

Sheehan & Associates, P.C.  
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(516) 303-0552

United States District Court  
Eastern District of New York

1:19-cv-02249

Charles Harris individually and on behalf of  
all others similarly situated

Plaintiff

- against -

Mondelēz Global LLC

Defendant

Complaint

Plaintiff by attorneys alleges upon information and belief, except for allegations pertaining to plaintiff, which are based on personal knowledge:

1. Mondelēz Global LLC (“defendant”) manufactures, processes, distributes, markets, labels and sells chocolate sandwich cookies with crème filling known as Oreos (the “Products”).
2. The Product varieties include original, thin, dark chocolate, mint, peanut butter, “mega stuf” (extra filling), reduced fat and seasonal and holiday flavors (i.e., “Winter,” “Halloween”), among others.
3. The Products are available in various packaging formats such as packs of 2, cases, standard size (14.3 oz or 405g) and family size.
4. The front labels proclaim “Milk’s Favorite Cookie,” “Oreo,” “Chocolate Sandwich Cookies,” an Oreo splashed by fresh milk and “Always Made With Real Cocoa.”



5. The Product line contains substantially similar relevant representations, modified only by the specific flavor and type (“thins,” “pistachio”).



6. All of the Products highlight certain ingredients or components on the front labels through the statement “Always Made With Real Cocoa.”



7. According to a trade publication, “[M]ore consumers are looking for authenticity and ‘real’ ingredients in their foods, including sweet ingredients like real sugar” and cocoa.<sup>1</sup>

8. And survey data compiled by the International Dairy-Deli-Bakery Association (IDDBA) shows a growing “number of Americans continue to avoid products made with processed or artificial ingredients.”

9. Approximately two-thirds of consumers “noted that health, nutrition and making better choices are factors in their purchasing decisions on indulgent items or desserts,” and “[H]alf of shoppers look for ‘real’ ingredients.”<sup>2</sup>

10. Another recent study found “nearly three-quarters of U.S. consumers find it important to recognize the ingredients in the products they buy,”<sup>3</sup> confirming that “recognition of ingredients to be one of the biggest drivers of product choice, with more than half of respondents

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<sup>1</sup> Beth Day, Indulgence driving innovation in baked foods, November 3, 2016 FoodBusinessNews.net, <https://www.foodbusinessnews.net/articles/7110-indulgence-driving-innovation-in-baked-foods>

<sup>2</sup> Progressive Grocer, Bakery Connects Emotionally With Consumers, Drives Grocery Sales, April 8, 2019, <https://progressivegrocer.com/bakery-connects-emotionally-consumers-drives-grocery-sales>

<sup>3</sup><https://www.snackandbakery.com/articles/88762-clean-label-snacks-and-bakery-move-from-novelty-to-mainstream>

(52 percent) considering it to be an important factor.”<sup>4</sup>

11. This is not to say a “reasonable consumer” expects confections and sweets to be healthy or nutrient-rich – they are by definition an indulgence and not consumed for their salutary effects in the same way other foods might be.

12. But consumers expect and seek out those indulgent foods that let them enjoy a “guilty pleasure” while taking comfort in other attributes of those products.<sup>5</sup>

13. Defendant has tapped into this consumer demand for “real ingredients” by promoting the products as “always made with real cocoa.”

14. The Products’ representations are misleading because despite the front-label claims of “real cocoa,” they do not contain this component in the amount, type and/or form which a reasonable consumer would expect based on the claims.

15. The “Always Made with Real Cocoa” representation is false, misleading and deceptive because the ingredient list discloses they contain “Cocoa (Processed with Alkali).”

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<sup>4</sup> <https://www.foodinsiderjournal.com/clean-label/75-consumers-will-pay-extra-clean-label-ingredients>

<sup>5</sup> Monica Watrous, The new pleasure paradigm, Food Business News, Oct. 4, 2017, <https://www.foodbusinessnews.net/articles/10688-the-new-pleasure-paradigm> (“To tap into today’s pleasure principles, it is critical to move beyond the temporary “high” often associated with pleasure and focus on real ingredients”).

| Nutrition Facts                     |            |
|-------------------------------------|------------|
| about 44 servings per container     |            |
| Serving size <b>3 cookies (34g)</b> |            |
| Amount per serving                  |            |
| <b>Calories 160</b>                 |            |
| % Daily Value*                      |            |
| <b>Total Fat</b> 7g                 | <b>9%</b>  |
| Saturated Fat 2g                    | <b>10%</b> |
| Trans Fat 0g                        |            |
| <b>Cholesterol</b> 0mg              | <b>0%</b>  |
| <b>Sodium</b> 135mg                 | <b>6%</b>  |
| <b>Total Carbohydrate</b> 25g       | <b>9%</b>  |
| Dietary Fiber Less than 1g          | <b>2%</b>  |
| Total Sugars 14g                    |            |
| Includes 14g Added Sugars           | <b>28%</b> |
| <b>Protein</b> 1g                   |            |
| Vitamin D 0mcg                      | 0%         |
| Calcium 14mg                        | 0%         |
| Iron 1.4mg                          | 8%         |
| Potassium 53mg                      | 0%         |

\* The % Daily Value (DV) tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.

**INGREDIENTS:** UNBLEACHED ENRICHED FLOUR (WHEAT FLOUR, NIACIN, REDUCED IRON, THIAMINE MONONITRATE (VITAMIN B1), RIBOFLAVIN (VITAMIN B2), FOLIC ACID), SUGAR, PALM AND/OR CANOLA OIL, COCOA (PROCESSED WITH ALKALI), HIGH FRUCTOSE CORN SYRUP, LEAVENING (BAKING SODA AND/OR CALCIUM PHOSPHATE), SALT, SOY LECITHIN, CHOCOLATE, ARTIFICIAL FLAVOR.

**CONTAINS: WHEAT, SOY.**

**MONDELEZ GLOBAL LLC**  
**EAST HANOVER, NJ 07936 USA**

Ingredients: Unbleached Enriched Flour (Wheat Flour, Niacin, Reduced Iron, Thiamine Mononitrate {Vitamin B1}, Riboflavin {Vitamin B2}, Folic Acid), Sugar, Palm and/or Canola Oil, **Cocoa (Processed with Alkali)**, High Fructose Corn Syrup, Leavening (Baking Soda and/or Calcium Phosphate), Salt, Soy Lecithin, Chocolate, Artificial Flavor.

16. Cocoa powder (“cocoa”) is the “core of a chocolate's flavor, without any extra fat, sugar, or milk to get in the way.”
17. Cocoa powder results from crushing the edible portions of the cocoa bean – “nibs” – into a fine paste, releasing and melting the nibs’ fat content (cocoa butter).
18. The combination of crushed, ground nibs and cocoa butter produces chocolate liquor.
19. The chocolate liquor is pressed between hydraulic plates to form hard-cocoa “press cakes” and the excess cocoa butter is removed.
20. The cocoa cakes are grated into fine powders.
21. The types of powders produced are based on the amount of cocoa butter, or fat, remaining in the powder: high or “breakfast cocoa” (22% +), medium or “cocoa” (10-12%) and lowfat cocoa (less than 10%).

22. The cocoa powder can be further treated through alkalization (“Dutch-process” or alkalized) or used in its non-alkalized state.

23. The use and presence of alkalis reduces the acidity of cocoa powder, giving it a noticeably darker hue associated with the Products but detracting from the “real cocoa” taste.



24. The claim of “always made real cocoa” is intended to differentiate the cocoa in the Products from other cocoa ingredients bearing the standard cocoa designation, i.e., “cocoa” or “cocoa processed with alkali,” and implies the cocoa present in the Products is nutritionally and organoleptically superior.<sup>6</sup>

25. Because cocoa is a commonly used and valued product, consumers have certain expectations based on experience when it comes to how “cocoa” is declared on a label.

26. No reasonable consumer would expect the cocoa in the Products to have been made with and contain alkalis because “real,” in modifying the word “cocoa,” represents the cocoa powder is included in its most simplified form.

27. According to Nielsen market research, a majority of consumers “say that when it comes to ingredient trends, a back-to-basics mind-set, focused on simple ingredients and fewer

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<sup>6</sup> 21 C.F.R. §130.11 Label designations of ingredients for standardized foods.

artificial or processed foods, is a priority.”<sup>7</sup>

28. It is false, deceptive and misleading to conspicuously promote “real cocoa” without any reference to the presence and use of alkalis either preceding or following because “real cocoa” without any modifying terms implies the absence of artificial ingredients in the cocoa.

29. The Products’ use of the optional alkali ingredients significantly distinguishes its cocoa component from cocoa powder which does not contain alkali.

30. The presence or absence of alkalis effect the taste and color of the cocoa powder to such an extent that they are a characterizing feature and effect whether a product that promotes the presence of cocoa will be purchased.

31. Though it may be duplicative and unnecessary to indicate the presence of all optional ingredients used in standardized foods wherever the affected ingredient is declared, other than the ingredient list, this is not the case where an optional ingredient (alkali) is characterizing towards the affected ingredient (cocoa).

32. The representation “real cocoa” is false, deceptive and misleading because consumers expect “real cocoa” to indicate a higher quality cocoa than had the ingredient merely been accurately identified as “cocoa,” (minus the descriptor “real”), the term for cocoa between 10 and 22 percent fat.

33. By misrepresenting medium fat cocoa as “real cocoa,” consumers will expect the cocoa powder component to be nutritionally and organoleptically superior than it actually is.

34. Such a type of higher fat cocoa – above 22 percent – is referred to as breakfast cocoa,

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<sup>7</sup> Reaching for Real Ingredients: Avoiding the Artificial, Nielsen, CPG, FMCG & Retail, Sept. 6, 2016 <https://www.nielsen.com/us/en/insights/news/2016/reaching-for-real-ingredients-avoiding-the-artificial.html>

which has a more intense “chocolate-y” flavor.

35. The emphasis on “milk” – “milk’s favorite cookie” – reinforces the expectation that the cocoa contained in the Products will not contain nor be processed with artificial, non-cocoa ingredients, because reasonable consumers are familiar with milk being perhaps nature’s simplest and original food, unprocessed and pure.

36. The Products contain other representations which are misleading and deceptive.

37. As a result of the false and misleading labeling, defendant sold the Products at a premium price – no less than \$4.99 per 14.1 oz, excluding tax – compared to other similar products which are represented in a non-misleading way.

#### Jurisdiction and Venue

38. Jurisdiction is proper pursuant to 28 U.S.C. § 1332(d)(2).

39. Upon information and belief, the aggregate amount in controversy is more than \$5,000,000.00, exclusive of interests and costs.

40. This court has personal jurisdiction over defendant because it conducts and transacts business, contracts to supply and supplies goods within New York.

41. Venue is proper because plaintiff and many class members reside in this District and defendant does business in this District and State.

42. A substantial part of events and omissions giving rise to the claims occurred in this District.

#### Parties

43. Plaintiff is a citizen of Kings County, New York.

44. John and Jane Doe plaintiffs are citizens of the other 49 states.



45. Defendant is a Delaware limited liability company with co-principal places of business in Deerfield, Illinois and East Hanover, New Jersey and upon information and belief, no member is a citizen of New York.

46. During the class period, plaintiffs purchased one or more Products for personal consumption with the representations described herein, for no less than the price indicated, *supra*, excluding tax, within their districts and/or states.

47. Plaintiff paid this premium because prior to purchase, plaintiff saw and relied on the misleading representations.

48. Plaintiff would consider purchasing the Products again if there were assurances that the Products' representations were no longer misleading.

#### Class Allegations

49. The classes consist of all consumers in the following states: all, New York who purchased any Products subject to the actionable representations during the statutes of limitation.

50. A class action is superior to other methods for fair and efficient adjudication.

51. The class is so numerous that joinder of all members, even if permitted, is impracticable, as there are likely hundreds of thousands of members.

52. Common questions of law or fact predominate and include whether the representations were likely to deceive reasonable consumers and if plaintiff(s) and class members are entitled to damages.

53. Plaintiff's claims and the basis for relief are typical to other members because all were subjected to the same representations.

54. Plaintiff(s) is/are an adequate representative because his/her/their interests do not

conflict with other members.

55. No individual inquiry is necessary since the focus is only on defendant's practices and the class is definable and ascertainable.

56. Individual actions would risk inconsistent results, be repetitive and are impractical to justify, as the claims are modest.

57. Plaintiff(s) counsel is competent and experienced in complex class action litigation and intends to adequately and fairly protect class members' interests.

58. Plaintiff(s) seeks class-wide injunctive relief because the practices continue.

New York General Business Law ("GBL") §§ 349 & 350  
and Consumer Protection Statutes of Other States and Territories

59. Plaintiff and John and Jane Doe plaintiffs, representing the 49 other states where they reside and purchased the Products, incorporate by reference all preceding paragraphs and assert causes of action under the consumer protection statutes of all 50 states.

- a. Alabama Deceptive Trade Practices Act, Ala. Code § 8-19-1, *et. seq.*;
- b. Alaska Unfair Trade Practices and Consumer Protection Act, Ak. Code § 45.50.471, *et. seq.*;
- c. Arkansas Deceptive Trade Practices Act, Ark. Code § 4-88-101, *et. seq.*;
- d. California Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750 *et seq.* and Unfair Competition Law, Cal. Bus. Prof. Code §§ 17200- 17210 *et. seq.*;
- e. Colorado Consumer Protection Act, Colo Rev. Stat § 6-1-101, *et. seq.*;
- f. Connecticut Unfair Trade Practices Act, Conn. Gen Stat § 42-110a, *et. seq.*;
- g. Delaware Deceptive Trade Practices Act, 6 Del. Code § 2511, *et. seq.*;
- h. District of Columbia Consumer Protection Procedures Act, D.C. Code §§ 28-3901, *et. seq.*;

- i. Florida Deceptive and Unfair Trade Practices, Act *Florida Statutes* § 501.201, *et. seq.*;
- j. Georgia Fair Business Practices Act, §10-1-390 *et. seq.*;
- k. Hawaii Unfair and Deceptive Practices Act, Hawaii Revised Statutes § 480 1, *et. seq.* and Hawaii Uniform Deceptive Trade Practices Act, Hawaii Revised Statute § 481A-1, *et. seq.*;
- l. Idaho Consumer Protection Act, Idaho Code § 48-601, *et. seq.*;
- m. Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS § 505/1, *et. seq.*;
- n. Kansas Consumer Protection Act, Kan. Stat. Ann §§ 50 626, *et. seq.*;
- o. Kentucky Consumer Protection Act, Ky. Rev. Stat. Ann. §§ 367.110, *et. seq.*, and the Kentucky Unfair Trade Practices Act, Ky. Rev. Stat. Ann § 365.020, *et. seq.*;
- p. Louisiana Unfair Trade Practices and Consumer Protection Law, La. Rev. Stat. Ann. §§ 51:1401, *et. seq.*;
- q. Maine Unfair Trade Practices Act, 5 Me. Rev. Stat. § 205A, *et. seq.*, and Maine Uniform Deceptive Trade Practices Act, Me. Rev. Stat. Ann. 10, § 1211, *et. seq.*;
- r. Massachusetts Unfair and Deceptive Practices Act, Mass. Gen Laws ch. 93A;
- s. Michigan Consumer Protection Act, §§ 445.901, *et. seq.*;
- t. Minnesota Prevention of Consumer Fraud Act, Minn. Stat §§ 325F.68, *et. seq.*; and Minnesota Uniform Deceptive Trade Practices Act, Minn Stat. § 325D.43, *et. seq.*;
- u. Mississippi Consumer Protection Act, Miss. Code An. §§ 75-24-1, *et. seq.*;
- v. Missouri Merchandising Practices Act, Mo. Rev. Stat. § 407.010, *et. seq.*;
- w. Montana Unfair Trade Practices and Consumer Protection Act, Mont. Code § 30-14-101, *et. seq.*;
- x. Nebraska Consumer Protection Act, neb. Rev. Stat. § 59 1601 *et. seq.*, and the Nebraska

- Uniform Deceptive Trade Practices Act, Neb. Rev. Stat. § 87-301, *et. seq.*;
- y. Nevada Trade Regulation and Practices Act, Nev. Rev. Stat. §§ 598.0903, *et. seq.*;
- z. New Hampshire Consumer Protection Act, N.H. Rev. Stat. § 358-A:1, *et. seq.*;
- aa. New Jersey Consumer Fraud Act, N.J. Stat. Ann. §§ 56:8 1, *et. seq.*;
- bb. New Mexico Unfair Practices Act, N.M. Sta. Ann. §§ 57 12 1, *et. seq.*;
- cc. North Dakota Consumer Fraud Act, N.D. Cent. Code §§ 51 15 01, *et. seq.*;
- dd. Ohio Rev. Code Ann. §§ 1345.02 and 1345.03; Ohio Admin. Code §§ 109;
- ee. Oklahoma Consumer Protection Act, Okla. Stat. 15 § 751, *et. seq.*;
- ff. Oregon Unfair Trade Practices Act, Ore. Rev. Stat. § 646.608(e) & (g);
- gg. Rhode Island Unfair Trade Practices and Consumer Protection Act, R.I. Gen. Laws § 6-13.1-1 *et. seq.*;
- hh. South Carolina Unfair Trade Practices Act, S.C. Code Law § 39-5-10, *et. seq.*;
- ii. South Dakota's Deceptive Trade Practices and Consumer Protection Law, S.D. Codified Laws §§ 37 24 1, *et. seq.*;
- jj. Tennessee Consumer Protection Act, Tenn. Code Ann. § 47-18-101 *et. seq.*;
- kk. Vermont Consumer Fraud Act, Vt. Stat. Ann. Tit. 9, § 2451, *et. seq.*;
- ll. Washington Consumer Fraud Act, Wash. Rev. Code § 19.86/0101, *et. seq.*;
- mm. West Virginia Consumer Credit and Protection Act, West Virginia Code § 46A-6-101, *et. seq.*;
- nn. Wisconsin Deceptive Trade Practices Act, Wis. Stat. §§ 100.18, *et. seq.*

60. Defendant's representations and omissions are false, unfair, deceptive and misleading and are not unique to the parties and have a broader impact on the public.

61. Defendant's acts, practices, advertising, labeling, packaging, representations and omissions are not unique to the parties and have a broader impact on the public.

62. Plaintiff desired to purchase products which were as described by defendant and expected by reasonable consumers, given the product type.

63. The representations and omissions were relied on by plaintiff and class members, who paid more than they would have, causing damages.

#### Negligent Misrepresentation

64. Plaintiff incorporates by references all preceding paragraphs.

65. Defendant misrepresented the substantive, health, quality and nutritional attributes of the Products' composition.

66. Defendant had a duty to disclose and/or provide non-deceptive labeling of the Products and knew or should have known same were false or misleading.

67. This duty is based on defendant's position as an entity which has held itself out as having special knowledge in the production, service and/or sale of the product type.

68. Defendant negligently misrepresented and/or negligently omitted material facts.

69. Plaintiff reasonably and justifiably relied on these negligent misrepresentations and omissions, which served to induce and did induce, the purchase of the Products.

70. Plaintiff and class members would not have purchased the Products or paid as much if the true facts had been known, thereby suffering damages.

#### Breach of Express Warranty and Implied Warranty of Merchantability

71. Plaintiff incorporates by references all preceding paragraphs.

72. Defendant manufactures and sells products which contain almonds.

73. The Products warranted to plaintiff and class members that they possessed substantive, functional, nutritional, compositional, organoleptic, sensory, physical and other attributes which they did not.

74. Plaintiff desired to purchase products which were as described by defendant – made with cocoa in its most basic form.

75. Defendant sells cookies with “real cocoa” ingredients, purporting to be the ingredient type in its most basic form available such that it can be functionally included in the Products.

76. Defendant had a duty to disclose and/or provide a non-deceptive description of the Products and knew or should have known same were false or misleading.

77. This duty is based, in part, on defendant’s position as one of the largest users of cocoa in the world.

78. The Products did not conform to their affirmations of fact and promises, wholly due to defendant’s actions.

79. The Products were not merchantable in their final sale form.

80. Plaintiff and class members relied on defendant’s claims, paying more than they would have.

#### Fraud

81. Plaintiff incorporates by references all preceding paragraphs.

82. Defendant’s purpose was to mislead consumers who seek products which feature “real” ingredients – “real” referring to the ingredient in its least modified form such that it can be

incorporated into a final product.

83. Defendant's intent was to secure economic advantage in the marketplace against competitors.

84. Plaintiff and class members observed and relied on defendant's claims, causing them to pay more than they would have, entitling them to damages.

#### Unjust Enrichment

85. Plaintiff incorporates by references all preceding paragraphs.

86. Defendant obtained benefits and monies because the Products were not as represented and expected, to the detriment and impoverishment of plaintiff and class members, who seek restitution and disgorgement of inequitably obtained profits.

#### Jury Demand and Prayer for Relief

Plaintiff demands a jury trial on all issues.

**WHEREFORE**, plaintiff prays for judgment:

1. Declaring this a proper class action, certifying plaintiff(s) as representative and the undersigned as counsel for the class;
2. Entering preliminary and permanent injunctive relief by directing defendant to correct such practices to comply with the law;
3. Awarding monetary damages and interest, including treble and punitive damages, pursuant to the common law, GBL and other statutory claims;
4. Awarding costs and expenses, including reasonable fees for plaintiff's attorneys and experts; and
5. Such other and further relief as the Court deems just and proper.

Dated: April 17, 2019

Respectfully submitted,

Sheehan & Associates, P.C.

/s/Spencer Sheehan

Spencer Sheehan (SS-8533)

505 Northern Blvd., Suite 311

Great Neck, NY 11021

(516) 303-0552

spencer@spencersheehan.com

Joshua Levin-Epstein



1:19-cv-02249  
United States District Court  
Eastern District of New York

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Charles Harris individually and on behalf of all others similarly situated

Plaintiff

- against -

Mondelēz Global LLC

Defendant

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Complaint

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Sheehan & Associates, P.C.  
505 Northern Blvd., #311  
Great Neck, NY 11021  
Tel: (516) 303-0052  
Fax: (516) 234-7800

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Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information, and belief, formed after an inquiry reasonable under the circumstances, the contentions contained in the annexed documents are not frivolous.

Dated: April 17, 2019

/s/ Spencer Sheehan  
Spencer Sheehan

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
Charles Harris individually and on behalf of all others similarly situated
(b) County of Residence of First Listed Plaintiff Kings
(c) Attorneys (Firm Name, Address, and Telephone Number)
Sheehan & Associates, P.C., 505 Northern Boulevard, Suite 311, Great Neck, NY 11021, (516) 303-0552

DEFENDANTS
Mondelēz Global LLC
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1
2 2
3 3
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

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:
False advertising

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 04/17/2019
SIGNATURE OF ATTORNEY OF RECORD /s/ Spencer Sheehan

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

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Spencer Sheehan, counsel for plaintiff, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

**DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1**

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

**RELATED CASE STATEMENT (Section VIII on the Front of this Form)**

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

**NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)**

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No
- 2.) If you answered "no" above:
  - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No
  - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? \_\_\_\_\_

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

**BAR ADMISSION**

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

- Yes
- No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

- Yes (If yes, please explain)
- No

I certify the accuracy of all information provided above.

Signature: /s/ Spencer Sheehan

UNITED STATES DISTRICT COURT

for the
Eastern District of New York

Charles Harris individually and on behalf of all others
similarly situated

Plaintiff(s)

v.

Mondelēz Global LLC

Defendant(s)

Civil Action No. 1:19-cv-02249

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Mondelēz Global LLC
C/O THE CORPORATION TRUST COMPANY
CORPORATION TRUST CENTER 1209 ORANGE ST
WILMINGTON DE 19801

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Sheehan & Associates, P.C. 505 Northern Blvd., #311, Great Neck, NY 11021

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER
CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk