

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

MAR 17 2015

JAMES W. MCCORMACK, CLERK
By: *[Signature]*

Case No. 4:15cv157-SWD
This case assigned to District Judge *[Signature]*
and to Magistrate Judge *[Signature]*

John Burns, on Behalf of Himself and all
Others Similarly Situated,

Plaintiff,

v.

WAL-MART STORES, INC., and DOE
DEFENDANTS 1-10,

Defendants.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiff John Burns (“Plaintiff”), by his attorneys, makes the following allegations pursuant to the investigation of his counsel and based upon information and belief, except as to allegations specifically pertaining to himself and his counsel, which are based on personal knowledge.

NATURE OF ACTION

1. This is a consumer class action against Wal-Mart Stores, Inc. (“Wal-Mart”) and Doe Defendants 1-10 (collectively, “Wal-Mart” or “Defendant”) for false and misleading statements in connection with the sale of certain of its “Spring Valley™” brand supplements, namely Echinacea, Ginkgo Biloba, St. John’s Wort, Ginseng, Garlic and Saw Palmetto (the “Misabeled Product(s)” or the “Product(s)”).

2. Recent testing of the Misabeled Products using modern DNA barcoding analysis reveals that the Products contain little or none of the substance indicated on the label. Moreover, the testing reveals that the Misabeled Products

contain various filler ingredients that were not listed on the label including ingredients that are dangerous to some consumers, such as wheat or gluten.

3. On February 2, 2015, Wal-Mart received a cease and desist letter from the New York Attorney General requiring that it remove certain products identified by lot number from its shelves. However, Wal-Mart continues to sell the same Mislabeled Products in its stores and on its website bearing lot numbers other than those specifically identified by the New York Attorney General.

4. As a direct and proximate result of Defendant's false and misleading advertising claims and marketing practices, Plaintiff and the members of the Class, as defined herein, purchased the Mislabeled Products. Plaintiff and members of the Class have been injured in fact because the Mislabeled Products did not contain the ingredients that they paid for. Plaintiff and Class Members have suffered an ascertainable and out-of-pocket loss. Plaintiff and members of the Class seek a refund and/or rescission of the transaction and all further equitable and injunctive relief as provided by applicable law.

5. Plaintiff seeks relief in this action individually and on behalf of all purchasers of the Mislabeled Products for breach of express warranty, breach of implied warranty of merchantability, negligent misrepresentation, unjust enrichment and violation of The Florida Unfair and Deceptive Trade Practice Act ("FDUTPA").

THE PARTIES

6. Plaintiff John Burns is a resident of Kissimmee, Florida. He purchased Wal-Mart's Spring Valley™ Garlic Supplement Product at a Wal-Mart store in Kissimmee, Florida approximately two or three times between 2009 and 2013. He paid cash for these purchases.

7. Plaintiff purchased this Wal-Mart's Spring Valley™ Garlic Supplement Product based on claims on the product label, including, but not limited to, the claim that the Product actually contained the labeled ingredients in the concentrations indicated on the label. At the time of his purchases, he believed that the Product actually contained the labeled ingredients in the concentrations indicated on the packaging and believed that the Product did not contain filler ingredients that were not listed on the product label. He would not have purchased the Wal-Mart's Spring Valley™ Garlic Supplement Product if he had known that the Product did not contain the ingredients listed on the product label and instead contained unidentified filler ingredients.

8. Defendant Wal-Mart Stores, Inc. is a Delaware corporation with its principal place of business in Bentonville, Arkansas. Wal-Mart is the world's largest retailer, and operates more than 4,100 retail stores in the United States. Wal-Mart manufactures and sells its own line of dietary supplements under the Spring Valley™ brand name.

9. Doe Defendants 1-10 are individuals and corporations, who participated in the mislabeling of the Mislabeled Product and whose true names are presently unknown to Plaintiff.

10. Collectively Wal-Mart and the Doe Defendants are referred to as "Wal-Mart" or Defendant.

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d) because there are more than 100 Class Members, the aggregate amount in controversy exceeds \$5,000,000.00, exclusive of interest,

fees, and costs, and at least one Class member is a citizen of a state different from Defendant.

12. The Court has personal jurisdiction over the Defendant because Wal-Mart maintains its corporate headquarters within the State, and it sold the Mislabeled Products within the State. Defendant also sold the Mislabeled Products in Florida and throughout the country.

13. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Wal-Mart maintains its corporate headquarters in this state, and its Products are sold extensively in this District.

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

A. The Mislabeling of Dietary Supplements

14. The dietary supplement industry generates approximately \$32 billion in annual revenue and the industry is projected to take in \$60 billion per year by 2021.

15. Unlike prescription and over the counter drugs, dietary supplements are largely unregulated. Neither the U.S. Food and Drug Administration (“FDA”) nor any other federal or state agency routinely tests dietary supplements for quality, purity and strength prior to sale.

16. With respect to the purity of product ingredients, the industry essentially operates on an honor system. While there are more than 85,000 dietary supplement products on the market, the FDA only inspects approximately 600 facilities a year. According to a joint statement from the American College of Medical Toxicology and the American Academy of Clinical Toxicology, “there is a lack of stringent quality control of the ingredients present in many herbal and dietary supplements.”

17. The lack of oversight in an expanding lucrative market has led some industry players to commit massive wide scale fraud, misrepresenting the ingredients in the products and substituting them with cheap, abundant and sometimes dangerous filler ingredients. Indeed, the World Health Organization has determined that the adulteration of consumer products is a threat to consumer safety.

18. Consumers have no way of knowing that the products they purchase actually contain the ingredients on their labels or if they are mislabeled.

B. DNA Bar Coding

19. In the fight against product mislabeling, DNA barcoding has become an invaluable tool. DNA barcoding testing has been recognized as a robust, rapid, cost-effective and broadly applicable approach to accurate species identification.

20. DNA barcoding is a taxonomic method that uses a short genetic marker in an organism's DNA to identify it as belonging to a particular species.

21. DNA barcoding tests examine the sequence variation within a short standardized region of the genome that is known to have a high variability between different species. The sequence is then compared to a database of known species to identify the species to which the sample belongs.

22. DNA barcoding has been used to identify species since around 2003. In recent years, the technique has been used to determine the accuracy of herbal product labels. The results indicate that many products do not contain the ingredients listed on their labels and often contain filler ingredients dangerous to some consumers.

23. In 2010, the PBS News Hour featured an exposé on the herbal supplement industry titled, What's Really In Herbal Supplements. PBS

commissioned a series of DNA barcoding tests on popular dietary supplements and found that 38% of the 16 supplement samples tested were “suspect or outright frauds.”

24. A DNA bar coding study published in 2011 noted that a large percentage of herbal teas generated DNA identifications not found on the product labels.

25. Similarly, the results of a 2012 DNA barcoding study from Stonybrook University found that of the 36 samples of commercial black cohosh dietary supplements purchased online and at retail stores, one-quarter contained no black cohosh DNA whatsoever.

26. In a 2013 study of commercial dietary supplements sold in the United States and Canada, researchers also found rampant mislabeling. Specifically, the results revealed the following:

- echinacea supplements were found to include ground up bitter weed, which has been linked to rashes, nausea and flatulence;
- several St. John’s wort samples contained no St. John’s wort DNA, and instead included rice or Alexandria senna, a powerful laxative;
- ginkgo biloba supplements, promoted as memory enhancers, were mixed with fillers and black walnut, a potentially deadly hazard for people with nut allergies; and
- numerous products tested positive for undisclosed fillers such as rice, soybeans and wheat, “which is a health concern for people allergic to these plants, as well as people seeking gluten free products.”

27. Dr. David A. Baker, author of the black cohosh study commented to *The New York Times* for an article concerning the state of supplement regulation in

2013. He described it as the “the Wild West” and said consumers had no idea how few safeguards were in place. Dr. Baker further stated:

If you had a child who was sick and three out of 10 penicillin pills were fake, everybody would be up in arms. But it’s O.K. to buy a supplement where three out of 10 pills are fake. I don’t understand it. Why does this industry get away with that?

C. The Mislabeled Products

28. Wal-Mart is the world’s largest retailer and operates more than 4,100 retail stores in the United States. Wal-Mart is also a major online retailer, selling a wide variety of products through its website, www.walmart.com.

29. On March 2, 1999, the United States Patent and Trademark Office registered the trademark for Spring Valley to Wal-Mart.

30. The Spring Valley™ brand is Wal-Mart’s store brand, under which it markets and sells in its retail and online stores a wide variety of vitamins, minerals and dietary supplements, including the Mislabeled Products.

31. Wal-Mart maintains a dedicated portion of its online retail stores to its line of Spring Valley™ products. Accessible from www.walmart.com/springvalley.

32. Wal-Mart sells Garlic Supplements capsules under its Spring Valley™ brand. According to the product labels, they are sold for “Heart Health.”

33. The labels on the Garlic Supplement products list only the following ingredients: allium sativum, soybean oil, gelatin, glycerin, and silica.

34. A Wal-Mart bottle of 120 purported 1000



mg Garlic Supplement capsules sells for approximately \$3.88.

D. Wal-Mart's Bait and Switch

35. In 2015, the Office of the Attorney General of New York conducted an investigation of Wal-Mart's practices with respect to the mislabeling and contamination of Wal-Mart's Spring Valley™ Dietary Supplements.

36. The investigation included a DNA barcode analysis of six Wal-Mart Spring Valley™ products: ginkgo biloba, St. John's wort, ginseng, garlic, echinacea and saw palmetto.

37. The results showed that only four percent (4%) of ninety tests yielded DNA for plants consistent with the product label. Even those tests which produced positive results revealed that the listed ingredients did not predominate. More than half of the tests (56%) yielded no plant DNA at all.

38. With respect to the testing of Wal-Mart's Spring Valley™ Echinacea products, no echinacea DNA was identified. In fact, the fifteen tests identified no plant genetic material whatsoever.

39. On February 2, 2015, the Office of the Attorney General of the State of New York issued a letter to Wal-Mart's President and CEO, Doug McMillon demanding that Wal-Mart "cease and desist engaging in the sale of adulterated and/or mislabeled herbal dietary supplements" and to immediately stop the sale of certain lots of the Mislabeled Products.

40. In connection with the action, New York Attorney General Eric Schneiderman said:

This investigation makes one thing abundantly clear: the old adage "buyer beware" may be especially true for consumers of herbal supplements The DNA test results seem to confirm long-standing questions about the

herbal supplement industry. Mislabeling, contamination, and false advertising are illegal. They also pose unacceptable risks to New York families—especially those with allergies to hidden ingredients. At the end of the day, American corporations must step up to the plate and ensure that their customers are getting what they pay for, especially when it involves promises of good health.

41. Dr. Arthur P. Grollman, Professor of Pharmacological Sciences at Stonybrook University, praised the study’s methodology, noting, “[t]his study undertaken by Attorney General Schneiderman’s office is a well-controlled, scientifically-based documentation of the outrageous degree of adulteration in the herbal supplement industry.”

42. Wal-Mart has continued to sell other lots of the Mislabeled Products, which upon information and belief, remain available online and at Wal-Mart locations throughout the United States.

CLASS REPRESENTATION ALLEGATIONS

43. Plaintiff seeks to represent a class defined as all persons in the United States who purchased the Mislabeled Products, excluding those that made such purchase for purpose of resale (the “Class”).

44. Excluded from the Class are Wal-Mart and the Doe Defendants, their current and former officers and directors, members of their immediate families, their legal representatives, heirs, successors, or assigns and any entity in which Wal-Mart or the Doe Defendants has a controlling interest. Also excluded from the Class is any person or entity that excludes itself by requesting exclusion from the Class in accordance with requirements to be approved by the Court.

45. Plaintiff also seeks to represent a sub-class of Class members who purchased the Mislabeled Products in Florida State (the “Florida Sub-Class” or the “Sub-Class”).

46. Wal-Mart sells the Mislabeled Products online and in its retail stores across the United States. Plaintiff estimates that there are millions of prospective class members and many thousands of prospective Florida Sub-Class members. Accordingly, members of the Class (and Sub-Class) are so numerous that their individual joinder herein is impracticable. The precise number of Class and Sub-Class members and their identities are unknown to Plaintiff at this time but may be determined through discovery. Class members may be notified of the pendency of this action by mail and/or publication through the distribution records of Wal-Mart.

47. Common questions of law and fact exist as to all Class members and predominate over questions affecting only individual Class members. Common legal and factual questions include, but are not limited to:

- a. whether the Mislabeled Product actually contains the ingredients indicated on the product label;
- b. whether the Mislabeled Product actually contains the ingredients indicated on the product label in the concentrations indicated on the product label;
- c. whether Defendant made any express warranties in connection with the sale of the Mislabeled Product;
- d. whether Defendant breached any of those express warranties in connection with the sale of the Mislabeled Product;
- e. whether Defendant breached an implied warranty of merchantability in connection with the sale of the Mislabeled Product;
- f. whether Defendant was unjustly enriched by its conduct;

- g. whether Defendant was negligent in making any misrepresentations about the ingredients and concentrations of ingredients in the Mislabeled Product;
- h. whether Defendant's actions as stated herein were deceptive acts or practices; and
- i. whether Plaintiff and Class members suffered damages and if so the measure of damages.

48. The claims of the named Plaintiff are typical of the claims of the Class in that Plaintiff was exposed to Wal-Mart's false, misleading and misbranded labels, purchased the Mislabeled Product, and suffered losses as a result of her purchases.

49. The claims of the named Plaintiff are typical of the claims of the Sub-Class in that Plaintiff purchased the Mislabeled Product in Florida State, and suffered losses as a result of her purchases.

50. Plaintiff is an adequate representative of the Class (and Sub-Class) because his interests do not conflict with the interests of the Class members he seeks to represent, he has retained competent counsel experienced in prosecuting class actions, and he intends to prosecute this action vigorously. The interests of Class members and Sub-Class members will be fairly and adequately protected by Plaintiff and her counsel.

51. The class mechanism is superior to other available means for the fair and efficient adjudication of the claims of the Class members. Each individual Class member may lack the resources to undergo the burden and expense of individual prosecution of the complex and extensive litigation necessary to establish Defendant's liability. Individualized litigation increases the delay and expense to all parties and multiplies the burden on the judicial system presented by

the complex legal and factual issues of this case. Individualized litigation also presents a potential for inconsistent or contradictory judgments. In contrast, 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 on the issue of Defendant's liability. Class treatment of the liability issues will ensure that all claims and claimants are before this Court for consistent adjudication of the liability issues.

COUNT I
Breach Of Express Warranty
(On Behalf of a Nationwide Class)

52. Plaintiff repeats the allegations contained in the paragraphs above as if fully set forth herein.

53. Plaintiff brings this Count individually and on behalf of the members of the Class.

54. In connection with the sale of the Mislabeled Product, Wal-Mart issued express warranties concerning the ingredients in the Product, the concentrations of those ingredients and the product's effects.

55. Defendant's affirmations of fact and promises made to Plaintiff and the Class on the Product labels and packaging materials became part of the basis of the bargain between Wal-Mart and Plaintiff and the Class Members, thereby creating express warranties that the Product would conform to Wal-Mart's affirmations of fact, representations, promises, and descriptions.

56. Wal-Mart breached the written warranties because each of the express warranties is provably false and misleading. The Mislabeled Product does not

include ingredients listed on the Product labels in the concentrations indicated on the labels.

57. Plaintiff and the Class Members were injured as a direct and proximate result of Wal-Mart's breach because: (a) they would not have purchased the Mislabeled Product if they had known the truth about the product; (b) they paid for the Product due to the false and misleading labeling; and (c) the Product did not have the quality, effectiveness, or value promised. As a result, Plaintiff and the Class have been damaged in the full amount of the purchase price of the Product.

COUNT II
Breach of Implied Warranty of Merchantability
(On Behalf of a Nationwide Class)

58. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

59. Plaintiff brings this claim individually and on behalf of the members of the proposed Class against Wal-Mart.

60. The Mislabeled Product is unmerchantable because it does not contain the ingredients or concentrations of ingredients as indicated on the product's labels and as a result does not have the pharmacological effects that Wal-Mart maintains on the labeling for the Mislabeled Product.

61. The Mislabeled Product was unmerchantable at the time it left the location where it was created, and remained unmerchantable at all times after that. This unmerchantability is inherent in the Product.

62. Plaintiff notified Wal-Mart of the acts constituting breach of the implied warranty of merchantability, both for himself and the Class. Plaintiff and other Class members suffered injury as a result of these breaches of warranty, for

which Plaintiff hereby prays, because they paid for and received the Mislabeled Product that was not fit for sale in the marketplace.

COUNT III
Negligent Misrepresentation
(On Behalf of a Nationwide Class)

63. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

64. Plaintiff brings this claim individually and on behalf of the members of the proposed Class against Wal-Mart.

65. To make a claim for negligent misrepresentation, Plaintiff must show the following: 1) Defendant made representations in the course of its business; 2) Defendant supplied “false information” for the guidance of others in its business; 3) Defendant did not exercise reasonable care or competence in obtaining or communicating the information; and 4) Plaintiff suffered pecuniary loss by justifiably relying on the misrepresentation.

66. All of these factors exist here. Defendant advertised and made false, misleading, and deceptive claims about the Mislabeled Product. Namely, Defendant claimed that the Mislabeled Product contained labeled ingredients in specific concentrations.

67. Defendant’s representations were not true, and Wal-Mart did not exercise reasonable care or competence in obtaining or communicating this information.

68. Plaintiff and the Class relied on Defendant’s representations in purchasing the Mislabeled Product. There would be no other reason to purchase a dietary supplement in specific concentrations if the product did not contain those

ingredients in those concentrations. As a result, Plaintiff and the Class were damaged by their purchase of the Mislabeled Product.

69. Plaintiff and the class suffered pecuniary loss in the amount of the purchase price of the Mislabeled Product.

Count IV
Breach of the Florida Deceptive and Unfair Trade Practices Act
(Fla. Stat. § 501.201, *et seq.*)
(On Behalf of Plaintiff and a Florida Sub-Class)

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

71. Plaintiff brings this cause of action individually and on behalf of the members of the Florida Sub-Class against Wal-Mart pursuant to the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. § 501.201 *et seq.*, (“FDUTPA”).

72. Plaintiff is a “consumer” as defined by Florida Statute § 501.203(7), and the subject transactions are “trade or commerce” as defined by Florida Statute § 501.203(8).

73. Defendant markets, distributes, and sells “goods” within the meaning of the FDUTPA.

74. The FDUTPA was enacted to protect unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce.

75. Defendant’s representations and sales of the Mislabeled Product in Florida State violates FDUTPA and are specifically proscribed in § 501.201, *et seq.* because Wal-Mart led consumers to believe that the Mislabeled Product contained labeled ingredients in specific concentrations. Wal-Mart’s

representations of the Mislabeled Product in Florida are inherently and materially deceptive and misleading in a material respect which was known, or should have been known by reasonable care by Wal-Mart.

76. Plaintiff and Sub-Class Members were unaware of the fact that Defendant's Mislabeled Products did not contain the listed herbs and, instead, contained contaminants, substitutes and fillers not listed on the product labels.

77. The materially misleading conduct of Defendant alleged herein was directed at the public at large.

78. Plaintiff and Florida Sub-Class members would not have purchased the "Spring Valley" branded supplements had they known that the product did not contain the listed herbs and, instead, contained contaminants, substitutes and fillers not listed on the product labels.

79. Defendant's acts and practices described above are likely to mislead a reasonable consumer acting reasonably under the circumstances and therefore, violated the FDUTPA.

80. As a result of Defendant's deceptive and misleading acts, Plaintiff and members of the Florida State Sub-Class have been injured, in amounts to be proven at trial, because they purchased the Mislabeled Product without knowing that the item they purchased is distinct from that identified on the Product's labels, and would not have made that purchase if in possession of that information.

81. Pursuant to 501.211(1), Plaintiff and Sub-Class members seek declaratory judgment, restitution and disgorgement.

82. Additionally, Plaintiff and Sub-Class members seek damages, attorneys' fees and costs under § 501.211 (2) and § 501.2105. Plaintiff and Sub-

Class members reserve the right to allege all other violations under FDUPTA as Defendant's conduct is currently ongoing.

COUNT V
(Unjust Enrichment)
(On Behalf of a Nationwide Class)

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

84. Plaintiff brings this cause of action individually and on behalf of the members of the Class.

85. An unjust enrichment claim requires two fundamental elements – the defendant received a benefit from the plaintiff and it would be inequitable for the defendant to retain that benefit without compensating the plaintiff.

86. Plaintiff and Class members conferred a benefit on Wal-Mart by purchasing the Mislabeled Product.

87. Wal-Mart has been unjustly enriched in retaining the revenues derived from Class members' purchases of the Mislabeled Product; retention under these circumstances is unjust and inequitable because the Product did not contain the ingredients indicated on its product labels in the concentrations indicated on the labels.

88. Because Wal-Mart's retention of the non-gratuitous benefit conferred on it by Plaintiff and Class members is unjust and inequitable, Defendant must pay restitution to Plaintiff and the Class members for its unjust enrichment, as ordered by the Court.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

A. Determining that this action is properly maintainable as a class action and certifying Plaintiff as Class representative and appointing her counsel as Counsel for the Class;

B. For an order declaring that the Defendant's conduct violates the statutes and laws referenced herein;

C. Awarding compensatory and punitive damages in favor of Plaintiff and members of the Class against Wal-Mart for all damages sustained as a result of the Defendant's wrongdoing, in an amount to be proven at trial, including interest thereon;

D. Awarding injunctive relief against Defendant to prevent it from continuing its ongoing unfair, unconscionable, and/or deceptive acts and practices;

E. For an order of restitution and/or disgorgement and all other forms of equitable monetary relief;

F. Awarding Plaintiff and members the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

G. Awarding such other and further equitable relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all claims so triable in this action.

Dated: March 17, 2015

Respectfully submitted,

Carney Bates & Pulliam PLLC



Randall K. Pulliam (ABN 98105)

rpulliam@cbplaw.com

Joseph Henry "Hank" Bates, III (ABN 98063)

Hbates@cbplaw.com

2800 Cantrell, Suite 510

Little Rock, AR 72202

Phone: (501) 312-8500

Fax: (501) 312-8505

LEVI & KORSINSKY LLP

Shannon L. Hopkins

shopkins@zlk.com

Nancy A. Kulesa

nkulesa@zlk.com

733 Summer Street, Suite 304

Stamford, CT 06901

Telephone: (212) 363-7500

Facsimile: (866) 367-6510

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
JOHN BURNS, on Behalf of Himself and all Others
 Similarly Situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
Randall K. Pulliam, Carney Bates & Pulliam, PLLC
 2800 Cantrell Rd., Suite 510, LR, AR 72202 / 501.312.8500

DEFENDANTS
WAL-MART STORES, INC., and DOE DEFENDANTS
 1-10,
 County of Residence of First Listed Defendant Benton
 (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

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

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

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

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

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

<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, Label & 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	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input 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	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROFESSIONS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<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	COPYRIGHTS <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	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	<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	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))	
			IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

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(d)

Brief description of cause:
Consumer Class Action for false & misleading statements in connection w/ sale of supplements

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE Billy Roy Wilson DOCKET NUMBER 4:15-cv-85

DATE March 17, 2015 SIGNATURE OF ATTORNEY OF RECORD


FOR OFFICE USE ONLY

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