

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

ELIZABETH WEISS, On Behalf of Herself)	No:
and All Others Similarly Situated,)	
)	
Plaintiff,)	
)	CLASS ACTION COMPLAINT
vs.)	
)	
H. J. HEINZ COMPANY,)	
)	DEMAND FOR JURY TRIAL
Defendant.)	
)	
)	
)	
_____)	

Plaintiff Elizabeth Weiss (“Plaintiff”) alleges, upon personal knowledge as to herself and her own acts, and upon information and belief (based on the investigation of counsel) as to all other matters, as follows:

NATURE OF ACTION

1. This action seeks to remedy the unfair, deceptive, and unlawful business practices engaged in by Defendant, H. J. Heinz Company (“Heinz” or “Defendant”), in connection with the marketing and sales of its “all natural” Heinz Distilled White Vinegar (“Heinz Vinegar” or the “Product(s)”). Defendant manufactures, markets, sells, and distributes Heinz Vinegar using a marketing, advertising and labeling campaign that is centered on representations that are intended to, and do, convey to consumers that Heinz Vinegar is an “all natural” Product containing “all natural” ingredients (the “Natural Claims”).

2. Defendant's representations are false and misleading: the Products are not natural at all because they are made with genetically modified crops. A genetically modified ("GM") crop, such as the corn from which the Products are derived, is not a natural crop, but rather is man-made whose genetic material has been altered by humans using genetic engineering techniques. The World Health Organization ("WHO") defines GM organisms (which include crops) as "organisms in which the genetic material (DNA) has been altered in a way that does not occur naturally." There are wide-ranging controversies related to GM crops, including health risks from ingesting GM foods and negative environmental effects associated with growing GM crops. The use and labeling of GM foods is the subject of a variety of laws, regulations, and protocols worldwide.

3. Plaintiff relied on Defendant's Natural Claims and misrepresentations, which were intended to convey the message that the Products are all natural, when she purchased Heinz Vinegar. Plaintiff and the Class (defined below) paid a premium for the Products over comparable vinegar that does not purport to be all natural.

4. By relying on the representations that Heinz Vinegar was all natural, Plaintiff and the Class have been damaged and suffered an ascertainable loss by purchasing the Products because they paid more per ounce than they would have for vinegar that is not purported to be all natural. Plaintiff and the members of the Class did not receive the benefit of the bargain, an all natural product, when they purchased the Products. Instead, they received vinegar that, contrary to Defendant's representations, was not all natural because it contains GM ingredients.

5. Through the marketing and sale of the Products, Defendant has deliberately conveyed a singular message: the Products are all natural. Each person who has purchased the

Products has been exposed to Defendant's misleading advertising message and purchased the Products as a result of that message on the Products' labels.

6. Defendant knows that consumers are willing to pay a premium for natural, healthy products, and advertised its Products with the intention that consumers rely on the Natural Claims and representations made on the label. Defendant's claims are deceptive and misleading, and have been designed solely to cause consumers to buy the Product. Defendant knew, at the time it began selling the Products, that they contained GM ingredients and were not all natural, as represented.

7. Reasonable consumers, such as Plaintiff, do not have the specialized knowledge necessary to identify the ingredients in the Products as being inconsistent with the Natural Claims. Plaintiff read and relied on the representations made by Defendant in connection with purchasing the Product.

8. This class action seeks to provide redress to consumers who have been harmed by Defendant's false and misleading marketing practices. Defendant's conduct has included the systematic and continuing practice of disseminating false and misleading information throughout the United States, including throughout Florida, via pervasive, multi-media advertising and the Product labeling. These efforts by Defendant were intended to induce unsuspecting consumers, including Plaintiff and the members of the Class, into purchasing Heinz Vinegar at a premium price.

9. Plaintiff asserts claims on behalf of herself and the Class for violations of the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. §501.201, *et seq.* ("FDUPTA" or the "Act").

10. Though this action, Plaintiff seeks injunctive relief, actual damages, restitution and/or disgorgement of profits, statutory damages, attorneys' fees, costs, and all other relief available to the Class as a result of Defendant's unlawful conduct.

