

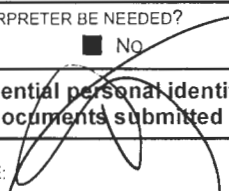


Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS) Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed		FOR USE BY CLERK'S OFFICE ONLY PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA CHG/CK NO. AMOUNT: OVERPAYMENT: BATCH NUMBER:
	ATTORNEY / PRO SE NAME Craig S. Hilliard, Esq.	TELEPHONE NUMBER (609) 895-7346	COUNTY OF VENUE Hunterdon
	FIRM NAME (if applicable) Stark & Stark, P.C.		DOCKET NUMBER (when available)
	OFFICE ADDRESS 993 Lenox Drive, Bldg. Two Lawrenceville, NJ 08648		DOCUMENT TYPE Complaint JURY DEMAND <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
NAME OF PARTY (e.g., John Doe, Plaintiff) DW Vineyards LLC, Plaintiff		CAPTION DW Vineyards LLC vs. New Jersey Turnpike Authority	
CASE TYPE NUMBER (See reverse side for listing) 508	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN	
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS	
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION			
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION	
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, FOR WHAT LANGUAGE?	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .			
ATTORNEY SIGNATURE:  9/30/16			



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE – PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE – PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE – PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT – OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

- | | |
|---|--|
| <ul style="list-style-type: none"> 271 ACCUTANE/ISOTRETINOIN 274 RISPERDAL/SEROQUEL/ZYPREXA 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL 282 FOSAMAX 285 STRYKER TRIDENT HIP IMPLANTS 286 LEVAQUIN 287 YAZ/YASMIN/OCELLA 289 REGLAN 290 POMPTON LAKES ENVIRONMENTAL LITIGATION 291 PELVIC MESH/GYNECARE | <ul style="list-style-type: none"> 292 PELVIC MESH/BARD 293 DEPUY ASR HIP IMPLANT LITIGATION 295 ALLODERM REGENERATIVE TISSUE MATRIX 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS 297 MIRENA CONTRACEPTIVE DEVICE 299 OLMESARTAN MEDOXOMIL MEDICATIONS/BENICAR 300 TALC-BASED BODY POWDERS 601 ASBESTOS 623 PROPECIA |
|---|--|

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category Putative Class Action Title 59

STARK & STARK
A Professional Corporation
P.O. Box 5315
Princeton, New Jersey 08543-5315
(609) 896-9060
Attorneys for Plaintiff

DW VINEYARDS LLC, Plaintiff, vs. NEW JERSEY TURNPIKE AUTHORITY, Defendant.

SUPERIOR COURT OF NEW JERSEY
HUNTERDON COUNTY
LAW DIVISION

DOCKET NO.: _____

**COMPLAINT FOR
DECLARATORY JUDGMENT
OF NON-INFRINGEMENT**

Plaintiff, DW Vineyards LLC d/b/a Old York Cellars, by and through its attorneys, by way of Complaint against defendant, New Jersey Turnpike Authority, hereby states as follows:

PARTIES

1. Plaintiff, DW Vineyards LLC d/b/a Old York Cellars (“OYC”), is a New Jersey limited liability company with a principal place of business at 80 Old York Road, Ringoes, NJ 08551.
2. Defendant, New Jersey Turnpike Authority (“NJTA”), is an authority formed under the laws of the State of New Jersey with a principal place of business at 581 Main Street, Woodbridge, NJ 07095.

FACTS

3. OYC is an award-winning winery located in the Sourland Mountains in Hunterdon County, New Jersey.
4. OYC produces fine wines from one of the oldest vineyards in New Jersey.
5. OYC is much more than just a business selling wine to the public. It is actively engaged in supporting the New Jersey community by hosting events and sponsoring programs for worthy causes. Among its many civic contributions to the surrounding community, OYC originated a "Charity Alliance" program through which it makes a donation for every bottle of "What Exit Wines" purchased, to various charities and non-profit organizations in New Jersey, including: 1) the Hurricane Sandy New Jersey Relief Fund, co-chaired by New Jersey's First Lady Mary Pat Christie; 2) the Congenital Heart Defect Coalition; 3) the South Camden Theatre Company, which is a major participant in the rebirth of South Camden; and 4) Michael's Miracles, which raises awareness about juvenile diabetes and supports efforts to improve the quality of life for afflicted children.
6. OYC sells a line of fine wines under the logo "What Exit Wines" (the "OYC Mark"). The OYC Mark is depicted below:



7. In or around July 2015, OYC received a letter from NJTA asserting that OYC infringed on the trademark "Garden State Parkway" (the "GSP Mark") in its marketing and sale of "What Exit Wines".
8. NJTA claims to be the owner of the GSP Mark, and further claims to have been using it in connection with highway management and maintenance services, as well as travel information services, since as early as 1956.
9. The GSP Mark is depicted below:



10. NJTA claims to be the owner of a registration, issued by the U.S. Patent & Trademark Office ("USPTO"), U.S. Registration No. 2,452,349, for the GSP Mark in International Class 37 for highway management and maintenance services, and in International Class 39 for travel information services (the "GSP Registration").
11. Despite receiving a federal registration on the GSP Mark, the GSP Mark cannot be protected under state or federal law, and accordingly the GSP Mark is susceptible to cancellation by the USPTO, and should be cancelled.
12. The New Jersey Turnpike Act (the "Act"), which defines and limits the authority of the NJTA, proscribes any agency activity which is not "directly or indirectly related to the use of a transportation project". N.J.S.A. 27:23-5.9. The Act, therefore, does not permit the NJTA to engage in a commercial business

involving the use and licensing of intellectual property. Had the USPTO been aware of this statutory limitation, NJTA's registration should have been, and would have been refused.

13. Federal law also expressly precludes the protection of "traffic control devices" under patent, trademark or copyright law. The federal Manual on Uniform Traffic Control Devices (the "Manual"), which is explicitly incorporated into the New Jersey Administrative Code, *see* N.J.A.C. 16:27-2.1, prohibits such intellectual property protection over traffic control devices such as the GSP Mark.
14. More specifically, in the Manual a "traffic control device" is expressly defined as **"a sign, signal, marking, or other device used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway,** private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction...." *See* § 1A.13 (Definition #238)(emphasis added).
15. The GSP Mark is a sign used to regulate, warn, or guide traffic, placed on, over, or adjacent to a highway.
16. NJTA has admitted that the GSP Mark is a road sign, a traffic control device whose primary purpose is to direct motorists to the Garden State Parkway.
17. Had the USPTO been aware of this limitation under federal law, NJTA's registration should have been, and would have been refused.
18. Even if NJTA owns a valid trademark registration, there is no likelihood of confusion caused by the use of the OYC Mark.

19. NJTA is not in the business of selling wines or alcoholic beverages, and based on NJTA's own public statements, NJTA has no plan to ever enter that business.
20. OYC is not in the business of collecting tolls and maintaining a network of highways, nor does it have any plan to ever enter into such a business.
21. Accordingly, the complete dissimilarity between NJTA's business and OYC's business demonstrates that NJTA could not prove any likelihood of confusion even if it owns a valid trademark.
22. NJTA has also asserted that OYC's Mark and its entire branding and marketing scheme is "designed to invoke the Garden State Parkway." This is incorrect. OYC is invoking "Jersey Pride", and part of the proud culture of the State is the identity residents feel with certain exits on New Jersey's roads. OYC makes no mention of the Garden State Parkway in its logo, or in any of its marketing. The "What Exit Wines" brand utilizes a wine label which playfully resembles typical "traffic control devices" used throughout New Jersey. However, the label is as easily associated with the New Jersey Turnpike, Route 1 or Route 80 -- highways every bit as well known to Jersey natives as the Parkway -- as it is with the Garden State Parkway. Accordingly, the OYC Mark is not designed to trade on any goodwill (to the extent it even exists) associated with the GSP Mark.
23. NJTA has also asserted that Plaintiff's use of the colors green and yellow in the OYC Mark is infringing. However, virtually every set of roads and highways around the country use green and yellow precisely because they are the widely recognized colors for traffic control devices.

24. Despite threatening a lawsuit well over a year ago, NJTA has not pursued any action in any court making any claim for infringement. Instead, NJTA simply continues to assert that its trademark has been infringed in letters and e-mails to OYC.

COUNT ONE

(Declaratory Judgment of Non-Infringement)

25. Plaintiff repeats and realleges all of the foregoing allegations as if repeated verbatim herein.
26. NJTA has claimed that OYC's logo infringes on its rights to the GSP Mark and has threatened litigation against OYC for its use of the OYC Mark.
27. An actual, present and justiciable controversy has arisen between NJTA and OYC concerning OYC's right to use the OYC Mark.
28. Plaintiff seeks a judgment from this Court declaring and adjudging that its use of the OYC Mark does not constitute infringement of the rights, if any, held by NJTA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

1. Enter Judgment in its favor and against defendant declaring and adjudging that its use of the OYC Mark, and any prior versions or iterations of the OYC Mark, does not constitute infringement of the rights, if any, held by NJTA in the GSP Mark, whether those rights allegedly arise under federal or state law, statutory or common law.

2. Enter Judgment in its favor permanently enjoining NJTA from asserting claims or filing actions against Plaintiff arising out of Plaintiff's use of the OYC Mark and any prior versions or iterations of the OYC Mark, or interfering in any way with OYC's use of the OYC Mark.
3. Awarding Plaintiff any and all damages sustained by it as a result of NJTA's threats of legal action and any other interferences by NJTA with Plaintiff's business activities.
4. Award Plaintiff its costs in this action.
5. Enter such further relief to which Plaintiff may be entitled as a matter of law or equity, or which the Court determines to be just and proper.

DESIGNATION OF TRIAL COUNSEL

Pursuant to the provisions of R. 4:25-4, the Court is advised that CRAIG S. HILLIARD, ESQUIRE, is hereby designated as trial counsel.

STARK & STARK
A Professional Corporation
Attorneys for Plaintiff

By: _____

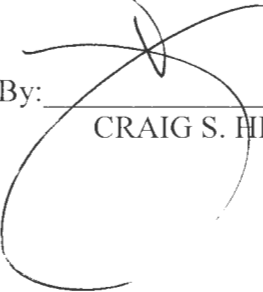
CRAIG S. HILLIARD

Dated: September 30, 2016

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury as to all issues in accordance with the Rules of the Court.

STARK & STARK
A Professional Corporation
Attorneys for Plaintiff

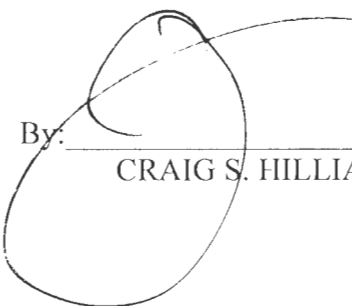
By:  _____
CRAIG S. HILLIARD

Dated: September 30, 2016

CERTIFICATION

I hereby certify that the matter in controversy is not the subject of any other action or arbitration proceeding, and that no other action or proceeding is presently contemplated. I further certify that I am unaware of any other parties who should presently be joined in this action. I hereby certify that the foregoing statements made by me are true. I am aware that if any such statements are willfully false, I am subject to punishment.

Dated: September 30, 2016

By:  _____
CRAIG S. HILLIARD