

**Defendants.**

1. Mr. Isaac is an individual who resides in Winthrop, Massachusetts.
2. Ashley is a Wisconsin corporation with its principal place of business in

Wisconsin.

3. BD is a Massachusetts corporation with its principal place of business in Chelsea, Massachusetts.

#### **Jurisdiction and Venue**

4. This Court has personal jurisdiction over Defendants because they transact business in Massachusetts and/or sell their products into Massachusetts.

5. Venue is proper in this Court because Mr. Isaac resides in this county.

#### **DuraBlend Furniture**

6. In or about April of 2008, Ashley began incorporating an upholstery product into some of its furniture, including sofas, loveseats, sectionals, and ottomans, which it marketed as “blended leather” under the trade name DuraBlend.

7. Ashley and BD marketed DuraBlend upholstery as durable blended leather. Indeed, its name is a combination of the words durable and blended, supporting a reasonable consumer’s belief that the DuraBlend upholstery is both durable, and of similar quality, strength, and durability as leather.

8. As a result, Mr. Isaac, and the other members of the class, were deceived into purchasing furniture with upholstery that, contrary to their reasonable beliefs and expectations, in fact was not durable and not of similar quality, strength, or durability as leather, instead being of such inferior quality, strength, or durability as to not hold up to normal wear and tear, and instead peel and disintegrate.

#### **Mr. Isaac’s Purchase**

9. Mr. Isaac purchased Ashley furniture from BD based on representations from BD and Ashley that the DuraBlend upholstery was durable and of similar quality as

leather. The name of the product led him to believe it was a durable product with the characteristics of leather. It was not disclosed to Mr. Isaac that the furniture was of such nature and quality that it would not hold up to normal wear and tear and that it would peel or disintegrate.

10. Mr. Isaac purchased an Ashley sectional sofa from BD in August of 2012 for around \$1,100.

11. Attached hereto as Exhibit A is a photograph of a tag on Mr. Isaac's furniture in which the furniture is called "DuraBlend Blended Leather."

12. On or about July 2015 the furniture began flaking and disintegrating. Attached hereto as Exhibit B, are photographs of the furniture.

13. Mr. Isaac contacted BD concerning the furniture in July 2015. BD informed Mr. Isaac that he should contact Ashley, which he did.

14. Thereafter, Mr. Isaac and Ashley engaged in repeated communications concerning the failure of the furniture. Ashley refused to refund the full cost of the furniture.

15. Mr. Isaac, as well as members of the class, paid a premium for the furniture over the price of other similar products because he reasonably believed it was a product made out of durable material with the strength of leather. Had he known that DuraBlend upholstery would not hold up to normal wear and tear and that it would begin to peel or disintegrate, he would not have purchased it or would only have been willing to pay a significantly lower purchase price.

### **Tolling of the Statute of Limitations**

16. Any applicable statute of limitation has been tolled by reason of the fact that Mr. Isaac and members of the class were deceived into purchasing furniture with upholstery that, contrary to their reasonable beliefs and expectations and beliefs, was not durable and did not have the strength of leather. Mr. Isaac and members of the class could not reasonably have discovered this fact until their furniture began to peel or disintegrate.

### **Class Allegations**

17. Mr. Isaac brings this action on behalf of himself and as a class action, pursuant to the provisions of Rule 23 of the Mass. Rules of Civil Procedure, as well as the class action provisions of M.G.L.c.93A, § 9(2), on behalf of a two overlapping classes defined as follows:

- a) All Massachusetts residents who purchased furniture with DuraBlend upholstery in Massachusetts; and
- b) All Massachusetts residents who purchased furniture with DuraBlend upholstery in Massachusetts from BD.

18. Excluded from the class are Defendants and their subsidiaries and affiliates; governmental entities; and the judge to whom this case is assigned and any immediate family members thereof. Mr. Isaac reserves the right to modify or amend the class definition, as appropriate.

19. Certification of Mr. Isaac's claims for class-wide treatment is appropriate because Mr. Isaac can prove the elements of his claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.



- a. Numerosity: The members of the class are so numerous that individual joinder of all class members is impracticable. The precise number of class members and their addresses is unknown to Mr. Isaac, but may be ascertained from Defendants' books and records. Class members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. mail, electronic mail, Internet postings, and/or published notice.
- b. Commonality and Predominance: This action involves common questions of law and fact, which predominate over any questions affecting individual class members. All class members were subject to the same advertisements. Furthermore, common questions of law and fact, include, but are not limited to:
  - i. Whether Defendants' marketing and advertisement of DuraBlend products violated Chapter 93A by misrepresenting or omitting information concerning the product's construction or durability.
- c. Typicality: Mr. Isaac's claims are typical of the claims of the class because he and all members of the class purchased furniture with DuraBlend upholstery based on the same false, deceptive and misleading claims and omissions. Mr. Isaac and all members of the class therefore paid more for furniture with DuraBlend upholstery than they otherwise would have paid.
- d. Adequacy of Representation: Mr. Isaac is an adequate class representative because his interests do not conflict with the interests of the other members of the class he seeks to represent; he has retained counsel competent and experienced in class action litigation; and he intends to prosecute this action vigorously. The class's interests will be fairly and adequately protected by Mr. Isaac and his counsel.
- e. Superiority: A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Mr. Isaac and the other members of the class are relatively small compared to the burden and expense that would be required to individually litigate their claims against Defendants, so it would be impracticable for class members to individually seek redress for Defendants' wrongful conduct. Even if the class members could afford individual litigation, the court system could not. Individualized litigation creates a potential for inconsistent or contradictory judgments, and increases the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single

adjudication, economy of scale, and comprehensive supervision by a single court.

**Count I**  
**Chapter 93A**

20. Plaintiff realleges and incorporates all allegations in this complaint.
21. Pursuant to 940 CMR 3.02 it is a violation of Chapter 93A to employ any advertisement which creates a false impression of the grade or quality or otherwise misrepresent a product.
22. Under 940 CMR 3.05 it is a Chapter 93A violation to represent or fail to adequately disclose material information concerning a product, including information concerning a product's construction or durability. Moreover, the violation of all warranties, both actual and implied, is also a violation of Chapter 93A.
23. Here, Defendants represented that furniture with DuraBlend upholstery sold to Mr. Isaac and other members of the class had characteristics that it does not have and that it was of a particular standard, quality, or grade, when in fact was of lesser standard, quality, and grade. BD and Ashley provided, disseminated, marketed, advertised or otherwise distributed false, deceptive or misleading information about the true nature, quality, or durability of the DuraBlend upholstery; and failed to disclose material information, or made material misrepresentations about, DuraBlend upholstery in connection with its promotion, marketing, advertising, and sale of that product.
24. Such acts occurred primarily and substantially in the Commonwealth.
25. Such acts caused Mr. Isaac and members of the class damage.
26. Mr. Isaac sent a demand letter pursuant to Chapter 93A on behalf of himself and the class. Defendants failed to respond with a reasonable settlement offer.

WHEREFORE, Mr. Isaac, individually and on behalf of the other members of the class proposed in this Complaint, respectfully requests that the Court provide the following relief:

- A. An Order certifying the Classes as requested herein;
- B. An Order awarding damages to Mr. Isaac and the other members of the Class, including compensatory and multiple or exemplary damages;
- C. An Order awarding declaratory and injunctive relief as permitted by law, including: enjoining Defendants from continuing their unlawful practices;
- D. An Order awarding attorneys' fees and costs to Mr. Isaac and the class; and
- E. Such other and further relief as may be just and proper.

**Jury Demand**

Mr. Isaac demands a trial by jury of all issues so triable.

Dated: August 15, 2017

ALEX ISAAC,  
By his attorneys,



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Josh Gardner (BBO No. 657347)  
Nicholas J. Rosenberg (BBO No. 657887)  
GARDNER & ROSENBERG P.C.  
One State Street, Fourth Floor  
Boston, MA 02109  
Tel: 617-390-7570  
[josh@gardnerrosenberg.com](mailto:josh@gardnerrosenberg.com)

# EXHIBIT A



# DuraBlend<sup>TM</sup> blended leather

57% POLYURETHANE • 26% POLY COTTON • 17% LEATHER

DURABLEND<sup>TM</sup> BLENDED LEATHER IS A MATERIAL THAT CONTAINS GROUND, PULVERIZED, SHREDED, RECONSTITUTED OR BONDED LEATHER AND IS NOT WHOLLY THE HIDE OF AN ANIMAL AND SHOULD NOT BE REPRESENTED, AS BEING 100% LEATHER.

## EXHIBIT B







