

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

JAIME NAPOLITANO, individually
and on behalf of all others similarly
situated,

Plaintiff,

- against -

DR. SQUATCH LLC,

Defendant

1:24-cv-07490

Class Action Complaint

Jury Trial Demanded

Jaime Napolitano (“Plaintiff”), through Counsel, alleges upon information and belief, except for allegations about Plaintiff, which are based on personal knowledge:

1. Sales of personal care products based on natural ingredients are growing twice the rate of traditional personal care products, exceeding \$50 billion per year.
2. According to Nielsen, whether personal care products contain mostly natural ingredients is very important to almost half of the public.
3. Based on a survey of 1,500 retailers, Euromonitor International concluded that “naturalness” was the basis for the most claims on personal care products.
4. One recent academic publication concluded that consumers would pay at least ten percent more for personal care products highlighting their natural

attributes.

5. Over three-quarters of Americans believe cosmetics with synthetic ingredients are associated with detrimental impacts on health and the environment.

6. Consumers' preference for personal care products marketed as "natural" "involves the specific advantages [they] associate with natural claims."¹

7. Natural negative definition what it is not

8. These beliefs "can be influenced by halo effects enticed by natural claimed products and lay theories consumers hold."

9. Though "Halo effects are defined as the consumers' use of limited information regarding a product characteristic to infer other product attributes, biasing [their] assumptions, [these] lay theories are core beliefs people hold to help mak[e] sense of the world."

10. This preference for natural ingredients appears well founded, because "in recent years, an increasing number of reports have raised concerns about many [synthetic ingredients]."²

11. According to the Environmental Working Group ("EWG"), "no category of consumer products is subject to less government oversight than cosmetics and

¹ Sofia Alexandra Vieira Simão et al., "Natural Claims and Sustainability: The Role of Perceived Efficacy and Sensorial Expectations," *Sustainable Production and Consumption*, 34 (2022): 505-517.

² Many Personal Care Products Contain Harmful Chemicals. Here's What to Do About It, *New York Times*.

other personal care products.”³

12. While “many of the chemicals and contaminants in cosmetics and personal care products likely pose little risk, exposure to some has been linked to serious health problems, including cancer.”

13. The David Suzuki Foundation noted that “U.S. researchers report that one in eight of the 82,000 ingredients used in personal care products are industrial chemicals, including carcinogens, pesticides, reproductive toxins, and hormone disruptors.”

14. Over one hundred years ago, consumers were similarly concerned about the harmful and untested chemicals added to the products they applied to their bodies.

15. These included “tonics” and “lotions,” purporting to have curative and salutary effects, yet were often laden with toxic components.

16. Beyond potential to cause physical harm, these synthetic substances were significantly cheaper than the natural ingredients such products purported to contain.

17. In response to this unregulated environment, the Pure Food and Drug Act of 1906 prevented egregious claims and brought renewed scrutiny to sellers of cosmetics.

³ The Toxic Twelve Chemicals and Contaminants in Cosmetics.

18. This requirement was strengthened by the Federal Food, Drug and Cosmetic Act (“FFDCA”), which took additional steps to prohibit “misbranding” of cosmetics promoted as natural when they were mainly comprised of synthetic ingredients. 21 U.S.C. § 301 *et seq*; 21 U.S.C. § 361 *et seq.*; 21 C.F.R. Parts 700 and 701.⁴

19. New York adopted these requirements so its citizens could make informed decisions about what they apply to their bodies. New York Education Law (“EDN”), Title 8, Article 137 – Pharmacy, § 6800 *et seq.*

20. The newly established Food and Drug Administration (“FDA”), and its state counterparts, knew how “consumers initially [] rely on extrinsic cues such as visual information on labels and packaging” in deciding which personal care and cosmetics to buy, and established rules for preventing the public from being misled.⁵

21. The scale of deception in the sale and marketing of cosmetics and personal care products promoted as “natural” required drawing on the expertise of other government agencies.

⁴ “Misbranded” is the statutory term for labeling that is false and/or misleading.

⁵ Lancelot Miltgen et al., “Communicating Sensory Attributes and Innovation through Food Product Labeling,” *Journal of Food Products Marketing*, 22.2 (2016): 219-239; Helena Blackmore et al., “A Taste of Things to Come: The Effect of Extrinsic and Intrinsic Cues on Perceived Properties of Beer Mediated by Expectations,” *Food Quality and Preference*, 94 (2021): 104326; Okamoto and Ippaita, “Extrinsic Information Influences Taste and Flavor Perception: A Review from Psychological and Neuroimaging Perspectives,” *Seminars in Cell & Developmental Biology*, 24.3, Academic Press, 2013.

22. This recognized that “natural” is the type of term subject to a “negative” definition, defined by the absence of synthetic or artificial components, similar to how light can be defined as the absence of darkness.

23. Then, “synthetic” was defined to mean a substance manufactured by a chemical process or a process that chemically changes it from a natural source. 7 U.S.C. § 6502.

24. The United States Department of Agriculture (“USDA”) developed a series of criteria for distinguishing natural and synthetic ingredients.⁶

25. This “Decision Tree” considers a substance “natural” as opposed to “synthetic” if (a) it is manufactured, produced, or extracted from a natural source, (b) it has not undergone a chemical change, i.e., transformed into other distinct substances, so it is chemically or structurally different than how it naturally occurs, or (c) the chemical change was created by a naturally occurring biological process such as composting, fermentation, or enzymatic digestion or by heating or burning biological matter.

26. This excludes synthetic ingredients, produced through chemical syntheses and other chemical reactions, and made through use of chemical compounds, even if those are absent in the final ingredient.

⁶ Decision Tree for Classification of Materials as Synthetic or Nonsynthetic (Natural) (“Draft Guidance”).

27. To respond to the growing consumer demand for natural personal care products, Dr. Squatch LLC (“Defendant”) manufactures, distributes, packages, labels, and/or sells “Men’s Natural Shampoo,” and “Men’s Natural Conditioner,” described as “Sulfate & Paraben Free,” in multiple varieties, based on several high-valued ingredients, in multiple varieties, such as “Pine Tar,” promoted as containing “Shea Butter, Avocado Oil [and] Pine Tar,” under the Dr. Squatch brand (“Products”).⁷

⁷ “Products” refers to the Dr. Squatch shampoo and conditioner in the following varieties: Pine Tar, Fresh Falls, Cool Citrus, Summer Citrus, Cool Fresh Aloe, Coconut Castaway, and Frosty Peppermint.



28. The Products are “misbranded” and misleading, because despite the labeling and marketing as “Men’s Natural Shampoo” and “Men’s Natural Conditioner,” at least fifteen of the twenty-four ingredients are not “natural,” as this term is understood by consumers. EDN § 6818(2)(a); 21 U.S.C. § 362(a).



INGREDIENTS: Water, Decyl Glucoside, Coco-Glucoside, Glycerin, Fragrance, Xanthan Gum, Gluconolactone, Sodium Stearoyl Lactylate, Trehalose, Honey, Citric Acid, Sodium Benzoate, Charcoal Powder, Pinus larata, Pinus Palustris (Pine) Wood Tar, Hydrolyzed Oat Protein, Calendula Officinalis Flower Extract, Equisetum Arvense (Horsetail) Extract, Rosmarinus Officinalis (Rosemary) Leaf Extract, Symphytum Officinale (Comfrey) Leaf Extract, Urtica Dioica (Nettle) Leaf Extract, Simmondsia Chinensis (Jojoba) Seed Oil, Tocopherol, Helianthus Annuus (Sunflower) Seed Oil.

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29. The second ingredient of decyl glucoside is not natural, because it is made by chemical condensation with glucose polymers.

30. The third ingredient, coco-glucoside is synthetic, obtained by the condensation of glucose and coconut alcohol with acid catalysts, at high temperatures.

31. The fourth ingredient, glycerin is recognized as synthetic, by the USDA.

7 C.F.R. § 205.605(b).

32. The USDA's Agricultural Marketing Service ("AMS") explained that it considers glycerin a "synthetic nonagricultural (nonorganic) substance," in part because it is "produced by a hydrolysis of fats and oils." and listed as

33. As the global personal care industry uses millions of tons of glycerin per year, its only viable source is as a byproduct from biodiesel production, a non-natural source.

34. The fifth ingredient, fragrance, even if it was a "natural fragrance," is not something consumers would consider "natural."

35. This is because such an ingredient would consist of numerous concentrated essential oils and other components, mixed with potentially dozens of additives, which are often not natural, in a laboratory.

36. Production of "natural fragrance" uses nature bio-identical chemicals, the same as their synthetic counterparts, but from natural sources.

37. The result may be "natural" on paper, but is inconsistent with what consumers would expect.

38. The sixth ingredient of xanthan gum is considered a synthetic ingredient by the USDA. 7 C.F.R. § 205.605(b).

39. This polysaccharide is derived from the fermentation of sugars, by *anthomonas campeseri bacterium*, and purification, using isopropyl alcohol.

40. In 2012, the Journal of Pediatrics noted that the FDA issued warnings that products containing xanthan gum have been linked to illness and death in infants.

41. The seventh ingredient, gluconolactone, is considered synthetic, because it is industrially manufactured by removing water from gluconic acid or by enzymatic oxidation of D-glucose.

42. This entails the crystallization of glucono-1,5-lactone from a supersaturated gluconic acid solution.

43. The eighth ingredient, sodium stearoyl lactylate, is a mixture of the sodium salts of stearoyl lactic acids and sodium salts of related acids.

44. Sodium stearoyl lactylate is considered synthetic because it is manufactured by the reaction of stearic acid and lactic acid and conversion to sodium salts.

45. The ninth ingredient, trehalose, is a sugar synthesized from plant matter, bacteria, or fungi.

46. Though naturally occurring, trehalose is synthetic because it is mass produced by chemical reactions, involving maltodextrin, a synthetic ingredient itself, enzymes, or an acid reversion of glucose.

47. The eleventh ingredient, citric acid, can be obtained from citrus fruits, the version used in the Products is not from citrus fruits.

48. Instead, this citric acid is synthetic, because it is industrially manufactured by fermenting *Aspergillus niger*, a mold.

49. Citric acid is recovered from fermentation broth by a lime and sulfuric acid process.

50. The citric acid is first precipitated as a calcium salt and then re-acidulated with sulfuric acid.

51. As one of the AMS reviewers commented, “[Citric acid] is a natural[ly] occurring substance that commercially goes through numerous chemical processes to get to [its] final usable form. This processing would suggest that it be classified as synthetic.”

52. Since it goes through numerous chemical processes until reaching its final, usable form, it is classified by the USDA as synthetic.

53. The twelfth ingredient, sodium benzoate, is not natural, because it does not exist in a natural state.

54. Instead, sodium benzoate is created in a lab, from refining benzoic acid.

55. The fourteenth ingredient, potassium sorbate, is the salt of sorbic acid.

56. Potassium sorbate is produced by reacting sorbic acid with potassium hydroxide, through, among other things, chemical reactions, such that it is not considered a “natural” ingredient.

57. The sixteenth ingredient, hydrolyzed oat protein, is synthetic, because

even though it begins with oat protein, it is chemically modified through hydrolysis, using acid.

58. The twenty-third ingredient, tocopherol, is considered a synthetic, inert ingredient, used in pesticides, and as preservatives. 40 C.F.R. § 180.910.

59. While tocopherol may be extracted from natural oils, this requires molecular distillation, solvent extraction, and/or absorption chromatography, inconsistent with what consumers would consider “natural” processes.

60. The twenty-fourth ingredient, *helianthus annuus* (sunflower) seed oil, originates from sunflowers, the steps required to convert this substance to a form capable of being used in personal care products go beyond what consumers would expect for a “natural” ingredient.

61. First, harvested sunflower seeds are passed over magnets to remove metal traces.

62. Then, the outer covering or seed hulls are removed and pressed.

63. The next step involves the use of chemical solvents, typically hexane, to facilitate extraction.

64. Hexane is generally produced from naphtha, one of the lightest fractions obtained directly from petroleum refining

65. Hexane has been demonstrated to be neurotoxic and even a cause of occupational diseases in several European countries since the 1970s.

66. The Products are “misbranded” and misleading, because despite the labeling and marketing as “Men’s Natural Shampoo” and “Men’s Natural Conditioner,” when water is excluded, its total volume is mainly non-natural ingredients. EDN § 6818(2)(a); 21 U.S.C. § 362(a).

67. This is based on reviewing its ingredients, “listed in descending order of predominance [by weight].” 21 C.F.R. § 701.3(a).

68. In the formulation of hair care products, surfactants, or cleaning agents, comprise roughly forty percent, second to water, present in an amount greater than the second and third surfactants of decyl glucoside and coco-glucoside.

69. This means that, upon information and belief, and the investigation of Counsel, water, decyl glucoside, and coco-glucoside, comprise roughly eighty percent of the Products’ volume, and such allegations are likely to have evidentiary support, following a reasonable opportunity for discovery.

70. Excluding water, even if all ingredients, other than decyl glucoside, and coco-glucoside, were natural, which it is alleged they are not, the total volume attributed to synthetic ingredients would be greater than that for natural ingredients.

71. As a result of the false and misleading representations, the Products are sold at a premium price, approximately \$10.99 per bottle, higher than similar products, represented in a non-misleading way, and higher than similar products, represented in a non-misleading way, and higher than it would be sold for absent the

misleading representations and omissions, when these factors are taken together, and/or utilized for the purpose of conjoint analysis, choice analysis, choice-based ranking, hedonic pricing, and/or other similar methods, to evaluate a product's attributes and/or features.

JURISDICTION

72. Plaintiff is a citizen of New York.

73. Defendant is a citizen of California, because it is a limited liability company with members who are citizens of California.

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

75. The aggregate amount in controversy exceeds \$5 million, including any statutory and punitive damages, exclusive of interest and costs.

76. The Court has jurisdiction over Defendant because it transacts business within New York and sells the Products to consumers within New York from retail stores such as grocery stores, big box stores, bodegas, gas stations, warehouse club stores, drug stores, convenience stores, specialty grocery stores, ethnic food stores, gas station convenience stores, other similar locations, and/or online, to citizens of this State.

77. Defendant transacts business in New York, through the sale of the Products to citizens of New York from retail stores such as grocery stores, big box

stores, bodegas, gas stations, warehouse club stores, drug stores, convenience stores, specialty grocery stores, ethnic food stores, gas station convenience stores, other similar locations, and/or online, to citizens of this State.

78. Defendant has committed tortious acts within this State through the distribution and sale of the Products, which is misleading to consumers in this State.

79. Defendant has committed tortious acts outside this State by labeling, representing and selling the Products in a manner which causes injury to consumers within this State by misleading them as to its contents, attributes, type, origins, amount and/or quality, by regularly doing or soliciting business, or engaging in other persistent courses of conduct to sell the Products to consumers in this State, and/or derives substantial revenue from the sale of the Products in this State.

80. Defendant has committed tortious acts outside this State by labeling the Products in a manner which causes injury to consumers within this State by misleading them as to its contents, type, origins, amount and/or quality, through causing the Products to be distributed throughout this State, such that it expects or should reasonably expect such acts to have consequences in this State and derives substantial revenue from interstate or international commerce.

VENUE

81. Plaintiff resides in Richmond County.

82. Venue is in this Court because a substantial or entire part of the events

or omissions giving rise to Plaintiff's claims occurred in Richmond County, Queens County, and/or Kings County.

83. Venue is in this Court because Plaintiff's residence is in Richmond County.

84. Plaintiff purchased, used, and/or applied the Products in reliance on the packaging, labeling, representations, and omissions identified here in Richmond County, Queens County, and/or Kings County.

85. Plaintiff first became aware the packaging, labeling, representations, and omissions, were false and misleading, in Richmond County, Queens County, and/or Kings County.

PARTIES

86. Plaintiff Jaime Napolitano is a citizen of Richmond County, New York.

87. Defendant Dr. Squatch LLC is a Delaware limited liability company with a principal place of business in California.

88. The packaging, labeling, and ingredients of the Products are substantially similar, with all or substantially of them described as "Natural."

89. Plaintiff is like most consumers and prefers personal care products made from mostly natural ingredients instead of non-natural and synthetic ingredients.

90. Plaintiff is like most consumers and looks to the front label of personal care products to learn basic information about what she is buying.

91. Plaintiff is like most consumers and when she sees a front label of personal care products describing it as “natural,” she expects that most of its ingredients will be natural, and/or that after water, the contents will be mostly natural ingredients, in terms of the total mass or volume.

92. Plaintiff is like most consumers and tries to avoid personal care products with mostly synthetic ingredients, believing they are potentially harmful, less valued, not natural and/or unhealthy.

93. Plaintiff did not expect that the Products would consist of mainly ingredients that were not natural, but synthetic, and/or that besides water, the composition would be mostly not natural, but synthetic ingredients.

94. Plaintiff read, saw, and relied on the packaging and labeling of “Natural Shampoo,” and/or “Natural Conditioner.”

95. Plaintiff bought the Products with the labeling and packaging identified here, at around the above-referenced price.

96. Plaintiff purchased the Products between September 2021 and September 2024, at grocery stores, big box stores, bodegas, gas stations, warehouse club stores, drug stores, convenience stores, specialty grocery stores, ethnic food stores, gas station convenience stores, and/or other similar locations in New York.

97. The Products were worth less than what she paid, and she would not have paid as much absent Defendant’s false and misleading statements and/or omissions.

CLASS ALLEGATIONS

98. Plaintiff seeks to represent the following classes:

New York Class: All persons in New York who purchased the Products during the statutes of limitations for each cause of action alleged.

Multistate Class: All persons in Rhode Island, Alaska, Mississippi, Kansas, West Virginia, Kentucky, Utah, Montana, Idaho, Wyoming, South Dakota, Arkansas, North Dakota, South Carolina, and Nebraska, who purchased the Products during the statutes of limitations for each cause of action alleged.

99. Excluded from the Classes are (a) Defendant, Defendant's board members, executive-level officers, and attorneys, and immediate family members of any of the foregoing persons, (b) governmental entities, (c) the Court, the Court's immediate family, and Court staff and (d) any person that timely and properly excludes himself or herself from the Class.

100. 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.

101. 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.

102. Plaintiff is an adequate representative because her interests do not

conflict with other members.

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

104. 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.

105. The class is sufficiently numerous, with over 100 members, because the Products have been sold throughout the State for several years with the representations, omissions, packaging, and labeling identified here, at hundreds of retail locations and online, to citizens of this State.

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

CAUSES OF ACTION

COUNT I

General Business Law ("GBL") §§ 349 and 350

107. To the extent required, this section incorporates by reference other paragraphs as necessary.

108. The purpose of the GBL is to protect consumers against unfair and deceptive practices.

109. This includes making state consumer protection and enforcement consistent with established policies of federal law relating to consumer protection.

110. The GBL considers false advertising, unfair acts, and deceptive practices

in the conduct of any trade or commerce to be unlawful.

111. Violations of the GBL can be based on (1) other laws and standards related to consumer deception, (2) public policy, established through statutes, laws, or regulations, (3) principles of the Federal Trade Commission Act (“FTC Act”), (4) FTC decisions with respect to those principles, (5) any rules promulgated pursuant to the FTC Act, and/or (6) standards of unfairness and deception set forth and interpreted by the FTC or the federal courts relating to the FTC Act . 15 U.S.C. §§ 41, 45, *et seq.*

112. Defendant’s false and deceptive representations and omissions with respect to the Products’ quantity of contents, efficacy, active ingredients, level of fill, contents, origins, nutrient values, servings, ingredients, flavoring, type, functionality, and/or quality, are material in that they are likely to influence consumer purchasing decisions.

113. The packaging and labeling of the Products violated the FTC Act, thereby violating the GBL, because the representations, omissions, design, markings, and/or other elements, including “Natural Shampoo,” and “Natural Conditioner,” were unfair and deceptive to consumers, because they contained mostly ingredients that were natural, and that the total contents, other than water, would be mostly natural.

114. The packaging and labeling of the Products violate laws, statutes, rules,

regulations, and/or norms, which prohibit unfair, deceptive, and/or unconscionable conduct, against the public.

115. The packaging and labeling of the Products violated the GBL, because the representations, omissions, design, markings, and/or other elements, including “Natural Shampoo,” and “Natural Conditioner,” which contained mostly ingredients that were natural, and that the total contents, other than water, would be mostly natural, were contrary to statutes and/or regulations, which prohibit consumer deception by companies in the labeling of personal care products.

<u>State</u>	<u>Federal</u>
<u>EDN § 6818(2)(a)</u>	<u>21 U.S.C. § 362(a)</u>

116. Plaintiff believed the Products contained mostly ingredients that were natural, and/or its total contents, other than water, were natural, even though most of its ingredients were synthetic, and its total contents, other than water, were mostly synthetic.

117. Plaintiff paid more for the Products, would not have paid as much, and would have paid less, if she knew that most of its ingredients were synthetic, and/or its total contents, other than water, were mostly synthetic.

118. Plaintiff seeks to recover for economic injury and/or loss she sustained, based on the misleading labeling and packaging of the Products, a deceptive practice under the GBL.

119. Plaintiff may produce evidence showing how she and consumers paid more than they would have paid for the Products, relying on Defendant's representations, omissions, packaging, and/or labeling, using statistical and economic analyses, hedonic regression, hedonic pricing, conjoint analysis, and/or other advanced methodologies.

120. This means individual damages will be based on the value attributed to the challenged claims and/or omissions, a percentage of the total price paid, in addition to statutory damages, and/or full value damages.

121. As a result of Defendant's misrepresentations and omissions, Plaintiff was injured and suffered damages, in part, by payment of a price premium for the Products, the difference between what she paid based on their labeling, packaging, representations, statements, omissions, and/or marketing, and how much they would have been sold for without the misleading labeling, packaging, representations, statements, omissions, and/or marketing, identified here.

COUNT II

Violations of Consumer Fraud Multi-State Statutes

122. 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.

123. 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.

124. Defendant intended that members of the Consumer Fraud Multi-State Class would rely upon its deceptive conduct.

125. As a result of Defendant's use of artifice, and unfair or deceptive acts or business practices, the members of the Consumer Fraud Multi-State Class sustained damages.

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 representatives and the undersigned as Counsel for the class;
2. Awarding monetary damages, statutory damages, punitive damages, and/or interest;
3. Awarding costs and expenses, including reasonable fees for Plaintiff's attorneys and experts; and
4. Other and further relief as the Court deems just and proper.

Dated: October 26, 2024

Respectfully submitted,

/s/ Spencer Sheehan

Sheehan & Associates P.C.
60 Cuttermill Rd Ste 412
Great Neck NY 11021
(516) 268-7080

spencer@spencersheehan.com

Reese LLP
Michael Reese
100 W 93rd St Fl 16
New York NY 10025
(212) 643-0500
mreese@reesellp.com

Counsel for Plaintiff

Certificate of Service

I certify that on October 26, 2024, I served and/or transmitted the foregoing by the method below to the persons or entities indicated, at their last known address of record (blank where not applicable).

	CM/CEF	First-Class Mail	Email	Fax
Defendant's Counsel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Plaintiff's Counsel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Court	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

/s/ Spencer Sheehan

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JAIME NAPOLITANO, individually and on behalf of all others similarly situated

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

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

Sheehan & Associates, P.C., 60 Cuttermill Rd Ste 412 Great Neck NY 11021-3104 (516) 268-7080

DEFENDANTS

DR. SQUATCH LLC

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)

Does this action include a motion for temporary restraining order or order to show cause? Yes No

III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only.)

(Check one box, only for plaintiff and one box for defendant.)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship options: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation

VI. CAUSE OF ACTION

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

28 USC § 1332

Brief description of cause: False advertising

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE 10/26/2024 SIGNATURE OF ATTORNEY OF RECORD /s/ Spencer Sheehan

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, Spencer Sheehan, counsel for plaintiff, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? Yes No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? Yes No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes No
 - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? Yes No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: /s/Spencer Sheehan

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

UNITED STATES DISTRICT COURT

for the
Eastern District of New York

JAIME NAPOLITANO, individually and on
behalf of all others similarly situated,

Plaintiff(s)

v.

DR. SQUATCH LLC,

Defendant(s)

Civil Action No. 1:24-cv-07490

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) DR. SQUATCH LLC
c/o The Corporation Trust Company
1209 N Orange St
Wilmington DE 19801

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are: Sheehan & Associates P.C., 60 Cuttermill Rd Ste 412 Great Neck NY 11021
(516) 268-7080

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

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 1:24-cv-07490

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: