UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FORT LAUDERDALE DIVISION

Carol Byers, individually and on behalf of all others similarly situated, Plaintiff, - against - Aldi Inc., Defendant	Class Action Complaint Jury Trial Demanded

Plaintiff alleges upon information and belief, except for allegations about Plaintiff, which are based on personal knowledge:

1. Aldi Inc. ("Defendant") manufactures, markets, labels, and sells coffee whitener identified as a coffee creamer under the Barissimo brand ("Product").

2. Most coffee drinkers add milk in various forms to soften this beverage's naturally strong taste.

3. These products range from skim milk, which has a lower fat content than regular milk, to heavy cream, with a higher fat content.

4. Cream is defined by Merriam-Webster and other dictionaries as the thick part of milk that rises to the top, containing fat.

5. Regulations established by the Food and Drug Administration ("FDA") and adopted by this State, define cream as "the liquid milk product high in fat separated from milk, [with] not less than 18 percent milkfat." 21 C.F.R. § 131.3(a).

6. Coffee cream is a specialized dairy product made for whitening coffee and "contains not less than 18 percent but less than 30 percent milkfat," with added sweeteners and/or flavorings. 21 C.F.R. § 131.155(a).

7. The Product's flavors include hazelnut.

8. The front-and-center statement of identity tells purchasers they are buying coffee creamer. 21 C.F.R. § 101.3(b).

9. A statement of identity must be (1) a name required by law or regulation, (2) a common or usual name or (3) an appropriately descriptive term. 21 C.F.R. § 101.3(b)(1)-(3).

10. No federal law or regulation requires the Product be identified as a "Coffee Creamer."

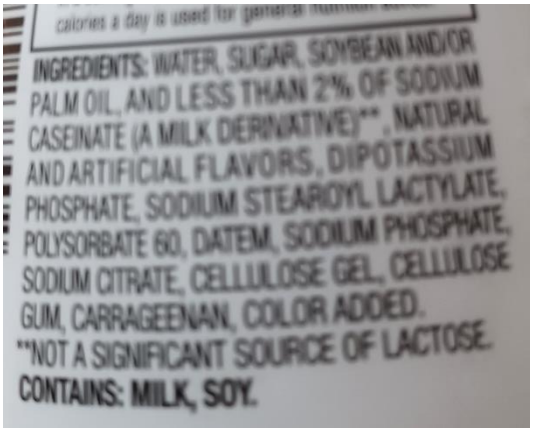
11. "Coffee Creamer" is not the Product's common or usual name because it is not

uniform among all identical or similar products and is confusingly similar to other products labeled as "coffee creamer" which are based on dairy ingredients such as cream. 21 C.F.R. § 102.5(a).

12. For example, the three products below are all described as "coffee creamer" like Defendant's Product.

13. However, the above products are what consumers expect and the law requires when a food is labeled "coffee creamer" because they are made with cream, a dairy ingredient.

14. The Product's representation as a "Coffee Creamer" is misleading because it lacks cream or dairy ingredients beyond a *de minimis* amount of sodium caseinate.



INGREDIENTS: WATER, SUGAR, SOYBEAN AND/OR PALM OIL, AND LESS THAN 2% OF SODIUM CASEINATE (A MILK DERIVATIVE)**, NATURAL AND ARTIFICIAL FLAVORS, DIPOTASSIUM PHOSPHATE, SODIUM STEAROYL LACTYLATE, POLYSORBATE 60, DATEM, SODIUM PHOSPHATE, SODIUM CITRATE, CELLULOSE GEL, CELLULOSE GUM, CARRAGEENAN, COLOR ADDED.
**NOT A SIGNIFICANT SOURCE OF LACTOSE.
CONTAINS: MILK, SOY.

15. In place of cream, the Product substitutes water and soybean and/or palm oil, the first and third ingredients, to reduce costs.

16. The Product is not labeled in a way that distinguishes it from coffee creamers made from cream, through conspicuous statements such as "non-dairy" or "a vegetable product – contains no milk or milk fat."

17. Nor does the label use the generic term "coffee whitener," which does not reference "cream" but describes its function in a non-misleading way.

18. The name of "coffee creamer" applied to products without cream has not been established by common usage. 21 C.F.R. § 102.5(d).

19. Cream is known for its "creamy" taste because milkfat contains hundreds of lactones, aroma compounds which contribute to its taste.

20. The name "coffee creamer" is almost identical to "coffee cream," defined by the FDA as a dairy product.

21. Federal and state law prohibit a food from purporting to be one for which a definition and standard of identity exists. 21 U.S.C. § 343(g).

22. For example, the FDA warned a company that by describing its product as "Just Mayo," made without eggs, consumers may be misled to expect the standardized food mayonnaise,

which contains eggs.

23. That the product in question was described as "mayo" while the standardized food was "mayonnaise" made no difference, because like "coffee creamer" and "coffee cream," consumers use these terms interchangeably.

24. The "mayo" and "coffee creamer" each contained ingredients not permitted by the standards for mayonnaise and coffee cream, like modified food starch and palm oil, in contrast to decades of consumer familiarity with ingredients for standardized foods.

25. Consumers value coffee cream over non-dairy coffee whiteners because milkfat contains hundreds of aroma compounds, or lactones, which provide its "creamy" taste.

26. Consumers value cream over non-dairy coffee whiteners for its nutritive benefits.

27. Research indicates fats in dairy ingredients do not increase the risk of cardiovascular disease or increase cholesterol, in contrast to vegetable oils like soybean and palm oil.

28. Dairy ingredients like cream contains protein, calcium and vitamins A, D, E, and K, absent from vegetable oils like soybean and palm oil.

29. Defendant makes other representations and omissions with respect to the Product which are false and misleading.

30. As a result of the false and misleading representations and omissions, the Product is sold at for a price premium, approximately no less than no less than $2.75 for 32 FL OZ (946 mL), excluding tax and sales.

JURISDICTION AND VENUE

31. Jurisdiction is based on the Class Action Fairness Act of 2005 ("CAFA"). 28 U.S.C. § 1332(d)(2).

32. The aggregate amount in controversy exceeds $5 million, including any statutory and

punitive damages, exclusive of interest and costs.

33. Plaintiff is a citizen of Florida.

34. Defendant is an Illinois corporation with a principal place of business in Illinois.

35. The class of persons Plaintiff seeks to represent includes persons who are citizens of different states from which Defendant is a citizen.

36. The members of the class Plaintiff seeks to represent are more than 100, because the Product has been sold with the representations described here for several years, from Defendant's retail stores and website, in the States Plaintiff seeks to represent.

37. Venue is in this District with assignment to the Fort Lauderdale Division because Plaintiff resides in this District and a substantial part of the events or omissions giving rise to these claims occurred in Broward County, including Plaintiff's purchase, consumption and/or use of the Product, and awareness and/or experiences of and with the issues described here.

PARTIES

38. Plaintiff Carol Byers is a citizen of Plantation, Broward County, Florida.

39. Defendant Aldi Inc. is an Illinois corporation with a principal place of business in Batavia, Kane County, Illinois.

40. Aldi is the common brand of two German-owned supermarket chains with over 10,000 stores in 20 countries and annual sales exceeding $75 billion.

41. Defendant operates more than 2,000 stores across 36 states.

42. Defendant is known for selling the highest quality goods, based on its "no frills" approach which saves costs, that are passed on to the consumer.

43. While Aldi stores sell leading national brands, they sell a large number of products under one of their private label brands, Barissimo.

44. Private label products are made by third-party manufacturers and sold under the name of the retailer, or its sub-brands.

45. Previously referred to as "generic" or "store brand," private label products have increased in quality, and often are superior to their national brand counterparts.

46. Products under the Barissimo brand have an industry-wide reputation for quality and value.

47. In releasing products under the Barissimo brand, Defendant's foremost criteria was to have high-quality products that were equal to or better than the national brands.

48. Defendant is able to get national brands to produce its private label items due its loyal customer base and tough negotiating.

49. That Barissimo-branded products met this high bar was proven by focus groups, whichrated them above the name brand equivalent.

50. Private label products generate higher profits for retailers because national brands spend significantly more on marketing, contributing to their higher prices.

51. A survey by The Nielsen Co. "found nearly three out of four American consumers believe store brands are good alternatives to national brands, and more than 60 percent consider them to be just as good."

52. Private label products under the Barissimo brand benefit by their association with consumers' appreciation for the Aldi brand as a whole.

53. The development of private label items is a growth area for Aldi, as they select only top suppliers to develop and produce Barissimo products.

54. The Product is sold in Defendant's retail stores and website.

55. Plaintiff purchased the Product on one or more occasions within the statutes of

limitations for each cause of action alleged, at locations including Aldi, 12190 W Sunrise Blvd, Plantation, FL 33323, between 2021 and 2023, among other times, at or around the above-referenced price.

56. Plaintiff believed and expected the Product contained cream, a dairy ingredient because that is what the representations and omissions said and implied, on the front label and/or the absence of any reference or statement elsewhere on the front label.

57. Plaintiff was aware of and saw other products represented as "coffee creamer" which were based on cream and not vegetable oils.

58. Plaintiff paid more for the Product that she would have had she known the representations were false and misleading, as she would not have bought it or paid less.

59. Plaintiff chose between the Product and others represented similarly, but which did not misrepresent their attributes and/or components.

60. Plaintiff intends to, seeks to, and will purchase the Product again when she can do so with the assurance the Product's representations are consistent with its attributes and/or composition.

61. Plaintiff is unable to rely on the labeling of not only this Product, but other similar coffee whiteners because she is unsure whether their representations are truthful.

CLASS ALLEGATIONS

62. Plaintiff seeks certification under Fed. R. Civ. P. 23 of the following classes:

> **Florida Class:** All persons in the State of Florida who purchased the Product during the statutes of limitations for each cause of action alleged; and
>
> **Consumer Fraud Multi-State Class**: All persons in the States of Alabama, Georgia, Kentucky, Louisiana, Tennessee, and West Virginia, who purchased the Product during the statutes of limitations for each cause of action alleged.

63. Common questions of issues, law, and fact predominate and include whether Defendant's representations were and are misleading and if Plaintiff and class members are entitled to damages.

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

65. Plaintiff is an adequate representative because her interests do not conflict with other members.

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

67. 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.

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

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

CAUSES OF ACTION

COUNT I

Florida Deceptive and Unfair Trade Practices Act ("FDUTPA"), Fla. Stat. § 501.201, *et seq.*

70. Plaintiff incorporates by reference preceding paragraphs 1-30.

71. Plaintiff brings this claim on her own behalf and on behalf of each member of the Florida Class.

72. Defendant violated and continues to violate Florida's Deceptive and Unfair Trade Practices Act by engaging in unfair methods of competition, unconscionable acts and practices, and unfair and deceptive acts and practices in the conduct of its business.

73. Defendant misrepresented the Product through statements, omissions, ambiguities, half-truths and/or actions, that it contained cream, a dairy ingredient.

74. The material misstatements and omissions alleged herein constitute deceptive and unfair trade practices, in that they were intended to and did deceive Plaintiff and the general public into believing that the Product contained cream, a dairy ingredient.

75. Plaintiff and class members relied upon these representations in deciding to purchase the Product.

76. Plaintiff's reliance was reasonable because of Defendant's reputation as a trusted and reliable company, known for its high-quality products, honestly marketed to consumers.

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

78. Defendant's conduct offends established public policy and is immoral, unethical, oppressive, and unscrupulous to consumers.

79. Plaintiff and class members are entitled to damages in an amount to be proven at trial.

80. Defendant should also be ordered to cease its deceptive advertising and should be made to engage in a corrective advertising campaign to inform consumers that the Product does not contain cream, a dairy ingredient.

COUNT II

Violation of State Consumer Fraud Acts
(Consumer Fraud Multi-State Class)

81. Plaintiff incorporates by reference preceding paragraphs 1-30.

82. The Consumer Fraud Acts of the States in the Consumer Fraud Multi-State Class are similar to the consumer protection statute invoked by Plaintiff and prohibit the use of unfair or

deceptive business practices in the conduct of commerce.

83. The members of the Consumer Fraud Multi-State Class reserve their rights to assert their consumer protection claims under the Consumer Fraud Acts of the States they represent and/or the consumer protection statute invoked by Plaintiff.

84. Defendant intended that members of the Consumer Fraud Multi-State Class would rely upon its deceptive conduct, which they did, suffering damages.

COUNT III

False and Misleading Adverting, Fla. Stat. § 817.41

85. Plaintiff incorporates by reference preceding paragraphs 1-30.

86. Plaintiff brings this claim on her own behalf and on behalf of each member of the Florida Class.

87. Defendant made misrepresentations and omissions of material fact, that the Product contained cream, a dairy ingredient, through its advertisements and marketing, through various forms of media, product descriptions, and targeted digital advertising.

88. Defendant's false and deceptive representations and omissions are material in that they are likely to influence consumer purchasing decisions.

89. Defendant knew that these statements were false.

90. Defendant intended for consumers to rely on its false statements for the purpose of selling the Product.

91. Plaintiff and class members did in fact rely upon these statements.

92. Reliance was reasonable and justified because of Defendant's reputation as a trusted and reliable company, known for its high-quality products, honestly marketed to consumers.

93. As a result of Defendant's misrepresentations, Plaintiff and class members suffered

damages in the amount paid for the Product.

94. Plaintiff and class members are entitled to damages and injunctive relief as set forth above.

COUNT IV

Breaches of Express Warranty, Implied Warranty of Merchantability/Fitness for a Particular Purpose and Magnuson Moss Warranty Act, 15 U.S.C. §§ 2301, *et seq*.

95. Plaintiff incorporates by reference preceding paragraphs 1-30.

96. The Product was manufactured, identified, marketed, and sold by Defendant and expressly and impliedly warranted to Plaintiff that it contained cream, a dairy ingredient.

97. Defendant directly marketed the Product to Plaintiff through its advertisements and marketing, through various forms of media, on the packaging, in print circulars, direct mail, product descriptions, and targeted digital advertising.

98. Defendant knew the product attributes that potential customers like Plaintiff were seeking and developed its marketing and labeling to directly meet those needs and desires.

99. Defendant's representations about the Product were conveyed in writing and promised it would be defect-free, and Plaintiff understood this meant that it contained cream, a dairy ingredient.

100. Defendant's representations affirmed and promised that the Product contained cream, a dairy ingredient.

101. Defendant described the Product so Plaintiff believed it contained cream, a dairy ingredient, which became part of the basis of the bargain that it would conform to its affirmations and promises.

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

103. This duty is based on Defendant's outsized role in the market for this type of Product, a trusted company known for its high-quality products.

104. Plaintiff recently became aware of Defendant's breach of the Product's warranties.

105. Plaintiff provided or provides notice to Defendant, its agents, representatives, retailers, and their employees that it breached the Product's express and implied warranties.

106. Defendant received notice and should have been aware of these issues due to complaints by third-parties, including regulators, competitors, and consumers, to its main offices, and by consumers through online forums.

107. The Product did not conform to its affirmations of fact and promises due to Defendant's actions.

108. The Product was not merchantable because it was not fit to pass in the trade as advertised, not fit for the ordinary purpose for which it was intended and did not conform to the promises or affirmations of fact made on the packaging, container or label, because it was marketed as if it contained cream, a dairy ingredient.

109. The Product was not merchantable because Defendant had reason to know the particular purpose for which the Product was bought by Plaintiff, because she expected it contained cream, a dairy ingredient, and she relied on Defendant's skill and judgment to select or furnish such a suitable product.

COUNT V

Negligent Misrepresentation

110. Plaintiff incorporates by reference preceding paragraphs 1-30.

111. Defendant had a duty to truthfully represent the Product, which it breached.

112. This duty was non-delegable, based on Defendant's position, holding itself out as having special knowledge and experience in this area, a trusted company known for its high-quality products.

113. These representations and omissions went beyond the specific representations on the packaging, as they incorporated the extra-labeling promises and commitments to quality, transparency and putting customers first that Defendant has been known for.

114. These promises were outside of the standard representations that other companies may make in a standard arms-length, retail context.

115. The representations took advantage of consumers' cognitive shortcuts made at the point-of-sale and their trust in Defendant.

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

COUNT VI

Fraud
(Fed. R. Civ. P. 9(b) Allegations)

117. Plaintiff incorporates by reference preceding paragraphs 1-30.

118. Defendant misrepresented and/or omitted the attributes and qualities of the Product, that it contained cream, a dairy ingredient.

119. The records Defendant is required to maintain, and/or the information inconspicuously disclosed to consumers, provided it with actual and constructive knowledge of the falsity and deception, through statements and omissions.

120. Rule 9(b) of the Federal Rules of Civil Procedure provides that "[i]n alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake."

121. To the extent necessary, as detailed in the paragraphs above and below, Plaintiff has satisfied the requirements of Rule 9(b) by establishing the following elements with sufficient particularity.

122. WHO: Defendant, Aldi Inc., made material misrepresentations and/or omissions of fact in its advertising and marketing of the Product by representing that the Product contained cream, a dairy ingredient.

123. WHAT: Defendant's conduct here was and continues to be fraudulent because it has the effect of deceiving consumers into believing that the Product contains cream, a dairy ingredient.

124. Defendant omitted from Plaintiff and class members that the Product does not contain cream, a dairy ingredient.

125. Defendant knew or should have known this information is material to all reasonable consumers and impacts consumers' purchasing decisions.

126. Yet, Defendant has and continues to represent that the Product contains cream, a dairy ingredient.

127. WHEN: Defendant made material misrepresentations and/or omissions detailed herein, including that the Product contained cream, a dairy ingredient, continuously throughout the applicable Class period(s).

128. WHERE: Defendant's material misrepresentations and omissions, that the Product contained cream, a dairy ingredient, were located in the advertising and marketing of the Product.

129. The Product is sold from Defendant's retail stores and website.

130. HOW: Defendant made written and visual misrepresentations and omissions in the advertising and marketing of the Product, that it contained cream, a dairy ingredient.

131. As such, Defendant's representations are false and misleading.

132. And as discussed in detail throughout this Complaint, Plaintiff and class members read and relied on Defendant's representations and omissions before purchasing the Product.

133. WHY: Defendant misrepresented that the Product contained cream, a dairy ingredient, for the express purpose of inducing Plaintiff and class members to purchase the Product at a substantial price premium.

134. As such, Defendant profited by selling the misrepresented Product to at least thousands of consumers throughout the nation.

COUNT VII

Unjust Enrichment

135. Plaintiff incorporates by reference preceding paragraphs 1-30.

136. 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. Injunctive relief to remove, correct and/or refrain from the challenged practices;
3. Awarding monetary, statutory and/or punitive damages and interest;
4. Awarding costs and expenses, including reasonable fees for Plaintiff's attorneys and experts; and

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

Dated: January 25, 2023

Respectfully submitted,

/s/ William Wright

The Wright Law Office, P.A.
515 N Flagler Dr Ste P300
West Palm Beach FL 33401
(561) 514-0904
willwright@wrightlawoffice.com

Sheehan & Associates, P.C.
Spencer Sheehan (*Pro Hac Vice f*orthcoming)
60 Cuttermill Rd Ste 412
Great Neck NY 11021
(516) 268-7080
spencer@spencersheehan.com

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.)* **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS

Carol Byers, individually and on behalf of all others similarly situated,

DEFENDANTS

Aldi Inc.

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

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.

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
The Wright Law Office, P.A., 515 N Flagler Dr Ste P300 West Palm Beach FL 33401-4326, (561) 514-0904

Attorneys *(If Known)*

(d) Check County Where Action Arose: ☐ MIAMI-DADE ☐ MONROE ☒ BROWARD ☐ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE ☐ HIGHLANDS

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)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☒ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

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

Click here for: Nature of Suit Code Descriptions

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 (Excl. 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 – Med. Malpractice

PERSONAL INJURY
☐ 365 Personal Injury – Product Liability
☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
☒ 370 Other Fraud
☐ 371 Truth in Lending
☐ 380 Other Personal Property Damage
☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
☐ 625 Drug Related Seizure of Property 21 USC 881
☐ 690 Other

BANKRUPTCY
☐ 422 Appeal 28 USC 158
☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
☐ 820 Copyright
☐ 830 Patent
☐ 835 Patent – Abbreviated New Drug Application
☐ 840 Trademark
☐ 880 Defend Trade Secrets Act of 2016

LABOR
☐ 710 Fair Labor Standards Act
☐ 720 Labor/Mgmt. Relations
☐ 740 Railway Labor Act
☐ 751 Family and Medical Leave Act
☐ 790 Other Labor Litigation
☐ 791 Empl. Ret. Inc. Security Act

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

IMMIGRATION
☐ 462 Naturalization Application
☐ 465 Other Immigration Actions

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 (TCPA)
☐ 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
Constitutionality of
☐ 950 State Statutes

REAL PROPERTY
☐ 210 Land Condemnation
☐ 220 Foreclosure
☐ 230 Rent Lease & Ejectment
☐ 240 Torts to Land
☐ 245 Tort Product Liability
☐ 290 All Other Real Property

CIVIL RIGHTS
☐ 440 Other Civil Rights
☐ 441 Voting
☐ 442 Employment
☐ 443 Housing/ Accommodations
☐ 445 Amer. w/Disabilities – Employment
☐ 446 Amer. w/Disabilities – Other
☐ 448 Education

PRISONER PETITIONS
Habeas Corpus:
☐ 463 Alien Detainee
☐ 510 Motions to Vacate Sentence
Other:
☐ 530 General
☐ 535 Death Penalty
☐ 540 Mandamus & Other
☐ 550 Civil Rights
☐ 555 Prison Condition
☐ 560 Civil Detainee – Conditions of Confinement

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

☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Re-filed **(See VI below)**
☐ 4. Reinstated or Reopened
☐ 5 Transferred from another district *(specify)*
☐ 6 Multidistrict Litigation Transfer
☐ 7 Appeal to District Judge from Magistrate Judgment
☐ 8 Multidistrict Litigation – Direct File
☐ 9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions): a) Re-filed Case ☐ YES ☒ NO **JUDGE:**
b) Related Cases ☐ YES ☒ NO **DOCKET NUMBER:**

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause ***(Do not cite jurisdictional statutes unless diversity)***:
28 U.S.C. § 1332; false advertising
LENGTH OF TRIAL via 14 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

☑ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23

DEMAND $

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

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE: January 25, 2023

SIGNATURE OF ATTORNEY OF RECORD: /s/ William Wright

FOR OFFICE USE ONLY: **RECEIPT #** **AMOUNT** **IFP** **JUDGE** **MAG JUDGE**

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

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

Carol Byers, individually and on behalf of all others similarly situated,

Plaintiff(s)

v.

Aldi Inc.,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Aldi Inc.

c/o Meredith Oliva
1200 N Kirk Rd
Batavia IL 60510-1443

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: William Wright, The Wright Law Office, P.A., 515 N Flagler Dr Ste P300 West Palm Beach FL 33401-4326, (561) 514-0904

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

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc: