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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

FRANCIS PARGETT, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

WAL-MART STORES, INC.,

Defendant.

Case No. 5:19-cv-2157

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiff Francis Pargett (“Plaintiff”) brings this action on behalf of himself
2 and all others similarly situated against Defendant Wal-Mart Stores, Inc.
3 (“Defendant” or “Walmart”). Plaintiff makes the following allegations pursuant to
4 the investigation of his counsel and based upon information and belief, except as to
5 the allegations specifically pertaining to himself, which are based on personal
6 knowledge:

7 NATURE OF THE ACTION

8 1. This is a class action against Defendant Wal-Mart Stores, Inc. for
9 misrepresenting the energy efficiency of Great Value-brand LED light bulbs, model
10 numbers GVRLAO727D, GVRLAO727D4, GVRLAO750D, GVRLAO750D4,
11 GVRLR1440D2, GVRLA6027ND, GVRLA60P, GVRLA60PAEP,
12 GVRLA60PAEPO, GVRLA60PAM, GVRLA60PC, GVRLA60PDPL,
13 GVRLA60PEPE, GVRLA60PJEA, GVRLA60POGE, GVRLA60PPNM,
14 GVRLA60PPSO, GVRLA60PTP, GVRLA6050ND, GVRLA6050ND4,
15 GVRLA6050ND2, GVRLA6050NDTCP, and GVRLA6027ND4 (collectively, the
16 “Mislabeled LED Bulbs”), by promoting them as ENERGY STAR®-qualified and
17 labeling them with the ENERGY STAR® logo. In fact, the Mislabeled LED Bulbs
18 do **not** meet the ENERGY STAR® efficiency standards, and consume significantly
19 more energy than their labels state.

20 2. ENERGY STAR®-qualified light bulbs are required by the U.S.
21 Department of Energy (“DOE”) to exceed minimum standards for energy efficiency.
22 The Energy Star website explains that in the context of light bulbs, “[e]arning the
23 ENERGY STAR certification means the product meets strict energy efficiency
24 guidelines set by the US Environmental Protection Agency.” More specifically,
25 “[l]ighting products that have earned the ENERGY STAR label deliver exceptional
26 features, while using less energy.” The ENERGY STAR® informational website
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1 further explains that “[s]aving energy helps you save money on utility bills and
2 protects the environment by reducing greenhouse gas emissions.”¹

3 3. The ENERGY STAR® website reports that “ENERGY STAR Certified
4 Light Bulbs ... [u]se about 70-90% less energy than traditional incandescent bulbs,
5 [l]ast at least 15 times longer and save[] about \$55 in electricity costs over [the
6 bulb’s] lifetime, [and] [m]eet strict quality and efficiency standards that are tested by
7 accredited labs and certified by a third party.”²

8 4. The same ENERGY STAR® website contains a publication entitled
9 *Lighting Made Easy: Brighten Our Planet’s Future With ENERGY STAR®*. This
10 publication explains that “ENERGY STAR means high quality and performance,”
11 and that “ENERGY STAR certified bulbs use less energy, so they cost less to
12 operate than standard bulbs.” The ENERGY STAR® website further explains that
13 “[s]aving money on your electricity bill is still simple: look for the ENERGY STAR
14 for energy savings.” That’s because “[n]o matter the technology or the performance
15 claims, only bulbs with the ENERGY STAR label meet strict guidelines for
16 efficiency and performance that sets them apart.” The ENERGY STAR® website
17 specifically promises that “ENERGY STAR certified bulbs ... [u]se up to 90% less
18 energy than standard bulbs, [s]ave about \$80 in electricity costs over its lifetime,
19 [and] [p]rovide the same brightness (lumens) with less energy (watts).”³

20 5. As a result, there is tremendous demand by consumers for ENERGY
21 STAR®-qualified products that bear the distinctive ENERGY STAR® mark.
22 According to the DOE’s General Counsel, Scott Blake Harris, “[t]he ENERGY
23 STAR® label is a critical tool for consumers looking to save energy and money with
24 their appliances.” In fact, “[t]he ENERGY STAR mark ranks among the highest
25 level of influence on product purchase among all consumer emblems, similar in
26

27 ¹ https://www.energystar.gov/products/lighting_fans/light_bulbs

28 ² https://www.energystar.gov/products/lighting_fans/light_bulbs

³ <https://www.energystar.gov/products/ask-the-expert/lighting-made-easy>

1 ranking to the Good Housekeeping Seal.” Moreover, a 2012 National Association of
2 Home Builders (“NAHB”) Home Trends & Buyer Preferences survey confirms that
3 ENERGY STAR® products were the feature most desired by homebuyers, picked by
4 94% of respondents.

5 6. ENERGY STAR®-qualified products are more expensive than standard
6 models, but they come with the promise of reduced energy bills that, over time, will
7 generate enough savings to recoup the higher price. This is the fundamental bargain
8 the ENERGY STAR® program offers: consumers pay a higher up-front purchase
9 price but save more on energy bills (“Utility Bills”) over time using the product. For
10 example, the ENERGY STAR® website explains that the “Total Cost” of “One 9-
11 Watt LED ENERGY STAR Certified Light Bulb” is \$18, while “Fifteen 43-Watt
12 Standard Light Bulbs” delivering the same performance is \$6.60 per bulb. As such,
13 the ENERGY STAR® bulbs command a 173% price premium over standard light
14 bulbs. However, given the greater efficiency of ENERGY STAR®, consumers can
15 purportedly realize a “Total Savings” of \$80 with an ENERGY STAR® device.⁴

16 7. To capitalize on this demand, Walmart consistently and uniformly
17 labeled and promoted its products, including the Mislabeled LED Bulbs, as
18 ENERGY STAR®-qualified. Walmart advertised and identified these models as
19 ENERGY STAR® qualified products by prominently displaying the ENERGY
20 STAR® logo on the Mislabeled LED Bulbs themselves.

21 8. Walmart’s promotion and sale of the Mislabeled LED Bulbs as
22 ENERGY STAR®-qualified, when in fact they are not, is false and misleading,
23 rendering the promised benefits of efficiency and Utility Bill savings illusory. For
24 Class members who purchased the Mislabeled LED Bulbs, the promised savings
25 from reduced Utility Bills never came. Instead, Class members were hit with a
26 costly double-whammy: a higher up-front price due to the substantial price premium
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28 ⁴ <https://www.energystar.gov/products/ask-the-expert/lighting-made-easy>

1 that ENERGY STAR® LED bulbs command in the marketplace, followed by higher
2 Utility Bills over the LED bulbs' useful life, since its actual energy consumption is
3 substantially higher than what was promised. Each Class member paid a higher
4 initial price for their LED bulbs and will pay higher Utility Bills every month –
5 month after month and year after year – for as long as the LED bulbs remain in use.

6 9. Plaintiff seeks relief in this action individually, and as a class action on
7 behalf of similarly situated purchasers of the Mislabeled LED Bulbs, for (i) breach of
8 express warranty; (ii) breach of the implied warranty of merchantability; (iii) unjust
9 enrichment; (iv) fraud; (v) violation of California's Consumers Legal Remedies Act
10 ("CLRA"), Cal. Civ. Code §§ 1750, *et seq.*; (vi) violation of California's Unfair
11 Competition Law ("UCL"), Cal. Bus. & Prof. Code §§ 17200, *et seq.*; and (vii)
12 violation of California's False Advertising Law ("FAL"), Cal. Bus. & Prof. Code §§
13 17500, *et seq.*

14 **THE PARTIES**

15 10. Plaintiff Francis Pargett is a citizen of California, residing in Rancho
16 Cucamonga, California. In 2017, Plaintiff Pargett purchased Great Value-brand
17 Mislabeled LED Bulbs, model GVRLA6027ND4, from a Walmart store in Rancho
18 Cucamonga, California. He paid approximately \$6.00 plus tax, which included a
19 substantial price premium due to their supposed energy efficiency and ENERGY
20 STAR® qualification. The units he purchased were marked with the ENERGY
21 STAR® logo on the front of the packaging. He saw the ENERGY STAR® logo
22 prior to and at the time of purchase, and understood it as a representation and
23 warranty by both the manufacturer (which created and affixed the labels) and the
24 retailer (which displayed the labels) that the products met the standards of energy
25 efficiency established by the ENERGY STAR® program, and that the bulbs would
26 help him maximize his energy savings while helping to protect the environment. He
27 relied on these representations and warranties in deciding to purchase his LED bulbs,
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1 and these representations and warranties were part of the basis of the bargain, in that
2 he would not have purchased the LED bulbs if he had known that they were not, in
3 fact, ENERGY STAR® compliant. He also understood that in making the sale, the
4 retailer was acting with the knowledge and approval of the manufacturer and/or as
5 the agent of the manufacturer. He also understood that the purchase involved a
6 direct transaction between himself and the manufacturer, because the bulbs came
7 with packaging prepared by the manufacturer.

8 11. Defendant Wal-Mart Stores, Inc. is a corporation organized under the
9 laws of Delaware and maintains its principal place of business at 702 SW 8th Street,
10 Bentonville, Arkansas 72716. Walmart is a multinational retail corporation that runs
11 chains of large discount department stores and warehouse stores. Walmart has
12 11,593 stores in 28 countries, under 63 different names. Walmart is the largest
13 retailer in the world and is the world's third-largest public corporation. Walmart
14 owns the Great Value brand for certain in-store products, which now "spans more
15 than 100 categories and is the country's largest food brand in both sales and
16 volume."⁵ Defendant Walmart conducts substantial business throughout the United
17 States, and specifically in the States of California and Arkansas.

18 **JURISDICTION AND VENUE**

19 12. This Court has jurisdiction over this action pursuant to 28 U.S.C. §
20 1332(d) because there are more than 100 class members and the aggregate amount in
21 controversy exceeds \$5,000,000.00, exclusive of interest, fees, and costs, and
22 Plaintiff, as well as most members of the proposed Class, is a citizen of a state
23 different from Defendant.

24 13. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391
25 because a substantial part of the events, omissions, and acts giving rise to the claims
26

27 ⁵ [https://corporate.walmart.com/newsroom/2009/03/15/walmarts-revamped-great-](https://corporate.walmart.com/newsroom/2009/03/15/walmarts-revamped-great-value-brand-delivers-affordable-quality-choices-when-consumers-need-them-most)
28 [value-brand-delivers-affordable-quality-choices-when-consumers-need-them-most](https://corporate.walmart.com/newsroom/2009/03/15/walmarts-revamped-great-value-brand-delivers-affordable-quality-choices-when-consumers-need-them-most)

1 herein occurred in this District. Plaintiff Pargett is a citizen of California, resides in
2 this District, and purchased his Mislabeled LED Bulbs from Defendant in this
3 District. Moreover, Defendant distributed, advertised, and sold the Mislabeled LED
4 Bulbs, which are the subject of the present complaint, in this District.

5 **FACTS COMMON TO ALL CLAIMS**

6 **A. The ENERGY STAR® Promise And Its Significant Effect On**
7 **Consumers**

8 14. The Energy Policy and Conservation Act of 1975 (“EPCA”), 42 U.S.C.
9 §§ 6291, *et seq.*, established an energy conservation program for major household
10 appliances and products. EPCA was amended by the National Energy Conservation
11 Policy Act of 1978 (“NECPA”), Pub. L. 95-619, to, among other things, give the
12 DOE authority to regulate the energy efficiency of several products. Further
13 amendments to EPCA in the National Appliance Energy Conservation Act of 1987
14 (“NAECA”), Pub. L. 100-12, established minimum energy efficiency standards for
15 certain types of light bulbs. In totality, the ECPA, NAECPA, and NAECA give the
16 DOE authority to establish energy efficiency standards for light bulbs, “promote
17 Energy Star compliant technologies,” and “preserve the integrity of the Energy Star
18 label.” 42 U.S.C. § 6294a.

19 15. ENERGY STAR® is a government-backed voluntary program,
20 designed to “identify and promote energy-efficient products in order to reduce
21 energy consumption, improve energy security, and reduce pollution through
22 voluntary labeling of, or other forms of communication about, products and
23 buildings that meet the highest energy conservation standards.” *See* 42 U.S.C.
24 § 6294a. The program is jointly administered by the DOE and the Environmental
25 Protection Agency (“EPA”).
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1 16. The ENERGY STAR® program is not a regulatory program;⁶ rather, it
2 consists of voluntary partnerships (with licensing agreements) between the
3 DOE/EPA and industry participants that commit to manufacture products that meet
4 the very highest standards of energy efficiency. This licensing agreement, embodied
5 in the standard partnership agreement (“Partnership Agreement”) provides that both
6 “parties concur that this agreement is wholly voluntary and may be terminated by
7 either party at any time, and for any reason, with no penalty.” Furthermore, the
8 Partnership Agreement states that the signatory or “partner will not construe, claim,
9 or imply that its participation in the ENERGY STAR program constitutes federal
10 government approval, acceptance, or endorsement of anything other than Partner’s
11 commitment to the program. Partner understands its participation in the ENERGY
12 STAR program does not constitute federal government endorsement of Partner or its
13 buildings, homes, products, services, or industrial facilities.”

14 17. To qualify for the ENERGY STAR® program, LED light bulbs,
15 including the Mislabeled LED Bulbs, must meet stringent energy efficiency criteria.
16 The ENERGY STAR® website’s “for consumers” page provided this same
17 specification information to consumers.

18 18. Since ENERGY STAR® is widely recognized as the preeminent brand
19 for energy efficient products, participation in the ENERGY STAR® program has a
20 significant impact on the marketability of products.

21 19. The most significant tool used in the ENERGY STAR® program is the
22 ENERGY STAR® label that incorporates the ENERGY STAR® certification mark.
23 All appliances and products with the ENERGY STAR® label are required to meet
24 the strict energy efficiency guidelines set by the EPA and the DOE.
25
26

27 ⁶ This is in stark contrast to the ECPA, which imposes *mandatory* minimum energy-
28 efficiency standards on certain products.

20. The message and promise conveyed by the ENERGY STAR® logo is that the appliance or product is ENERGY STAR®-qualified and thus complies with the strict energy efficiency level required by the ENERGY STAR® program. Because the product is ENERGY STAR® qualified, it will enable consumers to maximize their energy savings while helping to protect the environment. The national retailers that dominate the appliance market rely extensively on ENERGY STAR®-related promotions, as well as the distinctive logo, to sell ENERGY STAR® devices and bring consumers to their stores.



21. The campaign to promote ENERGY STAR® has continued for well over a decade. To promote the message of energy efficiency and savings, the EPA launched a broad outreach campaign in 1997, encouraging consumers to look for the distinctive ENERGY STAR® label. The campaign prominently mentioned the environmental benefits of the ENERGY STAR® program, but the focus was still on the financial savings that consumers could realize through superior energy efficiency. According to the EPA, the first consumer campaign had three key messages:

ENERGY STAR saves you money and protects the environment. Use of qualified products in your home can mean up to 30 percent savings.

The second price tag. Products have two price tags: the purchase price plus the cost of electricity needed to use the product over its lifetime.

1 **An easy choice.** Either the product is energy efficient
2 because it displays the ENERGY STAR label, or it isn't.

3 22. To facilitate the guiding principle of easily identifying efficient
4 appliances and products that offer savings on utility bills, the EPA set up specific
5 promotional and labeling guidelines for ENERGY STAR®-qualified products and
6 the use of its distinctive ENERGY STAR® mark as a label. Specifically, the
7 publication titled "Using the Energy Star Identity to Maintain and Build Value"
8 provides examples, guidelines and recommendations by the EPA "on how to get the
9 greatest value of the Certification Mark," *available at*
10 <http://www.energystar.gov/ia/partners/logos/downloads/BrandBook508r.pdf>. For
11 one, the mark "may never be associated with products ... that do not qualify as
12 ENERGY STAR." *Id.* at 4.0.

13 23. These marketing and educational efforts have culminated in one of the
14 most recognizable, global symbols for energy efficiency. Scott Blake Harris,
15 General Counsel for the DOE, has stated that "[t]he ENERGY STAR® label is a
16 critical tool for consumers looking to save energy and money with their appliances."

17 24. In fact, the ENERGY STAR® label was *specifically engineered* to
18 convey a simple message to consumers: that a given product meets rigorous energy
19 efficiency standards. A product either meets ENERGY STAR® criteria, or it does
20 not. Maura Beard, a former director of strategic communication at the EPA for the
21 ENERGY STAR® Program, stated that:⁷

22 The value of Energy Star for consumers is the fact that it's
23 binary – that yes/no part of Energy Star, I think is a really
24 important ... attribute of the brand. So, when a consumer's
25 picking a dishwasher, they're not looking at a sticker trying
26 to decide, "Ok, this is a C on an ABCDEF ... and trying to
27 decide whether that's how that value of a C might relate to
28 all the other attributes of, of the appliance... *[W]ith*

27 ⁷ Pew Center on Global Climate Change Best Practices Conference, April 7, 2010
28 (emphasis added).

1 ***Energy Star, it's a yes/no, it has it or it doesn't, and when***
 2 ***it has it, it means one thing ...*** and I think that has
 3 tremendous value for the mainstream marketplace.

4 25. For instance, in a January 2006 letter to the Federal Trade Commission
 5 ("FTC"), Whirlpool Corporation, a manufacturer of ENERGY STAR® products,
 6 wrote that "Whirlpool and the Association of Home Appliance Manufacturers
 7 (AHAM) conducted a consumer research study where a nationally representative
 8 sample of 1,000 respondents compared the current [ENERGYGUIDE] label with
 9 three alternatives... The purpose of the study was to ... determine which label
 10 design which, with an ENERGY STAR® logo added, ***most clearly conveyed high***
 11 ***efficiency of that appliance.*** The goal was to determine which label provided the
 12 consumer with the best information on the relative and absolute energy consumption
 13 of a particular model appliance. It was equally important that the label not create the
 14 impression that it included information on anything other than energy consumption;
 15 that is, that it not imply anything about product quality, product performance or any
 16 other non-energy characteristic." (bold and italicized emphasis added, underline in
 17 original).

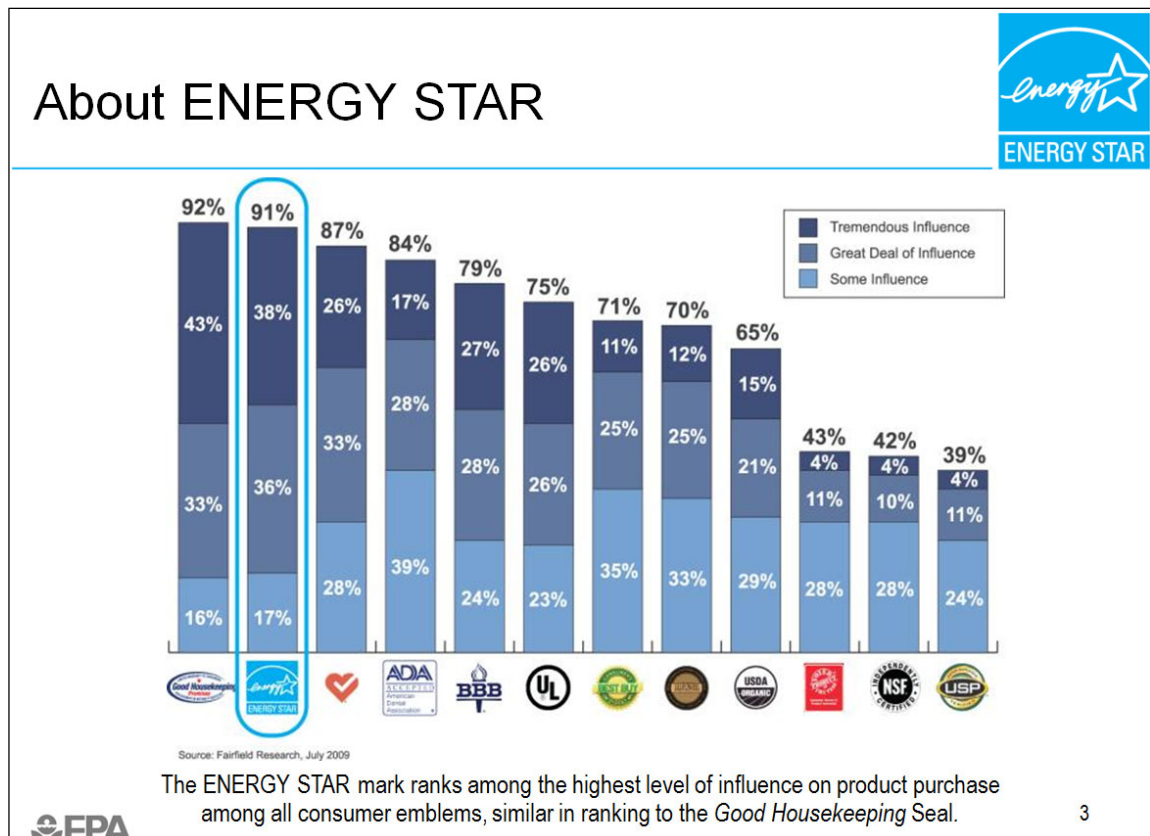
18 26. The ENERGY STAR® label is more than a symbol. It is "extremely
 19 successful as an informational device." Declaration of Catherine Zoi, Assistant
 20 Secretary, Office of Energy Efficiency and Renewable Energy, *LG Electronics*
 21 *U.S.A., Inc. v. DOE, et al.*, No. 09-2297-JDB (D.C. Dec. 23, 2009), Dkt. No. 10-7, at
 22 ¶ 19. It sends an unequivocal message to consumers: the labeled product is
 23 ENERGY STAR® qualified – it meets the mandatory minimum efficiency standard
 24 required by the ENERGY STAR® program.

25 27. The DOE and EPA have found that "[s]ubstantial portions of U.S.
 26 households in the surveyed population recognize, understand, and are influenced by
 27 the ENERGY STAR label." This is supported by a prominent national survey
 28

conducted in 2011, which found that 85% of households had at least a general understanding of the label's purpose, including 75% that had a "high understanding."

28. That same survey found the ENERGY STAR® logo material, influencing the purchasing decisions of 88% of households that recognized it, including 76% whose purchase decisions were influenced "very much" or "somewhat."

29. In September 2010, the EPA prepared a PowerPoint presentation entitled "Energy Star® Sales Associate Training." The EPA's PowerPoint presentation emphasizes that the ENERGY STAR® logo helps consumers easily identify energy-efficient products and that "[t]he ENERGY STAR mark ranks among the highest level of influence on product purchase among all consumer emblems, similar in ranking to the *Good Housekeeping Seal*." The PowerPoint presentation also included the following slide showing that the ENERGY STAR® label has an influence on 91% of consumers:



1
2 30. Earlier this year, on the 20th anniversary of the ENERGY STAR®
3 program, the EPA issued a book entitled “Energy Star® Products – 20 Years of
4 Helping America Save Energy, Save Money and Protect the Environment.” In the
5 book, the EPA stated:

6 Twenty years later, ENERGY STAR is a *global symbol for*
7 *energy efficiency*. EPA recognizes ENERGY STAR
8 products in more than 60 categories. More than 80 percent
9 of U.S. consumers recognize and understand the label,
collectively buying an estimated 300 million ENERGY
STAR qualified products every year. (emphasis added)

10 31. In that same publication, Marc Hoffman, Executive Director of the
11 Consortium for Energy Efficiency (“CEE”), stated:

12 When the federal government came up with the concept for
13 ENERGY STAR and then extended it to appliances, CEE
14 carefully deliberated before incorporating the brand into its
15 own plans for advancing efficiency. Over time the
16 decision of CEE members to adopt ENERGY STAR as
17 their marketing platform for energy efficiency has proven
18 to be a great one. Surveys show that ENERGY STAR is an
important endorsement label for consumers and that it
plays an equally important role as a marketing platform for
myriad energy efficiency programs.

19 ***

20 EPA maintains a brand that simply and credibly identifies
21 cost-effective-energy-saving opportunities that do not
22 compromise amenity or reliability. In turn, CEE members
23 actively promote the ENERGY STAR in their energy-
24 savings programs, thereby simplifying energy efficiency
25 decision-making for their customers and helping to grow
26 the brand. ENERGY STAR also presents an excellent
27 rallying point for energy efficiency organization and
28 industry to work cooperatively. We consider ENERGY
STAR to be America’s most trusted and recognized brand
for energy efficiency.

32. A 2012 NAHB Home Trends & Buyer Preferences survey⁸ acknowledged that ENERGY STAR® products were the feature most desired by homebuyers, picked by 94% of respondents.

33. There is no doubt that product manufacturers such as Walmart consider the ENERGY STAR® label to be a “promise” of “savings” and “energy efficiency.”

34. Participation in the ENERGY STAR® program has a significant impact on the marketability of products. The message conveyed by the ENERGY STAR® logo is that the consumer can maximize his or her savings while helping to protect the environment.

35. In fact, the ENERGY STAR® informational website represents that “ENERGY STAR Certified Light Bulbs” will “[u]se about 70-90% less energy than traditional incandescent bulbs” and “save[] about \$55 in electricity costs over [the bulb’s] lifetime,” among other benefits:

Earning the ENERGY STAR certification means the product meets strict energy efficiency guidelines set by the US Environmental Protection Agency. Lighting products that have earned the ENERGY STAR label deliver exceptional features, while using less energy. Saving energy helps you save money on utility bills and protects the environment by reducing greenhouse gas emissions.

ENERGY STAR Certified Light Bulbs:

- Use about 70-90% less energy than traditional incandescent bulbs
- Last at least 15 times longer and saves about \$55 in electricity costs over its lifetime
- Meet strict quality and efficiency standards that are tested by accredited labs and certified by a third party
- Produce about 70-90% less heat, so it’s safer to operate and can cut energy costs associated with home cooling

Please see the [ENERGY STAR light bulb saving calculator](#) (EXCEL, 691 KB) to estimate your saving.



36. The same ENERGY STAR® informational website further represents that “ENERGY STAR means high quality and performance,” and that “bulbs with

⁸ According to the NAHB, these results were obtained by surveys performed by NAHB and Better Homes and Gardens.

the label have been independently certified and [have] undergone extensive testing.” As such, certified bulbs “[u]se up to 90% less energy than standard bulbs,” “[s]ave about \$80 in electricity costs over [the bulb’s] lifetime,” and “[p]rovide the same brightness (lumens) with less energy (watts):”

LIGHTING MADE EASY

BRIGHTEN OUR PLANET'S FUTURE WITH ENERGY STAR®

Saving money on your electricity bill is still simple: Look for the ENERGY STAR for energy savings. No matter the technology or the performance claims, only bulbs with the ENERGY STAR label meet strict guidelines for efficiency and performance that set them apart.

Look for the ENERGY STAR

ENERGY STAR MEANS HIGH QUALITY AND PERFORMANCE. BULBS WITH THE LABEL HAVE BEEN INDEPENDENTLY CERTIFIED AND UNDERGONE EXTENSIVE TESTING.

ENERGY STAR certified bulbs use less energy, so they cost less to operate than standard bulbs. And less energy means fewer greenhouse gas emissions.

★ Use up to **90%** less energy than standard bulbs

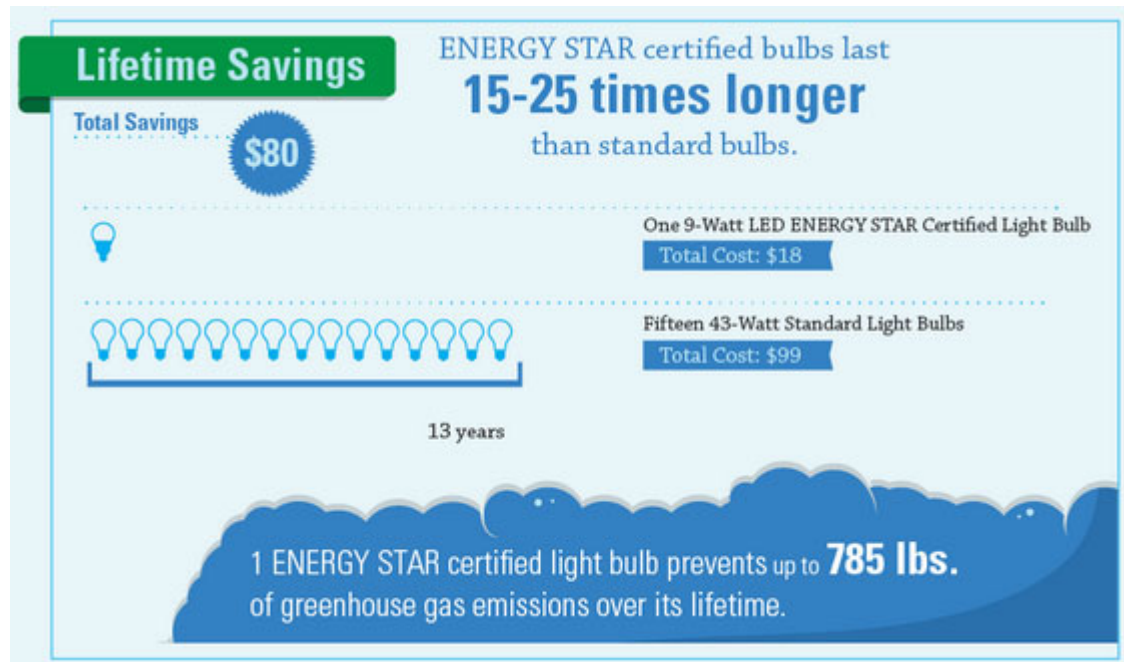
★ Save about **\$80** in electricity costs over its lifetime

★ Provide the same brightness (**lumens**) with less energy (**watts**)

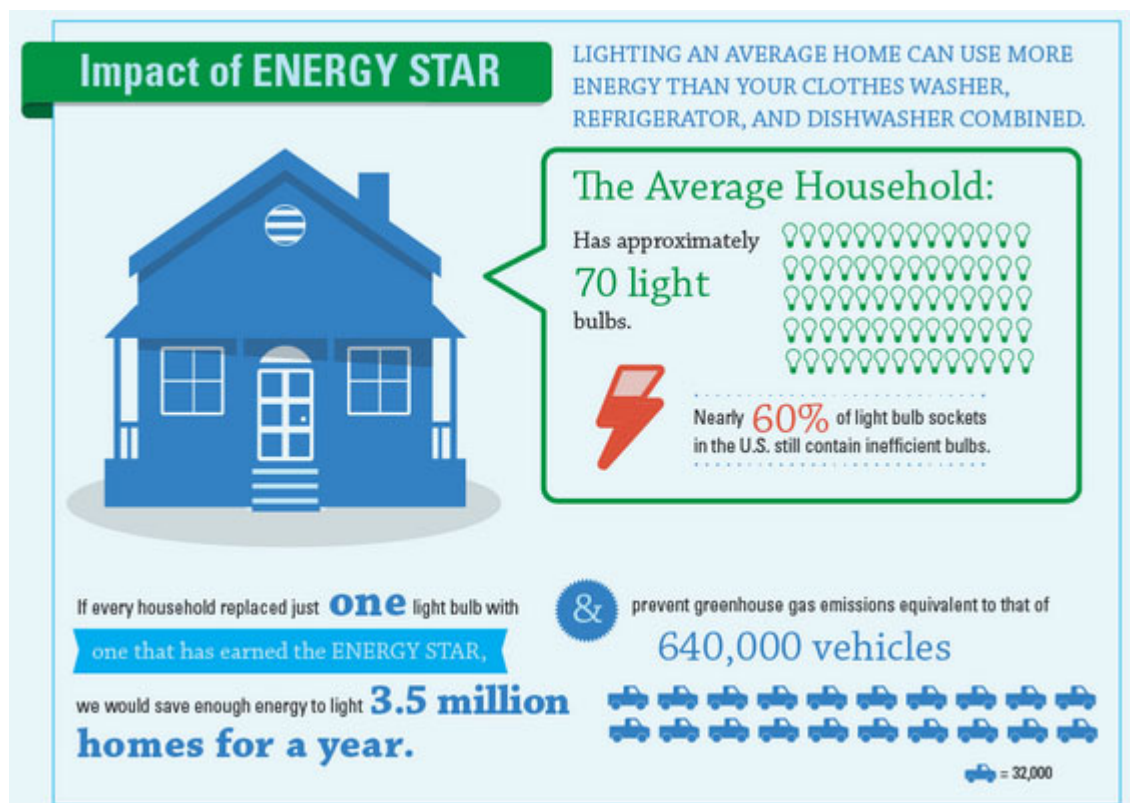
★ Last **15-25** times longer than standard bulbs

★ Help protect the environment and prevent climate change

37. The website further explains that ENERGY STAR® bulbs cost more than “standard light bulbs” (*i.e.*, a 172% price premium), but can provide “\$80” of “Lifetime Savings” given the greater efficiency of ENERGY STAR® devices:



38. In fact, the website says that the “Impact of ENERGY STAR” can make a real difference in consumers’ electric usage. The website notes that “lighting an average home can use more energy than your clothes washer, refrigerator, and dishwasher combined:”



39. These representations are repeated on a publication entitled *LED Bulbs Made Easy: Just Look for the ENERGY STAR®* on the ENERGY STAR® website. The publication promises that “[o]nly LED bulbs that have earned the ENERGY STAR label have been independently certified and undergone extensive testing to assure that they will save energy and perform as promised.” The publication also reiterates that ENERGY STAR® bulbs are “[i]ndependently certified to deliver efficiency and performance,” have the “[s]ame brightness (lumens) [while consuming] 70-90% less energy (watts),” and that choosing ENERGY STAR® bulbs will lead to “big \$ savings:”



LED Bulbs Made Easy
Just Look for the ENERGY STAR®

★ Independently certified to deliver efficiency and performance. ★ Lasts 15 times longer = big \$ savings
★ Same brightness (lumens), 70–90% less energy (watts) ★ Help protect the environment and prevent climate change

Only LED bulbs that have earned the ENERGY STAR label have been independently certified and undergone extensive testing to assure that they will save energy and perform as promised.

ENERGY STAR certified LED bulbs are available in a variety of shapes and sizes for any application—including recessed cans, track lighting, table lamps, and more. You can even find certified bulbs that are dimmable. Use this chart as a guide to finding the right ENERGY STAR certified bulb for your light fixture and **remember to always check the packaging for proper use.**

		BULB TYPES			
TABLE OR FLOOR LAMPS		 STANDARD			
PENDANT FIXTURES		 STANDARD	 GLOBE	 MR16	 CANDLE
CEILING FIXTURES		 STANDARD	 CANDLE		
CEILING FANS		 STANDARD	 CANDLE		
WALL SCONCES		 STANDARD	 GLOBE	 CANDLE	
RECESSED CANS		 MR16	 SPOT	 FLOOD	
ACCENT LIGHTING		 MR16	 SPOT		

B. Walmart's Mislabeled LED Bulbs Were Uniformly And Prominently Marked With The ENERGY STAR® Logo On The Product Packaging

40. Walmart sought to capitalize on this tremendous demand for ENERGY STAR® products by consistently and uniformly labeling and promoting its products, including the Mislabeled LED Bulbs, as ENERGY STAR®-qualified. Walmart advertised and identified these models as ENERGY STAR® qualified products by prominently displaying the ENERGY STAR® logo on the Mislabeled LED Bulbs themselves.

C. DOE Testing And Revocation Of The Mislabeled LED Bulbs' ENERGY STAR® Qualification

41. The success of the ENERGY STAR® program depends on the accuracy and reliability of the ENERGY STAR® logo as an indicator of highly efficient products. To protect the integrity of the ENERGY STAR® label and certification mark, the DOE has evaluated and verified performance test results to ensure that ENERGY STAR®-certified appliances correspond to actual savings for consumers.

