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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW WILLIAMS, on
Behalf of Himself, All Others
Similarly Situated, and the
General Public,

Plaintiff,

v.

ADT LLC dba ADT SECURITY
SERVICES,

Defendant.

) Case No: **'16CV1268 JAH JLB**
)
) CLASS ACTION COMPLAINT FOR:
)
) (1) NEGLIGENT
) MISREPRESENTATION;
) (2) INTENTIONAL
) MISREPRESENTATION;
) (3) FRAUD;
) (4) UNJUST ENRICHMENT;
) (5) VIOLATIONS OF THE
) MAGNUSON-MOSS WARRANTY
) ACT, 15 U.S.C. §§2301 *ET SEQ.*;
) (6) STRICT LIABILITY – DESIGN
) DEFECT;
) (7) STRICT LIABILITY – FAILURE
) TO WARN;
) (8) NEGLIGENCE – DESIGN DEFECT;
) (9) NEGLIGENCE – FAILURE TO
) WARN;
) (10) VIOLATIONS OF THE UNFAIR
) COMPETITION LAW, CALIFORNIA
) BUSINESS & PROFESSIONS CODE
) §§17200, *ET SEQ.*;

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) (11) VIOLATIONS OF THE FALSE
) ADVERTISING LAW, CALIFORNIA
) BUSINESS & PROFESSIONS CODE
) §§17500, *ET SEQ.*;
) (12) VIOLATIONS OF THE
) CONSUMER LEGAL REMEDIES ACT,
) CALIFORNIA CIVIL CODE §§1750, *ET*
) *SEQ.*; AND
) (13) BREACH OF IMPLIED
) WARRANTY, CALIFORNIA
) COMMERCIAL CODE §2314.
)
) DEMAND FOR JURY TRIAL

1 Plaintiff Matthew Williams ("Plaintiff"), on behalf of himself, all others
2 similarly situated, and the general public, by and through his undersigned counsel,
3 hereby sues defendant ADT LLC doing business as ADT Security Services
4 ("ADT" or the "Company") and, upon information and belief, including through
5 the investigation of his counsel, alleges as follows.

6 INTRODUCTION

7 1. ADT is the ubiquitous provider of home security systems and
8 services. Many of ADT's home security systems incorporate the use of glass break
9 detectors, also called audio discriminators, which are designed to detect a break-in
10 by "hearing" the sound of breaking glass. Audio discriminators, however, detect
11 only the cracking or splintering sound of broken traditional *pane* glass, and not the
12 sound of broken *tempered* glass, of which the vast majority of windows today are
13 made.

14 2. Plaintiff purchased a security system for his home, which ADT's
15 predecessor entity installed, and paid ADT a monthly fee for security monitoring.
16 In addition, Plaintiff leased the devices making up the security system from ADT.
17 Nevertheless, Plaintiff was a victim of burglary, which was accomplished when the
18 audio discriminators incorporated into Plaintiff's home security system failed to
19 detect the breaking of a tempered glass window through which the burglar(s)
20 gained entry.

21 3. ADT was and is aware that its audio discriminators are defectively
22 designed in that they cannot detect the breaking of tempered glass. ADT
23 nevertheless represented its home security systems incorporating audio
24 discriminators were effective at detecting break-ins, and at the same time
25 deceptively omitted this material information from potential purchasers when
26 advertising those home security systems.

27 4. Plaintiff brings this action to rectify ADT's unlawful behavior and
28 obtain appropriate compensatory, punitive, and injunctive remedies for himself and

1 the Class (as defined herein).

2 **JURISDICTION & VENUE**

3 5. This Court has original jurisdiction over all causes of action asserted
4 herein under the Class Action Fairness Act, 28 U.S.C. §1332(d)(2), because the
5 matter in controversy exceeds the sum or value of \$5,000,000 exclusive of interest
6 and costs and more than two-thirds of the Class reside in states other than the states
7 in which defendant is a citizen. This Court also has original jurisdiction pursuant
8 to 28 U.S.C. §1331 because this action raises a federal question under the
9 Magnuson-Moss Warranty Act, 15 U.S.C. §§2301, *et seq.*

10 6. Venue is proper in this Court pursuant to 28 U.S.C. §1391, because
11 Plaintiff resides and suffered injury as a result of defendant's acts in this district,
12 many of the acts and transactions giving rise to this action occurred in this district,
13 defendant conducts substantial business in this district, defendant has intentionally
14 availed itself of the laws and markets of this district, and defendant is subject to
15 personal jurisdiction in this district.

16 **PARTIES**

17 7. Plaintiff is a citizen of California.

18 8. Defendant ADT LLC is a Delaware limited liability corporation with
19 its principal place of business at 1501 Yamato Road, Boca Raton, Florida.
20 Accordingly, defendant ADT is a citizen of Delaware and Florida.

21 **FACTS**

22 **ADT**

23 9. Founded in 1874, ADT has been in business over 140 years. Today,
24 ADT employs nearly 17,000, has 260 authorized dealers across the country, and
25 provides its security monitoring service through six monitoring centers scattered
26 throughout the country. ADT has a customer base of over 6.5 million, and enjoys
27 annual revenue of over \$3.6 billion.

28 10. Central to ADT's business is its home security systems and services,

1 whereby ADT installs security devices and monitors in the home that, under
2 certain circumstances, trigger an alarm that is relayed to ADT, which then attempts
3 to contact the homeowner to determine whether there is a genuine need for
4 assistance and, if so, contacts law enforcement or other emergency personnel as
5 needed.

6 **ADT'S Home Security Systems Employing Audio Discriminators Are**
7 **Dangerously Defective**

8 11. ADT offers various home security systems that incorporate audio
9 discriminators, which are perimeter devices designed to detect an intruder as he
10 attempts to enter the home (as compared to other detectors that pick up the motion
11 of a person walking around the interior of a home).

12 12. Tempered glass is created by thermal or chemical treatments designed
13 to put the outer surfaces into compression and the inner surfaces into tension,
14 which stress causes the glass, when it breaks, to crumble into small granular
15 chunks, instead of splintering into jagged shards as does traditional pane glass,
16 thereby making it less likely to cause injury.

17 13. The audio discriminators incorporated into certain ADT home security
18 systems work by detecting the sound pane glass makes when shattered. This design
19 is defective when used in conjunction with tempered glass because when tempered
20 glass shatters, it does not make the normal high-pitched "ringing" sound generated
21 by broken plate glass.¹

22 14. This defective design creates a dangerous condition whereby a
23 homeowner present when a break-in occurs may be under the reasonable
24 expectation that an alarm has been conveyed to ADT, and the need for assistance
25

26 ¹ Information concerning the exact models of ADT audio discriminator(s) that
27 suffer this defect, in which security systems they are used, and how widespread
28 their use is, is in ADT's sole possession, custody, or control. In fact, ADT took the
audio discriminators used at Plaintiff's house and claims to have destroyed them.

1 conveyed to law enforcement or other emergency personnel, when in reality an
2 alarm has not been triggered.

3 15. Because the audio discriminators do not detect the breaking of
4 tempered glass, security systems employing these audio discriminators on
5 windows made of tempered glass are dangerously defective, in that they are
6 unlikely to provide emergency assistance to homeowners.

7 **Plaintiff's Purchase of an ADT Home Security System and Monitoring**
8 **Service, Reliance, and Injury**

9 16. Plaintiff first purchased a home security system in about 2008,
10 originally from Brinks Home Security ("Brinks"), which was later renamed
11 Broadview Security. In or around 2010, Brinks was acquired by ADT, which also
12 provided home security monitoring services to Plaintiff.

13 17. When Plaintiff purchased his home security system, Brinks came to
14 his house and installed the system, including the audio discriminators. Within the
15 last two years, an ADT technician inspected the audio discriminators in Plaintiff's
16 house. In particular, the alarm in Plaintiff's daughter's room would experience a
17 delay in recognizing when a window was open. An ADT technician reviewed the
18 audio discriminators in Plaintiff's house in response, yet did not raise the issue
19 about the audio discriminators not working on tempered glass.

20 18. Rather, in providing and installing a home security system, Brinks,
21 and later ADT, represented to Plaintiff that the system was effective in detecting
22 break-ins where entry is attempted by breaking a window. ADT never told Plaintiff
23 that the audio discriminators installed as part of his home security system were
24 ineffective in detecting the breaking of tempered glass.

25 19. ADT is and has for some time been aware that its audio discriminators
26 are defective inasmuch as they will not detect the breaking of tempered glass.

27 20. Following his burglary, two ADT representatives visited Plaintiff's
28 residence. During that visit, one of the representatives advised Plaintiff that the

1 reason the security system had not detected the break-in, set off an alarm, or
2 notified ADT was because the window sensors used by the system could not detect
3 the breaking of tempered glass. This admission by an ADT technician
4 demonstrates the problem is and has for some time been known by ADT.

5 21. ADT nevertheless advertised and continues to advertise its home
6 security systems that incorporate audio discriminators are effective in detecting
7 break-ins where entry is attempted by breaking a window.

8 22. Because Plaintiff's home contains tempered glass windows, his ADT
9 home security system, including ADT's related monitoring service, was effectively
10 useless to Plaintiff, who was victimized by an undetected burglary.

11 23. Even absent the burglary, the ADT home security system and services
12 were worth significantly less than Plaintiff paid, as they provided only minimal
13 protection, if any, against break-ins and theft.

14 24. Plaintiff would likely not have purchased an ADT home security
15 system, or related monitoring services, if Plaintiff knew that the audio
16 discriminators incorporated into his home security system would be ineffective in
17 detecting break-ins where entry is attempted through his tempered glass windows.
18 At a minimum, Plaintiff would have been willing to pay far less than he did.

19 **CLASS ACTION ALLEGATIONS**

20 25. Plaintiff brings this action individually and on behalf of the following
21 Class and Subclasses pursuant to Rule 23(a) and 23(b)(2) and (3) of the Federal
22 Rules of Civil Procedure:

23 All United States residents who, during the ten years preceding the
24 filing of this lawsuit (the "Class Period"), paid for monitoring by ADT
25 of a home security system incorporating audio discriminators (the
"Class");

26 On behalf of a subclass of all Class members that are California
27 residents (the "California Subclass"); and
28

1 On behalf of a subclass of all Class members who experienced
2 property theft damage as a result of a burglary where entry was gained
3 through a broken tempered glass window ostensibly being monitored
4 by an audio discriminator that failed to detect the break-in (the
"Property Theft Subclass").

5 26. Excluded from the Class and Property Theft Subclass is defendant,
6 any of ADT's parent companies, subsidiaries, and/or affiliates, officers, directors,
7 legal representative, employees, co-conspirators, all governmental entities, and any
8 judge, justice, or judicial officer presiding over this matter.

9 27. The members in the proposed Class and Property Theft Subclass are
10 so numerous that individual joinder of all members is impracticable, and the
11 disposition of the claims of all Class and Property Theft Subclass members in a
12 single action will provide substantial benefits to the parties and Court.

13 28. Questions of law and fact common to Plaintiff and the Class
14 (including the Property Theft Subclass) include:

15 (a) whether audio discriminators incorporated into ADT home
16 security systems are able to detect the breaking of tempered glass;

17 (b) whether ADT knew or reasonably should have known that
18 audio discriminators incorporated into certain ADT security systems were unable
19 to detect the breaking of tempered glass;

20 (c) whether ADT's representations that its home security systems
21 incorporating audio discriminators were effective in detecting break-ins were false
22 or likely to deceive reasonable consumers;

23 (d) whether ADT deceptively omitted material information
24 regarding the inability of audio discriminators incorporated into its home security
25 systems to detect the breaking of tempered glass;

26 (e) whether ADT made any express or implied warranties;

27 (f) whether ADT breached any express or implied warranties;

28 (g) the proper amount of restitution, damages, and punitive

1 damages;

2 (h) the propriety and appropriate scope of prospective injunctive
3 relief; and

4 (i) the proper amount of reasonable attorneys' fees.

5 29. Additional questions of law and fact common to the Property Theft
6 Subclass include:

7 (a) whether it was reasonably foreseeable that the incorporation of
8 audio discriminators into certain ADT home security systems would result in
9 undetected break-ins and thereby property theft and damage; and

10 (b) whether the use of audio discriminators in Property Theft
11 Subclass members' ADT home security systems were the proximate cause of
12 Property Theft Subclass members' harm.

13 30. These common questions of law and fact predominate over questions
14 that affect only individual Class members.

15 31. Plaintiff's claims are typical of Class members' claims because they
16 are based on the same underlying facts, events, and circumstances relating to
17 ADT's conduct. Specifically, all Class members, including Plaintiff, were subjected
18 to the same misleading and deceptive conduct when they purchased a home
19 security system and throughout the course of their contractual relationship with
20 ADT, and suffered economic injury because the product was and is
21 misrepresented. Absent ADT's business practice of deceptively and unlawfully
22 advertising its home security systems incorporating audio discriminators, and
23 absent its related deceptive omissions, Plaintiff and other Class members would
24 not have purchased the home security systems and related monitoring services, or
25 would not have been willing to pay as much for the systems and services.

26 32. Plaintiff will fairly and adequately represent and protect the interests
27 of the Class, has no interests incompatible with the interests of the Class, and has
28 retained counsel competent and experienced in class action litigation.

1 security systems incorporating audio discriminators in detecting break-ins
2 attempted by breaking a window were made without reasonable grounds for
3 believing them to be true.

4 41. ADT made material misrepresentations concerning the efficacy of its
5 home security systems incorporating audio discriminators in detecting break-ins
6 attempted by breaking a window to induce Plaintiff and the Class to purchase the
7 home security systems and related monitoring services.

8 42. Plaintiff and the Class reasonably and materially relied on ADT's
9 material misrepresentations in choosing to purchase ADT home security systems
10 incorporating audio discriminators and related ADT monitoring services.

11 43. As a direct and proximate result of ADT's conduct, Plaintiff and the
12 Class have incurred damages.

13 **COUNT II**

14 **(Against Defendant ADT for Intentional Misrepresentation)**

15 **(By the Class)**

16 44. Plaintiff incorporates by reference and realleges each and every
17 allegation contained above, as though fully set forth herein.

18 45. A person who has been induced by fraudulent misrepresentations to
19 enter into a contract or to make a conveyance may have the contract or conveyance
20 set aside and secure a restitution of those benefits lost to him or her by the
21 transaction.

22 46. ADT made false statements and deceptive omissions of material fact
23 through its advertising for its home security systems incorporating audio
24 discriminators, regarding their efficacy in detecting break-ins where entry is
25 attempted by breaking a window.

26 47. At the time ADT made the false statements and deceptive omissions,
27 ADT knew that its home security systems incorporating audio discriminators were
28 incapable of detecting the breaking of tempered glass windows, or ADT recklessly

1 disregarded the truth. ADT's misrepresentations and omissions were willful and
2 made with scienter.

3 48. ADT affirmatively misrepresented and actively concealed material
4 facts regarding its home security systems incorporating audio discriminators with
5 the intent that Plaintiff and the Class rely on the misrepresentations and omissions
6 to purchase its home security systems incorporating audio discriminators, and
7 related monitoring services.

8 49. Acting reasonably, Plaintiff and the Class were unaware of these
9 misrepresented material facts and deceptive omissions. Had they been aware of the
10 truth, Plaintiff and the Class would have acted differently, in that they would not
11 have purchased ADT home security systems incorporating audio discriminators
12 and related monitoring services, or would have paid less for them.

13 50. It was reasonable for Plaintiff and the Class to rely on ADT's
14 affirmative misrepresentations, as well as ADT's silence (i.e., deceptive
15 omissions), and to believe that the ADT home security systems incorporating audio
16 discriminators were capable of detecting break-ins where entry is attempted by
17 breaking a window, including one comprised of tempered, rather than pane glass.

18 51. As such, Plaintiff and the Class suffered injuries in fact—the loss of
19 the money they paid for the ADT home security systems incorporating audio
20 discriminators and related monitoring services, which were incapable of detecting
21 the breaking of tempered glass windows, in contradiction of ADT's
22 misrepresentations and omissions.

23 52. As a direct and proximate result of ADT's fraud, Plaintiff and the
24 Class suffered damages by purchasing ADT home security systems incorporating
25 audio discriminators and related monitoring services, which they would not have
26 purchased, or for which they would have paid substantially less, had they known
27 the truth. Plaintiff and the Class received something worth substantially less than
28 they paid.

COUNT III

(Against Defendant ADT for Fraud)

(By the Class)

53. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

54. ADT made false statements and deceptive omissions of material fact through its advertising for its home security systems incorporating audio discriminators, regarding their efficacy in detecting break-ins where entry is attempted by breaking a window.

55. At the time ADT made the false statements and deceptive omissions, ADT knew that its home security systems incorporating audio discriminators were incapable of detecting the breaking of tempered glass windows, or ADT recklessly disregarded the truth. ADT's misrepresentations and omissions were willful and made with scienter.

56. ADT affirmatively misrepresented and actively concealed material facts regarding its home security systems incorporating audio discriminators with the intent that Plaintiff and the Class rely on the misrepresentations and omissions to purchase its home security systems incorporating audio discriminators, and related monitoring services.

57. Acting reasonably, Plaintiff and the Class were unaware of these misrepresented material facts and deceptive omissions. Had they been aware of the truth, Plaintiff and the Class would have acted differently, in that they would not have purchased ADT home security systems incorporating audio discriminators and related monitoring services, or would have paid less for them.

58. It was reasonable for Plaintiff and the Class to rely on ADT's affirmative misrepresentations, as well as ADT's silence (i.e., deceptive omissions), and to believe that the ADT home security systems incorporating audio discriminators were capable of detecting break-ins where entry is attempted by

1 breaking a window, including one comprised of tempered, rather than pane glass.

2 59. As such, Plaintiff and the Class suffered injuries in fact—the loss of
3 the money they paid for the ADT home security systems incorporating audio
4 discriminators and related monitoring services, which were incapable of detecting
5 the breaking of tempered glass windows, in contradiction of ADT's
6 misrepresentations and omissions.

7 60. As a direct and proximate result of ADT's fraud, Plaintiff and the
8 Class suffered damages by purchasing ADT home security systems incorporating
9 audio discriminators and related monitoring services, which they would not have
10 purchased, or for which they would have paid substantially less, had they known
11 the truth. Plaintiff and the Class received something worth substantially less than
12 they paid.

13 **COUNT IV**

14 **(Against Defendant ADT for Unjust Enrichment)**

15 **(By the Class)**

16 61. Plaintiff incorporates by reference and realleges each and every
17 allegation contained above, as though fully set forth herein.

18 62. ADT, through its false, deceptive, unlawful, unfair, fraudulent, and
19 wrongful business acts and practices, enticed Plaintiff and the Class to purchase its
20 home security systems incorporating audio discriminators, and related monitoring
21 services.

22 63. Plaintiff and the Class conferred a benefit on ADT by purchasing its
23 home security systems incorporating audio discriminators, and related monitoring
24 services.

25 64. By its wrongful acts, ADT has been unjustly enriched at the expense
26 of, and to the detriment of, Plaintiff and the Class. ADT benefited financially from
27 the revenues and other compensation tied to the sale of its home security systems
28 incorporating audio discriminators, and related monitoring services.

1 the home security systems incorporating audio discriminators, Plaintiff and the
2 Property Theft Subclass have sustained harm in injury in that their property has
3 been lost or damaged.

4 81. ADT's defective design of the home security systems incorporating
5 audio discriminators was a substantial factor in causing Plaintiff's and the Property
6 Theft Subclass' property loss and damage.

7 **COUNT VII**

8 **(Against Defendant ADT for Strict Liability – Failure to Warn)**

9 **(By the Property Theft Subclass)**

10 82. Plaintiff incorporates by reference and realleges each and every
11 allegation contained above, as though fully set forth herein.

12 83. As the provider of home security systems and services incorporating
13 audio discriminators sold to Plaintiff and the Property Theft Subclass, ADT is
14 strictly liable for its failure to warn of any particular risks known or knowable at
15 the time of the products' provision and sale. At the time ADT sold home security
16 systems incorporating audio discriminators and its related monitoring services to
17 Plaintiff and the Property Theft Subclass, ADT was already aware, or should have
18 been aware, that such systems could not detect the breaking of tempered glass.

19 84. ADT never disclosed, much less warned Plaintiff, the Property Theft
20 Subclass, or the general public, that the audio discriminators incorporated into
21 certain ADT home security systems were incapable of detecting the breaking of
22 tempered glass, and thereby posed to consumers a particular and significant risk of
23 injury.

24 85. As a proximate and foreseeable result of ADT's failure to warn that
25 the audio discriminators incorporated into certain ADT home security systems
26 were incapable of detecting the breaking of tempered glass, Plaintiff and the
27 Property Theft Subclass have sustained harm and injury in the form of property
28 loss and damage.

1 104. In addition, ADT's deceptive omission of material information it was
2 obligated to disclose, concerning the failure of audio discriminators to detect the
3 breaking of tempered glass, are likely to deceive reasonable consumers, who would
4 have acted differently if ADT had revealed such information.

5 **Unlawful**

6 105. The acts alleged herein are "unlawful" under the UCL in that they
7 violate at least the following laws:

- 8 • The False Advertising Law, California Business & Professions Code
9 sections 17500, *et seq.*; and
- 10 • The Consumers Legal Remedies Act, California Civil Code sections
11 1750, *et seq.*

12 **Unfair**

13 106. ADT's conduct with respect to the advertising and sale of audio
14 discriminators and the home security systems that employ them was and is unfair
15 because ADT's conduct was and is immoral, unethical, unscrupulous, or
16 substantially injurious to consumers, and the utility of its conduct, if any, does not
17 outweigh the gravity of the harm to its victims.

18 107. ADT's conduct with respect to the advertising and sale of audio
19 discriminators and the home security systems that employ them was and is also
20 unfair because it violates public policy as declared by specific constitutional,
21 statutory, or regulatory provisions.

22 108. ADT's conduct with respect to the labeling, advertising, and sale of
23 audio discriminators and the home security systems that employ them was and is
24 also unfair because the consumer injury was substantial, not outweighed by
25 benefits to consumers or competition, and not one consumers themselves could
26 reasonably have avoided.

27 * * *

28 109. ADT profited from its sales of the falsely, deceptively, and unlawfully

1 advertised audio discriminators (including to unwary consumers).

2 110. ADT's conduct caused and continues to cause substantial injury to
3 Plaintiff and the California Subclass, who have suffered injury in fact as a result of
4 ADT's unlawful conduct.

5 111. Plaintiff and the California Subclass are likely to continue to be
6 damaged by ADT's deceptive trade practices because ADT continues to
7 disseminate misleading information, to which Plaintiff, the California Subclass,
8 and the general public continue to be exposed. Thus, injunctive relief enjoining
9 ADT's deceptive practices is proper.

10 112. In accordance with California Business & Professions Code section
11 17203, Plaintiff seeks an Order enjoining ADT from continuing to conduct
12 business through unlawful, unfair, and/or fraudulent acts and practices, and
13 requiring ADT to commence a corrective advertising campaign. Plaintiff further
14 seeks, on behalf of himself and the California Subclass, restitution of all monies
15 ADT obtained through the use of unfair, unlawful, or fraudulent business acts or
16 practices.

17 **COUNT XI**

18 **(Against Defendant ADT for Violations of the False Advertising Law,**
19 **California Business & Professions Code §§17500, *Et Seq.*)**

20 **(By the California Subclass)**

21 113. Plaintiff incorporates by reference and realleges each and every
22 allegation contained above, as though fully set forth herein.

23 114. The False Advertising Law ("FAL") provides that "[i]t is unlawful for
24 any person, firm, corporation or association, or any employee thereof with intent
25 directly or indirectly to dispose of real or personal property or to perform services"
26 to disseminate any statement "which is untrue or misleading, and which is known,
27 or which by the exercise of reasonable care should be known, to be untrue or
28 misleading." Cal. Bus. & Prof. Code §17500.

1 115. As alleged herein, the advertisements, policies, acts, and practices of
2 ADT relating to audio discriminators misled consumers acting reasonably as to the
3 effectiveness of the product.

4 116. Plaintiff and the California Subclass suffered injury in fact as a result
5 of ADT's actions as set forth herein because they purchased home security systems
6 in reliance on ADT's false and misleading claims and deceptive omissions.

7 117. ADT's business practices as alleged herein constitute unfair,
8 deceptive, untrue, and misleading advertising pursuant to the FAL because ADT
9 has advertised the product in a manner that is untrue and misleading, which ADT
10 knew or reasonably should have known, and omitted material information from its
11 advertising.

12 118. ADT profited from its sales of the falsely and deceptively advertised
13 audio discriminators to unwary consumers.

14 119. As a result, Plaintiff, the California Subclass, and the general public
15 are entitled to injunctive relief.

16 120. Pursuant to California Business & Professions Code section 17535,
17 Plaintiff, on behalf of himself, the California Subclass, and the general public,
18 seeks an Order enjoining ADT from continuing to engage in deceptive business
19 practices, false advertising, and any other act prohibited by law, including those set
20 forth in this Complaint. Plaintiff further seeks, on behalf of himself and the
21 California Subclass, restitution of all monies ADT obtained through the use of
22 unfair, unlawful, or fraudulent business acts or practices.

23 **COUNT XII**

24 **(Against Defendant ADT for Violations of the Consumer Legal Remedies Act,**
25 **California Civil Code §§1750, *Et Seq.*)**

26 **(By the California Subclass)**

27 121. Plaintiff incorporates by reference and realleges each and every
28 allegation contained above, as though fully set forth herein.

1 122. The Consumer Legal Remedies Act ("CLRA") prohibits deceptive
2 practices in connection with the conduct of a business that provides goods,
3 property, or services primarily for personal, family, or household purposes.

4 123. ADT's false and misleading statements, policies, acts, and practices
5 were designed to, and did, induce the purchase and use of its home security
6 systems and monitoring services, employing audio discriminators, for personal,
7 family, or household purposes by Plaintiff and the California Subclass, and thereby
8 violated and continue to violate at least the following sections of the CLRA:

9 (a) California Civil Code section 1770(a)(5): representing that
10 goods have characteristics, uses, or benefits which they do not have;

11 (b) California Civil Code section 1770(a)(7): representing that
12 goods are of a particular standard, quality, or grade if they are of another;

13 (c) California Civil Code section 1770(a)(9): advertising goods
14 with intent not to sell them as advertised; and

15 (d) California Civil Code section 1770(a)(16): representing the
16 subject of a transaction has been supplied in accordance with a previous
17 representation when it has not.

18 124. ADT profited from its sale of the falsely, deceptively and unlawfully
19 advertised products to unwary consumers. As a result, Plaintiff and the California
20 Subclass have suffered harm.

21 125. ADT's wrongful business practices constituted, and constitute, a
22 continuing course of conduct in violation of the CLRA.

23 126. Accordingly, Plaintiff seeks, on behalf of himself, the California
24 Subclass, and the general public, appropriate injunctive relief, as well as
25 reasonable attorneys' fees and costs.

26 127. Counsel for Plaintiff and the proposed Class sent written notice (via
27 U.S. certified mail, return receipt requested) to ADT of his claims and the
28 underlying CLRA violations, which was delivered on May 23, 2016. Thus,

1 pursuant to California Civil Code section 1782, Plaintiff intends to amend this
2 Complaint to bring a claim for actual damages after the passing of the statutory
3 notice period.

4 **COUNT XIII**

5 **(Against Defendant ADT for Breach of Implied Warranty,**
6 **California Commercial Code §2314)**

7 **(By the California Subclass)**

8 128. Plaintiff incorporates by reference and realleges each and every
9 allegation contained above, as though fully set forth herein.

10 129. ADT, through its acts and omissions set forth herein, in the marketing,
11 promotion, and sale of its home security systems incorporating audio
12 discriminators and related monitoring services, made representations to Plaintiff
13 and the California Subclass that, among other things, the home security systems
14 were capable of detecting break-ins where entry is attempted by breaking a
15 window or glass door. Plaintiff and the California Subclass purchased the ADT
16 home security systems incorporating audio discriminators, and related ADT
17 monitoring services, manufactured, advertised, marketed, promoted, and sold by
18 ADT as described herein.

19 130. ADT is a merchant with respect to the goods of this kind which were
20 sold to Plaintiff and the California Subclass, and there was, in the sale to Plaintiff
21 and the California Subclass, an implied warranty that those goods were
22 merchantable.

23 131. However, ADT breached that implied warranty in that ADT home
24 security systems incorporating audio discriminators are not capable of detecting
25 the breaking of tempered glass, as set forth in detail herein.

26 132. As an actual and proximate result of ADT's conduct, Plaintiff and the
27 California Subclass did not receive goods as impliedly warranted by ADT to be
28 merchantable in that they did not conform to the promises and affirmations made

1 by ADT.

2 133. Plaintiff and the California Subclass have sustained damages as a
3 proximate result of the foregoing breach of implied warranty.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff, on behalf of himself, all others similarly situated,
6 and the general public, prays for judgment against ADT as to each and every
7 Count, and the following remedies:

8 A. An Order declaring this action to be a proper class action,
9 appointing Plaintiff as Class representative, and appointing his counsel as Class
10 counsel;

11 B. An Order requiring ADT to bear the cost of Class notice;

12 C. An Order requiring ADT to disgorge or return all monies,
13 revenues, and profits obtained by any means of wrongful act or practice;

14 D. An Order requiring ADT to pay all actual and statutory
15 damages permitted under the Counts alleged herein, including punitive damages;

16 E. An Order requiring ADT to pay restitution to restore all funds
17 acquired by means of any act or practice declared by the Court to be an unlawful,
18 unfair, or fraudulent business act or practice, untrue or misleading advertising;

19 F. An Order enjoining ADT from making any false or misleading
20 representation concerning its home security systems incorporating audio
21 discriminators;

22 G. An Order compelling ADT to destroy all misleading and
23 deceptive advertising materials relating to its home security systems incorporating
24 audio discriminators;

25 H. An Order compelling ADT to conduct a corrective advertising
26 campaign;

27 I. Pre- and post-judgment interest;

28 J. An award of attorneys' fees and costs; and

1 K. Any other and further relief that Court deems necessary, just, or
2 proper.

3 **JURY DEMAND**

4 Plaintiff hereby demands a trial by jury on all issues so triable.

5 Dated: May 26, 2016

ROBBINS ARROYO LLP
KEVIN A SEELY
ASHLEY R. RIFKIN

7
8 

9 ASHLEY R. RIFKIN

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19
20 Attorneys for Plaintiff

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Matthew Williams, on Behalf of Himself, All Others Similarly Situated, and the General Public

DEFENDANTS

ADT LLC dba ADT Security Services

(b) County of Residence of First Listed Plaintiff San Diego County, CA
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Palm Beach County, FL
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Robbins Arroyo LLP
600 B Street, Suite 1900, San Diego, CA 92101
(619) 525-3990

Attorneys (If Known)

'16CV1268 JAH JLB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Class Action Fairness Act of 2005, 28 U.S.C. §1332

Brief description of cause:

Violations of Magnuson-Moss Warranty Act; Cal. CLRA, Cal. UCL, Cal. FAL; Breach of Implied Warranty

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

05/26/2016

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.