

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 17-CV-62100-MORENO/SELTZER

KATIRIA RAMOS, individually and
on behalf of all others similarly situated,

Plaintiff,

vs.

Motion assigned to Magistrate Judge
Barry S. Seltzer pursuant to this Court's
February 26, 2018 Order [ECF No. 40]

HOPELE OF FORT LAUDERDALE,
LLC d/b/a PANDORA @ GALLERIA,
a Florida limited liability company, and
PANDORA JEWELRY, LLC, a Maryland
limited liability company,

Defendants.

**DEFENDANT HOPELE OF FORT LAUDERDALE, LLC'S MOTION TO
COMPEL FORENSIC EXAMINATION OF PLAINTIFF'S CELL PHONE**

Defendant, Hopele of Fort Lauderdale, LLC ("Hopele"), by counsel and pursuant to Rule 37(a), Fed. R. Civ. P., and 26.1(g), S.D. Fla. L.R., moves the Court for the entry of an Order compelling Plaintiff Katiria Ramos ("Plaintiff") to produce her cell phone for a forensic examination, as required by Defendant Hopele of Fort Lauderdale, LLC's First Request for Production to Plaintiff ("Hopele's Request for Production").

INTRODUCTION AND BACKGROUND

This lawsuit is rooted in the Telephone Consumer Protection Act of 1991, 47 U.S.C. § 227 *et seq.* (the "TCPA"). Plaintiff's entire claim is based on the allegation that, on October 19, 2017, Hopele sent a text message to Plaintiff's cell phone using an automatic telephone dialing system, without her prior express consent and in violation of the TCPA (the "Text Message"). *See generally* Complaint (ECF No. 1).

Plaintiff Failed to Preserve the Text Message

Plaintiff admits, however, that the original Text Message and its associated metadata was somehow **deleted** from Plaintiff's phone, and she is not sure "what happened" to it. *See* Plaintiff's Response to Defendant Hopele of Fort Lauderdale, LLC' First Set of Interrogatories (served Feb. 19, 2018; verified Feb. 20, 2018) and Amended Responses (served Feb. 28, 2018; verification not yet provided despite request) ("Plaintiff's Interrogatory Answers"; attached hereto as **Composite Exhibit A**), at Answer No. 14 ("I no longer have the text message on my phone, I do not know what happed [sic] to the message."); Deposition Transcript of Katiria Ramos (Feb. 26, 2018) ("Ramos Depo."; cited excerpts attached hereto as **Exhibit B**), at 79:19-80:17. Plaintiff further admits that, up until the time that she was preparing for her deposition – during the weekend just prior to her deposition on Monday, February 26, 2018 – she was not aware of any duty at all to preserve potentially relevant documents, including the very Text Message on which her entire lawsuit is based. *See id.* at 84:3-86:13. Finally, Plaintiff admits that she did not take any steps to ensure that the Text Message would not be deleted. *See id.* at 79:19-80:4.

Plaintiff Failed to Preserve the Alleged Screenshot of the Text Message

Instead of producing the Text Message on which her entire lawsuit is based, Plaintiff instead seeks to rely upon a "screenshot" that she allegedly took of the Text Message and then sent to her attorney last October (the "Screenshot"). But, just as is the case with the original Text Message, Plaintiff also failed to preserve or produce to Hopele the *original* Screenshot that she took on her cellular phone, or any of its associated metadata. *See* Ramos Depo. at 76:5-10. Just as with the original Text Message, Plaintiff claims that the original Screenshot is no longer on her cellular phone and, again, she is not certain what happened to it. *See id.* at 76:5-78:24. Plaintiff further testified that, while she made minimal efforts to try to retrieve the Screenshot – an alleged

picture of the Text Message on her phone's screen – she is “not te[ch] savvy” and is not sure if her attempts to restore photos taken on her cellular phone were performed correctly. *See id.* at 77:3-78:20.

Plaintiff Failed to Preserve Her Transmission of the Screenshot to her Attorney

Although Plaintiff claims that she sent the Screenshot of the Text Message to her attorney, Mr. Hiraldo, via text message the same day that the Text Message was received, Plaintiff also failed to preserve that transmission and copy of the Text Message sent, and it has been deleted from her phone along with all other text messages older than thirty days. *See Ramos Depo.* at 82:1-7 (admitting that text messages were not preserved longer than 30 days); 148:3-149:1 (confirming that her October 19, 2017 transmission of the screenshot to her attorney was via text message).

Plaintiff Has Produced Only Her Attorney's Documents to Support Her Case

Instead of producing her own, original (and apparently deleted) electronic documents (with metadata) to support her case, Plaintiff seeks to rely on her attorney's copy of the Screenshot. *See Plaintiff's Interrogatory Answers*, at Response No. 14 (“My attorneys have screenshots of the message that I provided to them . . .”). What's worse, Plaintiff has not even produced her attorney's electronic copy of the Screenshot. Instead, in the midst of Plaintiff's deposition, her attorney (Mr. Hiraldo) produced to Hopele via e-mail a screenshot image from his own phone of an attorney/client text message that he had allegedly received from Plaintiff on October 19, 2017. *See Ramos Depo.* at 147:7-23. Mr. Hiraldo's screenshot image of that attorney/client communication allegedly shows that Plaintiff sent her attorney, Mr. Hiraldo, a copy of the Screenshot she took of the Text Message. But, again, the actual production to Hopele is merely an e-mailed screenshot picture of Mr. Hiraldo's received text message that allegedly included a copy of the Screenshot taken by Plaintiff of the Text Message at issue – with no metadata or other discoverable

information. A **twice**-removed screen capture image is not a substitute for original electronic documents, which would include a wealth of additional discoverable electronic and forensic data.

Through No Fault of Hopele, the Only Way to Retrieve the Key, Deleted Electronic Documents is to Forensically Examine Plaintiff's Cellular Phone, and Examination Also is Required in Connection With Additional Relevant Inquiries

Plaintiff admittedly did not take any steps to preserve the key documents in this case – the original Text Message and the original Screenshot of that Text Message (and potentially a host of other relevant, discoverable data). Plaintiff admits that those documents were on her cellular phone, but were subsequently deleted. Plaintiff claims that she is not sure exactly how the documents were lost, and is not “te[ch] savvy” enough to be sure if those documents can be restored on her phone through iCloud or an iTunes backup, etc. In other words, there is uncertainty regarding “what happened” to the original Text Message and Screenshot and whether they can be recovered. A forensic examination of Plaintiff’s phone is likely to clear up that confusion and may even result in the recovery of the original Text Message and Screenshot.

Obviously, “what happened” to the Text Message is relevant (if not central) to Plaintiff’s claims. Yet, Plaintiff refuses to agree to a forensic image of the phone on which she purportedly received the Text Message, vaguely citing theoretical harassment and privacy concerns.

ARGUMENT

I. PLAINTIFF SHOULD BE COMPELLED TO PRODUCE HER CELLULAR PHONE FOR A FORENSIC EXAMINATION PURSUANT TO HOPELE’S REQUEST FOR PRODUCTION NO. 18

At issue here is Request No. 18 of Hopele’s Request for Production (**Exhibit C**), Plaintiff’s Response to Defendant Hopele of Fort Lauderdale, LLC’s First Request for Production, and Plaintiff’s Amended Response to Defendant Hopele of Fort Lauderdale, LLC’s First Request for Production (the “Production Responses,” **Composite Exhibit D**), which state as follows:

Request No. 18: Produce for inspection and forensic imaging the cell phone on which You allege You received the text message identified in your Complaint.

Response No. 18: Plaintiff objects to this request on the basis that an inspection and forensic imaging of Plaintiff's telephone is unnecessary and not relevant to any party's claim or defense, or proportional to the needs of the case. It is undisputed that Defendant transmitted a text message to Plaintiff's cellular telephone. Therefore, the only purpose of this request is to further harass and invade Plaintiff's privacy.

As discussed below, Plaintiff's objections should be overruled and this Court should compel a forensic examination of Plaintiff's cellular phone because:

(1) Despite Plaintiff's boilerplate objections to the contrary, the requested forensic examination is necessary, relevant and proportional to the needs of this case;

(2) A forensic examination of Plaintiff's cellular phone is not harassing. The process is simple and relatively quick. As Plaintiff brought this putative class action against Defendants and agreed to serve as a class presentative, she should have known that (1) her claims (and ability to represent a class) were based upon and dependent on the Text Message allegedly received on her cellular phone and the data (including metadata) associated with same, (2) her credibility would be at issue as the primary representative and a fact witness, and (3) she may be obligated to produce documents and expend time to satisfy her duty as a Plaintiff and class representative. Moreover, although she apparently was not, Plaintiff should have been aware of her duty to preserve crucial, relevant data, and her failure to do is the primary impetus for this motion; and

(3) Any theoretical concern regarding Plaintiff's privacy is curbed entirely by the Stipulated Confidentiality and Protective Order entered in this action. [ECF No. 36].

II. A FORENSIC EXAMINATION IS NECESSARY, RELEVANT AND PROPORTIONAL TO THE NEEDS OF THIS CASE

Plaintiff admits (in her Answer to Interrogatory Number 14) that she no longer has the Text Message and "does not know what happe[ne]d to the message." *See* Ex. A, No. 14. Obviously,

“what happened” to the Text Message is of utmost importance and is clearly relevant to the claims and defenses at issue here. A forensic examination of Plaintiff’s cellular phone will reveal a number of details about the Text Message and Plaintiff’s actions before and after her alleged receipt. Because Plaintiff admits that she, herself, does not know “what happe[ne]d to the message,” a forensic examination and imaging of the phone is likely the only way to tell “what happened.” District Courts in Florida and elsewhere frequently grant motions to compel forensic images of cell phones in TCPA cases. *See Benzion v. Vivint, Inc.*, No. 12-61826-CIV, 2013 WL 12304563, at *3-4 (S.D. Fla. Sept. 20, 2013) (Hunt, M.J.) (granting motion to compel forensic examination of plaintiff’s cell phone in TCPA case); *Thielen v. Buongiorno USA, Inc.*, No. 1:06-cv-16, 2007 WL 465680 (W.D. Mich. Feb. 8, 2007) (ordering computer inspection in TCPA case); *Sherman v. Yahoo! Inc.*, No. 3:13-cv-00041-GPC-WVG (ECF No. 13) (S.D. Cal. Feb. 20, 2015) (granting forensic image of cell phone in TCPA case **after the named plaintiff revealed that she had deleted the subject text from her phone**) (Exhibit E hereto).¹

Here, it is clear that a forensic image is likely to reveal discoverable information such as: (i) the original Text Message itself with all of its metadata, (ii) when Plaintiff received the Text Message, (iii) whether the Text Message was purposefully deleted, (iv) what action Plaintiff took directly before and after receipt of the Text Message, (v) whether and when Plaintiff opened or

¹ Granting forensic examinations of cellular phones is routine in non-TCPA cases as well, so long as the forensic image will reveal relevant, discoverable information, as here. *See, e.g., Cont'l Grp., Inc. v. KW Prop. Mgmt., LLC*, No. 09-60202-CV, 2009 WL 425945, at *1 (S.D. Fla. Feb. 20, 2009) (Cohn, J.) (granting request for imaging of portable electronic devices); *United Subcontractors, Inc. v. Darsey*, No. 3:13-CV-603-J-99TJC, 2013 WL 3149072, at *1 (M.D. Fla. June 20, 2013) (granting forensic examination of cell phone); *Procaps S.A. v. Patheon Inc.*, No. 12-24356-CIV, 2014 WL 11878435, at *2-3 (S.D. Fla. May 5, 2014) (Goodman, M.J.) (granting forensic examination of cell phones); *ANZ Advanced Techs., LLC v. Bush Hog, LLC*, No. CV 09-00228-KD-N, 2010 WL 11575131, at *9 (S.D. Ala. May 4, 2010) (same); *Wynmoor Community Council, Inc. v. QBE Ins. Corp.*, 280 F.R.D. 681, 687 (S.D. Fla. 2012) (Snow, M.J.) (finding forensic examination warranted).

viewed the Text Message, (vi) whether, when and how many times Plaintiff clicked on the “link” that was purportedly embedded within Text Message, (vii) the original Screenshot image of the Text Message and its metadata, and (viii) when the original Screenshot was taken and whether it was modified in any way, etc.

A. Forensic Examination May Allow Recovery of the Key Deleted Evidence – the Text Message and Screenshot

Clearly, the aforementioned forensic information is relevant and necessary in order to attempt to recover key evidence in this case. The Text Message and Screenshot arguably are the **only** direct evidence on which Plaintiff’s entire claim is based, but conveniently both of those documents are missing in their original form.

B. Forensic Examination Is Relevant to Spoliation Issues.

A forensic examination also is relevant for reasons independent of recovering the crucial electronic documents that Plaintiff deleted (and their associated metadata). A forensic examination may shed light on spoliation claims and arguments, which may require an adverse inference or other special instructions to made before or given to a jury at trial. *See Southeastern Mech. Svcs., Inc. v. Brody*, 657 F. Supp. 2d 1293 (M.D. Fla. 2009) (concluding that adverse inference jury instruction was appropriate spoliation sanction because the circumstances surrounding the defendants’ destruction of data, including text messages, from wireless handheld devices indicated bad faith).

C. Forensic Examination May Allow the Recovery of Additional Relevant Information Responsive to Hopele’s Request for Production

Moreover, a forensic examination may uncover relevant information aside from just the key documents that Hopele already knows were deleted. Plaintiff testified that she altered storage and synching settings on her cellular phone last November, just after this lawsuit was filed, *see Ramos Depo.* at 152:16-153:9, 154:17-155:1, she is not sure if she successfully backed up data on

her phone, but there is a possibility that relevant data was backed up, *see id.* at 152:25-154:11, and that her cellular phone was set to automatically delete any text messages after thirty days, *see id.* at 80:2-14. Aside from the documents that Plaintiff admits were deleted – the Text Message and Screenshot – there may be other documents responsive to Hopele’s Request for Production that also were deleted from her cellular phone – such as relevant text messages, instant messages through Facebook messenger, WhatsApp or other messaging applications, *see id.* at 158:15-22, e-mails, *see id.* at 75:11-18, or other communications and data relevant to the issues in this lawsuit. *See, e.g.*, Hopele’s Request for Production Nos. 3, 5, 19, 28, 33 (requesting the production of such data and communications). Considering Plaintiff’s habitual deletion of such information from her cellular phone during this lawsuit, her testimony that she has been litigating for months with no awareness of any duty to preserve potentially relevant documents, and her admitted lack of technical knowledge on backing up documents or potentially restoring them to search for relevant information, a forensic image is the best way to search for and obtain discoverable information.

D. Forensic Examination Is Relevant to Issues Regarding Plaintiff’s Credibility and Key Elements in this Action – Consent and Damages

In addition, a forensic examination will shed light on and clarify Plaintiff’s fuzzy recollection regarding what exactly took place when she purportedly received the Text Message. *See Ramos Depo.* at 65:14-19, 67:15-68:8, 71:18-72:7 (showing how Plaintiff’s testimony and recollection flip-flopped back and forth regarding her actions upon receipt of the text message). The circumstances of Plaintiff’s receipt of the Text Message and her actions upon its alleged receipt go to the heart of Plaintiff’s credibility as a key fact witness and class representative, and to her alleged damages. Plaintiff claims that when she received the text, it interrupted her day and took up her time, causing her harm, but she cannot recall with certainty if she was at work (she assumes) and if so, what she was doing when she allegedly received the Text Message, and she

could not pinpoint how she was harmed aside from the receipt of the Text Message itself. *See* Ramos Depo. at 50:17-51:17, 59:13-17, 61:22-24, 62:12-18, 101:3-10. A forensic record of Plaintiff's phone activity surrounding her receipt of the Text Message and the subsequent Screenshot relates directly to all of these issues. For example, Plaintiff's phone may reveal that she was actively reading or sending personal emails or text messages or otherwise using her cellular phone when she allegedly received the Text Message, as she admits she sometimes does during a workday, or she may have even been taking a break from work to check her text messages. *See id.* at 63:7-17, 64:4-6, 64:19-65:8. The forensic data on Plaintiff's cellular phone is the only source that Hopele can turn to in an effort to verify (or contradict) Plaintiff's vague recollection of the circumstances and her actions at the time she allegedly received the Text Message.²

In addition to revealing Plaintiff's actions surrounding the receipt of the Text Message, the forensic data collected could reveal that Plaintiff has consented to receiving Defendants' or other third parties' text messages, which bears directly on consent – a material element of Plaintiff's TCPA claim – and on the credibility of Plaintiff's claim that she was harmed by the very receipt of the text message.

Information regarding Plaintiff's activities and the circumstances before, during and after her alleged receipt of the Text Message is crucial not only to Plaintiff's credibility, but also to a key defense in this action – lack of any actual injury in fact. Plaintiff's apparent lack of actual harm is the subject of Judge Gayles' decision in *Salcedo v. Hanna*, Case No. 16-cv-62480-GAYLES,

² Plaintiff's cellular phone records are not substitutes for a complete forensic examination because, for example, iMessages (*i.e.*, "text messages" between Apple devices) or app-based messages are not identified or recorded on a cellular phone bill at all and, while text messages are noted, their content is not. A forensic examination will reveal the full scope and extent of Plaintiff's texting, messaging and cellular phone usage habits while at work, which is central to her claim that she was "bothered" by the text when she received it.

2017 WL 4226635 (S.D. Fla. June 14, 2017). There, the Court certified an interlocutory appeal to the Eleventh Circuit Court of Appeals regarding whether a plaintiff's receipt of a single text message in a TCPA action constitutes sufficient concrete injury-in-fact for Article III standing under *Spokeo, Inc. v. Robbins*, 136 S. Ct. 1540, 1549 (2016). The Court stated that "resolving this issue will materially advance the termination of this litigation and potentially eliminate the need for protracted and expensive litigation over one text message." *Salcedo*, 2017 WL 4226635 at *1. Depending how the Eleventh Circuit Court of Appeals rules on this issue, Plaintiff's testimony in this case surrounding the alleged invasion of privacy and interruption of her day could be case dispositive, which is yet another reason why the forensic examination is necessary, relevant and appropriate. Hopele is entitled to take discovery that is likely to clear up Plaintiff's imprecise recollection and the forensic record will either confirm or contradict her testimony.

E. Forensic Examination Is Relevant to Issues Regarding Class Certification

The forensic examination may also be crucial to class certification issue because it is likely to yield evidence regarding whether Plaintiff is similarly situated to other putative class members and whether her alleged damages would be the same (and therefore, whether the class is ascertainable). It is elementary that, before certifying a class, in fact, even before analyzing whether a party has met Rule 23's requirements, a plaintiff must present a proposed class that is "adequately defined and clearly ascertainable." *Little v. T-Mobile USA, Inc.*, 691 F.3d 1302, 1304 (11th Cir. 2012). Here, the forensic image may reveal: (i) the original Text Message itself with all of its metadata, (ii) when Plaintiff actually received the Text Message, (iii) whether the Text Message was purposefully deleted, (iv) what action was taken directly before or after receipt of the Text Message, (v) whether Plaintiff opened or viewed the Text Message, (vi) whether, when and how many times Plaintiff clicked on the "link" that was purportedly embedded within the Text

Message, (vii) the original Screenshot image of the Text Message and its metadata, and (viii) when the original Screenshot was taken and whether it was modified in any way, etc.

While some customers may be able to identify or demonstrate some of this information by reference to their phones and phone records, others may not be able to. First, the person that owns or uses a telephone number today may not be the same person that owned or used the telephone number on the date at which a particular text was received. Second, even if customers have kept their phone number when they change carriers, cell phone users may have changed their phone when switching to another carrier, and therefore, may or may have not transferred all the data from the old phone and may no longer have information regarding text messages received. Third, the fact that a telephone number was wireless at some time in the past does not mean that it is still wireless today, or at the time of a text message at issue here. These individualized inquiries may defeat class certification, and the forensic image may help prove that such individualized inquiries are required. This information may set Plaintiff apart from other class members and therefore, is subject to discovery that is both relevant and proportional to the needs of this case, a putative class action.

Finally, this federal suit is Plaintiff's own – one inaugurated by her complaint because of Hopele's purportedly unauthorized messaging to the very phone Hopele now seeks to image. It is simply unreasonable for Plaintiff to now contend that she can rightfully and adequately represent a class, but that she will not submit to the minor inconvenience of lacking access to her phone for a handful of hours. This forensic imaging, so minor in objective inconvenience and conceivably divulging relevant and discoverable information regarding the questions that Plaintiff herself

cannot answer – “what happened” to the original Text Message – cannot be justly denied as “unnecessary and not relevant” or proportional.³

III. HOPELE’S REQUEST FOR A FORENSIC IMAGE IS NOT HARASSING

The imaging of a cell phone can be performed at a location of Plaintiff’s convenience, including her home or attorney’s offices, or wherever she prefers. The process is fast and unobtrusive and the costs are minimal. Data retrieved from the forensic image – data that is no longer available to Plaintiff and/or that Plaintiff may have forgotten about or deleted in violation of her preservation duties – may reveal critical information pertaining to the text messages at issue and her conduct before and after receiving the Text Message. For example, as discussed above, Plaintiff may have communicated with third-parties about the Text Message, or taken other actions upon receipt of the Text Message that run afoul of her theories of lacking consent and injury-in-fact. Neither Hopele, co-defendant Pandora Jewelry, LLC, nor Plaintiff have any way to discover this information without a forensic image. This is especially true here, where Plaintiff claims that she was not advised of any duty to preserve potentially relevant documents – or even the Text Message itself – until four months after this litigation began. Indeed, Plaintiff admits to deleting the crucial Text Message and states that she does not know with certainty “what happened” to it. Accordingly, the alleged “burden” of the imaging – approximately one hour (a few hours, at most) in which Plaintiff would not be able to use her cellular phone – is easily outweighed by the potential of discovering potentially case-dispositive or case-altering information.

³ To the extent Plaintiff asserts a privilege objection as to communications on the phone between her and her counsel, such an argument is wholly without merit because forensic examiners routinely exclude attorney-client communications. Defendants’ attorneys have, in other cases, successfully excluded messages to and from identified phone numbers and e-mails prior to producing any data from the forensic examination.

IV. PLAINTIFF'S CONCERNS REGARDING CONFIDENTIALITY ARE A NON-ISSUE

Plaintiff's objection to an examination of her cellular phone based on privacy concerns is a non-issue and should be rejected out of hand. Hopele already has agreed to treat any material obtained from the forensic image as Confidential pursuant to the Stipulated Confidentiality and Protective Order (ECF No. 36; "Confidentiality Order") entered in this action. That order protects Plaintiff's vaguely-stated and theoretical privacy interests in full. This is especially true considering that, during her deposition, Plaintiff confirmed that she has no work information or work email on her cellular phone, and could not identify any particular information, document, or communication on her cellular phone that she claimed posed a particular privacy concern. *See Ramos Depo.*, at 87:6-89:7. Instead, Plaintiff only speculated generally that health or personal information possibly could be on her phone, and that she did not like the idea generally of an examiner "hav[ing] access and probably see[ing] what I've done." *See id.* Such vaguely-stated privacy concerns do not outweigh the need for the forensic examination; multiple bases of relevance are stated in this motion. And, in any event, those concerns are easily resolved by the Confidentiality Order in this case, which was entered for exactly a circumstance such as this.

Further, although Plaintiff has not raised any concern about any attorney-client communications being stored on her cellular phone, any such communications can be excluded by the forensic examiner. A forensic expert can easily segregate and exclude communications from certain phone numbers and email addresses (such as those of Plaintiff's attorneys) during the process of creating a copy of the cellular phone's data.

WHEREFORE, Hopele respectfully request that this Honorable Court enter an Order: (i) granting this Motion, (ii) overruling Plaintiff's objections to Request No. 18, (iii) compelling Plaintiff to produce her cellular phone for a forensic examination, as required by Hopele's First

Request for Production, Request No. 18, and (iv) granting Hopele such further and additional relief as this Court deems just and proper.

LOCAL RULE 7.1(A)(3) CERTIFICATE OF GOOD FAITH CONFERENCE

I hereby certify that counsel for Hopele (Jeffrey B. Pertnoy, Esq.) met and conferred with counsel for Plaintiff (Manuel Hiraldo, Esq.), on February 28, 2018 via telephone in an effort to resolve this dispute without Court intervention, but the Parties were unable to agree.

Dated: March 6, 2018

AKERMAN LLP
Three Brickell City Centre, Suite 1100
98 Southeast Seventh Street
Miami, Florida 33131
Tel: (305) 374-5600
Fax: (305) 374-5095

/s/ Jeffrey B. Pertnoy
Jeffrey B. Pertnoy (FBN 91939)
jeffrey.pertnoy@akerman.com
Lawrence D. Silverman (FBN 7160)
lawrence.silverman@akerman.com
Stacy J. Rodriguez (FBN 44109)
stacy.rodriquez@akerman.com
Counsel for Defendant Hopele

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 6, 2018, 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 on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

Scott A. Edelsberg, Esq.
Jeff Ostrow, Esq.
Avi R. Kaufman, Esq.
**KOPELOWITZ OSTROW FERGUSON
WEISELBERG GILBERT**
1 W. Las Olas Blvd., Suite 500
Fort Lauderdale, Florida 33301
Tel: 954-525-4100
Fax: 954-525-4300
kaufman@kolawyers.com
edelsberg@kolawyers.com
ostrow@kolawyers.com
Counsel for Plaintiff

Manuel S. Hiraldo, Esq.
HIRALDO P.A.
401 E. Las Olas Blvd., Suite 1400
Fort Lauderdale, Florida 33301
Tel: 954-400-4713
mhiraldo@hirdolaw.com
Counsel for Plaintiff

Andrew J. Shamis, Esq.
SHAMIS & GENTILE, P.A.
14 NE 1st Avenue, Suite 400
Miami, Florida 33132
Tel: 305-479-2299
ashamis@shamisgentile.com
Counsel for Plaintiff

Ian C. Ballon, Esq.
Ian M. Ross, Esq.
Nina D. Boyajian, Esq.
Hilarie Bass, Esq.
GREENBERG TRAURIG, P.A.
333 SE 2nd Avenue, Suite 4400
Miami, Florida 33131
Tel: (305) 579-0500
Fax: (305) 579-0717
bassh@gtlaw.com
boyajiann@gtlaw.com
rossi@gtlaw.com
ballon@gtlaw.com
Counsel for Defendant Pandora Jewelry, LLC

/s/ Jeffrey B. Pertnoy

Jeffrey B. Pertnoy, Esq.