42. On February 19, 2019, the DOE and/or EPA disqualified model GVRLR1440D2.

43. On March 13, 2019, the DOE and/or EPA disqualified models GVRLAO727D, GVRLAO727D4, GVRLAO750D, and GVRLAO750D4.

44. On June 18, 2019, the DOE and/or EPA disqualified models GVRLR1440D2, GVRLA6027ND, GVRLA60P, GVRLA60PAEP, GVRLA60PAEPO, GVRLA60PAM, GVRLA60PC, GVRLA60PDPL, GVRLA60PEPE, GVRLA60PJE, GVRLA60POGE, GVRLA60PPNM, GVRLA60PPSO, GVRLA60PTP, GVRLA6050ND, GVRLA6050ND4, GVRLA6050ND2, GVRLA6050NDTCP, and GVRLA6027ND4.

45. In accordance with guidelines and the EPA's disqualification procedures, these models were then posted on the EPA's list of disqualified models.

1 46. Moreover, as a result of the disqualification by the EPA (after
2 consulting with the DOE), Walmart was required to immediately cease labeling and
3 shipping the products with the ENERGY STAR® logo, remove ENERGY STAR®
4 references from related marketing materials, spec sheets, and websites, and cover or
5 remove labels on units within the manufacturer's control.

6 47. Walmart is the world's largest retailer, and it manufactures the Great
7 Value LED bulbs at issue. As such, Walmart either (a) tested the Mislabeled LED
8 Bulbs before marketing them and, at all times relevant hereto, knew that the models
9 were non-compliant with the requirements of the ENERGY STAR® program or, in
10 the alternative (b) affixed ENERGY STAR® labels to the Mislabeled LED Bulbs
11 without testing them, and thus knew the representation concerning their energy
12 efficiency was baseless. This information is solely within Walmart's possession.

13 48. The Mislabeled LED Bulbs have never, at any point, been properly
14 labeled with the ENERGY STAR® logo. This is analogous to the unauthorized
15 practice of medicine. Suppose a fraudster misrepresents himself as a board-certified
16 physician and opens a medical clinic, only to be exposed years later. This does not
17 mean that the fraudster was properly licensed to practice medicine prior to his
18 exposure. To the contrary, the fraudster was never licensed, and any statements to
19 the contrary were false. Here, Walmart made misrepresentations about the
20 ENERGY STAR® status of the Mislabeled LED Bulbs. Just because the DOE
21 disqualified the units in 2019 does not mean they were compliant prior to 2019. To
22 the contrary, the DOE's determination means the Mislabeled LED Bulbs were *never*
23 properly labeled. Any representation to the contrary was false when it was made.
24 The Mislabeled LED Bulbs failed to work properly from the outset.

25 49. The failure of the Mislabeled LED Bulbs to comply with ENERGY
26 STAR® standards is a latent defect. If this defect were known, the Mislabeled LED
27 Bulbs would not have been saleable as described, and they would not measure up to
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1 the description given to the purchaser. Furthermore, this defect is hidden from
2 purchasers. Reasonable consumers do not have the knowledge or equipment to
3 assess whether their bulbs are ENERGY STAR® compliant. This information is
4 solely within Walmart's possession.

5 50. Plaintiff and Class members who purchased Mislabeled LED Bulbs paid
6 a price premium due to their Mislabeled LED Bulbs' supposed superior energy
7 efficiency and ENERGY STAR® qualification, and paid more money in additional
8 energy costs to operate his or her Mislabeled LED Bulb than they would have had
9 the bulbs actually met the ENERGY STAR® qualification as represented and
10 promised by Walmart. The additional Utility Bills can be reasonably quantified by
11 an appropriate study, and through objective mathematical processes, based on the
12 data from the DOE-initiated testing described herein.

13 51. Plaintiff and the Class members could not have discovered that their
14 LED bulbs were not ENERGY STAR® compliant until the EPA and/or DOE's
15 disqualification orders were issued. No reasonable consumer has the knowledge or
16 equipment to test electrical products for ENERGY STAR® compliance.

17 52. Plaintiff, and each purchaser of the Mislabeled LED Bulbs, paid a price
18 premium due to their Mislabeled LED Bulb's energy efficiency and ENERGY
19 STAR® qualification. The amount of the price premium can be reasonably
20 quantified by an appropriate market study of the prices for comparable LED bulbs
21 sold with and without the ENERGY STAR® logo, or through a contingent valuation
22 study, or through other means regularly employed by economic and valuation
23 experts.

24 **CLASS ACTION ALLEGATIONS**

25 53. Plaintiff seeks to represent a class defined as all persons in the United
26 States who purchased a Mislabeled LED Bulb (the "Class").
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1 54. Plaintiff also seeks to represent a subclass defined as all persons in
2 California who purchased a Mislabeled LED Bulb (hereafter, the “California
3 Subclass”).

4 55. Members of the Class and Subclass are so numerous that their
5 individual joinder herein is impracticable. On information and belief, members of
6 the Class and Subclass number in the tens of thousands. The precise number of
7 Class members and their identities are unknown to Plaintiff at this time but will be
8 determined through discovery. Class members may be notified of the pendency of
9 this action by mail and/or publication through the distribution records of Walmart
10 and third party retailers and vendors.

11 56. Common questions of law and fact exist as to all Class members and
12 predominate over questions affecting only individual Class members. Common legal
13 and factual questions include, but are not limited to:

14 (a) whether the Mislabeled LED Bulbs were sold bearing false labels
15 misrepresenting them as ENERGY STAR® compliant;

16 (b) whether Class members suffered an ascertainable loss as a result
17 of the Walmart’s misrepresentations; and

18 (c) whether, as a result of Walmart’s misconduct as alleged herein,
19 Plaintiff and Class members are entitled to restitution, injunctive, and/or monetary
20 relief and, if so, the amount and nature of such relief.

21 57. Plaintiff’s claims are typical of the claims of Class members because
22 Plaintiff and all Class members purchased a Mislabeled LED Bulb bearing a false
23 label misrepresenting it as ENERGY STAR® compliant, when in fact it was not.

24 58. Plaintiff is an adequate representative of the Class because his interests
25 do not conflict with the interests of the Class members he seeks to represent, he has
26 retained counsel competent and experienced in prosecuting class actions, and he
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1 intends to prosecute this action vigorously. The interests of Class members will be
2 fairly and adequately protected by Plaintiff and his counsel.

3 59. The class mechanism is superior to other available means for the fair
4 and efficient adjudication of the claims of Plaintiff and Class members. Each
5 individual Class member may lack the resources to undergo the burden and expense
6 of individual prosecution of the complex and extensive litigation necessary to
7 establish Walmart's liability. Individualized litigation increases the delay and
8 expense to all parties and multiplies the burden on the judicial system presented by
9 the complex legal and factual issues of this case. Individualized litigation also
10 presents a potential for inconsistent or contradictory judgments. In contrast, the class
11 action device presents far fewer management difficulties and provides the benefits of
12 single adjudication, economy of scale, and comprehensive supervision by a single
13 court on the issue of Walmart's liability. Class treatment of the liability issues will
14 ensure that all claims and claimants are before this Court for consistent adjudication
15 of the liability issues.

16 **COUNT I**
17 **(Breach Of Express Warranty)**

18 60. Plaintiff hereby incorporates by reference the allegations contained in
19 all preceding paragraphs of this complaint.

20 61. Plaintiff brings this claim individually and on behalf of the members of
21 the proposed Class and California Subclass against Walmart.

22 62. Walmart, as the designer, manufacturer, marketer, distributor, or seller,
23 expressly warranted that the Mislabeled LED Bulbs were fit for their intended
24 purpose in that they would function properly as energy-efficient light bulbs within
25 the parameters established by federal law and the ENERGY STAR® program.

26 63. In fact, the Mislabeled LED Bulbs were not fit for such purposes
27 because they do not function properly as energy-efficient light bulbs within the
28 parameters established by federal law and the ENERGY STAR® program.

64. Plaintiff and Class members were injured as a direct and proximate result of Walmart's breach because: (a) they would not have purchased the Mislabeled LED Bulbs on the same terms if the true facts concerning their energy efficiency had been known; (b) they paid a price premium due to the mislabeling of the light bulbs as ENERGY STAR®-qualified; (c) the Mislabeled LED Bulbs did not perform as promised; and (d) Plaintiff and Class members have paid and will continue to pay higher Utility Bills as long as they continue to use the Mislabeled LED Bulbs.

COUNT II
(Breach Of The Implied Warranty Of Merchantability)

65. Plaintiff hereby incorporates by reference the allegations contained in all preceding paragraphs of this complaint.

66. Plaintiff brings this claim individually and on behalf of the members of the proposed Class and California Subclass against Walmart.

67. Walmart, as the designer, manufacturer, marketer, and/or seller, impliedly warranted that the Mislabeled LED Bulbs were fit for their intended purpose in that they would function properly as energy-efficient light bulbs within the parameters established by federal law and the ENERGY STAR® program.

68. Walmart breached the warranty implied in the contract for the sale of the Mislabeled LED Bulbs in that the Mislabeled LED Bulbs could not pass without objection in the trade under the contract description, the goods were not of fair average quality within the description, and the goods were unfit for their intended and ordinary purpose in that they did not function properly as energy-efficient light bulbs within the parameters established by federal law and the ENERGY STAR® program. As a result, Plaintiff and Class members did not receive the goods as impliedly warranted by Walmart to be merchantable.

69. Plaintiff and Class members are the intended beneficiaries of Walmart's implied warranties.

1 70. In reliance upon Walmart's skill and judgment and the implied
2 warranties of fitness for the purpose, Plaintiff and Class members purchased the
3 Mislabeled LED Bulbs for use as energy-efficient light bulbs within the parameters
4 established by federal law and the ENERGY STAR® program.

5 71. The Mislabeled LED Bulbs were not altered by Plaintiff and Class
6 members. The Mislabeled LED Bulbs were defective when they left the exclusive
7 control of Walmart.

8 72. Walmart knew the Mislabeled LED Bulbs would be purchased and
9 used without additional testing for energy efficiency by Plaintiff and Class members.
10 The Mislabeled LED Bulbs were defectively designed and unfit for their intended
11 purpose, and Plaintiff and Class members did not receive the goods as warranted.

12 73. As a direct and proximate cause of Walmart's breach of the implied
13 warranty, Plaintiff and Class members have been injured and harmed because: (a)
14 they would not have purchased the Mislabeled LED Bulbs on the same terms if the
15 true facts concerning their energy efficiency had been known; (b) they paid a price
16 premium due to the mislabeling of the light bulbs as ENERGY STAR®-qualified;
17 (c) the Mislabeled LED Bulbs did not perform as promised; and (d) Plaintiff and
18 Class members have paid and will continue to pay higher Utility Bills as long as they
19 continue to use the Mislabeled LED Bulbs.

20 **COUNT III**
21 **(Unjust Enrichment)**

22 74. Plaintiff hereby incorporates by reference the allegations contained in
23 all preceding paragraphs of this complaint.

24 75. Plaintiff brings this claim individually and on behalf of the members of
25 the proposed Class and California Subclass against Walmart.

26 76. Plaintiff and Class members conferred a benefit on Walmart by
27 purchasing the Mislabeled LED Bulbs.
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77. Walmart misrepresented that the Mislabeled LED Bulbs complied with ENERGY STAR® standards, and misrepresented the energy efficiency of the Mislabeled LED Bulbs, for the purpose of generating retail sales which could and did increase the amount of wholesale sales to Walmart.

78. Walmart has been unjustly enriched in retaining the revenues derived from Plaintiff and Class members' purchases of the Mislabeled LED Bulbs. Retention under these circumstances is unjust and inequitable because Walmart misrepresented that the Mislabeled LED Bulbs complied with ENERGY STAR® standards, when in fact they did not, and misrepresented the energy efficiency of the Mislabeled LED Bulbs, which caused injuries to Plaintiff and Class members because: (a) they would not have purchased the Mislabeled LED Bulbs on the same terms if the true facts concerning their energy efficiency had been known; (b) they paid a price premium due to the mislabeling of the light bulbs as ENERGY STAR®-qualified; (c) the Mislabeled LED Bulbs did not perform as promised; and (d) Plaintiff and Class members have paid and will continue to pay higher Utility Bills as long as they continue to use the Mislabeled LED Bulbs.

79. Because Walmart's retention of the non-gratuitous benefit conferred on it by Plaintiff and Class members is unjust and inequitable, Walmart must pay restitution to Plaintiff and the Class members for their unjust enrichment, as ordered by the Court.

COUNT IV
(Fraud)

80. Plaintiff hereby incorporates by reference the allegations contained in all preceding paragraphs of this complaint.

81. Plaintiff brings this claim individually and on behalf of the members of the proposed Class and California Subclass against Walmart.

82. As discussed above, Walmart provided Plaintiff and Class and California Subclass members with materially false or misleading information about

1 the Mislabeled LED Bulbs. Specifically, Defendant marketed the Mislabeled LED
2 Bulbs as ENERGY STAR®, in that they would function properly as energy-efficient
3 light bulbs within the parameters established by federal law and the ENERGY
4 STAR® program. As indicated above, however, these representations are false and
5 misleading.

6 83. The misrepresentations and omissions of material fact made by
7 Walmart, upon which Plaintiff and Class members reasonably and justifiably relied,
8 were intended to induce and actually induced Plaintiff and Class members to
9 purchase the Mislabeled LED Bulbs.

10 84. Walmart knew that the Mislabeled LED Bulbs did not function properly
11 as energy-efficient light bulbs within the parameters established by federal law and
12 the ENERGY STAR® program.

13 85. The fraudulent actions of Walmart caused damage to Plaintiff and Class
14 and California Subclass members, who are entitled to damages and other legal and
15 equitable relief as a result.

16 86. As a result of Walmart's willful and malicious conduct, punitive
17 damages are warranted.

18 **COUNT V**
19 **(Violation Of California's Consumers Legal Remedies Act ("CLRA"),**
20 **Civil Code §§ 1750, *et seq.*)**
21 **(Injunctive Relief Only)**

22 87. Plaintiff hereby incorporates by reference the allegations contained in
23 all preceding paragraphs of this complaint.

24 88. Plaintiff brings this claim individually and on behalf of the members of
25 the proposed California Subclass against Walmart.

26 89. CLRA § 1770(a)(5) prohibits "[r]epresenting that goods or services
27 have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities
28 which they do not have or that a person has a sponsorship, approval, status,

1 affiliation, or connection which he or she does not have.” Walmart violated this
2 provision by representing the Mislabeled LED Bulbs as ENERGY STAR®-qualified
3 and by misrepresenting the energy efficiency of the Mislabeled LED Bulbs.

4 90. CLRA § 1770(a)(7) prohibits “[r]epresenting that goods or services are
5 of a particular standard, quality, or grade, or that goods are of a particular style or
6 model, if they are of another.” Walmart violated this provision by representing the
7 Mislabeled LED Bulbs as ENERGY STAR®-qualified and by misrepresenting the
8 energy efficiency of the Mislabeled LED Bulbs.

9 91. CLRA § 1770(a)(9) prohibits “[a]dvertising goods or services with
10 intent not to sell them as advertised.” Walmart violated this provision by
11 representing the Mislabeled LED Bulbs as ENERGY STAR®-qualified and by
12 misrepresenting the energy efficiency of the Mislabeled LED Bulbs.

13 92. At the time they made these representations and made sales to Plaintiff
14 and California Subclass members, Walmart was aware of the defect because it was
15 aware that DOE-initiated testing had shown the Mislabeled LED Bulbs did not
16 comply with ENERGY STAR® standards.

17 93. Plaintiff Pargett and the California Subclass members suffered injuries
18 caused by Defendant’s misrepresentations because: (a) they would not have
19 purchased the Mislabeled LED Bulbs on the same terms if the true facts concerning
20 their energy efficiency had been known; (b) they paid a price premium due to the
21 mislabeling of the light bulbs as ENERGY STAR®-qualified; (c) the Mislabeled
22 LED Bulbs did not perform as promised; and (d) Plaintiff and Class members have
23 paid and will continue to pay higher Utility Bills as long as they continue to use the
24 Mislabeled LED Bulbs.

25 94. Prior to the filing of this Complaint, a CLRA notice letter was served on
26 Walmart which complies in all respects with California Civil Code § 1782(a).
27 Plaintiff sent Walmart a letter *via* certified mail, return receipt requested, advising
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Walmart that it is in violation of the CLRA and must correct, repair, replace or otherwise rectify the goods alleged to be in violation of § 1770. Walmart was further advised that in the event that the relief requested has not been provided within thirty (30) days, Plaintiff would amend the Complaint to seek damages pursuant to the CLRA. A true and correct copy of Plaintiff's CLRA letter is attached hereto as Exhibit A.

95. Wherefore, Plaintiff and the California Subclass seek injunctive relief for violation of the CLRA.

COUNT VI
**(Violation Of California's Unfair Competition Law ("UCL"),
 Bus. & Prof. Code §§ 17200, *et seq.*)**

96. Plaintiff hereby incorporates by reference the allegations contained in all preceding paragraphs of this complaint.

97. Plaintiff brings this claim individually and on behalf of the members of the proposed California Subclass against Walmart.

98. Walmart is subject to the Unfair Competition Law ("UCL"), Bus. & Prof. Code § 17200 *et seq.* The UCL provides, in pertinent part: "Unfair competition shall mean and include unlawful, unfair or fraudulent business practices and unfair, deceptive, untrue or misleading advertising"

99. Walmart's conduct, described herein, violated the "unlawful" prong of the UCL by violating the EPCA, NECPA, NAECA, and regulations promulgated thereunder, governing the energy efficiency of light bulbs.

100. Walmart's conduct, described herein, violated the "unfair" prong of the UCL by violating the policy or spirit of the EPCA, NECPA, NAECA, and regulations promulgated thereunder, governing the energy efficiency of light bulbs.

101. Walmart's conduct, described herein, violated the "fraudulent" prong of the UCL by representing the Mislabeled LED Bulbs as ENERGY STAR®-qualified and by misrepresenting the energy efficiency of the Mislabeled LED Bulbs.

102. Plaintiff and California Subclass members suffered lost money or property as a result of Walmart's UCL violations because: (a) they would not have purchased the Mislabeled LED Bulbs on the same terms if the true facts concerning their energy efficiency had been known; (b) they paid a price premium due to the mislabeling of the light bulbs as ENERGY STAR®-qualified; (c) the Mislabeled LED Bulbs did not perform as promised; and (d) Plaintiff and Class members have paid and will continue to pay higher Utility Bills as long as they continue to use the Mislabeled LED Bulbs.

COUNT VII
**(Violation Of California's False Advertising Law ("FAL"),
 Bus. & Prof. Code §§ 17500, *et seq.*)**

103. Plaintiff hereby incorporates by reference the allegations contained in all preceding paragraphs of this complaint.

104. Plaintiff brings this claim individually and on behalf of the members of the proposed California Subclass against Walmart.

105. California's False Advertising Law (*Bus. & Prof. Code* § 17500, *et seq.*) makes it "unlawful for any person to make or disseminate or cause to be made or disseminated before the public in this state, ... in any advertising device ... or in any other manner or means whatever, including over the Internet, any statement, concerning ... personal property or services, professional or otherwise, or performance or disposition thereof, which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading."

106. Walmart committed acts of false advertising, as defined by § 17500, by using false and misleading statements to promote the sale of Mislabeled LED Bulbs, as described above.

107. Walmart knew or should have known, through the exercise of reasonable care that the statements were untrue and misleading.

108. Walmart's actions in violation of § 17500 were false and misleading such that the general public is and was likely to be deceived.

109. Plaintiff and California Subclass members suffered lost money or property as a result of Walmart's FAL violations because: (a) they would not have purchased the Mislabeled LED Bulbs on the same terms if the true facts concerning their energy efficiency had been known; (b) they paid a price premium due to the mislabeling of the light bulbs as ENERGY STAR®-qualified; (c) the Mislabeled LED Bulbs did not perform as promised; and (d) Plaintiff and Class members have paid and will continue to pay higher Utility Bills as long as they continue to use the Mislabeled LED Bulbs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, seeks judgment against Defendant, as follows:

- A. For an order certifying the Class and the California Subclass under Rule 23 of the Federal Rules of Civil Procedure and naming Plaintiff as the representative of the Class and Subclass and Plaintiff's attorneys as Class Counsel;
- B. For an order declaring the Defendant's conduct violates the statutes referenced herein;
- C. For an order finding in favor of Plaintiff and the Class and Subclass on all counts asserted herein;
- D. For statutory, compensatory, and punitive damages in amounts to be determined by the Court and/or jury;
- E. For prejudgment interest on all amounts awarded;
- F. For an order of restitution and all other forms of equitable monetary relief;
- G. For injunctive relief as pleaded or as the Court may deem proper;
- H. For an order awarding Plaintiff and the Class and California Subclass their reasonable attorneys' fees and expenses and costs of suit;
- I. Damages, restitution, and/or disgorgement in an amount to be determined at trial; and

1 J. For such other and further relief as the Court may deem proper.

2 **JURY DEMAND**

3 Plaintiff demands a trial by jury on all causes of action and issues so triable.

4
5 Dated: November 8, 2019

BURSOR & FISHER, P.A.

6 By: /s/ Neal J. Deckant
7 Neal J. Deckant

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