

Christine A. Amalfe, Esq.
Timothy D. Tremba, Esq.
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102
(973) 596-4500

*Attorneys for Defendant
Telebrands, Inc.*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

PENELOPE MEMOLI and HEATHER
ANDERSON, on behalf of themselves and all
others similarly situated,

Plaintiffs,

vs.

TELEBRANDS, INC.,

Defendant.

Civil Action No. _____

Document electronically filed

NOTICE OF REMOVAL

[Previously pending in the Superior Court of
New Jersey, Essex County, Law Division,
ESX-L-2938-16]

**TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

PLEASE TAKE NOTICE THAT Defendant Telebrands, Inc. (“Defendant” or
“Telebrands”), by and through its counsel, Gibbons P.C., respectfully requests that this action be
removed from the Superior Court of New Jersey, Law Division, Essex County to the United
States District Court for the District of New Jersey under 28 U.S.C. § 1441(a) and 28 U.S.C. §
1453 on the grounds of diversity jurisdiction under the Class Action Fairness Act (“CAFA”), 28
U.S.C. § 1132(d). In support of this Notice of Removal, Defendant alleges as follows:

BACKGROUND

1. On May 12, 2016, Plaintiffs Penelope Memoli and Heather Anderson
 (“Plaintiffs”), on behalf of themselves and as the representatives of a class of similarly situated

persons, filed a class action complaint against Telebrands in the Superior Court of New Jersey, Essex County, Law Division, captioned: Penelope Memoli and Heather Anderson, on behalf of themselves and all others similarly situated, vs. Telebrands, Docket No. ESX-L-2938-16. A copy of the Summons and Complaint served upon Defendant are annexed hereto as Exhibit A.

2. Telebrands received a copy of the Complaint on May 17, 2016, by way of personal service.

3. The Complaint seeks certification of a potential class of “[a]ll persons in the United States who purchased a Pocket Hose, Pocket Hose Dura-Rib, Pocket Hose Top Brass, and/or Pocket Hose Ultra on or after January 31, 2014[.]” *See Ex. A*, Compl. ¶ 61. In the alternative, the Complaint seeks certification of one or both of the following classes:

a. “All citizens of Arizona who purchased, in Arizona, a Pocket Hose, Pocket Hose Dura-Rib, Pocket Hose Top Brass, and/or Pocket Hose Ultra on or after January 31, 2014[.]” *Id.* ¶ 62.

b. “All citizens of Wisconsin who purchased, in Wisconsin, a Pocket Hose, Pocket Hose Dura-Rib, Pocket Hose Top Brass, and/or Pocket Hose Ultra on or after January 31, 2014[.]” *Id.*

4. The Complaint alleges, among other things, that Telebrands is liable to Plaintiffs and each class member for concealing defects in, and actively misrepresenting the qualities of, certain products sold to the class members: namely, the Pocket Hose, Pocket Hose Dura-Rib, Pocket Hose Top Brass, and Pocket Hose Ultra. *Id.* ¶¶ 15-16. On behalf of members of the putative class who are from Arizona, the Complaint contends that Telebrands violated the Arizona Consumer Fraud Act, Ariz. Rev. Stat. § 44-1521 *et seq.* On behalf of putative class members in Wisconsin, the Complaint asserts that Telebrands violated the Wisconsin Deceptive

Trade Practices Act (“WDTPA”), Wis. Stat. § 100.18 *et seq.* Finally, on behalf of the putative nationwide class, the Complaint alleges that Telebrands violated the New Jersey Consumer Fraud Act (“NJCFA”), N.J.S.A. 56:8-1 *et seq.*; breached the implied warranty of merchantability and the duty of good faith and fair dealing; was unjustly enriched; and committed common law fraud. *See* Compl. ¶¶ 76-126.

5. Plaintiffs seek actual, general, special, incidental, statutory, punitive, and consequential damages on their claims, in addition to any appropriate injunctive or declaratory relief, pre- and post-judgment interest, attorneys’ fees, expenses, and costs of suit. Plaintiffs also seek treble damages under the NJCFA, and double damages under the WDTPA. *See* Compl., *Prayer for Relief*.

JURISDICTIONAL REQUIREMENTS SATISFIED

6. The Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2)(A) because:

a. The action filed by Plaintiffs in the Superior Court of New Jersey, Essex County, Law Division, is a “class action” as defined in 28 U.S.C. § 1332(d)(1)(B);

b. There is minimal diversity. Specifically, at least one member of the putative, potential nationwide class of plaintiffs is a citizen of a different state than Telebrands; and

c. The aggregate value of the amount in controversy based on Plaintiffs’ allegations exceeds \$5,000,000, exclusive of interest and costs, as required by 28 U.S.C. § 1332(d)(2).

d. There are over 100 putative class members in the class alleged. *See* Compl. ¶ 63.

I. Minimal Diversity Exists Pursuant To 28 U.S.C. § 1332(d)(2)(A)

7. Plaintiff Penelope Memoli is a member of both the putative nationwide class and the putative Arizona class, and is domiciled in Buckeye, Arizona. *See* Compl. ¶ 8. Plaintiff Heather Anderson is a member of both the putative nationwide class and the putative Wisconsin class, and is domiciled in Bloomer, Wisconsin. *Id.* ¶ 9.

8. Both at the time Plaintiffs filed the Complaint in the Superior Court of New Jersey, Essex County, Law Division against Telebrands, and continuing to the present, Telebrands was and is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business located in Essex County, at 79 Two Bridges Road, One Telebrands Plaza, Fairfield, New Jersey 07004. *See* 28 U.S.C. § 1332(c).

9. Plaintiffs assert claims on behalf of themselves and a class consisting of all “[a]ll persons in the United States who purchased a Pocket Hose, Pocket Hose Dura-Rib, Pocket Hose Top Brass, and/or Pocket Hose Ultra on or after January 31, 2014[.]” *See* Compl. ¶ 61.

10. Based on the foregoing, minimal diversity exists because at least one member of the class is a citizen of a different state than Defendant. *See* 28 U.S.C. § 1332(d)(2).

II. The Aggregate Value of the Amount in Controversy Exceeds \$5,000,000

11. “In removal cases, determining the amount in controversy begins with a reading of the complaint filed in the state court.” *Samuel-Bassett v. KIA Motors America, Inc.*, 357 F.3d 392, 398 (3d Cir. 2004). Plaintiffs include seven class counts alleging violations of the statutory and common law by Telebrands. Plaintiffs have not stated an exact sum sought in the Complaint, so the Court must perform an independent appraisal of the amount in controversy and, in doing so, may rely upon facts alleged in this Notice of Removal as well as those alleged in Plaintiffs’ Complaint. *See Frederico v. Home Depot*, 507 F.3d 188, 197 (3d Cir. 2007) (“In addition, to determine whether the minimum jurisdictional amount has been met in a diversity

case removed to a district court, a defendant's notice of removal serves the same function as the complaint would if filed in the district court."); *Russ v. Unum Life Ins. Co.*, 442 F. Supp. 2d 193, 197 (D.N.J. 2006) ("If the complaint is open-ended and does not allege a specific amount, the court must perform an independent appraisal of the value of the claim by looking at the petition for removal or any other relevant evidence.").

12. The Complaint alleges that the potential class includes "[a]ll persons in the United States who purchased a Pocket Hose, Pocket Hose Dura-Rib, Pocket Hose Top Brass, and/or Pocket Hose Ultra on or after January 31, 2014[.]" *Id.* ¶ 61. The Complaint states that the Pocket Hose is available for purchase for approximately \$21.99 plus shipping and handling. *Id.* ¶ 19. It states that the Pocket Hose Dura-Rib and Pocket Hose Ultra cost approximately \$12.99 plus shipping and handling, and that the Pocket Hose Top Brass costs approximately \$19.99 plus shipping and handling. *Id.* ¶ 22, 27, 35. The Complaint states that Telebrands' shipping charge for the products in question is \$7.99. *Id.* ¶ 45. In addition, the Complaint alleges that Telebrands advertises a lifetime, 100% money back guarantee that its products will not fail, which it consistently fails to honor. *Id.* ¶¶ 44-47.

13. Although the Complaint does not identify the exact size of the proposed class, it alleges that the class "encompasses no fewer than thousands of consumers who are geographically dispersed." *See* Compl. ¶ 63. The Complaint further alleges that, in 2013, Pocket Hoses reportedly generated approximately \$400,000,000 in sales. *Id.* ¶ 2. And, in 2014, Telebrands' CEO is alleged to have told Forbes that Pocket Hoses' expected sales that year would exceed \$200,000,000. *Id.* According to the Complaint, Telebrands' continued marketing and selling of Pocket Hoses to consumers "caus[es] millions of dollars of damages." *Id.* ¶ 7.

14. The Complaint seeks treble damages, in addition to punitive damages, and alleges that Telebrands has engaged in deliberate acts of consumer fraud for over a decade. According to the Complaint, Telebrands has previously committed consumer fraud in violation of a February 16, 2001 Final Consent Judgment and Order in which it agreed to comply with the NJCFA following suit by the State of New Jersey and the New Jersey Division of Consumer Affairs. *Id.* ¶¶ 55-58.

15. Plaintiffs' demand for attorneys' fees should also be considered when determining the amount in controversy. *See, e.g., Suber v. Chrysler Corp.*, 104 F.3d 578, 585 (3d Cir. 1997) (“[I]n calculating the amount in controversy, we must consider potential attorney’s fees [A]ttorney’s fees are necessarily part of the amount in controversy if such fees are available to successful plaintiffs under the statutory cause of action.”). In determining the amount of attorneys’ fees for purposes of assessing the amount in controversy where a statute provides for the award of such fees to the prevailing party, the Third Circuit has held that “[f]ees could be as much as thirty percent of the judgment.” *Frederico*, 507 F.3d at 199.

16. On December 15, 2014, the Supreme Court of the United States held that “a defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. ___, ___, 135 S. Ct. 547, 554 (2014). For the above reasons, this Notice of Removal satisfies the “plausible allegation” standard set forth in the Supreme Court’s pronouncement.

17. Although Telebrands disputes liability and any entitlement of Plaintiffs or the proposed class to monetary relief, it is respectfully submitted that, based upon a fair reading of this Notice of Removal together with the Complaint -- including consideration of the relief

sought, the class definition, and the scope and size of the class -- that the Complaint seeks damages exceeding the minimum jurisdictional amount of \$5,000,000 under CAFA. *See Frederico*, 507 F.3d at 197 (citing *Morgan v. Gay*, 471 F.3d 469 (3d Cir. 2006)); 28 U.S.C. § 1332(d)(2).

REMOVAL REQUIREMENTS SATISFIED

18. As required by 28 U.S.C. § 1446(b), this Notice of Removal is being filed within thirty (30) days after Defendant's registered agent received a copy of the Complaint that was filed by Plaintiffs in the Superior Court of New Jersey, Essex County, Law Division.

19. Defendant has not filed a responsive pleading in the action commenced by Plaintiffs in the Superior Court of New Jersey, Essex County, Law Division against Defendant and no other proceedings have transpired in that action.

20. This Notice of Removal is being filed in the District of New Jersey, the district court of the United States for the district and division within which the state court action is pending, as required by 28 U.S.C. §§ 1446(a) and 1441(a).

21. Promptly after filing this Notice of Removal with the District Court for the District of New Jersey, a copy of this Notice of Removal, along with the Notice of Filing of Notice of Removal, will be filed with the Clerk of the Superior Court of New Jersey, Essex County, Law Division pursuant to 28 U.S.C. § 1446(d). A copy of both documents will also be served upon Plaintiffs' counsel. A copy of the letter notifying the Clerk of the Superior Court of New Jersey, Essex County, Law Division, of removal from state court, is annexed hereto as Exhibit B.

22. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure, as required by 28 U.S.C. § 1446(a).

WHEREFORE, Defendant respectfully requests that this action be removed from the Superior Court of New Jersey, Essex County, Law Division, to this Court, and that it proceed herein.

Dated: June 9, 2016

By: s/ Christine A. Amalfe
Christine A. Amalfe, Esq.
Timothy D. Tremba, Esq.
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102
Phone: (973) 596-4500
Facsimile: (973) 639-6230
E-mail: camalfe@gibbonslaw.com
Attorneys for Defendant
Telebrands, Inc.

EXHIBIT A

Rec'd 5/17/16
12:15pm

SUMMONS

Attorney(s) LITE DEPALMA GREENBERG, LLC
 Office Address 570 Broad Street
Suite 1201
 Town, State, Zip Code Newark, New Jersey 07102
 Telephone Number (973) 623-3000
 Attorney(s) for Plaintiff Penelope Memoli, et als

Superior Court of
New Jersey

Essex COUNTY
 Law DIVISION

Penelope Memoli and Heather Anderson, on behalf of
 themselves and all others similarly situated,
 Plaintiff(s)

Docket No: ESX-L-2938-16

Vs.
 Telebrands

CIVIL ACTION
SUMMONS

Defendant(s)

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.

Michelle Smith
 Clerk of the Superior Court

DATED: 05/12/2016

Name of Defendant to Be Served: TELEBRANDS

Address of Defendant to Be Served: One Telebrands Plaza, Fairfield, NJ 07004

LITE DEPALMA GREENBERG, LLC

Bruce D. Greenberg (NJ ID# 014951982)

Danielle Y. Alvarez (NJ ID# 034642011)

570 Broad Street, Suite 1201

Newark, New Jersey 07102

Tel: (973) 623-3000

Fax: (973) 623-0858

Attorneys for Plaintiffs and the Class

[Additional counsel on signature page]

PENELOPE MEMOLI and HEATHER
ANDERSON, on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

TELEBRANDS,

Defendant.

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION: ESSEX COUNTY

:
: DOCKET NO.: *L2938-16*

:
: **CLASS ACTION COMPLAINT AND
: DEMAND FOR JURY TRIAL**

Plaintiffs Penelope Memoli and Heather Anderson, by their attorneys, on behalf of themselves and all others similarly situated, make the following allegations and claims for their Class Action Complaint against Defendant Telebrands. The following allegations are made upon information and belief, except as to allegations specifically pertaining to Plaintiffs, which are made upon knowledge.

INTRODUCTION

1. This class action is brought pursuant to R. 4:32-1(b)(2) and R. 4:32-1(b)(3) of the New Jersey Court Rules. Plaintiffs seek damages and injunctive relief on their own behalves and on behalf of all other similarly situated consumers who purchased the Pocket Hose, Pocket Hose Dura-Rib, Pocket Hose Top Brass, and/or Pocket Hose Ultra (together, the "Pocket Hoses") from Defendant (the "Class").

2. Telebrands advertises the Pocket Hoses as “the number 1 selling expandable hose in the world.” In 2013, Pocket Hose reportedly generated approximately \$400 million in sales. In 2014, Telebrands’ CEO, AJ Khubani, told Forbes that Pocket Hoses’ expected sales that year would exceed \$200 million.¹

3. According to Telebrands, Pocket Hoses are the “hose that changed hoses forever.” Pocket Hoses are marketed as hoses that will not tangle or kink.

4. As compared to a more traditional garden hose, which is typically made of rubber, Defendant’s Pocket Hoses are constructed with a thin cloth layer exterior and a thin plastic internal tube interior. According to Defendant, this allows the Pocket Hoses to contract when there is no water in the hose, providing for easier storage.

5. Defendant’s marketing and packaging state that the Pocket Hoses are strong, durable, and long-lasting. Contrary to Defendant’s representations, however, the Pocket Hoses are defective and predisposed to leaking, bursting, seeping, and dripping due to no fault of the consumer.

6. Defendant knew, or should have known, that the Pocket Hoses were defective and not fit for their ordinary and intended purpose as garden hoses. Defendant, however, misrepresented and knowingly concealed this material fact from Plaintiffs and members of the Class at the time they purchased their Pocket Hoses.

7. Despite Defendant’s knowledge of the defect, the numerous internet complaints regarding the Pocket Hoses, and previous litigation regarding Defendant’s products and practices, Defendant continues to market and sell Pocket Hoses to consumers, causing millions of dollars of damages as it does so.

¹ See <http://www.forbes.com/sites/dalebuss/2014/07/10/pocket-hose-gushes-revenues-for-drtv-leader-telebrands/#2636cd5c3bd8> (last visited Apr. 21, 2016).

PARTIES

8. Plaintiff Penelope Memoli is a citizen of the state of Arizona and currently resides in Buckeye, Arizona. On or about April 5, 2015, she purchased two of Defendant's 25-foot original Pocket Hoses at a Ross store located in Goodyear, Arizona. She made the decision to purchase the Pocket Hoses based on Defendant's representations on the Pocket Hoses' packaging, among other representations by Defendant, that they would be strong, durable, and last a long time before needing replacement. Both Pocket Hoses, however, failed shortly after her purchase. As a result, her Pocket Hoses are no longer suitable for use as intended and advertised. Ms. Memoli notified Defendant of the failure on or about May 5, 2015. Defendant inquired where she purchased the Pocket Hose. After she informed Defendant that the Pocket Hoses were purchased at a Ross store, Defendant stopped responding to Ms. Memoli.

9. Plaintiff Heather Anderson is a citizen of the State of Wisconsin and currently resides in Bloomer, Wisconsin. In or about June 2015, she purchased Defendant's Pocket Hose Ultra at a Menards store located in Eau Claire, Wisconsin. Plaintiff made the decision to purchase the Pocket Hose based on Defendant's representations on the Pocket Hose's packaging, among other representations by Defendant, that they would be tough, durable, and last a long time before needing replacement. The Pocket Hose failed shortly after Plaintiff's purchase. As a result, Plaintiff's Pocket Hose is no longer suitable for use as intended and advertised. Ms. Anderson notified Defendant of the failure in or about September 2015.

10. Defendant is headquartered at One Telebrands Plaza, Fairfield, New Jersey 07004 in Essex County. Defendant advertises, distributes, markets and sells its Pocket Hoses to consumers throughout New Jersey and elsewhere.

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction over this action.
12. This Court has personal jurisdiction over Defendant because Defendant has, at all times relevant to this action, maintained offices in this County and has, individually or through its agents, subsidiaries, officers and/or representatives, operated, conducted, engaged in and carried on a business venture in this State, and advertised and sold products in this State.
13. Venue is proper in this County because Defendant has offices in this County and conducts substantial business here, including conduct directed at members of the Class.
14. Defendant has continued to act and/or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

FACTUAL BACKGROUND

15. Telebrands designed, marketed, distributed, and sold its Pocket Hoses through the internet and through various retail outlets, including Amazon, Home Depot, Ross, Bed Bath & Beyond, and Walmart. Upon information and belief, Telebrands has sold hundreds of millions of dollars' worth of Pocket Hoses.
16. Unbeknownst to consumers, Telebrands' Pocket Hoses contain a design and/or manufacturing defect that causes leaking, bursting, seeping, and dripping. Telebrands not only had knowledge of the design and/or manufacturing defect, but also actively concealed the defective nature of the Pocket Hoses from Plaintiffs and Class members and misrepresented the qualities of the Pocket Hoses.
17. Despite CEO AJ Khubani's admission that Pocket Hoses are "much more delicate than a traditional hose" and "can get pierced very easily; any sort of stick can pierce the tube

inside[.]”² Telebrands nevertheless continued to market its Pocket Hoses as tough, durable, and long-lasting gardening hoses.

18. After Defendant’s original Pocket Hose was the subject of scores of negative reviews and a class action settlement,³ Defendant announced three new “completely re-engineered” hoses that allegedly contain new technology, and began aggressively marketing the Pocket Hoses to consumers again.

Pocket Hose

19. The original Pocket Hose is available for purchase for approximately \$21.99 plus shipping and handling.

20. In its advertisements and marketing materials, Defendant makes the following statements regarding the original Pocket Hose:

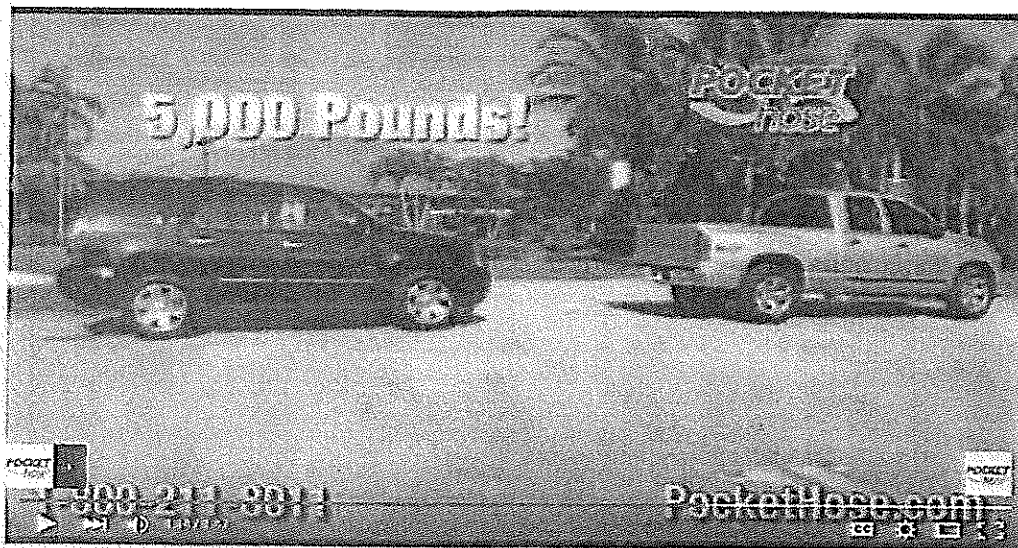
- “Powerful enough for really tough jobs!”⁴
- Defendant markets the original Pocket Hose as being “strong enough to pull this 5,000 pound SUV!”⁵

² See <http://www.forbes.com/sites/dalebuss/2014/07/10/pocket-hose-gushes-revenues-for-drtv-leader-telebrands/#2758060f3bd8> (last visited Apr. 21, 2016).

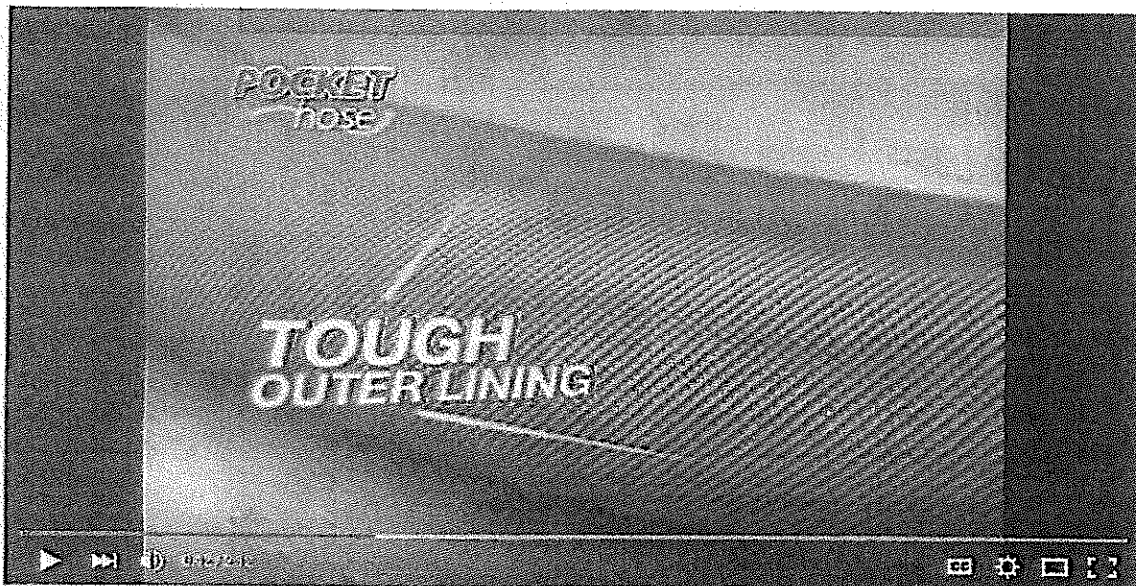
³ See *Alex Arreguin, Jr. v. Telebrands*, Case No. CIVRS1307798 (Superior Court of the State of California, County of San Bernadino). Relevant documents regarding the settlement are available at <https://www.hosesettlement.com/Home/Documents> (last visited Apr. 21, 2016).

⁴ See <https://www.youtube.com/watch?v=87sRVk1f7ik> (last visited Apr. 21, 2016).

⁵ See *id.*



- “The secret is Pocket Hose’s heavy duty fire hose construction. A durable rubber hose on the inside that expands with water pressure and a tough outer lining to protect it.”⁶



- “It’s so rugged it comes with a ten year money back guarantee!”⁷

21. Taking all of its representations together, Defendant advertises the original Pocket Hose to consumers as a garden hose that is strong, durable, and long-lasting.

⁶ See <https://www.youtube.com/watch?v=RB3xGwlwxEk> (last visited Apr. 21, 2016).

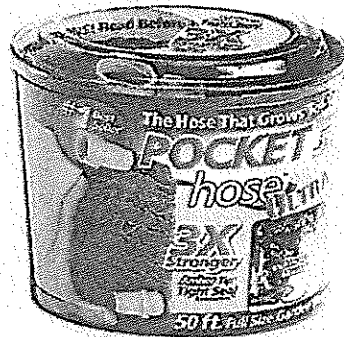
⁷ See *id.*

Pocket Hose Ultra

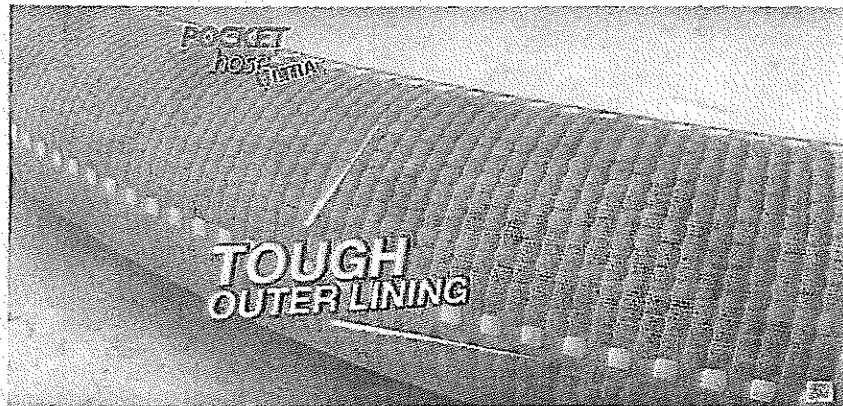
22. The Pocket Hose Ultra is available for purchase for approximately \$12.99 plus shipping and handling.

23. In its advertisements and marketing materials, Telebrands makes the following statements regarding the Pocket Hose Ultra:

- “The hose that expands and magically retracts back to where it started from. It’s equipped with tight seal technology guaranteed to give you a water tight seal every time. The secret is the super strong material of the amber tip connector.”⁸
- “Three times stronger than the original!”⁹



- “TOUGH Outer Lining”



- “Say good-bye to leaky hoses that spray more water on you than on the lawn.”¹⁰

⁸ See <http://www.asseenontvvideo.com/pocket-hose-ultra> (last visited Apr. 21, 2016).

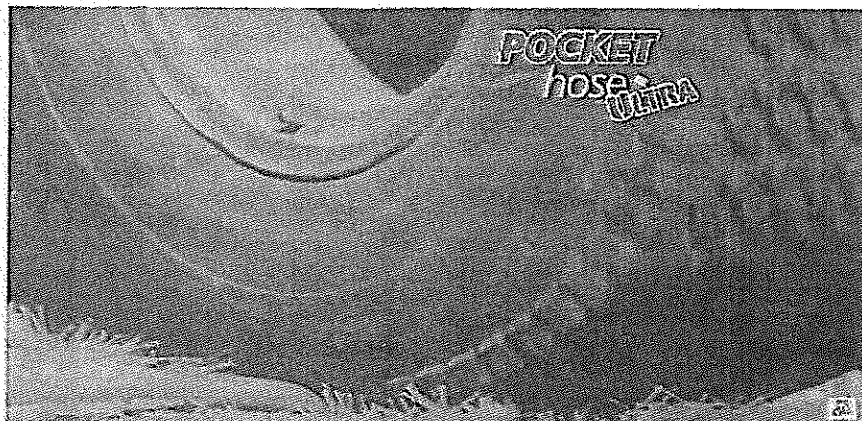
⁹ See *id.*

¹⁰ See *id.*

- “Pocket Hose Ultra has doubled layer construction like a firehose.”¹¹



24. In addition, Defendant's advertisements show the Pocket Hose Ultra being run over by a vehicle, intending to demonstrate the strength, durability, and longevity of the Pocket Hose Ultra:¹²



25. Telebrands advertises a lifetime warranty for the Pocket Hose Ultra.¹³

¹¹ *See id.*

¹² *See id.*

¹³ *See* <http://www.asseenontvvideo.com/pocket-hose-ultra> (last visited Apr. 21, 2016).



26. Taking all of its representations together, Defendant advertises the Pocket Hose Ultra to consumers as a re-engineered garden hose that is strong, durable, long-lasting and three times stronger than the original Pocket Hose.

Pocket Hose Dura-Rib

27. The Pocket Hose Dura-Rib is available for purchase for approximately \$12.99 plus shipping and handling.

28. Defendant introduced the Pocket Hose Dura-Rib as a “NEW and IMPROVED version” of the original Pocket Hose with “all of the same qualities you loved, but is now re-engineered to be even better!”¹⁴

29. Defendant marketed Pocket Hose Dura-Rib as “equipped with tight seal amber connectors, guaranteed to give you a water tight seal every time – no more leaks plus connector protectors! The secret is the super strong material of the amber tip connectors that are 3 times more durable than the original! Pocket Hose Dura-Rib is made with double layer construction just like a fire hose, with a scientifically developed elastomer dura-rib hose on the inside. The

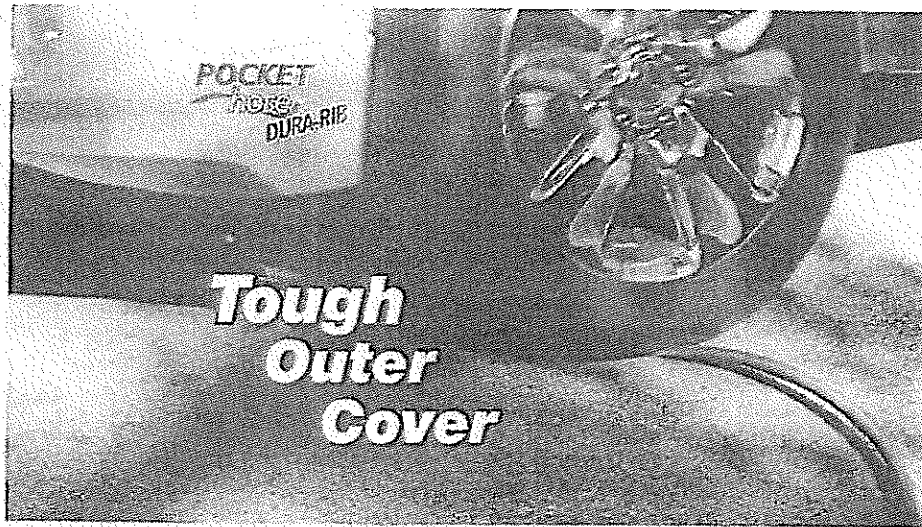
¹⁴ See <http://www.pockethosedurarib.com/> (last visited Apr. 21, 2016).

elastomer hose expands with water pressure, while the new and improved outer lining protects it – no more rips or breakthroughs.”¹⁵

30. Defendant further stated that the “improved, super durable Pocket Hose Dura-Rib is built to last for daily, heavy-duty use, and even comes with a LIFETIME GUARANTEE so if it leaks even a drop, you’ll get your money back!”¹⁶

31. Defendant offered a “100% money back guarantee. If you don’t love your Pocket Hose Dura-Rib, just send it back for a refund of the product price *less shipping and handling*” (emphasis added). Telebrands used this as a selling point, stating “Best of all, shipping and handling is just \$7.99 no matter what length you select.”¹⁷

32. Similar to the Pocket Hose Ultra, Defendant’s advertisements show the Pocket Hose Dura-Rib being run over by a vehicle, intending show the toughness, durability, and longevity of the Pocket Hose Dura-Rib.¹⁸



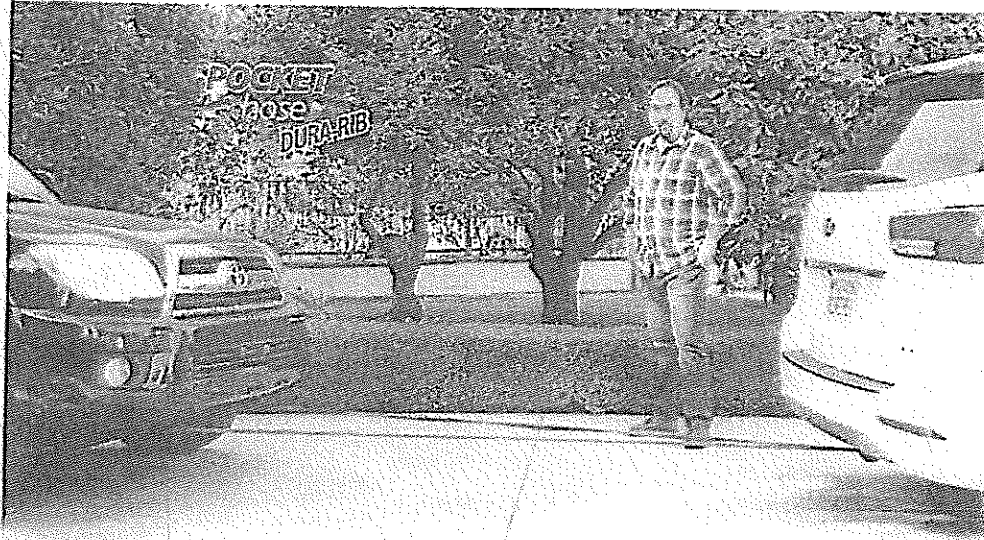
¹⁵ See *id.*

¹⁶ See *id.*

¹⁷ See *id.*

¹⁸ See *id.*

33. Defendant also advertises the Pocket Hose Dura-Rib as strong and durable enough to tow a car:¹⁹



34. Taken together, Defendant advertises the Pocket Hose Ultra to consumers as a re-engineered garden hose that is strong, durable, and long-lasting. Defendant states that it is three times stronger and more durable than the original pocket hose.

Pocket Hose Top Brass

35. The Pocket Hose Top Brass is available for purchase for approximately \$19.99 plus shipping and handling.

36. Defendant markets the Pocket Hose Top Brass with "top brass connectors that are 3 times more durable than the original!" Defendant "guaranteed" that the Top Brass was "3X STRONGER!" and there would be "no more leaks." Top Brass was "built to last for daily, heavy-duty use."²⁰

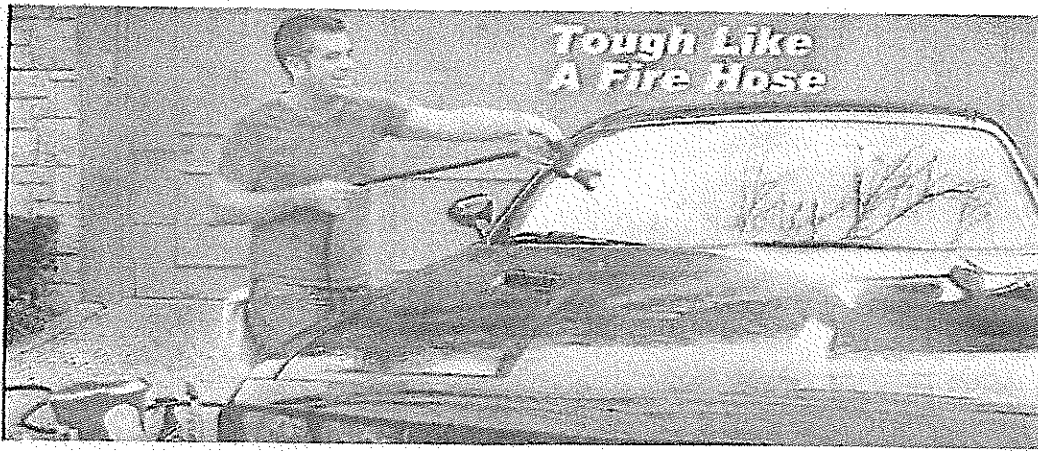
37. Like the Pocket Hose Ultra and Dura-Rib, Defendant advertised the Pocket Hose Top Brass as being completely re-engineered.

¹⁹ See *id.*

²⁰ See <http://www.pockethosetopbrass.com/> (last visited Apr. 21, 2016).

38. The “secret” according to Telebrands “is the super strong material of the top brass connectors that are 3 times more durable than the original! Pocket Hose Top Brass is made with double layer construction just like a fire hose, with a scientifically developed elastomer hose on the inside.”²¹

39. Defendant also states that the Pocket Hose Top Brass is “tough like a fire hose.”²²

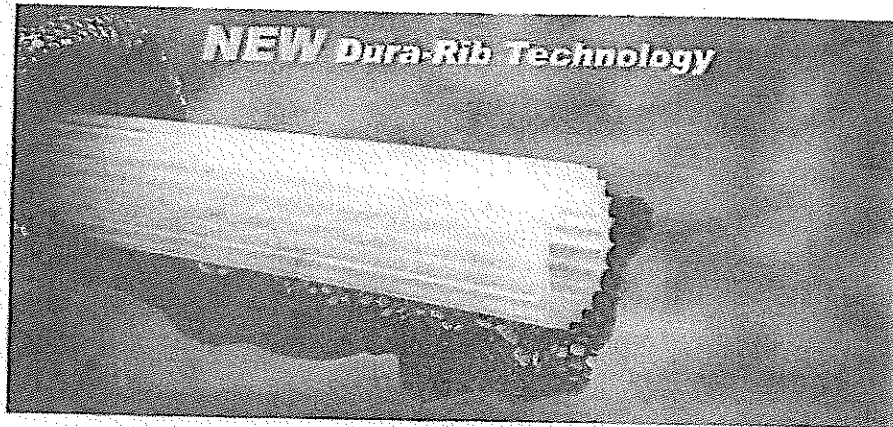


40. Defendant also advertises that the Pocket Hose Top Brass contains the same “Dura-Rib” technology as the Pocket Hose Dura-Rib.²³

²¹ See *id.*

²² See <https://www.youtube.com/watch?v=T7EkkNIUEtk> (last visited Apr. 21, 2016).

²³ See *id.*



41. Taking all of its representations together, Telebrands advertises the Pocket Hose Top Brass to consumers as a re-engineered garden hose that is strong, durable, and long-lasting. Defendant states that it is three times stronger and more durable than the original Pocket Hose.

42. Despite Defendant's representations, neither the Pocket Hose Dura-Rib, the Pocket Hose Top Brass, nor the Pocket Hose Ultra were in fact stronger or more durable than the original Pocket Hose, and none of the Pocket Hoses are built like a fire hose or leak-free. The internet is replete with complaints by unhappy customers of the Pocket Hoses. A small sample of internet complaints are reproduced below (any typographical errors are attributable to the author of the review):

A. Pocket Hose (original)

- "I have purchased several of these hoses, original, ultra, and although they sprung a leak after a few uses, i was dumb enough to order a few more.....NONE ARE LEAKPROOF AND ARE USELESS.....One leak sprayed all over me while dressed for my office and had to redress....Don't waste your money until the manufacturer improves these flexible and expandable hoses."²⁴

B. Pocket Hose Dura-Rib

²⁴ See <http://www.amazon.com/Pocket-Hose-Ultra-Dura/dp/B00J5RR1M4> (posted July 14, 2014) (last visited Apr. 15, 2016).

- “I tried the Pocket Hose even after hearing of issues last year about these. I figured with its new ‘Dura-Rib’ it had to be better, right? Wrong! This is a horrible product, exploded after three weeks and returns are not accepted after 30 days. I drained it like it said. I didn’t use it with full water pressure. I loved it. I cared for it. I did everything I could for the Pocket Hose. But alas, it turned on me.... and exploded....literally. The pro for the Pocket Hose is that it is compact and light. The con? Well, it only works for a few weeks then explodes in your yard.”²⁵



- “It was advertised as being stronger and better than its predecessor that ‘blew up.’ Unfortunately, that was not the case. It IS flexible and it IS much easier to use than a typical hose. However, this one blew up just like the earlier version. And, of course, my time for return expired about 9 days ago.”²⁶
- “Do not last long at all.”²⁷

C. Pocket Hose Top Brass

- “Had this hose for a few months loved it until it sprung a leak right in the middle of the hose tonight!!! Should have saved my money and listened to

²⁵ See http://www.amazon.com/Pocket-Hose-Ultra-Dura/product-reviews/B00J5RR1M4/ref=undefined_3?ie=UTF8&showViewpoints=1&sortBy=recent&pageNumber=3 (posted Sept. 10, 2015) (last visited Apr. 15, 2016).

²⁶ See *id.*

²⁷ See http://www.amazon.com/Pocket-Hose-Ultra-Dura/product-reviews/B00J5RR1M4/ref=cm_cr_dp_all_btn?ie=UTF8&showViewpoints=1&sortBy=recent (posted Feb. 17, 2016) (last visited Apr. 15, 2016).

the reviews.”²⁸

- “Don’t waste your time buying & using this hose! I thought it was improved but on my 1st. [u]se it leaked...”²⁹
- “I was skeptical about the ‘As Seen On Tv’ label for this product but I liked the idea of the compactness, and I figured the brass fittings would make it more robust than the plastic version. It started out well; the connections to my spigot and sprayer were well sealed and the hose was easy to use. But on the fourth use of just basic lawn spraying without any hard treatment, there was a leak in the middle of the hose and that was it for this product.”³⁰
- “It busted in two places during the first week. At first I liked it because it was light weight and easy to handle. But then it popped open in two places. It’s back to the old style hose for me.”³¹
- “I feel fortunate. My hose lasted four months before it blew up, and has now been put to rest in a landfill.”³²
- “I thought mine was great when I bought it last year. I just went outside to use it for something and it leaks (to phrase it kindly) in two places along the hose. So sad!”³³

²⁸ See

https://www.facebook.com/permalink.php?story_fbid=1161033863948084&id=907922805925859 (posted February 26, 2016) (last visited Apr. 14, 2016).

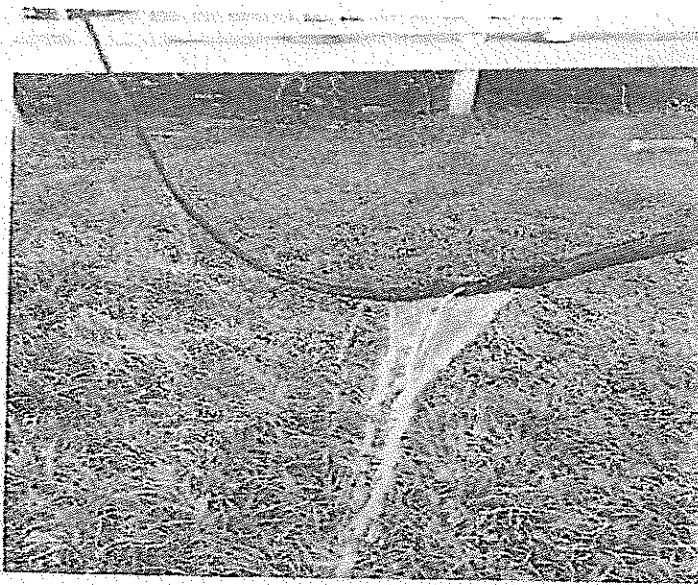
²⁹ See http://www.amazon.com/Pocket-Hose-Expandable-Garden-BulbHead/product-reviews/B00T9RK8SO/ref=cm_cr_dp_qt_hist_one?ie=UTF8&filterByStar=one_star&showViewpoints=0 (posted May 5, 2015) (last visited Apr. 14, 2016).

³⁰ See http://www.amazon.com/Pocket-Hose-Expandable-Garden-BulbHead/product-reviews/B00T9RK8SO/ref=cm_cr_dp_qt_hist_one?ie=UTF8&filterByStar=one_star&showViewpoints=0 (posted May 3, 2015) (last visited Apr. 14, 2016).

³¹ See http://www.amazon.com/Pocket-Hose-Expandable-Garden-BulbHead/product-reviews/B00T9RK8SO/ref=cm_cr_dp_qt_hist_one?ie=UTF8&filterByStar=one_star&showViewpoints=0 (posted May 3, 2015) (last visited Apr. 14, 2016).

³² See http://www.amazon.com/Pocket-Hose-Ultra-Dura/product-reviews/B00J5RR1M4/ref=cm_cr_dp_all_btm?ie=UTF8&showViewpoints=1&sortBy=recent (posted Jan. 6, 2016) (last visited Apr. 15, 2016).

³³ See <https://m.facebook.com/profile.php?v=timeline&filter=2&id=907922805925859> (posted February 6, 2016) (last visited Apr. 15, 2016).



- "this is my SECOND ONE and will be the last, bar code 9729802540. Bought at target the first one lasted about a month and a half, this second one about a month. I use to wash my cars, spray off the driveway, and water front landscape and keep in the garage. for \$30 i expect to last but i guess the advertising on this container is misleading".³⁴
- "I have purchased 3 different size pocket hose's and they are a piece of crap. All three have burst when I tried to use them. It was a total waste of money. If you are smart you won't waste your money."³⁵
- "Also, cal [sic] the customer service number from the website ... No one answers ..it says that they have so Many calls that you're on hold ..I waited 45 minutes and hung up..I guess they have a lot of calls for complaints If you ordered from a toll free number that was provided in a commercial that you saw on TV, or if you ordered directly from one of our product-devoted websites. Telebrands Customer Care
79 Two Bridges Road
Fairfield, NJ 07004
1-844-863-0167 (M-F 7:00 AM to 12:00 AM Eastern Time & Sat - Sun 8:00 AM

³⁴ See <https://m.facebook.com/profile.php?v=timeline&filter=2&id=907922805925859> (last visited Apr. 15, 2016).

³⁵ See

https://www.facebook.com/permalink.php?story_fbid=1134161573301980&id=907922805925859 (last visited Apr. 15, 2016).

to 8:00 PM Eastern Time)"³⁶

- "Thought it might be better than the cheapoo version, but NOT. I have had two of the plastic versions, the first I dropped and broke the fitting and the second exploded. I thought, perhaps, the Top Brass one would be better. I have never left the hose in the sun or under pressure for long periods. After using, I drained it and put it in a bucket and put it in the garage. Today I was washing my bicycle. Finished up drying and lubing the bike. The hose was outside (sunny day, 62 degrees). It was there for about an hour when it exploded. I know it's not a water pressure issue since earlier this year I replaced the pressure regulator. Too bad. I hate regular hoses that get stiff when it cools down and are difficult to maneuver around. I also hate the fact that the hose is about 3 months out of warranty."³⁷
- "Biggest waste of time. Do not buy this. I tried 2 of these. I had high hopes. No. They leaked either within 2 days and one right out of the package. These are junk. Do not buy!"³⁸
- "Short-lived; **should have headed warnings**. I picked this up at Home Depot without researching it. I wish I had saved my money. It was great while it worked, but \$30 for less than 3 months of light duty use is not a good deal. The fabric ruptured and the rubber hose ballooned out through the tear and started expanding the fabric tear. Fortunately, I was there to shut it down before it blew completely. Avoid this product. I just noticed that the Home Depot site says there is NO MANUFACTURER WARRANTY at all! Who does that?"³⁹
- "In my opinion: rip off. In my opinion: I bought this hose at HD in April. It is now October and it has developed a large hole with only light use during the summer. I still have the receipt and packaging. The packaging says nothing about a warranty, and HD has a 90-day return policy. I am

³⁶ See

https://www.facebook.com/permalink.php?story_fbid=1113780365340101&id=907922805925859 (posted Dec. 5, 2016) (last visited Apr. 15, 2016).

³⁷ See <http://www.homedepot.com/p/Pocket-Hose-Top-Brass-3-4-in-x-50-ft-Expanding-Garden-Hose-8703-6/205694055> (posted Feb. 8, 2016) (last visited Apr. 15, 2016).

³⁸ See <http://www.homedepot.com/p/Pocket-Hose-Top-Brass-3-4-in-x-50-ft-Expanding-Garden-Hose-8703-6/205694055> (posted Dec. 25, 2015) (last visited Apr. 15, 2016).

³⁹ See http://www.homedepot.com/p/Pocket-Hose-Top-Brass-3-4-in-x-50-ft-Expanding-Garden-Hose-8703-6/205694055?MERCH=REC_-PIPHorizontal1_rr_-205144009_-205694055_-N (posted Nov. 9, 2015) (last visited Apr. 15, 2016).

very disappointed that HD would.”⁴⁰

- “Worst choice for a hose. What hose can't even last 1 summer??!!!!!-- This one. I love the concept of a hose that crinkles up, and becomes lightweight when you turn it off, however this hose lasted barely 2.5 months, before it sprung a leak. It wasn't even heavy use such as daily watering. Just once a week spraying down my deck. I can't believe I wasted \$30. on a hose, and it didn't even last 1 summer. Terrible choice! I can't even return it, because it's beyond the 60 day return policy.”⁴¹

D. Pocket Hose Ultra

- “Piece of Junk. This is supposed to be better quality than the original? It was advertised on their commercial as being of better quality and stronger than the initial product. I guess that is why they referred to it as ‘Ultra’. It is an Ultra piece of junk. I carefully removed it from its packaging. I carefully connected to the outside faucet and spray nozzle, making sure to not over-tighten. Immediately after turning on the water, water began leaking from the ‘plastic’ connector near the nozzle. By the time I had used it a few hours, water was spewing from the actual hose section for a length of almost two inches. If I wasn't pressing the trigger on my water spraying nozzle, then water was spewing to the point I was getting very wet. This was a complete waste of my hard earned money. I will go back to the hardware store and buy a truly ultra good regular hose. Thanks for nothing. Lesson learned. I will pass the warning along to all of my friends.”⁴²
- “Just like the others, the hoses explode. These hoses would be the best thing ever if they didn't leak and explode. I went through four of them before I realized NONE of these are going to last. Don't waste your money.”⁴³
- “DON'T BUY. Doesn't work. Bought one about 2 months ago, thought it was good but then it exploded while I was watering. Wasted money.”⁴⁴

⁴⁰ See <http://www.homedepot.com/p/Pocket-Hose-Top-Brass-3-4-in-x-50-ft-Expanding-Garden-Hose-8703-6/205694055?MERCH=REC--PIPHorizontal1--205144009--205694055--N> (posted Sept. 6, 2015) (last visited Apr. 15, 2016).

⁴¹ See <https://www.walmart.com/reviews/product/43723169?limit=20&page=2&sort=relevancy> (posted Aug. 7, 2015) (last visited Apr. 15, 2016).

⁴² See <http://www.amazon.com/Pocket-Hose-Ultra-Dura/dp/B00J5RR1M4> (posted May 8, 2014) (last visited Apr. 15, 2016).

⁴³ See <http://www.highya.com/pocket-hose-ultra-reviews> (posted Nov. 23, 2015) (last visited Apr. 14, 2016).

⁴⁴ See <http://www.highya.com/pocket-hose-ultra-reviews> (posted Sept. 26, 2015) (last visited Apr. 15, 2016).

- “Don’t waste your money. I wish I could give zero star. It cracks within 3 months. Water leaks from another to another. I totally wasted the money.”⁴⁵
- “Piece of Junk. It got a 1 star for the simple fact that it is very convenient to use and is very lightweight. Past that, it is junk. I bought it last year and used it for watering my plants only. I babied it the entire time bringing it inside the garage after each use and it still burst. My neighbor also had two and they both burst, so the new and improved is no more new or improved. This is the biggest scam out there. Don’t waste your money.”⁴⁶
- “Garbage. I should have learned after the first one burst. This one lasted a month and has a hole.”⁴⁷

43. CEO AJ Khubani admits that the return rate of the Pocket Hoses is still unacceptably high to Telebrands’ customers. “They are happier this year than last year,” Khubani told Forbes in July 2014. “But they’re still not completely satisfied...”⁴⁸

The Illusory Life-Time Guarantee

44. In its commercials for the Pocket Hose Ultra, the Pocket Hose Dura-Rib, and the Pocket Hose Top Brass, Defendant claims to offer a lifetime guarantee. “If it ever leaks. Even a drop. You get your money back.”

45. Defendant also advertises the alleged lifetime guarantee on its website. For example, the Pocket Hose Top Brass website states that it comes with a “100% money back guarantee” but there is a catch – “just send it back for a refund of the product price *less shipping and handling*” (emphasis added).⁴⁹ Defendant’s shipping charge of \$7.99 each way nearly equals the full product price.

⁴⁵ See *id.*

⁴⁶ See *id.*

⁴⁷ See *id.*

⁴⁸ See <http://www.forbes.com/sites/dalebuss/2014/07/10/pocket-hose-gushes-revenues-for-drtv-leader-telebrands/2/#63f850f833ef> (last visited Apr. 21, 2016).

⁴⁹ See <http://www.pockethosetopbrass.com/> (last visited Apr. 21, 2016).

46. However, Defendant conceals its lifetime guarantee insofar as it does not appear on the packaging for the Pocket Hose Ultra, the Pocket Hose Dura-Rib, or the Pocket Hose Top Brass.

47. Despite Defendant's concealment of this alleged lifetime guarantee, for consumers who are aware of the lifetime guarantee, Defendant fails to honor the lifetime guarantee when a purchaser of the Pocket Hose Ultra, the Pocket Hose Dura-Rib, and/or the Pocket Hose Top Brass contacts Defendant, complains of a failure, and requests a refund. A small sample of publicly available complaints encountering such a situation are reproduced below:

- "I sent an email back in October for a replacement then sent a status....I sent pictures ... as directed with my address I still have not received it ..or gotten a response.... not sure why? It would be nice to receive the replacement but for some reason I cannot get a hold of the pocket hose company via email or through the ordering number or the customer service number which puts me on hold for more that 45 minutes."⁵⁰
- "Customer services SERIOUSLY BLOWS! Still waiting to be contacted regarding my guarenteed [sic] hose replacement from back in August"⁵¹
- "Bought the top brass hose from you guys 3 months ago to wash my car with. The hose exploded just now, tried calling your number several times and it says its not even in service... What the hell"⁵²
- "3 Hoses exploded. Numerous emails sent with pictures & receipts. No response. Horrible way to conduct business."⁵³

⁵⁰ See

https://www.facebook.com/permalink.php?story_fbid=1113781218673349&id=9079228059258
59 (posted Dec. 5, 2015) (last visited Apr. 14, 2016).

⁵¹ See

https://www.facebook.com/permalink.php?story_fbid=1113416368709834&id=9079228059258
59 (posted Dec. 4, 2015) (last visited Apr. 14, 2016).

⁵² See

https://www.facebook.com/permalink.php?story_fbid=1088146201236851&id=9079228059258
59 (posted Nov. 11, 2015) (last visited Apr. 14, 2016).

- “Don’t waste your money. I chose to ignore the numerous user warnings on this and other websites. I thought perhaps they were taking [sic] about the previous admittedly flimsy version, or they didn’t shield it from sun, or their water pressure was too high, or something. Wrong. Even though I babied it, it blew wide open the 5th time I used it. Then I found that the cheapest Post Office charge for returning it would be \$12.70 (UPS \$14.70). This would be in addition to the shipping/handling charge I already paid when I bought it. It’s my understanding that the ‘lifetime guarantee’ of this product does not include refunding shipping/mailling costs, which makes the guarantee almost a sham. Amazon should not be selling this product.”⁵⁴
- “I purchased 2 pocket hose[s] in March 2014. I paid the extra money for the ultra thinking this would ensure reliability. Imagine my surprise yesterday when one of them burst. I have been extra careful to empty them after each use. I have kept them covered from weather. Loved how light weight they were. Was a little concerned when I saw them [sic] came from China. Then trying to contact someone because of the guarantee, that is a joke. You cannot reach a person on the website or on the phone. BUYER BEWARE. I will not buy another of these.”⁵⁵
- “Pocket hose was a good idea, but it just doesn’t work very long before falling apart. The connections are not fastened [sic] properly and they allow water to go outside of fittings and outside of hose. I have tried two of them. They wont refund my money, but they want to send me another. I didn’t want another , but their money back guarantee is not a money back guarantee, it is we will send you another hose guarantee. So, it doesn’t matter how many they send, they just don’t last for more than two or three weeks. DO NOT WASTE YOUR MONEY.”⁵⁶

48. Plaintiffs viewed Defendant’s marketing materials and statements described herein prior to purchasing their Pocket Hoses and believed Defendant’s representations regarding the durability, strength, and longevity of the Pocket Hoses to be true.

⁵³ See

https://www.facebook.com/permalink.php?story_fbid=1087244097993728&id=9079228059258
⁵⁹ (posted Nov. 9, 2015) (last visited Apr. 14, 2016).

⁵⁴ See <http://www.amazon.com/Pocket-Hose-Ultra-Dura/dp/B00J5RR1M4> (posted Apr. 11, 2014) (last visited Apr. 15, 2016).

⁵⁵ See <http://www.asseconontvonsale.com/cleaning/pocket-hose/> (posted July 7, 2014) (last visited Apr. 17, 2016).

⁵⁶ See <http://www.asseconontvonsale.com/cleaning/pocket-hose/> (posted May 8, 2013) (last visited Apr. 17, 2016).

49. Contrary to Defendant's representations, the Pocket Hoses are neither durable nor strong, and they do not last a long time.

50. Defendant's Pocket Hoses are not fit for their ordinary and intended purpose of a gardening hose as they are prone to leaking, bursting, seeping, and dripping.

51. Upon information and belief, thousands of purchasers of the Pocket Hoses have experienced leaking, bursting, seeping, and dripping, as demonstrated by the sampling of consumer complaints above.

52. Defendant was, and still is, under a continuing duty to disclose the defective nature of its Pocket Hoses to consumers. Defendant has knowingly concealed the existence and nature of the defect in its Pocket Hoses from Plaintiffs and the Class members.

53. Defendant has caused and is continuing to cause Plaintiffs, as well as members of the Class, to pay money to repair or replace Defendant's defective Pocket Hoses.

54. As a direct and proximate result of the acts and omissions of Defendant, Plaintiffs and members of the Class suffered actual damages and/or economic losses.

Lawsuits by the New Jersey Division of Consumer Affairs

55. In March 2000, the State of New Jersey and the New Jersey Division of Consumer Affairs ("NJDCA") sued Telebrands alleging, among other things, violations of the New Jersey Consumer Fraud Act ("NJCFA") and the Deceptive Mail Order Regulations ("DMOR"). That lawsuit resulted in a February 16, 2001 Final Consent Judgment and Order ("the 2001 Order") whereby Telebrands agreed, among other things, to comply with the NJCFA and the DMOR.

56. In August 2014, the State of New Jersey and NJDCA again sued Telebrands, alleging that the company violated the 2001 Order. The lawsuit also alleged that Telebrands

violated the NJCFA and N.J.A.C. 13:45A-9.1, among other things, by using high-pressure sales tactics and making it difficult for customers to get refunds. At that time, then Acting Attorney General John Hoffman said the new allegations show “Telebrands cannot be trusted to do right by its customers or to even honor its own 2001 pledge to follow our consumer protection laws.”⁵⁷

57. According to the 2014 complaint, Telebrands’ customers “found themselves in the middle of a tortuous sequence of events[,]” including the “inability to obtain a refund.” The allegations continued that Telebrands’ “conduct is particularly abhorrent since such conduct is also in violation of a Final Consent Judgment and Order which resolved a prior enforcement action by the Attorney General and Director . . . Although Telebrands has provided many consumers with replacement merchandise and/or refunds, such occurred only after consumer submitted complaints, among other things, to their respective state Attorneys General or Offices of Consumer Protection, the New Jersey Better Business Bureau (‘BBB’) and/or the Division.”

58. In July 2015, Telebrands again settled with NJDCA for \$550,000.⁵⁸

CLASS ACTION ALLEGATIONS

59. Plaintiffs and the members of the Class incorporate by reference each preceding paragraph as though fully set forth at length herein.

60. This class action is brought pursuant to R. 4:32-1(b)(2) and R. 4:32-1(b)(3). Excluded from the Class(es) defined below are Defendant, any person, firm, trust, corporation, or other entity related to or affiliated with Defendant including, without limitation, persons who are directors of Defendant, any judicial officer who handles this case, and their immediate families.

⁵⁷ See <http://www.njconsumeraffairs.gov/News/Pages/08132014.aspx> (last visited Apr. 21, 2016).

⁵⁸ See <http://www.njconsumeraffairs.gov/News/PressAttachments/07132015att.pdf> (last visited Apr. 21, 2016).

61. Class Definition – Plaintiffs sue on their own behalves and on behalf of a Class defined as:

All persons in the United States who purchased a Pocket Hose, Pocket Hose Dura-Rib, Pocket Hose Top Brass, and/or Pocket Hose Ultra on or after January 31, 2014 (the “Nationwide Class” or “Class”).

62. In the alternative to the Nationwide Class, Plaintiffs seek to represent one or both of the following state classes:

1.) All citizens of Arizona who purchased, in Arizona, a Pocket Hose, Pocket Hose Dura-Rib, Pocket Hose Top Brass, and/or Pocket Hose Ultra on or after January 31, 2014 (the “Arizona Class”).

2.) All citizens of Wisconsin who purchased, in Wisconsin, a Pocket Hose, Pocket Hose Dura-Rib, Pocket Hose Top Brass, and/or Pocket Hose Ultra on or after January 31, 2014 (the “Wisconsin Class”).

63. Numerosity – R. 4:32-1(a)(1): The Class consists of numerous consumers, making individual joinder impractical, in satisfaction of R. 4:32-1(a)(1). Plaintiffs do not know the exact size or identities of the proposed Class, since such information is in the exclusive control of Defendant and third parties. Plaintiffs, however, believe that the Class encompasses no fewer than thousands of consumers who are geographically dispersed. The disposition of the claims of the members of the Class in a single class action will provide substantial benefits to all parties and the Court.

64. Common Questions of Law and Fact – R. 4:32-1(a)(2): All members of the Class have been subject to and affected by the same practices and policies and common thread of misconduct resulting in injury to Plaintiffs and all members of the Class as described herein. There are numerous questions of law and fact that are common to the Class, and that predominate over any questions affecting only individual members of the Class. These questions

include, but are not limited to, the following:

- i. whether Defendant's Pocket Hoses are defective;
- ii. whether Defendant knew its Pocket Hoses are defective;
- iii. whether Defendant intentionally or knowingly concealed or failed to disclose to Plaintiffs and the Class the inherent nature of the defect in its Pocket Hoses;
- iv. whether Defendant had a duty to Plaintiffs and the Class to disclose the inherent defect in its Pocket Hoses, and whether Defendant breached that duty;
- v. whether a reasonable consumer would consider the defective nature of the Pocket Hoses to be material in deciding to purchase the Pocket Hoses;
- vi. whether Defendant failed to honor the lifetime guarantee on the Pocket Hoses;
- vii. the appropriate nature of class-wide equitable relief; and
- viii. the appropriate measurement of restitution and/or measure of damages to award to Plaintiffs and members of the Class.

These and other questions of law or fact which are common to the members of the Class predominate over any questions affecting only individual members of the Class.

65. Typicality – R. 4:32-1(a)(3): The claims of the named Plaintiffs are typical of the claims of the Class and do not conflict with the interests of any other members of the Class in that Plaintiffs and the other members of the Class are subject to Defendant's same wrongful practices.

66. Plaintiffs, like each member of the Class, purchased Pocket Hoses that were designed and manufactured by Defendant, and were marketed by Defendant as being strong, durable, and long-lasting. Furthermore, Plaintiffs and all members of the Class sustained monetary and economic injuries arising out of Defendant's wrongful conduct. Plaintiffs are advancing the same claims and legal theories on behalf of themselves and all absent Class members.

67. Adequacy – R. 4:32-1(a)(4): Plaintiffs will fairly and adequately represent and protect the interests of the Class. Plaintiffs are committed to the vigorous prosecution of the Class' claims and have retained competent and experienced attorneys who are qualified to pursue this litigation and have significant experience in Class actions. Further, Plaintiffs' interests are aligned with those of the Class and it is unlikely that there will be a divergence of viewpoint.

68. Predominance – R. 4:32-1(b)(3): The common questions of law and fact relating to the claims of the class representatives and the claims of each Class member predominate over any question of law or fact affecting only individual members of the Class. The Class members will be identified through discovery from Defendant and third parties, and will be notified and given an opportunity to opt out of the Class in the event they have no interest in being represented by this action, or if for any reason, they prefer to be excluded from the Class. The judgment will not be binding on those members who opt out of the Class. Consequently, any potential Class members who have an interest in prosecuting separate claims and controlling their own litigation against Defendant will not be prejudiced by this action.

69. Manageability – R. 4:32-1(b)(3): There are no unusual difficulties likely to be encountered in the management of this action as a class action that could not be managed by this Court: (a) The advantages of maintaining the action as a class action far outweigh the expense

and waste of judicial effort that would result in hundreds or thousands of separate adjudications of these issues for each Class member; and (b) Class treatment further ensures uniformity and consistency in results.

70. Superiority – R. 4:32-1(b)(3): A Class action is superior to other available methods for the fair and efficient adjudication of the controversies herein in that:

- i. Individual claims by the Class members are impractical as the costs of pursuing individual claims against Defendant far exceed what any one of the individual Plaintiffs or any single Class member has at stake;
- ii. As a result, individual members of the Class have no interest in prosecuting and controlling separate actions;
- iii. It is desirable to concentrate litigation of the claims herein in this forum since Defendant has offices in this County; and
- iv. The proposed Class action is manageable.

71. Further, the prosecution of separate actions by individual members of the Class would create a risk of adjudications with respect to individual members of the Class that would, as a practical matter, be dispositive of the interests of other members of the Class who are not parties to the action, or could substantially impair or impede their ability to protect their interests. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for Defendant in its marketing, advertising, and sale of the hoses. Such incompatible standards and inconsistent or varying adjudications, on what would necessarily be the same essential facts, proof and legal theories, would also create and allow to exist inconsistent and incompatible rights within the Class.

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

73. Defendant has acted, and refused to act, on grounds generally applicable to the Class, thereby making appropriate final injunctive relief with respect to the Class as a whole.

74. In the absence of a class action, Defendant would be unjustly enriched because it would be able to retain the benefits and fruits of its wrongful conduct.

75. Application of New Jersey law to the Nationwide Class is appropriate because Defendant's principal place of business is located in New Jersey and Defendant's deceptive marketing scheme was designed in and emanated from New Jersey

VIOLATIONS ALLEGED

COUNT I

VIOLATIONS OF THE NEW JERSEY CONSUMER FRAUD ACT ("NJCF") (On Behalf of the Nationwide Class)

76. Plaintiffs and the Class incorporate by reference each preceding and succeeding paragraph as though fully set forth at length herein.

77. The NJCFA was enacted to protect consumers from deceptive, fraudulent, and misleading commercial practices and makes such practices unlawful.

78. Pursuant to the decisions of the Supreme Court of New Jersey, the NJCFA is to be construed liberally in favor of consumers.

79. The aforementioned unlawful, false, deceptive, and misleading statements by Defendant constitute a violation of N.J.S.A. 56:8-2 because they are affirmative misrepresentations regarding the strength, durability, and longevity of its Pocket Hoses.

80. The aforementioned unlawful, false, deceptive, and misleading statements by Defendant constitute a violation of N.J.S.A. 56:8-2 because Defendant knowingly omitted and concealed material facts regarding the strength, durability, and longevity of the Pocket Hoses and Defendant knew that others would rely on such omissions and concealments.

81. The aforementioned unlawful, false, deceptive, and misleading statements by Defendant constitute a violation of N.J.S.A. 56:8-2.2 because Defendant advertised its Pocket Hoses as part of a plan or scheme not to sell a strong, durable, and long-lasting hose, contrary to its advertisements and marketing materials.

82. As a result of Defendant's conduct, Plaintiffs and Class Members have suffered an ascertainable loss in the form of direct monetary losses.

83. A causal relationship exists between Defendant's unlawful, false, deceptive, and misleading conduct and the Plaintiffs' and the putative Class' injuries, including, but not limited to, the amount of money spent on purchasing Defendant's Pocket Hoses. Had Defendant not engaged in the aforementioned deceptive conduct, Plaintiffs and the Class members would not have purchased Defendant's Pocket Hoses, or would have paid less for them.

COUNT II
VIOLATIONS OF THE ARIZONA CONSUMER FRAUD ACT
(ARIZ. REV. STAT. § 44-1521, *ET SEQ.*)

84. Plaintiffs and the Class incorporate by reference each preceding paragraph as though fully set forth at length herein.

85. Plaintiffs bring this Count on behalf of the Arizona Class.

86. Plaintiffs and Defendant are each “persons” as defined by Ariz. Rev. Stat. § 44-1521(6).

87. The Pocket Hoses are “merchandise” as defined by Ariz. Rev. Stat. § 44-1521(5).

88. The Arizona Consumer Fraud Act proscribes “[t]he act, use or employment by any person of any deception, deceptive act or practice, fraud, false pretense, false promise, misrepresentation, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise whether or not any person has in fact been misled, deceived or damaged thereby.” Ariz. Rev. Stat. § 44-1522(A).

89. By misrepresenting, failing to disclose, and actively concealing the defects in the Pocket Hoses, Defendant engaged in deceptive business practices prohibited by the Arizona Consumer Fraud Act, Ariz. Rev. Stat. § 44-1522(A), including (1) representing that Pocket Hoses have characteristics, uses, benefits, and qualities that they do not have, (2) representing that Pocket Hoses are of a particular standard, quality, and grade when they are not, (3) advertising Pocket Hoses with the intent not to sell them as advertised, and (4) engaging in acts or practices that are otherwise unfair, misleading, false or deceptive to the consumer.

90. As alleged above, Defendant made numerous material statements about the benefits and characteristics of the Pocket Hoses that were false and/or misleading. Each of these statements contributed to the deceptive context of Defendant’s unlawful advertising and representations as a whole.

91. Defendant knew that the Pocket Hoses were defectively designed or manufactured, would fail without warning, and were not suitable for their intended use.

Defendant nevertheless failed to disclose the defects, or the defective nature of the Pocket Hoses to Plaintiffs and the Class members despite having a duty to do so.

92. Defendant owed Plaintiffs and the Class members a duty to disclose the defects in and the defective nature of the Pocket Hoses, because Defendant:

- i) Possessed exclusive knowledge of the fact that defects rendered the Pocket Hoses more unreliable than similar products;
- ii) Intentionally concealed the defects associated with Pocket Hoses through their deceptive marketing campaign that they designed to hide the defects in the Pocket Hoses; and/or
- iii) Made incomplete representations about the characteristics and performance of the Pocket Hoses generally, while purposefully withholding material facts from Plaintiffs and Class members that contradicted these representations.

93. Defendant's unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs, about the true performance and characteristics of the Pocket Hoses.

94. As a result of its violations of the Arizona Consumer Fraud Act detailed above, Defendant caused actual damage to Plaintiffs and the Class members.

95. As a result of the damages sustained by Plaintiffs and the Class as a result of Defendant's unlawful acts, they are entitled to damages and other relief as provided under the Arizona Consumer Fraud Act.

96. Plaintiffs also seek court costs and attorneys' fees as a result of Defendant's violation of the Arizona Consumer Fraud Act as provided in Ariz. Rev. Stat. § 12-341.01.

COUNT III
VIOLATIONS OF THE WISCONSIN DECEPTIVE TRADE PRACTICES ACT
(WIS. STAT. § 100.18, *ET SEQ.*)

97. Plaintiffs and the Class incorporate by reference each preceding paragraph as though fully set forth at length herein.
98. Plaintiffs bring this Count on behalf of the Wisconsin Class.
99. The Pocket Hoses are “merchandise” as defined by Wis. Stat. §100.18(1).
100. Defendant, with intent to induce consumers to buy Pocket Hoses, made “assertion[s], representation[s], and statement[s] of fact” to Plaintiffs and the Class members regarding the strength, durability, and longevity of Pocket Hoses, which statements were untrue, deceptive or misleading,” in violation of Wis. Stat. §100.18(1).
101. Defendant supplied false information regarding the strength, durability, and longevity of the Pocket Hoses. Defendant also supplied false information regarding the lifetime warranty on the Pocket Hose Dura-Rib, Pocket Hose Top Brass, and Pocket Hose Ultra.
102. Defendant’s actions as set forth above induced Plaintiffs and the Class members to purchase Defendant’s Pocket Hoses and to pay more than they otherwise would have.
103. Plaintiffs and the Class members “suffered pecuniary loss because of a violation of [Wis. Stat. §100.18]” by Defendant. Wis. Stat. §100.18(11)(b)2. Due to Defendant’s deceptive or unfair conduct, Plaintiffs and the Class members overpaid for their Pocket Hoses and did not receive the benefit of their bargain.
104. Defendant’s conduct proximately caused the injuries to Plaintiffs and the Class members.
105. Plaintiffs are entitled to double damages under Wis. Stat. §100.20(5).

COUNT IV
BREACH OF THE IMPLIED WARRANTY OF MERCHANTABILITY
(On Behalf of the Nationwide Class or, Alternatively,
the Arizona and/or Wisconsin Classes)

106. Plaintiffs and the Class incorporate by reference each preceding paragraph as though fully set forth herein.

107. At all times mentioned herein, Defendant manufactured and sold the Pocket Hoses, and prior to the time they were purchased by Plaintiffs and the Class members, Defendant impliedly warranted to Plaintiffs and the Class members that the Pocket Hoses were of merchantable quality and fit for the use for which they were intended. The foregoing representations, separately and together, constituted such an implied warranty.

108. The Pocket Hoses were unfit for their intended use and were not of merchantable quality, as warranted by Defendant, but instead contained a manufacturing and/or design defect. Specifically, the Pocket Hoses suffer from a design and/or manufacturing defect because they are prone to leaking, bursting, seeping, and dripping.

109. As a direct and proximate result of the breach of the warranty, Plaintiffs and the Class members suffered and will continue to suffer losses as alleged herein.

COUNT V
BREACH OF THE DUTY OF GOOD FAITH AND FAIR DEALING
(On Behalf of the Nationwide Class or, Alternatively,
the Arizona and/or Wisconsin Classes)

110. Plaintiffs and the Class incorporate by reference each preceding paragraph as though fully set forth herein.

111. New Jersey, Arizona, and Wisconsin law each provide that every contract contains an implied covenant of good faith and fair dealing.

112. The implied covenant of good faith and fair dealing is an independent duty and may be breached even if there is no breach of a contract's express terms.

113. Defendant breached the covenant of good faith and fair dealing by, among other things, failing to properly notify and adequately disclose to Plaintiffs and Class members that its Pocket Hoses were defectively designed and/or manufactured and that they were not fit for their ordinary and intended uses.

114. Defendant acted in bad faith and/or with a malicious motive to deny the Plaintiffs and the Class members the benefit of the bargain originally intended by the parties, thereby causing them monetary injury.

COUNT VI
UNJUST ENRICHMENT
(On Behalf of the Nationwide Class or, Alternatively,
the Arizona and/or Wisconsin Classes)

115. Plaintiffs and the Class incorporate by reference each preceding paragraph as though fully set forth herein.

116. Plaintiffs bring this cause of action on behalf of themselves and on behalf of the members of the Class against Defendant. This claim is pleaded in the alternative to Plaintiffs' contract claims, pursuant to R. 4:5-6.

117. Plaintiffs and the Class members conferred a tangible economic benefit upon Defendant by purchasing Pocket Hoses. Plaintiffs and the Class members would not have purchased Pocket Hoses, or would have paid less for them, had they known that they suffered from a design and/or manufacturing defect and that they were not fit for their ordinary and intended purpose.

118. Failing to require Defendant to provide remuneration under these circumstances would result in Defendant being unjustly enriched at the expense of Plaintiffs and the Class members.

119. Defendant's retention of the benefit conferred upon it by Plaintiffs and members of the Class would be unjust and inequitable.

COUNT VII

FRAUD

**(On Behalf of the Nationwide Class or, Alternatively,
the Arizona and/or Wisconsin Classes)**

120. Plaintiffs and the Class incorporate by reference each preceding paragraph as though fully set forth herein.

121. Defendant made material misrepresentations and omissions concerning a presently existing or past fact as set forth with particularity above. For example, and without limitation of the foregoing, Defendant misrepresented the qualities of its Pocket Hoses as tough, durable, and long-lasting gardening hoses, and Defendant did not disclose to consumers the true defective nature of its Pocket Hoses.

122. Defendant also omitted its purported lifetime guarantee from the packaging of the Pocket Hoses; and, when a consumer learned of the existence of the lifetime guarantee, Defendant failed to honor the terms of the lifetime guarantee.

123. These misrepresentations and omissions were made by Defendant with knowledge of their falsity, and with the intention that Plaintiffs and members of the Class rely on them.

124. Plaintiffs and members of the Class reasonably relied on Defendant's Pocket Hoses packaging and advertisements when deciding whether to purchase Pocket Hoses.

125. Plaintiffs and members of the Class were fraudulently induced to purchase the defective Pocket Hoses.

126. As a result, Plaintiffs and members of the Class have suffered damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment as follows:

- (i) Declaring that this action is properly maintainable as a class action pursuant to R. 4:32, certifying Plaintiffs as the Class representatives, and designating Plaintiffs' counsel (Lite DePalma Greenberg, LLC and McCune Wright, LLP) as Class counsel;
- (ii) Awarding all actual, general, special, incidental, statutory, punitive, and consequential damages to which Plaintiffs and the Class members are entitled;
- (iii) Awarding Plaintiffs and the Class damages, trebled under N.J.S.A. 56:8-19 and doubled under Wis. Stat. Ann. § 100.20(5);
- (iv) Awarding attorneys' fees for Defendant's violations under N.J.S.A. 56:8-19, Wis. Stat. Ann. § 100.20(5) and §100.18(11)(b)(2), and Ariz. Rev. Stat. § 44-1534;
- (v) Granting appropriate injunctive and/or declaratory relief as the Court may deem reasonable;
- (vi) Awarding pre- and post-judgment interest;
- (vii) Awarding attorneys' fees, expenses, and costs of suit; and
- (viii) Awarding such other and further relief as this Court may deem equitable and just.

STATEMENT PURSUANT TO N.J.S.A. 56:8-20

Pursuant to N.J.S.A. 56:8-20, Plaintiffs shall provide notice of this lawsuit to the New Jersey Attorney General.

JURY DEMAND

Plaintiffs demand trial by jury on all claims so triable as a matter of right.

Dated: April 21, 2016

LITE DEPALMA GREENBERG, LLC



Bruce D. Greenberg (NJ ID# 014951982)

Danielle Y. Alvarez (NJ ID# 034642011)

570 Broad Street, Suite 1201

Newark, New Jersey 07102

Telephone: (973) 623-3000

Facsimile: (973) 623-0858

MCCUNEWRIGHT, LLP

Joseph G. Sauder

Matthew D. Schelkopf

Joseph B. Kenney

1055 Westlakes Drive, Suite 300

Berwyn, Pennsylvania 19312

Telephone: (610) 200-0580

Attorneys for Plaintiffs and the Class

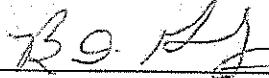
CERTIFICATION PURSUANT TO R. 4:5-1(b)

Plaintiffs, by their attorneys, hereby certify that to the best of their knowledge, the matter in controversy is not the subject of any other pending or contemplated judicial or arbitration proceeding. Plaintiffs are not currently aware of any other party who should be joined in this action.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: April 21, 2016

LITE DEPALMA GREENBERG, LLC



Bruce D. Greenberg (NJ ID# 014951982)


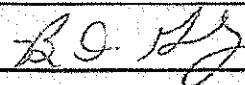
570 Broad Street, Suite 1201

Newark, New Jersey 07102

Telephone: (973) 623-3000

Facsimile: (973) 623-0858

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY	
	Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i> , if information above the black bar is not completed or attorney's signature is not affixed		PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA CHG/CK NO.: _____ AMOUNT: _____ OVERPAYMENT: _____ BATCH NUMBER: _____	
	ATTORNEY / PRO SE NAME Bruce D. Greenberg, Esq.		TELEPHONE NUMBER (973) 623-3000	
	COUNTY OF VENUE Essex		DOCKET NUMBER (when available) 12938-16	
FIRM NAME (if applicable) Lite DePalma Greenberg, LLC			OFFICE ADDRESS 570 Broad Street - Suite 1201 Newark, NJ 07102	
DOCUMENT TYPE Complaint			JURY DEMAND <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
NAME OF PARTY (e.g., John Doe, Plaintiff) PENELOPE MEMOLI and HEATHER ANDERSON, on behalf of themselves and all others similarly		CAPTION PENELOPE MEMOLI and HEATHER ANDERSON, on behalf of themselves and all others similarly situated v. TELEBRANDS		
CASE TYPE NUMBER (See reverse side for listing) 508	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN		
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.				
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION				
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO				
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION				
DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION		
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, FOR WHAT LANGUAGE?		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .				
ATTORNEY SIGNATURE: 				

Side 2



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under Rule 4:5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

- | | |
|--|---|
| 271 ACCUTANE/ISOTRETINOIN | 290 POMPTON LAKES ENVIRONMENTAL LITIGATION |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 291 PELVIC MESH/GYNECARE |
| 278 ZOMETHA/AREXIA | 292 PELVIC MESH/BARD |
| 279 GADOLINIUM | 293 DEPUY ASR HIP IMPLANT LITIGATION |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL | 295 ALLODERM REGENERATIVE TISSUE MATRIX |
| 282 FOSAMAX | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 285 STRYKER TRIDENT HIP IMPLANTS | 297 MIRENA CONTRACEPTIVE DEVICE |
| 286 LEVAQUIN | 299 OLMESARTAN MEDOXOMIL MEDICATIONS/BENICAR |
| 287 YAZ/YASMIN/OCELLA | 300 TALC-BASED BODY POWDERS |
| 288 PRUDENTIAL TORT LITIGATION | 601 ASBESTOS |
| 289 REGLAN | 623 PROPECIA |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category



Putative Class Action



Title 59

ESSEX COUNTY - CIVIL DIVISION
SUPERIOR COURT OF NJ
465 MARTIN LUTHER KING JR BLVD
NEWARK NJ 07102

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (973) 693-5529
COURT HOURS 8:30 AM - 4:30 PM

DATE: APRIL 27, 2016
RE: MEMOLI VS TELEBRANDS
DOCKET: ESX L - 002938 16

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 4.

DISCOVERY IS PRESUMPTIVELY 450 DAYS BUT MAY BE ENLARGED OR SHORTENED BY THE JUDGE AND RUNS FROM THE FIRST ANSWER OR 90 DAYS FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE MANAGING JUDGE ASSIGNED IS: HON STEPHANIE A. MITTERHOFF

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 002
AT: (973) 776-9300.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING. PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE WITH R.4:5A-2.

ATTENTION:

LITE DEPALMA GREENBERG
570 BROAD STREET
SUITE 1201
NEWARK NJ 07102

JUGJACB

EXHIBIT B

Christine A. Amalfe, Esq. (Bar No. 020981985)
Timothy D. Tremba, Esq. (Bar No. 110472014)
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102
Telephone: (973) 596-4500

*Attorneys for Defendant
Telebrands, Inc.*

PENELOPE MEMOLI and HEATHER
ANDERSON, on behalf of themselves and all
others similarly situated,

Plaintiffs,

vs.

TELEBRANDS, INC.,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY
Docket No.: ESX-L-2938-16

Civil Action

**NOTICE OF FILING NOTICE OF
REMOVAL TO THE UNITED STATES
DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY**

TO: Clerk of the Court
Superior Court of New Jersey
Essex County Courthouse
Law Division, Civil Part
50 West Market Street
Newark, New Jersey 07102

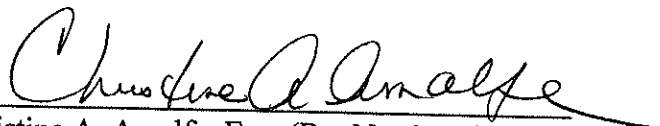
Bruce D. Greenberg, Esq.
Danielle Y. Alvarez, Esq.
LITE DEPALMA GREENBERG, LLC
570 Broad Street, Suite 1201
Newark, New Jersey 07102
Attorneys for Plaintiffs

PLEASE TAKE NOTICE that Defendant Telebrands, Inc. has this day filed a Notice of Removal, a copy of which is attached hereto as Exhibit A, in the above-titled action with the Clerk of the United States District Court for the District of New Jersey, effecting the removal of this action from the Superior Court of New Jersey, Law Division, Civil Part, Essex County.

Respectfully submitted,

Dated: June 9, 2016

By:



Christine A. Amalfe, Esq. (Bar No. 020981985)
Timothy D. Tremba, Esq. (Bar No. 110472014)
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102

Telephone: (973) 596-4500
Facsimile: (973) 639-6230
E-mail: camalfe@gibbonslaw.com

*Attorneys for Defendant
Telebrands, Inc.*

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

Penelope Memoli and Heather Anderson, on behalf of themselves and all others similarly situated.

(b) County of Residence of First Listed Plaintiff Maricopa, AZ
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, Email and Telephone Number)

Bruce D. Greenberg, Esq.

Lite Depalma Greenberg, LLC, 570 Broad St., Suite 1201, Newark, NJ 07102, 973-623-3000

DEFENDANTS

Telebrands, Inc.

County of Residence of First Listed Defendant Essex, NJ
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

Christine A. Amalfe, Esq.

Gibbons P.C., One Gateway Center, Newark, NJ 07102
973-596-4500

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

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 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 checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" 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 type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <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"/> 376 Qui Tam (31 USC 3729(a)) <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 checked="" 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):
28 U.S.C. 1332(d)

Brief description of cause:

Putative class action alleging NJ Consumer Fraud Act, common law claims, and WIAZ consumer fraud claims.

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
06/09/2016

SIGNATURE OF ATTORNEY OF RECORD
Christine A. Amalfe, Esq.

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Christine A. Amalfe, Esq.
Timothy D. Tremba, Esq.
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102-5310
(973) 596-4500

*Attorneys for Defendant
Telebrands, Inc.*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

PENELOPE MEMOLI and HEATHER
ANDERSON, on behalf of themselves and all
others similarly situated,

Plaintiffs,

vs.

TELEBRANDS, INC.,

Defendant.

Civil Action No. _____

Document electronically filed

**CERTIFICATION PURSUANT TO
LOCAL CIVIL RULE 11.2**

[Previously pending in the Superior Court of
New Jersey, Essex County, Law Division, ESX-
L-2938-16]

I, Christine A. Amalfe, Esq., admitted to the bars of the State of New Jersey and this Court and a member of the law firm of Gibbons P.C., counsel for Defendant Telebrands, Inc. in the above-captioned matter, hereby certify that the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

I certify under penalty of perjury that the foregoing is true and correct.

Dated: June 9, 2016

By: s/ Christine A. Amalfe
Christine A. Amalfe, Esq.
Timothy D. Tremba, Esq.
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102
Phone: (973) 596-4500
Facsimile: (973) 639-6230
E-mail: camalfe@gibbonslaw.com

*Attorneys for Defendant
Telebrands, Inc.*

Christine A. Amalfe, Esq.
Timothy D. Tremba, Esq.
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102
(973) 596-4500

*Attorneys for Defendant
Telebrands, Inc.*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

PENELOPE MEMOLI and HEATHER
ANDERSON, on behalf of themselves and all
others similarly situated,

Plaintiffs,

vs.

TELEBRANDS, INC.,

Defendant.

Civil Action No. _____

Document electronically filed

**STATEMENT PURSUANT TO
LOCAL CIVIL RULE 10.1(a)**

[Previously pending in the Superior Court
of New Jersey, Essex County, Law
Division, ESX-L-2938-16]

Pursuant to Local Civil Rule 10.1(a), attached hereto as Exhibit A is a Service List that sets forth the names and addresses of each party, as well as known counsel of record, in the above-captioned action.

Dated: June 9, 2016

s/ Christine A. Amalfe
Christine A. Amalfe, Esq.
Timothy D. Tremba, Esq.
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102
Phone: (973) 596-4500
Facsimile: (973) 639-8373
E-mail: camalfe@gibbonslaw.com

*Attorneys for Defendant
Telebrands, Inc.*

Exhibit A

PENELOPE MEMOLI and HEATHER ANDERSON, et al. vs. TELEBRANDS, INC.

Civil Action No.: _____

Plaintiffs

PENELOPE MEMOLI
HEATHER ANDERSON

Plaintiffs' Counsel

Bruce D. Greenberg
Danielle Y. Alvarez
LITE DEPALMA GREENBERG, LLC
570 Broad Street, Suite 1201
Newark, New Jersey 07102
Phone: (973) 623-3000
Facsimile: (973) 623-0858

Defendants

TELEBRANDS, INC.

Counsel

Christine A. Amalfe, Esq.
Timothy D. Tremba, Esq.
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102
Phone: (973) 596-4500
Facsimile: (973) 639-6230
camalfe@gibbonslaw.com
ttremba@gibbonslaw.com

Christine A. Amalfe, Esq.
Timothy D. Tremba, Esq.
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102-5310
Telephone: (973) 596-4500

*Attorneys for Defendant
Telebrands, Inc.*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

PENELOPE MEMOLI and HEATHER
ANDERSON, on behalf of themselves and all
others similarly situated,

Plaintiffs,

vs.

TELEBRANDS, INC.,

Defendant.

Civil Action No. _____

Document Electronically Filed

CERTIFICATE OF SERVICE

[Previously pending in the Superior Court of
New Jersey, Essex County, Law Division,
ESX-L-2938-16]

I, Christine A. Amalfe, hereby certifies as follows:

1. I am an attorney at law of the State of New Jersey and a Director with the law firm of Gibbons P.C., counsel for Defendant Telebrands, Inc. in the above-entitled action.

2. On this date, I caused to be electronically filed Defendant's Notice of Removal with accompanying exhibits, Civil Cover Sheet, Rule 7.1 Corporate Disclosure Statement, Local Rule 11.2 Certification, Statement Pursuant to Local Rule 10.1(a), and this Certificate through the Court's ECF system.

3. Also on this date, my office caused to be delivered via Lawyers Service to the Clerk of the Superior Court of New Jersey, Essex Vicinage, 50 West Market Street, Newark,

New Jersey 07102 a copy of Defendant's Notice of Filing Notice of Removal and accompanying exhibits.

4. Also on this date, my office served via Lawyers Service a copy of Defendant's Notice of Removal, Notice of Filing Notice of Removal (both with accompanying exhibits), Civil Cover Sheet, Rule 7.1 Corporate Disclosure Statement, Local Rule 11.2 Certification, Statement Pursuant to Local Rule 10.1(a), and this Certificate of Service upon Bruce D. Greenberg, Esq., Lite Depalma Greenberg, LLC, 570 Broad Street, Suite 1201, Newark, New Jersey 07102.

I certify that the foregoing statements made by me are true. I am aware that if any such statements are willfully false, I am subject to punishment.

Dated: June 9, 2016

s/ Christine A. Amalfe
Christine A. Amalfe, Esq.
Timothy D. Tremba, Esq.
GIBBONS P.C.
One Gateway Center
Newark, NJ 07102
Telephone: (973) 596-4500
Facsimile: (973) 639-6230
E-mail: camalfe@gibbonslaw.com

*Attorneys for Defendant
Telebrands, Inc.*