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November 27, 2007

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**VIA FACSIMILE and ELECTRONIC
FILING**

Hon. Noel L. Hillman, U.S.
United States District Judge
U.S. District Court for the District of New Jersey
Mitchell H. Cohen Building & U.S. Courthouse
4th & Cooper Streets
Camden, NJ 08101

Hon. Ann Marie Donio
United States Magistrate Judge
U.S. District Court for the District of New Jersey
Mitchell H. Cohen Building & U.S. Courthouse
4th & Cooper Streets
Camden, NJ 08101

Re: In re: Pet Food Products Liability Litigation, MDL Docket No. 1850 (All Cases);
Civil Action number: 07-2867

Judge Hillman and Magistrate Judge Donio:

Pursuant to the parties telephone conference with Magistrate Judge Donio on Wednesday November 21, 2007, the undersigned conferred with Mark J. Tamblyn and Jeniphr Breckenridge, counsel for plaintiffs, in a effort to resolve the issue concerning the subpoena plaintiffs served on Dr. George P. McCabe, the statistician who offered a declaration in support of Del Monte Food Company's Emergency Motion presently before Judge Hillman. It was and continues to be Del Monte's position that plaintiffs are not entitled to this discovery.

Yesterday, Magistrate Judge Donio memorialized our telephonic conference in an Order, which requires Del Monte to serve a motion for a protective order by noon today. This Order

essentially replaced the original expedited briefing schedule designed by Judge Hillman with respect to Del Monte's Emergency Motion.

I am pleased to report that the parties have reached an amicable resolution to the issue of Dr. McCabe's deposition. In an effort to resolve the underlying Emergency Motion as quickly as possible, Del Monte has agreed to produce Dr. McCabe for deposition on Friday November 29, 2007. The documentary materials also subpoenaed from Dr. McCabe will also be produced subject to slight modifications also agreed upon by the parties. A copy of the email correspondence outlining the parties' agreement is attached to this letter for the Court's reference.

As part of this agreement, the plaintiffs have agreed to not oppose Del Monte's request for another expedited briefing schedule regarding the underlying Emergency Motion pending before Judge Hillman. The parties have conferred and agreed to the following briefing schedule subject to Judge Hillman's approval. The plaintiffs' opposition to Del Monte's Emergency Motion must be served by 12:00 p.m. EST on December 10, 2007. Del Monte's reply papers must be served by 12:00 p.m. EST on December 19, 2007. The parties are amenable to scheduling a hearing on this motion on December 20, 2007 or December 21, 2007.

If this schedule is unacceptable to this Court, the parties respectfully request a conference call to discuss another mutually agreeable expedited briefing schedule.

Thank you for your time and attention to this matter.

Sincerely,

COZEN O'CONNOR
Attorneys for Defendant Del Monte Foods, Inc,

/s/

By: Richard Fama

AS

Sikoscow, Alexander

From: Mark J. Tamblyn [MJT@wtwlaw.us]
Sent: Monday, November 26, 2007 7:38 PM
To: Fama, Richard
Cc: Sikoscow, Alexander; Jeniphr Breckenridge
Subject: RE: PET FOOD LITIGATION

Agreed.

Mark

Mark J. Tamblyn
WEXLER | TORISEVA | WALLACE
A Limited Liability Partnership

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From: Fama, Richard [mailto:RFama@cozen.com]
Sent: Monday, November 26, 2007 4:37 PM
To: Mark J. Tamblyn
Cc: Sikoscow, Alexander; Jeniphr Breckenridge
Subject: RE: PET FOOD LITIGATION

We'll provide this information for the past four years, agreed?

Rich

From: Mark J. Tamblyn [mailto:MJT@wtwlaw.us]
Sent: Monday, November 26, 2007 7:28 PM
To: Fama, Richard
Cc: Sikoscow, Alexander; Jeniphr Breckenridge
Subject: RE: PET FOOD LITIGATION

Rich,
We agree, subject only to your agreement that you will provide us with a complete case list of prior testimony by Dr. McCabe, to be included with the Wednesday document production.

Mark

11/27/2007

Mark J. Tamblyn
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From: Fama, Richard [mailto:RFama@cozen.com]
Sent: Monday, November 26, 2007 4:23 PM
To: Fama, Richard; Mark J. Tamblyn
Cc: Sikoscow, Alexander
Subject: RE: PET FOOD LITIGATION

Mark, Jeniphr, please respond by return e-mail that plaintiffs agree to resolve the dispute over the subpoena served upon Dr. McCabe as indicated below.

Rich

Agreement

The parties (plaintiffs and defendants) hereby resolve their dispute over the subpoena served upon Dr. McCabe as follows:

1. Dr. McCabe shall be made available for oral examination during the afternoon of Friday, November 30th from 10 A.M. to 3:00 PM only;
2. Plaintiffs shall pay all fees and expenses associated with the deposition of Dr. McCabe, as provided by FRCP 26(b)(4)(c), at the time of Dr. McCabe's deposition;
3. Unless otherwise agreed upon at the time of the deposition, a maximum of two attorneys shall have the right to depose Dr. McCabe on behalf of all plaintiffs during the time period specified above;
4. Plaintiffs' questioning of Dr. McCabe shall pertain solely to the subject matter of his declaration (and exhibits) in support of Del Monte's motion;
5. Del Monte shall have the right but not the obligation to depose plaintiffs' expert(s) upon receipt of plaintiffs' opposition to Del Monte's motion to limit the amount of recalled product it is preserving. Del Monte shall notify plaintiffs counsel (Jeniphr Breckenridge) whether it wishes to depose plaintiffs' expert(s) within 24 hours of its receipt of plaintiffs' opposition. Plaintiffs shall not object to a short adjournment of any briefing schedule ordered by the Court to enable Del Monte to depose plaintiffs' expert(s);

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6. Del Monte shall pay all fees and expenses associated with the deposition of plaintiffs' expert(s), as provided by FRCP 26(b)(4)(c), at the time of plaintiffs' expert(s) deposition, if taken;
7. Plaintiffs agree to strike the words "and information" from items "1", "2" and "3" of the "Documents Requested" section of the subpoena served upon Dr. McCabe;
8. Plaintiffs agree to strike items "4" and "8" of the "Documents Requested" section of the subpoena served upon Dr. McCabe;
9. Plaintiffs agree not to oppose Del Monte's request for an expedited briefing schedule on its motion to limit the amount of recalled product it is preserving.
10. Documents responsive to the subpoena served upon Dr. McCabe, as modified above, shall be provided to plaintiffs counsel (Jeniphr Breckenridge) by Wednesday, November 28, 2007, 5:00 PST.
11. The parties agree to notify the Court of this agreement prior to 12:00 (EST) P.M. on November 27, 2007 and to discuss with it an expedited briefing schedule of Del Monte's pending motion. The parties agree that subject to the Court's approval, plaintiffs' opposition to Del Monte's motion will be due on December 10, 2007 at 12:00 PM (EST) and Del Monte's reply will be due on December 19, 2007 at 12:00 PM (EST).

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From: Fama, Richard
Sent: Monday, November 26, 2007 7:03 PM
To: Mark J. Tamblyn
Cc: Sikoscow, Alexander
Subject: PET FOOD LITIGATION
Importance: High

Mark, I need your sign off on this within 15 minutes.

Agreement

The parties (plaintiffs and defendants) hereby resolve their dispute over the subpoena served upon Dr. McCabe as follows:

11/27/2007