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UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

In re  
Northwest Territorial Mint, LLC,  
Debtor,  
  
Brittany Konkel, on behalf of herself and all  
others similarly situated,  
Plaintiff,  
  
v.  
  
Northwest Territorial Mint, LLC,  
Defendant

Case No. 16-11767-CMA  
Adv. Pro. No. \_\_\_\_\_  
  
CLASS ACTION ADVERSARY  
PROCEEDING COMPLAINT

**CLASS ACTION ADVERSARY PROCEEDING COMPLAINT**

Plaintiff Brittany Konkel (“Plaintiff”) by and through undersigned counsel, on behalf of herself and all other similarly situated persons, as and for their complaint against Defendant, allege as follows:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157, 1331, 1334 and 1367.





1 by Defendant, without cause on their part.

2 18. The Plaintiff and each of the Other Similarly Situated Former Employees is an  
3 "affected employee" within the meaning of WARN Act 29 U.S.C. § 2101(a)(5).

4 19. Defendant was required by the WARN Act to give the Plaintiff and the Other  
5 Similarly Situated Former Employees at least sixty (60) days prior written notice of their  
6 respective terminations.

7 20. Prior to their termination, neither the Plaintiff nor the Other Similarly Situated  
8 Former Employees received written notice that complied with the requirements of the WARN  
9 Act.

10 21. Defendant failed to pay the Plaintiff and the Other Similarly Situated Former  
11 Employees their respective wages, salary, commissions, bonuses, accrued holiday pay and  
12 accrued vacation for sixty (60) calendar days following their respective terminations and failed  
13 to make the 401(k) contributions and provide health insurance coverage and other employee  
14 benefits under ERISA in respect to them for sixty (60) calendar days from and after the dates of  
15 their respective terminations.

16 **CLASS ACTION ALLEGATIONS RULE 7023 (a) and (b)**

17 22. The Plaintiff asserts her claims on behalf of herself and the Other Similarly  
18 Situated Former Employees pursuant to Rules 7023(a) and (b)(3) of the Federal Rules of  
19 Bankruptcy and Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure.

20 23. The Plaintiff and the Other Similarly Situated Former Employees constitute a  
21 class within the meaning of Rules 7023(a) and (b)(3) of the Federal Rules of Bankruptcy and  
22 Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure (The "Class").

23 24. Common questions of law and fact are applicable to all members of the Class.

24 25. The common questions of law and fact arise from and concern the following facts

1 and actions, among others, that Defendant committed or failed to commit as to all members of  
2 the Class: all Class members enjoyed the protection of the WARN Act; all Class members were  
3 employees of Defendant who, prior to the terminations, worked at the Facility; Defendant  
4 terminated the employment of all the members of the Class without cause on their part without  
5 giving them at least sixty (60) days' prior written notice as required by the WARN Act; and  
6 Defendant failed to pay the Class members wages and to provide other employee benefits for the  
7 sixty (60) day period following their respective terminations.

8 26. The questions of law and fact common to the members of the Class, as above  
9 noted, predominate over any questions affecting only individual members, and thus, this Class  
10 claim is superior to other available methods for the fair and efficient adjudication of this  
11 controversy.

12 27. The Plaintiff's claims are typical of the claims of other members of the Class in  
13 that for each of the several acts described above.

14 28. The Plaintiff will fairly and adequately protect and represent the interests of the  
15 Class.

16 29. The Plaintiff has the time and resources to prosecute this action and has retained  
17 counsel who have had extensive experience in matters involving employee rights, the WARN  
18 Act, class action litigation and bankruptcy court litigation.

19 30. The Class is so numerous as to render joinder of all members impracticable as  
20 there are approximately 114 persons who are included in the Class.

21 31. The Class meets the requirements of Fed. R. Civ. P. 23(a) for class certification.

22 32. The Class meets the requirements of Fed. R. Civ. P. 23(b)(3) because the  
questions of law or fact common to the members of the Class predominate over any questions

1 affecting only individual members, and that a class action is superior to other available methods  
2 for the fair and efficient adjudication of the controversy.

3 33. No Class member has an interest in individually controlling the prosecution of a  
4 separate action under the WARN Act.

5 34. No litigation concerning the WARN Act rights of any Class member has been  
6 commenced.

7 35. Concentrating all the potential litigation concerning the WARN Act rights of the  
8 Class members in this Court will avoid a multiplicity of suits, will conserve judicial resources  
9 and the resources of the parties and is the most efficient means of resolving the WARN Act  
10 rights of all the Class members.

11 36. On information and belief, the identities of the Class members are contained in  
12 the books and records of Defendant.

13 37. On information and belief, a recent residence address of each of the Class  
14 members is contained in the books and records of Defendant.

15 38. On information and belief, the rate of pay and benefits that were being paid by  
16 Defendant to each Class member at the time of his/her termination are contained in the books  
17 and records of Defendant.

18 39. As a result of Defendant's violation of the WARN Act, the Plaintiff and the other  
19 members of the Class have been damaged in amounts equal to the sum of: (a) their respective  
20 lost wages, salaries, commissions, bonuses, accrued holiday pay, accrued vacation pay, 401(k)  
21 contributions for sixty (60) days; (b) the health and medical insurance and other fringe benefits  
22 that they would have received or had the benefit of receiving, for a period of sixty (60) days after  
the dates of their respective terminations; and (c) medical expenses incurred during such period

1 by such persons that would have been covered and paid under the then applicable employee  
2 benefit plans had that coverage continued for that period.

### 3 **THE CLAIM FOR RELIEF**

4 40. At all relevant times, the Defendant employed 100 or more employees (exclusive  
5 of part-time employees, i.e., those employees who had worked fewer than 6 of the 12 months  
6 prior to the date notice was required to be given or who had worked fewer than an average of 20  
7 hours per week during the 60 day period prior to the date notice was required to be given (the  
8 “Part-Time Employees”)), or employed 100 or more employees who in the aggregate worked at  
9 least 4,000 hours per week exclusive of hours of overtime within the United States.

10 41. At all relevant times, Defendant was an “employer,” as that term is defined in the  
11 WARN Act and continued to operate as a business until it determined to order a plant closing at  
12 the Facility.

13 42. On or about December 29, 2017 and thereafter the Defendant ordered a “plant  
14 closing” at the Facility, as that term is defined by the WARN Act.

15 43. The plant closing at the Facility resulted in “employment losses,” as that term is  
16 defined by the WARN Act for at least fifty (50) of Defendant’s employees as well as 33% of  
17 Defendant’s workforce at the Facility, excluding “part-time employees,” as that term is defined  
18 by the WARN Act.

19 44. The Plaintiff and each of the other members of the Class were discharged by the  
20 Defendant without cause on his or her part as part of or as the reasonably foreseeable result of  
21 the plant closing ordered by the Defendant at the Facility.

22 45. The Plaintiff and each of the other members of the Class are “affected employees”  
of the Defendant within the meaning of the WARN Act.

46. The Defendant was required by the WARN Act to give the Plaintiff and each of

1 the other members of the Class at least 60 days' advance written notice of his or her termination.

2 47. The Defendant failed to give the Plaintiff and other members of the Class written  
3 notice that complied with the requirements of the WARN Act.

4 48. The Plaintiff and each of the other members of the Class are "aggrieved  
5 employees" of the Defendant as that term is defined in the WARN Act.

6 49. The Defendant failed to pay the Plaintiff and each of the other members of the  
7 Class their respective wages, salary, commissions, bonuses, accrued holiday pay and accrued  
8 vacation for 60 days following their respective terminations and failed to make the pension and  
9 401(k) contributions and provide employee benefits under ERISA, other than health insurance,  
10 for 60 days from and after the dates of their respective terminations.

11 50. Since the Defendant terminated the Plaintiff and each of the other members of the  
12 Class after the filing of the Defendant's bankruptcy petition, the Plaintiff's and the Class'  
13 WARN Act claims against the Defendant are entitled to administrative priority status pursuant to  
14 11 U.S.C. § 503(b)(1)(A)(ii).

15 51. The relief sought in this proceeding is equitable in nature.

16 **WHEREFORE**, Plaintiff on her own behalf and on behalf of the other Class members  
17 demand judgment, against Defendant as follows:

18 A. An allowed administrative priority claim pursuant to 11 U.S.C. § 503(b)(1)(A)(ii)  
19 against the Defendant in favor of the Plaintiff and Class members equal to the sum of: (a) unpaid  
20 wages, salary, commissions, bonuses, accrued holiday pay, accrued vacation pay, pension and  
21 401(k) contributions and other ERISA benefits, for a maximum of 60 days, that would have been  
22 covered and paid under the then applicable employee benefit plans had that coverage continued  
for that period, all determined in accordance with the WARN Act, 29 U.S.C. §2104(a)(1)(A).

1 B. Certification that the Plaintiff and the other Class members constitute a single  
2 class;

3 C. Appointment of the undersigned attorneys as Class Counsel;

4 D. Appointment of Plaintiff as the Class Representative and payment of reasonable  
5 compensation to her for her services as such;

6 E. An allowed administrative priority claim against the Defendant under 11 U.S.C. §  
7 503 for the reasonable attorneys' fees and the costs and disbursements that the Plaintiff incurs in  
8 prosecuting this action, as authorized by the WARN Act, 29 U.S.C. § 2104(a)(6); and

9 F. Such other and further relief as this Court may deem just and proper.

10 Respectfully submitted this 31st day of January, 2018.

11 CFL LAW GROUP, LLP

12 /s/ Lawrence R. Cock

13 /s/ Jack M. Lovejoy

14 Lawrence R. Cock, WSBA No. 20326

15 Jack M. Lovejoy, WSBA No. 36962

16 Attorneys for Defendant

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SEATTLE, WASHINGTON 98154  
(206) 292-8800

<b>ADVERSARY PROCEEDING COVER SHEET</b> (Instructions on Reverse)		<b>ADVERSARY PROCEEDING NUMBER</b> (Court Use Only)
<b>PLAINTIFFS</b> Brittany Konkel, on behalf of herself and all others similarly situated	<b>DEFENDANTS</b> Northwest Territorial Mint, LLC	
<b>ATTORNEYS</b> (Firm Name, Address, and Telephone No.) CFL Law Group, LLP 1001 4th Avenue, Suite 3900 Seattle, WA 98154, phone (206) 292-8800	<b>ATTORNEYS</b> (If Known) Michael J. Gearing, David C. Neu of K&L Gates LLP 925 4th ave Ste 2900, Seattle, WA 98104 (206) 623-7580	
<b>PARTY</b> (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input checked="" type="checkbox"/> Other <input type="checkbox"/> Trustee	<b>PARTY</b> (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	
<b>CAUSE OF ACTION</b> (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A), (B) and (O).3. This is a class action for the recovery by Plaintiff and other similarly situated employees of the Defendant of damages in the amount of 60 days' pay and ERISA benefits by reason of Defendant's violation of the Plaintiff's rights under the Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2101 et seq. ("WARN Act").		
<b>NATURE OF SUIT</b> (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
<b>FRBP 7001(1) – Recovery of Money/Property</b> <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input checked="" type="checkbox"/> 14-Recovery of money/property - other  <b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b> <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property  <b>FRBP 7001(3) – Approval of Sale of Property</b> <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)  <b>FRBP 7001(4) – Objection/Revocation of Discharge</b> <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)  <b>FRBP 7001(5) – Revocation of Confirmation</b> <input type="checkbox"/> 51-Revocation of confirmation  <b>FRBP 7001(6) – Dischargeability</b> <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column)	<b>FRBP 7001(6) – Dischargeability (continued)</b> <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other  <b>FRBP 7001(7) – Injunctive Relief</b> <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other  <b>FRBP 7001(8) Subordination of Claim or Interest</b> <input type="checkbox"/> 81-Subordination of claim or interest  <b>FRBP 7001(9) Declaratory Judgment</b> <input type="checkbox"/> 91-Declaratory judgment  <b>FRBP 7001(10) Determination of Removed Action</b> <input type="checkbox"/> 01-Determination of removed claim or cause  <b>Other</b> <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)	
<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input checked="" type="checkbox"/> Check if this is asserted to be a class action under FRCP 23	
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$ 700,000 +	
Other Relief Sought		

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Northwest Territorial Mint, LLC		BANKRUPTCY CASE NO. 16-11767-CMA
DISTRICT IN WHICH CASE IS PENDING Western District of Washington	DIVISION OFFICE Seattle	NAME OF JUDGE Hon. Christopher M. Alston
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO. See Pacer Report Attached
DISTRICT IN WHICH ADVERSARY IS PENDING Western District of Washington	DIVISION OFFICE	NAME OF JUDGE Hon. Christopher M. Alston
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 		
DATE January 31, 2018	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Jack M. Lovejoy	

**INSTRUCTIONS**

The filing of a bankruptcy case creates an “estate” under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor’s discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court’s Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff’s attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

**Plaintiffs and Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

**Attorneys.** Give the names and addresses of the attorneys, if known.

**Party.** Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

**Demand.** Enter the dollar amount being demanded in the complaint.

**Signature.** This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

**16-11767-CMA Northwest Territorial Mint LLC**  
**Case type: bk Chapter: 11 Asset: Yes Vol: v Judge: Christopher M Alston**  
**Date filed: 04/01/2016 Date of last filing: 01/30/2018**

### Associated Cases

Case	Associated Case	Type
16-11767-CMA Northwest Territorial Mint LLC	16-01167-CMA Achord v. Northwest Territorial Mint LLC et al (closed)	Adversary
16-11767-CMA Northwest Territorial Mint LLC	16-01196-CMA Medallic Art Company LLC et al v. Mark Calvert et al (closed)	Adversary
16-11767-CMA Northwest Territorial Mint LLC	16-01217-CMA Calvert v. Erdman	Adversary
16-11767-CMA Northwest Territorial Mint LLC	17-01127-CMA Calvert v. ARM Industries LLC	Adversary

### Other Filings by Same Debtor(s)

**There Are No Case Filing Associations For This Case**

PACER Service Center			
Transaction Receipt			
01/31/2018 15:17:42			
<b>PACER Login:</b>	lawrencecock:4502037:4033312	<b>Client Code:</b>	konkel
<b>Description:</b>	Associated Cases	<b>Search Criteria:</b>	16-11767-CMA
<b>Billable Pages:</b>	1	<b>Cost:</b>	0.10