

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

STANLEY F. FROMPOVICZ *d/b/a* FAR AWAY
SPRINGS, on Behalf of Himself and All Others
Similarly Situated,

Plaintiff,

vs.

NIAGARA BOTTLING, LLC;
-and-
-ICE RIVER SPRINGS WATER CO. INC.;
-and-
CROSSROADS BEVERAGE GROUP;
-and-
JAMES J. LAND, JR. *d/b/a* MC RESOURCE
DEVELOPMENT *a/k/a* PINE VALLEY FARMS
SPRINGS,

Defendants.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiff, Stanley F. Frompovciz *d/b/a* Far Away Springs, by and through undersigned counsel, on behalf of himself and all persons similarly situated, complains and alleges as follows on personal knowledge, investigation of counsel, or information and belief:

NATURE OF THE CASE

1. This putative class action seeks monetary damages and other relief under the Lanham Act, 15 U.S.C. § 1051, *et seq.*, and Pennsylvania law, in connection with the advertising and sale of bottled water that is falsely, deceptively, and misleadingly marketed, labeled, and sold as “spring water” by Defendants Niagara Bottling, LLC, Ice River Springs Water Co., Inc., Crossroads Beverage Group, and James F. Land, Jr. *d/b/a* MC Resource Development *a/k/a* Pine Valley Farms Springs (collectively, “Defendants”).

2. “Spring water” is naturally-occurring water that is sourced from a natural spring. To be considered “spring water,” the water must satisfy a number of regulatory and/or industry criteria, which generally require the water to be collected from a spring, and in a manner such that its properties and characteristics are the same as when the water would bubble to the surface of the ground from a natural spring.

3. Substantial time and resources are required to identify, develop, and maintain natural spring water sites. Because of these and other associated costs, spring water typically sells at a premium compared to other types of bottled water.

4. Customers recognize the distinction between spring water and other types of bottled water. Customers can and do pay a premium for spring water because they prefer the taste, and/or method of extraction and bottling, to other types of bottled water.

5. Businesses such as Plaintiff’s have spent significant time, money, and resources to identify, develop, and maintain spring water sites. Unfortunately, not all businesses are as willing as Plaintiff to invest the proper amount of time, money, and effort into this process.

6. One such business is run by Defendant Jay Land d/b/a MC Resource Development a/k/a Pine Valley Farms Springs (collectively, “Pine Valley”). This Defendant is also in the business of extracting raw water from various sources.¹ Pine Valley markets raw water to bottlers and others as “spring water,” which is not in fact true spring water, but rather “well water.”

7. Defendants Niagara Bottling, LLC (“Niagara”), Ice River Springs Water Co. Inc. (“Ice River”), and Crossroads Beverage Group (“Crossroads”) are in the business of bottling and selling water. They purchase water from Pine Valley, bottle it, and sell it to purchasers.

¹ The term “raw water,” as used herein, refers to any natural water prior to bottling for human consumption.

Niagara, Ice River, and Crossroads market and sell Pine Valley's water as "spring water" products, even though it is not true spring water.

8. Defendants collectively have extracted, bottled, and sold non-spring water, such as well water, but have sought to pass-off this water as "spring water" knowing full well it is not spring water, so they can dupe customers into paying a premium.

9. Defendants' false and misleading marketing and sale of their non-spring water products constitutes violations of the Lanham Act and Pennsylvania law, as set forth herein.

JURISDICTION AND VENUE

10. This complaint arises under 15 U.S.C. § 1125(a) and Pennsylvania law. This court has subject-matter jurisdiction pursuant to 28 U.S.C. § 1331, 15 U.S.C. § 1121, and 28 U.S.C. § 1367.

11. Venue is proper in this district pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 1400 because Defendants are subject to personal jurisdiction and regularly conduct business in this district, a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this district, at least one defendant resides or operates its/his business in this district, and Plaintiff was injured and subjected to irreparable harm in this district.

THE PARTIES

12. Plaintiff, Stanley F. Frompovicz is a resident and citizen of Pennsylvania. Mr. Frompovicz does business as Far Away Springs, a fictitious trade name registered in Pennsylvania. Far Away Springs has its principal place of business in Auburn, Pennsylvania.

13. Defendant Niagara Bottling Co., LLC (“Niagara”) is a limited liability company, partnership, corporation, or other legal entity doing business in the Commonwealth of Pennsylvania, with a registered office or place of business believed and therefore averred to be in or about Allentown, PA. Niagara regularly and systematically conducts business throughout the Commonwealth of Pennsylvania, including in this district among elsewhere. Niagara is primarily engaged in the business of bottling and distributing water for sale to retail and/or wholesale customers.

14. Defendant Ice River Springs Water Co. Inc. (“Ice River”) is a limited partnership, corporation, or other legal entity doing business in the Commonwealth of Pennsylvania, with a registered office or place of business believed and therefore averred to be in or about Center Valley, PA. Ice River regularly and systematically conducts business throughout the Commonwealth of Pennsylvania, including in this district among elsewhere. Ice River is primarily engaged in the business of bottling and distributing water for sale to retail and/or wholesale customers.

15. Defendant Crossroads Beverage Group (“Crossroads”) is a limited partnership, corporation, or other legal entity doing business in the Commonwealth of Pennsylvania, with a registered office or place of business believed and therefore averred to be in or about Reading, PA. Crossroads regularly and systematically conducts business throughout the Commonwealth of Pennsylvania, including in this district among elsewhere. Crossroads is primarily engaged in the business of bottling and distributing water for sale to retail and/or wholesale customers.

16. Defendant James J. Land, Jr., is a resident and citizen of Philadelphia, Pennsylvania. On information and belief, Defendant Land is the owner and manager of MC Resource Development, which also does business under the fictitious name Pine Valley Farms

Springs. Defendant Land is engaged in the business of extracting and distributing water for bottling, distribution, and sale to retail and/or wholesale customers, including the marketing of water as originating from “Pine Valley Farms Spring” or “Pine Valley Springs” or “Protected Springs” in New Ringgold, Pennsylvania.

17. At all times relevant hereto, on information and belief, MC Resource Development a/k/a Pine Valley Farms Springs was the alter ego of Mr. Land, insofar as Mr. Land dominated, influenced, and controlled MC Resource Development. Given such, a unity of interest or ownership exists between Mr. Land and MC Resource Development, under which the individuality or separateness of each has ceased. On information and belief, MC Resource Development was organized and operated as a shell pursuant to a fraudulent scheme to deceive in order to avoid individual liability and for the purpose of substituting a financially irresponsible fictitious entity in the place and stead of Mr. Land, without adequate business formalities and funding, and accordingly, adherence to any fiction separating the existence between Mr. Land and MC Resource Development under the circumstances would sanction fraud and promote injustice and, therefore, should be disregarded for purposes of the acts complained herein.

COMMON FACTUAL ALLEGATIONS

A. Overview of the Bottled Water Industry

18. Bottled water is the second largest beverage category by volume in the United States, just behind carbonated soft drinks. According to the Beverage Marketing Corporation, “in 2015 the total volume of bottled water consumed in the United States was 11.7 billion gallons, a 7.6% increase from 2014. That translates into an average of 36.3 gallons per person.”²

² <http://www.bottledwater.org/economics/bottled-water-market> (last accessed Jan. 5, 2018).

19. Yet, while consumption of other beverages such as carbonated beverages has been shrinking, consumption of bottled water has steadily increased for years, with the sharpest increases coming in consumption of spring water versus other types of bottled water. For instance, according to the International Bottled Water Association, bottled water volumes hit a new record high in 2014, whereas soft drinks suffered its tenth consecutive year of volume reduction in 2014.³ Further, “bottled water *added* more gallons to its per-person consumption rate in 10 years than either ready-to-drink tea or sports beverages even *reached* by the end of that same period.”⁴

20. Bottled water’s commercial success is attributable to several factors, including consumers’ perceptions about taste, healthfulness, convenience, safety, and value as compared to other bottled beverages.

B. Overview of Spring Water

21. Per regulations set forth by the United States Food and Drug Administration (“FDA”) and analogous state requirements, “bottled water” is water “that is intended for human consumption and that is sealed in bottles or other containers with no added ingredients[.]” 21 C.F.R. § 165.110(a).

22. To be considered “spring water,” the water must derive “from an underground formation from which water flows naturally to the surface of the earth.” 21 C.F.R. § 165.110(a)(2)(vi). Spring water “must be collected only at the spring.” *Id.* Further, spring water “must have all the physical properties before treatment and must be of the same composition and quality as the water that flows naturally to the surface of the earth.” *Id.* In

³http://www.bottledwater.org/public/BWR%20JulyAug%202015%20Issue_BMC_2014%20Bottled%20Water%20Statistics%20Article.pdf (last accessed Jan. 5, 2018) (emphasis original).

⁴ *Id.*

other words, to be “spring water,” the water must be collected from the spring, and its properties and characteristics must be the same as when the water bubbles to the surface of the ground from a natural spring.

23. Because of geological and other technical requirements, substantial time and resources are required to identify, develop, and maintain natural spring water sites.

24. Because of these and other associated costs, spring water typically sells at a premium compared to other bottled water, such as “well water” or “tap water,” both of which are sometimes sold as “purified water,” i.e., non-spring water which has undergone a purification process prior to being sold at wholesale or retail. *See, e.g.*, 21 C.F.R. § 165.110(a)(2)(iv). By contrast, a distinguishing feature of “spring water” is that it does not undergo the same level or type of purification as “purified water.”

25. Because of geological and other technical requirements, spring water site development requires substantial resources to identify, develop, and maintain the natural springs from which spring water comes.

26. Spring water extraction is also a relatively localized process, with most sources being within reasonable transportation distance to bottling facilities due to the transportation costs associated with hauling water over distances.

27. Customers recognize the distinction between spring water and other types of bottled water. In addition to customers’ paying a premium, customers also generally recognize and prefer the taste of spring water to other types of bottled water.

28. Given these market dynamics, there is an economic incentive for extractors, bottlers, and others to market and sell spring water to customers, as opposed to other types of inferior or cheaper types of bottled water. However, spring water sites are difficult to identify,

develop, and maintain because of the unique characteristics necessary to extract the water to ensure that it remains “spring water” throughout the extraction and bottling process.

C. Defendant Land d/b/a MC Resource Development’s Deceptive Sourcing and Marketing of Raw Water as “Spring Water”

29. Defendant Land d/b/a MC Resource Development a/k/a Pine Valley Farms Springs obtained a Public Water Supply Permit from the Commonwealth of Pennsylvania’s Department of Environmental Protection (DEP) to extract raw water for the purposes of bottling and selling to wholesale and/or retail customers. Defendant formed this business with the intention to serve customers throughout the northeast United States, particularly throughout Pennsylvania.

30. Defendant Land d/b/a MC Resource Development a/k/a Pine Valley Farms Springs owns and operates the bulk water hauling system and necessary equipment to extract raw water for the purposes of bottling. The bulk water facility at issue is located in New Ringgold, Pennsylvania, under the name “Pine Valley Farms Springs” or “Pine Valley.”

31. Defendant Land d/b/a MC Resource Development a/k/a Pine Valley Farms Springs markets this site’s raw water as “spring water” for bottling and consumption.

32. However, the water sourced at Pine Valley Farms Springs is *not* spring water. For one, raw water extracted at Pine Valley Farms Springs does not satisfy the FDA definition of “spring water” discussed above.

33. Any business that extracts raw water extracted and intended for human consumption in Pennsylvania must obtain a permit from the DEP to do so. The DEP permitting process, among other things, identifies the type of water “source” for a site that intends to extract raw water. The potential source types are: well water; spring water; surface water; and finished water.

34. DEP does not recognize Pine Valley Farms Springs as a “spring water” source either. Pine Valley Farms Springs has never been permitted as a “spring water” site. For instance, the most recent DEP permit for Pine Valley Farms Springs clearly identifies the site as a “well water” site, *not* a “spring water” site. Here is an excerpt (the full permit is attached as Exhibit A hereto):

A. PERMITTEE (Name and Address) Mr. James J. Land, Jr. d/b/a MC Resource Development 10447 Drummond Road Philadelphia, PA 19154		B. PROJECT/PLANT LOCATION Municipality <u>East Brunswick Township</u> County <u>Schuylkill</u>	
C. THIS PERMIT APPROVES FOR: 1. <input type="checkbox"/> CONSTRUCTION 2. <input checked="" type="checkbox"/> OPERATION OF FACILITIES AS INDICATED BELOW: Approved Under Construction Permit No. <u>5499507</u>			
Source <input checked="" type="checkbox"/> Well(s) <input type="checkbox"/> Spring(s) <input type="checkbox"/> Surface Water <input type="checkbox"/> Finished Water		Facilities <input type="checkbox"/> Impoundment <input type="checkbox"/> Settling <input checked="" type="checkbox"/> Filtration <input type="checkbox"/> Iron and Manganese Treatment <input type="checkbox"/> Softening <input type="checkbox"/> Fluoridation <input type="checkbox"/> Distribution Facility <input type="checkbox"/> General Corrosion Control <input type="checkbox"/> Corrosion Control for Lead/Copper <input checked="" type="checkbox"/> Disinfection <input type="checkbox"/> Pump Station(s) <input checked="" type="checkbox"/> Transmission Lines <input type="checkbox"/> Finished Water Storage <input type="checkbox"/> Other _____	
		BVRB <input type="checkbox"/> Bottled Water System <input checked="" type="checkbox"/> Bulk Water Hauling System <input type="checkbox"/> Vending Water System <input type="checkbox"/> Retail Water Facility	
KNOWN AS <u>Pine Valley Farms Spring No. 1</u>			

35. True “spring water” sites extract raw water from an appropriately permitted “spring” source. Here is an excerpt from one of Plaintiff’s properly permitted “spring water” sources (the full permit is attached as Exhibit B hereto):

<p>A. PERMITTEE (Name and Address)</p> <p>Mr. Stanley F. Frompovicz 71 West Jefferson Lane Auburn, PA 17922</p>	<p>B. PROJECT/PLANT LOCATION</p> <p>Municipality <u>South Manheim Township</u></p> <p>County <u>Schuylkill</u></p>									
<p>C. THIS PERMIT APPROVES FOR: 1. <input type="checkbox"/> CONSTRUCTION 2. <input checked="" type="checkbox"/> OPERATION OF FACILITIES AS INDICATED BELOW: Approved Under Construction Permit No. 5413505</p> <table border="0"> <thead> <tr> <th data-bbox="380 457 444 478">Source</th> <th data-bbox="805 457 886 478">Facilities</th> <th data-bbox="1256 447 1308 468">BVRB</th> </tr> </thead> <tbody> <tr> <td data-bbox="380 506 509 596"> <input type="checkbox"/> Well(s) <input checked="" type="checkbox"/> Spring(s) <input type="checkbox"/> Surface Water <input type="checkbox"/> Finished Water </td> <td data-bbox="548 506 805 663"> <input type="checkbox"/> Impoundment <input type="checkbox"/> Settling <input checked="" type="checkbox"/> Filtration <input type="checkbox"/> Iron and Manganese Treatment <input type="checkbox"/> Softening <input type="checkbox"/> Fluoridation <input type="checkbox"/> Distribution Facility </td> <td data-bbox="850 499 1127 657"> <input type="checkbox"/> General Corrosion Control <input type="checkbox"/> Corrosion Control for Lead/Copper <input checked="" type="checkbox"/> Disinfection <input checked="" type="checkbox"/> Pump Station(s) <input type="checkbox"/> Transmission Lines <input checked="" type="checkbox"/> Finished Water Storage <input checked="" type="checkbox"/> Other : 3 tanker additions </td> </tr> <tr> <td colspan="2"></td> <td data-bbox="1166 499 1396 583"> <input type="checkbox"/> Bottled Water System <input checked="" type="checkbox"/> Bulk Water Hauling System <input type="checkbox"/> Vending Water System <input type="checkbox"/> Retail Water Facility </td> </tr> </tbody> </table> <p>KNOWN AS <u>Far Away Auburn (Spring #1: System A Treatment and Storage)</u></p>		Source	Facilities	BVRB	<input type="checkbox"/> Well(s) <input checked="" type="checkbox"/> Spring(s) <input type="checkbox"/> Surface Water <input type="checkbox"/> Finished Water	<input type="checkbox"/> Impoundment <input type="checkbox"/> Settling <input checked="" type="checkbox"/> Filtration <input type="checkbox"/> Iron and Manganese Treatment <input type="checkbox"/> Softening <input type="checkbox"/> Fluoridation <input type="checkbox"/> Distribution Facility	<input type="checkbox"/> General Corrosion Control <input type="checkbox"/> Corrosion Control for Lead/Copper <input checked="" type="checkbox"/> Disinfection <input checked="" type="checkbox"/> Pump Station(s) <input type="checkbox"/> Transmission Lines <input checked="" type="checkbox"/> Finished Water Storage <input checked="" type="checkbox"/> Other : 3 tanker additions			<input type="checkbox"/> Bottled Water System <input checked="" type="checkbox"/> Bulk Water Hauling System <input type="checkbox"/> Vending Water System <input type="checkbox"/> Retail Water Facility
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<input type="checkbox"/> Well(s) <input checked="" type="checkbox"/> Spring(s) <input type="checkbox"/> Surface Water <input type="checkbox"/> Finished Water	<input type="checkbox"/> Impoundment <input type="checkbox"/> Settling <input checked="" type="checkbox"/> Filtration <input type="checkbox"/> Iron and Manganese Treatment <input type="checkbox"/> Softening <input type="checkbox"/> Fluoridation <input type="checkbox"/> Distribution Facility	<input type="checkbox"/> General Corrosion Control <input type="checkbox"/> Corrosion Control for Lead/Copper <input checked="" type="checkbox"/> Disinfection <input checked="" type="checkbox"/> Pump Station(s) <input type="checkbox"/> Transmission Lines <input checked="" type="checkbox"/> Finished Water Storage <input checked="" type="checkbox"/> Other : 3 tanker additions								
		<input type="checkbox"/> Bottled Water System <input checked="" type="checkbox"/> Bulk Water Hauling System <input type="checkbox"/> Vending Water System <input type="checkbox"/> Retail Water Facility								

36. Pine Valley Farms Springs is not, and has never been, permitted by the DEP as an extractor of raw water from a “spring” source.

37. In addition, water extracted from Pine Valley Farms Springs has been extracted, handled, or treated with equipment or techniques that are inconsistent with “spring water” classification criteria.

38. Further, water sourced from Pine Valley Farms Springs intended to be marketed and sold as “spring water” has tested as containing more particulates or trace elements than are otherwise permissible or recommended under industry standards for “spring water.”

39. In spite of all of this, Defendant Land d/b/a MC Resource Development a/k/a Pine Valley Farms Springs nonetheless fraudulently and deceptively markets and sells the raw water extracted at Pine Valley Farms Springs as “spring water.”

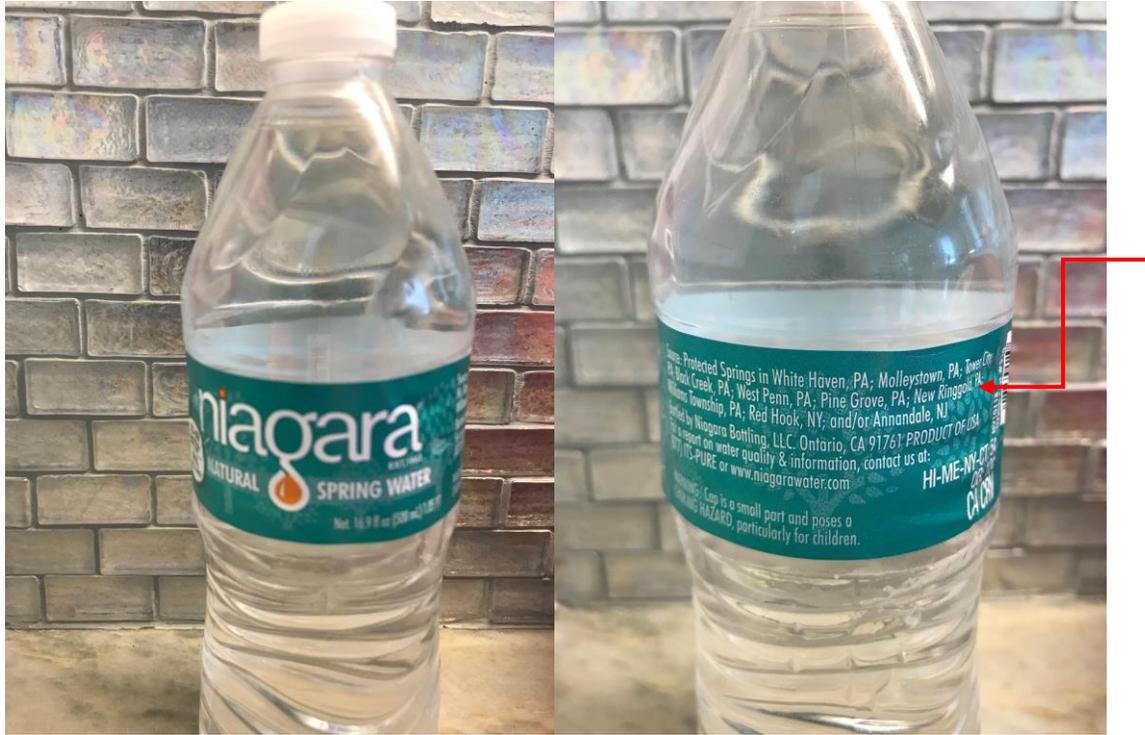
C. The Bottler Defendants’ False, Misleading, and Deceptive Advertising and Sale of So-Called “Spring Water”

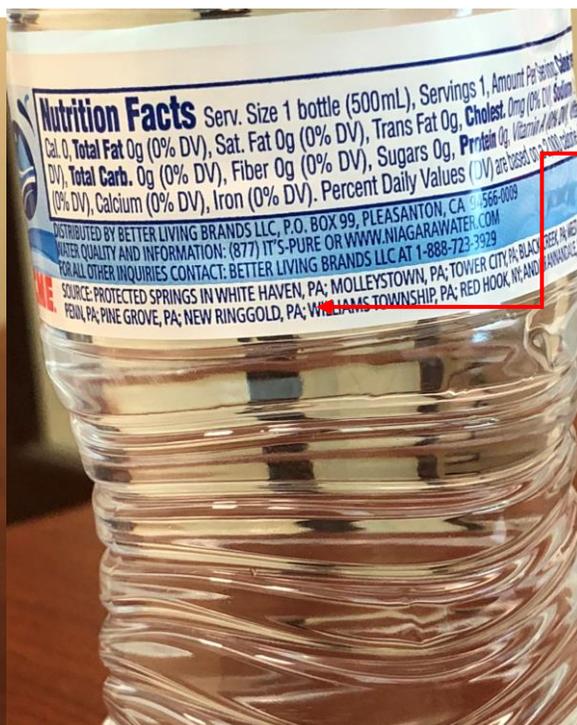
40. Defendants Niagara, Ice River, and Crossroads are bottlers (the “Bottler Defendants”). They operate water bottling facilities in which extracted raw water is processed,

potentially treated in some fashion depending on the water classification, and placed in containers and distributed to retail and other outlets for sale and human consumption.

41. All three bottling Defendants source raw water from Defendant Land d/b/a MC Resource Development a/k/a Pine Valley Farms Springs. Bottling Defendants then bottle, market, and sell this water as “spring water,” despite the fact that Pine Valley Farms Springs’ water is not properly classified by DEP or otherwise as “spring water.”

42. By regulation, labels on bottled water sold for human consumption must identify both the source, *i.e.*, from where the water was extracted, as well as the bottler, *i.e.*, the business that packaged the water into bottles and distributed it for human consumption. *See* 21 C.F.R. § 165.110(a)(2)(vi); *see also* 60 Fed. Reg. at 57,108. The labels for the various “spring water” products sold by Defendant Bottlers demonstrate that they did in fact source the water from Pine Valley Farms Springs, but nevertheless called it “spring water.” Sample labels for each Defendant Bottler are as follows, all of which clearly identify a water “source” as Pine Valley Farms Springs or New Ringgold, PA (on information or belief, there is no other permitted water source in New Ringgold besides Pine Valley Farms Springs):









43. Defendants' bottling and sale of water sourced from Pine Valley Farms Springs and labeled as "spring water" is incorrect, false, and misleading, and intended to give consumers the impression that the water is derived from an appropriate "spring water" source, when in fact that is not the case.

44. Defendants' marketing and sale of their deceptively marketed "spring water" is damaging to the reputation and goodwill of Plaintiff, other Class members, and the consuming public. These false and misleading misrepresentations are designed to entice purchasers (both retail outlets and consumers) to buy Defendants' products, and wrongfully cause purchasers to falsely believe that Defendants' "spring water" products are at least equal if not superior to Plaintiff's and other Class members' true spring water, which is not the case.

45. Defendants' wrongful conduct has resulted in increased sales of their own deceptively labeled "spring water," hindering sales of Plaintiff's and other Class members' true spring water. Plaintiff and other Class members have sustained and will sustain damages as a result of Defendants' continuing course of wrongful conduct.

CLASS ALLEGATIONS

46. Plaintiff brings this action on behalf of himself and all others similarly situated pursuant to Fed. R. Civ. P. 23(a), (b)(2), and (b)(3). This action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of Rule 23.

47. The proposed classes are defined as:

All persons in the United States who, within the applicable statute of limitations preceding the filing of this action through class certification, extract and/or bottle spring water for sale in the United States (the “National Class”).

All persons in the Commonwealth of Pennsylvania who, within the applicable statute of limitations preceding the filing of this action through class certification extract and/or bottle spring water for sale in the Commonwealth of Pennsylvania (the “Pennsylvania State Subclass”).

The National Class and the Pennsylvania State Subclass are collectively referred to as the “Classes.”

48. Plaintiff reserves the right to modify or amend the definition of the proposed Classes before the Court determines whether certification is appropriate.

49. Excluded from the Classes are Defendants, their parents, subsidiaries, affiliates, officers and directors, any entity in which a Defendant has a controlling interest, all persons who make a timely election to be excluded, governmental entities, and all judges assigned to hear any aspect of this litigation, as well as their immediate family members.

50. Said definition may be further defined or amended by additional pleadings, evidentiary hearings, a class certification hearing, and orders of this Court.

51. The members of the Classes are so numerous that joinder is impractical. The Classes consist of many members, the identities of whom are within the knowledge of and can be ascertained by resort to Defendants’ and other records.

52. The claims of the representative Plaintiff are typical of the claims of the Classes in that the representative Plaintiff, like all Class members, is in the spring water business. The representative Plaintiff, like all Class members, has been damaged by Defendants’ misconduct in that they have been harmed by Defendants’ false and misleading advertising and sale of so-called “spring water.” Furthermore, the factual basis of Defendants’ misconduct is common to all Class

members, and represents a common thread of unfair and unconscionable conduct resulting in injury to all members of the Classes.

53. As set forth in detail below, common issues of fact and law predominate because all of Plaintiff's claims are based on common conduct. Among the questions of law and fact common to the Classes are whether Defendants:

- a. Falsely advertised and sold their water as spring water;
- b. mislead consumers by advertising and selling their water as spring water;
- c. deprive consumers of truthful and non-misleading information about the water Defendants advertise and sell; and
- d. violated Pennsylvania law.

54. Other questions of law and fact common to the classes include:

- e. The proper method or methods by which to measure damages; and
- f. the declaratory and injunctive relief to which the Classes are entitled.

55. Plaintiff's claims are typical of the claims of other Class members, in that they arise out of the same wrongful conduct committed by Defendants as a result of their false and misleading advertising and sale of so-called "spring water." Plaintiff has suffered the harm alleged and has no interests antagonistic to the interests of any other Class member.

56. Plaintiff is committed to the vigorous prosecution of this action and has retained competent counsel experienced in the prosecution of class actions. Accordingly, Plaintiff is an adequate representative and will fairly and adequately protect the interests of the Classes. Plaintiff is represented by experienced and able attorneys. The undersigned putative Class Counsel have litigated numerous class actions and complex cases and intend to prosecute this

action vigorously for the benefit of the entire Classes. Plaintiff and putative Class Counsel can and will fairly and adequately protect the interests of all members of the Classes.

57. Defendants have acted on grounds generally applicable to all Class members, thereby making final injunctive relief and/or corresponding declaratory relief appropriate with respect to the Classes as a whole. The prosecution of separate actions by individual Class members would create the risk of inconsistent or varying adjudications with respect to individual members of the Class that would establish incompatible standards of conduct for Defendants.

58. Injunctive relief is necessary to prevent further false, misleading, and deceptive conduct by Defendants. Money damages alone will not afford adequate and complete relief, and injunctive relief is necessary to restrain Defendants from continuing to engage in false, misleading, and deceptive conduct in the United States and Pennsylvania concerning their advertising and sale of so-called “spring water.”

59. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Since the amount of each individual Class member’s claim is small relative to the complexity of the litigation, and due to the financial resources of Defendants, no Class member could afford to seek legal redress individually for the claims alleged herein. Absent a class action, the Class members will continue to suffer losses and Defendants’ misconduct will proceed without remedy.

60. Even if Class members themselves could afford such individual litigation, the court system could not. Given the complex legal and factual issues involved, individualized litigation would significantly increase the delay and expense to all parties and to the Court. Individualized litigation would also create the potential for inconsistent or contradictory rulings. By contrast, a class action presents far fewer management difficulties, allows claims to be heard

which might otherwise go unheard because of the relative expense of bringing individual lawsuits, and provides the benefits of adjudication, economies of scale and comprehensive supervision by a single court.

CAUSES OF ACTION

FIRST CLAIM FOR RELIEF

**False Advertising Under Lanham Act § 43(a)
(15 U.S.C. § 1125(a)) Against All Defendants
(On Behalf of the National Class)**

61. Plaintiff repeats and realleges the allegations set forth above, and incorporates the same as if set forth herein at length.

62. Defendants have intentionally, knowingly, or otherwise made and distributed, in interstate commerce and in this District, advertisements or related materials that contain false or misleading statements of fact regarding their products. These advertisements contain actual misstatements and/or misleading statements insofar as they state that Defendants' water is "spring water," but fail to disclose, among other things, that said water is not in fact "spring water," but rather is "well water" or other inferior non-spring water.

63. These false and misleading statements actually deceive, or have a tendency to deceive, a substantial segment of Plaintiff's customers and potential customers. This deception is material in that it is likely to influence the purchasing decisions of Plaintiff's or other National Class members' customers.

64. Defendants' false and misleading advertising statements and omissions injure both Plaintiff, other members of the National Class, and/or consumers.

65. Defendants' false and misleading advertising and omissions violate the Lanham Act § 43(a), 15 U.S.C. § 1125(a).

66. Defendants have caused, and will continue to cause, immediate and irreparable injury to Plaintiff and other members of the National Class, including to their business, reputation, and goodwill, for which there is no adequate remedy at law. As such, Plaintiff and the National Class are entitled to an injunction under 15 U.S.C. § 1116 restraining Defendants, their agents, employees, representatives, assigns, and all persons acting in concert with them from engaging in further acts of false advertising or labeling, and ordering removal of all of Defendants' false advertisements or labeling.

67. Pursuant to 15 U.S.C. § 1117, Plaintiff and the National Class are entitled to recover from Defendants the damages sustained by Plaintiff, and other members of the National Class, as a direct and/or proximate result of Defendants' acts in violation of the Lanham Act § 43(a). Plaintiff is at present unable to ascertain the full extent of the monetary damages suffered by Plaintiff, or other members of the National Class, by reason of Defendants' wrongful conduct.

68. Pursuant to 15 U.S.C. § 1117, Plaintiff and other members of the National Class are further entitled to recover from Defendants the gains, profits and advantages that they have obtained as a result of their wrongful acts. Plaintiff is at present unable to ascertain the full amount of the gains, profits and advantages Defendants have obtained by reason of their acts.

69. Pursuant to 15 U.S.C. § 1117, Plaintiff and other members of the National Class are further entitled to recover the costs of this action. Moreover, Plaintiff is informed and believes, and on that basis, alleges that Defendants' conduct was undertaken willfully and with the intention of causing confusion, mistake or deception, making this an exceptional case entitling Plaintiff and the National Class to recover additional damages and reasonable attorneys' fees.

SECOND CLAIM FOR RELIEF
Unfair Competition Under Pennsylvania Law
Against All Defendants
(On Behalf of the Pennsylvania State Subclass)

70. Plaintiff repeats and realleges the allegations set forth above, and incorporates the same as if set forth herein at length.

71. Pennsylvania law protects against “unfair competition” which includes injury that may arise from false or misleading marketing and advertising.

72. Defendants’ wrongful conduct alleged herein as violations of the Lanham Act, also constitutes unfair competition under Pennsylvania law.

73. Defendants have intentionally, knowingly, or otherwise caused, and will continue to cause, immediate and irreparable injury to Plaintiff and other members of the Pennsylvania State Subclass, including to their business, reputation, and goodwill, for which there is no adequate remedy at law. As such, Plaintiff and the Pennsylvania State Subclass are entitled to an injunction restraining Defendants, their agents, employees, representatives, assigns, and all persons acting in concert with them from engaging in further acts of misleading advertising, and ordering removal of all of Defendants’ misleading advertisements and related materials.

74. Plaintiff and the Pennsylvania State Subclass are entitled to recover from Defendants the damages sustained by Plaintiff, and other members of the Pennsylvania State Subclass, as a direct and/or proximate result of Defendants’ acts in violation of Pennsylvania law. Plaintiff is at present unable to ascertain the full extent of the monetary damages suffered by Plaintiff, or other members of the Pennsylvania State Subclass, by reason of Defendants’ wrongful conduct.

75. Plaintiff and other members of the Pennsylvania State Subclass are further entitled to recover from Defendants the gains, profits and advantages that they have obtained as a

result of their wrongful acts. Plaintiff is at present unable to ascertain the full amount of the gains, profits and advantages Defendants have obtained by reason of their acts.

76. Plaintiff and other members of the Pennsylvania State Subclass are further entitled to recover attorney's fees and the costs of this action pursuant to Pennsylvania law, as well as punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff and the Classes demand a jury trial on all claims so triable and judgment as follows:

a. Adjudging and decreeing that Defendants' conduct alleged herein constitutes false and/or misleading advertising in interstate trade and commerce in violation of the Lanham Act, as well as under Pennsylvania law;

b. Damages sustained by Plaintiff and other members of the Classes in an amount to be determined at trial, including but not limited to marketplace damages, Defendants' profits, Plaintiff's and other Class members' lost profits, and/or any other appropriate measure of damages;

c. Disgorgement of the ill-gotten gains derived by Defendants from their misconduct;

d. That Defendants be permanently enjoined and restrained from advertising or selling their non-spring water as "spring water," including corrective advertising, provision of written notice to the public, and/or similar measures deemed necessary;

e. That all of Defendants' false, misleading, and/or deceptive materials and products be destroyed as allowed under 15 U.S.C. § 1118 and/or Pennsylvania law;

f. Actual, double, or treble damages as permitted by applicable law;

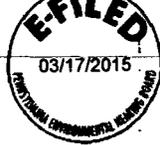
- g. Punitive and exemplary damages;
- h. Pre-judgment and post-judgment interest at the maximum rate permitted by applicable law;
- i. Costs and disbursements assessed by Plaintiff in connection with this action, including reasonable attorneys' fees; and
- j. Such other relief as this Court deems just and proper.

Dated: January 8, 2018

/s/ DJS8892

Richard M. Golomb, Esquire
Ruben Honik, Esquire
Kenneth J. Grunfeld, Esquire
David J. Stanoch, Esquire
GOLOMB & HONIK, P.C.
1515 Market Street, Suite 1100
Philadelphia, PA 19102
Phone: (215) 985-9177
Fax: (215) 985-4169
Email: rgolomb@golombhonik.com
rhonik@golombhonik.com
kgrunfeld@golombhonik.com
dstanoch@golombhonik.com

EXHIBIT A



3800-PM-WSFR0043 Rev. 7/2006

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF SAFE DRINKING WATER

PUBLIC WATER SUPPLY PERMIT

NO. 3546482

<p>A. PERMITTEE (Name and Address)</p> <p>Mr. James J. Land, Jr. d/b/a MC Resource Development 10447 Drummond Road Philadelphia, PA 19154</p>	<p>B. PROJECT/PLANT LOCATION</p> <p>Municipality <u>East Brunswick Township</u></p> <p>County <u>Schuylkill</u></p>
--	--

C. THIS PERMIT APPROVES FOR: 1. CONSTRUCTION 2. OPERATION OF FACILITIES
AS INDICATED BELOW: Approved Under Construction Permit No. 5499507

<u>Source</u>	<u>Facilities</u>	<u>BVRB</u>
<input checked="" type="checkbox"/> Well(s)	<input type="checkbox"/> Impoundment	<input type="checkbox"/> Bottled Water System
<input type="checkbox"/> Spring(s)	<input type="checkbox"/> Settling	<input checked="" type="checkbox"/> Bulk Water Hauling System
<input type="checkbox"/> Surface Water	<input checked="" type="checkbox"/> Filtration	<input type="checkbox"/> Vending Water System
<input type="checkbox"/> Finished Water	<input type="checkbox"/> Iron and Manganese Treatment	<input type="checkbox"/> Retail Water Facility
	<input type="checkbox"/> Softening	
	<input type="checkbox"/> Fluoridation	
	<input type="checkbox"/> Distribution Facility	
	<input type="checkbox"/> General Corrosion Control	
	<input type="checkbox"/> Corrosion Control for Lead/Copper	
	<input checked="" type="checkbox"/> Disinfection	
	<input type="checkbox"/> Pump Station(s)	
	<input checked="" type="checkbox"/> Transmission Lines	
	<input type="checkbox"/> Finished Water Storage	
	<input type="checkbox"/> Other _____	

KNOWN AS Pine Valley Farms Spring No. 1

LIMIT OF AUTHORIZATION

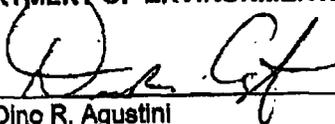
YOU ARE HEREBY AUTHORIZED TO CONSTRUCT OR OPERATE, AS INDICATED ABOVE, PROVIDED THAT FAILURE TO COMPLY WITH CHAPTER 109, OF THE RULES AND REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OR THE TERMS OR CONDITIONS OF THIS PERMIT SHALL VOID THE AUTHORITY GIVEN TO THE PERMITTEE BY THE ISSUANCE OF THE PERMIT.

THE PLANS, SPECIFICATIONS, REPORTS AND SUPPORTING DOCUMENTS SUBMITTED AS PART OF THE PERMIT APPLICATION BECOME PART OF THE PERMIT.

NO DEVIATIONS FROM APPROVED PLANS OR SPECIFICATIONS AFFECTING THE TREATMENT PROCESS OR QUALITY OF WATERS SHALL BE MADE WITHOUT WRITTEN APPROVAL FROM THE DEPARTMENT.

THIS PERMIT IS ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION UNDER THE AUTHORITY OF THE PENNSYLVANIA SAFE DRINKING WATER ACT, THE ACT OF MAY 1, 1984 (P.L. 206, NO. 43), OPERATION SHALL COMPLY WITH THE PROVISIONS OF CHAPTER 109 ADOPTED UNDER THE AUTHORITY IN SECTIONS 4 AND 6(e) OF THE PENNSYLVANIA SAFE DRINKING WATER ACT.

THIS PERMIT IS SUBJECT TO THE ATTACHED SPECIAL CONDITIONS 1-5.

<p>PERMIT ISSUED</p> <p>Date <u>April 18, 2014</u></p>	<p>DEPARTMENT OF ENVIRONMENTAL PROTECTION</p> <p>By <u></u></p> <p>Title <u>Environmental Program Manager</u> <u>Safe Drinking Water Program</u></p>
---	---



James J. Land, Jr.
East Brunswick Township, Schuylkill County

Public Water Supply Permit No. 3546482

SPECIAL CONDITIONS

1. The loadout flow shall not be greater than 332 gpm.
2. When production begins, the conservation bypass of 56.1 gpm (.125 cfs) shall be maintained immediately downstream from the spring and be measured at least daily. When the stream flow is less than 56.1 gpm (.125 cfs) no water may be withdrawn from Wells 1 and 2. The bypass flow shall be recorded daily, and all data shall be submitted monthly to the Pottsville District Office, c/o Sanitarian Supervisor.
3. The maximum combined withdrawal from Wells 1 and 2 shall not exceed 160 gpm. The well pump rates shall be recorded daily, and all data shall be submitted monthly to the Pottsville District Office, c/o Sanitarian Supervisor.
4. This permit replaces the existing bulk water hauling tanker with a 1999 Tremcar Tanker, VIN #129X142244C588016, standard 6,200 gallon insulated stainless steel tanker.
5. If no finished water is delivered in any given month, a letter shall be submitted to the Pottsville District Office, c/o Sanitarian Supervisor, by the 10th of the following month, indicating that no finished water was hauled under the permit for the previous month.

EXHIBIT B

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WATER STANDARDS AND FACILITY REGULATION**

PUBLIC WATER SUPPLY PERMIT

NO. 3546502

<p>A. PERMITTEE (Name and Address)</p> <p>Mr. Stanley F. Frompovicz 71 West Jefferson Lane Auburn, PA 17922</p>	<p>B. PROJECT/PLANT LOCATION</p> <p>Municipality <u>South Manheim Township</u> County <u>Schuylkill</u></p>
--	--

C. THIS PERMIT APPROVES FOR: 1. **CONSTRUCTION** AS INDICATED BELOW: 2. **OPERATION OF FACILITIES** Approved Under Construction Permit No. 5413505

<u>Source</u>	<u>Facilities</u>	<u>BVRB</u>
<input type="checkbox"/> Well(s)	<input type="checkbox"/> Impoundment	<input type="checkbox"/> Bottled Water System
<input checked="" type="checkbox"/> Spring(s)	<input type="checkbox"/> Settling	<input checked="" type="checkbox"/> Bulk Water Hauling System
<input type="checkbox"/> Surface Water	<input checked="" type="checkbox"/> Filtration	<input type="checkbox"/> Vending Water System
<input type="checkbox"/> Finished Water	<input type="checkbox"/> Iron and Manganese Treatment	<input type="checkbox"/> Retail Water Facility
	<input type="checkbox"/> Softening	
	<input type="checkbox"/> Fluoridation	
	<input type="checkbox"/> Distribution Facility	
	<input type="checkbox"/> General Corrosion Control	
	<input type="checkbox"/> Corrosion Control for Lead/Copper	
	<input checked="" type="checkbox"/> Disinfection	
	<input checked="" type="checkbox"/> Pump Station(s)	
	<input type="checkbox"/> Transmission Lines	
	<input checked="" type="checkbox"/> Finished Water Storage	
	<input checked="" type="checkbox"/> Other : 3 tanker additions	

KNOWN AS Far Away Auburn (Spring #1: System A Treatment and Storage)

LIMIT OF AUTHORIZATION

YOU ARE HEREBY AUTHORIZED TO CONSTRUCT OR OPERATE, AS INDICATED ABOVE, PROVIDED THAT FAILURE TO COMPLY WITH CHAPTER 109, OF THE RULES AND REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OR THE TERMS OR CONDITIONS OF THIS PERMIT SHALL VOID THE AUTHORITY GIVEN TO THE PERMITTEE BY THE ISSUANCE OF THE PERMIT.

THE PLANS, SPECIFICATIONS, REPORTS AND SUPPORTING DOCUMENTS SUBMITTED AS PART OF THE PERMIT APPLICATION BECOME PART OF THE PERMIT.

NO DEVIATIONS FROM APPROVED PLANS OR SPECIFICATIONS AFFECTING THE TREATMENT PROCESS OR QUALITY OF WATERS SHALL BE MADE WITHOUT WRITTEN APPROVAL FROM THE DEPARTMENT.

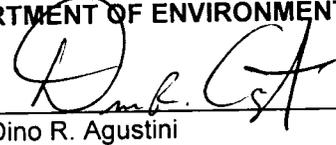
THIS PERMIT IS ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION UNDER THE AUTHORITY OF THE PENNSYLVANIA SAFE DRINKING WATER ACT, THE ACT OF MAY 1, 1984 (P.L. 206, NO. 43), OPERATION SHALL COMPLY WITH THE PROVISIONS OF CHAPTER 109 ADOPTED UNDER THE AUTHORITY IN SECTIONS 4 AND 6(e) OF THE PENNSYLVANIA SAFE DRINKING WATER ACT.

THIS PERMIT IS SUBJECT TO THE ATTACHED SPECIAL CONDITIONS 1-3.

PERMIT ISSUED

Date February 21, 2014

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By 
Dino R. Agustini
Title Environmental Program Manager
Safe Drinking Water Program

Civil Justice Expense and Delay Reduction Plan
Section 1:03 - Assignment to a Management Track

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

SPECIAL MANAGEMENT CASE ASSIGNMENTS
(See §1.02 (e) Management Track Definitions of the
Civil Justice Expense and Delay Reduction Plan)

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

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
 STANLEY F. FROMPOVICZ, d/b/a FAR AWAY SPRINGS, on behalf of himself and all others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
 DAVID J. STANOCH, ESQUIRE, GOLOMB & HONIK, P.C., 1515 MARKET STREET, SUITE 1100, PHILADELPHIA, PA 19102; (215) 985-9177

DEFENDANTS
 NIAGARA BOTTLING, LLC, ICE SPRINGS WATERS CO., INC, CROSSROADS BEVERAGE GROUP, JAMES LAND, d/b/a MC RESOURCE DEVELOPMENT,

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

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

Attorneys (If Known)

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

1 U.S. Government Plaintiff

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

2 U.S. Government Defendant

4 Diversity *(Indicate Citizenship of Parties in Item III)*

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

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

IV. NATURE OF SUIT *(Place an "X" in One Box Only)* 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 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 <hr/> <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 <hr/> <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 <hr/> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <hr/> <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)) <hr/> <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
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	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		

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

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District *(specify)* 6 Multidistrict Litigation - 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):*
LANHAM ACT, 15 U.S.C. SECTION 1051
 Brief description of cause:
FALSE ADVERTISEMENT

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):* JUDGE _____ DOCKET NUMBER _____

DATE 01/08/2018 SIGNATURE OF ATTORNEY OF RECORD: /s/ DAVID J. STANOCH

FOR OFFICE USE ONLY: RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven 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 – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 71 W. Jefferson Lane Auburn, PA17922

Address of Defendant: 1390 Le Boutillier Road, Malvern, PA 19355

Place of Accident, Incident or Transaction: Pennsylvania
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes No

Does this case involve multidistrict litigation possibilities? Yes No

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes No
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes No
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes No
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes No

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Patent
6. Labor-Management Relations
7. Civil Rights
8. Habeas Corpus
9. Securities Act(s) Cases
10. Social Security Review Cases
11. All other Federal Question Cases
(Please specify) LANHAM ACT; 15 U.S.C. SECTION 1051

B. Diversity Jurisdiction Cases:

1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify)
7. Products Liability
8. Products Liability — Asbestos
9. All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, DAVID J. STANOCH, counsel of record do hereby certify:
 Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
 Relief other than monetary damages is sought.

DATE: JANUARY 8, 2018

DAVID J. STANOCH, ESQUIRE
Attorney-at-Law

91342

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: JANUARY 8, 2018

DAVID J. STANOCH, ESQUIRE
Attorney-at-Law

91342

Attorney I.D.#