

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

IN RE PET FOODS PRODUCTS LIABILITY LITIGATION	MDL DOCKET NO. 1850 Case No. 07-2867 (NLH) Judge Noel L. Hillman DEFENDANTS' MOTION FOR ISSUANCE OF ORDER TO SHOW CAUSE FOR AN ORDER ALLOWING FOR THE DESTRUCTION OF RECALLED WHEAT GLUTEN, RECALLED RICE PROTEIN CONCENTRATE AND OTHER INGREDIENTS ALLEGEDLY CONTAINING MELAMINE BEING STORED BY DEFENDANTS IN THE POSSESSION OF SUCH INGREDIENTS
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PLEASE TAKE NOTICE that pursuant to Fed. R. Civ. P. 26(b) and (c) and for good cause shown, Defendants shall move in the United States District Court of the District of New Jersey, Mitchell H. Cohen Building and U.S. Courthouse, 4th Street and Cooper Street, Camden, New Jersey, for the issuance of an Order to Show Cause, in the form annexed hereto as Exhibit "A", for an Order allowing for the destruction of recalled raw wheat gluten ("Wheat Gluten"), recalled raw rice protein concentrate ("RPC") and other ingredients allegedly containing melamine ("Work-In-Progress" or "WIP") by those Defendants storing such ingredients.

As set forth more fully in the accompanying Memorandum and the exhibits annexed thereto, the Declarations of Steven S. Miller, Karen M. Firstenberg, Anthony Brazil and Michael Hayes (D.E. 88) and the exhibits and attachments annexed thereto, Defendants request this Honorable Court issue and grant the annexed Order to Show Cause on the grounds that: (1) the

FDA has conducted its own independent and reliable sampling and testing of Wheat Gluten; (2) the FDA has indicated that the continued storage of the Wheat Gluten, RPC and WIP constitutes a public health hazard and that such materials should be destroyed; (3) the financial costs and expenses associated with the continued storage of the Wheat Gluten, RPC and WIP far exceed any potential benefits to Plaintiffs; and, (4) adequate representative samples of finished recalled product containing Wheat Gluten have been preserved.

PLEASE TAKE FURTHER NOTICE that in support of the within Motion, Defendants will rely upon the exhibits attached and annexed hereto, the accompanying Memorandum in Support and all other papers filed with this Court in this litigation. A proposed form Order is also submitted herewith.

Dated: March 5, 2009

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