SOKOLWSKI v. MENU FOODS, INC. et al

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EXHIBIT A

Doc. 13 Att. 2

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

TODD SOKOLOWSKI, individually as behalf of all others similarly situated,	nd on :	CASE NO. 1:07-cv-01709-NLH-AMD			
Plaintiffs,	: :	(Judge Noel L. Hillman) (Magistrate Ann Marie Donio)			
v. MENU FOODS, INC., et al.,	:	DECLARATION OF MARTI HISSONG			
Defendants.	:				
STATE OF OHIO)		 			
COUNTY OF MONTGOMERY)	SS:				

I am making this Declaration based upon personal knowledge, and I am competent to testify to the matters stated below.

A. **BACKGROUND**

I am employed as the Manager of Customer Service by The Iams Company dba P&G Pet Care, a subsidiary of The Procter & Gamble Company ("Iams"). I have been involved in the Customer Service Group during my entire 20-year career at Iams. Iams manufactures and sells Eukanuba and Iams brand premium dog and cat foods, and Eukanuba Veterinary Diets brand canine and feline therapeutic diets. I am responsible for managing fulltime and part-time employees whose main duties are resolving consumer concerns and questions, and educating customers about Iams, Eukanuba or Veterinary Diets.

B. <u>IAMS' CUSTOMER SERVICE DEPARTMENT</u>

- 2. Iams has published toll-free customer service telephone numbers for over 25 years. The toll-free customer service telephone numbers are on all of Iams' packaging, and have been available on Iams' website since its inception. On an annual basis, Iams' Customer Service Group manages approximately 380,000 customer contacts.
- 3. The Customer Service Department is dedicated to educating consumers, responding to customer questions and resolving concerns. Customers contact the Customer Service Department directly by calling one of our 18 toll-free numbers (numbers are listed on all packaging), by e-mail and postal mail. Consumer Care Specialists respond directly to customers. When necessary, the representatives transfer customers to an Iams veterinarian or a veterinary technician who may provide technical information about Iams' products.
- 4. Iams' Consumer Care Specialists are trained to respond to customers' concerns and to answer questions from customers. In addition to customer service training, Iams provides the Specialists with approximately 90 hours of pet nutrition, behavior, and product training each year. The Specialists also have access to on-site veterinarians and veterinary technicians who are available to answer questions from customers. An internal web site is updated many times each week to provide the Specialists with the most current information related to nutrition, ingredients and products. This site also keeps the team aligned with the Customer Service Department's processes and procedures.

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- 5. For over 20 years, Iams has issued a 100% money-back guarantee for all of its Iams and Eukanuba brand products. Consumer Care Specialists are thoroughly trained in handling dissatisfied customers and resolving concerns. They are frequently evaluated and coached on the quality of service delivered. They resolve concerns under the terms of the guarantee. Over 95% of customer complaints are handled on the spot; the customer does not need to be escalated to management.
- 6. As a result, Consumer Care Specialists at Iams have responded directly to customers' questions about products and their pets for over 25 years. Consumer Care Specialists also answer questions about health and nutrition, ingredients, care and feeding and training and behavior. Customer Service has a high employee retention rate with the average individual having 8.5 years of experience in the Department.

C. MENU FOODS RECALL

- 7. All of Iams and Eukanuba brand dry dog and cat food products are manufactured by Iams at facilities that are owned and operated by Iams. Iams' wet dog and cat food products are manufactured by Menu Foods as a contract manufacturer. While Iams provides Menu Foods with specifications and formulas for all of its products (which are highly proprietary and different from any other product available for sale in the marketplace), Menu Foods manufactures the products at its facilities in Emporia, Kansas and North Sioux City, South Dakota.
- 8. The vast majority of Iams' products are dry products, meaning that they are sold in a bag as dry dog food under Iams, Eukanuba or Eukanuba Veterinary Diets brand

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names. A very small portion of Iams' business is represented by "wet products," meaning that they are sold in a pouch or in a can or made in a pate and sold in a can.

- 9. Beginning on March 16, 2007, Menu Foods issued a series of voluntary recalls of certain "cuts and gravy" wet pet food products that were manufactured at Menu Foods' facilities in Kansas and New Jersey. On the same day, Iams announced a broader recall, which included Iams and Eukanuba brand products that were manufactured by Menu Foods in Emporia, Kansas in a specific code date range.
- became inundated with telephone calls, letters and emails. Many customers called with questions about the scope of the recall. Customers called to return unopened, recalled product and requested reimbursement, based on the guarantee. Many customers were understandably concerned about illnesses and even death associated with their pets. Some customers had ill pets in a veterinary hospital, others had pets at home they were considering taking to a clinic. Many customers wanted to know how Iams would be compensating them.

D. IAMS' CUSTOMER SERVICE CALLS

employees, temporary employees, and two additional call centers to help manage inbound calls. Part-time relief veterinarians, the ASPCA, and internal veterinarians throughout the company assisted in responding to the more serious concerns and questions. As described below, we received and continue to receive a variety of requests from customers, including: (a) contacts from customers who had purchased Iams or Eukanuba brand products and had questions about the safety of the products, e.g., can dry products be fed and what is the scope of the recall;

- (b) contacts seeking reimbursements or product replacement for product(s) purchased (in accordance with the money-back guarantee); (c) contacts requesting reimbursement of or seeking direct payment to veterinary-clinics for veterinarian expenses related to sick or deceased pets; and (d) contacts telling us that their pet had died as a result of consuming an Iams recalled product and seeking compensation for the lost pet.
- 12. Many customers were concerned because they had taken their pets to a veterinarian for treatment and the veterinarians were demanding payment. Also, many customers were concerned that their pets would require continuing care and needed assurance that expenses would be paid now and in the immediate future.
- provided customers with reimbursement for products that did not meet the customer's satisfaction. In addition, in an effort to maintain goodwill and respond to the concerns of its customers, Iams reimbursed certain additional expenses (in addition to the purchase price for products) that were shown to have been incurred as a result of a pet consuming an Iams or Eukanuba brand pet food that was subject to the Menu Foods recall.
- 14. Iams reimbursed customers for any veterinarian expenses that were expended for certain treatments that have been shown to have been required and associated with renal failure that has been connected to feeding an Iams or Eukanuba recalled product. In addition, Iams began paying for wellness checkups (precautionary veterinarian visits) to alleviate any concerns that the customer may have had after feeding their pets an Iams or Eukanuba product that was subject to the recall. Iams has also reimbursed some customers for pets that died as a result of eating a recalled product.

