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United States District Court  
Eastern District of New York

1:20-cv-04580

Yulia Lugo, individually and on behalf of all  
others similarly situated,

Plaintiff,

- against -

Celestial Seasonings, Inc.,

Defendant

Complaint

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

1. Celestial Seasonings, Inc. (“defendant”) manufactures, distributes, markets, labels and sells herbal tea bags labeled as “Honey Vanilla Chamomile Herbal Tea” (“Product”).
2. The Product is available to consumers from retail and online stores of third-parties and is sold boxes of 20 tea bags (1.1 OZ).
3. The relevant front label representations include “Herbal Tea,” “Honey Vanilla Chamomile” and a picture of a honey dipper.



4. Though the Product is an herbal blend tea, it has two characterizing or main flavors – honey and vanilla.

5. The representations are misleading because the Product contains trace or a *de minimis* amount of honey and vanilla and the front label does not disclose this to consumers.

6. Consumer preference is for foods which get their taste from characterizing food ingredients, i.e., honey flavor from honey and vanilla flavor from vanilla beans.

#### I. Product Contains Minimal Real Vanilla

7. Natural flavors “almost always cost[s] much more than an artificial flavor,” so companies and consumers are willing to pay higher prices for the real thing – orange flavor from oranges and vanilla flavor from vanilla, as opposed to orange flavor synthesized from lemons or vanillin (the main flavor molecule in vanilla) derived from wood pulp or petroleum derivatives.

8. Nielsen has reported that 62% of consumers say they try to avoid artificial flavors.<sup>1</sup>

9. Another study by New Hope Network concludes that “71% of consumers today are avoiding artificial flavors.”<sup>2</sup>

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<sup>1</sup> Nielsen, [Reaching For Real Ingredients: Avoiding The Artificial](#), Sept. 6, 2016.

<sup>2</sup> Alex Smolokoff, [Natural color and flavor trends in food and beverage](#), Natural Products Insider, Oct. 11, 2019.

10. Label Insight determined that 76% of consumers avoid products with artificial flavors.<sup>3</sup>

11. Consumers want vanilla taste in vanilla flavored products to come from a real source, *i.e.*, from vanilla from vanilla beans.

12. Flavoring ingredients, especially for products labeled as vanilla, are typically the most expensive ingredient in a food, and vanilla has reached record high prices in recent years.<sup>4</sup>

13. Demand for real vanilla “has been steadily increasing...due to consumer demand for natural foods that are free of artificial ingredients.”<sup>5</sup>

14. According to one flavor supplier, today’s consumers “want real vanilla, not imitation [vanilla] flavoring.”

15. Vanilla’s “desirable flavor attributes...make it one of the most common ingredients used in the global marketplace, whether as a primary flavor, as a component of another flavor, or for its desirable aroma qualities.”<sup>6</sup>

16. Vanilla’s unique flavor cannot be duplicated by science due to over 200 compounds scientists have identified, including volatile constituents such as “acids, ethers, alcohols, acetals, heterocyclics, phenolics, hydrocarbons, esters and carbonyls.”<sup>7</sup>

17. In early 2018, in response to rampant misleading labeling of vanilla products, the Flavor and Extract Manufacturers Association of the United States (“FEMA”), representing the flavor industry, urged companies to truthfully label vanilla foods so consumers are not misled. *See*

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<sup>3</sup> Thea Bourianne, [Exploring today’s top ingredient trends and how they fit into our health-conscious world](#), March 26-28, 2018.

<sup>4</sup> Finbarr O’Reilly, [Precious as Silver, Vanilla Brings Cash and Crime to Madagascar](#), New York Times, Sept. 4, 2018.

<sup>5</sup> Chagrin Valley Soap & Salve Company, FAQs, [Why Are The Prices of Vanilla Bean Products Always Increasing?](#)

<sup>6</sup> Daphna Havkin-Frenkel, F.C. Bellanger, Eds., *Handbook of Vanilla Science and Technology*, Wiley, 2018; Kristiana Lalou [Queen of flavors: Vanilla rises above transparency concerns to lead category](#), Food Ingredients First, Sept. 3, 2019 (describing vanilla as “versatile”).

<sup>7</sup> Arun K. Sinha et al., “[A comprehensive review on vanilla flavor: extraction, isolation and quantification of vanillin and other constituents](#),” *International Journal of Food Sciences and Nutrition* 59.4 (2008): 299-326.

John B. Hallagan and Joanna Drake, FEMA, “[Labeling Vanilla Flavorings and Vanilla-Flavored Foods in the U.S.](#),” *Perfumer & Flavorist*, Vol. 43 at p. 46, Apr. 25, 2018 (“Hallagan & Drake”).<sup>8</sup>

18. FEMA’s analysis noted that the use of fake vanilla has been a scourge since this flavoring was first discovered.

19. In the 1960s, standards for vanilla products were established to end practices which “deprive the consumer of value the product is represented to have, and for which the consumer pays,” such as “the widespread and exceedingly serious adulteration of vanilla extracts that are now labeled ‘pure.’”<sup>9</sup>

20. The vanilla standards include exclusively vanilla ingredients like vanilla extract and combinations of vanilla extract and the primary flavoring substance in vanilla beans, vanillin.

21. The purpose of the vanilla regulations was to “require that food products be labeled accurately so that consumers can determine whether the product is flavored with a vanilla flavoring derived from vanilla beans, in whole or in part, or whether the food’s vanilla flavor is provided by flavorings not derived from vanilla beans.”<sup>10</sup>

22. According to FEMA, the general flavor regulations do not apply to foods characterized and labeled as “vanilla:”

It is important to emphasize that these [at 21 CFR Sections 101.22(i)(1), (2) and (3)] regulations apply only to foods that are not subject to a federal standard of identity.

...

These regulations, found at 21 CFR Section 101.22, apply to all foods except for those subject to a federal standard of identity and this has often resulted in some confusion with the standards governing vanilla flavorings...that have their own requirements for proper labeling as required in FFDC A Section 403.

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<sup>8</sup> Hallagan and Drake, “There are many current examples of food products that are labeled as ‘vanilla’ that are clearly mislabeled and therefore in violation of FDA regulations.”

<sup>9</sup> Letter from McCormick & Company Inc. to HEW Secretary, January 15, 1960.

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

23. Unfortunately for consumers, the Product’s “vanilla” and “honey” representations are false and misleading because instead of listing honey and vanilla extract, it contains “Natural Honey Flavor with Other Natural Flavors.”

**INGREDIENTS: CHAMOMILE, ORANGE PEEL, NATURAL HONEY FLAVOR WITH OTHER NATURAL FLAVORS, LICORICE, ROASTED CHICORY AND LEMONGRASS.**

**INGREDIENTS:** Chamomile, Orange Peel, Natural Honey Flavor with Other Natural Flavors, Licorice, Roasted Chicory, and Lemon Grass.

24. Listing “Natural Honey Flavor with Other Natural Flavors” means the honey and vanilla taste are not derived exclusively or even predominantly from honey and vanilla sources, because if they were, the ingredient list would indicate separately honey and vanilla extract.

25. Though “honey flavor” may contain actual honey, it will only contain isolated compounds of honey as opposed to the ingredient honey which contains all of the properties and taste of honey.

26. Though “other natural flavors” may provide some vanilla taste, it contains a minute amount of real vanilla and isolated vanilla compounds – artificial vanilla not from vanilla beans.

27. Consumers will not feel they need to turn over the box to double check the ingredient list because the lack of any qualifying terms, i.e., “flavored,” or “natural flavors,” on the front label gives them the impression that the flavor is only from the characterizing ingredients, honey and vanilla.

28. The unqualified “honey” and “vanilla” representations on the Product caused consumers, like Plaintiff, to believe that the Product’s honey and vanilla taste comes predominantly, if not exclusively, from honey and vanilla.

29. Defendant knows consumers will pay more for the Product because the front label

only states “honey” and “vanilla.”

30. Defendant’s omission and failure to disclose the absence of real honey and vanilla on the front label is deceptive and misleading to consumers.

31. Defendant’s branding and packaging of the Product is designed to – and does – deceive, mislead, and defraud plaintiff and consumers.

32. Defendant sold more of the Product and at higher prices than it would have in the absence of this misconduct, resulting in additional profits at the expense of consumers.

33. The value of the Product that plaintiff purchased and consumed was materially less than its value as represented by defendant.

34. Had plaintiff and class members known the truth, they would not have bought the Product or would have paid less for them.

35. As a result of the false and misleading labeling, the Product is an sold at a premium price, approximately no less than \$2.79 per 1.1 OZ, excluding tax, compared to other similar products represented in a non-misleading way, and higher than the price of the Product if it were represented in a non-misleading way.

#### Jurisdiction and Venue

36. Jurisdiction is proper pursuant to Class Action Fairness Act of 2005 (“CAFA”). 28 U.S.C. § 1332(d)(2)

37. Under CAFA, district courts have “original federal jurisdiction over class actions involving (1) an aggregate amount in controversy of at least \$5,000,000; and (2) minimal diversity[.]” *Gold v. New York Life Ins. Co.*, 730 F.3d 137, 141 (2d Cir. 2013).

38. Plaintiff Yulia Lugo is a citizen of New York.

39. Defendant Celestial Seasonings, Inc., is a Delaware corporation with a principal

place of business in Boulder, Boulder County, Colorado and is a citizen of Colorado.

40. “Minimal diversity” exists because plaintiff Yulia Lugo and defendant are citizens of different states.

41. Upon information and belief, sales of the Product in New York exceed \$5 million per year, exclusive of interest and costs, and the aggregate amount in controversy exceeds \$5 million per year.

42. Venue is proper in this judicial district because a substantial part of the events or omissions giving rise to the claim occurred in this District, *viz*, the decision of plaintiff to purchase the Product and the misleading representations and/or their recognition as such.

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

#### Parties

44. Plaintiff Yulia Lugo is a citizen of New York, Staten Island, Richmond County,

45. Defendant Celestial Seasonings, Inc. is a Delaware corporation with a principal place of business in Boulder, Colorado, Boulder County and is a citizen of Colorado.

46. During the relevant statutes of limitations, plaintiff purchased the Product within her district and/or State for personal and household consumption and/or use in reliance on the representations of the Product.

47. Plaintiff Yulia Lugo purchased the Product on one or more occasions and at one or more locations, during the relevant period, at stores near her residence during August 2020, including stores located at or around the Staten Island Mall.

48. Plaintiff bought the Product at or exceeding the above-referenced price because she liked the product for its intended use and relied upon the front label claims to expect its taste only came from the identified front label ingredients of honey and vanilla.

49. Plaintiff was deceived by and relied upon the Product's deceptive labeling.

50. Plaintiff would not have purchased the Product in the absence of Defendant's misrepresentations and omissions.

51. The Product was worth less than what Plaintiff paid for it and she would not have paid as much absent Defendant's false and misleading statements and omissions.

52. Plaintiff intends to, seeks to, and will purchase the Product again when she can do so with the assurance that Product's labels are consistent with the Product's components.

#### Class Allegations

53. The class will consist of all purchasers of the Product who reside in New York during the applicable statutes of limitations.

54. Plaintiff seek class-wide injunctive relief based on Rule 23(b) in addition to a monetary relief class.

55. Common questions of law or fact predominate and include whether defendant's representations were and are misleading and if plaintiff and class members are entitled to damages.

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

57. Plaintiff is an adequate representatives because her interests do not conflict with other members.

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

59. Individual actions would risk inconsistent results, be repetitive and are impractical to justify, as the claims are modest relative to the scope of the harm.

60. Plaintiff's counsel is competent and experienced in complex class action litigation



and intends to protect class members' interests adequately and fairly.

61. Plaintiff seeks class-wide injunctive relief because the practices continue.

New York General Business Law (“GBL”) §§ 349 & 350  
(Consumer Protection Statute)

62. Plaintiff incorporates by reference all preceding paragraphs.

63. Plaintiff and class members desired to purchase and consume products which were as described and marketed by defendant and expected by reasonable consumers, given the product type.

64. Defendant's acts and omissions are not unique to the parties and have a broader impact on the public.

65. Defendant misrepresented the substantive, quality, compositional and/or environmental attributes of the Product.

66. The amount and proportion of the characterizing components, honey and vanilla, have a material bearing on price and consumer acceptance of the Product.

67. The front label gives the impression the Product has more honey and vanilla than it does.

68. Plaintiff relied on the statements, omissions and representations of defendant, and defendant knew or should have known the falsity of same.

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

Negligent Misrepresentation

70. Plaintiff incorporates by reference all preceding paragraphs.

71. Defendant misrepresented the substantive, quality, compositional and/or environmental attributes of the Product.

72. The amount and proportion of the characterizing components, honey and vanilla, has a material bearing on price and consumer acceptance of the Product.

73. The front label gives the impression the Product has more of the characterizing ingredients than it does.

74. Defendant had a duty to disclose the lesser amounts of the characterizing ingredients and provide non-deceptive marketing of the Product and knew or should have known same were false or misleading.

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

76. The representations took advantage of consumers' cognitive shortcuts made at the point-of-sale and their trust in defendant, a well-known and respected brand or entity in this sector.

77. Plaintiff and class members reasonably and justifiably relied on these negligent misrepresentations and omissions, which served to induce and did induce, the purchase of the Product.

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

Breaches of Express Warranty, Implied Warranty of Merchantability and Magnuson Moss Warranty Act, 15 U.S.C. §§ 2301, et seq.

79. Plaintiff incorporates by reference all preceding paragraphs.

80. The Product was manufactured, labeled and sold by defendant or at its express directions and instructions, and warranted to plaintiff and class members that they possessed substantive, quality, compositional and/or environmental which they did not.

81. Defendant had a duty to disclose and/or provide non-deceptive descriptions and marketing of the Product.

82. The amount and proportion of the characterizing components have a material bearing on price and consumer acceptance of the Product

83. This duty is based, in part, on defendant's position as one of the most recognized companies in the nation in this sector.

84. Plaintiff provided or will provide notice to defendant, its agents, representatives, retailers and their employees.

85. Defendant received notice and should have been aware of these misrepresentations due to numerous complaints by consumers to its main office over the past several years regarding the Product, of the type described here.

86. The Product did not conform to its affirmations of fact and promises due to defendant's actions and were not merchantable.

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

#### Fraud

88. Plaintiff incorporates by reference all preceding paragraphs.

89. Defendant misrepresented the substantive, quality, compositional and/or environmental attributes of the Product.

90. The amount and proportion of the characterizing components have a material bearing on price and consumer acceptance of the Product.

91. The front label gives the impression the Product has more of the characterizing components than it does.

92. Defendant's fraudulent intent is evinced by its failure to accurately identify the Product on the front label and ingredient list, when it knew its statements were neither true nor accurate and misled consumers.

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

#### Unjust Enrichment

94. Plaintiff incorporates by reference all preceding paragraphs.

95. Defendant obtained benefits and monies because the Product was 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 as representative and the undersigned as counsel for the class;
2. Entering preliminary and permanent injunctive relief by directing defendant to correct the challenged practices to comply with the law;
3. Injunctive relief to remove, correct and/or refrain from the challenged practices and representations, and restitution and disgorgement for members of the class pursuant to the applicable laws;
4. Awarding monetary damages and interest pursuant to the common law and other statutory claims;
5. Awarding costs and expenses, including reasonable fees for plaintiff's attorneys and experts; and

6. Other and further relief as the Court deems just and proper.

Dated: September 26, 2020

Respectfully submitted,

Sheehan & Associates, P.C.

/s/Spencer Sheehan

Spencer Sheehan

60 Cuttermill Rd Ste 409

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E.D.N.Y. # SS-8533

S.D.N.Y. # SS-2056

1:20-cv-04580  
United States District Court  
Eastern District of New York

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Yulia Lugo, individually and on behalf of all others similarly situated,

Plaintiff,

- against -

Celestial Seasonings, Inc.,

Defendant

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Complaint

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Sheehan & Associates, P.C.  
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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: September 26, 2020

/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**

Yulia Lugo, individually and on behalf of all others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Sheehan & Associates, P.C., 60 Cuttermill Rd Ste 409 Great Neck NY 11021-3104 (516) 303-0552

**DEFENDANTS**

Celestial Seasonings, Inc.

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

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

Attorneys (If Known)

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

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

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

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

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of 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	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input 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

**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

**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 CHECK YES only if demanded in complaint: JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

DATE 9/26/2020 JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_  
 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 83.7 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.

Case is Eligible for Arbitration

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?  Yes  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?  Yes  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  No
  - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:

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?  Yes  No

(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



AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the Eastern District of New York

Yulia Lugo, individually and on behalf of all others similarly situated,

Plaintiff(s)

v.

Celestial Seasonings, Inc.,

Defendant(s)

Civil Action No. 1:20-cv-04580

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Celestial Seasonings, Inc. c/o The Corporation Trust Company 1209 N Orange St Wilmington DE 19801-1120

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., 60 Cuttermill Rd Ste 409 Great Neck NY 11021-3104 (516) 303-0552

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.

CLERK OF COURT

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

Signature of Clerk or Deputy Clerk