

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

Index No.:

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ARNOLD WACHTEL,

**SUMMONS**  
**WITH NOTICE**

PLAINTIFF,

Plaintiff designates  
New York County as the  
place of trial

-against-

OTTOMANELLI BROS., INC. D/B/A OTTOMANELLI  
BROS., and  
JOHN DOE 1,

The basis of venue is Plaintiff's  
residence: [REDACTED]  
New York, NY 10001.

DEFENDANT(S).

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TO THE ABOVE-NAMED DEFENDANTS:

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve a copy of your answer or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff at the address set forth below and to do so within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case you fail to appear or answer, judgment will be taken against you by default for the relief demanded below.

Note: The law or rules of the court provide that:

- a) If this summons is served by its delivery to you or (for a corporation) an agent authorized to receive service personally within the State of New York, you must answer within 20 days after such service; or
- b) If this summons is served otherwise than on a designated in subdivision (a) above, you are allowed 30 days to answer after the proof of service is filed with the clerk of the court.
- c) You are required to file a copy of your appearance together with proof of service with the clerk of the court in which the action is brought within ten days of the service of the appearance.

**TAKE NOTICE** that the object of this action and the relief sought is to recover damages and injunctive relief for the defendant's violations of NYGBL § 349 (Deceptive acts and practices unlawful), NYGBL § 350 (False advertising unlawful), negligence (Agricultural and Markets Law § 199-a et seq.), common law fraud, recovery of attorneys' fees (NYGBL 349(h)), and the

imposition of punitive damages for the sum of **\$50,000.00** with interest and costs thereon from **February 27, 2023**.

The Plaintiff, Arnold Wachtel, is an individual resident of New York. The defendant sells prepared pasta products at various food establishments across New York City.

Over the last year or so, the plaintiff has purchased approximately 20 boxes of the defendant's "5 Cheese Ravioli" in question.

**Exhibit A** contains true and accurate copies of some receipts for the product in question. Plaintiff paid approximately \$6.99 to \$7.49 for the product.

**Exhibit B** contains true and accurate pictures of the raviolis in question. The plaintiff's packaging and labeling of its "5 Cheese Ravioli" is false and misleading, and the defendant(s) acted negligently and fraudulently in the following ways:

- The phrase "5 Cheese Ravioli" placed above a picture of *five* ravioli, coupled with the defendant's intentional omission of a hyphen between "5" and "Cheese," implies to reasonable consumers that the defendant includes five ravioli in the packages like the ones purchased by Plaintiff. A hyphen would be needed to modify (i.e., compound modifier) "Ravioli" to act as an adjective if the defendant(s) meant to refer to the number of cheeses in the ravioli.
- The Ravioli ingredient list reflects only *four* cheeses: 1) Ricotta, 2) Pecorino romano, 3) Mozzarella, and 4) Parmesan.

By misrepresenting the quantity of the ravioli and the number of cheeses, the defendant violates consumer trust, expectations, informed decision-making, competition, regulatory compliance, and ethical responsibilities. The defendant knew or should have known that its Raviolis were mislabeled and misbranded within the meaning of Agriculture and Markets Law § 199-a et seq. in addition to federal regulations governing food product labeling.

Plaintiff has reasonably and justifiably relied on the defendant's misrepresentations and would use the product again if it weren't mislabeled. As a result of that reliance and his purchases, the plaintiff has suffered monetary harm (overpayment due to higher price because of the misrepresentation, time, and effort expended) and non-monetary harm, including disappointment, frustration, trust erosion, and dietary concerns.

John Doe, an individual whose identity is currently unknown but believed to be an employee or representative of an advertising agency involved in creating and developing the deceptive label, is alleged to have intentionally and negligently participated in misleading and deceiving consumers through the misrepresentation of product information. Upon information and belief, John Doe acted within the scope of their employment or agency and contributed to the creation, design, and formulation of the label, which falsely represents the product as 'Five Cheese Ravioli' while containing only four cheeses and four ravioli in the packages.

**YOU ARE HERBY NOTIFIED THAT** should you fail to appear, a judgment will be entered against you by default for violations of NYGBL § 349 (Deceptive acts and practices unlawful), NYGBL § 350 (False advertising unlawful), negligence (Agricultural and Markets Law § 199-a et seq.), common law fraud, injunctive relief, recovery of attorneys' fees (NYGBL 349(h)), and the imposition of punitive damages. Upon your failure to appear, a judgment by default will be taken against you for the sum of **\$50,000.00** with interest and costs thereon from **February 27, 2023**.

Dated: May 23, 2023

Defendant's addresses:

Ottomanelli Brothers, Inc. D/B/A Ottomanelli  
Bros.  
1549 York Avenue  
New York, NY 10028

c/o:  
Ottomanelli Brothers LTD.  
1 Penn Plaza  
New York, NY 10001

Attorney for Plaintiff:



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