E. RETENTION OF RISK ENTERPRISE MANAGEMENT

- tremendous volume of calls that we could not manage with existing Consumer Care Specialists, Iams' employees, and part-time help. In fact, Iams has received over 210,000 customer contacts concerning the March 2007 pet food recall. As part of the number above, Consumer Care Specialists have personally handled 155,000 contacts and is handling, with Risk Enterprise Management Limited's ("REM") assistance, 10,000 consumer claims.
- 16. On March 29, 2007, Iams hired REM to help respond to the overflow of customers who had contacted the company with claims of sick or deceased pets. Iams and REM continue to respond to the concerns and questions of customers and assist customers with reimbursements for product purchases and veterinarian expenses.
- 17. While all calls are answered initially by an Iams' Consumer Care

 Specialist, REM has been provided with customer contact information to return calls to some of
 the customers who have contacted the Customer Service Department.
- information about the recall, Iams developed specific training to assist Iams Specialists, temporary assistance and REM. An Information Specialists in Customer Service worked and continues to work with External Relations and the legal department to update the most common customer concerns. When customers call with questions about the recall or for reimbursement of products, Specialists, REM Representatives and temporary workers are thoroughly trained to respond in a consistent manor. With the customer's permission, a Specialist, REM Representative or a veterinary technician will contact a customer's veterinarian to better

understand the pending concerns with an ill or deceased pet, as well as process payment for veterinarian bills and ensure that the customer's pets receives the needed treatment, without any delay because of an inability to pay. If there are questions about treatment, then a representative may ask for our Iams veterinarian to respond directly to the pet's veterinarian.

Iams and REM continue to reimburse customers for the full amount of the 19. recalled pet food and the full amount of their veterinarian bills that are linked to the consumption of an Iams or Eukanuba recalled product. In many cases, the customers' pets have ongoing medical problems and require Iams' immediate financial assistance. These pets may be unable to obtain treatment without Iams' reimbursement program. Iams does not require customers to complete an informational form for reimbursement. Rather, Consumer Care Specialists, veterinarians and REM representatives ask limited questions about the pet's health, the food consumed and medical bills, to determine whether the customer is entitled to reimbursement.

F. **RELEASES**

- 20. Iams is not seeking a release from all customers. For those customers who are provided a reimbursement of veterinarian bills in an amount that is less than \$1,000, Iams does not seek any release. Iams simply provides the customer with a check for full reimbursement of the expenses. In contrast, for those customers who are provided with reimbursement that is in excess of \$1,000, or if the reimbursement covers amounts in addition to veterinarian bills, Iams seeks a release or partial release as part of paying the expenses. A copy of the letters and releases are attached as Exhibit 1 to this Declaration.
- 21. The letters (attached as Exhibit 1) are the current letters sent to customers. These letters have been used by Iams and REM since June 7, 2007. Iams has continually

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reviewed its communications to make sure that its letter fully informs customers about all class action rights. Prior to June 7, 2007, Iams and REM used letters and releases that are attached as Exhibit 2. This letter was used May 24, 2007 until June 7, 2007. Prior to May 24, 2007, Iams and REM used letters and releases that are attached as Exhibit 3.

- 22. For all customers who received a release and payment greater than \$1,000 (and did not receive the letter attached as Exhibit 1), Iams sent them a supplemental letter explaining their options and instructing them that they should contact an attorney about the release and payment, if they have any questions. In addition, if those customers chose to return any payment from Iams and to retract their release, then Iams committed to not enforcing the releases signed by those customers. A copy of that letter is attached as Exhibit 4.
- 23. As Iams' Consumer Care Specialists began to receive telephone calls from customers who sought reimbursement for continuing veterinarian bills, Iams agreed to provide reimbursement for reasonable expenses for veterinarian bills for the next 120 days. It is likely that many pets will have a complete recovery within 120 days; however, customers are understandably concerned about obtaining reimbursement for wellness checkups within the 120 days. To accommodate those customers, Iams provides a separate release that releases claims except for veterinary expenses that arise within 120 days of the release.
- 24. Iams and REM have not initiated any contact with customers. Iams and REM have only responded to customers who contacted Iams' Customer Service Department by calling one of our established 800 numbers, by email or by postal mail. In some cases, customers' names were forwarded by retail stores where the customer had made a claim.

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Moreover, we have been following Customer Service Department protocols that existed before any class action lawsuits were filed.

G. IAMS' NO-CONTACT POLICIES

- 25. On May 10, 2007, Michael Myers sent a letter to Iams. Mr. Myers is an attorney who filed a class action lawsuit against Menu Foods (but not Iams or P&G) in the United States District Court for the Western District of Washington. In his letter, Mr. Meyers notified Iams that Iams or REM had contacted one of his clients. That letter was the first time that Iams was aware that named Plaintiffs were contacting Iams' Customer Service Department.
- 26. Iams investigated, and on May 15, 2007, Iams initiated a formal policy requiring both the Iams Customer Service Department and REM not to return the telephone calls of customers that had filed a Class Action against Iams, P&G or Menu Foods, even if the customer called the customer service line. We receive frequent updates from Iams' counsel of persons who were not to be contacted because they had filed class actions and circulate a list of all of the named Plaintiffs who have filed a lawsuit against Menu Foods, Iams or any other Defendant and instruct Iams Consumer Care Specialists and REM representatives not to return the telephone calls of these customers. We have daily conversations with REM as well as receive status reports on cases in order to ensure that the proper procedures are being followed. In addition, Iams' personnel have visited REM's Atlanta, Georgia offices to ensure that REM enacted the policy and was not contacting any named plaintiffs.
- 27. In addition, Iams subsequently became concerned that it may be contacted by represented parties that were not named Plaintiffs in the class actions. Therefore, on May 24, 2007, Iams started to require all Consumer Care Specialists and REM Representatives to ask the

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customers -- as the first question, before any discussion occurs -- whether they are represented by counsel when they return telephone calls to any customer. A copy of the script that all Iams Specialists and REM Representatives are required to follow when returning the telephone call of a customer about the recall is attached as Exhibit 5.

28. On June 18, 2007, we became aware, as a result of Plaintiff's Emergency Motion for a Protective Order, that several represented parties claimed they were improperly contacted by REM via telephone and mail. On June 20, 2007, I received a memorandum from W. Stanley Morton, Iams' General Counsel, requesting that I: (1) immediately circulate a memorandum to all Iams' customer service personnel reminding them of our policy not to communicate with or contact represented parties; (2) hold a mandatory meeting for all customer service representatives to emphasize the importance of the policy and answer any questions; and (3) implement a policy to periodically monitor customer service representatives to ensure that all representatives were in compliance with our policy. I have complied with all three requests. A copy of the June 20, 2007 Memorandum, including its attachments, is attached as Exhibit 6.

H. **CLASS ACTION LAWSUITS**

- 29. As discussed above, we expanded our typical business practices in order to accommodate the volume of customer calls. We have not introduced any new programs as a result of the class action lawsuits. We do not use automated calling. We do not call customers repeatedly after we have left a message. We have taken precautionary steps to inform customers about the class action lawsuits.
- 30. The reimbursement process described above is a continuation of Iams' longstanding efforts to communicate with and satisfy customers who have a problem with an

Iams, Eukanuba or Eukanuba Veterinary Diets brand product. Iams has been engaged in efforts to respond to its customers' complaints for over 25 years. In this time of uncertainty, we are trying to preserve our goodwill with our customers.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June ____, 2007.

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EXHIBIT 1



The lams Company P&G Pet Care 7250 Poe Avenue Dayton, OH 45414 www.pg.com

Dear

First and foremost, we want to repeat our profound regret for the loss of your pet. We appreciate your patience in this difficult situation.

While the cause of the reported illnesses has not been definitively determined, we are reimbursing your medical bills associated with the Menu Foods recall. Payment in the amount of has been requested and you should receive a check within the next six weeks. Again, we are deeply saddened by the loss of your pet

Sincerely,

Marti Hissong

Manager Consumer Relations

lams/Eukanuba



The lams Comp PAG Pet Care 7250 For Avenue Dayton, OH 45414 WWW.pg.com

Dear

First and foremost, we want to repeat our profound regret for your pet's illness. We appreciate your patience in this difficult situation.

While the cause of the reported illnesses has not been definitively determined, we are reimbursing were medical bills associated with the Menu Foods recall. Payment in the has been requested and you should receive a check within six weeks. Should a health concern arise in the next four months we will consider providing reimbursement for medical bills that are demonstrated to be linked to the Menu Foods recall. Please use the following toll-free number, 800-782-0923, to contact us during the next four months for consideration for reimbursement.

Again, as pet owners, we are deeply sorry for your pet's litness.

Sincerely,

Marti Hissong

Manager Consumer Relations

lams/Eukanuba



The lams Company P&G Pet Care 7250 Poe Avenue Dayton, OH 45414 www.pg.com

Re: Settlement and Reimbursement of Expenses

Dear

Thank you for taking the time to contact us about your pet. First and foremost, we want to repeat our profound regret for the loss of your pet, and offer our apologies for any difficulties or inconvenience that you have experienced as a result of the Menu Foods recall. We appreciate the patience that you have shown throughout this difficult situation.

While the cause of the reported illnesses has not been definitively determined, we would like to reimburse you for certain expenses that are shown to have been associated with the Menu Foods recall. Please read this letter and all of the attached materials carefully.

If you would like direct and prompt reimbursement in the amount below from P&G Pet Care, rather than pursuing other available avenues, then please sign and return the release form to us in the self-addressed envelope provided. Upon receipt of the signed release form, we will send you a check for While we remain committed to reimbursing your expenses quickly, it is necessary to advise you of the effects of resolving your claim directly with P&G Pet Care, as well as inform you of other avenues that are available to pursue your claim. We do not intend to offer you legal advice, but rather to present you with sufficient information so that you may make an informed decision. If you have any questions relating to legal issues, then please contact an attorney.

As you may know, class action lawsuits have been filed in federal and state courts throughout the United States and in courts in Canada by a number of attorneys who each seek to represent the interests of pet owners, like yourself, who claim that their pets have been injured as a result of eating one of the products that were subject to the Menu Foods recall. As a pet owner whose pet may have been harmed by a recalled Menu Foods product, you may be eligible to participate in those class action lawsuits. If you elect to participate in those class actions, then it is not necessary for you to do anything at this time.

In the alternative, you may resolve your claim directly with P&G by accepting reimbursement. If you sign the release and accept reimbursement directly from P&G, then it is important for you to understand that you will be releasing all claims against The Iams Company and P&G Pet Care, and their parent, The Procter & Gamble Company, related to any damages

sustained as a result of the Menu Foods recall and may not be permitted to participate in the above class actions.

P&G Pet Care is committed to reimburse any reasonable expense incurred by pet owners as a result of pets eating one of our products that were subject to the Menu Foods recall. Any reimbursement provided by P&G Pet Care would require you to sign the release form that would release claims for any injury or the recovery of any damages that may have arisen out of the recall.

You do have the option of discussing your claim with an attorney of your choice. If you are unclear of any of your legal rights or have any additional questions regarding the full extent of your options, then we suggest that you speak to an attorney. If you are currently represented by an attorney in this matter, then please forward this communication directly to your attorney and have your attorney contact us directly.

Again, we are deeply saddened by the loss of your pet.

Sincerely,

Marti Hissong

Manager Consumer Relations

Iams/Eukanuba

[Name]

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Date:



P&G Pet Care 7250 Pos Asen Devton, OH 45414 W.DQ.COM

Re: Settlement and Reimbursement of Expenses

Dear

Thank you for taking the time to contact us about your pet. First and foremost, we want to repeat our profound regret for your pet's illness, and offer our apologies for any difficulties or inconvenience that you have experienced as a result of the Menu Foods recall. We appreciate the petience that you have shown throughout this difficult situation.

While the cause of the reported illnesses has not been definitively determined, we would like to reimburse you for certain expenses that are shown to have been associated with the Menu Foods recall. Please read this letter and all of the attached materials carefully.

If you would like direct and prompt reimbursement in the amount below from P&G Pet Care, rather than pursuing other available avenues, then please sign and return the partial release form to us in the self-addressed envelope provided. Upon receipt of the signed partial release form, we will send you a check for

Should a health concern requiring veterinary care arise within four months following the above date, we will consider providing reimbursement for medical bills that are demonstrated to be linked to the Menu Foods recall. Please call (800) 782-0923 with any questions about follow up medical treatment and reimbursement of medical bills.]

While we remain committed to reimbursing your expenses quickly, it is necessary to advise you of the effects of resolving your claim directly with P&G Pet Care, as well as inform you of other avenues that are available to pursue your claim. We do not intend to offer you legal advice, but rather to present you with sufficient information so that you may make an informed decision. If you have any questions relating to legal issues, then please contact an attorney.

As you may know, class action lawsuits have been filed in federal and state courts throughout the United States and in courts in Canada by a number of attorneys who each seek to represent the interests of pet owners, like yourself, who claim that their pets have been injured as

a result of eating one of the products that were subject to the Menu Foods recall. As a pet owner whose pet may have been harmed by a recalled Menu Foods product, you may be eligible to participate in those class action lawsuits. If you elect to participate in those class actions, then it is not necessary for you to do anything at this time.

In the alternative, you may resolve your claim directly with P&G by accepting reimbursement. If you sign the release and accept reimbursement directly from P&G, then it is important for you to understand that you will be releasing all claims against The Iams Company and P&G Pet Care, and their parent, The Procter & Gamble Company, related to any damages sustained as a result of the Menu Foods recall and may not be permitted to participate in the above class actions.

P&G Pet Care is committed to reimburse any reasonable expense incurred by pet owners as a result of pets eating one of our products that were subject to the Menu Foods recall. Any reimbursement provided by P&G Pet Care would require you to sign the partial form that would release claims for any injury or the recovery of any damages that may have arisen out of the recall.

You do have the option of discussing your claim with an attorney of your choice. If you are unclear of any of your legal rights or have any additional questions regarding the full extent of your options, then we suggest that you speak to an attorney. If you are currently represented by an attorney in this matter, then please forward this communication directly to your attorney and have your attorney contact us directly.

Again, we are deeply saddened by your pet's illness.

Sincerely,

Marti Hissong

Manager Consumer Relations

Jams/Eukanuba

Name

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EXHIBIT 2

[REM/P&G PET CARE]

[Date]

[Consumer	Address]
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	ΝC.	Sellie	ment and	Reimburs	sement of	Expens	es	
Dear	.:							
	~~*		_					

Thank you for taking the time to contact us about your pet. First and foremost, we want to repeat our profound regret for your pet's illness, and offer our apologies for any difficulties or inconvenience that you have experienced related to the Menu Foods recall. We appreciate the patience that you have shown throughout this difficult situation.

While the cause of the reported illnesses has not been definitively determined, we would like to reimburse you for your medical expenses associated with the Menu Foods recall. Please read this letter and all of the attached materials carefully. If you would like direct and prompt reimbursement in the amount below by P&G Pet Care, rather than pursuing other available avenues, then please sign and return the [RELEASE/PARTIAL RELEASE] form to us in the self-addressed envelope provided. Upon receipt of the signed [RELEASE/PARTIAL RELEASE] form, we will send you a check for \$_ . [IF PARTIAL RELEASE INCLUDE -- Should a health concern requiring veterinary care arise within four months following the above date, we will consider providing reimbursement for medical bills that are demonstrated to be linked to the Menu Foods recall. Please call (800) 782-0923 with any questions about follow up medical treatment and reimbursement of medical bills.]

While we remain committed to reimbursing your expenses quickly, it is necessary to advise you of the effects of resolving your claim directly with P&G Pet Care, as well as inform you of other avenues that are available to pursue your claim. We do not intend to offer you legal advice, but rather to present you with sufficient information so that you may make an informed decision. If you have any questions relating to legal issues, please feel free to contact an attorney.

As you may know, class action lawsuits have been filed throughout the United States and Canada by a number of attorneys who each seek to represent the interests of pet owners, like yourself, who claim that their pets have been injured as a result of eating one of the products that were subject to the Menu Foods recall. A list of the attorneys seeking to represent consumers, including their contact information, is attached to this letter.

P&G Pet Care is committed to reimburse any reasonable medical expense incurred by pet owners who can be identified as having suffered as a result of pets eating one of our products that were subject to the Menu Foods recall. Any reimbursement provided by P&G Pet Care would require you to sign the [RELEASE/PARTIAL RELEASE] form that would release claims for any injury that may have arisen out of the recall. You do have the option of contacting one of the plaintiffs' attorneys who have filed class actions or to discuss your claim with an attorney of your choice. If you have any additional questions regarding the full extent of your options, then we suggest that you speak to an attorney.

Again, we are deeply saddened by your pet's illness. **[FOR REM ONLY** Please feel free to contact me at (800) 782-0923 should you have any additional questions regarding this claim.]

Sincerely,

[Insert name]

action that arose out of, or relate to any claim suffered from the purchase and feeding of any

legal, binding effect, and that [he/she] enters into and signs this Release voluntarily.

and that the payment is not to be construed as an admission of liability. [Name] further state that [he/she] has carefully read this Release, that [he/she] knows and understands its contents and its

[Name]

[Name] understands that this settlement is the compromise of a disputed claim

product that was subject to the Menu Foods recall.

Date:

Claim #:
Date, 2007
[Name] [Pet Name]
PARTIAL RELEASE
This Release is entered into as of the date of above, by and between The Iams Company (a subsidiary of The Procter & Gamble Company) ("Iams") and [Name].
FOR AND IN CONSIDERATION of the payment to [Name] by Iams of [Name], for [him/herself] and [his/her] past, present and future representatives, hereby fully, finally, and forever jointly and severally releases and discharges (except as detailed below):
 Iams and its past, present, and future representatives, employees, officers, directors, attorneys, agents, owners, shareholders, partners, parents, subsidiaries, affiliates and business entities, successors and assigns;
2. Menu Foods Income Funds and its past, present, and future representatives, employees, officers, directors, attorneys, agents, owners, shareholders, partners, parents, subsidiaries, affiliates and business entities, successors and assigns; and
3. Any other vendor or retailer where any product subject to the Menu Foods recall was purchased
from any and all claims, actions, losses, damages, costs, fees, expenses, liabilities, and causes of action that arose out of, or relate to any claim suffered from the purchase and feeding of any product that was subject to the Menu Foods recall.
It is understood that [Name] may submit an additional claim for reimbursement of reasonable medical bills should a health concern related to the Menu Foods recall require veterinary care within four months from the above date. This Partial Release shall not bar the submission of that claim.
[Name] understands that this settlement is the compromise of a disputed claim and that the payment is not to be construed as an admission of liability. [Name] further state that [he/she] has carefully read this Partial Release, that [he/she] knows and understand its contents and its legal, binding effect, and that [he/she] enters into and signs this Partial Release voluntarily.
Date:
[Name]

MENU FOODS CLASS ACTION LAWSUIT ATTORNEYS (BY STATE)

<u>ARKANSAS</u>

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Attorney for Christian Troiano

Stuart A. Davidson Lerach, Coughlin, Stoia, Geller, Rudman & Robins, L.L.P. Suite 500 Boca Raton, FL 33432-4809 (561) 750-3000 (Telephone) (561) 750-3364 (Facsimile)

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EXHIBIT 3

ſ	Date	1

[Address]

Dear [insert]:

First and foremost, we want to repeat our profound regret for your pet's illness. We appreciate your patience in this difficult situation.

While the cause of the reported illnesses has not been definitively determined, we are reimbursing your medical bills associated with the Menu Foods recall. Payment in the amount of \$_____has been requested and you should receive a check within six weeks. Should a health concern arise in the next four months we will consider providing reimbursement for medical bills that are demonstrated to be linked to the Menu Foods recall.

Again, as pet owners, we are deeply sorry for your pet's illness.

Sincerely,

[P&G Pet Care]

Dear

First and foremost, we want to repeat our profound regret for the loss of your pet. We appreciate your patience in this difficult situation.

While the cause of the reported illnesses has not been definitively determined, we are reimbursing your medical bills associated with the Menu Foods recall. Attached is our standard release form indicating that you understand that the reimbursement check is not to be construed as an admission or indication of liability. Please carefully read, sign and return the form to us in the self-addressed envelope provided. Upon receipt of this signed release we will promptly send you a check for

Again, we are deeply saddened by the loss of your pet

Sincerely,

Marti Hissong Consumer Relations, Manager

[Consumer's	Namel
-------------	-------

Date

RELEASE

FOR AND IN CONSIDERATION of the payment to the undersigned by The lams Company, (a subsidiary of The Procter & Gamble Company), an Ohio corporation, with its principal office in Dayton, Ohio, of \$______ the receipt and sufficiency of which is hereby acknowledged, the undersigned hereby jointly and severally releases The lams Company, its parent company and their respective agents, directors, officers, employees, successors and assigns, from any and all actions, causes of action, claims, losses, damages and demands which either of them now has, has ever had or may have.

The undersigned understands that this settlement is the compromise of a disputed claim and that the payment is not to be construed as an admission of liability on the part of the persons, firms and corporations hereby released by whom liability is expressly denied.

IN WITNESS WHEREOF, the undersigned has signed this release as of the date below.

Date:	

[Consumer's Name]

Date

PARTIAL RELEASE

FOR AND IN CONSIDERATION of the payment on behalf of the undersigned to (Name of Vet Clinic) by The lams Company, (a subsidiary of The Procter & Gamble Company), an Ohio corporation, with its principal office in Dayton, Ohio, of \$ the receipt and sufficiency of which is hereby acknowledged, the undersigned hereby jointly and severally releases The lams Company, its parent company and their respective agents, directors, officers, employees, successors and assigns, from any and all actions, causes of action, claims, losses, damages and demands which either of them now has, has ever had or may have.
--

The undersigned understands that this settlement is the compromise of a disputed claim and that the payment is not to be construed as an admission of liability on the part of the persons, firms and corporations hereby released by whom liability is expressly denied.

It is also understood that the undersigned may submit an additional claim should a health concern related to the Menu Foods recall arise in the next four months, and this Partial Release shall not bar the submission of those veterinary bills related to the recall.

IN WITNESS WHEREOF, the undersigned has signed this release as of the date below.

Date:	

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EXHIBIT 4



[Date]

The lams Company P&G Pet Care 7250 Poe Avenue Dayton, OH 45414 www.pg.com

«FName_» «LName» «Address» «City_», «State» «Zip»

Re: Notice to Customers of Class Action Rights

Dear «Salutation»:

This letter supplements an earlier letter concerning your claim for reimbursement. While our earlier letter explained P&G Pet Care's reimbursement program and the effect of resolving your claim directly with P&G Pet Care, this letter provides additional information about your options. This letter does not offer legal advice, but rather, it contains additional information so that you may make an informed decision. If you have any questions, then please contact an attorney.

As you may know, the recall of various pet food products has led to class action lawsuits filed in federal and state courts throughout the United States and Canada. A number of attorneys seek to represent the interests of pet owners, like yourself, whose pets may have been injured as a result of eating one of the products. You have already contacted us and we are responding to your claim; however, there are other options that you may want to consider and discuss with an attorney.

First, you may be eligible to participate in those class action lawsuits. If you elect to participate in those class actions and do not wish to continue to seek reimbursement directly from P&G Pet Care, then it is not necessary for you to do anything at this time and you should not return the signed release that we sent you in our earlier letter. If you already signed and returned the release and you wish to participate in the class action lawsuits, then please sign the attached form and return the form and any payment you received from P&G Pet Care in the enclosed self-addressed envelope. If you return the attached form and the reimbursement already provided to you from P&G Pet Care, then we will not seek to enforce any release you signed and returned previously to P&G Pet Care.

Second, you may resolve your claim directly with P&G Pet Care. If you have already signed and returned the release and received reimbursement, then it is not necessary for you to do anything. If you have not signed and returned the release and you wish to continue to seek reimbursement directly from P&G Pet Care, then return the release to us in the enclosed self-addressed envelope and we will send you a reimbursement check in the amount stated in our previous letter. Please note that if you sign the release and accept reimbursement directly from P&G Pet Care, then you will be releasing all claims related to any damages sustained as a result of the Menu Foods recall and you may not be permitted to participate in the above-mentioned class actions.

P&G Pet Care remains committed to reimbursing its customers for any reasonable expenses incurred as a result of dogs and cats consuming one of our products that was recalled. Any reimbursement provided by P&G Pet Care would require you to sign the release form that was provided previously.

Finally, you can do nothing. You are not required to seek reimbursement from P&G Pet Care or to contact any attorney associated with the class actions.

If you have any additional questions regarding the full extent of your options, then you should speak to an attorney. If you are currently represented by an attorney, then please forward this communication and ask your attorney to contact us directly.

Again, we are deeply saddened by your pet's illness.

Sincerely,

Marti Hissong

NOTICE OF RETURN OF REIMBURSEMENT

l,	no longer wish to resolve my claim directly with
	ent of reasonable expenses incurred as a result of my pet's
	et Care's products that was subject to the Menu Foods recall. I
	y provided by P&G Pet Care and do not wish to be bound by that
	irned or am returning all reimbursements from P&G Pet Care
provided previously to me, with	n this form.
Data	N
Date:	Name:

183957.1

EXHIBIT 5

PHONE SCRIPT 6-21-2007.

USE IMMEDIATELY

Date:
List of Class Action Defendants checked for Claimant Name
Claimant on list? Yes No
Call made to
Hello, Mr/Mrs Claimant, this is (Your Name) with REM/Iams.
Before we begin our conversation, I must ask if you are represented by a lawyer or are you a member of one of the many class action lawsuits?
If noContinue with your conversation
If yes I am sorry. I am no longer allowed to continue speaking with you. Please have your attorney contact me at this office. We will now only be able to speak with him/her. Thank you. END OF CONVERSATION
If maybe I am sorry. I am not allowed to speak with any individual until you have made a decision regarding whether or not you are going to be represented by a lawyer. If you choose a lawyer please have your lawyer contact me. If you decide not to choose a lawyer please give me a call. Thank you. END OF CONVERSATION.

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EXHIBIT 6

FROM:

Stan Morton

DATE: 6/20/2007

TO:

Marti Hissong

RETENTION:

Lynn McCahren

SUBJECT:

Communication With Represented Parties

This memo requests that you both distribute the attached memo to all customer service representatives immediately and to conduct an emergency meeting with all customer service personnel ASAP to discuss the attached memo.

As you know, plaintiffs recently filed a motion which, among other things, alleged that REM/P&G Pet Care representatives improperly contacted and communicated with represented parties. Plaintiffs' motion threatens to shut down lams' Customer Service Line and prevent further communication with customers on subjects related to the recall.

It is imperative that we prevent future mistakes from occurring.

Accordingly, I ask that you both conduct an emergency meeting with all customer service personnel to discuss the attached memorandum in detail. Please answer any questions they might have, and let me or one of the other attorneys know if there are questions that we need to respond to. Please emphasize the significant consequences that we may face should we inadvertently communicate with represented parties.

Finally, I ask each of you institute a procedure to periodically monitor calls made by the customer service representatives, to ensure compliance with the policy. Please implement periodic monitoring of calls immediately.

Thank you for you attention to this.

Stan Morton General Counsel

FROM:

Stan Morton

DATE: 6/20/2007

TO:

All P&G Pet Care and Risk Enterprise Management Consumer Service Personnel

SUBJECT:

Standard Procedure For Communication With All Callers

The purpose of this memo is to re-emphasize our mandatory procedure. Please:

- Under no circumstances are you to contact, mail or otherwise communicate with any person who has been identified as a Plaintiff in one of the many lawsuits that have been filed against Menu Foods, The lams Company, The Procter & Gamble Company or anyone else. The current version of the list of named Plaintiffs is attached. We will circulate an updated list to you as new Plaintiffs are identified.
- For every call -- before returning any phone call to any consumer, be certain to review the most up-to-date list of named Plaintiffs.
- For every call -- the <u>first question</u> you should ask each time you talk to a consumer is whether they are represented by an attorney or are a member of a class action. Some consumers are represented by an attorney even though they are not a named Plaintiff on the lists of named Plaintiffs.
- Immediately terminate any communication -- if a caller states that he or she is represented by an attorney, has consulted with an attorney, or gives a response that makes it unclear whether they are represented by an attorney, --- terminate communication immediately with that individual. If you are ever uncertain as to whether a caller is represented by an attorney or whether you should terminate a conversation, err on the side of caution and terminate communication.
- If you terminate communication because a caller is or may be represented by an attorney then be sure to record that information and clearly and boldly note on all files related to that individual, electronic and hard copy, that "NO FURTHER COMMUNICATION SHOULD BE ATTEMPTED -- REPRESENTED BY COUNSEL"; this includes telephone, mail, or any other method of communication or contact.

Ask each caller no matter how many times you have spoken to them. Even if you are responding to a caller who has previously contacted lams or REM and has already been asked whether they are represented by an attorney, it is very important that you ask them again. Each time you speak to a caller, regardless of the frequency, begin each conversation by asking them whether they are represented by an attorney. There is always a possibility that between communications, the caller retained an attorney or joined a class action.

It is essential that you understand and follow this procedure to prevent any improper communication with callers who are represented by an attorney. This is a very serious matter and I ask that you follow this procedure with the utmost care.

If you have any questions:

lams personnel please contact Marti Hissong at (937) 264-7363:

REM personnel please contact Lynn McCahren at (770) 325-5112.

Thank you for your attention in this important matter.

Stan Morton

NAMES AND ADDRESSES OF PLAINTIFFS IN THE MENU FOODS LITIGATION

Arkansas

Cooper v. Menu Foods Income Fund, et al.

Kirby Cooper 2409 Woodland, Apt. 13 Texarkana, Arkansas

Gray, et al. v. Menu Foods, et al.

Sandra L. Gray Benton County, Arkansas

Nick Jackson Benton County, Arkansas

Deena Jackson Benton County, Arkansas

Sims, et al. v. Menu Foods Income Fund, et al.

Charles Ray Sims 2705 W. Dogwood Rogers, Arkansas

Pamela Sims 2705 W. Dogwood Rogers, Arkansas

Stacey, et al. v. Nestle SA, et al.

Scott Stacey Pulaski County, Arkansas

Donjinna Stacey Pulaski County, Arkansas

Widen, et al. v. Menu Foods, et al.

Richard Scott Widen Benton County, Arkansas

Barbara Widen Benton County, Arkansas

California

Carver v. Del Monte Foods Co., et al.

Cheryl Carver Placer County, California

Chamberlain v. Nestle SA, et al.

Richard Chamberlain California

Colliard v. Menu Foods, Inc., et al.

John Colliard San Diego County, California

Englander v. Menu Foods Income Fund

Jayne Englander

Mitch Englander

Finestone v. Menu Foods, Inc., et al.

Kelly Finestone Los Angeles County, California

Ford, et al. v. Menu Foods Income Fund, et al.

Hayley Ford Jonestown, Texas

Shannon J. Kramer Mesa, Arizona

Grady, et al. v. Menu Foods Income Fund, et al.

Lois Grady County of Fresno, California

Kaye Steinsapir County of Los Angeles, California

Howe v. Menu Foods Limited et al.

Dawn Howe Paducah, Kentucky

Ingles v. Menu Foods, Inc., et al.

Sherry Ingles Alameda County, California

Johnson, et al. v. Menu Foods, Inc., et al.

Paul Randolph Johnson

Tammy Navarrett

Lowery v. Menu Foods Income Fund, et al.

Diane Lowery Richmond, California

Payne, et al. v. Menu Foods, Inc., et al.

Robert Payne San Diego, California

Steve Bartilucci Spring Valley, California

Sexton v. Menu Foods Income Fund, et al.

Shirley Sexton Los Angeles County, California

Swarberg v. Menu Foods Holding Inc., et al.

Diane Swarberg San Diego, California 92101

Townsend v. Menu Foods Limited, et al.

Dennis Lee Townsend

Glenna Townsend

Wahl, et al. v. Menu Foods Income Fund, et al.

Ken Wahl County of Los Angeles, California

Shane Barbi County of Los Angeles, California

Sia Barbi County of Los Angeles, California

Jennifer Hart County of Orange, California

Maria Mitchell County of Orange, California

Sheila Washington County of Los Angeles, California

Colorado

Tompkins v. Menu Foods Midwest Corporation, et al.

Emily Tompkins Denver, Colorado

Connecticut

Osborne v. Menu Foods, Inc.

Lauri A. Osborne Terryville (Litchfield County), Connecticut

Florida

Alonso v. Pet Supermarket Inc., et al.

Richard Alonso

Birney, et al. v. Menu Foods, Inc.

George Birney Winter Springs, Florida

Audrey Birney Winter Springs, Florida

Blaszkowski, et al. v. Mars, Inc., et al.

Renee Blaszkowski Oakland County, Michigan

Amy Hollub Florida

Patricia Davis Florida

Donnelly, et al. v. Menu Foods, Inc., et al.

Stephen Donnelly Miami Beach, Florida

Jennifer Hirni Davenport, Florida

Ferrarese v. Menu Foods, Inc., et al.

Maria Teresa Ferrarese Cape Coral, Florida

Schien v. Menu Foods, Inc.

Abby Schien

Troiano v. Menu Foods, Inc., et al.

Christina Troiano Broward County, Florida

<u>Hawaii</u>

Ortiz v. Menu Foods, Inc.

Yvonne Ortiz 1465 Aala Street, #1201 Honolulu, Hawaii

<u>Idaho</u>

Klimes et al. v. Menu Foods

Larry Klimes Wendell, Idaho

Paul Lavoie Boise, Idaho

Richard Mueller Island Park, Idaho

Illinois

Amro v. Menu Foods Income Fund, et al.

Heather Amro Cook County, Illinois

Bruski v. Menu Foods, Inc., et al.

Gary Bruski Cook County, Illinois

Demith, et al. v. Nestle Purina Petcare Company, et al.

Raymond Demith Bolingbrook (Will County), Illinois

Kathleen Demith Bolingbrook (Will County), Illinois

Foxe v. Menu Foods, Inc., et al.

Sonja Foxe Cook County, Illinois

Majerczyk v. Menu Foods, Inc.

Dawn Majerczyk Cook County, Illinois

<u>Indiana</u>

Karger, et al. v. Menu Foods Income Fund, et al.

Dina Karger

Tippecanoe County, Indiana

Denise Vollmer

Fountain County, Indiana

Dolly Prue-Cerda

Lake County, Indiana

Myrna Law

St. Joseph County, Indiana

Maine

Brazilian v. Menu Foods Income Fund, et al.

Mara Brazilian Portland, Maine

Massachusetts

Connerton, et al. v. Menu Foods Midwest Corporation, et al.

Megan Connerton

Middlesex, Massachusetts

Kimberly Mello

Massachusetts

Rodrigues v. Menu Foods, Inc., et al.

Lidia Rodrigues

New Bedford, Massachusetts

Minnesota

Krosschell v. Menu Foods Income Fund, et al.

Wendy Krosschell

Murray County, Minnesota

Rozman v. Menu Foods Midwest Corporation, et al.

Stephanie Rozman

Hennipin County, Minnesota

Filed 06/25/2007

P&G Pet Care- Legal

Mississippi

Cavin v. Menu Foods, et al.

Sarah Cavin Adams County, Mississippi

Missouri

Schwinger v. Menu Foods, et al.

Richard Schwinger Barry County, Missouri

Nevada

Picus v. Wal-Mart Stores, Inc., et al. (3 cases)

Margaret Picus 1120 Cathedral Ridge Street Henderson, Nevada

Streczyn v. Menu Foods Income Fund, et al.

Marion Streczyn Washoe County, Nevada

New Jersey

Berndl, et al. v. Menu Foods, Inc., et al.

Leslie Berndl New Castle, California

Jim Moses

Terri Moses

Bonier v. Menu Foods, Inc., et al.

Janice Bonier Fort Bend, Texas

Guy Britton

Tammy Matthews

Bullock v. Menu Foods, Inc., et al.

Jim Bullock Bend, Oregon

Byers, et al. v. Menu Foods, Income Fund, et al.

Camilla Brankov Red Bluff (County of Tehama), California

Kay Byers Irving (Dallas County), Texas

Loren Byers Irving (Dallas County), Texas

Carestio v. Menu Foods Limited, et al.

Lynn Carestio 1 Christian Street Philadelphia, Pennsylvania

Carter v. Menu Foods, Inc., et al.

David Carter Philadelphia, Pennsylvania

Colquitt, et al. v. Menu Foods, Inc., et al.

Steve Colquitt Colorado

Marianna Cutter Colorado

Conner et al. v. Menu Foods, Inc., et al.

James Conner Coweta, Georgia

Frances Nash

Conti, et al. v. Menu Foods Limited, et al.

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Cheri Cutler 923 Latimer Street Philadelphia, Pennsylvania 19107

Cunningham v. Menu Foods, Inc.

Senell Cunningham

deBarathy v. Menu Foods Income Fund, et al.

Luke de Barathy Federal Way, Washington

Diedrich v. Menu Foods, Inc., et al.

Diana Diedrich 608 Carnival Terrace Sebastian, Florida 32958

Freeman v. Menu Foods, Inc., et al.

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Gagliardi v. Menu Foods, Inc., et al.

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Golding v. Menu Foods Limited, et al.

Mark Golding Pleasant Mount, Pennsylvania

Guercioni v. Menu Foods Limited, et al.

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Hidalgo v. Menu Foods, Inc., et al.

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Johnson v. Menu Foods, Inc.

Christina Johnson Tampa (Hillsborough County), Florida

Long v. Menu Foods Income Fund, et al.

Matt Long Reading, (Berks County), Pennsylvania

McCullough v. Menu Foods Income Fund, et al.

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McGuriman v. Menu Foods, Inc., et al.

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Nunez v. Menu Foods Limited, et al.

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Pirches, et al. v. Menu Foods Income Fund, et al.

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Pittsonberger v. Menu Foods Inc., et al.

Jayme Pittsonberger Alexandria, Virginia

Richard, et al. v. Menu Foods Income Fund, et al.

Paul Richard Hillman, Michigan

Jennifer Richard Hillman, Michigan

Schneider v. Menu Foods Limited, et al.

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Sokolwski v. Menu Foods, Inc., et al.

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Thomson v. Menu Foods Income Fund, et al.

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Tinker v. Menu Foods, Inc.

Linda Tinker California

Turturro v. Menu Foods, Inc., et al.

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Wilson v. Menu Foods, Inc., et al.

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Workman, et al. v. Menu Foods Limited, et al.

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New York

Bobb v. Menu Foods Income Fund, et al.

Frederick Bobb (County of Nassau) New York

Sandra Bobb (County of Nassau) New York

Cashman, et al. v. Menu Foods Midwest Corporation, et al.

Ciro Aiello Suffolk County, New York

Mark Cashman Westchester County, New York

Ohio

Boehm v Menu Foods, Inc., et al.

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Pennsylvania

DiCaprio v. Menu Foods Income Fund, et al.

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Sansoni v The Procter & Gamble Company

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Keller v. Menu Foods Limited, et al.

Dixie Keller Fairfield, (Adams County) Pennsylvania

Rhode Island

Brown v. Menu Foods, Inc., et al.

Carol Brown Johnston, Rhode Island

Tennessee

Bowser v. Nestle Purina Pet Care Company

Kimberly Bowser Shelby County, Tennessee

Holt, et al. v. Menu Foods, Inc.

Lizajean Holt Knox County, Tennessee

Donna Lefebvre Maine

Kim Leonard Marblehead, Ohio

Debra Leroy Garland, Texas

Light et al. v. Menu Foods Income Fund

Janis Crawford

Barbara Light

Peggy Martin

Vickie Williams

Washington

Adams v. Menu Foods

Michele Adams Shoreline, Washington

Boyer v. Menu Foods

Tony Boyer Twenty-Nine Palms, California

Brenton v. Menu Foods

Norman Brenton Redmond, Oregon

Dineen v. Menu Foods

Lerae Dineen Seattle, Washington

Eilers v. Menu Foods

Teresa Eilers Brush Prairie, Washington

Guthrie v. Menu Foods

Nancy Guthrie Tacoma, Washington

Heller et al. v. Menu Foods

Stacey Heller Pulaski, Virginia

Toinette Robinson Truckee, California

David Rapp Hanover Township, Pennsylvania

Cecily Mitchell Seattle, Washington

Terrence Mitchell Seattle, Washington

Kornelius, et al. v. Menu Foods

Audrey Komelius Ferndale, (Whatcom County) Washington

Barbara Smith Bremerton, Washington

Johnson, et al. v. Menu Foods

Suzanne F. Johnson Meridian, (Ada County) Idaho

Craig R. Klemann Meridian, Idaho

Labbate v. Menu Foods

Jason Labbate Lindenhurst, New York

Migliore v. Menu Foods

Laura Migliore Oueens County, New York

Monk v. Menu Foods

Paula Monk Lagrange, Georgia

Moran v. Menu Foods

Gail Moran Oak Park, (Clark County) Illinois

Mullen v. Menu Foods

Deborah Mullen Toluca Lake, California

Nagel v. Menu Foods

Lynda Nagel Pine Grove, California

Palmer v. Menu Foods

Elizabeth Palmer Little Falls, New York

Percy v. Menu Foods

Helen Percy Brighton, Massachusetts

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P&G Pet Care- Legal

Puett v. Menu Foods

Sheryl Puett Mead, (Spokane County) Washington

Reeves v. Menu Foods

Daniel Ray Reeves Federal Way, Washington

Robinson v. Menu Foods

Sheree A. Robinson Seattle, Washington

Rusiecki v. Menu Foods

Jeff Rusiecki Ilwaco, Washington

Shingle v. Menu Foods

Sandra Shingle Spring Hill, Florida

Suggett et al. v. Menu Foods, et al.

Michele Suggett Seattle, Washington

Don James Seattle, Washington

Thomas v. Menu Foods

Gary Thomas Cuba, Missouri

Ullman v. Menu Foods

Phyllis Ullman Houston, Texas

Weitz v. Menu Foods

Linda Weitz Sulphur Springs, Texas

Whaley v. Menu Foods, et al.

Tom Whaley Ontario, Oregon

Whitt v. Menu Foods

Megan Whitt Dover, Delaware

Wisconsin

Johnson v. The Procter & Gamble Company, et al.

Jacqueline Johnson Wisconsin

Pagel v. Menu Foods, Inc., et al.

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CANADA

Joel v. Menu Foods Genpar Limited, et al.

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Krstic, et al. v. Menu Foods Genpar Limited, et al.

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Debbie Mullen Leamington, Ontario

Landry, et al. v Menu Foods, et al.

Leona Landry Toronto, Ontario

Danny Salvador Haig-Carter Toronto, Ontario

Susan Mallatratt Toronto, Ontario

Milette v. Menu Foods LTD, et al.

Robert Milette Toronto, Ontario

Option Consommateurs, et al. v. Menu Foods Income Fund, et al.

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