where the
5 Panel will send a case and a complete stay will only result in needless delay if the case is sent
6 to the Court that stayed the case: “If a case were to be automatically stayed until the decision
7 regarding transfer were made, many cases which do not end up being transferred would be
8 needless delayed.” *Sims v. Menu Foods Income Fund, et al*, Civil No. 07-5053 (W.D. Ark.,
9 May 2, 2007) (See Order attached as Exhibit B). In this case, during the next few months as
10 the Panel decides the appropriate location for the cases, the appointment of interim liaison
11 counsel will allow for the orderly communication between the many plaintiffs counsel and the
12 Court and otherwise assist the parties and the Court.

13
14
15 Dated: May 3, 2007

Respectfully submitted,

16
17 By:


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*[Proposed] Interim Liaison Counsel
for Plaintiffs*

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*Counsel for the
Berndl and Moses Plaintiffs*

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5 *[Proposed] Interim Liaison Counsel*
6 *for Plaintiffs*

7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEW JERSEY**

11 LESLIE BERNDL and
12 JIM AND TERRI MOSES; individually and
on behalf of all others similarly situated,

Civil Action No. 07-CV-1553

13 Plaintiffs,

PROOF OF SERVICE

14 v.

15 MENU FOODS, INC, MENU FOODS
16 INCOME FUNDS, and MENU FOODS
MIDWEST CORPORATION,

17 Defendants.

18
19 The original Notice of Motion and supporting documents have been electronically filed with
20 the United States District Court Clerk, Mitchell H. Cohen U.S. Courthouse, 1 John F. Gerry Plaza,
21 Camden, New Jersey 08101.

22 **THE FERRARA LAW FIRM, LLC**

23 Attorneys for Plaintiffs

24
25 
26 Michael A. Ferrara, Jr.

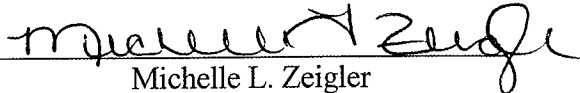
27 Dated: May 3, 2007

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On May 3, 2007, I served one copy of Plaintiffs' Response to Defendants' Motion to Stay and Notice of Motion for Interim Appointment of Liaison Counsel for Plaintiffs Counsel via electronic service.

I certify that the forgoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


Michelle L. Zeigler

Dated: May 3, 2007



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EDUCATION:

Villanova University, B.S. in Mathematics, 1964
University of San Diego School of Law, J.D., 1972

ADMITTED TO PRACTICE

United States Supreme Court
New Jersey Supreme Court
Pennsylvania Supreme Court
Third Circuit Court of Appeals
District of New Jersey
Eastern District of Pennsylvania

CERTIFICATION:

- Certified as a Civil Trial Attorney by the Supreme Court of New Jersey
- Certified as a Board Certified Civil Trial Advocate by the National Board of Trial Advocacy, an ABA accredited organization

ELECTED AND APPOINTED PROFESSIONAL POSITIONS:

- The Association of Trial Lawyers of America (ATLA-New Jersey) (President 1985-1986)
- The Association of Trial Lawyers of America (ATLA) Board of Governors 1988-2000)
- Governor McGreevey's Auto Insurance Working Group, Transition Team and Finance Committee (2001-2002)
- Fellow, International Academy of Trial Lawyers (2003)
- Senator Corzine, Lautenberg and Torricelli's Federal Judicial Selection Committee (1998 to present)
- American Arbitration Association - Advisory Council
- Diplomat, American Board of Trial Advocates
- Master, Camden /Burlington Inns of Court
- New Jersey State Coordinator, National Board of Trial Advocacy

MEMBER:

- Camden County Bar Association
- Burlington County Bar Association
- New Jersey State Bar Association
- Trial Attorneys of New Jersey
- The Million Dollar Advocates Forum
- ATLA-NJ and ATLA

LOCAL BAR ASSOCIATION ACTIVITIES:

- Founder, Camden County Bar Association Personal Injury Committee Chair (1984-1989), Member (1989 – present)
- Burlington County Civil Practice Bench-Bar Committee Chair (1997 – 1998), Member (1999 – present)
- Burlington County CLE Committee, (1998 – 1999)
- Camden County Bar Association Civil Practice Committee
- Trustee, Camden County Bar Association (1988-1991)

HONORS AND AWARDS:

- Elected as a Fellow of the International Academy of Trial Lawyers 2003 [One of 500 selected in the world]
- 2001 Trial Bar Award presented to several outstanding trial attorneys by Trial Attorneys of New Jersey, October, 2001

- Association of Trial Lawyers of America - New Jersey (ATLA-NJ) Gold Medal for Distinguished Achievement, April, 1992
- Awarded the "av" (highest) rating by Martindale-Hubbell
- Association of Trial Lawyers of America - New Jersey (ATLA-NJ) Work Horse Award, 1990
- West Catholic High School, Philadelphia, PA, Inducted into the Hall of Fame, 1997
- Merion Mercy Academy, Merion Station, PA, Father of the Year, 1999-2000
- Sons of Italy Man of the Year (1999)

MILITARY SERVICE AND HONORS:

- 5 Years - Lieutenant, U.S.Navy (1964-1969)
- Naval Officers Submarine School, New London, Conn.
- Service on submarines, destroyers, and in Vietnam;
- Awarded Combat Action Ribbon, Two Navy Unit Commendations
- Vietnam Campaign Medal, Vietnam Service Medal with three bronze stars [not the Bronze star for heroism]

COMMUNITY ACTIVITIES:

- Board of Trustees, Amigos de Jesus. Helped build an orphanage in Honduras (2000, 2001)
- Board of Trustees, The San Miguel School, Camden, NJ
- March of Dimes Foundation, Sponsor (1995 -2002)
- Founder and Sponsor of the Academic Allstars, Courier-Post, Cherry Hill, NJ (1997-2001)
- Bancroft Foundation For Brain Injuries
- Board of Trustees, West Catholic High School
- New Jersey State Aquarium, Sponsor (1995 - 1999)

- Little Mill Woods Civic Association (Past President and Former Member of Board of Directors)
- Former Adjunct Professor of Law, Camden County College
- St Joseph's Preparatory School, Father's Club
- Merion Mercy Academy Parents Club (Co-Chair of Capital Campaign)
- St Joan of Arc, Marlton, NJ, 7th Grade CCD Instructor (1997 to present)
- West Catholic High School Board of Trustees
- University of San Diego School of Law Board of Visitors
- Founder and Former Commissioner, Marlton Track Club for the Marlton Recreation Council
- Former Basketball Coach, Marlton Recreation Council

OTHER ACTIVITIES:

- Past President and CEO. of Wichita Falls, Texas Cellular One Telephone Company - owned and operated a full service cellular telephone company
- Who's Who in American Business
- Board of Directors; Congressman Curt Weldon's (R-PA) United States - Russia Exchange Center
- Selected by Governor Whitman to represent New Jersey as co-counsel in the lawsuit against the tobacco industry
- Part of Congressional delegation to Russia and Moldova, November, 1999
- Invited speaker to the Russian Duma [Parliament] - Topic - Implementing a Mortgage System in the Newly Democratic Russia, September, 1998,

PERSONAL:

Wife: Penny (nee Crockett) married 12/26/1970
Children: Michael, 30, Law student at Rutgers Camden
Mary, 28, Marketing manager, *Maxim* Magazine
John, 26, Naval Flight Officer [Lieutenant, USN]
Anne, 22, Teacher
Jennie, 19, College student

ATLA AND ATLA-NJ ACTIVITIES:

Immediate Past President – Civil Justice Foundation
Washington DC

Past President – ATLA-New Jersey (1985-1986)

Past Governor – ATLA (1988-1990)

Past Chair and Founder – ATLA-New Jersey LEGAL PAC (1988-1990)

Current Governor- ATLA-NJ

Faculty -National College of Trial Advocacy, Hastings College of Law, San Francisco

Faculty – ATLA Basic College of Trial Advocacy - Princeton, NJ (1985) Boston, MA (1999)

Faculty- ATLA-NJ Trial Academy
Art of Cross Examination (1994 - 1996, 1998, 1999)

Faculty- Institute for Continuing Education (ICLE)

Past Chair -ATLA-New Jersey 1984 Boardwalk Products Liability Seminar
ATLA-New Jersey 1985 Boardwalk Professional Malpractice Seminar

Past Chair- ATLA-New Jersey By-Law and Constitution Revision Committee

Panelist- ATLA-New Jersey Case Evaluation Clinics

GUEST SPEAKER:

"Punitive Damages in Bad Faith Cases" presented at the ATLA-New Jersey

Annual Convention, Host Farm, Lancaster, PA. June 1981

"A Review of New Jersey's No Fault, Uninsured and Underinsured Motorist Laws" presented at the ATLA-New Jersey Annual Convention, Grossingers, NY June 1983

"Effective Closing Arguments" presented at the ATLA- New Jersey Plaintiffs Trial Academy, Nov. 1984

"Closing Arguments and Trial Conduct", presented at the ATLA-New Jersey Plaintiffs Trial Academy, Nov, 1985

"The New Jersey No Fault Law", presented to New Jersey Legal Secretaries Association, April 1986

"Winning the Battle but Losing the War: The Cap on Damages" presented at National Dram Shop Seminar, Atlantic City, NJ June, 1986

"A Legislative Review" presented to the Garden State Bar Association, Newark, NJ June, 1986

"Recent Changes in the New Jersey No Fault Law" presented at the Independent Agents Luncheon Forum, Jan. 1989

"The New Auto Insurance Law" presented to The Gloucester County Medical Society, May 1989

"Updated Ethical Dilemmas" presented at the ATLA-New Jersey Boardwalk Seminar, April 1989

"Opening Statements - Wrongful Death Trial" Institute for Continuing Legal Education, Woodbridge, NJ June 1989

"New Case Law and Landmark Cases" ATLA-New Jersey Annual Convention June 1989

"New Auto Insurance Law" presented to Independent Insurance Agents, Burlington County, Sept 1989

"Pre-Trial Discovery" presented to Association of Trial Lawyers of America meeting, Tucson, Arizona October, 1989

"How to Try a Medical Malpractice Case" - Institute for Continuing Legal Education, Cherry Hill, NJ Feb" 1990

Hot Tips in Tort Law I "Suing Patient's Physician for ignoring that Patient's Trial",

Institute for Continuing Legal Education, June, 1990

"Evaluating Personal Injury Cases - Reviewing Medical Records" Camden County Bar Association October, 1990

"Insurance Litigation" - Institute for Continuing Legal Education, November, 1990

"Maximizing Damages and Trial Techniques" presented to the Maryland Trial Lawyers Assoc" December, 1990

"Preparing the Slip and Fall Case" presented at The Association of Trial Lawyers of America, Annual Convention, Toronto, July, 1991

"Slip, Trip & Fall and the Construction Accident Cases, Themes/Defusing the Defense in the Opening" ATLA-New Jersey Masters in Advocacy Seminar. Cherry Hill, NJ March, 1991

"Using Psychologists and Consultants" presented to ATLA National College of Advocacy, San Francisco, August, 1991

Hot Tips in Tort Law II "Diffusing Time Bomb Jurors" - Institute for Continuing Legal Education, November, 1991

"Directing the Plaintiff", presented by The Masters in Trial Advocacy for ATLA-NJ, Edison, NJ, Feb" 1992

"Expert Witness Testimony", presented by The Camden County Bar Foundation's Continuing Legal Education Committee, Cherry Hill, NJ, May, 1992

"Oswin vs. Shaw and Brown vs. Fuentes" from the plaintiff's perspective presented to the Personal Injury Law Committee by the Camden County Bar Assoc" Camden, NJ, Sept, 1992

"The Year in Torts", presented by ATLA-NJ, Seaview Resort, NJ, June 1994

"Maximizing Damages in Soft Tissue Cases", presented by ATLA-NJ" Pines Manor, Edison, NJ, Oct, 1994

"The Art of Cross Examination", presented by ATLA-NJ Trial Academy, Dec" 1994

"Jury Selection and Courtroom Presentation", presented by ATLA-NJ, Feb., 1995

"Stress/Heart Attack and the Trial Lawyer", presented by Camden County Bar Association, May, 1995.

"Demonstration of the Examination of an Expert in a TBI Case" Direct; presented by the New Jersey Head Injury Association, Inc., March, 1996.

"Personal Injury Program - Proving the Injury", presented by ATLA-NJ, Boardwalk Seminar, April, 1996.

"Personal Empowerment" presented by The Association of Trial Lawyers of America, National Convention, Boston. MA July, 1996

"Creative and Demonstrative Evidence in Depositions" presented by The Association of Trial Lawyers of America, Workhorse Seminar, Atlanta, GA Sept, 1996

"Art of Cross Examination" presented by ATLA-NJ. Trial Academy, Dec. 1996

"The Handling, Litigation and Trial of a Negligent Security Case" presented by The Academy of Florida Trial Lawyers, Workhorse Sem., Orlando, FL Feb.1977

"Using Deposition Testimony to Impeach a Witness" presented by ICLE, Trial Advocacy Program, NJ Law Center, New Brunswick, NJ, July, 1997

"How to Relate to, Communicate with and Influence Juries-Part X", Maryland Trial Lawyers Association Baltimore, MD December, 1997

"Slips, Trips and Falls: Proving Liability and Causation" presented by ATLA-NJ, Pines Manor, Edison, NJ Feb. 1998

"Special Needs Trust" presented by ATLA-NJ, Pines Manor, Edison, NJ Feb. 1998

"Cross Examination of the Defendant's Expert" presented by the Massachusetts Academy of Trial Lawyers", Boston, MA March, 1998.

"Accident Reconstruction and Biomechanics of Low Speed Impacts" presented by the Camden County Bar Association Harbor League Club, Camden, NJ March, 1998

"Jury Questionnaires; the Use of Specific Jury Questionnaires" presented by The Belli Society, George Washington Univ., Wash., D.C.. July 1998

"Art of Cross Examination" presented by ATLA-NJ, Basic Trial Academy, Middlesex County College, Edison, NJ, December, 1998

"The Use of Jury Questionnaires"; Jury Selection: The Difference Between Winning and Losing, presented by the New Jersey Institute for Continuing Legal Education, Ramada Hotel, Somerset, NJ, December, 1998

"HMO litigation" presented by South Jersey Paralegal Association, Cherry Hill, NJ March, 1999

"Jury Selection in Bad Times: How to Diffuse "Time Bomb" Jurors" presented by the Tennessee Trial Attorneys Association, Gatlinburg, TN June, 1999

"Employment Torts: It Ain't Just Discrimination" presented by New Jersey Institute for Continuing Legal Education, NJ Law Center, New Brunswick, NJ June, 1999

"How Proof of Other Similar Incidents (OSI's) will Dramatically Raise the Value of your Case" presented by the Belli Society, San Francisco, CA July, 1999

"Ethical Issues Confronting Today's Trial Attorneys: from Pretrial to Appeal" presented by the Association of Trial Lawyers of America, Annual Convention San Francisco, CA July, 1999

"Effective Cross-Examination of the Defendant's Experts" and "Crafting the Closing and Rebuttal Argument" presented for the Association of Trial Lawyers of American, National College of Advocacy's Trial Advocacy college: Essentials of Civil Litigation, Suffolk University Law School, Boston, Oct., 1999

"Art of Cross Examination" presented for ATLA-NJ, Basic Trial Academy, Middlesex County College, Edison, NJ, November, 1999

"How to Avoid the Dreaded Ethics Complaint: the Top 10 Reasons Trial lawyers get into Trouble" presented for the Association of Southern Trial lawyers Convention, New Orleans, LA, March, 2000

"The Role of the Litigation Paralegal in Discovery and Depositions"

"Necessary Steps to be Taken by the Litigation Paralegal in Preparation for a Trial and in Trial"

"New and Innovative Causes of Action and New Twists and Tweaks on Some Old Causes of Action - Litigation Trends: Spoilation of Evidence",

"Tactics and Techniques to Assist you in Solving Difficult Problems in Depositions",

"Cross Examination of the Defense Biomechanical Expert at Trial" presented for the Absolute Litigators Conference by Professional Education Systems, Las Vegas, NV, March, 2000

"Understanding the Elements, Mechanics, and Subtleties of "Legal Causation" versus "Medical Causation" in Neck, Back, and Joint Injury Cases presented for ATLA National College of Advocacy, Miami, Florida April, 2000

"Ten Essential Ethic Rules for the Personal Injury Practitioner" presented for A TLA-NJ Boardwalk Seminar, April, 2000

"New and Innovative Causes of Action and New Twists and Tweaks on Some Old Causes of Action - Litigation Trends: Spoilation of Evidence", presented for Arkansas Trial lawyers, Eureka Springs, Arkansas May, 2000

"The Three Best Ways to Spend Your Money to Maximize Your Verdicts and Settlements: A Closer Look at Experts, Exhibits and Focus Groups" presented for Louisiana Trial Lawyers Association "2000 Last Chance Seminar", New Orleans, Louisiana, December, 2000.

"Deposition Strategies: Whether to Take Them or Not, Video or Not, Confronting Obstacles, Using Them at Trial and Other Helpful Hints" and "Motivating Jurors from Skepticism to Advocacy: How Jurors Learn" with Rodney W. Jew, Palo Alto, CA, presented for Professional Education Systems The Absolute Litigators Conference VI, Las Vegas, NV, April 2001

"All you Ever Wanted to Know About Written Discovery Techniques" presented for Institute for Continuing Legal Education, Masters of Discovery Seminar; Turning Up Every Stone, New Jersey Law Center, June 2001

"Current Attitudes in America and Using Them to Your Advantage in Trial" presented by Association of Trial Lawyers of America - National College of Advocacy. New York, NY December 2001

"Communicating with Jurors at Trial --- Lessons learned from Focus Groups, Mock Trials, Demonstrative Exhibits and Jury Selection" presented for National CLE Conference by Law Education Institute, Civil Litigation Program, Steamboat Springs, CO, January 2002

"Deposition Technology" presented for LegalTech New York - ATLA Education Track by the Association of Trial Lawyers of America, New York, NY, February 2002

"Botched Operation? Wrong Medication? When to Sue the Doctor" Article for Bottom Line Personal - Patient Beware February 2002

"Medicine for Lawyers: Orthopaedics, Neurology, TMJ & Radiology" presented by the Institute for Continuing Legal Education, Mt. Laurel, NJ, and NJ Law Center, New Brunswick, NJ March 2002

"Communicating with Jurors at Trial - Lessons learned from Focus Groups, Mock Trials, Demonstrative Exhibits and Jury Selections" presented by the Delaware Trial Lawyers Association-Summer Convention, Dewey Beach, DE June 2002

"Communicating with Jurors at Trial - Lessons Learned from Focus Groups, Mock Trials, Demonstrative Exhibits and Jury Selections" presented by the South Carolina Trial Lawyers Association for the Auto Torts XXV Seminar, Atlanta, GA December 2002

"How to Avoid the 10 Most Common Ethics Problems Facing Personal Injury Lawyers" presented by ATLA-NJ
Pines Manor, Edison, NJ February 28, 2004

"Don't Ruin Your Legal Career: Ten Steps to Avoid an Ethics Complaint" presented by National Law Education Institute, Aspen, CO January 6, 2004

"Demonstrative Evidence" presented by MTLA's 2004 Trial Advocacy Conference, Adelphi, Maryland, November 11, 2004

"Litigating Nursing Home Cases" presented by New Jersey Institute for Continuing Legal Education, Mt. Laurel, NJ February 5, 2005

PANELIST:

"Medicine for Lawyers: Point-Counter Point on Traumatic Brain Injury Cases" presented by the New Jersey Institute for Continuing Legal Education. October, 2003

"How to Try a Personal Injury Case: from Conferencing to Closing" presented by Camden County Bar Assoc January, 2003

"Legal Negotiation & Settlement: Winning Strategies" presented by Camden County Bar Assoc. November, 2002

"Medical Malpractice" presented by Bottomline.Com: Radio America, February,

2002

"Medical Malpractice" presented by The People's Medical Society; WPEN Radio, September, 2000

"Automobile Insurance" presented by Camden County Bar Assoc.; legal Line Cable Television, October, 1997.

"How to Nail Down Your Liability Case", Top Ten Torts presented at the ATLA-NJ Boardwalk Seminar, March, 1995

"Auto Negligence" presented by Camden County Bar Assoc. legal Line Cable Television, March and June, 1995

Top Ten Torts presented at the ATLA-New Jersey Boardwalk Seminar, April 1993

"Prevention of Head Injury" presented by ATLA-New Jersey Educational Foundation Cable Television, September 1993

Hot Tips in Tort Law

"*Ex-Parte* Interviews" Institute for Continuing legal Education", November 1993

"Direct and Cross Examination of a Neurologist presented by Camden County Bar Association, Young Lawyers, December 1993

"High Stakes in Low Impact Cases", Moderator presented by Association of Trial Lawyers of America; College of Trial Advocacy, Maui, Hawaii, February, 1998

"How to Try a Personal Injury Case; Pre-Trial Preparation", presented by the Practicing Law Institute, broadcasted live via satellite, New York, NY, October, 1998

"The Changing Face of Russia: Outlook for Business" presented by Pennsylvania-Russia Business Council; Joint Housing Project between US Congress and Russian Duma (Parliament), Philadelphia, PA October, 1998

"Medicine for Lawyers: Point-Counter Point on Traumatic Brain Injury Cases" presented by the New Jersey Institute for Continuing Legal Education, December 2003

Michael A. Ferrara, Jr.

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Email: mikeferrara@comcast.net

Mr. Ferrara has been an attorney since 1972. He is admitted to practice before the U.S. Supreme Court, the New Jersey Supreme Court, the Pennsylvania Supreme Court and the Federal Courts. He is certified by both the National Board of Trial Advocacy and the New Jersey Supreme Court as a Certified Civil Trial Attorney. He is the founder and former chair of ATLA New Jersey Legal PAC, the lawyer's political action committee.

He is past president of ATLA-NJ, the New Jersey Trial Lawyers Association, a member of American Board of Trial Advocates, a Master of the Camden Inns of Court, a member of the Million Dollar Advocates Forum and a past president of the Civil Justice Foundation.

Recently, Mr. Ferrara was invited to become a Fellow of the International Academy of Trial Attorneys, one of 500 selected in the world. Mr. Ferrara was awarded the "av" [highest] rating by Martindale-Hubbell, The Gold Medal for Distinguished Achievement by ATLA-NJ in 1992 and The 2001 Trial Bar Award to outstanding trial attorneys presented by Trial Attorneys of New Jersey (TANJ) in October, 2001. He was selected to serve on Senator Corzine, Lautenberg, Torricelli's Senate Federal Judicial Selection Advisory Committee where he has served since 1997.

Mr. Ferrara is frequently asked to lecture for ATLA, the New Jersey Institute of Continuing Legal Education (ICLE), the National College of Trial Advocacy, the Practicing Law Institute (PLI), and many state trial lawyer organizations. He previously owned and operated a cellular telephone company in Texas, taught business law at Camden County College, and traveled throughout Russia teaching the newly democratic country how to implement a mortgage system to increase home ownership. He is a former U.S. Naval officer and a Vietnam veteran.

He graduated from Villanova University in 1964 with a B.S. in Mathematics and the University of San Diego School of Law in 1972 with a J.D. He is married and resides with Penny, his wife of 33 years, in Marlton, New Jersey. They have five children, Michael, Mary, John, Anne and Jennie.

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

CHARLES RAY SIMS and PAMELA SIMS,
Individually and on behalf of all
others similarly situated

PLAINTIFFS

v.

Civil No. 07-5053

MENU FOODS INCOME FUND,
MENU FOODS MIDWEST CORPORATION,
MENU FOODS SOUTH DAKOTA INC.,
MENU FOODS, INC.,
MENU FOODS HOLDINGS, INC.

DEFENDANTS

O R D E R

Now on this 2nd day of May, 2007, comes on for consideration defendants' Motion To Stay, document #7, and from said motion, and the response thereto, the Court finds and orders as follows:

1. Plaintiffs make claims of strict products liability, fraud, breach of warranty, and negligence, said to arise out of the sale by defendants of defective pet food. Plaintiffs seek to recover on their own behalf, and to represent a class of similarly situated plaintiffs.

2. Defendants move the Court to stay the litigation, pending decisions on three motions to transfer similar cases to Multi-District Litigation Panel courts and certify a class. They contend that a stay will "promote judicial economy and avoid undue prejudice to the parties."

Plaintiffs counter that little in the way of judicial resources will be expended at this early stage of the case, and that they should not be prevented from commencing discovery.

3. Transfer to the Judicial Panel on Multidistrict Litigation is governed by 28 U.S.C. §1407, and by the Rules of Procedure of the

Judicial Panel on Multidistrict Litigation. Rule 1.5 of those rules provides that

[t]he pendency of a motion, order to show cause, conditional transfer order or conditional remand order before the Panel concerning transfer or remand of an action pursuant to 28 U.S.C. §1407 does not affect or suspend orders and pretrial proceedings in the district court in which the action is pending and does not in any way limit the pretrial jurisdiction of that court. A transfer or remand pursuant to 28 U.S.C. §1407 shall be effective when the transfer or remand order is filed in the office of the clerk of the district court of the transferee district.

The wisdom of this rule is self-evident: when a motion for transfer is made, there is no way of knowing whether it will be granted or not. If a case were to be automatically stayed until the decision regarding transfer were made, many cases which do not end up being transferred would be needlessly delayed.

So it is in this case: there is no way of knowing whether it will be transferred to the MDL panel. While valid arguments are made on both sides of the issue, the Court is persuaded that the best course of action is to abide by the wisdom of Rule 1.5, and the motion will, therefore, be denied.

IT IS THEREFORE ORDERED that defendants' Motion To Stay (document #7) is denied.

IT IS SO ORDERED.

/s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE