

CASE NO: A-21-831169-B
Department 27

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7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 CHRISTOPHER NOAH WREN, a Minor
Child, by and through his Guardian Ad
10 Litem, CHRISTOPHER BRIAN WREN
AND EMELY WREN, husband and wife;
11 CHRISTOPHER BRIAN WREN on his own
12 behalf; EMELY WREN on her own behalf,

13 **Plaintiffs**

14 vs.

15 AFFINITYLIFESTYLES.COM, INC. d/b/a
16 REAL WATER, a Nevada corporation; REAL
WATER INC., a Delaware Corporation ROE
17 Defendants 1-100,

18 **Defendants.**

Case No.:
Dept. No.:

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

**REQUEST FOR BUSINESS COURT
PURSUANT TO EDCR 1.61**

EXEMPT FROM ARBITRATION:

Damages in Excess of \$50,000

19
20 Plaintiffs, by and through their counsel of record, and for their Complaint against
21 Defendants, hereby allege as follows:

22 **Parties**

23 1. Plaintiff CHRISTOPHER NOAH WREN is a minor child residing in Clark
24 County, Nevada. Plaintiffs CHRISTOPHER BRIAN WREN and EMELY WREN are the
25 Guardians Ad Litem over CHRISTOPHER NOAH WREN and bring this action on his behalf
26 and individually. The Wrens are residents of Nevada and purchased bottled water with toxins
27 from the Defendants.

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1 **Jurisdiction and Venue**

2 2. Exercise of jurisdiction by this Court over each and every Defendant in this
3 action is appropriate because each and every Defendant has done, and continues to do business
4 in the State of Nevada, and sold toxic water products to Nevada residents and violated Nevada
5 laws.

6 3. Defendants do business in Nevada, and sold toxic water products to Nevada
7 residents and made money from these residents.

8 4. Defendants sold their toxic water products to Plaintiffs while Plaintiffs resided in
9 Clark County, Nevada.

10 5. Exercise of jurisdiction by this Court is further appropriate because the Plaintiffs
11 currently reside in the County of Clark, State of Nevada.

12 6. This Court has jurisdiction over the subject matter of this action. Exercise of
13 jurisdiction by this Court over the Defendants in this action is appropriate because they have
14 done, and continue to do, business in Clark County, State of Nevada, and committed the
15 wrongdoings alleged in this Complaint in the State of Nevada. Additionally, this Court has
16 jurisdiction over the claims alleged herein as they arise out of sales made to Nevada residents,
17 the defendants' actions violate Nevada law and some of the claims arise under the Uniform
18 Commercial Code (i.e., the warranty of merchantability) or are such that the Code will supply
19 the rule of decision.

20 **General Allegations**

21 **THE OUTBREAK INVESTIGATION**

22 7. Plaintiff Christopher Brian Wren is informed and believes that the Southern
23 Nevada Health District and/or the Center For Disease Controls is currently conducting an
24 outbreak investigation regarding numerous serious liver injury cases caused by Nevada
25 residents drinking Real Water in 2020 (the "SNHD/CDC Outbreak Investigation").

26 8. Plaintiff Christopher Brian Wren has been interviewed by an investigator from
27 the Southern Nevada Health District and/or the Center for Disease Controls and informed that
28

1 drinking Real Water is believed to be the cause of his extreme liver damage and the cause of an
2 extraordinary number of liver damage cases involving Nevada residents.

3 9. In August 2020, Plaintiff Christopher Brian Wren was hospitalized.

4 10. ALT, which stands for alanine transaminase, is an enzyme found mostly in the
5 liver. When liver cells are damaged, they release ALT into the bloodstream. An ALT test
6 measures the amount of ALT in the blood. High levels of ALT in the blood can indicate a liver
7 problem.

8 11. The normal value for Alt in blood ranges from 29 to 33 units per liter (IU/L) for
9 males and 19 to 25 IU/L for females.

10 12. Plaintiff Christopher Brian Wren's ALT was measured at over 5,000 and, as a
11 result thereof, he was informed that he was a candidate for an immediate liver transplant.

12 13. There are approximately 114,927 persons on the transplant list in the United
13 States, of which 95% need a kidney or liver.

14 14. The estimated billed charge for a liver transplant is approximately \$812,500.00.

15 15. In November, 2020, Plaintiff Christopher Noah Wren was transported on an
16 emergency jet trip from Summerlin Children's Hospital in Las Vegas to Primary Children's
17 Hospital at Salt Lake City, Utah, to get emergency treatment for liver malfunction and was
18 hospitalized for days. Summerlin Children's Hospital personnel reported that other Clark
19 County children had similar ailments and were all being sent to Salt Lake.

20 16. Plaintiff Christopher Noah Wren's ALT was measured at over 5,000 and, as a
21 result thereof, Plaintiff Christopher Wren was informed that his son was a candidate for an
22 immediate liver transplant.

23 17. Plaintiff Christopher Wren has been informed and believes that numerous other
24 Nevada children have been transported to Primary Children's Hospital in Salt Lake City, Utah
25 for emergency treatment regarding liver problems in 2020 and that the staff thereof reported a
26 potential outbreak to the Southern Nevada Health District in late 2020 because the likelihood of
27 so many children from the same area all having acute liver failure was a cause for serious
28 concern.

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1 18. Plaintiff Christopher Wren has been informed and believes that the suspected
2 cause of aforesaid liver problems that is currently being documented by the SNHD/CDC
3 Outbreak Investigation is drinking Real Water.

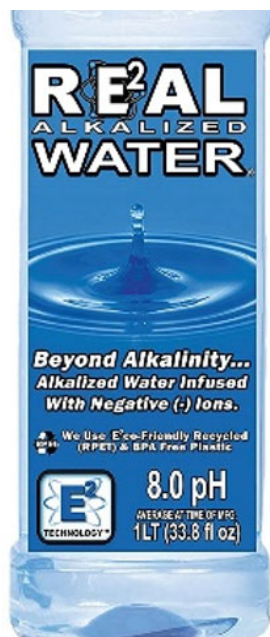
4 19. On or about November 2020, Emely Wren was tested and her ALT level was
5 elevated in the hundreds. She also suffered extreme nausea and fatigue.

6 REAL WATER

7 20. Defendant AFFINITYLIFESTYLE.COM and Defendant REAL WATER, INC.
8 do business under the name "Real Water" and make several "Real Water" products, including
9 bottled water (herein jointly referred to as the "Real Water Manufacturer"). The first Defendant
10 is a Nevada corporation and the Second Defendant is a Delaware corporation.

11 21. The "Real Water Manufacturer" uses inexpensive, publicly subsidized, treated,
12 safe and alkaline potable water supplied by the Southern Nevada Water Authority ("SNWA"),
13 which is drawn from the tap at its Clark County, Nevada facilities, before it processes the water,
14 labels it and distributes it throughout Nevada to numerous Nevada consumers at a premium
15 price. It has been continuously doing this business within the State of Nevada since or or about
16 January 27, 1998.

17 22. REAL WATER bottled water bears the following prominent label upon its
18 otherwise transparent blue-hued plastic bottle:



1 23. The label makes the following specific false and misleading scientific and health
2 related claims, intended to distinguish REAL WATER bottled water from its competitors,
3 capture a part of the lucrative health food market and persuade/seduce health conscious
4 consumers to purchase REAL WATER at a premium price:

5 Front Label

6 Beyond Alkalinity....
7 Alkalized Water Infused with Negative (-) Ions.
8 8.0 pH average at time of mfg.

8 Back Label

9 Real Water strives to be **the healthiest drinking water available today**. With the
10 proprietary E-2 Electron Energized Technology, Real Water is beyond alkalinity... it is
11 infused with negative (-) ions. Compare this to most purified waters which are acidic and
12 positive (+) ionized. Many health professional believe that an acidic body can be
13 unhealthy. **Since Real Water is alkalized and negative ionized, it can help your body**

14 **to become more alkalized to improve you health.**

15 **TRANSFORM YOURSELF WITH REAL WATER!**

16 *Move your body to an alkalized state by removing acid toxins.

17 *Take in an abundance of antioxidant electrons to neutralize harmful free radicals.

18 *Experience increased cellular hydration like never before!

19 **SOLD BY MANUFACTURER**

20 24. The average pH of SNWA water over the last 40 years is 7.8; i.e., it is already
21 alkaline. Therefore, the label's statement that the manufactured water had more or less negative
22 ions (alkalinity) than its source is false and/or misleading.

23 25. Real Water is sold at Sprouts, Whole Foods and Costco and can be purchased
24 through Amazon.

25 *Consumer Expectations Regarding Water*

26 26. The safety of bottled water is of paramount importance, and is a material fact, to
27 consumers such as Plaintiffs.

28 27. Given the negative effects of contaminants in bottled water, the presence of these
substances in bottled water is a material fact to consumers like Plaintiffs. Indeed, consumers—
including Plaintiffs—are unwilling to purchase toxic bottled water.

28 28. Defendants know that the safety of their bottled water (as a general matter) is a
material fact to consumers.

1 29. Defendants also know that consumers (such as Plaintiffs) are unwilling to
2 purchase brands of water that are toxic.

3 30. As such, Defendants also know that the presence of toxins in their water is a
4 material fact to consumers such as Plaintiffs.

5 31. Consumable manufacturers (such as Defendants) hold a special position of
6 public trust. Consumers believe that they would not sell products that are unsafe.

7 32. Defendants knew that if toxins in their bottled water was disclosed to the
8 Plaintiffs, then Plaintiffs would be unwilling to purchase it.

9 **Facts Relevant to Plaintiffs**

10 33. Between the middle of 2020 and until recently, Plaintiffs purchased bottle water
11 labeled as “Real Water”.

12 34. Prior to purchasing the water, Plaintiffs were exposed to, saw, read, and
13 understood Defendants’ respective representations and omissions regarding the safety of the
14 water, as well as their omissions regarding the presence of elevated levels of toxins therein, and
15 relied upon them, including the statement that Real Water is **“the healthiest drinking water
16 available today.”**

17 35. Plaintiffs were only willing to purchase the water products of Defendants
18 because Plaintiffs believed that they did not contain elevated levels of toxins.

19 36. In reliance upon Defendants’ respective representations and omissions, Plaintiffs
20 purchased “Real Water.”

21 37. Had Plaintiffs known the truth—*i.e.*, that Defendants’ bottled water contained
22 elevated levels of toxins that would cause severe liver damage, rendering them unsafe for
23 consumption—Plaintiffs would not have purchased them.

24 38. The presence of elevated levels of toxins in the bottled water made the bottled
25 water that Plaintiffs purchased worthless, because it was unsafe for human consumption.

26 39. Plaintiffs bring this action seeking recovery of the damages they incurred as a
27 result of Defendants’ misrepresentations, omissions, deceptions and actions.

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Causes of Action

FIRST CAUSE OF ACTION

(Strict Liability – Failure to Warn)

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4 40. Plaintiffs incorporate by reference the allegations set forth in paragraphs 1
5 through 39 above.

6 41. Defendants' bottled water was defective and unreasonably dangerous in that
7 Defendants failed to provide warnings about elevated levels of toxins in their products, the
8 existence of which Defendants either knew or should have known about.

9 42. If adequately warned, Plaintiffs would have taken precautions to avoid the injury.

10 43. As a direct and proximate result of the defective nature of the Defendants' lack
11 of warning instructions on their bottled water products, Plaintiffs have suffered substantial,
12 adverse health consequences, including severe liver damage.

13 44. As a direct and proximate result of Plaintiffs' consumption of Defendants'
14 bottled water, they now require medical monitoring to evaluate, test, and/or remedy the
15 disorders caused by said consumption and exposure, with costs for the same in excess of Fifteen
16 Thousand Dollars (\$15,000.00).

17 45. The equitable remedy of medical monitoring is appropriate equitable relief in
18 light of Defendants' conduct since the prospective medical evaluation, testing and medical for
19 disabilities would have been completely unnecessary had the Defendants warned Plaintiffs of
20 toxins in their bottled water products.

21 46. As a direct and proximate result of these acts and omissions, Plaintiffs have
22 incurred, and will incur, present and past medical expenses, in excess of Fifteen Thousand
23 Dollars (\$15,000.00).

24 47. As a direct and proximate result of the acts and omissions of Defendants,
25 Plaintiffs have incurred permanent injuries, in excess of Fifteen Thousand Dollars (\$15,000.00).

26 48. In carrying out its responsibilities for the design, manufacturer, testing, labeling,
27 distribution, marketing, and sale of their bottled water, Defendants acted with fraud, malice,
28 express or implied, oppression and/or conscious disregard of the safety of others. As a direct

1 and proximate result of the conduct of Defendants, Plaintiffs are entitled to punitive damages in
2 excess of Fifteen Thousand Dollars (\$15,000.00).

3 49. Plaintiffs have been required to retain legal counsel to prosecute this action, and
4 are therefore entitled to reasonable attorney's fees and costs of suit incurred in this action.

5 **SECOND CAUSE OF ACTION**

6 **(Breach of Implied Warranty of Merchantability)**

7 50. Plaintiffs incorporate by reference the allegations set forth in paragraphs 1
8 through 49 above.

9 51. An implied warranty of merchantability existed between Plaintiffs and
10 Defendants under Nevada Law, i.e., NRS 104.2314.

11 52. The Defendants sold bottled water products with toxins to Plaintiffs.

12 53. The Defendants breached the implied warranty of merchantability when they
13 sold toxic bottled water products to Plaintiffs.

14 54. As a direct result of the Defendants' breach of implied warranty of
15 merchantability, Plaintiffs have been damaged.

16 55. As a direct and proximate result of the breach of warranty, Plaintiffs have
17 suffered substantial, adverse health consequences, including severe liver damage.

18 56. As a direct and proximate result of Plaintiffs consumption of Defendants' toxic
19 bottled water products, they now require medical monitoring to evaluate, test, and/or remedy the
20 disorders caused by said consumption and exposure, with costs for the same in excess of Fifteen
21 Thousand Dollars (\$15,000.00).

22 57. The equitable remedy of medical monitoring is appropriate equitable relief in
23 light of Defendants' conduct since the prospective medical evaluation, testing and medical care
24 for disabilities would have been completely unnecessary had Defendants warned Plaintiffs of
25 toxins in their bottled water.

26 58. As a direct and proximate result of the breach of warranty, Plaintiffs have
27 incurred, and will incur, present and future medical expenses, in excess of Fifteen Thousand
28 Dollars (\$15,000.00).

1 knowledge requirement and that liability may be imposed under that section absent
2 consciousness of any wrongdoing.")

3 68. Defendants breached their duty of care by manufacturing, selling, delivering,
4 holding, or offering to sell adulterated bottled water products to Plaintiffs.

5 69. As a direct and proximate result of these negligent acts and omissions, Plaintiffs
6 suffered substantial, adverse medical consequences in the form of severe liver damage.

7 70. As a direct and proximate result of these negligent acts and omissions, Plaintiffs
8 consumed and were therefore exposed to toxins in the bottled water and now require medical
9 monitoring to evaluate, test, and/or remedy the disorders caused by said consumption and
10 exposure, with costs for the same far in excess of Fifteen Thousand Dollars (\$15,000.00).

11 71. The equitable remedy of medical monitoring is appropriate equitable relief in
12 light of Defendants' conduct since the prospective medical evaluation, testing and medical for
13 disabilities would have been completely unnecessary had Plaintiffs not been exposed to toxins
14 caused by Defendants' conduct.

15 72. As a direct and proximate result of these acts and omissions, Plaintiffs have
16 incurred, and will incur, present and future medical expenses, in excess of Fifteen Thousand
17 Dollars (\$15,000.00).

18 73. As a direct and proximate result of the acts and omissions of Defendants,
19 Plaintiffs' have incurred permanent injuries, in excess of Fifteen Thousand Dollars
20 (\$15,000.00).

21 74. Plaintiffs have been required to retain legal counsel to prosecute this action, and
22 are therefore entitled to reasonable attorney's fees and costs of suit incurred in this action.

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1 **FOURTH CAUSE OF ACTION**

2 **(Negligence)**

3 75. Plaintiffs incorporate by reference the allegations set forth in paragraphs 1
4 through 74 above.

5 76. Defendants owed a duty of care to Plaintiffs in the design, manufacture,
6 construction, assembly, testing, labeling, distribution, marketing and sale of their bottled water
7 and breached that duty of care.

8 77. As a direct and proximate result of these negligent acts and omissions, Plaintiffs
9 suffered substantial, adverse medical consequences in the form of severe liver damage.

10 78. As a direct and proximate result of these negligent acts and omissions, Plaintiffs'
11 consumed and were therefore exposed to toxins in the bottled water they consumed, and now
12 require medical monitoring to evaluate, test, and/or remedy the disorders caused by said
13 consumption and exposure, with costs for the same far in excess of Fifteen Thousand Dollars
14 (\$15,000.00).

15 79. The equitable remedy of medical monitoring is appropriate equitable relief in
16 light of Defendants' conduct since the prospective medical evaluation, testing and medical care
17 for disabilities would have been completely unnecessary had the Plaintiffs not been exposed to
18 toxins caused by Defendants' negligent and reckless conduct.

19 80. As a direct and proximate result of these negligent acts and omissions, Plaintiffs
20 have incurred, and will incur, present and future medical expenses, in excess of Fifteen
21 Thousand Dollars (\$15,000.00).

22 81. As a direct and proximate result of the acts and omissions of Defendants, the
23 Plaintiffs have incurred permanent injuries, in excess of Fifteen Thousand Dollars (\$15,000.00).

24 82. As a direct and proximate result of these negligent acts and omissions, Plaintiffs
25 will suffer future lost wages, in excess of Fifteen Thousand Dollars (\$15,000.00).

26 83. Plaintiffs have been required to retain legal counsel to prosecute this action, and
27 are therefore entitled to reasonable attorney's fees and costs of suit incurred in this action.

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FIFTH CAUSE OF ACTION

(Violation of Nevada Deceptive Trade Practices Act – NRS §§ 598.0903 to 598.0999)

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3 84. Plaintiffs incorporate by reference the allegations set forth in paragraphs 1
4 through 83 above.

5 85. At all times relevant herein, Defendants violated the Nevada Deceptive Trade
6 Practices Act, §§ 598.0903 to 598.0999, by representing to its Nevada customers and consumers
7 that their manufactured and sold bottled water products were safe, and failed to take into
8 consideration the damages consumers of their unsafe products would sustain throughout
9 Nevada.

10 86. Defendants made false or misleading statements of fact concerning the safety of
11 their products (“the healthiest drinking water available today”) and intentionally omitted
12 reference to the dangerous toxins contained in their products in violation of NRS 598.0915(13)
13 and otherwise knowingly made false representations in their communications with Nevada
14 consumers by representing that their products were safe.

15 87. As a direct result of the Defendants’ conduct, Plaintiffs have been deprived of
16 fair and adequate bottled water products for which they paid, and to which they were fairly and
17 lawfully entitled.

18 88. As a direct and proximate result of these acts and omissions, Plaintiffs’ suffered
19 substantial, adverse medical consequences in the form of contracting liver damage.

20 89. As a direct and proximate result of these acts and omissions, Plaintiffs’
21 consumed and were therefore exposed to toxins in the bottled water products and now require
22 medical monitoring to evaluate, test, and/or remedy the disorders caused by said consumption
23 and exposure, with costs for the same far in excess of Fifteen Thousand Dollars (\$15,000.00).

24 90. The equitable remedy of medical monitoring is appropriate equitable relief in
25 light of Defendants’ conduct since the prospective medical evaluation, testing and medical for
26 disabilities would have been completely unnecessary had Plaintiffs’ not been exposed to toxins
27 caused by Defendants’ conduct.
28

1 91. As a direct and proximate result of these acts and omissions, Plaintiffs have
2 incurred, and will incur, present and future medical expenses, in excess of Fifteen Thousand
3 Dollars (\$15,000.00).

4 92. As a direct and proximate result of the acts and omissions of Defendants,
5 Plaintiffs have incurred permanent injuries, in excess of Fifteen Thousand Dollars (\$15,000.00).

6 93. As a direct and proximate result of these negligent acts and omissions,
7 Plaintiffs' will suffer future lost wages, in excess of Fifteen Thousand Dollars (\$15,000.00).

8 94. Plaintiffs have been required to retain legal counsel to prosecute this action, and
9 are therefore entitled to reasonable attorney's fees and costs of suit incurred in this action.

10 **SIXTH CAUSE OF ACTION**

11 **(Strict Liability – Unreasonably Dangerous)**

12 95. Plaintiffs incorporate by reference the allegations set forth in paragraphs 1
13 through 94 above.

14 96. Defendants' bottled water products are further defective and unreasonably
15 dangerous because their elevated levels of toxins rendered them unsuited to perform reasonably
16 as expected in light of their nature and intended function.

17 97. Defendants' bottled water products are more dangerous than would be
18 contemplated by the ordinary user having the ordinary knowledge available in the community
19 given the presence of toxins therein.

20 98. Plaintiffs were exposed to Defendants' bottled water products through retail
21 purchases and consumption of the same, as was intended by Defendants.

22 99. Safer alternative ingredients, materials, and/or designs were available at all
23 relevant times, beginning when Plaintiffs first purchased Defendants' bottled water products.

24 100. As a direct and proximate result of the elevated levels of toxins in Defendants'
25 bottled water products, Plaintiffs have suffered substantial, adverse health consequences,
26 including severe liver damage.

27 101. As a direct and proximate result of the Plaintiffs' consumption of Defendants'
28 toxins, which were in their bottled water products, Plaintiffs now require medical monitoring to

1 evaluate, test, and/or remedy the disorders caused by said consumption and exposure, with costs
2 for the same in excess of Fifteen Thousand Dollars (\$15,000.00).

3 102. The equitable remedy of medical monitoring is appropriate equitable relief in
4 light of Defendants' conduct since the prospective medical evaluation, testing and medical for
5 disabilities would have been completely unnecessary had Plaintiffs not been exposed to toxins
6 in Defendants' bottled water products.

7 103. As a direct and proximate result of these acts and omissions, Plaintiffs have
8 incurred, and will incur, present and future medical expenses, in excess of Fifteen Thousand
9 Dollars (\$15,000.00).

10 104. As a direct and proximate result of the acts and omissions of Defendants,
11 Plaintiffs incurred permanent injuries, in excess of Fifteen Thousand Dollars (\$15,000.00).

12 105. As a direct and proximate result of the acts and omissions of Defendants,
13 Plaintiffs will incur medical expenses and been required to provide care and comfort, in excess
14 of Fifteen Thousand Dollars (\$15,000.00).

15 106. In carrying out its responsibilities for the design, manufacture, testing, labeling,
16 distribution, marketing, and sale of their bottled water products, Defendants acted with fraud,
17 malice, express or implied, oppression and/or conscious disregard of the safety of others. As a
18 direct and proximate result of the conduct of Defendants, the Plaintiffs are entitled to punitive
19 damages in excess of Fifteen Thousand Dollars (\$15,000.00).

20 107. Plaintiffs have been required to retain legal counsel to prosecute this action, and
21 are therefore entitled to reasonable attorney's fees and costs of suit incurred in this action.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief and damages as follows, that the court:

1. Order the equitable remedy of medical monitoring to evaluate, test, treat, and remedy the minor Plaintiffs disorders;
2. Award compensatory damages to Plaintiffs for the Defendants' wrongful conduct detailed above in excess of Fifteen Thousand;
3. Award punitive damages in excess of Fifteen Thousand;
4. Award to Plaintiff all attorneys' fees and costs; and
5. Award such other and further relief, as this Court deems just and appropriate.

DATED this 16th day of March 2021.

KEMP JONES, LLP

/s/ Will Kemp
WILL KEMP, ESQ.,
Nevada Bar No. 1205
ERIC PEPPERMAN, ESQ.,
Nevada Bar No. 11679
CHAD R. ARONSON, ESQ.,
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JURY DEMAND

In accordance with NRCP 38(b), Plaintiffs hereby demand a trial by jury on all issues so triable.

DATED this 16th day of March 2021.

KEMP JONES, LLP

/s/ Will Kemp
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ERIC PEPPERMAN, Esq.,
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