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14 Attorneys for Plaintiff

15 **IN THE UNITED STATES DISTRICT COURT**
16 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

17 JANELL JOHNSON
18 CAMPBELL, individually, and
19 on behalf of all others similarly
20 situated,

21 Plaintiff,

22 v.

23 ANNIE'S HOMEGROWN, INC.
24 and
25 GENERAL MILLS, INC.,

26 Defendants.

Civ. Action No. '17CV1736 MMAMDD

CLASS ACTION

**COMPLAINT FOR PERMANENT
INJUNCTIVE RELIEF, RESTITUTION,
AND DAMAGES FOR VIOLATION OF
CAL. BUS. AND PROF. CODE § 17200, ET
SEQ., AND BUS. AND PROF. CODE §
17500, ET SEQ., FOR NEGLIGENT
MISPRESENTATION AND
INTENTIONAL MISREPRESENTATION,
FOR BREACH OF EXPRESS AND
IMPLIED WARRANTIES, AND FOR
VIOLATION OF CALIFORNIA'S
CONSUMER LEGAL REMEDIES ACT,
CIVIL CODE § 1750, ET SEQ.**

Jury Trial Requested

1 Plaintiff, Janell Johnson Campbell, by and through her attorneys, alleges upon
2 personal knowledge as to her, and as to all other matters upon information and belief
3 based upon, *inter alia*, the investigation made by her attorneys, as follows:

4 I. PARTIES

5
6 1. Plaintiff Janell Johnson Campbell is, and at all relevant times
7 mentioned in this Complaint, was a resident of Hoover, Shelby County, Alabama.
8 Plaintiff purchased Annie's Natural® salad dressing at Walmart in April of 2017.
9 Being a health conscious consumer, she was drawn to the representation that the
10 dressing was a "natural" product. In her mind, she understood that there was no
11 synthetic ingredient in the salad dressing, since it was represented as "natural." This
12 Complaint involves allegations of misrepresentation and other wrong-doings within
13 the State of California and across the United States by Defendant Annie's
14 Homegrown, Inc. ("Annie's") and Defendant General Mills, Inc. ("General Mills"),
15 who both are sometimes jointly referred to collectively as "Defendants".
16

17 2. Defendant Annie's is, to the best knowledge and belief of Plaintiff, a
18 Delaware corporation with its principal office located in the State of California.
19 Annie's, it is believed, operates as a wholly-owned subsidiary of General Mills,
20 which to the best knowledge and belief of Plaintiff, is a Delaware corporation with
21 its corporate headquarters and principal office located in the State of Minnesota.
22 Defendants manufacture, distribute and sell at retail to California consumers, and
23 across the United States, the products subject of this Complaint - Annie's Natural®
24 Products.
25

26 II. JURISDICTION AND VENUE

27
28 3. Subject matter jurisdiction over this civil action exists in this Court

1 pursuant to 28 U.S.C. § 1332. Furthermore, due to complete diversity of citizenship
2 of the parties and the amount in controversy being in excess of \$5 million, exclusive
3 of interest, and costs, this Court is further granted subject matter jurisdiction.

4 4. This Court should also exercise jurisdiction over this case since less
5 than two-thirds of the putative class reside within the State of California.

6 5. Additionally, since (i) Defendants conduct substantial business within
7 the State of California such that Defendants have more than sufficient contacts
8 within the State of California, and (ii) Defendant Annie's principal place of business
9 is in the State of California, this Court has personal jurisdiction over this case.

10 6. Venue is appropriate in this District pursuant to 28 U.S.C. § 1391 (a)
11 because Defendants (i) conduct a substantial business in this District and (ii) a
12 substantial part of the events giving rise to Plaintiff's claims took place within this
13 District.

14 **III. CASE SUMMARY**

15 7. This case arises out of Defendants' deceptive, unfair, and false
16 practices regarding their marketing of their Annie's Naturals® salad dressings (the
17 "Products").

18 8. On the label of the Products, Defendants intentionally and
19 conspicuously represent that the Products are "Natural." The products further recite
20 on the front bottom: "No artificial flavors, synthetic colors or synthetic
21 preservatives." The reasonable consumer would think, as did the Plaintiff, that the
22 Products are "all Natural." The Products, however, are not "all Natural" because
23 they contain Xanthan Gum, a "Synthetic Ingredient."

24 9. The United States Food and Drug Administration (hereinafter, "the
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1 FDA”) does not object to the use of the term “natural” to describe a food product so
 2 long as the product does not contain a synthetic substance.

3 10. Knowing that reasonable consumers like Plaintiff are increasingly
 4 interested in purchasing healthy food products that do not contain potentially
 5 harmful artificial, synthetic ingredients, Defendants have sought to take advantage
 6 of this growing market by labeling certain products as “Natural.” By affixing such a
 7 label to the packaging of the Products, Defendants expect to entice consumers like
 8 Plaintiff to pay a premium for the Products.
 9

10 11. The label of the Products is deceptive, unfair, false, and misleading in
 11 that Defendants prominently represent that the Products are “Natural.” They are not.
 12



1 All citizens of the United States, its territories and Puerto
2 Rico who purchased Annie's Natural® products for
3 personal, household, or family purposes in the six years
4 preceding the filing of this Petition (the "Class Period").

5 19. Excluded from the Class are: (a) federal, state and/or local
6 governments, including, but not limited to, their departments, agencies, divisions,
7 bureaus, boards, sections, groups, counsels, and/or subdivisions; (b) any entity in
8 which Defendants have a controlling interest, to include, but not limited to, their
9 legal representatives, heirs, and successors; (c) all persons who are presently in
10 bankruptcy proceedings or who obtained a bankruptcy discharge in the last three
11 years; and (d) any judicial officer in this lawsuit and/or persons within the third
12 degree of consanguinity to such officer.
13

14 20. Upon information and belief, the Class consists of thousands of
15 purchasers of the Products. Accordingly, it would be impracticable to join all Class
16 Members before the Court.
17

18 21. There are numerous and substantial questions of law or fact common to
19 all of the members of the Class and which predominate over any individual issues.
20 Included within the common questions of law or fact are:

- 21 a. whether the "Natural" claim on the Products' labels is unfair, false,
22 misleading, and deceptive;
- 23 b. whether Defendants violated the law by selling the Products with false,
24 misleading, and deceptive representations;
- 25 c. whether Defendants intended that Plaintiff and the Class Members would
26 rely on its "Natural" representations;
- 27 d. whether Defendants' acts constitute unfair, deceptive and fraudulent
28 business acts and practices or deceptive, untrue, and misleading
merchandising practices;

1 e. whether Defendants were unjustly enriched; and

2 f. the proper measure of damages sustained by Plaintiff and Class Members.

3 22. The claims of the Plaintiff are typical of the claims of Class Members,
4 in that she shares the above-referenced facts and legal claims or questions with
5 Class Members; there is a sufficient relationship between the damage to Plaintiff
6 and Defendants' conduct affecting Class Members, and Plaintiff has no interests
7 adverse to the interests of other Class Members.
8

9 23. Plaintiff will fairly and adequately protect the interests of Class
10 Members and have retained counsel experienced and competent in the prosecution
11 of complex class actions including complex questions that arise in consumer
12 protection litigation.

13 24. A class action is superior to other methods for the fair and efficient
14 adjudication of this controversy, since individual joinder of all Class Members is
15 impracticable and no other group method of adjudication of all claims asserted
16 herein is more efficient and manageable for at least the following reasons:
17

- 18 a. the claim presented in this case predominates over any questions of law or
19 fact, if any exists at all, affecting any individual member of the Class;
- 20 b. absent a Class, the Class Member will continue to suffer damage and
21 Defendants' unlawful conduct will continue without remedy while
22 Defendant profits from and enjoys its ill-gotten gains;
- 23 c. given the size of individual Class Members' claims, few, if any, Class
24 Members could afford to or would seek legal redress individually for the
25 wrongs that Defendant has committed against them, and absent Class
26 Members have no substantial interest in individually controlling the
27 prosecution of individual actions;
- 28 d. when the liability of Defendants has been adjudicated, claims of all Class
Members can be administered efficiently and/or determined uniformly by
the Court; and

1 e. this action presents no difficulty that would impede its management by the
2 court as a class action, which is the best available means by which Plaintiff
3 and members of the Class can seek redress for the harm caused to them by
4 Defendants.

5 25. Because Plaintiff seeks relief for the entire Class, the prosecution of
6 separate actions by individual members of the Class would create a risk of
7 inconsistent or varying adjudications with respect to individual members of the
8 Class, which would establish incompatible standards of conduct for Defendants.

9 26. Further, bringing individual claims would overburden the Courts and
10 be an inefficient method of resolving the dispute, which is the center of this
11 litigation. Adjudications with respect to individual members of the Class would, as
12 a practical matter, be dispositive of the interest of other members of the Class who
13 are not parties to the adjudication and may impair or impede their ability to protect
14 their interests. As a consequence, class treatment is a superior method for
15 adjudication of the issues in this case.
16
17

18 **V. FIRST CAUSE OF ACTION:**
19 **FOR VIOLATION OF BUS. & PROF. CODE §17200, ET SEQ.**
20 **AND SIMILAR LAWS OF OTHER STATES**

21 27. Plaintiff repeats, re-alleges and incorporates herein by reference the
22 allegations of paragraphs 1 through 26, inclusive, above.

23 28. Beginning at an exact date unknown to Plaintiff, Defendants
24 committed acts of unfair competition, as defined by Bus. & Prof. Code §17200, and
25 similar laws of other states by engaging in the false advertising and promotion of the
26 products as “Natural” when in fact the products contained at least one synthetic
27 additive. The packaging on the product is deceptive as described hereinabove. A
28

1 true and correct copy of the Defendants' promotion of the products as "Natural." is
2 depicted in paragraph 11 above.

3 29. These acts and practices violate the UCL and similar laws of other
4 states in that:

5 (a) The above-described false advertising and promotion are likely to
6 mislead consumers and, consequently, constitute a fraudulent and deceptive
7 business act or practice within the meaning of the UCL and similar laws of
8 other states;

9 (b) The above-described false advertising and promotion are an unlawful
10 business practice under the UCL and similar laws of other states in that they
11 violate California Civil Code §1770(a)(5), and related legislation of other
12 states which bars "[r]epresenting that goods or services have sponsorship,
13 approval, characteristics, ingredients, uses, benefits, or quantities which they
14 do not have..."; and

15 (c) The harm of the above-described false advertising and promotion to
16 Plaintiff and to the other consumers outweighs the utility of the practices by
17 Defendants and, consequently, constitutes an unfair business act or practice
18 within the meaning of the UCL and similar laws of other states.

19 (d) The fraudulent, unlawful and unfair business practices and false and
20 misleading advertising by Defendants, as described above, present a
21 continuing threat to consumers, in that they will continue to mislead
22 consumers to purchase the products based on false premises.

23 30. As a direct and proximate result of the aforementioned acts,
24 Defendants received and continue to hold money belonging to Plaintiff and other
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1 consumers who were led to purchase the products by the unlawful acts of
2 Defendants.

3 **VI. SECOND CAUSE OF ACTION:**
4 **FOR VIOLATION OF BUS. & PROF. CODE §17500, ET SEQ.**
5 **AND SIMILAR LAWS OF OTHER STATES**

6 31. Plaintiff repeats, re-alleges and incorporates herein by reference the
7 allegations of paragraphs 1 through 30, inclusive, above.

8 32. Beginning at an exact date unknown to Plaintiff, Defendants committed
9 acts of untrue and misleading advertising as defined by Bus. & Prof. Code §17500,
10 and similar laws of other states, by engaging in the false advertising and promotion
11 of the products as natural when they contained a synthetic additive. The packaging
12 on the product is deceptive as described hereinabove.

13 33. The fraudulent, unlawful and unfair business practices and false and
14 misleading advertising by Defendants, as described above, present a continuing
15 threat to consumers, in that such will continue to mislead consumers to purchase the
16 products based on false premises.

17
18 **VII. THIRD CAUSE OF ACTION:**
19 **FOR NEGLIGENT MISREPRESENTATION**

20 34. Plaintiff repeats, re-alleges and incorporates herein by reference the
21 allegations of paragraphs 1 through 33, inclusive, above.

22 35. Defendants' above-mentioned representations about Annie's Natural®
23 Products were untrue.

24 36. Defendants made the representations herein alleged with the intention
25 of inducing reasonable consumers, including Plaintiff, to purchase Defendants' said
26 products by falsely causing them to believe that the subject products were wholly
27
28

1 natural and lacking synthetic additives.

2 37. Plaintiff and other consumers saw, believed, and relied on Defendants'
3 advertising representations and, in reliance on them, purchased the products.

4 38. At the time Defendants made the misrepresentations herein alleged,
5 Defendants had no reasonable grounds for believing the representations to be true or
6 correct.
7

8 39. As a proximate result of Defendants' negligent misrepresentations,
9 Plaintiff and other consumers were induced to spend an amount to be determined at
10 trial on Defendants' products.

11 **VIII. FOURTH CAUSE OF ACTION:**
12 **FOR INTENTIONAL MISREPRESENTATION**

13 40. Plaintiff repeats, re-alleges, and incorporates herein by reference the
14 allegations of paragraphs 1 through 39, inclusive, above.

15 41. Beginning at an exact date unknown to Plaintiff, Defendants
16 represented to the public, including Plaintiff, by packaging and other means, that
17 Annie's Natural® Products were wholly natural with no synthetic additives. The
18 packaging and representations on and regarding the products are deceptive as
19 described hereinabove.
20

21 42. Defendants' representations were untrue, in that Annie's Natural®
22 Products are not wholly natural but in actuality contain at least one synthetic
23 additive, as set forth in detail above.
24

25 43. At the time Defendants made the representations herein alleged,
26 Defendants knew the representations were false.

27 44. Defendants made the misrepresentations herein alleged with the
28

1 intention of depriving Plaintiff and the putative class of property or otherwise
2 causing injury, and are guilty of fraud.

3 45. As a proximate result of these acts, Plaintiff and other reasonable
4 consumers were induced to spend an amount on Defendants' products in excess of
5 prices paid for similar products, not being so represented – same to be determined at
6 trial.
7

8 46. Plaintiff is informed and believes and thereby alleges that Defendants
9 knew that the aforementioned products did not provide the promoted health benefits
10 as being wholly natural and did in fact contain said synthetic ingredient(s). Plaintiff
11 and other consumers, in purchasing and using the products as herein alleged, did
12 rely on Defendants' above representations, all to their damage as hereinabove
13 alleged. In doing the things aforementioned, Defendants were guilty of malice,
14 oppression, and fraud, and Plaintiff and the putative class are, therefore, entitled to
15 recover exemplary or punitive damages.
16

17 **IX. FIFTH CAUSE OF ACTION:**
18 **FOR BREACH OF EXPRESS WARRANTY**

19 47. Plaintiff repeats, re-alleges and incorporates herein by reference the
20 allegations of paragraphs 1 through 46, inclusive, above.
21

22 48. The promise and representation by Defendants that Annie's Natural®
23 Products contain no synthetic additives became part of the basis of the bargain
24 between the parties and this constituted an express warranty.

25 49. Thereby, Defendants sold the goods to Plaintiff and other consumers,
26 who bought the goods from Defendants, based on said warranty.

27 50. However, Defendants breached the express warranty, in that the goods
28

1 were in fact not as represented, as set forth in detail above. As a result of this
2 breach, Plaintiff and other consumers in fact did not receive the goods as warranted
3 by Defendants.

4 51. As a proximate result of this breach of warranty by Defendants,
5 Plaintiff and other consumers have been damaged in an amount to be determined at
6 trial.
7

8 **X. SIXTH CAUSE OF ACTION:**
9 **FOR BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

10 52. Plaintiff repeats, re-alleges and incorporates herein by reference the
11 allegations of paragraphs 1 through 51, inclusive, above.

12 53. Defendants are merchants with respect to goods of the kind which
13 were sold to Plaintiff and other consumers, and there was in the sale to Plaintiff and
14 other consumers an implied warranty that those goods were merchantable as
15 represented.
16

17 54. However, Defendants breached that warranty which was implied in the
18 contract for the sale of goods.

19 55. As a result thereof, Plaintiff and other consumers did not receive goods
20 as impliedly warranted by Defendants to be merchantable.

21 56. As a proximate result of this said breach of warranty by Defendants,
22 Plaintiff and other consumers have been damaged in an amount to be determined at
23 trial.
24

25 **XI. SEVENTH CAUSE OF ACTION:**
26 **FOR BREACH OF IMPLIED WARRANTY OF FITNESS OF PURPOSE**

27 57. Plaintiff repeats, re-alleges and incorporates herein by reference the
28

1 allegations of paragraphs 1 through 56, inclusive, above.

2 58. Plaintiff and other consumers sought a good source for nutritional
3 value of natural food products without a synthetic additive. Plaintiff relied on
4 Defendants' skill and judgment to select and furnish suitable goods for that purpose.
5 Plaintiff and other consumers selected the more expensive Annie's Natural®
6 Products in reliance on Defendants' representation that such was the state of the
7 products, which in fact was not true.
8

9 59. At the time of the sale, Defendants had reason to know the particular
10 purpose for which the goods were required, and that Plaintiff and other consumers
11 were relying on Defendants' skill and judgment to select and furnish suitable goods
12 so that there was an implied warranty that the goods were fit for the purpose
13 intended.
14

15 60. However, Defendants breached the warranty implied at the time of
16 sale, in that Plaintiff and other consumers did not receive suitable goods, and the
17 goods were not fit for the particular purpose for which they were required in that the
18 goods were/are not as marketed by Defendants.
19

20 61. As a proximate result of this breach of warranty by Defendants,
21 Plaintiff and other consumers have been damaged in an amount to be determined at
22 trial.

23 **XII. EIGHTH CAUSE OF ACTION:**
24 **FOR VIOLATION OF CALIFORNIA'S CONSUMER LEGAL REMEDIES**
25 **ACT; CALIFORNIA CIVIL CODE §1750 ET SEQ.**

26 **Notice Pursuant to Civil Code §1782.**

27 ***Plaintiff hereby demands that within 30 days from service of this Complaint,***
28 ***Defendant correct, repair, replace or otherwise rectify the deceptive practices***

1 *complained of herein for the entire Class pursuant to California Civil Code §*
 2 *1770. Failure to do so will result in Plaintiff amending this complaint to seek*
 3 *damages for such deceptive practices pursuant to California Civil Code §1782.*

4 62. Plaintiff repeats, re-alleges and incorporates herein by reference the
 5 allegations of paragraphs 1 through 61, inclusive, above.

6 63. Plaintiff, contends that Defendants have violated California Civil Code
 7 §1770(a)(5) by making false and exaggerated claims (as set forth in detail above)
 8 concerning Products being wholly natural without synthetic ingredients. The
 9 representation on the product is deceptive as described hereinabove. Specifically,
 10 the products' packaging falsely represents that Annie's Natural® Products possess
 11 characteristics, uses and benefits they do not have.

12 64. As a proximate result of this violation by Defendants, Plaintiff and
 13 other consumers have been damaged in an amount to be determined at trial.
 14

15
 16 **WHEREFORE,** Plaintiff respectfully prays for relief from Defendants for the
 17 first and second causes of action as follows:

- 18 1. Pursuant to Bus. & Prof. Code §17203 and 17535, and similar laws of other
 19 states and pursuant to the equitable powers of this Court, Plaintiff prays that
 20 the Defendants be permanently enjoined from marketing the Products as
 21 presently performed;
 22
- 23 2. Pursuant to Bus. & Prof. Code §17203 and §17535, and similar laws of other
 24 states and pursuant to the equitable powers of this Court, Plaintiff prays that
 25 the Defendants be ordered to restore to Plaintiff and other consumers all
 26 funds acquired by means of any act or practice declared by this Court to be
 27 unlawful or fraudulent or to constitute unfair competition under Bus. & Prof.
 28

1 Code §17200, et seq., and similar laws of other states or untrue or misleading
2 advertising under Bus. & Prof. Code §17500;

3 3. For attorney's fees and costs, and

4 4. For such other costs and further relief as the Court may deem proper.
5

6
7 **WHEREFORE**, Plaintiff respectfully prays for relief from Defendants for the
8 third and fourth causes of action as follows:

9 1. For general damages in an amount to be determined at trial;

10 2. For special damages in an amount to be determined at trial;

11 3. For punitive damages;

12 4. For attorney's fees and costs of suit herein incurred; and

13 5. For such other and further relief as the court may deem proper.
14

15
16 **WHEREFORE**, Plaintiff prays for relief from Defendants for the fifth, sixth and
17 seventh causes of action as follows:

18 1. For damages in an amount to be determined at trial;

19 2. For costs of suit herein incurred, including attorneys' fees, if appropriate; and

20 3. For such other and further relief as the court may deem proper.
21

22
23 **WHEREFORE**, Plaintiff prays for relief from Defendants for the eighth cause
24 of action as follows:

25 1. For damages in an amount to be determined at trial;

26 2. For costs of suit herein incurred, including attorneys' fees, if appropriate;

27 3. That the Defendant be permanently enjoined from marketing the Products
28

1 being natural without synthetic additive(s); and

2 4. For such other and further relief as the court may deem proper.

3

4

Jury Trial Demand

5

6

7

Plaintiff Janell Johnson Campbell hereby demands a trial by jury on all legal claims.

8

Respectfully submitted this 28th day of August, 2017.

9

10

LAW OFFICE OF JOHN W. DAVIS

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By: /s/ John W. Davis

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John W. Davis

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John W. Davis (CA Bar No. 200113)

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CHARLES M. THOMPSON, P.C.

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By: /s/ Charles M. Thompson

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Charles M. Thompson

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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

JANELL JOHNSON CAMPBELL, individually, and on behalf of all others similarly situated,

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

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

—John W. Davis, Law Office of John W. Davis, 501 W. Broadway, Suite 800, San Diego, CA 92101; (619) 400-4870

DEFENDANTS

ANNIE'S HOMEGROWN, INC. and
GENERAL MILLS, INC.,

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

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

Attorneys (If Known)

'17CV1736 MMAMDD

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 checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" 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 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)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 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 type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC 1332

Brief description of cause:

Diversity action alleging breach of warranty, misrepresentation, and state consumer protection statutes

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:
Injunctive relief and damages JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

08/28/2017

SIGNATURE OF ATTORNEY OF RECORD

/s/ John W. Davis

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE