

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PIKE BRANDS LLC,

Plaintiffs,

v.

TEEGEM, *et al.*,

Defendants.

Civil Action No. 22-171

(Judge Colville)

**DECLARATION OF BRIAN SAMUEL MALKIN
IN SUPPORT OF PLAINTIFF’S MOTION TO (1) AMEND THE ORDER
AUTHORIZING ALTERNATIVE SERVICE AND (2) DEEM SERVICE
ACCOMPLISHED UPON DEFENDANTS CHUBBY ZEBRA and BLESSING BABY**

I, Brian Samuel Malkin, hereby declare as follows:

1. I am over eighteen (18) years of age. I have never been convicted of a felony or any criminal offense involving moral turpitude, and I am fully competent to testify to the matters stated herein. I have personal knowledge of every statement made in this Declaration and such statements are true and correct.

2. I am one of the attorneys working for Ference & Associates LLC (“the Ference Firm” or “Plaintiff’s Counsel”), legal counsel for Plaintiffs. I make this declaration in support of Plaintiff’s Motion to (1) Amend the Order Authorizing Alternative Service, and (2) Deem Service Accomplished Upon Defendants CHUBBY ZEBRA and BLESSING BABY.

3. On February 1, 2022, the Court entered an Order granting Plaintiff’s Motion for Alternative Service, authorizing Plaintiffs to serve the Summonses and Complaint and all future filings upon Defendants via electronic mail and publication. (ECF. No. 17). Plaintiff, however,

did not include certain defendants in their Motion for Alternative Service- Defendants CHUBBY ZEBRA and BLESSING BABY - because these defendants indicated to Amazon that they were shipping the accused infringing product from within the United States. *See* Motion for Alternative Service (ECF. No. 11, at p. 1, n. 2) (“Alternative Service Motion”).

4. Though the Plaintiff requested from Amazon, through the usual information request, the physical addresses of the Defendants CHUBBY ZEBRA and BLESSING BABY and attempted to serve the Defendants with conventional U.S. certified mail, the mail came back as undeliverable at the addresses provided. Thus, despite Plaintiff’s efforts, it has not accomplished conventional service upon CHUBBY ZEBRA and BLESSING BABY.

5. However, the Defendants CHUBBY ZEBRA and BLESSING BABY have received notice of this action electronically via electronic mail and its customer service e-mail address provided to Plaintiff in accordance with this Court’s Order. *See* Order Granting, *inter alia*, Motion for TRO (ECF. No. 15) (providing that Amazon provided to Plaintiff’s counsel the email addresses for the Defendants).

6. Specifically, on February 11, 2022, the Defendants CHUBBY ZEBRA and BLESSING BABY were served, along with all the other Defendants, *inter alia*, a copy of the Summons and Complaint by e-mail to the e-mail address provided for the Defendants by Amazon. *See* Certificate of Service for Temporary Restraining Order, (2) Extended Temporary Restraining Order, and (3) Notice of Show Cause Hearing (ECF No. 26). These e-mails to these Defendants CHUBBY ZEBRA and BLESSING BABY did not bounce back nor were they returned and/or marked as “undeliverable,” thereby demonstrating the e-mails were delivered and the e-mails are valid and operational.

7. Plaintiff has also notified the Defendants CHUBBY ZEBRA and BLESSING BABY of this action via website publication. Specifically, Plaintiff has created a website appearing on www.ferencelawsuit.com where all copies of the Summons, Complaint, and all other pleadings, documents, and orders issued in this action are posted, such that anyone accessing the website will find copies of all documents filed in this action. The address and a link to the publication website has been provided to the Defendants CHUBBY ZEBRA and BLESSING BABY via their known e-mail accounts.

I declare under the penalty of perjury laws of the United States of America that to the best of my knowledge the foregoing is true and correct.

Executed this 16th day of March, 2022, at Pittsburgh, Pennsylvania.

/s/ Brian Samuel Malkin
Brian Samuel Malkin