

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

Anna Tollison, on behalf of herself and all  
others similarly situated,

Plaintiff,

vs.

Subway Restaurants, Inc., Franchise World  
Headquarters, LLC, Subway Franchisee  
Advertising Trust Fund Ltd.,

Defendants.

Case No.:

JURY TRIAL DEMANDED

**CLASS ACTION COMPLAINT**

Plaintiff Anna Tollison, by and through her undersigned counsel, upon personal knowledge as to herself and upon information and belief as to all other matters, allege as follows:

1. Plaintiff brings this action against defendants Subway Restaurants, Inc., Franchise World Headquarters, LLC, Subway Franchisee Advertising Trust Fund Ltd. (defendants are herein referred to as “Subway”), on behalf of herself and all other similarly situated individuals who purchased a Steak & Cheese sandwich (the “Product”), from a Subway located in New York during the period October 28, 2021, through the date of the final disposition of this action.

**FACTUAL ALLEGATIONS**

2. This is a class action against Subway for unfair and deceptive trade practices for selling its Steak & Cheese sandwich based on false and misleading advertisements concerning the amount of meat contained therein.

3. Subway uses photographs in its advertisements that make it appear that the Steak & Cheese sandwich contains at least 200% more meat than the actual sandwiches that customers receive.

4. For example, Subway's advertisement for the Steak & Cheese sandwich on its website and mobile application looks as follows when compared to the actual item provided to customers:

**Steak & Cheese Advertisement**



**Actual Steak & Cheese Received**



5. Subway materially overstates the amount of meat in its advertisements for the Product by at least 200%.

6. Numerous other customers have complained on social media that Subway's advertisements for the Steak & Cheese sandwich are grossly misleading.

7. For example, a consumer posted the following approximately six months ago on Reddit<sup>1</sup>:

**My Subway Order Today**



**Steak & Cheese**



**What I Received**

8. Another consumer posted the following Steak & Cheese sandwich and claimed it was not as expected when compared to the advertisement for the sandwich<sup>2</sup>:



<sup>1</sup>[https://www.reddit.com/r/ExpectationVsReality/comments/1cb9rfe/at\\_a\\_local\\_subway\\_today/](https://www.reddit.com/r/ExpectationVsReality/comments/1cb9rfe/at_a_local_subway_today/)

<sup>2</sup>[https://www.reddit.com/r/ExpectationVsReality/comments/pq4zm7/subway\\_steak\\_and\\_cheese/](https://www.reddit.com/r/ExpectationVsReality/comments/pq4zm7/subway_steak_and_cheese/).

9. Subway also falsely advertises many other sandwiches, including the Cheesy Garlic Steak.

10. For example, a customer complained on Youtube that the Cheesy Garlic Steak “...looks really really skimpy compared to the picture....” and compared the advertisement to the sandwich as follows<sup>3</sup>:



11. Subway’s advertisements for the Product are unfair and financially damaging to consumers as they are receiving a product that is materially lower in value than what is being represented.

12. Subway actions are especially concerning now that inflation, food, and meat prices are very high and many consumers, especially lower income consumers, are struggling financially.

13. Subway’s promise to consumers of a large portion of food with their purchase is also causing consumers to come to, or order from, Subway restaurants and make purchases that they would not have otherwise made.

14. Subway advertisements are also causing consumers to take the time and expense to drive to and from Subway and/or pay pickup and/or delivery fees.

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<sup>3</sup> See <https://youtu.be/tB1zcN4b2yM?t=115>.

15. Subway is also unfairly competing with restaurants that fairly advertise the size of their menu items.

16. Subway advertises larger portions of food to steer consumers to its restaurants for their meals and away from competitors that fairly advertise the size of their menu items, unfairly diverting sales that would have gone to competitors.

### **PLAINTIFF'S ALLEGATIONS**

17. On August 23, 2024, Plaintiff purchased a Steak & Cheese sandwich through Subway's mobile application for pickup at the Subway store located at 164-04 Jamaica Avenue, Jamaica, NY, for approximately \$6.99 plus tax.

