

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FT. LAUDERDALE DIVISION

FILED BY *[Signature]*
2007 OCT 17 PM 1:51
CLARENCE HARRISON
CLERK U.S. DIST. CT.
S.D. OF FL. - MIAMI

CASE NO. **07-61490**

CIV - DIMITROULEAS

/ROSENBAUM

RUBEN O'NEILL,

Plaintiff,

vs.

K.B. HOME,

Defendant.

_____ /

NOTICE OF REMOVAL

Defendant, KB Home, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, files this Notice of Removal of this case from the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, to the U.S. District Court for the Southern District of Florida, Ft. Lauderdale Division, on the following grounds:

1. On or about September 12, 2007, Plaintiff, Ruben O'Neill, filed a civil action in the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, styled *Ruben O'Neill v. KB Home*, Case No. 07-022997 (the "Circuit Court Action"). A copy of the Complaint and other papers filed in the Circuit Court Action is attached as Exhibit "A".

2. KB Home was served with the Complaint and Summons on September 18, 2007. Accordingly, this notice of removal is timely filed pursuant to 28 U.S.C. §1446(b) in that it is filed within thirty days from the date on which Plaintiff first served process on KB Home.

3. Plaintiff, Ruben O'Neill, alleges he currently resides in the State of Florida (Complaint, ¶ 2). Further, during his employment with KB Home and the events alleged in the Complaint, O'Neill resided in Florida. Accordingly, O'Neill is a citizen of Florida for purposes of 28 U.S.C. § 1332.

4. KB Home is correctly alleged to be a "foreign" corporation incorporated under the laws of the State of Delaware and with its principal place of business in California. (Complaint ¶ 3) Thus, Plaintiff has accurately alleged that KB Home is not a corporate citizen of Florida, but rather KB Home is a citizen of Delaware and of California, for purposes of 28 U.S.C. § 1332.

5. Accordingly, diversity of citizenship, for purposes of 28 U.S.C. § 1332, existed between Plaintiff and KB Home at the time Plaintiff commenced this action in state court, and continues to exist as of the time of filing this Notice of Removal.

6. Based on the following, it is more likely than not that the amount in controversy in this case exceeds \$75,000, exclusive of interest and costs:

a. Plaintiffs' Complaint purports to assert claims for employment discrimination/retaliation in violation of the Florida Whistleblower Statute (FLA. STAT. §§ 448.101-448.105), and in violation of "public policy."

b. Plaintiff alleges that KB Home is liable to him for unspecified "damages" resulting from the termination of his employment. (Complaint ¶¶ 35 and 39)

c. The Florida Whistleblower Statute authorizes courts to award injunctive relief; reinstatement of employment, seniority and fringe benefits; compensation for lost wages, benefits or other remuneration; "any other compensatory

damages allowable at law;” and an award of “reasonable attorney’s fees, court costs, and expenses to the prevailing party.” FLA. STAT. §§ 448.103(2) & 443.104 (2002).

d. Potential damages under the Florida Whistleblower’s Act may include lost wages or “backpay” through the time of trial and additional future lost wages or “frontpay.” In 2006, Plaintiff’s salary was approximately \$118,500 per year.

e. Plaintiff further alleges that KB Home is liable for his attorney’s fees pursuant to Florida Statute § 448.104. (Complaint ¶ 25) Therefore, a reasonable estimate of such fees is included in assessing the amount in controversy. *See Morrison v. Allstate Indem. Co.*, 228 F.3d 1255 (11th Cir. 2000) (“When a statute authorizes the recovery of attorney’s fees, a reasonable amount of those fees is included in the amount in controversy.”)

f. In pre-litigation discussions, Plaintiff’s counsel has indicated an intention to pursue damages in excess of the amount-in-controversy threshold of \$75,000.

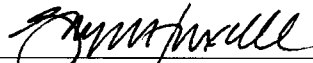
7. Based upon the foregoing, Plaintiff’s claims for wrongful discharge, though vigorously contested by Defendant, will more likely than not involve an amount in controversy in excess of \$75,000, exclusive of interests and costs. Accordingly, this Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a), and Defendant is entitled to remove this action pursuant to 28 U.S.C. § 1441(b).

8. Defendant has complied with all the requirements for removal under Title 28, United States Code.

WHEREFORE, Defendant removes this action from the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, to United States District Court for the Southern District of Florida.

Respectfully submitted,

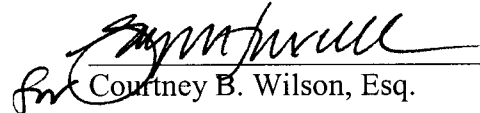
LITTLER MENDELSON, P.C.
Attorneys for Defendant, KB Home
2 South Biscayne Blvd., Suite 1500
Miami, Florida 33131
Telephone: (305) 400-7500
Facsimile: (305) 489-6375

By:  FBW 149497
Lori A. Brown, Esq.
Florida Bar No. 0846767
E-mail: labrown@littler.com
Courtney B. Wilson, Esq.
Florida Bar No. 614580
Email: cwilson@littler.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished
via U.S. Mail this 17th day of October 2007 to:

Natasha M. Dalton, Esq.
Dalton Law Offices, P.L.
2255 Glades Road, Suite 324A
Boca Raton, FL 33431
(561) 988-8498



Courtney B. Wilson, Esq.

Firmwide:83208694.1 047343.1084

EXHIBIT A

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

RUBEN O'NEILL,)
)
 Plaintiff,)
 -vs-)
)
 KB HOME, a Delaware corporation,)
)
 Defendant.)
 _____)

GENERAL JURISDICTION DIVISION

CASE NO.:

07022907

13

TRUE COPY
FILED
CLERK OF DISTRICT COURT

SEP 12 2007

VERIFIED COMPLAINT

COMES NOW, Plaintiff Ruben O'Neill (hereinafter "Mr. O'Neill"), by and through undersigned counsel and hereby files this Verified Complaint seeking monetary damages as against Defendant KB Home, Inc. (hereinafter "Defendant KB Home). In support thereof Plaintiff Ruben O'Neill states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction in this matter as the amount in controversy, exclusive of attorney's fees, costs, and interest, is in excess of fifteen thousand dollars, and the cause of action accrued in Broward County, Florida.

2. Plaintiff Ruben O'Neill is a resident of Broward County, Florida and is otherwise *sul juris*.

3. Defendant KB Home is a foreign corporation incorporated under the laws of Delaware and headquartered in Los Angeles California. KB Home continuously conducts business in the state of Florida. It operates as a developer of residential housing projects throughout the state of Florida through various related entities, many of which are licensed real estate

corporations, construction qualified businesses, and developers under Florida law.

FACTUAL BACKGROUND

4. On or about October 18, 2004, Mr. O'Neill became employed by Defendant KB Home as a Director of Human Resources.¹

5. In this capacity, Mr. O'Neill reported directly to Jennifer Rothfeld, Vice President of Field Human Resources and was responsible for investigating various employee complaints such as sexual harassment, discrimination, and ethics complaints, among other things.

6. On or about July 26, 2007, an executive in the Sales Division of Defendant KB Home's Fort Myer location (the "Sales Executive"), contacted Mr. O'Neill seeking his counsel/advice about how to proceed in regards to what he perceived to be illegal activity in connection with Defendant KB Home's concealment and failure to disclose substantial and potentially life-threatening structural defects which affected approximately 50 to 60 three-story townhomes in a residential community in Sarasota, Florida which Defendant KB Home constructed called the "Willowbrook Townhomes" (the "Defective Townhomes").

7. The Sales Executive explained to Mr. O'Neill that although Defendant KB Home was made aware of the severity of the defects and the potential danger to the would-be homeowners and public at large well in advance of the closing date set for more than 40 of the Defective Townhomes, Defendant KB Home instructed the Sales Executive and others not to disclose the dangerous defects to the would-be homeowners, and to proceed with closing on the homes anyway.

8. Specifically, upon information and belief, on or about June 19, 2007, Dave Simons,

¹ Sometime during January 2007, Defendant KB Home changed Mr. O'Neill's title to Employee Relations Director. In this capacity, Mr. O'Neill continued to investigate internal complaints as directed by his immediate supervisor, Jennifer Rothfeld, Vice President of Field Human Resources.

general counsel for Defendant KB Home and another executive for Defendant KB Home, received correspondence from an engineering firm which notified Defendant KB Home that Defendant KB Home had used substandard/inadequate materials in the construction of the rear load-bearing wall of approximately 50 to 60 townhomes in the Willowbrook Townhome community and that this defect needed to be corrected. Subsequently, this same letter was forwarded via email to the Regional Construction Manager and General Contractor of record for Defendant KB Home Fort Myers (the "Regional Construction Manager").

9. Additionally, on June 20, 2007, the Regional Construction Manager informed the Division President of Defendant KB Home (the "Division President"), of the same defect.

10. Furthermore, the Regional Construction Manager also informed the Division President that these defective walls posed a serious threat of harm to the would-be homeowners and the public at-large because there was a high probability that the rear wall would collapse in the event of a hurricane or a strong wind.

11. Yet, as the Regional Construction Manager explained, the Division President told him not to disclose to the would-be homeowners the dangerous defect, and to proceed with the closings anyway.

12. And, again, on or about July 10, 2007, when the Regional Construction Manger again went to the Division President to complain that he disagreed with Defendant KB Home's decision not to disclose the defect and to close despite same, the Division President again told the Construction Manager not to disclose the defect.

13. Between June 20, 2007, and July 26, 2007, Defendant KB Home proceeded with the closing on approximately 30 townhomes which it knew were affected by this dangerous defect and did not disclose this dangerous condition.

14. The Sales Executive explained to Mr. O'Neill that because Defendant KB Home failed to act to correct the dangerous defect and disclose the defect to the homeowners before closing on the Defective Townhomes, and because Defendant KB Home was planning on closing on the remaining 20 or so Defective Townhomes without disclosing the defect to the would-be owners, he sought out Mr. O'Neill's help.

15. On or about July 26, 2007, Mr. O'Neill informed Dave Simons of his conversation with the Sales Executive. In response, Dave Simons instructed Mr. O'Neill to "put it in an email," and Mr. O'Neill complied. Mr. O'Neill never received any response from Mr. Simons regarding this matter.

16. A few days later, Ms. Rothfeld instructed Mr. O'Neill to investigate the Sales Executive's complaint to determine if it had any merit. Over the course of three to four days, Mr. O'Neill interviewed the Sales Executive and the Construction Manager, and others, as the case may be. Initially, the information Mr. O'Neill discovered indicated that the severity of the defect was uncertain. Therefore, on or about August 7, 2006, Mr. O'Neill merely summarized his preliminary findings from the investigation and the next day he forwarded the memorandum to Mr. Simons and Ms. Rothfeld detailing his findings and the prior reports of the defects which affected the buildings.

17. After Mr. O'Neill drafted the memorandum, the Construction Manager provided him with actual documentation which removed all doubt about the severity of the defects, confirmed that the defects were potentially life threatening, and confirmed that Defendant KB Home was notified of same before it closed on any of the affected Defective Townhomes. Mr. O'Neill then forwarded these documents to Ms. Rothfeld and Dave Simons for their review and consideration.

18. Earlier that day there was a teleconference about how to handle the Defective Townhome disclosure issue. Mr. O'Neill was in a room adjacent to the room where the teleconference was held and could hear the conversation. He heard one of the participants say during the conversation that "we are not to disclose." So since he was in the process of investigating the issue, he sought clarification.

19. Mr. O'Neill discovered that both the Construction Manager and the Sales Executive had participated in the meeting, so he asked him what was discussed. The Construction Manager told him that he, the Sales Executive, and others had participated in a telephone conference regarding how to handle the 20 or so townhomes that had not been closed and whether to disclose the defect to the 40 or so homeowners who had already closed on their homes. The Construction Manager explained that one of the attorneys on the telephone call replied "We are not to disclose this." And when the question was asked "What do we tell the homeowner's if they ask when we found out about the defect?" the response was "we say that we did not know." When Mr. O'Neill asked the Sales Executive about these same statements he confirmed what the Construction Manager told him.

20. Before emailing the memorandum, Mr. O'Neill contacted Ms. Rothfeld by telephone to discuss his findings, the documentation, and his concern with the statement regarding Defendant KB Home's intent regarding disclosing the defects and its knowledge of same.

21. He explained to Ms. Rothfeld that when he drafted the memorandum he originally thought that the issue may have been blown out of proportion, but based on the documents he received afterwards, he felt that the problem was serious. Mr. O'Neill had received documentation that clearly reflected that well in advance of the closings on the Defective Townhomes both the Construction Manager and a certain engineering firm notified Defendant KB

Home that it had used inferior/sub-standard materials in the rear wall of the Defective Townhomes, and that the defect could be life-threatening.

22. Mr. O'Neill told Ms. Rothfeld that he believed that the defect should have been disclosed and needs to be disclosed immediately. In response, Ms. Rothfeld said "So what are you saying?" Mr. O'Neill responded, "This needs to be disclosed. This is serious and needs to be addressed! We can't just sweep it under the carpet."

23. Mr. O'Neill then told Ms. Rothfeld about the substance of the conversations he had with the Construction Manager and the Sales Executive. He stated that if what they said is true, that "this is unacceptable and this must be disclosed." Mr. O'Neill then stated that he needed to speak to the attorney who allegedly made the statement and Dave Simons to confirm exactly what was said. Ms. Rothfeld responded, "that would be inappropriate," and then told Mr. O'Neill that she would speak to Dave Simons and Travis Cope herself and get back to him.

24. Mr. O'Neill never heard back from Ms. Rothfeld on this issue. Instead, just days later, he was fired.

25. Pursuant to Florida Statutes Section 448.104, the prevailing party is entitled to reasonable attorney's, court costs, and expenses in relation to bringing an action under Florida Statutes Section 448.102 (hereinafter "Florida's Whistle Blower Statute").

26. All conditions precedent to bringing the instant complaint have been satisfied and/or waived.

27. Mr. O'Neill is obligated to pay Dalton Law Offices, P.L. a reasonable fee in relation to bring the instant action.

**COUNT I – WRONGFUL TERMINATION IN VIOLATION OF FLORIDA’S
WHISTLE-BLOWER STATUTE**

28. Mr. O’Neill incorporates, re-alleges, and re-avers the allegations contained in paragraphs 1 through 27 as if fully set forth herein.

29. On August 10, 2007, KB Home wrongfully terminated Mr. O’Neill in violation of Florida Statute Section 448.102(3) for objecting to and refusing to participate in the concealment of an unlawful activity Defendant KB Home engaged in, to wit, a violation of Florida Statute Section 475.278, the failure to disclose known, material defects, and the ongoing concealment of same, among other laws.

30. Specifically, Defendant KB Home had knowledge of substantial and potentially life-threatening structural defects which affected approximately 50 to 60 three-story townhomes in a residential community Defendant KB Home constructed called the “Willowbrook Townhomes.”

31. Defendant KB Home had knowledge of this dangerous defect before it closed on the affected Defective Townhomes.

32. Mr. O’Neill discovered that Defendant KB Home had knowledge of this defect and failed to disclose it. Mr. O’Neill also discovered that Defendant KB Home intended to continue to conceal the defect from the homeowners who had already closed on the Defective Townhomes and planned to “fix” the problem without disclosing to the homeowners the actual nature of the defect or that Defendant KB Home had any knowledge of the defect before it closed on the homes.

33. Mr. O’Neill voiced to his immediate supervisor Jennifer Rothfeld his objection to Defendant KB Home’s unlawful activity, and refused to participate in the cover-up and concealment of the known dangerous defects.

34. Two days later, Defendant KB Home wrongfully terminated Mr. O’Neill in

retaliation for objecting to and refusing to participate in its unlawful conduct.

35. Mr. O'Neill has suffered substantial damage as a result of Defendant KB Home's unlawful conduct.

WHEREFORE Plaintiff Ruben O'Neill respectfully requests a judgment in his favor and against Defendant KB Home for the damages he has suffered as a result of Defendant KB Home's wrongful termination of his employment, together with interest, attorney's fees, and costs pursuant to Florida Statute Sec. 448. 104, and such other and further relief as this Court deems just and proper.

COUNT II - WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY

36. Plaintiff Ruben O'Neill incorporates, re-alleges, and re-avers the allegations contained in paragraphs 1 through 35 as if fully set forth herein.

37. Florida has a well established, clear mandate of public policy which requires a seller to disclose known defects which materially and adversely affect a residential property, as evidenced by Florida Statute Section 475.278 and cases such as Johnson v Davis, 480 So. 2d 625 (Fla. 1985).

38. Defendant KB Home wrongfully terminated Mr. O'Neill in violation of this well established public policy for objecting to and refusing to participate in the concealment of a known dangerous structural defect which materially and adversely affected more than 50 residential homes.

39. Mr. O'Neill has suffered substantial damage as a result of Defendant KB Home's unlawful conduct.

WHEREFORE Plaintiff Ruben O'Neill respectfully requests a judgment in his favor and against Defendant KB Home for the damages he has suffered as a result of Defendant KB Home's

wrongful termination of his employment, together with such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff Ruben O'Neill demands a jury trial on all issues so triable.

VERIFICATION

I, Ruben O'Neill, verify under penalty of perjury that the foregoing statements and allegations in the Verified Complaint are true.

Dated: 9/10/07



Ruben O'Neill

Respectfully submitted this ¹⁰10 day of September, 2007.

DALTON LAW OFFICES, P.L.
Counsel for Plaintiff Ruben O'Neill
2255 Glades Road, Suite 324A
Boca Raton, FL 33471
Telephone: (561) 988-8498
Facsimile: (561) 201-8878

By: 
Natasha M. Dalton, FBN 17814
for Dalton Law Offices, P.L.

CSC

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

RUBEN O'NEILL,)
)
Plaintiff,)
-vs-)
KB HOME, a Delaware corporation,)
)
Defendant.)

GENERAL JURISDICTION DIVISION
CASE NO.: 07022997

13

SUMMONS

TO: **KB HOME**
c/o Registered Agent: Prentice-Hall Corporation System, Inc.
2711 Centerville Road, Suite 400
Wilmington, Delaware 19808
c/o Registered Agent: David B. Simons, Esq.
10990 Wilshire Blvd., Suite 700
Los Angeles, California 90024

IMPORTANT

A lawsuit has been filed against you. You have 20 calendar days after this summons is served on you to file a written response to the attached Complaint in this Court. A phone call will not protect you; your written response, including the above case number and named parties, must be filed if you want the Court to hear your case. If you do not file your response on time, you may lose the case, and your wages, money and property may thereafter be taken without further warning from the Court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the Court, located at:

**Clerk of the Circuit Court
Broward County Circuit Court
201 SE 6th Street
Fort Lauderdale, Florida 33301**

You must also mail or take a carbon copy or photocopy of your written response to the "Petitioner/Petitioner's Attorney" named below:

NATASHA M. DALTON, ESQ.
DALTON LAW OFFICES, P.L.
2255 Glades Road, Suite 324A
Boca Raton, Florida 33431
Telephone: (561) 988-8498
Facsimile: (888) 201-8678

THE STATE OF FLORIDA
TO EACH SHERIFF OF THE STATE: You are commanded to serve this Summons and a copy of
the Complaint in this lawsuit on the above-named Defendant.

SEP 12 2007

DATED ON September 12, 2007.

HOWARD C. FORMAN
Clerk of the Court

By: _____
Deputy Clerk

DEBORAH A. LEWIS

A TRUE COPY
Circuit Court Seal

(SEAL)

IMPORTANTE

Usted ha sido demandado legalmente. Tiene veinte (20) días, contados a partir del recibo de esta nificación, para contestar la demanda adjunta, por escrito y presentarla ante este tribunal. Una llamada telefónica no lo protegerá; si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el número del caso y los nombres de las partes interesadas en dicho caso. Si usted no contesta la demanda a tiempo, pudiese perder el caso y podría ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guía telefónica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, deberá usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's Attorney." (Demandante o Abogado del Demandante).

IMPORTANT

Des poursuites judiciaires ont été entreprises contre vous. Vous avez 20 jours consécutifs à partir de la date de l'assignation de cet citation pour déposer une réponse écrite à la plainte ci-jointe auprès de ce Tribunal. Un simple coup de téléphone est insuffisant pour vous protéger; vous êtes obligé de déposer votre réponse écrite, avec mention du numéro do dossier ci-dessus et do nom des parties nommées ici, si vous souhaitez que le Tribunal entende votre cause. Si vous ne déposez pas votre reponse écrite dans le relai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent être saisis par la suite, sans aucun préavis ulterieur de Tribunal. Il y a d'autres obligations juridiques et vous pouvez réquerir les services immédiats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez téléphoner a un service de référence d'avocats ou a un bureau

d'assistance juridique (figurant a l'annuaire de téléphones).

Si vous choisissez de déposer vous-même une réponse écrite, il vous faudra également, en même temps que cette formalité, faire parvenir ou expédier une copie au carbone ou photocopie de votre réponse écrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou a son avocat) nommé ci-dessous.

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

GENERAL JURISDICTION DIVISION

CASE NO. : 07-022997-CA-13

RUBEN O'NEILL,)

Plaintiff,)

v.)

K.B. HOME,)

Defendant.)

A TRUE COPY
HOWARD C. FORMAN
CLERK OF CIRCUIT COURT
OCT 09 2007

UNOPPOSED MOTION FOR ENLARGEMENT
OF TIME TO RESPOND TO COMPLAINT

Defendant, K.B. Home, pursuant to Fla. R. Civ. P. 1.060 moves for an enlargement of time of fourteen (14) days to serve its response to the Complaint of Plaintiff, Ruben O'Neill.

1. Defendants were served with Plaintiff's Complaint in this matter on or about September 18, 2007. Accordingly, Defendant's response is currently due to be served on or before October 8, 2007.

2. Defendant's undersigned counsel is in the process of investigating and analyzing the allegations and legal theories advanced in the Complaint. However, due to the press of other matters Defendant's undersigned counsel requires additional time to thoroughly investigate and analyze the allegation so of the Complaint and to formulate an appropriate response.

3. Accordingly, Defendant respectfully move for a fourteen (14) day enlargement of time to respond to the Complaint, through and including October 22, 2007.

4. The undersigned certifies that he has conferred with Plaintiff's counsel, Natasha M. Dalton, Esq., and is authorized to represent that Plaintiff has no objection to the relief sought.

CASE NO. : 07-022997-CA-13

5. The undersigned certifies that no previous enlargements of time have been sought or granted, that this motion is not made to unduly delay these proceedings and that it is in the interest of justice to grant the enlargement requested herein.

WHEREFORE, Defendant requests a fourteen (14) day enlargement of the deadline to serve a response to Plaintiff's Complaint, through and including October 22, 2007.

Respectfully submitted,

By: 

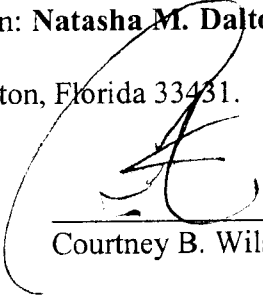
Courtney B. Wilson,
Florida Bar No. 0614580
LITTLER MENDELSON, P.C.
One Biscayne Tower, Suite 1500
Two South Biscayne Blvd.
Miami, FL 33131
Tel: (305) 400-7500
Fax: (305) 489-6375
E-mail: cwilson@littler.com

COUNSEL FOR DEFENDANT

CASE NO. : 07-022997-CA-13

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 8th day of October, 2007, that the foregoing document was served via U.S. Mail upon: **Natasha M. Dalton, Esq.**, Dalton Law Offices, P.P., 2244 Glades Road, Suite 324A, Boca Raton, Florida 33431.



Courtney B. Wilson, Esq.

Firmwide:8320591.1.1 047343.1084

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

GENERAL JURISDICTION DIVISION


CASE NO. : 07-022997-CA-13

RUBEN O'NEILL,)
)
Plaintiff,)
)
v.)
)
KB HOME,)
)
Defendant.)
_____	/

NOTICE OF FILING NOTICE OF REMOVAL

Defendant, KB Home, pursuant to 28 U.S.C. § 1446(d), gives notice of filing its Notice of Removal of the above-captioned matter from the Circuit Court of the 17th Judicial Circuit in and for Broward County, Florida to the United States District Court for Southern District of Florida. A copy of the Notice of Removal is attached.

Respectfully submitted,

By:  FBN 149497
LBW

Lori A. Brown, Esq.
Florida Bar No. 0846767
E-mail: labrown@littler.com
Courtney B. Wilson, Esq.
Florida Bar No. 614580
Email: cwilson@littler.com
LITTLER MENDELSON, P.C.
One Biscayne Tower, Suite 1500
Two South Biscayne Blvd.
Miami, FL 33131
Tel: (305) 400-7500
Fax: (305) 489-6375

COUNSEL FOR DEFENDANT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of October, 2007, that the foregoing document was served via U.S. Mail upon: Natasha M. Dalton, Esq., Dalton Law Offices, P.P., 2255 Glades Road, Suite 324A, Boca Raton, Florida 33431.


for _____
Courtney B. Wilson, Esq.

JS 44 (Rev. 11/05)

CIVIL COVER SHEET

07-61490

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 THE REVERSE OF THE FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

<p>I. (a) PLAINTIFFS</p> <p> Ruben O'Neill</p> <p>(b) County of Residence of First Listed Plaintiff <u>Broward</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number)</p> <p> Natsha M. Dalton, Esq. Dalton Law Offices 2255 Glades Road, Suite 324A Boca Raton, FL 33431 561-988-8498</p>	<p>DEFENDANTS CIV - DIMITROULEAS</p> <p> K.B. Home /ROSENBAUM</p> <p>County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT LAND INVOLVED.</p> <p>Attorneys (If Known)</p> <p> Courtney B. Wilson, Esq. / Mendelson 2 S. Biscayne Blvd, #500 Miami 305</p>
---	--

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input checked="" type="checkbox"/></td> <td><input type="checkbox"/></td> <td>Incorporated in This State</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td>Foreign Nation</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Incorporated in This State	<input type="checkbox"/>	<input type="checkbox"/>	Citizen of Another State	<input type="checkbox"/>	<input type="checkbox"/>	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Citizen or Subject of a Foreign Country	<input type="checkbox"/>	<input type="checkbox"/>	Foreign Nation	<input type="checkbox"/>	<input type="checkbox"/>
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Incorporated in This State	<input type="checkbox"/>	<input type="checkbox"/>																				
Citizen of Another State	<input type="checkbox"/>	<input type="checkbox"/>	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/>	<input checked="" type="checkbox"/>																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/>	<input type="checkbox"/>	Foreign Nation	<input type="checkbox"/>	<input type="checkbox"/>																				

FTL-07-61490-CV-Dimitrouleas-Rosenbaum

IV. NATURE OF SUIT (Place an "X" in One Box Only)

<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p>PERSONAL INJURY - Med. Malpractice</p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p>FORFEITURE/PENALTY</p> <p><input type="checkbox"/> 610 Agriculture</p> <p><input type="checkbox"/> 620 Other Food & Drug</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 630 Liquor Laws</p> <p><input type="checkbox"/> 640 R.R. & Truck</p> <p><input type="checkbox"/> 650 Airline Regs.</p> <p><input type="checkbox"/> 660 Occupational Safety/Health</p> <p><input type="checkbox"/> 690 Other</p> <p>LABOR</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Mgmt. Relations</p> <p><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act</p>	<p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>	<p>OTHER STATUTES</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 810 Selective Service</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 875 Customer Challenge 12 USC 3410</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 892 Economic Stabilization Act</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 894 Energy Allocation Act</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>	
<p>REAL PROPERTY</p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p>	<p>CIVIL RIGHTS</p> <p><input type="checkbox"/> 441 Voting</p> <p><input type="checkbox"/> 442 Employment</p> <p><input type="checkbox"/> 443 Housing/Accommodations</p> <p><input type="checkbox"/> 444 Welfare</p> <p><input type="checkbox"/> 445 Amer. w/Disabilities - Employment</p> <p><input type="checkbox"/> 446 Amer. w/Disabilities - Other</p> <p><input type="checkbox"/> 440 Other Civil Rights</p>	<p>PRISONER PETITIONS</p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence</p> <p>Habeas Corpus:</p> <p><input type="checkbox"/> 530 General</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p>			

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Re-filed- (see VI below) 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S). (See instructions second page):

a) Re-filed Case YES NO b) Related Cases YES NO

JUDGE _____ DOCKET NUMBER _____

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

28 USC Sec. 1332 Employment termination Whistleblower

LENGTH OF TRIAL via _____ days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** _____

CHECK YES only if demanded in complaint: **JURY DEMAND:** Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD: *[Signature]* DATE: 10/17/07

FOR OFFICE USE ONLY

AMOUNT 350 RECEIPT # 968701 IFP