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Attorneys for Defendants

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

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

Plaintiff,

-against-

CURT CLEMENS, ALTERN MARKETING,  
LLC, and WHOLE BODY RESEARCH, LLC,

Defendants.

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

(previously pending in the Superior Court  
of New Jersey, Bergen County, Law  
Division as BER-L-9254-13)

**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 Whole Body Research, LLC (hereinafter,  
“WBR”), 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, WBR alleges as follows:

**THE REMOVED CLASS ACTION COMPLAINT**

1. On or about December 2, 2013, Plaintiff Harold M. Hoffman (hereinafter, “Hoffman” or “Plaintiff”), a licensed attorney in the State of New Jersey, filed on behalf of himself and a class of allegedly similarly situated persons across the nation, a Complaint And Jury Demand In Class Action (hereinafter, “the Class Action Complaint”). The Class Action Complaint named Curt Clemens, Altern Marketing, LLC and WBR as Defendants and was filed in the Superior Court of New Jersey, Bergen County, Law Division. The Class Action Complaint is styled *Harold M. Hoffman, individually and on behalf of those similarly situated v. Curt Clemens, Altern Marketing, LLC and Whole Body Research, LLC*, Docket No. BER-L-9254-13.

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

3. WBR was not served with a copy of the Class Action Complaint until December 4, 2013. Thus, the time for it to remove has not yet expired.

4. The Class Action Complaint contains seven separate counts and alleges Defendants are liable to Hoffman and each class member for allegedly: violating the New Jersey Consumer Fraud Act, N.J.S.A. §56:8-1 *et seq.* (hereinafter, “CFA”) (Counts I-V); for common law fraud (Count VI); and for unjust enrichment (Count VII). *See generally*, Class Action Complaint.

5. Hoffman alleges that Defendants sold him a dietary supplement known as Garcinia Cambogia for \$52 in a manner that violated the CFA and common law. Class Action Complaint at ¶1. WBR denies that it engaged in any wrongdoing or violated any law.

6. Hoffman alleges that Defendants sold their products through a “scam” that was “carried out through misrepresentation and material concealment, whose goal was to dupe consumers into purchasing goods and services, including dietary supplements...” *Id.* at ¶8.

7. The Class Action Complaint alleges that, merely through purchasing Garcinia Cambogia, Hoffman and members of the putative class suffered an ascertainable loss as a result of Defendants’ alleged violations of the CFA and common law fraud. *Id.* at ¶¶24-27.

8. Specifically, the Class Action Complaint alleges 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 as aforesaid.” *Id.* at ¶24; (2) “when they received, for their money, a product less than, and different from, the product promised by Defendant.” *Id.* at ¶26; and (3) when “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 ¶27.

9. In addition, the Class Action Complaint charges Defendants with common law fraud by “deliberately and knowingly engag[ing] in concealment, suppression and/or omission of material facts” resulting in damages to members of the class. *Id.* at ¶53.

10. The Class Action Complaint further alleges that Defendants are liable to Hoffman and each class member for unjust enrichment. *Id.* at ¶¶56-62. Specifically, Hoffman alleges that, “All monies paid by class members to Defendant for the purchase of Defendant’s Garcinia Cambogia and other products, including all interest earned by Defendant on such monies while in the wrongful possession thereof, should be disgorged by Defendant and reimbursed to class members under principles of unjust enrichment.” *Id.* at ¶61.

11. The Class Action Complaint demands the following relief from Defendants: reimbursement, treble damages, punitive damages, pre-judgment and post-judgment interest, civil penalties pursuant to NJSA 56:8-19, fees, costs, attorney's fees and "any other and further relief as the Court deems just and proper." *Id.*, *passim*.

12. The Class Action Complaint purports to seek certification of a potential class of "all nationwide purchasers of the Product for the six-year period preceding the filing of this suit." *Id.* at ¶29.

**FEDERAL SUBJECT MATER JURISDICTION AND VENUE EXIST**

13. This Court has original jurisdiction over this action pursuant to the Class Action Fairness Act, 28 U.S.C. §1332(d) (hereinafter, "CAFA"). As alleged in the Class Action Complaint and evidenced in the Declaration Of Josh Golder In Support Of Removal (hereinafter, "Golder Decl.") (submitted herewith as Exhibit B):

a. The action, as filed by Hoffman in the Superior Court of New Jersey, Bergen County, Law Division, is a "class action." Class Action Complaint at ¶29 ("Plaintiff brings this suit as a class action...");

b. There is minimal diversity. Specifically, at least one member of the putative class of plaintiffs, namely Hoffman himself, is a citizen of a different state than one defendant;

c. The amount in controversy exceeds \$5,000,000, exclusive of interest and costs, as required by 28 U.S.C. §1332(d)(2); and

d. There are more than 100 members of the proposed class.

Minimal Diversity Exists

14. Hoffman is a member of the asserted plaintiff class. He is a citizen of the State of New Jersey, Bergen County. Class Action Complaint at ¶6.

15. Both at the time Plaintiff filed the Complaint, and continuing to the present, Defendant WBR was and is a limited liability company organized and existing under the laws of the State of California, with a principal place of business located in the State of California. *Id.* at ¶2.

16. Based on the foregoing, minimal diversity exists because at least one member of the class is a citizen of a different state than Defendant. *See* 28 U.S.C. §1132(d)(2).

The Amount in Controversy Exceeds \$5,000,000

17. Although the allegations in the Class Action Complaint purport to disclaim the amount in controversy is less than \$5,000,000, removal is nonetheless proper here based upon a fair reading of the Class Action Complaint, this Notice of Removal and the accompanying Golder Declaration.

18. Hoffman's Class Action Complaint does not state an exact sum that he seeks to recover on behalf of the putative class. Instead, he baldly alleges, without reference, that the amount in controversy is less than the \$5,000,000 jurisdictional threshold required under CAFA. Class Action Complaint at ¶29. To the extent Hoffman opposes removal, it is he, as the party challenging federal jurisdiction, who bears the burden of proving necessary facts by a preponderance of the evidence 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).

19. Based on the allegations of the Class Action Complaint, there is more than \$5,000,000 in controversy, which exceeds the CAFA jurisdictional minimum. *See* 28 U.S.C. §1132(d)(2).

20. The Court may rely upon facts alleged in Defendant’s Notice of Removal and other supporting documents, as well as the allegations in the Class Action 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”).

21. Defendants dispute any and all liability and relief claimed whatsoever, under any theory and in any amount alleged in the Class Action Complaint. However, a fair reading of this Notice of Removal and the accompanying Golder Declaration together with the Class Action Complaint itself -- including consideration of the relief sought and the nationwide scope of the class -- necessitates the conclusion that the Class Action Complaint seeks damages exceeding the minimum jurisdictional amount of \$5,000,000 under CAFA.

22. The Class Action Complaint alleges ascertainable loss “in the form of actual out of pocket payment and expenditure” for the purchase of the Product, and alleges a claim of unjust enrichment because Plaintiff and the class members purportedly “conferred a benefit” upon Defendants through their purchases of the Product.

23. To date, the alleged class period encompasses nationwide sales of Garcinia Cambogia -- and thus consumer out-of-pocket payments -- in excess of 50,000 units in connection with the consumersguides.com website. *See* Golder Decl. at ¶¶ 5-6.

24. Although the sales price of the product has varied at times, the average sales price per unit, inclusive of shipping and handling, exceeds \$40. *See* Golder Decl. at ¶¶ 5-6. Thus for the class period defined in the Class Action Complaint, consumers' out-of-pocket payments exceed \$2,000,000. *See* Golder Decl. at ¶¶ 5-6.

25. The Class Action Complaint seeks treble damages under each of the five counts asserted under the CFA. Treble damages count towards the jurisdictional minimum analysis. *Lawton v. Basic Research, LLC*, 2011 WL 1321567 at \*3 (D.N.J. Apr. 4, 2011).

26. Therefore, the sum of consumers' out-of-pocket payments during the time period in question plus the potentially trebled damages easily exceeds the jurisdictional threshold of \$5,000,000.

27. In addition, the Class Action Complaint also seeks punitive damages for alleged common-law fraud. Punitive damages are appropriately considered when calculating the amount-in-controversy. *Frederico, supra*, 507 F.3d at 199. Under New Jersey law, a plaintiff may collect punitive damages of up to five times the amount of compensatory damages. *Id.* (citing N.J.S.A. § 2A:15-5.14(b)).

28. The amount placed in controversy by the Class Action Complaint thus exceeds the jurisdictional threshold for a second independent reason, since the sum of consumers' out-of-pocket payments during the time period in question plus the potential quintuple punitive damages also easily exceeds the jurisdictional threshold of \$5,000,000.

29. The Class Action Complaint also seeks an award of attorney's fees, which adds a median of 30%, to the amount in controversy, if not more. *See Frederico*, 507 F.3d at 199.

Potential attorney's fees are also to be included in the jurisdictional analysis under CAFA. *Id.*

30. Taking all of the foregoing into account, it appears to a legal certainty that the amount in controversy in this action exceeds the sum or value of \$5,000,000, exclusive of interest and costs. The amount in controversy requirement of CAFA has been more than satisfied.

31. This analysis does not even take into consideration other items that may be included in the calculation to determine whether the CAFA threshold has been met. For example, the Class Action Complaint seeks recovery for sales made by Defendants of 25 additional products (which the Class Action Complaint does not identify) besides *Garcinia Cambogia*. Class Action Complaint at ¶¶ 10, 17, 28, 29.

32. Accordingly, in the event Harold Hoffman identifies any other WBR product, or otherwise challenges the ability of WBR to remove this case to federal court, WBR hereby reserve the right to include additional sales figures for such presently unidentified products in their reply papers. *See Golder Decl.* at ¶8.

#### There Are More Than 100 Members In The Proposed Class

33. The Class Action Complaint alleges that the "proposed Class consists of all nationwide purchasers of Defendant's Product for the six year period preceding the filing of this suit." Thus, the proposed class includes purchasers of the Product from 2007 to the present. Class Action Complaint at ¶29.

34. Although the Class Action Complaint does not identify the exact size of the proposed class, it meets the definition of a "class action." It alleges that "the Class is comprised



of consumers throughout the United States,” and that the class is “so numerous that joinder of all members is impracticable.” Class Action Complaint at ¶31.

35. Sales figures for Garcinia Cambogia show that the putative class contains more than 100 members. Golder Decl. at ¶6.

### **VENUE**

36. Venue in the District of New Jersey is proper under 28 U.S.C. §1441(a), because this district embraces Bergen County, New Jersey, where the Complaint was originally filed.

### **OTHER REMOVAL REQUIREMENTS ARE SATISFIED**

37. As required by 28 U.S.C. §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 Notice Of Removal which was sent to Hoffman today at the address he provided on the Class Action Complaint via overnight delivery service.

38. Submitted herewith as Exhibit D is a copy of the Notice Of Filing Notice Of Removal To United States District Court.

39. This Notice of Removal is being filed within thirty days after WBR was served with the Complaint.

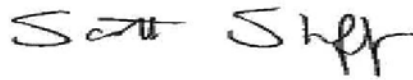
40. Consent of the remaining Defendants is not necessary for removal. 28 U.S.C. § 1453(b). In any event, the remaining Defendants, upon information and belief, have not yet been properly served with process, so their time to remove this action has not yet even commenced.

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

**WHEREFORE,** Defendant WBR hereby removes the Class Action Complaint, and this action in its entirety, from the Superior Court of New Jersey, Bergen County, Law Division to United States District Court for the District of New Jersey.

Dated: December 31, 2013

Respectfully submitted,



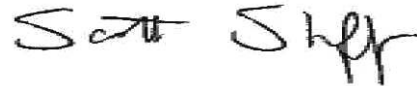
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**CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 11.2**

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: December 31, 2013



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ATTORNEY FOR PLAINTIFF AND THE PUTATIVE CLASS

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

Plaintiff,

-against-

CURT CLEMENS, ALTERN MARKETING,  
LLC, and **WHOLE BODY RESEARCH, LLC,**

Defendants.

SUPERIOR COURT OF NEW JERSEY  
BERGEN COUNTY - LAW DIVISION

DOCKET NO.: BER-L-9254-13

CIVIL ACTION

**SUMMONS**

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

CURT CLEMENS

ALTERN MARKETING, LLC

**WHOLE BODY RESEARCH, LLC**

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

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

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

/s/ Jennifer M. Perez

Jennifer M. Perez, Acting Superior Court Clerk

Dated: December 3, 2013

Name of Defendant to be Served:

CURT CLEMENS, ALTERN MARKETING, LLC, WHOLE BODY RESEARCH, LLC

Address of Defendant to be Served:

22180 Miranda St., Woodland Hills, CA; 8391 Beverly Blvd., 271, Los Angeles, CA; 409 Washington Blvd., Marina Del Rey, CA

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SUSSEX COUNTY**  
Deputy Clerk of the Superior Court  
Sussex County Judicial Center  
43-47 High Street  
Newton, NJ 07860  
**LAWYER REFERRAL**  
(973) 267-5802  
**LEGAL SERVICES**  
(973) 383-7400

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

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

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ATTORNEY FOR PLAINTIFF AND THE PUTATIVE CLASS

HAROLD M. HOFFMAN, individually and on  
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-against-

CURT CLEMENS, ALTERN MARKETING,  
LLC, and WHOLE BODY RESEARCH, LLC,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
BERGEN COUNTY - LAW DIVISION

DOCKET NO.: BER-L-9254-13

CIVIL ACTION

COMPLAINT AND JURY  
DEMAND IN CLASS ACTION

### OVERVIEW

By this civil action, Plaintiff brings claims on his own behalf and on behalf of those similarly situated (the "Class"), to redress injury inflicted on the United States consumer public. As detailed below, Defendants engaged in a carefully planned and cynically executed scam, carried out through misrepresentation and material concealment, whose goal was to dupe consumers into purchasing goods and services, including dietary supplements, by exposing said consumers to the written, and presumably independent, recommendations and ratings of a purportedly independent, expert, online consumer-product reporting and rating service, entitled *Consumer's Guides*, without disclosure of the

fact that no actual, honest, reporting/rating of consumer products was taking place at all because, *inter alia*, both Consumer's Guides and the dietary supplement purveyors who received the most sterling, no. 1 recommendations, were owned, operated and controlled by the same person, Defendant *Curt* Clemens.

The putative class comprises all nationwide purchasers, during the six year period preceding the filing of this suit, of any product from Defendant Whole Body Research, LLC, and/or any other entity owned, operated and/or controlled by Defendant *Curt* Clemens, that was rated and recommended on the web site of ConsumersGuides.com. ("Consumer's Guides").

1. At all times relevant, Plaintiff Harold M. Hoffman had a place of residence in the State of New Jersey, County of Bergen. In November 2013, Plaintiff was exposed to and read Consumer's Guides' "2013 Top Pick Gold Award" for the Garcinia Cambogia dietary supplement sold by Defendant Whole Body Research, LLC ("WBR"). Based on the said "2013 Top Pick Gold Award," the #1 rating and recommendation of Consumer's Guides for said product, which at the time was believed by Plaintiff to be legitimate, Plaintiff purchased Defendant WBR's Garcinia Cambogia supplement and paid \$52 for a 90-capsule bottle of same.

2. At all relevant times, Defendant WBR was a limited liability company



organized and existing pursuant to the laws of the State of California, with a principal place of business located in Los Angeles, CA. Defendant WBR sold a variety of dietary supplements including Garcinia Cambogia throughout the nation, including the State of New Jersey.

3. At all relevant times, Defendant Altern Marketing, LLC, ("Altern") was a limited liability company organized and existing pursuant to the laws of the State of California, with a principal place of business located in Los Angeles, CA. Upon information and belief, Defendant Altern owned and operated the Consumer's Guides web site and was responsible for its content. As noted, Consumer's Guides operated as a presumably independent, consumer product and service recommendation and rating web site, allegedly providing independent, expert, product reporting and ratings, related to consumer products sold by Defendant WBR, and others.

4. Defendant Curt Clemens ("Clemens"), an individual with a place of business in the State of California, was an officer, director, member, and/or managing member of Defendants WBR and Altern, among others. Defendant Clemens controlled all material aspects of the business operations of Defendants WBR and Altern, including but not limited to their advertising, marketing, and product promotions, ratings and recommendations. Hereinafter, Defendants, collectively, will be referred to as Defendant (in the singular).

5. Defendant, either directly and/or indirectly, advertised, marketed, distributed and sold Garcinia Cambogia in commerce throughout the United States, including but not limited to the State of New Jersey.

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

7. 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).

8. For the six-year period preceding the filing of this action, Defendants engaged in a carefully planned and cynically executed scam (hereinafter, the "Scam"), carried out through misrepresentation and material concealment, whose goal was to dupe consumers into purchasing goods and services, including dietary supplements, by exposing said consumers to the written, and presumably independent, recommendations and ratings of a purportedly independent, expert, online consumer-product/service reporting and rating service, entitled *Consumer's Guides*, without disclosure of the fact that no actual, honest, reporting/rating of consumer products was taking place at all because, *inter alia*, both *Consumer's Guides* and the dietary supplement purveyors who received the most sterling, no. 1 recommendations, were owned, operated and controlled by the same person, Defendant Curt Clemens.

9. Defendant is believed to have sold significant quantities of product, including Garcinia Cambogia, to consumers throughout the nation by implementation of the Scam during the putative class period.

10. To facilitate and bolster the Scam; to enhance its power to dupe the U.S. consumer public; to fabricate the false impression of authenticity, independence, and expertise, Defendant, in connection with the Consumer's Guides web site, created the persona of an attractive female reporter, given the name and title *Karen Weathers, Senior Editor*, coupled with a flattering photograph of this make-believe, albeit presumably experienced, independent, honest writer and authentic reviewer of consumer products and services. The so-called Ms. Weathers, reviewed and recommended Defendant WBR's Garcinia Cambogia (along with 25 others), giving it a sterling, no. 1 recommendation, and thereby inducing Plaintiff and others to purchase the said product through misrepresentation of an honest product review process, and without disclosure of the material fact that Consumer's Guides and WBR are owned and controlled by the same person, Defendant Curt Clemens.

11. According to Consumer's Guides and WBR, consumption of the WBR Garcinia Cambogia that Plaintiff and others were induced to purchase by Consumer's

Guides rating and top-flight recommendation, burns fat at an accelerated rate; speeds weight loss; delivers “natural” weight loss; suppresses and reduces appetite; blocks fat production; and, increases serotonin production for a happier and healthier lifestyle. In truth and in fact, there is no conclusive clinical evidence accepted by the medical community that Garcinia Cambogia, a plant native to Indonesia, can deliver any of these benefits.

12. Moreover, a misrepresentation concerning the quality and independent rating and evaluation of a particular Garcinia Cambogia product is critical to its value, both from the perspective of purchase price and from a health perspective. Here, no independent, responsible, authentic testing, ranking, rating of WBR’s recommended Garcinia Cambogia ever took place. Indeed, Consumer’s Guides’ no. 1, top-flight ranking of WBR’s product was a dupe, a fraud, and entirely bogus.

13. To further facilitate and bolster the Scam; to further enhance its power to dupe the U.S. consumer public; to further fabricate the false impression of authenticity, independence, and expertise, Defendant, in connection with the Consumer’s Guides web site, and through the use of the bogus Karen Weathers persona, claimed/stated as follows, falsely and fraudulently to create an aura of authenticity and to induce consumers to buy Garcinia Cambogia from WBR:

\* With so many companies out there selling a product, how do you know which one uses the best, high-quality ingredients without making the supplement less effective by watering it down with unnecessary ingredients?

\* Here were some of our own concerns, which we know are shared by many people looking for Garcinia Cambogia: They sometimes don't work: this is the main reason people I've spoken to are afraid to try Garcinia Cambogia. And they're justified because many of the products on the market don't contain the right ingredients in the right proportions or doses to be effective. They're expensive: Some companies sell Garcinia Cambogia for as much as \$100 per bottle. That's a lot to invest in a product you're unsure about.

\* Some Garcinia Cambogia blends [are] just taking advantage of a trend: This was a popular sentiment felt by many. Fly-by-night companies toss a hot-selling word like "ultra," "premium," or "natural" in front of the supplement's name in order to get it out the door fast. So how can you tell which Garcinia Cambogia supplements are the real deal?

\* The second thing we found is the importance of third-party testing. Most of the brands that didn't even make it past our initial round had no third-party testing to verify the ingredients or effectiveness of the product. We know you don't have the time or extra money to waste trying to wade through the latest fat-burning craze. So we took the guess work out of it for you by researching several brands of Garcinia Cambogia ourselves.

\* What You're Going To Learn: How To Choose The Best Garcinia Cambogia For The Money The Ingredients That Create Results How To Not Get Ripped Off By Cheap Formulas.

\* To conduct our research, we got our hands on as many bottles of Garcinia Cambogia as possible--40 in total--and found out which ones have the right ingredients in the right proportions, because quality is the cornerstone to a good Garcinia Cambogia supplement. After that, we found real customers who used these products and learned from their own experiences. We then used all these factors to review the best Garcinia Cambogia products on the market today.

\* What about the brands that did make our list? Boy, are they amazing! Customers reported losing lots of weight--some in as little as one week--and the companies selling these products are established, reputable, and have some of the best return

policies in the business. Some of the men and women we talked to loved these brands so much, they take advantage of big discounts by ordering their supplements in bulk so they never run out. Now that's a ringing endorsement.

\* If you're interested in trying a Garcinia Cambogia supplement, then this is the one for you. Out of everything we looked at, [Defendant] Whole Body Research was the highest quality supplement and the only one we can safely recommend you purchase.

14. As noted, Consumer's Guides duplicitously awarded WBR Garcinia Cambogia with the "2013 Top Pick Gold Award" without advising consumers that Defendant Curt Clemens, who owns and controls Consumer's Guides, also owns and controls WBR. Moreover, no authentic testing, evaluation, consumer interviews, competing company research, and/or comparison/examination of comparable products available on the market ever took place.

15. Defendant's Scam was designed to and did lead Plaintiff and others similarly situated falsely to believe that WBR's Garcinia Cambogia, after legitimate, independent review, was the top-ranked product available on the market. Plaintiff and members of the putative Class relied on Defendant's false claims and misrepresentations and on its Scam, and would not have purchased Defendant's Garcinia Cambogia, but for the Scam. As a result, Defendant has wrongfully taken substantial sums from hard-working consumers throughout the nation.

16. Plaintiff brings this suit to recover funds taken by Defendant as a direct

consequence of its Scam. The affirmative promises and representations made by Defendant in connection with the Consumer's Guides' review, ranking, marketing, advertisement and sale of WBR Garcinia Cambogia, as aforesaid, are false.

17. Plaintiff and members of the putative class are purchasers of Defendant's Garcinia Cambogia and/or other products touted and sold, directly and/or indirectly by ~~Curt~~ Clemens and/or his companies, and, prior to purchasing a product, saw, read and/or heard a Consumer's Guides' dupe and/or Scam, and thereafter made an out of pocket payment to Defendant in response thereto. Plaintiff and members of the class, prior to purchasing their product(s), all saw, read and/or heard the Consumer's Guides' Scam and/or a comparable dupe and scam involving another product/service touted and sold by Defendant ~~Curt~~ Clemens and/or companies he owns/ controls. Defendant's promises, claims and representations as aforesaid, resulted in an out of pocket payment from nationwide consumers to Defendant.

18. 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 Defendant's Scam and other comparable dupes to induce product purchases.

19. Here, consumers, including Plaintiff, made purchasing decisions and did, in fact, make purchases from Defendant based upon Consumer's Guides' false claims and

representations of product rating and superiority.

20. Defendant has knowingly sold an affirmatively misrepresented product.

21. The affirmative promises and representations made by Defendant in the Consumer Guides' rating and ranking are false and misleading.

22. Defendant's advertisements, promises, ranking, rating, evaluation, recommendation and representations on the Consumer's Guides' web site concerning WBR Garcinia Cambogia are false and constitute a deception; a misrepresentation; an unconscionable trade practice; a sharp and deceitful marketplace practice, and are a false promise. They result in U.S. consumers who purchased product as a result of hearing/seeing them touted on the Consumer's Guides' web site being subjected to misrepresentation, false promise, fraud, deceit, trickery and false and deceptive advertising.

23. Defendant has made affirmative misrepresentations in connection with the sale, marketing and/or advertisement of its Garcinia Cambogia.

24. 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.

25. Plaintiff and members of the putative class paid hard earned money and



received from Defendant, in exchange, a misrepresented product. 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.

26. 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.

27. 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.

28. Defendant marketed and sold Garcinia Cambogia and other products and/or services - and consumers purchased them - on the premise that they were of independently and honestly verified quality. All of Defendant's claims and promises in this regard are false. Thus, there is a causal relationship between the Defendant's misrepresentations and the loss suffered by Plaintiff and class members.

### CLASS ALLEGATIONS

29. Plaintiff brings this suit as a class action individually and in behalf of others similarly situated pursuant to New Jersey Court Rule 4:32. Subject to additional information obtained through further investigation and/or discovery, the definition of the Class may be expanded or narrowed. The proposed Class consists of all nationwide purchasers, during the six year period preceding the filing of this suit, of any product from Defendant WBR and/or any other entity owned, operated and/or controlled by Defendant ~~Curt~~ Clemens, that was rated and recommended on the web site ConsumersGuides.com. As to the individual plaintiff, the amount in controversy in this action, including, without limitation, compensatory, treble, and/or punitive damages and counsel fees, is less than \$75,000.00. As to the putative plaintiff class, the amount in controversy in this action, including, without limitation, compensatory, treble, and/or punitive damages and counsel fees, is less than \$5 million.

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

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

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

- a. Whether Defendant made affirmative misrepresentations in violation of the New Jersey Consumer Fraud Act;
- b. Whether Defendant misrepresented the quality and independent, authentic evaluation of various Garcinia Cambogia products; 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 Defendant's Garcinia Cambogia after exposure to the same misrepresentations and/or omissions in Defendants' advertising and received a product less than and different from the promised product. Plaintiff is advancing claims and legal theories typical to the Class.

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

32. Plaintiff is similarly situated in interest to all members of the proposed Class and is committed to the vigorous prosecution of this action. Accordingly, Plaintiff is an adequate representative of the proposed Class and will fairly and adequately protect the interests of the Class. 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. As we intend to show, after class discovery and upon moving for class certification, this case is appropriate for dual service by Plaintiff as class counsel and class representative.

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

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

35. **Superiority:** In addition, this suit may be maintained as a class action because a class action is superior to all other available methods for the fair and efficient

adjudication of this controversy, since joinder of all members is impracticable. The claims asserted herein are applicable to all consumers throughout the United States who purchased Defendant's Garcinia Cambogia and products touted on the ConsumersGuides.com. The injury suffered by each individual class member is relatively small in comparison to the burden and expense of individual prosecution of the complex and extensive litigation necessitated by Defendant's conduct. It would be virtually impossible for members of the Class individually effectively and cost-efficiently to redress Defendant's wrongful conduct. Individual litigation would enhance delay and expense to all parties. The class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

#### COUNT I

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

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

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

the class were damaged.

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

### **COUNT II**

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

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

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

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

### **COUNT III**

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

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

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

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

#### **COUNT IV**

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

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

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

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

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

#### COUNT V

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

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

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

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

#### COUNT VI

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



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

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

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

55. Defendant's conduct constitutes common law fraud.

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

## **COUNT VII**

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

57. As a result of Defendant's false and deceptive advertisements, claims, promises and representations, as aforesaid, and as a consequence of Defendant's unconscionable trade practices, its sharp and deceitful marketplace practices, and its false promises, all as aforesaid, the class members paid money to and conferred a benefit upon Defendant which benefit was received and continues to be retained by Defendant.

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

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

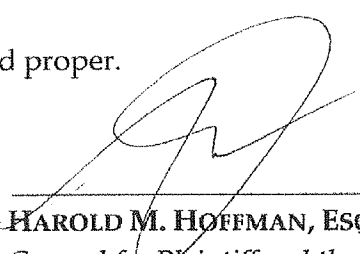
60. Defendant, as a result of its false and deceptive conduct as aforesaid, became indebted to class members for the sums paid by class members to Defendant for purchase of a misrepresented product. Retention of said sums, without reimbursement, would result in the unlawful, unjust and inequitable enrichment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

61. All monies paid by class members to Defendant for purchase of Defendant's Garcinia Cambogia, and other products, including all interest earned by Defendant on such monies while in wrongful possession thereof, should be disgorged by Defendant and reimbursed to class members under principles of unjust enrichment.

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

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

Dated: November 29, 2013



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**HAROLD M. HOFFMAN, ESQ.**

*Counsel for Plaintiff and the Putative Class*  
240 Grand Avenue  
Englewood, NJ 07631  
[hoffman.esq@verizon.net](mailto:hoffman.esq@verizon.net)

### **JURY DEMAND**

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

### TRIAL COUNSEL DESIGNATION

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

### 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.

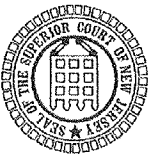
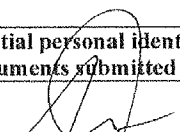


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HAROLD M. HOFFMAN, ESQ.

Dated: November 29, 2013

## Appendix XII-B1

 <b>CIVIL CASE INFORMATION STATEMENT</b> <b>(CIS)</b> Use for initial Law Division Civil Part pleadings (not motions) under Rule 4:5-1 <b>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.</b>		FOR USE BY CLERK'S OFFICE ONLY
ATTORNEY/PRO SE NAME <b>HAROLD M. HOFFMAN, ESQ.</b>		PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA
TELEPHONE NUMBER <b>(201) 569-0086</b>		CHG/CK NO.
COUNTY OF VENUE <b>Bergen</b>		AMOUNT:
DOCKET NUMBER (When available) <b>L-9254-13</b>		OVERPAYMENT:
BATCH NUMBER:		JURY DEMAND <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
FIRM NAME (If applicable)		
OFFICE ADDRESS <b>240 GRAND AVENUE, ENGLEWOOD, NJ 07631-4352</b> <b>hoffman.esq@verizon.net</b>		
NAME OF PARTY (e.g., John Doe, Plaintiff) <b>HAROLD M. HOFFMAN, Individually and on behalf of those similarly situated</b>		
CAPTION <b>HAROLD M. HOFFMAN, Individually and on behalf of those similarly situated v. CURT CLEMENS, ALTERN MARKETING, LLC, and WHOLE BODY RESEARCH, LLC</b>		
CASE TYPE NUMBER (See reverse side for listing) <b>699</b>		
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		
<b>THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.</b>		
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: <b>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.</b>		
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:		
<b>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).</b>		
ATTORNEY SIGNATURE: 		

SIDE 2



# CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

**CASE TYPES** (Choose one and enter number of case type in appropriate space on the reverse side.)

**Track I — 150 days' discovery**

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (INCLUDING DECLARATORY JUDGMENT ACTIONS)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (SUMMARY ACTION)
- 999 OTHER (Briefly describe nature of action)

**Track II — 300 days' discovery**

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603 AUTO NEGLIGENCE — PERSONAL INJURY
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE — PROPERTY DAMAGE
- 699 TORT -- OTHER

**Track III — 450 days' discovery**

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES
- 620 FALSE CLAIMS ACT

**Track IV — Active Case Management by Individual Judge / 450 days' discovery**

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

**Centrally Managed Litigation (Track IV)**

- 280 Zelnorm
- 285 Stryker Trident Hip Implants

**Mass Tort (Track IV)**

- |                                       |  |
|---------------------------------------|--|
| 248 CIBA GEIGY                        | 279 GADOLINIUM                         |
| 266 HORMONE REPLACEMENT THERAPY (HRT) | 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL |
| 271 ACCUTANE                          | 282 FOSAMAX                            |
| 272 BEXTRA/CELEBREX                   | 283 DIGITEK                            |
| 274 RISPERDAL/SEROQUEL/ZYPREXA        | 284 NUVARING                           |
| 275 ORTHO EVRA                        | 286 LEVAQUIN                           |
| 277 MAHWAH TOXIC DUMP SITE            | 601 ASBESTOS                           |
| 278 ZOMETA/AREDIA                     | 619 VIOXX                              |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category:

☐ Verbal Threshold

☒ Putative Class Action

☐ Title 59

# EXHIBIT B

**OLSHAN FROME WOLOSKY LLP**

Scott Shaffer, Esq.  
Park Avenue Tower  
65 East 55th Street  
New York, NY 10022  
Tel: 212.451.2302

Attorneys for Defendants

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

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

Plaintiff,

-against-

CURT CLEMENS, ALTERN MARKETING,  
LLC, and WHOLE BODY RESEARCH, LLC

Defendants.

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

(previously pending in the Superior Court  
of New Jersey, Bergen County, Law  
Division as BER-L-9254-13)

**DECLARATION OF JOSH GOLDER  
IN SUPPORT OF REMOVAL**

I, Joshua Golder, hereby declare as follows:

1. I make this Declaration in support of Defendant Whole Body Research, LLC's  
notice of removal filed in the above-captioned action.

2. Whole Body Research, LLC (hereinafter, "WBR") is a limited liability  
company organized and existing under the laws of the State of California. The principal place  
of business for WBR is located at 8391 Beverly Boulevard in Los Angeles, California.



3. I am a partner and chief financial officer of WBR. In that capacity, I am familiar with the sales of WBR's Garcinia Cambogia product that is identified in Plaintiff Harold Hoffman's class action claims.

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

5. Harold Hoffman alleges he paid \$52 for a bottle of Garcinia Cambogia, inclusive of shipping and handling. Although the sales price of Garcinia Cambogia has varied at times, the average sales price per unit, inclusive of shipping and handling, exceeds \$40.

6. In the relevant class period alleged by Harold Hoffman, sales of Garcinia Cambogia exceed 50,000 units in connection with the consumersguides.com website (hereinafter, "the Website") described by Harold Hoffman.

7. Harold Hoffman's class definition also includes any WBR product sold in connection with the Website, although he does not specifically identify any product by name. Therefore, it is impossible for me to provide precise sales or revenue figures based on Harold Hoffman's incomplete allegations. However, from the minimal information alleged, it is clear that WBR's sales of Garcinia Cambogia made in connection with the Website place more than \$5,000,000 in controversy under Harold Hoffman's Class Action Complaint.

8. In the event Harold Hoffman identifies any other WBR product, or otherwise challenges the information contained in this Declaration, I reserve the right to provide a Reply Declaration with additional information and more precise sales figures demonstrating that the

amount placed in controversy by Harold Hoffman's Class Action Complaint exceeds \$5,000,000.

9. I hereby certify under penalty of perjury that the foregoing is true and correct.

Executed on this 26th day of December 2013 in Los Angeles, California.

By:  \_\_\_\_\_

# EXHIBIT C

**OLSHAN FROME WOLOSKY LLP**

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, NY 10022  
Tel: 212.451.2302

Attorneys for Defendants

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

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

Plaintiff,

-against-

CURT CLEMENS, ALTERN MARKETING,  
LLC, and WHOLE BODY RESEARCH, LLC,

Defendants.

Superior Court of New Jersey  
Bergen County, Law Division

Docket No.: BER-L-9254-13

**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 December 31, 2013. On that day a Notice of Removal, a copy of which (with exhibits) is attached, was filed with the Clerk of the United States District Court for the District of New Jersey, and a copy of that Notice of Removal has been filed with the clerk of the state court, effecting removal pursuant to 28 U.S.C. § 1446.

Dated: December 31, 2013

**OLSHAN FROME WOLOSKY LLP**

A handwritten signature in black ink, appearing to read "Scott Shaffer". The signature is written in a cursive, slightly slanted style.

---

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

# EXHIBIT D

**OLSHAN FROME WOLOSKY LLP**

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, NY 10022  
Tel: 212.451.2302

Attorneys for Defendants

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

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

Plaintiff,

-against-

CURT CLEMENS, ALTERN MARKETING,  
LLC, and WHOLE BODY RESEARCH, LLC,

Defendants.

Docket No.: BER-L-9254-13

CIVIL ACTION

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

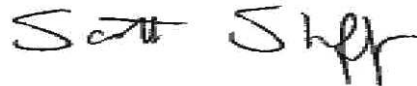
**TO: CLERK OF THE COURT**  
Superior Court of New Jersey,  
Law Division Bergen County  
10 Main Street, Room 115  
Hackensack, NJ 07601

**PLEASE TAKE NOTICE** that defendant Whole Body Research, LLC, 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: December 31, 2013

Respectfully submitted,



---

Scott Shaffer  
**OLSHAN FROME WOLOSKY LLP**  
744 Broad Street, 16th Floor  
Newark, New Jersey 07102  
Tel: 973-331-7200  
Fax: 973-331-7222 Park Avenue Tower  
-and-  
65 East 55th Street  
New York, New York 10022  
Tel: 212-451-2300  
Fax: 212-451-2222



**OLSHAN FROME WOLOSKY LLP**

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, NY 10022  
Tel: 212.451.2302

Attorneys for Defendants

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

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

Plaintiff,

-against-

CURT CLEMENS, ALTERN MARKETING,  
LLC, and WHOLE BODY RESEARCH, LLC,

Defendants.

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

(previously pending in the Superior Court  
of New Jersey, Bergen County, Law  
Division as BER-L-9254-13)

**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

Defendants: Whole Body Research, LLC  
8391 Beverly Blvd. #471  
Los Angeles, CA

Altern Marketing, LLC  
21828 Lassen Street  
Chatsworth, CA

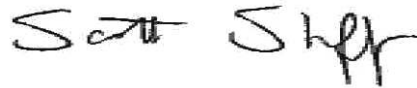
Curt Clemens  
22180 Miranda Street  
Woodland Hills, CA

Defense Counsel:

Scott Shaffer  
Olshan Frome Wolosky LLP  
Park Avenue Tower  
65 East 55th Street  
New York, New York 10022  
--and--  
744 Broad Street, 16th Floor  
Newark, New Jersey 07102  
Tel: 212.451.2300  
Fax: 212.451.2222  
E-mail: sshaffer@olshanlaw.com

Dated: December 31, 2013

Respectfully submitted,



---

Scott Shaffer  
**OLSHAN FROME WOLOSKY LLP**  
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

**OLSHAN FROME WOLOSKY LLP**

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, NY 10022  
Tel: 212.451.2302

Attorneys for Defendants

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

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

Plaintiff,

-against-

CURT CLEMENS, ALTERN MARKETING,  
LLC, and WHOLE BODY RESEARCH, LLC,

Defendants.

Superior Court of New Jersey  
Bergen County, Law Division

Docket No.: BER-L-9254-13

**CERTIFICATE OF SERVICE**

Scott Shaffer certifies and declares as follows:

1. I am over the age of 18 and not a party to this action.
2. I am counsel for the Defendants 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. My law firm also maintains an office in New Jersey located at 744 Broad Street, 16th Floor, Newark, New Jersey 07102.

3. On December 31, 2013, I caused the following documents:

Notice of Removal;  
Notice of Filing Notice Of Removal To United States District Court;  
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 December 31, 2013, I sent a copy of the Notice of Filing Notice Of Removal To 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 December 31, 2013



---

SCOTT SHAFFER

## 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, and Telephone Number)

Harold Hoffman  
240 Grand Avenue  
Englewood, NJ 07631 (201) 569-0086

**DEFENDANTS**

Whole Body Research, LLC, Altern Marketing, LLC and Curt Clemens

County of Residence of First Listed Defendant **Los Angeles, CA**

(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

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	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input 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
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
**28 U.S.C. 1332, 1441(a), 1446(a), and 1453**

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

12/31/2013

SIGNATURE OF ATTORNEY OF RECORD

s/ Scott Shaffer

**FOR OFFICE USE ONLY**

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

# INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

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

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