

and the fax machine itself. A junk fax also ties up the phone line and the fax machine of the recipient, thereby precluding their use for legitimate, authorized facsimiles and other business. Finally, a junk fax wastes the recipient's time in reviewing and discarding unwanted solicitations.

5. The claims of Sharonville Family Medicine and the other recipients of the Bariatrix Faxes are all based on the same legal theory; *i.e.*, violations of the JFPA. This action seeks relief expressly authorized by the JFPA: (i) injunctive relief enjoining Bariatrix, their employees, agents, representatives, contractors, affiliates, and all persons and entities acting in concert with them, from sending unsolicited advertisements in violation of the JFPA; (ii) statutory damages in the amount of \$500.00 for each violation of the JFPA, and (iii) treble damages as provided by § 227(b)(3) of the JFPA.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 47 U.S.C. § 227, as the JFPA is a federal statute and, therefore, gives rise to federal question jurisdiction.

7. This Court has personal jurisdiction over Bariatrix because Bariatrix transacted business within this judicial district, made contracts within this judicial district, and/or committed tortious acts within this judicial district.

8. This Court has venue under 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claim occurred in this district.

PARTIES

9. Sharonville Family Medicine is trade name registered in the State of Ohio for a medical facility located in Sharonville, Ohio.

10. Bariatrix US, Inc. is a Delaware corporation, and its principal place of business is located at 308 Industrial Park Road, Georgia, VT 05454.

11. Bariatrix Nutrition Corp. is a Vermont corporation, and its principal place of business is located at 308 Industrial Park Road, Georgia, VT 05454.

12. Bariatrix Vermont, Inc. is a Vermont corporation, and its principal place of business is located at 308 Industrial Park Road, Georgia, VT 05454.

13. Setpoint Health Corp. is a Delaware corporation, and its principal place of business is located at 10 Ossipee Road, Newton Upper Falls, MA, 02464

14. Bariatrix sells food, programs, and other products marketed for weight management or weight loss.

15. John Does 1-5 assisted Bariatrix in its facsimile advertising activities by providing a list of fax numbers, transmitting the Bariatrix Faxes, providing advice or assistance on the content of the Bariatrix Faxes, etc. The identity of the John Doe defendants is not presently known but will be identified through discovery.

FACTS

16. Bariatrix sent material to Sharonville Family Medicine via its office facsimile machine that promoted the commercial activity availability or quality of Bariatrix's products on January 14, 2014, February 5, 2014, March 12, 2014 and April 9, 2014.

17. Bariatrix did not seek or obtain permission from Sharonville Family Medicine to send ads to Sharonville Family Medicine's fax number/fax machine prior to doing so.

18. The Bariatrix Faxes did not contain an opt-out notice that complied with the requirements of the JFPA.

19. Based on information, belief, and the appearance of the Bariatrix Faxes themselves, Bariatrix sent the Bariatrix Faxes to more than forty persons via facsimile.

CLASS ACTION ALLEGATIONS

20. In accordance with Fed. R. Civ. P. 23, Sharonville Family Medicine brings this action on behalf of the following persons: “All persons who (1) were sent the Bariatrix Faxes or similar material (2) by or on behalf of Bariatrix; (3) via facsimile (3) on or after four years prior to the filing of this action.” This class of persons constitutes the putative class members. Sharonville Family Medicine may amend the class definition after discovery identifies potential class members, additional facsimile advertisements, and/or more specific contours of the class.

21. Numerosity: Based on information, belief, and the appearance of the Bariatrix Faxes, the number of putative class members exceeds forty. Facsimile advertisements are typically sent to hundreds if not thousands of persons. The joinder of such a large group of persons in a single lawsuit would be impracticable.

22. Commonality: Common questions of law and fact apply to the claims of the putative class members. These include the following:

- (a) Whether the Bariatrix Faxes constitutes “unsolicited advertisements” within the meaning of the JFPA;
- (b) How Bariatrix compiled or obtained the list of fax numbers to which the Bariatrix Faxes were sent;
- (c) Whether Bariatrix obtained “express invitation or permission” within the meaning of the JFPA from the intended targets prior to sending them the Bariatrix Faxes;
- (d) Whether the Bariatrix Faxes contained opt-out notices that complied with the requirements of the JFPA;
- (e) Whether Bariatrix violated the JFPA and the regulations promulgated thereunder with regard to the Bariatrix Faxes; and

- (f) Whether Bariatrix sent the Bariatrix Faxes intentionally, knowingly, or willfully.

23. Typicality: Sharonville Family Medicine's claims are typical of the claims of the putative class members. Sharonville Family Medicine is asserting the same claim under the same federal statute as the other members of the putative class. Sharonville Family Medicine is also seeking the same relief for itself and the other members of the putative class.

24. Adequacy: Sharonville Family Medicine will fairly and adequately represent the interests of the putative class members. Sharonville Family Medicine has no interests in conflict with the putative class members, has the resources and inclination to prosecute this action to completion, and has retained experienced counsel to assist it in doing so.

25. Predominance: The questions of law and fact common to the putative class members predominate over any questions affecting only individual members because:

- (a) Sharonville Family Medicine's claim depends on the same factual and legal issues as that of the putative class members;
- (b) the evidence supporting Bariatrix' likely defenses will come solely from Bariatrix' own records and will not require any information or inquiries from individual class members;
- (c) the damages for all putative class members are set by statute and will, therefore, be the same for each and every member of the putative class; and
- (d) the identity of the putative class members can be readily ascertained from Bariatrix' or its agents' computer records, phone records, or other business records.

26. Superiority: A class action would be superior to individual actions by the putative class members for the following reasons:

- (a) the damages suffered by any one class member are too low to justify a stand-alone lawsuit;
- (b) the JFPA contains no provision for awarding attorney fees. As such, individual claimants would, as a practical matter, have to proceed *pro se* against a large, sophisticated defendant;
- (c) many of the putative class members are legal entities that would not be permitted to proceed in court *pro se*; and
- (d) the evidence concerning each of putative class member's claims is so similar that the adjudication of each on an individual basis would be repetitive, inefficient, and wasteful.

CLAIM FOR RELIEF – VIOLATIONS OF THE JFPA

27. The JFPA makes it unlawful for any person to “use any telephone facsimile machine, computer or other device to send, to a telephone facsimile machine, an unsolicited advertisement” 47 U.S.C. 227(b)(1).

28. The JFPA defines “unsolicited advertisement” as “any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission, in writing or otherwise.” 47 U.S.C. § 227(a)(5).

29. Bariatrix sent the Bariatrix Faxes to the facsimile machines of Sharonville Family Medicine and numerous other persons.

30. The Bariatrix Faxes promoted the commercial availability and/or quality of the goods and/or services of Bariatrix.

31. Bariatrix did not obtain prior express invitation or permission from Sharonville Family Medicine before sending the Bariatrix Faxes to Sharonville Family Medicine's fax number/fax machine.

32. Bariatric' conduct has caused Sharonville Family Medicine and the putative class members to suffer actual and statutory damages under the JFPA.

WHEREFORE, Plaintiff William P. Sawyer d/b/a Sharonville Family Medicine, individually and on behalf of all others similarly situated, demands judgment in its favor and against Defendants Bariatric US, Inc. Bariatric Nutrition Corp., Bariatric Vermont, Inc., Setpoint Health Corp. and John Does 1-5, as follows:

- (1) that the Court adjudge and decree that the present case may be properly maintained as a class action, appoint William P. Sawyer d/b/a Sharonville Family Medicine as the representative of the class, and appoint William P. Sawyer d/b/a Sharonville Family Medicine's counsel as counsel for the class;
- (2) that the Court award actual or statutory damages to William P. Sawyer d/b/a Sharonville Family Medicine and the other members of the class for each violation of the JFPA by Bariatric;
- (3) that the Court enjoin Bariatric from additional violations of the JFPA; and
- (4) that the Court award William P. Sawyer d/b/a Sharonville Family Medicine pre-judgment interest, post-judgment interest, attorney fees, treble damages, costs, and such other relief as may be just and proper.

Respectfully submitted,

WILLIAM P. SAWYER D/B/A SHARONVILLE
FAMILY MEDICINE individually and as the
representative of a class of similarly-situated
persons,

/s/Matthew E. Stubbs

GEORGE D. JONSON (0027124)
MATTHEW W. STUBBS (0066722)
MONTGOMERY, RENNIE & JONSON
36 E. Seventh Street, Suite 2100
Cincinnati, OH 45202
Telephone: 513-241-4722
Facsimile: 513-241-8775 (fax)
Email: gjonson@mrjlaw.com
mstubbs@mrjlaw.com

IMPORTANT MESSAGE: ACTION REQUIRED

To: Dr William P Sawyer,
Subject: Obesity Screening Required Under Preventative Service Benefit of Affordable Care Act

January 29, 2014

Dear Dr. William P Sawyer,

Obesity screening is now covered under the Preventative Services benefit of the Affordable Care Act. As such, physicians are being asked to take a more aggressive approach to treat obesity within their practice.

A Serious Problem Deserves a Serious Solution

Obesity currently affects over 30% of adult men and women in the United States and is associated with serious health problems including heart disease, type 2 diabetes, various types of cancer and gallstones. Obesity itself is also associated with an increased risk for death among adults under the age of 65.

Due to a lack of resources and time, many physicians have directed patients to commercial weight loss programs that are not evidence-based and do not have proven long term success. As a result, physicians spend more time on the treatment of the associated comorbid conditions.

You Can Implement a Medically Directed Weight Loss Program in Your Practice

Weight loss in obese individuals is associated with a lower incidence of health problems and death. By implementing our turn-key program you can be the difference your patients need for long-term, sustainable weight loss and behavior change.

The Benefits:

- A turn-key, evidence-based program
- Complete training & support
- Technology-based delivery for easy patient care
- Additional revenue for your practice

Contact me today for a no obligation consultation:

Ilene Duhan
Mobile: (914) 552-5590
Email: iduhan@bariatrixgroup.com

For the fastest response, please fill out the information below and fax to 1-845-503-2174:

Please Print - Doctor's Name (First & Last): _____

Phone Number: _____ Email: _____

To opt out of future communication from Baraitrix Nutrition Group, please call 888-957-7376

Take a Stand for Health in 2014!



Bariatrix
NUTRITION GROUP

**Dear Dr William P Sawyer:
Help Your Patients Achieve Their #1 New Year's Resolution.**

Your Patients Want & Need Your Help.

Your patients look to you for answers on all aspects of their health and are more likely to be engaged and successful in a weight loss program with the accountability only their physician can provide.

Let Our Turn-Key Weight Management Solution be Your Guide.

With 2014 already here, now is the time to implement a weight management program in your practice. Our solution can be implemented in approximately 30 days and will provide you all the training, tools and support needed to effectively treat your patients.



Our solution includes:

- ✓ Evidenced-based diet programs
- ✓ Complete training & support
- ✓ High-quality food products
- ✓ Easy-to-use technology for better patient engagement

Contact me today to schedule a brief, no obligation online meeting:

Ilene Duhan
Bariatric Nutrition Group
Mobile: (914) 552-5590
Email: iduhan@bariatricgroup.com

For the fastest response, please fill out the information below and fax back to 1-845-503-2174:

Please Print - Doctor's Name (First & Last): _____

Phone Number: _____ Email: _____

To opt out of future communication from Baraitrix Nutrition Group, please call 888-957-7376

Dear Dr. William P Sawyer

Are You Feeling Overwhelmed Treating These Chronic Patient Conditions?



- Joint & Muscle Pain
- Certain Types of Cancer
- Hypertension
- Heart Disease
- Type 2 Diabetes

Ready to Address ALL of these Concerns with ONE Solution?

As you know, obesity is a serious condition affecting over two-thirds of your patients and putting them at higher risk for other chronic diseases. While the treatment of obesity is now a requirement under the preventative services benefit of the Affordable Care Act, knowing where to start may seem overwhelming.

We Can Help with Turn-Key Weight Management Program

As health professionals ourselves, we understand your challenges, including a lack of time, limited resources and little targeted training around the treatment of obesity – but **our solution will address all of these challenges with one, turn-key solution that aims to have you start your first 5 patients in just 90 days.**

Our Solution Provides:

- Evidence-based diet programs for long-term weight management success
- Cutting-edge technology for efficient patient-provider interaction
- Complete training and support for you and your staff
- High-quality, nutritional food products for optimal patient outcomes

Learn How You Can Save Time & Generate Revenue by Treating Obesity

Contact: Ilene Duhan - Mobile: (914) 552-5590 - Email: iduhan@bariatrixgroup.com

For the fastest response, please fill out the information below and fax to 1-845-503-2174:

Please Print - Doctor's Name (First & Last): _____

Phone Number: _____ Email: _____

To opt out of future communication from Baraitrix Nutrition Group, please call 888-957-7376

Important Information: Please Respond

To: Doctor William P Sawyer

Subject: Your Patients Trust You. Take the Opportunity to Treat Them for Obesity.

Dear Dr. William P Sawyer,

You are your patient's most trusted source of information in all aspects of health, including weight management. Unfortunately many physicians face barriers that prevent them from providing the necessary counseling patients need. Time and resource constraints are cited as the top reasons for not treating patients for the chronic and prevalent disease of obesity.

Your Influence Has a Powerful Affect on Patient Motivation & Behavior Change

While there may a number of commercial weight loss programs available, we understand that obesity and weight management is a medical issue, one that deserves to be treated with the *professional support and guidance that only a doctor can provide, because you:*

- Are a trusted health resource your patients rely on
- Know your patient's medical history and needs
- Can provide a higher level of care and guidance
- Can reduce the risk of other chronic disease associated with obesity
- Can help them understand how obesity affects their overall health

Let Us Provide the Strategy, Skills and Confidence You Need

We know you want to help patients and now you can. When you implement our turn-key program you will provided with everything you need to successfully deliver a weight loss solution to your patients. *Our program includes:*

- Technology-based system for efficient care and guidance
- Comprehensive obesity management training & ongoing support
- Marketing and patient support materials
- High-quality food products that maximize patient outcomes

Contact me today to learn how to implement weight management in your practice:

Ilene Duhan

Mobile: (914) 552-5590

Email: iduhan@bariatrixgroup.com

For the fastest response, please fill out the information below and fax to 1-845-503-2174:

Please Print - Doctor's Name (First & Last): _____

Phone Number: _____ Email: _____

To opt out of future communication from Baraitrix Nutrition Group, please call 888-957-7376

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 P. Sawyer dba Sharonville Family Medicine, an Ohio Corporate, individually and as the representative of a class of similarly-situated persons

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

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

George D. Jonson/Matthew E. Stubbs, Montgomery Rennie & Jonson 36 E. Seventh Street, Suite 2100 Cincinnati, OH 45202 (513-241-4722)

DEFENDANTS

Bariatric US, Inc., Bariatric Nutrition Corp., Bariatric Vermont, Inc., Setpoint Health Corp., John Does 1-5

County of Residence of First Listed Defendant Franklin County, Vermont (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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation).

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 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): 47 U.S.C. Section 227

Brief description of cause: Violation of the Telephone Consumer Protection Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 10/10/2017 SIGNATURE OF ATTORNEY OF RECORD s/Matthew E. Stubbs

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.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

William P. Sawyer dba Sharonville Family Medicine.

Plaintiff

v.

Bariatric US, Inc.

Defendant

Civil Action No. 1:17-cv-678

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Bariatric Nutrition Corp.
c/o Gravel & Shea, PC
Registered Agent for Bariatric Nutrition Corp.
76 St. Paul Street, 7th Floor
Burlington, VT 05401

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:

George D. Jonson
Matthew Stubbs
MONTGOMERY, RENNIE & JONSON
36 East Seventh Street
Cincinnati, OH 45202

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.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 1:17-cv-678

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify):* _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

William P. Sawyer dba Sharonville Family Medicine.

Plaintiff

v.

Bariatric US, Inc.

Defendant

Civil Action No. 1:17-cv-678

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Bariatric Vermont, Inc.
c/o Gravel & Shea, PC
Registered Agent for Bariatric Vermont, Inc.
76 St. Paul Street, 7th Floor
Burlington, VT 05401

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:

George D. Jonson
Matthew Stubbs
MONTGOMERY, RENNIE & JONSON
36 East Seventh Street
Cincinnati, OH 45202

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.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 1:17-cv-678

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify):* _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

William P. Sawyer dba Sharonville Family Medicine.

Plaintiff

v.

Bariatrx US, Inc.

Defendant

Civil Action No. 1:17-cv-678

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Bariatrx US, Inc.
c/o Gravel & Shea, PC
Registered Agent for Bariatrx US, Inc.
76 St. Paul Street, 7th Floor
Burlington, VT 05401

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:

George D. Jonson
Matthew Stubbs
MONTGOMERY, RENNIE & JONSON
36 East Seventh Street
Cincinnati, OH 45202

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.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 1:17-cv-678

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify):* _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

William P. Sawyer dba Sharonville Family Medicine.

Plaintiff

v.

Bariatric US, Inc.

Defendant

Civil Action No. 1:17-cv-678

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Setpoint Health Corp.
c/o Gravel & Shea, PC
Registered Agent for Setpoint Health Corp.
76 St. Paul Street, 7th Floor
Burlington, VT 05401

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:

George D. Jonson
Matthew Stubbs
MONTGOMERY, RENNIE & JONSON
36 East Seventh Street
Cincinnati, OH 45202

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.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 1:17-cv-678

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify):* _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Bariatric, Setpoint Health Corp. Hit with Junk Fax Lawsuit](#)
