UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

CASE NO. 6:10-CV-01045-ACC-GJK

REAL ESTATE INDUSTRY
SOLUTIONS, LLC,

Plaintiff/ Counter-Claim Defendant,

v.

CONCEPTS IN DATA MANAGEMENT
U.S. INC.,

Defendant/ Counter-Claim Plaintiff.
_____ /

PLAINTIFF/COUNTER-DEFENDANT'S MOTION TO DISMISS COUNTERCLAIM, [DE 9] OR IN THE ALTERNATIVE FOR MORE DEFINITE STATEMENT AND INCOPORATED MEMORANDUM OF LAW

Plaintiff/Counter-Defendant, Real Estate Industry Solutions, LLC ("REIS"), by and through undersigned counsel and pursuant to Fed. R. Civ. P. 12(b)(6) and 12(e), hereby files its Motion to Dismiss Defendant/Counter-Plaintiff, Concepts In Data Management U.S. Inc.'s ("CDM"), Counterclaim [DE 9] or in the Alternative for a More Definite Statement and, in support, states as follows:

CDM's Counterclaim should be dismissed because it fails to state plausible or sufficient causes of action for breach of contract and breach of the implied covenant of good faith and fair dealing under Florida law. Counts I and II of the Counterclaim do not state coherent claims for relief, fail to allege facts supporting the claims and reach implausible conclusions. Count III for breach of the implied covenant of good faith and fair dealing fails to allege the breach of a specific term of the contract in bad faith as required for such a claim. As a result, the Counterclaim is insufficient and should be dismissed or, in the alternative, Defendant should be

required to provide a more definite statement of the Counterclaim and set forth plausible claims for relief.

SUMMARY OF FACTS

REIS is a wholly owned subsidiary of Florida Association of Realtors, a Florida not for profit corporation ("FR"). REIS provides comprehensive technology solutions and services to FR, its members and other real estate professionals and businesses across the United States. CDM provides software for completing real estate forms and storing real estate transactions.

On November 1, 2008, REIS and CDM entered into an agreement entitled the "TransactionDesk Services and Support Agreement" ("Agreement"). The Agreement is annexed hereto as Exhibit A. Pursuant to the Agreement, CDM agreed to give FR members access to an online software program called "TransactionDesk." TransactionDesk is a "software as a service" application that allows FR members to use the internet to fill out, save, store, print, and manage real estate forms for real estate transactions.

TransactionDesk makes use of many copyrighted forms owned by FR or jointly owned by FR and the Florida Bar. FR has registered its copyrights in its forms. REIS is the exclusive licensee of the FR Forms. In order to permit CDM to use FR's forms in TransactionDesk, REIS granted to CDM a non-exclusive limited sublicense for the FR Forms for TransactionDesk.

After introducing TransactionDesk, REIS and FR began to receive complaints that the program was difficult to use. In response, REIS, at great expense, independently developed a simple, easy-to-use internet based software application for completing real estate forms called "Form Simplicity." The programmers who developed Form Simplicity had no access to the source or object code for TransactionDesk and no confidential information belonging to CDM was used to create Form Simplicity.

After Form Simplicity was debuted publicly at a trade show, but before the software was offered for use to FR members, CDM released "TransactionDesk Lite" ("TD Lite"). At the same time CDM released TD Lite, it "rebranded" the TransactionDesk software as "TransactionDesk Pro" ("TD Pro"). Other than the name change, TD Pro is identical to what used to be called TransactionDesk. Meanwhile, TD Lite mimics the "look-and-feel" of Form Simplicity.

TD Lite uses the FR Forms without the authorization of REIS or FR in violation of the license granted to CDM which limits the use of the FR Forms to TransactionDesk (now TD Pro). CDM has used and continues to use the FR member database to provide FR members with access to TD Lite without authorization of REIS or FR. CDM has publicly released FR's confidential user data for the TransactionDesk Services and has failed and refused to give REIS access to the log files. REIS filed this action against CDM for copyright infringement (Count I), trade secrets misappropriation (Count II), breach of confidentiality agreement (Count III), and breach of contract (Count IV).

After REIS filed this action, in August of 2010, the Board of FR met and voted to discontinue funding for TransactionDesk. On September 1, 2010, the undersigned, on behalf of REIS, advised CDM that it was terminating the Agreement effective December 31, 2010 pursuant to the early termination provision in section 14 of the Agreement. A copy of the letter of termination is attached hereto as Exhibit B.

In response to the REIS's Complaint, CDM filed a three count counterclaim for breach of contract (Counts I and II) and breach of the implied covenant of good faith and fair dealing (Count III) alleging that REIS breached the confidentiality section of the Agreement (Paragraph 16) and that REIS wrongfully induced CDM to terminate the Agreement before it had expired. Inasmuch as CDM's counterclaims are insufficient and implausible, they should be dismissed.

MEMORANDUM OF LAW

I. STANDARD OF REVIEW

While Rule 8 of the Federal Rules of Procedure requires only a short and plain statement of the facts in order to withstand a motion to dismiss, a complaint or a counterclaim "requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 555 (2007). A plaintiff must provide enough factual allegations, which are assumed to be true, "to raise a right to relief above the speculative level." *Id.* at 555; *see also Jackson v. BellSouth Telecomms.*, 372 F.3d 1250, 1263 (11th Cir. 2004) (plaintiffs must allege specific factual bases for their legal conclusions to avoid dismissal of their claims).

Moreover, the facts supporting the claim must be "consistent with the allegations in the complaint." *Twombly*, 550 U.S. at 562; *see also Wilchombe v. TeeVee Toons, Inc.*, 555 F.3d 949 (11th Cir. 2009). While a court will accept well-pled allegations as true for the purposes of the motion, it will not accept bald assertions, unsupported conclusions, unwarranted inferences, or sweeping legal conclusions cast in the form of factual allegations. *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009). "Only a complaint that states a plausible claim for relief survives a motion to dismiss." *Id.* at 1950.

Twombly, 550 U.S. 544 and *Iqbal*, 129 S. Ct. 1937 require that the pleader provide enough factual allegations, which are assumed to be true, "to raise a right to relief above the speculative level." *Twombly*, 550 U.S. at 555. "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id.* at 555 ("a plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do") (citation

omitted) (alteration in original)). Legal conclusions couched as factual allegations do not satisfy a plaintiff's burden to plead "sufficient factual matter" in its complaint or in this case, its Counterclaim. *Iqbal*, 129 S. Ct. at 1949-50.

Furthermore, "only a complaint that states a plausible claim for relief survives a motion to dismiss." *Iqbal*, 129 S. Ct. at 1950. "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id*. at 1949 (citing *Twombly*, 550 U.S. at 556). The *Iqbal* Court explained that determining plausibility is "a context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *Id*. at 1950.

In *Iqbal*, the Court explained that there are two "working principles" on a motion to dismiss. *Id.* First, "the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id.* (*citing Twombly*, 550 U.S. at 555 ("a plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do") (citation omitted) (alteration in original)). The Court emphasized that legal conclusions couched as factual allegations do not satisfy a plaintiff's burden to plead "sufficient factual matter" in its complaint. *Id.* at 1949-50.

The second principle of *Iqbal* is that "only a complaint that states a plausible claim for relief survives a motion to dismiss." *Id.* at 1950. "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* at 1949 (*citing Twombly*, 550 U.S. at 556). The Court explained that determining plausibility is "a context-specific task that requires the

reviewing court to draw on its judicial experience and common sense." *Id.* at 1950 (citation omitted).

CDM's Counterclaim makes reference to the Agreement between the parties dated November 1, 2008, without attaching it to the Counterclaim. Consequently, REIS has attached the Agreement to its motion. While this typically would be considered outside the four corners on a motion to dismiss, in this case REIS attaches the Agreement pursuant to the "incorporation by reference" doctrine, *see In re Silicon Graphics Inc. Securities Litigation*, 183 F.3d 970 (9th Cir. 1999), under which a document attached to a motion to dismiss may be considered by the court without converting the motion into one for summary judgment if the attached document is: (1) central to the plaintiff's claim; and (2) undisputed. *Horsley v. Feldt*, 304 F.3d 1125 (11th Cir. 2002).

The incorporation by reference doctrine permits a district court to consider documents "whose contents are alleged in a complaint and whose authenticity no party questions, but which are not physically attached to the pleading." *Branch v. Tunnel*, 14 F.3d 449, 454 (9th Cir. 1994); *Harris v. Ivax Corp.*, 182 F.3d 799, 802 n. 2 (11th Cir. 1999). A document central to the complaint (or a counterclaim) that the defense appends to its motion to dismiss is properly considered, provided that its contents are not in dispute. *Brooks v. Blue Cross & Blue Shied of Fla., Inc.*, 116 F.3d 1364, 1369 (11th Cir. 1997). "Undisputed" in this context means that the authenticity of the document is not challenged. *Beddall v. State Street Bank and Trust Co.*, 137 F.3d 12, 16-17 (1st Cir. 1998); *GFF Corp. v. Associated Wholesale Grocers, Inc.*, 130 F.3d 1381, 1384 (10th Cir. 1997); *Branch v. Tunnell*, 14 F.3d 449, 454 (9th Cir. 1994).

Here, CDM has no basis to dispute the Agreement it failed to attach to its Counterclaim, as it refers to the Agreement throughout the Counterclaim and includes direct quotations. Upon

consideration of the express terms of the Agreement, this Court will find that the Counterclaim is implausible and the Motion to Dismiss should be granted.

II. COUNT I OF THE COUNTERCLAIM FOR BREACH OF CONTRACT IS INSUFFICIENT AND IMPLAUSIBLE AND MUST BE DISMISSED

In Count I of the Counterclaim, CDM asserts that REIS breached Paragraph 16(a) and 16(d) of the Agreement related to "Confidential Information" because

> REIS and FR had access to and received large amounts of CDM's proprietary information throughout the years of working closely with CDM, providing technical support to FAR members and through prior cross-marketing agreements.

(Counterclaim, Paragraph 49). CDM alleges vaguely that "REIS and FR had a thorough and intimate knowledge of the operation of both TransactionDesk and FOLG." (Counterclaim, Paragraph 49). Based upon this vague assertion, CDM then jumps to a conclusion based **"upon information and belief"** that REIS breached the Agreement by "utilizing its extensive knowledge of CDM's proprietary and confidential information to create From Simplicity, thus breaching Sections 16(a) and 16(d) of the Agreement." (Counterclaim, Paragraph 51) (emphasis added).

Section 2(a)(iii) of the Agreement defines the term Confidential Information as "proprietary information of either party, which information is not within the provisions of Section 16(c) and which the Disclosing Party (as defined in section 16) delivers or communicates in writing to the Receiving Party (as defined in section 16) as being 'confidential information.'" Section 16 provides in its entirety as follows:

> 16. Confidential Information
>
> a) Each party (the "Receiving Party") agrees to hold all Confidential Information of the other party (the "Disclosing Party") in confidence and not to use any Confidential Information other than as expressly permitted by this Agreement. The Receiving Party shall not disclose any Confidential Information of

> the Disclosing Party without the prior written consent of the Disclosing Party, other than to those employees, agents, subcontractors or representatives of the Receiving Party who have a need to know such Confidential Information for the purposes of carrying out its obligations under this Agreement.
>
> (b) The Receiving Party agrees to take all actions reasonably requested by the Disclosing Party to protect the Disclosing Party's Confidential Information and to use the same degree of care to safeguard the Confidential Information as the Receiving Party uses for its own confidential information, but in any event not less than reasonable care.
>
> (c) No obligations of confidence under this Agreement shall extend to information which is:
>
> (i) publicly available;
> (ii) independently developed by the Receiving Party;
> (iii) already in the possession of the Receiving Party;
> (iv) lawfully received from a third party on a non-confidential basis; or
> (v) required to be disclosed by government or court order or other legal process, provided that the Receiving Party will promptly notify the Disclosing Party of such requirement and will take all reasonable steps to permit the Disclosing Party to prevent or limit such disclosure.
>
> (d) Each party agrees not to reverse engineer, reverse assemble or reverse compile any software or other intellectual property owned by the Disclosing Party and utilized in providing the Services or any ecommerce component thereof and not to alter or remove any proprietary rights or copyright notice or identification which indicates a party's ownership of proprietary materials.

CDM never identifies the "Confidential Information" designated as "Confidential" by it that it allegedly delivered to REIS that REIS "upon information and belief" allegedly used in violation of the Agreement. It is incumbent on CDM to sufficiently plead its Counterclaim so that REIS can be advised as to what it allegedly did wrong or in breach of the Agreement (which CDM has failed to do). CDM's vague allegations of wrongdoing in Paragraph 51 that **"[u]pon information and belief**, REIS utilized its extensive knowledge of CDM's proprietary and confidential information to create Form Simplicity, thus breaching Section 16(a) and 16(d) of the

Agreement" are simply insufficient. For the same reason, CDM's sketchy claims in Paragraph 31of the Counterclaim that "upon information and belief, REIS and FAR utilized CDM's proprietary and confidential information in developing its competing internet-based forms service" also fall far short of the pleading requirements under the Rules.

In order to properly state a cause of action against REIS, **CDM must provide REIS fair notice of what its cause of action is**. *Sams v. United Food & Commercial Workers Int'l Union*, 866 F.2d 1380, 1384 (11th Cir. 1989) (complaint need not specify in detail precise theory of recovery, but must put opponents on notice of claims or defenses asserted). Here, CDM fails to provide REIS with any notice at all, just mere conclusions based upon vague allegations based upon "information and belief," not facts. Rule 8 of the Federal Rules of Civil Procedure does not permit statements supporting claims for relief to be made on information and belief unless the facts that would support the allegations are solely within the defendant's knowledge or control. *Boykin v. KeyCorp.*, 521 F.3d 202, 215 (2d Cir. 2008). CDM fails to allege, because it cannot, that the Counterclaim is based upon allegations that are solely within REIS's knowledge or control. Indeed, CDM would know if it provided information designated as "Confidential" and its failure to specifically allege what information was disclosed to REIS that meets this requirement requires dismissal.

Furthermore, there are no facts set forth within the Counterclaim that would tend to show that REIS used or disclosed any Confidential Information, as that term is defined in the Agreement. Consequently, even if CDM provided REIS with "Confidential Information," which it did not, no facts are alleged to show that such information was misused in any way by REIS. CDM's mere allegation that REIS had access to Confidential Information **is not enough**. Furthermore, CDM making claims "upon information and belief" that REIS "utilized its

extensive knowledge of CDM's proprietary and confidential information to create Form Simplicity" falls short of the pleading requirement. CDM fails to allege that the Agreement was breached because CDM cannot make such an allegation. That is why CDM failed to attach the Agreement to the Counterclaim and why it has intentionally tried to draft a vague Counterclaim requiring the Court to fill in blanks.

Even assuming arguendo that REIS received Confidential Information, CDM needs to do more than allege that "upon information and belief, REIS and FAR utilized CDM's proprietary and confidential information in developing is competing internet-based forms service." It is not plausible for CDM's Counterclaim to proceed without more facts being alleged. To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face." *Twombly*, 550 U.S. at 570. A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. *Id.* at 556. Even if REIS used information it learned from CDM, which it did not, that alone does not mean that REIS breached the Agreement. Therefore, Count I should be dismissed.

III. COUNT II OF THE COUNTERCLAIM FOR BREACH OF CONTRACT IS INSUFFICIENT AND IMPLAUSIBLE AND MUST BE DISMISSED

In Count II of the Counterclaim, CDM asserts that REIS breached its contractual obligations to CDM by:

> wrongfully inducing grounds for termination of the Agreement over a year before the end of the term of the Agreement.

(Counterclaim, Paragraph 51).

CDM bases its claim on the following allegations of fact:

> During negotiations of the Agreement, REIS insisted on adding a new provision to the Agreement that would permit REIS to

> terminate the Agreement if the FAR board voted not to continue funding CDM's services as a member benefit, citing illusory financial restraints as the reason.

(Counterclaim, Paragraph 54). CDM claims that it agreed to this provision "without knowing REIS's true intention which was to use this provision as the basis for an early termination once their competing product was ready for market." (Counterclaim, Paragraph 55). CDM further alleges in a conclusory fashion, with no factual support, that "REIS leadership actively worked towards convincing members of the FAR board to vote against continuing to fund CDM's services as a member benefit despite there being over a year left on the term of the Agreement." (Counterclaim, Paragraph 58). Based upon these facts, CDM claims the Agreement was terminated causing financial losses to CDM.

Section 14 of the Agreement provides in pertinent part:

> The term of this Agreement shall commence on the Effective Date noted on page one of this Agreement and shall continue for a term of 38 months, unless terminated earlier in accordance with the terms of this Agreement. Notwithstanding the foregoing, REIS may terminate this Agreement effective as of the end of the 14th or 26th month of this Agreement to the extent that it does not receive funding approval for the Services set forth in this Agreement from FAR for the subsequent budget years, such termination to be effected by REIS providing written notice of termination to CDM at least 90 days prior to the end of the 14th or 26th month of this agreement.

On September 1, 2010, REIS advised CDM that because the Board of FR discontinued funding for TransactionDesk, it was terminating the Agreement effective December 31, 2010 pursuant to section 14. See Ex. B.

CDM's counterclaim in count II alleges that REIS's termination was a breach of the Agreement. However, CDM has not challenged either REIS' right to terminate under section 14, or the manner of termination. Indeed, it's hard to understand what CDM is alleging REIS did

wrong, if anything, since none of the allegations in Court II give rise to a claim for breach of the Agreement. CDM fails to allege any wrongful actions by REIS. CDM accepted the early termination clause in the Agreement. The Agreement was then terminated according to that clause. These facts do not constitute a breach.

CDM claims REIS negotiated its agreement at arm's length and then terminated the Agreement in accordance with its terms. Both CDM and REIS are sophisticated parties and had the right to negotiate the terms of the Agreement as they deemed appropriate. CDM's counterclaim is just sour grapes. The early termination of the Agreement pursuant to its terms is not a breach of the Agreement.

CDM's allegation that "REIS breached its contractual obligations to CDM by wrongfully inducing grounds for termination of the Agreement over a year before the end of the term of the Agreement" makes no sense at all. CDM fails to "state a claim to relief that is plausible on its face" *Twombly*, 550 U.S. 544, and as such, Count II for breach of contract must be dismissed.

IV. COUNT III OF THE COUNTERCLAIM FOR BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING IS IMPROPER

Count III of the Counterclaim asserts that "REIS's actions constitute breaches of the covenant of good faith and fair dealing implied in the Agreement under Florida law. (Counterclaim, Paragraph 69) CDM alleges factually that REIS utilized CDM's proprietary and confidential information and otherwise took actions to reverse engineer TransactionDesk and FOLG to create a competing product intended to replace CDM's services as an FAR member benefit and to compete with CDM in the national market. (Counterclaim, Paragraph 65) CDM also claims that REIS leadership spread false information to FAR board members about TransactionDesk and FOLG and that while negotiating with CDM to renew the terms of the Agreement, REIS was working on its competing forms without disclosing its activities to CDM.

(Counterclaim, Paragraphs 66 and 67) CDM asserts REIS has acted in bad faith in breaching its contractual obligations to CDM under the Agreement. (Counterclaim, Paragraph 64).

None of these allegations give rise to a claim for breach of the covenant of good faith under Florida law. CDM cannot maintain Count III of its Counterclaim for Breach of the Implied Covenant of Good Faith and Fair Dealing **without also establishing** the breach of an express contractual provision. The implied covenant of good faith and fair dealing only confers limited rights. "[T]he 'covenant' is not an independent contract term. It is a doctrine that modifies the meaning of all explicit terms in a contract, preventing a breach of those explicit terms de facto when performance is maintained de jure." *Weaver*, 169 F.3d 1310, *citing Alan's of Atlanta, Inc. v. Minolta Corp.*, 903 F.2d 1414 (11th Cir.1990) (applying Georgia law).

In *Sheck v. Burger King Corp.*, 798 Supp. 962 (S.D. Fla. 1992), a restaurant franchisee brought an action against Burger King ("BK") for, among other things, breach of the implied covenant of good faith and fair dealing when BK authorized construction of a competing restaurant in the vicinity of the franchisee's restaurant because the franchise agreement did not prohibit same. BK argued in support of a motion for summary judgment that acts explicitly authorized by the franchise agreement (i.e., permitting construction of a competing store not expressly prohibited) cannot constitute bad faith. The court denied the motion for summary judgment and allowed the issue of put whether BK breached the implied covenant of good faith and fair dealing to go to the jury, notwithstanding the absence of a breach of contract.

A few years later in *Burger King Corp. v. Weaver*, 169 F.3d 1310 (11th Cir. 1999), the Eleventh Circuit Court of Appeal rejected the ruling in *Sheck* and determined that "an action for breach of the implied covenant of good faith cannot be maintained in the absence of breach of an express contract provision." *Id.* at 1316 (citing *Hospital Corp. of America v. Florida Med. Crt.,*

Inc., 710 So.2d 573, 575 (Fla. 4th DCA 1998)). "With respect to [a] breach of an implied duty of good faith, a duty of good faith must relate to the performance of an express term of the contract and is not an abstract and independent term of a contract which may be asserted as a source of breach when all other terms have been performed pursuant to the contract requirements." *See Bernstein v. True*, 636 So.2d 1364 (Fla. 4th DCA 1994) (covenant of good faith not actionable where contract not enforceable). *Id.* The Court concluded that Weaver's claim for breach of the implied covenant must fail as a matter of law because Weaver never cited an express provision of the franchise agreement that had been breached. "Weaver's failure to identify an express contractual provision that has been breached dooms his claim for breach of the implied covenant of good faith and fair dealing." *Id.*

Here, like in *Weaver*, CDM failed to identify an express contractual provision that REIS purportedly breached. CDM's vague allegations that "REIS utilized CDM's proprietary and confidential information and otherwise undertook actions to reverse engineer TransactionDesk and FOLG to create a competing product intended to replace CDM's services as an FAR member benefit and to compete with CDM in the national market" are simply insufficient. Claims that REIS "spread false information to FAR board members", that REIS entered into negotiations with CDM "to renew the Agreement while working on its competing forms service without disclosing its activities or intentions to CDM" and that REIS negotiated "a new provision permitting REIS to terminate the Agreement if the FAR board voted against funding CDM's services as member benefit" in bad faith similarly lack the necessary element of breach of a specific provision in bad faith. CDM's failure to identify a single express contractual provision that REIS purportedly breached requires dismissal.

CDM never once refers to an express contractual provision that REIS breached in bad faith that would give rise to an independent cause of action for breach of the implied covenant of good faith and fair dealing. Rather, CDM's claims are all based on unsupported and unfounded allegations without once showing how REIS allegedly breached any contractual provision of the Agreement. Since an action for breach of the implied covenant of good faith cannot be maintained in the absence of breach of an express contract provision, and CDM has failed to allege such a breach, Count III of the Counterclaim must be dismissed, or in the alternative, CDM must provide a more definite statement as to Count III.

WHEREFORE, Plaintiff/Counter-Defendant, REIS, hereby requests that this Court enter an Order dismissing Defendant/Counter-Plaintiff's Counterclaim in its entirety for the reasons set forth above, and grant any further relief the Court deems just and proper.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of October, 2010, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

Respectfully submitted,
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SERVICE LIST

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United States District Court, Middle District of Florida

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