

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**Glen Skalubinski, individually and on behalf
of all others similarly situated,**

Plaintiff,

V.

Starbucks Coffee Company,

Defendant.

Class Action Complaint

C.A. NO. _____

Glen Skalubinski (hereafter also referred to as "Plaintiff") alleges, based upon personal knowledge related to himself, and upon information and belief, obtained in part from an investigation conducted by his attorneys, as to all other matters, as follows:

INTRODUCTION

1. Plaintiff brings this putative class action lawsuit, on behalf of himself and a class of similarly situated individuals (hereafter also referred to as "Class"), against Starbucks Coffee Company (hereafter also referred to as "Starbucks" or "Defendant").

2. Plaintiff seeks to remedy Defendant's deceptive labeling, marketing, and sale of its "Vanilla With Other Natural Flavors Starbucks Frappuccino Chilled Coffee Drink" (hereafter also referred to as "Product")

3. Defendant has misled Plaintiff and reasonable consumers to believe the Product contains vanilla as the ingredient that provides for the Product's characterizing vanilla flavor.

4. In reality, the Product contains "natural flavor," not vanilla, as the ingredient that provides for the Product's characterizing vanilla flavor.

5. Plaintiff seeks damages, injunctive relief, and a jury trial for Defendant's deceptive and misleading actions that have unjustly enriched the Defendant.

PARTIES

6. Plaintiff is currently, and has been throughout the Class Period, a resident of Rhode Island who purchased the Product from the Hannaford Supermarket located at 158 North Main Street, Uxbridge, Massachusetts. During the Class Period, Plaintiff purchased Defendant's Product on occasions based on the representation and reasonable belief that the Product contained vanilla as an ingredient.

7. Defendant is a State of Washington Company with its principal place of business in Seattle, Washington.

JURISDICTION AND VENUE

8. Jurisdiction of this Court is proper under 28 U.S.C. §1332(d)(2). Diversity jurisdiction exists as Defendant is a Delaware limited liability company with a principal place of business in the State of Washington and Plaintiff is a resident of Rhode Island. The amount in controversy exceeds \$5,000,000 for Plaintiff and the Class, exclusive of interest and costs, reaped by Defendant from their transactions with Plaintiff and the Class, as a direct and proximate result of the wrongful conduct alleged herein, and by the injunctive and equitable relief sought.

9. Jurisdiction is proper according to the Class Action Fairness Act of 2005 (hereafter also referred to as "CAFA"). 28 U.S.C. § 1332(d)(2).

10. Venue is proper within this judicial district under 28 U.S.C. § 1391 because a substantial portion of the underlying transactions and events complained of herein occurred in this judicial district.

SUMMARY OF THE CASE

11. Plaintiff and the Class purchased Defendant's Product on the reasonable, but the mistaken, belief that the Product contained vanilla as an ingredient.

12. The Product's front label prominently and conspicuously displays the words "Vanilla With Other Natural Flavors."

13. The prominent and conspicuous display of the word "Vanilla" on the Product's front label misleads reasonable consumer to believe that the Product contains vanilla as the Product's characterizing ingredient that delivers the Product's promised characterizing vanilla flavor.

14. Instead, the Product is flavored with "natural flavor" that provides for the Product's characterizing vanilla flavor.

15. Defendant deceives Plaintiff and the Class into believing that its Product contains vanilla as its characterizing ingredient.

16. Defendant's labeling of its Product as if it contains vanilla as an ingredient, without reference to any wording that would inform reasonable consumers that the Product does not contain vanilla as an ingredient is deceptive, misleading, and unjust.

17. Defendant intends that consumers rely upon the Product's front label, and reasonable consumers do, in fact, rely on the Product's front label to honestly state the nature of its ingredients.

18. Defendant's deception flows from the fact that the Product does not disclose, on the Product's front label, that the Product is a vanilla-flavored product that does not contain vanilla as an ingredient.

19. Since the Product does not disclose that vanilla is a flavor and not an ingredient, the Product's labeling is not in compliance with federal food labeling laws and regulations and the substantially identical Massachusetts food labeling laws and regulations.

20. Substantially identical Federal and Massachusetts laws deem a food product "misbranded" if "its labeling is false or misleading in any particular." (See 21 U.S.C. § 343(a) and Massachusetts MGL ch. 94 § 187.)

21. Any food product that is expected to contain its characterizing ingredient but does not, and instead is flavored, must disclose that fact to consumers on the Product's front label. Failure to do so misleads reasonable consumers into believing they are purchasing a food product with qualities it does not have and is in clear violation of the law.

22. Defendant's actions in its representations and omissions relating to vanilla as an ingredient in its "Vanilla With Other Natural Flavors Starbucks Frappuccino Chilled Coffee Drink" are deceptive, misleading, and provide the basis for an unjust enrichment claim.

PRODUCT LABEL

23. See Exhibit "A" for an image of the Product's front label and a listing of the ingredients depicted on the label located on the Product's backside on its ingredient list.

INGREDIENTS

FEDERAL AND STATE STATUTORY AND REGULATORY FOOD LABELING FRAMEWORK

Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 *et seq.*

24. The federal "Food, Drug, and Cosmetic Act," codified at 21 U.S.C. § 301 *et. seq.*, (hereafter also referred to as "FDCA"), is a federal statute that comprehensively but not exclusively regulates the sale of food products to the consuming public.

25. The FDCA deems food "misbranded" if its labeling is "false or misleading in any particular. (See 21 U.S.C. § 343(a)(1))

26. The FDCA defines the term "food" to include "articles used for food or drink for man." (See 21 U.S.C. §§ 321(f))

27. Coffee drinks are considered food according to the FDCA's definition of food.

28. One of the primary reasons for enacting the FDCA was to prevent misbranding of food product labeling.

29. The FDCA considers a food product misbranded if "any" representation is false or misleading. It prohibits any statement, design, or device that may deceive or mislead consumers who are misled by such (See 21 U.S.C. § 393(b)(2)(A))

31. The FDA oversees food labeling in the United States through a detailed and comprehensive regulatory umbrella that includes the FDCA's federal statutes and the FDA's federal regulations.

32. According to the FDA's authority from the FDCA, the FDA has promulgated comprehensive regulations to implement the FDCA concerning food labeling requirements (hereafter also referred to as "FDA Regulations"), specifically 21 C.F.R. § 101.1 *et seq.*.

33. 21 C.F.R. § 101.22(i) contains the specific regulation that applies when a food label makes a representation about a "primary recognizable flavor(s), by word, vignette, e.g., the depiction of a fruit, or other means."

34. Massachusetts has expressly adopted the federal labeling requirements. Massachusetts food labeling laws require that all packaged food complies with all labeling requirements in federal food regulation 21 C.F.R. § 101.22. (See 105 CMR 590.001; Massachusetts Food Code § 3-201.11 (Massachusetts requires this "to safeguard public health and

provide to consumers food that is safe, unadulterated, and honestly presented."); and Massachusetts Food Code § 3-601.12("[f]ood shall be offered for human consumption in a way that does not mislead or misinform the consumer"))

35. The information panel on a food product, which is "that part of the label immediately contiguous and to the right of the principal display panel" per 21 C.F.R. § 101.2(a), must include a "designation of ingredients" that consists of a listing of the food's ingredients "by common or usual name in descending order of predominance" per 21 C.F.R. § 101.4(a)(1).

36. The FDCA prohibits the misbranding of any food. (See 21 U.S.C. §331(b)) Generally, a food is "misbranded" if, among other things, its labeling is false or misleading." 21 U.S.C. § 343. 21 C.F.R. §101.22 (i)specifically provides:

(i) If the label, labeling, or advertising of a food makes any direct or indirect representations with respect to the primary recognizable flavor(s), by word, vignette, e.g., depiction of a fruit, or other means, or if for any other reason the manufacturer or distributor of a food wishes to designate the type of flavor in the food other than through the statement of ingredients, such flavor shall be considered the characterizing flavor and shall be declared in the following way:

(1)(i) If the food is one that is commonly expected to contain a characterizing food ingredient, e.g., strawberries in "strawberry shortcake," and the food contains natural flavor derived from such ingredient and an amount of characterizing ingredient insufficient to independently characterize the food, or the food contains no such ingredient, the name of the characterizing flavor may be immediately preceded by the word "natural" and shall be immediately followed by the word "flavored" in letters not less than one-half the height of the letters in the name of the characterizing flavor, e.g., "natural strawberry flavored shortcake," or "strawberry flavored shortcake."

37. The Product sold by Defendant is characterized as vanilla coffee drink. It does not contain vanilla as an ingredient but rather is flavored with "natural flavors." Therefore, by law,

Defendant must disclose that the Product is flavored on the Product's front label. Defendant has failed to make such a disclosure and therefore is not in compliance with the law.

FEDERAL AND MASSACHUSETTS FOOD LABELING LAWS ARE IDENTICAL

38. Plaintiff does not plead, and therefore disclaims, causes of action under the FDCA, and regulations promulgated thereunder by the FDA. Plaintiffs rely on the FDCA and FDA regulations only to the extent such laws and regulations have been separately enacted as state laws or regulations or provide a predicate basis of liability under state law.

39. Massachusetts law provides that a food is considered misbranded if the food label is false or misleading in any particular, and further incorporates by reference the federal food labeling laws and regulations.

40. Massachusetts Law mirrors the FDCA and the FDA Regulations. As a result, Massachusetts food labeling laws and regulations are substantively identical to the federal food labeling laws and regulations.

41. Plaintiff is not alleging causes of action under the FDCA and FDA Regulations. Plaintiff relies on the FDCA and the FDA Regulations only to the extent that the FDCA and the FDA Regulations have been independently and separately enacted as state food labeling laws and regulations, and further provide a basis of liability under Massachusetts Law.

42. Plaintiff is not suing because Defendant's conduct violates the FDCA and the FDA Regulations. Instead, Plaintiff is suing for Defendant's conduct that is not in compliance with the FDCA and the FDA Regulations. Therefore, Defendant's conduct violates Massachusetts Law and provides the basis for Plaintiff's unjust enrichment claim.

43. Since federal and Massachusetts food labeling laws and regulations identically prohibit misbranded food products, federal food labeling laws and regulations do not preempt Massachusetts food labeling laws and regulations.

INGREDIENT VERSUS FLAVOR

44. Some oil, protein, essence, or other extraction of the vanilla bean may have been used to create the Product's natural flavor. However, that natural flavor does not consist of vanilla as an ingredient as a reasonable consumer would understand. Instead, the scientists who created the Product's natural flavor would have isolated proteins from the cells of the vanilla ingredient or extracted oils or essences from the vanilla ingredient. However, because those isolated compounds may not taste like vanilla, the scientist would have combined those extractions with any other extractions from other plants and animals to create a flavoring substance that tastes like vanilla. (See <https://www.scientificamerican.com/article/what-is-the-difference-be-2002-07-29/> (describing the process for creating natural flavors Last accessed January 28, 2021))

45. Properly indicating that the Product is flavored is not only a legal requirement, but it is a material term on which a reasonable consumer rely.

COMPETITOR PRODUCTS

46. See Exhibit “B” for an image of a vanilla coffee drink labeled as “1850” that displays the wording "VANILLA FLAVORED WITH OTHER NATURAL FLAVORS" on its front label and the words "NATURAL FLAVORS" on its ingredient list.

47. The 1850 Product is like Starbucks’ Product, a product that displays the words "Natural Flavors" on its ingredient list and, therefore, is flavored with natural flavors. However,

unlike Starbucks' Product, the 1850 product indicates, on its front label, that it is "Vanilla Flavored with Other Natural Flavors," and therefore, it is not misbranded.

48. See Exhibit "C" for an image of a vanilla coffee drink labeled as "Victor Allen's Coffee" that displays the wording "VANILLA NATURALLY FLAVORED WITH OTHER NATURAL FLAVORS" on its front label and the words "NATURAL FLAVOR" on its ingredient list.

49. The Victor Allen's Coffee is like Starbucks' Product, a product that displays the words "NATURAL FLAVOR" on its ingredient list and, therefore, is flavored with natural flavors. However, unlike Starbucks' Product, Victor Allen's Coffee product indicates, on its front label, that it is "VANILLA NATURALLY FLAVORED WITH OTHER NATURAL FLAVORS," and therefore, it is not misbranded.

50. See Exhibit "D" for an image of a vanilla coffee drink labeled as "MAX MAXWELL HOUSE" that displays the wording "VANILLA NATURAL FLAVOR WITH OTHER NATURAL FLAVORS" on its front label and the words "NATURAL FLAVOR" on its ingredient list.

51. The "MAX MAXWELL HOUSE" coffee is like Starbucks' Product, a product that displays the words "NATURAL FLAVOR" on its ingredient list and, therefore, is flavored with natural flavors. However, unlike Starbucks' Product, Victor Allen's Coffee product indicates, on its front label, that it is "VANILLA NATURALLY FLAVORED WITH OTHER NATURAL FLAVORS," and therefore, it is not misbranded.

52. See Exhibit "E" for an image of a vanilla coffee drink labeled as "High Brew" that displays the wording "VANILLA NATURAL FLAVOR" on its front label and the words "Natural Flavors" on its ingredient list.

53. The High Brew product is like Starbucks' Product, a product that displays the words "NATURAL FLAVOR" on its ingredient list and, therefore, is flavored with natural flavor. However, unlike Starbucks' Product, the High Brew product indicates, on its front label, that it is "VANILLA NATURAL FLAVOR," and therefore, it is not misbranded.

54. See Exhibit "F" for an image of a vanilla coffee drink labeled as "SUPER COFFEE" that displays the wording " VANILLA NATURALLY FLAVORED WITH OTHER NATURAL FLAVORS" on its front label and the words "Natural Flavor" on its ingredient list.

55. The SUPER COFFEE product is like Starbucks' Product, a product that displays the words "NATURAL FLAVOR" on its ingredient list and, therefore, is flavored with natural flavor. However, unlike Starbucks' Product, the SUPER COFFEE product indicates, on its front label, that it is "VANILLA NATURALLY FLAVORED WITH OTHER NATURAL FLAVORS," and therefore, it is not misbranded.

58 See Exhibit "G" for an image of a vanilla coffee drink labeled as "BULLETPROOF" that displays the wording " VANILLA FLAVORED WITH OTHER NATURAL FLAVORS" on its front label and the words "Natural Flavors" on its ingredient list.

59. The BULLETPROOF product is like Starbucks' Product, a product that displays the words "NATURAL FLAVORS" on its ingredient list and, therefore, is flavored with natural flavor. However, unlike Starbucks' Product, the BULLETPROOF product indicates, on its front label, that it is "VANILLA FLAVORED WITH OTHER NATURAL FLAVORS," and therefore, it is not misbranded.

62. See Exhibit "H" for an image of a vanilla coffee drink labeled as "WIDE AWAKE COFFEE" that displays the wording " VANILLA NATURALLY FLAVORED WITH OTHER

NATURAL FLAVORS” on its front label and the words "NATURAL FLAVORS” on its ingredient list.

63. The Wide Awake Coffee product is like Starbucks’ Product, a product that displays the words "NATURAL FLAVORS" on its ingredient list and, therefore, is flavored with natural flavor. However, unlike Starbucks’ Product, the Bulletproof product indicates, on its front label, that it is "VANILLA NATURALLY FLAVORED WITH OTHER NATURAL FLAVORS,” and therefore, it is not misbranded.

66. See Exhibit “I” for an image of a vanilla coffee drink labeled as “tase of inspirations” that displays the wording "NATURALLY FLAVORED WITH OTHER NATURAL FLAVORS” on its front label and the words "NATURAL FLAVORS” on its ingredient list.

67. The “taste of inspirations” product is, like Starbucks’ Product, a product that displays the words "Natural Flavor" on its ingredient list and, therefore, is flavored with natural flavor. However, unlike Starbucks’ Product, the “taste of inspirations” product indicates, on its front label, that it is "NATURALLY FLAVORED WITH OTHER NATURAL FLAVORS,” and therefore, it is not misbranded.

CLASS ACTION ALLEGATIONS

53. Plaintiff brings this action on behalf of himself and on behalf of all other individual consumers who purchased Defendant's Product in Massachusetts. The Class Period is limited to the statute of limitations applicable to the cause of action. Plaintiff brings this class action lawsuit pursuant to Federal Rule of Civil Procedure 23(a), and 23(b)(1), 23(b)(2) and 23(b)(3). Excluded

from the Class are Defendants and its employees, principals, affiliated entities, legal representatives, successors, and assigns.

54. Upon information and belief, thousands of Class members are geographically dispersed throughout Massachusetts. Therefore, individual joinder of all members of the Class would be impracticable.

55. Common questions of law or fact exist as to all members of the Class. These questions predominate over the questions affecting only individual class members. These common legal or factual questions include: (1) whether Defendant's labeling of its Product is likely to deceive class members; (2) whether Defendant's representations are unlawful; and (3) the appropriate measure of damages and restitution.

56. Plaintiff's claims are typical of the Class's claims in that Plaintiff was a consumer who purchased Defendant's Product in Massachusetts that was characterized by a specific ingredient yet did not contain that ingredient. Instead, it was flavored – a fact that was not disclosed on the Product's front label. Therefore, Plaintiff is no different in any relevant respect from any other Class member, and the relief sought is common to the Class.

57. Plaintiff is an adequate representative of the Class because his interests do not conflict with the Class members' interests he seeks to represent. He has retained counsel competent and experienced in conducting complex class action litigation. Plaintiff and his counsel will adequately protect the interests of the Class.

58. A class action is superior to other available means for the fair and efficient adjudication of this dispute. The damages suffered by each individual Class member likely will be relatively small, especially given the relatively small cost of the food products at issue and the burden and expense of individual prosecution of the complex litigation necessitated by Defendant's

conduct. Thus, it would be virtually impossible for Class members individually to effectively redress the wrongs done to them.

59. Moreover, even if Class members could afford individual actions, it would still not be preferable to classwide litigation. Individualized actions present the potential for inconsistent or contradictory judgments. By contrast, a class action presents far fewer management difficulties and provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court.

60. In the alternative, the Class may be certified because Defendant has acted or refused to act on grounds generally applicable to the Class, thereby making appropriate preliminary and final equitable relief for the Class.

COUNT I (Unjust Enrichment)

61. Plaintiff alleges and incorporates by reference the allegations in all of this Complaint's preceding paragraphs as though fully set forth therein.

62. As a direct and proximate result of Defendant's misconduct as set forth above, Defendant has been unjustly enriched. Expressly, by its misconduct described herein, Defendant has accepted a benefit in the form of monies paid by Plaintiff and the Class. The Defendant had an appreciation or knowledge of the benefit conferred on it by Plaintiff and the Class.

63. It would be inequitable for Defendant to retain the profits, benefits, compensation, consideration, and other monies obtained by and from its wrongful conduct in promoting, marketing, distributing, and selling the Product. On behalf of himself and all others similarly situated, Plaintiff seeks restitution from Defendant an order of this Court proportionally disgorging

all profits, benefits, compensation, consideration, and other monies obtained by Defendant from its wrongful conduct.

Jury Demand

The Plaintiff request a trial by jury.

WHEREFORE, Plaintiff, on behalf of himself and the Class, prays for judgment as follows:

- a. A trial by jury;
- b. Certification of the Class under Federal Rule of Civil Procedure 23 and appointment of Plaintiff as representative of the Class and his counsel as Class Counsel;
- c. Actual damages;
- d. Restitution and disgorgement of Defendant's revenues or profits to Plaintiff and the members of the proposed Class as permitted by applicable law;
- e. Statutory pre-judgment and post-judgment interest on any amounts;
- f. Payment of reasonable attorneys' fees and recoverable litigation expenses as may be allowable under applicable law; and
- g. Such other relief as the Court may deem just and proper.

Dated: February 4, 2021

/s/ John T. Longo
John T. Longo, Esq. MA BBO 632387
Law Office of John T. Longo
177 Huntington Avenue, 17th Fl, Suite 5
Boston, MA 02115
Tel: (617) 863-7550
jtlongo@jtlongolaw.com

Peter N. Wasylyk (RI Bar No. 3351)
Law Offices of Peter N. Wasylyk

1307 Chalkstone Avenue
Providence, RI 02908
Tel: (401) 831-7730
Fax (401) 861-6064
Email: pnwlaw@aol.com
(Pending Pro Hac Vice Motion)

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

Glen Skalubinski

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

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

John T. Longo, 177 Huntington Avenue, 17th Fl, Suite 5
Boston, MA 02115 (617) 863-7550

DEFENDANTS

Starbucks Coffee Company

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

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

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input 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 checked="" 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)

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input checked="" type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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

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

VI. CAUSE OF ACTION

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

28 U.S.C. §1332

Brief description of cause:

Defendant was unjustly enriched by selling mislabeled yogurt in Massachusetts

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: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

2/4/2021

SIGNATURE OF ATTORNEY OF RECORD

/s/ John T. Longo

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) _____
Glen Skalubinski v Starbucks Coffee Company _____
2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).
- ☐ I. 160, 400, 410, 441, 535, 830*, 835*, 850, 880, 891, 893, R.23, REGARDLESS OF NATURE OF SUIT.
- ☐ II. 110, 130, 190, 196, 370, 375, 376, 440, 442, 443, 445, 446, 448, 470, 751, 820*, 840*, 895, 896, 899.
- ☒ III. 120, 140, 150, 151, 152, 153, 195, 210, 220, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 367, 368, 371, 380, 385, 422, 423, 430, 450, 460, 462, 463, 465, 480, 485, 490, 510, 530, 540, 550, 555, 560, 625, 690, 710, 720, 740, 790, 791, 861-865, 870, 871, 890, 950.
- *Also complete AO 120 or AO 121. for patent, trademark or copyright cases.
3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?
YES ☐ NO ☒
5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)
YES ☐ NO ☒
- If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?
YES ☐ NO ☐
6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?
YES ☐ NO ☒
7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).
YES ☒ NO ☐
- A. If yes, in which division do all of the non-governmental parties reside?
Eastern Division ☐ Central Division ☐ Western Division ☐
- B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?
Eastern Division ☐ Central Division ☐ Western Division ☐
8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)
YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME John T. Longo NOTE: The Plaintiff is a RI resident wronged in the Central Division.

ADDRESS 177 Huntington Avenue, 17th Fl, Suite 5 Boston, MA 02115

TELEPHONE NO. (617) 863-7550

EXHIBIT "A"



CONTAINS: BREWED STARBUCKS® COFFEE (WATER, COFFEE), REDUCED-FAT MILK, SUGAR, MALTODEXTRIN, PECTIN, NATURAL FLAVOR.