PARTIES

11. Plaintiff is, and at all times relevant to this action has been, a resident and citizen of Broward County, Florida.

12. Heinz is a Pennsylvania corporation with its principal place of business in Pittsburgh, Pennsylvania, and is thus a citizen of Pennsylvania.

JURISDICTION AND VENUE

13. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1332(d)(2) because the matter in controversy, upon information and belief, exceeds \$5,000,000, exclusive of interest and costs, and this is a class action in which the Class members and Defendant are citizens of different states.

14. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391, because Plaintiff is a resident of this judicial district, Defendant regularly conducts business throughout this district, and a substantial part of the events or omissions giving rise to Plaintiff's claims took place within this judicial district.

FACTUAL BACKGROUND

The Products

15. This action is brought against Heinz for the benefit and protection of all purchasers of Heinz Vinegar.

16. The market for natural products is a large and growing one. In recent years, consumers have been willing to pay a premium for products they believe to be natural, healthy

and/or organic. *Natural Foods Merchandiser* magazine's 2010 Market Overview reported significant growth for the natural and organic products industry. With more than \$81 billion in total revenue in 2010, the industry grew seven percent during 2009, showing that consumers' desire for natural products continues to grow. See <http://www.prnewswire.com/news-releases/natural-and-organic-products-industry-sales-hit-81-billion-122958763.html> (last visited March 21, 2014).

17. Heinz Vinegar is manufactured by Defendant and purports to be all natural. Unbeknownst to Plaintiff, however, the Products contain GM ingredients.

18. The Products' labeling and marketing communicates a straightforward, material message – that is, that the Products are all natural.

19. The core representations, alleged to be false and misleading, that the Product is all natural, are conspicuously stated on the label itself for every purchaser to read.

20. The Products conspicuously state on the labels that they are “all natural:”



21. GM crops are not crops occurring in nature, and are not "all natural." They are genetically manipulated from their natural state. Monsanto Company, one of the largest producers of GM crop seed, defines GM organisms as "Plants or animals that have had their genetic makeup altered to exhibit traits that are not naturally theirs. In general, genes are taken (copied) from one organism that shows a desired trait and transferred into the genetic code of another organism." *See* <http://www.monsanto.com/newsviews/Pages/glossary.aspx#g> (last visited March 21, 2014).

22. This definition is consistent with the views of the WHO, which defines GM organisms as "organisms in which the genetic material (DNA) has been altered in a way that does not occur naturally." The technology is often called 'modern biotechnology' or 'gene technology,' sometimes also 'recombinant DNA technology' or 'genetic engineering.' It allows selected individual genes to be transferred from one organism into another, also between non-related species. Such methods are used to create GM plants - which are then used to grow GM food crops. *See* World Health Organization, 20 Questions on Genetically Modified (GM) Foods at http://www.who.int/foodsafety/publications/biotech/en/20questions_en.pdf (last visited March 21, 2014).

23. The Environmental Protection Agency has distinguished between conventional breeding of plants "through natural methods, such as cross-pollination" and genetic engineering. *See* United States Environmental Protection Agency, Prevention, Pesticides and Toxic Substances, Questions & Answers Biotechnology: Final Plant-Pesticide/Plant Incorporated Protectants (PIPs) Rules (Jul. 19, 2001) at <http://www.epa.gov/scipoly/biotech/pubs/qanda.pdf> ("Conventional breeding is a method in which genes for pesticidal traits are introduced into a plant through natural methods, such as cross-pollination. . . . Genetically engineered plant-

incorporated protectants are created through a process that utilizes several different modern scientific techniques to introduce a specific pesticide-producing gene into a plant's DNA genetic material."(last visited March 21, 2014).

24. Romer Labs, a company that provides diagnostic services to the agricultural industry, including tests to detect and determine the existence of GM crops, defines GM crops as "[a]griculturally important plants [that] are often genetically modified by the insertion of DNA material from outside the organism into the plant's DNA sequence, allowing the plant to express novel traits that normally would not appear in nature, such as herbicide or insect resistance. Seed harvested from GMO plants will also contain these modifications." *See* <http://www.romerlabs.com/en/knowledge/gmo/> (last visited March 17, 2014).

25. As indicated by the definitions above, which come from a wide array of sources, including industry, government, and health organizations, GM crops are not all natural, and products made from those crops, including the Products, are not all natural.

26. Over 70% of U.S. corn crops are GM. Defendant sources its ingredients from U.S. commodity suppliers who supply GM crops. Large volume food manufacturers who wish to use non-GM ingredients must specifically source their crops, typically from Europe, or undertake the additional step and expense of purchasing and verifying the supply from non-GM growers through identity preservation programs. In most instances, manufacturers who purchase only non-GM crops for their products specifically label the products "non-GMO" because this is an issue that matters to consumers.

27. Defendant's all natural representations are false, deceptive, misleading, and unfair to consumers, who are injured by purchasing products that Defendant claims are all natural when, in fact, they are not.

The Products' Advertising

28. Defendant has made representations in its labeling, marketing and advertising that are false and misleading. Specifically, Defendant's packaging conveys the message that the Products are all natural, when they are not.

29. The Products' labeling and packaging convey a false and misleading message because the words "all natural" are included on every label. This statement leads the consumer to falsely believe that the Products are all natural when they, in fact, contain unnatural and synthetic ingredients. Plaintiff relied on these representations when purchasing the Products.

30. The representations made by Defendant are deceptive, false and misleading. Moreover, as a result of these representations, Defendant was able to sell the Products at a premium over vinegar that does not purport to be all natural.

31. Plaintiff and the Class paid a premium for the Products believing that they were all natural. Based on Defendant's representations, Plaintiff viewed the label and thereafter purchased the Product at a premium price. Had Plaintiff and other members of the proposed Class been aware of the truth, they would not have purchased the more expensive "all natural" Products. As a result of the purchase, Plaintiff suffered ascertainable loss, injury in fact, and lost money and/or property as a result of the conduct described herein.

Plaintiff's Experiences

32. Prior to purchase, Plaintiff viewed the labeling of Heinz Vinegar. Based on viewing the labeling, Plaintiff reasonably expected that the Products would be all natural, which is precisely the message Heinz intended to convey.

33. Between August 2013 and October 2013, Plaintiff purchased Heinz Vinegar at a Publix grocery store in Coral Springs, Florida. While there, Plaintiff saw bottles of the Products

on the store shelf. Plaintiff took a bottle of Heinz Vinegar off the shelf and read the label. In doing so, Plaintiff read certain representations on the label, including representations that the Product was “all natural” vinegar. Based on viewing these representations on the labels, Plaintiff understood that the Product was an all-natural vinegar. As a result of this understanding, and in reliance on the label’s claim that the Product was all natural, she purchased the Product from the Publix for approximately \$1.29 for a 16 ounce bottle. This purchase price was a premium over and above other vinegar that did not purport to be all all natural, which Plaintiff was willing to, and did, pay because she understood from the labeling that the Product was all natural.

34. After using the Product as directed, Plaintiff determined that the Product was not all natural as claimed and, in fact, contained GM ingredients.

35. Plaintiff suffered an ascertainable loss in either the amount of the purchase price of the Product, or the premium she paid for the Product, as a result of the conduct of Defendant described herein, including the fact that the Product was not all natural, as Defendant represented.

CLASS ACTION ALLEGATIONS

36. Plaintiff brings this action on behalf of herself and all other persons similarly situated, pursuant to Rule 23 of the Federal Rules of Civil Procedure.

37. The Class that Plaintiff seeks to represent is defined as follows:

Class:

All persons who purchased, not for resale, Heinz Vinegar from March 24, 2010 to the present within Florida (“Class”).

Excluded from the Class are (a) Defendant, including any entity in which Defendant has a controlling interest, and its representatives, officers, directors, employees, assigns and

successors; (b) any person who has suffered personal injury or is alleged to have suffered personal injury as a result of using the Products; and (c) the Judge to whom this case is assigned.

38. **Numerosity/Impracticability of Joinder:** The members of the Class are so numerous that joinder of all members would be impracticable. The proposed Class includes, at a minimum, thousands of members. The precise number of Class members can be ascertained by reviewing documents in Defendant's possession, custody and control or otherwise obtained through reasonable means.

39. **Commonality and Predominance:** There are common questions of law and fact which predominate over any questions affecting only individual members of the Class. These common legal and factual questions, include, but are not limited to the following:

- a. whether Defendant engaged in a pattern of fraudulent, deceptive and misleading conduct targeting the public through the marketing, advertising, labeling and sale of the Products;
- b. whether Defendant's acts and omissions violated the FDUTPA;
- c. whether Defendant made material misrepresentations of fact or omitted to state material facts to Plaintiff and the Class regarding the marketing, promotion, advertising, labeling and sale of the Products;
- d. whether Defendant's false and misleading statements of fact and concealment of material facts regarding the Products were intended to deceive the public;
- e. whether, as a result of Defendant's misconduct, Plaintiff and the Class are entitled to equitable relief and other relief, and, if so, the nature of such relief; and

f. whether Plaintiff and the members of the Class have sustained damages as a result of Defendant's acts and omissions, and the proper measure thereof.

40. **Typicality**: The representative Plaintiff's claims are typical of the claims of the members of the Class she seeks to represent. Plaintiff and all Class members have been injured by the same wrongful practices in which Defendant has engaged. Plaintiff's claims arise from the same practices and course of conduct that give rise to the claims of the Class members, and are based on the same legal theories.

41. **Adequacy**: Plaintiff is a representative who will fully and adequately assert and protect the interests of the Class, and has retained Class counsel who are experienced and qualified in prosecuting class actions. Neither Plaintiff nor her attorneys have any interests which are contrary to or conflicting with the Class.

42. **Superiority**: A class action is superior to all other available methods for the fair and efficient adjudication of this lawsuit, because individual litigation of the claims of all Class members is economically unfeasible and procedurally impracticable. While the aggregate damages sustained by the Class are likely in the millions of dollars, the individual damages incurred by each Class member resulting from Defendant's wrongful conduct are too small to warrant the expense of individual suits. The likelihood of individual Class members prosecuting their own separate claims is remote, and, even if every Class member could afford individual litigation, the court system would be unduly burdened by individual litigation of such cases. Individual members of the Class do not have a significant interest in individually controlling the prosecution of separate actions, and individualized litigation would also present the potential for varying, inconsistent, or contradictory judgments and would magnify the delay and expense to all of the parties and to the court system because of multiple trials of the same factual and legal

issues. Plaintiff knows of no difficulty to be encountered in the management of this action that would preclude its maintenance as a class action. In addition, Defendant has acted or refused to act on grounds generally applicable to the Class and, as such, final injunctive relief or corresponding declaratory relief with regard to the members of the Class as a whole is appropriate.

43. Plaintiff will not have any difficulty in managing this litigation as a class action.

FIRST COUNT

**For Violations of the Florida Deceptive and Unfair Trade Practices Act,
Florida Statutes 501.201, *et seq.***

(On Behalf of Plaintiff and the Class)

44. Plaintiff realleges and incorporates by reference the allegations contained in the paragraphs above as if fully set forth herein.

45. This cause of action is brought pursuant to the FDUPTA. The stated purpose of the Act is to “protect the consuming public ... from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce.” Fla. Stat. § 501.202(2).

46. Plaintiff is a consumer as defined by Fla. Stat. §501.203. The Products are goods within the meaning of the Act. Heinz is engaged in trade or commerce within the meaning of the Act.

47. Fla. Stat. §501.204(1) declares unlawful “[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.”

48. Defendant has violated the Act by engaging in the unfair and deceptive practices as described herein which offend public policies and are immoral, unethical, unscrupulous and substantially injurious to consumers.

49. Plaintiff and the Class have been aggrieved by Defendant's unfair and deceptive practices in that they paid more for Heinz Vinegar than they otherwise would have as a result of Heinz's misrepresentations.

50. The damages suffered by Plaintiff and the Class were directly and proximately caused by the deceptive, misleading and unfair practices of Defendant, as more fully described herein.

51. Pursuant to Fla. Stat. §501.211(1), Plaintiff and the Class seek a declaratory judgment and court order enjoining the above-described wrongful acts and practices of Defendant, as well as for restitution and disgorgement.

52. Additionally, pursuant to Fla. Stat. §§501.211(2) and 501.2105, Plaintiff and the Class make claims for damages, attorneys' fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and the Class, prays for judgment against Defendant granting the following relief:

A. An order certifying this case as a class action and appointing Plaintiff as Class representative and Plaintiff's counsel to represent the Class;

B. Restitution and disgorgement of all amounts obtained by Defendant as a result of its misconduct, together with interest thereon from the date of purchase, to the victims of such violations;

C. All recoverable compensatory and other damages sustained by Plaintiff and the Class;

D. Actual and/or statutory damages for injuries suffered by Plaintiff and the Class and in the maximum amount permitted by applicable law;

E. An order (1) requiring Defendant to immediately cease its wrongful conduct as set forth above; (2) enjoining Defendant from continuing to misrepresent and conceal material information and conduct business via the unlawful, unfair and deceptive business acts and practices complained of herein; (3) ordering Defendant to engage in a corrective notice campaign; and (4) requiring Defendant to pay to Plaintiff and all members of the Class the amounts paid for the Products;

F. Statutory pre-judgment and post-judgment interest on any amounts;

G. Payment of reasonable attorneys' fees and costs; and

H. Such other relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all causes of action so triable.

Dated: March 24, 2014

SHEPHERD, FINKELMAN, MILLER &
SHAH, LLP

/s/ Nathan C. Zipperian

Nathan C. Zipperian
Scott R. Shepherd
SHEPHERD, FINKELMAN, MILLER
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nfinkelman@sfmslaw.com

**Attorneys for Plaintiff and the Proposed
Class**

JS 44 (Rev. 12/12)

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) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS

DEFENDANTS

ELIZABETH WEISS

H.J. HEINZ COMPANY

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

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
Nathan C. Zipperian, Shepherd, Finkelman, Miller & Shah, LLP, 1640
Town Center Circle, Ste. 216, Weston, FL 33326, Ph. 954-515-0123

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

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

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

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

- | | | | | | |
|---|---|--|--|---------|---|
| Citizen of This State | PTF DEF | <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | PTF DEF | <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 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 | | |

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 (Excl. 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	PERSONAL INJURY <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 - Med. Malpractice	PERSONAL INJURY <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 PERSONAL PROPERTY <input checked="" 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 LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. 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 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <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)) FEDERAL TAX SUITS <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
REAL PROPERTY <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	CIVIL RIGHTS <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	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence Other: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <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	IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN

- (Place an "X" in One Box Only)
- 1 Original Proceeding 2 Removed from State Court 3 Re-filed (See VI below) 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment 8 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

a) Re-filed Case YES NO b) Related Cases YES NO

JUDGE

DOCKET NUMBER

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Section 1332(d)(2) - False marketing and sales of "all natural" Heinz Distilled White Vinegar
LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

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

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE
DATE: March 24, 2014 SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ IFP _____ JUDGE _____ MAG JUDGE _____

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

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

ELIZABETH WEISS, On Behalf of Herself and All)	
Others Similarly Situated)	
)	
)	
<i>Plaintiff(s)</i>)	
v.)	Civil Action No.
H.J. HEINZ COMPANY)	
)	
)	
<i>Defendant(s)</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* H.J. Heinz Coompany
c/o CT Corporation System
1200 South Pine Island Road
Plantation, FL 33324

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: Nathan Zipperian
Shepherd, Finkelman, Miller & Shah, LLP
1640 Town Center Circle, Suite 216
Weston, FL 33326

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 \$ _____ 0.00 _____ .

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: