

United States District Court
Eastern District of New York

2:19-cv-00569

Jasmine Brown individually and on behalf
of all others similarly situated

Plaintiff

- against -

Walmart Inc.

Defendant

Complaint

Plaintiff by attorneys alleges upon information and belief, except for allegations pertaining to plaintiff, which are based on personal knowledge:

1. Walmart Inc. (“defendant”) manufactures, markets, distributes and sells products identified as “graham crackers” (the “Products”) under its private label brand, Great Value.
2. The Products are available to consumers directly from defendant’s more than 5,000 stores across the United States and its territories and from defendant’s website.
3. The Products are sold in boxes of 408g (14.4 oz) and contain three separately wrapped packs of crackers.
4. The Products are available in no fewer than Honey and Cinnamon varieties.
5. The identical front and back labels identify the Products “Graham Crackers” and images of rectangular, brown crackers.
6. The “honey” product’s front label states “Made with real honey” and contains a jar of honey with a honey dipper, while the “cinnamon” front label states “Made with real cinnamon and contains several rolls of cinnamon stacked upon each other.



7. Consumers increasingly seek flours made from whole grain for its numerous health benefits compared to refined white flour, also referred to as unbleached enriched flour.

8. Whole grains are grains that contains the endosperm, germ, and bran, “in contrast to refined grains, which retain only the endosperm. As part of a general healthy diet, consumption of whole grains is associated with lower risk of several diseases.”

9. Graham flour is a coarse-ground whole wheat flour, made from the whole grain.

10. The representations of the Products as “graham crackers” is misleading, false, deceptive and unfair because it creates an erroneous impression that graham flour is the predominant or exclusive flour component, as opposed to white flour.

11. This is because the main ingredient in the Products is not graham flour but refined, white flour (“unbleached enriched flour”), indicated on the ingredient list in miniscule font below

the nutrition facts on the side panel.

Honey

INGREDIENTS: ENRICHED FLOUR (WHEAT FLOUR, NIACIN, IRON, THIAMINE MONONITRATE, RIBOFLAVIN, FOLIC ACID), GRAHAM FLOUR (WHOLE GRAIN WHEAT FLOUR), SUGAR, HIGH OLEIC CANOLA AND/OR SOYBEAN OIL, HONEY, LEAVENING (BAKING SODA, CALCIUM PHOSPHATE), SALT, NATURAL FLAVOR, SOY LECITHIN, SODIUM SULFITE.

Cinnamon

INGREDIENTS: ENRICHED FLOUR (WHEAT FLOUR, NIACIN, REDUCED IRON, THIAMINE MONONITRATE, RIBOFLAVIN, FOLIC ACID), WHOLE GRAIN WHEAT FLOUR, SUGAR, CANOLA AND/OR SOYBEAN OIL WITH CITRIC ACID AND TBHQ ADDED TO PRESERVE FRESHNESS, CONTAINS 2% OR LESS OF: MOLASSES, HONEY, BAKING SODA AND/OR CALCIUM PHOSPHATE (LEAVENING), SALT, DEXTROSE, CINNAMON, SOY LECITHIN, NATURAL CINNAMON FLAVOR, SODIUM SULFITE.

12. The nutrition facts of the honey and cinnamon products are presented below.

Nutrition Facts			
Serving Size 2 full crackers (31g)			
Servings Per Container about 13			
Amount Per Serving			
Calories	130	Calories from Fat	25
% Daily Value*			
Total Fat	3g		5%
Saturated Fat	0.5g		3%
Trans Fat	0g		
Polyunsaturated Fat	1.5g		
Monounsaturated Fat	0.5g		
Cholesterol	0mg		0%
Sodium	135mg		6%
Potassium	50mg		1%
Total Carbohydrate	24g		8%
Dietary Fiber	1g		4%
Sugars	8g		
Protein	2g		
Vitamin A 0% • Vitamin C 0%			
Calcium 0% • Iron 6%			
Folic Acid 6%			
*Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:			
	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Saturated Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Potassium	Less than	3,500mg	3,500mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g
Calories per gram:			
Fat	9	Carbohydrate	4
		Protein	4

Nutrition Facts			
Serving Size 2 full crackers (31g)			
Servings Per Container about 13			
Amount Per Serving			
Calories	130	Calories from Fat	30
% Daily Value*			
Total Fat	3.5g		5%
Saturated Fat	0.5g		3%
Trans Fat	0g		
Polyunsaturated Fat	1.5g		
Monounsaturated Fat	0.5g		
Cholesterol	0mg		0%
Sodium	115mg		5%
Potassium	55mg		2%
Total Carbohydrate	24g		8%
Dietary Fiber	1g		4%
Sugars	8g		
Protein	2g		
Vitamin A 0% • Vitamin C 0%			
Calcium 0% • Iron 8%			
Folic Acid 4%			
*Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:			
	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Saturated Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Potassium	Less than	3,500mg	3,500mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g
Calories per gram:			
Fat	9	Carbohydrate	4
		Protein	4

13. It is reasonable for consumers expect the Products' composition to conform to their name because the term "graham" modifies "crackers" such that graham flour will be present in an amount greater than any other non-graham flour.

14. Consumers expect products to have a common or usual name which describes the food in as simple and direct terms as possible, its basic nature and its characterizing properties or ingredients.

15. The name "Graham Crackers" does not reveal the percentage of the food that is graham flour, even though the proportion of this component has a material bearing on price or consumer acceptance and creates an erroneous impression that graham flour is present in an amount greater than is actually the case.

16. The Products are not represented as "Crackers" along with "Made with Graham Flour" or "Containing Graham Flour."

17. Based on the ingredient lists indicating graham (whole grain) flour is present in an amount less than white (refined grain) flour, the Products are more appropriately identified as a "graham-flavored cracker."

18. Dictionaries confirm what reasonable consumers expect when it comes to graham crackers, defining them as "a slightly sweet cracker made of whole wheat flour" and "a semisweet cracker, usually rectangular in shape, made chiefly of whole-wheat flour."¹

19. The Products' name, "graham crackers," is also misleading because the the name is not uniform among all identical or similar products which are designated as "graham crackers," where graham flour is the predominant flour.

¹ <https://www.dictionary.com/browse/graham-cracker>



20. The practice of passing off refined white flour mixed with small amounts of coarser bran (whole wheat) flour is a practice which has existed for over 100 years.²

21. While the form of the misleading practice has changed, deceptive representations of the amount of graham flour in products has not.

22. The cinnamon products are further misleading because the front label emphasizes they are “made with real cinnamon” even though the ingredient list contains “cinnamon” and “cinnamon flavor.”

² J.A. Le Clerc et al., “Graham Flour: A Study of the Physical and Chemical Differences Between Graham Flour and Imitation Graham Flours,” USDA Bureau of Chemistry Bulletin (164), Apr. 12, 1913

23. This means the cinnamon flavor imparted to the cinnamon products does not derive exclusively from real cinnamon.

24. Reasonable consumers expect that where a product attests to its cinnamon bona fides, that element of flavor associated with cinnamon will be derived from real cinnamon, instead of cinnamon flavoring.

25. The Products contain other representations which are misleading and deceptive.

26. Excluding tax, the Products cost no less than \$2.99, a premium price compared to other similar products.

Jurisdiction and Venue

27. Jurisdiction is proper pursuant to 28 U.S.C. § 1332(d)(2).

28. Upon information and belief, the aggregate amount in controversy is more than \$5,000,000.00, exclusive of interests and costs.

29. This court has personal jurisdiction over defendant because it conducts and transacts business, contracts to supply and supplies goods within New York.

30. Venue is proper because plaintiff and many class members reside in this District and defendant does business in this District and in New York.

31. A substantial part of events and omissions giving rise to the claims occurred in this District.

Parties

32. Plaintiff is a citizen of Suffolk County, New York.

33. Defendant is a Delaware corporation with a principal place of business in Bentonville, Arkansas.

34. In 2016, 2017 and/or 2018, plaintiff purchased one or more Products for personal

consumption, for no less than \$2.99 per product, excluding tax, within this district and/or State.

35. Plaintiff paid this premium because prior to purchase, plaintiff saw and relied on the misleading representations.

36. Plaintiff would purchase the Products again if there were assurances that the Products' representations were no longer misleading.

Class Allegations

37. The classes consist of all consumers in the following states: all, New York who purchased any Products with actionable representations during the statutes of limitation.

38. A class action is superior to other methods for fair and efficient adjudication.

39. The class is so numerous that joinder of all members, even if permitted, is impracticable, as there are likely hundreds of thousands of members.

40. Common questions of law or fact predominate and include whether the representations were likely to deceive reasonable consumers and if plaintiff(s) and class members are entitled to damages.

41. Plaintiff(s) claims and the basis for relief are typical to other members because all were subjected to the same representations.

42. Plaintiff(s) is/are an adequate representative because his/her/their interests do not conflict with other members.

43. No individual inquiry is necessary since the focus is only on defendant's practices and the class is definable and ascertainable.

44. Individual actions would risk inconsistent results, be repetitive and are impractical to justify, as the claims are modest.

45. Plaintiff(s) counsel is competent and experienced in complex class action litigation

and intends to adequately and fairly protect class members' interests.

46. Plaintiff(s) seeks class-wide injunctive relief because the practices continue.

New York General Business Law ("GBL") §§ 349 & 350

47. Plaintiff incorporates by references all preceding paragraphs.

48. Defendant's representations are false, unfair, deceptive and misleading

49. Defendant's acts, practices, advertising, labeling, packaging, representations and omissions are not unique to the parties and have a broader impact on the public.

50. Plaintiff desired to purchase products which were as described by defendant and expected by reasonable consumers, given the product type

51. The representations and omissions were relied on by plaintiff and class members, who paid more than they would have, causing damages.

Negligent Misrepresentation

52. Plaintiff incorporates by references all preceding paragraphs.

53. Defendant misrepresented the composition of the Products.

54. Defendant had a duty to disclose and/or provide non-deceptive labeling of the Products and knew or should have known same were false or misleading.

55. This duty is based, in part, on defendant's representation that the Products are "Graham Crackers" when graham flour, which is more desirable to consumers, is not the predominant flour type.

56. Defendant negligently misrepresented and/or negligently omitted material facts.

57. Plaintiff reasonably and justifiably relied on these negligent misrepresentations and omissions, which served to induce and did induce, the purchase of the Products.

58. Plaintiff and class members would not have purchased the Products or paid as much

if the true facts had been known, thereby suffering damages.

Breach of Express Warranty and Implied Warranty of Merchantability

59. Plaintiff incorporates by references all preceding paragraphs.

60. Defendant manufactures, packages, distributes and sells Products which purport to be derived predominantly from whole grain flour (graham flour) as opposed to refined white flour.

61. The Products, by their representations as “graham crackers” warranted to plaintiff and class members that they contained nutrients such as fiber and protein in superior amounts to what they actually possessed, based on if they were primarily from whole grain, graham flour.

62. Defendant warranted such attributes to plaintiff and class members, when this was not truthful and was misleading.

63. Defendant owed a special duty based on its outsize role as one of the largest grocery sellers in the nation.

64. Every week, millions of citizens go to defendant’s stores to stock their cupboards and pantries and expect the term “Great Value” to be accompanied by truthfulness.

65. The Products did not conform to their affirmations of fact and promises, wholly due to defendant’s actions.

66. Plaintiff and class members relied on defendant’s claims, paying more than they would have.

Fraud

67. Plaintiff incorporates by references all preceding paragraphs.

68. Defendant’s purpose was to mislead consumers who seek products with more nutrients and higher quality ingredients which confer health benefits.

69. Defendant's intent was to secure economic advantage in the marketplace against competitors.

70. Plaintiff and class members observed and relied on defendant's claims, causing them to pay more than they would have, entitling them to damages.

Unjust Enrichment

71. Plaintiff incorporates by references all preceding paragraphs.

72. Defendant obtained benefits and monies because the Products were not as represented and expected, to the detriment and impoverishment of plaintiff and class members, who seek restitution and disgorgement of inequitably obtained profits.

Jury Demand and Prayer for Relief

Plaintiff demands a jury trial on all issues.

WHEREFORE, plaintiff prays for judgment:

1. Declaring this a proper class action, certifying plaintiff(s) as representative and the undersigned as counsel for the class;
2. Entering preliminary and permanent injunctive relief by directing defendant to correct such practices to comply with the law;
3. Awarding monetary damages and interest, including treble and punitive damages, pursuant to the common law and GBL claims;
4. Awarding costs and expenses, including reasonable fees for plaintiffs' attorneys and experts; and
5. Such other and further relief as the Court deems just and proper.

Dated: January 29, 2019

Respectfully submitted,

Sheehan & Associates, P.C.

/s/Spencer Sheehan

Spencer Sheehan (SS-8533)
505 Northern Blvd., Suite 311
Great Neck, NY 11021
(516) 303-0552
spencer@spencersheehan.com

Levin-Epstein & Associates, P.C.
Joshua Levin-Epstein
1 Penn Plaza, Suite 2527
New York, NY 10119
(212) 792-0046

2:19-cv-00569
United States District Court
Eastern District of New York

Jasmine Brown individually and on behalf of all others similarly situated

Plaintiff

- against -

Walmart Inc.

Defendant

Complaint

Sheehan & Associates, P.C.
505 Northern Blvd., #311
Great Neck, NY 11021
Tel: (516) 303-0052
Fax: (516) 234-7800

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information, and belief, formed after an inquiry reasonable under the circumstances, the contentions contained in the annexed documents are not frivolous.

Dated: January 29, 2019

/s/ Spencer Sheehan
Spencer Sheehan

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

Jasmine Brown individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff Suffolk

(EXCEPT IN U.S. PLAINTIFF CASES)

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

Sheehan & Associates, P.C., 505 Northern Boulevard, Suite 311, Great Neck, NY 11021, (516) 303-0552

DEFENDANTS

Walmart Inc.

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

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

- ☐ 1 U.S. Government Plaintiff
- ☐ 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 <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <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 - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC § 1332Brief description of cause:
False advertising**VII. REQUESTED IN COMPLAINT:**☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$
5,000,000.00CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

01/29/2019

SIGNATURE OF ATTORNEY OF RECORD

/s/ Spencer Sheehan

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Spencer Sheehan, counsel for plaintiff, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- ☒ monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- ☒ the complaint seeks injunctive relief,
- ☐ the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No
- 2.) If you answered "no" above:
- a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? Yes
- b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? _____

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

☒ Yes ☐ No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

☐ Yes (If yes, please explain) ☒ No

I certify the accuracy of all information provided above.

Signature: /s/ Spencer Sheehan

for the
Eastern District of New York

Jasmine Brown individually and on behalf of all others
similarly situated

Plaintiff(s)

V.

Walmart Inc.

Defendant(s)

[illegible]

Civil Action No. 2:19-cv-00569

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Walmart Inc.
C/O THE CORPORATION TRUST COMPANY
CORPORATION TRUST CENTER 1209 ORANGE ST
WILMINGTON DE 19801

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Sheehan & Associates, P.C. 505 Northern Blvd., #311, Great Neck, NY 11021

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER
CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk