

04:17:32 p.m. 05-05-2016 4 8062432243

05/05/16 04:19PM PDT L/O of Scott C. Glovsky ->  
pg 4/22

2136253244

A6029  
90013  
DEPT # 308  
(HON. ANN I. JOES)

**FILED**  
Superior Court of California  
County of Los Angeles

MAY - 5 2016

1 Scott C. Glovsky, Bar No. 170477  
2 Email: sglovsky@scottglovskylaw.com  
3 Ari Dybnis, Bar No. 272767  
4 Email: adybnis@scottglovskylaw.com  
5 LAW OFFICES OF SCOTT GLOVSKY, APC  
6 100 E. Corson Street, Suite 200  
7 Pasadena, CA 91103  
8 Website: www.scottglovsky.com  
9 Telephone: (626) 243-5598  
10 Facsimile: (866) 243-2243

Sherri R. Carter, Executive Officer/Clerk  
By Dawn Alexander Deputy  
Dawn Alexander

Attorneys for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

12 MARC COHEN, on behalf of himself )  
13 and all others similarly situated, )  
14 Plaintiffs, )  
15 vs. )  
16 WHOLE FOODS MARKET, INC., a )  
17 Texas corporation; WHOLE FOODS )  
18 MARKET CALIFORNIA, INC. a )  
19 California corporation; and Does 1 )  
20 through 50, inclusive, )  
21 Defendants. )

CASE NO.: **BC 619 812**  
(UNLIMITED JURISDICTION  
DAMAGES IN EXCESS OF \$25,000)  
**CLASS ACTION COMPLAINT AND  
DEMAND FOR JURY TRIAL**  
1. Violation of Business & Professions  
Code § 17200;  
2. Violation of Business & Professions  
Code § 17500;  
3. Negligent Misrepresentation; and  
4. Declaratory Relief.

CIT/CASE: BC619312  
LEAD/DEF#:   
RECEIPT #: CCH48162009  
DATE PAID: 05/06/16 08:57 AM  
PAYMENT: \$1,435.00 310  
RECEIVED:   
CHECK: \$0.00  
CASH: \$0.00  
CHARGE: \$0.00  
CARD: \$1,435.00

**CLASS ACTION COMPLAINT FOR DAMAGES**

05/06/2016

08:17:32 p.m. 05-05-2016

3

8002432242

05/05/16 04:19PM PDT L/O of Scott C. Glovsky ->  
Pg 5/22

2136253244

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Plaintiff Marc Cohen, on behalf of himself and all others similarly situated, alleges with respect to his own acts and on information and belief with respect to all other matters:

**GENERAL ALLEGATIONS**

1.

**INTRODUCTION**

1. This is a lawsuit about Whole Foods engaging in a classic bait and switch scheme. Whole Foods markets certain vintages of particular wines as having a high numerical rating, but when customers purchase those wines, they are actually given a different wine.

2. More specifically, Whole Foods posts display signage in its stores in front of wine bottles that describe particular wines as having a high numerical rating. But instead of filling the displays behind the signage with the wine described in the signage, Whole Foods fills these displays with wines from different vintages that do not have the same high ratings and are not of the same quality. These practices have misled the plaintiff and the public solely for the benefit of Whole Food's bottom line.

2.

**THE PARTIES**

3. Plaintiff Marc Cohen ("Marc"), an individual, resides now, and at all times herein mentioned, in Los Angeles County.

4. Plaintiff is informed and believes and based thereon alleges that defendant Whole Foods Market, Inc., is a publicly owned Texas corporation.

5. Plaintiff is informed and believes and based thereon alleges that defendant Whole Foods Market California, Inc., is a subsidiary of Whole Foods Market, Inc. and is a California corporation with its principal place of business in California.

6. At all times mentioned in this complaint, defendants were in the business of selling wines, including but not limited to: Foxen Pinot, Evodia Old Vine Grenache, Secateurs Chenin Blanc and Gaston Chiquet Brut Champagne Tradition NV.

2

**CLASS ACTION COMPLAINT FOR DAMAGES**

05/06/2016

1           7. Plaintiff alleges that there exists, and at all times mentioned existed, a unity of  
 2 interest and ownership between defendants Whole Foods Market, Inc. and Whole Foods Market  
 3 California, Inc. such that any individuality and separateness between them has ceased, and  
 4 defendant Whole Foods Market, Inc. is the alter ego of defendant Whole Foods Market  
 5 California, Inc. in that Whole Foods Market California, Inc. is, and at all times herein mentioned  
 6 was, a mere shell, instrumentality, and conduit through which defendant Whole Foods Market,  
 7 Inc. carried on its business in the State of California. As a result, Whole Foods Market, Inc. and  
 8 Whole Foods Market California, Inc. are collectively referred to herein as "Whole Foods."

9           8. Adherence to the fiction of the separate existence of defendant Whole Foods  
 10 Market, Inc. as an entity distinct from Whole Foods Market California, Inc. would permit an  
 11 abuse of the corporate privilege and would promote injustice by protecting defendant Whole  
 12 Foods Market, Inc. from prosecution for the wrongful acts committed by it under the name  
 13 Whole Foods Market California, Inc.

14           9. Additionally, plaintiff is informed and believes that defendants were in a joint  
 15 venture to provide the services that are the subject of this lawsuit, and that several of the persons  
 16 involved in the creation of the unlawful and misleading business practice at issue, were  
 17 employees of Whole Foods Market, Inc. Plaintiff is also informed and believes that many of the  
 18 policies and practices that were utilized and are the subject of this lawsuit were those of Whole  
 19 Foods Market, Inc.

20           10. The true names and capacities, whether individual, corporate, associate or  
 21 otherwise, of defendants named herein as Does 1 through 50, inclusive, are unknown to plaintiff,  
 22 who therefore sues said defendants by such fictitious names. Each of the defendants named  
 23 herein as a Doe is responsible in some manner for the events and happenings hereinafter referred  
 24 to, and some of plaintiff's damages as herein alleged were proximately caused by such  
 25 defendants. Plaintiff will seek leave to amend this complaint to show said defendants' true  
 26 names and capacities when the same have been ascertained.

27           11. At all times mentioned herein, each of the defendants was the agent or employee  
 28 of each of the other defendants, or an independent contractor, or joint venturer, and in doing the

05/06/2016

1 things herein alleged, each such defendant was acting within the purpose and scope of said  
2 agency and/or employment and with the permission and consent of each other defendant.

3 12. Plaintiff is informed and believes, and on the basis of that information and belief  
4 alleges, that each of those defendants was in some manner responsible for the damages of the  
5 class.

6 13. Plaintiff is informed and believes and based thereon alleges that at all times  
7 herein mentioned, each of the defendants were the agents, servants, representatives, alter egos  
8 and/or employees of each other defendants and were acting within the course and scope of their  
9 authority as such agents and/or employees, and with the permission, consent and ratification of  
10 each other defendants.

11 3.

12 CLASS ACTION ALLEGATIONS

13 14. Pursuant to California Code of Civil Procedure section 382 and California Rules  
14 of Court, Rule 3.760 et seq., plaintiff seeks class certification of the following class:

15 All California citizens who, at any time within four years of the filing of the  
16 complaint, have purchased from any of Whole Foods' California retail stores,  
17 wine that Whole Foods represented on store signage as being a particular vintage,  
18 rating, and type - but which was actually from a different vintage than the vintage  
19 advertised on store signage.  
20

- 21 15. The proposed classes meet the requirements of a certified class in that:
  - 22 a. The members are so numerous that joinder of all members is
  - 23 impracticable;
  - 24 b. The questions of law or fact common to the classes are substantially
  - 25 similar and predominate over the questions affecting the individual
  - 26 members;
  - 27 c. The claims or defenses of the representative plaintiff are typical of the
  - 28 claims or defenses of the classes; and

05/06/2016

1 d. The representative plaintiff will fairly and adequately protect the interests  
2 of the classes.

3 Further, the members of the classes are ascertainable and a class action is superior to all  
4 other available methods for the fair and efficient adjudication of this controversy since it will  
5 promote judicial economy and avoid inconsistent individual results.

6 4.

7 **FACTUAL ALLEGATIONS**

8 **CLASS WIDE BACKGROUND ALLEGATIONS**

9 16. Whole Foods is engaging in a classic bait and switch. Wine differs dramatically  
10 with each vintage. There is a much greater demand for highly-rated vintages than low-rated or  
11 unrated vintages. Whole Foods advertises wines with high ratings from wine-rating critics, but  
12 the actual wines that it sells are not the wines with the high ratings – they are from different  
13 vintages. Whole Foods engages in this bait and switch through its in-store sales to maximize its  
14 profits at the expense of its customers.

15 17. In its retail stores, Whole Foods advertises certain vintages of particular wines  
16 with a high rating (the "bait wine"). Whole Foods posts display signs in front of wine bottles  
17 that prominently describe the bait wines as having a high rating and certain characteristics.  
18 Instead of filling the displays behind the signs with the bait wine, Whole Foods fills these  
19 displays with wines from different vintages that do not have the same high ratings and are not of  
20 the same quality (the "switch wine"). Below is a picture of one such example:

21 \\  
22 \\  
23 \\  
24 \\  
25 \\  
26 \\  
27 \\  
28 \\  
29

05/06/2016

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



18. In this picture, Whole Foods employed a shelving sign advertises which "Evodia Old Vine Grenache 2012" The sign states "90 Points- Stephen Tanzer's International Wine Cellar! 'An Amazing Value'"

19. However, the wine that Whole Foods is actually selling above this sign is a 2014 wine, as is indicated on the back of the wine's label. The sign is misleading and leads people to believe that they are purchasing the 2012 wine. The in-store misrepresentations illustrated by these this example is not limited to specific types of wine or one Whole Foods location but are the result of Whole Foods' systematic practices that affect customers across California.

05/06/2016

1 20. As a result of these practices, Whole Foods has been able to unjustly profit at the  
2 expense of consumers who unknowingly buy inferior wines at the cost of more highly rated  
3 wines.

4 **MARC COHEN**

5 21. Plaintiff Marc Cohen ("Marc") is a longtime customer of Whole Foods and on or  
6 about May 5, 2015 he went to the Downtown Los Angeles Whole Foods retail store location.

7 22. He entered the store and looked to buy a number of different bottles of wine. He  
8 spotted a sign that advertised a certain group of wine as the Foxen Pinot from 2013. He  
9 similarly saw a sign that advertised another wine, Evodia Old Vine Grenache from 2012. He  
10 saw another sign that advertised a Secateurs Chenin Blanc 2014. He walked around the store  
11 and saw another sign that advertised a Gaston Chiquet Brut Champagne Tradition NV from  
12 2014. He also saw another sign which advertised Astrolabe Sauvignon Blanc Province from  
13 2014. He relied upon all of these signs and after seeing each sign took a bottle from each  
14 section and then purchased them.

15 23. After he purchased these bottles, he realized that while the bottles were the  
16 brands and types advertised they were not from the advertised year but instead from a different  
17 year. For example, the Foxen and Evodia wines were from 2014 and the other three wines were  
18 from 2015.

19 24. Whole Foods' actions were in accordance with a pattern and practice of bait and  
20 switch that Whole Foods performs at the expense of its customers. Marc purchased the wrong  
21 wine because of misleading signage that Whole Foods utilizes in its retail stores in accordance  
22 with an unlawful pattern and practice. Specifically, Whole Foods has a pattern and practice of  
23 creating signage and advertising for particular types and vintages of wine when the actual  
24 corresponding wine that Whole Foods is selling is from a different vintage of wine than the ones  
25 advertised.

26 25. As a direct result of this unlawful and misleading pattern and practice, Whole  
27 Foods suffered injuries.  
28

05/06/2016

1           26. Plaintiff alleges upon information and belief that the above described business  
 2 practices are systematic and affect wine sales from all of Whole Foods' California retail stores.  
 3 As a result of these business practices, all of the members of the putative class have suffered  
 4 injuries similar to those that the plaintiff has suffered.

**FIRST CAUSE OF ACTION**

**(Violation of Business & Professions Code § 17200 against all defendants)**

8           27. Plaintiff and the classes hereby repeat and reallege all preceding paragraphs and  
 9 incorporate same as though fully set forth herein.

10           28. Business and Professions Code section 17200 et seq., the Unfair Competition  
 11 Law ("UCL"), prohibits acts of "unfair competition," including any "unlawful, unfair or  
 12 fraudulent business act or practice" and "unfair, deceptive, untrue or misleading advertising."  
 13 The acts of Whole Foods, as alleged herein, constitute an unlawful business practice by virtue of  
 14 its negligent and/or fraudulent conduct.

15           29. Whole Foods has violated the UCL in systematically misleading its customers by  
 16 falsely advertising wine in its retail stores as being a certain vintage and quality when the wine  
 17 has a different vintage and quality.

18           30. As a result of Whole Foods' misleading, unfair and unlawful conduct, plaintiff  
 19 and the members of the classes have suffered injury in fact and have lost money or property  
 20 because they purchased wine with a quality and vintage differed from the wine that they  
 21 reasonably believed they had purchased.

22           31. On behalf of themselves and on behalf of the general public, plaintiff and the  
 23 classes request restitution.

24           32. On behalf of themselves and on behalf of the general public, plaintiff and the  
 25 classes request declaratory and injunctive relief as remedies to correct Whole Foods' illegal  
 26 practices. Plaintiff and the class request that the Court enjoin Whole Foods from violating the  
 27 law and order Whole Foods to refrain from falsely advertising and displaying wine within its  
 28 retail stores.

05/06/2016



1 33. Plaintiff and the classes request attorneys' fees under Code of Civil Procedure  
2 section 1021.5 and/or under a common fund theory.

3  
4 **SECOND CAUSE OF ACTION**

5 **(Violation of Business & Professions C. § 17500 against all defendants)**

6 34. Plaintiff and the classes hereby repeat and reallege all preceding paragraphs and  
7 incorporate same as though fully set forth herein.

8 35. At all times relevant to this complaint, Whole Foods has conducted a campaign  
9 of advertising to the public. This advertising consists of displaying signage within its retail  
10 stores. These advertisements were and are disseminated to the public in California.

11 36. Whole Foods has made and disseminated this advertising with the intent directly  
12 or indirectly to sell wine in the manner described in this complaint.

13 37. Whole Foods' advertising was untrue or misleading, and likely to deceive the  
14 public in that: it misrepresented the type, vintage, quality, and/or rating of the wines that  
15 defendant was selling and sold and that defendant continues to sell.

16 38. In making and disseminating these statements concerning type, vintage, quality  
17 and/or rating, defendants knew, or by the exercise of reasonable care should have known, that  
18 these statements were and are untrue or misleading.

19 39. Plaintiff is informed and believes, and on the basis of that information and belief  
20 alleges, that, unless enjoined by this court, Whole Foods will continue to engage in the untrue  
21 and misleading advertising alleged above.

22 40. As a direct and proximate result of the advertising described above, Whole Foods  
23 have received from plaintiff, and continue to hold, the price of the above described wines. Also  
24 as a direct and proximate result of the advertising described above, Whole Foods has received  
25 from the members of the class, and continue to hold, a sum of money to be determined at trial.

26 41. Plaintiff is informed and believes, and on the basis of that information and belief  
27 alleges, that as a further direct and proximate result of the advertising described above, Whole  
28

05/06/2016

1 Foods has received from members of the general public, and continue to hold, money acquired  
2 from the general public by defendant.

3  
4 **THIRD CAUSE OF ACTION**

5 **(Negligent Misrepresentation against all defendants)**

6 42. Plaintiff and the classes hereby repeat and reallege all preceding paragraphs and  
7 incorporate same as though fully set forth herein.

8 43. When Whole Foods made the above described misrepresentations to plaintiff and  
9 the members of the classes, defendant had no reasonable grounds for believing the  
10 representations to be true.

11 44. As a result of these misrepresentations, plaintiff and the classes have suffered  
12 injury.

13  
14 **FOURTH CAUSE OF ACTION**

15 **(Declaratory Relief against all defendants)**

16 45. Plaintiff and the classes hereby repeat and reallege all preceding paragraphs and  
17 incorporate same as though fully set forth herein.

18 46. An actual controversy now exists between the parties regarding their rights and  
19 liabilities under the wine sale contracts and transactions between Whole Foods and the plaintiff  
20 and/or members of the classes. Plaintiff and the class request a declaration that Whole Foods  
21 has violated the Business & Professions Code § 17500, Business & Professions Code § 17200,  
22 and common law by falsely advertising wine in its retail stores as being a certain vintage and  
23 quality when the wine has a different vintage and quality.

24 47. Plaintiff and the classes request attorneys' fees under Code of Civil Procedure  
25 section 1021.5 and/or under a common fund theory.

26  
27 **WHEREFORE**, plaintiff demands on behalf of himself and consumers similarly situated,  
28 judgment against defendants, and each of them, for the following:

05/06/2016

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**FIRST CAUSE OF ACTION**

1. An injunction permanently enjoining defendant from engaging in the unlawful and unfair business practice described in above;
2. Payment of costs;
3. Payment of attorney's fees;
4. Interest as permitted by law;
5. Any other and further relief the court may deem proper.

05/05/2016

**SECOND CAUSE OF ACTION**

1. An injunction permanently enjoining defendant from engaging in the misleading advertising practices described in above;
2. Civil penalties;
3. Payment of costs;
4. Payment of attorney's fees;
5. Interest as permitted by law;
6. Any other and further relief the court may deem proper.

**THIRD CAUSE OF ACTION**

1. Actual damages;
2. Payment of costs;
3. Payment of attorney's fees;
4. Interest as permitted by law;
5. Any other and further relief the court may deem proper.

**FOURTH CAUSE OF ACTION**

1. Declaratory relief;
2. Payment of costs;

11  
**CLASS ACTION COMPLAINT FOR DAMAGES**

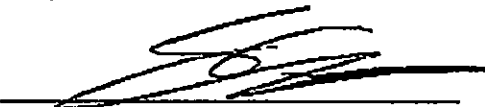
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- 3. Payment of attorney's fees;
- 4. Any other and further relief the court may deem proper.

DATED: May 5, 2016

LAW OFFICES OF SCOTT GLOVSKY, APC

By: \_\_\_\_\_

  
 SCOTT C. GLOVSKY  
 ARI DYBNIS  
 Attorneys for Plaintiffs

05/06/2016

12  
 CLASS ACTION COMPLAINT FOR DAMAGES

2136253244

5/05/16 04:19PM PDT L/O of Scott C. GLOVSKY ->

05-05-2016	13	000422343
------------	----	-----------

**DEMAND FOR JURY TRIAL**


1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Plaintiffs hereby demand a trial by jury.

DATED: May 5, 2016

LAW OFFICES OF SCOTT GLOVSKY, APC

By: \_\_\_\_\_

  
SCOTT C. GLOVSKY  
ARI DYBNIS  
Attorneys for Plaintiffs

05/06/2016

04:17:22 p.m. 05-05-2016 17 8002432243

05/05/16 04:19PM PDT L/O of Scott C. Glovsky -> g17/22

2136253244

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  
**Scott C. Glovsky**  
 Law Offices of Scott Glovsky, APC  
 100 E. Corson Street, Suite 200  
 Pasadena CA, 91103

TELEPHONE NO.: (626) 243-5598 FAX NO.: (866) 243-2243  
 ATTORNEY FOR (Name): Plaintiffs Marc Cohen, et al.

FOR COURT USE ONLY

**FILED**  
 Superior Court of California  
 County of Los Angeles

MAY - 5 2016

Sherri R. Carter, Executive Officer/Clerk  
 By Dawn Alexander Deputy  
 Dawn Alexander

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS Angeles  
 STREET ADDRESS: 111 N. Hill Street  
 MAILING ADDRESS:  
 CITY AND ZIP CODE: Los Angeles, CA 90012  
 BRANCH NAME: Central District

CASE NAME: Marc Cohen, et al. v. Whole Foods Market, Inc., et al.

**CIVIL CASE COVER SHEET**

X  Unlimited (Amount demanded exceeds \$25,000)  Limited (Amount demanded is \$25,000 or less)

**Complex Case Designation**

Counter  Joinder  
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: **BC 619 312**

JUDGE:  
 DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<p><b>Auto Tort</b></p> <p>Auto (22)</p> <p>Uninsured motorist (46)</p> <p><b>Other P/II/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b></p> <p>Asbestos (04)</p> <p>Product liability (24)</p> <p>Medical malpractice (45)</p> <p>Other P/II/PD/WD (23)</p> <p><b>Non-P/II/PD/WD (Other) Tort</b></p> <p>X Business tort/unfair business practice (07)</p> <p>Civil rights (08)</p> <p>Defamation (13)</p> <p>Fraud (16)</p> <p>Intellectual property (19)</p> <p>Professional negligence (25)</p> <p>Other non-P/II/PD/WD tort (35)</p> <p><b>Employment</b></p> <p>Wrongful termination (36)</p> <p>Other employment (15)</p>	<p><b>Contract</b></p> <p>Breach of contract/warranty (06)</p> <p>Rule 3.740 collections (09)</p> <p>Other collections (09)</p> <p>Insurance coverage (18)</p> <p>Other contract (37)</p> <p><b>Real Property</b></p> <p>Eminent domain/inverse condemnation (14)</p> <p>Wrongful eviction (33)</p> <p>Other real property (26)</p> <p><b>Unlawful Detainer</b></p> <p>Commercial (31)</p> <p>Residential (32)</p> <p>Drugs (38)</p> <p><b>Judicial Review</b></p> <p>Asset forfeiture (05)</p> <p>Petition re: arbitration award (11)</p> <p>Writ of mandate (02)</p> <p>Other judicial review (39)</p>	<p><b>Provisionally Complex Civil Litigation</b>        (Cal. Rules of Court, rules 3.400-3.403)</p> <p>Antitrust/Trade regulation (03)</p> <p>Construction defect (10)</p> <p>Mass tort (40)</p> <p>Securities litigation (28)</p> <p>Environmental/Toxic tort (30)</p> <p>Insurance coverage claims arising from the above listed provisionally complex case types (41)</p> <p><b>Enforcement of Judgment</b></p> <p>Enforcement of judgment (20)</p> <p><b>Miscellaneous Civil Complaint</b></p> <p>RICO (27)</p> <p>Other complaint (not specified above) (42)</p> <p><b>Miscellaneous Civil Petition</b></p> <p>Partnership and corporate governance (21)</p> <p>Other petition (not specified above) (43)</p>
--	--	---

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. Large number of separately represented parties d. Large number of witnesses

b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court

c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive

4. Number of causes of action (specify): 4 (four)

5. This case  is  is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: May 5, 2016  
 Scott C. Glovsky  
 (TYPE OR PRINT NAME) SIGNATURE OF PARTY OR ATTORNEY FOR PARTY

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

**INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET**

**CM-010**

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

**CASE TYPES AND EXAMPLES**

**Auto Tort**

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (If the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

**Other PIPD/W (Personal Injury/Property Damage/Wrongful Death) Tort**

- Asbestos (04)
  - Asbestos Property Damage
  - Asbestos Personal Injury/Wrongful Death
- Product Liability (not asbestos or toxic/environmental) (24)
- Medical Malpractice (45)
  - Medical Malpractice—Physicians & Surgeons
  - Other Professional Health Care Malpractice
- Other PIPD/W (23)
  - Premises Liability (e.g., slip and fall)
  - Intentional Bodily Injury/PD/W (e.g., assault, vandalism)
  - Intentional Infliction of Emotional Distress
  - Negligent Infliction of Emotional Distress

**Non-PIP/W (Other) Tort**

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (15)
- Intellectual Property (19)
- Professional Negligence (25)
  - Legal Malpractice
  - Other Professional Malpractice (not medical or legal)
- Other Non-PIP/W Tort (35)
- Employment
  - Wrongful Termination (36)
  - Other Employment (18)

**Contract**

- Breach of Contract/Warranty (06)
  - Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)
  - Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)
  - Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
- Collection Case—Seller Plaintiff
- Other Promissory Note/Collections Case
- Insurance Coverage (not provisionally complex) (16)
  - Auto Subrogation
  - Other Coverage
- Other Contract (37)
  - Contractual Fraud
  - Other Contract Dispute

**Real Property**

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
- Writ of Possession of Real Property
- Mortgage Foreclosure
- Quiet Title
- Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

**Unlawful Detainer**

- Commercial (31)
- Residential (32)
- Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

**Judicial Review**

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
  - Writ—Administrative Mandamus
  - Writ—Mandamus on Limited Court Case Matter
  - Writ—Other Limited Court Case Review
- Other Judicial Review (39)
  - Review of Health Officer Order
  - Notice of Appeal—Labor Commissioner Appeals

**Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)**

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)

**Enforcement of Judgment**

- Enforcement of Judgment (20)
  - Abstract of Judgment (Out of County)
  - Confession of Judgment (non-domestic relations)
  - Sister State Judgment
  - Administrative Agency Award (not unpaid taxes)
  - Petition/Certification of Entry of Judgment on Unpaid Taxes
  - Other Enforcement of Judgment Case

**Miscellaneous Civil Complaint**

- RICO (27)
- Other Complaint (not specified above) (42)
  - Declaratory Relief Only
  - Injunctive Relief Only (non-harassment)
  - Mechanics Lien
  - Other Commercial Complaint Case (non-lit/non-complex)
  - Other Civil Complaint (non-lit/non-complex)

**Miscellaneous Civil Petition**

- Partnership and Corporate Governance (21)
- Other Petition (not specified above) (43)
  - Civil Harassment
  - Workplace Violence
  - Elder/Dependent Adult Abuse
  - Election Contest
  - Petition for Name Change
  - Petition for Relief from Late Claim
  - Other Civil Petition

04:17:32 p.m. 05-03-2018

19

866242243

05/05/16 04:19PM PDT L/O of Scott C. Glovsky ->  
pg19/22

2136253244

SHORT TITLE: Marc Cohen, et al. v. Whole Foods Market,  
Inc., et al.

CASE NUMBER

BC 619 812

**CIVIL CASE COVER SHEET ADDENDUM AND  
STATEMENT OF LOCATION  
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL?  YES CLASS ACTION?  YES LIMITED CASE?  YES TIME ESTIMATED FOR TRIAL 5-7 HOURS/  DAYS

Item II. Indicate the correct district and courthouse location (4 steps - If you checked "Limited Case", skip to Item III, Pg. 4):

**Step 1:** After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.

**Step 2:** Check one Superior Court type of action in Column B below which best describes the nature of this case.

**Step 3:** In Column C, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.3.

**Applicable Reasons for Choosing Courthouse Location (see Column C below)**

1. Class actions must be filed in the Stanley Mosk Courthouse, central district.
2. May be filed in central (other county, or no bodily injury/property damage).
3. Location where cause of action arose.
4. Location where bodily injury, death or damage occurred.
5. Location where performance required or defendant resides.
6. Location of property or permanently garaged vehicle.
7. Location where petitioner resides.
8. Location wherein defendant/respondent functions wholly.
9. Location where one or more of the parties reside.
10. Location of Labor Commissioner Office
11. Mandatory Filing Location (Hub Case)

**Step 4:** Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	<b>A</b> Civil Case Cover Sheet Category No.	<b>B</b> Type of Action (Check only one)	<b>C</b> Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	A7110 Personal Injury/Property Damage/Wrongful Death - Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	A6070 Asbestos Property Damage	2
		A7221 Asbestos - Personal Injury/Wrongful Death	2.
	Product Liability (24)	A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	A7210 Medical Malpractice - Physicians & Surgeons	1., 4.
		A7240 Other Professional Health Care Malpractice	1., 4.
Other Personal Injury Property Damage Wrongful Death (23)	A7250 Premises Liability (e.g., slip and fall)	1., 4.	
	A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1, 4	
	A7270 Intentional Infliction of Emotional Distress	1., 3.	
	A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4.	



04:17:22 p.m. 03-03-2016 20 0002432343

05/05/16 04:19PM PDT L/O of S t C. Glovsky ->  
Pg20/22

2136253244

SHORT TITLE: Marc Cohen, et al. v. Whole Foods Market, Inc., et al.	CASE NUMBER
---	-------------

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Non-Personal Injury/Property Damage/Wrongful Death Tort	Business Tort (07)	<input checked="" type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1, 3
	Civil Rights (08)	A6005 Civil Rights/Discrimination	1, 2, 3.
	Defamation (13)	A6010 Defamation (slander/libel)	1, 2, 3.
	Fraud (16)	A6013 Fraud (no contract)	1, 2, 3.
	Professional Negligence (25)	A6017 Legal Malpractice A6050 Other Professional Malpractice (not medical or legal)	1, 2, 3. 1, 2, 3.
	Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2, 3.
Employment	Wrongful Termination (36)	A6037 Wrongful Termination	1, 2, 3.
	Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case A6109 Labor Commissioner Appeals	1, 2, 3. 10.
Contract	Breach of Contract/Warranty (06) (not insurance)	A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) A6018 Negligent Breach of Contract/Warranty (no fraud) A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2, 5. 2, 5. 1, 2, 5. 1, 2, 5.
	Collections (09)	A6007 Collections Case-Seller Plaintiff A6012 Other Promissory Note/Collections Case A6034 Collections Case-Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014)	2, 5, 6, 11 2, 5, 11 5, 6, 11
	Insurance Coverage (18)	A6015 Insurance Coverage (not complex)	1, 2, 5, 8.
	Other Contract (37)	A6009 Contractual Fraud A6031 Tortious Interference A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1, 2, 3, 5. 1, 2, 3, 5. 1, 2, 3, 8.
	Eminent Domain/Inverse Condemnation (14)	A7300 Eminent Domain/Condemnation Number of parcels _____	2.
	Wrongful Eviction (33)	A6023 Wrongful Eviction Case	2, 6.
Real Property Unlawful Detainer 50	Other Real Property (28)	A6018 Mortgage Foreclosure A6032 Quiet Title A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2, 6. 2, 6. 2, 6.
	Unlawful Detainer-Commercial (31)	A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2, 6.
	Unlawful Detainer-Residential (32)	A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2, 6.
	Unlawful Detainer- Post-Foreclosure (34)	A6020F Unlawful Detainer-Post-Foreclosure	2, 6.
Unlawful Detainer-Drugs (36)	A6022 Unlawful Detainer-Drugs	2, 8.	

04:17:52 p.m. 05-05-2016 21 8662432143

05/05/16 04:19PM PDT L/O of Scott C. Glovsky ->  
Pg 21/22

2136253244

SHORT TITLE Marc Cohen, et al. v. Whole Foods Market, Inc., et al. CASE NUMBER

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus	2., 8.
		<input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter	2.
<input type="checkbox"/> A6153 Writ - Other Limited Court Case Review		2.	
Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.	
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
	Toxic Tort/Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment	2., 9.
		<input type="checkbox"/> A6160 Abstract of Judgment	2., 8.
		<input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations)	2., 9.
		<input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes)	2., 8.
		<input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax	2., 8.
		<input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 8., 9.
Miscellaneous Civil Complaints	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only	1., 2., 8.
		<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2., 8.
		<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex)	1., 2., 8.
<input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)		1., 2., 8.	
Miscellaneous Civil Petitions	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment	2., 3., 9.
		<input type="checkbox"/> A6123 Workplace Harassment	2., 3., 9.
		<input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case	2., 3., 9.
		<input type="checkbox"/> A6190 Election Contest	2.
		<input type="checkbox"/> A6110 Petition for Change of Name	2., 7.
		<input type="checkbox"/> A6170 Petition for Relief from Late Claim Law	2., 3., 4., 8.
<input type="checkbox"/> A6100 Other Civil Petition		2., 9.	

04:17:22 p.m. 03-05-2016 22 0002432243

05/05/16 04:19PM PDT L/O of Scott C. Glovsky ->  
pg22/22

2136253244

SHORT TITLE: Marc Cohen, et al. v. Whole Foods Market, Inc., et al.	CASE NUMBER
---	-------------

Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case.  X 1.   2. X 3.   4.   5.   6.   7.   8.   9.   10.   11.	ADDRESS: 541 S. Spring Street, Suite 1208
CITY: Los Angeles      STATE: CA      ZIP CODE: 90013	

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.3, subd. (a)].

Dated: May 5, 2016

  
 (SIGNATURE OF ATTORNEY/FILING PARTY)  
 Scott C. Glovsky

**PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:**

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for Issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form. LACIV 109, LASC Approved 03-04 (Rev. 03/15).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

05/06/2016