

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

MELISSA NELSON, individually and on behalf of all others similarly situated,)	
)	No. 14-cv-1946
)	
Plaintiff,)	
)	
v.)	
)	
SAMSUNG ELECTRONICS COMPANY, LTD. and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC,)	JURY TRIAL DEMANDED
)	
Defendants.)	
)	

CLASS ACTION COMPLAINT

Plaintiff Melissa Nelson (“Plaintiff”) brings this action against Defendants Samsung Electronics Co., Ltd. (“SEC”) and Samsung Telecommunications America, LLC (“STA”) (collectively, “Samsung” or “Defendants”), by her attorneys, on behalf of herself and all others similarly situated, and alleges the following pursuant to the investigation of her counsel and based on information and belief, except as to allegations specifically pertaining to Plaintiff, which are made upon personal knowledge.

SUMMARY OF THE ACTION

1. This is a class action against Samsung seeking to remedy the unfair and deceptive business practices arising from Samsung’s marketing and sale of the Galaxy S4 smartphone (the “Galaxy”).

2. In its product specifications, Samsung claims that the Galaxy is capable of: (a) battery standby time of 350 hours on a 3G network and 300 hours on a 4G network; (b) talk time of 17 hours; (c) music play time of 69 hours; (d) video play time of 11 hours; (e) internet use

time of 8 hours on a 3G network, 8 hours on a 4G network and 10 hours on a Wi-Fi network. These numbers were obtained under laboratory conditions that bear no resemblance to the actual conditions under which a consumer might plausibly use the Galaxy. By misrepresenting the battery life of the Galaxy, and by failing to disclose the actual battery life that can be expected in real word conditions, Samsung has perpetuated a fraud upon unsuspecting consumers.

3. Plaintiff seeks relief on behalf of herself and the members of the Multi-State and Illinois Purchaser Classes defined below, for Samsung's violations of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 I.L.C.S. 505/2 and the materially similar laws of other states.

JURISDICTION AND VENUE

4. This Court has original jurisdiction over the claims asserted herein pursuant to 28 U.S.C. §1332, as amended in 2005 by the Class Action Fairness Act. Subject matter jurisdiction is proper because: (1) the amount in controversy in this class action exceeds five million dollars, exclusive of interest and costs; and (2) a substantial number of the members of the proposed class are citizens of a state different from that of Defendants.

5. Venue is proper in this District under 28 U.S.C. §1391(b)(2) and (3). Defendants conduct substantial business in this District, including conduct directed at members of the Class, such as the promotion, sale, and marketing of their products, sufficient to subject Defendants to the jurisdiction of this Court. The events and conduct giving rise to the violations of law in this action constitute interstate commerce, and a significant portion thereof occurred in this District.

PARTIES

6. Plaintiff Melissa Nelson is an individual consumer and resident of the State of Indiana. In December of 2013, Plaintiff purchased a Samsung Galaxy S4 from Cricket Wireless

(“Cricket”), an authorized third-party retailer for Samsung at Cricket’s Lansing, Illinois location. Plaintiff viewed and relied on Samsung’s product specifications for the Galaxy prior to purchasing the device. To date, Plaintiff has never achieved the battery life that Samsung’s product specifications claim.

7. Defendant SEC is a corporation formed under the laws of the Republic of Korea, with its principal offices located in Seoul, Korea. SEC shares a location with its North American counterpart, Samsung Electronics America, at 85 Challenger Rd., Ridgefield Park, New Jersey 07660. SEC oversees the work of Defendant Samsung Telecommunications America, and, on information and belief, designed, engineered, manufactured, and purposefully caused the Galaxy to be placed into the stream of commerce within this District and throughout the United States.

8. Defendant STA is a Delaware limited liability company with its principal place of business at 1301 East Lookout Drive, Richardson, Texas 75081. STA researches, develops and markets a variety of personal and business communications products throughout North America, including the Galaxy.

9. Plaintiff is informed and believes that at all relevant times, each of the defendants was the agent, servant, representative, successor, successor in interest and employee of the remaining co-defendants, and in doing the things hereinafter alleged, each was acting within the course and scope of said agency and employment and with the ratification and authorization of its respective principals.

FACTUAL ALLEGATIONS

10. A smartphone is a cellular phone that is able to perform many of the functions of a computer, typically having a relatively large screen and an operating system capable of running general-purpose applications.

11. Millions of people rely on smartphones every day for personal and business purposes, including email, internet access, text messaging, GPS, and entertainment. Since most, if not all, of these features are available through other devices such as computers and MP3 players, the smartphone's appeal is derived primarily from its convenience and mobility.

12. Because of their portability and functionality, smartphones command prices several times higher than those for other cellular phones. Consumers purchasing smartphones therefore pay a significant premium for the ability to enjoy the features that smartphones offer.

13. Capitalizing on the consumer appetite for sophistication in phone technology, Samsung first unveiled its Galaxy smartphone on March 14, 2013. Upon its official release in late April, it became the fastest selling smartphone in Samsung's history; the company sold 20 million units worldwide in the two months following the device's launch. Six months after its release, Samsung had sold over 40 million units.

14. Samsung touts the capabilities of the Galaxy, including its stellar battery life. Specifically, Samsung represents on its website¹ that the Galaxy is capable of: (a) battery standby time of 350 hours on a 3G network and 300 hours on a 4G network; (b) talk time of 17 hours; (c) music play time of 69 hours; (d) video play time of 11 hours; (e) internet use time of 8 hours on a 3G network, 8 hours on a 4G network and 10 hours on a Wi-Fi network.

15. These battery capabilities however, were obtained under manipulated testing conditions measuring the Galaxy's potential battery life in the performance of a single function, with all others disabled. These testing conditions do not even come close to representing how the Galaxy is used in the real world.

¹ See <http://www.samsung.com/us/mobile/cell-phones/SCH-I545ZKALRA>, last visited 3/19/14.

16. By isolating battery life measurements to single function performance, Samsung distorts the Galaxy's actual battery life, offering statistics without any practical value to the consumer. Since consumers expect smartphones to perform a variety of functions simultaneously, a representation of the battery's endurance as measured by the performance of each individual feature grossly overstates the actual capabilities of the device, as consumers cannot possibly replicate laboratory conditions in the real world.

17. Samsung relays its misrepresentations concerning battery life measurements to its third-party retailers, such as Cricket Wireless, AT&T and T-Mobile, with knowledge and intent that they will present this information to consumers as an accurate representation of the Galaxy's actual battery life under ordinary, real-world conditions.

18. Consumers' experiences with the Galaxy have been completely contrary to what was explicitly represented by Samsung. Consumers have been dismayed to find that their phones do not perform as represented because they lose battery power quickly, which renders their phones useless and unsuitable for their intended purpose.

19. Indeed, the mobility of a smartphone necessarily depends on the strength of its battery, and consumers have become increasingly conscious of battery life as a criterion by which to assess a particular model against its competitors. As such, the manufacturer's assertions as to the model's battery life weigh heavily on the consumer's decision to purchase, or not purchase that device.

20. Samsung knows or has reason to know that the Galaxy's battery life, as represented in its product specifications, would be impossible to achieve outside of unrealistic, controlled laboratory conditions requiring the consumer to, among other things: (a) disable WiFi or data connectivity; (b) close down any nonessential applications; (c) adjust the screen's

brightness to the lowest possible setting; and (d) power down the phone's processor to the lowest possible setting. For the consumer to operate the Galaxy in such a manner is totally impractical, and to represent the Galaxy's battery life according such conditions is deceptive, misleading, and fraudulent.

21. To operate the Galaxy under such conditions would run contrary to the purposes and functionality for which Samsung marketed the device to the general public – convenience and mobility. Moreover, the deceptive nature of the Samsung's testing methodology is bolstered by its own advertisements, which promote the Galaxy as a “life companion,” offering various features designed to simplify the consumer's life – many of which actually require simultaneous functionality.

22. Nowhere in its advertising or product specifications, however, does Samsung acknowledge that the battery life represented in the Galaxy's product specifications is impossible to achieve outside of laboratory conditions that, if employed by the consumer, would render the device effectively useless to carry out the purposes for which it was designed and marketed.

23. Samsung has received scores of consumer complaints related to the Galaxy's battery life. Despite its knowledge of the problem, however, Samsung has continued to misrepresent to consumers that the Galaxy has excellent battery life and has omitted to disclose to consumers the true battery life of the device-- none of whom would have purchased the Galaxy had they known of this material fact.

24. Samsung has full knowledge of the deceptive and misleading nature of its product specifications and advertising materials, but has yet done nothing to compensate its customers for financial losses related to these misrepresentations, or discontinue the use of these

deceptive and misleading misrepresentations in its dealings with customers or through third-party retailers.

25. As a direct result of Samsung's actions set forth herein, Plaintiff and the consumers who comprise Classes who have purchased the Galaxy have suffered injury in fact, have been damaged and have suffered a loss of money or property for having paid hundreds of dollars for a product that does not, cannot, and will not, work and that is now worth substantially less than what the consumer paid.

26. Accordingly, Samsung's misrepresentations and/or material omissions are deceptive, misleading, and fraudulent, causing consumers to purchase the Samsung Galaxy S4 over other models, and pay more for the Galaxy than they would have but for Samsung's misrepresentations and material omissions.

CLASS ALLEGATIONS

27. Plaintiff brings this action on behalf of herself and those similarly situated and seeks certification of the following Class against Defendant Samsung for violations of Illinois state laws and similar laws of other states that are materially similar to the laws of Illinois (the "Multi-State Purchaser Class"):

Multi-State Purchaser Class

All persons who purchased a Samsung Galaxy S4 from either Samsung or a third-party retailer in Illinois, Arkansas, California, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Hawaii, Idaho, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York; North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Virginia, Vermont, Washington, West Virginia, and Wisconsin. Excluded from the Class are defendants herein, and any person, firm, trust, corporation, or other entity related to or affiliated with defendants, including, without limitation, persons who are directors of Samsung. Also excluded is any judicial officer presiding over this matter and the members of their immediate families and judicial staff.

28. In the alternative, Plaintiff brings this action on behalf of herself and all other similarly situated purchasers of the Galaxy in Illinois and seeks certification of the following Class (the “Illinois Purchaser Class”):

Illinois Purchaser Class

All persons who purchased a Samsung Galaxy S4 from either Samsung or a third-party retailer in Illinois. Excluded from the Class are defendants herein, and any person, firm, trust, corporation, or other entity related to or affiliated with defendants, including, without limitation, persons who are directors of Samsung. Also excluded is any judicial officer presiding over this matter and the members of their immediate families and judicial staff.

29. Each Class is composed of no fewer than tens of thousands of persons nationwide, and is sufficiently numerous for class treatment. The joinder of all Class members individually in one action would be impracticable, and the disposition of their claims in a class action will provide substantial benefits to the parties and the Court.

30. Plaintiff’s claims are typical of the claims of each Class, and Plaintiff has no interests adverse to the interests of other members of the Classes.

31. This dispute raises questions of law and fact that are common to all Class members. Those common questions predominate over questions that arise on an individual basis for Class members. The common questions of law and fact include, without limitation:

- (a) Whether Samsung’s representations, omissions and conduct regarding the Galaxy were misleading or false;
- (b) Whether Samsung engaged in deception in its marketing and sale of the Galaxy;
- (c) Whether Samsung’s representations, omissions and conduct regarding the Galaxy were likely to deceive consumers;
- (d) Whether Plaintiff and the Class members were deceived by Defendants’

representations, omissions and conduct regarding the Galaxy;

- (e) Whether Samsung violated the laws alleged herein;
- (f) Whether the members of the Class have been injured by Samsung's conduct;
- (g) Whether the members of the Class have sustained damages and are entitled to restitution as a result of Samsung's wrongdoing and, if so, what is the proper measure and appropriate formula to be applied in determining such damages and restitution, and;
- (h) Whether the members of the Class are entitled to injunctive relief.

32. Plaintiff will fairly and adequately represent the Classes and has retained counsel experienced and competent in the prosecution of consumer and class action litigation. Plaintiff anticipates no difficulty in the management of this litigation as a class action.

33. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. A class action will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would engender. Class treatment also will permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein. If a Class action is not permitted, Class members will continue to suffer losses and Samsung's misconduct will continue without proper remedy.

34. Samsung has acted and refused to act on grounds generally applicable to each Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Classes as a whole.

CAUSE OF ACTION
**Violation of the Illinois Consumer Fraud and
Deceptive Business Practices Act and Materially Similar State Laws**

35. Plaintiff adopts and incorporates the preceding allegations as if fully set forth herein.

36. Plaintiff brings this count individually and on behalf of the other members of the Multi-State and Illinois Purchaser Classes defined above.

37. The Illinois Consumer Fraud and Deceptive Business Practices Act, 815 I.L.C.S. 505/2 prohibits unfair or deceptive acts or practices in connection with any trade or commerce, including, among other things, “the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact,...whether any person has in fact been misled, deceived, or damaged thereby.” The Act also prohibits suppliers from representing that their goods are of a particular quality or grade that they are not.

38. Samsung’s misrepresentations and material omissions constitute unfair competition or unfair, unconscionable, deceptive, fraudulent, or unlawful acts or business practices in violation of the Act and the following state consumer protection statutes, which are materially similar to the Act: Arkansas (Ark. Code § 4-88-101, *et seq.*); California (Cal. Bus. & Prof. Code § 17200, *et seq.* and Cal. Civil Code § 1750, *et seq.*); Colorado (Colo. Rev. Stat. § 6-1-101, *et seq.*); Connecticut (Conn. Gen. Stat. § 42-110, *et seq.*); Delaware (Del. Code tit. 6, § 2511, *et seq.*); District of Columbia (D.C. Code § 28-3901, *et seq.*); Florida (Fla. Stat. § 501.201, *et seq.*); Hawaii (Haw. Rev. Stat. § 480-1, *et seq.*); Idaho (Idaho Code § 48-601, *et seq.*); Maine (Me. Rev. Stat. tit. 5 § 205-A, *et seq.*); Massachusetts (Mass. Gen. Laws Ch. 93A, *et seq.*); Michigan (Mich. Comp. Laws § 445.901, *et seq.*); Minnesota

(Minn. Stat. § 325F.67, *et seq.*); Missouri (Mo. Rev. Stat. § 407.010, *et seq.*); Montana (Mo. Code. § 30-14-101, *et seq.*); Nebraska (Neb. Rev. Stat. § 59-1601, *et seq.*); Nevada (Nev. Rev. Stat. § 598.0915, *et seq.*); New Hampshire (N.H. Rev. Stat. § 358-A:1, *et seq.*); New Jersey (N.J. Stat. § 56:8-1, *et seq.*); New Mexico (N.M. Stat. § 57-12-1, *et seq.*); New York (N.Y. Gen. Bus. Law § 349, *et seq.*); North Dakota (N.D. Cent. Code § 51-15-01, *et seq.*); Oklahoma (Okla. Stat. tit. 15 § 751, *et seq.*); Oregon (Or. Rev. Stat. § 646.605, *et seq.*); Rhode Island (R.I. Gen. Laws § 6-13.1-1, *et seq.*); South Dakota (S.D. Code Laws § 37-24-1, *et seq.*); Virginia (VA Code § 59.1-196, *et seq.*); Vermont (Vt. Stat. tit. 9, § 2451, *et seq.*); Washington (Wash. Rev. Code § 19.86.010, *et seq.*); West Virginia (W. Va. Code § 46A-6-101, *et seq.*); and Wisconsin (Wis. Stat. § 100.18, *et seq.*).

39. Samsung's deceptive or unfair practices took place in the course of trade and commerce.

40. Samsung intended for Plaintiff and the Class to rely on these deceptive and unfair practices when Plaintiff and the Class purchased the Galaxy S4.

41. Plaintiff and the Class have suffered injuries in fact and actual damages, including financial losses resulting from overpayment for the Galaxy S4 due to Samsung's violation of the Act and the materially similar consumer fraud laws of other states, as alleged herein. These injuries are of the type that the above State consumer protection statutes were designed to prevent, and are the direct and proximate result of Samsung' unlawful conduct.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and the Classes, respectfully requests the following relief:

- (a) Declaring that this action is properly maintainable as a class action and certifying plaintiff as a Class representative;
- (b) Enjoining Samsung from engaging in the wrongful conduct alleged herein;
- (c) Awarding compensatory damages to Plaintiff and members of the Class and, treble, multiple, disgorgement, punitive or other damages;
- (d) Awarding pre-judgment and post-judgment interest;
- (e) Awarding attorney fees, expenses, and costs, and;
- (f) Providing such other and further relief as this Court may deem just and proper.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury on all claims so triable.

Dated: March 19, 2014

Respectfully submitted,
MELISSA NELSON, individually and on
behalf of all others similarly situated
By: /s/ Katrina Carroll
One of the Attorneys for Plaintiff
And the Putative Class

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