

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

RUTH SMITH, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

CUISINE SOLUTIONS, INC., a Delaware
corporation,

Defendant.

CASE NO.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff Ruth Smith (“Plaintiff” or “Smith”) brings this Class Action Complaint and Demand for Jury Trial (“Complaint”) against Defendant Cuisine Solutions, Inc. (“Defendant” or “Cuisine Solutions”) to stop Defendant’s practice of selling food products with inaccurate Nutrition Facts labels and to obtain redress for all persons injured by its conduct. Plaintiff, for her Complaint, alleges as follows upon personal knowledge as to herself and her own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by her attorneys.

NATURE OF THE ACTION

1. Defendant Cuisine Solutions is a food manufacturer based in Sterling, Virginia.
2. Defendant claims to specialize in the sous-vide method of cooking and meal preparation.
3. One of Defendant’s food products is its Sous-Vide Oatmeal Bites.

4. Defendant formulated, manufactured, warranted, advertised, and sold its Sous-Vide Oatmeal Bites through the United States.

5. Unfortunately for consumers, who rely upon Defendant's advertising and product label claims in deciding to purchase Defendant's Sous-Vide Oatmeal Bites, the packaging of Defendant's Sous-Vide Oatmeal Bites do not contain accurate Nutrition Facts label statements.

6. Specifically, Defendant's Nutrition Facts label statements on the packaging of its Sous-Vide Oatmeal Bites significantly understate the Daily Reference Value ("DRV") of Total Carbohydrate in a serving of Defendant's Sous-Vide Oatmeal Bites.

7. Federal regulations, 21 C.F.R. §101.9(c)(9), provide the DRVs, which are based on a daily caloric intake of 2000 calories, for various nutrients. One such nutrient is Total Carbohydrates. The DRV for Total Carbohydrates provided by federal regulations is 275 grams for adults and children 4 years of age or older.

8. Defendant's Nutrition Facts label statements on the packaging of its Sous-Vide Oatmeal Bites states that one serving contains 41 grams of Total Carbohydrates, yet represents that the Total Carbohydrates in a serving of its Sous-Vide Oatmeal Bites represents only 1% of the DRV. This is a gross understatement: 1% of the DRV for Total Carbohydrates would be 2.75 grams, not 41 grams as Defendant inaccurately and deceptively represents.

9. Thus, Defendant's Nutrition Facts label statements on its Sous-Vide Oatmeal Bites understates the DRV in a serving by nearly 15 fold.

10. Defendant's overstatement of key nutritional information is so substantial and deviates well beyond the bounds of any margin of error, that had Plaintiff and members of the Class known of the true nutritional value of Defendant's Sous-Vide Oatmeal Bites, they would not have purchased the product.

11. Defendant had no reasonable basis to believe that the Nutrition Fact statements on its labels were accurate and therefore knew, or should have known, that the labeling on its Sous-Vide Oatmeal Bites was deceptive, misleading, and failed to comply with applicable laws and regulations. Nevertheless, Defendant continues to advertise, distribute, label, market, and sell its Sous-Vide Oatmeal Bites.

12. As a result of Defendant's unlawful and deceptive conduct, Plaintiff Smith and the members of the alleged Class seek actual and statutory damages, injunctive relief, declaratory relief, costs, and reasonable attorneys' fees.

PARTIES

13. Plaintiff Ruth Smith is a natural person and citizen of the Commonwealth of Virginia.

14. Defendant Cuisine Solutions, Inc. is a corporation organized and existing under the laws of the State of Delaware with headquarters located at 22445 Sous Vide Lane, Sterling, Virginia 20166. Defendant conducts business throughout the Commonwealth of Virginia and this District.

JURISDICTION AND VENUE

15. This Court has subject matter jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332 ("CAFA"), because the alleged Class consists of over 100 persons, there is minimal diversity, and the claims of the class members when aggregated together exceeds \$5 million. Further, none of the exceptions to CAFA applies.

16. This Court has personal jurisdiction over Cuisine Solutions because it is registered to conduct business in the Commonwealth of Virginia, it conducts significant amounts

of business transactions within this District, it is headquartered in this District, and the wrongful conduct giving rise to this case occurred in, was directed to, and/or emanated from this District.

17. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because both Plaintiff and Defendant reside in this District and the causes of action arose, in substantial part, in this District.

COMMON FACTUAL ALLEGATIONS

18. The FDA is responsible for assuring that foods sold in the United States are properly labeled.

19. The Food, Drug, and Cosmetic Act (“FDCA”), 21 U.S.C. § 301, *et seq.*, and the Fair Packaging and Labeling Act (“FPLA”) are the federal statutes governing food products under the FDA’s purview.

20. The National Labeling and Education Act (“NLEA”), which amended the FDCA, requires most food to bear food labels and requires that the labels contain nutrient content claims that comply with federally-mandated requirements.

21. Defendant’s Sous-Vide Oatmeal Bites constitutes a food as that term is defined under federal law and thus must comply with the FDCA’s requirements, as well as complying with the related FDA regulations codified at 21 C.F.R. § 101.9.

22. Defendant’s misleading statements on its labels render its Sous-Vide Oatmeal Bites misbranded as that term is defined in 21 U.S.C. § 343, *et. seq.*

FACTS SPECIFIC TO PLAINTIFF SMITH

23. Plaintiff Smith fell victim to Defendant’s mislabeled Sous-Vide Oatmeal Bites.

24. Smith purchased Defendant’s Sous-Vide Oatmeal Bites on February 21, 2020 at a Costco store located at 21398 Price Cascade Plaza in Sterling, Virginia.

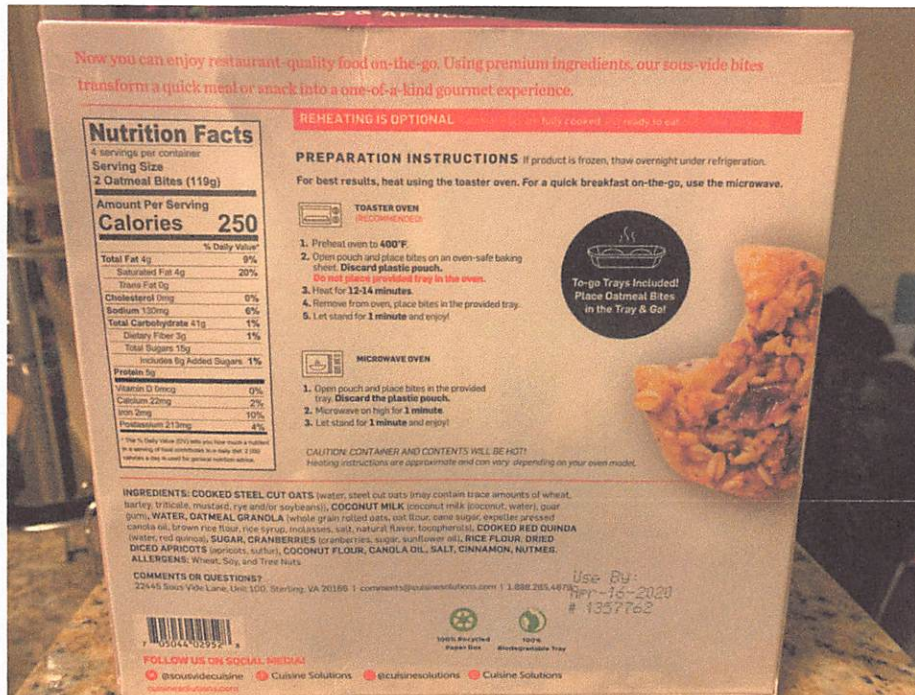
25. Smith purchased Defendant's Sous-Vide Oatmeal Bites for her own consumption.

26. Smith purchased Defendant's Sous-Vide Oatmeal Bites in part based on the aforementioned misrepresentations concerning the Sous-Vide Oatmeal Bites' nutrient content.

27. Plaintiff would not have purchased and consumed the Sous-Vide Oatmeal Bites had she known the truth about the product's nutrient content.

28. Below are photographs of the Sous-Vide Oatmeal Bites purchased by Plaintiff:





29. Smith is a member of the alleged Class pleaded herein, who all purchased Defendant's Sous-Vide Oatmeal Bites during the relevant time period.

30. Smith and the other members of the Class were misled by Defendant's misrepresentations and would not have purchased the Sous-Vide Bites if they had not been deceived by the inaccurate nutrient label.

CLASS ALLEGATIONS

31. Plaintiff Smith brings this action pursuant to Federal Rule of Civil Procedure 23(a), (b)(2), and (b)(3) on behalf of herself and two classes defined as follows:

Sous-Vide Oatmeal Bite Purchaser Class: All persons in the United States who from the beginning of any applicable statutory limitations period through the present purchased Defendant's Sous-Vide Oatmeal Bites where the nutrient label on the packaging of the Sous-Vide Oatmeal Bites misrepresented the DRV of Total Carbohydrates contained in a serving.

32. The following people are excluded from the Class: any Judge or Magistrate presiding over this action and members of their families; (2) Defendant, Defendant's subsidiaries, parents, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and its current or former employees, officers and directors; (3) persons who properly execute and file a timely request for exclusion from the Classes; (4) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; (5) Plaintiff's counsel and Defendant's counsel; and (6) the legal representatives, successors, and assigns of any such excluded persons. Plaintiff anticipates the potential need to amend the Class Definition following the completion of class discovery regarding the size and scope of the Class.

33. **Numerosity:** The exact size of the Class is unknown and not available to Plaintiff at this time, but individual joinder is impracticable. On information and belief, there are hundreds or thousands of consumers who purchased Defendant's Sous-Vide Oatmeal Bites and who fall into the definition of the Class. Members of the Classes can be easily identified through Dominion Capital Mortgage's records and by reference to objective criteria.

34. **Commonality:** There are several questions of law and fact common to the claims of Plaintiff and the Class on which every class member's claim will either succeed or fail, and which will be proven using common evidence. Such common questions for the Class include, without limitation:

- (a) Whether the product was mislabeled;
- (b) Whether the DRV of Total Carbohydrates on the nutrient label of the product is accurate;
- (c) Whether Defendant violated federal labeling requirements;

- (d) Whether Defendant breached express warranties to Plaintiff and Members of the Class;
- (e) Whether Defendant violated the Virginia Consumer Protection Act;
- (f) Whether Defendant was unjustly enriched at the expense of Plaintiff and the Class; and
- (g) Whether Plaintiff and the Class are entitled to injunctive relief.

35. **Typicality:** Plaintiff's claims are typical of the claims of the other members of the Class. Plaintiff is a member of the Class, and if Defendant's labeling violated the law as it relates to Plaintiff then it violated the law as it relates to other Class members. Plaintiff and the Classes sustained damages as a result of Defendant's uniform wrongful conduct during transactions with Plaintiff and the Class.

36. **Adequate Representation:** Plaintiff will fairly and adequately represent and protect the interests of the Class, and has retained counsel competent and experienced in complex class actions. Plaintiff has no interest antagonistic to those of the Class, and Defendant has no defenses unique to Plaintiff.

37. **Policies Generally Applicable to the Classes:** This class action is appropriate for certification because Defendant has acted or refused to act on grounds generally applicable to the Classes as respective wholes, thereby requiring the Court's imposition of uniform relief to ensure compatible standards of conduct toward the Class members, and making final injunctive relief appropriate with respect to the Classes as respective wholes. Defendant's practices challenged herein apply to and affect the Class members uniformly, and Plaintiff's challenge of those practices hinges on Defendant's conduct with respect to the Classes as respective wholes, not on facts or law applicable only to Plaintiff.

38. **Predominance:** The common questions of law and fact set forth above predominate over any individual issues.

39. **Superiority and Manageability:** This case is also appropriate for class certification because class proceedings are superior to all other available methods for the fair and efficient adjudication of this controversy given that joinder of all parties is impracticable. The damages suffered by the individual members of the Class will likely be relatively small, especially given the burden and expense of individual prosecution of the complex litigation necessitated by Defendant's actions. Thus, it would be virtually impossible for the individual members of the Class to obtain effective relief from Defendant's misconduct. Even if members of the Class could sustain such individual litigation, it would still not be preferable to a class action, because individual litigation would increase the delay and expense to all parties due to the complex legal and factual controversies presented in this Complaint. By contrast, a class action presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court. Economies of time, effort and expense will be fostered and uniformity of decisions ensured.

FIRST CAUSE OF ACTION
Breach of Express Warranties
(On behalf of Plaintiff and the Class)

37. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

38. Defendant made express warranties and representations in respect to the Sous-Vide Oatmeal Bites' nutrient content, namely the DRV percentage of Total Carbohydrates contained in a serving.

39. Defendant's labeling on its Sous-Vide Oatmeal Bites packaging were made directly to consumers and end purchasers of the product, constitute express warranties, and

became part of the basis of the bargain between the Parties.

40. Thus, a collective “express warranty” was created that the Sous-Vide Oatmeal Bites would conform to Defendant’s affirmations and promises.

41. Defendant breached express warranties about its Sous-Vide Oatmeal Bites because Defendant’s statements about the product were false and the product doesn’t conform to Defendant’s affirmations and promises, as described above.

42. Defendant’s conduct constitutes a breach of express warranties under UCC 2-313, as adopted by the follow state statutes:

Ala. Code § 7-2-313, et seq.; Alaska Stat. § 45.02.313, et seq.; Ariz. Rev. Stat. § 47-2313, et seq.; Ark. Code § 4-2-313, et seq.; Cal. Com. Code § 2313, et seq.; Colo. Rev. Stat. § 4-2-313, et seq.; Conn. Gen. Stat. § 42a-2-313, et seq.; 6 Del. C. § 2-313, et seq.; D.C. Code § 28:2-313, et seq.; Fla. Stat. § 672.313, et seq.; O.C.G.A. § 11-2-313, et seq.; Haw. Rev. Stat. § 490:2-313, et seq.; Idaho Code § 28-2-313, et seq.; 810 Ill. Comp. Stat. 5/2-313, et seq.; Ind. Code § 26-1-2-313, et seq.; Iowa Code § 554.2313, et seq.; Kan. Stat. § 84-2-313, et seq.; Ky. Rev. Stat. § 355.2-313, et seq.; La. Rev. Stat § 9:2800.53(6) , et seq.; 11 M.R.S.A. § 2-313, et seq.; Md. Code Ann., Com. Law § 2-313, et seq.; Mass. Code 106, § 2-313, et seq.; Mich. Comp. Laws 440.2313, et seq.; Minn. Stat. § 336.2-313, et seq.; Miss. Code § 75-2-313, et seq.; Mo. Rev. Stat. § 400.2-313, et seq.; Mont. Code § 30-2-313, et seq.; Neb. U.C.C. § 2-313, et seq.; Nev. Rev. Stat. § 104.2313, et seq.; N.H. Rev. Stat. § 382-A:2-313, et seq.; N.J. Stat. § 12A:2-313, et seq.; N.M. Stat. § 55-2-313, et seq.; N.Y. U.C.C. § 2-313, et seq.; N.C. Gen. Stat. § 25-2-313, et seq.; N.D. Cent. Code § 41-02-30, et seq.; Ohio Rev. Code § 1302.26, et seq.; Okla. Stat. Tit. 12A, § 2-313, et seq.; Or. Rev. Stat. § 72.3130, et seq.; 13 Pa. Cons. Stat. § 2313, et seq.; R.I. Gen. Laws § 6A-2-313, et seq.; S.C. Code § 36-2-313, et seq.; S.D. Codified Laws § 57A-2-313, et seq.; Tenn. Code § 47-2- 313, et seq.; Tex. Bus. & Com. Code § 17.50; V.T.C.A., Bus. & C. § 2.313, et seq.; Utah Code § 70A-2-313, et seq.; Vt. Stat. Tit. 9A, § 2-313, et seq.; Va. Code § 8.2-313, et seq.; Wash. Rev. Code § 62A.2-313, et seq.; W. Va. Code § 46-2-313, et seq.; Wis. Stat. § 402.313, et seq.; and Wyo. Stat. § 34.1-2-313, et seq.

43. As a result of Defendant’s breach of warranty, Plaintiff and the Class have suffered actual damages in an amount to be determined at trial.

SECOND CAUSE OF ACTION
Unjust Enrichment
(On behalf of Plaintiff and the Class)

44. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

45. Plaintiff and the other members of the Class conferred benefits on Defendant by purchasing its Sous-Vide Oatmeal Bites.

46. Defendant has been unjustly enriched in retaining the revenues derived from the purchases of the Sous-Vide Oatmeal bites by Plaintiff and the Class.

47. Retention of those monies under these circumstances is unjust and inequitable because Defendant's labeling of the product was misleading to consumers, which caused damages to Plaintiff and the Class because they would not have purchased the product (or would have paid less for the product) had they known the true nutrient facts.

48. Because Defendant's retention of the non-gratuitous benefits conferred on it by Plaintiff and the Class is unjust and inequitable, Defendant must pay restitution to Plaintiff and the Class, as Ordered by the Court.

THIRD CAUSE OF ACTION
Violations of Virginia Consumer Protection Act, 59.1-200, et. seq.
(On behalf of Plaintiff and the Class)

49. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

50. Va. Code Ann. § 59.1-200(A)(5) prohibits "[m]isrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits."

51. Va. Code Ann. § 59.1-200(A)(6) prohibits "[m]isrepresenting that goods or services are of a particular standard, quality, grade, style, or model."

52. Va. Code Ann. § 59.1-200(A)(14) prohibits "[u]sing any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction."

53. Defendant's mislabeling of its Sous-Vide Oatmeal Bites, as described in this Complaint, violates such provisions.

54. Cuisine Solutions, Inc. is headquartered in Virginia and its unlawful conduct described herein thus falls under the purview of the Virginia Consumer Protection Act.

55. Under Va. Code Ann. § 59.1–204, Plaintiff and the Class are entitled to statutory damages in the amount of \$500 per violation. If the violations are deemed willful, Plaintiff and the Class are entitled to statutory damages in the amount of \$1,000 per violation. Plaintiff and the Class are also entitled to the recovery of costs and reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Ruth Smith, individually and on behalf of the Class, prays for the following relief:

1. An order certifying the Class as defined above, appointing Plaintiff Ruth Smith as the representative of the Class and appointing her counsel as Class Counsel;
2. A declaratory judgment declaring that Defendant's conduct violates federal labeling requirements,
3. An award of actual monetary loss from such violations or the sum of five hundred dollars (\$500.00) for each violation, as applicable, to be increased to \$1,000 in the VCPA context in the event the Court finds that Defendant has acted willfully, to be paid into a common fund for the benefit of the Plaintiff and the other Class Members;
4. An injunction requiring Defendant and its agents to cease selling mislabeled products, and otherwise protecting the interests of the Classes;

5. An award of reasonable attorneys' fees and costs to be paid from the common fund; and

6. Such other and further relief that the Court deems reasonable and just.

JURY DEMAND

Plaintiff requests a trial by jury of all claims that can be so tried.

Respectfully submitted,

Dated: March 10, 2020

RUTH SMITH, individually and on behalf of all others similarly situated,

By: /s/ Francis J. Driscoll, Jr.
One of Plaintiff's Attorneys

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Attorneys for Plaintiff and the Classes

* *Pro Hac Vice* Admission to Be Sought

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
Ruth Smith, individually and on behalf of all others similarly situated
(b) County of Residence of First Listed Plaintiff Fairfax County, VA
(c) Attorneys (Firm Name, Address, and Telephone Number)
Law Office of Frank J. Driscoll Jr. PLLC, frank@driscolllawoffice.com
4669 South Blvd., Suite 107, Virginia Beach, VA 23452
Telephone: 757-321-0054

DEFENDANTS
Cuisine Solutions, Inc.
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)
PTF DEF
Citizen of This State X 1 1 Incorporated or Principal Place of Business In This State
Citizen of Another State 2 2 Incorporated and Principal Place of Business In Another State
Citizen or Subject of a Foreign Country 3 3 Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT: 110 Insurance, 120 Marine, 130 Miller Act, 140 Negotiable Instrument, 150 Recovery of Overpayment & Enforcement of Judgment, 151 Medicare Act, 152 Recovery of Defaulted Student Loans (Excludes Veterans), 153 Recovery of Overpayment of Veteran's Benefits, 160 Stockholders' Suits, 190 Other Contract, 195 Contract Product Liability, 196 Franchise
TORTS: PERSONAL INJURY: 310 Airplane, 315 Airplane Product Liability, 320 Assault, Libel & Slander, 330 Federal Employers' Liability, 340 Marine, 345 Marine Product Liability, 350 Motor Vehicle, 355 Motor Vehicle Product Liability, 360 Other Personal Injury, 362 Personal Injury - Medical Malpractice; 365 Personal Injury - Product Liability, 367 Health Care/Pharmaceutical Personal Injury Product Liability, 368 Asbestos Personal Injury Product Liability; PRISONER PETITIONS: Habeas Corpus: 463 Alien Detainee, 510 Motions to Vacate Sentence, 530 General, 535 Death Penalty; Other: 540 Mandamus & Other, 550 Civil Rights, 555 Prison Condition, 560 Civil Detainee - Conditions of Confinement
FORFEITURE/PENALTY: 625 Drug Related Seizure of Property 21 USC 881, 690 Other
LABOR: 710 Fair Labor Standards Act, 720 Labor/Management Relations, 740 Railway Labor Act, 751 Family and Medical Leave Act, 790 Other Labor Litigation, 791 Employee Retirement Income Security Act
IMMIGRATION: 462 Naturalization Application, 465 Other Immigration Actions
BANKRUPTCY: 422 Appeal 28 USC 158, 423 Withdrawal 28 USC 157
PROPERTY RIGHTS: 820 Copyrights, 830 Patent, 835 Patent - Abbreviated New Drug Application, 840 Trademark
SOCIAL SECURITY: 861 HIA (1395ff), 862 Black Lung (923), 863 DIWC/DIWW (405(g)), 864 SSID Title XVI, 865 RSI (405(g))
FEDERAL TAX SUITS: 870 Taxes (U.S. Plaintiff or Defendant), 871 IRS—Third Party 26 USC 7609
OTHER STATUTES: 375 False Claims Act, 376 Qui Tam (31 USC 3729(a)), 400 State Reapportionment, 410 Antitrust, 430 Banks and Banking, 450 Commerce, 460 Deportation, 470 Racketeer Influenced and Corrupt Organizations, 480 Consumer Credit (15 USC 1681 or 1692), 485 Telephone Consumer Protection Act, 490 Cable/Sat TV, 850 Securities/Commodities/Exchange, 890 Other Statutory Actions, 891 Agricultural Acts, 893 Environmental Matters, 895 Freedom of Information Act, 896 Arbitration, 899 Administrative Procedure Act/Review or Appeal of Agency Decision, 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
X 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 U.S.C. 1332(d), Class Action Fairness Act
Brief description of cause:
Breach of express warranty, unjust enrichment, and VCPA violations related to nutrition label misrepresentation

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

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

DATE 03/06/2020 SIGNATURE OF ATTORNEY OF RECORD /s/ Francis J. Driscoll, Jr.

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.
 - 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.