

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

_____	)	Case No. 1:09-SP-80000
	)	(MDL Docket No. 2066)
Plaintiff(s),	)	
	)	
vs.	)	
	)	
	)	
C.B. FLEET COMPANY, INC., a Virginia Corporation,	)	
	)	
Defendant.	)	<b>(DEMAND FOR A JURY TRIAL)</b>
_____	)	

**SHORT FORM COMPLAINT BY ADOPTION**

Plaintiff(s), by and through the undersigned attorneys, complain of Defendant and allege as follows:

**PARTIES**

1. Plaintiff(s) \_\_\_\_\_ are citizen(s) of the State of \_\_\_\_\_.
2. On or about \_\_\_\_\_ Plaintiff \_\_\_\_\_ ingested Fleet Phospho-soda and has sustained injury and damage thereby. Plaintiff alleges that this claim is brought within the applicable statute of limitations as it was brought within the time allowed by law once plaintiff knew or in the exercise of reasonable diligence should have known that Plaintiff's injury was caused by or related to the use of the Fleet product.
3. Defendant C.B. Fleet Company, Inc. ("Fleet" or "Defendant") is a citizen of the State of Virginia, with its corporate headquarters located in Lynchburg, Virginia.

**JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1332,

in that this is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interests and costs.

5. Venue is proper in this judicial district pursuant to a stipulation from Defendant that it will not assert any objection of improper venue pursuant to Fed. R. Civ. P. 12(b) in any case filed directly in the Northern District of Ohio that would have otherwise been properly transferable to this Multi-District Litigation proceeding and for which the original venue would have otherwise been proper in a district court outside the Northern District of Ohio, and pursuant to Case Management Order No. 1. Upon the completion of all MDL pretrial proceedings applicable to this case, plaintiff seeks remand of this case for trial to the United States District Court for the jurisdiction where this case arose, which district is the proper venue under 28 U.S.C. § 1391 (a & c) because the events giving rise to the claims occurred within said district and because Defendant conducts business within that district, and has engaged in promoting, manufacturing, marketing, and/or distributing goods and products to consumers in that district.

**ADOPTION OF MASTER COMPLAINT**

6. Pursuant to Case Management Order No. 1 on file herein, Plaintiff(s) do hereby adopt the allegations of the Master Complaint as they pertain to Fleet's fault, acts, omissions, and other conduct as set forth therein.

7. Plaintiff herein does hereby adopt, by the mark so indicating, the following CAUSES OF ACTION as set out in the Master Complaint:

- 1. STRICT LIABILITY FAILURE TO WARN \_\_\_\_\_
- 2. STRICT LAIBLITY DESIGN DEFECT \_\_\_\_\_
- 3. NEGLIGENCE \_\_\_\_\_
- 4. MISREPRESENTATION/CONSUMER FRAUD \_\_\_\_\_

- 5. BREACH OF EXPRESS WARRANTY \_\_\_\_\_
- 6. BREACH OF IMPLIED WARRANTIES \_\_\_\_\_
- 7. FRAUD \_\_\_\_\_
- 8. LOSS OF CONSORTIUM \_\_\_\_\_
- 9. WRONGFUL DEATH \_\_\_\_\_
- 10. SURVIVAL ACTION \_\_\_\_\_

8. Plaintiff alleges a further State Law Cause of Action, specific to the jurisdiction where this claim arose, as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff(s) demands judgment on each of the causes of action alleged for general and special damages, and punitive damages, in such amounts in excess of \$75,000 as will be proven at trial, and further prays for an award of reasonable attorneys' fees and costs, together with such other and further relief as may be deemed just, equitable, and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff demands trial by jury on all issues so triable.

DATED: \_\_\_\_\_

**Attorneys for Plaintiff:**  
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