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DICAPRIO v. MENU FOODS INCOME FUND et al

MURCHISON & CUMMING, LLP

GINA E. OCH (State Bar No. 170520)

Email: goch@murchisonlaw.com

801 S. Grand Ave., 9th Floor 2007 APR 23 PM 3:47
Los Angeles, California 90017

Telephone: (213) 623-7400

Facsimile: (213) 623-6336

CLERK, U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

Attorneys for *Defendants*

BY _____

KERSHAW, CUTTER & RATINOFF, LLP

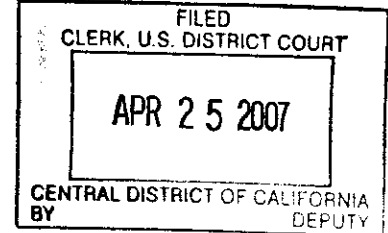
STUART C. TALLEY (State Bar No. 180374)

E-mail: stalley@kcrlegal.com

980 9th Street, 19th Floor
Sacramento, California 95814

Telephone: (916) 448-9800

Facsimile: (916) 669-4499



WEXLER TORISEVA WALLACE LLP

MARK J. TAMBLYN (State Bar No. 179272)

Email: mjt@wtwlaw.us

1610 Arden Way, Suite 290
Sacramento, California 95815

Telephone: (916) 568-1100

Facsimile: (916) 568-7890

Attorneys for *Plaintiff*

IN THE UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

SHIRLEY SEXTON, on behalf of
herself and all others similarly
situated,

Plaintiff,

v.

MENU FOODS INCOME FUND,
MENU FOODS, INC., a New
Jersey corporation, MENU FOODS
MIDWEST CORPORATION, a
Delaware corporation, XUZHOU
ANYING BIOLOGIC
TECHNOLOGY DEVELOPMENT
COMPANY LTD., and SUZHOU
TEXTILE IMPORT AND
EXPORT COMPANY,

Defendants.

Case No. 07-CV-01958-GHK (AJWx)

**STIPULATION AND [PROPOSED]
ORDER STAYING ALL
PROCEEDINGS AND FOR
PRESERVATION OF EVIDENCE**

1 WHEREAS, this case is one of over sixty (60) putative class actions filed in
2 this court and several other courts throughout the country for damages and
3 injunctive relief, arising from the manufacture, distribution and/or sale of pet food
4 products by Defendant Menu Foods Income Fund, Menu Foods, Inc., and Menu
5 Foods Midwest Corporation (Collectively referred to as "MENU FOODS");

6
7 WHEREAS, on March 30, 2007, Plaintiff Sexton ("Plaintiff") filed a Motion
8 to Transfer and Coordinate or Consolidate Action Pursuant to 28 U.S.C. § 1407 to
9 the Central District of California with the Judicial Panel on Multidistrict Litigation
10 ("MDL Panel"). Other parties have moved for transfer of all related actions to the
11 Southern District of Florida, the Western District of Washington, the District of
12 New Jersey, and the Northern District of Illinois. There are now approximately
13 twenty-eight (28) actions pending in the District of New Jersey. While Plaintiff
14 Sexton initially proposed centralization and transfer to the Central District of
15 California, Plaintiff Sexton now agrees that transfer for coordination and/or
16 consolidation of the actions to the District of New Jersey is appropriate;

17
18 WHEREAS, the MDL Panel will determine whether all actions, including
19 this action, should be transferred and coordinated and/or consolidated under 28
20 U.S.C. § 1407 for pretrial proceedings. The MDL Panel has set this matter for
21 hearing on May 31, 2007 in Las Vegas, Nevada; and

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23 WHEREAS, the parties believe that in the short intervening time between
24 now and a decision by the MDL Panel on transfer and coordination and/or
25 consolidation, a stay of these proceedings will conserve party and judicial
26 resources.

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1 IT IS HEREBY STIPULATED by and between the Plaintiff and Defendants,
2 Menu Foods Income Fund, Menu Foods, Inc., and Menu Foods Midwest
3 Corporation, through their designated counsel that this matter, including the
4 deadlines for the parties to participate in class certification and other pretrial
5 proceedings, be stayed pending the establishment of *In re: Pet Food Products*
6 *Liability Litigation*, MDL Docket No. 1850, and the potential subsequent transfer of
7 this case for coordinated pretrial proceedings with other actions pending throughout
8 the country.

9 All parties shall, during the pendency of the stay of this matter, comply with
10 their duty to preserve all evidence that may be relevant to this action. This duty
11 extends to documents, electronic data, and tangible things in the possession,
12 custody and control of the parties to this action, and any employees, agents,
13 contractors, or carriers who possess materials reasonably anticipated to be the
14 subject of discovery in this action. "Preservation" is to be interpreted broadly to
15 accomplish the goal of maintaining the integrity of all documents, data and tangible
16 things reasonably anticipated to be the subject of discovery under Fed. R. Civ. P.
17 26, 45 and 56(e) in this action. Preservation includes taking reasonable steps to
18 prevent the partial or full destruction, alteration, testing, deletion, shredding,
19 incineration, wiping, relocation, migration, theft, or mutation of such material, as
20 well as negligent or intentional handling that would make material incomplete or
21 inaccessible. If the business practices of any party involve the routine destruction,
22 recycling, relocation, or mutation of materials, the party must, to the extent
23 practicable for the pendency of this order, either:

- 24 i) halt such business practices;
25 ii) sequester or remove such material from the business process; or

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iii) arrange for the preservation of complete and accurate duplicates or copies of such material, suitable for later discovery if requested.

IT IS SO STIPULATED.

Dated: April 23, 2007

Respectfully submitted,
KERSHAW, CUTTER & RATINOFF, LLP

By 
STUART C. TALLEY
Attorneys for Plaintiff

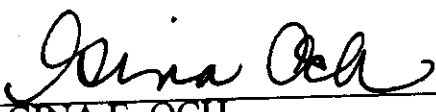
Dated: April 23, 2007

Respectfully submitted,
WEXLER TORISEVA WALLACE LLP

By 
MARK J. TAMBLYN
Attorneys for Plaintiff

Dated: April 23, 2007

Respectfully submitted,
MURCHISON & CUMMING, LLP

By 
GINA E. OCH
Attorneys for Defendants

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 4/24/07

GEORGE H. KING
THE HONORABLE GEORGE H. KING
UNITED STATES DISTRICT COURT JUDGE

J:\FWS\27612\SEXTON\PLD\STIP AND ORDER TO STAY