

**IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF NEW JERSEY**

**JOHN J. GROSS, on behalf of himself and
all others similarly situated,**

Plaintiff,

v.

WALGREEN CO., an Illinois corporation,

Defendant.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Case No. _____

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

NATURE OF THE ACTION

1. During the class period, Walgreens sold a line of glucosamine and chondroitin supplements with the false promise and deceptive warranty that its products "rebuild cartilage" (collectively, the "Walgreens Products"). As Walgreens was fully aware, however, it is physically and biologically impossible to "rebuild" cartilage that has been lost or damaged.

2. Walgreens sold the Walgreens Products throughout the State of New Jersey 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 who purchased Walgreens

glucosamine and chondroitin supplements in New Jersey from October 2006 to December 2012 that were sold with a label promising that the product would "rebuild cartilage."

PARTIES

3. Plaintiff John J. Gross is a resident of Mount Royal, New Jersey. Mr. Gross purchased Walgreen's Glucosamine Chondroitin products directly from Walgreens stores in New Jersey on a regular basis in 2011 and 2012. Prior to making his purchases, Mr. Gross relied upon the Company's claims that its glucosamine and chondroitin products "rebuild cartilage." Specifically, those claims were published on the Walgreens website and on the Walgreens Products' labeling.

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. These joint supplements, during the class period, were sold at Walgreens stores throughout New Jersey and nationwide using Walgreens labels that prominently claimed, among other things, that they were able to “rebuild cartilage.” Walgreens also maintained a website devoted to marketing its products (www.walgreens.com), where it maintained a web page for each of its glucosamine and chondroitin products. In the textual portion of the page for each product, the claim prominently appeared that the Walgreens 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 Walgreens' dietary supplements, alone or in combination, are capable of rebuilding cartilage that has been damaged or destroyed.

11. Walgreens' statements that the Walgreens Products “rebuild cartilage” were 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, the first GAIT study concluded that “[t]he analysis of the primary

outcome measure did not show that either supplement, alone or in combination, was efficacious.” 2006 GAIT Study at 806. Subsequent GAIT studies in 2008 and 2010 reported that glucosamine and chondroitin did not rebuild cartilage¹ 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.

- 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)
- 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).

¹ 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.

- Another 2010 study concluded that there was no difference between placebo and 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).
- 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.
- 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:

- 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).
- 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 non-sponsored 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 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 he purchased would "rebuild cartilage" in his joints was reasonable because Walgreens, as a retailer and distributor of dietary supplements throughout the United States, had superior knowledge, skill and expertise (as compared to Plaintiff) to appreciate the truth or falsity of the statement that the Walgreens Products "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 Walgreens glucosamine and chondroitin supplement he purchased if he had known that they would not "rebuild cartilage" and Walgreens knew or should have known that the Walgreens Glucosamine Chondroitin supplements that Plaintiff purchased did not and could not rebuild his cartilage.

22. Plaintiff was injured because he purchased a product that was incapable of performing as promised. Moreover, Defendant was able to, and did, charge more for its glucosamine products than it would have otherwise been able to because Walgreens represented that its supplements would "rebuild cartilage." In addition, this misrepresentation allowed 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 was a direct result of Defendant's misrepresentation that the Walgreens Products "rebuild cartilage."

CLASS DEFINITION AND ALLEGATIONS

23. Plaintiff brings this action on behalf of himself and all other similarly situated individuals 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 and until December 2012, purchased in New Jersey a Walgreens' glucosamine and/or chondroitin product with the representation that it "rebuild[s] cartilage" on the label and/or on Walgreens' website. 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:

- a) whether the claims discussed above were true, or are misleading, or objectively reasonably likely to deceive;
- b) whether Walgreens' conduct violates public policy;
- c) whether the conduct constitutes violations of the laws asserted;
- d) whether Walgreens engaged in false or misleading advertising;
- e) whether Plaintiff and Class members have sustained monetary loss and the proper measure of that loss; and
- f) 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 herself 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 intend 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
Violations of the New Jersey Consumer Fraud Act,
N.J. Stat. Ann. §§ 56:8-1 *et seq.*

32. Plaintiff hereby realleges, and incorporates by reference as though set forth fully herein, the allegations contained in Paragraphs 1 through 31.

