

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

MELODY CALLANTINE, on behalf of )  
herself, her minor children K.C. and L.C., )  
and all others similarly situated, )

Plaintiff, )

Case No.: 3:20-cv-00801

v. )

4E BRANDS NORTH AMERICA, LLC, )

Defendant. )  
)  
)  
)

**NOTICE OF REMOVAL**

1. Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant 4e Brands North America, LLC (“4e Brands” or “the Company”) hereby removes this putative class action, pending as 71D05-2008-CT-000283 in the Superior Court for St. Joseph County in Indiana (the “State Court Action” or the “Action”), to the United States District Court for the Northern District of Indiana, South Bend Division.

2. The U.S. Supreme Court recently affirmed that a defendant needs only to plausibly allege the requirements for federal jurisdiction to remove. That is, a defendant only needs to file in the federal forum a notice of removal “containing a short and plain statement of the grounds for removal”; no evidentiary submissions need to be submitted. *Dart Cherokee Basin Operating Co. v. Owens*, 135 S. Ct. 547, 553 (2014) (citing 28 U.S.C. § 1446(a)).

3. As more fully set forth below, the State Court Action is properly removed to this Court because: (i) the Action is pending in the Superior Court for St. Joseph County, which is

within the Northern District of Indiana, South Bend Division, 28 U.S.C. § 94(a)(2); (ii) the Court has original jurisdiction under the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d); and (iii) each of the procedural requirements for removal set forth in 28 U.S.C § 1446 are satisfied.

## I. BACKGROUND

4. On or about August 11, 2020, Plaintiff Melody Callantine (“Plaintiff”) filed the State Court Action on behalf of herself, her two minor children, and a purported class of Indiana residents. A true and correct copy of the Complaint in the State Court Action is attached as **Exhibit A** (“Ex. A”) hereto. 4e Brands was served with a copy of the Complaint on August 24, 2020.

5. 4e Brands sells Blumen Hand Sanitizer (the “Product”). Compl. (Ex. A) ¶ 8.

6. On or about July 16, 2020, 4e Brand voluntarily recalled the Product. *Id.* ¶¶ 13, 15–16.

7. Plaintiff alleges that her children suffered “severe side effects, including headaches and vomiting” after using the Product, which she purchased in July 2020 at a Costco Wholesale store in Mishawaka, Indiana. *Id.* ¶¶ 11–12. Plaintiff further alleges that the Product was “sold to consumers throughout the state of Indiana . . . .” *Id.* ¶ 17.

8. Plaintiff asserts three putative class claims. First, she asserts a Count for “Defective Product” (Count I) under the Indiana Products Liability Act, Ind. Code § 34-20-2-1. *Id.* ¶¶ 19–26. Second, she asserts a Count for “Failure to Warn” under the Indiana Products Liability Act, Ind. Code § 34-20-4-2. *Id.* ¶¶ 27–31. Finally, she asserts a Count for violation of the Indiana Deceptive Consumer Sales Act, Ind. Code ¶ 24-5-0.5. *Id.* ¶¶ 32–42.

9. Plaintiff seeks to represent a class under Ind. R. Trial P. 23, consisting of “(a) all Indiana residents, (b) who, within two years of the filing of this action, (c) purchased any type of Blumen Hand Sanitizer, (d) placed into the stream of commerce by 4e Brands or its affiliates or related companies, (e) that contained methanol as an active ingredient.” *Id.* ¶ 44.

10. Plaintiff seeks declaratory relief, actual and statutory damages, including treble damages, attorneys' fees, and any other "just and proper relief." *See, e.g., id.* ¶¶ 42, 51. Plaintiff also seeks a declaration that "the practices of 4e Brands are unlawful and violate the Indiana Deceptive Practices Act." *Id.* ¶ 42. She also seeks statutory damages of \$500 per violation of the Indiana Deceptive Consumer Sales Act for all class members. *Id.* ¶ 41 and "WHEREFORE" after ¶ 51.

## II. THE REQUIREMENTS OF 28 U.S.C. § 1441 AND 1446 ARE MET.

11. *Timeliness.* A notice of removal may be filed within 30 days after the defendant receives a copy of the initial pleading, motion, or other papers from which it may be ascertained that the case is removable. 28 U.S.C. § 1446(b). 4e Brands was served with the Complaint on August 24, 2020. Therefore, 4e Brands received a copy of the document from which it was ascertained that the case is removable, at the earliest, on August 24, 2020. Thus, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b).

12. *Removal to Proper Court.* The Action is pending in the Superior Court for St. Joseph County, which is within the Northern District of Indiana, South Bend Division, 28 U.S.C. § 94(a)(2). Thus, venue is proper because this is the "district and division embracing the place where such action is pending." 28 U.S.C. § 1441(a); *see also* 28 U.S.C. § 1446(a).

13. *Procedural Requirements.* Section 1446(a) requires a removing party to provide this Court with a copy of all "process, pleadings, and orders" served on it in the state court action. A true and correct copy of the Complaint and all papers served with the Complaint is attached hereto as **Exhibit A**. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be filed with the Clerk of the Superior Court for St. Joseph County in the state of Indiana. A copy will also be served on Plaintiff through her counsel of record in accordance with 28 U.S.C. § 1446(d).

14. No previous application has been made for the relief requested herein.

**III. REMOVAL IS PROPER BECAUSE THIS COURT HAS JURISDICTION UNDER 28 U.S.C. §§ 1332 AND 1441.**

15. Based on the allegations on the face of the Complaint, this court has original jurisdiction over this Action pursuant to the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d).

16. “Congress enacted CAFA in 2005 ‘to facilitate adjudication of certain class actions in federal court.’” *Sabrina Roppo v. Travelers Comm. Ins. Co.*, 869 F.3d 568, 578 (7th Cir. 2017) (quoting *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014)).

17. CAFA provides for federal jurisdiction over any “class action” composed of 100 or more putative class members, where any member of the proposed class is a citizen of a state different from any defendant, and the amount-in-controversy exceeds \$5,000,000. 28 U.S.C. § 1332(d).

18. Although 4e Brands denies that it is liable to any individual or that class treatment is appropriate for this case, as set forth below, removal is proper pursuant to 28 U.S.C. §§ 1332(d) and 1453 because (i) the State Court Action is an action between citizens of different states, (ii) on behalf of a putative class composed of more than 100 persons, and (iii) involves an amount-in-controversy exceeding \$5,000,000.

**A. Minimal Diversity is Satisfied.**

19. CAFA’s diversity requirement is satisfied so long as “any member of a class of plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C. § 1332(d)(2)(A).

20. Here, Plaintiff alleges that she “is a resident of the state of Indiana.” Compl. ¶ 4. The purported class is similarly composed of Indiana residents. *Id.* ¶ 44(a).

21. According to Plaintiff, 4e Brands is “organized and exist[s] under the laws of the state of Texas,” with its principal office located in San Antonio. *Id.* ¶ 6. As Plaintiff recognizes elsewhere in her Complaint, 4e Brands is an LLC, so this Court must look to the citizenship of each of its members. *Cosgrove v. Bartolotta*, 150 F.3d 729, 731 (7th Cir. 1998).

22. As stated in the Declaration of Juan Carlos González Olvera (“González Olvera Decl.”), filed herewith as **Exhibit B**, 4e Brands has just one member: 4e Global, S.A.P.I. de C.V. (“4e Global”), a corporation incorporated under the laws of Mexico and having its principal place of business in Mexico City. González Olvera Decl. (Ex. B) ¶¶ 4, 5. *See* 28 U.S.C. § 1332(c) (“[A] corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.”).

23. The minimal diversity requirement is therefore satisfied, because Plaintiff is a citizen of Indiana and 4e Brands is a citizen of Texas and its lone member, 4e Global is a citizen of Mexico.

**B. The Proposed Class Has at Least 100 Members.**

24. Plaintiff does not allege the size of the purported class. However, as illustrated below, between March 2020 and July 2020 alone, at least 100,000 units of the Product (and up to 300,000 units) were distributed through retailers and other distributors in Indiana (González Olvera Decl. (Ex. B) ¶ 7), meaning the proposed class necessarily includes at least 100 members. That is, for the class to be capped at 99 members, even at the low end of the Product distribution range of 100,000 units, each member would need to have purchased 1,010 units of the Product. Such an inference is untenable. The class size requirement is satisfied. 28 U.S.C. § 332(d)(5)(B).

**C. The Matter in Controversy Exceeds \$5,000,000.**

25. CAFA requires that there be “more than \$5 million, exclusive of interests and costs, in controversy in the aggregate.” *Roppo*, 869 F.3d at 578. When a Plaintiff, as here, fails to allege

the amount-in-controversy, a defendant may establish the amount in controversy by providing “a good faith estimate that is ‘plausible and adequately supported by the evidence.’” *Id.* at 579 (quoting *Bloomberg v. Serv. Corp. Int’l*, 639 F.3d 761, 763 (7th Cir. 2011)).

26. It is estimated that, between March 2020 and July 2020 alone, *at least* 100,000 units of the Product were distributed through retailers and other distributors in Indiana. González Olvera Decl. (Ex. B) ¶ 7. The Complaint requests “damages of at least \$500” for “each class member.” Compl. ¶ 51. If just 10,001 individuals purchased a single unit of the Product (as Plaintiff did), *id.* ¶ 11, the matter in controversy would exceed \$5,000,000 (10,001 individuals, accounting for 10,001 units, claiming \$500 each). It is clear that the class must include *at least* that many individuals—the calculation above does not account for the thousands of other units of Product sold in the state. Even if each class member purchased multiple units—for illustrative purposes, say 10 units per class member—and were only eligible to receive \$500 under the Indiana Deceptive Consumer Sales Act,<sup>1</sup> the amount-in-controversy would quickly far exceed the \$5,000,000.<sup>2</sup>

27. Given the volume of the Product sold in the state, the fact that the purported class includes all Indiana residents who purchased the Product within two years prior to August 11,

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<sup>1</sup> Defendant is not claiming to interpret the statute in this Notice. These numbers are solely for the purpose of establishing the amount in controversy.

<sup>2</sup> 4e Brands reserves the right to introduce additional evidence with respect to the amount in controversy—and any other element herein—if and as it becomes necessary. *See Dart*, 135 S. Ct. at 554 (“Evidence establishing the amount is required by §1446(c)(2)(B) only when the plaintiff contests, or the court questions, the defendant’s allegation.”); *id.* at 551 (“A statement ‘short and plain’ [of the grounds for removal] need not contain evidentiary submissions.”); *id.* at 553–54 (“If the plaintiff contests the defendant’s allegation [as to the amount in controversy] . . . both sides submit proof and the court decides, by a preponderance of the evidence, whether the amount-in-controversy requirement has been satisfied.”) (*citing* 28 U.S.C. §1446(c)(2)(B)).

2020, and the amount of statutory damages requested, the amount-in-controversy requirement is necessarily satisfied. 28 U.S.C. § 1332(d)(2).

28. By filing this Notice of Removal, 4e Brands does not admit to any of the allegations in the Complaint or any related matters, including without limitation, (a) liability for the merits of Plaintiff's claims, or (b) the propriety of the class action mechanism and/or the certification of a class action in this matter. 4e Brands reserves any and all defenses to the claims and allegations asserted against it in the State Court Action, all of which it disputes and denies. This Notice of Removal is filed without prejudice to the exercise of any such rights.

WHEREFORE, Defendant 4e Brands respectfully removes this action, now pending in the Superior Court of St. Joseph County in the state of Indiana, to the United States District Court for the Northern District of Indiana, South Bend Division.

DATED: September 22, 2020

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: /s/ Scott B. Cockrum

Scott B. Cockrum (20840-45)

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Highland, IN 46322

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COUNSEL FOR DEFENDANT 4E BRANDS  
NORTH AMERICA, LLC

STATE OF INDIANA ) IN THE ST. JOSEPH SUPERIOR/CIRCUIT COURT  
 ) SS:  
 ST. JOSEPH COUNTY ) CAUSE NO: 71\_\_\_\_\_ -2008-C\_\_\_ -\_\_\_\_\_

**71D05-2008-CT-000283**

MELODY CALLANTINE, on behalf of herself, )  
 her minor children K.C. and L.C., and all others )  
 similarly situated, )

Plaintiffs, )

v. )

4E BRANDS NORTH AMERICA, LLC, )

Defendant. )

**CLASS ACTION COMPLAINT**

The plaintiff, Melody Callantine (“Ms. Callantine”), on behalf of herself, her minor children K.C. and L.C., and all others similarly situated, by counsel, for her Class Action Complaint against the defendant, 4e Brands North America, LLC (“4e Brands”), states as follows:

**NATURE OF THE ACTION**

1. The plaintiff brings this class action to secure redress for the acts of 4e Brands in placing defective hand sanitizer into the stream of commerce containing the poisonous chemical methanol and for misrepresentations on its packaging related to the active ingredients in and effectiveness of the hand sanitizer pursuant to the Indiana Products Liability Act, Ind. Code §§ 34-20-2-1, *et seq.*, and the Indiana Deceptive Consumer Sales Act, Ind. Code §§ 24-5-0.5-1, *et seq.*

**VENUE AND JURISDICTION**

2. This Court has jurisdiction pursuant to Ind. R. Trial P. 4.4 because 4e Brands does business and furnished goods in the state of Indiana.



3. Venue is proper in St. Joseph County as the county in which one or more individual plaintiffs reside.

### **PARTIES**

4. Ms. Callantine is a resident of the state of Indiana who resides at 312 E. Louis Street, Osceola, St. Joseph County, Indiana 46561.

5. K.C. is the ten-year-old minor son of Ms. Callantine. L.C. is the six-year-old minor daughter of Ms. Callantine.

6. 4e Brands is a for-profit corporation organized and existing under the laws of the state of Texas with a principal office located at 17806 West Interstate 10, Suite 300, San Antonio, Texas 78257-8222.

7. 4e Brands manufactures, distributes, and sells products in the personal, home, and animal care markets, including hand sanitizer.

### **FACTS SUPPORTING ALL CAUSES OF ACTION**

8. 4e Brands manufactures, distributes, and sells Blumen Hand Sanitizer throughout the state of Indiana, including at Costco Wholesale retail locations.

9. Among other things, the Blumen Hand Sanitizer packaging states that its active ingredient is seventy percent (70%) Ethyl Alcohol. It also contains representations about the sanitizer, such as “KILLS UP TO 99.9% OF GERMS” and “ETHYL ALCOHOL 70%.”

10. Ethyl Alcohol, or ethanol, is a grain-based alcohol that is commonly used as an active ingredient in hand sanitizer. Ethyl alcohol is generally considered a safe substance that is used in a variety of other applications, including cosmetics, beer, liquor, and even food.

11. In or around July of 2020, Ms. Callantine purchased a 33.8 ounce bottle of Blumen Hand Sanitizer at the Costco Wholesale retail location in Mishawaka, Indiana. She

purchased the hand sanitizer to protect her family against germs, and particularly the virus Coronavirus Disease 2019 (COVID-19).

12. Ms. Callantine and her family subsequently kept the Blumen Hand Sanitizer near the door at their home and used about half of the bottle in its intended manner for cleaning, disinfection, and hand hygiene to protect against the spread of viruses and other germs. After using the product, K.C. and L.C. had severe side effects, including headaches and vomiting.

13. Food and Drug Administration (“FDA”) testing of Blumen Hand Sanitizer conducted around early July of 2020 discovered that the sanitizer contained methanol, or wood alcohol, and lower levels of ethyl alcohol than suggested on the packaging. Methanol is a volatile, highly flammable alcohol that is commonly used to create fuel, solvents, and antifreeze. Unlike ethyl alcohol, it is poisonous to humans.

14. As a result, the FDA recommended that 4e Brands issue a recall and imposed an import ban on many Blumen products.

15. On or about July 16, 2020, 4e Brands initiated a voluntary recall of its Blumen Hand Sanitizer products. Ms. Callantine subsequently received a recall notice.

16. The recall notice states that Blumen products sold between May 11, 2020 and July 19, 2020 contain methanol. It further states that substantial methanol exposure can result in nausea, vomiting, headache, blurred vision, blindness, seizures, coma, and permanent damage to the nervous system or death. All persons who use the product are at risk for potential methanol poisoning. Young children, adolescents, and even adults who accidentally ingest these products are at most risk for methanol poisoning. An example of the recall notice is attached as Exhibit 1.

17. Upon information and belief, Blumen Hand Sanitizer has been sold to consumers throughout the state of Indiana containing methanol and misleading labeling.

18. The plaintiff and class members have suffered concrete harm as a result of the actions of 4e Brands actions, including but not limited to aggravation, emotional distress, personal injury, and statutory damages.

**COUNT I: DEFECTIVE PRODUCT**

19. The plaintiff incorporates and realleges the foregoing allegations of the Complaint as though fully set forth herein.

20. Under the Indiana Products Liability Act, any person who places into the stream of commerce any product in a defective condition unreasonably dangerous to any user or consumer is subject to liability for physical harm caused by that product to the user or consumer. Ind. Code § 34-20-2-1.

21. A product is in a defective condition if, at the time it is conveyed by the seller to another party, it is in a condition: (1) not contemplated by reasonable persons among those considered expected users or consumers of the product; and (2) that will be unreasonably dangerous to the expected user or consumer when used in reasonably expectable ways of handling or consumption. Ind. Code § 34-20-4-1.

22. The plaintiff and her minor children are “users or consumers” as those terms are used in the Indiana Products Liability Act.

23. 4e Brands is a “manufacturer or seller” as those terms are used in the Indiana Products Liability Act.

24. 4e Brands placed Blumen Hand Sanitizer into the stream of commerce by, among other things, selling and distributing the product to Costco Wholesale and other retailers in the state of Indiana.

25. The hand sanitizer was unreasonably dangerous for use as hand sanitizer because it contained methanol as an active ingredient, which is poisonous for human consumption, in lieu of or in addition to ethyl alcohol.

26. As a direct and proximate cause of the acts and omissions of 4e Brands, the plaintiff and her minor children suffered injuries, the effects of which could be permanent and lasting.

WHEREFORE, the plaintiff respectfully requests that the Court enter judgment in her favor and against the defendant, 4e Brands, as follows: (a) awarding the plaintiff actual and statutory damages, including treble damages, in an amount to be determined at trial; (b) awarding the plaintiff her costs and reasonable attorney fees; and (c) awarding all other just and proper relief.

**COUNT II: FAILURE TO WARN**

27. The plaintiff incorporates and realleges the foregoing allegations of the Complaint as though fully set forth herein.

28. A product is also defective under the Indiana Products Liability Act if the seller fails to: (1) properly package or label the product to give reasonable warnings of danger about the product; or (2) give reasonably complete instructions on proper use of the product. Ind. Code § 34-20-4-2.

29. 4e Brands failed to identify methanol as an active ingredient in its hand sanitizer, let alone provide reasonable warning to consumers that an active ingredient in its hand sanitizer is poisonous to humans and can cause severe and permanent injuries.

30. 4e Brands further failed to provide reasonably complete instructions on proper use of the product, to the extent any such uses exist.

31. As a direct and proximate cause of the acts and omissions of 4e Brands, the plaintiff suffered injuries, the effects of which could be permanent and lasting.

WHEREFORE, the plaintiff respectfully requests that the Court enter judgment in her favor and against the defendant, 4e Brands, as follows: (a) awarding the plaintiff actual and statutory damages, including treble damages, in an amount to be determined at trial; (b) awarding the plaintiff her costs and reasonable attorney fees; and (c) awarding all other just and proper relief.

**COUNT III: INDIANA DECEPTIVE CONSUMER SALES ACT**

32. The plaintiff incorporates and realleges the foregoing allegations of the Complaint as though fully set forth herein.

33. Pursuant to the Indiana Deceptive Consumer Sales Act, a supplier who commits an unfair, abusive, or deceptive act, omission, or practice in connection with a consumer transaction violates the act.

34. The plaintiff is a “person” as that term is defined in Indiana Code § 24-5-0.5-2(a)(2).

35. 4e Brands is a “supplier” as that term is defined in Indiana Code § 24-5-0.5-2(a)(3).

36. The plaintiff acquired the Blumen Hand Sanitizer in a “consumer transaction” at a Costco Wholesale retail location as that term is defined in Indiana Code § 24-5-0.5-2(a)(1).

37. A supplier violates the Indiana Deceptive Consumer Sales Act when it engages in acts and representations as to the subject matter of a consumer transaction that constitute deceptive acts, which include that the product: (a) has characteristics, uses, or benefits it does not have which the supplier knows or should reasonably know it does not have; and (b) is of a

particular standard, quality, grade, style, or model, if it is not and if the supplier knows or should reasonably know that it is not.

38. 4e Brands violated the Indiana Deceptive Consumer Sales Act by, among other things, representing that the (a) hand sanitizer contained only ethyl alcohol as an active ingredient; (b) that the product contained 70% ethyl alcohol; (c) that the product did not contain methanol; and (d) that the product kills 99.99% of germs.

39. These deceptive acts are incurable because, among other reasons, the plaintiff relied upon them when purchasing the hand sanitizer and consumed the product in reliance upon the deceptive acts, resulting in personal injury.

40. As a direct and proximate cause of the acts and omissions of 4e Brands, the plaintiff suffered actual damages, including personal injuries, the effects of which could be permanent and lasting.

41. The Indiana Deceptive Consumer Sales Act permits the plaintiff to recover her actual damages or statutory damages of \$500.00 per violation, whichever is greater, and attorneys' fees, along with treble damages for willful acts.

42. An award of treble damages is appropriate because the acts of 4e Brands were willful and showed a reckless disregard for the rights of the plaintiff.

WHEREFORE, the plaintiff respectfully requests that the Court enter judgment in her favor and against the defendant, 4e Brands, as follows: (a) declaring that the practices of 4e Brands are unlawful and violate the Indiana Deceptive Practices Act; (b) awarding the plaintiff actual and statutory damages, including treble damages, in an amount to be determined at trial; (c) awarding the plaintiff her costs and reasonable attorney fees; and (d) awarding all other just and proper relief.

**COUNT IV: CLASS ACTION CLAIMS**

43. The plaintiff incorporates and realleges the foregoing allegations of the Complaint as though fully set forth herein.

44. The plaintiff brings these claims on behalf of a class pursuant to Ind. R. Trial P. 23, consisting of (a) all Indiana residents, (b) who, within two years of the filing of this action, (c) purchased any type of Blumen Hand Sanitizer, (d) placed into the stream of commerce by 4e Brands or its affiliates or related companies, (e) that contained methanol as an active ingredient.

45. Upon information and belief, and based upon the nature of the distribution of Blumen Hand Sanitizer to Costco Wholesale retail locations and other retailers, the class is so numerous that joinder of all members is impractical.

46. There are questions of law and fact common to the class that predominate over any questions affecting only individual class members. The predominant common questions include (a) whether 4e Brands placed products into the stream of commerce containing methanol as an active ingredient; (b) whether 4e Brands falsely represented that the products contained 70% ethyl alcohol; (c) whether 4e Brands failed to warn consumers that its products contained methanol as an active ingredient; and (d) whether the representations made by 4e Brands on its packaging violated the Indiana Deceptive Consumer Practices Act.

47. The claims of the plaintiff are typical of the claims of the class members because, among other things, all of the class members purchased Blumen Hand Sanitizer products containing methanol and packaging with deceptive representations and therefore are entitled to actual and statutory damages.

48. The plaintiff will fairly and adequately protect the interests of the class.

49. The questions of law or fact common to the members of the class set forth above predominate over any questions affecting only individual members.

50. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. The interest of class members in individually controlling the prosecution of separate claims against defendant is small because it is not economically feasible to bring individual actions.

51. The plaintiff has retained counsel with experience litigating class actions, product liability claims, and claims involving unlawful business practices. Neither the plaintiff nor her counsel have any interests which might cause them not to vigorously pursue this action.

WHEREFORE, plaintiff requests that the Court enter judgment in her favor and against the defendant, 4e Brands, as follows: (a) certifying a class action as set forth above; (b) awarding each class member damages of at least \$500.00 and treble damages; (c) awarding costs and reasonable attorneys' fees; and (d) awarding all other just and proper relief.

Respectfully submitted,

PFEIFER MORGAN & STESIAK



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Douglas E. Sakaguchi (20352-71)  
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*Counsel for the plaintiffs.*





### VOLUNTARY DRUG RECALL

Dear Costco Member,

Costco's records indicate you purchased item # 1876544, Blumen Hand Sanitizer 33.8 oz. between May 11, 2020 and July 19, 2020.



In conjunction with the U.S. Food and Drug Administration, 4E Brands has expanded its recall to include ALL lot codes of this product due to the potential presence of methanol (wood alcohol).

Substantial methanol exposure could result in nausea, vomiting, headache, blurred vision, permanent blindness, seizures, coma, and permanent damage to the nervous system or death. Although all persons using these products on their hands are at risk, young children who accidentally ingest these products and adolescents and adults who drink these products as an alcohol (ethanol) substitute, are most at risk for methanol poisoning

Please return any affected product to your local Costco for a full refund. We apologize for any inconvenience this may cause. Please contact 4E Brands at 1-888-843-0254 from 8:00am – 5:00pm EDT or 4EBrands8797@stericycle.com with questions.

Sincerely,

Jorge González Olvera  
Chief Executive Officer  
4e Brands North America, LLC

**SUMMONS**

STATE OF INDIANA )  
 ) SS:  
ST. JOSEPH COUNTY )

IN THE ST. JOSEPH SUPERIOR/CIRCUIT COURT  
CAUSE NO: 71 \_\_\_\_\_-2008-C \_\_\_\_\_  
**71D05-2008-CT-000283**

**Plaintiff - Names and Addresses**

MELODY CALLANTINE, on behalf of herself,  
her minor children K.C. and L.C., and all others similarly situated  
312 E. Louis Street  
Osceola, IN 46561

vs.

**Defendant - Names and Addresses**

4E BRANDS NORTH AMERICA, LLC  
c/o Highest Ranking Officer  
17806 W. Interstate 10, Suite 300  
San Antonio, TX 78257

**TO THE ABOVE NAMED DEFENDANT OR DEFENDANTS:**

You have been sued by the person(s) named "plaintiff" in the court stated above.

The nature of the suit against you is stated in the complaint which is attached to this summons. It also states the demand which the plaintiff has made and wants from you.

You must answer the complaint in writing, by you or your attorney, within twenty (20) days commencing the day after you receive this summons, (you have twenty-three (23) days to answer if this summons was received by mail), or judgment will be entered against you for what the plaintiff has demanded.

If you have a claim for relief against the plaintiff arising from the same transaction or occurrence, you must assert it in your written answer.

**CLERK'S ISSUANCE**

\_\_\_\_\_  
*Rita L. Glenn*  
CLERK

DATE 8/11/2020, 20  .

BY: \_\_\_\_\_  
*/s/ Anne Samolczyk*  
DEPUTY

The following manner of service is hereby designated:

- Registered Mail
- Certified Mail**
- By Sheriff as provided by law
- Other, as follows: \_\_\_\_\_

**ST. JOSEPH SUPERIOR/CIRCUIT COURT**  
Courthouse, 101 S. Main St.  
South Bend, IN 46601  
Telephone: (574) 235-9843

(If by mail, stamped addressed envelope with return receipt attached to be furnished by the attorney.)

**ATTORNEY FOR PLAINTIFF**

Douglas E. Sakaguchi, Ryan G. Milligan, 53600 N. Ironwood Dr., South Bend, IN 46635 (574) 272-2870

**ACKNOWLEDGMENT OF SERVICE OF SUMMONS**

A copy of the above summons and a copy of the complaint attached thereto was received by me at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20  .



\_\_\_\_\_  
Signature of Defendant

**RETURN OF SUMMONS**

Certificate of Mailing

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I mailed a copy of this Summons and a copy of the Complaint to each of the defendant(s)

\_\_\_\_\_

by (registered or certified) mail requesting a return receipt signed by the addressee only addressed to each of said defendant(s) \_\_\_\_\_ at the address(s) furnished by the plaintiff.

DATE \_\_\_\_\_, 20\_\_\_\_. BY: \_\_\_\_\_  
CLERK  
DEPUTY

**RETURN OF SERVICES OF SUMMONS BY MAIL**

I hereby certify that service of Summons with return receipt requested was mailed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and that a copy of return receipt was received on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, which copy is attached herewith.

DATE \_\_\_\_\_, 20\_\_\_\_. BY \_\_\_\_\_  
CLERK  
DEPUTY

**CERTIFICATE OF CLERK OF SUMMONS NOT ACCEPTED BY MAIL**

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I mailed a copy of this Summons and a copy of the Complaint to the defendant(s) \_\_\_\_\_ by (registered or certified) mail and the same was returned without acceptance this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and I did deliver said Summons and a copy of Complaint to the Sheriff of St. Joseph County, Indiana.

DATE \_\_\_\_\_, 20\_\_\_\_. BY \_\_\_\_\_  
CLERK  
DEPUTY

**RETURN BY SHERIFF OR OTHER PERSON OF SUMMONS**

I hereby certify that I have served the within Summons:

1. By delivering on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a copy of Summons and a copy of the Complaint to each of the following defendants: \_\_\_\_\_

2. By leaving on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for each of the within named defendants: \_\_\_\_\_

3. \_\_\_\_\_ and by mailing a copy of the Summons without the Complaint to \_\_\_\_\_ at \_\_\_\_\_ the last known address of defendant(s).

4. This Summons came to hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

The within named \_\_\_\_\_ was not found in my bailiwick this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

MILEAGE \$ \_\_\_\_\_  
FEES \$ \_\_\_\_\_  
TOTAL \$ \_\_\_\_\_

BY \_\_\_\_\_, SHERIFF  
DEPUTY

STATE OF INDIANA )  
 ) SS:  
 ST. JOSEPH COUNTY ) CAUSE NO: 71 \_\_\_\_\_-2008-C \_\_\_\_ - \_\_\_\_\_

**71D05-2008-CT-000283**

MELODY CALLANTINE, on behalf of herself, )  
 her minor children K.C. and L.C., and all others )  
 similarly situated, )  
 312 E. Louis Street, )  
 Osceola, IN 46561, )

Plaintiffs, )

v. )

4E BRANDS NORTH AMERICA, LLC, )  
 c/o Highest Ranking Officer, )  
 17806 W. Interstate 10, Suite 300, )  
 San Antonio, TX 78257, )

Defendant. )

**APPEARANCE FORM (CIVIL)**

Initiating Party (XX)

Responding Party ( )

1. NAME OR NAMES OF INITIATING/RESPONDING PARTY OR PARTIES:  
**MELODY CALLANTINE, on behalf of herself, her minor children K.C. and L.C., and all others similarly situated**

2. ATTORNEY INFORMATION:

Douglas E. Sakaguchi (20352-71)  
 PFEIFER, MORGAN & STESIAK  
 53600 North Ironwood Drive  
 South Bend, IN 46635  
 Telephone Number: (574) 272-2870  
 Fax Number: (574) 271-4329

3. CASE TYPE: CT

4. WILL ACCEPT FAX SERVICE? YES ( ) NO (XX)

5. ARE THERE RELATED CASES? YES ( ) NO (XX)

STATE OF INDIANA ) IN THE ST. JOSEPH SUPERIOR/CIRCUIT COURT  
 ) SS:  
 ST. JOSEPH COUNTY ) CAUSE NO: 71 \_\_\_\_\_ -2008-C -  
**71D05-2008-CT-000283**

MELODY CALLANTINE, on behalf of herself, )  
 her minor children K.C. and L.C., and all others )  
 similarly situated, )  
 312 E. Louis Street, )  
 Osceola, IN 46561, )

Plaintiffs, )

v. )

4E BRANDS NORTH AMERICA, LLC, )  
 c/o Highest Ranking Officer, )  
 17806 W. Interstate 10, Suite 300, )  
 San Antonio, TX 78257, )

Defendant. )

**APPEARANCE FORM (CIVIL)**

Initiating Party (XX)

Responding Party ( )

1. NAME OR NAMES OF INITIATING/RESPONDING PARTY OR PARTIES:  
**MELODY CALLANTINE, on behalf of herself, her minor children K.C. and L.C., and all others similarly situated**

2. ATTORNEY INFORMATION:

Ryan G. Milligan (28691-71)  
 PFEIFER, MORGAN & STESIAK  
 53600 North Ironwood Drive  
 South Bend, IN 46635  
 Telephone Number: (574) 272-2870  
 Fax Number: (574) 271-4329

3. CASE TYPE: CT

4. WILL ACCEPT FAX SERVICE? YES ( ) NO (XX)

5. ARE THERE RELATED CASES? YES ( ) NO (XX)

STATE OF INDIANA	)	IN THE ST. JOSEPH SUPERIOR COURT
	)SS:	
COUNTY OF ST. JOSEPH	)	
MELODY CALLANTINE, on behalf of	)	
herself, her minor children K.C. and L.C., and	)	
all others similarly situated,	)	
	)	
Plaintiffs,	)	Cause No. 71D05-2008-CT-000283
	)	
vs.	)	
	)	
4E BRANDS NORTH AMERICA, LLC,	)	
	)	
Defendant.	)	

**APPEARANCE BY ATTORNEY IN CIVIL CASE**

Party Classification: Initiating  Responding  Intervening

1. The undersigned attorney and all attorneys listed on this form now appear in this case for the following party member(s): **4E BRANDS NORTH AMERICA, LLC**

2. Applicable attorney information for service as required by Trial Rule 5(B) (2) and for case information as required by Trial Rules 3.1 and 77(B) is as follows:

Name:	Scott B. Cockrum	Atty No.	(20840-45)
Address:	Lewis Brisbois Bisgaard & Smith LLP	Phone:	219.440.0600/D: 219.440.0602
	2211 Main Street, Suite 3-2A	FAX:	219.440.0601
	Highland, IN 46322	E-mail:	Scott.Cockrum@lewisbrisbois.com

[List on continuation page the additional attorneys appearing for above party member(s)]

3. There are other party members: Yes  No  (If yes, list on continuation page.) All Parties listed above.

4. If first initiating party filing this case, the Clerk is requested to assign this case the following Case Type under Administrative Rule 8(b) (3):

5. I will accept service by FAX at the above noted number: Yes  No .

6. This case involves support issues. Yes  No  (If yes, supply social security numbers for all family members on continuation page.)

7. There are related cases: Yes  No  (If yes, list on continuation page.)

8. This form has been served on all other parties. Certificate of Service is attached: Yes  No

9. Additional information required by local rule: \_\_\_\_\_

**/s/ Scott B. Cockrum**  
Attorney-at-Law  
Attorney information shown above

**CERTIFICATE OF SERVICE**

I certify that on the 8th day of September, 2020, a copy of the foregoing document was filed electronically via Efile.incourts.gov. Notice of this filing will be sent to all Counsel of Record via the Court's electronic filing system.

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: s/ Scott B. Cockrum  
Scott B. Cockrum

STATE OF INDIANA )  
 )  
 )SS:  
 )  
COUNTY OF ST. JOSEPH )

IN THE ST. JOSEPH SUPERIOR COURT

MELODY CALLANTINE, on behalf of )  
herself, her minor children K.C. and L.C., and )  
all others similarly situated, )

Plaintiffs, )

Cause No. 71D05-2008-CT-000283

vs. )

4E BRANDS NORTH AMERICA, LLC, )

Defendant. )

**DEFENDANT’S UNOPPOSED MOTION FOR INITIAL ENLARGEMENT OF TIME  
TO RESPOND TO PLAINTIFFS’ CLASS ACTION COMPLAINT**

COMES NOW Counsel, Scott B. Cockrum of LEWIS BRISBOIS BISGAARD & SMITH LLP on behalf of Defendant, 4E BRANDS NORTH AMERICA, LLC, and files Defendant’s Unopposed Motion For Initial Enlargement of Time in which the Defendant must respond to the Plaintiffs’ Class Action Complaint. In support thereof, the Defendant states as follows:

1. Defendant’s response to the Plaintiffs’ Class Action Complaint is currently due on or before September 16, 2020.
2. The Defendant respectfully requests an initial thirty day extension of time, up to and including October 16, 2020, to file its response to Plaintiffs’ Class Action Complaint.
3. Defense counsel was recently retained and is still collecting the information necessary to respond.
4. The additional time is not sought for the purpose of unnecessary delay and will not prejudice any party to this litigation.
5. The new deadline does not interfere with any deadlines or hearings set in the case.



6. Defense counsel, Scott B. Cockrum, has conferred with Plaintiff's counsel about the requested extension, and Plaintiffs' counsel has advised that Plaintiffs have no objection to the requested extension.

WHEREFORE, Defendant, 4E BRANDS NORTH AMERICA, LLC, respectfully requests that this Honorable Court grant an extension of time, up to and including October 16, 2020, to respond to Plaintiffs' Class Action Complaint.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: /s/ Scott B. Cockrum

Scott B. Cockrum (20840-45)

2211 Main Street, Suite 3-2A

Highland, IN 46322

T:219-440-0604/F: 219.440.0601

[Scott B. Cockrum@lewisbrisbois.com](mailto:Scott.B.Cockrum@lewisbrisbois.com)

**CERTIFICATE OF SERVICE**

I certify that on the 8th day of September , 2020, a copy of the foregoing document was filed electronically via Efile.incourts.gov. Notice of this filing will be sent to all Counsel of Record via the Court's electronic filing system.

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: s/ Scott B. Cockrum  
Scott B. Cockrum

STATE OF INDIANA )  
 )  
COUNTY OF ST. JOSEPH )

IN THE ST. JOSEPH SUPERIOR COURT

MELODY CALLANTINE, on behalf of )  
herself, her minor children K.C. and L.C., and )  
all others similarly situated, )

Plaintiffs, )

Cause No. 71D05-2008-CT-000283

vs. )

4E BRANDS NORTH AMERICA, LLC, )

Defendant. )

**ORDER**

THIS CAUSE coming to be heard on Defendant 4E BRANDS NORTH AMERICA, LLC's, Unopposed Motion for Initial Enlargement of Time to Respond to Plaintiffs' Class Action Complaint, due notice having been given, and the Court being fully advised in the premises:

IT IS HEREBY ORDERED ADJUDGED and DECREED: that the aforesaid unopposed motion is GRANTED. Defendant, 4E BRANDS NORTH AMERICA, LLC, shall have up to and including October 16, 2020, in which to file a response to the Plaintiffs' Class Action Complaint.

SO ORDERED this \_\_\_\_\_ day of **September 9, 2020**, 2020.

*Jenny P. Hs Manie*  
\_\_\_\_\_  
JUDGE, ST. JOSEPH SUPERIOR COURT



Distribution: All Counsel of Record

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

Civil Action No. \_\_\_\_\_

MELODY CALLANTINE, on behalf of herself,  
her minor children K.C. and L.C., and all others  
similarly situated,

*Plaintiff,*

v.

4E BRANDS NORTH AMERICA, LLC,

*Defendant.*

State Action Filed: August 11, 2020

State Action Served: August 24, 2020

St. Joseph Co. No.

71D05-2008-CT-000283

**DECLARATION OF JUAN CARLOS GONZALEZ OLVERA  
IN SUPPORT OF DEFENDANT'S NOTICE OF REMOVAL**

I, Juan Carlos González Olvera, declare that the following is true and correct:

1. I submit this Declaration in support of Defendant's Notice of Removal. I have personal knowledge of the facts described in this declaration. If called upon to do so, I would testify to the matters stated in this declaration.
2. I am the Vice President of 4e Brands North America LLC ("4e Brands"). I have held this position for about 6 years. In this role I am primarily responsible for product marketing, sales and distribution for 4e Brands products, including Blumen Hand Sanitizer, in the United States..
3. I am also the Marketing & RD Director of 4e Global S.A.P.I. de C.V. ("4e Global"). I have held this and other positions for 15 years. In this role I am responsible for the marketing, product development and manufacturing technology.

4834-1901-5627.1

4. 4e Brands is a limited liability company (“LLC”) formed under the laws of Texas and headquartered in Texas. The 4e Brands LLC has one member—4e Global.

5. 4e Global is a Sociedad Anónima Promotora de Inversión de Capital Variable (SAPI de CV) based in Mexico city.

6. 4e Global is headquartered in Mexico city. Its principal office is located at Av. Paseo Alexander von Humbolt 43a, Primer Piso, Lomas Verdes, 53125, Mexico.

7. In my position as Vice President of 4e Brands, I have access to databases that house information related to the 4e Brands’ U.S. distribution totals for Blumen Hand Sanitizer. Based on my review of information contained in these databases, between March 2020 and July 2020, 4e Brands distributed *at least* 100,000 units of Blumen Hand Sanitizer (and up to 300,000 units) through retailers and other distributors in Indiana for sales to consumers

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 14 2020, in Mexico City, Mexico.

/s/



Juan Carlos González Olvera

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS

MELODY CALLANTINE, on behalf of herself, her minor children K.C. and L.C., and all others similarly situated,

(b) County of Residence of First Listed Plaintiff St. Joseph County, IN (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Douglas E. Sakaguchi (20352-71); Pfeifer Morgan & Stesiak 53600 North Ironwood Drive South Bend, IN 46635 T: 574.272.2870/F: 574.271.4329 - E: DSakaguchi@pilawyers.com

DEFENDANTS

4E BRANDS NORTH AMERICA, LLC

County of Residence of First Listed Defendant Bexar County, TX (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Scott B. Cockrum, (20840-45), Lewis Brisbois Bisgaard & Smith, LLP, 2211 Main Street, Suite 3-2A, Highland, IN 46322 T:219.440.0602/F:219.440.0601 - Scott.Cockrum@lewisbrisbois.com

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

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

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF, DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation-Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. §§ 1332, 1441, and 1446

Brief description of cause:

Other Personal Injury

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE 9/22/2020

SIGNATURE OF ATTORNEY OF RECORD s/ Scott B. Cockrum

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

