

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION**

KIMBERLY E. FERRON,

Plaintiff,

v.

KRAFT HEINZ FOODS COMPANY,

Defendant.

CASE NO. \_\_\_\_\_

**NOTICE OF REMOVAL**

Defendant Kraft Heinz Foods Company (“Kraft Heinz”) hereby effects the removal of this action from the Circuit Court, Seventeenth Judicial Circuit, in and for Broward County to the U.S. District Court for the Southern District of Florida, Fort Lauderdale Division. Removal is proper under the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1332(d) because this case is a class action in which the putative class exceeds 100 members, at least one plaintiff is diverse from at least one defendant, and the amount in controversy exceeds \$5 million. Venue is proper under 28 U.S.C. § 1441(a) because this District encompasses the county in which this lawsuit is pending, and under 28 U.S.C. § 1391 because Plaintiff allegedly purchased the products at issue in Broward County, Florida, which is located in this District and Division.

**FACTUAL BACKGROUND AND STATE COURT PROCEEDINGS**

1. Plaintiff filed this lawsuit in the Circuit Court, Seventeenth Judicial Circuit, in and for Broward County on July 24, 2020. Kraft Heinz executed a waiver of service on September 21, 2020, thereby effecting service of the Complaint.

2. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of the state court case file is attached hereto and incorporated by reference. Exhibit A consists of the complaint filed in the Circuit Court; Exhibit B consists of all other process, pleadings, motions, and orders filed in this case.

3. Plaintiff's complaint challenges the labeling of two varieties of coffee manufactured by Kraft Heinz: 26.8-ounce containers of Maxwell House Master Blend coffee, and 31.0-ounce containers of Yuban Traditional Roast Ground coffee (collectively, the "Products"). Plaintiff alleges that the Products claim to produce between 180 and 210 servings of coffee, but do not contain a sufficient amount of coffee to do so. As a result, Plaintiffs claim that the "Products' representation, that 180 to 210 cups of coffee can be brewed using 1 Tbsp of coffee per 6 oz cup . . . are untrue, misleading and deceive the public." Ex. A ("Compl.") ¶ 21.

4. Plaintiff alleges that she purchased both Products from a Walmart store in Broward County, Florida. *Id.* ¶ 12.

5. Plaintiff asserts a single cause of action against Kraft Heinz for violations of the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA"), Fla. Stat. §§ 501.201 *et seq.* See Compl. ¶¶ 53-68. Plaintiff purports to assert this claim on behalf of a nationwide class of consumers who purchased the Products in the four years preceding the filing of the complaint (*i.e.*, since July 24, 2016). *Id.* ¶ 39.

6. Plaintiff seeks a variety of remedies on behalf of the class, including damages, disgorgement of "all monies that may have been acquired by Defendant" as a result of its allegedly "unfair and/or deceptive act or practices," and attorney's fees. *Id.* at 14-15 (Prayer for Relief).

**REMOVAL IS PROPER UNDER 28 U.S.C. § 1332(d)**

7. CAFA provides that federal courts have original jurisdiction over class actions in which (i) any plaintiff is diverse from any defendant, (ii) there are at least 100 members in the putative class, and (iii) the amount in controversy exceeds \$5 million, exclusive of interest and costs. 28 U.S.C. § 1332(d). Under 28 U.S.C. § 1441(a), any such action may be removed to the district court for the district and division embracing the place where the action is pending.

**The Parties Are Sufficiently Numerous To Satisfy CAFA**

8. Plaintiff alleges that the “members of the Class are so numerous that individual joinder of all class members is impracticable.” Compl. ¶ 42. Moreover, sales data obtained from Nielsen confirms that Kraft Heinz sold millions of units of the Products during the putative class period. That readily satisfies CAFA’s numerosity requirement.

**The Parties Are Minimally Diverse**

9. Plaintiff resides in, and is a citizen of, Florida. Compl. ¶ 3.

10. Kraft Heinz is a Pennsylvania limited liability company that is co-headquartered in Chicago, Illinois and Pittsburgh, Pennsylvania.

11. Accordingly, CAFA’s minimal diversity requirement is satisfied in this action because Plaintiff is a citizen of Florida, whereas Kraft Heinz is a citizen of Delaware, Illinois, and Pennsylvania. *See* 28 U.S.C. § 1332(c)(1) (providing that a corporation is a “citizen of any State by which it has been incorporated and of the State where it has its principal place of business”).

**There Is at Least \$5,000,000 in Controversy**

12. To satisfy CAFA, a defendant need only show “that the amount in controversy more likely than not exceeds the . . . jurisdictional requirement [of \$5 million].” *Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 752 (11th Cir. 2010) (citation and internal quotation marks omitted).

In assessing the amount in controversy, “the pertinent question is what is *in controversy* in the case, not how much the plaintiffs are ultimately likely to recover.” *Id.* at 751; *see also S. Fla. Wellness, Inc. v. Allstate Ins. Co.*, 745 F.3d 1312, 1315 (11th Cir. 2014) (noting that the amount in controversy is an “estimate of how much will be put at issue in the litigation” and that this “amount is not discounted by the chance that the plaintiffs will lose on the merits”). Even “the amount of damages flowing from facially deficient claims should . . . be considered when determining the amount in controversy.” *McDaniel v. Fifth Third Bank*, 568 F. App’x 729, 730 (11th Cir. 2014) (holding that district court’s refusal to consider such damages was “error”).

13. “CAFA eliminates the general rule of nonaggregation for purposes of determining the amount in controversy. While the general rule of nonaggregation holds that the over \$75,000 amount in controversy must be established for each individual plaintiff, the amount in controversy under CAFA can be satisfied by aggregating the individual class members' claims.” *Waldman v. Cingular Wireless LLC*, No. 07-80081, 2007 WL 1970858, at \*2 (S.D. Fla. July 3, 2007); *see also Std. Fire Ins. Co. v. Knowles*, 133 S. Ct. 1345, 1348 (2013) (noting that CAFA requires “adding up the value of the claim of each person who falls within the definition of the proposed class.”). So long as the removing party can make a “plausible allegation that the amount in controversy exceeds the jurisdictional threshold,” removal is proper. *Dart Cherokee Basin Operating Co. v. Owens*, 574 U.S. 81, 89 (2014); *see also McDaniel*, 568 F. App’x at 732 (“[U]nless recovery of an amount exceeding the jurisdictional minimum is legally impossible, the case belongs in federal court.”) (citation and internal quotation marks omitted).

14. Plaintiff seeks damages and/or restitution on behalf of the putative class, and she requests that the Court “restor[e] all monies that may have been acquired by Defendant” as a result of its allegedly “unfair and/or deceptive” conduct. Compl. at 15 (Prayer for Relief). As a result,

Plaintiff's complaint places in controversy all nationwide sales of the Products. *See, e.g., Cordova v. Sensa Prods., LLC*, No. 11-80835, 2011 WL 13160763, at \*1 (S.D. Fla. Dec. 27, 2011) (calculating amount in controversy based on "proceeds from sales of Sensa to members of the proposed class"); *Jovine v. Abbott Labs, Inc.*, No. 11-80111, 2011 WL 1337204, at \*4 (S.D. Fla. Apr. 7, 2011) (calculating amount in controversy by "multipl[y]ing the \$3.00 sales price by the five million containers of product subject to the recall"); *cf. Reilly v. Amy's Kitchen, Inc.*, 2 F. Supp. 3d 1300, 1304 (S.D. Fla. 2014) (concluding that the plaintiff did not satisfy amount in controversy where the defendant "sold only \$1,045,993 of the three products Plaintiff purchased in the State of Florida for the four year [class] period").

15. Kraft Heinz has access to retail scan sales data through Nielsen, which collects nationwide retail sales data. Nielsen's sales data shows that, since January 1, 2017 to the present (which is entirely within the putative class period), nationwide retail sales of the Products significantly exceeded \$100 million.

16. Accordingly, Plaintiff's request for damages and/or restitution alone establishes an amount in controversy well in excess of \$5 million.

#### **VENUE IS PROPER**

17. Venue is proper because this action was initially filed in the Circuit Court, Seventeenth Judicial Circuit, in and for Broward County, which is located in the Southern District of Florida. *See* 28 U.S.C. § 1441(a) (noting that an action may be removed "to the district court of the United States for the district and division embracing the place where such action is pending"); 28 U.S.C. § 89(c) (noting that the Southern District of Florida encompasses Broward County). Further, venue is proper under 28 U.S.C. § 1391 because Plaintiff allegedly purchased the Products at a Walmart store in Broward County. *See* Compl. ¶ 12.

**REMOVAL IS TIMELY**

18. Under 28 U.S.C. § 1446(b), notice of removal of a civil action must be filed within thirty days of the defendant's receipt of service of the summons and complaint. Kraft Heinz executed a waiver of service on September 21, 2020, less than thirty days before filing this Notice of Removal. Kraft Heinz's Notice of Removal is accordingly timely.

**OTHER REQUIREMENTS FOR REMOVAL ARE MET**

19. Kraft Heinz has not filed any responsive pleadings or any other papers responding to the complaint in the state court.

20. Kraft Heinz will promptly give written notice of the filing of this Notice of Removal to all parties, and a copy of this Notice will be filed with the Clerk of the Circuit Court as required by 28 U.S.C. § 1446(d).

Dated: October 20, 2020

Respectfully submitted,

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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

KIMBERLY E. FERRON

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Lydia S. Zbrzezny and Nicholas T. Zbrzezny 99 6th Street SW, Winter Haven, FL 33880

DEFENDANTS

KRAFT HEINZ FOODS COMPANY

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

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

Attorneys (If Known) Jeffrey T. Foreman and Elizabeth B. Honkonen 1441 Brickell Ave, Suite 1100, Miami, FL 33131

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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship options: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, 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.

Large table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Property Damage, Labor, etc.

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 USC § 1332(d). Brief description of cause: This case is a class action in which the putative class exceeds 100 members.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [ ] No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE 10/20/2020 SIGNATURE OF ATTORNEY OF RECORD Elizabeth B. Honkonen

FOR OFFICE USE ONLY: RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE



**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

Authority For Civil Cover Sheet

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

- I. **(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
  - Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
  - Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
  - Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
  - Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
  - Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
  - Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
  - Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
  - Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
  - Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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

# **EXHIBIT A**

IN THE COUNTY COURT  
IN AND FOR BROWARD COUNTY, FLORIDA

CLASS REPRESENTATION

KIMBERLY E. FERRON,

Plaintiff,

CASE NO.:

vs.

KRAFT HEINZ FOOD COMPANY,

Defendant.

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**CLASS ACTION COMPLAINT**

Plaintiff, KIMBERLY E. FERRON, individually, and on behalf of all others similarly situated in Florida, by and through the undersigned counsel, hereby files this Class Action Complaint against Defendant, KRAFT HEINZ FOODS COMPANY, (“Kraft Heinz”), and alleges as follows:

**I. JURISDICTION & VENUE**

1. This is a class action for damages and injunctive relief pursuant to Rule 1.220(b)(3), *Florida Rules of Civil Procedure*, with the class damages constituting in excess of Thirty Thousand Dollars (\$30,000.00) exclusive of interest, costs and attorney's fees.

2. As set forth below, Plaintiff seeks a certification of a Nationwide Class.

3. Defendant, Kraft Heinz, is a foreign for profit corporation with its principal place of business in Pittsburgh Pennsylvania and which, at all times

material hereto, conducted business in Florida, including, but not limited to manufacturing products for sale in Florida, including, but not limited to, the product at issue in this Action.

4. Based on the foregoing venue is proper in this Court and this Court has jurisdiction over the causes of action alleged herein.

## **II. PARTIES**

3. Plaintiff is an individual consumer over the age of eighteen (18), who resides in Broward County Florida. Plaintiff seeks injunctive relief and damages on behalf of Plaintiff and the Class, and respectfully requests a jury trial as to damages.

4. Defendant, Kraft Heinz, is one of the largest food and beverage companies worldwide and maintains its principal executive offices in Pittsburgh, Pennsylvania, which at all times material hereto was registered and conducting business in Florida, maintained agents for the customary transaction of business in Florida, and conducted substantial and not isolated business activity within this state.

5. Kraft Heinz manufactures Maxwell House coffee and Yuban coffee, including the Maxwell House and Yuban coffee products at issue in this Action.

6. The Maxwell House Master Blend (Net Wt 26.8 Oz) and Yuban Traditional Roast Ground Coffee (Net Wt 31 Oz) are collectively referred to as the "Products" herein.

7. The advertising and labeling for the Products at issue in this case were prepared and/or approved by Kraft Heinz and its agents, and were

disseminated by Kraft Heinz and its agents through advertising and labeling containing the misrepresentations alleged herein.

8. The advertising for the Products was designed to encourage consumers to purchase the Products and reasonably misled reasonable consumers, including Plaintiff and the Class into purchasing the Products. Kraft Heinz markets and distributes the Products, and is the company that created and/or authorized the unlawful, fraudulent, unfair, misleading and/or deceptive advertising and statements about the Products.

9. Plaintiff alleges that, at all times relevant herein, Kraft Heinz and its subsidiaries, affiliates, and other related entities and suppliers, as well as their respective employees, were the agents, servants and employees of Kraft Heinz and at all times relevant herein, each was acting within the purpose and scope of that agency and employment.

10. In addition, Plaintiff alleges that, in committing the wrongful acts alleged herein, Kraft Heinz, in concert with its subsidiaries, affiliates, and/or other related entities and suppliers, and their respective employees, planned, participated in and furthered a common scheme to induce members of the public to purchase the Products by means of untrue, misleading, deceptive, and/or fraudulent representations, and that Kraft Heinz participated in the making of such representations in that it disseminated those misrepresentations and/or caused them to be disseminated.

11. Whenever reference in this Class Action Complaint is made to any act by Kraft Heinz or its subsidiaries, affiliates, distributors, retailers and other

related entities and suppliers, such allegation shall be deemed to mean that the principals, officers, directors, employees, agents, and/or representatives of Kraft Heinz committed, knew of, performed, authorized, ratified and/or directed that act or transaction on behalf of Kraft Heinz while actively engaged in the scope of their duties.

**III. FACTUAL ALLEGATIONS**

12. On or about May 4, 2020, Plaintiff purchased Maxwell House Master Blend (Net Wt 26.8 Oz) and/or Yuban Traditional Roast Ground Coffee (Net Wt 31 Oz) at a Walmart located in Broward County, Florida.

13. The Products is comprised of ground coffee, provided to consumers for the purpose of brewing cups of coffee.

14. The back label for the Maxwell House provides instructions on how to brew a cup of coffee.

15. The-label contains a table stating:

Maxwell House Coffee	1 Tbsp./	½ cup (8 Tbsp)
Servings	1	10

16. The back-label also states that 1 serving of waters is 6 fluid ounces and that the Product makes 180 to 210 suggested strength servings.

17. The Yuban Coffee product contains similar representations.

18. Based on this prominent labeling and based on the brewing instructions contained on the Products, a consumer purchasing this Products

would reasonably believe that the Products could be used to brew a certain number of 6 fluid ounce cups of coffee when following either of the alternative label instructions.

19. Despite this prominent packaging and labeling, the Products are not capable of brewing even the minimum the number of 6 fluid ounce cups of coffee that they represent using the 1 Tbsp per 1 6 fluid ounce cup directions.

20. Since Plaintiff purchased the Product as a product advertising itself as being capable of brewing specific numbers of 6 fluid ounce cups of coffee, and that was not the case, Plaintiff was damaged in proportion to the servings of coffee not received from each of the Products.

21. The Products' representation, that 180 to 210 cups of coffee can be brewed using 1 Tbsp of coffee per 6 oz cup, which are uniformly, consistently and prominently displayed on each individual package of the Products are untrue, misleading and deceive the public.

22. Plaintiff is aggrieved by the deceptively labeled and marketed Products as she relied on the misleading and deceptive labeling and advertising and was deprived of the benefit of the bargain she reasonably anticipated from the Products' labeling and advertising; specifically, she was deprived of the benefit she paid for Products labeled and advertised as being capable of brewing a specific number of 6 fluid ounce cups of coffee using the 1Tbsp per one 6 oz cup directions, when in reality the Products could not make the promised cups of coffee. Reasonable consumers, such as the Plaintiff, will continue to be aggrieved by the deceptive and misleading labeling and advertising of the Products, as reasonable

consumers will continue to make the plausible connection that they are purchasing a Products capable of brewing 180 to 210 cups of coffee following the directions to use 1Tbsp of coffee per 1 6 oz cup.

23. Upon information and reasonable belief Defendant could sell the Products without deceptive labeling by, for example, by not providing directions to use 1Tbsp of coffee per one 6 oz cup of coffee followed by the statement that 180 to 210 6 oz cups can be brewed from the contents of the Product.

24. Alternatively, Defendant could sell the Product with an accurate representation as to the number of cups of coffee that could be brewed when following the 1 Tbsp of coffee per one 6 oz cup brewing directions.

25. Kraft Heinz unlawfully marketed, advertised, sold, and distributed the Products to purchasers.

26. Kraft Heinz sold the Products at a premium price, and Kraft Heinz's false and misleading representations deceive consumers for the reasons previously alleged above.

27. Plaintiff has performed all conditions precedent to bringing this Action.

28. As an immediate, direct, and proximate result of Defendant's false, misleading, and deceptive representations, Defendant injured Plaintiff and the other Class members in that Plaintiff and other Class members:

- a. paid a sum of money for the Products that were not as represented;
- b. paid a premium price for the Products that were not as represented;



- c. were deprived the benefit of the bargain because the Products they purchased were different than what Defendant warranted;
- d. were deprived the benefit of the bargain because the Products they purchased had less value than what was represented by Defendant;
- e. did not receive Products that measured up to their expectations as created by Defendant;
- f. purchased Products that were other than what was represented by Defendant;
- g. received Products that Plaintiffs and the other members of the Class did not expect or consent to; and
- h. received Products that were of a lower quality than what Defendant promised.

29. Had Defendant not made the false, misleading, and deceptive representations, Plaintiff and the other Class members would not have been economically injured because Plaintiff and the other Class members would not have purchased the Products.

30. Plaintiff and the other Class members would likely purchase the Products again if the deceptive advertising and labeling on the Products were corrected.

31. Accordingly, Plaintiff and the other Class members have suffered injury in fact and lost money or property as a result of Defendant's wrongful conduct.

32. Plaintiff and the other Class members did not obtain the full value of

the advertised Products due to Defendant's misrepresentation.

33. Plaintiff and the other Class members purchased, purchased more of, or paid more for the Products than they would have done had they known the truth about the Product. They were deprived of a percentage of the servings represented on the label, because following the label directions of 1 Tbsp of coffee per one 6 oz cup, the Produce is incapable of making the minimum represented number of cups, which is 180 cups.

### **Plaintiff's Reliance and Damages**

34. Plaintiff purchased one or more of the Products in Broward County, Florida, during the Class Period.

35. The Products purchased by Plaintiff were deceptively advertised and marketed for the reasons previously alleged herein.

36. With respect to the Products, Plaintiff and members of the Class paid a price premium or received less than they bargained for, because Plaintiff and members of the Class reasonably believed the Products could be used to brew a specific number of cups of coffee, as specified on the label and in the advertising, not fewer than that number of cups.

37. Likewise, if Plaintiff and members of the Class had known that the Products could not be used to brew of the represented number of cups of coffee specified on the label and in the advertising, they would not have purchased the Products.

38. The Products are worth less than what Plaintiff and members of the Class paid for, and/or is not what Plaintiff and members of the Class reasonably

intended to receive.

39. Pursuant to Rule 1.220, *Florida Rules of Civil Procedure*, Plaintiff brings this class action and seeks certification of the claims and certain issues in this action on behalf of a Class defined as:

**All persons throughout the United States, who, within the four years preceding the filing the original Complaint (“Class Period”), purchased one or more containers of the Products for personal use and not resale (“Class”).**

40. Excluded from the Class is Defendant, its subsidiaries, affiliates, and employees; all persons who make a timely election to be excluded from the Class; governmental entities; and the Judge(s) to whom this case is assigned and any immediate family members thereof.

41. Certification of Plaintiff’s claims for class-wide treatment is appropriate because Plaintiff can prove the elements of Plaintiff’s claims on a class-wide basis using the same evidence as would be used to prove those claims in individual actions alleging the same claims.

#### **A. Numerosity**

42. The members of the Class are so numerous that individual joinder of all class members is impracticable.

43. The precise number of members of the Class is unknown to Plaintiff, but it is clear that the number greatly exceeds the number that would make joinder practicable, particularly given Defendant’s comprehensive distribution and sales network throughout Florida.

44. Members of the Class may be notified of the pendency of this action

by recognized, Court-approved notice dissemination methods, which may include U.S. Mail, electronic mail, Internet postings, and/or published notice.

**B. Commonality and Predominance**

45. This Action involves common questions of law or fact, which predominate over any questions affecting individual members of the Class. All members of the Class were exposed to Defendant's deceptive and misleading advertising and marketing claims alleged herein.

46. Furthermore, common questions of law or fact include:

- a. whether Defendant engaged in the conduct as alleged herein;
- b. whether Defendant's practices violate applicable law cited herein;
- c. whether Plaintiff and the other members of the Class are entitled to actual, statutory, or other forms of damages, and/or other monetary relief; and
- d. whether Plaintiff and the other members of the Class are entitled to equitable relief, including but not limited to injunctive relief.

47. Defendant engaged in a common course of conduct in contravention of the laws Plaintiff seeks to enforce individually, and on behalf of the other members of the Class. Materially identical business practices, and injuries are involved. Individual questions, if any, pale by comparison, in both quality and quantity, to the numerous common questions that dominate this action. Moreover, the common questions will yield common answers.

**C. Typicality**

48. Plaintiff's claims are typical of the claims of the other members of the

Class because, among other things, all members of the Class were comparably injured through the same uniform misconduct described herein. Further, there are no defenses available to Defendant that are unique to Plaintiffs.

**D. Adequacy of Representation**

49. Plaintiff is an adequate representative of the members of the Class because Plaintiff's interests do not conflict with the interests of the other members of the Class that Plaintiff seeks to represent. Plaintiff has retained counsel competent and experienced in complex class action litigation and Plaintiff will prosecute this action vigorously. The Class' interests will be fairly and adequately protected by Plaintiff and Plaintiff's counsel. Undersigned counsel has represented consumers in a wide variety of actions where they have sought to protect consumers from fraudulent and deceptive practices.

**E. Declaratory and Injunctive Relief**

50. Defendant has acted or refused to act on grounds generally applicable to Plaintiff and the other members of the Class, thereby making appropriate final injunctive relief and declaratory relief, as described herein, with respect to the members of the Class as a whole.

**F. Superiority**

51. A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Plaintiff and the other members of the Class are

relatively small compared to the burden and expense that would be required to individually litigate their claims against Defendant, so it would be impracticable for members of the Class to individually seek redress for Defendant's wrongful conduct. Even if the members of the Class could afford individual litigation, the court system could not. Individualized litigation creates a potential for inconsistent or contradictory judgments; and increases the delay and expense to all parties and the court system and thereby unnecessarily clogging of dockets.

52. By contrast, the class action device presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court. Given the similar nature of the members of the Class' claims and the absence of material or dispositive differences in laws upon which the claims are based, the Class will be easily managed by the Court and the parties.

**FIRST CAUSE OF ACTION:**  
**VIOLATION OF THE FLORIDA DECEPTIVE AND UNFAIR TRADE**  
**PRACTICES ACT, FLA. STAT. § 501.201 et seq.**

53. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein verbatim.

54. This cause of action is brought pursuant to the Florida Deceptive and Unfair Trade Practices Act, Sections 501.201 to 501.213, *Florida Statutes*.

55. The express purpose of FDUTPA is to "protect the consuming public . . . from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce."

Section 501.202(2), *Florida Statutes*.

56. Section 501.204(1), *Florida Statutes* declares as unlawful “unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.”

57. The sale of the Products at issue in this cause were “consumer transactions” within the scope of FDUTPA.

58. Plaintiff is a “consumer” as defined by Section 501.203, *Florida Statutes*.

59. Defendant’s Products are goods within the meaning of FDUTPA and Defendant is engaged in trade or commerce within the meaning of FDUTPA.

60. Defendant’s unfair and deceptive practices are likely to mislead—and have misled—reasonable consumers, such as Plaintiff and members of the Class, and therefore, violate Section 500.04, *Florida Statutes*.

61. Defendant has violated FDUTPA by engaging in the unfair and deceptive practices described above, which offend public policies and are immoral, unethical, unscrupulous and substantially injurious to consumers.

62. Specifically, Defendant marketed, labeled and advertised the Products in a deceptive, false and misleading manner since the representations contained on the Products cause reasonable consumers of the Products to believe The Products could be used to brew the number of cups of coffee specified in the advertising and on the label.

63. Plaintiff and Class Members have been aggrieved by Defendant’s unfair and deceptive practices in violation of FDUTPA, in that they purchased and

consumed Defendant's deceptively labeled and marketed Products.

64. Reasonable consumers rely on Defendant to honestly market and label the Products in a way that does not deceive reasonable consumers into believing they are purchasing a Products that could be used to brew the a specific number of cups of coffee specified on the label and in the advertising, when the truth is that the Products can brew far less than that amount.

65. Defendant has deceived reasonable consumers, like Plaintiffs and the Class, into believing the Products were something they was not.

66. Plaintiff and the Class suffered damages and are entitled to injunctive relief.

67. Pursuant to sections 501.211(2) and 501.2105, *Florida Statutes*, Plaintiff and the Class make claims for damages, attorney's fees and costs. The damages suffered by the Plaintiff and the Class were directly and proximately caused by the deceptive, misleading, and unfair practices of Defendant. Additionally, pursuant to Section 501.211(1), *Florida Statutes*, Plaintiff and the Class seek injunctive relief for, *inter alia*, the Court to enjoin Defendant's above-described wrongful acts and practices, and for restitution and disgorgement.

68. Plaintiff seeks all available remedies, damages, and awards resulting from Defendant's violations of FDUTPA.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, individually, and on behalf of all others similarly situated, prays for relief pursuant to each cause of action set forth in this Complaint as follows:



A. For an order certifying that the Action may be maintained as a class action, certifying Plaintiff as representative of the Class, and designating Plaintiff's attorneys Class counsel;

B. For an award of equitable relief for all causes of action as follows:

1. Enjoining Defendant from continuing to engage, use, or employ any unfair and/or deceptive business acts or practices related to the design, testing, manufacture, assembly, development, marketing, advertising, or sale of the Products for the purpose of selling the Products in such manner as set forth in detail above, or from making any claims found to violate FDUTPA or the other causes of action as set forth above;

2. Restoring all monies that may have been acquired by Defendant as a result of such unfair and/or deceptive act or practices; and

C. For actual damages in an amount to be determined at trial for all causes of action;

D. For an award of attorney's fees and costs;

E. For any other relief the Court might deem just, appropriate, or proper;

and

F. For an award of pre- and post-judgment interest on any amounts awarded.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands trial by jury on all issues so triable.

Submitted this 24<sup>th</sup> day of July, 2020

SOUTHERN ATLANTIC LAW GROUP, PLLC

By: /S/ Lydia Zbrzezni

Lydia S. Zbrzezni  
Florida Bar No. 98181  
Nicholas T. Zbrzezni  
Florida Bar No. 98180  
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[nick@southernatlanticlaw.com](mailto:nick@southernatlanticlaw.com)  
[kara@southernatlanticlaw.com](mailto:kara@southernatlanticlaw.com)  
ATTORNEYS FOR PLAINTIFF

Howard W. Rubenstein, Esq.  
The Law Office of Howard W. Rubenstein  
1281 N. Ocean Dr. Apt. 198  
Singer Island, FL 33404  
Telephone: 832-715-2788  
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Emails: [howardr@pdq.net](mailto:howardr@pdq.net)  
ATTORNEY FOR PLAINTIFF

# **EXHIBIT B**

### Kimberly E Ferron Plaintiff vs. Kraft Heinz Food Company Defendant

**Broward County Case Number:** CACE20011985  
**State Reporting Number:** 062020CA011985AXXCE  
**Court Type:** Civil  
**Case Type:** Other  
**Incident Date:** N/A  
**Filing Date:** 07/24/2020  
**Court Location:** Central Courthouse  
**Case Status:** Pending  
**Magistrate Id / Name:** N/A  
**Judge ID / Name:** 13 Robinson, Michael A.

+ Party(ies)

Total: 2

- Disposition(s)


Total: 0

Date	Statistical Closure(s)

Date	Disposition(s)	View	Page(s)

- Event(s) & Document(s)

Total: 9

Date	Description	Additional Text	View	Pages
10/07/2020	<b>Notice of Appearance</b>	FBN# 612200 Party: <i>Defendant</i> Kraft Heinz Food Company		3

Date	Description	Additional Text	View	Pages
10/07/2020	<b>Motion for Enlargement of Time</b>	TO RESPOND TO COMPLAINT Party: <i>Defendant</i> Kraft Heinz Food Company		5
10/07/2020	<b>Notice of Appearance</b>	FBN# 612200 Party: <i>Defendant</i> Kraft Heinz Food Company		3
10/07/2020	<b>Order Extending Time</b>			2
09/21/2020	<b>Notice of Appearance</b>	FBN# 659746 Party: <i>Plaintiff</i> Ferron, Kimberly E		2
07/27/2020	<b>Search for prior case performed per 2020-4-Civ-UFC-CO</b>	NONE		1
07/24/2020	<b>Civil Cover Sheet</b>	Amount: \$30,000.00		2
07/24/2020	<b>Complaint (eFiled)</b>	Class Action Party: <i>Plaintiff</i> Ferron, Kimberly E		16
07/24/2020	<b>eSummons Issuance</b>	To Kraft Heinz Food Company		2

— Hearing(s)

Total: 0

**There is no Disposition information available for this case.**

— Related Case(s)

Total: 0

**There is no related case information available for this case.**

IN THE CIRCUIT COURT, SEVENTEENTH JUDICIAL CIRCUIT,  
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO.:  
DIVISION:

KIMBERLY E. FERRON,

Plaintiff,

vs.

CLASS REPRESENTATION

KRAFT HEINZ FOOD COMPANY,

Defendant.

SUMMONS

To Each Sheriff of the State:

YOU ARE COMMANDED to serve this summons and a copy of the Complaint in this action on defendant:

KRAFT HEINZ FOOD COMPANY,  
C/O, REGISTERED AGENT  
C T CORPORATION SYSTEM  
1200 SOUTH PINE ISLAND ROAD  
PLANTATION, FL 33324

Each defendant is required to serve **written defenses to the complaint** on HOWARD RUBINSTEIN, plaintiffs' attorney, whose address is 1281 N OCEAN DR APT 182, SINGER ISLAND FL 33404, **within 20 days** after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint.

**DATED** this \_\_\_\_\_ JUL 27 2020 \_\_\_\_\_

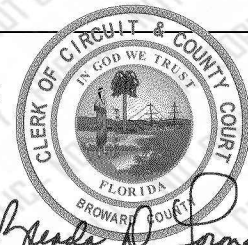
Howard W. Rubinstein, Esq.  
The Law Office of  
Howard W. Rubinstein  
1281 N. Ocean Dr. Apt. 198  
Singer Island, FL 33404  
Telephone: 832-715-2788  
Fax: 561-688-0630  
Email: howardr@pdq.net

[Name of Clerk]

CLERK OF THE CIRCUIT COURT

By: \_\_\_\_\_

Deputy Clerk



*Brenda D. Forman*  
BRENDA D. FORMAN



**FORM 1.997. CIVIL COVER SHEET**

The civil cover sheet and the information contained in it neither replace nor supplement the filing and service of pleadings or other documents as required by law. This form must be filed by the plaintiff or petitioner with the Clerk of Court for the purpose of reporting data pursuant to section 25.075, Florida Statutes. (See instructions for completion.)

**I. CASE STYLE**

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT,  
IN AND FOR BROWARD COUNTY, FLORIDA

Case No.: \_\_\_\_\_  
Judge: \_\_\_\_\_

KIMBERLY E FERRON

Plaintiff

vs.

KRAFT HEINZ FOOD COMPANY

Defendant

**II. AMOUNT OF CLAIM**

Please indicate the estimated amount of the claim rounded to the nearest dollar \$30,000

**III. TYPE OF CASE** (If the case fits more than one type of case, select the most definitive category.) If the most descriptive label is a subcategory (is indented under a broader category), place an x on both the main category and subcategory lines.

- Condominium
- Contracts and indebtedness
- Eminent domain
- Auto negligence
- Negligence – other
  - Business governance
  - Business torts
  - Environmental/Toxic tort
  - Third party indemnification
  - Construction defect
  - Mass tort
  - Negligent security
  - Nursing home negligence
  - Premises liability – commercial
  - Premises liability – residential
- Products liability
- Real Property/Mortgage foreclosure
  - Commercial foreclosure
  - Homestead residential foreclosure
  - Non-homestead residential foreclosure
  - Other real property actions
- Professional malpractice
  - Malpractice – business
  - Malpractice – medical

- Malpractice – other professional
- Other
  - Antitrust/Trade Regulation
  - Business Transaction
  - Circuit Civil - Not Applicable
  - Constitutional challenge-statute or ordinance
  - Constitutional challenge-proposed amendment
  - Corporate Trusts
  - Discrimination-employment or other
  - Insurance claims
  - Intellectual property
  - Libel/Slander
  - Shareholder derivative action
  - Securities litigation
  - Trade secrets
  - Trust litigation
- County Civil
  - Small Claims up to \$8,000
  - Civil
  - Replevins
  - Evictions
  - Other civil (non-monetary)

**COMPLEX BUSINESS COURT**

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

**IV. REMEDIES SOUGHT (check all that apply):**

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

**V. NUMBER OF CAUSES OF ACTION:**

(Specify)

1

**VI. IS THIS CASE A CLASS ACTION LAWSUIT?**

- Yes
- No

**VII. HAS NOTICE OF ANY KNOWN RELATED CASE BEEN FILED?**

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

**VIII. IS JURY TRIAL DEMANDED IN COMPLAINT?**

- Yes
  - No
- 

I CERTIFY that the information I have provided in this cover sheet is accurate to the best of my knowledge and belief, and that I have read and will comply with the requirements of Florida Rule of Judicial Administration 2.425.

Signature: s/ Howard Rubinstein  
Attorney or party

FL Bar No.: 104108  
(Bar number, if attorney)  
Howard Rubinstein  
(Type or print name)

Date: 07/24/2020



In the Circuit Court of the Seventeenth Judicial Circuit  
In and for Broward County, Florida

Kimberly E. Ferron

Plaintiff

vs.

Kraft Heinz Food  
Company

Defendant

Case No:

20 - 0011985

Judge:

Division:



13

CLERK'S CERTIFICATE OF COMPLIANCE

I hereby certify that pursuant to Administrative Order, No. 2020-4-Civ/UFC/CO:

"ADMINISTRATIVE ORDER DIRECTING CLERK OF COURTS WITH REGARD  
TO DISMISSED CIVIL OR FAMILY CASES",

The Clerk has conducted a search for all previous existing civil cases related to these two parties.

Listed below are all the aforementioned related cases:

None

Brenda D. Forman  
Circuit and County Courts

**LYNDA WATERS**

By: \_\_\_\_\_

Deputy Clerk

IN THE CIRCUIT COURT, SEVENTEENTH JUDICIAL CIRCUIT,  
IN AND FOR BROWARD COUNTY, FLORIDA

KIMBERLY E. FERRON,

Plaintiff,

vs.

Case No. 20-0011985

Division: 13

KRAFT HEINZ FOOD COMPANY,

Defendant.

ENTRY OF APPEARANCE

JOEL L. OSTER enters his appearance on behalf of the Plaintiff Kimberly E.

Ferron in this matter.

/s Joel Oster

Joel Oster

Fla. Bar No. 659746

THE LAW OFFICE OF HOWARD W. RUBINSTEIN

22052 W. 66<sup>th</sup> St. #192

Shawnee, KS 66226

913-206-7575

joel@joelosterlaw.com

Howard W. Rubenstein, Esq.

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Lydia S. Zbrzezni

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[nick@southernatlanticlaw.com](mailto:nick@southernatlanticlaw.com)  
[kara@southernatlanticlaw.com](mailto:kara@southernatlanticlaw.com)

ATTORNEYS FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 21<sup>st</sup> day of September, 2020, he filed this document electronically and service will be sent through the Court's ECF system to all registered attorneys on record in this case.

Respectfully Submitted,

/s Joel Oster  
Joel Oster

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO. CACE20011985 DIVISION 13 JUDGE Michael Robinson

**Kimberly E Ferron**

Plaintiff(s) / Petitioner(s)

v.

**Kraft Heinz Food Company**

Defendant(s) / Respondent(s)

\_\_\_\_\_ /

**ORDER TO EXTEND TIME**

THIS CAUSE having come before the Court upon Defendant Kraft Heinz Food Company's ("Kraft") Unopposed Motion for Extension of Time to Respond to Complaint (the "Motion") and the Court, having reviewed the Motion and the record and being otherwise duly advised in the premises, it is hereby

ORDERED and ADJUDGED that the Motion is GRANTED. Defendant Kraft shall have up to and including October 30, 2020, to respond to the Complaint.

**DONE** and **ORDERED** in Chambers, at Broward County, Florida on 10-07-2020.

  
CACE20011985 10-07-2020 11:53 AM

CACE20011985 10-07-2020 11:53 AM

Hon. Michael Robinson

**CIRCUIT JUDGE**

Electronically Signed by Michael Robinson

**Copies Furnished To:**

Elizabeth B. Honkonen , E-mail : [mch@knpa.com](mailto:mch@knpa.com)

Elizabeth B. Honkonen , E-mail : [ehonkonen@knpa.com](mailto:ehonkonen@knpa.com)

Howard Rubinstein , E-mail : [howardr@pdq.net](mailto:howardr@pdq.net)

Jacqueline Nogueira , E-mail : [Jnogueira@jnps.comcastbiz.net](mailto:Jnogueira@jnps.comcastbiz.net)

Jeffrey T Foreman , E-mail : [dluzniak@knpa.com](mailto:dluzniak@knpa.com)

Jeffrey T Foreman , E-mail : [jforeman@knpa.com](mailto:jforeman@knpa.com)

Joel Lee Oster , E-mail : [joel.oster@me.com](mailto:joel.oster@me.com)

Joel Lee Oster , E-mail : [joel@joelosterlaw.com](mailto:joel@joelosterlaw.com)

Lydia Sturgis Zbrzezniak , E-mail : [Lydia@southernatlanticlaw.com](mailto:Lydia@southernatlanticlaw.com)

IN THE CIRCUIT COURT OF THE 17<sup>TH</sup> JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

KIMBERLY E. FERRON,

Plaintiff,

vs.

Case No.: 20-011985

Division: 13

KRAFT HEINZ FOOD COMPANY,

CLASS REPRESENTATION

Defendant.

---

**NOTICE OF APPEARANCE AND  
DESIGNATION OF EMAIL ADDRESSES**

PLEASE TAKE NOTICE that Jeffrey T. Foreman of Kenny Nachwalter, P.A., enters his Appearance and Designation of Email Addresses in the above-captioned matter as counsel for Defendant Kraft Heinz Food Company, and respectfully requests that all pleadings, correspondence, and other papers in connection with this action be sent to him at the following address:

Jeffrey T. Foreman  
Primary e-mail: jforeman@knpa.com  
Secondary e-mail: dluzniak@knpa.com  
KENNY NACHWALTER, P.A.  
Four Seasons Tower – Suite 1100  
1441 Brickell Avenue  
Miami, FL 33131  
Telephone: (305) 373-1000  
Facsimile: (305) 372-1861

Dated: October 7, 2020

Respectfully submitted,

By: /s/ Jeffrey T. Foreman  
Jeffrey T. Foreman (FL Bar No. 612200)  
jforeman@knpa.com  
Elizabeth B. Honkonen (FL Bar No. 0149403)  
ehonkonen@knpa.com  
KENNY NACHWALTER, P.A.  
1441 Brickell Avenue – Suite 1100  
Miami, Florida 33131  
Telephone: (305) 373-1000  
Facsimile: (305) 372-1861  
*Attorneys for Defendant*

And

Dean N. Panos (Pro Hac Vice Motion to be Filed)  
DPanos@jenner.com  
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Facsimile: (312) 840-7765

Kate T. Spelman, Esq. (Pro Hac Vice Motion to be Filed)  
kspelman@jenner.com  
Alexander M. Smith, Esq. (Pro Hac Vice Motion to be Filed)  
asmith@jenner.com  
JENNER & BLOCK LLP  
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Los Angeles, CA 90071-2054  
Telephone: (213) 239-5100  
Facsimile: (213) 239-5199

*Co-Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been transmitted by electronic mail through the Florida Courts E-Filing Portal this 7<sup>th</sup> day of October, 2020, upon counsel in attached the service list.

/s/ Jeffrey T. Foreman  
Jeffrey T. Foreman

**SERVICE LIST**

Lydia S. Zbrzezni, Esq.  
Nicholas T. Zbrzezni, Esq.  
Southern Atlantic Law Group, PLLC  
99 6th Street SW  
Winter Haven, FL 33880  
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[kara@southernatlanticlaw.com](mailto:kara@southernatlanticlaw.com)

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Joel Oster, Esq.  
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Email: [joel@joelosterlaw.com](mailto:joel@joelosterlaw.com)

*Attorneys for Plaintiff*

626541.1



IN THE CIRCUIT COURT OF THE 17<sup>TH</sup> JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

KIMBERLY E. FERRON,

Plaintiff,

vs.

Case No.: 20-011985

Division: 13

KRAFT HEINZ FOOD COMPANY,

CLASS REPRESENTATION

Defendant.

\_\_\_\_\_ /

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO RESPOND TO COMPLAINT**

Defendant Kraft Heinz Food Company (“Kraft”), by and through its undersigned counsel, hereby moves this Court for entry of an Order granting Kraft an extension of time through and including October 30, 2020, to file its response to Plaintiff’s Complaint, and in support states as follows:

1. Defendant accepted service of Plaintiff’s Complaint on September 21, 2020; accordingly, Defendant’s response to the Complaint is currently due on October 12, 2020.
2. Defendants respectfully requests a short enlargement of time, to October 30, 2020, to serve its response to the Complaint and, possibly, agree upon a resolution of this action.
3. This is Defendant’s first motion for an enlargement of time. Counsel for Defendant has conferred with counsel for Plaintiff, who represents that Plaintiff does not oppose the relief sought herein.
4. The enlargement sought will not prejudice Plaintiff.
5. Additionally, undersigned counsel certifies that the instant enlargement is being sought by Defendant in good faith and not for the purpose of delay.

**WHEREFORE**, Defendant respectfully requests that the Court grant the requested enlargement and enter an order granting it through and including October 30, 2020, in which to serve its response to the Complaint. A proposed order granting the relief sought herein is attached hereto for the Court's consideration.

Dated: October 7, 2020

Respectfully submitted,

By: /s/ Elizabeth B. Honkonen  
Jeffrey T. Foreman (FL Bar No. 612200)  
jforeman@knpa.com  
Elizabeth B. Honkonen (FL Bar No. 0149403)  
ehonkonen@knpa.com  
KENNY NACHWALTER, P.A.  
1441 Brickell Avenue – Suite 1100  
Miami, Florida 33131  
Telephone: (305) 373-1000  
Facsimile: (305) 372-1861  
*Attorneys for Defendant*

And

Dean N. Panos (Pro Hac Vice Motion to be Filed)  
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JENNER & BLOCK LLP  
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Telephone: (312) 923-2765  
Facsimile: (312) 840-7765

Kate T. Spelman, Esq. (Pro Hac Vice Motion to be Filed)  
kspelman@jenner.com  
Alexander M. Smith, Esq. (Pro Hac Vice Motion to be Filed)  
asmith@jenner.com  
JENNER & BLOCK LLP  
633 West 5th Street, Suite 3600  
Los Angeles, CA 90071-2054  
Telephone: (213) 239-5100  
Facsimile: (213) 239-5199

*Co-Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been transmitted by electronic mail through the Florida Courts E-Filing Portal this 7<sup>th</sup> day of October, 2020, upon counsel in attached the service list.

/s/ Elizabeth B. Honkonen

Elizabeth B. Honkonen

**SERVICE LIST**

Lydia S. Zbrzezni, Esq.  
Nicholas T. Zbrzezni, Esq.  
Southern Atlantic Law Group, PLLC  
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Email: [joel@joelosterlaw.com](mailto:joel@joelosterlaw.com)

*Attorneys for Plaintiff*

626532.1

IN THE CIRCUIT COURT OF THE 17<sup>TH</sup> JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

KIMBERLY E. FERRON,

Plaintiff,

vs.

Case No.: 20-011985

Division: 13

KRAFT HEINZ FOOD COMPANY,

CLASS REPRESENTATION

Defendant.

\_\_\_\_\_ /

**ORDER GRANTING UNOPPOSED MOTION FOR EXTENSION OF TIME**

THIS CAUSE having come before the Court upon Defendant Kraft Heinz Food Company's ("Kraft") Unopposed Motion for Extension of Time to Respond to Complaint (the "Motion") and the Court, having reviewed the Motion and the record and being otherwise duly advised in the premises, it is hereby

ORDERED and ADJUDGED that the Motion is GRANTED. Defendant Kraft shall have up to and including October 30, 2020, to respond to the Complaint.

DONE AND ORDERED in Chambers in Broward, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Honorable Michael A. Robinson  
Circuit Court Judge

cc: Counsel of Record

IN THE CIRCUIT COURT OF THE 17<sup>TH</sup> JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

KIMBERLY E. FERRON,

Plaintiff,

Case No.: 20-011985

Division: 13

vs.

CLASS REPRESENTATION

KRAFT HEINZ FOOD COMPANY,

Defendant.

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**NOTICE OF APPEARANCE AND  
DESIGNATION OF EMAIL ADDRESSES**

PLEASE TAKE NOTICE that Elizabeth B. Honkonen of Kenny Nachwalter, P.A., enters her Appearance and Designation of Email Addresses in the above-captioned matter as counsel for Defendant Kraft Heinz Food Company, and respectfully requests that all pleadings, correspondence, and other papers in connection with this action be sent to her at the following address:

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Dated: October 7, 2020

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been transmitted by electronic mail through the Florida Courts E-Filing Portal this 7<sup>th</sup> day of October, 2020, upon counsel in attached the service list.

/s/ Elizabeth B. Honkonen  
Elizabeth B. Honkonen



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This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Maxwell House, Yuban Coffee Canisters Incapable of Making Advertised Number of Servings, Lawsuit Claims](#)

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