

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

SHANA DENNY, Individually and
All Others Similarly Situated,

Plaintiff,

vs.
WALMART INC.,

Defendant.

**CLASS ACTION COMPLAINT
JURY TRIAL DEMANDED**

Plaintiff, Shana Denny (“Plaintiff”), by and through her attorneys, brings this action individually and on behalf all others similarly situated against WALMART INC. (“Defendant” or “WALMART” as referred to hereafter). Plaintiff hereby alleges, on information and belief, except for information based on personal knowledge, which allegations are likely to have evidentiary support after further investigation and discovery, as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter under the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d)(2)(A), as the amount in controversy exceeds \$5 million, exclusive of interests and costs; it is a class action of over 100 members; and the Plaintiff is a citizen of a state different from at least one Defendant.

2. This Court has personal jurisdiction over Defendant. Defendant has sufficient minimum contacts with the state of Florida and purposefully availed themselves, and continue to avail themselves, to the jurisdiction of Florida through the privilege of conducting its business ventures in the state of Florida, thus rendering the exercise of jurisdiction by the Court permissible under traditional notions of fair play and substantial justice.

3. Venue is proper in this district under 28 U.S.C. § 1391(a) because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this district, as Defendant does business throughout this district, and Plaintiff made her purchase of WALMART Avocado Oil Products ("Avocado Oil" or "Products") in Brevard County, Florida, from a retailer in this district and the purchased WALMART Avocado Oil Products ("Avocado Oil" or "Products") were delivered to, and used, in this district.

THE PARTIES

4. Plaintiff Shana Denny is a natural person and a citizen and resident of Brevard County, Florida. Plaintiff purchased WALMART Avocado Oil Products ("Avocado Oil" or "Products") from a local WALMART Store. She purchased the Products for her personal use during the applicable statute of limitations in Brevard County, Florida. Plaintiff Shana Denny's most recent purchase was Defendant's WALMART Avocado Oil Products ("Avocado Oil" or "Products"), which were

purchased at a WALMART Store for approximately \$14.99 during the applicable time period. Prior to purchasing the Products, Plaintiff saw and read the packaging which is sold under the label WALMART “Avocado Oil”. Plaintiff reasonably believed that the product she purchased was comprised of Avocado Oil exclusively. The Plaintiff was not aware that the product contained a variety of other oils. Had Plaintiff known that the Products were not Avocado Oil exclusively she would not have purchased the Products.

5. Plaintiff would not have purchased the Products if she knew that the product was not purely avocado oil but was adulterated with a number of other oils.

6. Plaintiff would purchase the Product in the future; however, Plaintiff cannot now or in the future rely on the representations on the Product’s labels because she cannot know whether the contents remain false, and she may reasonably, but incorrectly, assume the Products were improved.

7. Defendant WALMART is a Delaware Corporation, with its principal place of business located at 702 SW 8th Street, Bentonville, AR 72716.

8. WALMART has labeled, advertised, distributed, and sold the Products for sale at its locations in Florida during the statute of limitations period under its private label brand.

9. Defendant manufactures, markets, advertises, and distributes the Products throughout the United States. Defendant created and/or authorized the false, misleading, and deceptive advertisements, packaging, and labeling of its Products.

FACTUAL ALLEGATIONS

A. Introduction

10. Supermarkets today are stocked with a variety of cooking oils. Customers can choose different cooking oils based on factors such as taste, uses, health benefits, and price.

11. But because avocado oil is more expensive to produce, some makers cut corners. They substitute other oils or mix avocado oil with cheaper seed oils. They sell avocado oil that is impure and adulterated. Consumers are harmed. They buy products labeled “avocado oil,” believing that they are buying pure avocado oil, and in fact, receive impure oil that is mixed and adulterated.

12. Defendant Walmart Inc. (“Walmart” or “Defendant”) makes, markets, and sells Great Value brand avocado oil. The bottle prominently states that it contains only avocado oil. The bottle is labeled “Refined Avocado Oil,” and has pictures of avocados. The ingredient list also lists only “avocado oil.” But the truth is, it is not pure avocado oil. Instead, testing has shown that the oil is adulterated and impure.

13. In June of 2024, Plaintiff Shana Denny purchased a bottle of Great Value Refined Avocado Oil from a Walmart store while living in Brevard County, Florida.

When Plaintiff purchased the product, the package prominently stated “Avocado Oil.” She read and relied on this statement, and believed she was purchasing pure avocado oil. However, a recent study shows that this is not true; Defendant’s avocado oil is adulterated and impure. Plaintiff was harmed and brings this lawsuit on behalf of herself and a class of consumers that purchased Defendant’s avocado oil.

B. Consumers want pure avocado oil and are willing to pay more for it.

14. “Avocado oil is a rising star in the culinary world.”¹ It “has generated growing interest among consumers due to its nutritional and technological characteristics.”² Avocado oil “is delicious, nutritious, and easy to use. It’s rich in oleic acid, polyunsaturated fats, carotenoids, and other antioxidant-rich nutrients that are linked to improved heart, skin, and eye health.”³ It has a variety of health benefits, and may reduce arthritis and improve skin. It also has a high heat point, which makes it suitable for high-heat cooking.⁴ “[A]vocado oil has established itself as an oil that has a very good nutritional value at low and high temperatures.”⁵

¹ www.washingtonpost.com/wellness/2024/08/27/avocado-oil-adulteration-tests/

² www.ncbi.nlm.nih.gov/pmc/articles/PMC6600360/

³ www.healthline.com/nutrition/9-avocado-oil-benefits

⁴ www.healthline.com/nutrition/9-avocado-oilbenefits#TOC_TITLE_HDR_2

⁵ www.ncbi.nlm.nih.gov/pmc/articles/PMC6600360/; <https://healthnews.com/nutrition/healthy-eating/why-you-should-start-replacing-canolaoil-with-avocado-oil/>

15. Due to its numerous health benefits, avocado oil is highly sought after by consumers, who are often willing to pay a premium for it. In fact, avocado oil can be priced up to four times higher than its competitor, canola oil.⁶

C. Scientific research reveals problems with avocado oil labeling.

16. Unfortunately, “due to the lack of enforceable standards, consumers are unprotected from fraud (i.e., economic motivated adulteration)” in the avocado oil marketplace.⁷ Because it costs a lot more to make 100% pure avocado oil than an impure or adulterated oil (e.g. one containing a mix of avocado and other oils), bad actors can increase their profits by selling impure or mixed oils as pure avocado oil.⁸ “Oils that are of poor quality or blended with cheaper edible oil can be traded and sold”⁹ to unknowing consumers. Consumers purchase the inauthentic products and pay the higher prices, believing that they are purchasing pure avocado oil with its corresponding benefits.

17. A group of scientists at University of California, Davis recently tested a variety of commercially available avocado oil for purity.

⁶ <https://healthnews.com/nutrition/healthy-eating/why-you-should-start-replacing-canola-oil-with-avocado-oil/>

⁷ Green, H. S.; Wang, S. C. *Food Control*, 2020, 116, 107328: “First report on quality and purity evaluations of avocado oil sold in the US”, available at <https://www.sciencedirect.com/science/article/pii/S0956713520302449>

⁸ Green, H. S.; Wang, S. C. *Food Control* 2023, 152, 109837 “Purity and quality of private labeled avocado oil,” available at <https://www.sciencedirect.com/science/article/pii/S0956713523002372>

⁹ Green, H. S.; Wang, S. C. *Food Control*, 2020, 116, 107328: “First report on quality and purity evaluations of avocado oil sold in the US”, available at <https://www.sciencedirect.com/science/article/pii/S0956713520302449>

18. They found that many retailers were selling adulterated avocado oil. Almost 70% of the avocado oils tested were “rancid or mixed with other oils.”¹⁰

D. Defendant’s avocado oil labeling is false and misleading.

19. Defendant sells Great Value Avocado Oil (the “Product”). Defendant’s labels prominently state that the Product is avocado oil. The front of the bottle prominently states “Avocado Oil,” and includes images of avocados.



20. The ingredients list only a single ingredient: Avocado Oil.

¹⁰ <https://www.ucdavis.edu/food/news/70%25-private-label-avocado-oil-rancidor-mixed-other-oils>



21. Based on each of these representations, reasonable consumers believe that the bottle contains avocado oil, and only avocado oil. Reasonable consumers expect that the words “Avocado Oil” means that the bottles contain avocado oil, not some oil that is adulterated, mixed with other oils, or is impure. Similarly, when reasonable consumers see the sole ingredient: “avocado oil,” they expect that the product only includes that sole ingredient: avocado oil. No reasonable consumer expects that a bottle labeled “Avocado Oil,” has photos of avocados, and lists only “avocado oil” as its ingredient contains other, cheaper, non-avocado oils. In short, reasonable

consumers reasonably believe that they are receiving a product that contains pure avocado oil.

22. But, scientific testing shows that the avocado oil is impure. The University of California, Davis researchers who study avocado oil purity recently revealed the names of the avocado oils that had tested impure in their study. The list included Defendant's Great Value avocado oil.¹¹

23. The inaccurate labeling of Defendant's product is highly material to reasonable consumers. Consumers who purchase avocado oil are choosing it and paying more for it, because they believe it has benefits over other oils. They are choosing to pay more because they believe that the product they are receiving is pure avocado oil, and not an oil that is adulterated with cheaper oils.

24. Defendant knows, or reasonably should know, that its labeling is misleading customers. Since at least 2020, the avocado oil industry has been aware that there are problems with adulteration and purity of avocado oils. See, e.g., <https://www.sciencedirect.com/science/article/pii/S0956713520302449>.

25. As a distributor and seller of cooking oils, Defendant is aware of industry studies and trends, and aware of the problems with impurity and adulteration in the avocado oil market. Defendant is aware of, willfully blind to, or negligent with respect to the fact that the avocado oils that it sells are impure. Indeed, if Defendant

¹¹ <https://www.washingtonpost.com/wellness/2024/08/27/avocado-oiladulteration-tests/>

tested its own avocado oils before putting them on the market, it would know that its avocado oils are impure and adulterated. Given the pervasive problems with avocado oil adulteration, any reasonable maker, seller, or distributor of avocado oil would test its own products.

E. Defendant overcharges its consumers.

26. Defendant's false and misleading labeling allows Defendant to charge higher prices for its products. As explained above, consumers are willing to pay substantially higher prices for avocado oil. If Defendant told the truth—that its oils are impure, and adulterated with other oils—the price of its avocado oil would drop dramatically. If consumers knew the truth—that the product did not contain 100% pure avocado oil—they would not pay the current prices for the products. Indeed, as described above, other oils sell for substantially less than pure avocado oil. Accordingly, if Defendant accurately labeled its products, it would have had to lower the price, and Plaintiff and class members would have paid less.

27. Thus, Plaintiff and each class member paid a substantial price premium because of Defendant's false and misleading labeling. Plaintiff paid more for a superior product worth more, and received an inferior product that was inaccurately labeled. Plaintiff and the class therefore sustained an economic injury and paid a price premium as result of Defendant's false and misleading labels.

F. Plaintiff was misled and harmed by Defendant's false and misleading labeling.

28. In July of 2024 Plaintiff purchased a bottle of Great Value Refined Avocado Oil from a Walmart store while living in Brevard County. The package prominently stated "Avocado Oil" and had pictures of avocados. The ingredient list also listed only avocado oil. Ms. Denny read and relied on these statements when purchasing the Product. She would not have purchased the Product at the price she paid if she had known that the Product was contaminated with other oils, and that it was not pure avocado oil.

29. Plaintiff wants Walmart to fix its practices and sell avocado oil with accurate labeling. If Walmart fixes their Products, so that the avocado oil is actually pure and not contaminated with other oils, she will buy them again. But given Walmart's past deception, Plaintiff cannot rely on Walmart's word alone that it has fixed the problem. Plaintiff faces an imminent threat of harm because she will not be able to rely on Walmart's labels in the future and will not be able to buy Great Value Avocado Oil, even if Walmart claims to have fixed the issue. To buy Walmart's Products again, Plaintiff needs the Court to enter an order forbidding Walmart from claiming that its avocado oil contains only "avocado oil," unless the avocado oil actually is pure and not contaminated with other oils.

PLAINTIFF SPECIFIC ALLEGATIONS

30. Plaintiff is a Florida resident who places a high priority on health and cholesterol, and on the adverse health consequences of ingredients in products that she buys. In shopping for groceries and food products for her and her family, Plaintiff was particularly concerned about cost-effectiveness and purchasing pure olive oil. Based on the statements made by Defendant, their widely recognized name, and lack of information that the Products contained other oils, Plaintiff believed the Avocado Oil was pure and safe to consume. Plaintiff paid an ascertainable premium in the purchase price for Defendant's product and should also be entitled to a full refund. Defendant's representations and omissions of other ingredients on the label were material to Plaintiff.

31. Plaintiff bought and consumed WALMART Avocado Oil Products throughout the applicable time period. Plaintiff was unaware when she bought the Avocado Oil Products that the Product contained other oils. Had Defendant been truthful and told Plaintiff that the Avocado Oil was not pure, she would not have purchased WALMART Avocado Oil Products.

32. Plaintiff suffered an ascertainable economic loss because of Defendant's statements and misrepresentations in that she bought the Avocado Oil Products that she would not have bought but for Defendant's statements and misrepresentations.

CLASS ACTION ALLEGATIONS

33. **Class Definition:** Plaintiff brings this action on behalf of herself and the following Classes pursuant to Federal Rule of Civil Procedure 23(a), (b)(2) and/or (b)(3). Specifically, the Classes are defined as:

National Class: All persons in the United States who purchased the Products during the fullest period of law.

34. In the alternative, Plaintiff brings this action on behalf of the following state sub-class:

Florida Sub-Class: All persons in the State of Florida who purchased the Products during the fullest period of law.

35. Plaintiff reserves the right to amend the Class definitions if further investigation and discovery indicates that the Class definitions should be narrowed, expanded, or otherwise modified.

36. **Numerosity and Ascertainability:** Plaintiff does not know the exact number of members of the putative classes. Due to Plaintiff's initial investigation, however, Plaintiff is informed and believes that the total number of Class members is at least in the tens of thousands, and that members of the Class are numerous and geographically dispersed throughout Florida and the United States. While the exact number and identities of the Class members are unknown at this time, such

information can be ascertained through appropriate investigation and discovery, including Defendant's records, either manually or through computerized searches.

37. Typicality and Adequacy: Plaintiff's claims are typical of those of the proposed Class, and Plaintiff will fairly and adequately represent and protect the interests of the proposed Class. Plaintiff does not have any interests that are antagonistic to those of the proposed Class. Plaintiff has retained counsel competent and experienced in the prosecution of this type of litigation.

38. Commonality: The questions of law and fact common to the Class members, some of which are set out below, predominate over any questions affecting only individual Class members:

- a. whether Defendant committed the conduct alleged herein;
- b. whether Defendant's conduct constitutes the violations of laws alleged herein;
- c. whether Defendant's labeling, sale, and advertising set herein are unlawful, untrue, or are misleading, or reasonably likely to deceive;
- d. whether the WALMART Avocado Oil Products ("Avocado Oil" or "Products") are adulterated and/or misbranded under Florida or federal law;

e. whether Defendant knew or should have known that the representations were false or misleading in that only Avocadoes was listed in the ingredients list on the packaging;

f. whether Defendant knowingly concealed or misrepresented material facts for the purpose of inducing consumers into spending money on the WALMART Avocado Oil Products (“Avocado Oil” or “Products”);

g. whether Defendant’s representations, concealments and non-disclosures concerning the WALMART Avocado Oil Products (“Avocado Oil” or “Products”) are likely to deceive the consumer;

h. whether Defendant’s representations, concealments and non-disclosures concerning the WALMART Avocado Oil Products (“Avocado Oil” or “Products”) violate FDUTPA and/or the common law;

i. whether Defendant should be permanently enjoined from making the claims at issue; and

j. whether Plaintiff and the Class are entitled to restitution and damages.

39. Predominance and Superiority: Common questions, some of which are set out above, predominate over any questions affecting only individual Class members. A class action is the superior method for the fair and just adjudication of this controversy. The expense and burden of individual suits makes it impossible and

impracticable for members of the proposed Class to prosecute their claims individually and multiplies the burden on the judicial system presented by the complex legal and factual issues of this case. Individualized litigation also presents a potential for inconsistent or contradictory judgments. In contrast, the class action device presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court on the issue of Defendant's liability. Class treatment of the liability issues will ensure that all claims and claimants are before this Court for consistent adjudication of the liability issues. A class action is superior to other available methods for the fair and efficient adjudication of this controversy for at least the following reasons:

- a. given the complexity of issues involved in this action and the expense of litigating the claims, few, if any, Class members could afford to seek legal redress individually for the wrongs that Defendant committed against them, and absent Class members have no substantial interest in individually controlling the prosecution of individual actions;
- b. when Defendant's liability has been adjudicated, claims of all Class members can be determined by the Court;

- c. this action will cause an orderly and expeditious administration of the Class claims and foster economies of time, effort and expense, and ensure uniformity of decisions; and
- d. without a class action, many Class members would continue to suffer injury, and the Defendant's violations of law would continue without redress while the Defendant continues to reap and retain the substantial proceeds of their wrongful conduct.

83. **Manageability:** The trial and litigation of Plaintiff's and the proposed Class claims are manageable. Defendant has acted and refused to act on grounds generally applicable to the Class, making appropriate final injunctive relief and declaratory relief with respect to the Class as a whole.

COUNT I

For Violations of Florida's Deceptive

and Unfair Trade Practices Act,

Fla. Stat. 501.201 et seq.

84. Plaintiff realleges and incorporates by reference each of the allegations contained in the paragraphs above as if fully set forth herein.

85. Plaintiff brings this claim on their own behalf and on behalf of each member of the Class.

86. Defendant violated and continue 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 their business.

87. 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 WALMART Avocado Oil Products ("Avocado Oil" or "Products") were purely comprised of Avocado Oil.

88. Plaintiff and Class members relied upon these advertisements in deciding to purchase the WALMART Avocado Oil Products ("Avocado Oil" or "Products").

89. Plaintiff's reliance was reasonable because of Defendant's reputation as a reliable company.

90. Had Plaintiff known that the WALMART Avocado Oil Products ("Avocado Oil" or "Products") were not as advertised, they would not have purchased the product. As a result of Defendant's deceptive and unfair acts, Plaintiff and Class members have been damaged.

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

92. Plaintiff and Class members are entitled to a refund or damages in an amount to be proven at trial.

93. Defendant should also be ordered to cease their deceptive advertising and should be made to engage in a corrective advertising campaign to inform consumers that its WALMART Avocado Oil Products (“Avocado Oil” or “Products”) contain other oils.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays this Court:

- a. Certify this action as a class action;
- b. Award a full refund, compensatory, statutory damages as to all Counts where such relief is permitted by law;
- c. Enjoin Defendant’s conduct and order Defendant to engage in a corrective advertising and labeling/disclosure campaign;
- d. Award equitable monetary relief, including a full refund or other restitution;
- e. Award pre-judgment and post-judgment interest at the legal rate;
- f. Award Plaintiff and Class members the costs of this action, including reasonable attorneys’ fees, costs, and expenses; and
- g. Award such other and further legal and equitable relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

DATED: October 23, 2024

s/William C. Wright

WILLIAM WRIGHT
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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

Shana Denny, individually and on behalf of all others similarly situated

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

(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

DEFENDANTS

Walmart 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)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

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

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, INTELLECTUAL PROPERTY RIGHTS, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal codes and descriptions.

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: False Advertising

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 10/23/2024 SIGNATURE OF ATTORNEY OF RECORD s/ William Wright

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

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

UNITED STATES DISTRICT COURT

for the

Middle District of Florida [dropdown icon]

SHANA DENNY, individually and on behalf of all others similarly situated,)

Plaintiff(s)

v.

WALMART INC.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Walmart Inc. c/o The Corporation Trust Company 1209 N Orange St Wilmington DE 19801-11210

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: 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 \$ _____ 0.00 _____ .

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: