

BEFORE THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

IN RE PET FOOD PRODUCTS : Civil Action No. 07-2867  
 LIABILITY LITIGATION :  
 : MDL Docket No. 1850 (ALL  
 : CASES)  
 :  
 : **AFFIDAVIT OF RICHARD FAMA**  
 : **IN SUPPORT OF DEL MONTE'S**  
 : **EMERGENCY MOTION TO LIMIT**  
 : **ITS RETENTION OF RECALLED**  
 : **PET TREATS, FOOD, RAW WHEAT**  
 : **GLUTEN AND MIXTURES**  
 : **CONTAINING RECALLED WHEAT**  
 : **GLUTEN**

State of New York )  
 ) ss.:  
 County of New York )

Richard Fama, being duly sworn deposes and states the following under the penalty of perjury:

1. I am a member of the law firm of Cozen O'Connor, attorneys for Del Monte Foods Company (Del Monte), a Defendant in the above-captioned litigation, and as such, I am fully familiar with the facts and circumstances of this case and the Motion in support of which this Affidavit is made.

2. I make this Affidavit in further support of Del Monte's Memorandum of Law in Support of its Motion to Limit its Retention of Recalled Pet Treats, Food, Raw Wheat Gluten and Mixtures Containing Recalled Wheat Gluten.

3. Since April 1, 2007 and April 6, 2007, when Del Monte issued recalls of pet treats and food it manufactured, Del Monte has been preserving pet food, treats, raw wheat gluten and mixtures containing recalled wheat gluten. It continues to store these materials because of their potential evidentiary value in this pending litigation.

4. Beginning approximately three months ago, these perishable products started exhibiting signs of infestation. Specifically, flying insects and their larvae were becoming prevalent.

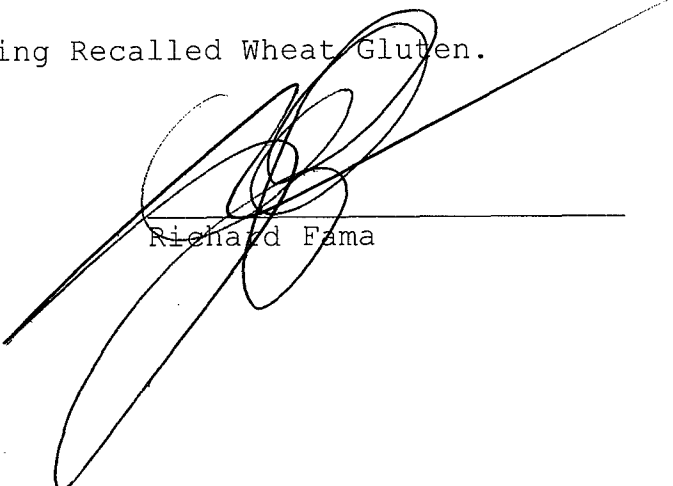
5. Accordingly, over two months ago, Del Monte, in conjunction with other Defendants, entered into negotiations with Plaintiffs' designated representatives, Jenipher Breckenridge of Hagens Berman Sobol Shaprio, LLP and Scott Kamber of Kamber & Associates, LLC, to arrive at a joint agreement related to a sampling plan of the millions of units of recalled product stored by the Defendants. However, to date, no agreement has been reached. The efforts that Del Monte and other Defendants have made to arrive at a sampling plan are more fully set forth in your affiant's Affidavit of Good Faith, the content of which is incorporated by reference herein.

6. On November 13, 2007, the Food and Drug Administration confirmed earlier communications with Del Monte by stating in an e-mail that Del Monte should commence destruction of all of the

recalled pet food, treats, raw wheat gluten and mixtures containing recalled wheat gluten it is storing in the interest of public health and safety.

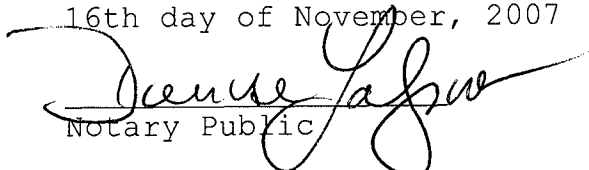
7. Therefore, Del Monte now moves this Court for an Order Limiting its Retention of Recalled Pet Treats, Food, Raw Wheat Gluten and Mixtures Containing Recalled Wheat Gluten.

Dated: November 16, 2007



Richard Fama

Sworn to before me this  
16th day of November, 2007



Notary Public

DENISE D. LAGRUE  
NOTARY PUBLIC, State of New York  
No. 01LA5049505  
Qualified in Kings County  
Term Expires: September 18, 2009