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VIA FACSIMILE (856-757-5070)

The Honorable Noel L. Hillman
U.S. District Court, District of New Jersey
Mitchell H. Cohen U.S. Courthouse
Room 6020
One John F. Gerry Plaza
Camden, New Jersey 08101

Re: In re: Pet Foods Products Liability Litigation, MDL No. 1850

Dear Judge Hillman:

The purpose of this letter is to respond to the Tuesday, March 17, 2009 letter from Nora Constance Marino to the Court seeking a reconsideration of the request for an extension of time to respond to the Court's Show Cause Order [Doc. No. 307]. Ms. Marino previously requested an extension to respond to the Order to Show Cause until April 3, which this Court denied. Ms. Marino now requests an extension until April 27. Menu Foods and The Iams Company ("Iams") continue to object to Ms. Marino's request for an extension, and respectfully request that this Court retain the briefing schedule clearly established by this Court on March 6, 2009.¹

Briefly, contrary to Ms. Marino's statements and as we explained in the Expedited Motion for Show Cause [Doc. No. 305] and my March 5, 2009 letter to this Court [Doc. No. 306], the matter at issue, Lois Slembecker v. Menu Foods, Inc. and The Iams Company, United States District Court for the Southern District of New York, 08-CV-10217, is directly connected and related to the In re: Pet Foods Products Liability Litigation, United States District Court for the District of New Jersey, MDL No. 1850. Menu Foods and Iams believe that Ms. Marino seeks to raise issues regarding the Settlement in the Slembecker matter that should be properly decided by this Court. Any matters pertaining to the Settlement and the Orders should be addressed by this Court, which has exclusive jurisdiction over the Settlement. Understanding the issues involved, this Court granted the request and set an expedited briefing schedule for the

¹ Ms. Marino's March 16 letter refers to a letter to this Court from Mr. Anastasio seeking an extension. Neither Menu Foods nor Iams have received a copy of this letter. We believe it inappropriate that Mr. Anastasio is seeking an extension from this Court without first seeking to obtain opposing counsel's consent, particularly when he has never responded to the e-mails to him that were attached to and necessitated the filing of Defendant's Expedited Motion. We therefore also oppose his request.



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Expedited Motion of Defendants Menu Foods Corporation and The Iams Company for a Show Cause Order ("Expedited Motion").

Moreover, the Order to Show Cause was issued on March 6, 2009, and served on Ms. Marino by e-mail and Federal Express that same day. See Doc. No. 308, 314 (certifying service of Order to Show Cause on Ms. Marino and Mr. Anastasio on March 6). Ms. Marino will have had two full weeks to respond to the Order to Show Cause. More significantly, counsel for Menu Foods first raised the issues that are detailed in the Expedited Motion with Ms. Marino more than three months ago, on December 5, 2008, when Menu Foods requested that Ms. Slembecker voluntarily dismiss the Slembecker Complaint. See Doc. No. 305, Exh. B (e-mail providing copies of this Court's Orders to Ms. Marino dated December 5, 2008). Thereafter, at Ms. Marino's request, Menu Foods and The Iams Company ("Iams") refrained from action for months to give Ms. Marino time to conduct research related to this Court's Final Approval Order and Final Judgment. See id., Exh. C (letter dated January 29, 2009, from Ms. Marino to the Court in the Slembecker action). Ms. Marino has had ample opportunity to understand and prepare a response to the Expedited Motion, and much more than four days to prepare a response to this Court's Show Cause Order.

The prejudice that would be suffered by Menu Foods and Iams if Ms. Marino is given an extension until April 27 is self-evident. Menu Foods and Iams spent an enormous amount of time and money negotiating and obtaining approval of a nationwide class action settlement and release of claims related to the pet food recall, and paid an enormous amount of money in exchange for that release. Menu Foods and Iams have been forced to incur fees and costs associated with the motion to dismiss or for a stay related to claims in the Slembecker action they believe have been released, and with the motion for an Order to Show Cause in this Court, which has exclusive jurisdiction over the Settlement. Ms. Marino's request to further extend her time to respond to the Order to Show Cause in this Court until after oral argument in the Southern District of New York is inappropriate and could result in another District Court deciding the scope of the Settlement, the release and related issues, contrary to this Court's exclusive jurisdiction. Moreover, because Ms. Marino requested an extension of briefing and the hearing in the Slembecker action, this Court has the opportunity to rule on whether the Slembecker action may proceed before Menu Foods and Iams have to file further briefs, prepare the submission required in advance of the pre-trial conference on April 6, or attend the pre-trial conference and oral argument and in the Southern District of New York on the motion to dismiss or alternatively to stay scheduled for April 6. Thus, extending Ms. Marino's time to respond to the Order to Show Cause may force Menu Foods and Iams to incur costs and fees that they otherwise may not incur.²

² Ms. Marino also claims to need more time to seek pro hac vice admission. The requirements of Local Rule 101.1 are waived in this action because this is a multi-district proceeding. See Doc. No. 10 at ¶ 12 (Practice and Procedure Order Upon Transfer).



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Accordingly, Menu Foods and Iams object to Ms. Marino's request for an extension, and respectfully request that this Court retain the briefing schedule clearly established by this Court on March 6, 2009 [Doc. No. 307].

Respectfully,

Mary E. Gately
Mary E. Gately

MEG/lrc

cc: Nora C. Marino (Counsel for Lois Slembecker, served via e-mail, facsimile
and first class mail)
William Anastasio (Counsel for Cynthia Dotoli, served via e-mail, facsimile
and first class mail)
D. Jeffrey Ireland (Counsel for The Iams Company and Defendants Liaison Counsel)