

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

JORDAN SOMERS, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

OLIPOP, INC.,

Defendant.

Case No.

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiff Jordan Somers (“Plaintiff”) brings this action on behalf of himself and all others similarly situated against Defendant Olipop, Inc. (“Defendant” or “Olipop”). Plaintiff makes the following allegations pursuant to the investigation of his counsel and based upon information and belief, except as to the allegations specifically pertaining to the Plaintiff, which are based on personal knowledge.

**NATURE OF THE ACTION**

1. Plaintiff brings this class action lawsuit on behalf of himself and similarly situated consumers who purchased Olipop prebiotic soda (the “Products”).

2. Over the last five years, companies like Olipop and Poppi<sup>1</sup> have popularized prebiotic sodas—soft drinks with prebiotic fiber that supposedly boost digestive health. Since that time, the prebiotic soda market has surged to become a multi-billion-dollar industry. Olipop sold \$400 million of the Products in 2024 and the company was recently valued at \$1.85 billion.

3. Defendant’s labeling on each of Products touts that it contains “Prebiotics” and that it “Supports Digestive Health.” But the Products each contain only 6 to 9 grams of prebiotic

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<sup>1</sup> Poppi recently agreed to an \$8.9 million settlement to resolve claims that its digestive health representations regarding prebiotics were misleading. *In re VNGR Beverage, LLC Litig.*, 4:24-cv-03229-HSG (N.D. Cal.).

fiber, an amount too low to cause any meaningful digestive health benefits. In fact, studies show that prebiotics only begin to benefit consumers when they ingest 12 grams or more daily for at least one month. Thus, in order to reap the benefits of prebiotics, consumers would have to drink at least two of the Products every day for a month. And because the Products contain up to 5 grams of sugar per can, consumers would also ingest an additional 10 grams of sugar per day (20% of the FDA's daily recommended intake), negating any benefits from prebiotics.

4. Accordingly, despite Defendant's alluring "prebiotic" marketing claims and promises that the Products "Support[] Digestive Health," as one nutritionist bluntly explained: the Products "are basically sugared water," which has been shown to actually harm digestive health.

5. Plaintiff has purchased the Products. Now, on behalf of himself and all others similarly situated, he asserts claims for violations of New York General Business Law §§ 349 and 350.

#### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1332(d)(2)(a) because this case is a class action where the aggregate claims of all members of the proposed class are in excess of \$5,000,000.00 exclusive of interest and costs, there are over 100 members of the putative class, and at least one class member is a citizen of a state different than Defendant.

7. This Court has personal jurisdiction over Defendant because a substantial portion of the events that gave rise to Plaintiff's claims occurred in New York.

8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because a substantial portion of the events that gave rise to Plaintiff's claims occurred in this District.

## **PARTIES**

9. Plaintiff Jordan Somers is a citizen of New York who resides in Brooklyn, New York. Mr. Somers has purchased the Products for himself numerous times during the applicable statute of limitations. For example, in or around November 2025, he purchased Olipop Crisp Apple from a bodega in Brooklyn, New York for approximately \$2.59. In purchasing the Products, Mr. Somers relied on Defendant's labeling representation that the Products "Support[] Digestive Health." Had Mr. Somers known that Defendant's representations were misleading, and the Products would not improve his digestive health, he would not have purchased the Products or would have only been willing to purchase the Products at a lesser price.

10. Defendant Olipop Inc. is a corporation organized under the laws of Delaware, with a principal place of business in Oakland, California. Defendant conducts business in this District and throughout the state of New York. Defendant formulates, advertises, manufactures, and/or sells the Products throughout New York and the United States.

## **GENERAL ALLEGATIONS**

11. "Prebiotics" are a type of dietary fiber that stimulate the growth of healthy bacteria in the gut known as probiotics. Instead of being digested by the body, these prebiotic fibers travel to the large intestine, where—when they are consumed in sufficient quantities—they promote the growth of healthy gut bacteria that aid digestion and regulate the immune system.

12. Defendant conspicuously represents on the Products' label that Olipop contains "Prebiotics" and that it "Supports Digestive Health":



13. Defendant makes these claims about the supposed health benefits of the Products in an effort to capitalize on the growing market for healthy drinks. Indeed, health-conscious consumers are willing to pay a price premium for products labeled and advertised as healthy or having particular health benefits.

14. But, unfortunately for consumers, drinking Olipop will not positively impact their digestive health unless they drink two or more cans of its every day for at least a month. The prebiotics in Olipop are inulin, a type of fiber derived from plant material. When ingested in sufficient quantities, inulin supports digestive health because it is fermented by gut bacteria and causes the body to produce short-chain fatty acids (SCFAs)—organisms in the gut that help to maintain immune homeostasis, glucose homeostasis, and intestinal barrier integrity.

15. A recent study, however, shows that SCFAs are not impacted by small amounts of inulin such as those in the Products. Participants in this study were given doses of 5 grams and 7.5 grams of inulin every day for 3 weeks. Ultimately, the study concluded that inulin by itself did not create a scientifically significant positive change in participants' SCFAs. As such, low levels of inulin, like those in the Products, do not provide the key benefits associated with prebiotic intake.

16. And if consumers were to drink two cans of the Products every day for a month, in order to consume sufficient quantities of inulin, that would result in them consuming an extra 10 grams of sugar per day, which is 20% of the FDA's daily recommended intake. Consuming sugar at this rate would not only counteract any prebiotic benefits of the Products, but it would actually be detrimental to consumers' health.

17. Many studies have examined the deleterious effects of sugar on gut health, including a recent study that found that “[h]igh sugar intake seems to stagger the balance of microbiota [in the gut] . . . to have increased pro-inflammatory properties, decreased immune-regulatory functions and decreased capacity to regulate epithelial [body tissue] integrity.”

18. Another study conducted at Columbia University found that “dietary sugar alters the gut microbiome, setting off a chain of events that leads to metabolic disease, pre-diabetes, and weight gain.”

19. As such, drinking enough of the Products to obtain any prebiotic benefit also inherently means ingesting enough sugar to negate those same benefits.

20. Additionally, on average, Americans already maintain high-sugar diets. The Center for Disease Control (CDC) suggests that people over the age of two should consume no more than 12 teaspoons of added sugar daily (approximately 48 grams of sugar). However,

overall, Americans consume 17 teaspoons of added sugar every day (approximately 68 grams of sugar).

21. This means that drinking any amount of the Products (each of which contain up to 5 grams of sugar) cannot counteract the negative effects of high-sugar diets that are already pervasive across America, and consuming two of the Products each day (amounting to up to 10 grams of additional grams of sugar) will only worsen the problem.

22. Defendant does not specify the number of cans of the Products that a consumer would have to drink to get enough prebiotics to benefit gut-health. As such, reasonable consumers understand Defendant's claims that the Products contain "Prebiotics" and that they "Support[] Digestive Health" to mean that even one can of the Products will provide them with some benefit. But that is untrue. Nor would consumers understand that by ingesting the requisite number of cans they would necessarily also be ingesting large quantities of sugar that would counteract any potential benefits.

### **CLASS ACTION ALLEGATIONS**

23. Plaintiff seeks to represent a class defined as all persons in the New York who, during the maximum period of time permitted by law, purchased the Products for personal, family, or household consumption, and not for resale (the "Class").

24. **Numerosity Fed. R. Civ. P. 23(a)(1).** Members of the Class are so numerous that their individual joinder herein is impracticable. On information and belief, members of the Class number in the millions. The precise number of Class members and their identities are unknown to Plaintiff at this time but may be determined through discovery. Class members may be notified of the pendency of this action by mail and/or publication through the distribution records of Defendant and third-party retailers and vendors.

25. **Commonality and Predominance (Fed. R. Civ. P. 23(a)(2) and 23(b)(3)).**

There is a well-defined community of interest in the questions of law and fact involved in this case. Common questions of law and fact that exist as to all Class members and predominate over questions affecting only individual Class members include, but are not limited to:

- (a) the amount of prebiotics in the Products;
- (b) the amount of prebiotics necessary to improve digestion;
- (c) the harmful impact of sugar in the Products;
- (d) whether Defendant's marketing, advertising, packaging, labeling, and other promotional materials for the Products are deceptive and misleading; and
- (e) whether Plaintiff and members of the Class have suffered damages as a result of Defendant's actions, and the amount thereof.

26. **Typicality (Fed. R. Civ. P. 23(a)(3)).** The claims of the named Plaintiff are typical of the claims of the Class in that the named Plaintiff was exposed to Defendant's misleading marketing, purchased Defendant's Products, and suffered a loss as a result of those purchases.

27. **Adequacy (Fed. R. Civ. P. 23(a)(4)).** Plaintiff is an adequate representative of the Class because his interests do not conflict with the interests of the Class members he seeks to represent, he has retained competent counsel experienced in prosecuting class actions, and he intends to prosecute this action vigorously. The interests of Class members will be fairly and adequately protected by Plaintiff and his counsel.

28. **Superiority (Fed. R. Civ. P. 23(b)(3)).** The class mechanism is superior to other available means for the fair and efficient adjudication of the claims of Class members. Even if every member of the Class could afford to pursue individual litigation, the court system could not. Individualized litigation would be unduly burdensome to the courts in which individual litigation of numerous cases would proceed. Individualized litigation would also increase the delay and expense to all parties and would present the potential for varying, inconsistent, or

contradictory judgments—magnifying the delay and expense to all parties and to the court system resulting from multiple trials of the same factual issues. In contrast, the maintenance of this action as a class action, with respect to some or all of the issues presented herein, presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court on the issue of Defendant's liability. Class treatment of the liability issues would ensure that all claims and claimants are before this Court for consistent adjudication of the liability issues. Plaintiff anticipates no difficulty in the management of this action as a class action.

**CAUSES OF ACTION**  
**COUNT I**

**Violation of the New York General Business Law § 349**

29. Plaintiff incorporates by reference and re-alleges herein all paragraphs alleged above.
30. Plaintiff brings this cause of action on behalf of himself and members of the Class against Defendant.
31. Plaintiff and Class members are “persons” within the meaning of the GBL § 349(h).
32. Defendant is a “person, firm, corporation or association or agent or employee thereof” within the meaning of GBL § 349(b).
33. Under GBL § 349, “[d]eceptive acts or practices in the conduct of any business, trade or commerce are unlawful.”
34. Defendant engaged in deceptive acts and practices by marketing the Products as containing prebiotics and in claiming that they “Support[] Digestive Health” because the Products do not contain sufficient quantities of prebiotic fiber to confer any benefits to

consumers. And, if consumers did drink enough of the products to reach the necessary threshold for the benefits of prebiotics, any such benefits would be counteracted by the inclusion of sugar in the Products.

35. Defendant's deceptive acts and practices were materially misleading. Defendant's conduct was likely to and did deceive reasonable consumers, including Plaintiff, about the quality of its Products, as discussed throughout.

36. Plaintiff and the Class members were unaware of, and lacked a reasonable means of discovering, the material facts that Defendant withheld.

37. Defendant's actions set forth above occurred in the conduct of trade or commerce.

38. The foregoing deceptive acts and practices were directed at consumers.

39. Defendant's misleading conduct concerns widely purchased consumer products and affects the public interest. Defendant's conduct includes unfair and misleading acts or practices that have the capacity to deceive consumers and are harmful to the public at large. Defendant's conduct is misleading in a material way because it fundamentally misrepresents the quality of the Products.

40. Plaintiff and the Class members suffered ascertainable loss as a direct and proximate result of Defendant's GBL violations in that: (i) they would not have purchased the Products had they known the truth; and (ii) they overpaid for the Products on account of the misrepresentations and omissions, as described herein. As a result, Plaintiff and New York Class members have been damaged either in the full amount of the purchase price of the Products or in the difference in value between the Products as warranted and the Products as actually sold.

41. On behalf of himself and other members of the Class, Plaintiff seeks to enjoin Defendant's unlawful acts and practices described herein, to recover actual damages or \$50,

whichever is greater, reasonable attorney's fees and costs, and any other just and proper relief available under GBL § 349.

**COUNT II**

**Violation of the New York General Business Law § 350**

42. Plaintiff incorporates by reference and re-alleges herein all paragraphs alleged above.

43. Plaintiff brings this cause of action on behalf of himself and members of the Class against Defendant.

44. GBL § 350 provides that “[f]alse advertising in the conduct of any business, trade or commerce or in the furnishing of any service in this state is hereby declared unlawful.”

45. Defendant's labeling and advertisement of the Products was false and misleading in a material way. Specifically, Defendant advertised the Products as containing “Prebiotics” that “Support[] Digestive Health” even though the Products do not contain sufficient quantities of prebiotic fiber to confer any benefits to consumers. And, if consumers did drink enough of the products to reach the necessary threshold for the benefits of prebiotics, any such benefits would be counteracted by the inclusion of sugar in the Products.

46. These misrepresentations and omissions were consumer-oriented and were likely to mislead a reasonable consumer acting reasonably under the circumstances.

47. This misrepresentation has resulted in consumer injury or harm to the public interest.

48. As a result of this misrepresentation, Plaintiff and Class members have suffered economic injury because: (i) they would not have purchased the Product had they known the truth; and (ii) they overpaid for the Products on account of the misrepresentations and omissions, as described herein. As a result, Plaintiff and Class members have been damaged either in the

full amount of the purchase price of the Products or in the difference in value between the Products as warranted and the Products as actually sold.

49. By reason of the foregoing and as a result of Defendant's conduct, Plaintiff and Class members seek to enjoin the unlawful acts and practices described herein, to recover their actual damages or five hundred dollars, whichever is greater, three times actual damages, reasonable attorneys' fees and costs, and any other just and proper relief available under GBL § 350.

**PRAYER FOR RELIEF**

WHEREFORE Plaintiff, individually and on behalf of all others similarly situated, seeks judgment against Defendant, as follows:

- (a) For an order certifying the Class and under Rule 23 of the Federal Rules of Civil Procedure, naming Plaintiff as representative of the Class and, and naming Plaintiff's attorneys as Class Counsel to represent the Class;
- (b) For an order finding in favor of Plaintiff and the Class on all counts asserted herein;
- (c) For an order finding in favor of Plaintiff and the Class on all counts asserted herein;
- (d) For statutory damages in amounts to be determined by the Court and/or jury;
- (e) For prejudgment interest on all amounts awarded;
- (f) For an order enjoining Defendant from continuing the illegal practices detailed herein and compelling Defendant to undertake a corrective advertising campaign; and
- (g) For an order awarding Plaintiff and the Class their reasonable attorneys' fees and expenses and costs of suit.

**DEMAND FOR TRIAL BY JURY**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury of any and all issues in this action so triable as of right.

Dated: December 17, 2025

**ARISOHN LLC**

By: /s/ Joshua D. Arisohn  
Joshua D. Arisohn

Joshua D. Arisohn  
94 Blakeslee Rd.  
Litchfield, CT 06759  
Telephone: (646) 837-7150  
Email: josh@arisohnllc.com

*Attorney for Plaintiff*

## 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

Jordan Somers

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

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

Arisohn LLC, 94 Blakeslee Rd., Litchfield, CT 06759

## DEFENDANTS

Olipop, 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)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input checked="" type="checkbox"/> 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	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input checked="" type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<b>INTELLECTUAL PROPERTY RIGHTS</b>	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 340 Marine Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 385 Property Damage Product Liability	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<b>IMMIGRATION</b>	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<b>Habeas Corpus:</b>	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General Death Penalty	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<b>Other:</b>		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 950 Constitutionality of State Statutes
		<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)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. §1332(d)(2)(a)

## VI. CAUSE OF ACTION

Brief description of cause:  
Consumer protection and warranty claims based on false labeling of product

VII. REQUESTED IN COMPLAINT:	<input checked="" type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.	DEMAND \$ \$5,000,000+	CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

SIGNATURE OF ATTORNEY OF RECORD

12/17/2025

/s/ Joshua D. Arisohn

## FOR OFFICE USE ONLY

RECEIPT #

AMOUNT \_\_\_\_\_

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_

**CERTIFICATION OF ARBITRATION ELIGIBILITY**

Local Arbitration Rule 83.7 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.

Case is Eligible for Arbitration

I, Joshua D. Arisohn, 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 \$150,000.00 exclusive of interest and costs,
- the complaint seeks injunctive relief, or
- 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 or its stocks. Add an additional page if needed.

n/a

**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 3 in Section VIII on the front of this form. Rule 3(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 3(a) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case involves identical legal issues, or the same parties." Rule 3 further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (b), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

**NEW YORK EASTERN DISTRICT DIVISION OF BUSINESS RULE 1(d)(3)**

*If you answer "Yes" to any of the questions below, this case will be designated as a Central Islip case and you must select Office Code 2.*

1. Is the action being removed from a state court that is located in Nassau or Suffolk County?  Yes  No
2. Is the action—not involving real property—being brought against United States, its officers or its employees AND the majority of the plaintiffs reside in Nassau or Suffolk County?  Yes  No
3. If you answered "No" to all parts of Questions 1 and 2:
  - a. Did a substantial part of the events or omissions giving rise to claim or claims occur in Nassau or Suffolk County?  Yes  No
  - b. Do the majority of defendants reside in Nassau or Suffolk County?  Yes  No
  - c. Is a substantial amount of any property at issue located in Nassau or Suffolk County?  Yes  No
4. If this is a Fair Debt Collection Practice Act case, was the offending communication received in either Nassau or Suffolk County?  Yes  No

*(Note, a natural person is considered to reside in the county in which that person is domiciled; an entity is considered a resident of the county that is either its principal place of business or headquarters, or if there is no such county in the Eastern District, the county within the District with 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: Josh Arisohn

UNITED STATES DISTRICT COURT  
for the  
Eastern District of New York

JORDAN SOMERS, individually and on behalf of all others similarly situated, )  
\_\_\_\_\_  
Plaintiff(s) )  
v. ) Civil Action No.  
OLIPOP, INC. )  
\_\_\_\_\_  
Defendant(s) )

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)* Olipop Inc.  
c/o C T Corporation System  
330 N Brand Blvd.  
Glendale, CA 91203

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: Arisohn LLC

94 Blakeslee Rd.  
Litchfield, CT 06759

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.

BRENNNA B. MAHONEY  
*CLERK OF COURT*

Date: \_\_\_\_\_

*Signature of Clerk or Deputy Clerk*

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Civil Action No. \_\_\_\_\_

**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: [Olipop Class Action Lawsuit Claims Prebiotic Soda Offers Minimal Health Benefits](#)

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