33. Plaintiff brings this Count on behalf of himself and the members of the Class against Defendant.

34. Section 56:8-2 of the New Jersey Consumer Fraud Act (“NJCFA”) prohibits “[t]he act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise” including any sale or distribution of any services. N.J. Stat. Ann. 56:8-2; 56:8-1(c), (e).

35. Through its conduct described above, Defendant has engaged in unconscionable and deceptive acts and practices in violation of the NJCFA, the stated terms and intent of which is to protect consumers from unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce.

36. Representing that the Walgreens Products help “rebuild cartilage” is deceptive, and has the capacity, tendency and effect of deceiving reasonable consumers who purchase the products. Reasonable consumers would believe that the Walgreens Products help rebuild cartilage, based upon Defendant’s misrepresentations to that effect.

37. Defendant knew, or should have known, that the representations that the Walgreens Products help rebuild cartilage were untrue.

38. Defendant made the representation that its Walgreens products help rebuild cartilage and/or joints with the intent to induce consumers, and members of the class sought herein, to purchase the products by causing them to rely on the representation that the products will help repair, regenerate, maintain, preserve, replace, renew, or rebuild cartilage.

39. Plaintiff and the Class have been aggrieved and have suffered losses as a result of the Defendant's violations of NJCFA. By virtue of the foregoing unfair, unconscionable, and deceptive acts in the conduct of trade or commerce, Plaintiff and the members of the Class have been substantially injured in the amount of the purchase prices for the Walgreens Products that they paid, or, in the alternative, have been damaged by paying more for the Walgreens Products that they purchased than for other products containing the same or similar ingredients that do not represent or promote that they will help repair, regenerate, maintain, preserve, replace, renew, or rebuild cartilage.

40. Defendant violated the NJCFA and aggrieved the members of the Class.

41. By reason of the foregoing, Defendant has violated the NJCFA and is liable to Plaintiff and the Class for the damages that they have suffered as a result of Defendant's actions, the amount of such damages to be determined at trial, and attorneys' fees and costs. Plaintiff further demands injunctive relief enjoining Defendant from engaging in use, or employing any act, including advertisements, packaging, or other representations, prohibited by NJCFA.

COUNT II
(Breach of Express Warranty)
U.C.C. § 2-313 (N.J. Stat. Ann. 12A:2-313)

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

43. Plaintiff Gross brings this Count individually and on behalf of the members of the Class against Defendant.

44. Defendant is and was at all relevant times a merchant.

45. Defendant, as the manufacturer, marketer, distributor, and/or seller expressly warranted that the Supplements were fit for their intended purpose by making the Express Warranties described *supra* at ¶¶ 1, 2, 9, 11.

46. In fact, the Supplements are not fit for such purpose because each of the Express Warranties is false and misleading.

47. Plaintiff Gross and the Class members were injured as a direct and proximate result of Defendant's breach because they would not have purchased the Supplements if they knew the truth about the product.

48. Defendant was provided notice of these issues by the letter sent by FedEx to Walgreen on behalf of Plaintiff Gross in advance of the filing of this Complaint.

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: November 1, 2013

Respectfully submitted,

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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.)

<p>I. (a) PLAINTIFFS John Gross, on behalf of himself and all others similarly situated</p> <p>(b) County of Residence of First Listed Plaintiff <u>Gloucester, NJ</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, Email and Telephone Number) David Bahuriak, Esq. 520 South 3rd Street Philadelphia, PA 19147</p>	<p>DEFENDANTS WALGREEN CO.,</p> <p>County of Residence of First Listed Defendant <u>Lake County, IL</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input checked="" type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <p><i>(For Diversity Cases Only)</i></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:47%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" 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 checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" 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
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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)*

<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input checked="" type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p> <p>PERSONAL INJURY - PRODUCT LIABILITY</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p>FORFEITURE/PENALTY</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p>LABOR</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p> <p>IMMIGRATION</p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>	<p>OTHER STATUTES</p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>
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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)*:
U.C.C. § 2-313 (N.J. Stat. Ann. 12A:2-313); N.J. Stat. Ann. §§ 56:8-1 et seq.

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ >5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):* JUDGE _____ DOCKET NUMBER _____

DATE 11.13 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____