

ORIGINAL

Jonathan Shub (SBN 237708)
SEEGER WEISS LLP
1515 Market Street, Suite 1380
Philadelphia, PA 19102
Phone: (215) 564-2300
Fax: (215) 851-8029
jshub@seegerweiss.com

Attorneys for Plaintiff
Dino Bruce, and on Behalf
of All Others Similarly Situated

2014 FEB 25 PM 3:57
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES

FILED

IS
2
amp
Fee
paid

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

DINO BRUCE, on behalf of himself
and all others similarly situated,

CV14-1424 PA (FFMx)

Case No.:

Plaintiff,

CLASS ACTION COMPLAINT

v.

**VIOLATIONS OF THE CALIFORNIA
UNFAIR COMPEITION LAW,
CAL.BUS. & PROF. CODE §§ 17200
ET. SEQ.;**

KIND, LLC,

Defendant

**VIOLATIONS OF THE CALIFORNIA
FALSE ADVERTISING LAW, CAL.
BUS. & PROF. CODE §§ 17500 ET.
SEQ.; AND**

**VIOLATIONS OF THE CALIFORNIA
CONSUMERS LEGAL REMEDIES
ACT, CAL. CIV. CODE §§ 1750 ET
SEQ**

PAID
FEB 25
Clerk US District Court
Central District of California

JURY TRIAL REQUESTED

CLASS ACTION COMPLAINT

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

CLASS ACTION COMPLAINT

Plaintiff DINO BRUCE, by and through undersigned counsel, on behalf of himself and all other persons and entities similarly situated, sues Defendant, KIND, LLC, and for his Complaint alleges, upon information and belief and based on the investigation to date of his counsel, as follows:

NATURE OF THE ACTION

1. This is a civil class action brought individually by Plaintiff and on behalf of a class of persons similarly situated, (“Class Members”), who purchased one of Defendant’s Kind® Plus snack bars (“the Products”).

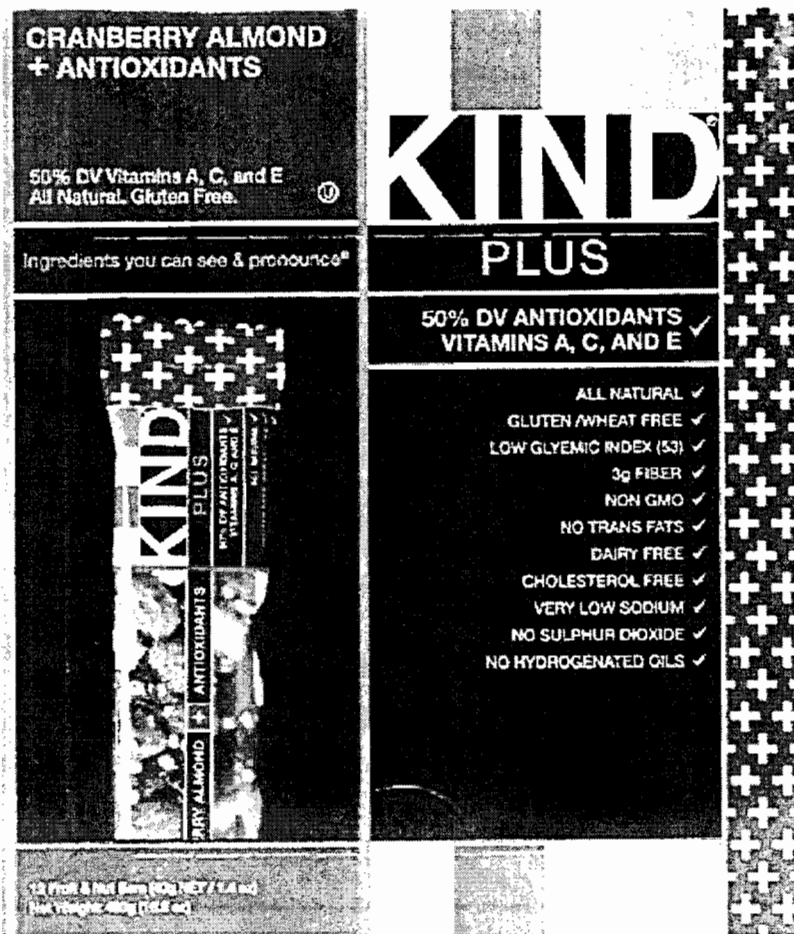
2. The Products sold by Defendant are labeled as “All Natural” even though they contain ascorbic acid, which is an artificial ingredient and recognized as such by federal regulation. *See* 7 C.F.R. § 205.605(b).

3. Two of the Products¹ sold by Defendant also contain Soy Lecithin which is produced through a chemical manufacturing process which would appear un-natural to any reasonable consumer.

4. Defendant’s use the exact same deceptive and misleading labeling of “All Natural” on the following substantially similar products (the “Products”):

¹ Kind® Plus Dark Chocolate Cherry Cashew + Antioxidants and Kind® Plus Pomegranate Blueberry Pistachio + Antioxidants.

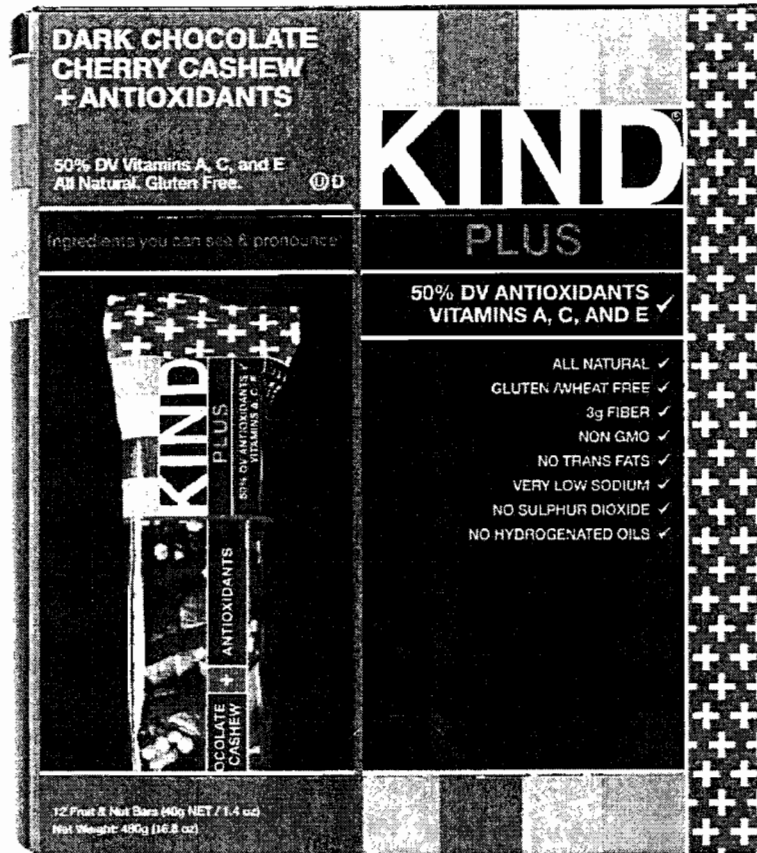
1
2
3 a) Kind® Plus Cranberry Almond + Antioxidants
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



Ingredients / Almonds, dried cranberries (cranberries, sugar), macadamias, honey, non GMO glucose, crisp rice, chicory root fiber, sunflower oil. VITAMINS: Vitamin A (Vit. A Acetate), Vitamin C (Ascorbic Acid), Vitamin E (D-Alpha Tocopheryl Acetate).

<http://www.kindsnacks.com/products/kind-store/buy-kind-bars/kind-plus/kind-plus-cranberry-and-almond.html>

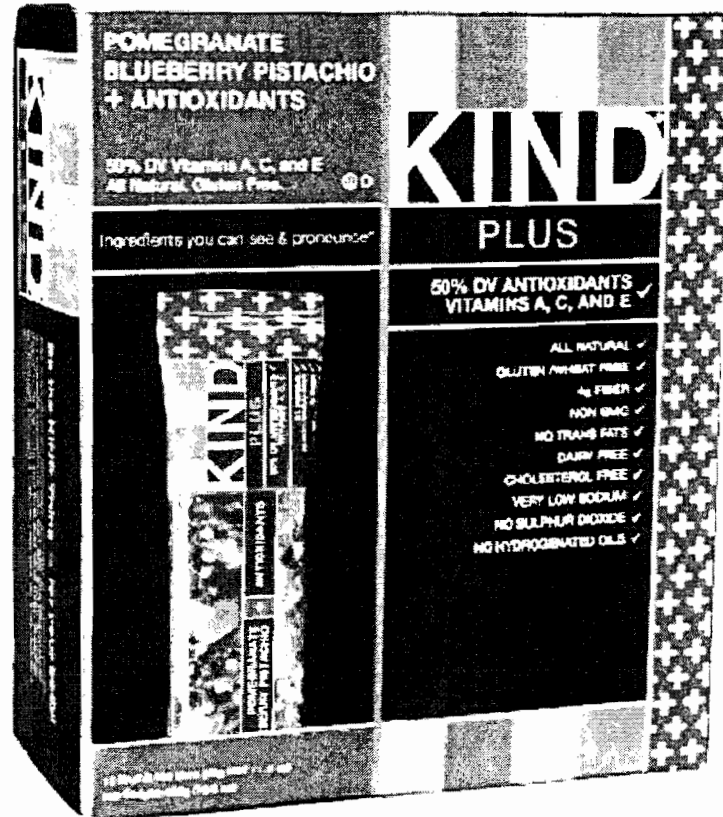
b) Kind® Plus Dark Chocolate Cherry Cashew + Antioxidants



Ingredients / Mixed nuts (almonds, cashews, peanuts), dried fruit (cherries, raisins, cranberries), sugar, honey, non GMO glucose, palm kernel oil, crisp rice, cocoa powder, chicory root fiber, soy lecithin, vanilla, whole milk, salt, sunflower oil. VITAMINS: Vitamin A (Vit. A Acetate), Vitamin C (Ascorbic Acid), Vitamin E (D-Alpha Tocopheryl Acetate).

<http://www.kindsnacks.com/products/kind-store/buy-kind-bars/kind-plus/darkchocolate-cherry-cashew-antioxidants.html>

1
2 c) Kind® Plus Pomegranate Blueberry Pistachio + Antioxidants
3



18 **Ingredients** / Mixed nuts (almonds, cashews, pistachios), mixed fruit (raisins, pomegranate, blueberries,
19 apples, plums), honey, non GMO glucose, crisp rice, apple juice, sugar, vegetable glycerine, chicory root fiber, soy
20 lecithin, citrus pectin, natural blueberry flavor. VITAMINS: Vitamin A (Vit. A Acetate), Vitamin C (Ascorbic Acid),
21 Vitamin E (D-Alpha Tocopheryl Acetate).

22 [http://www.kindsnacks.com/products/kind-store/buy-kind-bars/kind-plus/pomegranate-blueberry-pistachio-
23 antioxidants.html](http://www.kindsnacks.com/products/kind-store/buy-kind-bars/kind-plus/pomegranate-blueberry-pistachio-antioxidants.html)

24 5. The class members are all persons located within the state of
25 California who purchased the Products.
26
27
28

1 6. Defendant advertises, formulates, manufactures, markets, sells and
2 distributes the Products.

3 7. Defendant advertises labels and markets the Products in a misleading
4 and deceptive manner.
5

6 8. Plaintiff brings this action challenging Defendant's mislabeling of the
7 Product on behalf of himself and all others similarly situated, under California's
8 Unfair Competition Law, False Advertising Law, and Consumer Legal Remedies
9 Act.
10

11 9. Plaintiff seeks an order compelling Defendant to (1) cease marketing
12 the Products using the misleading tactics complained of herein, (2) conduct a
13 corrective advertising campaign, (3) restore the amounts by which Defendant has
14 been unjustly enriched, and (4) destroy all misleading and deceptive materials.
15
16

17 **JURISDICTION AND VENUE**

18 10. This Court has jurisdiction over all causes of action asserted herein.
19

20 11. Jurisdiction is proper in this court pursuant to 28 U.S.C. § 1332(d),
21 because there are at least 100 Class Members in the proposed Class, the combined
22 claims of proposed Class Members exceed \$5,000,000 exclusive of interest and
23 costs, and at least one Class Member is a citizen of a state other than Defendant's
24 state of citizenship.
25
26
27
28

1 12. Plaintiff will likely have evidentiary support after a reasonable
2 opportunity for further investigation or discovery regarding Defendant's sales of
3 the Products during the class period.
4

5 13. Venue is proper pursuant to 28 U.S.C. § 1391(a) because a substantial
6 part of the events giving rise to the claims asserted herein occurred in this District.
7 Venue is proper pursuant to 28 U.S.C. § 1391(c) because Defendant conducts
8 substantial business in this District, has sufficient minimum contacts with this
9 District, and otherwise purposely avail themselves of the markets in this District,
10 through the promotion, sale, and marketing of their Products in this District.
11
12

13 14. Defendant and other out-of-state participants can be brought before
14 this Court pursuant to state and federal law.
15

16 **PARTIES**

17 15. During the Class period, Plaintiff and Class Members purchased the
18 Products through Defendant's website www.kindsnacks.com and/or one of the
19 many brick and mortar and online retailers of Defendant's Products throughout
20 California. Plaintiff and Class Members suffered an injury in fact caused by the
21 false, fraudulent, unfair, deceptive and misleading practices set forth in this
22 Complaint.
23
24

25 16. Plaintiff is a resident of the County of Los Angeles, State of
26 California, and the events set forth in this Complaint took place therein, who, on or
27 about January 16, 2014, purchased the product Kind® Plus Cranberry Almond +
28

1 Antioxidants (“Product”) for his own use, and not for resale, from Gelson’s Super
2 Market located at 5877 Franklin Ave., Hollywood, CA 90028. Plaintiff has also
3 purchased several of the Products, including Kind® Plus Cranberry Almond +
4 Antioxidants and Kind® Plus Dark Chocolate Cherry Cashew + Antioxidants,
5 over the past year from Trader Joe’s, Gelson’s and Starbucks.
6

7 17. Kind, LLC is a Delaware Limited Liability Company headquartered at
8 8 West 38th Street, 6th Floor, New York, New York 10018. Kind is a manufacturer
9 and distributor of whole nut and fruit bars and snacks targeted at health conscious
10 consumers. The company was founded in 2004 and now sells its products
11 throughout the United States and internationally.
12
13

14 FACTUAL ALLEGATIONS

15 18. Plaintiff incorporates the foregoing paragraphs as if fully restated
16 herein.
17

18 19. Plaintiff Bruce reviewed the label of each of the Products prior to
19 purchase.
20

21 20. Plaintiff Bruce reasonably relied on the information provided by
22 Defendant when making the decision to purchase the Products.
23

24 21. Plaintiff would have purchased another snack bar, if any at all, and
25 would not have paid the premium price charged by Defendant for its Products if he
26 was made aware that the Product was not “All Natural”.
27
28

1 22. The Food and Drug Administration (“FDA”) has established a policy
2 clarifying that a product is not natural if it contains color, artificial flavors, or
3 synthetic substances. <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm094536.htm>
4 and <http://www.fda.gov/AboutFDA/Transparency/Basics/ucm214868.htm>.

6 23. The FDA states, “the agency will maintain its policy (Ref. 32)
7 regarding the use of ‘natural’, as meaning that nothing artificial or synthetic
8 (including all color additives regardless of source) has been included in, or has
9 been added to, a food that would not normally be expected to be in the food.” 58
10 Fed. Reg. 2302, 2407 (Jan. 6, 2003).

13 24. Congress has defined “synthetic” to mean “a substance that is
14 formulated or manufactured by a chemical process or by a process that chemically
15 changes a substance extracted from naturally occurring plant, animal, or mineral
16 sources, except that such term shall not apply to substances created by naturally
17 occurring biological processes.” 7 U.S.C. § 6502(21).

19 25. Ascorbic acid is an artificial, chemically modified form of Vitamin C
20 used in foods as an antioxidant and as a preservative. The un-natural quality of
21 ascorbic acid is so undeniable that it is recognized by federal regulation as a
22 synthetic ingredient. *See* 7 C.F.R. § 205.605(b).

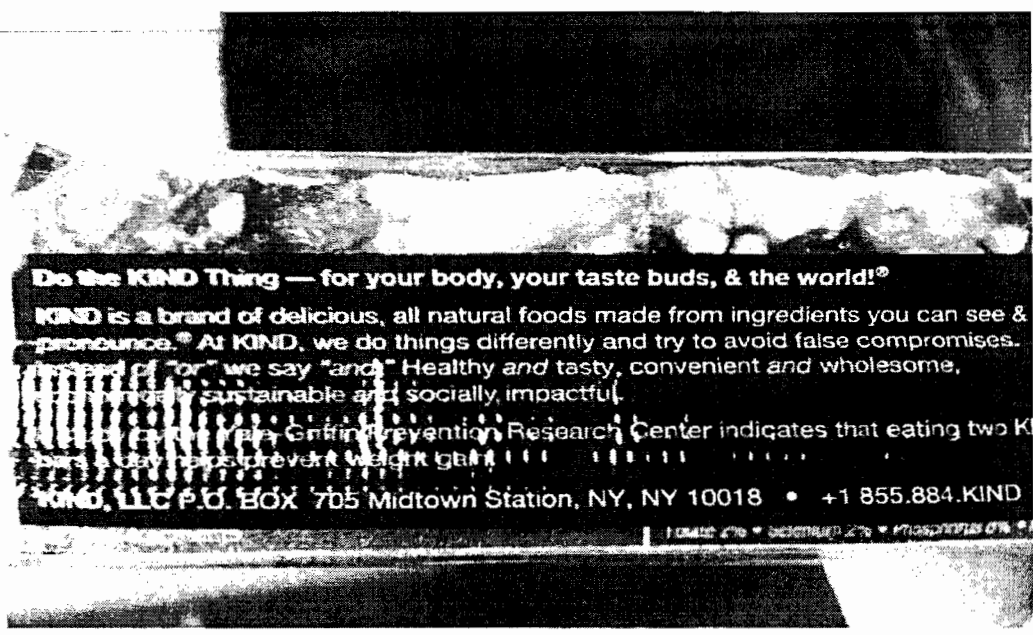
25 26. Soy Lecithin is used in food as an emulsifier, as a lubricant, and to
26 extend shelf life.

1 27. In order to extract soy lecithin from soybeans, the soybeans are
2 immersed in hexane, a byproduct of petroleum refining, before further processing
3 occurs.

4
5 28. Soy Lecithin's chemical manufacturing process places it outside of a
6 reasonable consumer's definition and understanding of "All Natural".

7
8 29. Defendant goes further than the simply deceptive "All Natural"
9 labeling of the Products. If there is any doubt about what "All Natural" means
10 about Defendant's Products, Defendant makes clear that it is not playing any
11 tricks. Natural means natural, entirely natural.

12
13 30. As Defendant adds on the back of the Products' labels, "KIND is a
14 brand of delicious, all natural foods made from ingredients you can see &
15 pronounce.®"
16



1 31. Defendant echoes its honest use of “Natural” on its own website and
2 wider marketing materials, “Our secret ingredient is that we have no secret
3 ingredients™”. [http://www.kindsnacks.com/products/kind-store/buy-kind-bars/kind-
5 plus/pomegranate-blueberry-pistachio-antioxidants.html](http://www.kindsnacks.com/products/kind-store/buy-kind-bars/kind-
4 plus/pomegranate-blueberry-pistachio-antioxidants.html)

6 32. The biggest secret of all about the ingredients in the Products: the
7 ingredients are not actually “All Natural.”

8 **RELIANCE AND INJURY**

9
10 33. Plaintiff incorporates the foregoing paragraphs as if fully restated
11 herein.

12 34. When purchasing the Products, Plaintiff was seeking a product that
13 had the qualities described in Defendant’s advertising, labeling and marketing.
14

15 35. Plaintiff read and relied on the deceptive claims contained herein.

16 36. Plaintiff believed the Products had the qualities he sought, but the
17 Product was actually unsatisfactory to Plaintiff for the reasons described herein.
18

19 37. Plaintiff paid more for the Products, and would have been unwilling to
20 purchase the Product at all, absent the false and misleading labeling complained of
21 herein. Plaintiff would not have purchased the Products absent these claims and
22 advertisements.
23

24 38. For these reasons, the Products were worth less, if it all, than what
25 Plaintiff paid for it, and Plaintiff would have purchased another snack bar, if any,
26 had he known the truth about the Products.
27
28

1 39. Instead of receiving a product that was "All Natural", the Product
2 Plaintiff received was one that contained synthetic and/or unnatural ingredients.

3 40. Plaintiff lost money as a result of Defendant's deceptive claims and
4 practices in that he did not receive what he paid for when purchasing the Product.
5

6 41. Plaintiff altered his position to his detriment and suffered damages in
7 an amount equal to the amount he paid for the Product.
8

9 **CLASS ALLEGATIONS**

10 42. Plaintiff incorporates the foregoing paragraphs as if fully restated
11 herein.
12

13 43. Plaintiff brings this action on his own behalf and as a Class Action
14 Pursuant to Rule 23 of the Federal Rules of Civil Procedure. Plaintiff seeks
15 certification of the following Class:
16

17 **All Persons in the State of California who purchased one of**
18 **the Products from four years from the first-filed complaint**
19 **in this action.**

20 44. *Commonality:* This action involves questions of law and fact common
21 to Plaintiff and Class Members including:
22

- 23 (a) Whether Defendant labels the Products as "All Natural";
24 (b) Whether such a claim is false and/or misleading to a reasonable
25 consumer;
26
27
28

1 (c) Whether Defendant uses ascorbic acid or other ingredients recognized by
2 federal regulation as synthetic or artificial in the Products labeled as “All
3 Natural”;

4
5 (d) Whether Defendant’s “All Natural” labeling of the Products is likely to
6 deceive class members or the general public;

7 (e) Whether Defendant’s representations are unlawful;

8
9 (f) Whether Defendant violated the California Civil Code Section 1750 *et*
10 *seq.*;

11 (g) Whether Defendant violated the California Business & Professions Code
12 Section 17200 *et seq.*;

13
14 (h) Whether Defendant violated the False Advertising Law, Cal. Bus. &
15 Prof. Code Section 17500 *et seq.*;

16
17 (i) Whether and to what extent Defendant was enriched and profited by its
18 representations; and

19 (j) Whether Plaintiff and Class Members sustained damages and, if so, the
20 proper measure of damages, restitution, equitable or other relief, and the
21 amount and nature of such relief.
22

23
24 Excluded from the Class is: (a) any Judge or Magistrate presiding over this action
25 and members of their families; (b) Defendant and any entity in which Defendant
26 has a controlling interest or which has a controlling interest in Defendant and its
27
28

1 legal representatives, assigns and successors of Defendant; and (c) all persons who
2 properly execute and file a timely request for exclusion from the Class.

3 45. *Numerosity*: The Class is composed of thousands of persons
4 geographically dispersed throughout the State of California and the United States,
5 the joinder of whom in one action is impractical. Moreover, upon information and
6 belief, the Class are ascertainable and identifiable from Defendant's records.
7

8 46. *Typicality*: Plaintiff's claims are typical of the claims of the members
9 of the Class, as all such claims arise out of Defendant's conduct in manufacturing,
10 marketing, advertising, warranting and selling the Products, Defendant's conduct
11 in concealing material facts regarding the Products, Defendant's false, fraudulent,
12 unfair and misleading claims and Plaintiff's and Class Members' purchasing the
13 Products.
14
15

16 47. *Adequate Representation*: Plaintiff will fairly and adequately protect
17 the interests of the members of the Class and have no interests antagonistic to those
18 of the Class. Plaintiff has retained counsel experienced in the prosecution of
19 complex class actions, including consumer class actions involving false and
20 misleading advertising, product liability and product design defects.
21
22

23 48. *Predominance and Superiority*: This class action is appropriate for
24 certification because questions of law and fact common to the members of the
25 Class predominate over questions affecting only individual members, and a Class
26 action is superior to other available methods for the fair and efficient adjudication
27
28

1 of this controversy, since individual joinder of all members of the Class is
2 impracticable. Should individual Class Members be required to bring separate
3 actions, this Court and Courts throughout California would be confronted with a
4 multiplicity of lawsuits burdening the court system while also creating the risk of
5 inconsistent rulings and contradictory judgments. In contrast to proceeding on a
6 case-by-case basis, in which inconsistent results will magnify the delay and
7 expense to all parties and the court system, this class action presents far fewer
8 management difficulties while providing unitary adjudication, economies of scale
9 and comprehensive supervision by a single Court.
10
11

12 CAUSES OF ACTION

13 COUNT I

14 **Violation of California Business and Professions**

15 **Code § 17200 *et seq.***

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

17
18 49. Plaintiff incorporates the foregoing paragraphs as if fully restated
19 herein.
20

21 50. Cal. Bus. & Prof. Code § 17200 prohibits any “unlawful, unfair or
22 fraudulent business act or practice”, as well as any “unfair, deceptive, untrue or
23 misleading” advertising.
24

25 51. A business act or practice is “unlawful” if it violates any established
26 state or federal law.
27
28

1 52. California's Sherman Food, Drug, and Cosmetic Law ("Sherman
2 Law"), Article 6, Section 110660 provides that: "Any food is misbranded if its
3 labeling is false or misleading in any particular."
4

5 53. The acts, omissions, misrepresentations, practices, and non-
6 disclosures of Defendant as alleged herein constitute "unlawful" business acts and
7 practices in that Defendants' conduct violates the False Advertising Law and the
8 Consumer Legal Remedies Act.
9

10 54. The acts, omissions, misrepresentations, practices, and non-
11 disclosures of Defendant as alleged herein also constitute "unfair" business acts
12 and practices under the UCL in that Defendant's conduct is immoral,
13 unscrupulous, and offends public policy. Further, the gravity of Defendant's
14 conduct outweighs any conceivable benefit of such conduct.
15
16

17 55. The acts, omissions, misrepresentations, practices, and non-
18 disclosures of Defendant as alleged herein also constitute "fraudulent" business
19 acts and practices under the UCL in that Defendant's claims of "All Natural" on
20 the Products are false, misleading, and have a tendency to deceive the Class and
21 the general public.
22

23 56. In accordance with Bus. & Prof. Code § 17203, Plaintiff seeks an
24 order enjoining Defendant from continuing to conduct business through unlawful,
25 unfair, and/or fraudulent acts and practices, and to commence a corrective
26 advertising campaign.
27
28

1 65. Defendant intentionally, knowingly and unlawfully perpetrated a harm
2 upon Plaintiff by the above-described facts.

3 66. Accordingly, Defendant violated the CLRA by engaging in the
4 following practices proscribed by the California Consumer Legal Remedies Act, §
5 1770(a)(2)(3)(5)(7)(8) and (9) and in consumer transactions with the Plaintiff and
6 the Class, which were intended to result in, and did result in the sale of the
7 Products to the Plaintiff and the Putative Class:
8

9 (a) The following unfair methods of competition and unfair or deceptive
10 acts or practices undertaken by any person in a transaction intended to result
11 or which results in the sale or lease of goods or services to any consumer are
12 unlawful:
13

14 (1) Representing that goods or services are of a particular standard, quality,
15 or grade, or goods are of a particular style or model, if they are of another.
16

17 (2) Disparaging the goods, services, or business of another by false or
18 misleading representation of fact.
19

20 (3) Advertising goods or services with intent not to sell them as advertised.
21

22 67. Accordingly, Defendant violated the CLRA by engaging in the
23 practices proscribed by the California Consumer Legal Remedies Act, § 1770(a)
24 and in consumer transactions with the Plaintiff and the Class, which were intended
25 to result in, and did result in the sale of the Products to the Plaintiff and the
26 Putative Class.
27
28

1 "It is unlawful for any ... corporation... with intent
2 or indirectly to dispose of real or personal
3 property... or anything of any nature whatsoever or
4 to induce the public to enter into any obligation
5 relating thereto, to make or disseminate or cause to
6 be made or disseminated before the public in this
7 state, or to make or disseminate or cause to be made
8 or disseminated from this state before the public in
9 any state, in any newspaper or other publication, or
10 any advertising device, ... any statement,
11 concerning that real or personal property... or
12 concerning any circumstance or matter of fact
13 connected with the proposal...disposition thereof,
14 which is untrue or misleading, and which is known,
15 or which by the exercise of reasonable care should
16 be known, to be untrue or misleading... or ... to so
17 make or disseminate or cause to be so made or
18 disseminated any such statement as part of a plan or
19 scheme with the intent not to sell that personal
20 property... so advertised... as so advertised."

21 73. In violation of Cal. Bus. & Prof. Code § 17500 *et seq.*, the
22 advertisements, labeling, policies, acts, and practices described herein were
23 designed to, and did, result in the purchase and use of the Products.

24 74. Defendant knew and reasonably should have known that the
25 advertising, marketing and labeling of the Products was untrue and/or misleading.
26 But for these misrepresentations and omissions, Plaintiff and the Class would not
27 have purchased the Products.

28 75. Pursuant to Bus. & Prof. Code § 17535, Plaintiff and the Class seek to
recover from Defendant restitution and disgorgement of earnings, profits,

1 compensation and benefit obtained as a result of the practices that are unlawful
2 under Bus. & Prof. Code § 17500 *et seq.* according to proof.
3

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiff and the Class Members demand judgment in their
6 favor against the Defendant, as follows:
7

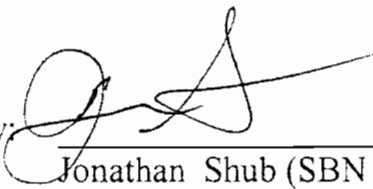
- 8 a. A determination that this action proceed as a class action and Plaintiff
9 adequately represents the Class;
10
11 b. An Order requiring Defendant to bear the cost of class notice;
12
13 c. A return of all amounts paid for the Product sold by the Defendant to the
14 Plaintiff and the Class Members;
15
16 d. For interest thereon, in the maximum amount allowable under applicable
17 law;
18
19 e. For costs of suit, in the maximum amount allowable under applicable law;
20
21 f. For an award of attorneys' fees and costs, to the maximum amount permitted
22 under applicable law;
23
24 g. For injunctive relief, restraining and enjoining the Defendant from
25 continuing to use these deceptive sales tactics;
26
27 h. For restitution of the funds which were unjustly enriched by Defendant, at
28 the expense of Plaintiff and Class Members; and

1 i. For such other and further relief for the Plaintiffs as this Honorable Court
2 shall deem just.
3
4

5 **DEMAND FOR JURY TRIAL**

6 Plaintiff and the Class Members demand trial by jury as to all matters and
7
8 issues triable.

9 DATED: February 25, 2014

10
11 By: 
12 Jonathan Shub (SBN 237708)

13 **SEEGER WEISS LLP**
14 1515 Market Street, Suite 1380
15 Philadelphia, PA 19102
16 Phone: (215) 564-2300
17 Fax: (215) 851-8029
18 jshub@seegerweiss.com

19 Nick Suci III
20 (Pro Hac Vice Application
21 Forthcoming)
22 Alyson Oliver
23 (Pro Hac Vice Application
24 Forthcoming)
25 **OLIVER LAW GROUP PC**
26 950 W. University Drive, Ste. 200
27 Rochester, MI 48307
28 Telephone: (248) 327-6556
Facsimile: (248) 436-3385
notifications@oliverlg.com
www.legalactionnow.com

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

Jordan L. Chaikin (Pro Hac Vice
Application Forthcoming)
PARKER WAICHMAN LLP
3301 Bonita Beach Road, Suite 101
Bonita Springs, FL 34134
Telephone: 239-390-1000
Facsimile: 239-390-0055
jchaikin@yourlawyer.com

Bassma Zebib (SBN 276452)
**LAW OFFICE OF BASSMA
ZEBIB**
811 Wilshire Blvd, Ste. 1708
Los Angeles, CA 90017
Telephone: (310) 920-7037
zebiblaw@gmail.com

Attorneys for Plaintiff
Dino Bruce, and on Behalf
of All Others Similarly Situated



SEEGERWEISS^{LLP}

1115 Market St., 6th Floor, Philadelphia, PA 19102 | P 215 561 2000 | F 215 561 3070 | www.seegerweiss.com

February 25, 2014

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Kind, LLC
8 West 38th Street, 6th Floor
New York, New York 10018

Re: Demand Letter Pursuant to California Civil Code § 1782

To whom it may concern:

This letter serves as a preliminary notice and demand for corrective action by Kind, LLC (“Kind”) pursuant to the provisions of California Civil Code § 1782, on behalf of our client, Dino Bruce, and all other persons similarly situated.

Kind has sold and continues to sell the “All Natural” snack bars; Kind® Plus Cranberry Almond + Antioxidants, Kind® Plus Dark Chocolate Cherry Cashew + Antioxidants and Kind® Plus Pomegranate Blueberry Pistachio + Antioxidants (the “Products”), without disclosing to consumers the synthetic and/or unnatural nature of the ingredients Ascorbic Acid and Soy Lecithin contained within the Products.

Kind has uniformly and deceptively promoted the Products as “All Natural.” Kind has and continues to deceive consumers to induce them to purchase the Products, taking away market share from its competitors and increasing its own profits.

Mr. Bruce is a citizen of the State of California and a consumer as defined in California Civil Code § 1761(d) in that he purchased the Products “for personal, family or household purposes.” The Products purchased by Mr. Bruce all contained the deceptive “All Natural” labeling. Mr. Bruce purchased the Products from Gelson’s Super Market in Hollywood, California and other retail stores in the state of California.

Mr. Bruce suffered a loss of money as a result of Kind’s deception in the amount of the purchase price of the products that he purchased.

By deceptively labeling the Products as “All Natural”, Kind violated numerous provisions of California law including the Consumers Legal Remedies Act, Civil Code § 1770, including but not limited to subsections (a)(5), (7), and (9), California’s Unfair Competition Law (Cal. Bus. & Prof. Code § 17200 *et seq.*) and California’s False Advertising Law (Cal. Bus. & Prof. Code § 17500 *et seq.*)

New York

Newark

Philadelphia

We hereby demand that Kind immediately (1) cease and desist from further sales of the Products in the state of California that contain "All Natural" on the labeling, (2) conduct a corrective advertising campaign; (3) make full restitution to all purchasers of the Products in the state of California of all money obtained from sales thereof; and (4) destroy all misleading and deceptive materials relating to Kind's deceptive labeling of the Products as "All Natural."

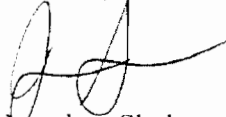
It is further demanded that Kind preserve all documents and other evidence which refer or relate to any of the above-described practices including, but not limited to, the following:

1. All documents concerning product development and production of the Products;
2. All communications with the Food and Drug Administration concerning the Products;
3. All documents concerning the advertisement, marketing or sale of the Products; and

Please comply with this demand within 30 days from receipt of this letter.

We are willing to negotiate with Kind to attempt to resolve the demands asserted in this letter. If Kind wishes to enter into such discussions, please contact me immediately.

Sincerely,



Jonathan Shub

SEGER WEISS LLP

ORIGINAL

1 Jonathan N. Shub (SBN 237708)
2 **SEEGER WEISS LLP**
3 1515 Market Street, Suite 1380
4 Philadelphia, PA 19102
5 Phone: (215) 564-2300
6 Fax: (215) 851-8029
7 jshub@seegerweiss.com

8 Attorneys for Plaintiff
9 Dino Bruce, and on Behalf
10 of All Others Similarly Situated

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 DINO BRUCE, on behalf of herself
14 and all others similarly situated,

15 Plaintiff,

CASE NO.:

16 v.

AFFIDAVIT OF PLAINTIFF
DINO BRUCE

17
18 KIND, LLC,

19
20 Defendant.

1 I, Dino Bruce, submit this affidavit pursuant to § 1780(c) of the Consumer
2 Legal Remedies Act and declare the following:
3

4
5 1. I am a resident of the Los Angeles County, California, and the named
6 Plaintiff and class representative in the above-titled action.
7

8
9 2. Los Angeles County, California is the county where the transaction at issue
10 in this action occurred, as I purchased the product "Kind® Plus Cranberry Almond
11 + Antioxidants" from Defendant from Gelson's Super Market located at 5877
12 Franklin Ave., Hollywood, CA 90028.
13

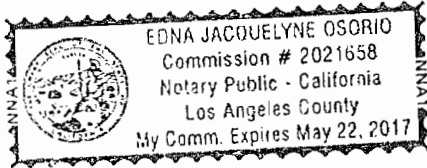
14
15
16 3. Because both the transaction at issue and a substantial portion of events
17 giving rise to this cause of action occurred within Los Angeles County, California,
18 it is my understanding through my attorney that this action has been commenced in
19 the proper place for the trial of this action.
20

21 *Further affiant sayeth not.*
22
23
24
25
26
27
28

1 I declare under penalty of perjury that the above and foregoing
2 representations are true and correct to the best of my information, knowledge and
3 belief.

4
5 Dated: 2/11/14 Signed: Dino Bruce
6 Dino Bruce

7
8
9
10 I, the undersigned Notary Public, do hereby affirm that Dino Bruce personally
11 appeared before me on the 11 day of February, 2014, and signed the above
12 Affidavit as his free and voluntary act and deed.



Edna Osorio
Notary Public

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I. (a) PLAINTIFFS (Check box if you are representing yourself)

DINO BRUCE, on behalf of himself and all others similarly situated.

DEFENDANTS (Check box if you are representing yourself)

KIND, LLC

(b) County of Residence of First Listed Plaintiff Los Angeles

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant New York, NY

(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

See Attached

Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

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-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

- | | | | | | |
|---|---|--------------------------------|---|--------------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> PTF 1 | <input type="checkbox"/> DEF 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> PTF 4 | <input type="checkbox"/> DEF 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. 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 (Specify)
6. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT:** \$ 5,000,000

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

False Advertising: 28 U.S.C. § 1332

VII. NATURE OF SUIT (Place an X in one box only.)

| OTHER STATUTES | CONTRACT | REAL PROPERTY CONT. | IMMIGRATION | PRISONER PETITIONS | PROPERTY RIGHTS |
|--|--|---|--|--|--|
| <input type="checkbox"/> 375 False Claims Act | <input type="checkbox"/> 110 Insurance | <input type="checkbox"/> 240 Torts to Land | <input type="checkbox"/> 462 Naturalization Application | Habeas Corpus: | <input type="checkbox"/> 820 Copyrights |
| <input type="checkbox"/> 400 State Reapportionment | <input type="checkbox"/> 120 Marine | <input type="checkbox"/> 245 Tort Product Liability | <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 463 Alien Detainee | <input type="checkbox"/> 830 Patent |
| <input type="checkbox"/> 410 Antitrust | <input type="checkbox"/> 130 Miller Act | <input type="checkbox"/> 290 All Other Real Property | TORTS | <input type="checkbox"/> 510 Motions to Vacate Sentence | <input type="checkbox"/> 840 Trademark |
| <input type="checkbox"/> 430 Banks and Banking | <input type="checkbox"/> 140 Negotiable Instrument | TORTS | PERSONAL PROPERTY | <input type="checkbox"/> 530 General | SOCIAL SECURITY |
| <input type="checkbox"/> 450 Commerce/ICC Rates/Etc. | <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment | <input type="checkbox"/> 310 Airplane | <input type="checkbox"/> 370 Other Fraud | <input type="checkbox"/> 535 Death Penalty | <input type="checkbox"/> 861 HIA (1395ff) |
| <input type="checkbox"/> 460 Deportation | <input type="checkbox"/> 151 Medicare Act | <input type="checkbox"/> 315 Airplane Product Liability | <input type="checkbox"/> 371 Truth in Lending | Other: | <input type="checkbox"/> 862 Black Lung (923) |
| <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org. | <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.) | <input type="checkbox"/> 320 Assault, Libel & Slander | <input type="checkbox"/> 380 Other Personal Property Damage | <input type="checkbox"/> 540 Mandamus/Other | <input type="checkbox"/> 863 DIWC/DIWW (405 (g)) |
| <input type="checkbox"/> 480 Consumer Credit | <input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits | <input type="checkbox"/> 330 Fed. Employers' Liability | <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 550 Civil Rights | <input type="checkbox"/> 864 SSID Title XVI |
| <input type="checkbox"/> 490 Cable/Sat TV | <input type="checkbox"/> 160 Stockholders' Suits | <input type="checkbox"/> 340 Marine | BANKRUPTCY | <input type="checkbox"/> 555 Prison Condition | <input type="checkbox"/> 865 RSI (405 (g)) |
| <input type="checkbox"/> 850 Securities/Commodities/Exchange | <input type="checkbox"/> 190 Other Contract | <input type="checkbox"/> 345 Marine Product Liability | <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 560 Civil Detainee Conditions of Confinement | FEDERAL TAX SUITS |
| <input checked="" type="checkbox"/> 890 Other Statutory Actions | <input type="checkbox"/> 195 Contract Product Liability | <input type="checkbox"/> 350 Motor Vehicle | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | FORFEITURE/PENALTY | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) |
| <input type="checkbox"/> 891 Agricultural Acts | <input type="checkbox"/> 196 Franchise | <input type="checkbox"/> 355 Motor Vehicle Product Liability | CIVIL RIGHTS | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 |
| <input type="checkbox"/> 893 Environmental Matters | REAL PROPERTY | <input type="checkbox"/> 360 Other Personal Injury | <input type="checkbox"/> 440 Other Civil Rights | <input type="checkbox"/> 690 Other | LABOR |
| <input type="checkbox"/> 895 Freedom of Info. Act | <input type="checkbox"/> 210 Land Condemnation | <input type="checkbox"/> 362 Personal Injury-Med Malpractice | <input type="checkbox"/> 441 Voting | <input type="checkbox"/> 710 Fair Labor Standards Act | <input type="checkbox"/> 710 Fair Labor Standards Act |
| <input type="checkbox"/> 896 Arbitration | <input type="checkbox"/> 220 Foreclosure | <input type="checkbox"/> 365 Personal Injury-Product Liability | <input type="checkbox"/> 442 Employment | <input type="checkbox"/> 720 Labor/Mgmt. Relations | <input type="checkbox"/> 720 Labor/Mgmt. Relations |
| <input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision | <input type="checkbox"/> 230 Rent Lease & Ejectment | <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability | <input type="checkbox"/> 443 Housing/Accommodations | <input type="checkbox"/> 740 Railway Labor Act | <input type="checkbox"/> 740 Railway Labor Act |
| <input type="checkbox"/> 950 Constitutionality of State Statutes | | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | <input type="checkbox"/> 445 American with Disabilities-Employment | <input type="checkbox"/> 751 Family and Medical Leave Act | <input type="checkbox"/> 751 Family and Medical Leave Act |
| | | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | <input type="checkbox"/> 446 American with Disabilities-Other | <input type="checkbox"/> 790 Other Labor Litigation | <input type="checkbox"/> 790 Other Labor Litigation |
| | | | <input type="checkbox"/> 448 Education | <input type="checkbox"/> 791 Employee Ret. Inc. Security Act | <input type="checkbox"/> 791 Employee Ret. Inc. Security Act |

FOR OFFICE USE ONLY:

Case Number:

CV-71 (11/13)

CIVIL COVER SHEET

CV14-1424

Page 1 of 3

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

| | | | |
|---|---|--|------------------------------|
| Question A: Was this case removed from state court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX. | STATE CASE WAS PENDING IN THE COUNTY OF: | | INITIAL DIVISION IN CACD IS: |
| | <input type="checkbox"/> Los Angeles | | Western |
| | <input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo | | Western |
| | <input type="checkbox"/> Orange | | Southern |
| | <input type="checkbox"/> Riverside or San Bernardino | | Eastern |

| | | | |
|--|---|--|------------------------------|
| Question B: Is the United States, or one of its agencies or employees, a party to this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question C. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX. | If the United States, or one of its agencies or employees, is a party, is it: | | INITIAL DIVISION IN CACD IS: |
| | A PLAINTIFF? | A DEFENDANT? | |
| | Then check the box below for the county in which the majority of DEFENDANTS reside. | Then check the box below for the county in which the majority of PLAINTIFFS reside | |
| | <input type="checkbox"/> Los Angeles | <input type="checkbox"/> Los Angeles | Western |
| | <input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo | <input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo | Western |
| | <input type="checkbox"/> Orange | <input type="checkbox"/> Orange | Southern |
| <input type="checkbox"/> Riverside or San Bernardino | <input type="checkbox"/> Riverside or San Bernardino | Eastern | |
| <input type="checkbox"/> Other | <input type="checkbox"/> Other | Western | |

| | | | | | | |
|---|---|---|--------------------------|--|--|-------------------------------------|
| Question C: Location of plaintiffs, defendants, and claims? (Make only one selection per row) | A. Los Angeles County | B. Ventura, Santa Barbara, or San Luis Obispo Counties | C. Orange County | D. Riverside or San Bernardino Counties | E. Outside the Central District of California | F. Other |
| | Indicate the location in which a majority of plaintiffs reside: | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | Indicate the location in which a majority of defendants reside: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | Indicate the location in which a majority of claims arose: | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

| | |
|---|--|
| C.1. Is either of the following true? If so, check the one that applies: <input type="checkbox"/> 2 or more answers in Column C <input type="checkbox"/> only 1 answer in Column C and no answers in Column D Your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question D, below. If none applies, answer question C2 to the right. → | C.2. Is either of the following true? If so, check the one that applies: <input type="checkbox"/> 2 or more answers in Column D <input type="checkbox"/> only 1 answer in Column D and no answers in Column C Your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question D, below. If none applies, go to the box below ↓ |
| Your case will initially be assigned to the WESTERN DIVISION. Enter "Western" in response to Question D below. | |

| | |
|---|---|
| Question D: Initial Division? Enter the initial division determined by Question A, B, or C above: → | INITIAL DIVISION IN CACD Western |
|---|---|

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

IX(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? NO YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? NO YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

X. SIGNATURE OF ATTORNEY

(OR SELF-REPRESENTED LITIGANT): /s/ Jonathan Shub

DATE: 2/25/2014

Notice to Counsel/Parties: The CV-71 (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. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

| Nature of Suit Code | Abbreviation | Substantive Statement of Cause of Action |
|---------------------|--------------|--|
| 861 | HIA | All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b)) |
| 862 | BL | All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923) |
| 863 | DIWC | All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g)) |
| 863 | DIWW | All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g)) |
| 864 | SSID | All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended. |
| 865 | RSI | All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g)) |

Jonathan Shub (SBN 237708)
SEEGER WEISS LLP
1515 Market Street, Suite 1380
Philadelphia, PA 19102
Phone: (215) 564-2300
Fax: (215) 851-8029
jshub@seegerweiss.com

Nick Suciu III
(Pro Hac Vice Application Forthcoming)
Alyson Oliver
(Pro Hac Vice Application Forthcoming)
OLIVER LAW GROUP PC
950 W. University Drive, Ste. 200
Rochester, MI 48307
Telephone: (248) 327-6556
Facsimile: (248) 436-3385
notifications@oliverlg.com
www.legalactionnow.com

Jordan L. Chaikin (Pro Hac Vice Application Forthcoming)
PARKER WAICHMAN LLP
3301 Bonita Beach Road, Suite 101
Bonita Springs, FL 34134
Telephone: 239-390-1000
Facsimile: 239-390-0055
jchaikin@yourlawyer.com

Bassma Zebib (SBN 276452)
LAW OFFICE OF BASSMA ZEBIB
811 Wilshire Blvd, Ste. 1708
Los Angeles, CA 90017
Telephone: (310) 920-7037
zebiblaw@gmail.com

*Attorneys for Plaintiff
Dino Bruce, and on Behalf
of All Others Similarly Situated*