

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

MARLIN JOHNSON, on behalf of himself and  
all others similarly situated,

Plaintiff,

v.

ORGANO GOLD INT’L, INC., a Nevada  
Corporation; ORGANO GOLD INT’L, INC., a  
Washington Corporation; ORGANO GOLD  
INT’L, LLC; and ORGANO GOLD  
MANAGEMENT, INC.,

Defendants.

Civil Case No. \_\_\_\_\_

[D. Del. Superior Court  
Case No. N15C-03-157-CCLD]

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that Defendant ORGANO GOLD INT’L, INC., a Nevada corporation (“Organo”), invokes this Court’s jurisdiction pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 and removes the above-captioned action from the Superior Court of the State of Delaware in and for New Castle County to the United States District Court for the District of Delaware. This Court has diversity jurisdiction because there is diversity of citizenship and the amount in controversy exceeds \$75,000. Alternatively, and to the extent Plaintiff’s (Proposed) Class Action Complaint purports to bring a class action, removal is proper under the Class Action Fairness Act (“CAFA”) because Plaintiff invokes a state rule of judicial procedure that satisfies the definition of a class action under CAFA, diversity of citizenship exists between one or more members of the putative class and Organo, and the aggregate \$5,000,000 amount-in-controversy requirement is satisfied. In support of its Notice of Removal, Organo states:

**I. SUMMARY OF THE COMPLAINT**

1. On March 19, 2015, Plaintiff Marlin Johnson (“Plaintiff”) filed a (Proposed) Class Action Complaint (“Complaint”) against Organo in the Superior Court of the State of Delaware in and for New Castle County. A true and correct copy of the Summons, Civil Cover Sheet, Complaint, Plaintiff’s Answers to Form 30 Interrogatories, and Plaintiff’s Rule 3(h) Statement, which constitutes all process, pleadings, and orders served on Organo, are attached hereto as Exhibit A. In addition, the docket from the state court action is attached hereto as Exhibit B.

2. Organo was served with the Complaint on April 29, 2015.

3. Organo makes coffees, teas, cocoas, supplements, and assorted personal care products that contain an ancient Chinese herbal ingredient named Ganoderma Lucidum. (*See* Compl. ¶¶ 10, 12.)

4. The Complaint alleges that Ganoderma Lucidum is a “natural blood thinner that prevents a person’s blood from clotting properly and causes intestinal bleeding and platelet dysfunction.” (*Id.*) According to the Complaint, the packaging of Organo products does “not contain warnings about these dangerous side effects” and does not list the amount of Ganoderma Lucidum in each product. (*Id.* ¶ 13.)

5. Plaintiff, a resident of Florida, alleges that in March 2013 he purchased “three boxes of Organo Gold coffee.” (*Id.* ¶¶ 3, 8.) Plaintiff contends that he thereafter consumed an unspecified amount of the coffee. (*Id.* ¶ 8.)

6. The Complaint alleges that on April 5, 2013 Plaintiff underwent gastric bypass surgery. (*Id.* ¶ 9.) After the surgery, Plaintiff began to “vomit[] blood and suffer[] from blood clots.” (*Id.*) Plaintiff alleges that his doctors “discovered” that his consumption of Organo coffee infused with Ganoderma Lucidum caused the above-referenced postoperative

complications. (*Id.*) As a result of these complications, “Plaintiff had to be resuscitated with multiple blood and platelet transfusions and undergo an emergency surgery.” (*Id.*) Plaintiff alleges that his injuries will continue. (*E.g., id.* ¶ 34.)

7. Plaintiff also purports to bring a class action on behalf of “[a]ll persons and entities within the State of Delaware that purchased Organo Gold products contained [sic] Ganoderma Lucidum including but not limited to coffee, tea, cocoa, and/or supplements.” (*Id.* ¶ 14.) The purported class “includes over 100 members,” and Plaintiff’s claims are “typical of the claims of the members of the purported class.” (*Id.* ¶¶ 17, 19.)

8. The Complaint asserts six counts for (i) declaratory relief; (ii) breach of express and implied warranties; (iii) consumer fraud; (iv) negligence; (v) negligent labeling/failure to warn; and (vi) misrepresentation. (*Id.* ¶¶ 24-43.)

9. For his alleged injuries and the injuries of the purported class, Plaintiff seeks a declaratory judgment that Organo’s products are mislabeled; unspecified compensatory and punitive damages; attorneys’ fees; costs of the action; and any other relief that the Court deems appropriate. (Prayer for Relief at 15-16.)

## **II. THIS COURT HAS ORIGINAL SUBJECT MATTER JURISDICTION**

10. This Court has original jurisdiction based on diversity of citizenship between Plaintiff and Organo. 28 U.S.C. § 1332(a). In the alternative, this Court has jurisdiction under CAFA, as Plaintiff’s lawsuit is a class action under 28 U.S.C. § 1332(d)(2).

### **A. This Court Has Original Jurisdiction Based upon Diversity of Citizenship (28 U.S.C. § 1332(a))**

#### ***1. Diversity of Citizenship Exists***

11. Plaintiff was at the time of commencement of this action a resident and citizen of Florida. (Compl. ¶ 3.)

12. Organo was at the time of commencement of this action, and is now, a company incorporated in Nevada.<sup>1</sup> (*Id.* ¶ 4.)

13. As a result, and for purposes of 28 U.S.C. § 1332(a), there is diversity of citizenship between Plaintiff and Organo. *See also id.* § 1332(c)(1).

**2. The Amount-in-Controversy Requirement Is Satisfied**

14. While Plaintiff seeks several forms of relief in his Complaint, he does not plead a specific amount of damages. Where the amount in controversy is unstated or ambiguous in the pleadings, the “preponderance of the evidence” standard applies. *E.g., Aloise v. Giant of Md., LLC*, Case No. 12-cv-00897-LPS, 2013 WL1222776, at \*1 (D. Del. Mar. 26, 2013).

15. Although Organo disputes that Plaintiff is entitled to any relief on his Complaint, monetary or otherwise, for purposes of removal the question is whether, based upon a reasonable reading of the Complaint, the value of the claims exceeds the jurisdictional amount. *See id.*; *see also Angus v. Shiley, Inc.*, 989 F.2d 142, 146 (3d Cir. 1993) (stating that the “amount in controversy is not measured by the low end of an open-ended claim, but rather by a reasonable reading of the value of the rights being litigated”).

16. When a complaint seeks past and future damages for serious physical and emotional injuries, such as the case here, courts using their common sense and judicial

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<sup>1</sup> Organo is the only properly joined and served defendant. 28 U.S.C. § 1446(b)(2)(A). The Complaint names additional defendants that either do not exist or have never transacted business. In particular, ORGANO GOLD INT’L INC., a Washington corporation, does not exist as a separate legal entity from Organo. (*See* Compl. ¶ 5.) ORGANO GOLD INTERNATIONAL, LLC, a Washington limited liability company, has never transacted business, has been formally inactive since August 1, 2012, and was formally dissolved by the Office of the Secretary of State for the State of Washington on May 6, 2013. (*See id.* ¶ 6.) ORGANO GOLD MANAGEMENT, INC., a Nevada corporation, is defunct and has never transacted business. (*See id.* ¶ 7.) To the extent ORGANO GOLD INT’L INC. (in Washington), ORGANO GOLD INTERNATIONAL, LLC, and/or ORGANO GOLD MANAGEMENT, INC. (collectively the “Defunct Organo Entities”) are considered properly joined and served defendants, those defendants, through Organo, hereby consent to this Notice of Removal. Moreover, even if counted, diversity exists between the Defunct Organo Entities and Plaintiff.

experience have found that the plaintiff is plainly seeking an amount in excess of \$75,000. *Aloise*, 2013 WL1222776, at \*2 (refusing to remand, finding that allegations of “painful, permanent and disabling injuries of the body and/or mind” and “continuing harm” were sufficient to meet jurisdictional threshold); *see also Briggs v. Target Corp.*, Case No. 14-cv-7165 RBK/JS, 2015 WL 1145127, at \*4 (D.N.J. Mar. 13, 2015) (stating that allegations of “serious, painful and permanent injuries,” “great physical pain and mental anguish,” and “substantial medical expenses” have been found sufficient to meet the jurisdictional threshold). A plaintiff’s request for punitive damages is also a relevant consideration in finding that a complaint seeks an amount greater than \$75,000. *Morris v. Bankers Life & Cas. Co.*, Case No. 11-cv-7675, 2012 WL 602418, at \*1 (E.D. Pa. Feb. 24, 2012) (observing that within the Third Circuit, “[p]unitive damages are considered part of the amount in controversy”).

17. Based on the serious injuries alleged and the types of damages requested, it is apparent on the face of the Complaint that Plaintiff seeks to recover an amount in excess of \$75,000.

18. Specifically, Plaintiff alleges that consumption of Organo coffee caused “platelet dysfunction and bleeding which led to his postoperative complications.” (Compl. ¶ 9.) These postoperative complications included “serious bodily injuries,” as Plaintiff had to be “resuscitated with multiple blood and platelet transfusions and undergo an emergency surgery.” (*Id.* ¶¶ 9, 31.) Plaintiff alleges that he “will continue” to suffer injury and seeks, *inter alia*, a declaratory judgment that Organo’s products are improperly labeled, compensatory and punitive damages, and attorneys’ fees from pursuing this action. (*Id.* ¶¶ 34, 39; *see also* Prayer for Relief ¶¶ c, d, e, f, g.)

19. Plaintiff's Civil Cover Sheet in the state court action acknowledges that the amount in controversy exceeds \$75,000. The Civil Cover Sheet designates the matter as belonging within the "Complex Commercial Litigation Division." (Ex. A at Civil Cover Sheet.) Cases designated for inclusion in that division must have a minimum amount in controversy exceeding \$1 million. *See* Delaware State Courts, Complex Commercial Litig. Dep't, <http://courts.delaware.gov/superior/complex.stm#cclld> (last visited May 15, 2015).

20. Accordingly, the amount in controversy exceeds \$75,000.

**B. Alternatively, Federal Subject Matter Jurisdiction Exists Under CAFA (28 U.S.C. § 1332(d))**

21. Plaintiff purports to bring a "class action pursuant to Superior Court Rules 23(a) and (b)(1)(A), (2) and (3)." (Compl. ¶ 14.) Rule 23 of Delaware's Rules of Civil Procedure is a rule of state procedure similar to Federal Rule of Civil Procedure 23. 28 U.S.C. § 1332(d)(1)(B). Thus, the provisions of CAFA are applicable to the purported class action Plaintiff asserts. *Id.*

22. Under CAFA, original jurisdiction exists over class actions with more than \$5,000,000 in controversy in aggregate if any person "named or unnamed" falling within the definition of the proposed class is a "citizen of a State different from any defendant." 28 U.S.C. § 1332(d)(1)(D), (d)(2)(A). As stated below, these requirements are met.

***1. Minimal Diversity Under CAFA Is Satisfied***

23. Plaintiff was at the time of filing this action a resident of Florida. (Compl. ¶ 3.)

24. Organo was at the time of filing this action, and still is, a Nevada corporation.<sup>2</sup> (*Id.* ¶ 4.)

25. Thus, there is complete diversity of citizenship between the named Plaintiff and Organo. *See also* 28 U.S.C. § 1332(c)(1), (d)(2).

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<sup>2</sup> To the extent any of the Defunct Organo Entities are considered properly joined, those entities are based in Nevada and Washington. (Compl. ¶¶ 5-7.)

26. Complete diversity between the named Plaintiff and Organo not only satisfies the minimal diversity-of-citizenship requirement under CAFA, but also precludes the “local controversy” or “home state” exceptions in 28 U.S.C. § 1332(d)(3) and § 1332(d)(4).

27. If, and to the extent CAFA requires a removing defendant to state that the proposed class contains at least 100 members, see 28 U.S.C. § 1332(d)(5), any such requirement is met here as well. (Compl. ¶ 17 (stating that the “proposed class includes over 100 members”).)

**2. The Aggregated Amount-in-Controversy Requirement Is Satisfied**

28. CAFA’s requirement that the aggregate amount in controversy exceeds \$5,000,000 exclusive of interest and costs, 28 U.S.C. § 1332(d)(2), is met.

29. Here, Plaintiff has identified a class of all “persons and entities within the State of Delaware that purchased Organo Gold products contained [sic] Ganoderma Lucidum including but not limited to coffee, tea, cocoa, and/or supplements.” (Compl. ¶ 14.) The purported class “includes over 100 members” and is not limited by time. (*See id.*) Organo’s conduct allegedly caused serious physical “injury to [Plaintiff] and all others similarly situated.” (*Id.* ¶ 36; *see id.* ¶¶ 31, 39, 43.) Plaintiff’s claims are allegedly “typical of the claims of the members of the proposed class.” (*Id.* ¶¶ 17, 19.) Plaintiff seeks, *inter alia*, a declaratory judgment that Organo’s products are mislabeled, compensatory and punitive damages on behalf of the class, and attorneys’ fees and costs from pursuing this action. (Prayer for Relief ¶¶ c, d, e, f, g.)

30. Given the severity of Plaintiff’s alleged injuries – which are sufficient to exceed the jurisdiction threshold of \$75,000 – and the fact that “over 100 class members exist” with claims similar to Plaintiff’s, it is plausible that the amount in controversy exceeds CAFA’s threshold of \$5 million. *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 554

(2014) (holding that under CAFA, a defendant's notice of removal "need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold").<sup>3</sup>

31. No exception to CAFA jurisdiction applies, but if an exception is alleged, Plaintiff bears the burden of establishing such a contention.

### **III. THE OTHER REQUIREMENTS FOR REMOVAL HAVE BEEN SATISFIED**

32. As set forth above, this Notice of Removal is timely filed within thirty (30) days of service of the Complaint upon Organo. 28 U.S.C. § 1446(b). A Civil Cover Sheet for removal is attached hereto as Exhibit C.

33. Venue is proper in the United States District Court for the District of Delaware pursuant to 28 U.S.C. § 1441(a) because this is the district embracing the Superior Court of the State of Delaware in and for New Castle County.

34. As required by 28 U.S.C. § 1446(d), Organo will provide notice of this removal to Plaintiff through his attorney of record.

35. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be filed with the Superior Court of the State of Delaware in and for New Castle County. A true and correct copy of the Notice of Notice of Removal is attached hereto as Exhibit D.

36. If any questions arise as to the propriety of removal of this action, Organo requests a hearing and the opportunity to present a brief and/or declarations in support of its position that this case is removable.

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<sup>3</sup> On May 14, 2015, co-counsel for Plaintiff contacted counsel for Organo via email and stated that, although the case was valued at "seven-figure[s]," Plaintiff and the class would forgo any recovery at or above the \$5 million threshold. This valuation does not appear in any pleading filed in the state court action. Plaintiff, however, cannot defeat CAFA jurisdiction by proposing to reduce the value of the putative class members' claims prior to class certification. *Standard Fire Ins. Co. v. Knowles*, 133 S. Ct. 1345, 1349-50 (2013). Accordingly, Plaintiff's proffered commitment, even if it were included in a pleading, must be disregarding for the purposes of CAFA's aggregate amount-in-controversy requirement.



37. By filing this Notice of Removal, Organo does not waive any defenses it may have to the Complaint, including, but not limited to, a defense on the basis of personal jurisdiction and failure to state a claim.

38. No previous Notice of Removal has been filed or made with this Court for the relief sought herein.

**WHEREFORE**, Organo, desiring to remove this case to the United States District Court for the District of Delaware, prays that the filing of this Notice of Removal shall effect the removal of this action to this Court.

Dated: May 15, 2015

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: /s/ Colm F. Connolly

Colm F. Connolly (Del. Bar No. 3151)  
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Facsimile: 302.574.3001  
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Thomas J. Sullivan (*pro hac* forthcoming)  
Zachary M. Johns (*pro hac* forthcoming)  
1701 Market Street  
Philadelphia, PA 19103  
Telephone: 215.963.5000  
Facsimile: 215.963.5001  
tsullivan@morganlewis.com  
zjohns@morganlewis.com

*Attorneys for Defendant  
Organo Gold Int'l, Inc.*

**CERTIFICATE OF SERVICE**

I, Colm F. Connolly, hereby certify that I caused to be filed and served electronically a true and correct copy of Defendant Organo Gold Int'l, Inc.'s Notice of Removal and all accompanying exhibits upon all counsel of record, including the following counsel for Plaintiff via Federal Express:

Philip T. Edwards  
Kelley Huff  
MURPHY & LANDON  
1011 Centre Road, Suite 210  
Wilmington, DE 19805

John S. Spadaro  
JOHN SHEEHAN SPADARO, LLC  
724 Yorklyn Road, Suite 375  
Hockessin, DE 19707

Dated: May 15, 2015

/s/ Colm F. Connolly  
Colm F. Connolly

# **EXHIBIT A**

**(Proposed) Class Action Complaint, Summons,  
Plaintiff's Answers to Form 30 Interrogatories, and  
Plaintiff's Rule 3(h) Statement**

EFiled: Mar 19 2015 12:02PM EDT  
Transaction ID 56943218  
Case No. N15C-03-157 JRJ CCLD



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

MARLIN JOHNSON,  
on behalf of himself and all others  
similarly situated,

Plaintiff,

v.

ORGANO GOLD INT'L, INC., a Nevada  
Corporation, ORGANO GOLD INT'L, INC.,  
a Washington Corporation, ORGANO  
GOLD INTERNATIONAL, LLC, AND  
ORGANO GOLD MANAGEMENT, INC.

Defendants.

C.A. No.

TRIAL BY JURY  
DEMANDED

ASSIGNMENT TO  
CCLD REQUESTED

**PRAECIPE FOR SUMMONS**  
(Non-Resident)

TO THE CLERK OF THE COURT:

**PLEASE ISSUE WRIT** to undersigned counsel so that Plaintiff may  
summon defendant Organo Gold Int'l, Inc., by serving its registered agent,  
Bernardo Chua at 5505 Hovander Road, Ferndale, WA 98248, to answer in  
accordance with 10 Del.C. § 3104.

**MURPHY & LANDON**

/s/ Philip T. Edwards

Philip T. Edwards, DE I.D. #4393

Kelley Huff, DE I.D. # 5192

1011 Centre Road, Suite 210

Wilmington, DE 19805

Tel: (302)472-8100

Attorneys for Plaintiffs

EFiled: Mar 19 2015 12:02PM EDT  
Transaction ID 56943218  
Case No. N15C-03-157 JRJ C



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

MARLIN JOHNSON,  
on behalf of himself and all others  
similarly situated,

Plaintiff,

v

ORGANO GOLD INT'L, INC., a Nevada  
Corporation, ORGANO GOLD INT'L, INC.,  
a Washington Corporation, ORGANO  
GOLD INTERNATIONAL, LLC, AND  
ORGANO GOLD MANAGEMENT, INC.

Defendants.

C.A. No.  
TRIAL BY JURY  
DEMANDED

ASSIGNMENT TO  
CCLD REQUESTED

**THE STATE OF DELAWARE:  
TO THE PLAINTIFF,**

**YOU ARE COMMANDED:**

To summon the non-resident defendant Organo Gold Int'l, Inc. by serving Summons and Complaint upon its registered agent in accordance with 10 DEL.C. § 3104 so that, within 20 days after service hereof, exclusive of the day of service, defendant shall serve upon Philip T. Edwards, Esq., attorney, for the above named plaintiff and whose address is Murphy & Landon, 1011 Centre Road, Suite 210, Wilmington, DE 19805, an answer to the complaint.

Dated: 4/2/15

*Sharon Agnew*  
Prothonotary  
NEW CASTLE COUNTY

**TO THE ABOVE-NAMED DEFENDANT:**

In case of your failure, within 20 days after service hereof upon you, exclusive of the day of service, to serve on plaintiff's attorney, named above, an answer to the complaint, judgment by default will be rendered against

you for the relief demanded in the complaint (or in the affidavit of demand, if any).

*Sharon Agnew*  
Prothonotary  
CLERK OF COURT  
JUDICIAL DISTRICT OF JEFFERSON COUNTY  
MISSOURI

## SUPERIOR COURT CIVIL CASE INFORMATION STATEMENT (CIS)

E-Filed: Mar 19 2015 12:02PM EDT

Transaction ID 56943218

COUNTY: NEW CASTLE ☒ KENT \_\_\_\_\_ SUSSEX \_\_\_\_\_  
Civil Case Code: CCLD/CDEJCivil Action Number Case No. N15C-03-157 JRJ CS  
Civil Case Type: Complex Commercial Litigation  
Division/Declaratory Judgment

(SEE PAGE TWO FOR CIVIL CASE CODE &amp; CIVIL CASE TYPE)

<p>Caption:</p> <p><u>Marlin Johnson, on behalf of himself and all others similarly situated,</u></p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p><u>Organo Gold Int'l, Inc., a Nevada Corporation, Organo Gold Int'l, Inc., a Washington Corporation, Organo Gold International, LLC and Organo Gold Management, Inc.,</u></p> <p style="text-align: right;">Defendants.</p>	<p>Name and Status of Party filing document:</p> <p><u>Marlin Johnson, on behalf of himself and all others similarly situated, Plaintiff</u></p> <p>Document Type: (e.g., COMPLAINT; ANSWER WITH COUNTERCLAIM)</p> <p><u>Complaint</u></p> <p>Non-Arbitration <input checked="" type="checkbox"/> eFile</p> <p style="text-align: center;">(CERTIFICATE OF VALUE MAY BE REQUIRED)</p> <p>Arbitration _____ Mediation _____ Neutral Assessment</p> <p>DEFENDANT (CHECK ONE) <u>ACCEPT</u> _____ REJECT _____</p> <p>JURY DEMAND YES <input checked="" type="checkbox"/> NO _____</p> <p>TRACK ASSIGNMENT REQUESTED (CHECK ONE):</p> <p><u>EXPEDITED</u> _____ <u>STANDARD</u> <input checked="" type="checkbox"/> <u>COMPLEX</u></p>
<p>ATTORNEY NAME(S):</p> <p><u>Philip T. Edwards</u></p> <p>ATTORNEY ID(S):</p> <p><u>4393</u></p> <p>FIRM NAME:</p> <p><u>Murphy &amp; Landon</u></p> <p>ADDRESS:</p> <p><u>1011 Centre Road, Suite 210</u></p> <p><u>Wilmington, DE 19805</u></p> <p>TELEPHONE NUMBER:</p> <p><u>(302)472-8100</u></p> <p>FAX NUMBER:</p> <p><u>(302)225-3673</u></p> <p>E-MAIL ADDRESS:</p> <p><u>pedwards@msllaw.com</u></p>	<p>IDENTIFY ANY RELATED CASES NOW PENDING IN THE SUPERIOR COURT BY CAPTION AND CIVIL ACTION NUMBER INCLUDING JUDGE'S INITIALS</p> <p>EXPLAIN THE RELATIONSHIP(S):</p> <hr/> <p>OTHER UNUSUAL ISSUES THAT AFFECT CASE MANAGEMENT:</p> <p>(IF ADDITIONAL SPACE IS NEEDED, PLEASE ATTACH PAGE.)</p>
<p>THE PROTHONOTARY WILL NOT PROCESS THE COMPLAINT, ANSWER, OR FIRST RESPONSIVE PLEADING IN THIS MATTER FOR SERVICE UNTIL THE CASE INFORMATION STATEMENT (CIS) IS FILED. THE FAILURE TO FILE THE CIS AND HAVE THE PLEADING PROCESSED FOR SERVICE MAY RESULT IN THE DISMISSAL OF THE COMPLAINT OR MAY RESULT IN THE ANSWER OR FIRST RESPONSIVE PLEADING BEING STRICKEN.</p>	



Revised 9.17.03

## SUPERIOR COURT CIVIL CASE INFORMATION STATEMENT (CIS) INSTRUCTIONS

### CIVIL CASE TYPE

Please select the appropriate civil case code and case type (e.g., **CODE - AADM** and **TYPE - Administrative Agency**) from the list below. Enter this information in the designated spaces on the Case Information Statement.

<b>APPEALS</b> AADM- Administrative Agency ACCP - Court of Common Pleas ACER - Certiorari AFAM - Family Court AIAB - Industrial Accident Board APSC - Public Service Commission AUIB - Unemployment Insurance Appeal Board <b>COMPLAINTS</b> CAAA - Auto Arb Appeal * CASB - Asbestos CATT - Foreign & Domestic Attachment CCCP - Transfer from CCP* CCHA - Transfer from Chancery * CCON - Condemnation CDBT - Debt/Breach of Contract * CDEF - Defamation * CDEJ - Declaratory Judgment CEJM - Ejectment * CFJG - Foreign Judgment * CINT - Interpleader CLIB - Libel * CMAL - Malpractice * CACT - Class Action CPIA - Personal Injury Auto * CPIN - Personal Injury * CPRD - Property Damage * CPRL - Products Liability * CRPV - Replevin CSBI - Silicone Breast Implant CTAX - Tax Appeal CFRD - Fraud Enforcement CSPD - Summary Proceedings Dispute <b>INVOLUNTARY COMMITMENTS</b> INVC- Involuntary Commitment	<b>MISCELLANEOUS</b> MAAT - Appointment of Attorney MAFF - Application for Forfeiture MCED - Cease and Desist Order MCRO - Complaint Requesting Order MCTO - Consent Order MHAC - Habeas Corpus MIND - Destruction of Indicia of Arrest MISS - Issuance of Subpoena/Material Witness MMAN - Mandamus MOUT - Out of State Deposition MPOS - Writ of Possession MPRO - Writ of Prohibition MROP - Petition for Return of Property MSAM - Satisfy Mortgage MSOJ - Compel Satisfaction of Judgment MTAX - Tax Ditches MVAC - Vacate Public Road MSEM - Set Aside Satisfaction of Mortgage MSSS - Set Aside Sheriff's Sale MSEL - Sell Real Estate for Property Tax MTOX - Hazardous Substance Cleanup MCVP - Civil Penalty MREF - Tax Intercept MGAR - Appointment of Guardianship MFOR - Intercept of Forfeited Money MSET - Structured Settlement  <b>MORTGAGES</b> MORT - Mortgage  <b>MECHANICS LIENS</b> LIEN - Mechanics Lien *  <b>OTHER</b> OTHR - Specify Type
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Case types subject to Arbitration Rule 16.1

### DUTY OF THE PLAINTIFF

Each plaintiff/counsel shall complete the attached Civil Case Information Statement (CIS) and file with the complaint.

DUTY OF THE DEFENDANT Each defendant/counsel shall complete the attached Civil Case Information Statement (CIS) and file with the answer and/or first responsive pleading.

Revised 8.21.03

EFiled: Mar 19 2015 12:02PM EDT  
Transaction ID 56943218  
Case No. N15C-03-157 JRJ CCLD



**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
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MARLIN JOHNSON,  
on behalf of himself and all others  
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ORGANO GOLD INT'L, INC., a Nevada  
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GOLD INTERNATIONAL, LLC, AND  
ORGANO GOLD MANAGEMENT, INC.

Defendants.

C.A. No.

TRIAL BY JURY  
DEMANDED

ASSIGNMENT TO  
CCLD REQUESTED

**(PROPOSED) CLASS ACTION COMPLAINT**

Plaintiff Marlin Johnson ("Plaintiff") files this proposed class action complaint ("Class Action Complaint") on behalf of himself and as representative of a putative class of similarly situated parties, against Organo Gold Int'l, Inc., Organo Gold International LLC and Organo Gold Management Inc. (hereinafter "Organo Gold" or "Defendants"), and states as follows:

**Nature of the Action**

1. This is an action seeking recovery of compensatory and punitive damages, reasonable attorneys' fees, and declaratory and other relief arising from

Defendants' failure to put a warning on its Organo Gold products containing an herbal supplement called Ganoderma Lucidum. It is also a class action seeking identical declaratory relief on behalf of the proposed class representative and plaintiff class, all of whom purchased Organo Gold products containing Ganoderma Lucidum.

2. This action seeks, among other relief, judicial declarations to the following effect:

- a. The Organo Gold products developed, manufactured, marketed, tested and/or sold by Defendants contained false and/or misleading information concerning its safety and ingredient information;
- b. Defendants knew or should have known of the false and/or misleading information it provided to Plaintiff and Class members and thereby breached its warranties to Plaintiff and the Class;
- c. That by failing to give adequate warning and ingredient information on Organo Gold products, Defendants are acting unlawfully;
- d. Defendants are liable to Plaintiff for his bodily injuries, including costs of reasonable and necessary medical treatment, punitive damages, interest and costs of pursuing this action and all other appropriate relief caused by Plaintiff's consumption of Organo Gold coffee;

e. Defendants are liable to Plaintiff and all members of the Class for economic, punitive and compensatory damages.

### **The Parties**

3. Plaintiff Marlin Johnson is a resident of Florida.

4. Organo Gold Int'l, Inc. is a Nevada corporation. Its registered agent is Nevada Corporate Headquarters, Inc. located at 4730 S. Fort Apache Rd., Suite 300, P.O. Box 27740, Las Vegas, Nevada 89126.

5. Organo Gold Int'l, Inc. is a Washington corporation. Its registered agent is Bernardo Chua, 5505 Hovander Road, Ferndale, Washington, 98248.

6. Organo Gold International LLC is a Washington limited liability company. Its registered agent is Corporation Service Company, 300 Deschutes Way SW Suite 304, Tumwater, Washington, 98501.

7. Organo Gold Management, Inc. is a Nevada corporation. Its registered agent is Nevada Corporate Headquarters, Inc. located at 4730 S. Fort Apache Rd., Suite 300, P.O. Box 27740, Las Vegas, Nevada 89126.

### **Factual Allegations**

8. In March 2013, Plaintiff purchased three boxes of Organo Gold coffee from an Organo Gold representative in Delaware. Over a two week period he consumed one cup of coffee a day as directed by Defendants. Plaintiff purchased and consumed the coffee because of Defendants' representation of the purported

health benefits derived from Ganoderma Lucidum. When Plaintiff purchased and consumed the Organo Gold coffee, he was unaware of the product's dangerous side effects.

9. On April 5, 2013, Plaintiff underwent gastric bypass surgery. The surgery proceeded unremarkably, but he was vomiting blood and suffering from blood clots postoperatively which became more frequent as the evening progressed. His hemoglobin level dropped from 11 to 6 and his international normalised ration (INR) was close to 3. After investigation, it was discovered by Plaintiff's doctors that Plaintiff's consumption of Organo Gold coffee infused with Ganoderma Lucidum caused his platelet dysfunction and bleeding which led to his postoperative complications. As a result, Plaintiff had to be resuscitated with multiple blood and platelet transfusions and undergo an emergency surgery.

10. Upon information and belief Defendants own and/or operate a "network marketing" company called Organo Gold that sells coffee, teas, cocoa, supplements and an assortment of personal care products which contain Ganoderma Lucidum. Ganoderma Lucidum, also known as Reishi, is a bitter hard mushroom commonly used in traditional Chinese medicine. Defendants promote, distribute and sell its Organo Gold products containing Ganoderma Lucidum throughout Delaware.

11. As a result of regularly conducting business, marketing, distributing, promoting and/or selling products – including coffee – throughout the State of Delaware, Defendants obtain the benefits of the laws of Delaware and profit from Delaware commerce. As such, Defendants are subject to personal jurisdiction in Delaware.

12. Defendants market its Organo Gold products as a healthier alternative to other brands because of the purported health benefits derived from the Ganoderma Lucidum. Defendants tout that its “products are designed to suit any lifestyle, and are enhanced with ancient Chinese herbal remedies that have been widely revered for hundreds of years, but, before Organo Gold, remained largely unknown outside of Eastern herbal medicine. One of Organo Gold’s main missions is to deliver the knowledge of these special ingredients to the global community.”

13. Ganoderma Lucidum is a natural blood thinner that prevents a person’s blood from clotting properly and causes intestinal bleeding and platelet dysfunction. The packaging and/or labeling of Organo Gold products do not contain warnings about these dangerous side effects. The packaging and/or labeling also does not provide information about how much Ganoderma Lucidum is in the product. For those with health conditions, or those undergoing surgical procedures, the blood thinning properties and amount of Ganoderma Lucidum in Organo Gold products is extremely important.

**Class Certification Allegations**

14. This action is brought and may properly be maintained as a class action pursuant to Superior Court Civil Rules 23(a) and (b)(1)(A), (2) and (3). Plaintiff Marlin Johnson brings this action on behalf of himself and all others similarly situated, as representative of the following proposed class: All persons and entities within the State of Delaware that purchased Organo Gold products contained Ganoderma Lucidum including but not limited to coffee, tea, cocoa and/or supplements.

15. Specifically excluded from the proposed class are: (a) any Judge or Magistrate presiding over this action and members of their families; (b) Defendants and any entity in which Defendants have a controlling interest, or which has a controlling interest in any of the Defendants, and their legal representatives, assigns and successors; and (c) all persons who properly execute and file a timely request for exclusion from the Class.

16. *Numerosity of the Class (Super. Ct. Civ. R. 23(a)(1)).*  
Defendants have harmed and continue to harm members of the Class with their false and misleading information and failure to warn. The proposed class is so numerous that the individual joinder of all its members is impracticable.

17. While the exact number and identities of the proposed class members is presently unknown, and can only be determined through investigation and discovery, plaintiff believes, due to the size of the market for coffee, tea, cocoa and health supplements that the proposed class includes over 100 members.

18. ***Existence and Predominance of Common Questions of Law and Fact (Super. Ct. Civ. R. 23(a)(2), 23(b)(3)).*** Common questions of law and fact affect the right of each Class member and common relief by way of damages is sought for Plaintiff and Class members. The harm that Defendants have caused or could cause is substantially uniform with respect to Class members. Common questions of law and fact that affect the Class members include, but are not limited to:

- (a) Whether Defendants sold its products with false or misleading statements concerning the safety and lack of dangerous side effects;
- (b) Whether Defendants failed to prevent damages by failing to warn its customers about the dangerous side effects of its products;
- (c) Whether Defendants knowingly provided false information to Plaintiff and the Class members;



(d) Whether Defendants omitted material information when it sold its products;

(e) Whether the members of the Class have sustained damages and, if so, the proper measure of such damages.

19. ***Typicality of Claims (Super. Ct. Civ. R. 23(a)(3))***. Plaintiff Marlin Johnson's claims are typical of the claims of the members of the proposed class.

20. ***Adequacy of Representation (Super. Ct. Civ. R. 23(a)(4))***. Plaintiff Marlin Johnson is under no actual or potential conflict of interest with respect to other members of the proposed class, and will fairly and adequately protect their interest. He has hired attorneys who are experienced in prosecuting class action claims and will adequately represent the interests of the Class.

21. ***Superiority of Class Action (Super. Ct. Civ. R. 23(b)(3))***. A class action is superior to other available methods of adjudication for this dispute, because individual joinder of all members of the proposed class is impracticable, and no other method of adjudication of the claims asserted herein is more efficient and manageable. Further, the damages suffered by individual members of the proposed class may be relatively modest, so that the burden and expense of prosecuting individual actions would make it difficult or impossible for such members to obtain relief. The prosecution of such individual actions would also impose a substantial burden on the Delaware trial courts, and on this Court in

particular. At the same time, individualized litigation would entail a significant risk of varying, inconsistent or contradictory judgments, and would magnify the delay and expense to all parties and the courts, by requiring multiple trials for the same factual issues. By contrast, the class action mechanism presents fewer case-management problems; conserves the resources of the parties and the courts; and protects the rights of each member of the proposed class. The proposed class members thus have little interest in individually controlling the prosecution of separate actions; and to counsel's knowledge, there has been no substantial litigation of this dispute in any forum. It is not anticipated that the prosecution of this dispute as a class action will entail any special case-management difficulties; and notice of the pendency of this action, and of any resolution of the same, can be provided to the proposed class by publication and/or individual notice.

22. ***Other Grounds for Certification.*** This action is also certifiable under Superior Court Civil Rules 23(b)(1)(A) and (b)(2) because:

- a. The prosecution of separate actions by the individual members of the proposed class would create a risk of inconsistent or varying adjudications with respect to such individual class members, thus establishing incompatible standards of conduct for Organo Gold; and

b. Defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate declaratory relief with respect to the class as a whole.

**Tolling of Any Applicable Statutes of Limitations**

23. Plaintiff and others similarly situated are within the applicable statute of limitation for the claims presented herein. Defendants' failed to disclose information known to it about the dangerous side effects of Organo Gold products and the amount of Ganoderma Lucidum that is in its products – information over which it continues to have exclusive control. Because Plaintiff and others similarly situated could not have reasonably known the amount of Ganoderma Lucidum contained in Organo Gold products or its dangerous side effects Defendants are estopped from asserting any statute of limitation defenses that might otherwise be applicable to the claims asserted herein.

**COUNT I**

**Declaratory Judgment**

24. Plaintiff Marlin Johnson, on behalf of himself and all others similarly situated, repeat and incorporate by reference the allegations set forth in paragraphs 1 through 23 above.

25. Defendants have a duty to give adequate warning of the danger and clear instructions about the use of the product and who should avoid taking it and

have failed to do so. Defendants also have a duty to provide ingredient content information on its products and have failed to do so. Defendants are liable for, among other things, failing to provide warning to its customers of the dangerous side effects of its products and for failing to provide accurate information about the amount of Ganoderma Lucidum in its products.

26. An actual controversy of a justiciable nature exists between plaintiff Marlin Johnson, on behalf of himself and all others similarly situated (on the one hand) and Defendants (on the other), concerning the parties' rights and obligations. More particularly, Defendants dispute or will dispute their duties to the proposed class representative and class members with respect to the packaging and/or labeling of its products. This controversy is of sufficient immediacy to justify the entry of a declaratory judgment.

27. An award of declaratory relief by this Court will terminate some or all of the existing controversy between the parties.

## **COUNT II**

### **Breach of Express and Implied Warranties**

28. Plaintiff Marlin Johnson, on behalf of himself and all others similarly situated, repeat and incorporate by reference the allegations set forth in paragraphs 1 through 27 above.

29. The Defendants breached an express warranty under 6 *Del. C.* § 2-313, created through advertising, promotion and product labeling, that Organo Gold products containing Ganoderma Lucidum was safe for consumption and carried no unusual risk of injury.

30. The Defendants breached the implied warranties of 6 *Del. C.* § 2-314 and 2-315 that Organo Gold products containing Ganoderma Lucidum was of merchantable quality, was fit for a particular purpose and was reasonably safe and suited for the purposes and uses of which Organo Gold products were represented and sold.

31. The breach of these warranties caused serious bodily injuries to Marlin Johnson, on behalf of himself and all others similarly situated.

### **COUNT III**

#### **Consumer Fraud**

32. Plaintiff Marlin Johnson, on behalf of himself and all others similarly situated, repeat and incorporate by reference the allegations set forth in paragraphs 1 through 31 above.

33. Defendants conduct, as alleged above, is in violation of 6 *Del. C.* §2513.

34. As a direct result of Defendants' violation of 6 *Del. C.* §2513, plaintiff Marlin Johnson and all others similarly situated have suffered and will suffer injury.

**COUNT IV**

**Negligence**

35. Plaintiff Marlin Johnson, on behalf of himself and all others similarly situated, repeat and incorporate by reference the allegations set forth in paragraphs 1 through 34 above.

36. Defendants breached their duty to provide adequate warning to its customers of the dangerous side effects of its products containing Ganoderma Lucidum and the amount of Ganoderma Lucidum contained in its products. The defendants' breach caused injury to plaintiff Marlin Johnson and all others similarly situated.

**COUNT V**

**NEGLIGENT LABELING/FAILURE TO WARN**

37. Plaintiff Marlin Johnson, on behalf of himself and all others similarly situated, repeat and incorporate by reference the allegations set forth in paragraphs 1 through 36 above.

38. Defendants knew, or by the use of ordinary care had reason to know, that its products containing Ganoderma Lucidum were potentially dangerous in ordinary doses to persons who may have health conditions or those undergoing surgical procedures, that this danger was not obvious or readily discoverable by its customers, and that injury or death reasonably could be anticipated. Defendants

had a duty to give an adequate warning of the danger and proper and clear instructions about use of the products and who should avoid taking it. Defendants also had a duty to provide ingredient content information for its products. Because it gave no adequate warnings, instructions or ingredient content information, Defendants were negligent.

39. Defendants' negligence in failing to give adequate warnings, instructions or ingredient content information to consumers of Organo Gold products containing Ganoderma Lucidum caused and will continue to cause injury to Plaintiff Marlin Johnson and others similarly situated.

## **COUNT VI**

### **Misrepresentation**

40. Plaintiff Marlin Johnson, on behalf of himself and all others similarly situated, repeat and incorporate by reference the allegations set forth in paragraphs 1 through 39 above.

41. Defendants intentionally misrepresented the safety of Organo Gold products containing Ganoderma Lucidum by suppressing facts about the dangerous side effects of Ganoderma Lucidum, the amount of Ganoderma Lucidum in its products and by affirmatively representing that its products were safe, healthy and free from dangerous side effects. Defendants had a duty to warn consumers about the dangerous side effects of consuming Ganoderma Lucidum and the amount of

Ganoderma Lucidum in its products. These misrepresentations were done with the intent to mislead its customers.

42. Had Defendants not withheld or omitted the important information about their products, Plaintiff and others similarly situated would not have purchased Organo Gold products, or would have paid less for them.

43. Plaintiff Marlin Johnson and others similarly situated justifiably relied on Defendants' misrepresentations and suffered injury as a result.

**Prayer for Relief**

WHEREFORE, plaintiff Marlin Johnson, on his own behalf and all others similarly situated, respectfully requests that this Court enter judgment as follows:

- a. Entering an Order certifying the plaintiff class, appointing plaintiff Marlin Johnson as representative of that class, and appointing their counsel to represent the class, all pursuant to Superior Court Civil Rule 23;
- b. Declaring the parties' rights, duties, status or other legal relations;
- c. Declaring that by failing to properly label its products and warn plaintiff Marlin Johnson and others similarly situated of the dangerous side effects of Ganoderma Lucidum, defendants acted and continue to act unlawfully;
- d. Awarding to plaintiff and all others similarly situated economic and compensatory damages;



e. Awarding to plaintiff and all others similarly situated punitive damages for Defendants' willful and wanton conduct;

f. Awarding to plaintiff and all others similarly situated their reasonable attorneys' fees in the prosecution of this action;

g. Awarding to plaintiff and all others similarly situated all costs of this action; and

h. Awarding such other and further relief as this Court deems just and appropriate.

**MURPHY & LANDON**

/s/ Philip T. Edwards

Philip T. Edwards, DE I.D. #4393

Kelley Huff, DE I.D. # 5192

1011 Centre Road, Suite 210

Wilmington, DE 19805

Tel: (302)472-8100

Attorneys for Plaintiffs

EFiled: Mar 19 2015 12:02PM EDT  
Transaction ID 56943218  
Case No. N15C-03-157 JRJ G



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

MARLIN JOHNSON,  
on behalf of himself and all others  
similarly situated,

Plaintiff,

v

ORGANO GOLD INT'L, INC., a Nevada  
Corporation, ORGANO GOLD INT'L, INC.,  
a Washington Corporation, ORGANO  
GOLD INTERNATIONAL, LLC, AND  
ORGANO GOLD MANAGEMENT, INC.

Defendants.

C.A. No.  
TRIAL BY JURY  
DEMANDED

ASSIGNMENT TO  
CCLD REQUESTED

**PLAINTIFF'S ANSWERS TO FORM 30 INTERROGATORIES**

1. Give the name and present or last known residential and employment address and telephone number of each eyewitness to the incident which is the subject of the litigation.

**ANSWER:** Marlin Johnson  
347 Northwest Belvin Way  
Lake City, FL 32055

Gail Wynn, M.D.  
537 Stanton Christiana Road  
Newark, DE 19713

Bettina Holmes  
306 W. Reamer Avenue  
Wilmington, DE 19804

Various personnel at Saint Francis Healthcare Services.

2. Give the name and present or last known residential and employment address and telephone number of each person who has

knowledge of the facts relating to the litigation.

**ANSWER:** Plaintiff and his attorney, and medical care providers, and Defendants.

3. Give the names of all persons who have been interviewed in connection with the above litigation, including the names and present or last known residential and employment addresses and telephone numbers of the persons who made said interviews and the names and present or last known residential and employment addresses and telephone numbers of persons who have the original and copies of the interview.

**ANSWER:** Counsel has interviewed Plaintiff.

4. Identify all photographs, diagrams or other representations made in connection with the matter in litigation, giving the name and present or last known residential and employment address and telephone number of the personal having the original copies thereof. (In lieu thereof, a copy can be attached.)

**ANSWER:** Plaintiff is not in possession of any photos.

5. Give the name and professional address and telephone number of all expert witnesses presently retained by the party together with the dates of any written opinions prepared by said expert. If any expert is not presently retained, describe by type the experts whom the party expects to retain in

connection with the litigation.

**ANSWER:** Plaintiff shall provide expert disclosures and CV's in accordance with the case scheduling order.

6. Give a brief description of any insurance policy, including excess coverage, that is or may be applicable to the litigation, including:

- (a) The name and address of all companies insuring the risk;
- (b) The policy number(s);
- (c) The type of insurance;
- (d) The amounts of primary, secondary and excess coverage.

**ANSWER:** Unknown.

7. Give the name, professional address, and telephone number of all physicians, chiropractors, psychologists, and physical therapists who have examined or treated you at any time during the ten-year period immediately prior to the date of the incident at issue in this litigation.

**ANSWER:** This information will be supplied after an appearance has been made on behalf of Defendants.

**MURPHY & LANDON**

/s/ Philip T. Edwards

Philip T. Edwards, DE I.D. #4393

Kelley Huff, DE I.D. # 5192

1011 Centre Road, Suite 210

Wilmington, DE 19805

Tel: (302)472-8100

Attorneys for Plaintiffs

EFiled: Mar 19 2015 12:02PM EDT  
Transaction ID 56943218  
Case No. N15C-03-157 JRJ GALL



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

MARLIN JOHNSON,  
on behalf of himself and all others  
similarly situated,

Plaintiff,

v.

ORGANO GOLD INT'L, INC., a Nevada  
Corporation, ORGANO GOLD INT'L, INC.,  
a Washington Corporation, ORGANO  
GOLD INTERNATIONAL, LLC, AND  
ORGANO GOLD MANAGEMENT, INC.

Defendants.

C.A. No.  
TRIAL BY JURY  
DEMANDED

ASSIGNMENT TO  
CCLD REQUESTED

**PLAINTIFF'S RULE 3(h) STATEMENT**

I. Answers to Superior Court Civil Rule Form 30 Interrogatories are attached hereto.

II. Photocopies of existing documentary evidence relating to special damages will be provided when Defendants enters their appearance.

III. To be provided if and when such documents are obtained.

**MURPHY & LANDON**

/s/ Philip T. Edwards

Philip T. Edwards, DE I.D. #4393

Kelley Huff, DE I.D. # 5192

1011 Centre Road, Suite 210

Wilmington, DE 19805

Tel: (302)472-8100

Attorneys for Plaintiffs

# EXHIBIT B

*Johnson v. Organo Int'l, Inc. et al.*

**Docket from the Superior Court of the  
State of Delaware in and for New Castle County**

**Report Selection Criteria****Case ID:** N15C-03-157**Docket Start Date:****Docket Ending Date:****Case Description****Case ID:** N15C-03-157 - MARLIN JOHNSON VS. ORGANO GOLD INT'L, INC., ET AL.**Filing Date:** Thursday , March 19th, 2015**Type:** C2 - CCLD: COMPLEX COM LIT DIVISION**Status:** NEW - NEW**Related Cases***No related cases were found.***Case Event Schedule***No case events were found.***Case Parties**

Seq #	Assoc	Expn Date	Type	Name
1	2		PLAINTIFF	JOHNSON, MARLIN
Address:	unavailable		Aliases:	none
2			ATTORNEY FOR PLAINTIFF	EDWARDS, PHILIP T
Address:	MURPHY & LANDON 1011 CENTRE ROAD, SUITE 210 WILMINGTON DE 19805 (302)472-8102		Aliases:	none
3			DEFENDANT	ORGANO GOLD INT'L INC A NEVADA CORP
Address:	unavailable		Aliases:	none



4			DEFENDANT	ORGANO GOLD INT'L INC A WASHINGTON CORP
Address:	unavailable		Aliases:	none
5			DEFENDANT	ORGANO GOLD INTERNATIONAL LLC
Address:	unavailable		Aliases:	none
6			DEFENDANT	ORGANO GOLD MANAGEMENT INC
Address:	unavailable		Aliases:	none
7			JUDGE	JURDEN, JAN R
Address:	SUPERIOR COURT NEW CASTLE COUNTY COURTHOUSE 500 N. KING STREET WILMINGTON DE 19801		Aliases:	none
8			SHERIFF	KENT COUNTY, SHERIFF
Address:	unavailable		Aliases:	none
9			SHERIFF	NEW CASTLE COUNTY, SHERIFF
Address:	unavailable		Aliases:	none

**Docket Entries**

Filing Date	Description	Name	Monetary
19-MAR-2015 12:02 PM	INIT FILING CCLD	EDWARDS, PHILIP T	
Entry:	INITIAL FILING CCLD - COMPLEX COMMERCIAL LITIGATION DIVISION DATE DOCKETED: MARCH 24, 2015		

19-MAR-2015 12:02 PM	INITIAL COMPLAINT	EDWARDS, PHILIP T	
<b>Entry:</b>	INITIAL COMPLAINT DATE DOCKETED: MARCH 24, 2015 COMPLAINT CASE INFORMATION STATEMENT PRAECIPE ORGANO GOLD INT'L, INC. (NEVADA) PRAECIPE ORGANO GOLD INT'L, INC. (WASHINGTON) PRAECIPE ORGANO GOLD INTERNATIONAL, LLC PRAECIPE ORGANO GOLD MANAGEMENT, INC. SUMMONS ORGANO GOLD INT'L, INC. (NEVADA) SUMMONS ORGANO GOLD INT'L, INC. (WASHINGTON) SUMMONS ORGANO GOLD INTERNATIONAL LLC SUMMONS ORGANO GOLD MANAGEMENT, INC. PLAINTIFF'S ANSWERS TO FORM 30 INTERROGATORIES PLAINTIFF'S RULE 3(H) STATEMENT ACCEPTED BY: ELS TRANSACTION ID: 56943218		
06-APR-2015 09:10 AM	WRIT ISSUED		
<b>Entry:</b>	WRIT(S) ISSUED ON DATE DOCKETED: APRIL 7, 2015 4 WRITS ISSUED ON 04-02-2015 BY SERVING REGISTERED AGENTS THROUGH LONG ARM SERVICE. ACCEPTED BY: RAM TRANSACTION ID: 57024627		
08-APR-2015 04:48 PM	WRIT ISSUED		
<b>Entry:</b>	WRIT(S) ISSUED ON DATE DOCKETED: APRIL 9, 2015 4 WRITS ISSUED ON 04-06-2015 ACCEPTED BY: RAM TRANSACTION ID: 57048604		
13-MAY-2015 01:29 PM	AMENDMENT TO THE COMPLAINT	EDWARDS, PHILIP T	
<b>Entry:</b>	AMENDMENT TO THE COMPLAINT DATE DOCKETED: MAY 15, 2015 AMENDMENT TO COMPLAINT- PROOF OF COMPLIANCE WITH 10 DEL. C. SECTION 3104- AS TO DEFENDANT ORGANO GOLD INTERNATIONAL, LLC. EXHIBIT 1 TO AMENDMENT TO COMPLAINT- PROOF OF COMPLIANCE WITH 10 DEL. C. SECTION 3104- ORGANO GOLD INTERNATIONAL LLC (AFFIDAVIT OF PHILIP T. EDWARDS, ESQ.) EXHIBIT A TO AFFIDAVIT OF PHILIP T. EDWARDS, ESQ. (LETTER FROM PHILIP T. EDWARDS, ESQ. TO DEFENDANT WITH COPIES OF DOCUMENTS) EXHIBIT B TO AFFIDAVIT OF PHILIP T. EDWARDS, ESQ. (REGISTERED MAIL RECEIPT) EXHIBIT C TO AFFIDAVIT OF PHILIP T. EDWARDS, ESQ. (SIGNED RETURN RECEIPT) ACCEPTED BY: ERD TRANSACTION ID: 57234287		
13-MAY-2015 01:35 PM	AMENDMENT TO THE COMPLAINT	EDWARDS, PHILIP T	

Entry:	AMENDMENT TO THE COMPLAINT DATE DOCKETED: MAY 15, 2015 AMENDMENT TO COMPLAINT- PROOF OF COMPLIANCE WITH 10 DEL. C. SECTION 3104- AS TO DEFENDANT ORGANO GOLD INT'L, INC. (NEVADA) EXHIBIT 1 TO AMENDMENT TO COMPLAINT (AFFIDAVIT OF PHILIP T. EDWARDS) EXHIBIT A TO AFFIDAVIT OF PHILIP T. EDWARDS, ESQ. (LETTER FROM PHILIP T. EDWARDS, ESQ. TO DEFENDANT WITH DOCUMENTS) EXHIBIT B TO AFFIDAVIT OF PHILIP T. EDWARDS, ESQ. (REGISTERED MAIL RECEIPT) EXHIBIT C TO AFFIDAVIT OF PHILIP T. EDWARDS, ESQ. (SIGNED RETURN RECEIPT) ACCEPTED BY: ERD TRANSACTION ID: 57234336		
13-MAY-2015 01:39 PM	AMENDMENT TO THE COMPLAINT	EDWARDS, PHILIP T	
Entry:	AMENDMENT TO THE COMPLAINT DATE DOCKETED: MAY 15, 2015 AMENDMENT TO COMPLAINT- PROOF OF COMPLIANCE WITH 10 DEL. C. SECTION 3104- AS TO DEFENDANT ORGANO GOLD INT'L, INC. (WASHINGTON). EXHIBIT 1 TO AMENDMENT TO COMPLAINT (AFFIDAVIT OF PHILIP T. EDWARDS, ESQ.) EXHIBIT A TO AFFIDAVIT OF PHILIP T. EDWARDS, ESQ. (LETTER FROM PHILIP T. EDWARDS, ESQ. TO DEFENDANT WITH DOCUMENTS) EXHIBIT B TO AFFIDAVIT OF PHILIP T. EDWARDS, ESQ. (REGISTERED MAIL RECEIPT) EXHIBIT C TO AFFIDAVIT OF PHILIP T. EDWARDS, ESQ. (SIGNED RETURN RECEIPT) ACCEPTED BY: ERD TRANSACTION ID: 57234388		

# **EXHIBIT D**

## **Notice of Notice of Removal**

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY**

MARLIN JOHNSON, on behalf of  
himself and all others similarly situated,

Plaintiff,

v.

ORGANO GOLD INT'L, INC., a Nevada  
Corporation; ORGANO GOLD INT'L,  
INC., a Washington Corporation;  
ORGANO GOLD INT'L, LLC; and  
ORGANO GOLD MANAGEMENT,  
INC.,

Defendants.

Honorable Jan R. Jurden  
Case No. N15C-03-157-CCLD

**NOTICE OF FILING OF NOTICE OF REMOVAL**

TO PLAINTIFF AND HIS COUNSEL OF RECORD, AND THE CLERK  
FOR THE SUPERIOR COURT OF THE STATE OF DELAWARE IN AND FOR  
NEW CASTLE COUNTY:

PLEASE TAKE NOTICE that on May 15, 2015, the above-captioned action  
was removed to the United States District Court for the District of Delaware  
pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. A copy of the said Notice of  
Removal is attached hereto as Exhibit A in accordance with 28 U.S.C. § 1446(d).

Dated: May 15, 2015

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: /s/ Colm F. Connolly

Colm F. Connolly (Del. Bar No. 3151)

1007 N. Orange St., Ste. 501

Wilmington, DE 19801

Telephone: 302.574.7290

Facsimile: 302.574.3001

cconnolly@morganlewis.com

*Attorney for Defendant*

*Organo Gold Int'l, Inc.*

**CERTIFICATE OF SERVICE**

I, Colm F. Connolly, hereby certify that on May 15, 2015, I caused to be filed and served electronically a true and correct copy of the foregoing Notice of Notice of Removal and the accompanying Exhibit upon all counsel of record and via Federal Express on counsel for Plaintiff:

Philip T. Edwards  
Kelley Huff  
MURPHY & LANDON  
1011 Centre Road, Suite 210  
Wilmington, DE 19805

John S. Spadaro  
JOHN SHEEHAN SPADARO, LLC  
724 Yorklyn Road, Suite 375  
Hockessin, DE 19707

Dated: May 15, 2015

/s/ Colm F. Connolly  
Colm F. Connolly

# **EXHIBIT C**

**Civil Cover Sheet**



## 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**

Marlin Johnson, on behalf of himself and all others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

Philip T. Edwards  
Murphy & Landon, 1011 Centre Road, Suite 210  
Wilmington, DE 19085

**DEFENDANTS**Organo Gold Int'l, Inc. (Nevada); Organo Gold Int'l Inc. (Washington);  
Organo Gold Int'l LLC (Washington); Organo Gold Management, Inc. (Nevada)

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

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

Attorneys (If Known)

Colm Connolly  
Morgan, Lewis & Bockius LLP, 1007 N. Orange St., Ste. 501  
Wilmington, DE 19081

**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 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 checked="" 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 checked="" 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 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. s 1332, 1441, 1446

Brief description of cause:

Personal injuries allegedly caused by consumption of Defendant's coffee; class action based on same allegations.

**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

DOCKET NUMBER

DATE

05/15/2015

SIGNATURE OF ATTORNEY OF RECORD

/s/ Colm F. Connolly

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE