

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

**BRIAN CALVERT, on behalf of himself  
and all others similarly situated,**

**Plaintiffs,**

**v.**

**WALGREEN CO., an Illinois corporation,**

**Defendant.**

Case No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

*Filed Electronically*

**CLASS ACTION COMPLAINT**

Plaintiff, by and through his counsel, respectfully files this Class Action Complaint on behalf of himself a Class of similarly-situated individuals who have purchased, in the Commonwealth of Pennsylvania, a Walgreen Co. ("Walgreens") joint supplement containing glucosamine, chondroitin and/or other ingredients that were falsely labeled and represented to "rebuild cartilage."

**NATURE OF THE ACTION**

1. Walgreens sells a line of glucosamine and chondroitin supplements with the false promise and deceptive warranty that its products "rebuild cartilage." As Walgreens is fully aware, however, it is physically and biologically impossible to "rebuild" cartilage that has been lost or damaged.

2. Walgreens sells its products (the "Walgreens Products") throughout the Commonwealth of Pennsylvania by taking advantage of consumers' reasonable but unattainable

desire to reverse the damage done to their cartilage. This suit seeks redress on behalf of all consumers in Pennsylvania that purchased a Walgreens glucosamine and chondroitin supplement from October 2006 to the present that were sold with a label promising that the product would "rebuild cartilage."

### **PARTIES**

3. Plaintiff Brian Calvert is a Pennsylvania resident.

4. Defendant Walgreen Co. is an Illinois corporation with its principal place of business in Deerfield, Illinois.

### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over this action pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d). Jurisdiction is proper because (1) the matter in controversy exceeds the sum or value of \$5,000,000.00, exclusive of interests and costs and (2) the named Plaintiff and the Defendant are citizens of different states. 28 U.S.C. § 1332(d)(2)(A).

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because a substantial part of the events giving rise to the claim occurred within this judicial district, and because Defendant has marketed and sold the products at issue in this action within this judicial district and has done business within this judicial district.

### **FACTUAL ALLEGATIONS**

7. Millions of adults in the United States live with arthritis, a disease involving the breakdown of cartilage in joints, or other orthopedic disorders in which cartilage in joints is broken down over time and causes bones in those joints to grind against each other. Cartilage normally protects a joint, allowing it to move smoothly, and also absorbs shock when pressure is placed on the joint. Without normal amounts of cartilage, the bones in the joint rub together,

causing pain, swelling and stiffness. These conditions are often extremely painful and result in limitations on an individual's range of motion, and most often impact elderly persons.

8. Recently, dietary supplement manufacturers have introduced a variety of products promising joint relief from chronic pain. In the rush for increased market share, some retailers have claimed that that glucosamine and chondroitin supplements can "rebuild cartilage."

9. Defendant Walgreens, the seller of a wide variety of vitamin, nutritional and dietary supplement products, is one such company. One of Walgreens' most successful product lines is promoted as a joint supplement that contains glucosamine and chondroitin (the "Walgreens Products"). These joint supplements are sold at Walgreens stores throughout Pennsylvania and nationwide using Walgreens labels that prominently claim, among other things, that the Walgreens Products "rebuild cartilage." Walgreens also maintains a website devoted to marketing its products ([www.walgreens.com](http://www.walgreens.com)), where it maintains a web page for each of its glucosamine and chondroitin products. In the textual portion of the page for each product, the claim prominently appears that the products "rebuild cartilage."

10. Glucosamine is an amino sugar present in cartilage. Glucosamine supplements are produced commercially from crustacean exoskeletons, and are one of the most common, non-vitamin dietary supplements sold in the United States. Chondroitin is a sulfated glycosaminoglycan composed of a chain of alternating sugars. Chondroitin sulfate is a structural component of cartilage and provides resistance to compression. There is no competent scientific evidence which supports the claim that either of these ingredients, or any other ingredient, contained in the Walgreens Products, alone or in combination, are capable of rebuilding cartilage that has been damaged or destroyed.

11. Walgreens' statement that its products "rebuild cartilage" is false and misleading.

Indeed, since 2004, multiple clinical studies have found that glucosamine and chondroitin, alone or in combination, are not effective in providing the represented joint health benefits.

12. In 2004, one study concluded that glucosamine was no more effective than a placebo in treating the symptoms of knee osteoarthritis. McAlindon et al., *Effectiveness of Glucosamine For Symptoms of Knee Osteoarthritis: Results From an Internet-Based Randomized Double-Blind Controlled Trial*, 117(9) Am. J. Med. 649 (Nov. 2004).

13. Indeed, as early as 2004, other clinical studies indicated a significant “placebo” effect when patients consumed products they were told had the potential to cure joint aches and pains. For example, one 2004 study involved a six-month study of the effects of glucosamine compared with placebo and concluded that there was no difference in primary or secondary outcomes between the two. Cibere et al., *Randomized, Double-Blind, Placebo-Controlled Glucosamine Discontinuation Trial In Knee Osteoarthritis*, 51(5) Arthritis Care & Research 738-45 (Oct. 15, 2004). The authors concluded that the study provided *no evidence* of symptomatic benefit from continued use of glucosamine and that perceived benefits were, in fact, due to the placebo effect and not any real benefit provided by glucosamine. *Id.*

14. In 2006, a large scale study sponsored and conducted by the National Institute of Health (“NIH”) called the Glucosamine/chondroitin Arthritis Intervention Trial (“GAIT”) concluded in a report published in the *New England Journal of Medicine* that “[t]he analysis of the primary outcome measure did not show that either supplement [glucosamine and chondroitin], alone or in combination, was efficacious.” Clegg, D., et al, *Glucosamine, Chondroitin Sulfate, and the Two in Combination for Painful Knee Osteoarthritis*, 354 New England J. of Medicine. 795, 806 (2006). Subsequent GAIT studies in 2008 and 2010 reported

that glucosamine and chondroitin did not rebuild cartilage<sup>1</sup> and were otherwise ineffective – even in patients with moderate to severe knee pain for which the 2006 GAIT study reported results were inconclusive. See Sawitzke, A.D., et al., *The Effect of Glucosamine and/or Chondroitin Sulfate on the Progression of Knee Osteoarthritis: A GAIT Report*, 58(10) J. Arthritis Rheum. 3183–91 (Oct. 2008); Sawitzke, A.D., *Clinical Efficacy And Safety Of Glucosamine, Chondroitin Sulphate, Their Combination, Celecoxib Or Placebo Taken To Treat Osteoarthritis Of The Knee: 2-Year Results From GAIT*, 69(8) Ann Rheum. Dis. 1459-64 (Aug. 2010).

15. The GAIT studies are consistent with the reported results of other studies that have demonstrated the ineffectiveness of both glucosamine and chondroitin:

- (1) In 2008, a study concluded that glucosamine was no better than a placebo in reducing either the symptoms or progression of hip osteoarthritis. Rozendaal et al., *Effect of Glucosamine Sulfate on Hip Osteoarthritis*, 148 Ann. of Intern. Med. 268-77 (2008)
- (2) A 2010 a meta-analysis examined prior studies involving glucosamine and chondroitin, alone or in combination, and reported that the collection of studies supported a conclusion that those compounds neither reduced joint pain nor had an impact on the narrowing of joint space. Wandel et al., *Effects of Glucosamine, Chondroitin, Or Placebo In Patients With Osteoarthritis Or Hip Or Knee: Network Meta-Analysis*, BMJ 341:c4675 (2010).
- (3) Another 2010 study concluded that there was no difference between placebo and

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<sup>1</sup> To a similar effect a study by Kwok, et al., entitled *The Joints On Glucosamine (JOG) Study: A Randomized, Double-Blind, Placebo-Controlled Trial To Assess The Structural Benefit Of Glucosamine In Knee Osteoarthritis Based On 3T MRI*, 60 Arthritis Rheum 725 (2009), concluded that glucosamine was not effective in preventing the worsening of cartilage damage.

- glucosamine for the treatment of low back pain and lumbar osteoarthritis and that there was no data recommending the use of glucosamine. Wilkens et al., *Effect of Glucosamine on Pain-Related Disability in Patients With Chronic Low Back Pain and Degenerative Lumbar Osteoarthritis*, 304(1) JAMA 45-52 (July 7, 2010).
- (4) In 2011, a summary article reviewed the available literature and concluded that “[t]he cost-effectiveness of these dietary supplements alone or in combination in the treatment of OA has not been demonstrated in North America.” Miller, K. and Clegg, D., *Glucosamine and Chondroitin Sulfate*, *Rheum. Dis. Clin. N. Am.* 37 (2011) 103-118.
- (5) Most recently, a meta-analysis synthesized all available studies evaluating the efficacy of glucosamine for treating osteoarthritis and concluded that glucosamine showed *no pain reduction benefits* for osteoarthritis. Wu D. et al., *Efficacies of different preparations of glucosamine for the treatment of osteoarthritis: a meta-analysis of randomised, double-blind, placebo-controlled trials*, 67(6) *Int. J. Clin. Pract.* 585-94 (June 2013).

16. Scientific studies have also shown that the other ingredients in the Walgreens Products are similarly ineffective. See, e.g., S. Brien, et. al., *Systematic Review Of The Nutritional Supplements (DMSO) And Methylsulfonylmethane (MSM) In The Treatment Of Osteoarthritis*, 16 *Osteoarthritis and Cartilage*, 1277 (Nov. 2008); Usha PR and Naidu MU, *Randomised, Double-Blind, Parallel, Placebo-Controlled Study of Oral Glucosamine, Methylsulfonylmethane and their Combination in Osteoarthritis*, 24 *Clinical Drug Investigation* 353-63 (2004); see also Biegert C et al., *Efficacy and Safety of Willow Bark Extract in the Treatment of Osteoarthritis and Rheumatoid Arthritis: Results of 2 Randomized Double-Blind*

*Controlled Trials*, Journal of Rheumatology. 31.11 (2004):2121-30 (no efficacy for willow bark as compared with placebo and willow bark less effective than low dosages of non-steroidal anti-inflammatory); *see also* Abdel-Tawb, M., et al., *Boswellia Serrata: An Overall Assessment Of In Vitro, Preclinical, Pharmacokinetic And Clinical Data*, 50 Clin Pharmacokinet. 349-69 (2011).

17. Walgreens' claims that the Walgreens Products rebuild cartilage are also totally belied by the available scientific evidence:

(1) In October 2008, the GAIT Study also concluded that glucosamine and/or chondroitin, alone or in combination, did not demonstrate a clinically important difference in joint space loss, indicating that they were ineffective in rebuilding or regenerating cartilage. Sawitzke et al., *The Effect of Glucosamine and/or Chondroitin Sulfate on the Progression of Knee Osteoarthritis, A Report from the Glucosamine/Chondroitin Arthritis Intervention Trial*, 58 Arthritis Rheum. 3183-3191 (2008).

(2) In April 2009, the Journal of Orthopaedic Surgery published an article that concluded that there was scant evidence to support a claim that glucosamine was superior to placebo in even arresting the deterioration of cartilage, to say nothing of arresting that process and promoting regeneration or rebuilding. Kirkham, et al., *Review Article: Glucosamine*, 17(1) Journal of Orthopaedic Surgery 72-6 (2009).

18. To date, there are only two studies, each more than a decade old, which purport to claim that the ingestion of glucosamine can affect the growth or deterioration of cartilage, both sponsored by a glucosamine supplement manufacturer: Pavelka et. al. *Glucosamine Sulfate Use and Delay of Progression of Knee Osteoarthritis*, Arch. Intern. Med., 162: 2113-2123 (2002); Reginster et. al. *Long-term Effects of Glucosamine Sulphate On Osteoarthritis Progress: A*

Randomised, Placebo-Controlled Clinical Trial, *Lancet*, 357: 251-6 (2001). As noted in the April 2009 *Journal of Orthopaedic Surgery* article, the methodologies in those studies had "inherently poor reproducibility," and even minor changes in posture by the subjects during scans could cause false apparent changes in cartilage. The authors of the *Journal of Orthopaedic Surgery* article explained the manufacturer-sponsored studies' findings by noting that "industry-sponsored trials report positive effects more often than do nonsponsored trials and more find pro-industry results." No reliable scientific medical study has shown that glucosamine and chondroitin, alone or in combination, have a structure modifying effect that will rebuild cartilage that has broken down or worn away.

19. Walgreens thus lacks a reasonable scientific basis to represent to consumers that its products rebuild cartilage. In fact, it is medically impossible to rebuild cartilage that has been damaged or destroyed simply by taking glucosamine and/or chondroitin supplements, however formulated.

20. Plaintiff purchased and consumed Walgreens glucosamine and chondroitin supplements because he believed, based upon the label, that he would rebuild the cartilage in his joints. His belief that the product would "rebuild cartilage" in his joints was reasonable because Walgreens, as a retailer and distributor of dietary supplements throughout the United States, has superior knowledge, skill and expertise (as compared to Plaintiff) to appreciate the truth or falsity of the statement that the product can "rebuild cartilage." Plaintiff reasonably relied upon the statement that the supplements would "rebuild cartilage" when he purchased the product.

21. Plaintiff would not have bought the Walgreens Products if he had known that they would not "rebuild cartilage."

22. Plaintiff was injured because he purchased a product that was incapable of



performing as promised. Moreover, Defendant is able to, and does, charge more for its glucosamine products than it would otherwise be able to because Walgreens represents that its supplements will "rebuild cartilage." In addition, this misrepresentation allows Walgreens to charge more for its supplements than other brands containing similar amounts of glucosamine, chondroitin and the other ingredients contained in Defendant's joint supplements. This price premium is a direct result of Defendant's misrepresentation that its product will "rebuild cartilage."

### **CLASS DEFINITION AND ALLEGATIONS**

23. Plaintiff brings this action on behalf of himself and all other similarly situated Pennsylvania residents pursuant to Rule 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure and seeks certification of the following Class: all consumers who, within the applicable statute of limitations period, purchased in Pennsylvania a Walgreens' glucosamine and/or chondroitin product with the representation that it "rebuild[s] cartilage" on the label. Excluded from the Class are Walgreens, its parents, subsidiaries, affiliates, officers and directors, and those who purchased these products for resale.

24. The members of the Class are so numerous that joinder of all members of the Class is impracticable. Plaintiff is informed and believes that the proposed Class contains thousands of purchasers of the Walgreens Products who have been damaged by Walgreens' conduct as alleged herein. The precise number of Class members is unknown to Plaintiff.

25. This action involves common questions of law and fact, which predominate over any questions affecting individual Class members. These common legal and factual questions include, but are not limited to, the following:

(1) whether the claims discussed above are true, or are misleading, or objectively

- reasonably likely to deceive;
- (2) whether Walgreens' conduct violates public policy;
  - (3) whether the conduct constitutes violations of the laws asserted;
  - (4) whether Walgreens engaged in false or misleading advertising;
  - (5) whether Plaintiff and Class members have sustained monetary loss and the proper measure of that loss; and
  - (6) whether Plaintiff and Class members are entitled to other appropriate remedies, including corrective advertising and injunctive relief.

26. Plaintiff's claims are typical of the claims of the members of the Class because, *inter alia*, all Class members were injured through the uniform misconduct described above having been exposed to Walgreens' false representations regarding the efficacy of the products. Plaintiff is advancing the same claims and legal theories on behalf of himself and all members of the Class.

27. Plaintiff will fairly and adequately protect the interests of the members of the Class, has retained counsel experienced in complex consumer class action litigation, and intends to prosecute this action vigorously. Plaintiff has no adverse or antagonistic interests to those of the Class.

28. A class action is superior to all other available means for the fair and efficient adjudication of this controversy. The damages or other financial detriment suffered by individual Class members is relatively small compared to the burden and expense that would be entailed by individual litigation of their claims against Walgreens. It would thus be virtually impossible for the Class, on an individual basis, to obtain effective redress for the wrongs done to them. Individualized litigation would create the danger of inconsistent or contradictory

judgments arising from the same set of facts and would also increase the delay and expense to all parties and the courts. By contrast, the class action device provides the benefits of adjudication of these issues in a single proceeding, ensures economies of scale and comprehensive supervision by a single court, and presents no unusual management difficulties under the circumstances here.

29. Plaintiff seeks preliminary and permanent injunctive and equitable relief on behalf of the entire Class, preventing Walgreens from further engaging in the acts described and requiring Walgreens to provide full restitution to Plaintiff and Class members.

30. Unless a Class is certified, Walgreens will retain monies received as a result of its conduct that were taken from Plaintiff and Class members. Unless a Class-wide injunction is issued, Walgreens will continue to commit the violations alleged, and the members of the Class and the general public will continue to be deceived.

31. Walgreens has acted and refused to act on grounds generally applicable to the Class, making appropriate final injunctive relief with respect to the Class as a whole.

**COUNT I**  
**Violation of Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301, *et seq.***

32. Plaintiff repeats the allegations in the foregoing paragraphs as if fully set forth herein.

33. Plaintiff brings this Count I individually and on behalf of the members of the Class against all Defendants.

34. The Walgreens Products are consumer products as defined in 15 U.S.C. § 2301(1).

35. Plaintiff and the Class members are consumers as defined in 15 U.S.C. § 2301(3).

36. Defendant is a supplier and warrantor as defined in 15 U.S.C. § 2301(4)

and (5).

37. In connection with the sale of the Walgreens Products, Defendant issued written warranties as defined in 15 U.S.C. § 2301(6) on the product packaging and in various advertisements and promotional materials by making Express Warranties that the Walgreens Products “rebuild cartilage” if the recommended daily dosage is consumed.

38. In fact, the Walgreens Products do not conform to the Express Warranties because each of the Express Warranties is false and misleading. In fact, each of the Express Warranties stands in contrast to independent, clinical research that has shown that none of the Express Warranties are scientifically supported or valid. Specifically, clinical studies have shown that the “active ingredients” in the Walgreens Products are no more effective than placebo in alleviating the pain, stiffness and other discomfort associated with osteoarthritis and, in addition, do not stimulate the growth of cartilage.

39. By reason of Defendant’s breach of warranties, Defendant violated the statutory rights due Plaintiff and the Class members pursuant to the Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301 *et seq.*, thereby damaging Plaintiff and the Class members.

40. Plaintiff and the Class members were injured as a direct and proximate result of Defendant’s breach because they would not have purchased the Walgreens Products if they had known the truth about the Walgreens Products, and would not have paid a premium price for worthless dietary supplements.

**COUNT II**  
**Violation of Pennsylvania Unfair Trade Practices and Consumer Protection Law**

41. Plaintiff repeats and re-alleges the allegations contained in the paragraphs above, as if fully set forth herein.

42. Plaintiff brings this claim individually and on behalf of the Class.

43. Defendant engaged in unfair and deceptive acts and practices, in violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 Pa. Stat. § 201-1 *et seq.*

44. Specifically, Defendant (1) represented that the Walgreens Products would rebuild cartilage” when there was no scientific evidence supporting such claims; (2) sold the Walgreens Products using the aforementioned false representations to generate sales while failing to investigate or properly testing the products to ensure that the representations were accurate; (3) continued to sell the Walgreens Products after scientific evidence undermining the false representations became known.

45. The unfair and deceptive actions of Defendant were done in the course of retail business, trade and commerce. Further, a negative impact on the public interest was caused by Defendant’s conduct.

46. Damages in the form of the price paid by the Class for the Walgreens Products were suffered by consumers as a result of Defendant’s actions.

47. The actions of Defendant were taken willfully, knowingly, or in reckless disregard of the interests of consumers, thereby justifying the award of punitive damages under various state statutes. Specifically, Defendant either deliberately concealed, or was willfully blind to, facts relevant to the question of whether the products it sold would perform as advertised and warranted.

**COUNT III**  
**Breach of Express Warranty**  
**13 Pa. Cons. Stat. Ann. § 2313**  
**(Pennsylvania Class)**

48. Plaintiff repeats and re-alleges the allegations contained in the paragraphs above, as if fully set forth herein.

49. Plaintiff brings this claim individually and on behalf of the Class.

50. The Uniform Commercial Code Section 2-313 provides that an affirmation of fact or promise, including a description of the goods, becomes part of the basis of the bargain and creates an express warranty that the goods shall conform to the promise and to the description.

51. At all times, Pennsylvania has codified and adopted the provisions the Uniform Commercial Code governing the express warranty of merchantability. *See* 13 Pa. Cons. Stat. Ann. § 2313(a)(1) (West) (expressly incorporating the language of the UCC and stating that “[a]ny affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise”).

52. Walgreens expressly warranted that the products were effective in “rebuilding cartilage” in its advertisement, labeling and online advertising. These representations became part of the basis of the bargain and created an express warranty that the goods would conform to the stated promises. Plaintiff placed importance on Walgreens’ representations and purchased the Walgreens Products based on those representations.

53. All conditions precedent to Walgreens’ liability under this contract have been performed by Plaintiff.

54. Walgreens was provided notice of these issues by a letter delivered to Walgreens on behalf of Plaintiff.

55. Walgreens breached the terms of this contract, including the express warranties, with Plaintiff and the Class by not providing products that would “rebuild cartilage.”

56. As a result of Walgreens’ breach of its contract, Plaintiff and the Class have been damaged in the amount of the price of the product they purchased.

**PRAYER FOR RELIEF**

Wherefore, Plaintiff prays for a judgment:

- A. Certifying the Class as requested herein;
- B. Awarding Plaintiff and the proposed Class members damages;
- C. Awarding restitution and disgorgement of Walgreens' revenues to Plaintiff and the proposed Class members;
- D. Awarding injunctive relief as permitted by law or equity, including enjoining Walgreens from continuing the unlawful practices as set forth herein, and directing Walgreens to identify, with Court supervision, victims of its conduct and pay them all money it is required to pay;
- E. Ordering Walgreens to engage in a corrective advertising campaign;
- F. Awarding statutory and punitive damages, as appropriate;
- G. Awarding attorneys' fees and costs; and
- H. Providing such further relief as may be just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial of their claims by jury to the extent authorized by law.

Dated: August 12, 2013

Respectfully submitted,

/s/ R. Bruce Carlson

R. Bruce Carlson

PA56657

Gary F. Lynch

PA56887

Stephanie K. Goldin

PA202865

Jamisen A. Etzel

PA31154

CARLSON LYNCH LTD

PNC Park

115 Federal Street, Suite 210

Pittsburgh, PA 15212

Tel: (412) 322-9243

Fax: (412) 231-0246

/s/ Benjamin J. Sweet

Benjamin J. Sweet

PA87338

Edwin J. Kilpela, Jr.

PA201595

DEL SOLE CAVANAUGH STROYD LLC

200 First Avenue, Suite 300

Pittsburgh, PA 15222

Tel: (412) 261-2393

Fax: (412) 261-2110



CIVIL COVER SHEET

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 NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Brian Calvert

(b) County of Residence of First Listed Plaintiff Lawrence County (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) R. Bruce Carlson, Carlson Lynch LTD 115 Federal Street, Suite 210 Pittsburgh, PA 15212 (412)-322-9243

DEFENDANTS

Walgreen Co.

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, etc.

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

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. 1332(d)

Brief description of cause: Violation of PA Unfair Trade Practices and Consumer Protection Law, Breach of Express Warranty

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

08/12/2013

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

JS 44AREVISED June, 2009  
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
THIS CASE DESIGNATION SHEET MUST BE COMPLETED

**PART A**

This case belongs on the (  Erie  Johnstown  Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.

**PART B** (You are to check ONE of the following)

1.  This case is related to Number \_\_\_\_\_. Short Caption \_\_\_\_\_.
2.  This case is not related to a pending or terminated case.

**DEFINITIONS OF RELATED CASES:**

**CIVIL:** Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit

**EMINENT DOMAIN:** Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

**HABEAS CORPUS & CIVIL RIGHTS:** All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

**PART C**

**I. CIVIL CATEGORY** (Place **x** in only applicable category).

1.  Antitrust and Securities Act Cases
2.  Labor-Management Relations
3.  Habeas corpus
4.  Civil Rights
5.  Patent, Copyright, and Trademark
6.  Eminent Domain
7.  All other federal question cases
8.  All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9.  Insurance indemnity, contract and other diversity cases.
10.  Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

/s/R. Bruce Carlson

Date: 8/12/2013

\_\_\_\_\_  
ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH FORMS MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

AO 440 (Rev. 06/12) Summons in a Civil Action

**UNITED STATES DISTRICT COURT**

for the

\_\_\_\_\_ District of \_\_\_\_\_

_____	)	
	)	
	)	
	)	
<i>Plaintiff(s)</i>	)	
v.	)	Civil Action No.
	)	
	)	
	)	
_____	)	
<i>Defendant(s)</i>	)	

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: