

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

DAWN MOLINA, Individually, and on
behalf of all others similarly situated,

Plaintiff,

CASE NO.: _____

v.

State Court Case No.: 15-CA-003493

KIND, LLC,

Defendant.

_____ /

NOTICE OF REMOVAL

Defendant KIND, LLC (“KIND”), by and through its attorneys of record, hereby files this Notice of Removal in the above-captioned matter, currently pending in the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida. This removal is made pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and 1453. Removal is proper because there is diversity of citizenship, 100 or more class members, and an aggregate amount in controversy that exceeds \$5,000,000, exclusive of interest and costs.

BACKGROUND

1. On or around April 16, 2015, Dawn Molina filed the removed case, *Molina v. KIND, LLC*, No. 15-CA-003493, in the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida. Plaintiff served the Complaint on KIND on April 17, 2015.

2. Plaintiff brings her claims individually and on behalf of a proposed class of similarly situated consumers who purchased KIND products. Compl. ¶¶ 2. The Complaint

asserts causes of action for violations of the Florida Deceptive and Unfair Trade Practices Act¹ (Count I) (“FDUTPA”) and for unjust enrichment (Count 2), pursuant to Florida Rule of Civil Procedure 1.220. Plaintiff challenges the labels of five products² for containing alleged misrepresentations relating to “the implied nutrient terms ‘healthy.’” Compl. ¶ 10. In particular, plaintiff takes issue with the labels of one or more of the products for allegedly: (1) misrepresenting the bars’ nutrient content; (2) implying nutrient content due to alleged claims that the five products are “healthy”; (3) misrepresenting the products as “low fat” in violation of applicable regulations; and (4) misbranding due to improper disclosure of required information. Compl. ¶ 10(a)-(d).

3. Plaintiff seeks declaratory judgment, injunction, damages for violation of the FDUTPA, monetary damages, damages for unjust enrichment, and attorneys’ fees and costs. She seeks to represent a class of “[a]ll persons residing in Florida who purchased KIND Products, except for resale, within the applicable statutory limitations period, including the period following the filing date of this action.” Compl. ¶ 19.

4. This action is one of eight filed since April 16, 2015 in which plaintiffs assert that KIND made misrepresentations relating to the use term “healthy” and/or representations regarding the healthiness of KIND products that KIND allegedly uses on certain of its

¹ Plaintiff incorrectly identifies the statute as the “Florida Unfair and Deceptive Trade Practices Act.” *See* Fla. Stat. Ann. § 501.201.

² These products are: (1) KIND Fruit & Nut Almond & Apricot; (2) KIND Fruit & Nut Almond & Coconut; (3) KIND Plus Peanut Butter Dark Chocolate + Protein; and (4) KIND Plus Dark Chocolate Cherry Cashew + Antioxidants.

labels.³

5. In accordance with Local Rule 4.02(b) and pursuant to 28 U.S.C. § 1446(a), true and legible copies of all papers on file with the state court are attached hereto as Exhibit 1.⁴ These papers include Plaintiff's Complaint, as well as service documents. KIND has not yet filed its answer in the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida. KIND is not aware of any other pending motions or briefs.

³ The seven other cases include: (1) *McDonald v. KIND, LLC*, Case No. 8:15-cv-00615 (C.D. Cal.) (filed April 17, 2015); (2) *Kaufer v. KIND, LLC*, Case No. 2:15-cv-02878 (C.D. Cal.) (filed April 17, 2015); (3) *Short v. KIND, LLC*, Case No. 1:15-cv-02214 (E.D.N.Y.) (filed April 17, 2015); (4) *Bustamante v. KIND, LLC*, Case No. 3:15-cv-00891-JAH-JMA (S.D. Cal.) (filed April 22, 2015); (5) *Galvez v. KIND, LLC*, Case No. 2:15-cv-03082 (C.D. Cal.) (filed April 24, 2015); (6) *Cooper v. KIND, LLC*, Case No. 3:15-cv-01872 (N.D. Cal.) (filed April 24, 2015); (7) *Karnezis v. KIND, LLC*, Case No. 1:15-cv-03679 (N.D. Ill.) (filed April 27, 2015).

Each of the cases contains an allegation relating to the use of the term “healthy” or claims of “healthiness” on KIND product labels. *See McDonald*, Case No. 8:15-cv-00615, at Compl. ¶ 1 (“KIND bars [. . .] are falsely and deceptively labeled as being ‘healthy’”); *Kaufer*, 2:15-cv-02878 at Compl. ¶ 6 (“the KIND Snack Bars do not meet the requirements established by the U.S. Food and Drug Administration (“FDA”) to make [claims that the bars are ‘healthy’]”); *Short*, Case No. 1:15-cv-02214, at Compl. ¶ 6 (“KIND represents the KIND Healthy Bars to be ‘healthy’ when, in fact, the KIND Healthy Bars are not healthy.”); *Bustamante*, Case No. 3:15-cv-00891-JAH-JMA, at Compl. ¶ 33 (“Despite [. . .] use of the term ‘healthy’ and related claims on the labels of the Products, none of the Products identified in the FDA Warning Letter meet the requirements for use of the ‘healthy’ claim set forth in 21 CFR 101.65(d)(2).”); *Galvez*, Case No. 2:15-cv-03082, at Compl. ¶ 6 (“the KIND Snack Bars are not truly ‘healthy’” despite labeling that they are healthy); *Cooper*, Case No. 3:15-cv-01872, at Compl. ¶ 9 (“Defendant represents KIND Healthy Products to be healthy when, in fact, the KIND Healthy Products are not healthy.”); *Karnezis*, Case No. 1:15-cv-03679, at Compl. ¶ 1 (KIND Bars “are too high in saturated fat to be considered ‘healthy’ under the FDA requirements.”).

⁴ Per the Clerk of the Court's request, the Complaint has been separated into a separate PDF for the docket and to prevent multiple copies of the same document being placed on the electronic filing system.

6. Pursuant to 28 U.S.C. § 1446(d), KIND is serving written notice of the removal of this case on plaintiff's counsel, and a copy will be promptly filed with the Clerk of the Thirteenth Judicial Circuit in Hillsborough County, Florida. A true and correct copy of the Notice of Filing Notice of Removal filed in the Thirteenth Judicial Circuit is attached within Exhibit 1.

7. Nothing in this Notice shall constitute a waiver of KIND's right to assert any defense, including a motion to dismiss, as the case progresses.

VENUE

8. Venue is proper under 28 U.S.C. § 1441(a) because this Court is the United States District Court for the district and division embracing the place where the state court case was pending.

REMOVAL IS TIMELY

9. The removal is timely under 28 U.S.C. § 1446(b). Plaintiff filed her Complaint on April 16, 2015. Plaintiff served the Complaint on KIND on April 17, 2015. *See* Ex. 1. Defendants filed this Notice of Removal within thirty (30) days of service, as required by law. *See, e.g., Murphy Bros, Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347-48 (1999). Accordingly, removal is timely as it falls within this thirty-day period.

BASIS FOR REMOVAL JURISDICTION

10. This Court has jurisdiction over this matter pursuant to the Class Action Fairness Act of 2005 ("CAFA"), Pub. L. No. 109-2, 119 Stat. 4 (codified as amended at 28 U.S.C. §§ 1332(d), 1335, 1441, 1453, 1603, 1711-1715).

11. CAFA confers federal-court jurisdiction over class actions involving: (a) minimal diversity; (b) at least 100 putative class members; and (c) at least \$5,000,000 in controversy, exclusive of interest and costs. *See* 28 U.S.C. § 1332(d). Once jurisdiction is established, the burden of demonstrating that any exception to CAFA applies rests with the party opposing jurisdiction. *PHLD P'ship v. Arch Specialty Ins. Co.*, 565 F. Supp. 2d 1342, 1343 (S.D. Fla. 2008) (citing *Evans v. Walter Indus., Inc.*, 449 F.3d 1159, 1164 (11th Cir.2006)). This putative class action satisfies all of CAFA's jurisdictional requirements, and accordingly, for the reasons cited *infra*, KIND has established that this Court has jurisdiction over this matter.

12. **First**, the parties are minimally diverse, *i.e.*, there is diversity between at least one defendant and at least one putative class member.

13. The plaintiff is a Florida resident who seeks to represent a class of persons “residing in Florida.” Compl. ¶¶ 3, 19. Thus, plaintiff is a citizen of Florida. *See Dist. of Columbia v. Murphy*, 314 U.S. 441, 455 (1941) (while residence is not the equivalent of citizenship, residence is properly taken as domicile “until facts are adduced to the contrary”); *State Farm Mut. Auto. Ins. Co. v. Dyer*, 19 F.3d 514, 520 (10th Cir. 1994) (residence prima facie evidence of domicile for purposes of determining citizenship); *see also Moore v. N. Am. Sports, Inc.*, 2008 WL 5157502, at *1 (N.D. Fla. Dec. 9, 2008).

14. A corporation is a citizen of the state in which it has been incorporated and where it has its principal place of business. 28 U.S.C. § 1332(c)(1). Similarly, for purposes of determining CAFA jurisdiction, a limited liability company is a citizen of the state of its organization and the state of its principal place of business. 28 U.S.C. § 1332(d)(10). As

plaintiff recognizes, KIND is a Delaware company organized under the laws of Delaware with a principal place of business in New York, *see* Compl. ¶ 19; thus, KIND is a citizen of both Delaware and New York.

15. Because plaintiff is a citizen of Florida and KIND is not a citizen of Florida, the parties are minimally diverse.

16. **Second**, the proposed class exceeds 100 persons. *See* 28 U.S.C. § 1332(d)(5). The Court looks to a plaintiff's allegations regarding class size. *See Kuxhausen v. BMW Fin. Servs. NA LLC*, 707 F.3d 1136, 1140 (9th Cir. 2013).

17. In her Complaint, plaintiff purports to bring a claim on behalf of herself and “[a]ll persons residing in Florida who purchased KIND Products, except for resale, within the applicable statutory limitations period, including the period following the filing date of this action.” Compl. ¶ 19. Plaintiff asserts that she “believes that the Class includes thousands of consumers across Florida.” Compl. ¶ 20. On plaintiff's allegations alone, the proposed class well exceeds 100 members.

18. **Third**, the aggregate amount in controversy exceeds \$5,000,000. In the class-action context, “the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interests and costs.” 28 U.S.C. § 1332(d)(6). To show that the amount in controversy exceeds \$5,000,000, the removing party need only demonstrate by a preponderance of the evidence that the amount-in-controversy requirement is met. *Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 751 (11th Cir. 2010).

19. “The amount in controversy is not proof of the amount the plaintiff will recover. Rather, it is an estimate of the amount that will be put at issue in the course of the litigation.” *Id.* (quoting and citing *McPhail v. Deere & Co.*, 529 F.3d 947, 956 (10th Cir.2008)). Indeed, “for the purposes of jurisdiction, what is actually recoverable is irrelevant; instead, it is the amount Plaintiff is seeking, and therefore putting in controversy, that is determinative.” *Kilmer v. Stryker Corp.*, 2014 WL 5454385, at *4 (M.D. Fla. Oct. 27, 2014).

20. As to the particular amount in controversy, plaintiff alleges only that she makes a “claim for both equitable relief and monetary damages in excess of \$15,000, exclusive of interest, attorneys’ fees and costs.” Compl. ¶ 5. However, plaintiff alleges that KIND sold “millions of dollars worth of the KIND Products.” Compl. ¶ 12.

21. Plaintiff’s claim clearly exceeds the \$5,000,000 threshold. Plaintiff seeks restitution or disgorgement of monies paid to KIND, as well as damages for violations of the FDUTPA and monetary damages. Comp. ¶ 39.

22. Restitution is aimed at restoring a party by returning the equivalent of any loss, damage, or injury. Restitution is defined as the “[a]ct of restoring; restoration; restoration of anything to its rightful owner; the act of making good or giving equivalent for any loss, damage or injury; and indemnification.” *Sun Coast Int’l Inc. v. Dep’t of Bus. Regulation, Div. of Florida Land Sales, Condominiums & Mobile Homes*, 596 So. 2d 1118, 1120 (Fla. Dist. Ct. App. 1992). Indeed, plaintiff concedes that KIND was enriched “by the purchase price for KIND Products.” Compl. ¶ 37. Thus, according to Plaintiff’s allegations, the amount in controversy constitutes the total monies paid to KIND by all consumers

residing in Florida during limitations period for the four products named in the Complaint. *See* 28 U.S.C. 1332(d)(6). Sales in Florida for the four bars named in the Complaint over the past two years alone total at least \$6,000,000. *See* Declaration of Jon Israelite, ¶ 4 (attached as Exhibit 2). Thus, the amount in controversy clearly exceeds the minimum threshold.

23. Moreover, the amount in controversy also includes items other than the amount of total sales of KIND products. Plaintiff also seeks attorneys' fees pursuant to the FDUTPA, which authorizes prevailing parties to "receive his or her reasonable attorney's fees and costs from the nonprevailing party." Fla. Stat. Ann. § 501.2105; *see also Federated Mut. Ins. Co. v. McKinnon Motors, LLC*, 329 F.3d 805, 808 n.4 (11th Cir. 2003) (attorneys' fees may count toward amount in controversy if authorized by statute); Compl. ¶ 33(f).

24. In addition to fees, plaintiff's request for injunctive relief is properly considered to be in controversy. *See Technomedia Solutions, LLC v. Scopetto*, 2013 WL 6571558 (M.D. Fla. 2013). So, too, is plaintiff's claim for declaratory relief; indeed, the Eleventh Circuit recently held that the amount-in-controversy requirement can be met using the value of a declaratory judgment alone. *S. Florida Wellness, Inc. v. Allstate Ins. Co.*, 745 F.3d 1312, 1316 (11th Cir. 2014). Sales, attorneys' fees, and the value of injunctive and declaratory relief will clearly exceed \$5,000,000.

25. Therefore, based on the allegations made in the Complaint, the amount in controversy clearly exceeds the jurisdictional minimum, and CAFA jurisdiction is satisfied in this case.

CONCLUSION

26. Pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and 1453, KIND hereby removes the above-captioned matter from the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, to the United States District Court for the Middle District of Florida, Tampa Division.

/s/ David J. Walz

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Attorneys for Defendant KIND, LLC

CERTIFICATE OF SERVICE

I CERTIFY that a copy of this notice was mailed on the 6th of May, 2015 to the
following:

Robert K. Savage
Alfred Villoch, III
Brenda M. Combs
Savage, Combs & Villoch, PLLC
412 E. Madison Street
Suite 1120
Tampa, FL 33602
Phone: (813) 251-4890
Fax: (813) 354-4561

/s/ David J. Walz
Attorney

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTION ON THE REVERSE OF THE FORM.)

I(a) PLAINTIFF**DAWN MOLINA**

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
Hillsborough County

DEFENDANTS**KIND, LLC**

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
 (IN U.S. PLAINTIFF CASES ONLY)
 NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Robert K. Savage Phone: (813) 251-4890
 412 E. Madison Street, Suite 1120
 Tampa, Florida 33602

ATTORNEYS (IF KNOWN)

David J. Walz Phone: (813) 223-7000
 CARLTON FIELDS JORDEN BURT, P.A.
 P.O. 3239
 Tampa, Florida 33601

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

: 1 U.S. Government Plaintiff : 3 Federal Question (U.S. Government Not a Party)
 : 2 U.S. Government Defendant X : 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE (For Diversity Cases Only) AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF		PTF	DEF
Citizen of This State	X:1	:1	Incorporated or Principal Place of Business in This State	:4	:4
Citizen of Another State	:2	:2	Incorporated and Principal Place of Business in Another State	:5	X:5
Citizen or Subject of a Foreign Country	:3	:3	Foreign Nation	:6	:6

