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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION**

RICHARD SPRINGER, on behalf of himself) Case No.
and all others similarly situated,)

Plaintiff,)

v.)

DOCTOR'S ASSOCIATES INC.,)
Defendant.)

CLASS ACTION

COMPLAINT FOR VIOLATIONS OF:

1. **California Unfair Competition Law;**
2. **California False Advertising;**
3. **Consumer Legal Remedies Act;**
4. **Fraud;**
5. **Negligent Misrepresentation;**
6. **Unjust Enrichment / Common Law
Claims of Restitution.**

DEMAND FOR JURY TRIAL

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CLASS ACTION COMPLAINT

Plaintiff, RICHARD SPRINGER (“Plaintiff”), individually, and on behalf of all others similarly situated, through counsel, complains of Defendant, Doctor’s Associates Inc. (“Defendant”), as follows:

Nature of the Case

1. Plaintiff brings this action individually and on behalf of a proposed class (the “Class”), as more fully defined below, of similarly situated consumers California to compensate the universal pattern of fraudulent, deceptive, and otherwise improper advertising, sales and marketing practices that Defendant continues to engage in regarding the length of purported “Footlong” submarine sandwiches (“subs”), which are an essential product sold by Defendant’s SUBWAY® restaurants. In truth, Defendant’s “Footlong” subs are not one foot, or 12 inches, in length.
2. As more fully alleged below, Defendant’s practices to defraud Plaintiff and other members of the proposed Class consist of systemic and continuing practices of disseminating false and misleading information via television commercials, Internet websites and postings, point of purchase advertisements and national print advertisements, all of which are intended to trick unsuspecting consumers, including Plaintiff and other members of the proposed Class, into believing that they are receiving more food for their money than they actually are.
3. SUBWAY® is a registered trademark of Defendant, and Defendant franchises SUBWAY® restaurants throughout the world. Defendant’s SUBWAY® brand franchise is the world’s largest submarine sandwich chain, with more than 38,000 locations, in 98 countries and territories, including approximately 24,000 locations in the United States.

- 1 4. Defendant's SUBWAY® brand franchise had \$11.5 Billion in sales in 2011.
- 2 5. Defendant markets SUBWAY® "Footlong" subs as actually being 12 inches—a "foot"—
- 3 long. This is reflected in Defendant's advertisements which frequently refer to the
- 4 measurement of one foot when advertising the "Footlong" subs. However, the
- 5 "Footlong" subs that SUBWAY® sells to its customers are smaller than the advertised 12
- 6 inches. Consequently, consumers are receiving less than what they are paying for.
- 7 6. Defendant's advertisements for SUBWAY® "Footlong" subs have been extensive, and
- 8 Defendant has spent a considerable amount of money to convey deceptive messages to
- 9 consumers throughout California. Defendant uses a wide array of media to convey its
- 10 deceptive claims about SUBWAY® "Footlong" subs, including television, magazines,
- 11 and the Internet. Certainly, SUBWAY® "Footlong" subs have been heavily endorsed by
- 12 celebrities and athletes. Through this enormous marketing campaign, Defendant has
- 13 conveyed one message about these subs, inherent in the name: "Footlong" subs are
- 14 actually a foot (*i.e.* 12 inches) long. Everyone who has purchased SUBWAY®
- 15 "Footlong" subs, including Plaintiff, has been exposed to Defendant's false advertising
- 16 message and purchased those subs as a result of that advertising.
- 17 7. Plaintiff brings this action on behalf of himself and other similarly situated consumers
- 18 throughout California to stop the dissemination of these untrue and deceptive advertising
- 19 messages, correct the false and misleading perception that they have created in
- 20 consumers' minds, and obtain compensations for those who have purchased SUBWAY®
- 21 "Footlong" subs.
- 22
- 23

Jurisdiction and Venue

- 24 8. This Court has original jurisdiction over the subject matter of this action pursuant to 28
- 25

1 U.S.C. § 1332(d). The proposed Class involves more than 100 individuals. A member of
2 the proposed Class is a citizen of a state different from the Defendant, and the amount of
3 controversy, in the aggregate, exceeds the sum of \$5,000,000 exclusive of interest and
4 costs. Therefore, both diversity jurisdiction and the damages threshold under the Class
5 Action Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

- 6 9. Venue, under 28 U.S.C. §1391, and personal jurisdiction in this District are proper
7 because Defendant does or transacts business within this District, and a material portion
8 of the events at issue occurred in this District.

9 **The Parties**

- 10 10. Plaintiff resides in West Sacramento, Yolo County, California.

- 11 11. Plaintiff was frequently exposed to and saw Defendant’s advertisements and
12 representations regarding the SUBWAY® “Footlong” subs in California, including in the
13 Eastern District of California. After seeing Defendant’s advertising regarding the
14 “Footlong” subs, Plaintiff purchased a “Footlong” sub to eat on January 16, 2013, at the
15 SUBWAY® restaurant located at 1857 El Camino Real, Burlingame, CA 94010.

- 16 12. Plaintiff purchased the “Footlong” sub in reliance on the misrepresentations and
17 omissions of the Defendant. Plaintiff suffered an injury in fact and lost money as a result
18 of the deceptive and unfair conduct described herein, because the “Footlong” sub that he
19 purchased was approximately (11) inches in length, which is materially (*i.e.*
20 approximately 10%) shorter than the 12 inches, or one foot, in length, represented by
21 Defendant, as follows:
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13. Defendant is a private corporation incorporated in the State of Florida, and has its principal place of business in Milford, Connecticut. Defendant, therefore, is a citizen of Florida and Connecticut.

14. Defendant, as the franchisor of SUBWAY® restaurants, is in the business of promoting, marketing, distributing, and selling SUBWAY® “Footlong” subs throughout California. Although SUBWAY® restaurants are owned and/or operated by franchisees, Defendant makes, upholds, and imposes strict uniform standards and practices for all aspects of its SUBWAY® restaurants, including the length of “Footlong” subs.

15. Upon information and belief, Defendant has complete or substantial control over all SUBWAY® restaurants in that it could apply and guide the policies and procedures of

1 those restaurants as well as dictate the restaurants' appearance, equipment, menu, hours
2 of operation, employees' appearance and demeanor, and marketing and advertising.

3 16. Additionally, Defendant and its franchisees portray themselves to the general public as
4 one company—SUBWAY®—as demonstrated by the fact that the advertising materials,
5 signs, and store appearance all are the same, and identify Defendant's franchisees'
6 restaurants as SUBWAY®.

7 17. Defendant's conduct was intended to and did lead Plaintiff and members of the proposed
8 Class to believe that all SUBWAY® restaurants had like standards and practices, and that
9 all menu items would be the same at each SUBWAY® restaurant. Plaintiff and members
10 of the Class relied on Defendant's and its franchisees' statements that the food would be
11 identical in all respects at each SUBWAY® restaurant.

12 **Substantive Allegations**

13 18. Defendant engages in an all-encompassing, national advertising and marketing campaign,
14 including throughout California, of its SUBWAY® "Footlong" subs.

15 19. Defendant's advertisements regarding the SUBWAY® "Footlong" subs are meant to
16 convey to consumers that the subs are actually one foot, or 12 inches, in length.

17 20. Defendant planned, made, and applies uniform standards and practices that each of its
18 franchisees' employees must follow relative to making SUBWAY® menu items for
19 customers, including SUBWAY® "Footlong" subs.

20 21. Defendant's employees receive extensive training on these uniform standards and
21 practices, and are not allowed to depart from these standards and practices.

22 22. Additionally, Defendant's franchisees must to get their bread from a unified supply
23 source, which stretches out the dough to a pre-set length according to Defendant's
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1 specifications, and freezes it prior to delivering the frozen dough to SUBWAY®
2 restaurants. This pre-set length quantified by Defendant is the main factor in how long
3 SUBWAY® “Footlong” subs will be.

4 23. When Plaintiff bought his SUBWAY® “Footlong” sub, Defendant misrepresented the
5 length of its “Footlong” subs through advertising and marketing described above,
6 including marketing and advertising materials at restaurant located at 1857 El Camino
7 Real, Burlingame, CA 94010, where Plaintiff made his purchase.

8 24. Defendant’s policies and procedures relative to the creation of SUBWAY® “Footlong”
9 subs result in the subs often times being materially shorter than one foot, or 12 inches, in
10 length.

11 25. Defendant’s statements regarding SUBWAY® “Footlong” subs were untrue, deceptive
12 and deceiving. Plaintiff and the proposed Class members purchased SUBWAY®
13 “Footlong” subs relying on misrepresentations and omissions of the Defendant.

14 26. As a result of SUBWAY® “Footlong” subs not being as long as advertised, Plaintiff and
15 the proposed Class members obtained less food than they were promised by Defendant,
16 and paid an exaggerated price for the “Footlong” subs that they would not otherwise have
17 paid.
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19 **Class Action Allegations**

20 27. Plaintiff brings this lawsuit, both individually and as a class action on behalf of similarly
21 situated purchasers of the SUBWAY® “Footlong” subs, pursuant Rules 23(a) and
22 23(b)(3) of the Federal Rules of Civil Procedure.

23 28. Plaintiff brings this action on behalf of himself and all others similarly situated, as a
24 member of the proposed class (hereafter “The Class”) defined as follows:
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- a. The proposed Class is defined as: All persons in the California who purchased SUBWAY® “Footlong” submarine sandwiches that were less than 12 inches long.

29. Excluded from the proposed Class are Defendant, its respective officers, directors and employees, any entity that has a controlling interest in Defendant, and all of its respective employees, affiliates, legal representatives, heirs, successors, or assignees.

30. Plaintiff does not know the number of members in The Class, but believes the Class members number in the tens of thousands, if not more. Thus, this matter should be certified as a Class Action to assist in the expeditious litigation of the matter.

31. The Class is so numerous that the individual joinder of all of its members is impractical. While the exact number and identities of The Class members are unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff is informed and believes and thereon alleges that The Class includes tens of thousands of members. Plaintiff alleges that The Class members may be ascertained by the records maintained by Defendant.

32. Common questions of fact and law exist as to all members of The Class which predominate over any questions affecting only individual members of The Class. These common legal and factual questions, which do not vary between Class members, and which may be determined without reference to the individual circumstances of any Class members, include, but are not limited to, the following:

- a. Did Defendant represent that SUBWAY® “Footlong” subs were one foot, or 12 inches, in length;
- b. Did Defendant neglect to disclose that SUBWAY® “Footlong” subs were less

1 than 12 inches in length;

2 c. Were Defendant's statements about the SUBWAY® "Footlong" subs misleading
3 or false;

4 d. Was Defendant's advertising false, deceptive and/or misleading;

5 e. Did Defendant's conduct, as alleged in this Class Action Complaint, violates
6 public policy;

7 f. Did Plaintiff and The Class sustain monetary loss;

8 g. Are Plaintiff and The Class entitled to declaratory and injunctive relief; and

9 h. Was Defendant unjustly enriched.

10 33. Plaintiff will fairly and adequately protect the interests of the members of The Class.

11 Plaintiff has retained attorneys experienced in the prosecution of class actions.

12 34. A class action is superior to other available methods of fair and efficient adjudication of
13 this controversy, since individual litigation of the claims of all Class members is
14 impracticable. Even if every Class member could afford individual litigation, the court
15 system could not. It would be unduly burdensome to the courts in which individual
16 litigation of numerous issues would proceed. Individualized litigation would also present
17 the potential for varying, inconsistent, or contradictory judgments and would magnify the
18 delay and expense to all parties and to the court system resulting from multiple trials of
19 the same complex factual issues. By contrast, the conduct of this action as a class action
20 presents fewer management difficulties, conserves the resources of the parties and of the
21 court system, and protects the rights of each Class member.
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23 35. The prosecution of separate actions by individual Class members would create a risk of
24 adjudications with respect to them that would, as a practical matter, be dispositive of the
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1 interests of the other Class members not parties to such adjudications or that would
2 substantially impair or impede the ability of such non-party Class members to protect
3 their interests.

4 36. Defendant has acted or refused to act in respects generally applicable to The Class,
5 thereby making appropriate final and injunctive relief with regard to the members of the
6 California Class as a whole.

7 **COUNT I**
8 **VIOLATION OF THE CALIFORNIA UNFAIR COMPETITION LAW**
9 **(Cal. Bus. & Prof. Code § 17200, *et seq.*)**

10 37. Plaintiff re-alleges and incorporates by reference all paragraphs alleged herein.

11 38. California Business and Professions Code section 17200 prohibits any “unlawful, unfair,
12 or fraudulent business acts or practices.” Defendants have engaged in unlawful,
13 fraudulent, and unfair business acts and practices in violation of the UCL.

14 39. Defendant’s misrepresentations and omissions regarding the length of SUBWAY®
15 “Footlong” subs, are deceptive and/or unfair acts or practices prohibited by the consumer
16 fraud statutes set forth above.

17 40. Defendant intended to be deceptive and/or unfair to Plaintiff and the proposed Class by
18 intentionally making the foregoing false and misleading statements and omitting accurate
19 statements as alleged above, because had Defendant provided accurate information,
20 Plaintiff and the proposed Class members would not have purchased the SUBWAY®
21 “Footlong” subs.

22 41. Defendant’s practice of creating, approving and distributing advertising for SUBWAY®
23 “Footlong” subs that contained false and misleading representations regarding the length
24 of those subs for the purpose of selling them to Plaintiff and the proposed Class, as
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1 alleged in detail *supra*, is both an unfair act and deceptive practice prohibited by the
2 foregoing statutes.

3 42. Defendant intended to be deceptive and unfair to Plaintiff and the proposed Class by
4 unlawfully representing that each of SUBWAY® “Footlong” subs are 12 inches, or one
5 foot, in length.

6 43. Defendant intended that Plaintiff and the proposed Class members rely on Defendant’s
7 misrepresentations as to the length of the SUBWAY® “Footlong” subs when purchasing
8 them.

9 44. Defendant failed to disclose or notify Plaintiff and the proposed Class that the
10 SUBWAY® “Footlong” subs were considerably less than one foot, or 12 inches, in
11 length.

12 45. Plaintiff and the proposed Class members justifiably relied on the misrepresentations and
13 omissions to their detriment by purchasing the SUBWAY® “Footlong” subs after seeing
14 Defendant’s advertising. Certainly, Defendant did not attempt to inform consumers that
15 SUBWAY® “Footlong” subs are not uniformly 12 inches, or one foot, in length.

16 46. Had Plaintiff and the proposed Class members known the truth, they would not have
17 purchased or paid as much for the SUBWAY® “Footlong” subs.

18 47. The above-described deceptive and unfair acts and practices were used or employed in
19 the conduct of trade or commerce, namely, the sale of the SUBWAY® “Footlong” subs
20 to Plaintiff and the proposed Class members.

21 48. The above-described deceptive and unfair acts offend public policy and cause substantial
22 injury to consumers.

23 49. As a direct and proximate result of the foregoing, the Plaintiff and Class members have
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1 been damaged in an amount to be determined at trial.

2 50. Defendant has violated the unlawful prong based on the facts above.

3 51. Defendant has violated the fraudulent prong of section 17200 because the
4 misrepresentations and omissions as set forth were likely to deceive a reasonable
5 consumer, and the information would be material to a reasonable consumer.

6 52. Defendants have violated the unfair prong of section 17200 because the acts and practices
7 set forth above offend established public policy and because the harm they cause to
8 consumers greatly outweighs any benefits associated with those practices. Defendant's
9 conduct has also impaired competition within the market and prevented Plaintiff from
10 making fully informed decisions. Defendant's conduct also offends established public
11 policy as delineated in the regulatory provisions described above and their underlying
12 purposes.

13 53. Plaintiff has suffered injury in fact, including losing money, as a result of Defendant's
14 unfair, unlawful and/or deceptive practices. Plaintiff relied on the misrepresentations
15 and/or omissions of Defendant. Had Plaintiff known the truth, Plaintiff would not have
16 purchased or paid as much for Defendant's product.

17 54. All of the wrongful conduct alleged herein occurred, and continues to occur, in the
18 conduct of Defendant's business. Defendant's wrongful conduct is part of a pattern or
19 generalized conduct that is still perpetuated and repeated, both in California and
20 nationwide.

21 55. Plaintiff requests this Court enter such orders or judgments to enjoin Defendant from
22 continuing their unfair, unlawful, and/or deceptive practices and to restore to Plaintiff and
23 members of the Class any money Defendant acquired by unfair competition, as provided
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1 in CAL. BUS. & PROF. CODE § 17203, and for such other relief set forth below.

2 **COUNT II**
3 **VIOLATION OF THE CALIFORNIA FALSE ADVERTISING LAW**
4 **(Cal. Bus. & Prof. Code § 17500, *et seq.*)**

5 56. Plaintiff re-alleges and incorporates by reference all paragraphs alleged herein.

6 57. California Business and Professions Code § 17500 states: “It is unlawful for
7 any...corporation...with intent directly or indirectly to dispose of real or personal
8 property...to induce the public to enter into any obligation relating thereto, to make or
9 disseminate or cause to be made or disseminated...from this state before the public in any
10 state, in any newspaper or other publication, or any advertising device,...or in any other
11 manner or means whatever, including over the Internet, any statement...which is untrue
12 or misleading, and which is known, or which by the exercise of reasonable care should be
13 known, to be untrue or misleading.”

14 58. Defendant caused to be made or disseminated through California and the United States,
15 through advertising, statements that were untrue or misleading, and which were known,
16 or which by exercising reasonable care should have been known to Defendant, to be
17 untrue and misleading to consumers and Plaintiff.

18 59. Defendant violated section 17500 because the misrepresentations and omissions were
19 material and likely to deceive a reasonable consumer.

20 60. Plaintiff has suffered injury in fact, including losing money, as a result of Defendant’s
21 false advertising. As set forth in the allegations concerning Plaintiff, Plaintiff relied on
22 the misrepresentations and/or omissions of Defendant. Had Plaintiff known the true size
23 of the SUBWAY® “Footlong” subs, Plaintiff would not have purchased and/or paid as
24 much for it.
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1 61. All of the wrongful conduct alleged herein occurred, and continues to occur, in the
2 conduct of Defendant's business. Defendant's wrongful conduct is part of a pattern or
3 generalized conduct that is still perpetuated and repeated, both in California and
4 nationwide.

5 62. Plaintiff requests this Court enter such orders or judgments as may be necessary to enjoin
6 Defendant from continuing their false advertising and to restore to Plaintiff and members
7 of the Class any money Defendant acquired by unfair competition, and for such other
8 relief set forth below.

9
10 **COUNT III**
VIOLATIONS OF THE CONSUMER LEGAL REMEDIES ACT
(Cal. Civ. Code § 1750, *et seq.*)

11 63. Plaintiff re-alleges and incorporates by reference all paragraphs alleged herein.

12 64. Defendant is a "person" under CAL. CIV. CODE § 1761(c).

13 65. Plaintiff is a "consumer," as defined by CAL. CIV. CODE § 1761(d), who purchased one
14 or more products made by Defendant.

15 66. Defendant participated in unfair or deceptive acts or practices that violated the Consumer
16 Legal Remedies Act ("CLRA"), CAL. CIV. CODE § 1750, *et seq.*, as described in this
17 Complaint.
18

19 67. Defendant intended that Plaintiff and the proposed Class members rely on Defendant's
20 misrepresentations as to the length of the SUBWAY® "Footlong" subs when purchasing
21 them, and Defendant failed to disclose to or notify Plaintiff and the proposed Class that
22 the SUBWAY® "Footlong" subs were materially less than one foot, or 12 inches, in
23 length.
24

25 68. By misrepresenting the length of the SUBWAY® "Footlong" subs, Defendant engaged in

deceptive business practices prohibited by the CLRA, CAL. CIV. CODE § 1750, *et seq.*,

69. Defendant knew their SUBWAY® “Footlong” subs are not uniformly 12 inches, or one foot, in length. Defendant nevertheless failed to make appropriate disclosures despite their superior knowledge and affirmative misrepresentations to the contrary.

70. A reasonable consumer would not have purchased or paid as much for the SUBWAY® “Footlong” subs had Defendant disclosed that the SUBWAY® “Footlong” subs are not uniformly 12 inches, or one foot, in length, as that information is material to a reasonable consumer.

71. Because of its violations of the CLRA detailed above, Defendant has caused and continues to cause actual damage to Plaintiff and, if not stopped, will continue to harm Plaintiff. Had Plaintiff known the true size of the SUBWAY® “Footlong” subs, Plaintiff would not have purchased and/or paid as much for it.

72. Under Civil Code § 1780(a), Plaintiff and members of the Class seek injunctive and equitable relief for Defendant’s violations of the CLRA. After mailing appropriate notice and demand under Civil Code § 1782(a) & (d), Plaintiff will subsequently amend this Complaint to also include a request for damages. Plaintiff and members of the Class request this Court enter such orders or judgments as may be necessary to restore to any person in interest any money which may have been acquired with such unfair business practices, and for such other relief, including attorneys’ fees and costs, as provided in Civil Code § 1780 and the Prayer for Relief.

73. Plaintiff includes an affidavit with this Complaint that shows venue in this District is proper, to the extent such an affidavit is required by CAL. CIV. CODE § 1780(d).

COUNT IV
FRAUD

(Based on California Common Law)

74. Plaintiff re-alleges and incorporates by reference all paragraphs alleged herein.

75. Defendant affirmatively misrepresented and concealed material facts concerning the SUBWAY® “Footlong” subs.

76. Defendant had a duty to disclose the SUBWAY® “Footlong” subs are not uniformly 12 inches, or one foot, in length based on their superior knowledge and affirmative misrepresentations to the contrary.

77. Defendant affirmatively misrepresented and/or actively concealed material facts, in whole or in part, intending to induce Plaintiff and members of the Class to purchase the SUBWAY® “Footlong” subs.

78. Plaintiff and the Class were unaware of these omitted material facts and would not have acted as they did if they had known of the concealed and/or suppressed facts.

79. Because of the concealment and/or suppression of the facts, Plaintiff and the Class sustained damage in an amount to be determined at trial.

COUNT V
NEGLIGENT MISREPRESENTATION
(Based on California Common Law)

80. Plaintiff re-alleges and incorporates by reference all paragraphs alleged herein.

81. Defendant made representations about the SUBWAY® “Footlong” subs to Plaintiff and members of the Class that were not true.

82. Defendant had no reasonable grounds for believing these representations were true when they made them, yet they intended that Plaintiff and members of the Class rely on these representations.

1 83. Plaintiff reasonably relied on Defendant's representations and as a result Plaintiff and
2 members of the Class were harmed.

3 **COUNT VI**
4 **UNJUST ENRICHMENT / COMMON LAW CLAIMS OF RESTITUTION**
5 **Based on California Common Law**

6 84. Plaintiff re-alleges and incorporates by reference all paragraphs alleged herein.

7 85. Plaintiff brings this claim individually, and on behalf of all similarly situated residents in
8 California under the unjust enrichment.

9 86. As a direct and proximate result of Defendant's misconduct as set forth above, Defendant
10 has been unjustly enriched.

11 87. Specifically, by its misconduct described, Defendant accepted a benefit (*i.e.*, monies paid
12 by Plaintiff and the proposed Class members for the purchase of the SUBWAY®
13 "Footlong" subs) to the detriment of Plaintiff and the proposed Class.

14 88. Defendant's retaining of the full amount of monies paid for the SUBWAY® "Footlong"
15 subs violates the fundamental principles of justice, equity, and good conscience.

16 89. Defendant received the benefit based on its misrepresentations and omissions regarding
17 the SUBWAY® "Footlong" subs to the Plaintiff and the proposed Class members, and it
18 would be inequitable for the Defendant to keep the benefit of those monies, as it was paid
19 the money under false pretenses.

20 90. Defendant has obtained money to which it is not entitled, and interest on that money, and
21 under these circumstances equity and good conscience require that the Defendant return
22 the money with interest to the Plaintiff and the proposed Class.

23 91. As a direct and proximate result of the foregoing, Plaintiff and the proposed Class have
24 been damaged in an amount to be determined at trial.
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PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the Class, pray for an Order as follows:

- A. Determine this action may be maintained as a Class action with respect to the Class and certify it as such under Rule 23(b)(3), or alternatively certify all issues and claims that are appropriately certified, and designate and appoint Plaintiff as Class Representatives and their counsel as Class Counsel;
- B. Declare, adjudge and decree the conduct of Defendant as alleged herein to be unlawful, unfair and/or deceptive;
- C. Award Plaintiff and Class members actual, compensatory damages, as proven at trial, including all economic losses sustained.
- D. Award Plaintiff restitution of all monies paid to Defendants as a result of unlawful, deceptive, and unfair business practices;
- E. Award Plaintiff and the Class members reasonable attorneys' fees, costs, and pre- and post- judgment interest; and
- F. Award Plaintiff and the Class members such other further and different relief as the nature of the case may require or as may be determined to be just, equitable, and proper by this Court.

TRIAL BY JURY

Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

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1 RESPECTFULLY SUBMITTED,

2 DATED: January 24, 2013

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

3
4 By: /s/ Todd M. Friedman
5 Todd M. Friedman
6 Attorney for Plaintiff

7
8 RESPECTFULLY SUBMITTED,

9 DATED: January 24, 2013

AGRUS LAW FIRM, LLC

10
11 By: /s/ Michael S. Agruss
12 Michael S. Agruss
13 Attorney for Plaintiff

CIVIL COVER SHEET

Case 2:13-cv-00143-MCE-KJN Document 1-1 Filed 01/24/13 Page 1 of 2

The JS 44 civil coversheet 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

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

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

DEFENDANTS

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

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

Attorneys (If Known)

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

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

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

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

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

VI. CAUSE OF ACTION

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

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

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.C.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; 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 the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

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. When the petition for removal is granted, check this box.

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. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

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 dollar amount (in thousands of dollars) 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 pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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