Michael W. Kopp (SBN 63944)
Jay W. Connolly (*pro hac vice to be filed*)
Joseph J. Orzano (*pro hac vice to be filed*)
SEYFARTH SHAW LLP
400 Capitol Mall, Suite 2350
Sacramento, CA 95814-4428
(916) 448-0159

Attorneys for Defendant
WHOLE FOODS MARKET GROUP, INC.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SARAH RODHOUSE, individually, and on behalf of all others similarly situated in Missouri,

Plaintiff,

v.

WHOLE FOODS MARKET GROUP, INC.,

Defendant.

Case No.: _____

NOTICE OF REMOVAL

JURY TRIAL DEMANDED

Defendant Whole Foods Market Group, Inc. ("Defendant"), by and through its attorneys, Seyfarth Shaw LLP, and pursuant to 28 U.S.C. §§ 1332 and 1441, hereby files this Notice of Removal[1] with respect to the above-captioned case, which was filed and currently is pending in the 22nd Judicial Circuit Court of the City of St. Louis, State of Missouri. In support of this Notice of Removal, Defendant states as follows:

[1] The arguments raised in this Notice of Removal are for the purposes of removal only. By the assertion or omission of any argument or reliance upon any law, Defendant does not intend to waive and specifically reserves its right to assert any defenses and/or objections to which it may be entitled to assert through dispositive motion or otherwise.

Timeliness of Removal

1. On September 13, 2014, Plaintiff Sarah Rodhouse ("Plaintiff") filed a Petition and Jury Demand ("Complaint") against Defendant in the 22nd Judicial Circuit Court of the City of St. Louis, State of Missouri. The lawsuit is recorded on that court's docket as 1422-CC09626. There are no other parties named in the Complaint at the time of filing this removal.

2. On September 18, 2014, a copy of the Complaint was served through a registered agent upon Defendant.

3. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of Plaintiff's Summons and Complaint, which constitutes "all summons, pleadings, and orders" served upon Defendant in the 22nd Judicial Circuit Court of the City of St. Louis, State of Missouri action, are attached hereto as **Exhibit A**.

4. Because Defendant has filed this Notice of Removal within thirty (30) days of service, this Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b).

Basis for Removal

5. The basis for removal is diversity jurisdiction under the Class Action Fairness Act ("CAFA"), codified at 28 U.S.C. § 1332(d), and diversity jurisdiction under 28 U.S.C. § 1332.

Diversity Jurisdiction Under CAFA

6. This putative class action satisfies all the jurisdictional requirements under CAFA based on the allegations in the Complaint. Specifically: (1) the proposed class consists of 100 or more members; (2) the parties are minimally diverse; and (3) and the amount in controversy exceeds $5,000,000, exclusive of interest and costs. *See* 28 U.S.C. § 1332(d)(2), (5)(B).

7. *First*, CAFA requires that the putative class consist of at least 100 persons. 28 U.S.C. § 1332(d)(5). In the Complaint, Plaintiff purports to bring this action on behalf of "all persons in Missouri who purchased Whole Foods 365 Everyday Value Nonfat Plain Greek

Yogurt from July 2009 [to] July 2014…." Compl. ¶ 19. Plaintiff alleges on the face of the Complaint that "the Class consists of thousands of purchasers." Compl. ¶ 21. Therefore, by Plaintiff's own allegations, the putative class exceeds at least 100 persons.

8. *Second*, CAFA requires that the parties be minimally diverse; that is, at least one putative class member must be a citizen of a different state than at least one defendant. 28 U.S.C. § 1332(d)(2). The term "class members" means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action. 28 U.S.C. § 1332(d)(1)(D). In the Complaint, Plaintiff alleges that she is a resident of City of St. Louis County, Missouri. Compl. ¶ 3. Therefore, Plaintiff is a citizen of Missouri. Defendant is a Delaware Corporation with its principle place of business in Texas. Therefore, Defendant is deemed a citizen of Delaware and Texas. Plaintiff alleges in the Complaint that Defendant is a Texas corporation with its principle place of business in Texas. Even if that were true, it would be deemed a citizen of Texas. Either way, Plaintiff and Defendant are citizens of different states and the parties satisfy the minimal diversity requirement.

9. *Third*, to confer diversity jurisdiction under CAFA, the amount in controversy must exceed the sum or value of $5,000,000, exclusive of interest and costs. 28 U.S.C. § 1332(d)(2). "[T]he District Court [must] determine whether it has jurisdiction by adding up the value of the claim of each person who falls within the definition of [the] proposed class and determine whether the resulting sum exceeds $5 million. If so, there is jurisdiction and the court may proceed with the case." *Standard Fire Ins. Co. v. Knowles*, 133 S.Ct. 1345, 1348 (2013). It is fundamental that Plaintiff is master of her complaint. *Bell v. Hershey Co.*, 557 F.3d 953, 958 (8th Cir. 2009); *Stafford v. Whole Foods Market California, Inc.*, 2014 WL 4755988 (E.D. Ark. Sept. 24, 2014). And "the amount in controversy requirement may be satisfied simply by the

allegations in the complaint." *Hug v. American Traffic* Solutions, 21014 WL 1689303, at *1 (E.D. Mo. Apr. 29, 2014).

10. Plaintiff alleges on the face of the Complaint that "[n]o individual Class Member's claim is equal to or greater than seventy-five thousand dollars ($75,000), inclusive of costs and attorneys' fees." Compl. ¶ 5. Attorneys' fees are included in the determination of the amount in controversy. *See Hutchins v. Southwestern Bell Telephone Co., Inc.*, 2013 WL 6068897, *3 (E.D.Mo. Nov. 18, 2013) ("the Court must consider [for the amount in controversy] … reasonable attorneys' fees, which are generally awarded to a prevailing plaintiff in a MHRA [Missouri Merchandising Practices Act] action."). Costs are not included in the amount in controversy. 28 U.S.C. § 1332(d)(2). But any amounts of each plaintiff's claim attributable to taxable costs would be *de minimis*. *Gray v. FedEx Ground Package System, Inc.*, 2014 WL 4386739, *2 (E.D.Mo. Sept. 5, 2014) (explaining 28 U.S.C. § 1920 "imposes rigid controls on cost-shifting in federal courts" and awarding, after eight years of litigation involving eleven prevailing plaintiffs, less than three-thousand dollars in taxable costs per plaintiff). Therefore, based on the allegations of the Complaint, Plaintiff specifically pleads a sum certain that the amount in controversy for each individual class member is $74,999 less *de minimis* costs. *Grawitch v. Charter Commc'ns, Inc.*, 750 F.3d 956, 960 (8th Cir. 2014) (holding that the defendant met its burden as to the CAFA amount in controversy jurisdictional threshold through the plaintiffs' allegations of "a nationwide class consisting of at least 50,000 members, who overpaid for Internet services" because "plaintiffs sought to recover up to $50,000 in damages per class member," based on which "a jury might conclude that the class suffered damages of more than $5 million dollars, even if the individual class members' monthly overpayment was minimal"); *Raye v. Employer's Ins. of Wausau*, 345 F. Supp. 2d 1313, 1316-1317 (S.D. Ala.

2004) ("[t]he complaint expressly articulates the plaintiffs desire to recover $75,000.00 in compensatory and punitive damages" where plaintiff alleged that he "be awarded damages . . . not to exceed Seventy-Five Thousand and No/100 ($75,000.00) Dollars.").

11. Plaintiff also alleges that "the Class consists of thousands of purchasers." Compl. ¶ 21.

12. Therefore, multiplying the alleged sum certain of approximately $74,999 per class member by 1,000 class members, the amount placed in controversy for purposes of CAFA is $74,999,000. Indeed, even just 10% of Plaintiff's alleged sum certain, $7,499, when multiplied by 1,000 class members is $7,499,00.00, an amount well in excess of the $5 million jurisdictional limit under CAFA.

13. Plaintiff cannot escape CAFA removal by simply alleging that "the total damages of Plaintiff and Class Members, inclusive of costs and attorneys' fees, will not exceed $4,999,999 and is less than the five million dollar ($5,000,000) minimum threshold to create federal court jurisdiction." Compl. ¶ 5. Such stipulations may *not* prevent removal under CAFA. *E.g., Stafford*, 2014 WL 475988, at *3 (relying on *Grawitch* to conclude that "[a]lthough the complaint alleges damages do not exceed the $5,000,000 amount in controversy threshold, by alleging damages up to $74,999.00 per class member, Stafford has placed that amount in controversy for each class member.").

14. Because the CAFA jurisdictional requirements are all met, this case is properly removable to this Court under 28 U.S.C. § 1332(d).

Diversity Jurisdiction Under 28 U.S.C. § 1332(a)

15. In addition to diversity jurisdiction under CAFA, there is also diversity jurisdiction pursuant to 28 U.S.C. § 1332(a) because Plaintiff and Defendant are completely

diverse and the amount in controversy raised by Plaintiff exceeds $75,000. *See* 28 U.S.C. § 1332(a).

16. *First*, as discussed above, Plaintiff alleges that she is a resident of City of St. Louis County, Missouri. Compl. ¶ 3. Therefore, Plaintiff is a citizen of Missouri. Defendant is a Delaware Corporation with its principle place of business in Texas. Therefore, Defendant is deemed a citizen of Delaware and Texas. Plaintiff alleges in the Complaint that Defendant is a Texas corporation with its principle place of business in Texas. Even if that were true, it would be deemed a citizen of Texas. Either way, Plaintiff and Defendant are citizens of different states and the parties are not only minimally diverse, but completely diverse. Accordingly, this action is one in which none of the parties in interest properly joined and served as a defendant is a citizen of the state in which the action was brought. 28 U.S.C. § 1441(b).

17. *Second,* the amount-in-controversy requirement is also satisfied. As set forth above, Plaintiff alleges on the face of the Complaint that "[n]o individual Class Member's claim is equal to or greater than seventy-five thousand dollars ($75,000), inclusive of costs and attorneys' fees." Compl. ¶ 5. Therefore, based on the allegations of the Complaint, Plaintiff specifically pleads a sum certain that the amount in controversy for each individual class member is $74,999, less *de minimis* costs. *See Grawitch v. Charter Commc'ns, Inc.*, 750 F.3d 956, 960 (8th Cir. 2014). But in this amount, Plaintiff fails to include in his claim amounts attributable to his request for permanent injunctive relief that are properly included in the amount in controversy and which easily and obviously pushes the amount in controversy far in excess of $75,000.

18. The amount in controversy attributable to a plaintiff's request for injunctive relief is measured by the "value of the object of the litigation." *Jame Neff Kramper Family Farm*

P'ship v. IBP, Inc., 393 F.3d 828, 933 (8th Cir. 2005). The Court may attribute the entire value of the object of the litigation to the named plaintiff in traditional diversity jurisdiction because the requested injunctive relief may be imposed even if just the named plaintiff prevails. *See Saab v. Home Depot U.S.A., Inc.*, 2006 WL 1877077 (W.D. Mo. July 6, 2006).

19. In the Complaint, Plaintiff "seeks preliminary and **permanent** injunctive relief and equitable relief on behalf of the entire Class…to require Defendant to discontinue its unlawful conduct." Compl., ¶ 25.f. Plaintiff alleges that Defendant's unlawful conduct includes purportedly falsely claiming on labels of Whole Foods 365 Everyday Value Nonfat Plain Greek Yogurt that the product contains 2 grams of sugar per serving. Compl. ¶ 1.

20. Valuing the object of the litigation in determining the amount in controversy attributable to Plaintiff's injunctive relief from Defendant's perspective, *Hartridge v. Aetna Casualty & Surety Company*, 415 F.2d 809 (8th Cir. 1969), *Saab*, 2006 WL 1877077, at *4, the injunctive relief alone far surpasses the minimum jurisdictional amount on its own. As set forth above, Plaintiff alleges a sum certain of damages and attorneys' fees in the amount of $74,999, less *de minimis* costs. District Courts have found it reasonable to use between a 30% to 40% multiplier for attorneys' fees in determining the amount in controversy attributable to such fees. *E.g., Goodner v. Clayton Homes, Inc.*, 2014 WL 4722748, at *5 (W.D.Ark. Sept. 23, 2014). Even assuming, therefore, that 40% of Plaintiff's $74,999.00 claim is attributable to attorneys' fees, or $29,999.60, that leaves approximately $44,999.40 in alleged damages incurred by Plaintiff in the alleged 5-year class period. Plaintiff alleges these compensatory damages are attributable to an alleged price premium commanded by Defendant. Compl. ¶¶ 33, 34. Plaintiff has alleged thousands of purchasers have each paid this price premium in the past five years. Thus, by Plaintiff's own allegations, by ceasing the labeling practices, Defendant will lose the

ability to command and collect the alleged cost premium from thousands of consumers. That amount alone will exceed the jurisdictional minimum. And that does not even factor in the considerable costs of product recall, re-labeling or reformulation, and distribution of replacement products to stores required by the requested injunction.

21. Further, even applying the plaintiff's viewpoint rule, *see, e.g., Usery v. Anadarko Petroleum Corp.*, 606 F.3d 1017 (8th Cir. 2010), the benefit of the requested injunctive relief, by Plaintiff's own allegations in the Complaint, would more than exceed the minimum jurisdictional amount. As set forth above, based on the allegations of the Complaint, Plaintiff specifically pleads a sum certain that the amount in controversy for each individual class member is $74,999, less *de minimis* costs. Compl. ¶ 5, Prayer. Thus, the value of the injunctive relief, the cessation of the alleged injury-inducing conduct, to Plaintiff is $8,999.88 per year, more than enough in a single year in combination with Plaintiff's other claims to exceed the minimum jurisdictional amount. This amount would also satisfy the amount in controversy on its own if one simply projects the benefit to Plaintiff over just nine years.

Additional Information

22. This Notice of Removal is being filed in the United States District Court for the Eastern District of Missouri, Eastern Division, as this is the district court within which the 22nd Judicial Circuit Court action is pending. 28 U.S.C. § 1441(a).

23. Promptly upon the filing of this Notice of Removal, Defendant shall electronically file a Notice of Filing of Removal, with a copy of the Notice of Removal, with the 22nd Judicial Circuit Court of the City of St. Louis, State of Missouri, and will serve a copy thereof on counsel of record for Plaintiff, pursuant to 28 U.S.C. § 1446(d).

24. Pursuant to Local Rule 2.03, Defendant will file proof with this Court that the Notice of Filing of Removal was electronically filed with the 22nd Judicial Circuit Court of the City of St. Louis, State of Missouri.

25. By filing this Notice of Removal, Defendant does not waive any claims or defenses available at law, in equity or otherwise.

WHEREFORE, Defendant respectfully requests that the above-referenced civil action proceed in the United States District Court for the Eastern District of Missouri, Eastern Division, as an action properly removed thereto.

DATED: October 17, 2014

SEYFARTH SHAW LLP

By: */s/ Michael W. Kopp*

Michael W. Kopp (SBN 63944)
400 Capitol Mall
Sacramento, CA 95814
Telephone: (916) 448-0159
Facsimile: (916) 558-4839
mkopp@seyfarth.com

Jay W. Connolly (*pro hac vice to be filed*)
Joseph J. Orzano (*pro hac vice to be filed*)
560 Mission Street, 31st Floor
San Francisco, California 94105
Telephone: (415) 397-2823
Facsimile: (415) 397-8549
jconnolly@seyfarth.com
jorzano@seyfarth.com

Attorneys for Defendant
WHOLE FOODS MARKET GROUP, INC.

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of October, 2014, I electronically filed the foregoing Notice of Removal with the Clerk of the Court using the CM/ECF system, and mailed by federal express, postage prepaid, true and correct copies to the following counsel of record for Plaintiff Sarah Rodhouse:

Matthew H. Armstrong, Esq.
ARMSTRONG LAW FIRM LLC
8816 Manchester Road, No. 109
St. Louis, MO 63144

David L. Steelman, Esq.
STEELMAN, GAUNT & HORSEFIELD
901 Pine St., Ste. 110
Rolla, MO 65401

/s/ Michael W. Kopp
Michael W. Kopp

EXHIBIT A

CT Corporation

Service of Process Transmittal
09/18/2014
CT Log Number 525724661

TO: Roberta Lang
Whole Foods Market, Inc.
550 Bowie Street
Austin, TX 78703

RE: **Process Served in Missouri**

FOR: Whole Foods Market Group, Inc. (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:	Sarah Rodhouse, etc., Pltf. vs. Whole Foods Market Group, Inc., Dft.
DOCUMENT(S) SERVED:	Summons, Petition and Jury Demand
COURT/AGENCY:	St. Louis City County Circuit Court, MO Case # 1422CC09626
NATURE OF ACTION:	Violation of Missouri's Merchandising Practices Act
ON WHOM PROCESS WAS SERVED:	C T Corporation System, Clayton, MO
DATE AND HOUR OF SERVICE:	By Process Server on 09/18/2014 at 15:15
JURISDICTION SERVED :	Missouri
APPEARANCE OR ANSWER DUE:	Within 30 days after receipt, exclusive of the day of service
ATTORNEY(S) / SENDER(S):	Matthew H. Armstrong Armstrong Law Firm LLC 8816 Manchester Rd., No., 109 St. Louis, MO 63144 314-258-0212
ACTION ITEMS:	CT has retained the current log, Retain Date: 09/19/2014, Expected Purge Date: 09/24/2014 Image SOP Email Notification, Email Process SOP@WHOLEFOODS.COM Email Notification, Roberta Lang barbara.jenkins@wholefoods.com
SIGNED: **ADDRESS:** **TELEPHONE:**	C T Corporation System 120 South Central Avenue Suite 400 Clayton, MO 63105 314-863-5545

IN THE 22ND JUDICIAL CIRCUIT COURT OF CITY OF ST LOUIS, MISSOURI

Judge or Division: PHILIP HEAGNEY	Case Number: 1422-CC09626
Plaintiff/Petitioner: SARAH E RODHOUSE vs.	Plaintiff's/Petitioner's Attorney/Address MATTHEW HALL ARMSTRONG 8816 MANCHESTER RD SUITE 109 SAINT LOUIS, MO 63144
Defendant/Respondent: WHOLE FOODS MARKET GROUP, INC	Court Address: CIVIL COURTS BUILDING 10 N TUCKER BLVD SAINT LOUIS, MO 63101
Nature of Suit: CC Other Tort	(Date File Stamp)

Summons in Civil Case

The State of Missouri to: WHOLE FOODS MARKET GROUP, INC
Alias:

CT CORPORATION
120 S CENTRAL AVE #400
CLAYTON, MO 63105

Special

COURT SEAL OF
CITY OF ST LOUIS

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

September 15, 2014
Date

M. Jane Schweitzer
Circuit Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.

☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with _____ a person of the Defendant's/Respondent's family over the age of 15 years.

☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).

☐ other _____.

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

_____ Printed Name of Sheriff or Server

_____ Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on _____ (date).

My commission expires: _____ Date

_____ Notary Public

Sheriff's Fees, if applicable

Summons $_____
Non Est $_____
Mileage $_____ (____ miles @ $ _____ per mile)
Total $_____

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

SARAH RODHOUSE, individually, and on behalf of all others similarly situated in Missouri,	)	
Plaintiff	)	No. _____
v.	)	
	)	JURY TRIAL DEMANDED
WHOLE FOODS MARKET GROUP, INC.	)	
Defendant.	)	

PETITION AND JURY DEMAND

Plaintiff Sarah Rodhouse, individually and on behalf of all others similarly situated in Missouri, alleges the following facts and claims upon personal knowledge, investigation of counsel, and information and belief.

NATURE OF THE CASE

1. This case arises out of Defendant Whole Foods Market Group, Inc.'s ("Whole Foods") deceptive, unfair, and false merchandising practices regarding its Whole Foods 365 Everyday Value Nonfat Plain Greek Yogurt (the "Yogurt"). On the label of the Yogurt, Whole Foods falsely claims that an 8 oz. serving of the Yogurt contains 2 grams of sugar. In truth, an 8 oz. serving of the Yogurt on average contains over 11 grams of sugar—more than five times what the label reflects.

2. Plaintiff brings this case to recover damages for Whole Foods' false, deceptive, and misleading marketing and advertising.

PARTIES

3. Plaintiff Sarah Rodhouse is a resident of City of St. Louis County, Missouri. On multiple occasions during the Class Period (as defined below), Plaintiff purchased the Yogurt for personal, family, or household purposes at Whole Foods in St. Louis, Missouri.

4. Whole Foods is a Texas corporation with its principal place of business in Austin, TX. Whole Foods has registered to do business in the state of Missouri and can be served through its registered agent in Missouri, CT Corporation System, 120 South Central Ave., Clayton, MO 63105.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action because the amount in controversy exceeds the minimum jurisdictional limits of the Court. The amount in controversy, however, is less than $75,000 per Plaintiff and Class Member individually and less than $5,000,000 in the aggregate. No individual Plaintiff's or Class Member's claim is equal to or greater than seventy-five thousand dollars ($75,000), inclusive of costs and attorneys' fees. Moreover, the total damages of Plaintiff and Class Members, inclusive of costs and attorneys' fees, will not exceed $4,999,999 and is less than the five million dollar ($5,000,000) minimum threshold to create federal court jurisdiction. There is therefore no diversity or CAFA jurisdiction for this case.

6. This Court has personal jurisdiction over Defendant pursuant to Missouri Code § 506.500, as Defendant has had more than minimum contacts with the State of Missouri, has purposefully availed itself of the privilege of conducting business in this state, and has registered to do business in this state. In addition, as explained below, Defendant has committed

affirmative tortious acts within the State of Missouri that gives rise to civil liability, including selling the misrepresented Yogurt at Whole Foods stores in Missouri.

7. Venue is proper in this forum pursuant to Missouri Code § 508.010 because plaintiff's injury occurred in City of St. Louis County and because Defendant is not a resident of this State.

AFFIRMATIVE PLEADINGS

8. This case involves state law claims brought solely by Missouri residents seeking less than $75,000 per plaintiff and class member individually and less than $5,000,000 in the aggregate, inclusive of all attorneys' fees, costs, interest, and any other recovery. The value of all categories of damages sustained, sought, and pled by Plaintiff and Class Members is less than $75,000 individually and less than $5,00,000 in the aggregate, inclusive of all attorneys' fees, costs, interest, and any other recovery.

9. Plaintiff and Class Members do not seek to recover punitive damages or statutory penalties in this case.

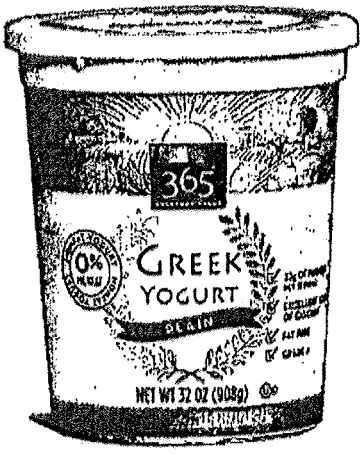
10. Pursuant to Missouri Rule of Civil Procedure 8(a), this pleading demands unliquidated damages. Accordingly, it is intended, and shall by rule be interpreted, to limit recovery to an amount less than that required for diversity or CAFA jurisdiction in federal court.

ALLEGATIONS OF FACT

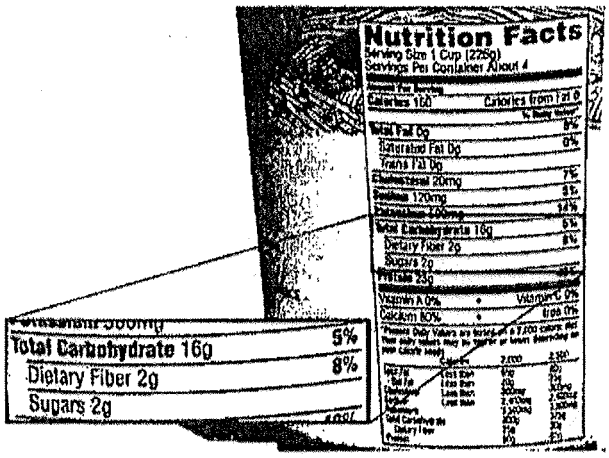
11. Whole Foods owns and operates stores in Missouri.

12. Whole Foods manufactures, distributes, and sells its own brands of products, which includes the 365 Everyday Value brand, including the Yogurt.

13. From its Missouri stores, Whole Foods sold the Yogurt to Missouri consumers, Plaintiff, and the class members.



14. On the label of the Yogurt, Whole Foods claimed that an 8 oz. serving of the Yogurt contains 2 grams of sugar.



15. In June 2014, Consumer Reports tested six samples of the Yogurt from six different lots and determined that on average each 8 oz. serving of the Yogurt contains 11.4 grams of sugar.

16. Thus, in truth—and in contrast to the Yogurt's label—an 8 oz. serving of the Yogurt on average contains more than five times the sugar than what the label reflects.

CLASS ALLEGATIONS

19. Pursuant to Missouri Rule of Civil Procedure 52.08 and § 407.025.2 of the MMPA, Plaintiff brings this action on her own behalf and on behalf of a proposed class of all other similarly situated persons ("Class Members" of the "Class") consisting of:

> all persons in Missouri who purchased Whole Foods 365 Everyday Value Nonfat Plain Greek Yogurt from July 2009 – July 2014 (the "Class Period").

20. Excluded from the Class are: (a) federal, state, and/or local governments, including, but not limited to, their departments, agencies, divisions, bureaus, boards, sections, groups, counsels, and/or subdivisions; (b) any entity in which Defendant has a controlling interest, to include, but not limited to, their legal representative, heirs, and successors; (c) all persons who are presently in bankruptcy proceedings or who obtained a bankruptcy discharge in the last three years; and (d) any judicial officer in the lawsuit and/or persons within the third degree of consanguinity to such judge.

21. Upon information and belief, the Class consists of thousands of purchasers. Accordingly, it would be impracticable to join all Class Members before the Court.

22. There are numerous and substantial questions of law or fact common to all of the members of the Class and which predominate over any individual issues. Included within the common question of law or fact are:

a. Whether the claims made about sugar on the Yogurt's label and website are false, misleading, and deceptive;

b. Whether Defendant violated the MMPA by selling the Yogurt with false, misleading, and deceptive representations and advertisements;

c. Whether Defendant's acts constitute deceptive and fraudulent business acts and practices or deceptive, untrue, and misleading advertising;

d. Whether Defendant was unjustly enriched by its deceptive and fraudulent business acts and practices; and

e. The proper measure of damages sustained by Plaintiff and Class Members.

23. The claims of the Plaintiff are typical of the claims of Class Members, in that they share the above-referenced facts and legal claims or questions with Class Members, there is a sufficient relationship between the damage to Plaintiff and Defendant's conduct affecting Class Members, and Plaintiff has no interests adverse to the interests other Class Members.

24. Plaintiff will fairly and adequately protect the interests of Class Members and have retained counsel experienced and competent in the prosecution of complex class actions including complex questions that arise in consumer protection litigation.

25. A class action is superior to other methods for the fair and efficient adjudication of this controversy, since individual joinder of all Class Members is impracticable and no other group method of adjudication of all claims asserted herein is more efficient and manageable for at least the following reasons:

a. The claim presented in this case predominates over any questions of law or fact, if any exists at all, affecting any individual member of the Class;

b. Absent a Class, the Class Members will continue to suffer damage and Defendants' unlawful conduct will continue without remedy while Defendant profits from and enjoys its ill-gotten gains;

c. Given the size of individual Class Members' claims, few, if any, Class Members could afford to or would seek legal redress individually for the

wrongs Defendant committed against them, and absent Class Members have no substantial interest in individually controlling the prosecution of individual actions;

d. When the liability of Defendant has been adjudicated, claims of all Class Members can be administered efficiently and/or determined uniformly by the Court;

e. This action presents no difficulty that would impede its management by the court as a class action which is the best available means by which Plaintiff and members of the Class can seek redress for the harm caused to them by Defendant; and

f. This action seeks preliminary and permanent injunctive relief and equitable relief on behalf of the entire Class, on grounds generally applicable to the entire Class, to require Defendant to discontinue its unlawful conduct.

26. Because Plaintiff seeks relief for the entire Class, the prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual member of the Class which would establish incompatible standards of conduct for Defendant.

27. Further, bringing individual claims would overburden the Courts and be an inefficient method of resolving the dispute which is the center of this litigation. Adjudications with respect to individual members of the Class would, as a practical matter, be dispositive of the interest of other members of the Class who are not parties to the adjudication and may impair or

impede their ability to protect their interests. As a consequence, class treatment is a superior method for adjudication of the issues in this case.

CLAIMS FOR RELIEF

First Claim for Relief

Violation of Missouri's Merchandising Practices Act

31. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs as if fully set forth herein.

32. Missouri's Merchandising Practices Act (the "MMPA") prohibits the act, use, or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce. Mo. Rev. Stat § 407.020.43.

33. Defendant's conduct as described above constitutes the act, use or employment of deception, fraud, false pretenses, false promises, misrepresentation, and unfair practices in connection with the sale or advertisement of any merchandise in trade or commerce in that Whole Foods misrepresented the amount of sugar in the Yogurt. The product was therefore worth less than the product as represented.

34. Plaintiff and Class Members purchased the Yogurt for personal, family, or household purposes and thereby suffered an ascertainable loss as a result of Defendant's unlawful conduct as alleged herein, including the difference between the actual value of the product and the value of the product if it had been as represented.

35. Defendant's unlawful practices have caused similar injury to Plaintiff and numerous other persons. § 407.025.2.

Second Claim for Relief

Unjust Enrichment

36. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs as if fully set forth herein.

37. By purchasing the Yogurt, Plaintiff and the class members conferred a benefit on Defendant in the form of the purchase price of the fraudulent product.

38. Defendant appreciated the benefit because, were consumers not to purchase the Yogurt, Defendant would have no sales of and make no money from the sale of the Yogurt.

39. Defendant's acceptance and retention of the benefit is inequitable and unjust because the benefit was obtained by Defendant's fraudulent and misleading representations about the Yogurt.

40. Equity cannot in good conscience permit Defendant to be economically enriched for such actions at the Plaintiff's and Class Members' expense and in violation of Missouri law, and therefore restitution and/or disgorgement of such economic enrichment is required.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all similarly situated persons, prays the Court:

a. grant certification of this case as a class action;

b. appoint Plaintiff as Class Representative and Plaintiff's counsel as Class Counsel;

c. award compensatory damages to Plaintiff and the proposed Class in an amount which, when aggregated with all other elements of damages, costs, and fees, will not exceed $75,000 per Class Member and/or $4,999,999 for the entire Class, or, alternatively, require Defendant to disgorge or pay restitution in an amount which,

when aggregated with all other elements of damages, costs, and fees, will not exceed $75,000 per Class Member and/or $4,999,999 for the entire Class;

d. award pre- and post-judgment interest in an amount which, collectively with all other elements of damages, costs, and fees will not exceed $75,000 per Class Member and/or $4,999,999 for the entire Class;

e. award reasonable and necessary attorneys' fees and costs to Class counsel, which, collectively with all other elements of damages, costs, and fees will not exceed $75,000 per Class Member and/or $4,999,999 for the entire Class; and

g. for all such other and further relief as may be just and proper.

Dated this 13th day of September 2014.

Sarah Rodhouse, Individually, and on Behalf of a Class of Similarly Situated Individuals, Plaintiff

By: /s/ Matthew H. Armstrong
Matthew H. Armstrong, MoBar 42803
ARMSTRONG LAW FIRM LLC
8816 Manchester Rd., No. 109
St. Louis MO 63144
Tel: 314-258-0212
Email: matt@mattarmstronglaw.com

David L. Steelman, MoBar 27334
Stephen F. Gaunt, MoBar 33183
Patrick J. Horsefield, MoBar 50380
STEELMAN, GAUNT & HORSEFIELD
901 Pine Street, Ste. 110
Rolla MO 65401
Tel: 573-458-5231
Fax: 573-341-8548
Email: dsteelman@steelmanandgaunt.com
sgaunt@steelmanandgaunt.com
phorsefield@steelmanandgaunt.com

Attorneys for Plaintiff and the Putative Class

IN THE 22nd JUDICIAL CIRCUIT COURT OF CITY OF ST LOUIS, MISSOURI

SARAH E RODHOUSE
Plaintiff(s)
vs
WHOLE FOODS MARKET GROUP, INC.
Defendant(s)

CASE# 1422-CC09626

Affidavit of Special Process Server

Received by McDowell and Associates on 9/18/2014 to be served on:

Whole Foods Market Group, Inc.
C/o CT Corporation
120 S Central Ave., #400
Clayton, MO 63105

I, L McDowell, being duly sworn, depose and say that on 9/18/14 at 3:15 am/pm, executed service by delivering a true copy of the Summons and Petition and Jury Demand in accordance with state statutes in the manner marked below:

( ) INDIVIDUAL SERVICE: Served the within-named person.

(✓) CORPORATE SERVICE: By serving Bonnie Love as CT Corp Registered Agent.

( ) SUBSTITUTE SERVICE: By serving _____ as _____.

( ) POSTED SERVICE: After attempting service on ___/___/___ at _____ am/pm and on ___/___/___ at _____ am/pm to a conspicuous place on the property described herein.

( ) OTHER SERVICE: As described in the **Comments** below by serving _____ as _____.

( ) NON-SERVICE: For the reason detailed in the **Comments** below:

COMMENTS:

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

L McDowell
Appointed in accordance with State Statutes

ALICIA MISURACA
Notary Public, Notary Seal
State of Missouri
St. Louis County
Commission # 13909332
My Commission Expires December 15, 2017

Subscribed and Sworn to before me on this 22ND day of September, 2014 by the affiant who is personally known to me.

Alicia Misuraca
NOTARY PUBLIC

McDowell & Associates
1031 Lami St.
St. Louis, MO 63104
(314) 621-9300

IN THE 22ND JUDICIAL CIRCUIT COURT OF CITY OF ST LOUIS, MISSOURI

Judge or Division: PHILIP HEAGNEY	**Case Number: 1422-CC09626**
Plaintiff/Petitioner: SARAH E RODHOUSE vs.	Plaintiff's/Petitioner's Attorney/Address MATTHEW HALL ARMSTRONG 8816 MANCHESTER RD SUITE 109 SAINT LOUIS, MO 63144
Defendant/Respondent: WHOLE FOODS MARKET GROUP, INC	Court Address: CIVIL COURTS BUILDING 10 N TUCKER BLVD SAINT LOUIS, MO 63101
Nature of Suit: CC Other Tort	(Date File Stamp)

Summons in Civil Case

The State of Missouri to: WHOLE FOODS MARKET GROUP, INC
Alias:

CT CORPORATION
120 S CENTRAL AVE #400
CLAYTON, MO 63105

Special

COURT SEAL OF
CITY OF ST LOUIS

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

September 15, 2014
Date

M. Jane Schweitzer
Circuit Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.

☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with _____ a person of the Defendant's/Respondent's family over the age of 15 years.

☑ (for service on a corporation) delivering a copy of the summons and a copy of the petition to CT Corp / RA (name) Bonnie Love (title).

☐ other _____

Served at 120 S Central, Suite 400, St Louis MO 63105 (address)
in St Louis (County/City of St. Louis), MO, on 9/18/2014 (date) at 3:15 pm (time).

LMcDowell
Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on September 22, 2014 (date).

My commission expires: December 15, 2017
Date

Notary Public

ALICIA MISURACA
Notary Public, Notary Seal
State of Missouri
St. Louis County
Commission # 13909332
My Commission Expires December 15, 2017

Sheriff's Fees
Summons $_____
Non Est $_____
Mileage $_____ (____ miles @ $ _____ per mile)
Total $_____

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

SARAH RODHOUSE, individually, and on behalf of all other similarly situated in Missouri,	)	
Plaintiff,	)	Case No.: 1422-CC09626
v.	)	Div. No. 2
WHOLE FOODS MARKET GROUP, INC.	)	
Defendant.	)	

ENTRY OF APPEARANCE

COMES NOW, David L. Steelman of the law office of Steelman, Gaunt & Horsefield, and hereby enters his appearance as attorney of record for the above-named Plaintiff.

Respectfully submitted,

STEELMAN, GAUNT & HORSEFIELD

By: /s/ David L. Steelman
David L. Steelman #27334
901 Pine Street, Suite 110
P.O. Box 1257
Rolla, MO 65402
Telephone: 573-341-8336
Fax: 573-341-8548
dsteelman@steelmanandgaunt.com

One of the Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served by e-filing through the Missouri Electronic Filing System on 15th day of September, 2014

/s/ David L. Steelman
David L. Steelman #27334

IN THE 22ND JUDICIAL CIRCUIT COURT OF CITY OF ST LOUIS, MISSOURI

Judge or Division: PHILIP HEAGNEY	**Case Number: 1422-CC09626**
Plaintiff/Petitioner: SARAH E RODHOUSE **vs.**	Plaintiff's/Petitioner's Attorney/Address MATTHEW HALL ARMSTRONG 8816 MANCHESTER RD SUITE 109 SAINT LOUIS, MO 63144
Defendant/Respondent: WHOLE FOODS MARKET GROUP, INC	Court Address: CIVIL COURTS BUILDING 10 N TUCKER BLVD SAINT LOUIS, MO 63101
Nature of Suit: CC Other Tort	

(Date File Stamp)

Summons in Civil Case

The State of Missouri to: **WHOLE FOODS MARKET GROUP, INC**
Alias:

CT CORPORATION
120 S CENTRAL AVE #400
CLAYTON, MO 63105

Special

COURT SEAL OF
CITY OF ST LOUIS

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

September 15, 2014
Date

M. Jane Schweitzer
Circuit Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.

☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with _____ a person of the Defendant's/Respondent's family over the age of 15 years.

☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).

☐ other _____.

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

_____ Printed Name of Sheriff or Server

_____ Signature of Sheriff or Server

(Seal)

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

My commission expires: _____ Date

_____ Notary Public

Sheriff's Fees, if applicable

Summons $_____
Non Est $_____
Mileage $_____ (____ miles @ $.____ per mile)
Total $_____

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

SARAH RODHOUSE, individually, and on behalf of all others similarly situated in Missouri,	)	
Plaintiff	)	No. 1422-CC09626
v.	)	
	)	Div. No. 2
WHOLE FOODS MARKET GROUP, INC.	)	
Defendant.	)	

ENTRY OF APPEARANCE

COME NOW, Matthew H. Armstrong, of Armstrong Law Firm LLC, and hereby enters his appearance as attorney of record for the above-named Plaintiff.

Respectfully submitted,

By: /s/ Matthew H. Armstrong
Matthew H. Armstrong, MoBar 42803
ARMSTRONG LAW FIRM LLC
8816 Manchester Rd., No. 109
St. Louis MO 63144
Tel: 314-258-0212
Email: matt@mattarmstronglaw.com

One of the Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was served by e-filing through the Missouri Electronic Filing System on September 15, 2014.

/s/ Matthew H. Armstrong
Matthew H. Armstrong, MoBar 42803
ARMSTRONG LAW FIRM LLC
8816 Manchester Rd., No. 109
St. Louis MO 63144
Tel: 314-258-0212
Email: matt@mattarmstronglaw.com

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

SARAH RODHOUSE, individually, and on behalf of all others similarly situated in Missouri,	)	
Plaintiff	)	No. 1422-CC-9626
v.	)	
	)	Div. No. 2
WHOLE FOODS MARKET GROUP, INC.	)	
Defendant.	)	

REQUEST FOR APPOINTMENT OF SPECIAL PROCESS SERVER TO SERVE DEFENDANT

Pursuant to Missouri Rules of Civil Procedure, Plaintiff, Sarah Rodhouse, by and through her undersigned attorney, hereby moves that Larry McDowell and Clayton Willis of McDowell & Associates be appointed as special process servers for the purpose of serving Defendant in the above-referenced cause as follows:

WHOLE FOODS MARKET GROUP, INC.
Serve:
Registered Agent
CT Corporation System
120 South Central Ave.
Clayton, MO 63105

Please forward the requested, prepared summons for service to the office of counsel for Plaintiff referenced below.

Dated September 15, 2014

By: /s/ Matthew H. Armstrong
Matthew H. Armstrong, MoBar 42803
ARMSTRONG LAW FIRM LLC
8816 Manchester Rd., No. 109
St. Louis MO 63144
Tel: 314-258-0212
Email: matt@mattarmstronglaw.com
One of the Attorneys for Plaintiff

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

SARAH RODHOUSE, individually, and on behalf of all others similarly situated in Missouri,	)	
Plaintiff	)	No. 1422-CC-9626
v.	)	
	)	Div. No. 2
WHOLE FOODS MARKET GROUP, INC.	)	
Defendant.	)	

PETITION FOR ISSUANCE OF SUMMONS FOR SERVICE

COME NOW Plaintiff, Sarah Rodhouse, by and through her undersigned counsel and requests this Honorable Court to issue a summons for service upon the following named defendant:

WHOLE FOODS MARKET GROUP, INC.
Serve:
Registered Agent
CT Corporation System
120 South Central Ave.
Clayton, MO 63105

Please forward the requested, prepared summons for service to the office of counsel for Plaintiff referenced below.

Dated September 15, 2014

By: /s/ Matthew H. Armstrong
Matthew H. Armstrong, MoBar 42803
ARMSTRONG LAW FIRM LLC
8816 Manchester Rd., No. 109
St. Louis MO 63144
Tel: 314-258-0212
Email: matt@mattarmstronglaw.com

One of the Attorneys for Plaintiff

JS 44 (Rev. 12/12)

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

Sarah Rodhouse, individually, and on behalf of all other similarly situated in Missouri,

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

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Matthew H. Armstrong, Armstrong Law Firm LLC, 8816 Manchester, Rd., No. 109, St. Louis, MO 63144, (314) 258-0212, and David L. Steelman, Steelman, Gaunt & Horsefield, 901 Pine St., Ste. 110, (573) 458-5231

DEFENDANTS

Whole Foods Market Group, Inc.

County of Residence of First Listed Defendant Travis County, TX
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys *(If Known)*
Michael W. Kopp, Seyfarth Shaw LLP, 400 Capitol Mall, Ste. 2350, Sacramento, CA 95814-4428, (916) 448-0159

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)*
(For Diversity Cases Only)

	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)*

CONTRACT
- ❒ 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

REAL PROPERTY
- ❒ 210 Land Condemnation
- ❒ 220 Foreclosure
- ❒ 230 Rent Lease & Ejectment
- ❒ 240 Torts to Land
- ❒ 245 Tort Product Liability
- ❒ 290 All Other Real Property

TORTS

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

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

FORFEITURE/PENALTY
- ❒ 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

BANKRUPTCY
- ❒ 422 Appeal 28 USC 158
- ❒ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ❒ 820 Copyrights
- ❒ 830 Patent
- ❒ 840 Trademark

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

OTHER STATUTES
- ❒ 375 False Claims Act
- ❒ 400 State Reapportionment
- ❒ 410 Antitrust
- ❒ 430 Banks and Banking
- ❒ 450 Commerce
- ❒ 460 Deportation
- ❒ 470 Racketeer Influenced and Corrupt Organizations
- ❒ 480 Consumer Credit
- ❒ 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

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)***:
28 U.S.C. § 1332

Brief description of cause:
Consumer fraud in violation of Missouri's Merchandising Practices Act

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ❒ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
10/17/2014

SIGNATURE OF ATTORNEY OF RECORD
/s/ Michael W. Kopp SBN 63944

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

SARAH RODHOUSE , Plaintiff, v. WHOLE FOODS MARKET GROUP, INC. , Defendant,	)	Case No.

ORIGINAL FILING FORM

THIS FORM MUST BE COMPLETED AND VERIFIED BY THE FILING PARTY WHEN INITIATING A NEW CASE.

☐ THIS SAME CAUSE, OR A SUBSTANTIALLY EQUIVALENT COMPLAINT, WAS PREVIOUSLY FILED IN THIS COURT AS CASE NUMBER _____ AND ASSIGNED TO THE HONORABLE JUDGE _____.

☐ THIS CAUSE IS RELATED, BUT IS NOT SUBSTANTIALLY EQUIVALENT TO ANY PREVIOUSLY FILED COMPLAINT. THE RELATED CASE NUMBER IS _____ AND THAT CASE WAS ASSIGNED TO THE HONORABLE _____. THIS CASE MAY, THEREFORE, BE OPENED AS AN ORIGINAL PROCEEDING.

☒ NEITHER THIS SAME CAUSE, NOR A SUBSTANTIALLY EQUIVALENT COMPLAINT, HAS BEEN PREVIOUSLY FILED IN THIS COURT, AND THEREFORE MAY BE OPENED AS AN ORIGINAL PROCEEDING.

The undersigned affirms that the information provided above is true and correct.

Date: 10/17/2014

/s/ Michael W. Kopp SBN 63944
Signature of Filing Party

Michael W. Kopp (SBN 63944)
Jay W. Connolly (*pro hac vice to be filed*)
Joseph J. Orzano (*pro hac vice to be filed*)
SEYFARTH SHAW LLP
400 Capitol Mall, Suite 2350
Sacramento, CA 95814-4428
(916) 448-0159

Attorneys for Defendant
WHOLE FOODS MARKET GROUP, INC.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SARAH RODHOUSE, individually, and on behalf of all others similarly situated in Missouri,

Plaintiff,

v.

WHOLE FOODS MARKET GROUP, INC.,

Defendant.

Case No.: _____

NOTICE OF APPEARANCE

TO THE CLERK, U.S. DISTRICT COURT OF MISSOURI, EASTERN DISTRICT, EASTERN DIVISION:

PLEASE TAKE NOTICE that Michael W. Kopp of the law firm of Seyfarth Shaw LLP, 400 Capitol Mall, Suite 2350, Sacramento, California 95814, hereby enters his appearance as counsel for Defendant WHOLE FOODS MARKET GROUP, INC.

PLEASE TAKE FURTHER NOTICE that Michael W. Kopp is completing his admissions application process, transitioning from his prior Government Counsel limited

admission to the Eastern District of Missouri (Local Rule 83-12.01(D)) to full admission to the Eastern District of Missouri.

Dated: October 17, 2014

SEYFARTH SHAW LLP

By: */s/ Michael W. Kopp*

Michael W. Kopp SBN 63944
400 Capitol Mall
Sacramento, CA 95814
Telephone: (916) 448-0159
Facsimile: (916) 558-4839
mkopp@seyfarth.com

Jay W. Connolly (*pro hac vice to be filed)*
Joseph J. Orzano (*pro hac vice to be filed)*
560 Mission Street, 31st Floor
San Francisco, California 94105
Telephone: (415) 397-2823
Facsimile:(415) 397-8549
jconnolly@seyfarth.com
jorzano@seyfarth.com

Attorneys for Defendant WHOLE FOODS MARKET GROUP, INC.

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of October, 2014, I electronically filed the foregoing NOTICE OF APPEARANCE with the Clerk of the Court using the CM/ECF system, and mailed by federal express, postage prepaid, true and correct copies to the following counsel of record for Plaintiff Sarah Rodhouse:

Matthew H. Armstrong, Esq.
ARMSTRONG LAW FIRM LLC
8816 Manchester Road, No. 109
St. Louis, MO 63144

David L. Steelman, Esq.
STEELMAN, GAUNT & HORSEFIELD
901 Pine St., Ste. 110
Rolla, MO 65401

/s/ Michael W. Kopp
Michael W. Kopp