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

28 U.S.C. §§ 1331, 1332, 1441(b), 1446(a)

V. NATURE OF SUIT (PLACE AN x IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
:110 Insurance :120 Marine :130 Miller Act :140 Negotiable Instrument :150 Recovery of Overpayment & Enforcement of Judgment :151 Medicare Act :152 Recovery of Defaulted Student Loans (Excl. Veterans) :153 Recovery of Overpayment of Veteran's Benefits :160 Stockholders' Suits :190 Other Contract :195 Contract Product Liability <u>REAL PROPERTY</u> :210 Land Condemnation :220 Foreclosure :230 Rent Lease & Ejectment :240 Torts to Land :245 Tort Product Liability :290 All Other Real Property	:310 Airplane :315 Airplane Product Liability :320 Assault, Libel & Slander :330 Federal Employers' Liability :340 Marine :345 Marine Product Liability :350 Motor Vehicle :355 Motor Vehicle Product Liability :360 Other Personal Injury <u>CIVIL RIGHTS</u> :441 Voting :442 Employment :443 Housing/ Accommodations :444 Welfare :440 Other Civil Rights	:362 Personal Injury- Med Malpractice :365 Personal Injury- Product Liability :368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY :370 Other Fraud :371 Truth in Lending :380 Other Personal Property Damage :385 Property Damage Product Liability <u>PRISONER PETITIONS</u> :510 Motions to Vacate Sentence Habeas Corpus :530 General :535 Death Penalty :540 Mandamus & Other :550 Other	:610 Agriculture :620 Other Food & Drug :625 Drug Related Seizure of Property 21 USC 881 :630 Liquor Laws :640 R.R. & Truck :650 Airline Regs :660 Occupational Safety/Health :690 Other <u>LABOR</u> :710 Fair Labor Standards Act :720 Labor/Mgmt. Relations :730 Labor/Mgmt. Reporting & Disclosure Act :740 Railway Labor Act :790 Other Labor Litigation :791 Empl. Ret. Inc. Security Act	:422 Appeal 28 USC 158 :423 Withdrawal 28 USC 157 <u>PROPERTY RIGHTS</u> :820 Copyrights :830 Patent :840 Trademark <u>SOCIAL SECURITY</u> :861 HIA (1395ff) :862 Black Lung (923) :863 DIWC/DIWW (405(g)) :864 SSIC Title XVI :865 RSI (405(g)) <u>FEDERAL TAX SUITS</u> :870 Taxes (U.S. Plaintiff or Defendant) :871 IRS - Third Party 28 USC 7609	:400 State Reapportionment :410 Antitrust :430 Banks and Banking :450 Commerce/ICC Rates/etc. :460 Deportation :470 Racketeer Influenced and Corrupt Organizations :810 Selective Service :850 Securities/Commodi- ties/Exchange :875 Customer Challenge 12 USC 3410 :891 Agricultural Acts :892 Economic Stabilization Act :893 Environmental Matters :894 Energy Allocation Act :895 Freedom of Informa- tion Act :900 Appeal of Fee Deter- mination Under Equal Access to Justice :950 Constitutionality of State Statutes XX:890 Other Statutory Actions

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

: 1 Original Proceeding : 2 Removed from State Court : 3 Remanded from Appellate Court : 4 Reinstated or Reopened : 5 Transferred from another district : 6 Multidistrict (specify) : 7 Judge from Magistrate

Appeal to District

Judgment

VII. REQUESTED IN COMPLAINT:

Check if this is a **CLASS ACTION XX**
 : UNDER F.R.C.P. 23

DEMAND: \$5,000,000.00

Check YES only if demanded in complaint:

JURY DEMAND: XX YES : NO**VIII. RELATED CASE(S) IF ANY** (See instructions)

JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

UNITED STATES DISTRICT COURT

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44

Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. Plaintiffs - Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff case, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved).

(c) Attorneys. Enter firm name, address, telephone number, and attorney or record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction is based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an X in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

V. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

VI. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States District Courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate's decision.

VII. Requested in Complaint. Class Action. Place an "X" in the box if you are filing a class action under Rule 23, F.R.Cv.P. Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference relating pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

EXHIBIT 1

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT,
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIRCUIT CIVIL DIVISION

**DAWN MOLINA , individually and on behalf of all
others similarly situated**
Plaintiff(s)

Case No.: **15-CA-003493**

vs

KIND, LLC
Defendant(s)

Division H

SUMMONS

THE STATE OF FLORIDA:

To Each Sheriff of the State:

YOU ARE COMMANDED to serve this summons and a copy of the complaint or petition in this action on defendant(s)

KIND, LLC
c/o The Corporation Trust Company
1209 Orange St.,
Wilmington, DE 19801

Each defendant is required to serve written defenses to the complaint or petition on ROBERT SAVAGE , Esquire, plaintiff's attorney, whose address is **SAVAGE COMBS & VILLOCH PLLC 412 E MADISON ST STE 1120 TAMPA FL 33602** within 20¹ days after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

DATED on April 17, 2015.

Attorney: ROBERT SAVAGE , Esquire

Attorney For: DAWN MOLINA

Address: SAVAGE COMBS & VILLOCH PLLC
412 E MADISON ST STE 1120
TAMPA FL 33602

Florida Bar No: 995576

PAT FRANK

As Clerk of the Court





Dana Caranante, Deputy Clerk

Prepared By: Veronica Phillips, Deputy Clerk

P.O. Box 989

800 E Twiggs St

Tampa, FL 33601

Room 530

Tampa FL 33602

(813)276-8100 extension 4365

¹ Except when suit is brought pursuant to section 768.28, Florida Statutes, if the State of Florida, one of its agencies, or one of its officials or employees sued in his or her official capacity is a defendant, the time to be inserted as to it is 40 days. When suit is brought pursuant to section 768.28, Florida Statutes, the time to be inserted is 30 days.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator, Hillsborough County Courthouse, 800 E. Twiggs St., Room 604, Tampa, Florida 33602, (813) 272-7040, at least 7 days before your scheduled court appearance, or immediately upon receiving

this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.

Florida Rules of Civil Procedure Form 1.902(a), Summons (06/10)

IMPORTANT

A lawsuit has been filed against you. You have 20 calendar days after this summons is served on you to file a written response to the attached complaint with the clerk of this court. A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the court you must also mail or take a copy of your written response to the "Plaintiff/Plaintiff's Attorney" named in the documents.

IMPORTANTE

Usted ha sido demandado legalmente. Tiene 20 días, contados a partir del recibo de esta notificación, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefónica no lo protegerá. Si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el número del caso y los nombres de las partes interesadas. Si usted no contesta la demanda a tiempo, pudiese perder el caso y podría ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guía telefónica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, deberá usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's Attorney" (Demandante o Abogado del Demandante).

IMPORTANT

Des poursuites judiciaires ont été entreprises contre vous. Vous avez 20 jours consécutifs à partir de la date de l'assignation de cette citation pour déposer une réponse écrite à la plainte ci-jointe auprès de ce tribunal. Un simple coup de téléphone est insuffisant pour vous protéger. Vous êtes obligés de déposer votre réponse écrite, avec mention du numéro de dossier ci-dessus et du nom des parties nommées ici, si vous souhaitez que le tribunal entende votre cause. Si vous ne déposez pas votre réponse écrite dans le délai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent être saisis par la suite, sans aucun préavis ultérieur du tribunal. Il y a d'autres obligations juridiques et vous pouvez requérir les services immédiats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez téléphoner à un service de référence d'avocats ou à un bureau d'assistance juridique (figurant à l'annuaire de téléphones).

Si vous choisissez de déposer vous-même une réponse écrite, il vous faudra également, en même temps que cette formalité, faire parvenir ou expédier une copie de votre réponse écrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou à son avocat) nommé ci-dessous.

Filing # 26155323 E-Filed 04/16/2015 09:54:03 AM

FORM 1.997. CIVIL COVER SHEET

The civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form shall be filed by the plaintiff or petitioner for the use of the Clerk of the Court for the purpose of reporting judicial workload data pursuant to Florida Statutes section 25.075.

I. CASE STYLE

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT,
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

Case No.: _____

Judge: _____

Dawn Molina

Plaintiff

vs.

KIND, LLC

Defendant

II. TYPE OF CASE

- ☐ Condominium
- ☐ Contracts and indebtedness
- ☐ Eminent domain
- ☐ Auto negligence
- ☐ Negligence – other
 - ☐ Business governance
 - ☒ Business torts
 - ☐ Environmental/Toxic tort
 - ☐ Third party indemnification
 - ☐ Construction defect
 - ☐ Mass tort
 - ☐ Negligent security
 - ☐ Nursing home negligence
 - ☐ Premises liability – commercial
 - ☐ Premises liability – residential
- ☐ Products liability
- ☐ Real Property/Mortgage foreclosure
 - ☐ Commercial foreclosure \$0 - \$50,000
 - ☐ Commercial foreclosure \$50,001 - \$249,999
 - ☐ Commercial foreclosure \$250,000 or more
 - ☐ Homestead residential foreclosure \$0 - 50,000
 - ☐ Homestead residential foreclosure \$50,001 - \$249,999
 - ☐ Homestead residential foreclosure \$250,000 or more
 - ☐ Non-homestead residential foreclosure \$0 - \$50,000
 - ☐ Non-homestead residential foreclosure \$50,001 - \$249,999
 - ☐ Non-homestead residential foreclosure \$250,000 or more
 - ☐ Other real property actions \$0 - \$50,000

- ☐ Other real property actions \$50,001 - \$249,999
- ☐ Other real property actions \$250,000 or more
- ☐ Professional malpractice
 - ☐ Malpractice – business
 - ☐ Malpractice – medical
 - ☐ Malpractice – other professional
- ☐ Other
 - ☐ Antitrust/Trade Regulation
 - ☐ Business Transaction
 - ☐ Circuit Civil - Not Applicable
 - ☐ Constitutional challenge-statute or ordinance
 - ☐ Constitutional challenge-proposed amendment
 - ☐ Corporate Trusts
 - ☐ Discrimination-employment or other
 - ☐ Insurance claims
 - ☐ Intellectual property
 - ☐ Libel/Slander
 - ☐ Shareholder derivative action
 - ☐ Securities litigation
 - ☐ Trade secrets
 - ☐ Trust litigation

COMPLEX BUSINESS COURT

This action is appropriate for assignment to Complex Business Court as delineated and mandated by the Administrative Order. Yes ☒ No ☐

III. REMEDIES SOUGHT (check all that apply):

- ☒ Monetary;
- ☐ Non-monetary
- ☒ Non-monetary declaratory or injunctive relief;
- ☐ Punitive

IV. NUMBER OF CAUSES OF ACTION: ()
(Specify)

2

V. IS THIS CASE A CLASS ACTION LAWSUIT?

- ☒ Yes
- ☐ No

VI. HAS NOTICE OF ANY KNOWN RELATED CASE BEEN FILED?

- ☒ No
- ☐ Yes – If “yes” list all related cases by name, case number and court:

VII. IS JURY TRIAL DEMANDED IN COMPLAINT?

- ☒ Yes
- ☐ No

I CERTIFY that the information I have provided in this cover sheet is accurate to the best of my knowledge and belief.

Signature s/ Robert Kevin Savage FL Bar No.: 995576
Attorney or party

(Bar number, if attorney)

Robert Kevin Savage 04/16/2015
(Type or print name)

Date

Filing # 26155323 E-Filed 04/16/2015 09:54:03 AM

CIVIL COVER SHEET

Form 1.997 The civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form shall be filed by the plaintiff or petitioner for the use of the Clerk of Court for the purpose of reporting judicial workload data pursuant to Florida Statute section 25.075. (See instructions for completion.)

I. CASE STYLE

In the Circuit Court of the Thirteenth Judicial Circuit for Hillsborough County, Florida

DAWN MOLINA,
Individually and on behalf of all others
similarly situated

Plaintiff(s),

Case #: _____

Division: _____

vs.

KIND, LLC

Defendant(s).

THIS CASE IS APPROPRIATE FOR ASSIGNMENT TO THE BUSINESS COURT ☒

Please See Attached Business Court Addendum Form

II. TYPE OF CASE: (If a case fits more than one type of case, select the most definitive category.) If the most descriptive label is a subcategory (is indented under a broader category), place an X in both the main category and the subcategory boxes.

- | | |
|---|--|
| <input type="checkbox"/> Condominium | <input type="checkbox"/> Real property / Mortgage foreclosure (cont.) |
| <input type="checkbox"/> Contracts and indebtedness | <input type="checkbox"/> Other real property actions \$0-\$50,000 |
| <input type="checkbox"/> Eminent domain | <input type="checkbox"/> Other real property actions \$50,001-\$249,999 |
| <input type="checkbox"/> Auto Negligence | <input type="checkbox"/> Other real property actions \$250,000 or more |
| <input checked="" type="checkbox"/> Negligence-other | <input type="checkbox"/> Professional malpractice |
| <input type="checkbox"/> Business governance | <input type="checkbox"/> Malpractice - Business |
| <input checked="" type="checkbox"/> Business torts | <input type="checkbox"/> Malpractice - Medical |
| <input type="checkbox"/> Environmental/Toxic tort | <input type="checkbox"/> Malpractice - other professional |
| <input type="checkbox"/> Third party indemnification | <input type="checkbox"/> Other |
| <input type="checkbox"/> Construction defect | <input type="checkbox"/> Antitrust / trade regulation |
| <input type="checkbox"/> Mass tort | <input type="checkbox"/> Business transactions |
| <input type="checkbox"/> Negligent security | <input type="checkbox"/> Constitutional challenge – statute or ordinance |
| <input type="checkbox"/> Nursing home negligence | <input type="checkbox"/> Constitutional challenge – proposed amendment |
| <input type="checkbox"/> Premises liability – commercial | <input type="checkbox"/> Corporate trusts |
| <input type="checkbox"/> Premises liability – residential | <input type="checkbox"/> Discrimination – employment or other |
| <input type="checkbox"/> Products liability | <input type="checkbox"/> Insurance claims |
| <input type="checkbox"/> Real property / Mortgage foreclosure | <input type="checkbox"/> Intellectual property |
| <input type="checkbox"/> Commercial foreclosure \$0-\$50,000 | <input type="checkbox"/> Libel / Slander |
| <input type="checkbox"/> Commercial foreclosure \$50,001-\$249,999 | <input type="checkbox"/> Shareholder derivative action |
| <input type="checkbox"/> Commercial foreclosure \$250,000 or more | <input type="checkbox"/> Securities litigation |
| <input type="checkbox"/> Commercial foreclosure \$50,001 - \$249,999 | <input type="checkbox"/> Trade secrets |
| <input type="checkbox"/> Homestead residential foreclosure \$0-\$50,000 | <input type="checkbox"/> Trust litigation |
| <input type="checkbox"/> Homestead residential foreclosure \$50,001-\$249,999 | |
| <input type="checkbox"/> Homestead residential foreclosure \$250,000 or more | |
| <input type="checkbox"/> Nonhomestead residential \$0-\$50,000 | |
| <input type="checkbox"/> Nonhomestead residential \$50,001-\$249,999 | |
| <input type="checkbox"/> Nonhomestead residential \$250,000 or more | |

III. REMEDIES SOUGHT (Check all that apply):

- ☒ Monetary;
☒ Non-monetary declaratory or injunctive relief;
☐ Punitive

IV. NUMBER OF CAUSES OF ACTION: [☒]

(Specify) 1. Violation of Florida Unfair and Deceptive Practices Act and 2. Unjust Enrichment

V. IS THIS CASE A CLASS ACTION LAWSUIT?

- ☒ Yes
☐ No

VI. HAS NOTICE OF ANY KNOWN RELATED CASE BEEN FILED?

- ☒ No
☐ Yes If "yes", list all related cases by name, case number and court.

VII. IS JURY TRIAL DEMANDED IN COMPLAINT?

- ☒ Yes
☐ No

VIII. IS TRIAL EXPECTED TO LAST MORE THAN TEN (10) TRIAL DAYS (2 WEEKS)?

- ☐ Yes
☒ No

I CERTIFY that the information I have provided in this cover sheet is accurate to the best of my knowledge and belief.

Signature /s/ Robert Savage

Attorney or Party

Robert Savage

Type or Print Name

FL Bar # 995576

(Bar # if attorney)

04/16/15

Date

BUSINESS COURT ADDENDUM

Party or Attorney Filing Action Must Place an "X" in One of the Boxes Below

The categories of cases set out below shall guide the parties and the Court in the designation of cases for the Business Court.

- ☐ A. Internal affairs or governance; dissolution or liquidation rights; obligations between or among owners (shareholders, partners, members); or liability or indemnity of managers (officers, directors, managers, trustees, or members or partners functioning as managers) of corporations, partnerships, limited partnerships, limited liability companies or partnerships;
- ☐ B. Trade secrets and non-compete agreements;
- ☐ C. Intellectual property;
- ☐ D. Securities or state securities laws;
- ☐ E. Antitrust statutes;
- ☒ F. Shareholder derivative actions and related class actions;
- ☐ G. Corporate trust affairs or director and officer liability;
- ☐ H. Non-consumer UCC-related transactions;
- ☐ I. Purchases and sales of businesses or the assets of a business; and
- ☐ J. Franchisee/franchisor relationships and liabilities

NOTE: A copy of the Civil Cover Sheet and this Addendum must be served with the Complaint for all Business Court cases. See Administrative Order S-2013-021 for further Business Court requirements.

Print Form

Filing # 26155323 E-Filed 04/16/2015 09:54:03 AM

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL
CIRCUIT OF THE STATE OF FLORIDA, IN AND FOR HILLSBOROUGH COUNTY
CIRCUIT CIVIL DIVISION

DAWN MOLINA, individually and on behalf of all others similarly situated

Plaintiff(s)

CASE NO.: _____

VS.

DIVISION: _____

KIND, LLC

Defendant(s)

REQUEST FOR ISSUANCE OF SUMMONS -CIRCUIT CIVIL

This is a request for issuance of service of process by the Clerk of court as follows:

*PLEASE NOTE THAT A SEPARATE REQUEST
IS REQUIRED FOR EACH PARTY TO BE SERVED*

Type of Process: (choose one)	
<input checked="" type="checkbox"/> Initial Summons	<input type="checkbox"/> Alias Summons
<input type="checkbox"/> Pluries Summons	
Type of Summons: (choose one)	
Circuit Court Summons:	
Indicate days to respond <input checked="" type="checkbox"/> 20 <input type="checkbox"/> 30 <input type="checkbox"/> 45 <input type="checkbox"/> 60 <input type="checkbox"/> Other _____	
Non-Residential Eviction: <input type="checkbox"/> Mailing <input type="checkbox"/> No Mailing	
Residential Eviction - <input type="checkbox"/> 5 day only <input type="checkbox"/> 5 day with 20 day attached	
<input type="checkbox"/> Mailing <input type="checkbox"/> No Mailing	
Party information:	
Party To Be Served:	
Name: KIND, LLC c/o The Corporation Trust Company	
Address: , 1209 Orange St.,	
City/State/Zip: Wilmington, DE 19801	
Email Address to Return Issued Summons: bert@savagelaw.us	

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**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION**

DAWN MOLINA,
Individually, and on behalf of
all others similarly situated,

CASE NO. 15-CA-003493

DIVISION: H

Plaintiff,

CLASS ACTION

v.
KIND, LLC

Defendant.

_____ /

NOTICE OF FILING RETURN OF SERVICE

Plaintiff, DAWN MOLINA ("Plaintiff"), by and through her undersigned counsel, hereby gives notice of filing the attached Affidavit of Process Service on Defendant KIND, LLC, a Delaware limited liability company, reflecting service on April 22, 2015.

DATED this 22d day of April 2015

/s/ Robert Savage
Robert K. Savage
Florida Bar No. 995576
Savage, Combs & Villoch, PLLC
412 E. Madison Street, Suite 1120
Tampa, Florida 33602
Tel: (813) 251-4890
Fax: (813) 354-4561
Service email: bert@savagelaw.us

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION**

DAWN MOLINA,
Individually, and on behalf of
all others similarly situated,

CASE NO.

DIVISION:

Plaintiff,

CLASS REPRESENTATION

v.
KIND, LLC

Defendant.

REQUEST FOR DIVISION ASSIGNMENT

This is a request based on local Administrative Order(s) for the Clerk of the Court to assign the above styled case in the:

X Tampa Division

East Division

Prior Division (Please indicate Case Number and Division of previously filed action:)

I understand that the actual division assignment will be in accordance with the Hillsborough County Administrative Orders. If there is no supported request for specific division assignment, this action will be assigned a division based on a random and equitable distribution system.

Dated April 16, 2015.

Respectfully Submitted,

/s/ Robert Savage
Robert Savage, Esq.
Fla. Bar No. 995576
Alfred Villoch, III
Florida Bar No. 631434
Brenda M. Combs
Florida Bar No. 10383
Savage, Combs & Villoch, PLLC
412 East Madison Street, Suite 1120

Tampa, FL 33602
(813) 251-4890
bert@savagelaw.us
Attorney for Plaintiffs

Affidavit of Process Server

DAWN MOLINA

VS KIND, LLC

15-CA-003493

PLAINTIFF/PETITIONER

DEFENDANT/RESPONDENT

CASE NUMBER

I, KEVIN S. DUNN being first duly sworn, depose and say: that I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to perform said service. RECEIVED 4/17/15

Service: I served KIND, I.I.C

NAME OF PERSON / ENTITY BEING SERVED

with (list documents)

SUMMONS & COMPLAINT

by leaving with AMY MCLAREN

(AUTHORIZED PERSON AT REGISTERED AGENT)

At

☐ Residence

NAME

RELATIONSHIP

ADDRESS

CITY / STATE

☒ Business

C/O THE CORPORATION TRUST COMPANY (registered agent) 1209 ORANGE ST. WILMINGTON, DE 19801

ADDRESS

CITY / STATE

On 4/17/15

AT 11:00 AM

DATE

TIME

Thereafter copies of the documents were mailed by prepaid, first class mail on

DATE

from

CITY

STATE

ZIP

Manner of Service:

☒ CORPORATE SERVICE

☐ Personal: By personally delivering copies to the person being served.

☐ Substituted at Residence: By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household over the age of _____ and explaining the general nature of the papers.

☐ Substituted at Business: By leaving, during office hours, copies at the office of the person/entity being served with the person apparently in charge thereof.

☐ Posting: By posting copies in a conspicuous manner to the front door of the person/entity being served.

☐ Non-Service: After due search, careful inquiry and diligent attempts at the address (es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

☐ Unknown at Address ☐ Moved, Left no Forwarding ☐ Service Cancelled by Litigant ☐ Unable to Serve in Timely Fashion

☐ Address Does Not Exist ☐ Other _____

Service Attempts: Service was attempted on: (1) _____

DATE

TIME

(2) _____

DATE

TIME

(3) _____

DATE

TIME

(4) _____

DATE

TIME

(5) _____

DATE

TIME

AGE

35

Sex F

Race W

Height 5'6

Weight 130

HAIR BROWN

SIGNATURE OF PROCESS SERVER

SUBSCRIBED AND SWORN to before me this 17TH day of APRIL, 2015.

MELISSA HARMON
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires 12/29/2015

SIGNATURE OF NOTARY PUBLIC

NOTARY PUBLIC for the state of DELAWARE

NATIONAL ASSOCIATION OF PROFESSIONAL PROCESS SERVERS

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, CIVIL ACTION

DAWN MOLINA, Individually, and on
behalf of all others similarly situated,

Plaintiff,

CASE NO.: 15-CA-003493

v.

KIND, LLC,

Defendant.

_____ /

NOTICE OF FILING NOTICE OF REMOVAL OF CIVIL ACTION

TO: Clerk of the Circuit Court of Hillsborough County, Florida:

You are hereby notified that Defendant Kind, LLC has, on the 6th of May, 2015, filed in the United States District Court for the Middle District of Florida a Notice of Removal to Federal Court of the above-entitled cause, a copy of which is attached hereto and made a part of the Notice to Clerk, for your information and guidance. This Notice serves to effect full removal of this case pursuant to 28 U.S.C. § 1446(d), thereby precluding this state court from proceeding further in this case, unless and until this case is remanded hereto by the United States District Court.

/s/ David J. Walz

Robert W. Pass

Florida Bar No.: 183169

CARLTON FIELDS JORDEN BURT, P.A.

215 S. Monroe Street

Suite 500

Tallahassee, Florida 32301-1866

Telephone: (850) 224-1585

Facsimile: (850) 222-039

Email: rpass@cfjblaw.com

David J. Walz
Florida Bar Number 697237
Jon M. Philipson
Florida Bar Number 92960
CARLTON FIELDS JORDEN BURT, P.A.
Corporate Center Three at International Plaza
4221 W. Boy Scout Blvd., Suite 1000 (33607)
Post Office Box 3239
Tampa, Florida 33601
Telephone: (813) 223-7000
Facsimile: (813) 229-4133
Email: dwalz@cfjblaw.com
jphilipson@cfjblaw.com

DALE J. GIALI (*Pro Hac Vice*)
California State Bar No. 150382
DGiali@mayerbrown.com
KERI E. BORDERS (*Pro Hac Vice*)
California State Bar No. 194015
KBorders@mayerbrown.com
MAYER BROWN LLP
350 South Grand Avenue, 25th Floor
Los Angeles, CA 90071
Tel: 213-229-9500
Fax: 213-625-0248

Attorneys for Defendant KIND, LLC

CERTIFICATE OF SERVICE

I CERTIFY that on May 6, 2015, I electronically filed the foregoing with the Clerk of Court by using the Florida Courts E-Filing Portal, which will send an electronic notice to:

Robert K. Savage
Alfred Villoch, III
Brenda M. Combs
Savage, Combs & Villoch, PLLC
412 E. Madison Street, Suite 1120
Tampa, Florida 33602
bert@savagelaw.us

/s/ David J. Walz

Attorney