

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**HAROLD HOFFMAN, individually and  
on behalf of those similarly situated**

**Plaintiff,**

**vs.**

**COUNTRY LIFE, LLC**

**Defendants.**

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**CIVIL ACTION NO. \_\_\_\_\_**

**COUNTRY LIFE, LLC NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF UNITED STATES DISTRICT COURT:

Pursuant to Title 28 U.S.C. §§ 1441(b), 1332(d) and 1446, Defendant, Country Life, LLC (“Country Life”), gives notice of removal of an action filed against it in the Superior Court of the State of New Jersey, Bergen County, to the United States District Court for the District of New Jersey. In support of this Notice of Removal, Country Life respectfully offers the following:

**Preliminary Matters**

1. On or about August 15, 2013, plaintiff filed this lawsuit, entitled *Harold Hoffman v. Country Life, LLC*, Docket Number BER-L-6247-13, in the Superior Court of the State of New Jersey, Bergen County. See Summons and Complaint attached hereto as Exhibit A.

2. Plaintiff served Country Life with a Summons and Complaint on August 20, 2013. The Complaint is a putative class action on behalf of plaintiff and a nationwide class of individuals who during the past four years purchased Omega 3 Mood, an omega 3 fatty acid dietary supplement manufactured and distributed by Country Life. The Complaint alleges damages under the New Jersey

Consumer Fraud Act and in common law fraud and contends that the product cannot perform as advertised.

3. This Notice of Removal is timely in that it is filed within thirty (30) days after service of the Complaint upon Country Life. 28 U.S.C. § 1446(b).

### **Grounds For Removal**

4. Removal to federal court is based upon diversity of citizenship under 28 U.S.C. §§ 1441(b) and 1332(d).

5. Hoffman, the lead plaintiff, alleges that he is a citizen of the State of New Jersey. Complaint ¶1. He also alleges that defendant Country Life is incorporated under the laws of the State of New York with its principal place of business in Hauppauge, NY. Complaint ¶2. *See also*, Exhibit B, attached Declaration of Brian Richmond, President of Country Life, at ¶2, stating that Country Life is a New York limited liability company with its principal place of business in New York.

7. The sole member of Country Life, a New York limited liability company, is KI NutriCare, Inc., which is a New York Corporation with its principal place of business in Hauppauge, New York. See Exhibit C, attached report from the NYS Department of State, Division of Corporations. Consequently, there is diversity of citizenship between defendant Country Life, LLC and its sole member, KI NutriCare, Inc., and at least one member of the purported class, which provides the diversity requirement for this Court to exercise original jurisdiction over the matter. 28 §1332(d)(2)(A).

6. The matter in controversy is also in excess of \$5 million as required by 28 §1332(d)(2) to confer original jurisdiction on this Court. Specifically, plaintiff seeks “reimbursement

of sums paid by the class members” for their purchases of the Omega 3 Mood product, so the matter in controversy includes the retail sales price paid by all class members over the past four years.

7. Plaintiff also seeks treble damages and attorney’s fees under the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-19, Complaint Counts I through V, and punitive damages in common law fraud. Complaint Count VI.

8. As set forth in the attached Declaration of Brian Richmond at ¶4, Omega 3 Mood is sold in bottles of 90 and 180 capsules, which have a suggested retail of \$31.99 and \$59.99 respectively. During the four-year period from September 9, 2009 through September 9, 2013, the period for which plaintiff seeks reimbursement on behalf of all nationwide purchasers, Country Life sold 145,285 of the 90-unit bottles and 20,220 of the 180-unit bottles of Omega 3 Mood, which had a total retail value, excluding tax and shipping, of \$5,860,665. *Id.* at ¶6. The total retail value of the shipments, including tax and shipping, totals \$6,44,732. Therefore, the total price to consumers for both sizes during the four-year period, regardless of tax and shipping, exceeds the jurisdictional amount of \$5 million required by 28 §1332(d)(2).

9. Since plaintiff seeks treble damages under the New Jersey Consumer Fraud Act, the matter in controversy far exceeds the jurisdictional amount of \$5,000,000. *See, Federico v. Home Depot*, 507 F.3d 188, 195 (3rd Cir. 2007) (NJCFA treble damages are included in determining the matter in controversy). Similarly, the amount in controversy under the common law fraud count for jurisdictional purposes includes retail compensatory damages plus up to five times that amount in punitive damages as permitted by New Jersey law. *Id.*

10. Therefore, under either the Consumer Fraud Act or in common law fraud as alleged by plaintiff, the jurisdictional amount in controversy is more than satisfied such that this Court has original jurisdiction over this case.

Wherefore, Country Life, pursuant to the above statutes and in consideration of the facts of record, removes this action for trial from the Superior Court of the State of New Jersey, Bergen County, to the Federal District Court for the District of New Jersey.

Dated: September 19, 2013

SEDGWICK LLP

By: /S/ Joseph F. Falgiani  
Joseph F. Falgiani  
Three Gateway Center, 12th Floor  
Newark, New Jersey 07102  
(973) 242-0002  
Attorneys for Defendant,  
COUNTRY LIFE, LLC

**cc: by Regular Mail**

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Attorneys for Attorneys for Defendant, Country Life, LLC

HAROLD HOFFMAN,  
  
Plaintiffs,  
  
-against-  
  
COUNTRY LIFE, LLC,  
  
Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - BERGEN COUNTY  
DOCKET NO. BER-L- L-6247-13

Civil Action

**NOTICE OF NOTICE OF REMOVAL**

**TO:** Plaintiff, Harold D. Hoffman, Esq., *Pro Se*:

Please take notice that the civil action, in which you are named as plaintiff, filed on or about August 15, 2013 in the Superior Court of the State of New Jersey, Bergen County has been removed from that court to the United States District Court for the District of New Jersey, effective on September 19, 2013. On that day a Notice of Removal, a copy of which (with exhibits) is attached, was filed with the clerk of the United States District Court for the District of New Jersey, and a copy of that Notice of Removal has been filed with the clerk of the state court, effecting removal pursuant to 28 U.S.C. § 1446.

Dated: September 19, 2013

**SEDGWICK LLP**

BY: \_\_\_\_\_

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Attorneys for Attorneys for Defendant, Country Life, LLC

HAROLD HOFFMAN,

Plaintiffs,

-against-

COUNTRY LIFE, LLC,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – BERGEN COUNTY  
DOCKET NO. BER-L- L-6247-13

Civil Action

**NOTICE OF NOTICE OF REMOVAL**

**TO THE HONORABLE JUDGE OF THE SUPERIOR COURT:**

Please take notice that Defendant's Notice of Removal of the above-entitled action from the Superior Court of the State of New Jersey, Bergen County, to the United States District Court for the District of New Jersey, (a copy of which Notice [without exhibits] is attached as Exhibit "A") was duly filed in the United States District Court for the District of New Jersey, on September 19, 2013.

Defendant Country Life, LLC upon filing of Defendant's Notice of Removal and a copy of the Notice with the Clerk of the state court, has effected this removal in accordance with 28 U.S.C. § 1452(a).

This Court is respectfully requested to proceed no further in this action, unless and until such time as the action may be remanded by order of the United States District Court.

Respectfully submitted,

**SEDGWICK LLP**

BY: \_\_\_\_\_  
Joseph F. Falgiani  
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Newark, New Jersey 07102  
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(973) 242-0002  
Attorneys for Defendant,  
Country Life, LLC

# EXHIBIT A



HAROLD M. HOFFMAN, ESQ.

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ENGLEWOOD, NJ 07631

(201) 569-0086

HOFFMAN.ESQ@VERIZON.NET

ATTORNEY FOR PLAINTIFF AND THE PUTATIVE CLASS

HAROLD M. HOFFMAN, individually and on  
behalf of those similarly situated,

Plaintiff,

-against-

COUNTRY LIFE, LLC,

Defendant.

SUPERIOR COURT OF NEW JERSEY  
BERGEN COUNTY - LAW DIVISION

DOCKET NO.: BER-L-6247-13

CIVIL ACTION

**SUMMONS**

From the State of New Jersey To the Defendant(s) named above:

**COUNTRY LIFE, LLC**

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The Complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided). If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, CN-971, Trenton, NJ 08625. A \$200 filing fee, payable to the Clerk of the Superior Court, and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

/s/ Jennifer M. Perez

Jennifer M. Perez, Acting Superior Court Clerk

Dated: August 19, 2013

Name of Defendant to be Served: **COUNTRY LIFE, LLC**

Address of Defendant to be Served: 180 Vanderbilt Motor Parkway, Hauppauge, NY 11788

**ATLANTIC COUNTY**

Deputy Clerk of the Superior Court  
Civil Division, Direct Filing  
1201 Bacharach Blvd., 1<sup>st</sup> Fl.  
Atlantic City, NJ 08401  
**LAWYER REFERRAL**  
(609) 345-3444  
**LEGAL SERVICES**  
(609) 348-4200

**BERGEN COUNTY**

Deputy Clerk of the Superior Court  
Case Processing Section - Rm 113  
Justice Center - 10 Main St.  
Hackensack, NJ 07601  
**LAWYER REFERRAL**  
(201) 488-0044  
**LEGAL SERVICES**  
(201) 487-2166

**BURLINGTON COUNTY**

Deputy Clerk of the Superior Court  
Central Processing Office  
Attn.: Judicial Intake  
49 Rancocas Rd., 1<sup>st</sup> Fl.  
Mt. Holly, NJ 08060  
**LAWYER REFERRAL**  
(609) 261-4862  
**LEGAL SERVICES**  
(609) 261-1088

**CAMDEN COUNTY**

Deputy Clerk of the Superior Court  
Civil Processing Office  
Hall of Records, Suite 150  
101 S. Fifth St.  
Camden, NJ 08103-4001  
**LAWYER REFERRAL**  
(856) 964-4520  
**LEGAL SERVICES**  
(856) 964-2010

**CAPE MAY COUNTY**

Deputy Clerk of the Superior Court  
Court House  
9 N. Main Street  
Cape May, NJ 08210  
**LAWYER REFERRAL**  
(609) 463-0313  
**LEGAL SERVICES**  
(609) 465-3001

**CUMBERLAND COUNTY**

Deputy Clerk of the Superior Court  
Civil Case Management Office  
Broad & Fayette Sts., PO Box 10  
Bridgeton, NJ 08302  
**LAWYER REFERRAL**  
(856) 692-6207  
**LEGAL SERVICES**  
(856) 451-0003

**ESSEX COUNTY**

Deputy Clerk of the Superior Court  
237 Hall of Records  
465 Dr. Martin Luther King, Jr. Blvd.  
Newark, NJ 07102  
**LAWYER REFERRAL**  
(973) 533-6755  
**Legal Services**  
(973) 624-4500

**GLOUCESTER COUNTY**

Deputy Clerk of the Superior Court  
Civil Case Management Office  
Broad & Delaware Streets  
Woodbury, NJ 08096  
**LAWYER REFERRAL**  
(856) 848-4589  
**LEGAL SERVICES**  
(856) 964-9400

**HUDSON COUNTY**

Deputy Clerk of the Superior Court  
Administration Bldg  
Hudson Fee Office, Room G-9  
595 Newark Ave.  
Jersey City, NJ 07306  
**LAWYER REFERRAL**  
(201) 798-2727  
**LEGAL SERVICES**  
(201) 792-6363

**HUNTERDON COUNTY**

Deputy Clerk of the Superior Court  
Civil Division  
65 Park Avenue  
Flemington, NJ 08822  
**LAWYER REFERRAL**  
(908) 735-2611  
**LEGAL SERVICES**  
(908) 782-7979

**MERCER COUNTY**

Deputy Clerk of the Superior Court  
Local Filing Office, Court House  
175 S. Broad St., PO Box 8068  
Trenton, NJ 08650  
**LAWYER REFERRAL**  
(609) 585-6200  
**LEGAL SERVICES**  
(609) 695-6249

**MIDDLESEX COUNTY**

Deputy Clerk of the Superior Court  
Court House, 1<sup>st</sup> Fl.  
1 Kennedy Sq., PO Box 2633  
New Brunswick, NJ 08903-2633  
**LAWYER REFERRAL**  
(732) 828-0053  
**LEGAL SERVICES**  
(732) 249-7600

**MONMOUTH COUNTY**

Deputy Clerk of the Superior Court  
71 Monument Park, PO Box 1260  
Court House  
Freehold, NJ 07728-1262  
**LAWYER REFERRAL**  
(732) 431-5544  
**LEGAL SERVICES**  
(732) 866-0020

**MORRIS COUNTY**

Deputy Clerk of the Superior Court  
Civil Division  
PO Box 910  
Morristown, NJ 07930-0910  
**LAWYER REFERRAL**  
(973) 267-5882  
**LEGAL SERVICES**  
(973) 285-6911

**OCEAN COUNTY**

Deputy Clerk of the Superior Court  
Court House, Room 121  
118 Washington St.  
Toms River, NJ 08754  
**LAWYER REFERRAL**  
(732) 240-3666  
**LEGAL SERVICES**  
(732) 341-2727

**PASSAIC COUNTY**

Deputy Clerk of the Superior Court  
Civil Division  
Court House  
77 Hamilton St.  
Paterson, NJ 07505  
**LAWYER REFERRAL**  
(973) 278-9223  
**LEGAL SERVICES**  
(973) 523-2900

**SALEM COUNTY**

Deputy Clerk of the Superior Court  
92 Market St., PO Box 29  
Salem, NJ 08079  
**LAWYER REFERRAL**  
(856) 935-5629  
**LEGAL SERVICES**  
(856) 451-0003

**SOMERSET COUNTY**

Deputy Clerk of the Superior Court  
Civil Division Office  
Court House, 3<sup>rd</sup> Fl.  
Somerville, NJ 08876  
**LAWYER REFERRAL**  
(908) 685-2323  
**LEGAL SERVICES**  
(908) 231-0840

**SUSSEX COUNTY**

Deputy Clerk of the Superior Court  
Sussex County Judicial Center  
43-47 High Street  
Newton, NJ 07860  
**LAWYER REFERRAL**  
(973) 267-5882  
**LEGAL SERVICES**  
(973) 383-7400

**UNION COUNTY**

Deputy Clerk of the Superior Court  
Court House, Room 107  
2 Broad Street  
Elizabeth, NJ 07207-6073  
**LAWYER REFERRAL**  
(908) 353-4715  
**LEGAL SERVICES**  
(908) 354-4340

**WARREN COUNTY**

Deputy Clerk of the Superior Court  
Civil Division Office  
Court House  
413 Second Street  
Belvidere, NJ 07823-1500  
**LAWYER REFERRAL**  
(908) 387-1835  
**LEGAL SERVICES**  
(908) 475-2010

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ATTORNEY FOR PLAINTIFF AND THE PUTATIVE CLASS

DATE FILED	8/15/13
BATCH #	609
PAYMENT #	141867
CA CK CC MO CG	
PAYOR	Hoffman
AMOUNT	\$200
OVER	

SUPERIOR COURT BERGEN COUNTY  
FILED

2013 15 213

*[Handwritten signature]*

HAROLD M. HOFFMAN, individually and on  
behalf of those similarly situated,

Plaintiff,

-against-

COUNTRY LIFE, LLC,

Defendant.

SUPERIOR COURT OF NEW JERSEY  
BERGEN COUNTY - LAW DIVISION

DOCKET NO.: BER-L- 6247 -13

CIVIL ACTION

COMPLAINT AND JURY  
DEMAND IN CLASS ACTION

OVERVIEW

By this civil action, Plaintiff brings claims on his own behalf and on behalf of those similarly situated (the "Class"), to redress nationwide injury inflicted on the United States consumer public. As detailed below, Defendant, on a nationwide basis, advertised, promoted, marketed, distributed and sold – both online and in retail stores throughout the nation, including the State of New Jersey – a dietary supplement in softgel form known as *Omega 3 Mood*, based upon false and misrepresented claims of product efficacy.

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As alleged below, Defendant advertises, promotes, markets, distributes and sells Omega 3 Mood, a dietary supplement in softgel form, as possessing the ability to support brain health, emotional health and mood. In truth and in fact, and as confirmed by medical experts who will testify at trial, there are no valid, independent, reliable clinical studies and there is no medically-accepted evidence that Omega 3 Mood possesses efficacy to support brain health, emotional health and mood, or do anything whatsoever in that regard. Defendant's product efficacy claims are false and misleading and there exists no reliable evidence substantiating Defendant's claims and promises. Defendant's claims and promises with respect to the purported efficacy of Omega 3 Mood were calculated and designed to lead Plaintiff and others similarly situated to believe that Omega 3 Mood had the capacity to support brain health, emotional health and mood, as above noted. Defendant took consumers' money predicated on these specific claims of health benefit and delivered to them, in return, nothing but broken promises.

The putative class comprises all nationwide purchasers of Omega 3 Mood for the four year period preceding the filing of this suit.

1. At all times relevant, Plaintiff Harold M. Hoffman had a place of residence in the State of New Jersey, County of Bergen. Plaintiff was exposed to and read, saw and/or heard Defendant's advertising and marketing claims and promises with respect to Omega 3 Mood, and thereafter purchased the product, in or about July of 2013 at a Whole

Foods supermarket in Bergen County, New Jersey. Plaintiff used the Defendant's product and was dissatisfied with it.

2. At all relevant times, Defendant was a limited liability company organized and existing pursuant to the laws of the State of New York, with a principal place of business in Hauppauge, NY.

3. Defendant advertised, marketed, distributed and sold Omega 3 Mood in commerce throughout the United States, including but not limited to the State of New Jersey.

4. At all relevant times, plaintiff was and is a consumer, with a residence in the State of New Jersey, County of Bergen.

5. At all relevant times, Defendant constituted a "person" as defined in the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1(d).

6. For the four-year period preceding the filing of this action, Defendant, by retail and online sale throughout the nation, including the State of New Jersey, marketed, advertised, promoted, offered and sold its products to consumers, including Omega 3 Mood, a dietary supplement in softgel form purportedly able to support brain health, emotional health and mood.

7. Defendant markets, advertises and sells Omega 3 Mood as possessing efficacy to deliver the foregoing benefits. Based on these claims, Defendant is believed to have sold significant quantities of Omega 3 Mood to consumers throughout the nation, including the State of New Jersey. Specifically, Defendant represents that Omega 3 Mood is scientifically formulated to support brain health, emotional health and mood and that it possesses efficacy to do so. Defendant further represents that as research continues to grow, it is becoming evident that Omega 3 fatty acids, especially EPA, play a significant role in emotional health.

8. To maximize the sale of this product through the duping of consumers, Defendant makes the foregoing claims of product efficacy on the Omega 3 Mood product label which is prominently exhibited to consumers in a variety of retail supermarkets, and other retail outlets.

9. Omega 3 Mood purportedly contains (per two softgel dose) 1,000 mg of EPA and 150 mg of DHA.

10. There is no valid, reliable, credible, independent clinical research and/or testing and/or medical science to support Defendant's claim that Omega 3 Mood can support brain health, emotional health and mood. According to reliable, competent medical experts who will testify at trial, it does not. Indeed, according to Drs. Michael

Bloch, M.D. and Jonas Hannestad, M.D., both assistant professors at the Yale University Medical School, current published trials indicate negligible benefit from Omega 3 fatty acids for mood disorders, including depression. These Yale professors indicate that nearly all of the alleged treatment efficacy observed in the published literature is attributable, not as suggested by Defendant on its product labeling, but to publication bias.

11. Defendant's exaggerated and blatant misrepresentations regarding the efficacy of Omega 3 Mood were designed to and did lead Plaintiff and others similarly situated to believe that Omega 3 Mood was effective in supporting brain health, emotional health and mood.

12. Plaintiff and members of the putative Class relied on Defendant's misrepresentations and would not have paid as much, if at all, for Omega 3 Mood. As a result, Defendant has wrongfully taken substantial sums from hard-working New Jersey and U.S. consumers.

13. Plaintiff brings this suit to recover funds taken by Defendant as a consequence of its ongoing deception of nationwide consumers.

14. The affirmative promises and representations made by Defendant in connection with the marketing, advertisement and sale of Omega 3 Mood, as aforesaid, are

false and are without valid, credible scientific, medical and/or clinical support.

15. Plaintiff and members of the putative class are purchasers of Omega 3 Mood and, prior to purchasing the product, saw, read and/or heard Defendant's advertisements, promises, claims and representations, as aforesaid.

16. Plaintiff and members of the class, prior to purchasing the product, saw, read and/or heard Defendant's promises, claims and representations as aforesaid, and made an out of pocket payment to Defendant in response thereto.

17. The very purpose of the New Jersey Consumer Fraud Act is to protect consumers, such as the putative class members at bar, from being victimized by false and unsubstantiated promises and claims with respect to product efficacy and benefit.

18. In truth and fact, Defendant misrepresented the efficacy and benefit of its product. Plaintiff and members of the class paid for a product that Defendant affirmatively and specifically represented to be effective in supporting brain health, emotional health and mood. In truth, the product sold by Defendant can deliver no benefit consistent with Defendant's promises.

19. Here, consumers, including plaintiff, made purchasing decisions and did, in fact, make purchases from Defendant based upon Defendant's specific claims and



representations of product efficacy and benefit.

20. Defendant has sold an affirmatively misrepresented and mislabeled product.

21. The affirmative promises and representations made by Defendant – both in product labeling and in marketing advertisements and representations – in connection with Omega 3 Mood are false and misleading. Indeed, Defendant has misrepresented the product's purported salutary benefits.

22. Plaintiff and members of the class were entitled to trust the Defendant's labeling and marketing representations and advertisements with respect to the product. The product delivered by Defendant to plaintiff and members of the putative class misrepresented product efficacy and benefit.

23. Defendant's advertisements, promises and representations concerning Omega 3 Mood are false and constitute a deception; a misrepresentation; an unconscionable trade practice; a sharp and deceitful marketplace practice, and are a false promise.

24. Defendant's advertisements, promises and representations concerning Omega 3 Mood result in nationwide consumers who purchased it, being subjected to misrepresentation, false promise, fraud, deceit, trickery and false and deceptive advertising.

25. Defendant has made affirmative misrepresentations in connection with the

sale, marketing and/or advertisement of Omega 3 Mood.

26. Plaintiff and members of the putative class suffered ascertainable loss in the form of actual out of pocket payment and expenditure, as aforesaid, as a result of Defendants' unlawful conduct as aforesaid. Plaintiff and members of the putative class paid hard earned money and received from Defendant, in exchange, a product which was unable to deliver the benefits promised by Defendant. Indeed, there was a substantial difference between the price paid by consumers, including plaintiff, for the Defendant's product, and the represented value of the product.

27. Here, plaintiff and members of the class suffered ascertainable loss when they received, for their money, a product less than, and different from, the product promised by Defendant. The Defendant's product failed to measure up to the consumers' reasonable expectations based on the representations made by Defendant. Thus, purchasers of said product were injured and suffered loss.

28. For their money, plaintiff and members of the class received something less than, and different from, what they reasonably expected in view of Defendant's representations. As a result, they suffered ascertainable loss. Here, the measure of harm/loss suffered by Plaintiff and class members can be either the difference between the price paid by the Plaintiff and class members and the product value that had been

represented by the seller, or, alternatively, the difference between the price paid and the actual value (or lack of value) of Defendant's product.

29. Defendant marketed and sold Omega 3 Mood - and consumers purchased it - on the premise that the product could deliver specified benefit. It cannot do so. Thus, there is a causal relationship between the Defendant's misrepresentations of product efficacy and the loss suffered by plaintiff and class members.

### **CLASS ALLEGATIONS**

30. Plaintiff brings this suit as a class action individually and in behalf of others similarly situated pursuant to New Jersey Court Rule 4:32. Subject to additional information obtained through further investigation and/or discovery, the definition of the Class may be expanded or narrowed. The proposed Class consists of all nationwide purchasers of Omega 3 Mood for the four year period preceding the filing of this suit. As to the individual plaintiff, the amount in controversy in this action, including, without limitation, compensatory, treble, and/or punitive damages and counsel fees, is less than \$75,000.00. As to the putative plaintiff class, the amount in controversy in this action, including, without limitation, compensatory, treble, and/or punitive damages and counsel fees, is less than \$5 million.

31. This action has been brought and may properly be maintained as a class action pursuant to New Jersey Court Rule 4:32. This action is specifically brought in New Jersey state court because, among other reasons, Plaintiff's proposed dual leadership roles, class representative and class counsel, are *per se* impermissible in federal courts within the Third Circuit. Thus, this action may be maintained as a class action, subject to court approval, only in New Jersey state court.

**Numerosity:** The members of the Class are so numerous that joinder of all members is impracticable. The Class is comprised of consumers throughout the United States.

**Commonality:** Common questions of law and fact exist as to all members of the Class. These common questions predominate over the questions affecting only individual Class members, and include:

- a. Whether Defendant made affirmative misrepresentations in violation of the New Jersey Consumer Fraud Act;
- b. Whether Defendant misrepresented the efficacy of Omega 3 Mood; and,
- c. The appropriate measure of damages sustained by the Plaintiff and/or other members of the Class.

**Typicality:** Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct. Plaintiff, like other members of the Class, purchased Omega 3 Mood after exposure to the same misrepresentations and/or omissions in Defendants' advertising and received a product less

than and different from the promised product. Plaintiff is advancing claims and legal theories typical to the Class.

**Adequacy:** Plaintiff's claims are made in a representative capacity on behalf of all members of the Class. Plaintiff has no interests antagonistic to the interests of the other members of the proposed Class and is subject to no unique defenses.

32. Plaintiff is similarly situated in interest to all members of the proposed Class and is committed to the vigorous prosecution of this action. Accordingly, Plaintiff is an adequate representative of the proposed Class and will fairly and adequately protect the interests of the Class.

33. This suit may be maintained as a class action because Defendant has acted, and/or have refused to act, on grounds generally applicable to the Class, thereby making appropriate final relief.

34. At bar, Plaintiff does not presently seek injunctive relief.

35. **Superiority:** In addition, this suit may be maintained as a class action because a class action is superior to all other available methods for the fair and efficient adjudication of this controversy, since joinder of all members is impracticable. The claims asserted herein are applicable to all consumers throughout the United States who

purchased Omega 3 Mood. The injury suffered by each individual class member is relatively small in comparison to the burden and expense of individual prosecution of the complex and extensive litigation necessitated by Defendant's conduct. It would be virtually impossible for members of the Class individually effectively and cost-efficiently to redress Defendant's wrongful conduct. Individual litigation would enhance delay and expense to all parties. The class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

#### COUNT I

36. Plaintiff repeats and realleges the prior allegations of this complaint as if fully set forth at length.

37. Defendant's conduct constitutes an unconscionable commercial practice in violation of the New Jersey Consumer Fraud Act, *N.J.S.A. 56:8-2*.

38. As a proximate result of Defendant's conduct, plaintiff and members of the class were damaged.

**WHEREFORE**, plaintiff, individually and in behalf of the class, demands judgment against the Defendant for treble damages together with pre-judgment and

post-judgment interest, fees, costs, attorney's fees, civil penalties mandated by N.J.S.A. 56:8-19, and any other and further relief as the Court deems just and proper.

## COUNT II

39. Plaintiff repeats and realleges the prior allegations of this complaint as if fully set forth at length.

40. Defendant's conduct constitutes deception in violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-2.

41. As a proximate result of Defendant's conduct, plaintiff and members of the class were damaged.

**WHEREFORE**, plaintiff, individually and in behalf of the class, demands judgment against the Defendant for treble damages together with pre-judgment and post-judgment interest, fees, costs, attorney's fees, civil penalties mandated by N.J.S.A. 56:8-19, and any other and further relief as the Court deems just and proper.

## COUNT III

42. Plaintiff repeats and realleges the prior allegations of this complaint as if fully set forth at length.

43. Defendant's conduct constitutes fraud in violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-2.

44. As a proximate result of Defendant's conduct, plaintiff and members of

the class were damaged.

**WHEREFORE**, plaintiff, individually and in behalf of the class, demands judgment against the Defendant for treble damages together with pre-judgment and post-judgment interest, fees, costs, attorney's fees, civil penalties mandated by N.J.S.A. 56:8-19, and any other and further relief as the Court deems just and proper.

#### COUNT IV

45. Plaintiff repeats and realleges the prior allegations of this complaint as if fully set forth at length.

46. Defendant's conduct constitutes false pretense, false promise and/or misrepresentation, in violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-2.

47. As a proximate result of Defendant's conduct, plaintiff and members of the class were damaged.

**WHEREFORE**, plaintiff, individually and in behalf of the class, demands judgment against the Defendant for treble damages together with pre-judgment and post-judgment interest, fees, costs, attorney's fees, civil penalties mandated by N.J.S.A. 56:8-19, and any other and further relief as the Court deems just and proper.

#### COUNT V

48. Plaintiff repeats and realleges the prior allegations of this complaint as if fully set forth at length.



49. Defendant's conduct constitutes knowing concealment, suppression and/or omission of material facts with the intent that others, including members of the plaintiff-class, rely upon such concealment, suppression and/or omission, in connection with the sale or advertisement of any merchandise in violation of the New Jersey Consumer Fraud Act, *N.J.S.A. 56:8-2*.

50. As a proximate result of Defendant's conduct, plaintiff and members of the class were damaged.

**WHEREFORE**, plaintiff, individually and in behalf of the class, demands judgment against the Defendant for treble damages together with pre-judgment and post-judgment interest, fees, costs, attorney's fees, civil penalties mandated by *N.J.S.A. 56:8-19*, and any other and further relief as the Court deems just and proper.

#### **COUNT VI**

51. Plaintiff repeats and realleges the prior allegations of this complaint as if fully set forth at length.

52. Defendant, in the advertisement, marketing and sale of Omega 3 Mood, deliberately engaged in deception, false pretense, false promise and/or misrepresentation with respect to material facts, and did so with the intent that others, including members of the plaintiff-class, rely upon same, and, upon information and belief, members of the class did justifiably rely upon same to their detriment.

53. Defendant, in the advertisement, marketing and sale of Omega 3 Mood, deliberately and knowingly engaged in concealment, suppression and/or omission of material facts with the intent that others, including members of the plaintiff-class, rely upon same, and, upon information and belief, members of the class did justifiably rely upon same to their detriment.

54. As a proximate result of defendant's conduct, members of the class were damaged.

55. Defendant's conduct constitutes common law fraud.

**WHEREFORE**, plaintiff, in behalf of the class, demands judgment against the Defendant for treble damages and/or punitive damages together with pre-judgment and post-judgment interest, fees, costs, attorney's fees, and any other and further relief as the Court deems just and proper.

#### **COUNT VII**

56. Plaintiff repeats and realleges the prior allegations of this complaint as if fully set forth at length.

57. As a result of Defendant's false and deceptive advertisements, claims, promises and representations concerning the efficacy of Omega 3 Mood, and as a consequence of Defendant's unconscionable trade practices, its sharp and deceitful marketplace practices, and its false promises, all as aforesaid, the class members paid

money to and conferred a benefit upon Defendant in connection with the sale of Omega 3 Mood by Defendant to class members, which benefit was received and continues to be retained by Defendant.

58. Retention of that benefit without reimbursement by Defendant to all class members would be unjust and inequitable.

59. Retention of that benefit by Defendant at the expense of all class members would be unjust and inequitable.

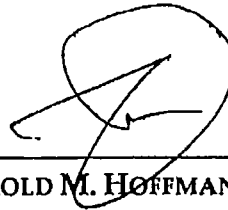
60. Defendant, as a result of its false and deceptive conduct as aforesaid, became indebted to class members for the sums paid by class members to Defendant for purchase of a misrepresented product. Retention of said sums, without reimbursement, would result in the unlawful, unjust and inequitable enrichment of Defendant beyond its lawful rights in connection with the sale of Omega 3 Mood to class members.

61. All monies paid by class members to Defendant for purchase of Omega 3 Mood, including all interest earned by Defendant on such monies while in wrongful possession thereof, should be disgorged by Defendant and reimbursed to class members under principles of unjust enrichment.

62. As a proximate result of Defendant's conduct, members of the class were damaged.

**WHEREFORE**, plaintiff, in behalf of the class, demands judgment against the Defendant for reimbursement of sums paid by class members to Defendant for purchase of a misrepresented product, Omega 3 Mood, together with pre-judgment and post-judgment interest, fees, costs, attorney's fees, and any other and further relief as the Court deems just and proper.

Dated: August 14, 2013



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**HAROLD M. HOFFMAN, ESQ.**

*Counsel for Plaintiff and the Putative Class*

240 Grand Avenue

Englewood, NJ 07631

[hoffman.esq@verizon.net](mailto:hoffman.esq@verizon.net)

### **JURY DEMAND**

Demand is hereby made for trial by jury as to all issues.


### **TRIAL COUNSEL DESIGNATION**

Pursuant to Rule 4:25-4, the Court is respectfully advised that Harold M. Hoffman, Esq., is hereby designated as trial counsel in behalf of plaintiff and the putative class.

**CERTIFICATION PURSUANT TO RULE 4:5-1**

Harold M. Hoffman, counsel for plaintiff, hereby certifies that the matter in controversy is not the subject of any other known pending action in this or any other Court or any pending arbitration, nor is any other action or arbitration known to be contemplated. At this time, no other known party, other than members of the class, are anticipated for joinder.

I certify that the foregoing is true to the best of my knowledge. I am aware that if any of the foregoing is wilfully false, I am subject to punishment.

---

HAROLD M. HOFFMAN, ESQ.

Dated: August 14, 2013

# EXHIBIT B

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**HAROLD HOFFMAN, individually and  
on behalf of those similarly situated**

**Plaintiff,**

**vs.**

**COUNTRY LIFE, LLC**

**Defendant.**

§  
§  
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§  
§

**CIVIL ACTION NO. \_\_\_\_\_**

**DECLARATION OF BRIAN RICHMOND**

Brian Richmond, of full age declares as follows:


1. I am the Chief Operating Officer of Country Life, LLC and make this declaration in support of the Notice of Removal of this case to the United States District Court for the District of New Jersey.
2. Country Life, LLC is a New York limited liability company with its principal place of business in Hauppauge, New York.
3. I understand that plaintiff has filed a putative class action against Country Life, LLC seeking reimbursement of the purchase price paid by the putative class over a four-year period for Omega 3 Mood, a product manufactured and distributed by Country Life, LLC.
4. Omega 3 Mood is an omega 3 fatty acid supplement sold in bottles of 90 or 180 gel capsules. The suggested retail prices for the products are \$31.99 and \$59.99 respectively. Many states tax the sale of dietary supplements, and we estimate an additional 10% of this amount to cover tax and shipping.
5. During the four-year period between September 9, 2009 through September 9, 2013, which I understand is approximately the period for which plaintiff is seeking reimbursement of the

purchase price for the nationwide class, Country Life shipped 145,285 bottles 90 capsules and 20,200 bottles of 180 capsules of Omega 3 mood to customers, which include distributors and retailers. The total retail value of those shipments without tax and shipping was \$5,860,665.

6. The retail value of the shipments with tax and shipping was \$6,446,732.

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

Executed on September 12, 2013

  
Brian Richmond,  
Chief Operating Officer  
Country Life, LLC



# EXHIBIT C

# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through September 17, 2013.

Selected Entity Name: KI NUTRICARE, INC.

Selected Entity Status Information

**Current Entity Name:** KI NUTRICARE, INC.

**DOS ID #:** 3179923

**Initial DOS Filing Date:** MARCH 21, 2005

**County:** SUFFOLK

**Jurisdiction:** NEW YORK

**Entity Type:** DOMESTIC BUSINESS CORPORATION

**Current Entity Status:** ACTIVE

Selected Entity Address Information

**DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)**

KI NUTRICARE, INC.  
180 VANDERBILT MOTOR PARKWAY  
HAUPPAUGE, NEW YORK, 11788-5175

**Chief Executive Officer**

KENICHI SAITO  
180 VANDERBILT MOTOR PARKWAY  
HAUPPAUGE, NEW YORK, 11788-5175

**Principal Executive Office**

KI NUTRICARE, INC.  
180 VANDERBILT MOTOR PARKWAY  
HAUPPAUGE, NEW YORK, 11788-5175

**Registered Agent**

NONE

This office does not record information regarding the names and addresses of officers, shareholders or directors of nonprofessional corporations except the chief executive officer, if provided, which would be listed above. Professional corporations must include the name(s) and address(es) of the initial officers,

directors, and shareholders in the initial certificate of incorporation, however this information is not recorded and only available by viewing the certificate.

#### \*Stock Information

# of Shares	Type of Stock	\$ Value per Share
500000	Par Value	.01

\*Stock information is applicable to domestic business corporations.

#### Name History

Filing Date	Name Type	Entity Name
MAR 21, 2005	Actual	KI NUTRICARE, INC.

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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## 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**

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

(c) Attorneys (Firm Name, Address, Email and Telephone Number)

**DEFENDANTS**

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)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**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 (specify)    ☐ 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):

Brief description of cause:

**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

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.