

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
(NEWARK VICINAGE)**

BONNER KIERNAN TREBACH
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Attorneys for Defendant
Tri-Union Seafoods, L.L.C.
d/b/a Chicken of the Sea
(KS-7180)

DEBORAH FELLNER,
Individually and on Behalf of Those
Similarly Situated,

Plaintiffs,

v.

TRI-UNION SEAFOODS, L.L.C.,
d/b/a CHICKEN OF THE SEA,

Defendant.

CIVIL ACTION NO.: 06-CV-688 (DMC)

NOTICE OF MOTION TO DISMISS
FOR FAILURE TO STATE A CLAIM

To: Barry R. Eichen, Esq.
Eichen Levinson & Crutchlow, LLP
40 Ethel Road
Edison, New Jersey 08817
Attorneys for Plaintiff

PLEASE TAKE NOTICE that on July 20, 2009 at 9:00 a.m. in the forenoon, or as soon thereafter as counsel may be heard, the undersigned, counsel for defendant Tri-Union Seafoods, L.L.C. d/b/a Chicken of the Sea, will apply to the United States District Court, District of New Jersey, Newark Vicinage, at the Martin Luther King, Jr. Federal Building and U.S. Courthouse, 50 Walnut Street, Newark, New Jersey for the following relief:

Dismissing the plaintiff's Complaint.

PLEASE TAKE FURTHER NOTICE that in support of this motion, the undersigned will rely upon the Memorandum of Law and Certification filed herewith.

PLEASE TAKE FURTHER NOTICE that oral argument is requested.

Respectfully submitted,

BONNER KIERNAN TREBACH
& CROCIATA, LLP
Attorneys for Defendant
Tri-Union Seafoods, L.L.C.
d/b/a Chicken of the Sea

Dated: June 5, 2009

By: /s/ Kenneth A. Schoen
Kenneth A. Schoen (KS-7180)

CERTIFICATE OF SERVICE

I, Kenneth A. Schoen, hereby certify that a true copy of the within document was served upon Barry R. Eichen, Esq., Echen, Levinson and Crutchlow, LLP at 40 Ethel Road, Edison, New Jersey, 08817 via Federal Express, overnight delivery on June 5, 2009.

Dated: June 5, 2009

By: /s/ Kenneth A. Schoen
Kenneth A. Schoen (KS-7180)