

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

VENABLE LLP  
Daniel S. Silverman (SBN 137864)  
Email: dsilverman@venable.com  
2049 Century Park East, Suite 2300  
Los Angeles, CA 90067  
Telephone: (310) 229-9900  
Facsimile: (310) 229-9901

Kimberly Culp Cloyd (SBN 238839)  
Email: kculp@venable.com  
505 Montgomery Street, Suite 1400  
San Francisco, CA 94111  
Telephone: (415) 653-3750  
Facsimile: (415) 653-3755

Attorneys for Defendant  
HILLSIDE CANDY LLC

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
EASTERN DIVISION**

VENABLE LLP  
2049 CENTURY PARK EAST, SUITE 2300  
LOS ANGELES, CA 90067  
310-229-9900

ANGIE GARCIA, individually, and on  
behalf of all others similarly situated,

Plaintiff,

v.

HILLSIDE CANDY LLC, and DOES 1-  
25, Inclusive,

Defendants.

Case No.: 5:16-cv-02231

CLASS ACTION

**DEFENDANT'S NOTICE OF  
REMOVAL**

[San Bernardino County Superior Court  
Action No. CIVDS1613761]

Action Filed: August 18, 2016  
Complaint Served: September 22, 2016  
Removal: October 24, 2016

VENABLE LLP  
2049 CENTURY PARK EAST, SUITE 2300  
LOS ANGELES, CA 90067  
310-229-9900

1 **TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

2 **PLEASE TAKE NOTICE** that defendant Hillside Candy LLC  
3 (“Defendant”) by and through its attorneys, Venable LLP, and pursuant to 28  
4 U.S.C. §§1332, 1441, and 1446, hereby removes the above-captioned action from  
5 the Superior Court of the State of California, in and for the County of San  
6 Bernardino for the reasons described below:

7 **I. INTRODUCTION**

8 1. On or about August 18, 2016, Plaintiff Angie Garcia, individually,  
9 and on behalf of all others similarly situated, (“Plaintiff”) filed a civil action in the  
10 Superior Court of California for the County of San Bernardino, entitled *Garcia v.*  
11 *Hillside Candy LLC*, Case No. CIVDS1613761 (the “State Court Action”). See the  
12 Declaration of Kimberly Culp Cloyd (“Culp Cloyd Dec.”) Exhs. A-F.

13 2. Plaintiff served the Complaint, Summons, Civil Case Cover Sheet,  
14 Certificate of Assignment, and Notice of Case Assignment on Defendant on  
15 September 22, 2016. Culp Cloyd Dec. ¶ 10.

16 3. On October 11, 2016, Plaintiff filed a Case Management Conference  
17 Statement. Culp Cloyd Dec. Exh. G.

18 4. On October 13, 2016, Plaintiff filed a Proof of Substitute Service of  
19 Summons and Complaint. Culp Cloyd Dec. Exh. H.

20 5. Plaintiff alleges that Defendant sold misbranded candy (the  
21 “Product”) and pursues damages, restitution, and injunctive relief arising from the  
22 alleged false and misleading advertising.

23 **II. GROUNDS FOR REMOVAL PURSUANT TO CAFA**

24 6. The Class Action Fairness Act, 28 U.S.C. § 1332(d), (“CAFA”) provides this Court with original jurisdiction of this case and permits Defendant to  
25 remove the State Court Action from California state court to this Court. CAFA  
26 provides that federal district courts shall have original jurisdiction over class  
27 actions where the number of proposed class members is 100 or greater, any  
28

1 member of the putative class of plaintiffs is a citizen of a state different from that  
2 of any defendant, and the aggregate amount in controversy for all putative class  
3 member exceeds \$5,000,000 (exclusive of interest and costs). 28 U.S.C. §  
4 1332(d)(2), (d)(5)(B). These jurisdictional requirements are satisfied in this action.

5 **A. This is a Class Action as Defined by CAFA**

6 7. This action meets the applicable definition of a class action under  
7 CAFA, which defines a class action as “any civil action filed under rule 23 of the  
8 Federal Rules of Civil Procedure or similar State statute or rule of judicial  
9 procedure.” 28 U.S.C. § 1332(d)(1)(B).

10 8. Plaintiff filed the State Court Action as a putative class action on  
11 behalf of herself and a proposed class of “all persons located within the United  
12 States who purchased” the Product, which putative class includes California  
13 residents such as Plaintiff. Complaint ¶ 23 (“All persons located within the United  
14 States who purchased” the Product).

15 9. The California rule governing the maintenance of class actions,  
16 California Code of Civil Procedure section 382, is analogous to Federal Rule of  
17 Civil Procedure 23. Thus, this action falls within the definition of a “class action”  
18 under CAFA.

19 **B. The Proposed Class Consists of More Than 100 Members**

20 10. The putative class in this action consists of over 100 members. 28  
21 U.S.C. § 1332(d)(5)(B). Plaintiff purports to represent a class that includes “at  
22 least in the hundreds of thousands.” Complaint ¶ 25.

23 11. Although Defendant disputes that any class can be appropriately  
24 certified under any applicable rule, Plaintiff’s allegations in the Complaint are  
25 sufficient to satisfy CAFA’s requirement that the proposed class consist of at least  
26 100 members. *See* 28 U.S.C. § 1332(d)(5)(B).

27 **C. There Is Minimal Diversity of Citizenship Under CAFA**

28 12. The requisite diversity of citizenship exists between Defendant and

VENABLE LLP  
2049 CENTURY PARK EAST, SUITE 2300  
LOS ANGELES, CA 90067  
310-229-9900

1 the putative class members. CAFA provides that “[t]he district courts shall have  
2 original jurisdiction of any civil action in which the matter in controversy exceeds  
3 the sum or value of \$5,000,000, exclusive of interest and costs, and is a class action  
4 in which . . . *any* member of a class of plaintiffs is a citizen of a State different  
5 from *any* defendant.” 28 U.S.C. § 1332(d)(2)(A) (emphasis added). Thus, only  
6 minimal diversity is required.

7 13. Defendant is a limited liability company whose members are residents  
8 of New Jersey and Delaware. Culp Cloyd Decl. ¶ 2. Defendant’s principal place  
9 of business is in New Jersey. Complaint ¶ 2. Because Plaintiff is a resident of  
10 California (Complaint ¶ 1), then at least one of the putative class members is a  
11 citizen of a state different from Defendant and minimal diversity of citizenship is  
12 satisfied for purposes of CAFA. 28 U.S.C. § 1332(d)(2)(A), (d)(10).

13 **D. The Amount in Controversy is Satisfied**

14 14. The aggregate amount in controversy here, exclusive of interest and  
15 costs, exceeds the value of five million dollars. 28 U.S.C. § 1332(d)(2), (d)(6). As  
16 the United State Supreme Court has clarified, Defendant need not provide evidence  
17 proving that the amount in controversy exceeds the CAFA threshold. *Dart*  
18 *Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547 (2014). Rather,  
19 where the complaint does not specify a particular amount of alleged damages, a  
20 “defendant’s notice of removal need include only a plausible allegation that the  
21 amount in controversy exceeds the jurisdictional threshold.” *Id.* at 554. Having  
22 reviewed the Complaint and the facts known to it about its own sales, Defendant  
23 alleges that the amount in controversy exceeds five million dollars. *See also*  
24 Declaration of Ted Cohen in Support of Removal at ¶ 3.

25 15. While Defendant disputes that Plaintiff or the putative class is entitled  
26 to any amount of recovery, Plaintiff’s allegations seek recovery of an amount in  
27 excess of five million dollars and so this case is removable under CAFA.  
28

VENABLE LLP  
2049 CENTURY PARK EAST, SUITE 2300  
LOS ANGELES, CA 90067  
310-229-9900

VENABLE LLP  
2049 CENTURY PARK EAST, SUITE 2300  
LOS ANGELES, CA 90067  
310-229-9900

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**II. THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED**

**A. The Notice of Removal is Timely**

16. Plaintiff served the Summons and Complaint on Defendant on September 22, 2016. Culp Cloyd Dec. ¶ 10, Culp Cloyd. Dec. Exh. H. This notice of removal is timely pursuant to 28 U.S.C. §§ 1446(b) and 1453(b) because it is filed within thirty days after Defendant was served.

**B. Venue is Proper**

17. The Superior Court of the State of California for the County of San Bernardino is located within the Central District of California. 28 U.S.C. § 84(c). This notice of removal is therefore properly filed in this Court pursuant to 28 U.S.C. §§ 1441(a), 1446(a), and 1453(b).

**C. Notice of Filing**

18. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being filed with the clerk of the Superior Court of the State of California for the San Bernardino and served upon counsel for Plaintiff. A copy of that Notice to State Court and to Plaintiff of Removal of Action is attached hereto. Culp Cloyd Decl. Exh. I.

**III. CONCLUSION**

For the reasons stated, federal diversity jurisdiction exists pursuant to 28 U.S.C. § 1332(d). Accordingly, this action is removable to this Court pursuant to 28 U.S.C. §§ 1441(a) and 1453.

DATED: October 24, 2016

VENABLE LLP

By: /s/ Kimberly Culp Cloyd  
Daniel S. Silverman  
Kimberly Culp Cloyd

Attorneys for Defendant  
HILLSIDE CANDY LLC

1 VENABLE LLP  
Daniel S. Silverman (SBN 137864)  
2 Email: dsilverman@venable.com  
2049 Century Park East, Suite 2300  
3 Los Angeles, CA 90067  
Telephone: (310) 229-9900  
4 Facsimile: (310) 229-9901

5 Kimberly Culp Cloyd (SBN 238839)  
Email: kculp@venable.com  
6 505 Montgomery Street, Suite 1400  
San Francisco, CA 94111  
7 Telephone: (415) 653-3750  
Facsimile: (415) 653-3755  
8

9 Attorneys for Defendant  
HILLSIDE CANDY LLC

10  
11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**  
13 **EASTERN DIVISION**

14 ANGIE GARCIA, individually, and on  
behalf of all others similarly situated,

15  
16 Plaintiff,

17  
18 v.

19 HILLSIDE CANDY LLC, and DOES 1-  
20 25, Inclusive,

21 Defendants.  
22  
23  
24  
25  
26  
27  
28

Case No.: 5:16-cv-02231  
CLASS ACTION

[San Bernardino County Superior Court  
Action No. CIVDS1613761]

**DECLARATION OF KIMBERLY  
CULP CLOYD IN SUPPORT OF  
DEFENDANT'S NOTICE OF  
REMOVAL**

Action Filed: August 18, 2016  
Complaint Served: September 22, 2016  
Removal: October 24, 2016

VENABLE LLP  
2049 CENTURY PARK EAST, SUITE 2300  
LOS ANGELES, CA 90067  
310-229-9900

**DECLARATION OF KIMBERLY CULP CLOYD**

I, Kimberly Culp Cloyd, declare as follows:

1. I am an attorney at Venable LLP, counsel of record for Defendant Hillside Candy LLC in the above-captioned action. Unless otherwise stated, matters referred to in this declaration are based on my personal knowledge, and, if called to testify as a witness, I could and would testify competently to the facts set forth herein.

2. Defendant is a limited liability company whose members are residents of New Jersey and Delaware.

3. On October 24, 2016, I pulled a copy of the docket for the civil action in the Superior Court of California for the County of San Bernardino, entitled *Garcia v. Hillside Candy LLC*, Case No. CIVDS1613761. A copy of the docket is attached hereto as **Exhibit A**.

4. On August 18, 2016, Plaintiff filed the Complaint. A copy of the Complaint, as served on Defendant, is attached hereto as **Exhibit B**.

5. On August 18, 2016, Plaintiff filed the Summons. A copy of the Summons, as served on Defendant, is attached hereto as **Exhibit C**.

6. On August 18, 2016, Plaintiff filed the Civil Case Cover Sheet. A copy of the Civil Case Cover Sheet, as served on Defendant, is attached hereto as **Exhibit D**.

7. On August 18, 2016, Plaintiff filed the Certificate of Assignment. A copy of the Certificate of Assignment, as served on Defendant, is attached hereto as **Exhibit E**.

8. On August 18, 2016, the Superior Court of California, County of San Bernardino issued a Notice of Assignment for all Purposes. A copy of the Notice of Assignment, as served on Defendant, is attached hereto as **Exhibit F**.

//

VENABLE LLP  
2049 CENTURY PARK EAST, SUITE 2300  
LOS ANGELES, CA 90067  
310-229-9900

VENABLE LLP  
2049 CENTURY PARK EAST, SUITE 2300  
LOS ANGELES, CA 90067  
310-229-9900

1 9. On October 11, 2016, Plaintiff filed a Case Management Conference  
2 Statement. A copy of the filed Case Management Conference Statement is attached  
3 hereto as **Exhibit G**.

4 10. On September 22, 2016, Plaintiff served the Summons, Civil Case  
5 Cover Sheet, Notice of Case Assignment, and Complaint on Defendant. On  
6 October 13, 2016, Plaintiff filed a Proof of Substitute Service of Summons and  
7 Complaint. A copy of the filed Proof of Service is attached hereto as **Exhibit H**.

8 11. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is  
9 being filed with the clerk of the Superior Court of the State of California for the  
10 San Bernardino and served upon counsel for Plaintiff. A copy of that Notice to  
11 State Court and to Plaintiff of Removal of Action is attached hereto as **Exhibit I**.

12 I declare under the penalty of perjury under the laws of the United States  
13 that the foregoing is true and correct.

14 Executed this 24th day of October, 2016 in San Francisco, California.  
15

16 /s/ Kimberly Culp Cloyd  
17 Kimberly Culp Cloyd  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



# **EXHIBIT A**

10/17/2016

CIVDS1613761 Actions - San Bernardino Main

# Actions








Home **Complaints/Parties** **Actions** Minutes Pending Hearings Case Report Images

Case Type:

Case Number:  Search

## Case CIVDS1613761 - GARCIA-V-HILLSIDE CANDY

Move To This Date

Viewed	Date	Action Text	Disposition	Image
	10/26/2016 8:30 AM DEPT. S26	COMPLEX CASE MANAGEMENT CONFERENCE. - <a href="#">Minutes</a>		
N	10/13/2016	PROOF OF SUB-SERVICE OF SUMMONS AND COMP/PET AS TO HILLSIDE CANDY LLC SERVED ON 09/22/16 WITH FEES OF \$0.00.	Not Applicable	
N	10/11/2016	CASE MANAGEMENT CONFERENCE STATEMENT FILED BY ANGIE GARCIA INDIVIDUALLY AND ON BEHALF.	Not Applicable	
	08/18/2016	GUIDELINES FOR THE COMPLEX LITIGATION PROGRAM PRINTED.	Not Applicable	
	08/18/2016	FILING FEE PAID BY ANGIE GARCIA INDIVIDUALLY AND ON BEHALF FOR COMPLEX FEE	Not Applicable	
	08/18/2016	FILING FEE PAID BY ANGIE GARCIA INDIVIDUALLY AND ON BEHALF FOR FIRST APPEARANCE	Not Applicable	
N	08/18/2016	NOTICE IMAGED	Not Applicable	
N	08/18/2016	CERTIFICATE OF ASSIGNMENT RECEIVED.	Not Applicable	
	08/18/2016	CASE ASSIGNED FOR ALL PURPOSES TO DEPARTMENT S26		
N	08/18/2016	CIVIL CASE COVER SHEET FILED.	Not Applicable	
N	08/18/2016	SUMMONS ISSUED AND FILED	Not Applicable	
N	08/18/2016	COMPLAINT FILED	Not Applicable	

# **EXHIBIT B**

**COPY**

1 APEX TRIAL LAW  
 2 A Professional Corporation  
 3 Ryan M. Ferrell, Bar No. 258037  
 4 rferrell@apextrial.com  
 5 4100 Newport Place Drive, Suite 800  
 6 Newport Beach, CA 92660  
 7 Tel: (949) 438-0033  
 8 Fax: (949) 299-0133  
 9 Attorneys for Plaintiff and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 COUNTY OF SAN BERNARDINO  
 AUG 18 2016  
 BY: Victoria Sanchez  
 VICTORIA SANCHEZ, DEPUTY

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 10 FOR THE COUNTY OF SAN BERNARDINO

11 ANGIE GARCIA, individually, and on behalf of  
 12 all others similarly situated,  
 13 Plaintiff,  
 14 vs.  
 15 HILLSIDE CANDY LLC, and DOES 1-25,  
 16 Inclusive,  
 17 Defendants.

Case No.: CIVDS1613761  
 CLASS ACTION COMPLAINT  
 JURY TRIAL DEMANDED

19 I. INTRODUCTION

20 Hillside Candy LLC. ("Defendant" or "Hillside") manufactures, markets, and sells various  
 21 food products, including Go Organic Hard Candy ("product" or "Go Organic Hard Candy").  
 22 Defendant goes out of its way to advertise its products, including its Go Organic Hard Candy, as  
 23 healthy. In order to propagate its healthy claims, Defendant lists "evaporated cane juice" as an  
 24 ingredient in its product. "Sugar" is not found on the ingredient list of Defendant's product. Nowhere  
 25 does Defendant explain to consumers that "evaporated cane juice" is (1) not juice and (2) "evaporated  
 26 cane juice" in its common and usual name is sugar. By so doing, Defendant is able to deceive  
 27 consumers, including Plaintiff, regarding the health claims made by Defendant.

28 Defendant's misrepresentations regarding the product were designed to, and did, deceive

1 Plaintiff and others similarly situated (collectively the “Class”) with regard to the ingredients and  
2 health claims of the product. Plaintiff and members of the Class relied on Defendant’s  
3 misrepresentations and would not have paid as much, if at all, for the product but for Defendant’s  
4 misrepresentations.

5 Plaintiff brings this class action lawsuit to enjoin the ongoing deception of thousands of  
6 consumers by Defendant, and to recover the money taken by this unlawful practice.

7 **THE PARTIES**

8 **A. Plaintiff.**

9 1. Plaintiff, Angie Garcia, is, and at all times relevant hereto, was an individual residing in  
10 San Bernardino County, California. Plaintiff purchased the product earlier this year in San Bernardino  
11 County, California. Prior to purchasing Defendant’s product, Plaintiff reviewed and relied upon  
12 Defendant’s advertising and ingredients as detailed above. Plaintiff relied on Defendant’s  
13 representations regarding the ingredients of Defendant’s product, as detailed herein, and but for those  
14 representations, Plaintiff would not have purchased or paid as much for the product.

15 **B. Defendant.**

16 Plaintiff is informed and believes, and upon such information and belief alleges:

17 2. Defendant, Hillside Candy LLC. (“Hillside” or “Defendant”) is a limited liability company  
18 organized and existing under the laws of the state of New Jersey, with a principal place of business  
19 located at 35 Hillside Avenue, Hillside, NJ 07205. Defendant offers the product for sale through  
20 various channels, including the internet and retailers throughout the nation, including the State of  
21 California. Defendant, directly and through its agents, has substantial contacts with and receives  
22 substantial benefits and income from and through the State of California. Defendant is the owner and  
23 distributor of the product and is the company that created and/or authorized the false, misleading, and  
24 deceptive advertisements and packaging for the product.

25 3. Plaintiff does not know the true names or capacities of the persons or entities sued herein  
26 as DOES 1 to 25, inclusive, and therefore sues such defendants by such fictitious names. Plaintiff is  
27 informed and believes and thereon alleges that each of the DOE defendants is in some manner legally  
28 responsible for the damages suffered by Plaintiff and the members of the class as alleged herein.

1 Plaintiff will amend this Complaint to set forth the true names and capacities of these defendants when  
2 they have been ascertained, along with appropriate charging allegations, as may be necessary.

3 4. At all times mentioned herein, Defendants, and each of them, were members of, and  
4 engaged in, a joint venture, partnership, and common enterprise, and acted within the course and  
5 scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

6 5. At all times mentioned herein, the acts and omissions of Defendants, and each of them,  
7 contributed to the various acts and omissions of each and all of the other Defendants in proximately  
8 causing the injuries and damages as alleged herein.

9 6. At all times mentioned herein, Defendants, and each of them, ratified each and every  
10 act or omission complained of herein. At all times mentioned herein, Defendants, and each of them,  
11 aided and abetted the acts and omissions of each and all of the other Defendants in proximately  
12 causing the damages as alleged herein.

13 **III. JURISDICTION AND VENUE**

14 7. This Court has jurisdiction over all causes of action asserted herein.

15 8. Venue is proper in this Court because Plaintiff purchased the product in this County and  
16 because Defendant has received substantial compensation from sales in this County. Specifically,  
17 Defendant knowingly engages in activities directed at consumers in this County, and Defendant  
18 obtains substantial benefits from its scheme perpetrated in this County. Plaintiff has filed concurrently  
19 herewith the declaration of venue required by Civil Code Section 1780(d) and is attached hereto as  
20 Exhibit One.

21 9. Defendant and other out-of-state participants can be brought before this Court pursuant  
22 to California's "long-arm" jurisdictional statute.

23 **IV. FACTS**

24 10. Defendant manufactures, markets, and sells the product. The product is marketed as  
25 healthy. In the ingredient list for the product, Defendant lists "evaporated cane juice" as an ingredient.  
26 Defendant does not list "sugar" or any other commonly known sweetener. Nowhere on the product or  
27 in the ingredient list does Defendant explain that "evaporated cane juice" is not actually juice and is  
28 actually sugar.

1           11.     The Food and Drug Administration (“FDA”) has warned manufacturers and advertisers  
2 not to use the term “evaporated cane juice” because: (1) it is false and misleading; (2) the term violates  
3 a number of labeling regulations requiring products to be labeled with the usual and common names of  
4 ingredients and to accurately describe those ingredients; and (3) “evaporated cane juice” is not juice.

5           12.     Accurate labeling is required in order to help consumers make informed choices and  
6 not be misled. As detailed herein, Defendant has made, and continues to make, false and deceptive  
7 claims in violation of federal and California laws that govern labeling claims.

8           13.     California and federal laws are identical and regulate the labeling of food. The Federal  
9 Food Drug & Cosmetic Act (“FDCA”) was adopted by California through the Sherman Food Drug &  
10 Cosmetic Law, California Health & Safety Code § 109875, et seq. (“Sherman Law”). Under FDCA  
11 403(a), food is “misbranded” when “its labeling is false or misleading in any particular,” and/or if it  
12 does not contain required information on its labeling. 21 U.S.C. § 343(a).

13           14.     According to the FDCA, if any claim made on the labeling of a product is false or  
14 misleading, the food product is misbranded, and no other labeling statement can cure misleading  
15 statement(s). “Misleading” is judged in reference to “the ignorant, the unthinking and the credulous  
16 who, when making a purchase, do not stop to analyze.” *United States v. El-O-Pathic Pharmacy*, 192  
17 F.2d 62, 75 (9th Cir. 1951).

18           15.     Ingredients, such as “evaporated cane juice”, are not to be listed by names, which  
19 suggest that the ingredients are anything other than sugar or syrup because it fails to reveal the basic  
20 nature of the food and its properties as required by 21 C.F.R. § 102.5. By listing “evaporated cane  
21 juice” as an ingredient of its product, Defendant has violated federal and California labeling  
22 regulations.

23           16.     The FDA has decreed that “evaporated cane juice” is not the common or usual name of  
24 any type of sweetener, including sugar. Sugar is defined in 21 C.F.R. §101.4(b)(20) and 21 C.F.R.  
25 §184.1854, as the usual or common name for the crystallization from sugar cane or sugar beet juice  
26 that has been extracted by pressing or diffusion, then clarified and evaporated. 21 C.F.R. §168.130  
27 defines cane syrup.

28           17.     Sugar cane products must be described by their usual or common name, sugar or cane

1 syrup. 21 C.F.R. §101.4; 21 C.F.R. §184.1854; and 21 C.F.R. §168.1340.

2 18. The FDA has directed that sweeteners should not be listed by names that suggest that  
3 the ingredients are juice. The FDA considers such listing as “false and misleading” under section  
4 403(a)(1) of the FDCA (21 U.S.C. 343(a)(1)) because listing in this manner does not reveal the basic  
5 nature of the food and its properties as required by 21 C.F.R. § 102.5. Despite these requirements,  
6 Defendant has made, and continues to make false and misleading representations regarding its product  
7 in violation of both federal and California laws regarding appropriate and legal labeling.

8 19. Under both federal and California law, Defendant’s misbranded product cannot be  
9 manufactured, advertised, distributed, or sold. Defendant’s deceptive and false labeling stems from its  
10 desire to label its foods with perceived healthy characteristics. Such deceptive and false labeling  
11 drives sales of the product, and did in fact deceive Plaintiff and California consumers.

12 20. Defendant’s misrepresentations regarding the product were designed to, and did, lead  
13 Plaintiff and others similarly situated (collectively the “Class”) to believe that the product were of a  
14 quality that they are not and did not contain ingredients which, in fact, are found in the product.  
15 Plaintiff and members of the Class relied on Defendant’s misrepresentations and would not have paid  
16 as much, if at all, for the product but for Defendant’s misrepresentations.

17 21. Defendant sells the product for approximately \$3.00 based on the preceding false  
18 advertising claims. As a result, Defendant has wrongfully taken hundreds of thousands of dollars from  
19 consumers.

20 22. Accordingly, Plaintiff brings this lawsuit to enjoin the ongoing deception of thousands  
21 of consumers by Defendant, and to recover the funds taken by this unlawful practice.

22 **V. CLASS ACTION ALLEGATIONS**

23 23. Plaintiff brings this class action for damages and other monetary relief on behalf of the  
24 following class:

25 All persons located within the United States who purchased Go Organic  
26 Hard Candy labeled with “evaporated cane juice” at any time during the  
27 four years preceding the filing of this Complaint (the “Class”).

28 ///



1           24. Excluded from the Class are governmental entities, Defendant, any entity in which  
2 Defendant has a controlling interest, and Defendant's officers, directors, affiliates, legal  
3 representatives, employees, co-conspirators, successors, subsidiaries, and assigns and individuals  
4 bound by any prior settlement involving the product. Also excluded from the Class is any judge,  
5 justice, or judicial officer presiding over this matter and the members of their immediate families and  
6 judicial staff.

7           25. The proposed Class is so numerous that individual joinder of all its members is  
8 impracticable. Due to the nature of the trade and commerce involved, however, Plaintiff believes that  
9 the total number of Class members is at least in the hundreds of thousands and members of the Class  
10 are numerous and geographically dispersed across California. While the exact number and identities  
11 of the Class members are unknown at this time, such information can be ascertained through  
12 appropriate investigation and discovery. The disposition of the claims of the Class members in a  
13 single class action will provide substantial benefits to all parties and to the Court.

14           26. There is a well-defined community of interest in the questions of law and fact involved  
15 affecting the plaintiff class and these common questions predominate over any questions that may  
16 affect individual Class members. Common questions of fact and law include, but are not limited to,  
17 the following:

- 18                   a. Whether Defendant's products are labeled with "evaporated cane juice";
- 19                   b. Whether Defendant has falsely represented that the product has benefits  
20                   which it does not have;
- 21                   c. Whether Defendant knew that its ingredient claims were false;
- 22                   d. Whether Defendant's conduct constitutes breach of express warranty;
- 23                   e. Whether Defendant's conduct constitutes breach of the implied warranty of  
24                   fitness for a particular purpose;
- 25                   f. Whether Defendant's conduct constitutes negligent misrepresentation;
- 26                   g. Whether Defendant's conduct constitutes a violation of the Consumers  
27                   Legal Remedies Act (Cal. Civ. Code §§ 1750, *et seq.*);
- 28                   h. Whether Defendant's conduct constitutes a violation of California's false

1 advertising law (Cal. Bus. & Prof. Code §§ 17500, *et seq.*);

- 2 i. Whether Defendant's conduct constitutes an unfair, unlawful, and/or  
3 fraudulent business practice in violation of California's unfair competition  
4 law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*);
- 5 j. Whether Plaintiff and Class members are entitled to compensatory damages,  
6 and if so, the nature of such damages;
- 7 k. Whether Plaintiff and Class members are entitled to restitutionary relief; and
- 8 l. Whether Plaintiff and Class members are entitled to injunctive relief.

9 27. Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff and all  
10 members of the Class have been similarly affected by Defendant's common course of conduct since  
11 they all relied on Defendant's representations concerning the ingredients of the product and purchased  
12 the product based on those representations.

13 28. Plaintiff will fairly and adequately represent and protect the interests of the Class.  
14 Plaintiff has retained counsel with substantial experience in handling complex class action litigation.  
15 Plaintiff and his counsel are committed to vigorously prosecuting this action on behalf of the Class and  
16 have the financial resources to do so.

17 29. Plaintiff and the members of the Class suffered, and will continue to suffer, harm as a  
18 result of Defendant's unlawful and wrongful conduct. A class action is superior to other available  
19 methods for the fair and efficient adjudication of the present controversy. Individual joinder of all  
20 members of the class is impracticable. Even if individual class members had the resources to pursue  
21 individual litigation, it would be unduly burdensome to the courts in which the individual litigation  
22 would proceed. Individual litigation magnifies the delay and expense to all parties in the court system  
23 of resolving the controversies engendered by Defendant's common course of conduct. The class  
24 action device allows a single court to provide the benefits of unitary adjudication, judicial economy,  
25 and the fair and efficient handling of all class members' claims in a single forum. The conduct of this  
26 action as a class action conserves the resources of the parties and of the judicial system and protects  
27 the rights of the class members. Furthermore, for many, if not most, a class action is the only feasible  
28 mechanism that allows an opportunity for legal redress and justice.

1 30. Adjudication of individual class members' claims with respect to Defendant would, as a  
2 practical matter, be dispositive of the interests of other members not parties to the adjudication, and  
3 could substantially impair or impede the ability of other class members to protect their interests.

4 **VI. CAUSES OF ACTION**

5 **FIRST CAUSE OF ACTION**

6 **NEGLIGENT MISREPRESENTATION**

7 **(By Plaintiff and on Behalf of the Class Against Defendant)**

8 31. Plaintiff incorporates by this reference the allegations contained in the paragraphs  
9 above as if fully set forth herein.

10 32. During the Class Period, Defendant's misrepresented the ingredients of the product to  
11 consumers through the advertising, marketing, and sale of the product.

12 33. Defendant's misrepresentations regarding the product ingredients were false and  
13 misleading because "evaporated cane juice" is not juice.

14 34. Defendant's misrepresentations regarding the labeling of the ingredients were material  
15 because a reasonable consumer would attach importance to them in determining whether to purchase  
16 and consume the product.

17 35. Defendant's material misrepresentations regarding the product are false and made  
18 without reasonable grounds for believing them to be true.

19 36. Defendant made material misrepresentations regarding the ingredients of the product  
20 with the intent to induce Plaintiff and Class members to purchase and consume the product.

21 37. Plaintiff and Class members reasonably relied on Defendant's material  
22 misrepresentations in choosing to purchase and consume the product.

23 38. As a direct and proximate result of Defendant's conduct, Plaintiff and Class members  
24 have incurred damages in an amount to be proven at trial. Plaintiff and Class members are not seeking  
25 damages arising out of personal injuries.

26 ///

27 ///

28 ///

1 SECOND CAUSE OF ACTION

2 VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT

3 (CAL. CIV. CODE §§ 1750, ET SEQ.)

4 (By Plaintiff and on Behalf of the Class Against Defendant)

5 39. Plaintiff incorporates by this reference the allegations contained in the paragraphs  
6 above as if fully set forth herein.

7 40. Plaintiff has standing to pursue this cause of action because Plaintiff has suffered injury  
8 in fact and has lost money as a result of Defendant's actions as set forth herein. Specifically, Plaintiff  
9 purchased the product in reliance on Defendant's labeling of the product.

10 41. Defendant has engaged in and continues to engage in business practices in violation of  
11 California Civil Code §§ 1750, *et seq.* (the "Consumers Legal Remedies Act") by making false and  
12 unsubstantiated representations concerning the ingredients of the product. These business practices  
13 are misleading and/or likely to mislead consumers and should be enjoined.

14 42. Defendant has engaged in deceptive acts or practices intended to result in the sale of  
15 the product in violation of Civil Code § 1770. Defendant knew and/or should have known that its  
16 representations of fact concerning the ingredients of the product were material and likely to mislead  
17 the public. Defendant affirmatively misrepresented that the product had certain benefits, which they  
18 do not have.

19 43. Defendant's conduct alleged herein violates the Consumers Legal Remedies Act,  
20 including but not limited to, the following provisions: (1) using deceptive representations in  
21 connection with goods or services in violation of Civil Code § 1770(a)(4); (2) representing that goods  
22 or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which  
23 they do not have in violation of Civil Code § 1770(a)(5); and/or (3) advertising goods or services with  
24 intent not to sell them as advertised in violation of Civil Code § 1770(a)(9). As a direct and proximate  
25 result of Defendant's conduct, as set forth herein, Defendant has received ill-gotten gains and/or  
26 profits, including but not limited to, money. Therefore, Defendant has been unjustly enriched.

27 44. There is no other adequate remedy at law, and Plaintiff and Class members will suffer  
28 irreparable harm unless Defendant's conduct is enjoined.

1 45. Concurrently herewith, Plaintiff's counsel mailed to Defendant, by certified mail,  
2 return receipt requested, the written notice required by Civil Code Section 1782(a) on June 29, 2016.  
3 A Copy of the letter is attached hereto as Exhibit Two.

4 46. The declaration of venue required by Civil Code § 1780(d) is attached hereto as Exhibit  
5 One.

6 47. Defendant's wrongful business practices constituted, and constitute, a continuing  
7 course of conduct in violation of the Consumers Legal Remedies Act since Defendant is still  
8 representing that their product has characteristics, uses, benefits, and abilities which are false and  
9 misleading, and have injured Plaintiff and the Class.

10 **THIRD CAUSE OF ACTION**

11 **VIOLATION OF CALIFORNIA'S FALSE ADVERTISING LAW**

12 **(CAL. BUS. & PROF. CODE §§ 17500, ET SEQ.)**

13 **(By Plaintiff and on Behalf of the Class Against Defendant)**

14 48. Plaintiff incorporates by this reference the allegations contained in the paragraphs  
15 above as if fully set forth herein.

16 49. Plaintiff has standing to pursue this cause of action because Plaintiff has suffered injury  
17 in fact and has lost money as a result of Defendant's actions as set forth herein. Specifically, Plaintiff  
18 purchased the product in reliance on Defendant's marketing claims as outlined herein.

19 50. Defendant has engaged in false advertising as it has disseminated false and/or  
20 misleading representations about the product.

21 51. Defendant knew or should have known by exercising reasonable care that its  
22 representations were false and/or misleading. During the Class Period, Defendant engaged in false  
23 advertising in violation of Cal. Bus. & Prof. Code §§ 17500, *et seq.*, by misrepresenting in its  
24 advertising and marketing of the product to Plaintiff, Class members, and the consuming public the  
25 ingredients of its product.

26 52. Each of the aforementioned representations alleged in this Complaint was false and  
27 misleading regarding the ingredients of the product.

28 53. By disseminating and publishing these assertions in connection with the sale of the

1 product, Defendant has engaged in and continues to engage in false advertising in violation of Bus. &  
2 Prof. Code §§ 17500, *et seq.*

3 54. As a direct and proximate result of Defendant's conduct, as set forth herein, Defendant  
4 has received ill-gotten gains and/or profits, including but not limited to, money. Therefore, Defendant  
5 has been unjustly enriched. Pursuant to Cal. Bus. & Prof. Code § 17535, Plaintiff requests restitution  
6 and restitutionary disgorgement for all sums obtained in violation of Cal. Bus. & Prof. Code §§ 17500,  
7 *et seq.*

8 55. Plaintiff seeks injunctive relief, restitution, and restitutionary disgorgement of  
9 Defendant's ill-gotten gains as specifically provided in Cal. Bus. & Prof. Code § 17535.

10 56. Plaintiff and Class members seek to enjoin Defendant from engaging in these wrongful  
11 practices, as alleged herein, in the future. There is no other adequate remedy at law and if an  
12 injunction is not ordered, Plaintiff and the Class will suffer irreparable harm and/or injury.

13 **FOURTH CAUSE OF ACTION**

14 **UNLAWFUL, FRAUDULENT & UNFAIR BUSINESS PRACTICES**

15 **(CAL. BUS. & PROF. CODE §§ 17200, *ET SEQ.*)**

16 **(By Plaintiff and on Behalf of the Class Against Defendant)**

17 57. Plaintiff incorporates by this reference the allegations contained in the paragraphs  
18 above as if fully set forth herein.

19 58. Plaintiff has standing to pursue this cause of action because Plaintiff has suffered injury  
20 in fact and has lost money as a result of Defendant's actions as set forth herein. Specifically, Plaintiff  
21 purchased the product in reliance on Defendant's marketing claims as outlined herein.

22 59. Defendant's actions as alleged in this Complaint constitute an unfair or deceptive  
23 business practice within the meaning of California Business and Professions Code §§ 17200, *et seq.*,  
24 in that Defendant's actions are unfair, unlawful, and fraudulent, and because Defendant has made  
25 unfair, deceptive, untrue, or misleading statements in advertising media, including the Internet, within  
26 the meaning of California Business and Professions Code §§ 17200, *et seq.*

27 60. Defendant knew or should have known by exercising reasonable care that its  
28 representations were false and/or misleading. During the Class Period, Defendant engaged in unfair,

1 unlawful, and fraudulent business practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*,  
2 by misrepresenting in its advertising and marketing of the product to Plaintiff, Class members, and the  
3 consuming public.

4 61. Each of the aforementioned representations alleged in this Complaint was false and  
5 misleading regarding the ingredients of the product.

6 62. Defendant's business practices, as alleged herein, are unfair because they offend  
7 established public policy and/or are immoral, unethical, oppressive, unscrupulous, and/or substantially  
8 injurious to consumers in that consumers are misled by the claims made with respect to the product as  
9 set forth herein.

10 63. Defendant's business practices, as alleged herein, are unlawful because they violate the  
11 Consumers Legal Remedies Act and False Advertising Law.

12 64. Defendant's business practices, as alleged herein, are fraudulent because they are likely  
13 to, and did, deceive customers—including Plaintiff and members of the Class—into believing that the  
14 product have characteristics and benefits they in fact do not have.

15 65. Defendant's wrongful business practices constituted, and constitute, a continuing  
16 course of conduct of unfair competition since Defendant are marketing and selling their product in a  
17 manner likely to deceive the public.

18 66. As a direct and proximate result of Defendant's wrongful business practices in  
19 violation of Business and Professions Code §§ 17200, *et seq.*, Plaintiff and members of the Class have  
20 suffered economic injury by losing money as a result of purchasing the product. Plaintiff and  
21 members of the Class would not have purchased or would have paid less for the product had they  
22 known that they were not as represented.

23 67. Pursuant to Business and Professions Code § 17203, Plaintiff and the Class seek an  
24 order of this Court enjoining Defendant from continuing to engage in unlawful, unfair, or deceptive  
25 business practices and any other act prohibited by law, including those set forth in the Complaint.  
26 Plaintiff and the Class also seek an order-requiring Defendant to make full restitution of all moneys it  
27 wrongfully obtained from Plaintiff and the Class.

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff and members of the Class request that the Court enter an order or judgment against Defendant, and each of them, as follows:

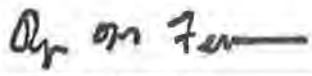
1. For an order certifying the Class, appointing Plaintiff and Plaintiff's counsel to represent the Class, and notice to the Class to be paid by Defendant;
2. For damages suffered by Plaintiff and Class members;
3. For restitution to Plaintiff and Class members of all monies wrongfully obtained by Defendant;
4. For an injunction ordering Defendant to cease and desist from engaging in the unfair, unlawful, and/or fraudulent practices alleged in the Complaint;
5. For both pre-judgment and post-judgment interest at the maximum allowable rate on any amounts awarded;
6. For Plaintiff's costs of the proceedings herein;
7. For reasonable attorneys' fees as allowed by statute; and
8. For any and all such other and further relief that this Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury of all claims and causes of action so triable in this lawsuit.

Dated: August 17, 2016

APEX TRIAL LAW  
A Professional Corporation

By:   
Ryan M. Ferrell  
Attorney for Plaintiff and the Class



# EXHIBIT 1

1  
1  
2  
2  
3  
3  
4  
4  
5  
5  
6  
6  
7  
7  
8  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I, Angie Garcia, declare as follows:

1. I am a Plaintiff in this action, and am a citizen of the State of California. I have personal knowledge of the facts herein and, if called as a witness, I could and would testify competently thereto.

2. The Complaint in this action, filed concurrently with this Declaration, is filed in the proper place for trial under Civil Code Section 1780(d) in that San Bernardino County is a county in which Defendants are doing business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

  
Angie Garcia

# EXHIBIT 2



4100 Newport Place, Suite 800  
Newport Beach, CA 92660  
Phone: (949) 438-0033  
Fax: (949) 299-0133  
Email: rferrell@apextrial.com

June 29, 2016

**VIA CERTIFIED MAIL**

HILLSIDE CANDY LLC.  
35 HILLSIDE AVENUE  
HILLSIDE, NJ 07205  
Attention: Legal Department

*Re: Class Action For Violations of California B&P Codes 17200, 17500  
and California Consumer Legal Remedies Act*

Ladies and Gentlemen:

**Please give this letter your immediate attention.**

This law firm has been retained to prosecute a class action lawsuit against you for violations of California Business & Professions Code Sections 17200 and 17500 and California Consumer Legal Remedies Act (California Civil Code §§ 1750, *et seq.*).

First, our client purchased your product Go Organic Hard Candy. The Go Organic Hard Candy lists as an ingredient “evaporated cane juice.” Use of the term evaporated cane juice is an attempt to hide the sugar content. The FDA has recently weighed in on the use of “evaporated cane juice” on ingredient lists to mask the sugar content of a product. In part, the FDA stated as follows:

- Sweeteners derived from sugar cane should not be listed in the ingredient declaration by names such as “evaporated cane juice,” which suggest that the ingredients are made from or contain fruit or vegetable “juice” as defined in 21 CFR 120.1. We consider such representations to be false and misleading under section 403(a)(1) of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 343(a)(1)) because they do not accurately describe the basic nature of the food and its characterizing

[www.apextrial.com](http://www.apextrial.com)

properties (i.e., that the ingredients are sugars or syrups), as required by 21 CFR 102.5.

- Thus, the term “evaporated cane juice” is false or misleading because it suggests that the sweetener is “juice” or is made from “juice” and does not reveal that its basic nature and characterizing properties are those of a sugar.
- As provided in 21 CFR 101.4(a)(1), “Ingredients required to be declared on the label or labeling of a food . . . shall be listed by common or usual name . . .” The common or usual name for an ingredient is the name established by common usage or by regulation (21 CFR 102.5(d)).
- This guidance is intended to help consumers make informed choices among sweeteners by promoting accurate and consistent labeling. To that end, we are advising the regulated industry of our view that the term “evaporated cane juice” is not the common or usual name of any type of sweetener and that this ingredient should instead be declared on food labels as “sugar,” preceded by one or more truthful, non-misleading descriptors if the manufacturer so chooses (e.g., “cane sugar”). [...] the term “evaporated cane juice” describes neither the basic nature of the food nor its characterizing properties, and therefore does not comply with 21 CFR 102.5(a).
- Sweeteners derived from sugar cane should not be listed in the ingredient declaration by names such as “evaporated cane juice,” which suggest that the ingredients are made from or contain fruit or vegetable “juice” as defined in 21 CFR 120.1. We consider such representations to be false and misleading under section 403(a)(1) of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 343(a)(1)) because they do not accurately describe the basic nature of the food and its characterizing properties (i.e., that the ingredients are sugars or syrups), as required by 21 CFR 102.5.

“Guidance for Industry: Ingredients Declared as Evaporated Cane Juice”

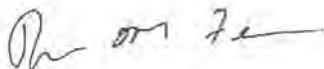
<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm181491.htm>

Second, through the use of the term “evaporated cane juice” to mask sugar, you have violated California Civil Code § 1770(a)(5) (representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or qualities which they do not have. You have also violated California B&P Code §§ 17500, *et seq.*, by misrepresenting in its advertising and marketing of the Go Organic Hard Candy to Plaintiff, Class members, and the consuming public that the Go Organic Hard Candy contains “evaporated cane juice” instead of the common name of the ingredient “sugar.” Finally, you have also violated Professions Code §§ 17200, *et seq.*, in that Defendant’s actions are unfair, unlawful, and fraudulent, within the meaning of California Business and Professions Code §§ 17200, *et seq.*

Finally, we intend to file a class action lawsuit within thirty days of today’s date in compliance with California Civil Code § 1782(a). Pursuant to that section, if you will refund all consumers their money spent on Go Organic Hard Candy and remove the term “evaporated cane juice” from the ingredient label of the Go Organic Hard Candy, we will take no further action.

If you believe that any of the assertions in this letter or the attached draft complaint are inaccurate or would like to discuss a confidential pre-filing resolution of this case, I urge you to retain counsel to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan M. Ferrell".

Ryan M. Ferrell, Esq.

# **EXHIBIT C**

**COPY**

**SUMMONS  
(CITACION JUDICIAL)**

SUM-100

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**  
HILLSIDE CANDY LLC, and DOES 1-25, Inclusive,

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO

AUG 18 2016

BY Victoria Sanchez  
VICTORIA SANCHEZ, DEPUTY

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**  
ANGIE GARCIA, individually, and on behalf of all others similarly situated,

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may 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 want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es):  
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO  
Civil Division  
247 West Third Street, San Bernardino, CA 92415-0210

CASE NUMBER:  
(Número del Caso): **CIVDS1613761**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Ryan M. Ferrell (Bar # 258037)  
APEX TRIAL LAW, A Professional Corporation  
4100 Newport Place Drive, Suite 800, Newport Beach, CA 92660

Fax No.: 949-438-0033  
Phone No.: 949-299-0133

DATE: AUG 18 2016 Clerk, by Victoria Sanchez, Deputy  
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



- NOTICE TO THE PERSON SERVED:** You are served
- as an individual defendant.
  - as the person sued under the fictitious name of (specify):
  - on behalf of (specify): **HILLSIDE CANDY, LLC**  
under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)  
 other (specify): **limited liability company**
  - by personal delivery on (date):



# **EXHIBIT D**

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Ryan M. Ferrell</b> (Bar # 258037) APEX TRIAL LAW, A Professional Corporation 4100 Newport Place Drive, Suite 800, Newport Beach, CA 92660 TELEPHONE NO.: 949-438-0033 FAX NO.: 949-299-0133		FOR COURT USE ONLY  SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO  AUG 18 2016  BY <i>[Signature]</i> VICTORIA SANCHEZ, CLERK
ATTORNEY FOR (Name): <b>Plaintiff and the Class</b> SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS: <b>247 West Third Street</b> MAILING ADDRESS: CITY AND ZIP CODE: <b>San Bernardino 92415-0210</b> BRANCH NAME: <b>Civil Division</b>		CASE NUMBER: <b>CIVDS1613761</b>  JUDGE:  DEPT:
CASE NAME: <b>GARCIA v. HILLSIDE CANDY LLC, et al.</b>		
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)		<b>Complex Case Designation</b> <input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b> Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input checked="" type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	--	---

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input checked="" type="checkbox"/> Large number of separately represented parties	d. <input checked="" type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence	f. <input checked="" type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a.  monetary     b.  nonmonetary; declaratory or injunctive relief     c.  punitive

4. Number of causes of action (specify): **FOUR (4)**

5. This case  is  is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: August 17, 2016  
 Ryan M. Ferrell *[Signature]*  
 (TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

## CASE TYPES AND EXAMPLES

## Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death  
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

## Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/Wrongful Death  
Product Liability (*not asbestos or toxic/environmental*) (24)  
Medical Malpractice (45)  
Medical Malpractice—  
Physicians & Surgeons  
Other Professional Health Care Malpractice  
Other PI/PD/WD (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)  
Intentional Infliction of Emotional Distress  
Negligent Infliction of Emotional Distress  
Other PI/PD/WD

## Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice (*not medical or legal*)  
Other Non-PI/PD/WD Tort (35)

## Employment

Wrongful Termination (36)  
Other Employment (15)

## Contract

Breach of Contract/Warranty (06)  
Breach of Rental/Lease  
Contract (*not unlawful detainer or wrongful eviction*)  
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)  
Negligent Breach of Contract/Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book accounts) (09)  
Collection Case—Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage (*not provisionally complex*) (18)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

## Real Property

Eminent Domain/Inverse Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

## Unlawful Detainer

Commercial (31)  
Residential (32)  
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

## Judicial Review

Asset Forfeiture (05)  
Petition Re: Arbitration Award (11)  
Writ of Mandate (02)  
Writ—Administrative Mandamus  
Writ—Mandamus on Limited Court Case Matter  
Writ—Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal—Labor  
Commissioner Appeals

## Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

## Enforcement of Judgment

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment (*non-domestic relations*)  
Sister State Judgment  
Administrative Agency Award (*not unpaid taxes*)  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

## Miscellaneous Civil Complaint

RICO (27)  
Other Complaint (*not specified above*) (42)  
Declaratory Relief Only  
Injunctive Relief Only (*non-harassment*)  
Mechanics Lien  
Other Commercial Complaint Case (*non-tort/non-complex*)  
Other Civil Complaint (*non-tort/non-complex*)

## Miscellaneous Civil Petition

Partnership and Corporate Governance (21)  
Other Petition (*not specified above*) (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition

# **EXHIBIT E**

CUP

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

ANGIE GARCIA

CASE NO.: CIVDS1613761

vs.

CERTIFICATE OF ASSIGNMENT

HILLSIDE CANDY LLC., et al.

A civil action or proceeding presented for filing must be accompanied by this Certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the Civil Division District of the Superior Court under Rule 404 of this court for the checked reason:

- [x] General [ ] Collection

Table with 2 columns: Nature of Action and Ground. Includes 21 categories such as Adoption, Conservator, Contract, Equity, etc.

The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designed district is:

Plaintiff purchased the product in this County 1932 Adams Street, #A
NAME - INDICATE TITLE OR OTHER QUALIFYING FACTOR ADDRESS
San Bernardino California 92407
CITY STATE ZIP CODE

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed on August 17, 2016 at Newport Beach, California

Handwritten signature of attorney

Signature of Attorney/Party

CERTIFICATE OF ASSIGNMENT

# **EXHIBIT F**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

SAN BERNARDINO JUSTICE CENTER  
247 W. 3RD ST  
SAN BERNARDINO, CA 92415-0210

CASE NO: CIVDS1613761

<http://www.sb-court.org>

----- APPEARANCE IS MANDATORY - Unless Case is Finalized -----

Appearance Date: 10/26/16 Time: 8:30 Dept: S26

IN RE: GARCIA-V-HILLSIDE CANDY

NOTICE OF CASE ASSIGNMENT FOR ALL PURPOSES  
NOTICE OF CASE MANAGEMENT CONFERENCE

PLEASE TAKE NOTICE, that the above-entitled case has been set for a Case Management Conference on 10/26/16 at 8:30 in Department S26. You must appear at this hearing or your case may be dismissed and monetary penalties may be imposed.

THIS CASE HAS BEEN ASSIGNED TO JUDGE DAVID COHN IN DEPARTMENT S26 FOR ALL PURPOSES.

Your Joint Statement must be filed, directly in the Complex Litigation Department, five (5) calendar days prior to the hearing.

TO THE PARTY SERVED: The setting of this date DOES NOT increase the time you have to respond to the petition. The time for response is clearly stated on the Summons.

Please see the Guidelines for the Complex Litigation Program for further information. The guidelines may be found at the Court Website: <http://www.sb-court.org>

A COPY OF THIS NOTICE MUST BE SERVED ON THE RESPONDENT

Nancy Eberhardt, Interim Court Executive Officer

Date: 08/18/16

By: VICTORIA SANCHEZ

CERTIFICATE OF SERVICE

I am a Deputy Clerk of the Superior Court for the County of San Bernardino at the above listed address. I am not a party to this action and on the date and place shown below, I served a copy of the above listed notice by:

( ) Enclosed in an envelope mailed to the interested party addressed above, for collection and mailing this date, following ordinary business practice.

( ) Enclosed in a sealed envelope, first class postage prepaid in the U.S. mail at the location shown above, mailed to the interested party and addressed as shown above, or as shown on the attached listing.

(/ ) A copy of this notice was given to the filing party at the counter.

( ) A copy of this notice was placed in the bin located at this office and identified as the location for the above law firm's collection of file stamped documents.

DATE OF MAILING: 08/18/16

I declare under penalty of perjury that the foregoing is true and correct. Executed on 08/18/16 at San Bernardino, CA By: VICTORIA SANCHEZ



SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE  
[www.riverside.courts.ca.gov](http://www.riverside.courts.ca.gov)

Self-represented parties: <http://riverside.courts.ca.gov/selfhelp/self-help.shtml>

**ALTERNATIVE DISPUTE RESOLUTION (ADR) –  
INFORMATION PACKAGE**

(California Rules of Court, Rule 3.221; Local Rule, Title 3, Division 2)

**\*\*\* THE PLAINTIFF MUST SERVE THIS INFORMATION PACKAGE  
ON EACH PARTY WITH THE COMPLAINT. \*\*\***

**What is ADR?**

Alternative Dispute Resolution (ADR) is a way of solving legal disputes without going to trial. The main types are mediation, arbitration and settlement conferences.

**Advantages of ADR:**

- ⊗ Faster: ADR can be done in a 1-day session within months after filing the complaint.
- ⊗ Less expensive: Parties can save court costs and attorneys' and witness fees.
- ⊗ More control: Parties choose their ADR process and provider.
- ⊗ Less stressful: ADR is done informally in private offices, not public courtrooms.

**Disadvantages of ADR:**

- ⊗ No public trial: Parties do not get a decision by a judge or jury.
- ⊗ Costs: Parties may have to pay for both ADR and litigation.

**Main Types of ADR:**

**Mediation:** In mediation, the mediator listens to each person's concerns, helps them evaluate the strengths and weaknesses of their case, and works with them to create a settlement agreement that is acceptable to everyone. If the parties do not wish to settle the case, they go to trial.

**Mediation may be appropriate when the parties:**

- ⊗ want to work out a solution but need help from a neutral person; or
- ⊗ have communication problems or strong emotions that interfere with resolution; or
- ⊗ have a continuing business or personal relationship.

**Mediation is not appropriate when the parties:**

- ⊗ want their public "day in court" or a judicial determination on points of law or fact;
- ⊗ lack equal bargaining power or have a history of physical/emotional abuse.

**Arbitration:** Arbitration is less formal than trial, but like trial, the parties present evidence and arguments to the person who decides the outcome. In "binding" arbitration the arbitrator's decision is final; there is no right to trial. In "non-binding" arbitration, any party can request a trial after the arbitrator's decision. The court's mandatory Judicial Arbitration program is non-binding.



Arbitration may be appropriate when the parties:

- ⊗ want to avoid trial, but still want a neutral person to decide the outcome of the case.

Arbitration is not appropriate when the parties:

- ⊗ do not want to risk going through both arbitration and trial (Judicial Arbitration)
- ⊗ do not want to give up their right to trial (binding arbitration)

**Settlement Conferences:** Settlement conferences are similar to mediation, but the settlement officer usually tries to negotiate an agreement by giving strong opinions about the strengths and weaknesses of the case, its monetary value, and the probable outcome at trial. Settlement conferences often involve attorneys more than the parties and often take place close to the trial date.

**RIVERSIDE COUNTY SUPERIOR COURT ADR REQUIREMENTS**

ADR Information and forms are posted on the ADR website: <http://riverside.courts.ca.gov/adr/adr.shtml>

**General Policy:**

Parties in most general civil cases are expected to participate in an ADR process before requesting a trial date and to participate in a settlement conference before trial. (Local Rule 3200)

**Court-Ordered ADR:**

Certain cases valued at under \$50,000 may be ordered to judicial arbitration or mediation. This order is usually made at the Case Management Conference. See the "Court-Ordered Mediation Information Sheet" on the ADR website for more information.

**Private ADR (for cases not ordered to arbitration or mediation):**

Parties schedule and pay for their ADR process without Court involvement. Parties may schedule private ADR at any time; there is no need to wait until the Case Management Conference. See the "Private Mediation Information Sheet" on the ADR website for more information.

**BEFORE THE CASE MANAGEMENT CONFERENCE (CMC), ALL PARTIES MUST:**

1. Discuss ADR with all parties at least 30 days before the CMC. Discuss:
  - ⊗ Your preferences for mediation or arbitration.
  - ⊗ Your schedule for discovery (getting the information you need) to make good decisions about settling the case at mediation or presenting your case at a trial or arbitration.
2. File the attached "Stipulation for ADR" along with the Case Management Statement, if all parties can agree.
3. Be prepared to tell the judge your preference for mediation or arbitration and the date when you could complete it.

(Local Rule 3218)

**RIVERSIDE COUNTY ADR PROVIDERS INCLUDE:**

- ⊗ The Court's Civil Mediation Panel (available for both Court-Ordered Mediation and Private Mediation). See <http://adr.riverside.courts.ca.gov/adr/civil/panelist.php> or ask for the list in the civil clerk's office, attorney window.
- ⊗ Riverside County ADR providers funded by DRPA (Dispute Resolution Program Act):  
Dispute Resolution Service (DRS) Riverside County Bar Association: (951) 682-1015  
Dispute Resolution Center, Community Action Partnership (CAP): (951) 955-4900

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):    TELEPHONE NO. _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE</b> <input type="checkbox"/> <b>Banning</b> - 311 E. Ramsey Street, Banning, CA 92220 <input type="checkbox"/> <b>Hemet</b> - 880 N. State Street, Hemet, CA 92543 <input type="checkbox"/> <b>Indio</b> - 46-200 Oasis Street, Indio, CA 92201 <input type="checkbox"/> <b>Riverside</b> - 4050 Main Street, Riverside, CA 92501 <input type="checkbox"/> <b>Temecula</b> - 41002 County Center Drive, Bldg. C - Suite 100, Temecula, CA 92591	
PLAINTIFF(S): _____  DEFENDANT(S): _____	CASE NUMBER: _____
<b>STIPULATION FOR ALTERNATIVE DISPUTE RESOLUTION (ADR)</b> (CRC 3.2221; Local Rule, Title 3, Division 2)	CASE MANAGEMENT CONFERENCE DATE(S): _____

**Court-Ordered ADR:**

Eligibility for Court-Ordered Mediation or Judicial Arbitration will be determined at the Case Management Conference. If eligible, the parties agree to participate in:

- Mediation                       Judicial Arbitration (non-binding)

**Private ADR:**

If the case is not eligible for Court-Ordered Mediation or Judicial Arbitration, the parties agree to participate in the following ADR process, which they will arrange and pay for without court involvement:

- Mediation                       Judicial Arbitration (non-binding)  
 Binding Arbitration         Other (describe): \_\_\_\_\_

Proposed date to complete ADR: \_\_\_\_\_

**SUBMIT THIS FORM ALONG WITH THE CASE MANAGEMENT STATEMENT.**

PRINT NAME OF PARTY OR ATTORNEY <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	SIGNATURE OF PARTY OR ATTORNEY	DATE
PRINT NAME OF PARTY OR ATTORNEY <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	SIGNATURE OF PARTY OR ATTORNEY	DATE
PRINT NAME OF PARTY OR ATTORNEY <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	SIGNATURE OF PARTY OR ATTORNEY	DATE
PRINT NAME OF PARTY OR ATTORNEY <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	SIGNATURE OF PARTY OR ATTORNEY	DATE

Additional signature(s) attached

**GUIDELINES FOR THE COMPLEX LITIGATION PROGRAM**

08/18/16

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
JUDGE DAVID COHN  
DEPARTMENT S-26**

**THE SAN BERNARDINO COUNTY COMPLEX LITIGATION PROGRAM**

Department S-26 is the Complex Litigation Department for the Superior Court of the State of California, County of San Bernardino. It is located at the San Bernardino Justice Center, 247 West Third Street, San Bernardino, CA 92415-0210, on the eighth floor. Judge David Cohn presides in the Complex Litigation Department. The telephone number for the Complex Litigation Department's Judicial Assistant is 909-521-3519.

**DEFINITION OF COMPLEX LITIGATION**

As defined by California Rules of Court, rule 3.400(a), a complex case is one that requires exceptional judicial management to avoid placing unnecessary burdens on the court or the litigants and to expedite the case, keep costs reasonable, and promote effective decision making by the court, the parties, and counsel.

Complex cases typically have one or more of the following features:

- A large number of separately represented parties.
- Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve.
- A substantial amount of documentary evidence.
- A large number of witnesses.
- Coordination with related actions pending in one or more courts in other counties or states or in a federal court.
- Substantial post-judgment judicial supervision.

Complex cases may include, but are not necessarily limited to, the following types of cases:

- Antitrust and trade regulation claims.
- Construction defect claims involving many parties or structures.
- Securities claims or investment losses involving many parties.
- Environmental or toxic tort claims involving many parties.
- Mass torts.
- Class actions.
- Claims brought under the Private Attorney General Act (PAGA).
- Insurance claims arising out of the types of claims listed above.
- Judicial Council Coordinated Proceedings (JCCP).
- Cases involving complex financial, scientific, or technological issues.

**GUIDELINES FOR THE COMPLEX LITIGATION PROGRAM**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
JUDGE DAVID COHN  
DEPARTMENT S-26**

**CASES ASSIGNED TO THE COMPLEX LITIGATION DEPARTMENT**

**A. Cases Designated by a Plaintiff as Complex or Provisionally Complex**

Commencing July 1, 2016, all cases designated by a plaintiff as complex or provisionally complex on the *Civil Case Cover Sheet* (Judicial Council Form CM-100) will be assigned initially to the Complex Litigation Department. At the time the complaint is filed, the Court Clerk will schedule an Initial Case Management Conference as provided by California Rules of Court, rule 3.750, for a date no later than seventy-five days after the filing of the complaint.

A plaintiff designating the case as complex or provisionally complex must file and serve a Notice of the Initial Case Management Conference and a copy of these guidelines, along with service of the summons and complaint, no later than thirty days before the conference, and must file the Notice and Proof of Service with the court.

A defendant who agrees that the case is complex or provisionally complex may indicate a "Joinder" on the *Civil Case Cover Sheet* (Form CM-100).

A defendant who disagrees that the case is complex or provisionally complex may raise the issue with the court at the Initial Case Management Conference.

**B. Cases Counter-Designated By a Defendant as Complex or Provisionally Complex**

Commencing July 1, 2016, all cases which were not designated by a plaintiff as complex or provisionally complex, but which are *counter-designated* by a defendant (or cross-defendant) as complex or provisionally complex on the *Civil Case Cover Sheet* (Judicial Council Form CM-100), will be assigned or re-assigned to the Complex Litigation Department. At the time the counter-designation is filed, the Court Clerk will schedule an Initial Case Management Conference as provided by California Rules of Court, rule 3.750, for a date no later than forty-five days after the filing of the counter-designation.

A defendant or cross-defendant who files a complex counter-designation must serve a Notice of the Initial Case Management Conference and a copy of these guidelines no later than thirty days before the conference, and must file the Notice and Proof of Service with the court.

A plaintiff or other party who disagrees with the counter-designation may raise the issue with the court at the Initial Case Management Conference.

**GUIDELINES FOR THE COMPLEX LITIGATION PROGRAM**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
JUDGE DAVID COHN  
DEPARTMENT S-26**

**C. Other Cases Assigned to the Complex Litigation Department**

Commencing July 1, 2016, whether or not the parties designate the case as complex or provisionally complex, the following cases will be initially assigned to the Complex Litigation Department:

- All Construction Defect Cases.
- All Class Actions.
- All Cases Involving Private Attorney General Act (PAGA) Claims.
- All Judicial Council Coordinated Proceedings (JCCP).

At the time the complaint is filed, the Court Clerk will schedule an Initial Case Management Conference as provided by California Rules of Court, rule 3.750, for a date no later than seventy-five days after the filing of the complaint.

The plaintiff must file and serve a Notice of the Initial Case Management Conference and a copy of these guidelines, along with service of the summons and complaint, no later than thirty days before the conference, and must file the Notice and Proof of Service with the court.

**REFERRAL TO THE COMPLEX LITIGATION DEPARTMENT BY OTHER DEPARTMENTS**

Commencing July 1, 2016, a judge who is assigned to a case may, but is not required to, refer the case to the Complex Litigation Department to be considered for treatment as a complex case if (1) the case was previously designated by a party as complex or provisionally complex, or (2) the referring judge deems the case to involve issues of considerable legal, evidentiary, or logistical complexity, such that the case would be best served by assignment to the Complex Litigation Department. Such a referral is not a re-assignment, but is a referral for consideration.

In any case referred by another judge to the Complex Litigation Department, the Complex Litigation Department will schedule an Initial Case Management Conference within thirty days and will provide notice to all parties along with a copy of these guidelines. If the case is determined by the Complex Litigation Department to be appropriate for treatment as a complex case, the case will be re-assigned to the Complex Litigation Department at that time. If the case is determined by the Complex Litigation Department *not* to be complex, it will be returned to the referring judge.

The *Civil Case Cover Sheet* (Judicial Council Form CM-100) may not reflect the presence of a PAGA claim. PAGA claims erroneously assigned to non-complex departments are subject to re-assignment by the assigned judge to the Complex Litigation Department.

Petitions for administrative writs of mandamus under Code of Civil Procedure section 1094 are also assigned to the Complex Litigation Department, but are not subject to these Guidelines and procedures.

**GUIDELINES FOR THE COMPLEX LITIGATION PROGRAM**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
JUDGE DAVID COHN  
DEPARTMENT S-26**

**STAY OF DISCOVERY PENDING THE INITIAL CASE MANAGEMENT CONFERENCE**

Commencing July 1, 2016, for cases that are assigned to the Complex Litigation Department, discovery is automatically stayed pending the Initial Case Management Conference, or until further order of the court. Discovery is not automatically stayed, however, for cases that were initially assigned to other departments and are referred to the Complex Litigation Department for consideration, unless the referring judge stays discovery pending determination by the Complex Litigation whether the case should be treated as complex.

**OBLIGATION TO CONFER BEFORE THE INITIAL CASE MANAGEMENT CONFERENCE**

Prior to the Initial Case Management Conference, all parties are required to meet and confer to discuss the items specified in California Rules of Court, rule 3.750(b), and they are required to prepare a Joint Statement specifying the following:

- Whether additional parties are likely to be added, and a proposed date by which any such parties must be served.
- Each party's position whether the case should or should not be treated as a complex.
- Whether there are applicable arbitration agreements.
- Whether there is related litigation pending in state or federal court.
- A description of the major legal and factual issues involved in the case.
- Any discovery or trial preparation procedures on which the parties agree. The parties should address what discovery will be required, whether discovery should be conducted in phases or otherwise limited, and whether the parties agree to electronic service and an electronic document depository and, if so, their preferred web-based electronic service provider.
- An estimate of the time needed to conduct discovery and to prepare for trial.
- The parties' views on an appropriate mechanism for Alternative Dispute Resolution.
- Any other matters on which the parties request a court ruling.

The Joint Statement is to be filed directly in the Complex Litigation Department no later than five calendar days before the conference. This requirement of a Joint Statement is not satisfied by using Judicial Council Form CM-110, pursuant to California Rules of Court, rule 3.725(a), or by parties filing individual statements. Failure to participate meaningfully in the "meet and confer" process or failure to submit a Joint Statement may result in the imposition of monetary or other sanctions.

**GUIDELINES FOR THE COMPLEX LITIGATION PROGRAM**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
JUDGE DAVID COHN  
DEPARTMENT S-26**

**THE INITIAL CASE MANAGEMENT CONFERENCE**

At the Initial Case Management Conference, the court will determine whether the action is a complex case, as required by California Rules of Court, rule 3.403. If the court determines the case is complex, the court will issue further management-related orders at that time. If the court determines the case is not complex, the case may be retained by the judge in Department S-26, but not treated as a complex case, or it may be reassigned to a different department; if the case was referred by another judge and the case is found to be inappropriate for treatment as a complex case, the case will be returned to the referring judge.

At the Initial Case Management Conference, the court and counsel will address the subjects listed in California Rules of Court, rule 3.750(b), and all issues presented by the Joint Statement.

Once a case is deemed complex, the function of the Initial Case Management Conference and all subsequent Case Management Conferences is to facilitate discovery, motion practice, and trial preparation, and to discuss appropriate mechanisms for settlement negotiations.

Lead counsel should attend the Initial Case Management Conference. Counsel with secondary responsibility for the case may attend in lieu of lead counsel, but only if he or she is fully informed about the case and has full authority to proceed on all issues to be addressed at the conference. "Special Appearance" counsel (lawyers who are not the attorneys of record) are not allowed. With the exception of minor parties (e.g., subcontractors with a limited scope of work in large construction defect cases), telephonic appearances are discouraged. California Rule of Court, rule 3.670, subdivision (f)(2), authorizes the court to require attendance at hearings in person "if the court determines on a hearing-by-hearing basis that a personal appearance would materially assist in the determination of the proceedings or in the effective management or resolution of the particular case." To assist the court in making this "hearing-by-hearing" determination, any party who intends to attend the Initial Case Management Conference telephonically must notify the court of such intention no later than five court days before the hearing. The court will make a determination at that time whether or not personal attendance is required.

**CASE MANAGEMENT ORDERS**

In most cases, the court will issue formal, written case management orders. Typically, complex construction defect cases will proceed pursuant to such an order. Other cases involving numerous parties or unusual logistical complexity will likely be appropriate for such a written order as well. The need for a written case management order will be discussed at the Initial Case Management Conference or at later times as the need arises. The parties will prepare such orders as directed by the court.

**GUIDELINES FOR THE COMPLEX LITIGATION PROGRAM**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
JUDGE DAVID COHN  
DEPARTMENT S-26**

**FURTHER CASE MANAGEMENT CONFERENCES**

After the Initial Case Management Conference, the court will schedule further case management conferences as necessary and appropriate on a case-by-case basis. As issues arise during discovery and preparation for trial, the parties may also request additional case management conferences by making arrangements through the Judicial Assistant assigned to the Complex Litigation Department (909-521-3519). The court will schedule such additional case management conferences at the earliest opportunity.

As with the Initial Case Management Conference, lead counsel should attend all case management conferences. Counsel with secondary responsibility for the case may attend in lieu of lead counsel, but only if he or she is fully informed about the case and has full authority to proceed on all issues to be addressed. "Special Appearance" counsel (lawyers who are not the attorneys of record) are not allowed. With the exception of minor parties (e.g., subcontractors with a limited scope of work in large construction defect cases), telephonic appearances are discouraged. California Rule of Court, rule 3.670, subdivision (f)(2), authorizes the court to require attendance at hearings in person "if the court determines on a hearing-by-hearing basis that a personal appearance would materially assist in the determination of the proceedings or in the effective management or resolution of the particular case." To assist the court in making this "hearing-by-hearing" determination, any party who intends to attend the Initial Case Management Conference telephonically must notify the court of such intention no later than five court days before the hearing. The court will make a determination at that time whether or not personal attendance is required.

**VOLUNTARY SETTLEMENT CONFERENCES**

If all parties agree, the court is available to conduct settlement conferences. Requests for settlement conferences may be made at any Case Management Conference or hearing, or by telephoning the Judicial Assistant for the Complex Litigation Department (909-521-3519).

**MANDATORY SETTLEMENT CONFERENCES**

In appropriate cases, the court may order mandatory settlement conferences. Parties with full settlement authority, including insurance adjustors with full settlement authority, must attend all mandatory settlement conferences in person. Availability by telephone is not allowed at mandatory settlement conferences.



**GUIDELINES FOR THE COMPLEX LITIGATION PROGRAM**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
JUDGE DAVID COHN  
DEPARTMENT S-26**

**MANAGEMENT OF CLASS ACTIONS**

In class actions and putative class actions that are deemed complex, the Initial Case Management Conference will function as the Case Conference required by California Rules of Court, rules 3.762 and 3.763.

**OBLIGATION TO MEET AND CONFER REGARDING MOTIONS**

In addition to any other requirement to “meet and confer” imposed by statute or Rule of Court in connection with motions, all counsel and unrepresented parties are required to “meet and confer” in a good faith attempt to eliminate the necessity for a hearing on a pending motion, or to resolve or narrow some of the issues. The moving party must arrange for the conference, which can be conducted in person or by telephone, to be held no later than four calendar days before the hearing. No later than two calendar days before the hearing, the moving party is required to file a notice in the Complex Litigation Department, with service on all parties, specifying whether the conference has occurred and specifying any issues that have been resolved. If the need for a hearing has been eliminated, the motion may simply be taken off-calendar. Failure to participate meaningfully in the conference may result in the imposition of monetary or other sanctions.

The obligation to “meet and confer” does not apply to applications to appear *pro hac vice* or to motions to withdraw as counsel of record.

**FORMAT OF PAPERS FILED IN CONNECTION WITH MOTIONS**

Counsel and unrepresented parties must comply with all applicable statutes, Rules of Court, and Local Rules regarding motions, including but not limited to their format. Additionally, exhibits attached to motions and oppositions must be separately *tabbed*, so that exhibits can be easily identified and retrieved.

**ELECTRONIC SERVICE AND DOCUMENT DEPOSITORY**

The parties, especially in cases involving numerous parties or large quantities of documents, are encouraged to agree to electronic service for all pleadings, motions, and other materials filed with the court as well as all discovery requests, discovery responses, and correspondence. Nevertheless, parties must still submit “hard” copies to the court of any pleadings, motions, or other materials that are to be filed.

**INFORMAL DISCOVERY CONFERENCES**

The court is available for informal discovery conferences at the request of counsel. Such conferences may address the scope of allowable discovery, the order of discovery, issues of privilege,

**GUIDELINES FOR THE COMPLEX LITIGATION PROGRAM**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
JUDGE DAVID COHN  
DEPARTMENT S-26**

and other discovery issues that may arise. Counsel may contact the Judicial Assistant assigned to the Complex Litigation Department to schedule an informal conference (909-521-3519).

Before filing any discovery motion, the moving party is required to “meet and confer” with counsel as required by statute. If the “meet and confer” exchange fails to resolve all issues, the moving party is required to request an informal conference with the court before filing any discovery motion.

**CONFIDENTIAL DOCUMENT AND PROTECTIVE ORDERS**

Proposed protective orders dealing with confidential documents should state expressly that nothing in the order excuses compliance with California Rules of Court, rules 2.550 and 2.551. Proposed protective orders that are not compliant with the requirements of the Rules of Court will be rejected.

**THE PRETRIAL CONFERENCE**

The court will schedule a pre-trial conference, generally thirty to sixty days in advance of the trial. Counsel and the court will discuss the following matters, which counsel should be fully informed to address:

- Whether trial will be by jury or by the court.
- Anticipated motions *in limine* or the need for other pre-trial rulings.
- The anticipated length of trial.
- The order of proof and scheduling of witnesses, including realistic time estimates for each witness for both direct and cross-examination.
- If there is a large number of anticipated witnesses, whether counsel wish to have photographs taken of each witness to refresh the jury’s recollection of each witness during closing argument and deliberation.
- Whether deposition testimony will be presented by video.
- The need for evidentiary rulings on any lengthy deposition testimony to be presented at trial.
- Stipulations of fact.
- Stipulations regarding the admission of exhibits into evidence.
- If there is a large amount of documentary evidence, how the exhibits will be presented in a meaningful way for the jury.
- The use of technology at trial, including but not limited to electronic evidence.
- Any unusual legal or evidentiary issues that may arise during the trial.

**GUIDELINES FOR THE COMPLEX LITIGATION PROGRAM**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
JUDGE DAVID COHN  
DEPARTMENT S-26**

**THE TRIAL READINESS CONFERENCE**

Trial Readiness Conferences are held at 8:30 a.m. on the Thursday morning preceding the scheduled trial date. Counsel and unrepresented parties must comply fully with Local Rule 411.2, unless otherwise directed by the court. Failure to have the required materials available for the court may result in the imposition of monetary or other sanctions.

**TRIALS**

Trial dates are generally Monday through Thursday, 10:00 a.m. to 12:00 p.m. and 1:30 p.m. to 4:30 p.m. Lengthy trials, however, may require deviation from this schedule. Unless otherwise ordered by the court, counsel and unrepresented parties must be present in the courtroom at least ten minutes before each session of trial is scheduled to begin.

Whenever possible, issues to be addressed outside the presence of the jury should be scheduled in a manner to avoid the need for the jury to wait.

Counsel are also directed to the "Rules and Requirements for Jury Trials" for Department S-26 (known as the "Green Sheet"). Copies are available upon request in Department S-26.

# **EXHIBIT G**

CM-110

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  <b>Ryan M. Ferrell (SBN 258037)</b>                  Apex Trial Law, 4100 Newport Place Drive, Suite 800                  Newport Beach, CA 92660                  TELEPHONE NO.: (949) 438-0033 FAX NO. (Optional): (949) 299-0133                  E-MAIL ADDRESS (Optional): rferrell@apextrial.com                  ATTORNEY FOR (Name): Plaintiff Angie Garcia</p>	<p>FOR COURT USE ONLY</p> <p><b>FILED</b>                  SUPERIOR COURT OF CALIFORNIA                  COUNTY OF SAN BERNARDINO                  SAN BERNARDINO DISTRICT</p> <p>OCT 11 2016</p> <p>BY <u>E. Staricka</u>                  EDEN STARICKA, DEPUTY</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF <u>San Bernardino</u>                  STREET ADDRESS: 247 West Third Street                  MAILING ADDRESS:                  CITY AND ZIP CODE: San Bernardino, CA 92415-0210                  BRANCH NAME: Civil</p>	<p>CASE NUMBER:                  CIVDS 1613761</p>
<p>PLAINTIFF/PETITIONER: Angie Garcia                  DEFENDANT/RESPONDENT: Hillside Candy LLC.</p>	
<p><b>CASE MANAGEMENT STATEMENT</b></p> <p>(Check one): <input checked="" type="checkbox"/> <b>UNLIMITED CASE</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>LIMITED CASE</b> (Amount demanded is \$25,000 or less)</p>	
<p>A CASE MANAGEMENT CONFERENCE is scheduled as follows:                  Date: October 26, 2016 Time: 8:30 a.m. Dept.: S26 Div.: Room:                  Address of court (if different from the address above):</p> <p><input checked="" type="checkbox"/> <b>Notice of Intent to Appear by Telephone, by (name):</b> Ryan M. Ferrell</p>	

**FILED**

**INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.**

1. **Party or parties (answer one):**
  - a.  This statement is submitted by party (name): **Angie Garcia**
  - b.  This statement is submitted **jointly** by parties (names):
  
2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
  - a. The complaint was filed on (date): **August 18, 2016**
  - b.  The cross-complaint, if any, was filed on (date):
  
3. **Service (to be answered by plaintiffs and cross-complainants only)**
  - a.  All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
  - b.  The following parties named in the complaint or cross-complaint
    - (1)  have not been served (specify names and explain why not):
    - (2)  have been served but have not appeared and have not been dismissed (specify names):
    - (3)  have had a default entered against them (specify names):
  - c.  The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):
  
4. **Description of case**
  - a. Type of case in  complaint  cross-complaint (Describe, including causes of action):  
 Plaintiff filed this putative class action alleging causes of action under: Negligent Misrepresentation, Civil Code 1750 ("CLRA"), and Business & Professions Codes Sections 17200 and 17500. The underlying issue is Defendant's use of the term "Evaporated Cane Juice" in order to hide the ingredient "sugar."

CM-110

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.) Plaintiff filed this putative class action alleging causes of action under Negligent Misrepresentation, Civil Code 1750 ("CLRA"), and Business & Professions Codes Sections 17200 and 17500. The underlying issue is Defendant's use of the term "Evaporated Cane Juice" in order to hide the ingredient "sugar." Damages sought are refunds to the class and injunctive relief against Defendant.

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. **Jury or nonjury trial**

The party or parties request  a jury trial  a nonjury trial. (If more than one party, provide the name of each party requesting a jury trial):

6. **Trial date**

- a.  The trial has been set for (date):
- b.  No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain):
- c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

7. **Estimated length of trial**

The party or parties estimate that the trial will take (check one):

- a.  days (specify number): 2-3
- b.  hours (short causes) (specify):

8. **Trial representation (to be answered for each party)**

The party or parties will be represented at trial  by the attorney or party listed in the caption  by the following:

- a. Attorney:
  - b. Firm:
  - c. Address:
  - d. Telephone number:
  - e. E-mail address:
  - f. Fax number:
  - g. Party represented:
- Additional representation is described in Attachment 8.

9. **Preference**

This case is entitled to preference (specify code section):

10. **Alternative dispute resolution (ADR)**

a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

- (1) For parties represented by counsel: Counsel  has  has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.
- (2) For self-represented parties: Party  has  has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation (if available).**

- (1)  This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.
- (2)  Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
- (3)  This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. (specify exemption):  
CRC 3.811(b)(2) Class Action

CM-110

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	--------------

10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (check all that apply and provide the specified information):

	The party or parties completing this form <b>are willing</b> to participate in the following ADR processes (check all that apply):	If the party or parties completing this form in the case <b>have agreed</b> to participate in or have already completed an ADR process or processes, indicate the status of the processes (attach a copy of the parties' ADR stipulation):
(1) Mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other (specify):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

CM-110

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

**11. Insurance**

- a.  Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights:  Yes  No
- c.  Coverage issues will significantly affect resolution of this case (*explain*):

**12. Jurisdiction**

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

- Bankruptcy  Other (*specify*):

Status:

**13. Related cases, consolidation, and coordination**

- a.  There are companion, underlying, or related cases.
  - (1) Name of case:
  - (2) Name of court:
  - (3) Case number:
  - (4) Status:
- Additional cases are described in Attachment 13a.
- b.  A motion to  consolidate  coordinate will be filed by (*name party*):

**14. Bifurcation**

- The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

**15. Other motions**

- The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

Plaintiff - Motion for Class Certification

**16. Discovery**

- a.  The party or parties have completed all discovery.
- b.  The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
Plaintiff	Written Discovery	Dec. 2016
Plaintiff	Deposition of Defendant	February 2017

- c.  The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):



CM-110

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

17. Economic litigation

- a.  This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b.  This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

18. Other issues

- The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

19. Meet and confer

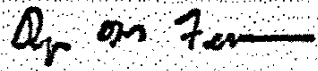
- a.  The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): \_\_\_\_\_

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: October 10, 2016

Ryan M. Ferrell  
\_\_\_\_\_  
(TYPE OR PRINT NAME)

  
\_\_\_\_\_  
(SIGNATURE OF PARTY OR ATTORNEY)

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached.

**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 4100 Newport Place, Suite 800, Newport Beach, CA 92660.

On October 11, 2016, I served the foregoing document described as **CASE MANAGEMENT STATEMENT** on the following person(s) in the manner indicated:

**SEE ATTACHED SERVICE LIST**

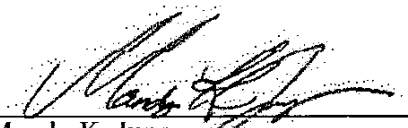
(BY PERSONAL SERVICE) I caused the above-referenced document to be personally served to the addressee via my attorney service, First Legal Support. A Proof of Service executed by the First Legal Support representative will be filed with the court upon service.

(BY MAIL) I am familiar with the practice of Apex Trial Law for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On this date, a copy of said document was placed in a sealed envelope, with postage fully prepaid, addressed as set forth herein, and such envelope was placed for collection and mailing at Apex Trial Law, Newport Beach, California, following ordinary business practices.

(BY FEDERAL EXPRESS) I am familiar with the practice of Apex Trial Law for collection and processing of correspondence for delivery by overnight courier. Correspondence so collected and processed is deposited in a box or other facility regularly maintained by Federal Express that same day in the ordinary course of business. On this date, a copy of said document was placed in a sealed envelope designated by Federal Express with delivery fees paid or provided for, addressed as set forth herein, and such envelope was placed for delivery by Federal Express at Apex Trial Law, Newport Beach, California, following ordinary business practices.

(BY FACSIMILE TRANSMISSION) On this date, at the time indicated on the transmittal sheet, attached hereto, I transmitted from a facsimile transmission machine, which telephone number is \_\_\_\_\_, the document described above and a copy of this declaration to the person, and at the facsimile transmission telephone numbers, set forth herein. The above-described transmission was reported as complete and without error by a properly issued transmission report issued by the facsimile transmission machine upon which the said transmission was made immediately following the transmission.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 11, 2016, at Newport Beach, California.

  
Mandy K. Jung


**SERVICE LIST**

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

HILLSIDE CANDY LLC  
35 Hillside Ave.  
Hillside, NJ 07205

# **EXHIBIT H**

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): RYAN M. FERRELL (SBN 258037) APEX TRIAL LAW 4100 NEWPORT PLACE DR. #800 NEWPORT BEACH CA 92660 TELEPHONE NO.: 949-438-0033 FAX NO. (Optional): 949-299-0133 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff and the Class	FOR COURT USE ONLY  <b>FILED</b> SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO SAN BERNARDINO DISTRICT  OCT 13 2016   BY _____ JASMIN CASILLAS, DEPUTY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO STREET ADDRESS: 247 West Third Street MAILING ADDRESS: same CITY AND ZIP CODE: San Bernardino, 92415 BRANCH NAME: SAN BERNARDINO SUPERIOR COURT - WEST REGION	
PLAINTIFF/PETITIONER: ANGIE GARCIA, individually, and on behalf of all others similarly situated DEFENDANT/RESPONDENT: HILLSIDE CANDY, LLC	CASE NUMBER: <b>CIVDS1613761</b>
<b>PROOF OF SERVICE OF SUMMONS</b>	Ref. No. or File No.: PACTR-0094008.BE

(Separate proof of service is required for each party served.)

By Fax

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
  - a.  Summons
  - b.  Complaint
  - c.  Alternative Dispute Resolution (ADR) package
  - d.  Civil Case Cover Sheet (served in complex cases only)
  - e.  Cross-Complaint
  - f.  Other (specify documents): Notice of Case Assignment for All Purposes - Notice of Case Management Conference, Certificate of Assignment, Guidelines for the Complex Litigation Program
3. a. Party served (specify name of party as shown on documents served):  
**HILLSIDE CANDY, LLC**
  - b.  Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):  
**TED COHEN, President and CEO**
4. Address where the party was served: **35 HILLSIDE AVE , HILLSIDE , NJ 07205**
5. I served the party (check proper box)
  - a.  by personal service. I personally delivered the documents listed item 2 to the party or person authorized to receive service of process for the party (1) on (date): \_\_\_\_\_ (2) at (time): \_\_\_\_\_
  - b.  by substituted service. On (date): **09/22/2016** at (time): **12:44 pm** I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):  
**DAN MOORE, Managing Agent at Hillside Candy, LLC**
    - (1)  (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
    - (2)  (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
    - (3)  (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
    - (4)  I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ.Proc., § 415.20). I mailed the documents on (date): // \_\_\_\_\_ from (city): \_\_\_\_\_ or  a declaration of mailing is attached.
    - (5)  I attach a declaration of diligence stating actions taken first to attempt personal service.

PLAINTIFF/PETITIONER: ANGIE GARCIA, individually, and on behalf of all others similarly situated	CASE NUMBER:
DEFENDANT/RESPONDENT: HILLSIDE CANDY, LLC	CIVDS1613761

5. c.  by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3)  with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgement of Receipt*). (Code Civ. Proc., § 415.30.)
- (4)  to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d.  by other means (*specify means of service and authorizing code section*):

Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a.  as an individual defendant.
- b.  as the person sued under the fictitious name of (*specify*):
- c.  as occupant.
- d.  On behalf of (*specify*): **HILLSIDE CANDY, LLC**

under the following Code of Civil Procedure section:

- |   |   |
|---|---|
| <input type="checkbox"/> 416.10 (corporation)                     | <input type="checkbox"/> 415.95 (business organization, form unknown)       |
| <input type="checkbox"/> 416.20 (defunct corporation)             | <input type="checkbox"/> 416.60 (minor)                                     |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee)                       |
| <input type="checkbox"/> 416.40 (association or partnership)      | <input type="checkbox"/> 416.90 (authorized person)                         |
| <input type="checkbox"/> 416.50 (public entity)                   | <input type="checkbox"/> 415.46 (occupant)                                  |
|   | <input checked="" type="checkbox"/> other: <b>limited liability company</b> |

7. Person who served papers

- a. Name: **RICARDO GONCALVES**, New Jersey Process Server
- b. Address: **PO Box 861057, Los Angeles, California 90086**
- c. Telephone number: **(213) 975-9850**
- d. The fee for service was: \$
- e. I am:

- (1)  not a registered California process server.
- (2)  exempt from registration under Business and Professions Code section 22350(b).
- (3)  registered California process server:
- (i)  owner  employee  independent contractor.
- (ii) Registration No.:
- (iii) County:

8.  I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9.  I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 9/22/2016

**RICARDO GONCALVES**  
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

  
(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (name and Address) RYAN M. FERRELL (SBN 258037) 949-438-0033 APEX TRIAL LAW 4100 NEWPORT PLACE DR. #800 NEWPORT BEACH CA 92660  Attorney(s) for: ANGIE GARCIA Ref: PACTR-0094008.BE		<b>FOR COURT USE ONLY</b>	
SUPERIOR COURT FOR THE STATE OF CALIFORNIA FOR THE COUNTY OF SAN BERNARDINO			
ANGIE GARCIA, individually, and on behalf of all others similarly situated vs. HILLSIDE CANDY, LLC			
<b>PROOF OF MAILING</b>	DATE:	TIME:	DEPT:
			CASE NUMBER: CIVDS1613761

**At the time of mailing, I was at least 18 years old and not a party to the action**

**1. I mailed the following documents:**

Summons & Complaint, Alternative Disput Resolution (ADR) Package, Civil Case Cover Sheet, Notice of Case Assignment for All Purposes - Notice of Case Management Conference, Certificate of Assignment, Guidelines for the Complex Litigation Program

**2. (a) Addressed as follows:**

HILLSIDE CANDY, LLC  
 35 HILLSIDE AVE  
 HILLSIDE, NJ 07205

(b)  Business     Residence     Other

3. On: 09/22/2016

4. Place: Los Angeles, California

5. Type of mailing: First Class

**6. Person mailing:**

BRENDAN ETTER  
 EXPRESS NETWORK  
 P.O. BOX 861057  
 LOS ANGELES, CALIFORNIA 90086  
 (213) 975-9850

7. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 09/22/16



PROOF OF MAILING

# **EXHIBIT I**



VENABLE LLP  
2049 CENTURY PARK EAST, SUITE 2300  
LOS ANGELES, CA 90067  
310-229-9900

1 VENABLE LLP  
Daniel S. Silverman (SBN 137864)  
Email: dsilverman@venable.com  
2 2049 Century Park East, Suite 2300  
Los Angeles, CA 90067  
3 Telephone: (310) 229-9900  
Facsimile: (310) 229-9901  
4

5 Kimberly Culp Cloyd (SBN 238839)  
Email: kculp@venable.com  
505 Montgomery Street, Suite 1400  
6 San Francisco, CA 94111  
Telephone: (415) 653-3750  
7 Facsimile: (415) 653-3755

8 Attorneys for Defendant  
HILLSIDE CANDY LLC  
9

10  
11 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF SAN BERNARDINO**  
13

14 ANGIE GARCIA, individually, and on behalf of  
all others similarly situated,

15 Plaintiff,

16 vs.

17 HILLSIDE CANDY LLC, and DOES 1-25,  
Inclusive,

18 Defendants.  
19  
20

Case No.: CIVDS1613761

Assigned for All Purposes to  
Hon. David Cohn, Dept. S-26

**DEFENDANT HILLSIDE CANDY LLC'S  
NOTICE TO STATE COURT AND  
ADVERSE PARTY OF REMOVAL OF  
ACTION TO FEDERAL COURT**

Action Filed: August 18, 2016  
Removal: October 24, 2016  
Trial Date: None set  
21  
22  
23  
24  
25  
26  
27  
28

VENABLE LLP  
2049 CENTURY PARK EAST, SUITE 2300  
LOS ANGELES, CA 90067  
310-229-9900

1 **TO THE CLERK OF THE ABOVE-ENTITLED COURT, PLAINTIFF AND**  
2 **PLAINTIFF’S ATTORNEY OF RECORD:**

3 PLEASE TAKE NOTICE that, on October 24, 2016, defendant Hillside Candy LLC  
4 (“Defendant”), by and through its attorneys of record, Daniel S. Silverman and Kimberly Culp  
5 Cloyd of Venable LLP, filed in the United States District Court for the Central District of  
6 California, Eastern Division, its Notice of Removal of San Bernardino County Superior Court  
7 Case No. CIVDS1613761, from the Superior Court of the State of California, County of San  
8 Bernardino. Copies of the e-filed Notice of Removal (including its Exhibit A) and all other  
9 documents filed in federal court in connection with the Notice of Removal are attached hereto as  
10 **Exhibit 1.**

11 PLEASE TAKE FURTHER NOTICE that, pursuant to 28 U.S.C. § 1446, the filing of the  
12 Notice of Removal in the United States District Court for the Central District of California,  
13 Eastern Division, together with a filing of a copy of this Notice with this Court, removes this  
14 action from the Superior Court, which may proceed no further unless and until the case is  
15 remanded.

16 DATED: October 24, 2016

VENABLE LLP



17  
18 By: \_\_\_\_\_  
Daniel S. Silverman  
Kimberly Culp Cloyd

19  
20 Attorneys for Defendant  
HILLSIDE CANDY LLC

21  
22  
23  
24  
25  
26  
27  
28

VENABLE LLP  
2049 CENTURY PARK EAST, SUITE 2300  
LOS ANGELES, CA 90067  
310-229-9900

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

STATE OF CALIFORNIA )  
 )  
COUNTY OF SAN FRANCISCO )     ss.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is Venable LLP, 505 Montgomery Street, Suite 1400, San Francisco, CA 94111.

On October 24, 2016, I served a copy  / original  of the foregoing document(s) described as **DEFENDANT HILLSIDE CANDY LLC'S NOTICE TO STATE COURT AND ADVERSE PARTY OF REMOVAL OF ACTION TO FEDERAL COURT** on the interested parties in this action addressed as follows:

Ryan M. Ferrell  
APEX TRIAL LAW  
A Professional Corporation  
4100 Newport Place Drive, Suite 800  
Newport Beach, CA 92660  
E-mail: rferrell@apextrial.com

Attorneys for Plaintiff  
**ANGIE GARCIA**

By placing true copies thereof enclosed in a sealed envelope(s) addressed as stated above.

**BY OVERNIGHT DELIVERY (CCP §1013(c)&(d)):** I am readily familiar with the firm's practice of collection and processing items for delivery with Overnight Delivery. Under that practice such envelope(s) is deposited at a facility regularly maintained by Overnight Delivery or delivered to an authorized courier or driver authorized by Overnight Delivery to receive such envelope(s), on the same day this declaration was executed, with delivery fees fully provided for at 505 Montgomery Street, Suite 1400, San Francisco, CA 94111, in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **October 24, 2016**, at San Francisco, California.

  
\_\_\_\_\_  
Su Chintanaseri

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

VENABLE LLP  
Daniel S. Silverman (SBN 137864)  
Email: dsilverman@venable.com  
2049 Century Park East, Suite 2300  
Los Angeles, CA 90067  
Telephone: (310) 229-9900  
Facsimile: (310) 229-9901

Kimberly Culp Cloyd (SBN 238839)  
Email: kculp@venable.com  
505 Montgomery Street, Suite 1400  
San Francisco, CA 94111  
Telephone: (415) 653-3750  
Facsimile: (415) 653-3755

Attorneys for Defendant  
HILLSIDE CANDY LLC

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
EASTERN DIVISION**

ANGIE GARCIA, individually, and on  
behalf of all others similarly situated,

Plaintiff,

v.

HILLSIDE CANDY LLC, and DOES 1-  
25, Inclusive,

Defendants.

Case No.:  
CLASS ACTION

**DECLARATION OF TED COHEN  
IN SUPPORT OF DEFENDANT'S  
NOTICE OF REMOVAL**

[San Bernardino County Superior Court  
Action No. CIVDS1613761]

Action Filed: August 18, 2016  
Complaint Served: September 22, 2016  
Removal: October 24, 2016

VENABLE LLP  
2049 CENTURY PARK EAST, SUITE 2300  
LOS ANGELES, CA 90067  
310-229-9900

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DECLARATION OF TED COHEN**

I, Ted Cohen, declare as follows:

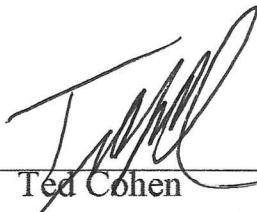
1. I am the President and Chief Executive Officer of Hillside Candy LLC. Unless otherwise stated, matters referred to in this declaration are based on my personal knowledge, and, if called to testify as a witness, I could and would testify competently to the facts set forth herein.

2. I reviewed the Complaint served on defendant Hillside Candy LLC captioned *Garcia v. Hillside Candy LLC*, Case No. CIVDS1613761.

3. I reviewed the accounting records of Hillside Candy LLC and the revenue for national sales of Go Organic Hard Candy in the four years preceding August 18, 2016 exceed five million dollars (\$5,000,000).

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 18 day of October, 2016 in Hillside, New Jersey.

  
\_\_\_\_\_  
Ted Cohen