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August 3, 2009

Service via ECF

Hon. Dennis M. Cavanaugh, U.S.D.J.  
United States District Court  
U.S. P.O. & Courthouse Building  
Federal Square  
Newark, NJ 07101

Re: *Deborah Fellner, Individually and on Behalf of Those Similarly Situated v. Tri-Union Seafoods, L.L.C., d/b/a Chicken of the Sea*  
Civil Action No.: 06-CV-688 (DMC)  
Re: Pending Motion to Dismiss the Original Complaint and Response To Amended Complaint

Dear Judge Cavanaugh:

We represent defendant Tri-Union Seafoods, LLC d/b/a/ Chicken of the Sea (“Tri-Union”) in the above matter.

Tri-Union filed a motion to dismiss plaintiff’s original complaint pursuant to Fed R. Civ. P. 12(b)(6) which was fully submitted on July 20, 2009. After the motion was filed and plaintiff opposed the motion, plaintiff filed an Amended Complaint with the Court. The Amended Complaint does not address all of the issues raised in Tri-Union’s motion to dismiss the original Complaint and arguably does not remedy any of the deficiencies in the original pleading. In addition, it is believed that plaintiff is not permitted to amend her Complaint as of right in light of the fact that two motions to dismiss have been filed since the Complaint was filed in 2006.

We respectfully request that the Court excuse Tri-Union’s obligation to file a response to the Amended Complaint until after the motion to dismiss the original Complaint is decided. In the event that the Court denies the motion to dismiss, we then respectfully request that the Court allow Tri-Union to respond to the Amended Complaint within twenty (20) days of the Court’s decision.

Hon. Dennis M. Cavanaugh, U.S.D.J.

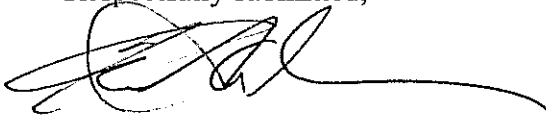
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We further request that the Court address our request in sufficient time to avoid the risk of default, and note that Your Honor's clerk Mr. Jeremy Farrell suggested that we post this letter to the docket.

Thank you.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'K. Schoen', with a long horizontal flourish extending to the right.

Kenneth A. Schoen  
(KS-7180)

cc: Barry R. Eichen, Esq. (via ECF)