

Superior Court of California County of Orange



Case Number : 30-2018-00988051-CU-NP-CXC

Copy Request: 3641674

Request Type: Case Documents

Prepared for: cns

Number of documents: 1

Number of pages: 11

1 Todd M. Friedman, Esq.- State Bar #216752
LAW OFFICES OF TODD M. FRIEDMAN, P.C.
2 21550 Oxnard Street, Suite 780
Woodland Hills CA 91367
3 Phone: (877) 206-4741
Fax: (866) 633-0228
4 Email: tfriedman@toddfllaw.com
Attorneys for Plaintiff, MOHAMED ELHENDI

ELECTRONICALLY FILED
Superior Court of California,
County of Orange
04/23/2018 at 01:24:24 PM
Clerk of the Superior Court
By Sarah Loose, Deputy Clerk

5 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
6 **COUNTY OF LOS ANGELES**

7 MOHAMED ELHENDI, on behalf of) **Case No.:** 30-2018-00988051-CU-NP-CXC
8 themselves and all others similarly situated,)
9 Plaintiff,) **PLAINTIFF'S CLASS ACTION**
10 vs.) **COMPLAINT FOR DAMAGES**
11 LENNAR HOMES OF CALIFORNIA, INC.,) **(Amount to Exceed \$25,000)**
12 Defendant.) **Assigned:** Judge Randall J. Sherman
Dept: CX105

13 **COMPLAINT**

14 NOW COMES the Plaintiff, MOHAMED ELHENDI, by and through Plaintiff's attorney,
15 LAW OFFICES OF TODD M. FRIEDMAN, P.C., and for Plaintiff's Complaint against,
16 LENNAR HOMES OF CALIFORNIA, INC., alleges and affirmatively states as follows:

17 **PARTIES**

- 18 1. Plaintiff, MOHAMED ELHENDI ("Plaintiff"), is an individual who purchased
19 subject product in the State of California.
- 20 2. LENNAR HOMES OF CALIFORNIA, INC. ("Defendant"), is corporation,
21 authorized to do business in the State of California and is engaged in the maintenance and sale of
22 residential units.

23 **JURISDICTION AND VENUE**

- 24 3. Defendant sold, advertised, and marketed its products within the State of California.
25 Therefore, this Court has personal jurisdiction over Defendant.

1 23. Upon information and belief, the proposed class is composed of thousands of
2 persons. The members of the class are so numerous that joinder of all members would be
3 unfeasible and impractical.

4 24. No violations alleged in this complaint are contingent on any individualized
5 interaction of any kind between class members and Defendant.

6 25. Rather, all claims in this matter arise from the identical, false, affirmative
7 representations of the products, when in fact, such representations were false.

8 26. There are common questions of law and fact as to the Class Members that
9 predominate over questions affecting only individual members, including but not limited to:

- 10 a. Whether Defendant engaged in unlawful, unfair, or deceptive business practices
11 in selling Class Products to Plaintiff and other Class Members;
- 12 b. Whether Defendant made misrepresentations with respect to the Class Products
13 sold to consumers;
- 14 c. Whether Defendants violated California Bus. & Prof. Code § 17200, et seq. and
15 California Bus. & Prof. Code § 17500, et seq.;
- 16 d. Whether Plaintiff and Class Members are entitled to equitable and/or injunctive
17 relief;
- 18 e. Whether Defendants' unlawful, unfair, and/or deceptive practices harmed
19 Plaintiff and Class Members; and
- 20 f. The method of calculation and extent of damages for Plaintiff and Class
21 Members.

22 27. The claims of Plaintiff are not only typical of all class members, they are identical.

23 28. All claims of Plaintiff and the class are based on the exact same legal theories.
24 Plaintiff has no interest antagonistic to, or in conflict with, the class. Plaintiff is qualified to, and
25

1 will, fairly and adequately protect the interests of each Class Member, because Plaintiff bought
2 Class Products from Defendants during the Class Period.

3 29. Defendant's unlawful, unfair and/or fraudulent actions concerns the same
4 business practices described herein irrespective of where they occurred or were experienced.
5 Plaintiff's claims are typical of all Class Members as demonstrated herein.

6 30. Plaintiff will thoroughly and adequately protect the interests of the class, having
7 retained qualified and competent legal counsel to represent herself and the class. Common
8 questions will predominate, and there will be no unusual manageability issues.

9 **COUNT I**
10 **California False Advertising Act**
11 **(Cal. Bus. & Prof. Code §§ 17500 et seq.)**

12 31. Plaintiff incorporates by reference each allegation set forth above.

13 32. California Business and Professions Code section 17500, *et seq.*'s prohibition
14 against false advertising extends to the use of false or misleading written statements.

15 33. Defendant misled consumers by making misrepresentations and untrue statements
16 about the Class Products, namely, Defendant sold the Class Products to Plaintiff and Class
17 Members, and made false representations to Plaintiff and other putative class members in order to
18 solicit residential units that were of substantially lower quality and price than advertised.

19 34. Defendant knew that its representations and omissions were untrue and misleading,
20 and deliberately made the aforementioned representations and omissions in order to deceive
21 reasonable consumers like Plaintiff and other Class Members.

22 35. As a direct and proximate result of Defendant's misleading and false advertising,
23 Plaintiff and the other Class Members have suffered injury in fact and have lost money or property,
24 time, and attention. Therefore Plaintiff and other Class Members have suffered injury in fact.

1 harm--that is, evidence that the defendants' conduct caused or was likely to cause substantial
2 injury. It is insufficient for a plaintiff to show merely that the Defendant's conduct created a risk
3 of harm. Furthermore, the "act or practice" aspect of the statutory definition of unfair competition
4 covers any single act of misconduct, as well as ongoing misconduct.

5 **UNFAIR**

6 42. California Business & Professions Code § 17200 prohibits any "unfair . . . business
7 act or practice." Defendant's acts, omissions, misrepresentations, and practices as alleged herein
8 also constitute "unfair" business acts and practices within the meaning of the UCL in that its
9 conduct is substantially injurious to consumers, offends public policy, and is immoral, unethical,
10 oppressive, and unscrupulous as the gravity of the conduct outweighs any alleged benefits
11 attributable to such conduct. There were reasonably available alternatives to further Defendant's
12 legitimate business interests, other than the conduct described herein. Plaintiff reserves the right
13 to allege further conduct which constitutes other unfair business acts or practices. Such conduct
14 is ongoing and continues to this date.

15
16 43. In order to satisfy the "unfair" prong of the UCL, a consumer must show that the
17 injury: (1) is substantial; (2) is not outweighed by any countervailing benefits to consumers or
18 competition; and, (3) is not one that consumers themselves could reasonably have avoided.

19 44. Here, Defendant's conduct has caused and continues to cause substantial injury to
20 Plaintiff and members of the Class. Plaintiff and members of the Class have suffered injury in fact
21 due to Defendant's decision to knowingly sell defective Class Products, and to falsely represent
22 the quality of it homes. Thus, Defendant's conduct has caused substantial injury to Plaintiff and
23 the members of the Class.
24
25

1 45. Moreover, Defendant’s conduct as alleged herein solely benefits Defendant while
2 providing no benefit of any kind to any consumer. Such deception utilized by Defendant
3 convinced Plaintiff and members of the Class that the Class Products were of a certain value and
4 price, in order to induce them to spend money on said Class Products. In fact, knowing that Class
5 Products were not of a suitable quality to be sold, Defendant unfairly profited from their sale.
6 Thus, the injury suffered by Plaintiff and the members of the Class is not outweighed by any
7 countervailing benefits to consumers.

8 46. Finally, the injury suffered by Plaintiff and members of the Class is not an injury
9 that these consumers could reasonably have avoided. After Defendant falsely represented the
10 quality of the Class Products, Plaintiff and class members suffered injury in fact due to Defendant’s
11 sale of Class Products to them. Defendant failed to take reasonable steps to inform Plaintiff and
12 class members that the Class Products were substantially lower quality than represented. As such,
13 Defendant took advantage of Defendant’s position of perceived power in order to deceive Plaintiff
14 and the Class members to purchase these luxury Class Products at a luxury price point. Therefore,
15 the injury suffered by Plaintiff and members of the Class is not an injury which these consumers
16 could reasonably have avoided.

17 47. Thus, Defendant’s conduct has violated the “unfair” prong of California Business
18 & Professions Code § 17200.
19

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

FRAUDULENT

1
2 48. California Business & Professions Code § 17200 prohibits any “fraudulent ...
3 business act or practice.” In order to prevail under the “fraudulent” prong of the UCL, a consumer
4 must allege that the fraudulent business practice was likely to deceive members of the public.

5 49. The test for “fraud” as contemplated by California Business and Professions Code
6 § 17200 is whether the public is likely to be deceived. Unlike common law fraud, a § 17200
7 violation can be established even if no one was actually deceived, relied upon the fraudulent
8 practice, or sustained any damage.

9 50. Here, not only were Plaintiff and the Class members likely to be deceived, but these
10 consumers were actually deceived by Defendant. Such deception is evidenced by the fact that
11 Plaintiff agreed to purchase Class Products under the basic assumption that they were of a suitable
12 quality and merchantable condition. Plaintiff’s reliance upon Defendant’s deceptive statements is
13 reasonable due to the unequal bargaining powers of Defendant and Plaintiff. For the same reason,
14 it is likely that Defendant’s fraudulent business practice would deceive other members of the
15 public.
16

17 51. As explained above, Defendant deceived Plaintiff and other Class Members by
18 representing the Class Products as being in a merchantable condition, and thus falsely represented
19 the Class Products.

20 52. Thus, Defendant’s conduct has violated the “fraudulent” prong of California
21 Business & Professions Code § 17200.

UNLAWFUL

22
23 53. California Business and Professions Code Section 17200, et seq. prohibits “any
24 unlawful...business act or practice.”
25

1 54. As explained above, Defendant deceived Plaintiff and other Class Members by
2 representing the Class Products as being a lower price than they were.

3 55. Defendant used false advertising, marketing, and misrepresentations to induce
4 Plaintiff and Class Members to purchase the Class Products, in violation of California Business
5 and Professions Code Section 17500, et seq. Had Defendant not falsely advertised, marketed or
6 misrepresented the Class Products, Plaintiff and Class Members would not have purchased the
7 Class Products. Defendant's conduct therefore caused and continues to cause economic harm to
8 Plaintiff and Class Members.

9 56. These representations by Defendant is therefore an "unlawful" business practice or
10 act under Business and Professions Code Section 17200 *et seq.*

11 57. Defendant has thus engaged in unlawful, unfair, and fraudulent business acts
12 entitling Plaintiff and Class Members to judgment and equitable relief against Defendant, as set
13 forth in the Prayer for Relief. Additionally, pursuant to Business and Professions Code
14 section 17203, Plaintiff and Class Members seek an order requiring Defendant to immediately
15 cease such acts of unlawful, unfair, and fraudulent business practices and requiring Defendant to
16 correct its actions.

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25

PRAYER FOR RELIEF

1
2 58. Plaintiff requests that this Court award Plaintiff and the Class all forms of relief,
3 including without limitation, both statutory and actual damages, attorneys' fees and costs,
4 equitable relief, and all other forms of relief that this Court finds due and proper.

5
6 **PLAINTIFF HEREBY REQUESTS A JURY TRIAL IN THIS MATTER.**

7 Date: April 2, 2018

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

8
9 By: _____
10 TODD M. FRIEDMAN, ESQ.
11 Attorneys for Plaintiff
12 MOHAMED ELHENDI
13
14
15
16
17
18
19
20
21
22
23
24
25