18. Plaintiff viewed the advertisements for the Steak & Cheese sandwich on Subway's mobile ordering application and relied on said photographs in choosing to purchase said sandwich.

19. After she picked up and began eating her sandwich, Plaintiff realized that there was barely any steak in the sandwich and that the photographs that she relied on were grossly misleading. Plaintiff's Steak & Cheese sandwich looked as follows:



20. Plaintiff expected that the Steak & Cheese sandwich that she ordered would contain a similar amount of meat as contained in the photograph for the Steak & Cheese sandwich on Subway's mobile ordering application.

21. However, the photograph for the Steak & Cheese sandwich on Subway's mobile ordering application contained well over 200% more meat than what was in the actual sandwich that Plaintiff received.

22. If Plaintiff knew that the Steak & Cheese sandwich contained substantially less than the amount of meat as advertised, she would not have purchased said sandwich.

### **THE PARTIES**

23. Plaintiff Anna Tollison is a resident of Queens, New York. During the Class Period (defined below), Ms. Tollison purchased the Product at issue at a Subway store located in Jamaica, New York, within the Court's district.

24. Defendant Subway Restaurants, Inc., is a Delaware corporation headquartered in the State of Connecticut, with its principal place of business at 325 Sub Way, Milford, CT 06461. Therefore, Defendant Subway Restaurants is a citizen of the states of Delaware and Connecticut. At all times relevant hereto, Defendant Subway Restaurants manufactured, mass marketed, sold, produced, and distributed the Product throughout the United States, including the State of New York.

25. Defendant Franchise World Headquarters, LLC, is a Connecticut limited liability corporation and is headquartered in the State of Connecticut, with its principal place of business at 325 Sub Way, Milford, CT 06461. Hence, Defendant Franchise World Headquarters is a citizen of the State of Connecticut. At all times relevant hereto, Defendant Franchise World Headquarters

manufactured, mass marketed, sold, produced, and distributed the Product throughout the United States, including the State of New York.

26. Defendant Subway Franchisee Advertising Trust Fund Ltd. is a Connecticut corporation headquartered in the State of Connecticut, with its principal place of business at 325 Sub Way, Milford, CT 06461. Thus, Defendant Subway Franchisee Advertising Trust Fund is a citizen of the State of Connecticut. At all times relevant hereto, Defendant Subway Franchisee Advertising Trust Fund Ltd. manufactured, mass marketed, sold, produced, and distributed the Product throughout the United States, including the State of New York.

### **JURISDICTION AND VENUE**

27. This Court has original diversity jurisdiction over this action under the Class Action Fairness Act, 28 U.S.C. § 1332(d)(2). Plaintiff is a citizen of the State of New York and Defendants are citizens of the State of Delaware and are headquartered with their principal place of business in the state of Connecticut. The matter in controversy, which includes the purchase price for all sales of the Product through Subway's website or mobile ordering application, in the state of New York, during the past three years, exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and this is a class action in which the number of members of the proposed class is not less than 100.

28. In addition, this Court has diversity jurisdiction over Plaintiff's state law claims pursuant to 28 U.S. C. § 1332(a) because the matter in controversy, which includes Plaintiff's claims and the claims of the proposed class members, exceeds the sum or value of \$75,000, exclusive of interest and costs, and certain members of the proposed class are citizens of states different from the states in which Defendants are citizens.

29. Venue is proper pursuant to 28 U.S.C. § 1391. A substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this judicial district. Also, Defendants have used the laws within, and has done substantial business in, this judicial district in that they have promoted, marketed, distributed, and sold the Product at issue in this judicial district. Finally, there is personal jurisdiction over Defendants in this judicial district.

### **CLASS ACTION ALLEGATIONS**

30. Plaintiff brings this action pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2) and (b)(3) on behalf of the following class:

All persons or entities that purchased a Steak & Cheese sandwich on Subway's website or mobile application, for pickup or delivery from a Subway store located in the state of New York, during the period between October 28, 2021, through the date of the final disposition of this action (the "Class").

31. Plaintiff reserves the right to amend the definition of the Class if discovery and further investigation reveals that the Class should be expanded or otherwise modified.

32. Plaintiff reserves the right to establish additional subclasses as appropriate.

33. This action is brought and properly may be maintained as a class action under the provisions of Federal Rules of Civil Procedure 23(a)(1)-(4) and 23(b)(2) and (b)(3), and satisfies the requirements thereof.

34. There is a well-defined community of interest among members of the Class, and the disposition of the claims of these members of the Class in a single action will provide substantial benefits to all parties and to the Court.

35. The members of the Class are so numerous that joinder of all members of the Class is impracticable. At this time, Plaintiff believes that the Class includes thousands of members. Therefore, the Class is sufficiently numerous that joinder of all members of the Class in a single



action is impracticable under Federal Rule of Civil Procedure Rule 23(a)(1), and the resolution of their claims through the procedure of a class action will be of benefit to the parties and the Court.

36. Plaintiff's claims are typical of the claims of the members of the Class whom she seeks to represent because Plaintiff and each member of the Class has been subjected to the same deceptive and improper practices by Defendants and have been damaged in the same manner.

37. Plaintiff will fairly and adequately represent and protect the interests of the members of the Class as required by Federal Rule of Civil Procedure Rule 23(a)(4). Plaintiff has no interests that are adverse to those of the members of the Class that she seeks to represent. Plaintiff is committed to the vigorous prosecution of this action and, to that end, Plaintiff has retained counsel that is competent and experienced in handling complex class action litigation on behalf of consumers.

38. A class action is superior to all other available methods of the fair and efficient adjudication of the claims asserted in this Complaint under Federal Rule of Civil Procedure 23(b)(3) because:

- a. The expense and burden of individual litigation would not be economically feasible for members of the Class to seek to redress their claims other than through the procedure of a class action.
- b. If separate actions were brought by individual members of the Class, the resulting multiplicity of lawsuits would cause members to seek to redress their claims other than through the procedure of a class action; and
- c. Absent a class action, Defendants likely would retain the benefits of its wrongdoing, and there would be a failure of justice.

39. Common questions of law and fact exist as to the members of the Class, as required by Federal Rule of Civil Procedure 23(a)(2), and predominate over any questions that affect individual members of the Class within the meaning of Federal Rule of Civil Procedure 23(b)(3).

40. The common questions of fact include, but are not limited to, the following:

- d. Whether Defendants' advertisements are materially misleading;
- e. Whether Defendants engaged in unlawful, unfair, misleading, or deceptive business acts or practices;
- f. Whether a reasonable consumer could be misled by Defendants' advertisements;
- g. Whether Defendants' advertisements violate N.Y. Gen. Bus. Law § 350;
- h. Whether Plaintiff and members of the Class are entitled to an award of reasonable attorneys' fees, pre-judgment interest, and costs of this suit.

41. In the alternative, this action is certifiable under the provisions of Federal Rule of Civil Procedure 23(b)(2) because Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole and necessitating that any such relief be extended to members of the Class on a mandatory, class-wide basis.

42. Plaintiff is not aware of any difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action.

**COUNT I**  
**Violation of New York Deceptive Acts and Practices Act,**  
**N.Y. Gen. Bus. Law § 349**

43. Plaintiff incorporates by reference the allegations in every paragraph in this complaint.

44. New York General Business Law Section 349 (“GBL § 349”) declares unlawful “[d]eceptive acts or practices in the conduct of any business, trade, or commerce or in the furnishing of any service in this state . . .”

45. The conduct of Defendants alleged herein constitutes recurring, “unlawful” deceptive acts and practices in violation of GBL § 349, and as such, Plaintiff and the members of the Class seek monetary damages.

46. Defendants misleadingly, inaccurately, and deceptively present the Product to consumers.

47. Defendants’ advertisements represent to consumers that the Product contain, at a minimum, 200% more meat than contained in the actual menu item customers receive.

48. Defendants’ improper consumer-oriented conduct is misleading in a material way in that it, *inter alia*, induced Plaintiff and the members of the Class to purchase and/or pay a premium for Defendants’ Product when they otherwise would not have.

49. Defendants made their untrue and/or misleading statements and representations willfully, wantonly, and with reckless disregard for the truth.

50. Defendants’ material misrepresentations were substantially uniform in content, presentation, and impact upon consumers at large. Moreover, Plaintiffs and all of members of the Class that purchased the Product were exposed to Defendants’ material misrepresentations.

51. Plaintiffs and the members of the Class viewed and relied on the materially misleading photographs of the Product cited herein.

52. Plaintiff and the members of the Class expected that the Product that they purchased would contain a similar amount of meat as advertised.

53. Plaintiff and the members of the Class have been injured inasmuch as they received, at a minimum, 200% less than the amount of meat that was advertised.

54. Accordingly, Plaintiff and the members of the Class received less than what they bargained and/or paid for.

55. Plaintiff and the members of the Class suffered damages amounting to, at a minimum, the average price that Subway charges consumers for double the meat, the exact amount to be determined at trial.

56. Plaintiff and the members of the Class and Subclass also incurred monetary damages for the cost of traveling to, and from, the Subway locations where they made their purchases, and/or for the payment of tips and/or fees for delivery and/or pickup services.

57. Defendant's deceptive and misleading practices constitute a deceptive act and practice in the conduct of business in violation of New York General Business Law §349(a) and Plaintiff and the members of the Class have been damaged thereby.

58. As a result of Defendant's recurring, "unlawful" deceptive acts and practices, Plaintiff and the members of the Class are entitled to monetary, compensatory, and statutory damages, interest, and attorneys' fees and costs. This includes actual damages under GBL § 349, as well as statutory damages of \$50 per unit purchased pursuant to GBL § 349.

**COUNT II**  
**Violation of New York Deceptive Acts and Practices Act,**  
**N.Y. Gen. Bus. Law § 350**

59. Plaintiff incorporates by reference the allegations in every paragraph in this complaint.

60. N.Y. Gen. Bus. Law § 350 provides, in part, as follows:

The term "false advertising" means advertising, including labeling, of a commodity, or of the kind, character, terms or conditions of any employment

opportunity if such advertising is misleading in a material respect. In determining whether any advertising is misleading, there shall be taken into account (among other things) not only representations made by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertising fails to reveal facts material in the light of such representations with respect to the commodity or employment to which the advertising relates under the conditions prescribed in said advertisement, or under such conditions as are customary or usual.

61. Defendants' advertisements contain untrue and materially misleading statements.

62. Defendants' advertisements represent to consumers that the Product contain, at a minimum, 200% more meat than contained in the actual menu item customers receive.

63. Defendants' advertisements are misleading in a material way in that they, *inter alia*, induced Plaintiff and the members of the Class to purchase and/or pay a premium for Defendants' Product when they otherwise would not have.

64. Defendants made their untrue and/or misleading statements and representations willfully, wantonly, and with reckless disregard for the truth.

65. Defendants' material misrepresentations were substantially uniform in content, presentation, and impact upon consumers at large. Moreover, Plaintiff, and all of members of the Class that purchased the Product, were exposed to Defendants' material misrepresentations.

66. Plaintiffs and the members of the Class viewed and relied on the materially misleading photographs of the Product, cited herein.

67. Plaintiffs and the members of the Class expected that the Product that they purchased would contain a similar amount of meat as advertised.

68. Plaintiff and the members of the Class have been injured inasmuch as they received, at a minimum, 200% less than the amount of meat that was advertised.

69. Accordingly, Plaintiff and the members of the Class and Subclass received less than what they bargained and/or paid for.

70. Plaintiff and the members of the Class suffered damages amounting to, at a minimum, the price that Subway charges consumers for double the meat, the exact amount to be determined at trial.

71. Plaintiff and the members of the Class also incurred monetary damages for the cost of traveling to and from the Subway locations where they made their purchases, and/or for the payment of tips and/or fees for delivery and/or pickup services.

72. As a result of Defendants' false advertising, Plaintiff and the members of the Class are entitled to monetary and compensatory damages, interest, and attorneys' fees and costs, as well as statutory damages of \$500 per unit purchased pursuant to GBL § 350.

**RELIEF REQUESTED**

73. Plaintiff, on behalf of herself and the members of the Class, seek judgment as follows:

A. Certifying the Class as requested herein, certifying Plaintiff as the representative of the Class, and appointing Plaintiff's counsel as counsel for the Class;

B. Ordering that Defendant is financially responsible for notifying all members of the Class of the alleged misrepresentations and omissions set forth herein;

C. Awarding Plaintiff and the members of the Class statutory damages or compensatory damages in an amount according to proof at trial;

D. Awarding interest on the monies wrongfully obtained from the date of collection through the date of entry of judgment in this action;

E. Awarding attorneys' fees, expenses, and recoverable costs reasonably incurred in connection with the commencement and prosecution of this action; and

F. Directing such other and further relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury as to all matters so triable.

Dated: October 28, 2024

*/s/ James C. Kelly*  
James C. Kelly, Esq.  
THE RUSSO FIRM  
244 5th Avenue, Suite K-278  
New York, NY 10001  
T: 212-920-5042  
E: jkelly@therussofirm.com

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1001 Yamato Road, Suite 106  
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*Counsel for plaintiff  
and the proposed class*

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

Anna Tollison

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

(c) Attorneys (Firm Name, Address, and Telephone Number) The Russo Firm, 244 5th Ave., Suite K-278, NY, NY 10001

DEFENDANTS

Arby's Restaurant Group, Inc.

County of Residence of First Listed Defendant New Haven County, CT (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 [x]

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

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: 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, 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 - 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(d), deceptive and unfair trade practices. Brief description of cause: Class action for false advertising.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. [x]. DEMAND \$ 10,000,000. CHECK YES only if demanded in complaint: JURY DEMAND: [x] Yes [ ] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE 10/28/2024 SIGNATURE OF ATTORNEY OF RECORD James Kelly

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, James C. Kelly, 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 1(c)**

- 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: James Kelly

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

Anna Tollison, on behalf of herself and all others  
similarly situated

Plaintiff(s)

v.

Subway Restaurants, Inc., Franchise World  
Headquarters, LLC, Subway Franchisee Advertising  
Trust Fund Ltd.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Subway Restaurants, Inc.  
325 Sub Way  
Milford, CT 06461

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:

James C. Kelly, Esq.  
THE RUSSO FIRM  
244 5th Avenue, Suite K-278  
New York, NY 10001  
T: 212-920-5042  
E: jkelly@therussofirm.com

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.

BRENNA B. MAHONEY  
CLERK OF COURT

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

Anna Tollison, on behalf of herself and all others
similarly situated

Plaintiff(s)

v.

Subway Restaurants, Inc., Franchise World
Headquarters, LLC, Subway Franchisee Advertising
Trust Fund Ltd.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Franchise World Headquarters, LLC
325 Sub Way
Milford, CT 06461

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:

James C. Kelly, Esq.
THE RUSSO FIRM
244 5th Avenue, Suite K-278
New York, NY 10001
T: 212-920-5042
E: jkelly@therussofirm.com

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.

BRENNA B. MAHONEY
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. \_\_\_\_\_

**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:

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

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

Anna Tollison, on behalf of herself and all others
similarly situated

Plaintiff(s)

v.

Subway Restaurants, Inc., Franchise World
Headquarters, LLC, Subway Franchisee Advertising
Trust Fund Ltd.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Subway Franchisee Advertising Trust Fund Ltd.
325 Sub Way
Milford, CT 06461

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:

James C. Kelly, Esq.
THE RUSSO FIRM
244 5th Avenue, Suite K-278
New York, NY 10001
T: 212-920-5042
E: jkelly@therussofirm.com

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.

BRENNA B. MAHONEY
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. \_\_\_\_\_

**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: