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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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11 Brandon Martinez, Jeff Pile and Diana  
Rodriguez, on behalf of  
12 themselves and all others  
similarly situated,

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Plaintiffs,

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v.

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16 Toshiba America Information Systems,  
Inc.; Toshiba Corporation; Toshiba  
Lifestyle Products & Services  
17 Corporation,

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Defendants.

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CASE NO. 2:16-cv-02551

**COMPLAINT**

**Demand for Jury Trial**

1 Brandon Martinez, Jeff Pile, and Diana Rodriguez (collectively, “Plaintiffs”),  
2 by and through Plaintiffs’ undersigned attorneys, on behalf of themselves as well as  
3 the proposed classes (defined *infra*), demanding trial by jury of all claims properly  
4 triable thereby, make the following allegations and claims against Defendants  
5 Toshiba America Information Systems, Inc. (“TAIS”), Toshiba Corporation, and  
6 Toshiba Lifestyle Products & Services Corporation (“TLSC,” and collectively with  
7 TAIS and Toshiba Corporation, “Defendants” or “Toshiba”).

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9 **JURISDICTION**

10 1. This Court has jurisdiction over all causes of action asserted herein  
11 pursuant to the Class Action Fairness Act. 28 U.S.C. § 1332(d).

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13 **PRELIMINARY STATEMENT**

14 2. This action is brought by Plaintiffs, on behalf of Plaintiffs and the  
15 proposed classes, to recover damages and restitution in connection with the purchase  
16 of Toshiba-brand televisions that were falsely marketed and advertised by Toshiba  
17 as “LED TVs,” “LED HDTVs” or “LED televisions.” Plaintiffs and the proposed  
18 classes also seek an injunction: (a) requiring Toshiba to engage in a corrective  
19 advertising campaign to alert consumers as to the true nature of these televisions;  
20 (b) prohibiting Toshiba from continuing falsely to market and advertise such  
21 televisions as “LED TVs,” “LED HDTVs,” or “LED televisions”; and (c) requiring  
22 Toshiba to recall and re-label all such televisions that have already been distributed  
23 for re-sale, but not yet sold to retail customers.

24 3. The televisions at issue are not “LED TVs,” but instead are **LCD** TVs  
25 that use light emitting diodes (LEDs) instead of cold cathode fluorescent lights  
26 (CCFLs) to light the liquid crystal display (LCD) panel that is present in each of the  
27 televisions at issue.

1 4. Toshiba's failure to disclose that its references to LED refer to the light  
2 source that illuminates the LCD panel, **instead of the display technology itself**, and  
3 its nondisclosure and concealment that each of the televisions is otherwise  
4 functionally identical to televisions that are advertised and sold as "LCD TVs," were  
5 at all times knowing, intentional, and intended to mislead consumers. Toshiba's  
6 false and misleading marketing and advertising were and are designed falsely to  
7 suggest that the televisions at issue are not LCD TVs at all, but an entirely different,  
8 improved, and technologically advanced class or species of television. This is false;  
9 all of these televisions are LCD TVs.

10 5. Toshiba has used and continues to use this deception: (a) to induce  
11 customers to purchase Toshiba's so-called LED TVs in the mistaken belief that they  
12 are upgrading from their existing CCFL-lit LCD TVs; (b) to charge a premium for  
13 such televisions that Plaintiffs and other consumers would not have paid had the  
14 televisions been accurately labeled and described; and (c) to capture sales from other  
15 brand televisions that were accurately labeled as LED-lit LCD TVs.

16 6. Toshiba has perpetrated a massive consumer fraud upon thousands of  
17 unsuspecting purchasers, each of whom paid an unsupported premium for a  
18 deceptively labeled "LED TV," and on whose behalf Plaintiffs bring this action to  
19 recover such premium and for other appropriate relief.

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**PARTIES**

22 7. Plaintiff Brandon Martinez is a citizen of Idaho, and, while residing in  
23 New Mexico, purchased a Toshiba-brand 50L2200U model "LED TV" for personal  
24 use and not for resale.

25 8. Plaintiff Jeff Pile is a citizen of Florida, and purchased a Toshiba-brand  
26 47TL515U model "LED TV" for personal use and not for resale.

27 9. Plaintiff Diana Rodriguez is a citizen of New Jersey, and purchased a  
28 Toshiba-brand 55SL417U model "LED TV" for personal use and not for resale.

1           10. When Plaintiffs were considering purchasing these televisions, there  
2 were three flat panel television options widely advertised in the market at large –  
3 “Plasma TVs,” “LCD TVs” and “LED TVs.” Plaintiffs considered models that were  
4 advertised as “LED TVs” as well as models that were advertised as “LCD TVs.”  
5 Plaintiffs selected a Toshiba “LED TV” model, even though it was priced higher  
6 than comparable model “LCD TVs” offered for sale, because of Toshiba’s  
7 marketing assertions on the carton containing the television that it was an “LED  
8 TV,” as opposed to an “LCD TV.”

9           11. TAIS is a California corporation with its principal place of business  
10 located in Irvine, California. TAIS has distributed and marketed and directed the  
11 marketing of so-called “LED TVs” within this district, the State of California, and  
12 throughout the United States. Upon information and belief, TAIS’s deceptive  
13 marketing and advertising practices described herein originated out of its principal  
14 place of business in California.

15           12. Toshiba Corporation is a Japanese corporation with its principal place  
16 of business located in Tokyo, Japan. Toshiba Corporation distributes and markets,  
17 and directs and oversees the marketing of, so-called “LED TVs” within this district,  
18 the State of California, and throughout the United States. Additionally, Toshiba  
19 Corporation has licensed the ability to market and sell Toshiba-branded televisions  
20 in the U.S. to a Taiwanese firm named Compal Electronics. Upon information and  
21 belief, Toshiba Corporation has continued, and will still continue to, oversee the  
22 distribution and marketing of Toshiba-branded televisions in the U.S., including so-  
23 called “LED” TVs.

24           13. TLSC is a Japanese corporation with its principal place of business  
25 located in Tokyo, Japan. Upon information and belief, TLSC is a subsidiary of  
26 Toshiba Corporation. Upon information and belief, TLSC distributes and markets,  
27 and will continue to distribute and market or cause to be distributed and marketed,  
28 so-called “LED TVs” within this district, the State of California, and throughout the

1 United States. Upon information and belief, TLSC is an entity that, on behalf of  
2 Toshiba Corporation, has contracted with the Taiwanese firm named Compal  
3 Electronics to market and sell Toshiba-branded televisions in the U.S. Upon  
4 information and belief, TLSC, on behalf of Toshiba Corporation, will continue to  
5 oversee and/or cause the distribution and marketing of Toshiba-branded televisions  
6 in the U.S., including so-called “LED” TVs.

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8 **STATEMENT OF FACTS**

9 **TELEVISION OWNERSHIP AND SALES STATISTICS**

10 14. Televisions are ubiquitous in our society. The Nielsen Company, a  
11 world-renowned expert in the field of television viewership, reported in 2012 that  
12 97.1% of all U.S. households owned a television, and 84.4% owned more than one.  
13 According to the same report, in 2012, U.S. households were more likely to own a  
14 television than a cell phone (87.3%), DVD player (86.7%), or personal computer  
15 (80.9%).

16 15. While the TV household penetration rate in the U.S. has been high for  
17 decades – exceeding 90% since 1965 – rapid advances in display technology  
18 (including the introduction of so-called flat panel televisions), the dramatic  
19 expansion of non-broadcast “cable” and “satellite” channels and providers, price  
20 competition, and the Congressional mandate that all full power television  
21 broadcasters (like ABC, NBC, and CBS) broadcast exclusively in digital format  
22 starting on June 13, 2009, have led many, and perhaps most, U.S. households to  
23 purchase at least one television, and often several units, within the past few years  
24 alone.

25 16. Industry statistics bear out this phenomenon. In February 2008, 25.1%  
26 of all U.S. households were HD Display Capable – meaning that they were  
27 “equipped with an HD television that [was] capable of displaying HD content.”  
28 (HD or high definition content refers to the resolution of the screen image. HDTVs

1 produce a resolution or level of detail that is much greater than standard definition  
2 televisions.) By May 2012, however, the number of U.S. households that were HD  
3 Display Capable had increased to 75.5%. Non-HD televisions cannot be converted  
4 into HD televisions. In order for the penetration rate to have tripled, 50% of all U.S.  
5 households (or approximately 57,000,000 households based on U.S. Bureau of  
6 Statistics figures) had to buy at least one new television unit in that approximately 4-  
7 year period.

8 17. Industry statistics show:

9 a) In 2009, television manufacturers shipped over 35,300,000 “flat  
10 panel” (Plasma or LCD) television units for sale in the United  
11 States.

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13 b) In 2010, television manufacturers shipped over 38,600,000 “flat  
14 panel” (Plasma or LCD) television units for sale in the United  
15 States.

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17 c) In 2011, television manufacturers shipped almost 40,000,000  
18 “flat panel” (Plasma or LCD) television units for sale in the  
19 United States.

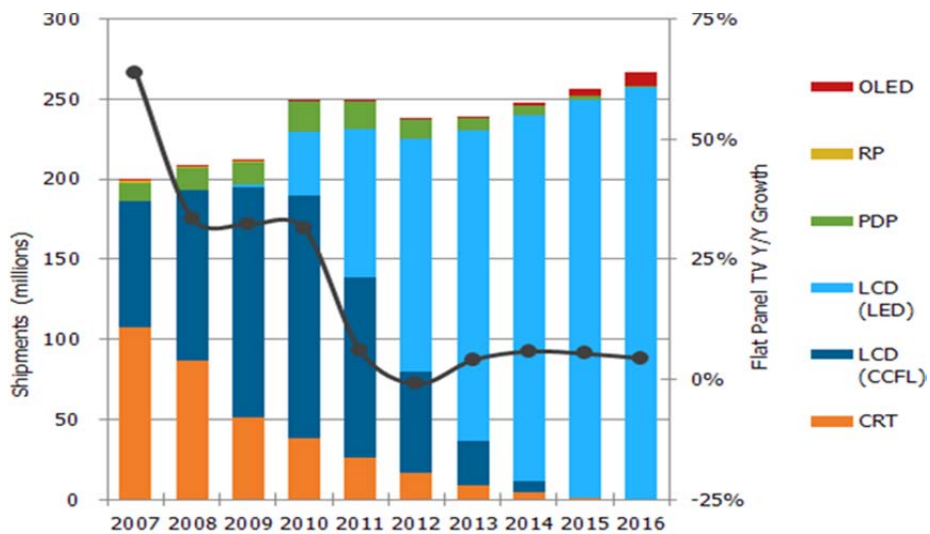
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21 d) In 2012, television manufacturers shipped over 37,600,000 “flat  
22 panel” (Plasma or LCD) television units for sale in the United  
23 States.

24 Total revenue from 2012 sales exceeded \$28 billion.

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26 e) While final figures were not yet accessible as of filing, in 2013,  
27 television manufacturers were forecast to ship over 36,600,000  
28 “flat panel” (Plasma or LCD) television units for sale in the

1 United States. Total revenue from 2013 sales was projected to  
 2 exceed \$28 billion.

3  
 4 18. As the following industry chart makes clear, globally, LCD TVs  
 5 comprise the overwhelming majority of flat panel sales, and LED-lit LCD TVs now  
 6 comprise the overwhelming majority of “LCD TV” sales:



17 19. Although LED-lit LCD TVs were introduced to the mass market in or  
 18 about 2008, this technology has quickly come to dominate U.S. LCD TV unit sales,  
 19 as the following statistics demonstrate:

- 20 a) In 2009, approximately 3% of all LCD TV units sold in the US  
 21 (volume, not dollar value), used LED backlighting.
- 22 b) In 2010, approximately 22% of all LCD TV units sold in the US  
 23 (volume, not dollar value), used LED backlighting.
- 24 c) In 2011, approximately 45% of all LCD TV units sold in the US  
 25 (volume, not dollar value), used LED backlighting.
- 26  
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1 d) In 2012, approximately 51% of all LCD TV units sold in the US  
2 (volume, not dollar value), used LED backlighting.

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4 e) In 2013, approximately 84% of all LCD TV units sold in the US  
5 (volume, not dollar value), were projected to use LED  
6 backlighting.

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### **TOSHIBA'S MARKET SHARE**

9 20. Toshiba is a world-renown electronics manufacturer and a significant  
10 player in the U.S. television market. In the time period 2009 to 2013, and variable  
11 by quarter, Toshiba's market share in the U.S. LCD TV segment has fluctuated from  
12 about 5% to about 8%.

13 21. Toshiba's acquisition and maintenance of its share of the U.S.  
14 television market for LCD TVs is due, in part, to the false advertising described  
15 herein.

### **TELEVISION DISPLAY TECHNOLOGIES**

#### CRT Televisions and Analog Rear Projection Televisions

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18 22. From virtually its earliest beginnings until the late 1990s, direct view  
19 CRT-technology (cathode ray tubes) dominated the United States television market.  
20 These were the boxy televisions of old, and were sold to consumers in a variety of  
21 screen sizes, up to a maximum of 37" (measured diagonally).

22 23. In a cathode ray tube television, a filament is placed inside a vacuum  
23 glass tube. When the filament (cathode) is activated by electricity, it generates  
24 electrons, which fall off the heated filament into the vacuum. A focusing anode  
25 attracts the electrons and focuses them into a tight beam or "ray," which is then  
26 accelerated. The tight, now high-speed electrons travel through the vacuum in the  
27 tube and strike the flat glass screen at the other end of the tube – which is the back  
28



1 of the television's outward facing screen. The back of the screen is coated with  
2 phosphor, which glows when struck by the electron beam.

3 24. A phosphor is any material that, when exposed to radiation (like the  
4 electron beam), emits visible light. In a black and white CRT TV, there is one  
5 phosphor that glows white when struck. In a color screen, there are three phosphors  
6 arranged as dots or stripes, so as to emit red, green, and blue light when struck by  
7 the ray.

8 25. CRT TVs were for decades the only televisions consumers could  
9 purchase.

10 26. Exemplar images of CRT televisions follow:



17  
18 27. CRT TVs, moreover, have a built in size  
19 limitation. The size of the screen is proportional to the size of the vacuum tube. To  
20 increase the screen size, one must increase the length of the vacuum tube. As a  
21 result, CRT TVs for the consumer market were generally only available in sizes up  
22 to 37" diagonal.

23 28. Consumers who wanted a larger screen image were forced to purchase  
24 analog projection televisions. Analog projection televisions of this era also used  
25 vacuum tube technology to generate the screen image.

26 29. Exemplar images of analog projection televisions follow:

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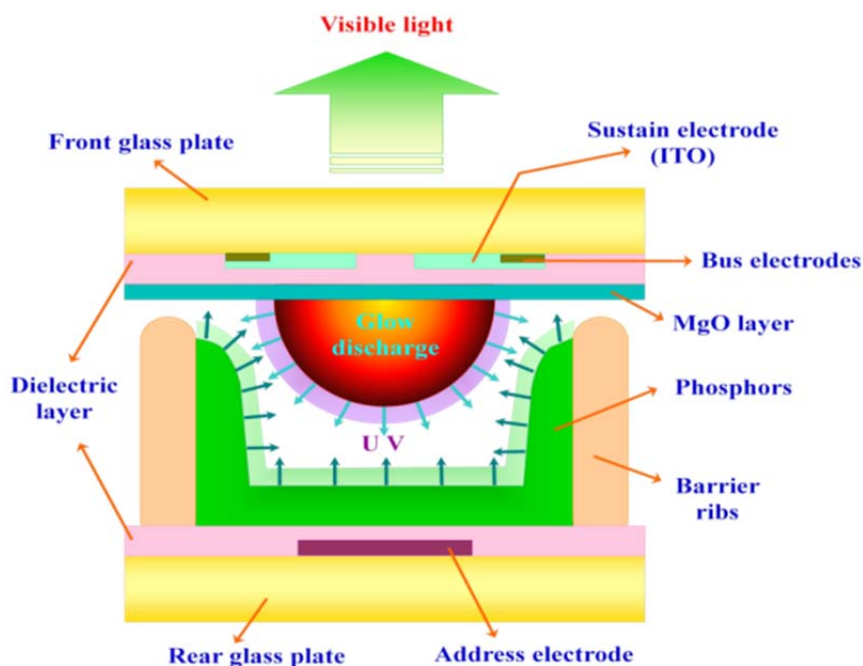
11 Plasma Televisions

12 30. In or about the early 2000s, television manufacturers began introducing  
13 flat panel, plasma display televisions (“Plasma TVs”) to the mainstream consumer  
14 market. The introduction of Plasma TVs, which were thin and light enough to be  
15 mounted directly on a wall, revolutionized the television industry.

16 31. Plasma TVs use plasma displays, which are composed of millions of  
17 small cells, or pixels, containing electrically charged ionized gases, to generate the  
18 screen image. When the television is turned off, the ions and electrons in the gas or  
19 “plasma” are equally balanced, the atom is stable, and the pixel is dark. When  
20 electricity is introduced, however, the atoms become unstable and electrons and  
21 particles within the plasma begin to collide, releasing photons of ultraviolet energy.

22 32. Each pixel within the plasma display is made up of three separate  
23 subpixel cells with different colored phosphors – one red, one blue, and one green.  
24 As discussed above, in the context of CRT TVs, phosphors produce light photons –  
25 they glow – when struck by energy. The phosphors in the Plasma TVs are activated  
26 by the ultraviolet photons, which can be varied in number by pixel and subpixel.  
27 The amount of electricity applied to the subpixel determines the number of  
28 ultraviolet photons generated, and thus the color intensity the subpixel generates,

1 which combines with the primary colors generated by the other two subpixels to  
2 determine the color displayed on the screen by the pixel. All of the pixels acting  
3 together generate the screen image. Exemplar graphical depictions of the image  
4 generating process for a plasma display are set forth below:



**Schematic illustration of single cell/pixel in PDP**

18 33. The pixels used in plasma displays do not require a separate light  
19 source; the image and all of the colors are generated by the interaction between the  
20 electrically charged ionized gases and the phosphor in the cells.

21 34. A generic image of a Plasma TV is set forth below:



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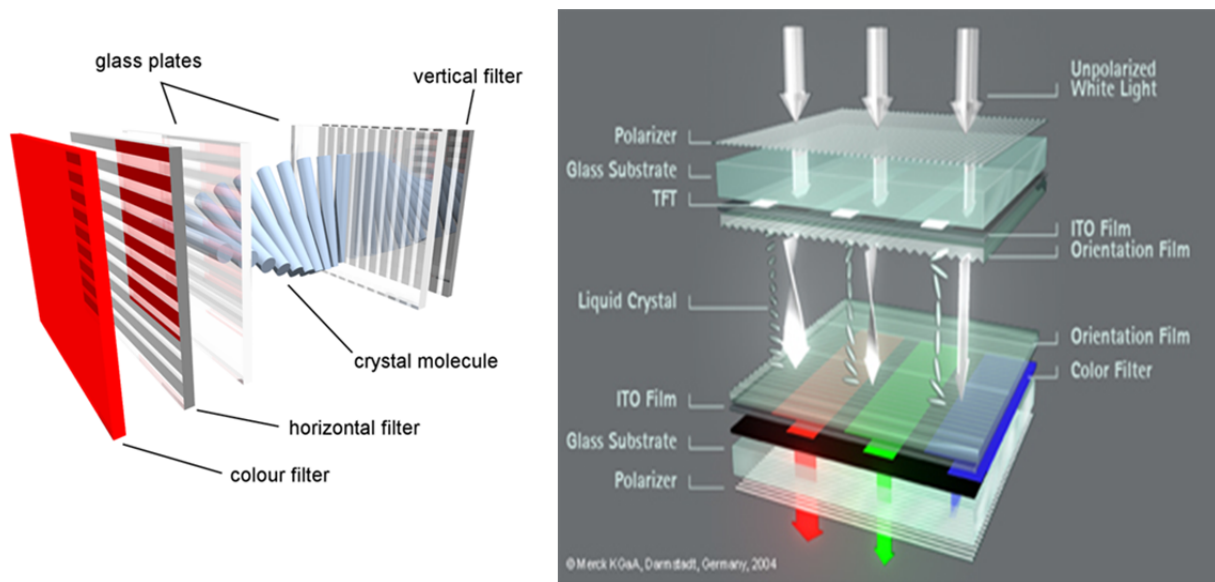
### LCD Televisions

35. In the early to mid-2000s, television manufacturers began introducing flat panel, liquid crystal display televisions (“LCD TVs”) to compete with Plasma TVs (and to a lesser degree other available alternative technologies, e.g., CRT). While flat, reasonably light, and wall-mountable like Plasma TVs, LCD TVs utilize a fundamentally different display technology – liquid crystal displays (“LCD”).

36. To form a liquid crystal display or LCD, a very thin layer of a liquid crystalline substance is sandwiched between two substrates, which are sheets of glass or plastic to which a grid of electrodes has been applied. A vertical polarizing film is applied to the LCD’s rear substrate. Patterned red, green and blue color filters and a horizontal polarizing film are applied to the front substrate. The liquid crystals are rod-shaped polymers that are neither solid nor liquid and, when subject to an electric current, will align in a predictable manner. In an LCD TV, the liquid crystal display (or LCD) is then lit by a separate source of light (the “light source”) because, unlike plasma displays, liquid crystals do not emit light themselves.

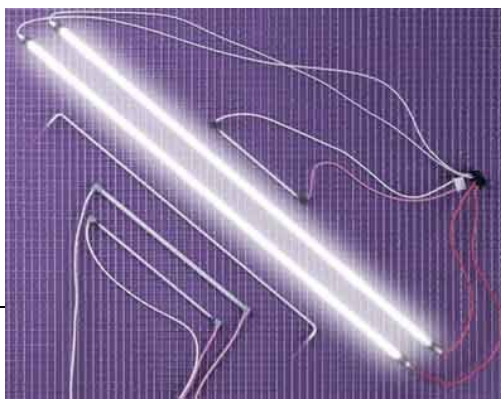
37. An LCD TV generates screen images by controlling the amount of light from the light source that passes through the LCD and strikes the color filters. In very simple terms, the LCD is comprised of millions of tiny liquid crystal “shutters” that allow or block the passage of light depending on the intensity of the electric current being applied. Each of these liquid crystal “shutters” corresponds to a tiny rectangular red, green, or blue filter or sub-pixel that is mounted to the front substrate (the surface closest to the television’s glass screen). As with plasma displays, three sub-pixels – one red, one green, and one blue – comprise a single pixel, and a “Full HD” or high definition television will contain more than 2 million pixels (1920 pixels horizontally multiplied by 1080 pixels vertically). The amount

1 of light that passes through each liquid crystal “shutter” determines the intensity of  
 2 the red, green, or blue color that the corresponding subpixel generates. The  
 3 interaction of the trio of subpixels (for each pixel) determines the color that is  
 4 displayed on the screen for that pixel. All of the pixels together generate the screen  
 5 image. Exemplar graphical depictions of the image generating process for a liquid  
 6 crystal display are set forth below:



17  
 18 38. LCD technology is light source neutral: *i.e.*, **any** white light source can  
 19 be used to light and thus generate the screen image, a fact that has been widely  
 20 known throughout the manufacturing industry since the introduction of this  
 21 technology.

22 39. Initially, and for quite a number of years, all manufacturers of LCD  
 23 TVs primarily used cold cathode fluorescent lights (CCFLs) as the source light. A  
 24 picture of a generic CCFL light source of the type used in LCD TVs follows:

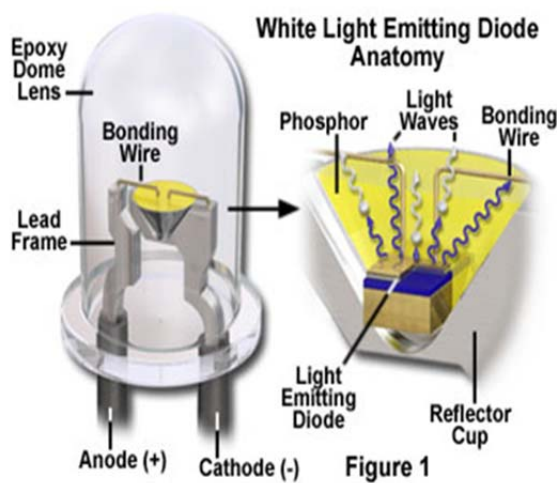


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40. Television manufacturers, however, continued to experiment with and market LCD TVs with other light sources, including LEDs, throughout this period. For example, in 2004, Sony introduced the Sony Qualia 005. The Sony Qualia 005 used an array of light emitting diodes to illuminate the LCD panel. The introduction of a different light source did **not** change the manner in which LCD panels and LCD TVs generate the screen image described above. A picture of a generic LED light source of the type used in LED-lit LCD TVs follows:

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41. Soon after their introduction, LED-lit LCD TVs proliferated, with multiple manufacturers using light emitting diodes, instead of CCFLs, to light the liquid crystal display. Some of these devices place the LEDs behind the liquid crystal display (back- or direct-lit), while others place the LEDs on the edge of the liquid crystal display (edge lit). But all of these televisions—regardless of the light source—employ a liquid crystal display of LCD screen to generate the TV picture.

42. Toshiba introduced its first LCD TVs with an LED light source in the Summer of 2009 (i.e., the Regza SV670), and followed with additional models and generations of LED-lit LCD TVs generation series in subsequent years. Initially,

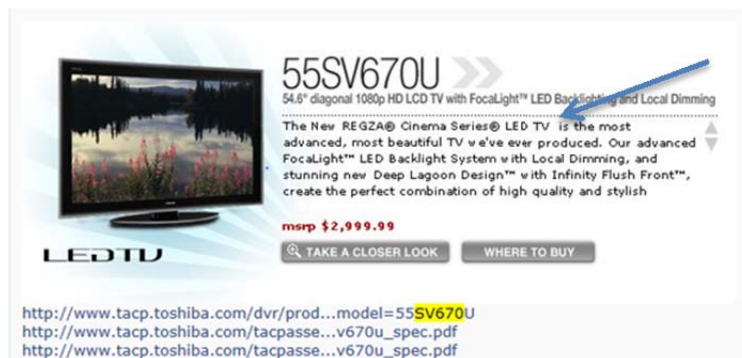


1 LED-lit LCD TVs represented only a small fraction of Toshiba's total LCD TV and  
2 other flat panel sales, whereas, at the time of the filing of this complaint, all of the  
3 TVs listed on Toshiba's U.S. website are LED-lit LCD TVs.

### 4 5 **MARKETING OF LCD TELEVISIONS**

6 43. When liquid crystal display televisions were first introduced into the  
7 market, the televisions were universally marketed as "LCD TVs," just as plasma  
8 display televisions had been advertised as Plasma TVs. No effort was made to  
9 advertise or designate this product line in reference to the CCFL or other light  
10 source used to light the LCD panel. For example, the Sony Qualia was not  
11 advertised as an LED TV, nor were comparable liquid crystal displays using CCFL  
12 backlights advertised as CCFL TVs. This remained true even as LED-lit LCD TVs  
13 became cheaper to manufacture and more common in the consumer segment of the  
14 market.

15 44. Toshiba's initial LED-lit LCD TV units were likewise clearly identified  
16 as LCD TVs as the following marketing materials and owner's manual for the  
17 Regza SV670 model demonstrate:



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**TOSHIBA**  
Leading Innovation >>>

**46SV670U**  
1080p Full HD LCD TV  
with FocalLight™ LED Backlighting  
with Local Dimming

**ADVANTAGE**

- 1080p Full HD ClearSpeed™ Display
- FocalLight™ LED Backlighting with Local Dimming
- 2,000,000:1 Dynamic Contrast Ratio
- CrystalClear™ Contrast Enhancer
- ClearScan 240™ with New Backlight Scanning Technology
- Resolution+™ Super Resolution Technology
- PixelPure® 5G 14-Bit Internal Digital Video Processor
- AutoView™ Automatic Picture Adjustment
- ColorMaster™ Wide Color Enhancer
- Dolby® Volume Automatically Adjusts Uneven Volume Levels
- 4 HDMI Digital Inputs (1 Side) with InstaPort™ and REGZA LINK®
- Next Gen Connectivity (USB Port, SD Card Slot, IR Pass-Through, High-Res PC Input)
- ATSC/QAM Digital Tuner for Over-the-Air and Cable in-the-Clear Digital Tuning
- New Deep Lagoon™ Design with Infinity Flush Front™

**PRELIMINARY**

46SV670U, 46" Regza™ 1080p Full HD LCD TV with FocalLight™ LED Backlighting with Local Dimming

**TOSHIBA**  
Leading Innovation >>>

**REGZA**

**Owner's Manual**  
Integrated High Definition  
LCD Television

COLOR STREAM™ HD | DOLBY DIGITAL | DOLBY VOLUME |

HDMI | DIVX | CINEMA SERIES

AUDYSSEY | DIVX

**46SV670U**  
**55SV670U**

**Owner's Record**  
The model number and serial number are on the back and side of your TV. Record these numbers in the spaces below. Refer to these numbers whenever you communicate with your Toshiba dealer about this TV.

Model number: \_\_\_\_\_  
Serial number: \_\_\_\_\_

For an overview of steps for setting up your new TV, see page 9.  
Note: To display a High Definition picture, the TV must be receiving a High Definition signal (such as its over-the-air High Definition TV broadcast, a High Definition digital cable program, or a High Definition digital satellite program). For details, please contact your TV antenna installer, cable provider, or satellite provider.

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1           45. Introduction of LED-lit LCD TVs did not result in the immediate end  
2 of CCFL-lit LCD TVs. To the contrary, LED-lit LCD TVs did not sell well.  
3 Because LED-lit LCD TVs were priced higher than comparable CCFL-lit LCD TVs,  
4 consumers continued to purchase CCFL-lit LCD TVs (or Plasma TVs)  
5 notwithstanding the alleged benefits of the LED backlighting which Toshiba and  
6 other manufacturers trumpeted.

7           46. Manufacturers, including Toshiba, continued to manufacture both  
8 CCFL and LED-lit LCD TVs, advertising and selling them side by side through the  
9 same retail and on-line channels. While the LED lighting feature was often  
10 advertised, at least initially, no effort was made to conceal that these televisions  
11 utilized liquid crystal displays and were therefore in fact LCD TVs. Most early  
12 advertising, like the Toshiba materials quoted above, clearly stated that the  
13 televisions were LED-lit LCD TVs or otherwise accurately described and disclosed  
14 that the television being advertised utilized LCD display technology. As noted, very  
15 few consumers were interested enough to purchase the product, notwithstanding the  
16 LED light source.

17           47. Within months after it began distributing LED-lit LCD TVs, Toshiba  
18 made the marketing decision that gives rise to this lawsuit: Toshiba dropped all  
19 references to the televisions being LCD TVs and began marketing the LED-lit LCD  
20 TVs as a new, advanced, technologically superior species of television, a so called  
21 LED TV, which was allegedly different from and better than LCD TVs, even though  
22 both species of television use the same liquid crystal displays to generate the same  
23 screen image. The marketing materials and manual below reflect this shift to false  
24 and misleading marketing and labeling:



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http://us.toshiba.com/tv/led19L4200u

SHOP TOSHIBA DIRECT VIEW CART \$0.00

**TOSHIBA**  
Leading Innovation →

COMPUTERS TABLETS TELEVISIONS VIDEO & ELECTRONICS SUPPORT

TVs » LED TVs »

**Toshiba 19L4200U - 19" class 720p 60Hz LED TV**  
MSRP: ~~\$229.99~~  
SHOP

Average Customer Rating: ★★★★★  
Read Reviews (3) | Write Reviews

ENERGY GUIDE

Overview Specifications Features Image Gallery Videos Customer Reviews

**Toshiba 19L4200U 19" class LED TV Overview**

**Excellent Small-Screen Viewing**  
Any room. Any time. Anytime you want to step up and enjoy LED entertainment, the 19L4200U is perfect. With excellent small-screen HD quality, plus the performance, reliability and versatility only Toshiba can offer.

**Advanced Picture Settings**  
Whenever and wherever you want to enjoy high-def movies, gaming and sitcoms—in the kitchen, bedroom or storm room—this TV will exceed your expectations with its sleek, sophisticated Aero™ design, LED backlighting for bright, sharp images and great energy efficiency, too, plus excellent audio.

**Many Ways to Connect**  
And if expansion is in your plans, the 19L4200U comes with a full jack pack of connections to help you do it: HDMI for hooking in an A/V receiver or a speaker system; an HD PC port for learning up with a laptop; and much more. So if you think you're bound by a low-end LCD budget, think twice and take a close look at the 19L4200U HD TV. You'll enjoy great LED entertainment at an LCD price, plus the genuine innovation that sets Toshiba apart.

More LED TVs

MODEL	MSRP
19L4200U	\$229.99
29L1350U	\$199.99
24L4200U	\$229.99
29L1350U	\$199.99
32L1350U	\$249.99
32L4200U	\$249.99
32L2200U	\$249.99
32L2000U	\$269.99
19L22U	\$149.99
29L1350U	\$199.99
39L2300U	\$349.99
49L2200U	\$599.99
49L2000U	\$699.99
59L2200U	\$899.99
49L5200U	\$799.99
59M2U	\$999.99
69L1350U	\$899.99
69L2300U	\$649.99
69L2000U	\$699.99
49L5200U	\$1,199.99
47L2000U	\$1,149.99
47L7200U	\$1,399.99
59L4200U	\$1,499.99
59L7200U	\$2,099.99

MSRP. Retailer/retailer pricing may vary. Toshiba is not liable for pricing errors.

More TVs LED TVs Smart TVs

Friday, August 02, 2013 11:37:08 AM

http://us.toshiba.com/tv/led19L4200u

SHOP TOSHIBA DIRECT VIEW CART \$0.00

**TOSHIBA**  
Leading Innovation →

COMPUTERS TABLETS TELEVISIONS VIDEO & ELECTRONICS SUPPORT

TVs » LED TVs »

**Toshiba 19L4200U - 19" class 720p 60Hz LED TV**  
MSRP: ~~\$229.99~~  
SHOP

Average Customer Rating: ★★★★★  
Read Reviews (3) | Write Reviews

ENERGY GUIDE

Overview Specifications Features Image Gallery Videos Customer Reviews

**Toshiba 19L4200U 19" class LED TV Specifications**

**Summary**

- TV SIZE: 19" diagonal widescreen
- SCREEN SIZE CLASS: 19"
- DISPLAY TYPE: LED
- REFRESH RATE: 60Hz
- DESIGN: Aero Cosmetic Design™

**Video**

- VIDEO RESOLUTION\*: 720p
- DYNALIGHT DYNAMIC BACKLIGHT CONTROL: Yes
- DYNAMIC MODE: Yes
- DYNAMIC PICTURE MODE: Yes

**Inputs/Outputs**

- HDMI: 2 ports
- COLORSTREAM COMPONENT VIDEO (YPbPr): 1
- USB PORT: 1 port
- USB MEDIA: Yes

**Features**

- 3D CAPABILITY\*: No
- REMOTE CONTROL\*: Included, Remote Control
- ENERGY STAR® TV: Yes

**Physical Description**

- WIDTH: 17.55" (17.55" with stand)
- HEIGHT: 11.45" (12.70" with stand)
- DEPTH: 1.61" (7.00" with stand)
- WIDTH (SHIPPING): 20.11"
- HEIGHT (SHIPPING): 14.80"
- DEPTH (SHIPPING): 5.43"
- WEIGHT: 6.8 lbs (7.7 lbs with stand)
- WEIGHT (SHIPPING): 13.2 lbs

**Wall Mount Specifications**

- VEHICLE MOUNTING PATTERN\*: 100mm x 100mm

More LED TVs

MODEL	MSRP
19L4200U	\$229.99
29L1350U	\$199.99
24L4200U	\$229.99
29L1350U	\$199.99
32L1350U	\$249.99
32L4200U	\$249.99
32L2200U	\$249.99
32L2000U	\$269.99
19L22U	\$149.99
29L1350U	\$199.99
39L2300U	\$349.99
49L2200U	\$599.99
49L2000U	\$699.99
49L5200U	\$799.99
59M2U	\$999.99
69L1350U	\$899.99
69L2300U	\$649.99
69L2000U	\$699.99
49L5200U	\$1,199.99
47L2000U	\$1,149.99
47L7200U	\$1,399.99
59L4200U	\$1,499.99
59L7200U	\$2,099.99

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# TOSHIBA

Leading Innovation >>>

## Integrated High Definition LED Television User's Guide:

- 19L4200U
- 24L4200U
- 32L4200U
- 40L5200U
- 46L5200U
- 50L5200U

If you need assistance:  
 Toshiba's Support Web site [support.toshiba.com](http://support.toshiba.com)  
 Call Toshiba Customer Support Center:  
 Within the United States at (800) 631-3811  
 Outside the United States at (949) 583-3050  
 For more information, see "Troubleshooting" on page 122 in this guide.

**Owner's Record**  
 The model number and serial number are on the back and side of your TV.  
 Record these numbers in the spaces below. Refer to these numbers whenever you communicate with your Toshiba dealer about this TV

Model number: \_\_\_\_\_  
 Serial number: \_\_\_\_\_

Note: To display a High Definition picture, the TV must be receiving a High Definition signal (such as an HD cable).

<http://us.toshiba.com/tv/led/47l6200u>

**TOSHIBA**  
Leading Innovation >>>

SHOP TOSHIBA DIRECT VIEW CART \$0.00

COMPUTERS TABLETS TELEVISIONS VIDEO & ELECTRONICS SUPPORT

TVs » LED TVs »

**47L6200U 47" Class 1080P 120Hz 3D LED HD TV**

List Price: \$1,399.99  
 Instant Savings: \$250.00  
 Total Price: **\$1,149.99**

BUY NOW SHOP AT RETAILERS »

Average Customer Rating: ★★★★★  
 Read Reviews (4) | Write Reviews

ENERGY GUIDE Most Efficient 2012

Overview Specifications Features Image Gallery Customer Reviews

Toshiba 47L6200U 47" class 3D LED TV Overview

**1080P HD**

Premium Full HD TV  
 If you're looking for premium television at a not-so-premium price, the 47L6200U big screen Full HD TV is ready for its grand debut offering the finest in Full HD entertainment, dazzling visuals, sleek, classy looks and the advanced Smart TV suite.

**AERO DESIGN™**

Elite TV Technology  
 Why watch from the balcony when you can have riveting, front-row access to movies, games, programming and everything the Web has to offer? Start by savoring stunning 2D images in brilliant 1080p Full HD displays. Or enjoy passive 3D for epic movies and extended gaming. Shadows and highlights will look better with our exclusive Dyna-Light backlight control. So will fast-action sports with our exclusive ClearAction® 120Hz anti-tear technology. Enslaved in our thin new Aero™ bezel-less design, this set adds to most any room.

Smart TV Innovations  
 And our Smart TV suite takes you beyond great television, putting you in touch with movies, social sites and other content on the web or your home network, plus conveniences you'll wonder what you did without. Tap into four HDMI hook-ups for your home theater, an HD PC port for your laptop, and other key connections, too. You don't have to be rich to enjoy a wealth of high-end entertainment and web-open web. The L6200U series Full HD TV brings it right to your living room.

**More LED TVs**

MODEL	MSRP
19L4200U	\$229.99
24L1550U	\$169.99
24L4200U	\$239.99
24L1550U	\$199.99
32L1350U	\$249.99
32L4200U	\$349.99
32L2000U	\$549.99
32L2900U	\$269.99
32L29U	
32L1550U	\$349.99
32L2000U	\$349.99
40L2000U	\$599.99
40L5200U	\$699.99
50L2000U	\$899.99
40L5200U	\$799.99
50M2U	
50L1350U	\$599.99
50L2000U	\$649.99
50L5200U	\$899.99
43L4200U	\$1,199.99
47L4200U	\$1,149.99
47L2000U	\$1,399.99
55L4200U	\$1,599.99
55L7200U	\$2,099.99

MSRP. Retailer/Retailer pricing may vary. Toshiba is not liable for pricing errors.

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**TOSHIBA**  
Leading Innovation >>>

**Integrated High Definition LED Television User's Guide:**



42L6200U  
47L6200U  
55L6200U  
47L7200U  
55L7200U

If you need assistance:  
Toshiba's Support Web site [support.toshiba.com](http://support.toshiba.com)  
Toshiba Customer Support Center:  
Calling within the United States at (800) 631-3811  
Calling from outside the United States at (949) 583-3050  
For more information, see "Troubleshooting" on page 176 in this guide.

**Owner's Record**  
The model number and serial number are on the back and side of your television.  
Record these numbers, whenever you communicate with your Toshiba dealer about this Television.

Model name: \_\_\_\_\_  
Serial number: \_\_\_\_\_

Register your Toshiba Television at [register.toshiba.com](http://register.toshiba.com)

Note: To display a High Definition picture, the TV must be receiving a High Definition signal (such as an over-the-air High Definition TV broadcast, a High Definition digital cable program, or a High Definition digital satellite program). For details, contact your TV antenna installer, cable provider, or satellite provider.

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4/12

48. Toshiba's cartons also now prominently referred to the televisions as "LED TVs"; nowhere on the carton did Toshiba say the televisions were "LCD TVs" that used an LED light source or anything similar. Images of such cartons appear below:





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49. The result of this deception was both immediate and dramatic: A product that had previously failed to make any significant inroads into the flat panel

1 television market suddenly became the leader of the industry. Before the false  
2 advertising at issue, CCFL-lit LCD TVs had dominated LCD TV sales in the U.S.  
3 with over 97% of sales. Today, however, as a result of the deceptive advertising,  
4 LED-lit LCD TVs now dominate the LCD TV market as well as the overall flat  
5 panel television market.

6 50. LED-lit LCD TVs are **not** in fact LED TVs. Although Toshiba has  
7 falsely advertised LED-lit LCD TVs as “LED TVs” in a successful effort to increase  
8 sales and profits, the fundamental display technology of its flat screen televisions  
9 has not changed. All of these televisions use LCD screens to display their pictures.  
10 These televisions were LCD TVs before Toshiba’s false advertising and remain  
11 LCD TVs today. While a few manufacturers have refrained from falsely advertising  
12 their televisions as LED TVs, the majority of manufacturers, including Toshiba,  
13 have chosen falsely to advertise their LED-lit LCD TVs as “LED TVs” (or have  
14 used similarly deceptive language – *e.g.*, LED HDTV).

15 51. The manufacturers that have refrained from this deception, including  
16 Sony, RCA, and Hitachi, have seen their market shares fall, while those  
17 manufacturers that have engaged in the deception, including Toshiba, have reaped  
18 the benefits of increased sales.

19 52. Toshiba uses multiple marketing channels to create the appearance of a  
20 product category and price point that simply does not exist in the consumer market.  
21 For example, for years, when visiting Toshiba’s website, customers were directed to  
22 choose between LED TVs, LCD TVs, and Plasma TVs.<sup>1</sup> A screenshot of Toshiba’s  
23 website as of January 2, 2012 below illustrates this point:

24

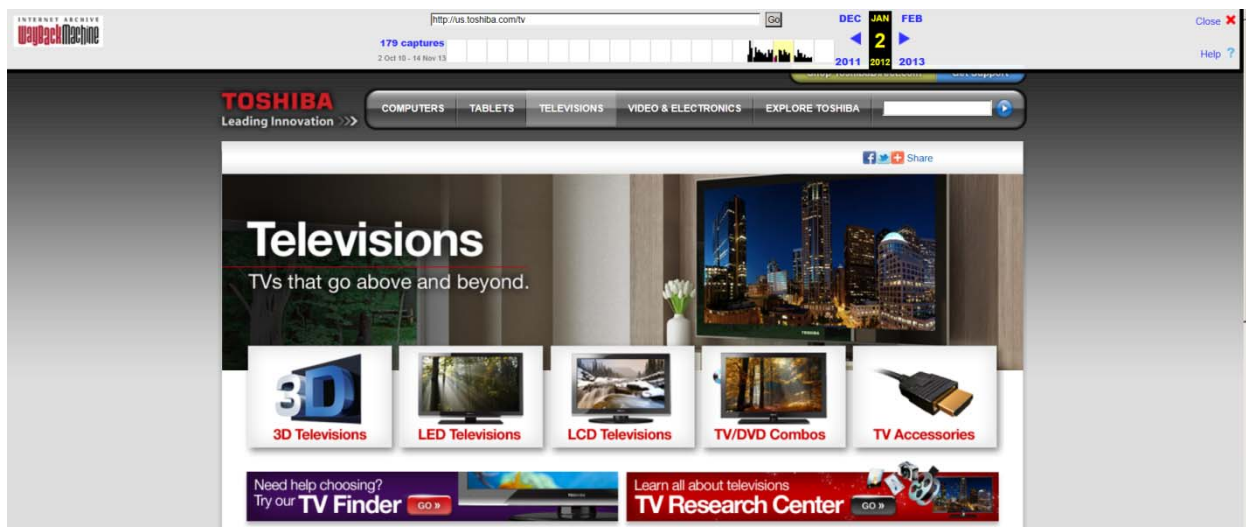
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27 <sup>1</sup> Toshiba has discontinued distributing CCFL-lit LCD TVs, although some remain  
28 for sale through third party retailers. As a result, Toshiba’s web interface has been  
updated to eliminate the LCD category altogether.

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The LCD category accurately describe the applicable display technology, while the LED category misleadingly identifies only the light source, thus falsely implying that LED, not LCD, is the display technology. Moreover, when potential purchasers click through to the actual televisions, for the LED TVs there is no reference to their being LCD display televisions. This is deceptive.

53. Toshiba has used circulars, newspaper and magazine advertisements, and point of sale display materials to further its deception.

54. In the absence of Toshiba's deceptive advertising, Plaintiffs and other consumers would instead have purchased a comparable model CCFL LCD TV from Toshiba or another manufacturer at a lower price, or would have paid less for the falsely marketed and advertised "LED TV" models that they purchased from Toshiba.

55. Toshiba is fully aware that the televisions at issue are LED-lit LCD TVs, that they do not contain LED displays, and that they are not LED TVs. Toshiba has falsely advertised the televisions to increase sales and profits. Toshiba would not have been able to charge the premium it has charged for its "LED TVs" if it had accurately advertised the televisions as LCD TVs or LED-lit LCD TVs.

1 **LED-LIT LCD TVS ARE NOT LED TVS**

2 56. LED-lit LCD TVs are not LED TVs, which employ a fundamentally  
3 different technology that is still several years away from availability at prices  
4 accessible to mainstream purchasers. Actual LED TVs use light emitting diode  
5 displays instead of the liquid crystal displays or plasma displays described above.  
6 The LED displays in these televisions are self-illuminating; they require **no**  
7 independent light source and do **not** contain liquid crystal technology. Actual LED  
8 TVs are currently available for sale, but at prices that only the wealthy can afford;  
9 the televisions are far out of the reach of mainstream consumers.

10 57. Toshiba does not appear to market a true LED TV, but other  
11 manufacturers do. For example, Samsung’s 55” true LED TV, model KN55S9C,  
12 retailed for \$8,999. A similarly sized Samsung LED-lit LCD TV sells for as low as  
13 \$799 – less than one-tenth the price. A similarly sized Toshiba LED-lit LCD TV  
14 sells for as low as \$1049.

15 58. As shown, while LED-lit LCD TVs are not LED TVs, various  
16 manufacturers, including Toshiba, have deliberately and falsely claimed that such  
17 televisions are LED TVs in order to generate sales and charge a price premium for  
18 such televisions.

19 59. Commentators have noted the deceptive nature of this marketing and  
20 labeling. For example (all emphasis added):

- 21 • **“They are not LED TVs.** Calling them such makes as much  
22 sense as calling its existing line of LCD televisions Cold Cathode  
23 Fluorescent Lamp TVs, or CCFL TVs, after the lighting  
24 technology that they use....[The] decision to drop ‘LCD’ was a  
25 smart marketing move....But it’s also confusing consumers.”
- 26 • **“There is no such thing as an LED TV.** The misleading  
27 marketing on this one really annoys me. All ‘LED TVs’ are just  
28 LCD TVs that use LEDs as their light source.”



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- “There has been a **lot of hype and confusion** surrounding the introduction of ‘LED’ Televisions....LED TVs are still LCD TVs. It is just that these new sets use LED backlights rather than the fluorescent-type backlights used in most other LCD TVs. In other words, LED TVs should actually be labeled LCD/LED or LED/LCD TVs.”

### **LED-lit LCD TVs Are Not Inherently Superior to CCFL-lit LCD TVs**

60. There is nothing about LED-lit LCD TVs that renders them inherently superior (or inferior) to CCFL-lit LCD TVs. The image that is generated on the television screen is a function of multiple design elements working together, including the quality and specifications (e.g., lumens output; transmissivity) of the LCD polarizers and color filters, light bulb, glass screen, circuitry, etc. The result is a plethora of output specifications (e.g., contrast, refresh rate, color space), which can vary by make and model, but which are not dictated by the mere fact that one television is lit by a CCFL array while the other is lit by LEDs. CCFL-lit LCD TVs can perform similarly and better than LED-lit TVs, generating equal or greater luminance, equal or better contrast ratio, and equal or better color space coordinates, among other output specifications.

### **PRICE PREMIUM**

61. Toshiba’s deceptive marketing practices have allowed it to charge a premium for the LED-lit LCD TVs that it has misrepresented as LED TVs. While the exact price premium varies by TV size (and other features), and has varied over time, at all times Toshiba’s LED-lit LCD TVs have been priced higher than otherwise comparable CCFL-lit LCD TVs.

1 **PLAINTIFFS AND THE PROPOSED CLASSES WERE DECEIVED AND**  
2 **INJURED**

3 62. Plaintiffs and other purchasers of these “LED TVs” were misled into  
4 believing that they were purchasing an LED TV, not the LCD TV they actually  
5 received, and have suffered damage as a result, in the form of the premium they  
6 were deceived into paying. Plaintiffs and the proposed class members had no  
7 knowledge that the televisions were in fact LCD TVs, and did not suspect, nor did  
8 they have reason to suspect, that the televisions they were purchasing had been  
9 falsely and deceptively advertised.

10  
11 **PLAINTIFFS’ RELIANCE AND INJURY**

12 63. Plaintiffs relied upon Toshiba’s false and deceptive representation that  
13 the television they purchased was an LED TV – which was prominently displayed  
14 on the television’s carton at the time of purchase. Plaintiffs believed that they were  
15 purchasing an LED TV, not the LCD TV that they actually received. Plaintiffs  
16 would not have purchased or would have paid less for their televisions had the  
17 televisions not been falsely and deceptively advertised or had they known the truth.

18  
19 **CLASS ALLEGATIONS**

20 64. This action has been brought, and may be properly maintained, under  
21 Federal Rules of Civil Procedure 23(a) (1)-(4) and 23 (b) (2) and (3).

22 65. Plaintiffs bring this action on behalf of themselves and all other  
23 members of a class (the “Nationwide Class”) defined as follows:

24 All persons who purchased, for personal use and not re-  
25 sale, within the United States within the four years (or  
26 other applicable statute of limitations period) preceding  
27 the filing of this Complaint up through any trial of this  
28 matter, a Toshiba-brand LED-lit LCD television that is  
sold in a box that describes the television as an LED TV or  
LED HDTV or LED television.

1 Excluded from the Nationwide Class are Toshiba, and any  
2 person or entity related to or affiliated with Toshiba, and  
3 any business, person, or entity that purchased such  
4 televisions for re-sale (*e.g.*, retailers), any judicial officer  
5 assigned to the case, the court staff and jurors, along with  
6 their immediate families.

7 66. Alternatively or in addition, Plaintiff Brandon Martinez brings this  
8 action on behalf of himself and all other members of a New Mexico class (the “New  
9 Mexico Subclass”) defined as follows:

10 All persons who purchased, for personal use and not re-  
11 sale, within the State of New Mexico within the four years  
12 (or other applicable statute of limitations period) preceding  
13 the filing of this Complaint up through any trial of this  
14 matter, a Toshiba-brand LED-lit LCD television sold in a  
15 box that describes the television as an LED TV, an LED  
16 HDTV or an LED television.

17 Excluded from the New Mexico Subclass are Toshiba, and  
18 any person or entity related to or affiliated with Toshiba,  
19 and any business, person, or entity that purchased such  
20 televisions for re-sale (*e.g.*, retailers), any judicial officer  
21 assigned to the case, the court staff and jurors, along with  
22 their immediate families.

23 67. Alternatively or in addition, Plaintiff Jeff Pile brings this action on  
24 behalf of himself and all other members of a Florida class (the “Florida Subclass”)  
25 defined as follows:

26 All persons who purchased, for personal use and not re-  
27 sale, within the State of Florida within the four years (or  
28 other applicable statute of limitations period) preceding  
the filing of this Complaint up through any trial of this  
matter, a Toshiba-brand LED-lit LCD television that is  
sold in a box that describes the television as an LED TV or  
LED HDTV or LED television.

Excluded from the Florida Subclass are Toshiba, and any  
person or entity related to or affiliated with Toshiba, and  
any business, person, or entity that purchased such  
televisions for re-sale (*e.g.*, retailers), any judicial officer  
assigned to the case, the court staff and jurors, along with  
their immediate families.

1           68.     Alternatively or in addition, Plaintiff Diana Rodriguez brings this  
2 action on behalf of herself and all other members of a New Jersey class (the “New  
3 Jersey Subclass”) defined as follows:

4                     All persons who purchased, for personal use and not re-  
5 sale, within the State of New Jersey within the four years  
6 (or other applicable statute of limitations period) preceding  
7 the filing of this Complaint up through any trial of this  
8 matter, a Toshiba-brand LED-lit LCD television that is  
9 sold in a box that describes the television as an LED TV or  
10 LED HDTV or LED television.

11                     Excluded from the New Jersey Subclass are Toshiba, and  
12 any person or entity related to or affiliated with Toshiba,  
13 and any business, person, or entity that purchased such  
14 televisions for re-sale (*e.g.*, retailers), any judicial officer  
15 assigned to the case, the court staff and jurors, along with  
16 their immediate families.

17           69.     Each proposed class and subclass is composed of at least thousands of  
18 persons and is sufficiently numerous for class treatment. Joinder of class members  
19 individually would be impracticable, and the resolution of the class claims in a  
20 single action will provide substantial benefits to the parties and the Court.

21           70.     Plaintiffs’ claims are typical of the claims of each proposed class or  
22 subclass member that Plaintiffs (whether collectively or respectively) seek to  
23 represent, and Plaintiffs have no interests that are adverse to the interests of the  
24 members of each proposed class or subclass they, or he or she, respectively, seeks to  
25 represent.

26           71.     This dispute raises fundamental questions of law and fact that are  
27 common to all of the proposed class or subclass members, and that predominate  
28 over any individual class or subclass member issues that must be resolved to  
29 adjudicate this claim, including, but not limited to:

- 30                     (a)     Whether Toshiba marketed and advertised LED-lit LCD TVs as  
31                             LED TVs;
- 32                     (b)     Whether Toshiba intended to mislead the proposed classes when  
33                             it marketed and advertised LED-lit LCD TVs as LED TVs; and

1 (c) Whether it is false or misleading to describe an LED-lit LCD  
2 television as an LED TV.

3 72. Plaintiffs will fairly and adequately protect the interests of each  
4 proposed class and subclass that Plaintiffs (whether collectively or respectively)  
5 seek to represent.

6 73. Plaintiffs have retained experienced, qualified counsel to represent each  
7 proposed class and subclass that Plaintiffs (whether collectively or respectively)  
8 seek to represent.

9 74. A class action is superior to other available methods for the fair and  
10 efficient adjudication of this controversy since joinder of all of the class members is  
11 impracticable. Even if Plaintiffs and the other class or subclass members could  
12 afford individual litigation, the courts could not. The amount at stake for each class  
13 or subclass member is such that individual litigation would be inefficient and cost  
14 prohibitive. Additionally, the adjudication of this controversy through a class action  
15 will avoid the possibility of inconsistent and potentially conflicting adjudications of  
16 the claims asserted herein. There will be no difficulty in the management of this  
17 action as a class action.

18 75. This action is certifiable in the alternative under the provisions of Fed.  
19 R. Civ. P. 23(b)(2) because Defendant has acted or refused to act on grounds  
20 generally applicable to the class members, thereby making appropriate final  
21 injunctive relief or corresponding declaratory relief with respect to the class  
22 members as a whole and necessitating that any such relief be extended to the class  
23 members on a mandatory, class-wide basis.

24

25 **FIRST CAUSE OF ACTION**  
26 **Violation of California's Unfair Competition Law, Cal. Bus. & Prof. Code**  
27 **§§ 17200, et seq., By Plaintiffs Individually And On Behalf Of The Nationwide**  
28 **Class Against Defendants TAIS, Toshiba Corporation, and TLSC**

27 76. Plaintiffs incorporate by reference and re-allege each allegation set  
28 forth in paragraphs 1-75 hereinabove.

1           77. Plaintiffs bring this claim on behalf of themselves and the Nationwide  
2 Class.

3           78. The acts and practices engaged in by Toshiba, and described herein,  
4 constitute unfair, unlawful, and/or fraudulent business practices in that Toshiba  
5 marketed the televisions as LED TVs when they were in fact LCD TVs:

- 6           (a) Toshiba's practices, as described herein, constitute false and  
7 deceptive conduct;
- 8           (b) the justification for Toshiba's conduct is outweighed by the  
9 gravity of the consequences to Plaintiffs and the Nationwide  
10 Class members;
- 11           (c) Toshiba's conduct is immoral, unethical, oppressive,  
12 unscrupulous or substantially injurious to Plaintiffs and the  
13 Nationwide Class members; and/or
- 14           (d) Toshiba's conduct constitutes fraudulent, untrue or misleading  
15 actions in that such conduct has a tendency to deceive a  
16 reasonable person, including Plaintiffs and the Nationwide Class  
17 members.

18           79. Toshiba's false and misleading advertising was disseminated to  
19 increase sales and to increase the amount of money that Toshiba could charge for  
20 each television that was sold.

21           80. Toshiba knew or should have known that their advertisements were  
22 false and misleading.

23           81. Plaintiffs and the Nationwide Class have suffered harm as a result of  
24 these violations because, without limitation, they were misled into believing that  
25 they were buying an LED TV, not an LCD TV, and paid a monetary premium for  
26 these televisions that they otherwise would not have paid had the televisions been  
27 described accurately. Plaintiffs and the Nationwide Class have suffered injury in  
28

1 fact and have lost money or property as a result of Toshiba's unfair competition, as  
2 alleged herein.

3 82. By reason of Toshiba's violation of Cal. Bus. & Prof. Code § 17200, et  
4 seq., Plaintiffs and the Nationwide Class are entitled to recover restitution,  
5 injunctive relief, and such other relief as provided by law.

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8 **SECOND CAUSE OF ACTION**  
9 **Violation of California's False Advertising Law, Cal. Bus. & Prof. Code**  
10 **§§ 17500, et seq., By Plaintiffs Individually And On Behalf Of The Nationwide**  
11 **Class Against Defendants TAIS, Toshiba Corporation, and TLSC**

12 83. Plaintiffs incorporate by reference and re-allege each allegation set  
13 forth in paragraphs 1-75 hereinabove.

14 84. Plaintiffs bring this claim on behalf of themselves and the Nationwide  
15 Class.

16 85. Toshiba falsely marketed the televisions as LED TVs when they were  
17 in fact LCD TVs. Toshiba did this to increase sales and to increase the amount of  
18 money that Toshiba could charge for each television that was sold.

19 86. Toshiba was aware at all relevant times that its advertising claims were  
20 false and misleading.

21 87. Plaintiffs and the Nationwide Class have suffered harm as a result of  
22 these violations because they were misled into believing that they were buying an  
23 LED TV, not an LCD TV, and paid a monetary premium for these televisions that  
24 they otherwise would not have paid had the televisions been described accurately.  
25 Plaintiffs and the Nationwide Class have suffered injury in fact and have lost money  
26 or property as a result of Toshiba's false advertising, as alleged herein.

27 88. By reason of Toshiba's violation of Cal. Bus. & Prof. Code § 17500, et  
28 seq., Plaintiffs and the Nationwide Class are entitled to recover restitution,  
injunctive relief, and such other relief as provided by law.



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**THIRD CAUSE OF ACTION**  
**Violation of the California Consumers Legal Remedies Act,**  
**Cal. Civil Code §§ 1750 *et seq.*, By Plaintiffs Individually And On Behalf Of**  
**The Nationwide Class Against Defendants TAIS, Toshiba Corporation, and**  
**TLSC**

89. Plaintiffs incorporate by reference and re-allege each allegation set forth in paragraphs 1-75 hereinabove.

90. Plaintiffs bring this claim on behalf of themselves and the Nationwide Class.

91. In connection with the sale of goods to consumers, Toshiba:

- (a) represented and represents “that goods...have characteristics...which they do not have” in violation of Cal. Civ. Code § 1770(a)(5);
- (b) represented and represents “that goods...are of a particular style or model” when they are actually of a different “style or model” in violation of Cal. Civ. Code § 1770(a)(7); and
- (c) advertised and advertises “goods...with intent not to sell them as advertised” in violation of Cal. Civ. Code § 1770(a)(9).

92. Toshiba violated these provisions by representing that televisions were LED TVs when they were in fact LCD TVs. Plaintiffs and the Nationwide Class have suffered harm as a result of these violations because they were misled into believing that they were buying an LED TV, not an LCD TV, and paid a monetary premium for these televisions that they otherwise would not have paid had the televisions been described accurately and represented truthfully.

93. Plaintiffs and the Nationwide Class, by this cause of action, seek injunctive relief only. Concurrently with the filing of this Complaint, a CLRA notice letter will be served on Toshiba advising Toshiba that it has violated, and continues to violate, the Consumer Legal Remedies Act. Via this letter, Plaintiffs will advise Toshiba that it must correct, repair, replace, or otherwise rectify the



1 conduct alleged herein to be in violation of the Consumer Legal Remedies Act, and  
2 that if it failed to respond to this demand and to take full remedial action (including  
3 by making full restitution) within thirty days of receipt of the Notice, Plaintiffs will  
4 amend this Complaint to request restitution, damages, actual damages, and punitive  
5 damages. Assuming Toshiba declines to remedy this wrong or cease its deceptive  
6 and unlawful practices as alleged herein, within thirty days, Plaintiffs intend to  
7 amend this Complaint to seek compensatory and punitive damages on behalf of  
8 themselves and the nationwide class.

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10 **FOURTH CAUSE OF ACTION**  
11 **Violation of New Mexico Unfair Trade Practices Act,**  
12 **N.M. Stat. Ann. §§ 57-12-1 *et. seq.*, By Plaintiff Martinez Individually And On**  
13 **Behalf Of The New Mexico Subclass Against Defendants TAIS, Toshiba**  
14 **Corporation, and TLSC**

14 94. Plaintiff Brandon Martinez incorporates by reference and re-alleges  
15 each allegation set forth in paragraphs 1-75 hereinabove.

16 95. Plaintiff Martinez brings this claim on behalf of himself and the New  
17 Mexico Subclass.

18 96. Plaintiff Martinez and the members of the New Mexico Subclass are  
19 consumers under New Mexico Stat. Ann. §§ 57-12-1 *et. seq.*

20 97. Toshiba has engaged in deceptive practices related to the sale of its  
21 LED-lit LCD TVs by falsely labeling and marketing them as LED TVs.

22 98. Toshiba's deceptive acts and practices were directed at consumers and  
23 were otherwise consumer oriented.

24 99. Toshiba's false and misleading advertising was disseminated to  
25 increase sales and to increase the amount of money that Toshiba could charge for  
26 each television that was sold.

27 100. Toshiba knew or should have known that its advertisements and  
28 labeling were false and misleading.

1           101. Toshiba's unconscionable conduct alleged herein included the omission  
2 and concealment of material facts and misrepresentations concerning its LED-lit  
3 LCD TVs.

4           102. Toshiba was in a superior position to know, and actually did know, the  
5 true facts about its LED-lit LCD TVs at the time of the sale.

6           103. Toshiba intended that Plaintiff Martinez and members of the New  
7 Mexico Subclass rely on the acts of concealment, omissions, and misrepresentations  
8 regarding the nature of LED-lit LCD TVs, so that Plaintiff Martinez and members of  
9 the New Mexico Subclass would purchase said televisions.

10           104. If Toshiba had been truthful about the nature of and disclosed all the  
11 material information regarding the LED-lit LCD TVs sold to Plaintiff Martinez and  
12 members of the New Mexico Subclass, they would not have purchased said  
13 televisions, or would have paid less for them.

14           105. Toshiba's deceptive acts and practices were committed in conduct of  
15 business, trade, or commerce in the state of New Mexico. Toshiba's conduct was  
16 not a unique, one-time occurrence without possibility of replication or recurrence  
17 and without implication for the broader consuming public. To the contrary, the  
18 deceptive conduct set forth herein is part of a regular and recurring practice that  
19 impacts all of the New Mexico Subclass members.

20           106. Plaintiff Martinez and the New Mexico Subclass have suffered harm as  
21 a result of these violations because they were misled into believing that they were  
22 buying an LED TV, not an LCD TV, and paid a monetary premium for these  
23 televisions that they otherwise would not have paid had the televisions been  
24 described accurately. Plaintiff Martinez and the New Mexico Subclass have  
25 suffered injury in fact and have lost money or property as a result of Toshiba's  
26 deception, as alleged herein.

27           107. By reason of Toshiba's violation of New Mexico Stat. Ann. §§ 57-12-1  
28 *et. seq.*, Plaintiff Martinez and each member of the New Mexico Subclass are

1 entitled to recover damages, injunctive relief and their costs and attorneys' fees in  
2 filing and prosecuting this action, and such other relief as provided by law.

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#### FIFTH CAUSE OF ACTION

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**Violation of New Mexico's False Advertising Law, N.M. Stat. Ann. §§ 57-15-1  
6 et. seq. (False Advertising), By Plaintiff Martinez Individually And  
7 On Behalf Of The New Mexico Subclass Against Defendants TAIS,  
8 Toshiba Corporation, and TLSC**

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108. Plaintiff Brandon Martinez incorporates by reference and re-alleges  
each allegation set forth in paragraphs 1-75 hereinabove.

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109. Plaintiff Martinez brings this claim on behalf of himself and the New  
Mexico Subclass.

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110. Toshiba falsely advertised and labeled its LED-lit LCD TVs as LED  
TVs when they were in fact LCD TVs. Toshiba did this to increase sales and to  
increase the amount of money that Toshiba could charge for each television that was  
sold.

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111. Toshiba was aware at all relevant times that its advertising and labels  
were false and misleading.

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112. Toshiba's conduct was not a unique, one-time occurrence without  
possibility of replication or recurrence and without implication for the broader  
consuming public. To the contrary, the false advertising and labelling described  
herein is part of a regular and recurring practice that impacts all of the New Mexico  
Subclass members.

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113. Plaintiff Martinez and the New Mexico Subclass have suffered harm as  
a result of these violations because they were misled into believing that they were  
buying an LED TV, not an LCD TV, and paid a monetary premium for these  
televisions that they otherwise would not have paid had the televisions been  
described accurately. Plaintiff Martinez and the New Mexico Subclass have

1 suffered injury in fact and have lost money or property as a result of Toshiba’s false  
2 advertising and labeling, as alleged herein.

3 114. Plaintiff Martinez and the New Mexico Subclass are informed and  
4 believe and on that basis allege that Toshiba acted willfully or knowingly in falsely  
5 advertising and labelling it LED-lit LCD TVs.

6 115. By reason of Toshiba’s aforesaid violations of New Mexico’s False  
7 Advertising Law, New Mexico Stat. Ann. §§ 57-15-1 *et. seq.*, Plaintiff Martinez and  
8 each member of the New Mexico Subclass are entitled to recover damages,  
9 injunctive relief and their costs and attorneys’ fees in filing and prosecuting this  
10 action and such other relief as provided by law.

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**SIXTH CAUSE OF ACTION**  
**Violation Of Florida Deceptive And Unfair Trade Practices Act,**  
13 **F.S.A., 501.201 *et seq.* (the “FDUTPA”), By Plaintiff Pile Individually**  
14 **And On Behalf Of The Florida Subclass Against Defendants TAIS, Toshiba**  
**Corporation, and TLSC**

15 116. Plaintiff Pile incorporates by reference and re-alleges each allegation  
16 set forth in paragraphs 1-75 hereinabove.

17 117. Plaintiff Pile brings this claim on behalf of himself and the Florida  
18 Subclass.

19 118. At all relevant times, Plaintiff Pile and all members of the Florida  
20 Subclass were consumers within the meaning of the FDUTPA.

21 119. At all relevant times hereto, Toshiba engaged in trade and/or commerce  
22 within the meaning of the FDUTPA.

23 120. As alleged herein, the practices of Toshiba violated the FDUTPA for,  
24 *inter alia*, one or more of the following reasons:

- 25 a) Toshiba omitted and concealed material facts from its marketing  
26 and advertising from Plaintiff Pile and all members of the Florida  
27 Subclass regarding the display technology of its “LED” TVs;

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- 1           b)     Toshiba made false and/or misleading statements of material fact  
2                     regarding its “LED” TVs, which statements were likely to  
3                     deceive the public; and
- 4           c)     Toshiba knew, or was reckless in not knowing, that its statements  
5                     about its “LED” TVs were false and/or misleading.

6           121. By the conduct described herein, Toshiba has engaged in unfair  
7 methods of competition, unconscionable acts or practices, and unfair or deceptive  
8 acts or practices in the conduct of trade or commerce.

9           122. The representations and omissions by Toshiba were likely to deceive  
10 reasonable consumers and a reasonable consumer would have relied on these  
11 representations and omissions.

12           123. Had Toshiba disclosed all material information regarding its “LED”  
13 TVs to Plaintiff Pile and all of the Florida Subclass members, they would not have  
14 purchased the televisions.

15           124. The foregoing acts and practices proximately caused Plaintiff Pile and  
16 other members of the Florida Subclass to suffer actual damages in the form of,  
17 among other things, a monetary premium for these televisions that they otherwise  
18 would not have paid had the televisions been described accurately, and they are  
19 entitled to recover such damages, attorneys’ fees, and costs of suit.

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**SEVENTH CAUSE OF ACTION**  
**Violation Of New Jersey’s Consumer Fraud Act, N.J.S.A. § 56:8-1 *Et Seq.*,**  
**By Plaintiff Rodriguez Individually And On Behalf Of The New Jersey**  
**Subclass, Against Defendants TAIS, Toshiba Corporation, and TLSC**

125. Plaintiff Diana Rodriguez incorporates by reference and re-allege each allegation set forth in paragraphs 1-75 hereinabove.

126. Plaintiff Rodriguez brings this claim on behalf of herself and the New Jersey Subclass.

1 127. Plaintiff Rodriguez and the other members of the New Jersey Subclass,  
2 and Toshiba, are all “persons” within the meaning of the New Jersey Consumer  
3 Fraud Act (“CFA”).

4 128. Plaintiff Rodriguez and the other members of the New Jersey Subclass  
5 are “consumers” within the meaning of the CFA.

6 129. At all relevant times material hereto, Toshiba conducted trade and  
7 commerce in New Jersey and elsewhere within the meaning of the CFA.

8 130. The CFA is, by its terms, a cumulative remedy, such that remedies  
9 under its provisions can be awarded in addition to those provided under separate  
10 statutory schemes.

11 131. Without limitation, Toshiba has engaged in deceptive practices related  
12 to the sale of televisions, including but not limited to marketing and selling the  
13 televisions as LED TVs when they were in fact LCD TVs.

14 132. As described herein, Toshiba consciously failed to disclose material  
15 facts to Plaintiff Rodriguez and the other members of the New Jersey Subclass.

16 133. Toshiba’s unconscionable conduct described herein included the  
17 omission and concealment of material facts concerning the televisions.

18 134. Toshiba intended that Plaintiff Rodriguez and the other members of the  
19 New Jersey Subclass rely on its deceptive practices and the acts of concealment and  
20 omissions described herein to, without limitation: (a) induce customers to purchase  
21 Toshiba’s so-called “LED” TVs in the mistaken belief that they are upgrading from  
22 their existing CCFL-lit LCD TVs; (b) to charge a premium for such televisions that  
23 Plaintiffs and other consumers would not have paid had the televisions been  
24 accurately labeled and described; and (c) to capture sales from other brand  
25 televisions that were accurately labeled as LED-lit LCD TVs.

26 135. Had Toshiba disclosed all material information regarding its so-called  
27 LED TVs to Plaintiff Rodriguez and the other members of the New Jersey Subclass,  
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1 they either: (a) would not have purchased the televisions; or (b) would not have  
2 paid the premium charged had the televisions been accurately labeled and described.

3 136. The foregoing acts, misrepresentations, omissions, and unconscionable  
4 commercial practices caused Plaintiff Rodriguez and the other members of the New  
5 Jersey Subclass to suffer ascertainable damages, and they are entitled to recover  
6 such damages, together with appropriate penalties, including treble damages,  
7 attorney's fees, and costs of suit.

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9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiffs and the proposed classes pray for judgment and  
11 relief as follows:

12 a. An order certifying that this lawsuit is properly maintainable as a class  
13 action and certifying Plaintiffs as the representatives of the Nationwide Class, or  
14 alternatively or in addition, certifying Plaintiff Martinez as the representative of the  
15 New Mexico Subclass, Plaintiff Pile as the representative of the Florida Subclass,  
16 and Plaintiff Rodriguez as the representative of the New Jersey Subclass;

17 b. An injunction prohibiting Toshiba from advertising LED-lit LCD TVs  
18 as LED TVs or LED HDTVs or LED televisions nationwide (or, alternatively,  
19 within the States of New Mexico, Florida, and New Jersey);

20 c. An order requiring Toshiba to engage in a corrective advertising  
21 campaign nationwide (or, alternatively, within the States of New Mexico, Florida,  
22 and New Jersey) that informs the consuming public that so-called LED TVs are in  
23 fact LCD TVs with an LED backlight;

24 d. An order requiring Toshiba to re-label (or recall) all new LED-lit LCD  
25 TVs in the possession of distributors or retailers or other resellers for resale  
26 nationwide (or, alternatively, within the States of New Mexico, Florida, and New  
27 Jersey) that do not contain a clear and conspicuous disclosure that the television is  
28 an LCD TV with an LED backlight.



- 1 e. For the First and Second Causes of Action, restitution in an amount to
- 2 be determined at trial;
- 3 f. For all other Causes of Action, compensatory, exemplary and punitive
- 4 damages according to proof;
- 5 g. For attorneys' fees and costs; and
- 6 h. For such other and further relief as may be just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury of all issues properly triable thereby.

RESPECTFULLY SUBMITTED,

DATED: April 13, 2016

By: /s/ Hayward J. Kaiser

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\*denotes pro hac vice application pending