



3. Plaintiff alleges that he resides in this Commonwealth (Compl. ¶ 1). Upon information and belief, Plaintiff is a citizen of this Commonwealth.

4. Petco is a Delaware corporation with its principal executive offices located at 10850 Via Frontera, San Diego, California 92127. Petco is thus a citizen of Delaware and California for purposes of diversity jurisdiction under 28 U.S.C. § 1332.

5. Removal of this action is appropriate under 28 U.S.C. § 1332(d) because the parties are minimally diverse; the putative class size exceeds 100; and the amount in controversy exceeds \$5,000,000.

## II. THE ALLEGATIONS IN THE COMPLAINT

6. In the Complaint, Plaintiff alleges that Petco “was required, but failed, to deduct the amount of the coupons tendered from the taxable portion of [the] purchase price,” and therefore purportedly “overcharges, continues to overcharge, and has in the past overcharged sales tax to Pennsylvania consumers in violation of Pennsylvania Tax Law, Regulations, and Guidance.” Compl. ¶¶ 13, 15.

7. Based on these allegations, Plaintiff asserts six counts against Petco: (1) Conversion and Misappropriation; (2) Breach of Constructive Trust or Agency; (3) Injunction; (4) Unjust Enrichment; (5) Violation of Pennsylvania’s Unfair Trade Practices and Consumer Protection Law (“UTPCPL”); and (6) Violation of Pennsylvania’s Fair Credit Extension Uniformity Act (“FCEUA”). *Id.* ¶¶ 20–66.

8. Plaintiff seeks to represent a class of “all individuals who: (a) on or after November 8, 2015, purchased any item(s) from a Petco store in Pennsylvania that was subject to the payment of sales tax, (b) received any discount on that item or those items by virtue of a discount coupon, a store coupon, or a manufacturer's coupon, and (c) was charged or paid sales tax on the original

purchase price of the item(s) without Petco deducting the amount of the discount before calculating the sales tax due.” *Id.* ¶ 68.

9. Plaintiff also seeks to represent a subclass that “consists of all individuals who: (a) on or after November 8, 2019, purchased any item(s) from a Petco store in Allegheny or Philadelphia Counties that was subject to the payment of sales tax, (b) received any discount on that item or those items by virtue of a discount or a coupon, a store coupon, or a manufacturer's coupon, and (c) was charged or paid sales tax on the original purchase price of the item(s) without Petco deducting the amount of the discount before calculating the sales tax due.” *Id.* ¶ 69.

10. Plaintiff seeks “actual damages or \$100 per violation, whichever is greater, trebled plus costs, interest and attorneys’ fees” under the UTPCPL on behalf of himself and the putative classes in connection with his UTPCPL and FCEUA claims. *Id.* ¶ 52; *see also id.* ¶ 66.

### **III. JURISDICTIONAL STATEMENT**

11. The Class Action Fairness Act of 2005 (“CAFA”), Pub. L. No. 109-2, 119 Stat. 4 § 4(a) grants federal courts diversity jurisdiction over putative class actions that were commenced on or after its effective date of February 18, 2005, and that have minimal diversity, 100 or more class members, and an aggregate amount in controversy over \$5,000,000. *See* 28 U.S.C. §§ 1332 note; 1332(d)(2)(A), 1332(d)(5)(B), 1332(d)(6). This action satisfies each of these requirements.

#### **A. Commencement**

12. As set forth above, this action was commenced on November 8, 2021, after CAFA’s effective date. *See* Compl. Accordingly, CAFA applies to this action. *See* 28 U.S.C. § 1332 note.

#### **B. Minimal Diversity of Citizenship**

13. CAFA requires only minimal diversity, i.e., that “any member of a class of plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C. § 1332(d)(2)(A).

14. Petco is a citizen of Delaware and California for purposes of 28 U.S.C. § 1332(c)(1).

15. The Complaint alleges that Plaintiff “is a resident of the Commonwealth of Pennsylvania, residing at 5445 Fair Oaks Street, Pittsburgh, PA 15217.” Compl. ¶ 1. In addition, the putative classes consist of individuals who purchased “any item(s) from a Petco store in Pennsylvania that was subject to the payment of sales tax.” *Id.* ¶¶ 68, 69. Petco alleges, upon information and belief, that Plaintiff, and numerous members of the putative classes, are citizens of Pennsylvania. Publicly available records indicate that Plaintiff has resided in Pennsylvania since at least 2010. Therefore, he is a citizen of Pennsylvania. *See Papurello v. State Farm Fire & Cas. Co.*, 144 F. Supp. 3d 746, 752 (W.D. Pa. 2015) (“Citizenship of natural persons is synonymous with domicile, and the domicile of an individual is his true, fixed and permanent home and place of habitation.” (internal quotation marks and citations omitted)).

16. Because Plaintiff and members of the putative classes are citizens of a state different from Petco, minimal diversity exists. 28 U.S.C. § 1332(d)(2)(A); *Papurello*, 144 F. Supp. 3d at 755 (“CAFA requires minimal diversity—*i.e.*, a showing that any class member and any defendant are citizens of different states.” (internal quotation marks and citations omitted)).

### **C. Numerosity**

17. CAFA requires that “the number of members of *all proposed plaintiff classes in the aggregate*” be at least 100. 28 U.S.C. § 1332(d)(5)(B) (emphasis added). This requirement is satisfied. *See* Compl. ¶ 73 (“While the exact number of Class Members is not yet known, subject to discovery, it is believed and therefore averred that the Class numbers in the thousands.”); *id.* (“[T]he Class is numerous.”); *id.* ¶ 3 (“While the precise number is not yet known, Plaintiff Jordan believes and therefore avers, subject to further discovery that Defendant Petco engages in

thousands of transactions in the Commonwealth of Pennsylvania which involve discounts, rebates, and store or manufacturer's coupons.”).

18. Furthermore, based on Petco's business records, Petco can confirm that the statewide putative class exceeds 100 individuals.

19. Accordingly, CAFA's numerosity requirement is satisfied. *See* 28 U.S.C. § 1332(d)(5)(B).

**D. Amount in Controversy**

20. CAFA requires that “the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs.” *Id.* § 1332(d)(2). It further provides that “to determine whether the matter in controversy exceeds the sum or value of \$5,000,000,” the “claims of the individual class members shall be aggregated.” *Id.* § 1332(d)(6).

21. Although Petco expressly denies that it has any liability to Plaintiff and the putative classes<sup>1</sup> and expressly denies that any class could be properly certified under Federal Rule of Civil Procedure 23, the aggregate amount of relief sought by the putative classes exceeds \$5,000,000, exclusive of interest and costs. *Dart Cherokee Basin Operating Co. v. Owens*, 574 U.S. 81, 84 (2014) (“When the plaintiff's complaint does not state the amount in controversy, the defendant's notice of removal may do so.” (citing 28 U.S.C. § 1446(c)(2)(A))).

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<sup>1</sup> By removing this action to this Court, Petco does not concede that it has any liability, let alone liability greater than \$5,000,000, to the members of the putative class or subclass. *See, e.g., Brill v. Countrywide Home Loans, Inc.*, 427 F.3d 446, 449 (7th Cir. 2005) (“[The defendant] did not have to confess liability in order to show that the controversy exceeds the threshold.”); *see also Margulis v. Resort Rental, LLC*, No. 08-1719, 2008 U.S. Dist. LEXIS 115287, at \*13 (D.N.J. June 30, 2008) (same). Instead, “[t]he amount in controversy is simply an estimate of the total amount in dispute, not a prospective assessment of defendant's liability.” *Lewis v. Verizon Commc'ns, Inc.*, 627 F.3d 395, 400 (9th Cir. 2010) (citing cases).

22. Plaintiff, on behalf of himself and the putative classes, seeks statutory damages of \$100 for each alleged violation of the UTPCPL and FCEUA “trebled, plus costs, interest and attorneys’ fees.” Compl. ¶ 52; *id.* ¶ 66 (“The UTPCPL provides, in turn, for a minimum recovery for each violation of \$100 (subject to trebling), plus costs and attorneys’ fees.”).

23. Petco’s business records indicate that more than 50,000 transactions are encompassed by the claims of the putative classes. Accordingly, the alleged statutory damages sought by the putative classes alone, in the aggregate, exceed \$5,000,000 (50,001 transactions x \$100 per transaction = \$5,000,100).

24. Further, Plaintiff, on behalf of himself and the putative classes, seeks costs and attorneys’ fees. *Id.* ¶¶ 52, 66. Attorneys’ fees are included in determining the amount in controversy for purposes of CAFA jurisdiction. *Verma v. 3001 Castor, Inc.*, 937 F.3d 221, 227 (3d Cir. 2019).

25. “A median recovery range for attorney’s fees is approximately 30 percent.” *Neale v. Volvo Cars of N. Am., LLC*, 794 F.3d 353, 357 n.1 (3d Cir. 2015). Thus, the inclusion of attorneys’ fees would elevate the amount in controversy even further above the threshold CAFA jurisdictional requirement.

26. Plaintiff also alleges Petco “has converted and/or misappropriated funds belonging to [Plaintiff and the putative classes]” that are “believed to exceed at least a million dollars” and seeks punitive damages. Compl. at 7–8.

27. Because this is a putative class action that was commenced after February 18, 2005, in which there is minimal diversity, at least 100 putative class members, and more than \$5,000,000 in the aggregate amount in controversy, this Court has original subject matter jurisdiction under 28 U.S.C. § 1332, and this action is removable under 28 U.S.C. § 1441(a).

#### IV. PROCEDURAL STATEMENT

28. Pursuant to 28 U.S.C. § 1446(a), copies of the Complaint and any other process, pleadings, and orders that Plaintiff purportedly served on Petco as of the date of the Notice of Removal are attached collectively as Exhibit A.

29. Pursuant to 28 U.S.C. § 1446(a), it is sufficient to provide a “short and plain” allegation of jurisdiction, and it is not necessary to attach evidence establishing those allegations. *See Dart Cherokee Basin Operating Co.*, 574 U.S. at 84 (“A statement ‘short and plain’ need not contain evidentiary submissions.”); *Judon v. Travelers Prop. Cas. Co. of Am.*, 773 F.3d 495, 500 n.2 (3d Cir. 2014) (“[A] defendant’s notice of removal then serves the same function as the complaint would in a suit filed in federal court.” (internal quotation marks and citations omitted)).

30. Pursuant to 28 U.S.C. § 1446(b) and Federal Rule of Civil Procedure 6, the original Notice of Removal was timely filed within 30 days of service because Plaintiff purported to serve the Complaint on Petco on November 24, 2021. *See, e.g., Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354 (1999).

31. Pursuant to 28 U.S.C. § 1441(a), removal to the United States District Court for the Western District of Pennsylvania is proper because it embraces the Court of Common Pleas of Allegheny County, Pennsylvania, where this action was pending before it was removed. *See* 28 U.S.C. § 118(c).

32. Pursuant to 28 U.S.C. § 1446(d), Petco will promptly file a copy of this Notice of Removal in the Court of Common Pleas of Allegheny County, Pennsylvania, and will give Plaintiff written notice of its filing.

33. By removing the action to this Court, Petco does not waive any defenses that are available to it under state or federal law. Petco expressly reserves all threshold defenses to this

action and its right, for example, to move to compel individual arbitration under the Federal Arbitration Act, 9 U.S.C. § 1 *et seq.*, to move to dismiss or for the entry of judgment pursuant to Federal Rules of Civil Procedure 12 and 56, and to strike or oppose the certification of any putative class pursuant to Federal Rule of Civil Procedure 23.

WHEREFORE, pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and 1453, Petco respectfully removes this action from the Court of Common Pleas of Allegheny County, Pennsylvania, to the United States District Court for the Western District of Pennsylvania.

Dated: December 23, 2021

COZEN O'CONNOR

/s/ Meredith C. Slawe

Michael W. McTigue Jr. (PA 69548)

Meredith C. Slawe (PA 201489)

One Liberty Place

1650 Market Street, Suite 2800

Philadelphia, PA 19103

Telephone: (215) 665-2000

Facsimile: (215) 665-2013

Email: mmctigue@cozen.com

msslawe@cozen.com

*Attorneys for Defendant Petco Health and Wellness  
Company, Inc.*



**CERTIFICATE OF SERVICE**

I hereby certify that on December 23, 2021, a true and correct copy of the foregoing document was served upon the following counsel of record for Plaintiff by mail and email:

Frank G. Salpietro  
ROTHMAN GORDON P.C.  
310 Grant Street – 3rd Floor  
Pittsburgh, PA 15219  
Email: fgsalpietro@rothmangordon.com

*/s/ Meredith C. Slawe* \_\_\_\_\_  
Meredith C. Slawe

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, NOAH R., on behalf of himself and all others similarly situated,

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

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

Frank G. Salpietro, ROTHMAN GORDON, P.C., 310 Grant Street, 3rd Floor, Pittsburgh, PA 15219; Tel: (412) 338-1185

DEFENDANTS

PETCO HEALTH AND WELLNESS COMPANY, INC., t/d/b/a PETCO,

County of Residence of First Listed Defendant San Diego (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

Meredith C. Slawe, Michael W. McTigue Jr., COZEN O'CONNOR, One Liberty Place, 1650 Market Street, Suite 2800, Philadelphia, PA 19103; Tel: (215) 665-2000

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, 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 (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. §§ 1332, 1441, 1446, and 1453. Brief description of cause: Conversion and Misappropriation; Breach of Constructive Trust or Agency; Injunction; Unjust Enrichment; Unfair Trade Practices; Violation of Fair Credit Extension Uniformity Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ In excess of 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 12/23/2021 SIGNATURE OF ATTORNEY OF RECORD /s/ Meredith C. Slawe

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

JS 44A REVISED June, 2009  
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
THIS CASE DESIGNATION SHEET MUST BE COMPLETED

**PART A**

This case belongs on the (  Erie  Johnstown  Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.

**PART B** (You are to check ONE of the following)

1.  This case is related to Number \_\_\_\_\_ . Short Caption \_\_\_\_\_
2.  This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

**CIVIL:** Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit

**EMINENT DOMAIN:** Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

**HABEAS CORPUS & CIVIL RIGHTS:** All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

**PART C**

I. CIVIL CATEGORY (Select the applicable category).

1.  Antitrust and Securities Act Cases
2.  Labor-Management Relations
3.  Habeas corpus
4.  Civil Rights
5.  Patent, Copyright, and Trademark
6.  Eminent Domain
7.  All other federal question cases
8.  All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9.  Insurance indemnity, contract and other diversity cases.
10.  Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

Date: December 23, 2021

/s/ Meredith C. Slawe

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH FORMS MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

## 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 there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven 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 – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- 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.

# **EXHIBIT A**

## Allegheny County Department Of Court Records

### Civil/Family Division Docket Report

**Run Date and Time: 12/23/2021 - 11:36:14**

<p><b>GD-21-013752</b></p> <p><b>Filing Date:</b> 11/8/2021</p> <p><b>Related Cases:</b></p> <p><b>Consolidated Cases:</b></p> <p><b>Judge:</b> No Judge</p> <p><b>Amount In Dispute:</b> \$ 0</p> <p><b>Case Type:</b> Other Tort</p> <p><b>Court Type:</b> General Docket</p> <p><b>Current Status:</b> Sheriff Return</p> <p><b>Jury Requested:</b> J</p>	<p><b>Jordan vs Petco Health and Wellness Company Inc.</b></p>
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**--Parties--**

LName	FName	MI	Type	Address	Initial Service Completion	Attorney
Jordan	Noah	R.	Plaintiff	5445 Fair Oaks Street Pittsburgh PA 15217	--	Frank G Salpietro
Petco Health & Wellness Company Inc.			Defendant		11/24/2021 1107	-- Top

**--Attorney--**

LName	FName	MI	Type	Address	Phone
Salpietro	Frank	G	Plaintiff's Attorney	310 Grant Street Third Floor Pittsburgh PA 15219	4123381185

**--Non Litigants--**

LName	FName	MI	Type	Address	Phone
No Litigants Found					

--Docket Entries--

Filing Date	Docket Type	Docket Text	Filing Party
11/24/2021	Sheriff Return	Petco Health & Wellness Company Inc. was served with Complaint on 11/24/2021 by Served - Manager / other person authorized to accept deliveries of United States Mail. AMANDA MCFARLAND	Noah Jordan R.
11/8/2021	Complaint		Noah Jordan R.

--Alias Information--

Petco tdba		
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--Judgments Against--

Name	Amount	Satisfied(Y,N)
No Judgments Found		

--Events Schedule--

Event Scheduled	Event Date & Time	Room Number	Judge/Hearing Officer
No Information Found			

Top

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,  
PENNSYLVANIA**

NOAH R. JORDAN, on behalf of himself  
and all others similarly situated,

Plaintiffs,

v.

PETCO HEALTH AND WELLNESS  
COMPANY, INC., t/d/b/a PETCO,

Defendant.

CIVIL ACTION – CLASS ACTION

No. GD-21-013752

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

Filed on behalf of Plaintiffs:  
Counsel of Record for these Parties:

Frank G. Salpietro, Esquire  
Pa. I.D. No. 47154

Rothman Gordon, P.C.  
Firm I.D. 010  
310 Grant Street – Third Floor  
Pittsburgh, PA 15219  
(412) 338-1185 (telephone)  
(412) 246-1785 (facsimile)  
[fgsalpietro@rothmangordon.com](mailto:fgsalpietro@rothmangordon.com)

FILED

2021 NOV -8 PM 2:33

DEPT. OF COURT RECORDS  
CIVIL FAMILY DIVISION  
ALLEGHENY COUNTY, PA



**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,  
PENNSYLVANIA**

NOAH R. JORDAN, on behalf of himself  
and all others similarly situated,

Plaintiffs,

v.

PETCO HEALTH AND WELLNESS  
COMPANY, INC., t/d/b/a PETCO,

Defendant.

CIVIL ACTION – CLASS ACTION

No. \_\_\_\_\_

**NOTICE TO DEFEND**

**You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served by entering a written appearance personally, or by attorney, and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you, and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint, or for any other claim or relief requested by the Plaintiffs(s). You may lose money, or property, or other rights important to you.**

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

**LAWYER REFERRAL SERVICE  
The Allegheny County Bar Association  
11<sup>th</sup> Floor Koppers Building  
435 Seventh Avenue  
Pittsburgh, PA 15219  
Telephone: (412) 261-5555**

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,  
PENNSYLVANIA**

NOAH R. JORDAN, on behalf of himself  
and all others similarly situated,

Plaintiffs,

v.

PETCO HEALTH AND WELLNESS  
COMPANY, INC., t/d/b/a PETCO,

Defendant.

CIVIL ACTION – CLASS ACTION

No. \_\_\_\_\_

**CLASS ACTION COMPLAINT**

NOW COMES Plaintiff Noah R. Jordan (“Plaintiff Jordan”), on behalf of himself and all others similarly situated, who by and through their undersigned counsel make the following claims against Defendant Petco Health and Wellness Company, Inc., t/d/b/a Petco (“Petco”):

1. Plaintiff Jordan is a resident of the Commonwealth of Pennsylvania, residing at 5445 Fair Oaks Street, Pittsburgh, PA 15217. He brings this action on behalf of himself and all others similarly situated, as more fully set forth under the heading “Class Action Allegations” below.

2. Defendant Petco is a publicly-traded, multi-billion dollar Delaware Corporation, with over 1,500 stores, including at least 44 stores in the Commonwealth of Pennsylvania.

3. While the precise number is not yet known, Plaintiff Jordan believes and therefore avers, subject to further discovery that Defendant Petco engages in thousands

of transactions in the Commonwealth of Pennsylvania which involve discounts, rebates, and store or manufacturer's coupons, which are reflected on cash register tapes and stored in Petco's point-of-sale ("POS") and data warehouse systems.

4. Plaintiff Jordan has shopped at Petco stores in the Commonwealth of Pennsylvania on numerous occasions. For example, on June 25, 2021, Plaintiff purchased a 35-pound bag of Hills Science Diet Adult Dog Food at the Petco store located at 590 East Waterfront Drive, in Homestead, Pennsylvania. At the time of purchase, Plaintiff Jordan presented to the cashier a \$5.00 manufacturer's coupon, along with a \$9.00 Petco "Pals Rewards" discount coupon. The receipt, attached hereto as **Exhibit 1**, documents the purchase of the item and Petco's acceptance of the coupons.

5. Plaintiff Jordan's receipt clearly sets forth both a description of the item purchased, and the product's universal product code or item code (hereinafter collectively referred to as the "UPC") that was read electronically by Petco's POS scanner, which also acts as a cash register.

6. The two coupons presented by Plaintiff Jordan were also read electronically by the scanner/cash register. The receipt plainly sets forth, as separate line items, the terms "coupon" and "Pals DSC" (Discount). The receipt further sets forth, immediately below the original purchase price and the two coupons, a new purchase price of the item after application of the coupons.

7. Plaintiff Jordan was charged sales tax of \$4.47 on the sale, representing a 6% sales tax payable to the Commonwealth of Pennsylvania, and a 1% sales tax payable to Allegheny County, a political subdivision of the Commonwealth.

8. Petco's computation of sales tax did not take into account reduction of the purchase price or sales price attributable to the coupons. The \$4.47 sales tax amount was determined by multiplying 0.07 times the original sales price of the dog food – \$63.95 – even though Plaintiff Jordan's purchase price for the dog food was only \$49.99.

9. 72 P.S. § 7202 provides that sales tax is imposed upon each separate sale of tangible personal property within the Commonwealth of Pennsylvania equal to 6% (7% in Allegheny County and 8% in Philadelphia) of the "purchase price," which is to be collected by the vendor from the purchaser.

10. The regulations promulgated by the Pennsylvania Department of Revenue specifically exclude the amount of discounts attributable to coupons from the imposition of sales tax if both the item purchased and the coupon itself are described on the cash register tape. In particular, Section 33.2(b)(2) of the Pennsylvania Department of Revenue Tax Regulations provides, in its relevant part:

Amounts which are excluded from the taxable portion or purchase price, if separately stated and identified, include:

...

(2) Discounts. Amounts representing on-the-spot cash discounts, employee discounts, volume discounts, **store discounts such as "buy one, get one free," wholesaler's or trade discounts, rebates and store or manufacturer's coupons** shall establish a new purchase price if both the

item and the coupon are described on the invoice or cash register tape.

Pa. Reg. Sec. 33.2(b)(2) (emphasis added).

11. In its Pennsylvania February/March 2005 Tax Update, which is publicly available, the Pennsylvania Department of Revenue clarified questions that had been raised by the regulations by stating the following:

The regulations **require** a retailer to deduct the coupon amount from the taxable portion of the purchase price, if the cash register receipt describes both the item purchased and the coupon that applies to it. The description requirement ensures that a coupon relating to a nontaxable item will not reduce the taxable purchase price. It also protects the retailer by showing why the taxable price was reduced.

12. On Plaintiff Jordan's June 25, 2021 receipt, Petco clearly and unequivocally described the item Plaintiff Jordan purchased, as well as the coupons that applied to the purchase. Petco linked the item that Plaintiff Jordan purchased to the two coupons that applied to the item. It is believed Petco's POS and data warehouse systems verify valid coupons by identifying, by UPC or product code, whether the tendered coupon relates to the item's UPC code.

13. Petco was required, but failed, to deduct the amount of the coupons tendered from the taxable portion of Plaintiff Jordan's purchase price. It is believed and therefore averred that Petco has acted in similar fashion with respect to "Pals Rewards" coupons, as well as manufacturer's coupons.

14. It was only after Plaintiff Jordan relinquished his coupons to Petco, tendered his payment, and Petco accepted the payment, that Plaintiff Jordan received

his receipt which identified the sales tax Petco purported to charge. The improper collection of excessive purchase price was not discovered until after the purchase was completed and Plaintiff Jordan had left the store and used the product he purchased.

15. It is believed and therefore averred that Petco overcharges, continues to overcharge, and has in the past overcharged sales tax to Pennsylvania consumers in violation of Pennsylvania Tax Law, Regulations, and Guidance.

16. Further, it is believed and therefore averred that this conduct was occurring prior to August 1, 2016. As such, Petco benefitted from these overcharges during that time by being paid a "commission" of 1% of the excess purchase price improperly charged under the guise of a sales tax, by virtue of the version of 72 P.S. § 7227 in force at that time.

17. In addition to the clear directives of the Pennsylvania Department of Revenue, as set forth in Paragraphs 10 and 11 above, the Pennsylvania Department of Revenue's Board of Appeals has already provided guidance and an adjudication on the issue. For example:

- (a) A Petition was filed with the Department's Board of Appeals on or about February 16, 2015, seeking a refund of \$0.21 for the improper collection of purchase price under the guise of sales tax by a retailer in Allegheny County for the purchase of a consumer product using a manufacturer's coupon. A copy of the Petition filed is attached hereto as **Exhibit 2**.
- (b) On March 25, 2015, the Department's Board of Appeals entered a Decision and Order, finding that the retailer's collection of sales tax on the original purchase price of an item, without first adjusting the purchase price by deducting any coupons or discounts, was improper. A copy of the Decision and Order entered by the Board of Appeals is attached hereto as **Exhibit 3**.

- (c) Despite the opportunity to appeal the Decision and Order, neither the Department of Revenue or the retailer filed an appeal, rendering the Decision and Order final and binding.
- (d) The Petitioner in the above matter then received a refund from the Department of Revenue, confirming that coupons and discounts must be deducted from the purchase price before calculating sales tax.
- (e) The Petitioner was then permitted to proceed with court claims against the retailer for claims that could not be granted by the Department of Revenue's refund process. *See Farneth v. Wal-Mart Stores, Inc.*, GD-13-11472.

18. The tax statutes, regulations, and guidance upon which the Board of Appeals based this decision have not been amended, and remain in force as they existed at the time of the Decision and Order referenced in Paragraph 17 above.

19. The extent of improper overcharges are believed and therefore averred to be significant, but the exact scope of the overcharges is not yet known, pending further discovery. However, it is believed and therefore averred that Defendant Petco, through its sophisticated POS system and data warehouse system, has the capability of identifying, among other things, the number of transactions where coupons were used, the amount converted through the improper collection of funds under the guise of sales tax charged without first deducting the value of the coupons, and in all cases where a consumer class member used a Pals Rewards card/number or a form of payment other than cash, the identity of the affected class member.

**COUNT I**  
**(Conversion and Misappropriation)**

20. Paragraphs 1 through 19 above are incorporated herein by reference as if fully set forth.

21. By its improper conduct, Defendant Petco has converted and/or misappropriated funds belonging to Plaintiff Jordan and the other members of the Class in an amount not yet known, but believed to exceed at least a million dollars.

22. The conversion and misappropriation of these funds is illegal, unjustified, and intentional, insofar as it is believed and therefore averred that Defendant Petco had actual knowledge of the sales tax exemption pursuant to the statute and regulations, given that Defendant Petco operates at least 44 stores in the Commonwealth of Pennsylvania.

23. Alternatively, if the conversion and/or misappropriation was not deliberate, it is the result of gross negligence on the part of Defendant Petco.

24. Regardless of motive, conversion is a tort of strict liability in this Commonwealth.

25. Further, it is believed and therefore averred that during a portion of the time relevant to this matter, Defendant Petco benefited from these overcharges since it was entitled to receive a kick-back or commission equal to 1% of taxes improperly charged by virtue of Section 7227 of the Pennsylvania Tax Code, 72 P.S. § 7227.

26. This conversion and misappropriation of Class Members' funds substantially benefited and continues to benefit Defendant Petco, while acting to the severe pecuniary disadvantage of Plaintiff Jordan and the consumer Class Members.



WHEREFORE, Plaintiff Noah Jordan, on behalf of himself and all others similarly situated, respectfully demands judgment in their favor and against Defendant Petco in an amount exceeding the arbitration limits of this Court (with a specific amount to be determined at a later date), plus interest, punitive damages, costs and attorneys' fees.

**COUNT II**  
**(Breach of Constructive Trust or Agency)**

27. Paragraphs 1 through 26 above are incorporated herein by reference as if fully set forth.

28. Defendant Petco received money from the taxpayer Class Members in the form of an increased purchase price under the guise of collecting funds to be applied to a particular purpose, *i.e.*, the payment (albeit improperly collected) of sales taxes. See 72 P.S. §§ 7201(g)(1), 7202(a).

29. The payments collected by Defendant Petco from Class Members for this purpose created and continue to create a constructive trust and/or agency, with Defendant Petco serving, at a minimum, as a trustee and agent for the Class Members for purposes of insuring that the funds collected from them are/were paid to the proper payee.

30. Defendant Petco either improperly retained the constructive trust or agency funds, in which case it has been unjustly enriched, or alternatively, improperly paid the trust or agency funds to a third party (*i.e.*, the Pennsylvania Department of Revenue) which, by its own acknowledgement, was not entitled to receive those funds.

31. Whether Defendant Petco obtained the funds subject to the constructive trust or agency from Class Members intentionally, or through a mistaken belief or

assumption that taxes were payable, sales taxes on the value of coupons or discounts are not properly collectable or payable, either in fact or in law, and the funds paid by Class Members are recoverable from Defendant Petco, which breached its duties and obligations to the Class Members as trustee or agent, by failing to remit the funds to the proper payees (*i.e.*, the Class Members).

WHEREFORE, Plaintiff Noah Jordan, on behalf of himself and all others similarly situated, respectfully demands a judgment and decree against Defendant Petco as follows:

- (a) That the Court determine and decree that Defendant Petco is a trustee and/or agent of the Class Members when collecting or purporting to collect sales tax, and that all funds paid by Class Members to Defendant Petco under the guise of "sales tax" on the purchase price of coupons or discounts were and are subject to a constructive trust or agency in favor of the Class Members, with Defendant Petco as trustee or agent;
- (b) That the Court determine and decree that Defendant Petco failed to pay the funds held pursuant to the constructive trust or agency, as set forth in this Complaint, to the proper payees, *i.e.*, the Class Members;
- (c) That the Court determine and decree that to the extent Defendant Petco collected or retained the funds held in constructive trust or agency for the Class Members, that said Defendant has breached its duties as trustee and/or agent;
- (d) That the Court determine and decree that to the extent Defendant Petco paid the funds held in constructive trust or agency to third parties not entitled to receive the funds (whether in fact or in law), then Defendant Petco breached its duties and obligations as trustee or agent of the constructive trust or agency for Class Members;
- (e) That the Court determine and decree that Defendant Petco should cease and desist from further improper collection of

sales tax on the value of coupons or discounts in the Commonwealth of Pennsylvania;

- (f) That the Court determine and decree that Defendant Petco is liable to the Class Members for all amounts collected from Class Members under the guise of collecting a "sales tax," to the extent that no sales tax should have been imposed and was not payable, plus interest and costs; and
- (g) That the Court enter such other relief as it may deem proper under the circumstances.

**COUNT III**  
**(Injunction)**

32. Paragraphs 1 through 31 above are incorporated herein by reference as if fully set forth.

33. The Class Members' right to be exempt from the improper imposition and collection of sales tax as set forth herein is clear.

34. The impropriety of Defendant Petco's collection of such sales tax is likewise clear.

35. Plaintiffs are reasonably likely to succeed on the merits of their claims.

36. It is believed and therefore averred that Defendant Petco, if it remits improperly charged sales taxes to the Pennsylvania Department of Revenue, holds those funds for a time in its own accounts, and remits funds on a monthly or quarterly basis.

37. Regardless of whether or not it remits the improperly charged funds to the Pennsylvania Department of Revenue, Defendant Petco continues to automatically charge residents of this Commonwealth taxes in contravention of the laws of this

Commonwealth, the Department of Revenue's regulations and guidance, and the rulings of the Department's Board of Appeals.

38. Defendant Petco should be immediately, and thereafter forever and permanently enjoined, from charging and collecting funds in contravention of the mandates of Reg. Sec. 33.2(b)(2).

39. With respect to funds already improperly collected and/or already remitted to the Commonwealth or any political subdivision thereof, Defendant Petco should be required to seek a refund of all such sales taxes from the Department of Revenue, since once the improperly charged amounts are remitted, it is not likely that the typical consumer will have sufficient knowledge or understanding of the process for obtaining a refund from either the Commonwealth or Petco. Thus, as a practical matter, the filing of individual claims is unlikely, which in turn makes it unlikely that the wrongs being committed by Petco on an ongoing basis can be adequately compensated by money damages alone.

40. The Department of Revenue has established several mechanisms by which a retailer like Defendant Petco can seek and obtain a refund on behalf of all Class Members. For example, Revenue Ruling SUT-030038 permits a vendor like Petco to refund taxes and "take a credit on a subsequent sales tax return...for taxes overpaid." *See also, e.g.,* 72 P.S. §7252 (refunds to "assigns" permitted); Revenue Form DBA-06 ("Assignment of Rights—Sales/Use Tax Refund").

41. Defendant Petco is in the best position to act because it has exclusive possession (through its POS and data warehouse systems) of the information

necessary to determine which transactions involved the tender of coupons, the amount of those coupons, the amount of improperly collected funds, and the identity of persons who overpaid and are therefore entitled to reimbursement.

WHEREFORE, Plaintiff Noah Jordan, on behalf of himself and all others similarly situated, moves this Honorable Court to preliminarily, and then permanently, enjoin Defendant Petco as follows:

- (a) Enjoining Defendant from continuing to charge and/or collect sales taxes on the gross amount of a purchase, without taking into consideration the new purchase price established by virtue of a store or manufacturer's coupon tendered to, and accepted by, Petco, which makes certain taxes exempt by virtue of Section 33.2 of the Department of Revenue Tax Regulations;
- (b) Enjoining Defendant from remitting funds currently in its possession, custody, or control, to the extent those funds represent charged sales taxes which should not be charged as set forth above;
- (c) Immediately requiring Defendant Petco to take all actions necessary to modify its method of calculating charges relating to sales so that purchasers of product in Pennsylvania are not charged sales tax in violation of Reg. Sec. 33.2(b)(2); and
- (d) To further immediately file all documents necessary to request a refund from the Department of Revenue so that Class Members can be reimbursed for Defendant's improper collection practices.

**Count IV**  
**(Unjust Enrichment)**

42. Paragraphs 1 through 41 above are incorporated herein by reference as if fully set forth.

43. By collecting more from consumers than it was entitled to collect, and to the extent it failed to remit improperly charged sales tax or otherwise benefitted from its improper actions, Defendant Petco was unjustly enriched, to the deprivation of Class Members.

44. Without limitation, Section 7227 of the Pennsylvania Tax Code provided (at least until August, 2016) that Defendant Petco, at minimum, benefitted from the improper collection of sales tax from Class Members by being able to "credit and apply against the tax payable" a commission of 1% of the amount of tax improperly collected from Class Members.

45. In addition, by depositing the improperly collected funds into Petco's accounts and holding those funds prior to remitting the funds to the Commonwealth and its political subdivisions, Defendant Petco earned interest and had use of the improperly collected funds for a period of time.

46. Thus, and again at a minimum, Defendant Petco was unjustly enriched by being able to retain a percentage of the taxes collected improperly, or by profiting from the use of those improperly collected funds, to the detriment of Class Members.

WHEREFORE, Plaintiff Noah Jordan, on behalf of himself and all others similarly situated, demands judgment in their favor and against Defendant Petco, in excess of

the arbitration limits of this Court (with a specific amount to be determined at a later date), plus interest and costs.

**Count V**  
**(Unfair Trade Practices)**

47. Paragraphs 1 through 46 above are incorporated herein by reference as if fully set forth.

48. The Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1, *et seq.* ("UTPCPL"), has declared it illegal to engage in certain unfair or deceptive acts or practices in this Commonwealth.

49. In the conduct of its trade or commerce, Defendant Petco collected, or purported to collect, purchase prices (as defined in the Tax Code and Regulations) on goods and services sold primarily for personal, family, or household purposes, in excess of the amounts authorized by law.

50. By virtue of Defendant Petco's improper collection and use of the funds of Plaintiff Jordan and the Class, by virtue of its failure to properly disclose to consumers that Defendant was not permitted to collect sales tax on the value of store or manufacturer's coupons tendered for sales in Pennsylvania, and by virtue of its failure and/or refusal to program its POS and/or cash register systems to exclude such taxes from being applied on the value of coupons tendered in Pennsylvania (despite the fact that such programming could be done with minimal effort), Defendant Petco has engaged in activities which violate the UTPCPL in at least the following ways:

- (a) By representing that coupons issued by Defendant Petco and/or manufacturers in order to entice consumers to purchase goods at Petco have characteristics that they do

not have (*i.e.*, that they are subject to taxation), in violation of 73 P.S. § 201-2(4)(b);

- (b) By creating a likelihood of confusion or misunderstanding by failing to clearly and fully explain the cost and terms of the Class Members' purchase, leading them to rely on Petco's apparent superior knowledge of tax laws and regulations, and the reasonable belief that they would not pay any additional money than required by law;
- (c) By engaging in deceptive conduct which creates a likelihood of confusion and misunderstanding in structuring its receipts in such a way that a typical consumer (and upon information and belief, Petco's own tax department) is unaware of what items purchased were properly subject to taxation, or that coupons should be deducted from the purchase price before taxation, even after the item is purchased and payment is tendered; and
- (d) By engaging in deceptive conduct which creates a likelihood of confusion and misunderstanding with respect to what constitutes proper charges to customers purchasing goods in Pennsylvania, in violation of 73 P.S. § 201-2(4)(xxi).

51. Defendant Petco's overcharge for the purchase of items as set forth in this Complaint are not revealed to Plaintiff or Class Members until after the transaction between the Class Members and Defendant is complete. It is only after funds and coupons are tendered to Defendant Petco by the Class Member, and a receipt is provided, that the consumer would have the opportunity (even if the receipts were not confusing and deceptive in the first instance) to determine that they had been overcharged. Among other things, this is significant because Defendant Petco may take the position, whether legally or illegally, that once the funds are collected they cannot be returned to the consumer.



52. Because of its violations of the UTPCPL, Defendant Petco is liable to all Class Members for actual damages or \$100 per violation, whichever is greater, trebled, plus costs, interest and attorneys' fees. 73 P.S. § 201-9.2.

WHEREFORE, Plaintiff Noah Jordan, on behalf of himself and all others similarly situated, respectfully demands judgment in his favor and against Defendant Petco, in an amount yet to be determined, but exceeding the arbitration limits of this Court, trebled, plus costs, interest and attorneys' fees.

**Count VI**  
**(Violation of the Fair Credit Extension Uniformity Act)**

53. Paragraphs 1 through 52 above are incorporated herein by reference as if fully set forth.

54. The Pennsylvania Fair Credit Extension Uniformity Act ("FCEUA"), 73 Pa. C.S.A. § 2270.1, *et seq*, is, like the UTPCPL, a consumer protection statute designed to protect, *inter alia*, against unfair or deceptive acts or practices relating to the collection of "debts."

55. The FCEUA defines "consumer" as "a natural person residing in this Commonwealth who owes or is alleged to owe a debt or one who has incurred or is alleged to have incurred liability for the debt within this Commonwealth...." 73 Pa. C.S.A. § 2270.3 (emphasis added).

56. The FCEUA Class Members (as defined below) are "consumers" within the meaning of the FCEUA.

57. The FCEUA defines a "debt," *inter alia*, to "include any amount owed as a tax to any political subdivision of this Commonwealth." *Id.*

58. The FCEUA defines a “debt collector” as “[a] person not a creditor conducting business within this Commonwealth, acting on behalf of a creditor, engaging or aiding directly or indirectly in collecting a debt owed to a creditor or assignee of a creditor.” *Id.*

59. The term “debt collector” further, and expressly, includes “a person, other than an elected or appointed official of any political subdivision of this Commonwealth, who collects or attempts to collect a tax or assessment owed to any political subdivision of this Commonwealth.” *Id.*

60. The term “creditor” under the FCEUA means “[a] person, including agents, servants, or employees conducting business under the name of the creditor within the Commonwealth, to whom a debt is owed or alleged to be owed.” *Id.*

61. The Commonwealth’s political subdivisions of Allegheny County and Philadelphia County (including the City of Philadelphia) impose a local sales tax of 1% and 2% respectively, in addition to the sales tax collected by the Commonwealth.

62. This local sales tax, which is imposed at the point of sale, is collected by retailers like Defendant Petco, for the political subdivision, and reported separately on the retailer’s sales tax return, pursuant to 61 Pa. Code § 60.16.

63. Defendant Petco is, at minimum, a debt collector within the meaning of the FCEUA. In the alternative, and to the extent Defendant Petco contends it is an “agent” conducting business in the name of the person owed the tax (which is denied), Defendant Petco is a “creditor” within the meaning of the FCEUA.

64. Defendant Petco engaged in unfair and deceptive acts or practices, within the meaning of the FCEUA, in at least the following ways:

- (a) By representing to consumers (whether intentionally or not) that the collection of a tax on the value of store or manufacturer's coupons is permitted by law, when it is not;
- (b) By actually collecting funds from consumers under the guise of properly collecting a sales tax, thereby causing an ascertainable loss to the consumer and depriving the consumer of their property;
- (c) By using this false representation/failure to disclose, and deceptively failing to clearly show, on its consumer sales receipts, that the tax being charged should have been charged on the "return value" or "subtotal" of the purchase price, rather than on the gross purchase price;
- (d) By using false, deceptive and/or misleading representations or means of collecting a tax by implying that it was acting under authority or mandate of the state or political subdivision, when it was not;
- (e) By using false, deceptive and/or misleading representations or means of collecting a tax by representing that the alleged debt had a character, amount, or legal status it did not have (*i.e.*, that sales tax was collectable and payable to a political subdivision of the Commonwealth, when it was not);
- (f) By using a false representation or deceptive means to collect or attempt to collect a tax.

65. Because a consumer debt and sales tax relating to the sale of personal, family, or household goods occurs in the conduct of trade or commerce, violation of the FCEUA "shall constitute a violation of the [UTPCPL]." 73 Pa. C.S.A. § 2270.5.

66. The UTPCPL provides, in turn, for a minimum recovery for each violation of \$100 (subject to trebling), plus costs and attorneys' fees. 73 P.S. § 201-9.2.

WHEREFORE, Plaintiff Noah Jordan, on behalf of himself and all others similarly situated, demands judgment favor of the Class and against Defendant Petco, in an amount which exceeds the arbitration limits of this Court, trebled, plus costs, interest and attorneys' fees.

### **Class Action Allegations**

67. Paragraphs 1 through 66 above are incorporated herein by reference as if fully set forth.

68. The Class relating to the causes of action set forth in Counts I, II, III, IV and V (the "General Class") consists of all individuals who: (a) on or after November 8, 2015, purchased any item(s) from a Petco store in Pennsylvania that was subject to the payment of sales tax, (b) received any discount on that item or those items by virtue of a discount coupon, a store coupon, or a manufacturer's coupon, and (c) was charged or paid sales tax on the original purchase price of the item(s) without Petco deducting the amount of the discount before calculating the sales tax due.

69. The Class relating to Count V (the "FCEUA Class") is a subset of the General Class, and consists of all individuals who: (a) on or after November 8, 2019, purchased any item(s) from a Petco store in Allegheny or Philadelphia Counties that was subject to the payment of sales tax, (b) received any discount on that item or those items by virtue of a discount or a coupon, a store coupon, or a manufacturer's coupon, and (c) was charged or paid sales tax on the original purchase price of the item(s) without Petco deducting the amount of the discount before calculating the sales tax due.

70. The General Class and the FCEUA Class are collectively referred to herein as the "Class Members" or the "Class," unless the context requires otherwise.

71. The questions of law and fact relating to Defendant Petco's conduct, and the inequity and impropriety of that conduct, as more fully set forth above, are questions which are common to and affect the entire Class. These common questions predominate over and are a necessary precedent to any questions affecting only individual Class Members.

72. The claims of the named Class Representative are typical of the claims of the Class.

73. While the exact number of Class Members is not yet known, subject to discovery, it is believed and therefore averred that the Class numbers in the thousands. While the Class is numerous, it is believed that Defendant Petco maintains extensive records relating to the amount of taxes charged in violation of Pennsylvania tax regulations as described in this Complaint, along with the identity of Class Members.

74. Individual actions by members of the Class would, as a practical matter, be dispositive of the interest of members who are not parties, and may substantially impede his or her ability to protect his or her interest and/or create or lead to inconsistent adjudications.

75. In view of the potential expenses of litigation, the separate claims of individual Class Members are insufficient to support the thousands of separate actions. A Class Action is the most expeditious and cost effective method of addressing Defendant Petco's improper conduct in Pennsylvania.

76. Defendant Petco, as more fully set above, has acted and/or refused to act on grounds generally applicable to the Class by engaging in conduct which is contrary to Pennsylvania law, which constitutes unfair and/or deceptive conduct under Pennsylvania law, breaches a constructive trust, and unjustly enriches Defendant Petco.

77. It is believed and therefore averred that counsel for the Class Representatives will diligently and adequately represent the interests of the Class. Said counsel is a partner in a well-respected law firm consisting of 30 attorneys with sufficient support staff to manage an action of this size. Counsel has litigated class actions in the past.

78. The Class Representative, after reasonable inquiry, has determined that he has or can acquire adequate financial resources to ensure that the interests of the Class will not be harmed.

Respectfully submitted,

ROTHMAN GORDON, P.C.

By: 

Frank G. Salpietro, Esquire  
Pa I.D. No. 47154


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Attorneys for Plaintiff Noah R. Jordan, on  
behalf of himself and all others similarly  
situated

**VERIFICATION**

I, Noah R. Jordan, verify that the statements contained in the foregoing Class Action Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements contained herein are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Dated: Nov. 8, 2021

  
\_\_\_\_\_  
Noah R. Jordan





WATERFRONT #01811  
590 EAST WATERFRONT DR  
HOMESTEAD, PA 15120

05/25/21 10:38AM Reg: 001 Trans:  
943  
Attended by: 300146

002732766 50-DOG 35# ADULT SMA 49.99 T  
Reg Price 63.99  
Pals Dsch: 9.00 (2)  
Mfr Coupon -5.00 (2)  
Return Value: 49.99

Taxable Total 63.99  
Subtotal 49.99  
Tax PA 7% 4.48  
TOTAL 54.47

Debit Card 54.47

2021-05-25 10:38:48  
Total: USD \$54.47  
US DEBIT

Entry Method: Chip  
CARD #: XXXXXXXXXXXX7685  
Purchase APPROVED  
AUTH CODE: 850661  
Model: Issuer: PIN Verified  
AID: ACC0000980840  
TVR: 80C004000  
IAD: 06C19A03A08000  
TSE: 68C0  
AR: 00  
RRV: 12551

### 1 Item

Pals Rewards Number: 468812039

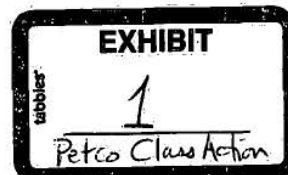
For being a valued member you saved:  
Pals Savings 14.00  
TOTAL SAVINGS 14.00

T = Taxable N = Non-Taxable  
(1) Discount not subject to sales tax  
(2) Manufacturer coupon subject to sales tax

Thank you for shopping at Petco!  
Questions/comments? 888-824-7257



Save time and money with repeat delivery!



REV-65 DA (03-13)



**pennsylvania**  
DEPARTMENT OF REVENUE  
Board of Appeals  
PO BOX 281021  
Harrisburg PA 17128-1021

**BOARD OF APPEALS  
PETITION FORM**

**FOR INTERNAL USE ONLY**

**GENERAL INSTRUCTIONS:** Please type or print neatly in blue or black ink. Attach a copy of the notice being appealed. Mail this petition to the address above. Petitions filed via the U.S. Postal Service are considered filed as of the postmark date. The department does not recognize meter dates. Petitions filed by any other method are considered filed on the date received by the department. Petitions may also be faxed to 717-346-2011.

**TAX INFORMATION:**

Sales Tax  Employer Withholding Tax  Corporation Tax  Personal Income Tax  Other \_\_\_\_\_

Account ID Number \_\_\_\_\_ Federal Employer Identification Number \_\_\_\_\_

Tax Period: Begin \_\_\_\_\_ End \_\_\_\_\_

Is this a petition for refund?  Yes  No If yes,  Cash  Credit Total Refund Requested \$ 0.21

If petition is in regard to sales tax, please list amount(s) below:

PA Tax Refund \$ 0.18 Philadelphia Tax Refund \$ \_\_\_\_\_ Allegheny County Tax Refund \$ 0.03

Has any portion of this request been included in another petition for refund or requested in a current or prior audit?

Yes  No If yes, please provide relevant docket number \_\_\_\_\_ and/or assessment number \_\_\_\_\_

Is this a petition for reassessment/review of tax, penalty and/or interest?  Yes  No

Notice Number \_\_\_\_\_ Notice Mailing Date \_\_\_\_\_ Assessment Amount \$ \_\_\_\_\_

**PETITIONER INFORMATION:**

Corporation  Individual  Partnership (Attach a list of partners and addresses.)  Other \_\_\_\_\_

Estate Date of Death \_\_\_\_\_ (Date of Death required for estates & personal income tax fiduciary appeals.)

Business Name \_\_\_\_\_

Trade Name \_\_\_\_\_

Individual Last Name Farneth First Name Brian MI \_\_\_\_\_

Social Security Number REDACTED **PRIVACY NOTIFICATION:** The department is authorized under federal law, 42 U.S.C. § 405 (c), to use your Social Security number in administering state tax law. The department uses your Social Security number to establish your identity and to process your appeal.

Street Address 2615 Fox Hollow Drive City Pittsburgh State PA

Country USA ZIP Code +4 15237-3867 Website \_\_\_\_\_

Telephone (412) 965-4774 Fax \_\_\_\_\_ Email Address brian.farneth@gmail.com

Contact Person \_\_\_\_\_ Contact Phone Number \_\_\_\_\_

**REPRESENTATIVE INFORMATION:**

Representation by an attorney, CPA or other person is not required. However, if so represented, complete this area.

Business Name \_\_\_\_\_

Individual Last Name \_\_\_\_\_ First Name \_\_\_\_\_ MI \_\_\_\_\_

Street Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_

Country \_\_\_\_\_ ZIP Code +4 \_\_\_\_\_ Website \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_ Email Address \_\_\_\_\_

Contact Person \_\_\_\_\_ Contact Phone Number \_\_\_\_\_

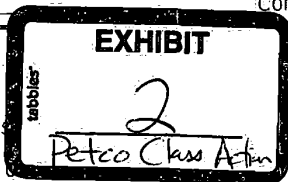
**SCHEDULING REQUEST:**

Hearing requested.

No hearing requested. Please decide on basis \_\_\_\_\_

This case to be held pending action of court \_\_\_\_\_

Case Number \_\_\_\_\_ Court Citation Number \_\_\_\_\_



**FOR INTERNAL USE ONLY**

DOCKET # \_\_\_\_\_

EXAMINER \_\_\_\_\_

PETITION DUE \_\_\_\_\_

**CORRESPONDENCE WITH THE BOARD OF APPEALS:**

Communication, including the board's final decision and order, may be transmitted to you or your representative via email, should you elect so below. If you elect to receive communications via email, you and your representatives assume the responsibility for the confidentiality of the information contained in emails sent to and from the Board of Appeals. The commonwealth will not be held liable for the disclosure of any confidential information sent via email.

Send correspondence to (select only one):  Petitioner or  Representative

Send correspondence via (select only one):  U.S. Mail or  Email

Send Decision and Order via (select only one):  U.S. Mail or  Email

**ISSUES:**

Itemize the issue(s) involved. What is the subject of appeal?

On June 8, 2013, I purchased two identical cans of Gillette Fusion Proglide shaving gel from Walmart. At the check out, I presented a buy one, get one free coupon, which was scanned by Walmart's electronic cash register. The register deducted the cost of one of the cans of shaving gel but charged sales tax on both cans of shaving gel. I paid sales tax based upon a \$2.97 cost of a can of shaving gel that I received for free. Attached is a copy of the coupon I presented and the receipt I received from Walmart.

**ARGUMENTS:**

Explain in detail why relief should be granted. Attach additional pages if necessary. Enclose copies of any supporting documents. Petitions for refund must be accompanied by proof of payment of the tax to the commonwealth and copies of invoices, credit memoranda, exemption certificates, etc. where relevant. Copies of canceled checks must include images of the fronts and backs of the checks. When submitting sales and use tax appeals (audit reassessments or refunds), complete and attach an Appeal Schedule (REV-39), following the instructions on the reverse side of the form. Appeal Schedules may be submitted electronically. A spreadsheet may also be created, using REV-39 as a guide. For information and instructions, call 717-783-3664. The petition form and schedule are available on the Board's Online Petition Center at [www.boardofappeals.state.pa.us](http://www.boardofappeals.state.pa.us).

I paid 21 cents (7% of the retail cost) of sales tax for a can of shaving gel that I received for free. Since I did not pay anything for the can of shaving gel, the sales tax I paid should be refunded to me.

**COMPROMISE:**

The Board of Appeals will consider compromises of assessment and refund appeals. If you wish to propose a compromise, please complete and submit a Request for Compromise (DBA-10) with your petition or at any time prior to issuance of a final decision regarding the appeal.

**SIGNATURES:**

All petitions must be signed by the petitioner or authorized representative. If signed only by an authorized representative, written authorization must accompany the petition. If the petitioner is a corporation, a corporate officer must sign.

Under penalties prescribed by law, I hereby certify this petition has been examined by me, and to the best of my knowledge, information and belief, the facts contained in the petition are true, correct and complete and the petition is not made for the purpose of delay. Also, if this is a petition for refund, I certify that the refund requested has not been granted in an audit report, nor has it been included in any other petition for refund.

Petitioner's Name and Title Brian Farneth

Petitioner's Signature  Date 2/16/15

Representative's Name and Title \_\_\_\_\_

Representative's Signature \_\_\_\_\_ Date \_\_\_\_\_

WE VALUE YOUR OPINION!

WE WANT TO KNOW ABOUT YOUR SHOPPING EXPERIENCE TODAY AT WAL-MART.

Please complete a survey about today's store visit at:

<http://www.survey.walmart.com>

You will need to enter the following online:

ID #: 7FPVDS1VTF1Z

IN RETURN FOR YOUR TIME YOU COULD RECEIVE ONE OF FIVE \$1000 WALMART SHOPPING CARDS

Must be 18 or older and a legal resident of the US, DC, or PR to enter. No purchase necessary to enter or win. To enter without purchase and for complete official rules visit [www.entry.survey.walmart.com](http://www.entry.survey.walmart.com). Sweepstakes period ends on the date shown in the official rules. Survey must be taken within TWO weeks of today.

Esta encuesta también se encuentra en español en la página del Internet

THANK YOU



( 412 ) 782 - 4444  
MANAGER DEBORAH SABENEY  
877 FREEPORT RD  
PITTSBURGH PA 15238

ST# 5339	OP# 00002131	TE# 04	TR# 08026
SHAVE GEL	004740000359		2.97 X
SHAVE GEL	004740000359		2.97 X
COUPON	47400 054740020000		2.97-0
	SUBTOTAL		2.97
TAX 1	7.000 %		0.42
	TOTAL		3.39
	DEBIT TEND		3.39
	DEBIT CASH BACK		40.00
	TOTAL DEBIT PURCHASE		43.39
	CHANGE DUE		40.00

EFT DEBIT	PAY FROM PRIMARY
3.39 PURCHASE	
40.00 CASH BACK	
43.39 TOTAL PURCHASE	

ACCOUNT # \*\*\*\* \* 0121 S  
REF # 316000585300  
NETWORK ID. 0090 APPR CODE 428022  
TERMINAL # 28004058

06/08/13 20:56:58

# ITEMS SOLD 2

TC# 3780 6418 6987 2322 0132



Ask a Pharmacy Sales Associate how you can save money on pet medications!  
06/08/13 20:57:01

**BUY ONE GET ONE**

**MANUFACTURER COUPON**

**17922**

**Buy ONE Gillette® Fusion® Shave Prep or Gillette Skin Care, get ONE Gillette Fusion Shave Prep FREE (excludes trial/travel sizes)**

**Comprá UN Gillette® Fusion® Shave Prep o Gillette Skin Care, obtén UN Gillette Fusion Shave Prep GRATIS (excluye tamaños de prueba/viaje)**

Up to/Comprá \$3.99

Check price with in retail price

**P&G brandSAVER**

**REDEMPTION: LIMIT ONE COUPON PER PURCHASE of products and excludes stated LIMIT OF 4 FREE COUPONS PER HOUSEHOLD PER DAY. Any other restrictions apply. Coupons not redeemable if purchased products for resale, void if transferred, sold, exchanged, reproduced or altered from original. May vary by sales tax. Do not send to Procter & Gamble.**

**REDEEMER: LIMIT DE UN COUPÓN POR COMPRA de productos y excluye especificaciones. EXISTE UN 4 COUPONES SUJETOS POR HOGAR POR DÍA. Despliegue otro por compra de prueba. No se redime si los cupones se compran para reventa, se venden, se intercambian, se reproducen o se alteran de original. Puede que varíe por impuestos de venta. No lo envíe a Procter & Gamble.**

**0047400-017922**

Send to: Procter & Gamble, 2150 Somersbrook Drive, Cincinnati, OH 45227. Redeem with "Requirements for Paper Coupon Redemption." Copy available by writing to the above address. No cash or credit in excess of retail price may be returned to consumer or applied to transaction. Cash value \$100 of P&G Procter & Gamble 130512

Apr. 2. 2015 1:52PM

No. 1375 P. 1

BOARD OF APPEALS  
P O BOX 281021  
HARRISBURG, PA 17128-1021



BRIAN FARNETH  
2615 FOX HOLLOW DRIVE  
PITTSBURGH, PA 15237-3867

IN RE PETITION OF:

BRIAN FARNETH

DOCKET NO.:	1502529
TAX TYPE:	Sales/Use Tax
APPEAL TYPE:	Refund
ACCOUNT NO.:	NO LICENSE
ASSESSMENT NO.:	N/A
TAX PERIOD:	6/1/2013 to 6/30/2013
APPEAL FILED:	2/20/2015
EXAMINER:	Elizabeth A. Rothermel Direct Dial: (717) 783-6234 Fax: (717) 787-7270 erothermel@pa.gov
MAILING DATE:	March 25, 2015

### DECISION AND ORDER

Upon review of the evidence submitted by Petitioner and Departmental records, it is hereby, ORDERED, that the Petitioner be granted a cash refund in the amount of \$.21, all of which amount was paid within the statutory period provided for under Section 253(a) of the Tax Reform Code of 1971.

FOR THE BOARD OF APPEALS

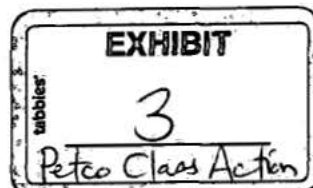
John A. Eason, Member

A check for any refund ordered by the Board of Appeals will be mailed to you under a separate cover.

Any appeal from this decision must be filed on or before JUNE 23, 2015 with the Board of Finance and Revenue, 1101 South Front Street, Suite 400, Harrisburg, Pa 17104, telephone 717.787.2974.


Please be advised that all evidence submitted in conjunction with this appeal becomes the property of the Commonwealth of Pennsylvania and **will not be returned.**

If you require this information in an alternate format under the provisions of Americans with Disabilities Act of 1990, please call 717.783.3664, or for services for taxpayers with special hearing and speaking needs: 1.800.447.3020 (TT only).



**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Plaintiffs  
Signature:   
Name: Frank G. Salpietro  
Attorney No.: 47154

# Supreme Court of Pennsylvania

Court of Common Pleas  
Civil Cover Sheet

ALLEGHENY

County



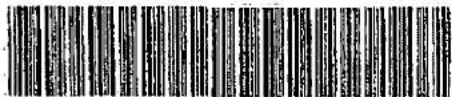
<i>For Prothonotary Use Only:</i>	TIME STAMP
Docket No.:	

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A	<b>Commencement of Action:</b>	
	<input checked="" type="checkbox"/> Complaint	<input type="checkbox"/> Writ of Summons
	<input type="checkbox"/> Transfer from Another Jurisdiction	<input type="checkbox"/> Declaration of Taking
	<input type="checkbox"/> Petition	
Lead Plaintiff's Name:	Lead Defendant's Name:	
NOAH R. JORDAN	PETCO HEALTH AND WELLNESS COMPANY, INC.	
Are money damages requested? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Dollar Amount Requested: <input type="checkbox"/> within arbitration limits (check one) <input checked="" type="checkbox"/> outside arbitration limits	
Is this a <i>Class Action Suit</i> ? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is this an <i>MDJ Appeal</i> ? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Name of Plaintiff/Appellant's Attorney: Frank G. Salpietro, Esquire - Rothman Gordon, P.C.		
<input type="checkbox"/> Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)		

SECTION B	<b>Nature of the Case:</b> Place an "X" to the left of the <u>ONE</u> case category that most accurately describes your <b>PRIMARY CASE</b> . If you are making more than one type of claim, check the one that you consider most important.		
	<b>TORT</b> ( <i>do not include Mass Tort</i> ) <input type="checkbox"/> Intentional <input type="checkbox"/> Malicious Prosecution <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Nuisance <input type="checkbox"/> Premises Liability <input type="checkbox"/> Product Liability ( <i>does not include mass tort</i> ) <input type="checkbox"/> Slander/Libel/ Defamation <input checked="" type="checkbox"/> Other: <u>Contract Disputes</u>	<b>CONTRACT</b> ( <i>do not include Judgments</i> ) <input type="checkbox"/> Buyer Plaintiff <input type="checkbox"/> Debt Collection: Credit Card <input type="checkbox"/> Debt Collection: Other  <input type="checkbox"/> Employment Dispute: Discrimination <input type="checkbox"/> Employment Dispute: Other  <input type="checkbox"/> Other:	<b>CIVIL APPEALS</b> Administrative Agencies <input type="checkbox"/> Board of Assessment <input type="checkbox"/> Board of Elections <input type="checkbox"/> Dept. of Transportation <input type="checkbox"/> Statutory Appeal: Other  <input type="checkbox"/> Zoning Board <input type="checkbox"/> Other:
	<b>MASS TORT</b> <input type="checkbox"/> Asbestos <input type="checkbox"/> Tobacco <input type="checkbox"/> Toxic Tort - DES <input type="checkbox"/> Toxic Tort - Implant <input type="checkbox"/> Toxic Waste <input type="checkbox"/> Other:	<b>REAL PROPERTY</b> <input type="checkbox"/> Ejectment <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Ground Rent <input type="checkbox"/> Landlord/Tenant Dispute <input type="checkbox"/> Mortgage Foreclosure: Residential <input type="checkbox"/> Mortgage Foreclosure: Commercial <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Other:	<b>MISCELLANEOUS</b> <input type="checkbox"/> Common Law/Statutory Arbitration <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Mandamus <input type="checkbox"/> Non-Domestic Relations Restraining Order <input type="checkbox"/> Quo Warranto <input type="checkbox"/> Replevin <input type="checkbox"/> Other:
	<b>PROFESSIONAL LIABILITY</b> <input type="checkbox"/> Dental <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional:		





61 2014 00091893

Allegheny County  
Jerry Tyskiewicz  
Department of Real Estate  
Pittsburgh, PA 15219

Exhibit "B"

Instrument Number: 2014-91893

BK-M VL-44672 PG-525

Recorded On: December 31, 2014 As-Mortgage

Parties: RUSSO ALFREDO F

To MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC NOM

# of Pages: 10

Comment:

\*\*\*\*\* THIS IS NOT A BILL \*\*\*\*\*

Mortgage	162.00
	0
	0
Total:	162.00

I hereby certify that the within and foregoing was recorded in the Department of Real Estate in Allegheny County, PA

**\*\*DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT\*\***

File Information:

Record and Return To:

Document Number: 2014-91893  
Receipt Number: 2790656  
Recorded Date/Time: December 31, 2014 01:16:14P  
Book-Vol/Pg: BK-M VL-44672 PG-525  
User / Station: E Walls - Cash Super 04

EXPRESS ABSTRACT AND SETTLEMENT INC  
664 TIRE HILL ROAD  
JOHNSTOWN PA 15905



*Jerry Tyskiewicz*  
Jerry Tyskiewicz, Acting Manager  
Rich Fitzgerald, County Executive

Recordation Requested by:  
UNIFIRST MORTGAGE CORPORATION  
217 EISENHOWER BLVD  
JOHNSTOWN, PA 15905

When Recorded Mail to:  
EXPRESS ABSTRACT AND SETTLEMENT, INC  
664 TIRE HILL ROAD  
JOHNSTOWN, PA 15905

Send Tax Notices to:  
UNIFIRST MORTGAGE CORPORATION  
217 EISENHOWER BLVD  
JOHNSTOWN, PA 15905

*Handwritten mark*

[Space Above This Line For Recording Data]

PARCEL TAX ID#: 121-K-41

State of Pennsylvania LOAN# [REDACTED]

MIN [REDACTED]

### MORTGAGE

FHA Case Number
[REDACTED]

THIS MORTGAGE ("Security Instrument") is given on November 25th, 2014 . The Mortgagor is Alfredo F Russo

whose address is 112 Carlisle Drive , Pittsburgh, PA 15223

"Borrower"). This Security Instrument is given to Mortgage Electronic Registration Systems, Inc. ("MERS"). MERS is a separate corporation acting solely as a nominee for Lender and Lender's successors and assigns. **MERS is the Mortgagee under this Security Instrument.** MERS is organized and existing under the laws of Delaware, and has an address and telephone number of 1901 E. Voorhees Street, Suite C, Danville, IL 61834 or P.O. BOX 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

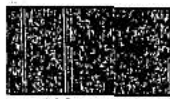
UNIFIRST MORTGAGE CORPORATION, A COLORADO CORPORATION which is organized and existing under the laws of THE STATE OF COLORADO , and whose address is 217 EISENHOWER BLVD, JOHNSTOWN, PA 15905

("Lender"). Borrower owes Lender the principal sum of FORTY FIVE THOUSAND TWO HUNDRED SEVENTY EIGHT AND NO/100

Dollars (U.S. \$ 45,278.00 )

This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on

December 1st, 2044 . This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note.



For this purpose, Borrower does hereby mortgage, grant and convey to MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS, the following described property located in ALLEGHENY County, Pennsylvania:  
See Attached

which has the address of 1711 Morningside Ave., Pittsburgh (Street, City),  
Pennsylvania 15206 ("Property Address");

(Zip Code)

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to releasing or canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal, Interest and Late Charge.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and late charges due under the Note.

2. **Monthly Payments of Taxes, Insurance and Other Charges.** Borrower shall include in each monthly payment, together with the principal and interest as set forth in the Note and any late charges, a sum of (a) taxes and special assessments levied or to be levied against the Property, (b) leasehold payments or ground rents on the Property, and (c) premiums for insurance required under paragraph 4. In any year in which the Lender must pay a mortgage insurance premium to the Secretary of Housing and Urban Development ("Secretary"), or in any year in which such premium would have been required if Lender still held the Security Instrument, each monthly payment shall also include either: (i) a sum for the annual mortgage insurance premium to be paid by Lender to the Secretary, or (ii) a monthly charge instead of a mortgage insurance premium if this Security Instrument is held by the Secretary, in a reasonable amount to be determined by the Secretary. Except for the monthly charge by the Secretary, these items are called "Escrow Items" and the sums paid to Lender are called "Escrow Funds".

Lender may, at any time, collect and hold amounts for Escrow Items in an aggregate amount not to exceed the maximum amount that may be required for Borrower's escrow account under the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. section 2601 et seq, and implementing regulations, 12 CFR Part 1024, as they may be amended from time to time ("RESPA"), except that the cushion or reserve permitted by RESPA for unanticipated disbursements or disbursements before the Borrower's payments are available in the account may not be based on amounts due for the mortgage insurance premium.



If the amounts held by Lender for Escrow Items exceed the amounts permitted to be held by RESPA, Lender shall account to Borrower for the excess funds as required by RESPA. If the amounts of funds held by Lender at any time are not sufficient to pay the Escrow Items when due, Lender may notify the Borrower and require Borrower to make up the shortage as permitted by RESPA.

The Escrow Funds are pledged as additional security for all sums secured by this Security Instrument. If Borrower tenders to Lender the full payment of all such sums, Borrower's account shall be credited with the balance remaining for all installment items (a), (b) and (c) and any mortgage insurance premium installment that Lender has not become obligated to pay to the Secretary; and Lender shall promptly refund any excess funds to Borrower. Immediately prior to a foreclosure sale of the Property or its acquisition by Lender, Borrower's account shall be credited with any balance remaining for all installments for items (a), (b) and (c).

**3. Application of Payments.** All payments under paragraphs 1 and 2 shall be applied by Lender as follows:

First, to the mortgage insurance premium to be paid by Lender to the Secretary or to the monthly charge by the Secretary instead of the monthly mortgage insurance premium;

Second, to any taxes, special assessments, leasehold payments or ground rents, and fire, flood and other hazard insurance premiums, as required;

Third, to interest due under the Note;

Fourth, to amortization of the principal of the Note; and

Fifth, to late charges due under the Note.

**4. Fire, Flood and Other Hazard Insurance.** Borrower shall insure all improvements on the Property, whether now in existence or subsequently erected, against any hazards, casualties, and contingencies, including fire, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. Borrower shall also insure all improvements on the Property, whether now in existence or subsequently erected, against loss by floods to the extent required by the Secretary. All insurance shall be carried with companies approved by Lender. The insurance policies and any renewals shall be held by Lender and shall include loss payable clauses in favor of, and in a form acceptable to Lender.

In the event of loss, Borrower shall give Lender immediate notice by mail. Lender may make proof of loss if not made promptly by Borrower. Each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Lender, instead of to Borrower and to Lender jointly. All or any part of the insurance proceeds may be applied by Lender, at its option, either (a) to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order in paragraph 3, and then to prepayment of principal, or (b) to the restoration or repair of the damaged Property. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments which are referred to in paragraph 2, or change the amount of such payments. Any excess insurance proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

In the event of foreclosure of this Security Instrument or other transfer of title to the Property that extinguishes the indebtedness, all right, title and interest of Borrower in and to insurance policies in force shall pass to the purchaser.

**5. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument (or within sixty days of a later sale or transfer of the Property) and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender determines this requirement will cause undue hardship for Borrower, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall notify Lender of any extenuating circumstances. Borrower shall not commit waste or destroy, damage or substantially



change the Property or allow the Property to deteriorate, reasonable wear and tear excepted. Lender may inspect the Property if the Property is vacant or abandoned or the loan is in default. Lender may take reasonable action to protect and preserve such vacant or abandoned Property. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and fee title shall not be merged unless Lender agrees to the merger in writing.

**6. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in place of condemnation, are hereby assigned and shall be paid to Lender to the extent of the full amount of the indebtedness that remains unpaid under the Note and this Security Instrument. Lender shall apply such proceeds to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order provided in paragraph 3, and then to prepayment of principal. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments, which are referred to in paragraph 2, or change the amount of such payments. Any excess proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

**7. Charges to Borrower and Protection of Lender's Rights in the Property.** Borrower shall pay all governmental or municipal charges, fines and impositions that are not included in paragraph 2. Borrower shall pay these obligations on time directly to the entity which is owed the payment. If failure to pay would adversely affect Lender's interest in the Property, upon Lender's request Borrower shall promptly furnish to Lender receipts evidencing these payments.

If Borrower fails to make these payments or the payments required by paragraph 2, or fails to perform any other covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, for condemnation or to enforce laws or regulations), then Lender may do and pay whatever is necessary to protect the value of the Property and Lender's rights in the Property, including payment of taxes, hazard insurance and other items mentioned in paragraph 2.

Any amounts disbursed by Lender under this paragraph shall become an additional debt of Borrower and be secured by this Security Instrument. These amounts shall bear interest from the date of disbursement at the Note rate, and at the option of Lender shall be immediately due and payable.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to the Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

**8. Fees.** Lender may collect fees and charges authorized by the Secretary.

**9. Grounds for Acceleration of Debt.**

**(a) Default.** Lender may, except as limited by regulations issued by the Secretary in the case of payment defaults, require immediate payment in full of all sums secured by this Security Instrument if:

- (i) Borrower defaults by failing to pay in full any monthly payment required by this Security Instrument prior to or on the due date of the next monthly payment, or
- (ii) Borrower defaults by failing, for a period of thirty days, to perform any other obligations contained in this Security Instrument.



**(b) Sale Without Credit Approval.** Lender shall, if permitted by applicable law (including section 341(d) of the Garn-St Germain Depository Institutions Act of 1982, 12 U.S.C. 1701j-3(d)) and with the prior approval of the Secretary, require immediate payment in full of all sums secured by this Security Instrument if:

(i) All or part of the Property, or a beneficial interest in a trust owning all or part of the Property, is sold or otherwise transferred (other than by devise or descent), and

(ii) The Property is not occupied by the purchaser or grantee as his or her principal residence, or the purchaser or grantee does so occupy the Property but his or her credit has not been approved in accordance with the requirements of the Secretary.

**(c) No Waiver.** If circumstances occur that would permit Lender to require immediate payment in full, but Lender does not require such payments, Lender does not waive its rights with respect to subsequent events.

**(d) Regulations of HUD Secretary.** In many circumstances regulations issued by the Secretary will limit Lender's rights, in the case of payment defaults, to require immediate payment in full and foreclose if not paid. This Security Instrument does not authorize acceleration or foreclosure if not permitted by regulations of the Secretary.

**(e) Mortgage Not Insured.** Borrower agrees that if this Security Instrument and the Note are not determined to be eligible for insurance under the National Housing Act within 30 DAY from the date hereof, Lender may, at its option require immediate payment in full of all sums secured by this Security Instrument. A written statement of any authorized agent of the Secretary dated subsequent to 30 DAY from the date hereof, declining to insure this Security Instrument and the Note, shall be deemed conclusive proof of such ineligibility. Notwithstanding the foregoing, this option may not be exercised by Lender when the unavailability of insurance is solely due to Lender's failure to remit a mortgage insurance premium to the Secretary.

**10. Reinstatement.** Borrower has a right to be reinstated if Lender has required immediate payment in full because of Borrower's failure to pay an amount due under the Note or this Security Instrument. This right applies even after foreclosure proceedings are instituted. To reinstate the Security Instrument, Borrower shall tender in a lump sum all amounts required to bring Borrower's account current including, to the extent they are obligations of Borrower under this Security Instrument, foreclosure costs and reasonable and customary attorneys' fees and expenses properly associated with the foreclosure proceeding. Upon reinstatement by Borrower, this Security Instrument and the obligations that it secures shall remain in effect as if Lender had not required immediate payment in full. However, Lender is not required to permit reinstatement if: (i) Lender has accepted reinstatement after the commencement of foreclosure proceedings within two years immediately preceding the commencement of a current foreclosure proceeding, (ii) reinstatement will preclude foreclosure on different grounds in the future, or (iii) reinstatement will adversely affect the priority of the lien created by this Security Instrument.

**11. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time of payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successor in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

**12. Successors and Assigns Bound; Joint and Several Liability; Co-Signers.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 9(b). Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this



Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

**13. Notices.** Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

**14. Governing Law; Severability.** This Security Instrument shall be governed by Federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

**15. Borrower's Copy.** Borrower shall be given one conformed copy of the Note and of this Security Instrument.

**16. Hazardous Substances.** Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 16, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 16, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

**NON-UNIFORM COVENANTS.** Borrower and Lender further covenant and agree as follows:

**17. Assignment of Rents.** Borrower unconditionally assigns and transfers to Lender all the rents and revenues of the Property. Borrower authorizes Lender or Lender's agents to collect the rents and revenues and hereby directs each tenant of the Property to pay the rents to Lender or Lender's agents. However, prior to Lender's notice to Borrower of Borrower's breach of any covenant or agreement in the Security Instrument, Borrower shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and Borrower. This assignment of rents constitutes an absolute assignment and not an assignment for additional security only.

If Lender gives notice of breach to Borrower: (a) all rents received by Borrower shall be held by Borrower as trustee for benefit of Lender only, to be applied to the sums secured by the Security Instrument; (b) Lender shall be entitled to collect and receive all of the rents of the Property; and (c) each tenant of the Property shall pay all rents due and unpaid to Lender or Lender's agent on Lender's written demand to the tenant.

Borrower has not executed any prior assignment of the rents and has not and will not perform any act that would prevent Lender from exercising its rights under this paragraph 17.



Lender shall not be required to enter upon, take control of or maintain the Property before or after giving notice of breach to Borrower. However, Lender or a judicially appointed receiver may do so at any time there is a breach. Any application of rents shall not cure or waive any default or invalidate any other right or remedy of Lender. This assignment of rents of the Property shall terminate when the debt secured by the Security Instrument is paid in full.

**18. Foreclosure Procedure.** If Lender requires immediate payment in full under paragraph 9, Lender may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 18, including, but not limited to, reasonable attorneys' fees and costs of title evidence to the extent permitted by applicable law.

If the Lender's interest in this Security Instrument is held by the Secretary and the Secretary requires immediate payment in full under paragraph 9, the Secretary may invoke the nonjudicial power of sale provided in the Single Family Mortgage Foreclosure Act of 1994 ("Act") (12 U.S.C. 3751 et seq.) by requesting a foreclosure commissioner designated under the Act to commence foreclosure and to sell the Property as provided in the Act. Nothing in the preceding sentence shall deprive the Secretary of any rights otherwise available to a Lender under this paragraph 18 or applicable law.

**19. Release.** Upon payment of all sums secured by this Security Instrument, this Security Instrument and the estate conveyed shall terminate and become void. After such occurrence, Lender shall discharge and satisfy this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

**20. Waivers.** Borrower, to the extent permitted by applicable law, waives and releases any error or defects in proceedings to enforce this Security Instrument, and hereby waives the benefit of any present or future laws providing for stay of execution, extension of time, exemption from attachment, levy and sale, and homestead exemption.

**21. Reinstatement Period.** Borrower's time to reinstate provided in paragraph 18 shall extend to one hour prior to the commencement of bidding at a sheriff's sale or other sale pursuant to this Security Instrument.

**22. Purchase Money Mortgage.** If any of the debt secured by this Security Instrument is lent to Borrower to acquire title to the Property, this Security Instrument shall be a purchase money mortgage.

**23. Interest Rate After Judgment.** Borrower agrees that the interest rate payable after a judgment is entered on the Note or in an action of mortgage foreclosure shall be the rate payable from time to time under the Note.

**24. Riders to this Security Instrument.** If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument.

[Check applicable box(es)]

- |                          |                         |                          |                          |
|--------------------------|-------------------------|--------------------------|--------------------------|
| <input type="checkbox"/> | Condominium Rider       | <input type="checkbox"/> | Growing Equity Rider     |
| <input type="checkbox"/> | Graduated Payment Rider | <input type="checkbox"/> | Planned Unit Development |
| <input type="checkbox"/> | Other(s) [specify]      |                          |                          |





BY SIGNING BELOW, Borrower accepts and agrees to the terms contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Witness:

*[Signature]*

*[Signature]*  
Alfredo F. Russo (Seal)  
Borrower

\_\_\_\_\_  
(Seal)  
Borrower

\_\_\_\_\_  
(Seal)  
Borrower

### CERTIFICATE OF RESIDENCE

I hereby certify, that the precise address of the mortgagor,  
UNIFIRST MORTGAGE CORPORATION  
herein is as follows:

*[Signature]*  
Attorney or Agent for Mortgage

211 EISENHOWER BLVD., JOHNSTOWN, PA. 15905

### INDIVIDUAL ACKNOWLEDGMENT

STATE OF PENNSYLVANIA )  
  ) SS  
COUNTY OF Allegheny )

On this, the 25th day of November, 2014, before me  
the undersigned Notary Public, personally appeared  
Alfredo F. Russo

known to me or satisfactorily proven) to be the person whose name(s) is/are subscribed to the within instrument,  
and acknowledged that he/she/they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY EXPIRATION DATE:

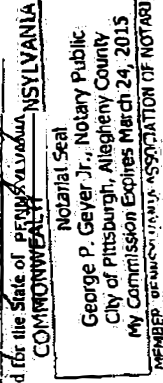
NMLSR ID: 333096

NMLSR (L.O.) ID: 1042375 (Mark Romano)

Lend Originator: UNIFIRST MORTGAGE CORPORATION

GCC - 1590-8PA (03/16)

Page 8 of 8



ALL THAT CERTAIN lot or piece of ground situate in the 10th Ward of the City of Pittsburgh, County of Allegheny and Commonwealth of Pennsylvania, being Lot No. 434 in a Plan of Lots laid out by John H. Sawyer recorded in Plan Book Volume 6, Page 34, and bounded and described as follows, to-wit:

BEGINNING on the Westerly side of Morningside Avenue at a distance of 100 feet Northwardly from Martha Street; thence running Northwardly along said Morningside Avenue, 20 feet to a pin; and thence extending back Westwardly, preserving the same width throughout, 100 feet to an alley 20 feet wide.

PARCEL NO. 121-K-41

BEING the same premises which John Ondrejik, unmarried, by Deed dated 03/28/1973 and recorded 03/29/1973 in the Department of Real Estate Office of Allegheny County, Pennsylvania in Deed Book Volume 4665, Page 239, granted and conveyed unto Louis G. Geidel and Myrtle E. Geidel, husband and wife.

AND the said Louis G. Geidel has since departed this life on \_\_ \_\_, leaving title vested in Myrtle E. Geidel by right of survivorship.

AND the said Myrtle E. Geidel has since departed this life on 05/16/2011, leaving a Last Will and Testament, duly filed and probated to No. 02-11-06441 in the Office of the Register of Wills of Allegheny County, wherein she did nominate Louis G. Geidel, Jr., to whom Letters Testamentary were granted on 10/25/2011.

NOTICE - THIS DOCUMENT DOES NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND IN THAT CONNECTION DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957 P.L., 984 as amended, and is not intended as notice of unrecorded instruments, if any).

NOTICE - THE UNDERSIGNED, AS EVIDENCED BY THE SIGNATURE(S) TO THE NOTICE AND THE ACCEPTANCE AND RECORDING OF THIS DEED, ARE FULLY COGNIZANT OF THE FACT THAT THE UNDERSIGNED MAY NOT BE OBTAINING THE RIGHT TO PROTECTION AGAINST SUBSIDENCE, AS TO THE PROPERTY HEREIN CONVEYED, RESULTING FROM COAL MINING OPERATIONS AND THAT THE PURCHASED PROPERTY, HEREIN CONVEYED, MAY BE PROTECTED FROM DAMAGE DUE TO MINE SUBSIDENCE BY A PRIVATE CONTRACT WITH THE OWNERS OF THE ECONOMIC INTEREST IN THE COAL. THIS NOTICE IS INSERTED HEREIN TO COMPLY WITH THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT OF 1966.

Exhibit "C"

**Judgment Figures****Good Through Date:** 10/1/2021

Loan #:

Borrower's Name: ALFREDO F RUSSO

Principal Balance	\$42,446.62		
Deferred Balance	\$0.00		
Interest	\$6,384.76	Per Diem:	\$5.52 @ 4.750% interest 8/1/2018
Interest			\$0.00 10/1/2021
Short Interest:	\$0.00		
Pre-accelerate LC	\$9.45	1/17/2019	
Pre-accelerate LC	\$9.45	12/17/2018	
Pre-accelerate LC	\$9.45	11/21/2018	
Pre-accelerate LC	\$9.45	10/17/2018	
Pre-accelerate LC	\$9.45	9/17/2018	
Pre-accelerate LC	\$9.45	7/17/2018	
<b>Total Pre-accelerate LC</b>	<b>\$56.70</b>		

Late Charge	\$9.45	9/17/2021
Late Charge	\$9.45	8/17/2021
Late Charge	\$9.45	7/19/2021
Late Charge	\$9.45	6/17/2021
Late Charge	\$9.45	5/17/2021
Late Charge	\$9.45	4/19/2021
Late Charge	\$9.45	3/17/2021
Late Charge	\$9.45	2/18/2021
Late Charge	\$9.45	1/19/2021
Late Charge	\$9.45	12/17/2020
Late Charge	\$9.45	11/18/2020
Late Charge	\$9.45	10/19/2020
Late Charge	\$9.45	9/17/2020
Late Charge	\$9.45	8/17/2020
Late Charge	\$9.45	7/17/2020
Late Charge	\$9.45	3/17/2020
Late Charge	\$9.45	2/18/2020
Late Charge	\$9.45	1/17/2020
Late Charge	\$9.45	12/17/2019
Late Charge	\$9.45	7/17/2019
Late Charge	\$9.45	6/17/2019
Late Charge	\$9.45	5/17/2019
Late Charge	\$9.45	4/17/2019
Late Charge	\$9.45	3/18/2019
Late Charge	\$9.45	2/19/2019
<b>Total Late Charges</b>	<b>\$236.25</b>	

**CORPORATE**

Litigation Fee	\$0.00	
<b>Total Litigation Fees</b>	<b>\$0.00</b>	
Foreclosure Fee	\$470.00	3/11/2020
Foreclosure Fee	\$470.00	6/25/2019
Foreclosure Fee	\$335.00	4/8/2019

Foreclosure Fee	\$75.00	2/12/2019
Foreclosure Fee	\$840.00	2/6/2019
<b>Total Foreclosure Fees</b>	<b>\$2,190.00</b>	
Foreclosure Cost	\$75.00	8/25/2020
Foreclosure Cost	\$1.10	3/11/2020
Foreclosure Cost	\$1.10	3/11/2020
Foreclosure Cost	\$2,000.00	3/11/2020
Foreclosure Cost	\$170.00	6/25/2019
Foreclosure Cost	\$170.00	6/25/2019
Foreclosure Cost	\$25.00	4/8/2019
Foreclosure Cost	\$171.75	4/8/2019
Foreclosure Cost	\$125.00	4/8/2019
Foreclosure Cost	\$2.20	2/12/2019
Foreclosure Cost	\$250.00	1/31/2019
<b>Total Foreclosure Costs</b>	<b>\$2,991.15</b>	
Bankruptcy Fee	\$0.00	
<b>Total Bankruptcy Fees</b>	<b>\$0.00</b>	
Bankruptcy Cost	\$0.00	
<b>Total Bankruptcy Costs</b>	<b>\$0.00</b>	
Appraisal/BPO	\$0.00	
<b>Total Appraisals/BPOs</b>	<b>\$0.00</b>	
Property Inspection	\$20.00	9/15/2021
Property Inspection	\$20.00	8/18/2021
Property Inspection	\$20.00	7/26/2021
Property Inspection	\$20.00	6/24/2021
Property Inspection	\$20.00	5/20/2021
Property Inspection	\$20.00	4/14/2021
Property Inspection	\$20.00	3/10/2021
Property Inspection	\$20.00	2/4/2021
Property Inspection	\$20.00	1/6/2021
Property Inspection	\$20.00	12/2/2020
Property Inspection	\$20.00	11/3/2020
Property Inspection	\$20.00	10/6/2020
Property Inspection	\$20.00	9/4/2020
Property Inspection	\$20.00	8/6/2020
Property Inspection	\$20.00	7/13/2020
Property Inspection	\$20.00	6/11/2020
Property Inspection	\$20.00	5/14/2020
Property Inspection	\$20.00	4/14/2020
Property Inspection	\$20.00	3/12/2020
Property Inspection	\$20.00	2/19/2020
Property Inspection	\$20.00	1/7/2020
Property Inspection	\$20.00	12/6/2019
Property Inspection	\$20.00	11/5/2019
Property Inspection	\$20.00	10/10/2019
Property Inspection	\$20.00	9/10/2019
Property Inspection	\$20.00	8/8/2019
Property Inspection	\$20.00	7/9/2019
Property Inspection	\$20.00	6/5/2019
Property Inspection	\$20.00	5/13/2019
Property Inspection	\$20.00	4/5/2019
Property Inspection	\$20.00	3/19/2019
Property Inspection	\$20.00	2/6/2019

Property Inspection	\$20.00	1/10/2019
Property Inspection	\$20.00	12/5/2018
Property Inspection	\$20.00	10/26/2018
<b>Total Property Inspections</b>	<b>\$700.00</b>	
Property Preservation	\$0.00	
<b>Total Property Preservation</b>	<b>\$0.00</b>	
<b>Total Corp Advances</b>	<b>\$5,881.15</b>	

**ESCROW**

MI/PMI	\$42.72	9/3/2021
MI/PMI	\$42.72	8/4/2021
MI/PMI	\$42.72	7/2/2021
MI/PMI	\$42.72	6/4/2021
MI/PMI	\$42.72	5/4/2021
MI/PMI	\$42.72	4/2/2021
MI/PMI	\$42.72	3/4/2021
MI/PMI	\$42.72	2/4/2021
MI/PMI	\$42.72	1/5/2021
MI/PMI	\$43.68	12/4/2020
MI/PMI	\$43.68	11/4/2020
MI/PMI	\$43.68	10/2/2020
MI/PMI	\$43.68	9/4/2020
MI/PMI	\$43.68	8/4/2020
MI/PMI	\$43.68	7/3/2020
MI/PMI	\$43.68	6/4/2020
MI/PMI	\$43.68	5/4/2020
MI/PMI	\$43.68	4/3/2020
MI/PMI	\$43.68	3/4/2020
MI/PMI	\$43.68	2/4/2020
MI/PMI	\$43.68	1/3/2020
MI/PMI	\$44.60	12/4/2019
MI/PMI	\$44.60	11/4/2019
MI/PMI	\$44.60	10/4/2019
MI/PMI	\$44.60	9/4/2019
MI/PMI	\$44.60	8/2/2019
MI/PMI	\$44.60	7/10/2019
MI/PMI	\$44.60	6/4/2019
MI/PMI	\$44.60	5/3/2019
MI/PMI	\$44.60	4/4/2019
MI/PMI	\$44.60	3/4/2019
MI/PMI	\$44.60	2/4/2019
MI/PMI	\$44.60	1/4/2019
MI/PMI	\$45.48	12/4/2018
MI/PMI	\$45.48	11/2/2018
MI/PMI	\$45.48	10/4/2018
VI/PMI	\$45.48	9/2/2018
VI/PMI	\$45.48	8/3/2018
VI/PMI	\$45.48	7/3/2018
VI/PMI	\$45.48	5/5/2018
VI/PMI	\$45.48	5/1/2018
VI/PMI	\$45.48	4/3/2018
VI/PMI	\$45.48	3/2/2018
VI/PMI	\$45.48	2/2/2018
VI/PMI	\$45.48	1/3/2018

MI/PMI	\$46.31	12/4/2017
MI/PMI	\$46.31	11/3/2017
MI/PMI	\$46.31	10/3/2017
MI/PMI	\$46.31	9/5/2017
MI/PMI	\$46.31	8/3/2017
MI/PMI	\$46.31	7/5/2017
MI/PMI	\$46.31	6/2/2017
MI/PMI	\$46.31	5/3/2017
<b>Total MI/PMI</b>	<b>\$2,360.08</b>	
<b>Pro Rata MIP/PMI:</b>	<b>\$85.44</b>	<b>FUTURE PAYMENT</b>
Hazard Insurance	\$1,631.51	7/7/2021
Hazard Insurance	\$1,460.93	7/7/2020
Hazard Insurance	\$1,401.56	7/8/2019
<b>Total Hazard Insurance</b>	<b>\$4,494.00</b>	
Taxes	\$301.30	2/17/2021
Taxes	\$1,195.67	1/29/2021
Taxes	\$301.30	2/19/2020
Taxes	\$1,163.17	1/22/2020
<b>Total Taxes</b>	<b>\$2,961.44</b>	
<b>Total Esc Advances</b>	<b>\$9,815.52</b>	
Recording Fee	\$0.00	
Less Suspense Balance	\$0.00	
<b>TOTAL:</b>	<b>\$64,906.44</b>	

# Sheriff Return

**Case No:** GD-21-013752

**Case Description:** *Jordan vs Petco Health and Wellness Company Inc.*

**Defendant:** *Petco Health & Wellness Company Inc.*

**Service Address:** *590 East Waterfront Drive Homestead, PA 15120 Allegheny*

**Writ Description:** *Complaint*

**Issue Date:** *11/08/2021 02:31 PM*

**Service Status:** *Served - Manager / other person authorized to accept deliveries of United States Mail*

**Served Upon:** *Petco Health & Wellness Company Inc.*

**Served By:** *JBELBACK*

**Served On:** *11/24/2021 11:07 AM*

**Service Method:** *Person In Charge*

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Alleges Petco Overcharged Sales Tax on Discounted Purchases in Pennsylvania](#)

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