

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

DAVID CHAVEZ, *individually and on behalf  
of all others similarly situated,*

Plaintiff,

v.

CHURCH & DWIGHT CO., INC.,

Defendant.

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

**CLASS ACTION COMPLAINT**

JURY TRIAL DEMANDED

**CLASS ACTION COMPLAINT**

Plaintiff, David Chavez, individually and on behalf of all other persons similarly situated, by his undersigned attorneys, as and for his Complaint against Defendant, Church & Dwight Co., Inc., (“Church & Dwight”), alleges the following based upon personal knowledge as to himself and his own action, and, as to all other matters, respectfully alleges, upon information and belief and investigation of his counsel, as follows:

**NATURE OF THE ACTION**

1. This is a consumer class action brought individually by Plaintiff and on behalf of all persons in the below-defined proposed Classes, all of whom purchased the dietary supplement Vitafusion B Complex Energy, Adult Vitamins, Gummies, natural strawberry flavor (hereinafter “Vitafusion”).

2. Unbeknownst to Plaintiff and members of the Classes, and contrary to the express representations made on its label, Vitafusion contains an excessive and potentially dangerous amount of the synthetic form of folate which, if known to Plaintiff and members of the Classes, would have caused Plaintiff and members of the Classes not to purchase or use Vitafusion.

3. Vitamins, including folate, play a crucial role in health.

4. Recognizing the important role that folate plays in health, the Office of Dietary Supplements for the National Institutes of Health (hereinafter, “NIH”), recognizes the recommended daily allowance level for folate of 400 mcg.

5. Similarly, because of the important role that folate plays in health, several foods are fortified with folic acid, the synthetic form of folate.

6. In recent years, consumers wishing to ensure that they obtain the proper amount of vitamins, such as folate, have increasingly turned to nutritional supplements.

7. Thus, one of the fastest growing industries in the world is the nutritional supplement group, more broadly known as Vitamins, Minerals and Supplements, or VMS. Producing about \$32 billion in revenue for just nutritional supplements alone in 2012, it is projected to double that by topping \$60 billion in 2021 according to the Nutritional Business Journal.<sup>1</sup>

8. Within this sphere, Vitafusion occupies a significant market share, with sales in all fifty states totaling hundreds of millions of dollars and distribution through numerous large retailers.

9. Defendant warranted, advertised and sold Vitafusion throughout the United States, including in the State of Illinois and in this District as containing 400 mcg of folate, the recommended daily allowance cited by NIH.

10. However, just as there is a recommended daily allowance for folate, NIH also recognizes an Upper Tolerable Intake Limit (“UL”) for the synthetic form of folate that is used in supplements and fortified foods. The UL for folic acid, synthetic folate, from dietary supplements and fortified foods for an adult is 1000 mcg. Exceeding the UL for folate can lead to nerve toxicity,

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<sup>1</sup> *Nutritional Supplements Flexing Muscles As Growth Industry*, FORBES, <https://www.forbes.com/sites/davidlariviere/2013/04/18/nutritional-supplements-flexing-their-muscles-s-growth-industry/#36661f8e8845> (last visited on March 13, 2017).

blurry vision, nausea and vomiting, numbness, high blood sugar, skin lesions, liver toxicity, or liver damage.

11. Despite its extensive sales, and despite labeling Vitafusion as containing 400 mcg per gummy, Defendant does not ensure that Vitafusion actually contains the 400 mcg of folate listed on its label.

12. Instead, unbeknownst to Plaintiff and members of the Classes, Vitafusion actually contains 1232 mcg of synthetic folate (folic acid), an amount that exposes consumers of Vitafusion to the risks associated with excess intake of synthetic folate.

13. This renders Vitafusion effectively worthless. Far from providing the NIH recommended amount of folate, Vitafusion instead exposed Plaintiff and members of the Classes to an unsafe level of folate.

14. Despite having knowledge that Vitafusion's labeling is deceptive, misleading, and constitutes a fraud on consumers, Defendant continues to advertise, distribute, label, manufacture, market, and sell Vitafusion in a false, misleading, unfair, and/or deceptive manner, still claiming, falsely that Vitafusion contains a safe amount of synthetic folate, not the potentially dangerous amount it actually contains.

15. As a result of Defendant's unlawful and deceptive conduct, Plaintiff and members of the Classes have been harmed, both by purchasing a product under false pretenses and by ingesting a product that increased their risk to various diseases.

16. Plaintiff and the Classes thus bring claims for consumer fraud, unjust enrichment, and common law fraud and seek damages, injunctive and declaratory relief, interest, costs, and reasonable attorneys' fees.

### **PARTIES**

17. Plaintiff, David Chavez, is a citizen of the State of Illinois residing in the City of Northlake, and is a member of the Class defined herein. He purchased the Vitafusion for his own use during the four years preceding the filing of this Complaint and most recently in February of 2017. Mr. Chavez and members of the Classes suffered an injury in fact caused by the false, fraudulent, unfair, deceptive and misleading practices of Defendant set forth in this Complaint. Plaintiff David Chavez and members of the Classes would not have purchased the Vitafusion had the labeled amount of folate been accurate.

18. Defendant, Church & Dwight, is a Delaware corporation with its principal place of business in Ewing, New Jersey.

### **JURISDICTION AND VENUE**

19. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act of 2005 (hereinafter referred to as “CAFA”) codified as 28 U.S.C. § 1332(d)(2) because the claims of the proposed Class Members exceed \$5,000,000 and because Defendant is a citizen of a different state than most Class Members.

20. The Court has personal jurisdiction over Defendant because Defendant regularly conducts business in this District and/or under the stream of commerce doctrine causing products to be sold in this District, including the Vitafusion purchased by Plaintiff.

21. Venue is proper because a substantial portion of the events complained of occurred in this District.

## **FACTUAL ALLEGATIONS**

### ***The Risks and Benefits of Vitamin Folate***

22. There are eight B vitamins generally known as thiamin (B-1), riboflavin (B-2), niacin (B-3), pantothenic acid (b-5), pyridoxine (B-6), biotin (B-7), folate (folic acid, B-9), and cobalamin (b-12). Like most vitamins, B vitamins are essential – every person needs them, but the body cannot make them; rather, they must be obtained from a person’s diet and/or supplements.

23. Each vitamin B is associated with a variety of functions, many of which relate to turning food into energy and other needed substances.

24. In particular, vitamin B-9 (folate) is crucial for proper brain function and plays an important role in physical and mental health.<sup>2</sup>

25. For example, studies have shown that combinations of B-6, B-12, and folate have been able to reduce homocysteine levels – a risk factor for cardiovascular disease.<sup>3</sup>

26. Moreover, folate aids in the production of DNA and RNA, the body’s genetic material, and is especially important when cells and tissues are growing rapidly, such as in infancy, adolescence and pregnancy.<sup>4</sup> Folate also works closely with vitamin B-12 to help make red blood cells and help iron work properly in the body.<sup>5</sup>

27. In fact, studies have shown that proper dosages of folate can help prevent birth defects, heart disease, age-related hearing loss, and even depression.<sup>6</sup>

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<sup>2</sup> See <http://umm.edu/health/medical/altmed/supplement/vitamin-b9-folic-acid>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

28. However, while B vitamins are generally health promoting if taken in the right dosage, intake of too much vitamin B can present problems for a person, and even be dangerous in some circumstances.

29. For example, consumption of too much vitamin B can cause nerve toxicity in a person.<sup>7</sup> Other problems people experience with over consumption of vitamin B can include extreme sensitivity to sunlight, nausea and vomiting, heartburn, and skin lesions.<sup>8</sup>

30. Specifically, there also is risk of too much consumption of folate. Studies have shown that over consumption of folate could increase the risk of certain precancerous tumors becoming malignant.<sup>9</sup>

31. For this reason, high doses of vitamin B supplements (including folate) must be taken with caution. The Office of Dietary Supplements for the National Institutes of Health, an agency of the U.S. Department of Health & Human Services, recognizes the recommended daily allowance for folate and the UL – the highest level of nutrient intake that is likely to pose no risk of adverse health effects – for the synthetic folate found in supplements and fortified foods, as set by the National Academy of Sciences.<sup>10</sup>

32. With respect to folate, the recommended daily allowance that a person should consume is 400 mcg of folate and the UL for folate in supplement or additive form is set at 1,000 mcg.<sup>11</sup> As set forth above, studies have shown that consuming more than the UL may cause adverse health effects such as increasing the risk of certain precancerous tumors becoming malignant.

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<sup>7</sup> <https://ods.od.nih.gov/factsheets/VitaminB6-Consumer/>.

<sup>8</sup> *Id.*

<sup>9</sup> <https://ods.od.nih.gov/factsheets/Folate-Consumer/>.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

33. Accordingly, it is important for members of the public not to consume too much folate.

34. Likewise, it is essential for supplement manufacturers to accurately label their products, so that consumers reading a product's label can ensure that they ingest the correct amount.

***Church & Dwight Falsely Labels Vitafusion***

35. Church & Dwight is a publicly traded company based in New Jersey that is a major manufacturer of household products including vitamin supplements.

36. The sale of vitamin supplements is a vital part of the business operations of Defendant. According to a media release issued by Defendant in 2013:

The gummy vitamin business is strategically important to Church & Dwight and is expected to be a significant contributor to the future growth of sales, earnings, and cash flows...Our gummy vitamin sales are growing at a 20% rate to approximately \$300 million in annual net sales in 2013. We expect double-digit gummy vitamin sales growth in 2014. We believe the future prospects of the gummy vitamin category are strong as more adults switch from traditional vitamin pills to gummy vitamins. This investment will expand our production capacity by 75% and will help to drive our long-term goals for revenue and earnings growth.

The Company expects to invest approximately \$55 million in capital expenditures to construct the new production line, which is expected to employ approximately 180 people. For 2014, total capital expenditures are projected to be \$85 million, of which approximately \$40 million relates to the vitamin investment. As announced today by the Commonwealth of Pennsylvania, the Company has received an economic development assistance package from the Commonwealth in connection with the investment, consisting of grants, tax credits, and training funds.

See Exhibit A attached hereto.

37. In order to pump up sales of its vitamin supplements, and, in turn, the price of the company's stock for its shareholders, Defendant boasts on its website<sup>12</sup> that it develops,

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<sup>12</sup> See <http://www.gummyvites.com/en/vitafusion/About-Us>.

manufactures and delivers “high quality dietary supplements in the gummy vitamin industry,” and “place[s] the utmost importance on nutritional accuracy and high product quality:”

## Quality and Manufacturing

For close to 16 years we have developed, manufactured and delivered high quality dietary supplements in the gummy vitamin industry. We combine extensive research with an understanding of the marketplace, to offer innovative, healthful and unique products.

### *Comprehensive Lab Testing*

We place the utmost importance on nutritional accuracy and high product quality. In order to achieve reliable results, we require sophisticated laboratory testing, both in-house and through certified contract laboratories.

Some of the testing requirements include:

- Microbiology Testing
- Potency Testing
- Heavy Metals Testing

### *Good Manufacturing Practices Certified*

Church & Dwight’s facility is GMP-certified, ensuring quality standards through two independent verifications of processes, procedures and documentation.

We have a long history of quality manufacturing, with an unwavering commitment to supply our customers with innovative vitamin supplement products that provide uncompromising quality.

38. Defendant directs and controls all significant aspects of the sale of its well-known vitamin products, including the manufacturing, marketing, packaging, distribution and pricing. The products are sold at thousands of stores throughout the United States and on consumer retail websites.



39. One of Defendant's vitamin products is Vitafusion. According to Defendant<sup>13</sup>, Vitafusion helps support energy metabolism with an excellent source of five B vitamins and as much "folic acid as 2 avocados in each serving":



## B Complex

vitafusion™ B Complex gummies help support energy metabolism with an excellent source of five B vitamins and as much folic acid as 2 avocados in each serving.\*

Did you know? Vitamin B Complex contains a group of vitamins that include niacin, B-6, folic acid, B-12, pantothenic acid, and biotin.

Natural Strawberry flavor.  
Gluten Free

### Nutrient Highlight

Vitamin B-12



Biotin



Vitamin B6



Vitamin B3



40. According to the Nutrition Facts listed on a bottle of Vitafusion, each gummy provides 400 mcg of folate (the recommended daily amount that a person should consume):

Nutrition Facts		
Serving Size :	1 Gummy Vitamin	
Serving per Container :		70
Amount Per Serving		% Daily value
Total Carbohydrate	2g	<1
Sugars	1g	
Inositol	7mg	
Vitamin C	15mg	25
Niacin (B3)	20mg	100
Vitamin B6	2mg	100
Folate, Folic Acid, Folacin	400mcg	100
Vitamin B12	30mcg	500
Biotin	75mcg	25
Pantothenic acid	10mg	100

<sup>13</sup> See <http://www.gummyvites.com/en/vitafusion/Products/vitafusion-B-Complex>.

41. 400 mcg of folate is 100% of the recommended daily allowance of folate. Thus, consumers taking Vitafusion should be able to be confident that they are obtaining the full recommended daily allowance of folate.

42. 400 mcg of folate is also well below the UL of 1000 mcg of synthetic folate. Thus, consumers purchasing Vitafusion should be confident that they will not exceed the UL for folate by taking Vitafusion.

43. Church & Dwight directs the representation about the amount of folate in Vitafusion to consumers, like Plaintiff and the members of the Classes, and Church & Dwight intends that Plaintiff and members of the Classes read and rely on its representations.

44. However, contrary to the representations made on each bottle of Vitafusion, Vitafusion actually contains more than the UL for folate, exposing Plaintiff and Members of the Classes to harm and certainly providing Plaintiff and Members of the Classes with a product of no value to them.

45. Plaintiff's counsel had Vitafusion tested and that test confirmed that the listed amount of folate for Vitafusion was not accurate. (*See* lab report, attached as Ex. B). Indeed, test results showed that each gummy contained 1232.2 mcg of synthetic folate. *Id.*

46. Based on these tests showing the excessive levels of folate in its products, Defendant knew or should have known that the listed amount of folate for Vitafusion was not accurate and that its labeling, advertising and/or marketing was false and misleading.

47. Nevertheless, Defendant continues to falsely and misleadingly market, advertise, package and/or sell Vitafusion to the general public as a "high quality dietary supplement" in which it "place[d] the utmost importance on nutritional accuracy." The only conceivable purpose for falsely and deceptively making these claims about Vitafusion is to stimulate sales and enhance

Defendant's profits based on the sale of a product that is deemed by the NIH to deliver an unsafe level of folate.

48. Indeed, Defendant surely understands that no reasonable consumer would purchase Vitafusion if it were accurately labeled as containing a dose above the UL.

49. Consumers are particularly vulnerable to these kinds of false and deceptive labeling and marketing practices. Most consumers are unable to verify that products such as Defendant's Vitafusion are accurately labeled. As set forth above, accurate labeling of a vitamin B supplement is essential.

50. Because of Defendant's deceptive advertising practices, consumers were and continue to be fraudulently induced to purchase Vitafusion.

51. The difference between the Vitafusion promised and the Vitafusion sold is significant. The exorbitant amount of excess folate provided in the dietary supplement exposes consumers to needless and completely avoidable risks.

52. This makes Vitafusion worthless, since the primary reason consumers take vitamin supplements is to ensure that they are receiving the amount of vitamins recommended to promote good health and not an amount of vitamins that is above the tolerable limit for their bodies' health.

***Church & Dwight's MisLabeling  
Violates Federal Labeling Requirements***

53. Defendant's misleading statements to consumers violate 21 U.S.C. § 343, which provides that dietary supplements are misbranded when they contain false statements on their labels.

54. Since each serving of Vitafusion contains 1232 mcg of folate, Vitafusion's label includes the false statement that each serving includes 400 mcg of folate.

55. Accordingly, Church & Dwight's mislabeling of Vitafusion, which forms the basis of this lawsuit, constitutes a violation of 21 U.S.C. § 343.

***Plaintiff Relies Upon the Vitafusion Label  
to Purchase and Consume Vitafusion***

56. Plaintiff was himself a victim of Church and Dwight's mislabeling of Vitafusion.

57. On several occasions over the last four years, and most recently in February of 2017, Plaintiff purchased Vitafusion at his local Walmart.

58. Plaintiff purchased Vitafusion believing that it would provide him with the amounts of his B vitamins stated on the bottle.

59. Plaintiff would not have purchased Vitafusion had he known that it contained a level of folate that was above the UL.

60. Likewise, after purchasing Vitafusion, Plaintiff consumed it, believing that doing so would benefit his health.

61. Plaintiff would not have consumed Vitafusion had he known that Vitafusion contained a level of folate that was above the UL.

62. Plaintiff is in the same Class as all other consumers who purchased Defendant's Vitafusion during the relevant time period. Plaintiff and the Class members were in fact misled by Defendant's misrepresentations in respect to the Vitafusion. Plaintiff and Class members would have purchased other vitamin B dietary supplements, if any at all, if they had not been deceived by the misleading and deceptive labeling of the product by Defendant.

**CLASS ACTION ALLEGATIONS**

63. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein.

64. Plaintiff brings this action individually and on behalf of all other persons similarly situated pursuant to Federal Rule of Civil Procedure 23. The class definition(s) may depend on the information obtained throughout discovery. Notwithstanding, at this time, Plaintiff brings this action and seeks certification of the following Classes:

**National Class:** All persons within the United States who purchased and consumed Vitafusion from the beginning of any applicable limitations period through the date of class certification (the “National Class” or the “Class”).

**Consumer Fraud Multi-State Class:** All persons in the States of California, Florida, Illinois, Massachusetts, Michigan, Missouri, Minnesota, New Hampshire, New Jersey, New York, Rhode Island, Washington and Wisconsin who purchased and consumed Vitafusion from the beginning of any applicable limitations period through the date of class certification (the “Consumer Fraud Multi-State Class”).<sup>14</sup>

**Illinois Sub-Class:** All persons in Illinois who purchased and consumed Vitafusion from the beginning of any applicable limitations period through the date of class certification (the “Illinois Sub-Class”).

65. Excluded from the Classes are the Defendant, and any entities in which the Defendant has a controlling interest, the Defendant’s agents, employees and their legal representatives, any Judge to whom this action is assigned and any member of such Judge’s staff and immediate family, Plaintiff’s counsel and their immediate family.

66. Plaintiff reserves the right to amend the Class definitions or add a Class if further information and discovery indicate that the Class definitions should be narrowed, expanded, or otherwise modified.

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<sup>14</sup> The Illinois Consumer Fraud and Deceptive Business Practices Act (“ICFA”), 815 ILCS 505/1, *et seq.*, prohibits both unfair and deceptive business acts and practices on the part of entities conducting business with consumers within the State of Illinois. The States in the Consumer Fraud Multi-State Class are limited to those states with similar consumer fraud laws under the facts of this case as alleged herein: California (Cal. Bus. & Prof. Code § 17200, *et seq.*); Florida (Fla. Stat. § 501.201 *et seq.*); Massachusetts (Mass. Gen. Laws Ch. 93A *et seq.*); Michigan (Mich. Comp. Laws § 445.901 *et seq.*); Minnesota (Minn. Stat. § 325F.67, *et seq.*); Missouri (Mo. Rev. Stat. § 407.010 *et seq.*); New Hampshire (N.H. Rev. Stat. § 358-A:1); New Jersey (N.J. Stat. § 56:9-1, *et seq.*); New York (N.Y. Gen. Bus. Law § 349, *et seq.*); Rhode Island (R.I. Gen. L. Ch. 6-13.1); Washington (Wash. Rev. Code § 19.86010, *et seq.*) and Wisconsin (WIS. STAT. § 100.18, *et seq.*).

67. Certification of Plaintiff's claims for class-wide treatment is appropriate because Plaintiff can prove the elements of his claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

68. **Numerosity – Federal Rule of Civil Procedure 23(a)(1).** The members of the Classes are so numerous that their individual joinder herein is impracticable. On information and belief, members of the Classes number in the thousands to hundreds of thousands. The number of members of the Classes is presently unknown to Plaintiff, but may be ascertained from Defendants' books and records. Members of the Classes may be notified of the pendency of this action by mail, email, Internet postings, and/or publication.

69. **Commonality and Predominance – Federal Rule of Civil Procedure 23(a)(2) and 23(b)(3).** Common questions of law and fact exist as to all members of the Classes and predominate over questions affecting only individual members of the Classes. Such common questions of law or fact include, but are not limited to, the following:

- a. Whether Vitafusion contains 400 mcg of folate, as claimed on its label;
- b. How much folate was actually contained in each serving of Vitafusion;
- c. Whether the UL for folate from supplements and fortified foods is 1000 mcg;
- d. Whether the marketing, advertising, packaging, labeling, and other promotional materials for Vitafusion are deceptive;
- e. Whether Defendant's actions violate the state consumer fraud statutes invoked below;
- f. Whether Defendant's actions constitute common law fraud;
- g. Whether Plaintiff and the members of the Classes were damaged by Defendant's conduct; and
- h. Whether Defendant was unjustly enriched at the expense of Plaintiff and Class Members.

70. Defendant engaged in a common course of conduct giving rise to the legal rights Plaintiff seeks to enforce, on behalf of himself and the other members of the Classes. Similar or identical statutory and common law violations, business practices, and injuries are involved. Individual questions, if any, pale in comparison, in both quality and quantity, to the numerous common questions that dominate this action.

71. **Typicality – Federal Rule of Civil Procedure 23(a)(3).** Plaintiff's claims are typical of the claims of the other members of the Classes because, among other things, all members of the Classes were comparably injured through Defendant's uniform misconduct described above. Further, there are no defenses available to Defendant that are unique to Plaintiff or to any particular members of the Classes.

72. **Adequacy of Representation – Federal Rule of Civil Procedure 23(a)(4).** Plaintiff is an adequate Class representative because his interests do not conflict with the interests of the other members of the Classes he seeks to represent; he has retained counsel competent and experienced in complex class action litigation; and he will prosecute this action vigorously. The Classes' interests will be fairly and adequately protected by Plaintiff and the undersigned counsel.

73. **Insufficiency of Separate Actions – Federal Rule of Civil Procedure 23(b)(1).** Absent a representative class action, members of the Classes would continue to suffer the harm described herein, for which they would have no remedy. Even if separate actions could be brought by individual consumers, the resulting multiplicity of lawsuits would cause undue burden and expense for both the Court and the litigants, as well as create a risk of inconsistent rulings and adjudications that might be dispositive of the interests of similarly situated purchasers, substantially impeding their ability to protect their interests, while establishing incompatible

standards of conduct for Defendant. The proposed Classes thus satisfy the requirements of Fed. R. Civ. P. 23(b)(1).

74. **Declaratory and Injunctive Relief – Federal Rule of Civil Procedure 23(b)(2).** Defendants have acted or refused to act on grounds generally applicable to Plaintiff and the other members of the Classes, thereby making appropriate final injunctive relief and declaratory relief, as described below, with respect to the members of the Classes as a whole. In particular, Plaintiff seeks to certify a class to enjoin Defendants from selling or otherwise distributing Vitafusion until such time that Defendant can demonstrate to the Court's satisfaction that each dose of Vitafusion actually contains 400 mcg of folate.

75. **Superiority – Federal Rule of Civil Procedure 23(b)(3).** A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Plaintiff and the other members of the Classes are relatively small compared to the burden and expense that would be required to individually litigate their claims against Defendant, so it would be impracticable for members of the Classes to individually seek redress for Defendants' wrongful conduct. Even if members of the Classes could afford individual litigation, the court system could not. Individualized litigation would create a potential for inconsistent or contradictory judgments, and increase the delay and expense to all parties and the court system. By 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.



**CAUSES OF ACTION**

**Count I**

**Violation of the State Consumer Fraud Acts  
(On Behalf of the Consumer Fraud Multi-State Class)**

76. Plaintiff incorporates by reference the foregoing paragraphs of this Complaint as if fully set forth herein.

77. The Consumer Fraud Acts of the States in the Consumer Fraud Multi-State Class prohibit the use of unfair or deceptive business practices in the conduct of trade or commerce.

78. Plaintiff and the other members of the Consumer Fraud Multi-State Class have standing to pursue a cause of action for violation of the Consumer Fraud Acts of the states in the Consumer Fraud Multi-State Class because Plaintiff and members of the Consumer Fraud Multi-State Class have suffered an injury in fact and lost money as a result of Defendant's actions set forth herein.

79. Defendant engaged in unfair and/or deceptive conduct, including, but not limited to the following:

- a. Representing on its label for Vitafusion that Vitafusion contains 400 mcg of folate, when, in fact, Vitafusion contains 1232 mcg of folate;
- b. Representing on its website that it delivers "high quality dietary supplements in the gummy vitamin industry" when, in fact, Vitafusion is not a high quality dietary supplement;
- c. Representing on its website that it "place[s] the utmost importance on nutritional accuracy and high product quality," when Defendant does not place "the utmost importance on nutritional accuracy," as evidenced by the fact that Vitafusion contains a dangerously high level of folate; and

- d. Allowing consumers to purchase Vitafusion without any disclosure that it contained an unsafe level of folate.

80. Defendant intended that Plaintiff and each of the other members of the Consumer Fraud Multi-State Class would rely upon its unfair and deceptive conduct and a reasonable person would in fact be misled by this deceptive conduct described above.

81. As a result of Defendant's use or employment of unfair or deceptive acts or business practices, Plaintiff and each of the other members of the Consumer Fraud Multi-State Class have sustained damages in an amount to be proven at trial.

82. In addition, Defendant's conduct showed malice, motive, and the reckless disregard of the truth such that an award of punitive damages is appropriate.

## **Count II**

### **Violation of the Illinois Consumer Fraud and Deceptive Business Practices Act (In the Alternative to Count I and on behalf of the Illinois Sub-Class)**

83. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully stated herein.

84. The Illinois Consumer Fraud and Deceptive Business Practices Act (the "ICFA"), 815 ILCS 505/1, *et seq.*, prohibits the use of unfair or deceptive business practices in the conduct of trade or commerce. The ICFA is to be liberally construed to effectuate its purposes. 815 ILCS 505/11a.

85. Defendant engaged in the following unfair and/or deceptive business practices in the conduct of trade or commerce:

- a. Representing on its label for Vitafusion that Vitafusion contains 400 mcg of folate, when, in fact, Vitafusion contains 1232 mcg of folate;

- b. Representing on its website that it delivers “high quality dietary supplements in the gummy vitamin industry” when, in fact, Vitafusion is not a high quality dietary supplement;
- c. Representing on its website that it “place[s] the utmost importance on nutritional accuracy and high product quality,” when Defendant does not place “the utmost importance on nutritional accuracy,” as evidenced by the fact that Vitafusion contains a dangerously high level of folate; and
- d. Allowing consumers to purchase Vitafusion without any disclosure that it contained an unsafe level of folate.

86. Defendant’s conduct in marketing, advertising, packaging and/or selling Vitafusion constitutes the act, use and employment of deception, fraud, false pretenses, false promises, misrepresentation, and unfair practices in the conduct of Defendant’s trade or commerce.

87. Defendant intended that Plaintiff and each of the members of the Illinois Sub-Class would rely upon Defendant’s deceptive conduct, and a reasonable person would in fact be misled by this deceptive conduct.

88. Defendant knew or should have known that its representations of fact concerning Vitafusion are material and likely to mislead consumers.

89. Defendant’s practices, acts, and course of conduct in marketing and selling Vitafusion are likely to mislead a reasonable consumer acting reasonably under the circumstances to his or her detriment. Like Plaintiff, members of the Illinois Sub-Class would not have purchased Vitafusion had it been accurately marketed, advertised, packaged and/or sold.

90. Plaintiff and members of the Illinois Sub-Class have been directly and proximately damaged by Defendant’s actions.

91. As a result of the Defendant's use or employment of unfair or deceptive acts or business practices, Plaintiff and each of the other members of the Illinois Sub-Class have sustained damages in an amount to be proven at trial.

92. In addition, Defendant's conduct showed malice, motive, and a reckless disregard of the truth such that an award of punitive damages is appropriate.

### **Count III**

#### **Unjust Enrichment (On Behalf of the Illinois Sub-Class)**

93. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully stated herein.

94. Plaintiff brings this claim against Defendant on behalf of himself and the Illinois Sub-Class.

95. Plaintiff and the other members of the Illinois Sub-Class conferred benefits on Defendant by purchasing Vitafusion.

96. Defendant received the benefits to the detriment of Plaintiff and the other members of the Illinois Sub-Class because Plaintiff and the other members of the Illinois Sub-Class purchased a mislabeled product that is not what they bargained for and that would unnecessarily put their health in jeopardy.

97. Defendant has been unjustly enriched in retaining the revenues derived from the purchases of Vitafusion by Plaintiff and the other members of the Illinois Sub-Class. Retention of those monies under these circumstances is unjust and inequitable because Defendant's labeling of Vitafusion was misleading to consumers, which caused injuries to Plaintiff and the other Members of the Illinois Sub-Class, because they would have not purchased the product had they known the true facts.

98. Because Defendant's retention of the non-gratuitous benefits conferred on it by Plaintiff and the other members of the Illinois Sub-Class is unjust and inequitable, Defendant must pay restitution to Plaintiff and the other members of the Illinois Sub-Class for its unjust enrichment, as ordered by the Court.

#### **Count IV**

##### **Common Law Fraud (On Behalf of the National Class and the Illinois Sub-Class)**

99. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully stated herein.

100. Defendant made false statements and omissions of material facts, including:

- a. Representing on its label for Vitafusion that Vitafusion contains 400 mcg of folate, when, in fact, Vitafusion contains 1232 mcg of folate; and
- b. Omitting any statement that Vitafusion contained an unsafe or unhealthy amount of folate.

101. Defendant's false statements and omissions of material facts were made to Plaintiff and the members of the Classes at least each time that Plaintiff and the members of the Classes purchased Vitafusion. Defendant continue to make these false statements and omissions of material facts to Plaintiff, which he most recently relied on in February of 2017.

102. Defendant knew or should have known that these statements were false and that the omissions were material.

103. Defendant intended that its false statements and omissions of material facts would induce Plaintiff and each of the members of the Classes to purchase Vitafusion.

104. Plaintiff and the members of the Classes relied on the false statements and omissions of material facts of Defendant that Vitafusion contained 400 mcg of folate, a safe level of folate, and not the 1232 mcg of folate actually contained in each serving.

105. Plaintiff and members of the Classes would not have purchased Vitafusion had it been accurately marketed, advertised, packaged and/or sold.

106. Plaintiff and Members of the Classes have been directly and proximately damaged by Defendant's false statements and omissions of material facts.

107. As a result of Defendant's false statements and omissions of material facts, Plaintiff and each of the other Members of the Classes have sustained damages in an amount to be proven at trial.

108. In addition, Defendant's conduct showed malice, motive, and a reckless disregard of the truth such that an award of punitive damages is appropriate.

#### **DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury of all claims in this Complaint so triable. Plaintiff also respectfully requests leave to amend this Complaint to conform to the evidence, if such amendment is needed for trial.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, individually and on behalf of the other members of the Classes proposed in this Complaint, respectfully requests that the Court enter judgment as follows:

- A. Declaring that this action is a proper class action, certifying the Classes as requested herein, designating Plaintiff as Class Representative, and appointing the undersigned counsel as Class Counsel for the Classes;
- B. Enjoining Defendant from selling Vitafusion until such time that it can demonstrate to the Court's satisfaction that each dose contains only 400 mcg of folate;

- C. Ordering Defendant to pay actual damages to Plaintiff and the other members of the Classes;
- D. Ordering Defendant to pay punitive damages, as allowable by law, to Plaintiff and the other members of the Classes;
- E. Ordering Defendant to pay statutory damages, as provided by the applicable state consumer protection statutes invoked herein, to Plaintiff and the other members of the Classes;
- F. Ordering Defendant to pay attorneys' fees and litigation costs to Plaintiff and the other members of the Classes;
- G. Ordering Defendant to pay both pre- and post-judgment interest on any amounts awarded;
- H. Ordering Defendant to pay restitution to Plaintiff and the other members of the Classes; and
- I. Ordering such other and further relief as may be just and proper.

Dated: March 13, 2017

Respectfully submitted,

DAVID CHAVEZ

/s/ Gary M. Klinger

Gary M. Klinger (ARDC# 6303726)

Ryan F. Sullivan (ARDC# 6314103)

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*Attorneys for the Plaintiff, the Putative  
Classes, and Subclass*



# **EXHIBIT A**



CHURCH & DWIGHT Co., Inc.

## Media: News Releases

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### Church & Dwight to Expand Gummy Vitamin Capacity by 75%

EWING, N.J.--(BUSINESS WIRE)--Dec. 5, 2013-- Church & Dwight Co., Inc. (NYSE:CHD) today announced plans to expand its gummy vitamin production capacity, through the addition of a new production line to be constructed at its manufacturing facility in Pennsylvania. The Company will continue to manufacture gummy vitamins at its two facilities in the State of Washington. Construction will begin in January 2014 and the line is scheduled to be operational in the first quarter of 2015.

"The gummy vitamin business is strategically important to Church & Dwight and is expected to be a significant contributor to the future growth of sales, earnings, and cash flows," said James R. Craigie, Chairman and Chief Executive Officer. "Our gummy vitamin sales are growing at a 20% rate to approximately \$300 million in annual net sales in 2013. We expect double-digit gummy vitamin sales growth in 2014. We believe the future prospects of the gummy vitamin category are strong as more adults switch from traditional vitamin pills to gummy vitamins. This investment will expand our production capacity by 75% and will help to drive our long-term goals for revenue and earnings growth."

The Company expects to invest approximately \$55 million in capital expenditures to construct the new production line, which is expected to employ approximately 180 people. For 2014, total capital expenditures are projected to be \$85 million, of which approximately \$40 million relates to the vitamin investment. As announced today by the Commonwealth of Pennsylvania, the Company has received an economic development assistance package from the Commonwealth in connection with the investment, consisting of grants, tax credits, and training funds.

Church & Dwight Co., Inc. manufactures and markets a wide range of personal care, household and specialty products under the ARM & HAMMER brand name and other well-known trademarks.

**This release contains forward-looking statements relating to, among others, the timing and the cost of the proposed new manufacturing line in Pennsylvania, the expected employment resulting from the new production line, the growth of the gummy vitamin category, the switching of adults from traditional vitamin pills to gummy vitamins, and the future growth of the Company's gummy vitamin business. These statements represent the intentions, plans, expectations and beliefs of Church & Dwight, and are subject to risks, uncertainties and other factors, many of which are outside the Company's control and could cause actual results to differ materially from such forward-looking statements, including but not limited to the risks associated with the successful consummation of the project contemplated hereby. The uncertainties include assumptions as to market growth and consumer demand (including the effect of political and economic events on consumer demand), and raw material and energy prices. Other factors, which could materially affect the results, include the outcome of contingencies, including litigation, regulatory matters and environmental matters, and the acquisition or divestiture of assets. For a description of additional factors that could cause actual results to differ materially from these forward looking statements, please see the Company's quarterly and annual reports filed with the SEC, including the information in Item 1A ("Risk Factors") in the Company's annual report on Form 10-K.**

Source: Church & Dwight Co., Inc.

Church & Dwight Co., Inc.

**Media:**

Matt Farrell, 609-806-1200

EVP & CFO

or

**Investor Relations:**

Rick Dierker, 609-806-1200

VP Corporate Finance

# **EXHIBIT B**



March 9, 2017

Company: Kozonis Law  
Item: Vitafusion B Complex

<b>Nutrient</b>	<b>Per 100g</b>	<b>Per Gummy*</b>	<b>VitaFusion B Complex</b>
<b>Folic Acid</b>	50.5mg/100g	1232.2 mcg	400 mcg
<b>Vitamin B12</b>	2.40mg/100g	58.56 mcg	30 mcg
<b>Vitamin B5</b>	1,800mg/100g	43.92 mg	10 mg
<b>*Gummy Weight = 2.44g</b>			

## 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**

DAVID CHAVEZ, individually and on behalf of all others similarly situated,

(b) County of Residence of First Listed Plaintiff Cook

(EXCEPT IN U.S. PLAINTIFF CASES)

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

Gary M. Klinger of Kozonis Law, Ltd  
4849 N. Milwaukee Avenue, Ste. 300  
Chicago, Illinois 60630**DEFENDANTS**

CHURCH &amp; DWIGHT CO, INC.

County of Residence of First Listed Defendant \_\_\_\_\_

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

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

- |   | PTF                                   | DEF                                   |   | PTF                        | DEF                        |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1            | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input checked="" 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)

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 Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <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"/> 376 Qui Tam (31 USC 3729 (a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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

- |   |   |  |   |  |  |   |
|---|---|--|---|--|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) | <input type="checkbox"/> 6 Multidistrict Litigation-Transfer | <input type="checkbox"/> 8 Multidistrict Litigation - Direct File |
|---|---|--|---|--|--|---|

**VI. CAUSE OF ACTION** (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)

Consumer / Common Law Fraud for false representation of vitamin supplements

**VII. Previous Bankruptcy Matters** (For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.)**VIII. 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**IX. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

**X. This case** (check one box)☒ Is not a refile of a previously dismissed action ☐ is a refile of case number \_\_\_\_\_ previously dismissed by Judge \_\_\_\_\_

DATE 03-13-2017

SIGNATURE OF ATTORNEY OF RECORD /s/ Gary M. Klinger

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

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

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the six boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

**VII. Previous Bankruptcy Matters** For nature of suit 422 and 423 enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this court. Use a separate attachment if necessary.

**VIII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**IX. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**X. Refiling Information.** Place an "X" in one of the two boxes indicating if the case is or is not a refiling of a previously dismissed action. If it is a refiling of a previously dismissed action, insert the case number and judge.

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