

**GUTRIDE SAFIER LLP**

ADAM J. GUTRIDE (State Bar No. 181446)  
SETH A. SAFIER (State Bar No. 197427)  
MARIE A. MCCRARY (State Bar No. 262670)  
100 Pine Street, Suite 1250  
San Francisco, CA 94111  
Telephone: (415) 271-6469  
Facsimile: (415) 449-6469

MATTHEW T. MCCRARY (admitted *pro hac vice*)  
265 Franklin St, Suite 1702  
Boston, MA 02110  
Telephone: (214) 502-2171

**THE MARGARIAN LAW FIRM**

HOVANES MARGARIAN (State Bar No. 246359)  
801 North Brand Boulevard, Suite 210  
Glendale, California 91203  
Telephone: (818) 553-1000  
Facsimile: (818) 553-1005

**DURIE TANGRI LLP**

DARALYN J. DURIE (State Bar No. 169825)  
ADAM BRAUSA (State Bar No. 298754)  
DAVID MCGOWAN (State Bar No. 154289)  
217 Leidesdorff Street  
San Francisco, CA 94111  
Telephone: (415) 362-6666  
Facsimile: (415) 236-6300

*Counsel for Plaintiffs and the Class*

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

JACKIE FITZHENRY-RUSSELL and  
GEGHAM MARGARYAN, as individuals,  
on behalf of themselves, the general public  
and those similarly situated,

Plaintiffs,

v.

KEURIG DR. PEPPER, INC and DR  
PEPPER/SEVEN UP, INC.,

Defendants.

Case Nos. 5:17-cv-00564-NC (lead); 5:17-cv-04435-NC (consolidated)

**DECLARATION OF MATTHEW T. MCCRARY IN SUPPORT OF PLAINTIFFS' REPLY IN SUPPORT OF MOTION FOR APPROVAL OF CLASS ACTION SETTLEMENT**

**Date: April 10, 2019**

**Time: 2:00 p.m.**

**Courtroom: 5**

**Judge: Honorable Nathanael Cousins**

I, Matthew T. McCrary, declare:

1. I am an attorney licensed to practice law in the states of Massachusetts and Texas, and am admitted, *pro hac vice*, to practice before this Court. I am an attorney with the law firm Gutride Safier LLP. I have personal knowledge of the facts contained in this declaration and, if I were called as a witness, I could and would competently testify to the same.

2. Attached hereto are true and correct copies of the following exhibits:

Exhibit #	Document
1	Patrick Sweeney Unsubmitted Claim Form
2	November 22, 2017 Judgment in Patrick Sweeney's Criminal Case
3	July 12, 2017 Superseding Indictment of Patrick Sweeney
4	Copy of article from the Wisconsin State Journal entitled "Middleton lawyer sentenced to probation in scheme, but deserved prison, judge says."
5	Copy of the State bar of California profile for David Marc Greenstein #43397
6	Copy of article from the Los Angeles Times entitled "Valley Man Becomes Legal Legend as Prolific Plaintiff"

3. Patrick Sweeney has filed objections to at least 37 other settlements, including the following:

a. *Arthur v. Sallie Mae, Inc.*, No. 2:10-cv-00198-JLR (W.D. Wa.): 12/13/10 – Darrell Palmer and Chris Bandas filed objection on behalf of Patrick Sweeney and Sasha McBean (Doc. 67);

b. *In re Carrier IQ, Inc., Consumer Privacy Litigation*, No. 3:12-md-02330-EMC (N.D. Cal.): 6/7/16 – Patrick Sweeney pro se objection (Doc. 452);

c. *Roberts v. Electrolux Home Prods., Inc.*, No. SACV12-1644-CAS(VBKx) (C.D. Cal.): 8/1/14 – Patrick Sweeney objection, represented by Darrell Palmer (Doc. 160);

d. *Larsen v. Trader Joe's Co.*, No. 11-cv-05188-WHO (N.D. Cal.): 6/6/14 – Patrick Sweeney pro se objection (Doc. 101);

1 e. *Brown v. Hain Celestial Group, Inc.*, No. 3:11-cv-03082-LB (N.D. Cal.): 1/20/16  
– Patrick Sweeney pro se objection (Doc. 365);

2 f. *In re TRS Recovery Servs., Inc. and Telecheck Servs., Inc., Fair Debt Collection*  
3 *Practices Act (FDCPA) Litig.*, No. 2:13-MD-2426-DBH (D. Me.): 12/28/15 – Patrick Sweeney  
pro se objection (Doc. 121);

4 g. *In re Polyurethane Foam Antitrust Litig.*, No. 1:10-md-02196-JZ (N.D. Ohio):  
5 11/17/15 – Patrick Sweeney pro se objection (Doc. 1968);

6 h. *Legg v. Spirit Airlines, Inc.*, No. 14-cv-61978 (S.D. Fla.): 6/20/16 – Objection filed  
by Patrick Sweeney on behalf of his daughter, Kerry Ann Sweeney (Doc. 141);

7 i. *Lofton v. Verizon Wireless LLC*, No. 13-cv-05665 (N.D. Cal.): 5/9/16 – Patrick  
8 Sweeney pro se objection (Doc. 214);

9 j. *In re Midland Credit Mgmt, Inc.*, No. 11-md-02286 (S.D. Cal.): 4/26/16 – Patrick  
Sweeney pro se objection (Doc. 344);

10 k. *Douglas v. Western Union Co.*, No. 14-cv-01741 (N.D. Ill.): 2/25/16 – Patrick and  
11 Pamela Sweeney pro se objections (Doc. 70);

12 l. *Chambers v. Whirlpool Corp.*, No. CV 11-1733 FMO (JCGx) (C.D. Cal.): 5/31/16  
– Patrick Sweeney pro se objection (Doc. 234);

13 m. *Spann v. J.C. Penney Corp.*, No. SA CV 12-0215 FMO (KESx) (C.D. Cal.):  
14 7/22/16 – Patrick Sweeney pro se objection (Doc. 265);

15 n. *In re Yahoo Mail Litig.*, No. 13-CV-4980-LHK (N.D. Cal.): 7/14/16 – Patrick  
Sweeney pro se objection (Doc. 194);

16 o. *Retta v. Millenium Prods., Inc.*, No. 2:15-cv-01801-PSG-AJW (C.D. Cal.): 6/29/17  
17 – Patrick Sweeney pro se objection (Doc. 135-1);

18 p. *In re Automotive Parts Antitrust Litig.*, No. 12-md-02311 (E.D. Mich.): 4/25/16 –  
Patrick Sweeney pro se objection (Doc. 1299);

19 q. *Chimeno-Buzzi v. Hollister Co.*, No. 14-cv-23120-MGC (S.D. Fla.): 3/7/16 –  
20 Patrick Sweeney pro se objection (Doc. 136);

21 r. *In re Lithium Ion Batteries Antitrust Litig.*, No. 13-MD-0240 YGR (DMR) (N.D.  
Cal.): 9/27/16 – Patrick Sweeney pro se objection (Doc. 1486);

22 s. *Martin v. Global Marketing Research Services, Inc.*, No. 6:14-cv-1290-ORL-31-  
23 KRS (M.D. Fla.): 7/27/16 – Patrick Sweeney pro se objection (Doc. 116);

24 t. *Hooker v. Sirius XM Radio Inc.*, No. 4:13-cv-00003 (E.D. Va.): 11/7/16 – Patrick  
Sweeney pro se objection (Doc. 189);

25 u. *Gay v. Tom's of Maine, Inc.*, No. 0:14-cv-60604-KMM (S.D. Fla.): 12/29/15 –  
26 Patrick Sweeney pro se objection (Doc. 34), and 12/30/15 – Patrick Sweeney filed objection on  
behalf of serial objector Dawn Weaver (Doc. 35);

27 v. *Forcellati v. Hyland's, Inc.*, No. 2:12-cv-01983-ODW-MRW (C.D. Cal.): 6/27/17  
28 – Patrick Sweeney pro se objection (Doc. 296);

w. *Rapaport-Hecht v. Seventh Generation, Inc.*, No. 7:14-cv-09087-KMK

1 (S.D.N.Y.): 12/28/16 – Patrick Sweeney pro se objection (Doc. 55);

2 x. *In re Optical Disk Drive Prods. Antitrust Litig.*, No. 3:10-md-02143-RS (N.D.  
Cal.): 10/25/16 – Patrick Sweeney pro se objection (Doc. 1983);

3 y. *Barba v. Shire U.S., Inc.*, No. 1:13-cv-21158-JAL (S.D. Fla.): 10/6/16 – Patrick  
4 Sweeney filed pro se objection, individually and on behalf of his minor son (Doc. 434);

5 z. *Jenkins v. Equifax Information Services, LLC*, No. 3:15-cv-0443-MHL (E.D. Va.):  
10/3/16 – Patrick Sweeney pro se objection (Doc. 55);

6 aa. *Russell v. Kohl's Department Stores, Inc.*, No. 5:15-cv-01143-RGK-SP (C.D.  
7 Cal.): 8/11/16 – Patrick Sweeney pro se objection (Doc. 84);

8 bb. *Pearson v. Target Corporation*, No. 1:11-cv-07972 (N.D. Ill.): 5/31/16 – Patrick  
Sweeney pro se objection (Doc. 261);

9 cc. *Eggnatz v. The Kellogg Company*, No. 1:12-cv-21678-JAL (S.D. Fla.): 12/29/15 –  
10 Patrick Sweeney pro se objection (Doc. 191);

11 dd. *Boise v. Ace USA, Inc.*, No. 1:15-cv-21264-MGC (S.D. Fla.): 10/3/17 – Patrick  
Sweeney pro se objection (Doc. 96);

12 ee. *Fladell v. Wells Fargo Bank, N.A.*, No. 0:13-cv-60721-FAM (S.D. Fla.): 8/19/14 –  
13 Patrick Sweeney filed objection on behalf of James H. Kirby IV (Doc. 197);

14 ff. *In re Lawnmower Engine Horsepower Mktg. & Sales Practices Litig.*, No. 2:09-  
15 cv-00267-LA (E.D. Wisc.): 6/4/10 – Patrick Sweeney filed objection on behalf of Rosalie  
Borgardts, Paul Palmer and others (Doc. 50);

16 gg. *Melito v. Am. Eagle Outfitters, Inc.*, No. 14-CV-2440 (VEC) (S.D.N.Y.): 6/5/17 –  
17 Patrick Sweeney filed pro se objections on his behalf, for Kerry Ann Sweeney, and his minor son,  
EKS (Doc. 275);

18 hh. *Colon v. Jaguar Land Rover, N. Am., LLC*, No. 1-06-CV-075163 (Cal. Super. Ct.  
Santa Clara Cnty. 2006) (see *Martin v. Global Marketing*, Doc. 124 at 3, PageID 1787;

19 ii. *McKnight v. Uber Technologies, Inc.*, No. 3:14-cv-05615-JST (N.D. Cal.): 1/16/18  
20 – Patrick Sweeney pro se objection (Doc. 160);

21 jj. *Duncan v. JPMorgan Chase Bank, N.A.*, No. 5:14-cv-00912-FB (W.D. Tex.):  
3/28/16 – objection purportedly filed “pro se” by Donald Gors (Doc. 35), and 4/11/16 – Patrick  
22 Sweeney signed a joint motion to withdraw the Gors objection (Doc. 53);

23 kk. *In re Checking Account Overdraft Litigation*, No. 1:09-md-02036-JLK (S.D.  
24 Fla.). Patrick Sweeney filed objections on behalf of purported class members to five separate  
settlements consolidated in this multidistrict litigation:

25 I declare under penalty of perjury under the laws of the United States that the foregoing is  
26 true and correct and that this document was executed on March 27, 2019.

27 Dated: March 27, 2019

**GUTRIDE SAFIER LLP**

28 /s/ Matt McCrary  
Matt McCrary



# On-Line Claim Form

2-18-19

Submit a claim for the Canada Dry Ginger Ale Settlements

THE WEBSITE FOR A

## Claim Form

CLAIM WILL NOT ALLOW ME TO INDICATE THE MONTHS. 8-1-2014 → 8-15-2015

### General Instructions

You can submit a Claim for a Benefit Check under this Settlement if you purchased any Canada Dry Ginger Ale Products in California, between December 28, 2012, and June 26, 2018.

Before you complete and submit this Claim Form, you should read and be familiar with the Settlement Notice ("the California Notice") available on this website. Defined terms (with initial capitals) used in these General Instructions have the same meaning as set forth in the respective Settlement Agreement for each Settlement. By submitting this Claim Form, you acknowledge that you have read and understand the California Notice for the Settlement at issue, and you agree to the Release(s) included as a material term of the Settlement Agreement.

If you fail to timely submit a Claim Form, you may be precluded from any recovery from the Settlement fund. If you are a member of the Settlement Class and you do not timely and validly seek to Opt-Out from that Class, you will be bound by any judgment entered by the Court approving the Settlement regardless of whether you submit a Claim Form.

The information will not be disclosed to anyone other than the Court, the Settlement Administrator, and the Parties in this case, and will be used only for purposes of administering this Settlement (such as to audit and review a claim for completeness, truth, and accuracy).

**Settlement Class Members who seek payment from the Settlement must complete this Claim Form. Claim Forms must be SUBMITTED ONLINE NO LATER THAN MARCH 19, 2019 at 11:59 p.m., Pacific Time.**

### Claimant Information

**First Name \***

patrick

**Middle Initial**

Middle Initial

**Last Name \***

sweeney

**Address 1 \***

2672 mutchler road

**Address 2**

Address 2

**City \***

madison

**State \***

Wisconsin

**Zip \***

53711

**Daytime Phone**

4244884383

**Evening Phone**

Evening Phone

**Email Address**

patrickshanesweeney@gmail.com

**Benefits Information**

All claimants may receive a Benefit of \$0.40 per Unit purchased, with a **minimum** payment of **\$2** per Household.

If you **do not** have Proof of Purchase, you can claim the Benefit for up **13** Units, for a **maximum** of **\$5.20** per Household.

If you **do** have Proof of Purchase, you can claim the Benefit for up **100** Units, for a **maximum** of **\$40** per Household.

“Proof of Purchase” means a receipt or other documentation from a third-party commercial source that reasonably establishes the fact and date of purchase of the Product during the Class Period in the United States.

**1. Did you purchase Canada Dry Ginger Ale Products in the state of California between December 28, 2012, and June 26, 2018?**

\*

Yes

**2. How many Unit(s) did you purchase?**

\*

24

**3. Please identify the Canada Dry Product(s) you purchased.**

- Canada Dry Ginger Ale – Regular
- Canada Dry Ginger Ale - Diet
- Canada Dry Ginger Ale - Cranberry
- Canada Dry Ginger Ale – Diet Cranberry
- Canada Dry Ginger Ale - Blackberry
- Canada Dry Ginger Ale - Ten
- Canada Dry Ginger Ale and Lemonade
- Canada Dry Ginger Ale – Made with Real Sugar
- Other - \_\_\_\_\_ Please explain

**4. Approximate month(s) and year(s) of purchases:**

**Month of Purchase \***  
**Year of Purchase \***



--Select--

**Required**

--Select--

**Required**

Remove

Add More Purchases

**5. Please identify the store(s) where you purchased the products: (Optional)**

vons and ralph's

**Proof of purchase is NOT required if you make a claim for up to 13 products. Proof of purchase IS required if you make a claim for 14 or more products. To provide Proof of Purchase, attach it to this form and sign where marked on the last page of the form.**

**Required**

Choose File No file chosen

**Submission to Jurisdiction of the Court**

**Certification under Penalty of Perjury**

**I Agree: \***

**Signature \***

patrick sweeney

**Signature Date \***

03/18/2019

I'm not a robot

reCAPTCHA  
Privacy - Terms

Submit





# United States District Court

## Western District of Wisconsin

UNITED STATES OF AMERICA

**JUDGMENT IN A CRIMINAL CASE**  
(for offenses committed on or after November 1, 1987)

V.

**Case Number:** 0758 3:16CR00103-001

Patrick S. Sweeney

**Defendant's Attorney:** Christopher T. Van Wagner

The defendant, Patrick S. Sweeney, pleaded guilty to Count 2 of the superseding indictment.

Counts 1 and 3 of the superseding indictment are dismissed on the motion of the United States.

The defendant has been advised of his right to appeal.

**ACCORDINGLY**, the court has adjudicated defendant guilty of the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 U.S.C. § 152(3)	Concealment of Assets; False Oaths and Claims; Bribery, Class D felony	February 14, 2013	2

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

**IT IS FURTHER ORDERED** that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

**Defendant's Date of Birth:** [REDACTED] 1955

**Defendant's USM No.:** 10803-090

**Defendant's Residence Address:** [REDACTED]  
Fitchburg, WI 53711

**Defendant's Mailing Address:** Same as above

November 17, 2017

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Date of Imposition of Judgment

/s/ James D. Peterson

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James D. Peterson  
District Judge

November 22, 2017

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Date Signed:

## IMPRISONMENT

Not imposed.

## RETURN

I have executed this judgment as follows:

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Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
United States Marshal

By \_\_\_\_\_  
Deputy Marshal

## PROBATION

As to Count 2 of the superseding indictment, it is adjudged that the defendant is sentenced to 5 years probation. The first year of probation shall be served on home confinement, with exceptions for employment during the hours of 8:00 a.m. and 6:00 p.m. and for medical appointments for defendant or his son and for religious purposes. During the first 90 days of home confinement, the defendant shall be subject to electronic location monitoring.

In light of the nature of the offense and the defendant's personal history, I adopt condition numbers 1 through 4, and 7 through 18 as proposed and justified in the presentence report. Neither party has raised any objections to the proposals. In addition, condition number 19 is imposed by the Court and condition number 20 was requested by the government at sentencing adopted with no objections from the defense.

If, while the defendant is on probation, either the defendant or the supervising probation officer believes that any of the conditions imposed today are no longer appropriate, either one may petition the Court for review.

The instant offense is not drug related and the defendant has no history of drug use. However, the defendant has a history of alcohol abuse. Therefore, the requirement for drug testing set forth at 18 U.S.C. § 3563(a) is not waived. The defendant shall submit up to 10 random tests for drug and/or alcohol use during his term of supervision.

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Defendant is to abide by the statutory mandatory conditions.

### Statutory Mandatory Conditions

Defendant shall report to the probation office in the district to which defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

Defendant shall not commit another federal, state, or local crime.

Defendant shall not illegally possess a controlled substance.

If defendant has been convicted of a felony, defendant shall not possess a firearm, destructive device, or other dangerous weapon while on supervised release.

Defendant shall cooperate with the collection of DNA by the U.S. Justice Department and/or the U.S. Probation and Pretrial Services Office as required by Public Law 108-405.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Financial Penalties sheet of this judgment.

---

Defendant shall comply with the standard and special conditions that have been adopted by this court.

### Standard Conditions of Supervision

- 1) Defendant shall not leave the judicial district in which defendant is being supervised without the permission of the Court or probation officer;
- 2) Defendant is to report to the probation office as directed by the Court or probation officer and shall submit a complete written report within the first five days of each month, answer inquiries by the probation officer, and follow the officer's instructions. The monthly report and the answer to inquiries shall be truthful in all respects unless a fully truthful statement would tend to incriminate defendant, in violation of defendant's constitutional rights, in which case defendant has the right to remain silent;

- 3) Defendant shall maintain lawful employment, seek lawful employment, or enroll and participate in a course of study or vocational training that will equip defendant for suitable employment, unless excused by the probation officer or the Court;
- 4) Defendant shall notify the probation officer within seventy-two hours of any change in residence, employer, or any change in job classification;
- 5) Not imposed;
- 6) Not imposed;
- 7) Defendant shall not meet, communicate, or spend time with any persons defendant knows to be engaged in criminal activity or planning to engage in criminal activity;
- 8) Defendant shall permit a probation officer to visit defendant at home, work, or elsewhere at any reasonable time and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 9) Defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 10) Defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the Court;
- 11) As directed by the probation officer, defendant shall notify third parties of risks that may be occasioned by defendant's criminal record or personal history or characteristics. The probation officer may also take steps to confirm defendant's compliance with this notification requirement or provide such notifications directly to third parties.

#### **Special Conditions of Release**

- 12) Provide the supervising U.S. probation officer with access to any requested financial information necessary to monitor compliance with conditions of supervision, including copies of state and federal tax returns;
- 13) Refrain from seeking or maintaining any employment that includes unsupervised financial or fiduciary-related duties, without the prior approval of the supervising U.S. probation officer;
- 14) Participate in financial counseling at defendant's own expense, as approved by the supervising U.S. probation officer;
- 15) Not transfer, give away, sell or otherwise convey any asset worth more than \$200 without the prior approval of the supervising U.S. probation officer;
- 16) File all tax returns in a timely manner and provide copies of all federal and state income returns to the supervising U.S. probation officer. Defendant will apply 100 percent of defendant's yearly federal and state tax refunds toward payment of restitution;
- 17) Submit person, property, residence, papers, vehicle, computers [as defined in 18 U.S.C. § 1030(e)(1), or other electronic communications, data storage device, or media], or office to a search conducted by a U.S. probation officer at a reasonable time and manner, whenever the probation officer has reasonable suspicion of contraband or of the violation of a condition of release relating to substance abuse or illegal activities; failure to submit to a search may be a ground for revocation; defendant shall warn any other residents that the premises defendant is occupying may be subject to searches pursuant to this condition
- 18) The defendant shall abstain from the use of alcohol.
- 19) The defendant shall complete one year of home confinement. For the initial 90 day period, the defendant shall be subject to electronic location monitoring using technology implemented at the direction of the supervising U.S. probation

officer. Defendant shall be responsible for the cost of location monitoring. During this period of home confinement, defendant may leave his residence for employment during the hours of 8:00 a.m. to 6:00 p.m. Monday through Friday. Outside these hours, defendant may leave his home for religious services and his or his son's medical and mental health treatment, and other activities pre-approved by the supervising U.S. probation officer.

20) The defendant shall refrain from engaging in new investments exceeding \$500, incurring new credit charges, opening additional lines of credit or loans from financial institutions exceeding \$500 without the prior approval of the supervising U.S. probation officer. The defendant may not accomplish any of these through the use of an LLC, his wife or any third party. The defendant shall disclose to the U.S. probation office any loans or payments received from family members or friends.

ACKNOWLEDGMENT OF CONDITIONS

I have read or have had read to me the conditions of supervision set forth in this judgment, and I fully understand them. I have been provided a copy of them. I understand that upon finding a violation of probation or supervised release, the Court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

\_\_\_\_\_

Defendant

\_\_\_\_\_

Date

\_\_\_\_\_

U.S. Probation Officer

\_\_\_\_\_

Date

## CRIMINAL MONETARY PENALTIES

Defendant shall pay the following total financial penalties in accordance with the schedule of payments set forth below.

<u>Count</u>	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
2	\$100.00	\$0.00	\$481,970.00
<b>Total</b>	\$100.00	\$0.00	\$481,970.00

It is adjudged that the defendant is to pay a \$100.00 criminal assessment penalty to the Clerk of Court for the Western District of Wisconsin immediately following sentencing.

The defendant does not have the means to pay a fine under § 5E1.2(c) without impairing his ability to support himself and his family upon release from custody.

## RESTITUTION

The defendant is to pay mandatory restitution to the U.S. Clerk of Court for the Western District of Wisconsin in the amount of \$481,970, to be paid to U.S. Clerk of Court, Western District of Wisconsin.

The defendant does not have the economic resources to allow himself to make full payment of restitution in the foreseeable future under any reasonable schedule of payments. Pursuant to 18 U.S.C. § 3664(f)(3)(B), he is to begin making nominal payments of a minimum of \$150 each month, beginning within 30 days.

The defendant shall notify the court and the United States Attorney General of any material change in defendant's economic circumstances that might affect defendant's ability to pay restitution.

No interest is to accrue on the unpaid portion of the restitution.



## SCHEDULE OF PAYMENTS

Payments shall be applied in the following order:

- (1) assessment;
- (2) restitution;
- (3) fine principal;
- (4) cost of prosecution;
- (5) interest;
- (6) penalties.

The total fine and other monetary penalties shall be due in full immediately unless otherwise stated elsewhere.

Unless the court has expressly ordered otherwise in the special instructions above, if the judgment imposes a period of imprisonment, payment of monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of court, unless otherwise directed by the court, the probation officer, or the United States Attorney.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

In the event of a civil settlement between victim and defendant, defendant must provide evidence of such payments or settlement to the Court, U.S. Probation office, and U.S. Attorney's office so that defendant's account can be credited.



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

DOC NO  
REC'D/FILED

2017 JUL 12 PM 3:59

UNITED STATES OF AMERICA

SUPERSEDING INDICTMENT

PETER OPPENEER  
CLERK U.S. DIST COURT  
WD OF WI

v.

Case No. 16-cr-103-jdp  
18 U.S.C. § 1343  
18 U.S.C. § 152(3)  
18 U.S.C. § 1028A(a)(1)

PATRICK S. SWEENEY,

Defendant.

THE GRAND JURY CHARGES:

COUNT 1

1. At times material to this indictment:

(a) Defendant PATRICK S. SWEENEY was a Wisconsin lawyer, practicing corporate and business law with an office in Middleton, Wisconsin.

(b) During the period from 2003 to 2013, SWEENEY held a member's ownership interest in three limited liability companies: Fairview Ridge, LLC; Fairview Ridge II, LLC; and Fairview Ridge III, LLC. (The three limited liability companies are collectively referred to in this indictment as "the companies.")

(c) Individuals other than SWEENEY also held members' ownership interests in the companies. (Those individuals are referred to here as "co-members.") SWEENEY was the managing member and had control of the companies' bank accounts.

2. During the period from on or about March 29, 2007, and continuing to on or about March 10, 2011, SWEENEY devised a scheme to defraud the companies and

the co-members, and to obtain money from them, by means of materially false and fraudulent pretenses and representations.

3. It was part of the scheme that, in 2007, SWEENEY approached the co-members and proposed that, as a business opportunity for the companies, that the companies loan approximately \$105,000 to \$115,000 to a friend of SWEENEY, M.G., at an initial interest rate of 13%. The co-members agreed.

4. It was further part of the scheme that SWEENEY began drawing checks on the companies' bank accounts and then converting the funds to his own use, while misrepresenting to his co-owners that the checks were part of the loan to M.G.

5. Between March 29, 2007 and September 8, 2009, SWEENEY drew checks on the companies' checking accounts, almost all of which were made payable directly to SWEENEY or to a corporate entity controlled by him. During this period, Sweeney continually falsely misrepresented to the co-members that the checks reflected the companies' loans to M.G. It was further part of the scheme that SWEENEY made notations on the memo line of many of the checks, falsely reflecting that they were loans to M.G.

6. In 2011, after the companies had received no loan re-payments from M.G., a co-member asked SWEENEY for the original promissory note between the companies and M.G. As further part of the scheme, in response to the co-member's request, SWEENEY emailed the co-member a false promissory note, purportedly between M.G. and the companies dated June 21, 2007, containing a loan amount of "not to exceed \$600,000," and bearing the forged signature of M.G. It was further part of the scheme

that SWEENEY sent the email for the purpose of lulling the co-members into a false sense of security about the loan to M.G. and for the purpose of preventing or delaying the detection of his fraud by the co-members.

7. On or about March 10, 2011, in the Western District of Wisconsin, the defendant,

PATRICK S. SWEENEY,

for the purpose of executing this scheme, knowingly caused to be transmitted, by means of wire communication in interstate commerce, signals and sounds, that is, SWEENEY sent his co-member the email and attached note described in Paragraph 6 above.

(In violation of Title 18, United States Code, Section 1343).

COUNT 2

1. Paragraph 1 of Count One is re-alleged here as Paragraph 1 of Count 2.

2. On or about February 14, 2013, in the Western District of Wisconsin, the defendant,

PATRICK S. SWEENEY,

in and in relation to a bankruptcy case under Title 11 of the United States Code, knowingly and fraudulently made a material false declaration and statement under penalty of perjury, within the meaning of Title 28, United States Code, Section 1746. Specifically, the defendant submitted a sworn List of Creditors which, in an effort to obtain a discharge in bankruptcy of his obligation to repay funds he had embezzled from the companies, falsely listed the embezzled funds as "loans to debtor."

(In violation of Title 18, United States Code, Section 152(3)).

COUNT 3

On or about March 10, 2011, in the Western District of Wisconsin, the defendant,

PATRICK S. SWEENEY,

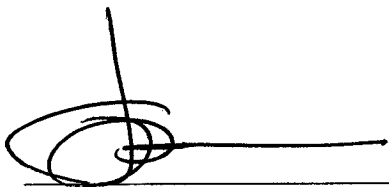
knowingly used, without lawful authority, a means of identification of another person during and in relation to a felony violation enumerated in 18 U.S.C. § 1028A(c), specifically, the defendant used M.G.'s name during and in relation to a felony violation of Title 18, United States Code, Section 1343, as set forth in Count One of this indictment, the defendant knowing that the means of identification belonged to an actual person.

(In violation of Title 18, United States Code, Section 1028A(a)(1)).

A TRUE BILL



PRESIDING JUROR



JEFFREY M. ANDERSON  
Acting United States Attorney

Indictment returned: 7-12-17





[https://madison.com/wsj/news/local/courts/middleton-lawyer-sentenced-to-probation-in-scheme-but-deserved-prison/article\\_4b61b52a-69ff-56c3-b8bc-792af3c23ea8.html](https://madison.com/wsj/news/local/courts/middleton-lawyer-sentenced-to-probation-in-scheme-but-deserved-prison/article_4b61b52a-69ff-56c3-b8bc-792af3c23ea8.html)

## Middleton lawyer sentenced to probation in scheme, but deserved prison, judge says

ED TRELEVEN etreleven@madison.com Nov 17, 2017

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A Middleton lawyer avoided a prison sentence for stealing nearly \$500,000 from his business partners, but only because of the needs of his emotionally disabled son, a federal judge said Friday.

U.S. District Judge James Peterson said Patrick S. Sweeney, 62, deserved a prison sentence, but instead sentenced him to five years of federal probation, with the first year to be served on home detention.

“This is not out of concern for you but out of concern for your son and everyone who has to deal with his illness,” Peterson told Sweeney.

Peterson also ordered Sweeney to pay back \$481,970.

Sweeney was originally charged with wire fraud, identity theft and making a false declaration in a bankruptcy matter. He pleaded guilty to the bankruptcy charge. He was the managing member of three limited liability companies and held control of the companies’ bank accounts. An indictment states that Sweeney, under the guise of a loan to a friend from the companies, began drawing checks from the companies’ bank accounts and used the money himself.

Assistant U.S. Attorney Meredith Duchemin said Sweeney used the money “to support an upper-class lifestyle for him and his wife” when his legitimate income no longer supported that.

When asked later for the promissory note by his partners, the indictment states, Sweeney forged a note and signed his friend's name to it. Then in a 2013 bankruptcy matter, Sweeney submitted a list of creditors that falsely listed the embezzled money as "loans to debtor" in an attempt to discharge in bankruptcy his obligation to repay the money.

The wire fraud and identity theft charges were dismissed as part of a plea agreement.

At his sentencing Friday, Peterson chided Sweeney for actions that brought shame and discredit not only to himself but to the legal profession, calling the bankruptcy charge to which Sweeney pleaded guilty "the tip of the iceberg." The entire scheme, Peterson said, was "self-conscious and substantial," and one that certainly deserved time in prison.

Duchemin recommended a two-year prison sentence, while Sweeney's lawyer, Chris Van Wagner, called for probation.

Van Wagner cited the care needed for Sweeney's emotionally disabled 14-year-old son, who has been diagnosed with Disruptive Mood Dysregulation Disorder. Sweeney said the boy experiences outbursts that cause physical danger to others and property damage. Sweeney has been the one who primarily provides care and supervision to his son, Van Wagner said, and removing Sweeney from his son's life for any amount of time could cause the boy's condition to worsen.

Duchemin argued that Peterson should focus on Sweeney's crimes, and not on circumstances unrelated to them.

“He’s responsible for where he finds himself,” Duchemin said.

Sweeney apologized to his former business partners and his family for what he did.

“The reason I’m here today is not to plead innocent or that I’m that bad of a guy,” Sweeney said. “I don’t ask for your leniency.”

Still facing Sweeney is a legal malpractice lawsuit filed last year by UW-Madison Athletic Director Barry Alvarez and his son Chad. They accused Sweeney and other lawyers of negligence, fraud and breach of contract over \$1 million in losses following their investment in what turned out to be a nearly \$1 billion Ponzi scheme run by a University of Miami athletic booster.

Sweeney is also likely to lose his law license when a case brought against him in 2015 by the state Office of Lawyer Regulation, related to the matter for which he was indicted, is decided.

#### MORE INFORMATION

Feds indict Middleton lawyer, alleging fraud in loan scheme

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Ed Treleven | Wisconsin State Journal

Ed Treleven is the courts reporter for the Wisconsin State Journal.





**David Marc Greenstein #43397**

This licensee is prohibited from practicing law in California by order of the California Supreme Court.

**License Status: Disbarred**

Address: 4931 Marmol Drive, Woodland Hills, CA 91364

County: Los Angeles County

Phone Number: Not Available

Fax Number: Not Available

Email: Not Available

Law School: San Fernando Valley College of Law; Woodland Hills CA

**Below you will find all changes of license status due to both non-disciplinary administrative matters and disciplinary actions.**

Date	License Status	Discipline	Administrative Action
Present	Disbarred		
6/21/1975	Disbarred	Disbarment	
3/5/1973			Suspended, failed to pay Bar fees
3/1/1972		Interim suspension after conviction	
1/9/1969	Admitted to The State Bar of California		

**CLA Sections:** None

California Lawyers Association (CLA) is an independent organization and is not part of The State Bar of California.

**Additional Information:**

- Explanation of licensee status
- Explanation of disciplinary system
- Explanation of disciplinary actions
- Copies of official licensee discipline records are available upon request



**Exhibit 6**

# Valley Man Becomes Legal Legend as Prolific Plaintiff

By **NICHOLAS RICCARDI**  
SPECIAL TO THE TIMES

JULY 7, 1996 | WOODLAND HILLS

**D**avid Marc Greenstein sued UPS for ruining his rare Star Trek posters. He sued Slim Fast for putting diet bars in packages he thought were misleadingly big. He sued a Van Nuys store he accused of saying it had a certain tile in stock when it didn't. He sued a dog-training service that he said failed to train his German shepherd and his poodle.

He sued his ex-wife. He got his current wife to sue her hairdresser for cutting her tresses too short before the wedding. He sued the wedding photographer, four times.

And when the businessmen he sued grumbled about him, he sued them again for slander.

Greenstein, 57, of Woodland Hills, has filed more than 100 lawsuits. It may be 200, he says, but in any case so many lawsuits that he can't remember just what his total is. He is becoming a sort of legend in the San Fernando Valley legal system and to his opponents a prime example of the need for a little known law to restrain what are called "vexatious litigators."

A disbarred attorney and author of the book "Sue and Grow Rich," Greenstein said in an interview he sues out of a passion for justice rather than wealth, making about \$1 an hour on his low-sum lawsuits. He expects the public to view him, he said, as "a cross between Don Quixote, Ralph Nader and Charles Keating," referring to the impractically visionary knight-errant, the consumer champion and the convicted swindler.

Many he's sued have harsher assessments. In counter suits, at least six San Fernando Valley businesses accuse Greenstein of taking their merchandise or services and refusing to pay them.

Some legal experts say Greenstein--whose license to practice law was revoked after he pleaded guilty to conspiring to commit grand theft auto--shows the damage a skilled litigator can inflict if he carefully chooses his targets.

"A little bit of knowledge can be very dangerous," said Chris Cameron, a professor at Southwestern School of Law and an expert on civil procedure. "If it's an attorney, it just takes it up a notch because they know even more levers to pull "

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cost thousands," said Art Davis, a businessman  
ave no protection against people like this."

There is however a little-known state law restraining chronic filers of frivolous lawsuits, if they qualify under the statute for classification as "vexatious litigants."

Greenstein has filed more lawsuits than most of the 79 persons classed by Los Angeles County courts as vexatious litigants, most of whose lawsuits are numbered by the dozen.

To be classed vexatious, litigants must lose five cases in seven years, and a judge must rule that their cases are frivolous, barring them from filing any more without court permission.

Greenstein does not fall under the statute because he wins most of his cases, often settling before trial. Four cases have gone against him, but he disputes they would all be considered "losses" under the statute.

"People look and say 200 cases, it's gotta be a scam," Greenstein said. "But if you go and look at each case, if you look at the outcome," they are all merited, he said.

Some who've settled with Greenstein say they felt bullied into it. "When you're looking at your children and your house and everything you own, and somebody is saying 'I'm going to take this away from you unless you do exactly what I say,' you get scared," said one 37-year-old mother of four who settled one of Greenstein's suits.

Greenstein has a lighter side--he is a passionate "Star Trek" fan who once showed up for a conference at a rival attorney's office in full Star Fleet officer costume. He built and is now managing director of the Enterprise Bed and Breakfast, an inn in the Cayman Islands with a "Star Trek" theme, adorned with flags of allied planets.

He says he was expelled from Van Nuys High School because he made too many speeches in the courtyard and he had an early encounter with the law when, as a teenager, he shot his father to death to protect his mother.

One day when he was 18, Greenstein's estranged father--who Greenstein describes as an abusive alcoholic trucker--arrived at the home of Greenstein's mother in a rage. Greenstein pointed a pistol at him and his father grabbed it, and crying, "I'm going to kill you all," shot Greenstein in the arm, he said.

Father and son struggled over the pistol, and it went off three more times, killing the father. His death was ruled a justifiable homicide by a coroner's inquest.

"This is a recollection that is indelibly etched on my mind," Greenstein said recently. "I've never regretted the situation, because . . . we lived."

Even before his first brush with the criminal justice system, Greenstein had been fascinated with the law. Following the shooting, he spent his spare time sitting in Valley courtrooms, watching the wheels of justice turn. After several years of working odd jobs, he enrolled in night school at the University of San Fernando College of Law, earning his law degree in 1968 and opening an office in Encino in 1969.

According to a report from the State Bar of California on his disbarment, Greenstein backdated records to aid a client who was arrested while dismantling Greenstein's own Porsche. Both men were charged with conspiracy to commit grand theft auto, for purposes of insurance fraud, and two counts of grand theft. Greenstein was initially released on bail, but sent back to jail after he was charged with soliciting one client to kill another.

Greenstein pleaded guilty to the conspiracy to commit grand theft auto, and was released on bail after the other charges were dropped.

Weeks later, he tried to withdraw his plea, saying he made it only to escape County Jail, where he had been "homosexually assaulted," according to the bar report. The assaults, the report said, were never reported.

Although he said he was willing to go to trial on the far more severe charge of solicitation to commit murder if his plea to the conspiracy charge was withdrawn, a Superior Court judge denied his request. He served four more months in jail and was disbarred in 1974. At his request, the conviction was stricken from his record in 1976.

Greenstein now says he was guilty only of doing what an attorney is supposed to do--protect his client's rights--and his actions were ethical under the principle of attorney-client confidentiality. The charges against him, he contends, were manufactured by vengeful authorities eager to topple a newly minted attorney.

A psychiatrist who examined Greenstein in jail concluded his "identity and ego were completely involved in his legal career," the bar association report said. Even after he was disbarred, Greenstein continued to work in the law, doing freelance paralegal work and writing his book, the full title of which is "Sue and Grow Rich: How to Handle Your Own Personal Injury Claim Without an Attorney."

Greenstein calls the title "gimmicky," and says that the book does not advocate fraud. In it he advises against exaggerating injuries, while also instructing would-be litigants how to find "hidden defendants" and trick attorneys into giving free legal advice.

By the time he wrote his book--dedicated to, among others, the Greek philosopher Diogenes who searched in vain for an honest man--Greenstein says he was disgusted with the legal profession.

He declined to apply for readmission to the bar and flaunted his status. He drove a car with a "DISBARD" vanity plate and wore a small red "D" patch, which he pointed to as his "scarlet letter" if his disbarment was brought up by opponents in court proceedings.

But he remained a regular in the courts, filing so many lawsuits that some court officials recognize his name with a scowl.

"... about it," Greenstein said, adding later: "To me it's pay it, it's not a problem. It's when somebody don't know what I'm doing, that there's trouble."

This trouble has been manifested as lawsuits against a cross-section of American society, from the couple he sued for backing out of an agreement to buy a piano from him, to big corporations like American Express and Continental Airlines. Slim Fast shrunk the size of its diet bar packaging after Greenstein's suit and wrote a \$1,000 check to the [American Red Cross](#) as part of a settlement.

Greenstein says he received no money for the Slim Fast case, which he says is one of the cases of which he is proudest.

Others leave a bitter taste in his mouth, like his wife's \$250,000 suit that alleged that a hairdresser at Pini Salon in Tarzana lopped off two feet of Laurel Belkin's calf-length hair weeks before her marriage to Greenstein--charges denied by the salon. Belkin was traumatized by the loss of much of her hair, which was a defining characteristic she had grown out since her childhood, according to the suit.

The couple dropped the case during a bitter trial. Greenstein wrote angry letters to the opposing attorney and judge on the case, which led to them securing two restraining orders against him.

Greenstein says many of his claims begin in incidents similar to the one that set off his suit against the Mintz Concrete Co. Greenstein says that Mintz was hired to dig footings for cement work at his hillside Woodland Hills home, but that when he complained the job was not done correctly, owner Barry Mintz fired back the classic retort: "Pay me or sue me."

"Wrong one to say it to," Greenstein said with a smile, although Mintz says he never made such a challenge.

Greenstein slapped the company with a \$3,500 breach of contract suit, and, as he remembers it, settled a year later for \$500 after the company admitted not digging the footing. But Mintz tells a different story, saying Greenstein refused to pay for \$2,400 of work and that he settled only because his insurance company said the case was too costly to fight.

Many of those who have settled or consider settling with Greenstein say it is an economic decision.

"It's just cost prohibitive for a small business to fight these cases," said Robert A. Schwartz, an attorney for Keyboard Galleria in Woodland Hills, which settled one of Greenstein's suits. "Whether he's right or wrong, you just can't fight a \$10,000 suit over a \$300 piano."

Attorneys say the suits and Greenstein's use of the discovery process emotionally wear down his opponents. "It can really take a toll on a person's health," said Greg Stone, who's defending a Woodland Hills computer company against Greenstein. Greenstein dismisses this as an excuse made by people who have done wrong. He says that since he has not been declared a vexatious litigant, he has a right to sue when injured.

... "It's been very, very good," said LuAnn Parks of ...  
...ght an \$800 faucet only to find it was defective. The  
...l no lawsuit is in the works.

But there are others like Mastercraft Door and Window Center in Canoga Park, which has swapped lawsuits with Greenstein. He alleges that much of the \$10,000 worth of equipment he bought from Mastercraft was defective, and Mastercraft claims Greenstein owes the company money.

As he has done in other disputes, Greenstein picketed Mastercraft offices and its booths at home shows, distributing leaflets accusing Mastercraft of fraud. Greenstein said he sent a friend (whom he had once sued in small claims court) to the Mastercraft booth. Greenstein's friend asked Mastercraft employees about Greenstein and captured their replies on tape, Greenstein said.

The alleged replies were cited in a \$25,000 defamation suit against employee Mike Davis.

His mother, Cecelia Davis, owner of Mastercraft, says she's not about to back down. "I want this guy out of business," she said in an interview, vowing to beat Greenstein in court. "This is going to be my good deed for Los Angeles."

Greenstein, meanwhile, says he doesn't plan to retreat from his principles any time soon.

"I can't live with someone screwing me over," he said. "It's cost me in my life and it will cost me again."

Times researcher Rebecca Andrade contributed to this story.

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