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 POM WONDERFUL LLC  
 8  
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 SUPERIOR COURT  
 CENTRAL DIST. OF CALIF.  
 LOS ANGELES

FILED

10 UNITED STATES DISTRICT COURT  
 11 CENTRAL DISTRICT OF CALIFORNIA  
 12

13 POM WONDERFUL LLC, a Delaware  
 limited liability company,

14 Plaintiff,

15 v.

16 WELCH FOODS, INC., a Michigan  
 17 corporation; and DOES 1-10, inclusive,

18 Defendants.  
 19  
 20  
 21

Case No. **CV09 00567** AHM (AGR)

**COMPLAINT FOR FALSE  
 ADVERTISING UNDER LANHAM  
 ACT 43(A); FALSE ADVERTISING  
 UNDER CALIFORNIA BUSINESS  
 & PROFESSIONS CODE § 17500,  
 ET SEQ.; UNFAIR COMPETITION  
 UNDER CALIFORNIA BUSINESS  
 & PROFESSIONS CODE § 17200,  
 ET SEQ.**

**DEMAND FOR JURY TRIAL**

1 Plaintiff POM WONDERFUL LLC (“Pom Wonderful” or “Plaintiff”) hereby  
2 alleges as follows:

3 **PARTIES**

4 1. Plaintiff Pom Wonderful is a Delaware limited liability company with  
5 its principal place of business in Los Angeles, California.

6 2. On information and belief, defendant Welch Foods, Inc. (“Welch’s”) is  
7 a Michigan corporation with its principal place of business in Concord,  
8 Massachusetts.

9 3. Plaintiff is not aware of the true names and capacities of the defendants  
10 identified herein as Does 1 through 10, inclusive, and therefore fictitiously names  
11 said defendants. Plaintiff will amend this Complaint to allege the true names and  
12 capacities of these fictitiously named defendants when their identities are  
13 ascertained.

14 4. Plaintiff is informed and believes, and thereon alleges, that Welch’s  
15 and each of the fictitiously named Doe defendants (collectively “Defendants”) were  
16 in some manner responsible for the acts alleged herein and the harm, losses and  
17 damages suffered by Plaintiff as alleged hereinafter. Plaintiff is also informed and  
18 believes that, while participating in such acts, each Defendant was the agent, alter  
19 ego, conspirator, and aidor and abettor of the other Defendants and was acting in the  
20 course and scope of such agency and/or acted with the permission, consent,  
21 authorization or ratification of the other Defendants.

22 5. As described further below, Welch’s conducts business and  
23 manufactures and/or distributes products in the greater Los Angeles area, and  
24 throughout the United States.

25 **JURISDICTION AND VENUE**

26 6. This action arises under 15 U.S.C. § 1125(a) and the statutory law of  
27 the State of California. This Court has subject matter jurisdiction over this action  
28

1 pursuant to 28 U.S.C. §1331 (federal question), 15 U.S.C. § 1121 (Lanham Act  
2 claims) and 28 U.S.C. §1367 (supplemental jurisdiction).

3 7. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and  
4 1400 because a substantial part of the events or omissions giving rise to the claims  
5 occurred in this District.

6 **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

7 8. This action seeks redress for Welch's deliberate and unlawful false and  
8 misleading representations regarding its White Grape Pomegranate Product ("White  
9 Grape Pomegranate Product"), which has been packaged, marketed and sold by  
10 Welch's based on the representation that the primary ingredients in the product are  
11 white grape and pomegranate juice, when, in fact, the primary ingredients are  
12 actually white grape and apple juice.

13 9. This action also seeks redress for the unfair, unlawful and fraudulent  
14 business practices of all Defendants, each of whom have participated in making the  
15 false advertising claims relating to Welch's White Grape Pomegranate Product in  
16 California and nationwide.

17 **I. POM WONDERFUL**

18 10. Plaintiff is the largest grower and distributor of pomegranates and  
19 pomegranate juice in the United States.

20 11. Plaintiff produces, markets and sells POM WONDERFUL® brand  
21 bottled pomegranate juice, and various pomegranate juice blends. Pom Wonderful  
22 has been bottling, selling and marketing its juice products since 2002.

23 12. When Pom Wonderful began the development and distribution of POM  
24 WONDERFUL® juice, it invested millions of dollars in researching the nutritional  
25 qualities and health benefits of pomegranate juice, an investment that continues to  
26 this day. Pom Wonderful has consulted with world-renowned scientists, including a  
27 Nobel laureate, and underwrites major research studies, many of which are  
28

1 published in well-known and prestigious peer-reviewed scientific and medical  
2 journals.

3 13. Scientists have discovered that pomegranate juice has very high levels  
4 of unique polyphenols, antioxidants that are particularly effective at neutralizing  
5 free radicals, preventing oxidation of LDL cholesterol (the “bad” cholesterol) and  
6 plaque build-up in the blood vessels, and preserving nitric oxide, a key chemical in  
7 the body for regulating blood flow and maintaining vessel health.

8 14. A key element of Pom Wonderful’s marketing campaign has been its  
9 concentration on the health benefits associated with pomegranates and pomegranate  
10 juice, and its emphasis on the high level of antioxidants contained in POM  
11 WONDERFUL® brand juice.

12 15. Through its investment of millions of dollars to research and promote  
13 the nutritional qualities and health benefits associated with pomegranate juice,  
14 Plaintiff largely created the burgeoning market for genuine pomegranate juice that  
15 exists today. POM Wonderful’s pomegranate juice has, in only six short years,  
16 eclipsed all other products in its market segment of super premium juices to take the  
17 #1 spot nationwide in supermarket sales, as well as the #1 spots in the key  
18 geographic regions of Los Angeles, Chicago, New York, among many others. POM  
19 Wonderful’s annual supermarket sales have, incredibly, gone from zero to well over  
20 \$70 million in that same period.

21 16. Plaintiff’s success has been both good and bad for consumers. On the  
22 one hand, consumers have been made aware of the nutritional qualities and health  
23 benefits of 100 percent pomegranate juice. On the other hand, unscrupulous  
24 competitors have set out to cash in on Plaintiff’s success by marketing and selling to  
25 consumers products labeled as “pomegranate juice,” that in fact contain little or no  
26 actual pomegranate juice. Welch’s is one such competitor.

1 **II. WELCH'S AND ITS FALSE ADVERTISING OF ITS WHITE GRAPE**  
2 **POMEGRANATE PRODUCT**

3 17. Welch's markets and sells various bottled juice products under the  
4 "Welch's" brand, and is one of Plaintiff's competitors in the bottled pomegranate  
5 juice market. Welch's is based in Concord, Massachusetts and, Plaintiff is informed  
6 and believes, markets, distributes and sells its products, including its White Grape  
7 Pomegranate Product, in Los Angeles County and throughout the United States.

8 18. In or about 2007, Welch's announced the addition of a new "100%  
9 Juice" "White Grape Pomegranate" product to its line of juices.



20 19. Welch's' White Grape Pomegranate Product purports to combine white  
21 grape and pomegranate, the latter being one of nature's most powerful antioxidants.  
22 In fact, the main ingredients in Welch's White Grape Pomegranate Product are  
23 white grape and apple juice.

24 20. Notwithstanding that Welch's product actually contains little or no  
25 pomegranate juice, both in advertising and on the bottle itself, Welch's characterizes  
26 this product as "White Grape & Pomegranate" juice, and includes a prominent  
27 depiction of pomegranates in the forefront of its label when, in fact, the primary  
28 ingredients are actually white grape and apple juice. By characterizing this product

1 as “White Grape & Pomegranate,” and including the prominent display of  
2 pomegranates on the label and packaging, Welch’s has confused and misled  
3 consumers, who reasonably expect that the primary ingredients are white grape and  
4 pomegranate juice. Attached as “Exhibit A” are true and correct copies of  
5 photographs of Welch’s White Grape Pomegranate Product.

6 21. In addition to the claims on the product itself, Welch’s also maintains a  
7 website at [www.welchs.com](http://www.welchs.com) that advertises and markets Welch’s product as “white  
8 grape pomegranate” juice. Plaintiff is informed and believes that Welch’s has  
9 engaged in other forms of marketing and advertising of its White Grape  
10 Pomegranate Product targeting consumers throughout the United States.

11 22. Purchasers of Welch’s product are likely to be misled and deceived by  
12 Welch’s product labeling, marketing and advertising. By the name of the product,  
13 and by the label that prominently features a depiction of white grapes and  
14 pomegranates, one would expect that one of the primary ingredients of Welch’s  
15 White Grape Pomegranate Product is actually pomegranate juice. However, the  
16 primary ingredients are actually white grape and apple juice.

17 23. Welch’s false and misleading advertising of its White Grape  
18 Pomegranate Product is damaging to the reputation and goodwill of Plaintiff and is  
19 damaging to the consuming public. These false and misleading representations are  
20 designed to entice consumers to purchase Welch’s product over Plaintiff’s products.  
21 Specifically, Welch’s false and misleading representations regarding the primary  
22 ingredients of its product imply that its product is of the same composition and  
23 quality of blended pomegranate juices such as Plaintiff’s blended pomegranate  
24 juices, when in fact Welch’s has substituted much of the valuable and beneficial  
25 substance of pomegranate juice with economically and nutritionally inferior juices  
26 such as apple. Welch’s suggestive marketing, which includes a prominent depiction  
27 of pomegranates in the forefront of the label, on the packaging, and in connection  
28 with advertising, leads consumers to believe that White Grape Pomegranate Product

1 is an antioxidant-rich juice product, containing all of the health benefits associated  
2 with Plaintiff's products, when in fact it does not.

3 24. Because the cost to produce Welch's product containing economically  
4 inferior components is far less than the cost to produce Plaintiff's blended  
5 pomegranate juices, Welch's can charge less for its product than competitors,  
6 including Plaintiff, while reaping a substantial profit. In this way, notwithstanding  
7 that Welch's product actually contains little (if any) pomegranate juice, Welch's  
8 entices consumers who would otherwise buy Plaintiff's product to buy its product  
9 instead. In doing so, Welch's wrongfully tricks consumers into thinking that they  
10 are getting a product similar to Plaintiff's products for a lower price, when in fact  
11 they are getting an economically and nutritionally inferior product.

12 25. The natural, probable and foreseeable result of Welch's wrongful  
13 conduct has been to cause confusion, deception and mistake in the pomegranate  
14 juice market as a whole, to deprive Plaintiff of business and goodwill, and to injure  
15 Plaintiff's relationships with existing and prospective customers.

16 26. Plaintiff is informed and believes that Welch's wrongful conduct has  
17 resulted in increased sales of Welch's own White Grape Pomegranate Product while  
18 hindering the sales of Plaintiff's pomegranate juice products and damaging  
19 Plaintiff's goodwill. Plaintiff has sustained and will sustain damages as a result of  
20 Welch's wrongful conduct.

21 **FIRST CLAIM FOR RELIEF**

22 (False Advertising Under Lanham Act § 43(a), 15 U.S.C. 1125(a)

23 Against All Defendants)

24 27. Plaintiff incorporates by reference Paragraphs 1 through 26 above as  
25 though fully set forth herein.

26 28. Upon information and belief Defendants have made and distributed, in  
27 interstate commerce and in this District, advertisements that contain false or  
28 misleading statements of fact regarding their products. These advertisements

1 contain actual misstatements and/or misleading statements and failures to disclose,  
2 including, among others, the statement that Defendants' product consists primarily  
3 of white grape and pomegranate juice.

4 29. Upon information and belief, these false statements actually deceive, or  
5 have a tendency to deceive, a substantial segment of Plaintiff's customers and  
6 potential customers. This deception is material in that it is likely to influence the  
7 purchasing decisions of Plaintiff's customers.

8 30. Defendants' false and misleading advertising statements and omissions  
9 injure both consumers and Plaintiff.

10 31. Defendants' false and misleading advertising statements and omissions  
11 violate the Lanham Act § 43(a), 15 U.S.C. §1125(a).

12 32. Defendants have caused, and will continue to cause, immediate and  
13 irreparable injury to Plaintiff, including injury to its business, reputation, and  
14 goodwill, for which there is no adequate remedy at law. As such, Plaintiff is entitled  
15 to an injunction under 15 U.S.C. §1116 restraining Defendants, their agents,  
16 employees, representatives and all persons acting in concert with them from  
17 engaging in further acts of false advertising, and ordering removal of all  
18 Defendants' false advertisements.

19 33. Pursuant to 15 U.S.C. §1117, Plaintiff is entitled to recover from  
20 Defendants the damages sustained by Plaintiff as a result of Defendants' acts in  
21 violation of Lanham Act § 43(a). Plaintiff is at present unable to ascertain the full  
22 extent of the monetary damages it has suffered by reason of Defendants' acts.

23 34. Pursuant to 15 U.S.C. §1117, Plaintiff is further entitled to recover  
24 from Defendants the gains, profits and advantages that they have obtained as a result  
25 of their acts. Plaintiff is at present unable to ascertain the full amount of the gains,  
26 profits and advantages Defendants have obtained by reason of their acts.

27 35. Pursuant to 15 U.S.C. §1117, Plaintiff is further entitled to recover the  
28 costs of this action. Moreover, Plaintiff is informed and believes, and on that basis



1 alleges, that Defendants' conduct was undertaken willfully and with the intention of  
2 causing confusion, mistake or deception, making this an exceptional case entitling  
3 Plaintiff to recover additional damages and reasonable attorneys' fees.

4 **SECOND CLAIM FOR RELIEF**

5 (False Advertising Under Cal. Bus. & Prof. Code § 17500  
6 Against All Defendants)

7 36. Plaintiff incorporates by reference Paragraphs 1 through 35 above as  
8 though fully set forth herein.

9 37. Defendants knew or in the exercise of reasonable care should have  
10 known that their publicly disseminated statements and omissions relating to their  
11 White Grape Pomegranate Product were false or misleading. Defendants' false  
12 advertising statements and omissions injure consumers and Plaintiff. Defendants'  
13 false and misleading statements include, among others, that Defendants' product  
14 consists primarily of white grape and pomegranate juice.

15 38. By making such untrue or misleading statements, Defendants have  
16 engaged in false advertising in violation of the statutory law of the state of  
17 California, Cal. Bus. & Prof. Code §17500, *et seq.*

18 39. By reason of Defendants' conduct, Plaintiff has suffered injury in fact  
19 and has lost money or property.

20 40. Defendants have caused, and will continue to cause, immediate and  
21 irreparable injury to Plaintiff, including injury to its business, reputation, and  
22 goodwill, for which there is no adequate remedy at law. Plaintiff is entitled to an  
23 injunction restraining Defendants, their agents, employees, representatives and all  
24 persons acting in concert with them from engaging in further such acts, and  
25 forbidding Defendants from advertising their White Grape Pomegranate Product as  
26 primarily containing white grape and pomegranate juice, and from making other  
27 false statements in connection with the product.

28 41. Plaintiff is further entitled to a restitutionary recovery from Defendants.

1 **THIRD CLAIM FOR RELIEF**

2 (Statutory Unfair Competition – Cal. Bus. & Prof. Code §17200, *et seq.*  
3 Against All Defendants)

4 42. Plaintiff incorporates by reference Paragraphs 1 through 41 above as  
5 though fully set forth herein.

6 43. Defendants have made, published, disseminated, and circulated false,  
7 deceptive, and misleading statements, representations, and advertisements in  
8 California misrepresenting the nature, quality, and characteristics of their White  
9 Grape Pomegranate Product with the intent of selling, distributing, and increasing  
10 the consumption of, and interest in, their White Grape Pomegranate Product.

11 44. Defendants' conduct as alleged herein constitutes unfair competition in  
12 that such acts were and are unlawful, unfair, deceptive and/or fraudulent business  
13 acts or practices in violation of California Business & Professions Code §17200, *et*  
14 *seq.*

15 45. As a direct and proximate result of Defendants' wrongful conduct,  
16 Plaintiff has suffered injury in fact, which losses include damage to Plaintiff's good  
17 will with its existing, former and potential customers. Defendants' conduct has also  
18 caused damage to consumers.

19 46. These wrongful acts have proximately caused and will continue to  
20 cause Plaintiff substantial injury, including loss of customers, dilution of goodwill,  
21 confusion of existing and potential customers, and diminution of the value of  
22 Plaintiff's products. The harm these wrongful acts will cause to Plaintiff is both  
23 imminent and irreparable, and the amount of damage sustained by Plaintiff will be  
24 difficult to ascertain if these acts continue. Plaintiff has no adequate remedy at law.

25 47. Plaintiff is entitled to an injunction restraining Defendants, their  
26 officers, agents, employees, and all persons acting in concert with them from  
27 engaging in further such unlawful conduct.

28 48. Plaintiff is further entitled to a restitutionary recovery from Defendants.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

3 1. For temporary, preliminary and permanent injunctive relief prohibiting  
4 Defendants, their agents, or anyone working for, in concert with or on behalf of  
5 Defendants from engaging in false or misleading advertising with respect to their  
6 White Grape Pomegranate Product and/or violating Lanham Act § 43(a), which  
7 relief includes but is not limited to removal of all false or misleading advertisements  
8 and corrective advertising to remedy the effects of Defendants' false advertising.

9 2. For an order requiring Defendants to correct any erroneous impression  
10 persons may have derived concerning the nature, characteristics, or qualities of their  
11 White Grape Pomegranate Product, including without limitation, the placement of  
12 corrective advertising and providing written notice to the public.

13 3. That Defendants be adjudged to have violated 15 U.S.C. §1125(a) by  
14 unfairly competing against Plaintiff by using false, deceptive or misleading  
15 statements of fact that misrepresent the nature, quality and characteristics of their  
16 White Grape Pomegranate Products.

17 4. That Defendants be adjudged to have unlawfully and unfairly competed  
18 against Plaintiff under the laws of the State of California, Cal. Bus. & Prof. Code  
19 §17200, *et seq.*

20 5. That Defendants be adjudged to have unfairly competed against  
21 Plaintiff by engaging in false or misleading advertising under the laws of the State  
22 of California, Cal. Bus. & Prof. Code §17500, *et seq.*

23 6. That Plaintiff be awarded damages Plaintiff has sustained in  
24 consequence of Defendants' conduct.

25 7. That Plaintiff be awarded Defendants' profits obtained by Defendant as  
26 a consequence of Defendants' conduct.

1           8.     That such damages and profits be trebled and awarded to Plaintiff as a  
2 result of Defendants' willful, intentional and deliberate acts in Plaintiff violation of  
3 Lanham Act § 43(a).

4           9.     That Plaintiff recover its costs and reasonable attorneys' fees.


5           10.    That all of Defendants' misleading and deceptive materials and  
6 products be destroyed as allowed under 15 U.S.C. §1118.

7           11.    That Plaintiffs be granted prejudgment and post judgment interest.

8           12.    That Plaintiff have such other and further relief as the Court deems just  
9 and proper.

10 Dated: January 23, 2009

LOEB & LOEB LLP  
ANDREW S. CLARE  
MARK D. CAMPBELL  
DAVID GROSSMAN


11 By:   
12 \_\_\_\_\_  
13 Mark D. Campbell  
14 Attorneys for Plaintiff  
15 POM WONDERFUL LLC  
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1 **DEMAND FOR JURY TRIAL**

2 Plaintiff hereby demands a trial by jury on all issues properly triable by jury.

3  
4 Dated: January 23, 2009

LOEB & LOEB LLP  
ANDREW S. CLARE  
MARK D. CAMPBELL  
DAVID GROSSMAN

6  
7 By:   
8 Mark D. Campbell  
9 Attorneys for Plaintiff  
10 POM WONDERFUL LLC  
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# **EXHIBIT A**



**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge A. Howard Matz and the assigned discovery Magistrate Judge is Alicia G. Rosenberg.

The case number on all documents filed with the Court should read as follows:

**CV09 - 567 AHM (AGR~~x~~)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

-----  
**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

**Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

**Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

**Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.



MARK D. CAMPBELL (SBN 186. .8)  
mcampbell@loeb.com  
LOEB & LOEB LLP  
10100 Santa Monica Boulevard, Suite 2200  
Los Angeles, CA 90067  
Telephone: 310-282-2000  
Facsimile: 310-282-2200  
Attorneys for Plaintiff

ORIGINAL

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

POM WONDERFUL LLC, a Delaware limited liability  
company

PLAINTIFF(S)

v.

WELCH FOODS, INC., a Michigan corporation; and  
DOES 1-10, inclusive

DEFENDANT(S).

CASE NUMBER

CV09 00567 AHM (AGRY)

SUMMONS

TO: DEFENDANT(S): WELCH FOODS, INC. and DOES 1-10, INCLUSIVE

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached  complaint  \_\_\_\_\_ amended complaint  counterclaim  cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Mark D. Campbell, Loeb & Loeb, LLP, whose address is 10100 Santa Monica Boulevard, Suite 2200, Los Angeles, CA 90067. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: January 23, 2009

By: \_\_\_\_\_

*C Powers*

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

**I (a) PLAINTIFFS** (Check box if you are representing yourself )  
POM WONDERFUL LLC

**DEFENDANTS**  
WELCH FOODS, INC. and DOES 1-10, inclusive

**(b) Attorneys** (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)  
Mark D. Campbell (SBN 180528)  
LOEB & LOEB LLP  
10100 Santa Monica Boulevard, Suite 2200  
Los Angeles, CA 90067  
Telephone: 310-282-2000

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** - For Diversity Cases Only  
(Place an X in one box for plaintiff and one 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. 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 Multi-District Litigation  7 Appeal to District Judge from Magistrate Judge

**V. REQUESTED IN COMPLAINT: JURY DEMAND:**  Yes  No (Check 'Yes' only if demanded in complaint.)

**CLASS ACTION under F.R.C.P. 23:**  Yes  No **MONEY DEMANDED IN COMPLAINT: \$** \_\_\_\_\_

**VI. CAUSE OF ACTION** (Cite the U. S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
15 U.S.C. § 1125 False Advertising under the Lanham Act

**VII. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL</b>	<b>ETITIONS</b>	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<b>PROPERTY</b>	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 530 General	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<b>BANKRUPTCY</b>	<input type="checkbox"/> 555 Prison Condition	<b>PROPERTY RIGHTS</b>
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 22 Appeal 28 USC 158	<b>FORFEITURE / PENALTY</b>	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<b>SOCIAL SECURITY</b>
<input checked="" type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 61 HIA(1395ff)
<input type="checkbox"/> 891 Agricultural Act	<b>REAL PROPERTY</b>	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 210 Land Condemnation	<b>IMMIGRATION</b>	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 863 DIWC/DIWW 405(g)
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 660 Occupational Safety /Health	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 440 Other Civil Rights		<b>FEDERAL TAX SUITS</b>
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 290 All Other Real Property				<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

**FOR OFFICE USE ONLY:** Case Number: CV09 00567

**AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.**

**UNITED STATE. STRICT COURT, CENTRAL DISTRICT CALIFORNIA  
CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed?  No  Yes

If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case?  No  Yes

If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

(Check all boxes that apply)

- A. Arise from the same or closely related transactions, happenings, or events; or  
 B. Call for determination of the same or substantially related or similar questions of law and fact; or  
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.  
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.  
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Massachusetts

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

**Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties**

**Note: In land condemnation cases, use the location of the tract of land involved**

**X. SIGNATURE OF ATTORNEY (OR PRO PER):**

*Mark D. Campbell*  
 MARK D. CAMPBELL

**Date** January 23, 2009

**Notice to Counsel/Parties:** The CV-71 (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. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3 -1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))