

**UNITED STATES DISTRICT COURT  
NEW JERSEY DISTRICT COURT**

**WILLIAM FLINN, INDIVIDUALLY AND  
ON BEHALF OF ALL OTHERS  
SIMILARLY SITUATED,**

**Plaintiff,**

v.

**DOLGENCORP, LLC, (d/b/a DOLLAR  
GENERAL, CORPORATION)**

**Defendant.**

Case No. \_\_\_\_\_

**CLASS ACTION COMPLAINT AND  
DEMAND FOR JURY TRIAL**

Plaintiff William Flinn (“Plaintiff”), individually and on behalf of all others similarly situated, makes the following allegations based on his personal knowledge of his own acts and, otherwise, upon information and belief including based on investigation of counsel.

**NATURE AND SUMMARY OF THE ACTION**

1. Plaintiff, by and through undersigned counsel, brings this action both on his own behalf and on behalf of the class defined below, comprised of all individuals similarly situated within the State of New Jersey, to redress the unlawful commercial practices employed by Defendant, DOLGENCORP, LLC, (d/b/a Dollar General, Corporation), (hereinafter “Dollar General” and/or “Defendant”) at its stores whereby Dollar General: a) sells an entire line of company-branded motor oils (labeled “DG”) that are obsolete and potentially harmful to its customers’ automobiles; b) positions this line of obsolete motor oils immediately adjacent to the standard- and premium-quality motor oils sold by its competitors; and c) fails to adequately warn its customers that DG motor oil is unsuitable for the vast majority, if not all, of its customers to use in their modern day automobiles.

2. Dollar General engaged in these unlawful, unconscionable, misrepresentative, fraudulent and/or deceptive business practices in connection with the sale and/or advertisement of this merchandise in violation of New Jersey's Consumer Fraud Act ("CFA"), *N.J.S.A. 56:8-1 et seq.*, the Uniform Commercial Code and certain common law standards.

### **PARTIES**

3. Plaintiff William Flinn is an individual adult resident citizen of the City of Woodbury, County of Gloucester, State of New Jersey and is a member of the Class alleged herein.

4. Plaintiff purchased Dollar General's 10W-30 store brand motor oil from Dollar General's store in Woodbury, New Jersey, on approximately three occasions over the course of 2014 and 2015 for his 2003 Dodge Ram 2500.

5. Defendant DOLGENCORP, LLC, d/b/a Dollar General, Corporation, is incorporated under the laws of the State of Kentucky, with its headquarters located at 100 Mission Ridge, Goodlettsville, Tennessee.

6. At all relevant times, Defendant produced, marketed, advertised and sold its obsolete DG-branded motor oil in its stores throughout the United States, including in the State of New Jersey, utilizing unconscionable, deceptive, fraudulent, false and/or misrepresentative sales practices in connection with the sale, marketing and/or deceptive placement of this merchandise. These practices were employed with the intent to deceive Plaintiff and Class Members into purchasing its obsolete motor oil for use in their modern-day vehicles, knowing that its motor oil is obsolete and likely to cause damage to any such vehicle.

7. As such, purchasers of DG-branded motor oil have suffered ascertainable losses as a result of Defendant's unconscionable, deceptive, fraudulent, and misrepresentative acts.

8. Defendant maintains approximately 76 stores throughout the State of New Jersey. As such, New Jersey courts maintain a significant interest in regulating Defendant's conduct which emanates from New Jersey, yet deceives consumers nationwide.

### **JURISDICTION AND VENUE**

9. Jurisdiction is proper in this Court pursuant to the Class Action Fairness Act, 28 U.S.C. §1332(d), because members of the proposed Class are citizens of states different from Defendant's home state, there are more than 100 Class Members, and the amount-in-controversy exceeds \$5,000,000 exclusive of interest and costs.

10. This Court has jurisdiction over the Defendant named herein because Defendant is a foreign corporation or association authorized to do business in New Jersey and registered with the New Jersey Secretary of State, does sufficient business in New Jersey, and has sufficient minimum contacts with New Jersey and/or otherwise intentionally avails itself of the laws and markets of New Jersey, through the promotion, sale, marketing and distribution of its merchandise in New Jersey, to render the exercise of jurisdiction by the New Jersey courts permissible.

11. Venue is proper in this District under 28 U.S.C. §1391(b) because Defendant's improper conduct alleged in this complaint occurred in, was directed from, and/or emanated from this judicial district, because Defendant has caused harm to Class Members residing in this district, and/or because the Defendant is subject to personal jurisdiction in this district

12. In addition, Defendant operates approximately 76 stores in New Jersey and has received substantial compensation from New Jersey consumers who purchase goods from Defendant.

### **FACTUAL ALLEGATIONS**

13. Dollar General operates a chain of variety stores headquartered in Goodlettsville, Tennessee. As of January 2015, Dollar General operated over 12,198 stores in 43 states, including 76 stores in the State of New Jersey.

14. Dollar General is a discount retailer focused on low and fixed income consumers in small markets. Dollar General's business model includes locating its stores in rural, suburban communities, and in its more densely populated markets. Dollar General's customers are generally from the neighborhoods surrounding the stores. Dollar General's stores are located with the needs of its core customers (low and fixed income households) in mind.

15. Dollar General offers basic, every day and household goods, along with a variety of general merchandise at low prices to provide its customers with one-stop shopping opportunities, generally in their own neighborhoods.

16. In addition to offering name brand and generic merchandise, Dollar General manufactures and markets its own lines of inexpensive household products, which bear the designation "DG." DG lines include "DG Auto," "DG Hardware" "DG Health" and "DG Office."

17. Dollar General's DG Auto line consists of three types of obsolete motor oils: DG SAE 10W-30, DG SAE 10W-40 and DG SAE-30 that fail to protect and can actively damage, modern day automobiles.

18. Motor oils are supposed to properly lubricate the engines of the automobiles driven by individuals. Their main function is to reduce wear on an engine's moving parts. Motor oils also inhibit corrosion, improve sealing and keep engines properly cooled.

19. Motor oils have evolved in parallel with the automobiles they are meant to protect. Institutions like the Society of Automotive Engineers (“SAE”) employ rigorous tests to ensure that motor oils meet evolving standards relating to, among other criteria, sludge buildup, temperature volatility, resistance to rust, resistance to foaming, resistance to oil consumption, homogeneity and miscibility.

20. Motor oils designed to protect engines from earlier eras do not protect, and can harm, modern-day engines. Thus, motor oil that would be suitable to use in an engine manufactured in the 1980’s or earlier is not suitable for use in modern-day engines.<sup>1</sup>

21. Defendant engaged in unconscionable, unlawful, deceptive, sharp and/or fraudulent acts and/or omissions in connection with the sale of less expensive obsolete motor oil that is unsuitable for, and can harm, the vehicles driven by the overwhelming majority of Dollar General’s customers.

22. Dollar General also engages in the unfair, unlawful, deceptive, sharp and/or fraudulent sales practice of concealing the obsolete and harmful nature of its motor oil from its customers through deceitful product placement tactics and misleading labels which obscure a critical fact from Dollar General’s customers: Dollar General’s motor oil is unfit for and wholly obsolete in the vehicles driven by the vast majority, if not all, of its customers.

23. Dollar General’s in-house motor oils use the same or similar SAE nomenclature on the front of its labels (e.g., 10W-30, 10W-40, SAE 30) as do the other mainstream, non-harmful, and actually useful brands of motor oil sold by Dollar General. Dollar General places its DG brand motor oil next to these brand motor oil products on its shelves.

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<sup>1</sup> See, e.g. The Petroleum Quality Institute of America, *Some Engine Oils Currently on the Shelves Can Harm Your Engine*, <http://www.pqi-america.com/apiserviceclass.htm>.

24. Additionally, the front label of DG's SAE 10W-30 and SAE 10W-40 motor oils says, "Lubricates and protects your engine."

25. The labels of all "DG" brand motor oils also contain a prominent checkered flag on the front, suggestive of auto racing and winning.

26. However, among the small print on the back label of Dollar General's motor oils is the statement that DG SAE 10W-30 and DG SAE 10W-40 are admittedly "not suitable for use in most gasoline powered automotive engines built after 1988" and "may not provide adequate protection against the build-up of engine sludge" and that DG SAE 30 is admittedly "not suitable for use in most gasoline powered automotive engines built after 1930," and its "use in modern engines may cause unsatisfactory engine performance or equipment harm."

27. Dollar General conceals this language by rendering it in small font and confining it to the product's back label, which is not visible when the products are on the store shelves.

28. Dollar General further conceals this language by placing it below a misleading and contradictory message regarding the product. For the DG SAE 10W-30 and DG SAE 10W-40 products, that message reads: "SAE 10W-30 motor oil is an all-season, multi-viscosity, heavy duty detergent motor oil recommended for gasoline engines in older model cars and trucks. This oil provides oxidation stability, antiwear performance, and protection against deposits, rust and corrosion." For the DG SAE 30 product, that message reads: "DG Quality SAE 30 is a non-detergent motor oil designed for use in older engines where consumption may be high and economical lubricants are preferred."

29. Few, if any, Dollar General customers drive vehicles for which these products are safe, and the use of the term "older" is a relative term that does not inform a reasonable consumer that

these motor oils are not safe for cars manufactured within the past 27 years, or in the case of Dollar General's DG SAE 30, the past 85 years.

30. Dollar General further disguises the obsolete and harmful nature of its motor oils with its positioning of these motor oils on its shelves in a misleading manner. Specifically, Dollar General places similar quantities of its in-house brand motor oils, DG SAE 10W-30, DG SAE 10W-40 and DG SAE 30, none of which is suitable for modern-day automobiles, adjacent to an array of other motor oils which are suitable for modern-day vehicles. The photograph below illustrates how Dollar General effects this deception:



As the photograph above illustrates, Dollar General places its in-house brand motor oils on the same shelves, in the same or similar quantities, as PEAK, Pennzoil, Castrol and other legitimate motor oils that are suitable for modern-day automobiles. Each type of motor oil uses the SAE nomenclature and checkered flag on the front, *e.g.*, 10W-40. The bottle also contains the same kind of shape to allow an easy pour into a car engine. The only apparent difference being the price, as Dollar General's motor oils are less expensive than the others.

31. Defendant's product display and packaging conceals the fact that these DG-brand motor oils have an extremely obscure and limited use and are likely to cause damage to the engines of most of the consumers purchasing motor oil. Instead, by using this deceptive method of product placement, Dollar General misleads consumers into thinking that the quality of the Dollar General-brand motor oils is the same or similar to that of the other motors oils sold by Dollar General.

32. Dollar General also fails to warn its customers adequately of the obsolete nature of DG-branded motor oils or of the dangers DG-branded motor oils pose to the very automobiles its customers are trying to protect by purchasing Dollar General's motor oil. An adequate warning for Dollar General's obsolete motor oils would be displayed conspicuously and would inform Dollar General's customers of the appropriate uses, if any, of the various types of Dollar General motor oils. But Dollar General provides its customers with no such conspicuous warnings. Instead, the company buries the aforementioned statements on the back of its products in small type where customers are unlikely to encounter them.

33. DG SAE 10W-30 bears the following labels on its front (left) and back (right):



The photograph below is a close-up of DG SAE 10W-30's back label, which includes the warnings, "IT IS NOT SUITABLE FOR USE IN MOST GASOLINE POWERED AUTOMOTIVE ENGINES BUILT AFTER 1988" and "IT MAY NOT PROVIDE ADEQUATE PROTECTION AGAINST THE BUILD-UP OF ENGINE SLUDGE":



34. DG SAE 10W-40 bears the following labels on its front (left) and back (right):



The following photograph is a close-up of DG SAE 10W-40's back label, which includes the warnings, "IT IS NOT SUITABLE FOR USE IN MOST GASOLINE POWERED AUTOMOTIVE ENGINES BUILT AFTER 1988" and "IT MAY NOT PROVIDE ADEQUATE PROTECTION AGAINST THE BUILD-UP OF ENGINE SLUDGE":



35. DG SAE 30 bears the following the labels on its front (left) and back (right):



The photograph below is a close-up of DG SAE 30's back label which includes the warnings, "IT IS NOT SUITABLE FOR USE IN MOST GASOLINE POWERED MOTORED ENGINES BUILT AFTER 1930" and "USE IN MODERN ENGINES MAY CAUSE UNSATISFACTORY ENGINE PERFORMANCE OR EQUIPMENT HARM":



36. Dollar General's entire line of low-cost motor oil is unsuitable for the modern-day vehicles driven by its customers and has no business being sold by Dollar General in this deceptive manner, except that Dollar General is successfully deceiving a sufficient number of customers to make this fraudulent practice worthwhile. It is unfair, unlawful, deceptive, sharp and/or fraudulent for Dollar General to distribute, market, and sell an entire line of motor oil in this manner that is unfit for, and presents concrete dangers to, the automobiles driven by the vast majority of its customers.

37. Dollar General knew or should have known that its customers are being deceived by its marketing strategy based on the quantity of its obsolete DG motor oil sold compared to the limited number of automobiles for which these oils are appropriate.

38. New Jersey consumer protection laws are designed to protect consumers from this type of deceptive advertising and predatory conduct.

39. Defendant's unfair, unlawful, unconscionable, misleading and deceptive course of conduct victimized all purchasers of Dollar General's motor oil from Dollar General, throughout the country and in the State of New Jersey.

40. Defendant's scheme to deceive and defraud consumers violates the New Jersey's Consumer Fraud Act ("CFA"), *N.J.S.A. 56:8-1, et seq.*, and consumers' contractual rights.

41. As a direct and proximate result of Dollar General's deceptive, unlawful, misleading, fraudulent and unconscionable practices, Plaintiff and the Class Members purchased a product they would not have otherwise purchased and have suffered and will continue to suffer economic damages. Indeed, the products are useless in all but the most outdated automotive engines. Had Plaintiff and Class Members not been deceived by Defendant they would not have purchased this virtually obsolete oil.

42. In addition, many Class Members have sustained damage to their automobiles as a result of the use of Dollar General's DG-branded motor oil and have suffered and will continue to suffer economic damage as a result.

43. Plaintiff therefore brings the statutory and common law claims alleged herein to halt Dollar General's deceptive, unconscionable, unlawful, fraudulent, sharp and misleading practices and to obtain compensation for the losses suffered by Plaintiff and all Class Members.

**CLASS ACTION ALLEGATIONS**

44. Plaintiff brings this class action pursuant to Rule 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of himself and all members of the following Class:

**All persons in the State of New Jersey who purchased Defendant's DG-branded motor oil, DG SAE 10W-30, DG SAE 10W-40 and/or DG SAE 30, for personal use and not for re-sale, since December 2009.**

45. Subject to additional information obtained through further investigation and discovery, the foregoing definition of the Class may be expanded or narrowed by amendment or amended complaint.

46. Specifically excluded from the proposed Class are Dollar General, its officers, directors, agents, trustees, parents, children, corporations, trusts, representatives, employees, successors, assigns, or other persons or entities related to or affiliated with Dollar General and/or its officers and/or directors, or any of them. Also excluded from the proposed Class are the Court, the Court's immediate family and Court staff.

**FRCP 23(a) Factors**

47. **Numerosity.** Membership in the Class is so numerous that separate joinder of each member is impracticable. The precise number of Class Members is unknown at this time but can be readily determined from Defendant's records. Plaintiff reasonably estimates that there are tens of thousands of persons in the Class.

48. **Adequacy of Representation.** Plaintiff will fairly and adequately represent and protect the interests of the members of the Class. Plaintiff has retained counsel highly experienced in complex consumer class action litigation and intends to prosecute this action vigorously. Plaintiff is a member of the Class described herein and does not have interests antagonistic to, or in conflict with, the other members of the Class.

49. **Typicality.** Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff and all members of the Class purchased obsolete, harmful, deceptively labeled and deceptively marketed motor oil from Dollar General and were subjected to Defendant's common course of conduct.

50. **Existence and Predominance of Common Questions of Law and Fact.** There are numerous and substantial questions of law and fact common to all Class Members that control this litigation and predominate over any individual issues. Included within the common questions are:

- a) The amount of Defendant's in-house brand motor oil it sold relative to the other brands of oil on its shelves;
- b) The amount of Defendant's in-house brand motor oil it sold relative to the limited number of automobiles for which these motor oils are appropriate;
- c) Whether Defendant studied the effect of its product placement on its shelves;
- d) Whether Defendant studied or tested its label and the effect of its labels on consumers' perceptions;
- e) Whether Defendant studied the susceptibility of consumers;
- f) The cost to Defendant to manufacture, distribute, market and sell its DG-branded motor oil compared to the revenue it received from its sales;
- g) Whether Defendant misrepresented the safety and suitability of its DG-branded motor oil sold at its stores nationwide;
- h) Whether Defendant's conduct of placing the obsolete Dollar General motor oil next to legitimate, useful motor oil is likely to deceive reasonable consumers;

- i) Whether the warnings provided on the labels of Dollar General's motor oil were adequate;
- j) Whether Defendant's conduct of hiding the warnings on the back label is likely to deceive reasonable consumers;
- k) Whether Defendant deliberately misrepresented or failed to disclose material facts to Plaintiff and Class Members regarding the obsolete and harmful nature of its DG-branded motor oil;
- l) Whether Defendant knowingly concealed, suppressed, omitted or failed to disclose the harmful and obsolete nature of its company-branded motor oil with the intent Plaintiff and Class Members rely on this concealment, suppression or omission in connection with their purchase of the "DG" brand motor oil;
- m) Whether Defendant's conduct and scheme to defraud Plaintiff and Class Members is unlawful, unfair, fraudulent, misleading and/or deceitful;
- n) Whether the acts of Defendant violated, inter alia, the *New Jersey Consumer Fraud Act*, N.J.S.A. 56:8-1, et seq. and/or any other applicable state, common and statutory law;
- o) Whether the Class is entitled to injunctive relief prohibiting the wrongful practices alleged herein and enjoining such practices in the future;
- p) Whether Plaintiff and members of the Class are entitled to restitution;
- q) Whether compensatory, consequential and punitive damages ought to be awarded to Plaintiff and Class Members;
- r) Whether Plaintiff and Class Members are entitled to treble damages;

- s) Whether Plaintiff and Class Members are entitled to attorneys' fees and expenses, and in what amount;
- t) The proper method for calculating damages and restitution classwide; and
- u) Whether Plaintiff and Class Members are entitled to declaratory and/or other equitable relief.

**FRCP 23(b)(2)**

51. Defendant has acted on grounds generally applicable to the entire Class, thereby making final injunctive relief and/or corresponding declaratory relief appropriate with respect to the Class as a whole. The prosecution of separate actions by individual Class Members would create the risk of inconsistent or varying adjudications with respect to individual members of the Class that would establish incompatible standards of conduct for Defendant.

52. Injunctive relief is necessary to prevent further fraudulent and unfair business practices by Defendant. Money damages alone will not afford adequate and complete relief, and injunctive relief is necessary to restrain Defendant from continuing to commit its deceptive, fraudulent and unfair policies.

**FRCP 23(b)(3)**

53. **Common Issues Predominate:** As set forth in detail herein above, common issues of fact and law predominate because all of Plaintiff's NJCFA and warranty claims are based on a deceptive common course of conduct. Whether Dollar General's conduct is likely to deceive reasonable consumers and breaches the implied warranties of merchantability and fitness for a particular purpose is common to all members of the Class and are the predominate issues, and Plaintiff can prove the elements of his claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims

54. **Superiority.** A class action is superior to other available methods for the fair and efficient adjudication of this controversy for at least the following reasons:

- a) Given the size of the claims of individual Class Members, as well as the resources of Dollar General, few, if any, could afford to seek legal redress individually for the wrongs alleged herein;
- b) This action will permit an orderly and expeditious administration of the claims of Class Members, will foster economies of time, effort and expense and will ensure uniformity of decisions;
- c) Any interest of Class Members in individually controlling the prosecution of separate actions is not practical, creates the potential for inconsistent or contradictory judgments and would create a burden on the court system;
- d) Without a class action, Class Members will continue to suffer damages, Defendant's violations of law will proceed without remedy, and Defendant will continue to reap and retain the substantial proceeds derived from its wrongful and unlawful conduct. Plaintiff and the Classes have suffered damages as a result of Defendant's unlawful and unfair conduct. This action presents no difficulties that will impede its management by the Court as a class action.

55. Certification is also warranted under Rule 23(b)(2) of the Federal Rules of Civil Procedure because Defendant has acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief and declaratory relief appropriate with respect to the Class as a whole.

56. The claims asserted herein are applicable to all individuals and entities throughout New Jersey who purchased obsolete, harmful, deceptively labeled and deceptively marketed motor oil

from Dollar General. The State of New Jersey has sufficient state interest through a significant contact or aggregation of contacts to the claims asserted by each member of the Class so that the choice of New Jersey law is not arbitrary or unfair.

**CLAIMS FOR RELIEF**

Based on the foregoing allegations, Plaintiff's claims for relief include the following:

**COUNT I**

**Violations of the New Jersey Consumer Fraud Act ("NJCFA")**

*N.J.S.A. 56:8-1, et seq.*

57. Plaintiff hereby incorporates by reference each of the preceding paragraphs as though fully set forth herein.

58. The NJCFA declares unlawful "[t]he act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby[.]" *N.J.S.A. 56:8-2.*

59. Defendant has violated the New Jersey Consumer Fraud Act, *inter alia*:

- a) Engaging in unconscionable commercial practices as well as deceptive, fraudulent, false and misrepresentatives acts in connection with the sale and marketing of its store brand "DG" motor oil to consumers by, among other things, placing their obsolete product on the same shelf as legitimate motor oils; and
- b) Engaging in unconscionable commercial practices as well as deceptive, fraudulent, false and misrepresentatives acts in connection with the sale and

marketing of its store brand “DG” motor oil to consumers by inadequately, inconspicuously and deceptively failing to sufficiently warn consumers of the dangers of their “DG” brand motor oil; and

- c) Engaging in unconscionable commercial practices as well as deceptive, fraudulent, false and misrepresentatives acts in connection with the sale and marketing of its store brand “DG” motor oil to consumers by deceptively and/or misleadingly packaging their product in the same manner as legitimate motor oils, including an SAE label comparable to legitimate motor oils, using misleading and/or deceptive language, including but not limited to “[l]ubricates and protects your engine” on their packaging as well as including a checkered flag on their product, likely to mislead and/or deceive an average consumer into believing the product was safe and effective in their modern day automobile; and
- d) Knowingly concealing, hiding/suppressing, keeping from consumers, omitting or leaving out the material fact that “DG” motor oil is virtually obsolete and/or harmful to consumers’ engines, with the purpose and/or intent that others would rely on this concealment, suppression and/or omission in connection with the purchase of “DG” brand motor oil.

60. Plaintiff and Class Members are “persons” as defined by *N.J.S.A.* 56:8-1(d).

61. Defendant engaged in the “sale” of “merchandise” when they offered for sale and in fact sold to Plaintiff and Class Members the “DG” store brand oil. *N.J.S.A.* 56:8-1(c)&(e).

62. By placing this obsolete oil on the shelf next to legitimate motor oils that are

suitable for modern-day automobiles, Defendant attempted to directly and/or indirectly induce consumers to purchase “DG” brand oil through “advertisement” of this product as defined by *N.J.S.A. 56:8-1(a)*.

63. As a result of Defendant’s unconscionable, deceptive, fraudulent, false and/or misrepresentatives practices, Plaintiff and Class Members were caused to suffer an ascertainable loss in that they were caused to purchase obsolete and potentially harmful motor oil they otherwise would not have purchased but for Defendant’s unlawful actions.

64. Pursuant to *N.J.S.A. 56:8-8*, *N.J.S.A. 56:8-13* and *N.J.S.A. 56:8-19* Plaintiff and the Class are entitled to (a) actual damages; (b) treble damages; (c) declaratory and injunctive relief, including but not limited to an Order requiring Defendant to cease the acts of unfair competition alleged herein; (d) an Order enjoining Defendant from continuing to utilize its deceptive scheme; (e) full restitution and disgorgement by Defendant of all profits received by Defendant as a result of its wrongful practices; (d) interest at the highest rate allowable by law; (e) costs; and (f) the payment of their attorneys’ fees.

65. Dollar General’s business acts and practices are unlawful, in part, because they violate *N.J.S.A. 56:8-1*, *et seq.*, which prohibits, among other things, deceptive conduct that is misleading to an average consumer. Here, Defendant violated the NJCFA by engaging in conduct in connection with the sale and/or marketing of “DG” brand motor oil which was capable of misleading and likely to mislead an average consumer into purchasing motor oil they believe to be useful and safe in their automobile.

66. By placing obsolete “DG” store brand motor oil on the shelf next to and in similar packaging as legitimate motor oils that are suitable for modern-day automobiles, and/or providing only an inconspicuous and unlikely to be noticed/read warning that its product was

obsolete, Defendant engaged in unlawful conduct capable of misleading the average consumer into purchasing their “DG” brand oil. As a result of this unlawful conduct, Plaintiff and Class Members suffered an ascertainable loss in purchasing this deceptively marketed and obsolete product.

