

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LaGARRIS MONTGOMERY, individually and  
on behalf of all others similarly situated,

Plaintiff,

vs.

SUBWAY RESTAURANTS, INC.

Defendant.

**Civil Action No.:** \_\_\_\_\_

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

**CLASS ACTION COMPLAINT**

Plaintiff LaGarris Montgomery, (“Plaintiff”), individually and on behalf of all others similarly situated, respectfully submits the following Class Action Complaint against Defendant Subway Restaurants, Inc. ("Subway" or "Defendant"). Plaintiff makes the following allegations, except as to allegations specifically pertaining to Plaintiff, upon information and belief based on, among other things, the investigation of counsel, and review of public documents.

**PRELIMINARY STATEMENT**

1. Plaintiff brings this action on behalf of himself, and all other similarly situated persons who purchased any of Subway’s Steak and Cheese Sandwiches<sup>1</sup> ("The Product”).
2. This action is brought to remedy various violations of law in connection with Defendant’s marketing, advertising, and selling of The Product.
3. Specifically, 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.

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<sup>1</sup> <https://www.subway.com/en-AE/MenuNutrition/Menu/Product?ProductId=5759&MenuCategoryId=504>

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

5. Below is just one of the many online complaints regarding Subway's Steak & Cheese Sandwich.<sup>2</sup>

**My Subway Order Today**



**Steak & Cheese**



**What I Received**

6. Interestingly, the first result when Googling "Subway Steak and Cheese" brings a consumer to Subway's webpage with the following image and description:

<sup>2</sup> <https://www.reddit.com/media?url=https%3A%2F%2Fpreview.redd.it%2Ffat-a-local-subway-today-v0-62kxpy3hf9wc1.jpg%3Fwidth%3D998%26format%3Dpng%26auto%3Dwebp%26s%3D010026b4cc71b6a5ff059a973ccb4347a4934487>

The screenshot displays the Subway website interface. At the top left is the Subway logo. To its right, it says 'U.A.E.' and 'English' with a dropdown arrow. Below this are navigation links: 'Locations', 'Menu and nutrition', 'Catering', 'Contact us', 'About Us', and 'Careers'. A breadcrumb trail shows 'All Sandwiches' and 'Steak & Cheese'. The main heading is 'Steak & Cheese'. Below the heading is a description: 'A Steak & Cheese sandwich with lots of steak smothered in melted cheese.' A large image of the sandwich is shown. Below the image is a 'Print this item' link and a disclaimer: 'Some items may not be available in all markets. Prices and participation may vary. Plus applicable taxes. See store for details.' At the bottom, there are two buttons: 'View Our Menu' and 'Explore Career Opportunities'.

7. As shown above, Subway explicitly states in one advertisement, “A Steak & Cheese sandwich with *lots of steak* smothered in melted cheese. (Emphasis added).<sup>3</sup>

8. 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.

<sup>3</sup> <https://www.subway.com/en-AE/MenuNutrition/Menu/Product?ProductId=5759&MenuCategoryId=504>

9. 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.

10. The allegations herein are based on personal knowledge as to Plaintiff's own experience and are made as to other matters based on an investigation by counsel, including analysis of publicly available information.

### **JURISDICTION AND VENUE**

11. This Court has subject matter jurisdiction over this action under the Class Action Fairness Act, the relevant portion of which is codified at 28 U.S.C. §1332(d). The aggregated claims of the individual Class members exceed the sum or value of \$5,000,000, exclusive of interests and costs, and this is a class action in which more than two-thirds of the proposed Plaintiff class, on the one hand, and Defendant, on the other, are citizens of different states.

12. This Court has personal jurisdiction over Defendant because Defendant purposefully availed itself to the laws, rights, and benefits of the State of Pennsylvania. Defendants are engaged in activities in Pennsylvania including (i) directly and/or through its parent companies, affiliates and/or agents providing services throughout this forum (ii) conducting substantial business in this forum; and/or (iii) engaging in other persistent courses of conduct and/or deriving substantial revenue from services provided in Pennsylvania and in this judicial District.

13. Venue is proper in this District under 28 U.S.C. §1391 because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District. The Defendant sells and distributes their Product throughout the United States and in this District.

### **PARTIES**

14. Plaintiff LaGarris Montgomery is a citizen of the State of South Carolina and resides in Florence, South Carolina. Florence is located within Florence County, South Carolina.

15. 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.

16. 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 Pennsylvania.

### **FACTUAL ALLEGATIONS**

17. Plaintiff purchased a Steak & Cheese sandwich through Subway's mobile application for pickup at his local Subway in Florence, South Carolina.

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 he picked up and began eating his sandwich, Plaintiff realized that there was barely any steak in the sandwich and that the photographs that he relied on were grossly misleading.

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

### **CLASS ACTION ALLEGATIONS**

22. Plaintiff brings this action on behalf of himself and as a class action, pursuant to Fed. R. Civ. P. 23(a), 23(b)(2), and/or 23(b)(3). Specifically, the class and subclass are defined as follows:

**Nationwide Class:** All persons that purchased a Steak & Cheese sandwich from Subway during the period between October 28, 2021, through the date of the final disposition of this action (the “Nationwide Class”).

**South Carolina Subclass:** All persons from the state of South Carolina that purchased a Steak & Cheese sandwich from Subway during the period between October 28, 2021, through the date of the final disposition of this action (the “South Carolina Subclass”).

**Pennsylvania Subclass:** All persons from the state of Pennsylvania that purchased a Steak & Cheese sandwich from Subway during the period between October 28, 2021, through the date of the final disposition of this action (the “Pennsylvania Subclass”).

23. Together, the Nationwide Class, South Carolina Subclass and Pennsylvania Subclass will be collectively referred to as the “Class” or “Classes.” Members of these Classes will be referred to as “Class Members”.

24. Excluded from each of the putative classes are any person who falls within the definitions if the person is (i) an employee or independent contractor of Defendant; (ii) a relative of an employee or independent contractor of Defendant; (iii) an employee of the Court where this action is pending.

25. The proposed class definitions in ¶ 23 as limited by ¶ 26 may be amended or modified from time to time.

26. The particular members of the (i) Nationwide Class, (ii) South Carolina Subclass and (iii) Pennsylvania Subclass are capable of being described without difficult managerial or administrative problems. The members of the putative classes are also readily identifiable from the information and records in the possession or control of Defendant or its affiliates and agents and from public records.

27. Certification of Plaintiff's claims for class-wide treatment is appropriate because Plaintiff can prove the elements of his claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

28. The Proposed Classes are so numerous that the joinder of all members is impracticable.

29. This action has been brought and may be properly maintained on behalf of the Classes proposed herein under Federal Rule of Civil Procedure 23.

30. **Numerosity: Fed. R. Civ. P. 23(a)(1)** Upon information and belief, the Class is so numerous that the joinder of all members is impracticable. While the exact number and identities of individual members of the Class are unknown at this time, such information is in the sole possession of Defendant and obtainable by Plaintiff only through the discovery process. Members of the Class may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. Mail, Electronic Mail, internet postings, social media, and/or published notice.

31. **Typicality: Fed. R. Civ. P. 23(a)(3)** Plaintiff's claims are typical of the claims of the Class because Plaintiff purchased a Product that contained the same false advertising found in all other Products.

32. **Adequacy: Fed. R. Civ. P. 23(a)(4)** Plaintiff is an adequate Class representative because his interests do not conflict with the interests of the Class that he seeks to represent. Plaintiff has retained counsel competent and highly experienced in complex and class action litigation, and he intends to prosecute this action vigorously. The interests of the Classes will be fairly and adequately protected by Plaintiff and his counsel.

33. **Predominance and Superiority: Fed. R. Civ. P. 23(b)(3)** A class action is superior to all other available means for the fair and efficient adjudication of the claims of Plaintiff and

Class Members, and questions of law and fact common to all Class Members predominate over questions affecting only individual class members. Class Members can be readily identified and notified based on, inter alia, Defendant's business records or other sources.

34. **Common Questions of Fact and Law: Fed. R. Civ. P. 23(b)(4)** Common Questions of law and fact exist as to all members of the Class. These questions predominate over the questions affecting individual Class Members. These common legal and factual questions include, but are not limited to:

- a. Whether Defendant's advertisements are materially misleading;
- b. Whether Defendant engaged in unlawful, unfair, misleading, or deceptive business acts or practices;
- c. Whether a reasonable consumer could be misled by Defendant's advertisements;
- d. Whether Defendant's advertisements violate the Pennsylvania Unfair Trade Practices and Consumer Protection Law;
- e. Whether Plaintiff and members of the Class are entitled to an award of reasonable attorneys' fees, pre-judgment interest, and costs of this suit.
- f. Whether Plaintiff and Class Members are entitled to other equitable relief, including an injunction requiring that Defendant engage in a corrective notice campaign and/or a recall.

### CAUSES OF ACTION

#### COUNT I

**Violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 Pa. Cons. Stat. §§ 201-2 & 201-2 & 201-3, et seq.  
(On Behalf of Plaintiff and the Nationwide Class)**

35. Plaintiff incorporates paragraphs 1-34 as if fully set forth herein.
36. Plaintiff brings this count on behalf of himself and the Classes.



37. Plaintiff, Defendant, and the Nationwide Class are “[p]erson[s]” within the meaning of the Pennsylvania Unfair Trade Practices and Consumer Protection Law (the “UTPCPL”), 73 PS § 201-2, et seq.

38. The Pennsylvania UTPCPL declares unlawful “unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce ....”

39. The UTPCPL at 73 P.S. § 201-3 prohibits the following conduct: “(vii) Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another” and “(ix) Advertising goods or services with intent not to sell them as advertised.”

40. Defendant engaged in, and continues to engage in, the above-reference deceptive acts and unfair trade practices in the conduct of business, trade, and commerce, including by omitting material facts regarding the actual amount meat contained within its Product. Defendant’s advertisements represent to consumers that the Product contain, at a minimum, 200% more meat than contained in the actual menu item customers receive.

41. Plaintiff relied on Defendant’s deceptive acts, unfair trade practices, and Omissions, which are described above. Plaintiff has suffered injury in fact and lost money as a result of Defendant’s unlawful, unfair, and fraudulent practices.

42. Defendant’s wrongful conduct caused Plaintiff and the Classes to suffer an ascertainable loss by causing them to incur substantial expense in purchasing Defendant’s Product which they reasonably believed contained the amount of meat as was advertised. Plaintiff and the Classes have suffered an ascertainable loss by receiving other than what was promised.

43. Plaintiff and the Class members would not have purchased Product at issue, or would have paid less, had they known the truth about the Product.

44. If Defendant had not sold its Product that contained falsely advertised information, Plaintiff and the Class members would not have suffered the extent of damages caused by Defendant's sales.

45. As a direct and proximate result of Defendant's business practices, Plaintiff and the Class members suffered injury in fact and lost money or property because they purchased and paid for products they otherwise would not have. Plaintiff and the Class members are entitled to injunctive relief and attorneys' fees and costs.

46. Pursuant to Pennsylvania UTPCPL § 201-4.1, Plaintiff and the Class members seek an order of this Court requiring Defendant to disgorge all ill-gotten gains and awarding Plaintiff and the Class members full restitution of all monies wrongfully acquired by it by means of such "unlawful" and "unfair" conduct, so as to restore any and all monies to Plaintiff and the Class members which were acquired and obtained by such "unlawful" and "unfair" conduct, and which ill-gotten gains are still retained by Defendant.

47. Plaintiff and the Class members are entitled to treble actual damages of not less than \$100, plus reasonable attorneys' fees and costs. See 73 P. S. § 201-9.2.

## **COUNT II**

### **UNJUST ENRICHMENT**

48. Plaintiff incorporates paragraphs 1-34 as if fully set forth herein.

49. Substantial benefits have been conferred on Defendant by Plaintiff and the members of the Classes through the purchase of the Product. Defendant knowingly and willingly accepted and enjoyed these benefits.

50. Defendant either knew or should have known that the payments rendered by Plaintiff were given and received with the expectation that the Product would comport with what

was advertised. As such, it would be inequitable for Defendant to retain the benefit of the payments under these circumstances.

51. Defendant's acceptance and retention of the benefits of the payments from Plaintiff and the members of the Classes under the circumstances alleged herein make it inequitable for Defendant to retain the benefits without payment of the value to Plaintiff and the members of the Classes.

52. Plaintiff and the members of the Classes are entitled to recover from Defendant all amounts wrongfully collected and improperly retained by Defendant, plus interest thereon.

53. Plaintiff and the members of the Classes seek actual damages, injunctive and declaratory relief, attorneys' fees, costs, and any other just and proper relief available under the laws.

### **PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff, on behalf of himself and members of the Classes, requests that the Court enter judgment in their favor and against Defendant, awarding as follows:

- A. Certifying the Classes as proposed herein, designating Plaintiff as Class representative, and appointing undersigned counsel as Class Counsel;
- B. Declaring that Defendant is financially responsible for notifying the Proposed Classes Members of the pendency of this action;
- C. Award all actual, general, special, incidental, statutory, and consequential damages to which Plaintiff and Class Members are entitled;
- D. Instituting an injunction requiring that Defendant engage in a corrective notice campaign;
- E. Scheduling a trial by jury in this action;

- F. Awarding pre and post-judgment interest on any amounts awarded, as permitted by law;
- G. Costs including reasonable attorneys' fees, court costs, and other litigation expenses; and,
- H. Any other relief the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff, individually and on behalf of all those similarly situated, hereby requests a jury trial, pursuant to Federal Rule of Civil Procedure 38, on any and all claims so triable. Dated: November 12, 2024

Respectfully Submitted,

*/s/ Stuart J. Guber*

Stuart J. Guber, Esq. PA Bar No. 60772

Paul J. Doolittle, Esq. (*Pro Hac Vice forthcoming*)

**POULIN | WILLEY**

**ANASTOPOULO, LLC**

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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
LaGARRIS MONTGOMERY, individually and on behalf of all others similarly situated
(b) County of Residence of First Listed Plaintiff Florence County, SC
(c) Attorneys (Firm Name, Address, and Telephone Number)
POULIN | WILLEY ANASTOPOULO, LLC
32 Ann Street

DEFENDANTS
SUBWAY RESTAURANTS, INC.
County of Residence of First Listed Defendant New Haven County, CT
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)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 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, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes like 110 Insurance, 210 Land Condemnation, 310 Airplane, 440 Other Civil Rights, 463 Alien Detainee, 625 Drug Related Seizure, 710 Fair Labor Standards Act, 820 Copyrights, 870 Taxes (U.S. Plaintiff or Defendant), 375 False Claims Act, etc.

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)
Brief description of cause:
Class action regarding false advertising of subway sandwiches

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. [X]
DEMAND \$ 5,000,000
CHECK YES only if demanded in complaint:
JURY DEMAND: [X] Yes [ ] No

VIII. RELATED CASE(S) IF ANY
(See instructions):
JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE November 12, 2024
SIGNATURE OF ATTORNEY OF RECORD /s/ Stuart J. Guber

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.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

Place of Accident, Incident, or Transaction: N/A

RELATED CASE IF ANY: Case Number: 24-6048 Judge:

- 1. Does this case involve property included in an earlier numbered suit? Yes
2. Does this case involve a transaction or occurrence which was the subject of an earlier numbered suit? Yes
3. Does this case involve the validity or infringement of a patent which was the subject of an earlier numbered suit? Yes
4. Is this case a second or successive habeas corpus petition, social security appeal, or pro se case filed by the same individual? Yes
5. Is this case related to an earlier numbered suit even though none of the above categories apply? Yes
If yes, attach an explanation.

I certify that, to the best of my knowledge and belief, the within case is / [x] is not related to any pending or previously terminated action in this court.

Civil Litigation Categories

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Wage and Hour Class Action/Collective Action
6. Patent
7. Copyright/Trademark
8. Employment
9. Labor-Management Relations
10. Civil Rights
11. Habeas Corpus
12. Securities Cases
13. Social Security Review Cases
14. Qui Tam Cases
15. Cases Seeking Systemic Relief \*see certification below\*
16. All Other Federal Question Cases. (Please specify):

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify):
7. Products Liability
[x] 8. All Other Diversity Cases: (Please specify) Other Contract

I certify that, to the best of my knowledge and belief, that the remedy sought in this case does / [x] does not have implications beyond the parties before the court and does / [x] does not seek to bar or mandate statewide or nationwide enforcement of a state or federal law including a rule, regulation, policy, or order of the executive branch or a state or federal agency, whether by declaratory judgment and/or any form of injunctive relief.

ARBITRATION CERTIFICATION (CHECK ONLY ONE BOX BELOW)

I certify that, to the best of my knowledge and belief:

[x] Pursuant to Local Civil Rule 53.2(3), this case is not eligible for arbitration either because (1) it seeks relief other than money damages; (2) the money damages sought are in excess of \$150,000 exclusive of interest and costs; (3) it is a social security case, includes a prisoner as a party, or alleges a violation of a right secured by the U.S. Constitution, or (4) jurisdiction is based in whole or in part on 28 U.S.C. § 1343.

[ ] None of the restrictions in Local Civil Rule 53.2 apply and this case is eligible for arbitration.

NOTE: A trial de novo will be by jury only if there has been compliance with F.R.C.P. 38.