

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

AMY LEE SULLIVAN d/b/a DESIGN KIT

Plaintiff,

v.

Case No. 15-cv-298

FLORA, INC.

Defendant.

**SEVENTH CIRCUIT FED. R. APP. 3(c)
DOCKETING STATEMENT OF DEFENDANT FLORA, INC.**

Defendant Flora, Inc. (“Flora”), by its undersigned counsel, respectfully submits this Docketing Statement pursuant to Circuit Rule 3(c)(1) of the United States Court of Appeals for the Seventh Circuit.

I. DISTRICT COURT JURISDICTION

The United States District Court for the Western District of Wisconsin has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 (federal question) and 17 U.S.C. § 101 *et seq.* (the Copyright Act).

II. APPELLATE COURT JURISDICTION

28 U.S.C. § 1291 and 28 U.S.C. § 1294 confer jurisdiction over this appeal on the United States Court of Appeals for the Seventh Circuit. The final Judgment was entered by the United States District Court for the Western District of Wisconsin on May 16, 2017. [279]. Flora’s Notice of Appeal was timely filed with United States District Court for the Western District of Wisconsin on June 15, 2017.

On June 12, 2017, Flora timely filed its Fed. R. Civ. P. 59 Motion for a New Trial or Remittitur of Statutory Damages and Unjust Enrichment Awards within 28-days after the entry of the final Judgment. [295]. This Motion is pending before the United States District Court for the

Western District of Wisconsin. Although a motion filed for a new trial under Fed. R. Civ. P. 59 tolls the time within which to file an appeal (Fed. R. App. P. 4(A)(v)), Flora has filed its Notice of Appeal within thirty (30) days from the entry of the final Judgment on May 16, 2017 out of an abundance of caution to preserve appellate jurisdiction. Pursuant to Fed. R. App. P. 4(B)(i), however, Flora's Notice of Appeal will become effective to appeal the final Judgment when an order disposing of Flora's Fed. R. Civ. P. 59 Motion for a New Trial or Remittitur of Statutory Damages and Unjust Enrichment Awards is entered.

This case is not a direct appeal from the decision of a magistrate judge.

III. THIS IS AN APPEAL OF A FINAL JUDGMENT

This is an appeal from an appealable final Judgment that was entered by the District Court for the Western District of Wisconsin on May 16, 2017. [279].

IV. ADDITIONAL CIRCUIT RULE 3(c)(1) REQUIREMENTS

There have not been prior or related appellate proceedings in the case. There is no prior litigation in the District Court for the Western District of Wisconsin that (a) arises out of the same criminal conviction, or (b) has been designated by the district court as satisfying the criteria of 28 U.S.C. §1915(g). None of the parties to the litigation appear in an official capacity. Finally, this is not a collateral attack on a criminal conviction.

Dated this 15th day of June, 2017.

Respectfully submitted,

/s/ Steven P. Fallon

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of June, 2017, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system. The CM/ECF system will send a “Notice of E-Filing” to the attorneys of record in this case.

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