



SHORT TITLE: Phifer v. Arizona Beverage USA LLC	CASE NUMBER:
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4.  Plaintiff (*name*):  
 is doing business under the fictitious name (*specify*):
- and has complied with the fictitious business name laws.
5. Each defendant named above is a natural person
- a.  **except** defendant (*name*): Arizona Beverage USA LLC
- (1)  a business organization, form unknown  
 (2)  a corporation  
 (3)  an unincorporated entity (*describe*):  
 (4)  a public entity (*describe*):  
 (5)  other (*specify*):
- b.  **except** defendant (*name*):
- (1)  a business organization, form unknown  
 (2)  a corporation  
 (3)  an unincorporated entity (*describe*):  
 (4)  a public entity (*describe*):  
 (5)  other (*specify*):
- c.  **except** defendant (*name*):
- (1)  a business organization, form unknown  
 (2)  a corporation  
 (3)  an unincorporated entity (*describe*):  
 (4)  a public entity (*describe*):  
 (5)  other (*specify*):
- d.  **except** defendant (*name*):
- (1)  a business organization, form unknown  
 (2)  a corporation  
 (3)  an unincorporated entity (*describe*):  
 (4)  a public entity (*describe*):  
 (5)  other (*specify*):
- Information about additional defendants who are not natural persons is contained in Attachment 5.
6. The true names of defendants sued as Does are unknown to plaintiff.
- a.  Doe defendants (*specify Doe numbers*): 1-15 were the agents or employees of other named defendants and acted within the scope of that agency or employment.
- b.  Doe defendants (*specify Doe numbers*): 16-25 are persons whose capacities are unknown to plaintiff.
7.  Defendants who are joined under Code of Civil Procedure section 382 are (*names*):
8. This court is the proper court because
- a.  at least one defendant now resides in its jurisdictional area.  
 b.  the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.  
 c.  injury to person or damage to personal property occurred in its jurisdictional area.  
 d.  other (*specify*):
9.  Plaintiff is required to comply with a claims statute, and
- a.  has complied with applicable claims statutes, or  
 b.  is excused from complying because (*specify*):

SHORT TITLE: Phifer v. Arizona Beverage USA LLC	CASE NUMBER:
--	--------------

10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- a.  Motor Vehicle
- b.  General Negligence
- c.  Intentional Tort
- d.  Products Liability
- e.  Premises Liability
- f.  Other (specify):

11. Plaintiff has suffered

- a.  wage loss
- b.  loss of use of property
- c.  hospital and medical expenses
- d.  general damage
- e.  property damage
- f.  loss of earning capacity
- g.  other damage (specify):  
 Emotional Distress; Pain & Suffering

12.  The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a.  listed in Attachment 12.
- b.  as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1)  compensatory damages
- (2)  punitive damages

The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):

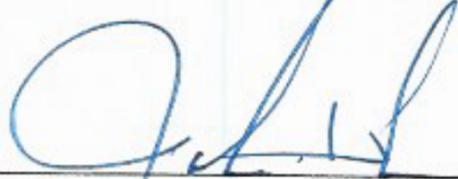
- (1)  according to proof
- (2)  in the amount of: \$

15.  The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):

Date: October 19, 2021

John Holman

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE: Phifer v. Arizona Beverage USA LLC	CASE NUMBER:
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One \_\_\_\_\_ **CAUSE OF ACTION—General Negligence** Page 4 \_\_\_\_\_  
 (number)

ATTACHMENT TO  Complaint  Cross-Complaint  
 (Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): Morgan Phifer

alleges that defendant (name): Costco Wholesale Corporation; Sovos Brand Intermediate, Inc.

Does 1 \_\_\_\_\_ to 25 \_\_\_\_\_

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (date): 5/30/20

at (place): Turlock, California

(description of reasons for liability):

Plaintiff purchased a 16 oz Ice Tea manufactured, distributed and sold by Defendant. Plaintiff started drinking the beverage when it was discovered that there was a dead mouse inside the can. Defendants have a duty to protect users of their beverage products from harm. Defendants breached that duty by manufacturing, distributing and selling the ice tea beverage with a dead mouse inside the can which was not visible to the user. Defendant's breach was a substantial factor in causing Plaintiff harm. Plaintiff was harmed as a result of Defendant's negligence.

SHORT TITLE: Phifer v. Arizona Beverage USA LLC	CASE NUMBER:
--	--------------

Two **CAUSE OF ACTION—Products Liability** Page 5  
(number)

ATTACHMENT TO  Complaint  Cross - Complaint  
(Use a separate cause of action form for each cause of action.)

Plaintiff (name): Morgan Phifer

Prod. L-1. On or about (date): 5/30/20 plaintiff was injured by the following product:  
16 oz Arizona Sweet Tea as a result of a dead mouse in the can.

Prod. L-2. Each of the defendants knew the product would be purchased and used without inspection for defects. The product was defective when it left the control of each defendant. The product at the time of injury was being  
 used in the manner intended by the defendants.  
 used in the manner that was reasonably foreseeable by defendants as involving a substantial danger not readily apparent. Adequate warnings of the danger were not given.

Prod. L-3. Plaintiff was a  
 purchaser of the product.  user of the product.  
 bystander to the use of the product.  other (specify):

PLAINTIFF'S INJURY WAS THE LEGAL (PROXIMATE) RESULT OF THE FOLLOWING:

Prod. L-4.  **Count One—Strict liability** of the following defendants who  
 a.  manufactured or assembled the product (names):  
     Arizona Beverage USA LLC  
      Does 1 to 5  
 b.  designed and manufactured component parts supplied to the manufacturer (names):  
     Arizona Beverage USA LLC  
      Does 6 to 10  
 c.  sold the product to the public (names):  
     Arizona Beverage USA LLC  
      Does 11 to 15

Prod. L-5.  **Count Two—Negligence** of the following defendants who owed a duty to plaintiff (names):  
 Arizona Beverage USA LLC  
 Does 16 to 20

Prod. L-6.  **Count Three—Breach of warranty** by the following defendants (names):  
 Arizona Beverage USA LCC  
 Does 21 to 25  
 a.  who breached an implied warranty  
 b.  who breached an express warranty which was  
      written  oral

Prod. L-7.  The defendants who are liable to plaintiffs for other reasons and the reasons for the liability are  
 listed in Attachment-Prod. L-7  as follows: