

**SCHMIERER LAW GROUP, LLC**

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GWEN BOCCHINFUSO, and JAMES  
BRENDLE individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

THE WONDERFUL COMPANY LLC

Defendant.

SUPERIOR COURT OF NEW JERSEY  
MONMOUTH COUNTY – LAW DIVISION

**CIVIL ACTION**

Docket No.:

**CLASS ACTION COMPLAINT  
JURY DEMANDED**

Plaintiffs, Gwen Bocchinfuso and James Brendle (“Plaintiffs”), by and through their counsel, state and allege matters pertaining to themselves and their own acts, upon personal knowledge, and as to all other matters, upon information and belief, based upon the investigation undertaken by their counsel, as follows:

**PRELIMINARY STATEMENT**

1. This is an action for damages, injunctive relief, and any other available legal or equitable remedies, for violations of the New Jersey Consumer Fraud Act (“NJCFCA”), N.J. Stat. Ann. § 56:8 *et seq.* resulting from the illegal actions of the defendant, The Wonderful Company LLC (“Defendant”) in selling adulterated products.

**PARTIES**

2. Plaintiff Gwen Bocchinfuso is an individual and citizen of New Jersey.

3. Plaintiff James Brendle is an individual and citizen of New Jersey.

4. Upon information and belief, Defendant is a foreign corporation with its principal place of business located in Los Angeles, California.

5. At all times relevant to this Complaint, Defendant was engaged in the marketing and sale of bottled water.

### **FACTS COMMON TO ALL COUNTS**

6. Defendant advertises, markets, sells, and distributes bottled water throughout Illinois and the United States.

7. During the Class Period (as defined below), Defendant sold Fiji bottled water (the “Products”) that contained manganese and several strains of bacteria, rendering them adulterated.<sup>1</sup>

8. Exposure to high levels of manganese can lead to manganese toxicity which results in psychiatric abnormalities.<sup>2</sup>

9. Exposure to bacteria may cause bacterial infections that negatively affect the health of persons exposed.<sup>3</sup>

10. Manganese and bacterial contamination is a material concern to Plaintiff and other reasonable consumers.

11. Bottled water labeling and content regulations are proscribed by 21 C.F.R. § 165.110.

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<sup>1</sup> Fiji Water Bottles Sold on Amazon Recalled, *USA Today* (May 29, 2024), <https://www.usatoday.com/story/money/food/2024/05/29/fiji-water-bottles-amazon-recalled/73899911007/>.

<sup>2</sup> StatPearls, Manganese Toxicity, *StatPearls* (StatPearls Publishing, 2024), <https://www.ncbi.nlm.nih.gov/books/NBK560903/>.

<sup>3</sup> R. G. Pearl et al., Anesthesia in the Time of COVID-19, *J. Cardiothorac. Vasc. Anesth.* vol. 34, no. 9 (2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7149789/>.

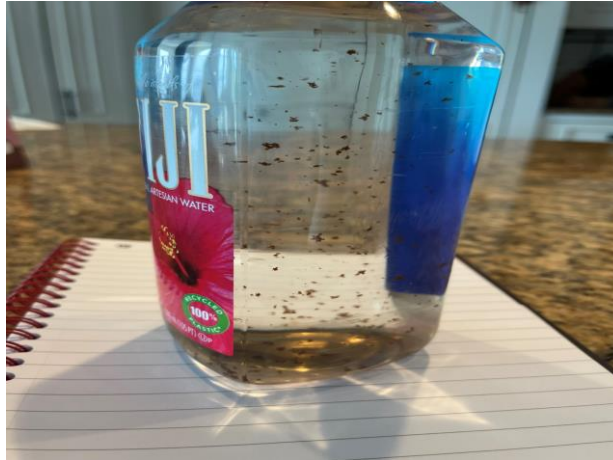
12. 21 C.F.R. § 165.110 states that bottled water containing a substance at a level considered injurious to health under section 402(a)(1) of the Federal Food, Drug, and Cosmetic Act (the act), or that consists in whole or in part of any filthy, putrid, or decomposed substance, or that is otherwise unfit for food under section 402(a)(3) of the act is deemed to be adulterated, regardless of whether or not the water bears a label statement of substandard quality prescribed by paragraph (c) of this section.

13. The levels of Manganese and bacteria found the Defendant's products were determined to be at a level potential injurious to health, and as a result the Products are in the process of being recalled.

14. New Jersey law prohibits the sale of adulterated products. N.J. Stat. Ann. § 24:5-1.

15. The following picture includes an example of a contaminated Product received by Plaintiffs:





16. Plaintiff Bocchinfuso orders approximately eight cases of the Products per month from Amazon.com. Plaintiff's most recent order of the Products occurred on or about February 26, 2024. Plaintiff Bocchinfuso received the contaminated bottles in one of her monthly orders occurring during or about January or February 2024.

17. Plaintiff Brendle orders cases of the Products regularly from Amazon.com. Plaintiff Brendle received the contaminated bottles during or about February 2024.

18. Persons, like Plaintiffs herein, have an interest in purchasing products that are not adulterated.

19. Therefore, Plaintiffs has been deprived of their legally protected interest to obtain unadulterated consumer products in from their purchases.

20. As a result of Defendant's sale of adulterated Products, Plaintiffs and the Classes have not received the benefit of the bargain they paid money for, namely that the Products would not be adulterated and could be consumed safely.

21. Plaintiffs and the Class Members have suffered an ascertainable loss of money as a result of receiving adulterated products, as those Products are not worth the money Plaintiffs paid for them.

22. Plaintiffs were unaware that the Products were adulterated when they purchased them.

23. As a result of Defendant's acts and omissions outlined above, Plaintiffs have suffered concrete and particularized injuries and harm, which include, but are not limited to, the following:

- a. Lost money; and
- b. Wasting Plaintiffs' time;

### **CLASS ALLEGATIONS**

24. Plaintiffs brings this action on behalf of themselves and all others similarly situated, as a member of the proposed class (the "Class"), defined as follows:

All persons within the United States who purchased adulterated Products from Defendant within six years prior to the filing of the Complaint through the date of class certification.

25. Plaintiffs also brings this action on behalf of themselves and all others similarly situated, as a member of the proposed sub-class (the "Sub-Class"), defined as follows

All persons within the State of New Jersey who purchased adulterated Products from Defendant within six years prior to the filing of the Complaint through the date of class certification.

26. The Class and the Sub-Class satisfy all of the requirements for maintaining a class action, specifically:

- a. Upon information and belief, the Class and the Sub-Class are so numerous that joinder of all members is impracticable. On information and belief there are hundreds, if not thousands of individuals in the United States and the State of New Jersey who purchased the products within the applicable statute of limitations period.

- b. There are questions of fact and/or law which are common to the Class and the Sub-Class, and which predominate over questions affecting any individual Class or Sub-Class members. These common questions of fact and law include, but are not limited to:
  - i. Whether the Products are adulterated;
  - ii. Whether the Class and Sub-Class members were informed that the Products were adulterated when they purchased them;
  - iii. Whether Defendant's conduct was unfair and deceptive;
  - iv. Whether there should be a tolling of the statute of limitations; and
  - iv. Whether the Class and Sub-Class members are entitled to restitution, actual damages, treble damages, and attorneys' fees and costs.
- c. Plaintiff's claims are typical of the Class and the Sub-Class, which all arise from the same operative set of facts and are based on the same legal theories
- d. Plaintiffs have no interests adverse or antagonistic to the interests of the other members of the Class and the Sub-Class.
- e. Plaintiffs will fairly and adequately protect the interests of the Class and the Sub-Class and Plaintiffs have retained experienced and competent attorneys to represent the Class and the Sub-Class.
- f. This class action is a fair and efficient adjudication of the controversy alleged herein. Plaintiffs anticipate that no unusual difficulties are likely to be encountered in the management of this class action.
- g. This class action will permit large numbers of similarly situated persons to prosecute their common claims in a single forum simultaneously and

without the duplication of effort and expense that numerous individual actions would engender. This class action will also permit the adjudication of relatively small claims by many Class and Sub-Class members who would not otherwise be able to afford to seek legal redress for the wrongs complained of herein. Absent a class action, Class and Sub-Class members will continue to suffer losses of legally protected rights, as well as monetary damages. If Defendants' conduct is allowed proceed to without remedy, Defendants will continue to benefit financially from such conduct.

- h. Defendants have acted on grounds generally applicable to the entire Class and Sub-Class, thereby making it appropriate for the Court to order final monetary, injunctive, and declaratory relief with respect to the Class and the Sub-Class as a whole.

27. Defendant, its employees and agents are excluded from the Class and Sub-Class. Plaintiff does not know the number of members in the Class and Sub-Class, but believes the members number in the thousands, if not more. Thus, this matter should be certified as a Class Action to assist in the expeditious litigation of the matter.

28. The size and definition of the Class and Sub-Class can be identified by Defendant's own records, and the records of retailers of Defendant's Products.

**COUNT I**  
**VIOLATIONS OF THE NEW JERSEY CONSUMER FRAUD**  
**ACT, N.J.S.A. 56:8 et seq.**

29. Plaintiffs incorporate all of the allegations and statements made in Paragraphs 1 through 29 above as if fully reiterated herein.

30. Plaintiffs are each a “person” as defined in N.J. Stat. Ann. § 56:8-1(c), as they are natural persons

31. Defendant is a “person” as defined in N.J. Stat. Ann. § 56:8-1(c), as it is a company and a business entity and/or association.

32. N.J. Stat. Ann. § 56:8-2 states:

The act, use or employment by any person of any commercial practice that is unconscionable or abusive, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice.

33. Through its sale of the adulterated Products, Defendant engaged in a commercial practice that is unconscionable and abusive, and has therefore engaged in an unlawful practice.

34. N.J. Stat. Ann. § 56:8-19 states:

Any person who suffers any ascertainable loss of moneys or property, real or personal, as a result of the use or employment by another person of any method, act, or practice declared unlawful under this act or the act hereby amended and supplemented may bring an action or assert a counterclaim therefor in any court of competent jurisdiction. In any action under this section the court shall, in addition to any other appropriate legal or equitable relief, award threefold the damages sustained by any person in interest. In all actions under this section, including those brought by the Attorney General, the court shall also award reasonable attorneys' fees, filing fees and reasonable costs of suit

35. Defendant failed to comply with the requirements of the NJCFA, including, but not limited to, N.J. Stat. Ann. § 56:8-2 as to the Class and Sub-Class members with respect to the above-alleged transactions.

36. By reason thereof, Plaintiffs are entitled to a judgment against Defendant, declaring that Defendant’s conduct violated N.J. Stat. Ann. § 56:8-2, and awarding actual damages, treble



damages, injunctive relief, costs, and attorneys' fees.

### **MISCELLANEOUS**

37. Plaintiff and Class Members allege that they have fully complied with all contractual and other legal obligations and fully complied with all conditions precedent to bringing this action or all such obligations or conditions are excused.

### **PRAYER FOR RELIEF**

Wherefore, Plaintiffs pray for a judgment against Defendant as follows:

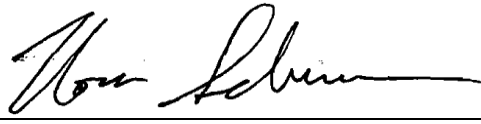
- a. An order certifying the Class and the Sub-Class and appointing Plaintiff as Representative of the Class and the Sub-Class;
- b. An order certifying the undersigned counsel as the Class and Sub-Class Counsel;
- c. An order requiring Defendant, at its own cost, to notify all members of the Class and the Sub-Class of the unlawful and unconscionable conduct herein;
- d. Judgment against Defendant in an amount to be determined at trial;
- e. An order for injunctive relief prohibiting such conduct by Defendant in the future;
- f. Judgment against Defendant for Plaintiffs' attorneys' fees, court costs, and other litigation costs; and
- g. Any other relief deemed just and proper by this Court.

### **JURY DEMAND**

Plaintiff hereby demands a trial by jury.

Dated: June 21, 2024

**SCHMIERER LAW GROUP, LLC**

By:   
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Ross H. Schmierer

**LAW OFFICES OF TODD M. FRIEDMAN, P.C.**

Todd M. Friedman, Esq.


Adrian R. Bacon, Esq.

**NOTICE TO ATTORNEY GENERAL OF ACTION**

A copy of the Complaint will be mailed to the Attorney General of the State of New Jersey within ten days after the filing with the Court, pursuant to N.J.S.A. 56:8-20.

Dated: June 21, 2024

**SCHMIERER LAW GROUP, LLC**

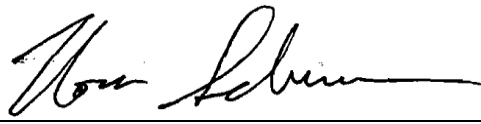
By:   
\_\_\_\_\_  
Ross H. Schmierer

**Rule 4:5-1 CERTIFICATION**

1. I am licensed to practice law in New Jersey and am responsible for the captioned matter.
2. I am aware of no other matter currently filed or pending in any court in any jurisdiction which may affect the parties or matters described herein.

Dated: June 21, 2024

**SCHMIERER LAW GROUP, LLC**

By:   
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Ross H. Schmierer