

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MICHAEL TRAPASSO, on behalf of
himself/herself and others similarly situated,

Plaintiff,

V.

LUTMAN BACKLUND FOODS USA
INC.

Defendant.

Case No. 26-cv-

DEMAND FOR JURY TRIAL

DECLARATORY AND PERMANENT

INJUNCTIVE RELIEF AND

DAMAGES REQUESTED

CLASS ACTION

CLASS ACTION COMPLAINT

Plaintiff Michael Trapasso (“Plaintiff”) brings this action on behalf of himself, and all others similarly situated against Luthman Backlund Foods USA Inc. d/b/a LUB Foods USA, Inc. and LUB Foods North America (“Defendant”) based on personal knowledge as to himself, the investigation of his counsel, and on information and belief as to all other matters.

NATURE OF ACTION

1. This is a putative class action lawsuit on behalf of purchasers of Nick’s Light Ice Cream(the “Products”)¹ as shown below:

1 The Products include all flavors of Nick's Light Ice Cream including, but not limited to, Triple Chocolate Brownie, Strawberry Swirl, Vanilla Bean, Brownie Cookie Dough, Mint Chocolate Chip, Peanut Butter Cup, Coffee Chocolate Chip, Cherry Chocolate, Peanut Caramel Crunch, Cookies & Cream, Birthday Cake, Chocolate Chip Cookie Dough, Chocolate, Sea Salt Caramel, Mango Strawberry, and Cheesecake Brownie. Other than varying flavors, the Products are all substantially identical in their labeling, function, sizing, and advertising. The No Added Sugar Representation is identical across the entire product line, with identical sizing, placement, coloring, and emphasis on the front label.



2. Defendant manufactures, markets, and sells the Products in thousands of stores throughout the United States, including the state of New York.

3. Defendant prominently advertises, markets, and sells the Products as ice creams that have “no added sugar” (the “No Added Sugar Representation”). The No Added Sugar Representation promises that the Products do not contain added sugar ingredients.

4. Defendant intentionally misleads consumers into believing that the Products do not contain added sugar ingredients. It does this because consumers desire products without added sugar because they believe products without added sugar are healthier and will help them support their health by controlling their weight and blood sugar levels, and reducing their calorie and sugar intake. As a result, consumers seek out products without added sugar ingredients.

5. However, unbeknownst to consumers, the Products contain the added sugar ingredient allulose. Therefore, the Products do in fact contain added sugar.

6. As such, Defendant has engaged in widespread false and deceptive conduct by designing, marketing, manufacturing, distributing, and selling the Products with the No Added Sugar Representation. Every package of the Products misleads consumers into believing the Products do not contain added sugar.

7. Plaintiff and Class Members purchased the Products, which are designed, marketed, manufactured, distributed, and sold by Defendant. Further, Plaintiff and Class Members relied to their detriment on Defendant’s No Added Sugar Representation, when the Products contain the sugar allulose and therefore contain added sugar. Plaintiff and Class Members would not have purchased the Products – or would not have paid as much as they did to purchase them – had they known the No Added Sugar Representation was false. Plaintiff and Class Members thus suffered monetary damages as result of Defendant’s deceptive and false representation.

8. Plaintiff brings this action individually, and on behalf of similarly situated individuals who purchased the falsely and deceptively labeled Products for violations of New York General Business Law §§ 349 and 350 and fraud.

PARTIES

9. Plaintiff Michael Trapasso is a citizen and resident of Syracuse, New York who has an intent to remain there, and is therefore a domiciliary of New York. Plaintiff purchased Nick's Light Ice Cream on multiple occasions from Wegmans retail stores in New York, including but not limited to, the following flavors: Mint Chocolate Chip , Strawberry Swirl, and Peanut Butter Cup. Most recently, on June 3, 2026, Plaintiff purchased Nick's Light Ice Cream in Peanut Butter Cup and Strawberry Swirl flavors from a Wegmans retail store in Syracuse, New York. Prior to his purchase of the Product, Plaintiff reviewed the Product's labeling and packaging and saw that his Product was labeled and marketed as containing "no added sugar." Based on the No Added Sugar Representation, Plaintiff believed he was purchasing products that had no added sugar ingredients. Plaintiff relied on Defendant's No Added Sugar Representation in deciding to purchase the Products. Accordingly, the No Added Sugar Representation was part of the basis of the bargain, in that he would not have purchased his products on the same terms had he known the No Added Sugar Representation was not true. Plaintiff paid more for his products, and would only have been willing to pay less, or unwilling to purchase it at all, absent the false and misleading labeling complained of herein. In making his purchase, Plaintiff paid a price premium for a product that claimed to have no added sugar.

10. Defendant Luthman Backlund Foods USA Inc. is an Delaware corporation with its principal place of business in Manchester, New Hampshire. Defendant formulates, manufactures,

labels, markets, distributes, and sells the Products nationwide under its Nick's brand. Defendant has maintained substantial distribution and sales in this District.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2)(A), the Class Action Fairness Act, because the matter in controversy exceeds \$5,000,000 exclusive of interest and costs, and at least one member of the class is a citizen of a state different from Defendant. In addition, more than two-thirds of the class members reside in states other than the state in which Defendant is a citizen and in which this case is filed, and therefore any exceptions to jurisdiction under 28 U.S.C. § 1332(d) do not apply.

10. The Court has personal jurisdiction over Defendant because Defendant's place of incorporation is in Delaware and has purposely availed itself of the benefits and privileges of conducting business activities within Delaware.

11. Venue is proper pursuant to 28 U.S.C. § 1391(b) and (c), because Defendant resides (*i.e.*, is subject to personal jurisdiction) in this District.

FACTUAL ALLEGATIONS

I. Sugar Reduction Claims

11. Sugar is considered a contributor or cause of many different medical conditions, including weight gain, obesity, diabetes, cavities, and other diseases in adults.

12. A growing trend toward living healthier lives has led consumers to invest in their health by choosing food and beverages that contain less, or no, sugar to support their health.

13. In particular, consumers on low carbohydrate diets, like the ketogenic diet, look for sugar reduction claims like "no added sugar".

14. In response to this consumer demand, food manufacturers – including Defendant – are increasingly introducing products with reduced sugar claims such as low sugar, no added sugar, reduced sugar, and sugar free.

15. As a result, consumers are seeking out, and are willing to pay more for, products with no added sugar because they believe they contain no added sugar.

II. Defendant's No Added Sugar Representation is False and Misleading

16. Defendant prominently and unambiguously represents the Products contain “No Added Sugar” on the front label of every flavor of the Products, a representative sample is below:



17. Consumers reasonably believe the Products will contain “no added sugar” ingredients.

18. However, the Products all contain the sugar allulose. Allulose, also known as D-Allulose is a monosaccharide that is structurally similar to fructose and is a sugar under 21 C.F.R. § 101.9(c)(6)(ii). *See Franco v. Chobani, LLC*, 184 F.4th 599, 604 (7th Cir. 2026) (“There’s no dispute that allulose is a monosaccharide. Because the definition includes every monosaccharide and the following parenthetical is merely a list of examples, allulose is a sugar under § 101.9(c)(6)(ii).”). Because allulose has similar sweetness to traditional sugars, but with a lower caloric value, it is often used in place of table sugar as a sweetener.

19. Under 21 C.F.R. 101.60(c)(2), the term “no sugar added” may only be used if the following elements are met:

- (i) No amount of sugars, as defined in § 101.9(c)(6)(ii), or any other ingredient that contains sugars that functionally substitute for added sugars *is added* during processing or packaging; and
- (ii) The product does not contain an ingredient containing added sugars such as jam, jelly, or concentrated fruit juice; and
- (iii) The sugars content has not been increased above the amount present in the ingredients by some means such as the use of enzymes, except where the intended functional effect of the process is not to increase the sugars content of a food, and a functionally insignificant increase in sugars results; and
- (iv) The food that it resembles and for which it substitutes normally contains added sugars; and
- (v) The product bears a statement that the food is not “low calorie” or “calorie reduced” (unless the food meets the requirements for a “low” or “reduced calorie” food) and that directs consumers’ attention to the nutrition panel for further information on sugar and calorie content.

21 C.F.R. 101.60(c)(2) (emphasis added).

20. Here, the Products do not qualify for “no sugar added” labeling because Defendant adds allulose to the Products during the manufacturing process.

21. Accordingly, because the Products contain the sugar allulose, the No Added Sugar Representation is false and misleading.

22. Defendant's conduct thus deceived and/or was likely to deceive the public.

23. Plaintiff and Class Members were deceived into believing the Products contained "no added sugar," when in fact they contain allulose, as shown in the representative sample below:



Above: Nick's Light Ice Cream Peanut Butter Cup Ingredient List



Above: Nick's Light Ice Cream Strawberry Swirl Ingredient List



Above: Nick's Light Ice Cream Mint Chocolate Chip Ingredient List

24. Plaintiff and Class Members would not know the true nature of the Products by looking at the front labels of the Products. There is nothing on the label No Added Sugar Representation in a manner that would disclose that allulose is an added sugar. The No Added Sugar Representation is not ambiguous or vague to reasonable consumers such that they would

reasonably think or be expected to investigate the No Added Sugar Representation further before purchasing the products.

25. Moreover, the ingredient lists do not preclude consumer deception. As the Second Circuit has noted, “[r]easonable consumers should [not] be expected to look beyond misleading representations on the front of the box to discover the truth from the ingredient list in small print on the side of the box.” *Mantikas v. Kellogg Co.*, 910 F.3d 633, 637 (2d Cir. 2018) (insertion in original).

26. Further, average consumers do not know what allulose is (*i.e.*, that it is a sugar), and so reading the ingredient list is insufficient to inform them the Products contain added sugar and therefore the No Added Sugar Representation is false.

27. Plaintiff and Class Members purchased the Products in reliance on the No Added Sugar Representation, reasonably believing the Products contained no added sugar.

28. Plaintiff’s and Class Members’ reasonable belief that the Products contained no added sugar was a significant factor in their decisions to purchase the Products.

29. Plaintiff and Class Members did not know, and had no reason to know, that the Products contained added sugar because of how the Products are deceptively labeled and advertised to create the impression the Products contain no added sugar. Nothing on the front packaging of the Products indicates that the Products contain added sugar ingredients.

30. Defendant knew that Plaintiff and Class Members would rely on the No Added Sugar Representation and would therefore reasonably believe the Products did not contain added sugar ingredients. Further, as the manufacturer of the Products, Defendant knows that allulose is a sugar ingredient. Accordingly, Defendant knew that the No Added Sugar Representation was false and misleading when it made the misrepresentation, as allulose was added intentionally. Defendant

intentionally and knowingly tricked consumers into purchasing the Products based on the No Added Sugar Representation, while also subjecting them to a less healthy Product than advertised due to the perception that the Products in fact contained no added sugar.

31. Because the Products contain allulose contrary to the No Added Sugar Representation, Defendant's uniform practice regarding the marketing and sale of the Products was and continues to be misleading and deceptive.

32. Each Class member has been exposed to the same or substantially similar deceptive practices, as the Products are uniformly marketed with the No Added Sugar Representation when it contains the sugar allulose.

33. Consumers are willing to pay a price premium for products that contain no added sugar. Indeed, studies have shown that products with sugar-reduction claims command approximately a 15-30% price premium over sugar containing products.

34. Consumers are also induced to make purchases that they otherwise would not have, but for the belief that the Products did not contain added sugar. Plaintiff and Class Members would not have purchased the Products had they known the Products contained added sugar in the form of allulose. Further, Plaintiff and Class Members paid a price premium for the Products because of the No Added Sugar Representation. Therefore, Plaintiff and Class Members suffered an injury in fact and lost money as a result of Defendant's false and misleading No Added Sugar Representation.

CLASS ALLEGATIONS

35. ***Class Definition:*** Plaintiff brings this action on behalf all people in the following classes and subclasses (collectively referred to as "Class Members"):

- a. Nationwide Class: all people in the United States who purchased the Products for personal or household use.

- b. New York Subclass: all people who purchased the Products for personal or household use during the last three years.

36. Each of the above class definitions is a placeholder that “may be altered or amended before final judgment.” Fed. Civ. P. 23(c)(1)(C). Subject to additional information obtained through further investigation and discovery, the foregoing class definitions may be expanded or narrowed by amendment or in the motion for class certification, including through the use of multi-state subclasses to account for material differences in state law, if any.

37. Excluded from the putative classes are Defendant and any entities in which Defendant has a controlling interest, Defendant’s agents and employees, the judge to whom this action is assigned, members of the judge’s staff, and the judge’s immediate family. Also excluded are any claims for personal injury.

38. ***Numerosity.*** Members of the Classes are so numerous that their individual joinder herein is impracticable. On information and belief, each Class or Subclass includes thousands of consumers. The precise number of Class Members and their identities are unknown to Plaintiff at this time but may be determined through discovery. Class Members may be notified of the pendency of this action by mail and/or publication through the distribution records of Defendant, its retailers, its agents, or other means.

39. ***Commonality and Predominance.*** Common questions of law and fact exist as to all Class Members and predominate over questions affecting only individual Class Members. Common legal and factual questions include, but are not limited to:

- a. Whether Defendant misrepresented and/or failed to disclose material facts concerning the Products;
- b. Whether the No Added Sugar Representation is false, misleading, and/or deceptive;

- c. Whether Defendant's conduct in advertising and selling the Products amounted to deceptive business practices;
- d. Whether Plaintiff and the Class Members have sustained damage as a result of Defendant's deceptive conduct;
- e. The proper measure of damages sustained by Plaintiff and the Class Members; and
- f. Whether Defendant was unjustly enriched by its unlawful practices.

40. **Typicality.** Plaintiff's claims are typical of the claims of the Classes in that Plaintiff and the Classes sustained damages as a result of Defendant's uniform wrongful conduct, based upon Defendant's sale of the Products using false and misleading labeling.

41. **Adequacy.** Plaintiff will fairly and adequately protect the interests of Class members. Plaintiff has retained counsel that is highly experienced in complex consumer class action litigation, and Plaintiff intends to vigorously prosecute this action on behalf of the Classes. Plaintiff has no interests that are antagonistic to those of the Classes. Plaintiff has no past or present financial, employment, familial, or other relationship with any of the attorneys in this case that would create a conflict of interest with the proposed class members.

42. **Superiority.** A class action is superior to all other available methods for the fair and efficient adjudication of this controversy for, *inter alia*, the following reasons: prosecutions of individual actions are economically impractical for members of the Classes; the Classes are readily definable; prosecution as a class action avoids repetitious litigation and duplicative litigation costs, conserves judicial resources, and ensures uniformity of decisions; and prosecution as a class action permits claims to be handled in an orderly and expeditious manner.

43. Without a class action, Defendant will continue a course of action that will result in further damages to the Plaintiff and Members of the Classes and will likely retain the benefits of its wrongdoing.

FIRST CAUSE OF ACTION
Violation of New York General Business Law § 349
(On behalf of the New York Subclass)

44. Plaintiff repeats the prior allegations of this Complaint and incorporates them by reference herein.

45. Plaintiff brings this cause of action individually and on behalf of the New York Subclass.

46. New York's General Business Law § 349 prohibits deceptive acts or practices in the conduct of any business, trade, or commerce.

47. In their sale of goods throughout the State of New York, Defendant conducts business and trade within the meaning and intendment of New York's General Business Law § 349.

48. Plaintiff and Class Members are consumers who purchased the Products for their personal use.

49. By the acts and conduct alleged herein, Defendant engaged in deceptive, unfair, and misleading acts and practices, as alleged above.

50. The foregoing deceptive acts and practices were directed at consumers.

51. The foregoing deceptive acts and practices are misleading in a material way because they fundamentally misrepresent the characteristics and quality of the Products to induce consumers to purchase the same.

52. By reason of this conduct, Defendant engaged in deceptive conduct in violation of New York's General Business Law.

53. Defendant's actions are the direct, foreseeable, and proximate cause of the damages Plaintiff and Class Members have sustained from having paid for and used the Products.

54. As a result of Defendant's violations, Plaintiff and Class Members have suffered damages because: (a) they would not have purchased the Products on the same terms if they knew about Defendant's misrepresentation; (b) they paid a price premium for the Products due to the misrepresentation; and (c) the Products do not have the characteristics, uses, benefits, or qualities as promised.

55. Plaintiff seeks all available relief under this cause of action.

SECOND CAUSE OF ACTION
Violation of New York General Business Law § 350
(On Behalf of the New York Subclass)

56. Plaintiff repeats the prior allegations of this Complaint and incorporates them by reference herein.

57. Plaintiff brings this cause of action individually and on behalf of the Class Members.

58. New York's General Business Law § 350 prohibits false advertising in the conduct of any business, trade, or commerce or in the furnishing of any service.

59. Pursuant to said statute, false advertising is defined as "advertising, including labeling, of a commodity . . . if such advertising is misleading in a material respect."

60. Based on the foregoing, Defendant engaged in consumer-oriented conduct that is deceptive or misleading in a material way which constitutes false advertising in violation of New York's General Business Law § 350.

61. Defendant's false, misleading, and deceptive statements and representations of fact were and are directed toward consumers. Defendant also actively concealed and knowingly omitted material facts regarding the true nature of the Products.

62. Defendant's false, misleading, and deceptive statements and representations of fact were and are likely to mislead a reasonable consumer acting reasonably under the circumstances.

63. Defendant's false, misleading, and deceptive statements and representations of fact has resulted in consumer injury or harm to the public interest.

64. As a result of Defendant's false, misleading, and deceptive statements and representations of fact, Plaintiff and Class Members have suffered and continue to suffer economic injury.

65. As a result of Defendant's violations, Plaintiff and Class Members have suffered damages because: (a) they would not have purchased the Products on the same terms if they knew about Defendant's misrepresentation; (b) they paid price premium for the Products due to the misrepresentation; and (c) the Products do not have the characteristics, uses, benefits, or qualities as promised.

66. Plaintiff seeks all available relief under this cause of action.

THIRD CAUSE OF ACTION

Fraud

(On Behalf of the Nationwide Class and New York Subclass)

67. Plaintiff repeats the prior allegations of this Complaint and incorporates them by reference herein.

68. Plaintiff brings this cause of action individually and on behalf of the Class and Subclass members.

69. As discussed above, Defendant provided Plaintiff and Class members with false or misleading material information about the Product, including but not limited to the No Added Sugar Representation.

70. This misrepresentation was made with knowledge of its falsehood.

71. The misrepresentation made by Defendant, upon which Plaintiff and Class members reasonably and justifiably relied, were intended to induce, and actually induced Plaintiff and Class members to purchase the Products.

72. The fraudulent actions of Defendant caused damage to Plaintiff and Class members, who are entitled to damages and other legal and equitable relief as a result.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the proposed class, prays for the following relief:

- A. Certification of the proposed classes;
- B. Appointment of Plaintiff as representative of the classes;
- C. Appointment of undersigned counsel as counsel for the classes;
- D. A declaration that Defendant's actions complained of herein violated the statutes referenced herein;
- E. For an order finding in favor of Plaintiff and class members on all counts asserted herein;
- F. For actual, compensatory, statutory, nominal, and/or punitive damages in amounts to be determined by the Court and/or jury;
- G. For prejudgment interest on all amounts awarded;
- H. For an order of restitution and all other forms of equitable monetary relief;
- I. For an order awarding Plaintiff and class members their reasonable attorney fees, expenses, and costs of suit.
- J. Orders granting such other and further relief as the Court deems necessary, just, and proper.

JURY TRIAL DEMANDED

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

Dated: September 3, 2026

Respectfully submitted,

/s/ R. Grant Dick IV

R. Grant Dick IV (#5123)
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*Attorneys 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

MICHAEL TRAPASSO, on behalf of himself/herself and others similarly situated

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

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

Cooch and Taylor, P.A. - R. Grant Dick IV
1000 N. West St., Suite 1500, Wilmington, DE 19801
302-984-3867

DEFENDANTS

LUTHMAN BACKLUND FOODS USA INC.

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 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 | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☒ 4 |
| Citizen of Another State | ☒ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

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

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☒ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark ☐ 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit (15 USC 1681 or 1692) ☐ 485 Telephone Consumer Protection Act ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education PRISONER PETITIONS Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

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)(2). Lead Plaintiff and Defendant are citizens of different states

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 \$
in excess of \$5MM

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

September 3, 2026

SIGNATURE OF ATTORNEY OF RECORD

/s/ R. Grant Dick IV

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.