67. Defendant’s actions are unjust, unfair, materially depart from the standards of good faith, honesty in fact and fair dealing in the public marketplace and are thereby unconscionable under the NJCFA. By placing obsolete brand oils, with little more than a fine print and inconspicuous warning, on their shelves next to and in the same kind of packaging as legitimate oils, Defendant engaged in unfair and bad faith tactics of advertising and selling their “DG” brand oil as if it were a legitimate and useful oil for modern day engines. This conduct in connection with the sale and/or advertisement of “DG” brand motor oil caused Plaintiff and Class Members to suffer an ascertainable loss.

68. Plaintiff reserves the right to identify additional provisions of the law violated by Dollar General as further investigation and discovery warrants.

69. Dollar General’s business acts and practices are also unlawful under *N.J.S.A.56:8-1, et seq.*, because the unconscionable, fraudulent, misrepresentative, deceptive acts perpetrated by Defendant in connection with the sale of their “DG” brand motor oil had the capacity to mislead and/or deceive and in fact, did mislead and/or deceive Plaintiff and Class Members. Defendant’s unlawful acts caused Plaintiff and Class Members to suffer an ascertainable loss including but not limited to the loss of monies spent on the purchase price of “DG” brand motor oils, monies which would have been spent on legitimate oils, and monies spent to repair and/or replace engine and/or automotive damage. Dollar General has no justification for its unlawful acts other than to

increase, beyond what Dollar General would have otherwise realized, its market share and revenue from sale of the motor oil.

70. Dollar General's conduct lacks reasonable and legitimate justification. Dollar General has benefited from such conduct and practices while Plaintiff and Class Members have been misled as to the nature and integrity of the motor oil and have suffered ascertainable losses, namely, the purchase price of this deceptively marketed and sold obsolete motor oil as well as ascertainable losses in the damage to property affected by this obsolete oil.

71. In addition, Dollar General's *modus operandi* constitutes a sharp practice in that Dollar General knew and should have known that consumers care about maintaining their vehicles and the performance of the vehicles, but are unlikely to be aware of and/or able to detect the means by which Dollar General was conducting itself in a manner adverse to its commitments and its customers' interests. Dollar General is therefore in violation of the unconscionable prong of the NJCFA.

72. While Dollar General conveyed the impression to reasonable consumers that its motor oil was safe to use in their automobiles, in actuality, its motor oil is not suitable for use in the vehicles driven by the vast majority of its customers.

73. By engaging in the above-described unconscionable, fraudulent, unfair, deceptive misleading and misrepresentative acts and practices, Dollar General has committed one or more unlawful acts within the meaning of the NJCFA. Plaintiff and Class Members have suffered an ascertainable loss and have lost money and property, including, but not limited to, the expected utility and performance of their vehicle and/or the difference between the price Class Members paid and the actual worth of the product had Dollar General disclosed the true nature of its motor oil.

74. Plaintiff and Class Members have suffered injuries as a direct and proximate result of Dollar General's unlawful acts regarding the sale and advertisement of Defendant's "DG" brand motor oil.

**Count II**  
**Violations of the New Jersey Consumer Fraud Act (NJCFA)**  
**Acts of Omission**  
***N.J.S.A. 56:8-1, et seq.***

75. Plaintiff hereby incorporates by reference each of the preceding allegations as if fully set forth herein.

76. Plaintiff and Class Members have suffered an ascertainable loss and have lost money or property as a result of Dollar General's violation of *N.J.S.A. 56:8-1, et seq.*

77. By placing nothing more than an inconspicuous, fine print warning obscured by other text on the back of their "DG" brand motor oil, packaged in containers similar to legitimate and useful motor oils, Defendant knowingly concealed, hid/suppressed, kept from being known/omitted, left out, or did not mention the fact that their motor oil was obsolete and not suitable for modern day engines. This act of omission was committed purposely and/or with the intent that consumers would rely on that concealment/suppression and/or omission in connection with the sale and/or advertisement of the "DG" brand motor oil.

78. Dollar General knowingly concealed knowledge from consumers that their product was obsolete by placing their product on the same shelf as legitimate motor oils and including only a fine print, inconspicuous warning on the back of their product that the product was in fact obsolete. Defendant had a duty to reveal the fact that their motor oil was obsolete to consumers in a conspicuous and fair manner. This concealing, secreting, hiding from observation, covering

from sight and preventing discovery of kept Plaintiff and Class Members in ignorance of the true nature of Defendant's "DG" brand motor oil.

79. Defendant had a duty to disclose the material characteristics of its motor oil because it (i) knew about these characteristics at the time that Plaintiff and other Class Members purchased Dollar General's motor oil; (ii) had exclusive knowledge of material facts that were not known to Plaintiff; and (iii) made representations regarding the quality of its motor oil without disclosing that its motor oil was not suitable for the vehicles driven by most of its customers.

80. Defendant's knowing concealment of the obsolete nature of "DG" brand motor oils was perpetuated with the intent that Plaintiff and Class Members rely on the facts as communicated to them, *i.e.*, that the product was on the same shelf as legitimate motor oils and not conspicuously advertised as obsolete in modern engines, without having the opportunity to also consider the concealed fact that the "DG" brand motor oil was not suitable in most all modern day engines.

81. As a result of Defendant's concealment and/or acts of omission, Plaintiff and Class Members were caused to suffer an ascertainable loss when they purchased "DG" brand motor oil.

82. Defendant further hid/suppressed the obsolete nature of "DG" brand motor oil from consumers by placing the product on the same shelf as legitimate motor oils in similarly dressed up containers and failing to conspicuously or meaningfully warn Plaintiff and the Class Members of the true nature of their store brand motor oil.

83. By placing the "DG" brand motor oil on the shelf as legitimate motor oils and failing to meaningfully warn of the product's true nature, Defendant prevented and/or subdued Plaintiff and Class Members from ascertaining the true obsolete nature of "DG" brand motor oil.

84. This suppression was accomplished knowingly and with the intent that Plaintiff and Class Members rely on the facts as communicated to them, *i.e.*, that the product was on the same shelf as legitimate motor oils and not conspicuously advertised as obsolete in modern engines, and be prevented from considering the hid/suppressed fact that the “DG” brand motor oil was not suitable in most all modern day engines.

85. The acts of omission complained of herein caused Plaintiff and Class Members to suffer ascertainable losses in connection with the sale and advertisement of “DG” brand motor oil.

**Count III**  
**Violations of the New Jersey Consumer Fraud Act (NJCFA)**  
**False Advertising**  
***N.J.S.A. 56:8-1, et seq.***

86. Plaintiff hereby incorporates by reference each of the proceeding allegations as if fully set forth herein.

87. By placing their obsolete oil on the shelf next to legitimate motor oils suitable for modern-day automobiles, Defendant attempted to directly and/or indirectly induce consumers to purchase “DG” brand oil. This act was unconscionable, deceptive, fraudulent, false and misrepresentative and was thereby unlawful under the NJCFA.

88. This act was done with the purpose of misleadingly marketing the “DG” obsolete oil as comparable to same shelf legitimate motor oils. This act was designed to attract public attention and directly and or indirectly was an attempt by publication, dissemination, solicitation, endorsement, circulation or in any other way to induce Plaintiff and Class Members to purchase “DG” brand motor oil.

89. Defendant’s act of unconscionable, deceptive, fraudulent, false and/or misrepresentative advertising and/or marketing presents a continuing threat to members of the public because their advertisements induces and has the potential to induce consumers to purchase its motor oil,

which is unsafe and not suitable for use in their automobiles, instead of other legitimate motor oils.

90. By its actions, Dollar General is engaging in unfair, deceptive, untrue, or misleading acts in connection with the advertisement and/or marketing of their “DG” brand motor oil within the meaning of the NJCFA. Such advertisements are likely to mislead and/or deceive, have the potential to mislead and/or deceive and continue to mislead and/or deceive, the consuming public for the reasons detailed above.

91. The above-described false, misleading and deceptive advertising Dollar General disseminated continues to have a likelihood to deceive in that Dollar General has failed to disclose that its motor oil is not suitable for use in the vehicles driven by the overwhelming majority of its customers.

92. In making and disseminating the statements alleged herein, Dollar General should have known its practices were deceptive and/or misleading in violation of *N.J.S.A. 56:8-1, et seq.* Plaintiff and Class Members based their decisions to purchase the obsolete motor oil in substantial part on Dollar General’s advertisement, product placement, misrepresentations and omitted material facts. The revenues to Dollar General attributable to products sold in those false and misleading advertisements amount to millions of dollars. Plaintiff and Class Members were injured in fact, suffered an ascertainable loss and lost money or property as a result of Defendant’s actions in relation to the advertisement of “DG” brand motor oil.

**COUNT IV**  
**Violation of *N.J.S.A.* 12A:2A-212 for  
Breach of Implied Warranty of Merchantability,**

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

94. Plaintiff and Class Members who purchased “DG” brand motor oils were and are purchasers of goods.

95. Dollar General is and was a “merchant” with respect to “DG” brand motor oils which were sold to Plaintiff and Class Members. Encompassed in the sale to Plaintiff and other consumers of this merchandise was an implied warranty that the “DG” brand motor oil was merchantable within the meaning of *N.J.S.A.* 12A:2-314.

96. Dollar General breached the implied warranty of merchantability to Plaintiff and Class Members because DG SAE 10W-30, DG SAE 10W-40 and DG SAE 30 (i) are not fit for the ordinary purpose for which they are used; (ii) are not adequately contained, packaged and labeled (*i.e.*, it lacked a sufficiently conspicuous caution label about the risk posed by the motor oil when used according to the directions on the product packaging); and (iii) do not conform to the promises or affirmations of fact made on the container or label (*i.e.*, that it was at all suitable to use).

97. Dollar General’s failure to warn Plaintiff and Class Members adequately about the defective and unsafe quality of the product was willful.

98. As a proximate result of Dollar General’s breach of the implied warranty of merchantability, Plaintiff and Class Members sustained damages including but not limited to the receipt of goods they would not have otherwise purchased and which are likely to cause damage to their automobiles if used in the manner intended.

99. Pursuant to *N.J.S.A.* 12A:2-714 and 2-715, Plaintiff and Class Members are entitled to damages, civil penalties and other legal and equitable relief including, a right of reimbursement, as well as costs, expenses and attorneys' fees.

**Count V**  
**Violations of *N.J.S.A.* 12A:2-315 for Breach of Implied Warranty  
of Fitness For a Particular Purpose**

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

101. Plaintiff and Members of the Class purchased "DG" brand motor oils based on representations, lack thereof, product placement and other means.

102. Dollar General is and was a seller with respect to "DG" brand motor oils which were sold to Plaintiff and Class Members.

103. Defendant specifically marketed DG SAE 10W-30, DG SAE 10W-40 and DG SAE 30 as motor oils that could be used in its customer's automobiles. At the time of the sale of the product, Defendant knew or should have known that Plaintiff and Class Members would use DG SAE 10W-30, DG SAE 10W-40 and DG SAE 30 as motor oil in their modern day motor vehicles and be exposed to these products' potentially harmful qualities. Defendant also knew, or should have known, Plaintiff and the Class would reasonably rely on Dollar General's skill or judgment to select or furnish suitable goods.

104. Plaintiff and Class Members did in fact purchase DG SAE 10W-30, DG SAE 10W-40 and DG SAE 30 with the particular purpose of using them as motor oil for their automobiles.

105. Plaintiff and Class Members did in fact reasonably rely on Dollar General's skill or judgment to furnish suitable goods.

106. By manufacturing, marketing, and distributing such products without an adequate warning and by deceptively placing on the shelf next to legitimate motor oils, Dollar General breached its implied warranty of fitness for a particular purpose and is liable to Plaintiff and the Class.

107. Dollar General's failure to warn Plaintiff and Class Members adequately about the defective and unsafe quality of the product was willful.

108. As a proximate result of Dollar General's breach of the implied warranty of fitness for a particular purpose, Plaintiff and Class Members sustained damages, including but not limited to the receipt of goods they would not have otherwise purchased and which are likely to cause damage to their automobiles if used in the manner intended.

109. Pursuant to *N.J.S.A.* 12A:2-714 and 2-715 of the New Jersey Civil Code, Plaintiff and Class Members are entitled to damages, civil penalties and other legal and equitable relief including, a right of reimbursement, as well as costs, expenses and attorneys' fees.

**COUNT VI**  
**Unjust Enrichment**

110. Plaintiff incorporates the above allegations by reference as if fully set forth herein.

111. A benefit has been conferred upon Dollar General by Plaintiff and Class Members in their purchase of Defendant's DG-branded motor oil.

112. If consumers were aware that Dollar General's DG-branded motor oil was not suitable for use in their vehicles, they would not have purchased the product.

113. Under principles of equity and good conscience, Dollar General should not be permitted to retain revenue that it acquired by virtue of its unlawful conduct. All funds, revenue, and benefits received by Dollar General rightfully belong to Plaintiff and Class Members, which Dollar General has unjustly received as a result of its actions.

**DEMAND/PRAAYER FOR RELIEF**

WHEREFORE, Plaintiff on behalf of himself and members of the Class defined herein, prays for judgment and relief as follows:

- A. An order certifying that this action may be maintained as a class action;
- B. Award to Plaintiff and Class Members full restitution;
- C. Treble Damages;
- D. An order enjoining Defendant from engaging in the unlawful, unconscionable, fraudulent, deceptive, misleading, misrepresentative acts or practices, as set forth in this Complaint;
- E. Compensatory damages;
- F. Punitive Damages;
- G. Restitution and disgorgement of the unlawful profits collected by the Defendant;
- H. An order providing for declaratory and/or injunctive relief:
  - 1. Declaring that Defendant must provide accurate representations of the quality of the motor oil sold at its stores;
  - 2. Enjoining Defendant from continuing the deceptive practices alleged herein; and
  - 3. Granting other extraordinary equitable and/or injunctive relief as permitted by law, including specific performance, reformation and imposition of a constructive trust;
- I. Prejudgment and post-judgment interest at the prevailing legal rate;
- J. Plaintiff's attorneys' fees and costs of suit; and
- K. Such other and further relief as the Court may deem necessary and appropriate.

**JURY DEMAND**

Plaintiff and Class Members, pursuant to Fed. R Civ. P. 38(b), hereby demand trial by jury.

Respectfully submitted,  
**CLARK LAW FIRM, PC**

By:

  
**GERALD H. CLARK, ESQ.**

Gerald H. Clark, Esq. NJ Bar No.048281997  
William S. Peck, Esq. NJ Bar No. 020821999  
Mark W. Morris, Esq. NJ Bar No. 118292015  
811 Sixteenth Avenue  
Belmar, New Jersey 07719  
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Fax: (504) 524-5763

*Attorneys for Plaintiff*

Dated: December 17, 2015

# 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

William Flinn, Individually and on Behalf of All Others Similarly Situated,

### DEFENDANTS

Dolgencorp, LLC (d/b/a Dollar General Corporation)

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

County of Residence of First Listed Defendant **Davidson/Sumner**  
(IN U.S. PLAINTIFF CASES ONLY)

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

(c) Attorneys (Firm Name, Address, Email and Telephone Number)  
**Clark Law Firm**  
811 Sixteenth Avenue, Belmar, NJ 07719  
info@clarklawnj.com; 732-443-0333

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

### V. ORIGIN (Place an "X" in One Box Only)

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

### 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 1391(a)**

Brief description of cause:  
**Defendant Dollar General misleading and/or deceiving consumers in purchasing obsolete store brand motor oil**

### 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 **12-17-15**

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.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If 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 clerk(s) 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 six 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.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related 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.