

UNITED STATES DISTRICT COURT
STATE OF MINNESOTA

Jeffrey Almer as trustee for the heirs of
Shirley Mae Almer

Case No. _____

Plaintiff,

**PEANUT CORPORATION OF
AMERICA'S NOTICE OF REMOVAL**

vs.

Peanut Corporation of America, a Virginia
Business entity and King Nut Companies,
an Ohio business entity

Defendants.

PLEASE TAKE NOTICE, under Title 28 of the United States Code, sections 1441 and 1446, Defendant Peanut Corporation of America submits this notice of removal of the above-captioned action to the United States District Court, District of Minnesota. In support of its Notice of Removal of the above-captioned action from the District Court for the Fourth Judicial District, County of Hennepin, State of Minnesota, Defendant Peanut Corporation of America states as follows:

1. On January 27, 2009, Plaintiff served Peanut Corporation of America a copy of the original Summons and Complaint in the above-entitled action seeking damages resulting from the death of Shirley Mae Almer. Plaintiff's complaint against Peanut Corporation of America sets forth claims of Common Law Negligence, Strict Liability, Negligence Per Se for failure to comply with M.S.A. § 31.02 et seq. and Negligence Per Se for failure to comply with 21 U.S.C. § 331. A true and correct copy of

the Summons and Complaint is attached as Exhibit A and incorporated herein by reference.

2. Defendant Kanan Enterprises, Inc. d/b/a King Nut Companies was served with a copy of the original Summons and Complaint on January 27, 2009. Defendant Kanan Enterprises consents to the removal of this action, as set forth in Exhibit B.

3. The action is venued in the District Court for the Fourth Judicial District, County of Hennepin, State of Minnesota, and is pending therein.

4. No further proceedings have been held in the District Court for the Fourth Judicial District, County of Hennepin, State of Minnesota.

5. Pursuant to 28 U.S.C. § 1446, this petition is filed with the Court within thirty (30) days of service of the original Summons and Complaint.

6. This Court has original jurisdiction of the above-entitled action pursuant to 28 U.S.C. § 1332, and it is one which may be removed to this Court by pursuant to 28 U.S.C. §§ 1441 and 1446, in that:

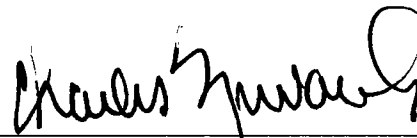
- a. Shirley Mae Almer was a citizen of the State of Minnesota and, therefore, pursuant to 28 U.S.C. § 1332(c)(2), Plaintiff Jeffrey Almer as trustee for the heirs of Shirley Mae Almer is deemed a citizen of Minnesota;
- b. Defendant Peanut Corporation of America is a Georgia corporation and has its principal place of business in a state other than Minnesota;
- c. Defendant Kanan Enterprises, Inc. d/b/a King Nut Companies is an Ohio corporation with its principal place of business in Solon, Ohio; and

d. Based on the allegations contained in the Complaint, Plaintiff claims damages in excess of Seventy-Five Thousand Dollars (\$75,000) exclusive of interest and costs.

7. Concurrent with the filing of this Notice of Removal, Peanut Corporation of America is filing a Notice of Filing of Removal with the District Court for the Fourth Judicial District, County of Hennepin, State of Minnesota.

WHEREFORE, Defendant Peanut Corporation of America prays that all further proceedings in the civil action be conducted in the United States District Court for the District of Minnesota as provided by law.

Dated: February 5, 2009



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