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Attorneys for Defendant

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

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

Plaintiff,

v.

BARLEAN'S ORGANIC OILS, L.L.C.,

Defendant.

Civil Action No.: _____

(previously pending in the Superior Court
of New Jersey, Bergen County, Law
Division as BER-L-4374-14)

NOTICE OF REMOVAL

**To: The Clerk of the Court and the Honorable Judges of the
United States Court for the District of New Jersey**

PLEASE TAKE NOTICE that Defendant Barlean's Organic Oils, LLC (hereinafter,
"Barlean's" or "Defendant"), by and through the undersigned counsel, hereby removes the

above-captioned action from the Superior Court of New Jersey, Bergen County, Law Division, to the United States District Court for the District of New Jersey.

In support of removal, Barlean's alleges as follows:

The Removed Class Action Complaint

1. On or about May 13, 2014, Plaintiff Harold M. Hoffman (hereinafter, "Hoffman" or "Plaintiff"), an attorney licensed in the State of New Jersey, filed on behalf of himself and a purported class of allegedly similarly situated persons across the nation, a "Complaint and Jury Demand in Class Action" (hereinafter, the "Complaint").

2. The Complaint named Barlean's as Defendant and was filed in the Superior Court of New Jersey, Bergen County-Law Division. In the caption, Hoffman describes the parties as *"Harold M. Hoffman, individually and on behalf of those similarly situated against Barlean's Organic Oils, LLC."*

3. A true and correct copy of the Summons and Complaint, the only pleadings served upon the Defendant to date, is submitted herewith as **Exhibit A**.

4. Barlean's was served with the Complaint on May 15, 2014, thus the time for removal has not yet expired.

5. The Complaint contains five separate counts and alleges that Barlean's is liable to Hoffman and each class member for allegedly violating the New Jersey Consumer Fraud Act, 56:8-2. (Hereinafter, "CFA") by engaging in: "unconscionable commercial practices" (Count I); "deception" (Count II); "fraud" (Count III); "false pretense, false promise and/or misrepresentation" (Count IV); and "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." *See generally*, Exhibit A.

6. Barlean's denies that it engaged in any wrongdoing or violated any law.

7. Hoffman alleges that he purchased from Barlean's a dietary supplement known as "Barlean's Omega Twin" that purported to contain both flax oil and gamma-linolenic acid ("GLA"). Ex. A at ¶1. Hoffman claims that the product he purchased did not contain any GLA. *Id.* at ¶16.

8. Hoffman alleges that Barlean's sold its Omega Twin product as a part of an intentional scheme designed to dupe consumers into purchasing a product based upon "trickery" and intentional misrepresentations regarding what that product contained. *Id.* at ¶20.

9. The Complaint alleges that merely by purchasing Barlean's Omega Twin product, Hoffman and members of the putative class suffered an ascertainable loss. *Id.* at ¶¶23–25.

10. Specifically, the Complaint alleges that Hoffman and members of the class suffered ascertainable losses: (1) "in the form of actual out of pocket payment and expenditure... as a result of Defendants' unlawful conduct." *Id.* at ¶23; (2) "when they received, for their money, a product less than, and different from, the product promised by Defendant." *Id.* at ¶24; and (3) "plaintiff and members of the class received something less than, and different from, what they reasonably expected in view of Defendant's representations." *Id.* at ¶25.

11. The Complaint purports to seek certification of a potential class of "all New Jersey purchasers of Defendant's product for the two year period prior to the filing of this action." *Id.* at ¶27.

12. The Complaint demands the following relief from Defendant: "treble damages together with pre-judgment and post-judgment interest, fees, costs, attorneys' fees, civil penalties mandated by NJSA 56:8–19, and any other and further relief as the Court deems just and proper." *See, e.g., id.* at ¶¶ 35, 38, 41, 44, 47.

Federal Subject Matter Jurisdiction and Venue Exist

13. As alleged in the Complaint and evidenced in the Declaration of Kevin Moore (hereinafter “Moore Decl.,” submitted herewith as **Exhibit B**), this Court has original jurisdiction over this action pursuant to the Class Action Fairness Act, 28 U.S.C. §1332(d) (“CAFA”).

14. This action, as filed by Hoffman in the Superior Court of New Jersey, Bergen County-Law Division, is a “class action” as it purports to seek certification of a potential class of “all New Jersey purchasers of Defendant’s product for the two-year period before the filing of this civil action.” Exhibit A at ¶27, *passim*.

15. There is diversity of citizenship, as Barlean’s is a limited liability company organized and existing under the laws of the State of Washington, with its principle place of business in Washington state.

16. Upon information and belief, Hoffman is a member of the putative class and he is a citizen of the State of New Jersey, Bergen County. *Id.* at ¶27.

17. Based on the foregoing, diversity exists because the Plaintiffs are citizens of a different state than Barlean’s. See 28 USC §1132(d)(2).

18. The amount in controversy exceeds \$5,000,000.00, exclusive of interest and costs, as required by 28 USC §1332(d)(2).

19. Although the allegations in the Complaint purport to disclaim the amount in controversy as less than \$5,000,000 (*Id.* at ¶27), removal is nonetheless proper because there is more than \$5,000,000.00 in controversy, based upon a fair reading of the Complaint, this Notice of Removal, and the accompanying Moore Declaration. See 28 USC §1132(d)(2) (CAFA jurisdictional minimum amount is \$5,000,000.00).

20. In his Complaint, Hoffman does not state an exact sum that he seeks to recover on behalf of himself and the putative class. Instead, he baldly asserts, without reference, that the amount in controversy is less than the \$5,000,000.00 jurisdictional threshold required under CAFA. Compl. at ¶27.

21. To the extent that Hoffman opposes removal, he, as the party challenging federal jurisdiction, bears the burden of proving by a preponderance of the evidence sufficient facts to defeat removal. *See Harold Hoffman v. Natural Factors Nutritional Products, Inc.*, Civil Action No. 12-7244(ES), 2013 WL 5467106, at *4 (D.N.J. Sept. 30, 2013).

22. In deciding whether the jurisdictional minimum is met, the Court may rely upon facts alleged in Defendant's Notice of Removal and other supporting documents, as well as allegations in the Complaint. *See Frederico v. Home Depot*, 507 F.3d 188, 97 (3d Cir. 2007) ("To determine whether the minimum jurisdictional amount has been met in a diversity case removed to a district court, a defendant's notice of removal serves the same function as the complaint would if filed in the district court"); *Russ v. Unum Life Ins. Co.*, 442 F.Supp.2d 193, 197 (D.N.J. 2006) ("If the complaint... does not allege a specific amount, the court must perform an independent appraisal of the value of the claim by looking at the petition for removal or any other relevant evidence").

23. Defendant disputes liability and all relief claimed under any theory and in any amount alleged in the Complaint. A fair reading, however, of this Notice of Removal and the accompanying Moore Declaration together with the Complaint itself—including consideration of the remedies available under the CFA and the scope of the class -- necessitates the conclusion that the Complaint seeks damages exceeding the minimum jurisdictional amount of \$5,000,000.00 under CAFA.

24. In the Complaint, the Plaintiff seeks, under each of the five counts asserted, “treble damages together with pre-judgment and post-judgment interest, fees, costs, attorney’s fees, civil penalties mandated by NJSA 56:8–19, and any other and further relief as the Court deems just and proper.” Compl. at ¶¶ 35, 38, 41, 44, 47.

25. The average retail price of the product over the two-year period before Hoffman filed his Complaint was \$21.84 per unit. *See* Moore Decl. The total revenue for the Omega Twin product nationwide over the same two-year period is \$295,269. *Id.* At \$21.84 a bottle, this amounts to 13,516 units of Omega Twin sold nationally in the two years before Hoffman filed his Complaint.

26. Barlean’s does not track the sale of its Omega Twin specifically by state, but it tracks overall sales by state. In 2012, Barlean’s sales in New Jersey accounted for 6.06% of all national sales for all products. In 2013, Barlean’s sales in New Jersey accounted for 7.43% of all national sales for all products.

27. Using 6% as conservative estimate of sales in New Jersey, 6% of the national sales of 13,516 units of Omega Twin results in a figure of 892 sales ($13,516 \times .06 = 892.056$) and revenue of \$19,481.28 ($892 \times \$21.84$).

28. Treble damages count towards the jurisdictional minimum analysis. *Lawton v. Basic Research, LLC*, 2011 WL 1321567 at *3 (D.N.J. Apr. 4, 2011).

29. Treble damages amounts to \$58,443.83.

30. Potential attorney’s fees are also to be included in the jurisdictional analysis under CAFA. *See Frederico v. Home Depot, supra*, at 199.

31. This adds a median of 30%, or \$17,533.16, to the amount in controversy, if not more. *Id.*

32. The CFA also establishes a penalty of up to \$10,000 for the first offense and up to \$20,000 for the second and each subsequent offense. N.J.S.A. 56:8-13.

33. 891 penalties for subsequent sales plus one penalty for the first sale is \$17,820,000.00.

34. Moreover, Plaintiff has specifically reserved the right to expand or narrow the class as it sees fit. If expanded, this would further exceed the minimum threshold of CAFA. Compl. at ¶27. Plaintiff has also requested any other and further relief that the Court deems to be just and proper. This too increases the amount in controversy further beyond the CADA threshold.

35. Based on the sum of consumers' out-of-pocket payments during the time period in question, treble damages, attorney's fees and the penalties provided by the CFA, the amount in controversy easily exceeds the jurisdictional threshold of \$5,000,000.00. As such, the amount in controversy requirement under CAFA has been more than satisfied.

There Are More Than 100 Members In The Proposed Class

36. The Complaint alleges that "the proposed Class comprises all New Jersey purchasers of Defendant's product for the two year period prior to the filing of this civil action." Complaint at ¶27. Thus, the proposed class includes purchasers from May 2012 to the present.

37. Although the Complaint does not identify the exact size of the proposed class, it meets the definition of a class action. It alleges that "the members of the Class are so numerous that joinder of all members is impracticable. The Class is comprised of consumers throughout the State of New Jersey." *Id.* at ¶28.

38. The sales figure analysis set forth above and in the Moore Declaration for the product show that the putative class contains more than 100 members. *See* Moore Decl.

Venue

39. Venue in the District of New Jersey is proper under 28 USC §1441(a), because this district embraces Bergen County, New Jersey, where the Plaintiff originally filed his Complaint.

Other Removal Requirements Are Satisfied

40. As required by 28 USC §1446(b), a true and correct copy of this Notice of Removal is being served on the Plaintiff's counsel, and a copy will be promptly filed with the Clerk of the Superior Court of Bergen County, New Jersey. Submitted herewith as **Exhibit C** is a Notice of Removal that was sent to Hoffman today at the address he provided on the Complaint via overnight delivery service.

41. Submitted herewith as **Exhibit D** is a copy of the Notice of Filing Notice of Removal to United States District Court.

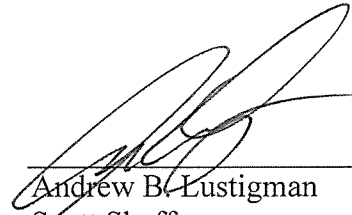
42. This Notice of Removal is being filed within 30 days after Barlean's was served with the Complaint.

43. There is only one defendant, so consent of other defendants is inapplicable and unnecessary under 28 USC §1453(b).

44. Defendants have not filed a responsive pleading in the action commenced by the Plaintiff in the Superior Court of New Jersey, Bergen County-Law Division, and no other proceedings have transpired in this action.

WHEREFORE, Defendant Barlean's hereby removes the Complaint, and this action in its entirety, from the Superior Court of New Jersey, Bergen County-Law Division to the United States District Court for the District of New Jersey.

Dated: June 12, 2014



Andrew B. Lustigman
Scott Shaffer

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65 East 55th Street
New York, New York 10022
Tel: (212) 451-2300
Fax: (212) 451-2222

Joel Matteson (*pro hac vice* to be filed)

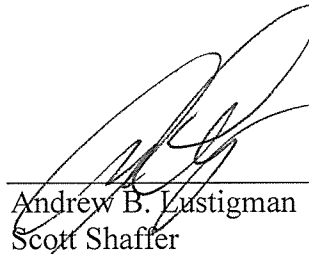
Barlean's Organic Oils, LLC

3660 Slater Road
Ferndale, WA 98248
Tel: (360) 398-5810
Fax: (360) 483-5637

CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 11.2

Pursuant to Local Civil Rule 11.2, I hereby certify that to the best of my knowledge, the matter in controversy is not the subject of any other action pending in any court, arbitration or administrative proceeding.

Dated: June 12, 2014



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Scott Shaffer

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Ferndale, WA 98248
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EXHIBIT A

HAROLD M. HOFFMAN, ESQ.
240 GRAND AVENUE
ENGLEWOOD, NJ 07631
(201) 569-0086

ATTORNEY FOR PLAINTIFF AND THE PUTATIVE CLASS

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

Plaintiff,

-against-

BARLEAN'S ORGANIC OILS, L.L.C.,

Defendant.

SUPERIOR COURT OF NEW JERSEY
BERGEN COUNTY - LAW DIVISION

DOCKET NO.: **BER-L-4374-14**

CIVIL ACTION

SUMMONS

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

BARLEAN'S ORGANIC OILS, L.L.C.

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: May 13, 2014

Name of Defendant to be Served: **BARLEAN'S ORGANIC OILS, L.L.C.**
Address of Defendant to be Served: 3660 Slater Rd., Ferndale, WA 98248

ATLANTIC COUNTY

Deputy Clerk of the Superior Court
Civil Division, Direct Filing
1201 Bacharach Blvd., 1st 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., 1st 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, 1st 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, 3rd 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

HAROLD M. HOFFMAN, ESQ.

240 GRAND AVENUE

ENGLEWOOD, NJ 07631

(201) 569-0086

ATTORNEY FOR PLAINTIFF AND THE PUTATIVE CLASS

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

Plaintiff,

-against-

BARLEAN'S ORGANIC OILS, L.L.C.,

Defendant.

SUPERIOR COURT OF NEW JERSEY
BERGEN COUNTY - LAW DIVISION

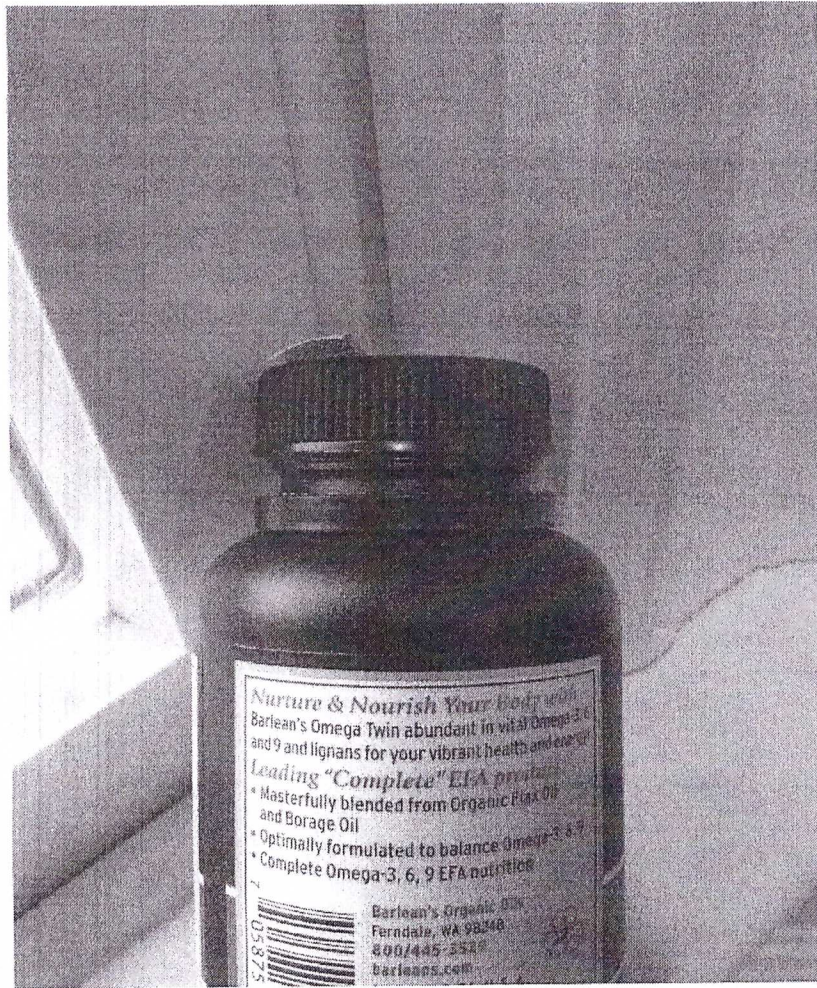
DOCKET NO.: **BER-L-4374-14**

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 statewide injury inflicted on the New Jersey consumer public. As detailed below, Defendant advertised, promoted, marketed, distributed and sold, both online and in retail stores throughout the State of New Jersey, a "masterfully blended" omega fatty acid dietary supplement allegedly formulated from both flax oil and borage oil and purportedly containing gamma-linolenic acid ("GLA"), an omega-6 fatty acid.



Defendant's claim of a "masterfully blended" (see above) twin oil product is an affirmative misrepresentation as the product in question is not made with any borage oil. This, despite the product's labeling to the contrary.

Defendant's product, known as *Barlean's Omega Twin*, sold in a 60 softgel bottle, is widely used by consumers because such supplements are touted as capable of delivering

a number of salutary, remedial effects, including reduced swelling and inflammation, relief of symptoms of dermatitis and possible prevention of cardiovascular incidents.

As alleged below, Defendant's promises and representations concerning the formulation of its product (borage oil) and concentration of a key ingredient (GLA), were false. The product at issue in this case is *Barlean's Omega Twin* sold in a 60 softgel bottle (hereinafter, the "Product" or "Defendant's product").



The Product (depicted above) was sold to the New Jersey consumer public based upon the entirely false and fabricated claim that it was comprised of a masterful blend

of two oils and that it contained GLA, an Omega-6 fatty acid. In truth though, and based upon sophisticated, independent laboratory testing, the Product is not made with borage oil and it contains no GLA whatsoever, despite the labeled promise that the Product contains (per 3 softgels) 105 mg of GLA.

Defendant took consumers' money predicated on the highly specific, affirmative claim that it was formulated from a blend of two oils that contain a high concentration of essential fatty acids and GLA, an Omega-6 fatty acid. As noted, this was false. Indeed, Defendant's highly specific affirmative fabrication was relied on by Plaintiff in selecting Defendant's product over other comparably and lower priced dietary supplements delivering essential fatty acids and Omega-6 fatty acids from a non-fish source.

Defendant makes the further claim, prominently displayed on the front label of its Product (see photograph above) that it is "GLA RICH." While Defendant's product may be price-rich, it is not GLA RICH and contains no GLA at all. Defendant's claims of product formulation and ingredient concentration were read and relied upon by Plaintiff in choosing to purchase the Product as opposed to other readily available fatty acid supplements from non-fish sources, including supplements with a lower purchase price.

Thus, Defendant sold a misrepresented dietary supplement, based on multiple label misrepresentations relative to both formulation and concentration of constituent ingredient.

Plaintiff was deceived by Defendant's misrepresentations and ingested the Product after purchasing it because he believed that its promised borage oil and GLA would have anti-inflammatory effect and reduce swelling and inflammation occasioned by arthritis. But Defendant delivered a different and lesser product, entirely inconsistent with Defendant's product labeling.

The putative class comprises all **New Jersey** purchasers of Defendant's product for the two year period preceding the filing of this civil action.

1. At all times relevant, Plaintiff Harold M. Hoffman was a resident of 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 Defendant's product formulation and constituent ingredient concentration and thereafter purchased the Product at a Fairway Market in Bergen County, New Jersey, in or about February of 2014 for a purchase price of approximately \$18 (60 softgel bottle). Based on Defendant's recommended dose, "3 - 9 softgels, 3 times a day" an \$18 purchase would be consumed in approximately 2-7 days, making it a very expensive product.

2. At all relevant times, Defendant Barlean's Organic Oils, L.L.C., was a corporation organized and existing pursuant to the laws of the State of Washington, with a principal place of business located in Ferndale, WA. Upon information and belief, Defendant advertises, markets and sells a variety of dietary supplements to consumers throughout the nation.

3. Defendant claims on the Product label that the Product is "GLA RICH" and that it is "masterfully blended from Organic Flax Oil and Borage Oil." Defendant advertised, marketed, distributed and sold the Product 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, residing 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. During the proposed class period, Defendant, both online and through retail distribution in this State, marketed, advertised, promoted, distributed and sold products to consumers, including the Product.

7. Omega fatty acids have been widely studied regarding their effects on

cardiovascular health and other conditions. Increased consumption of certain fatty acids is claimed to help slow the progression of atherosclerosis, thereby preventing heart attacks, and reducing risk of sudden death due to cardiac arrhythmias.

8. Oil blends, such as the Product, are touted as having a number of potential heart-healthy effects, including reducing triglyceride levels, raising levels of HDL ("good") cholesterol and, possibly, "thinning" the blood, reducing levels of homocysteine and reducing blood pressure. Borage oil, allegedly part of the Product's formulation (but actually not) is a seed oil that is rich in GLA, a polyunsaturated, or "good" fat. Indeed, Borage Oil is about 17% to 25% GLA.

9. Increased intake of the fatty acids such as GLA are believed to alter the body's production of substances known as prostaglandins, and, consequently may reduce some forms of inflammation. On the basis of this, GLA is touted as being effective in the treatment of symptoms of arthritis and other inflammatory conditions.

10. In connection with the marketing, advertisement and sale of the Product, Defendant affirmatively promised and represented that its product was formulated from borage oil and that each 3 capsules (softgels) contained 105 mg of GLA.

11. Prior to purchasing Defendant's product, plaintiff was seeking and in need

of a product that would, among other things, slow the progression of osteoarthritis and reduce pain and inflammation associated with such condition. Plaintiff bought Defendant's product because of its promised borage oil formulation and promised concentration of GLA.

12. The affirmative promises and representations made by Defendant in connection with the marketing, advertisement and sale of the Product, as aforesaid, with respect to the promised borage oil formulation and promised concentration of GLA, were false. In fact, the Product, based on reliable, independent laboratory testing, contained no GLA indicating that it is not made with borage oil. Other comparable and lower priced supplements marketed to consumers do not contain such grossly misrepresented product formulations.

13. Plaintiff and members of the putative class are purchasers of the Product and, prior to purchasing the product, saw, read and/or heard Defendant's advertisements, promises and representations with respect to promised borage oil formulation and promised concentration of GLA. These claims, among others, induced Plaintiff's purchase of the Product.

14. Plaintiff and members of the class, prior to purchasing Defendant's Product, saw, read and/or heard Defendant's promises and representations as aforesaid, and made

an out of pocket payment to Defendant in response thereto.

15. 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 promises and claims with respect to product formulation and promised constituent ingredients.

16. In truth and fact, Defendant misrepresented Product formulation as well as the concentration of constituent ingredients in its product. Plaintiff and members of the class paid for a product that Defendant affirmatively represented to contain a promised borage oil formulation and promised concentration of GLA. In truth, the product sold by Defendant was not made from borage oil and contained no GLA.

17. Here, consumers, including plaintiff, made purchasing decisions and did, in fact, make purchases from Defendant based upon Defendant's specific representations of promised borage oil formulation and promised concentration of GLA. Yet, detailed, independent, third-party laboratory analysis of defendant's product showed it to be made not from borage oil and without any concentration of GLA.

18. Defendant, in marketing a purportedly salutary nutritional supplement, containing specific ingredients – in specific concentrations – has affirmatively

misrepresented and mislabeled its product.

19. The affirmative promises and representations made by Defendant – both in product labeling and in marketing representations – in connection with its product are false and misleading. Indeed, Defendant has affirmatively misrepresented the Product's formulation, concentration of ingredients and salutary benefits. Plaintiff and members of the class were entitled to trust the Defendant's labeling and marketing representations with respect to the formulation and constituent ingredients of its product. The product delivered by Defendant to plaintiff and members of the putative class misrepresented formulation, constituent ingredients, and efficacy.

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

21. Defendant's advertisement, promises and representations concerning the alleged formulation and ingredient concentration of the Product result in New Jersey consumers who purchased it being subjected to misrepresentation, false promise, fraud, deceit, trickery and false and deceptive advertising.

22. Defendant has made affirmative misrepresentations in connection with the sale, marketing and/or advertisement of the Product.

23. 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 not containing promised ingredients and not formulated from borage oil. 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. The price charged by Defendant for its product presupposed that it was formulated from borage oil and contained GLA. It did not. Thus the price charged was unjustified and excessive. Defendant's product is of lesser value than comparably priced or lower priced supplements that do not misrepresent formulation and constituent ingredients.

24. 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.

25. 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.

26. Defendant marketed and sold the Product and consumers purchased it on the premise and with reliance that the product was formulated from borage oil and contained GLA. It did not. Thus, there is a causal relationship between the Defendant's misrepresentations of the product's formulation and constituent ingredients and the loss suffered by plaintiff and class members.

CLASS ALLEGATIONS

27. 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 comprises all New Jersey purchasers of Defendant's product for the two year period prior to the filing of this civil action. As to the individual plaintiff, the amount in controversy in this action, including, without limitation, compensatory and/or treble 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 and/or treble damages and counsel fees, is less than \$5 million.

28. This action has been brought and may properly be maintained as a class action pursuant to New Jersey Court Rule 4:32.

Numerosity: The members of the Class are so numerous that joinder of all members is impracticable. The Class is comprised of consumers throughout the State of New Jersey.

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 formulation and labeled constituent ingredients of the Product; 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 the Product 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.

29. 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. Plaintiff is also an experienced attorney who has been previously appointed class counsel by both federal and state courts. Thus, Plaintiff is a qualified and suitable attorney to also serve as class counsel.

30. 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.

31. At bar, Plaintiff presently seeks no injunctive relief.

32. **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 State of New

Jersey who purchased the Product. The injury suffered by each individual class member is relatively small in comparison to the burden and expense of individual prosecution of the action. 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

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

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

35. 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

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

37. Defendant's conduct constitutes deception 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 III

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

40. Defendant's conduct constitutes fraud 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 IV

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

43. 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.

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 V

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

46. 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*.

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.

Dated: May 8, 2014



HAROLD M. HOFFMAN, ESQ.

Counsel for Plaintiff and the Putative Class

240 Grand Avenue

Englewood, NJ 07631

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.

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: May 8, 2014

Appendix XII-B1

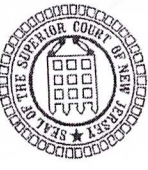

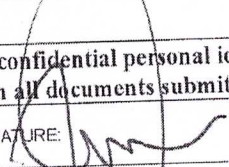
CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY	
 <p>Use for initial Law Division Civil Part pleadings (not motions) under Rule 4:5-1 Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or if attorney's signature is not affixed.</p>		PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA	
		CHG/CK NO.	
		AMOUNT:	
		OVERPAYMENT:	
		BATCH NUMBER:	
ATTORNEY/PRO SE NAME HAROLD M. HOFFMAN, ESQ.	TELEPHONE NUMBER (201) 569-0086	COUNTY OF VENUE Bergen	
FIRM NAME (If applicable)		DOCKET NUMBER (When available) L-4374-14	
OFFICE ADDRESS 240 GRAND AVENUE, ENGLEWOOD, NJ 07631-4352 hoffman.esq@verizon.net		DOCUMENT TYPE COMPLAINT	
NAME OF PARTY (e.g., John Doe, Plaintiff) HAROLD M. HOFFMAN, Individually and on behalf of those similarly situated		CAPTION HAROLD M. HOFFMAN, Individually and on behalf of those similarly situated v. BARLEAN'S ORGANIC OILS, L.L.C.	
CASE TYPE NUMBER (See reverse side for listing) 699	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY, IF KNOWN <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN		
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, IS THAT RELATIONSHIP <input type="checkbox"/> EMPLOYER-EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION: This case is brought as a putative class action seeking recovery in behalf of a class of consumer purchasers and alleges that defendant(s) engaged in deceptive and unconscionable commercial practices in violation of the New Jersey Consumer Fraud Act.			
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION:		
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, FOR WHAT LANGUAGE:		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).			
ATTORNEY SIGNATURE: 			

EXHIBIT B

IN THE UNITED STATES COURT FOR
THE DISTRICT OF NEW JERSEY

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

V.

BARLEAN'S ORGANIC OILS, LLC,
Defendant.

Civil Action No.:

(previously pending in the Superior Court of New Jersey, Bergen County, Law Division as BER-L-4374-14)

Declaration of Kevin Moore in Support of Notice of Removal

[illegible]

I, Kevin Moore, being more than eighteen years old, and based upon my personal knowledge and information, declare the following under penalty of perjury:

1. I make this declaration in support of Barlean's Notice of Removal filed in the above-captioned matter.
2. I am the Chief Financial Officer for Barlean's Organic Oils, LLC (Barlean's), who is the Defendant in the above-captioned matter.
3. Barlean's is a limited liability company that is organized and existing under the laws of the State of Washington, with its principal place of business in Ferndale, Whatcom County, Washington.

4. In my capacity as Chief Financial Officer, I am personally familiar with the sales data pertaining to Barlean's sale of its products nationwide.

5. Barlean's does not maintain product-specific sales metrics for the sale of its Omega Twin product in New Jersey; however, Barlean's does maintain non-product specific sales metrics for all products sold in the State of New Jersey;

6. Nationally, the units sold of Barlean's Omega Twin products between May 13, 2012 and May 13, 2014 were 13,516, which amounts to \$295,269 in total revenue for Barlean's Omega Twin products over this same two-year period.

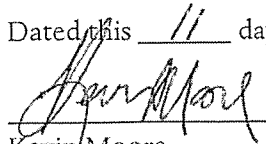
7. The average retail price for Barlean's Omega Twin products over this two-year period was \$21.84.

8. In 2012, total sales in New Jersey (all products) were \$4,584,034 (6.06% of total annual sales).

9. In 2013, total sales in New Jersey (all products) were \$4,579,411 (7.43% of total annual sales).

10. Pursuant to Local Rule 11.2, to the best of my knowledge and information, the matter in controversy is not the subject of any other action pending in any court, arbitration, or administrative proceeding.

Dated this 11 day of June 2014 in Ferndale, Washington.



Kevin Moore
Declarant

EXHIBIT C

OLSHAN FROME WOLOSKY LLP

Andrew B. Lustigman, Esq.
Scott Shaffer, Esq.
744 Broad Street, 16th Floor
Newark, New Jersey 07102
Tel: 973-331-7200

-and-

Park Avenue Tower
65 East 55th Street
New York, New York 10022
Tel: 212-451-2302

Joel Matteson, Esq. (*pro hac vice* to be filed)
3660 Slater Road
Ferndale, WA 98248
Tel: 360-398-5810

Attorneys for Defendant

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

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

Plaintiff,

v.

BARLEAN'S ORGANIC OILS, L.L.C.,

Defendant.

Civil Action No.: _____

(previously pending in the Superior Court
of New Jersey, Bergen County, Law
Division as BER-L-4374-14)

NOTICE OF NOTICE OF REMOVAL

To: Harold Hoffman, Esq.
Plaintiff *Pro Se*
240 Grand Avenue
Englewood, NJ 07631
Tel: 201-569-0086
E-mail: hoffman.esq@verizon.net

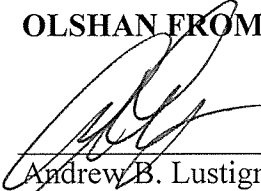
PLEASE TAKE NOTICE that the above-captioned civil action filed in the Superior Court of the State of New Jersey, Bergen County, Law Division, has been removed from that court to the United States District Court for the District of New Jersey, effective on June 12,

2014. On that day, a Notice of Removal, a copy of which (with exhibits thereto) is attached as Exhibit 1, 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: June 12, 2014

Respectfully submitted,

OLSHAN FROME WOLOSKY LLP



Andrew B. Lustigman

Scott Shaffer

Park Avenue Tower

65 East 55th Street

New York, New York 10022

Tel: 212-451-2300

Fax: 212-451-2222

-and-

744 Broad Street, 16th Floor

Newark, New Jersey 07102

Tel: 973-331-7200

Fax: 973-331-7222

Joel Matteson (*pro hac vice* to be filed)

3660 Slater Road

Ferndale, WA 98248

Tel: 360-398-5810

Fax: 360-483-5637

Attorneys For Defendant

EXHIBIT D

OLSHAN FROME WOLOSKY LLP

Andrew B. Lustigman, Esq.
Scott Shaffer, Esq.
744 Broad Street, 16th Floor
Newark, New Jersey 07102
Tel: 973-331-7200

-and-

Park Avenue Tower
65 East 55th Street
New York, New York 10022
Tel: 212-451-2302

Joel Matteson, Esq. (*pro hac vice* to be filed)
3660 Slater Road
Ferndale, WA 98248
Tel: 360-398-5810

Attorneys for Defendant

**SUPREME COURT OF THE STATE OF NEW JERSEY
BERGEN COUNTY – LAW DIVISION**

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

Plaintiff,

v.

BARLEAN'S ORGANIC OILS, L.L.C.,

Defendant.

Docket No.: BER-L-4374-14

CIVIL ACTION

**NOTICE OF FILING
NOTICE OF REMOVAL TO
UNITED STATES DISTRICT COURT**

TO: CLERK OF THE COURT
Superior Court of New Jersey,
Law Division Bergen County
10 Main Street, Room 115
Hackensack, NJ 07601

PLEASE TAKE NOTICE that defendant Barlean's Organic Oils, L.L.C., by and
through the undersigned counsel, has removed the above-captioned action from the Superior
Court of New Jersey, Bergen County, Law Division, to the United States District Court for the

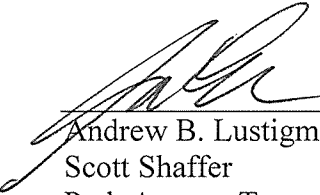
District of New Jersey. The grounds for removal are set forth in the Notice of Removal attached hereto as Exhibit 1.

A copy of the Notice of Removal filed with the United States District Court for the District of New Jersey, as well as a copy of this notice, has been served via overnight delivery upon the Plaintiff's counsel of record: Harold M. Hoffman, Esq., 240 Grand Avenue, Englewood, NJ 07631.

Dated: June 12, 2014

Respectfully submitted,

OLSHAN FROME WOLOSKY LLP



Andrew B. Lustigman
Scott Shaffer
Park Avenue Tower
65 East 55th Street
New York, New York 10022
Tel: 212-451-2300
Fax: 212-451-2222
-and-
744 Broad Street, 16th Floor
Newark, New Jersey 07102
Tel: 973-331-7200
Fax: 973-331-7222

Joel Matteson (*pro hac vice* to be filed)
3660 Slater Road
Ferndale, WA 98248
Tel: 360-398-5810
Fax: 360-483-5637

Attorneys For Defendant

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.)

I. (a) PLAINTIFFS

Harold M. Hoffman

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

(c) Attorneys (Firm Name, Address, Email and Telephone Number)
Harold M. Hoffman
240 Grand Avenue
Englewood, NJ 07631 (201) 569-0086

DEFENDANTS

Barlean's Organic Oils, L.L.C.

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

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

Attorneys (If Known)
Andrew Lustigman and Scott Shaffer Olshan Frome Wolosky LLP
65 East 55th Street
New York, NY 10022 (212) 451-2300

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 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 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 (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	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 - Medical Malpractice	<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 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/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 IMMIGRATION <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 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 checked="" 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 <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <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):
28 U.S.C. 1332, 1441(a), and 1453 and 1446(a)

Brief description of cause:

This is a putative class action lawsuit alleging violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1

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
6/11/14

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

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

OLSHAN FROME WOLOSKY LLP

Andrew B. Lustigman, Esq.
Scott Shaffer, Esq.
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-and-

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Joel Matteson, Esq. (*pro hac vice* to be filed)
3660 Slater Road
Ferndale, WA 98248
Tel: 360-398-5810

Attorneys for Defendant

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

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

Plaintiff,

v.

BARLEAN'S ORGANIC OILS, L.L.C.,

Defendant.

Civil Action No.: _____

(previously pending in the Superior Court
of New Jersey, Bergen County, Law
Division as BER-L-4374-14)

**CERTIFICATION PURSUANT TO
LOCAL CIVIL RULE 10.1 (a)**

Pursuant to Local Civil Rule 10.1(a), the following is a service list setting forth the names and addresses of each party thus far served in the above-captioned action, as well as counsel for each of such parties.

Plaintiff/Plaintiff's Counsel: Harold Hoffman
240 Grand Avenue
Englewood, NJ 07631
Tel: 201-569-0086
E-mail: hoffman.esq@verizon.net

Defendant: Barlean's Organic Oils, L.L.C.
3660 Slater Road
Ferndale, WA 98248

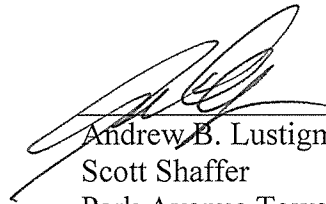
Defendant's Counsel: Andrew B. Lustigman
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Dated: June 12, 2014

Respectfully submitted,

OLSHAN FROME WOLOSKY LLP



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Defendant.

Civil Action No.: _____

(previously pending in the Superior Court
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Division as BER-L-4374-14)

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that the undersigned hereby enters his appearance as counsel in this action for Defendant Barlean's Organic Oils, L.L.C. in the above-captioned matter. Please serve copies of all papers in the captioned action upon the undersigned attorneys at the following address:

Andrew B. Lustigman
Scott Shaffer
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Email: alustigman@olshanlaw.com
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Dated: June 12, 2014

Respectfully submitted,

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Attorneys for Defendant

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

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BARLEAN'S ORGANIC OILS, L.L.C.,

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(previously pending in the Superior Court
of New Jersey, Bergen County, Law
Division as BER-L-4374-14)

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
 : ss:
COUNTY OF NEW YORK)

Amy Mauro, being duly sworn, deposes and says:

1. I am over the age of 18, reside in Westchester County, New York, and not a party to this action.
2. I am an employee of Olshan Frome Wolosky LLP, counsel for the defendant in this action. My business address is Park Avenue Tower, 65 East 55th Street, New York, New

York 10022, which is located in the city, county, and state where the mailing described took place. The firm also maintains an office in New Jersey located at 744 Broad Street, 16th Floor, Newark, New Jersey 07102.

3. On June 12, 2014, I caused a true and correct copy of the following documents:

Notice of Removal;
Notice of Notice of Removal;
Notice of Filing Notice of Removal to United States District Court;
Civil Cover Sheet;
Rule 7.1 Corporate Disclosure Certification;
Notice of Appearance; and
Certification Pursuant to Local Rule 10.1(a)

To be served upon Plaintiff *Pro Se* in the within action via overnight delivery service to the following address:

Harold Hoffman, Esq.
240 Grand Avenue
Englewood, NJ 07631
Tel: 201.569.0086

4. On June 12 2014, I sent a copy of the Notice of Filing Notice of Removal to the United States District Court, also via overnight delivery service, to the Clerk of the state court at the following address:

Clerk of the Court
Superior Court of New Jersey
Law Division, Bergen County
10 Main Street, Room 115
Hackensack, NJ 07601

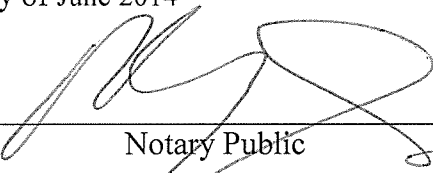
5. I declare under the penalty of perjury that the foregoing is true and correct.

Executed on: June 12, 2014



Amy F. Mauro

Sworn to before me this
12th day of June 2014



Notary Public

PATRICIA L. BRADLEY
Notary Public State Of New York
No. 01BR6302130
Qualified in New York Court
Commission Expires April 28, 2018