

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

IN RE: PET FOOD PRODUCTS
LIABILITY LITIGATION

MDL Docket No. 1850 (All Cases)

Civil Action No. 07-2867 (NLH)

Judge Noel L. Hillman

**MOTION OF DEFENDANTS
NESTLÉ PURINA PETCARE
COMPANY AND MENU FOODS
FOR A SHOW CAUSE ORDER**

Pursuant to Fed. R. Civ. P. 7 and L. Civ. P. 7.1, Defendants Nestlé Purina PetCare Company (“Nestlé Purina”) and the Menu Foods Defendants (“Menu Foods”) move this Court to enjoin Settlement Class Members Paul and Ava Paquette from pursuing their pending litigation in California federal court against Nestlé Purina and Menu Foods in violation of this Court’s Order Approving Class Action Settlement, Certifying Settlement Class, Directing Entry of Final Judgment and Awarding Attorneys’ Fees and Reimbursement Expenses (“Final Approval Order”) entered on November 17, 2008, and its Judgment Dismissing All Defendants With Prejudice (“Final Judgment”) entered on November 19, 2008. Nestlé Purina and Menu Foods also move this Court to issue an order to show cause requiring the Paquettes to show why they should not be held in contempt for refusing to discontinue prosecuting Released Claims against Nestlé Purina and Menu Foods in their California action contrary to the Final Approval Order and Final Judgment. Lead Counsel for Plaintiffs in this MDL do not oppose this Motion.

This Court should grant this Motion because the Paquettes are Settlement Class Members who have not opted out of the Settlement Agreement, the claims in their action are

“Released Claims” as defined in paragraph 6 of the Final Approval Order, and Nestlé Purina and Menu Foods are “Released Entities” as defined in paragraph 8 of the Final Approval Order. Thus, pursuant to paragraph 9 of the Final Approval Order, the Paquettes are enjoined from prosecuting their pending litigation in California.

Menu Foods and Nestlé Purina respectfully ask for expedited consideration of this Motion and for briefing on the Order to Show Cause, pursuant to this Court's authority under L. Civ. P. 7.1(d)(2). Mr. Paquette, who is an attorney and represents himself and his wife in the California action, has indicated that he intends to attempt to seek relief from this Court's orders before the California federal court in approximately 30 days – this, despite being on notice of the provisions in the Settlement and Final Approval Order making clear that it is *this* Court that has exclusive and continuing jurisdiction over such matters. In addition, Nestlé Purina's time to answer or otherwise respond to the Paquette Complaint expires on July 6, 2009. Accordingly, Menu Foods and Nestlé Purina respectfully submit that expedited consideration is appropriate under these circumstances.

A Proposed Order is attached to this Motion.

Respectfully submitted,

/s/ Mary E. Gately

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