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*Attorneys for Plaintiff, and all others similarly situated*

**FILED**  
Superior Court of California  
County of Los Angeles

AUG 16 2019

Sherri R. Carter, Executive Officer/Clerk of Court  
By  Deputy  
Isaac Lova

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES  
UNLIMITED JURISDICTION**

JEREMIAH ADOLPHUS, individually, and  
on behalf of all others similarly situated,

Plaintiff,

vs.

WAL-MART, INC.; and DOES 1 – 10,  
inclusive.

Defendant.

Case No.

**19STCV28638**

**CLASS ACTION COMPLAINT**

- (1) Violation of the California False Advertising Act (Cal. Business & Professions Code §§ 17500 *et seq.*); and
- (2) Violation of Unfair Competition Law (Cal. Business & Professions Code §§ 17200 *et seq.*)
- (3) Violation of the Consumer Legal Remedies Act.

**Jury Trial Demanded**

BY FAX

CLASS ACTION COMPLAINT

1 Plaintiff JEREMIAH ADOLPHUS ("Plaintiff"), individually and on behalf of all other  
2 members of the public similarly situated, allege as follows:

3 **NATURE OF THE ACTION**

4 1. Plaintiff brings this class action Complaint against Defendant WAL-MART,  
5 INC. (hereinafter "Defendant") to stop Defendant's practice of falsely advertising its payment  
6 service and to obtain redress for a California class of consumers ("Class Members") who  
7 changed position, within the applicable statute of limitations period, as a result of Defendant's  
8 false and misleading advertisements.

9 2. WAL-MART, INC. is a corporation with principal place of business in Arkansas  
10 and state of incorporation in California and is engaged in providing payment services, in  
11 addition to selling distributing products.

12 3. Defendant represents that its payment service will provide consumer's payees  
13 with payment and if payment is rejected, that consumers would at least be notified, when this is  
14 in fact false. Defendant misrepresented and falsely advertised to Plaintiff and others similarly  
15 situated consumers their bill payment services (hereinafter "Class Products").

16 4. Plaintiff and others similarly situated purchased or attempt to purchase  
17 Defendant's bill payment services, and they did so on the basis that Defendant will process and  
18 deliver the payment to the correct entity, and if not able, would notify Plaintiff and others  
19 similarly situated that the transaction was unsuccessful.

20 5. Defendant's misrepresentations to Plaintiff and others similarly situated caused  
21 them to purchase or attempt Defendant's bill payment service, which Plaintiff and others  
22 similarly situated would not have purchased or attempted to purchase absent these  
23 misrepresentations by Defendant and its employees. In so doing, Defendant has violated  
24 California consumer protection statutes, including the Unfair Competition Law, False  
25 Advertising Law, and the Consumer Legal Remedies Act.

26 **NATURE OF THE CASE & COMMON ALLEGATIONS OF FACT**

27 6. Consumers purchase bill payment services advertised to be of a certain nature  
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1 and quality, and in the case at bar, they did so under the impression that Defendant would assist  
2 in facilitating a payment to a third party on behalf of consumers, and notifying the consumers  
3 if the payment was unsuccessful.

4 7. Consumers rely on the representations and advertisements of bill payment  
5 service providers in order to know which service to purchase and utilized. Details as to the  
6 nature and quality of the bill payment service, such as whether the payment has reached the  
7 destination payee, or whether Defendant will notify the consumer if the payment was  
8 unsuccessfully delivered to the payee, compared to what they could purchase from a competing  
9 vendor.

10 8. Defendant is engaged in the marketing and selling of bill payment services that  
11 do not notify consumers whether the payment was unsuccessfully applied, and the true nature  
12 and quality of the bill payment service that Defendant sells is neither disclosed to consumers  
13 nor discoverable by the same at the time of purchase.

14 9. When consumers purchase bill payment services from vendors, they reasonably  
15 believe that they will receive services that is of the nature and quality that was advertised and  
16 disclosed at the time they agree to purchase said services.

17 10. Defendant profits from the sale of the bill payment services. Many consumers  
18 would not have purchased or attempted to purchase the services where Defendant would not  
19 notify the consumer if the payment was unsuccessful, or they would have purchased bill  
20 payment services from a competitor.

21 11. In Plaintiff's case, Defendant failed to inform Plaintiff that his payments  
22 submitted, through their services, was unsuccessful, rather only providing to Plaintiff a receipt  
23 as proof of the transaction, than what was originally advertised to Plaintiff at the time he agreed  
24 to purchase bill payment services.

25 12. Defendant conceals the fact that its bill payment services is not going to be of the  
26 nature and quality advertised in order to deceive consumers into purchasing bill payment  
27 services that is different from that which is advertised.

17. On behalf of the class, Plaintiff seeks an injunction requiring Defendant to cease advertising and selling the Class Products in a manner that is deceptive, to disclose the true nature and quality of its services in a conspicuous manner at or prior to the point of sale, and an award of damages to the Class Members, together with costs and reasonable attorneys' fees.

19. This matter is properly brought in the Superior Court of the State of California for the County of Los Angeles, in that Plaintiff purchased the bill payment services from Los Angeles County, and Defendant provided the products to Plaintiff in that location.

20. Plaintiff JEREMIAH ADOLPHUS is a citizen and resident of the State of California, County of Los Angeles.

1           21. Defendant WALMART, INC. is a Delaware corporation and headquartered in  
2 Arkansas.

3           22. Plaintiff is informed and believes, and thereon alleges, that each and all of the  
4 acts and omissions alleged herein were performed by, or is attributable to, Defendant and/or its  
5 employees, agents, and/or third parties acting on its behalf, each acting as the agent for the other,  
6 with legal authority to act on the other's behalf. The acts of any and all of Defendant's  
7 employees, agents, and/or third parties acting on its behalf, were in accordance with, and  
8 represent, the official policy of Defendant.

9           23. The above named Defendant, and its subsidiaries and agents, are collectively  
10 referred to as "Defendants." The true names and capacities of the Defendants sued herein as  
11 DOE DEFENDANTS 1 through 10, inclusive, are currently unknown to Plaintiff, who therefore  
12 sues such Defendants by fictitious names. Each of the Defendants designated herein as a DOE  
13 is legally responsible for the unlawful acts alleged herein. Plaintiff will seek leave of Court to  
14 amend the Complaint to reflect the true names and capacities of the DOE Defendants when such  
15 identities become known.

16           24. Plaintiff is informed and believes, and thereon alleges, that said Defendant is in  
17 some manner intentionally, negligently, or otherwise responsible for the acts, omissions,  
18 occurrences, and transactions of each and all its employees, agents, and/or third parties acting  
19 on its behalf, in proximately causing the damages herein alleged.

20           25. At all relevant times, Defendant ratified each and every act or omission  
21 complained of herein. At all relevant times, Defendant, aided and abetted the acts and omissions  
22 as alleged herein.

23                                   **PLAINTIFF'S FACTS**

24           26. In or around June 2017, Plaintiff purchased Defendant's bill payment services,  
25 in that Plaintiff utilized Defendant as a third party payment system to pay for his monthly  
26 mortgage to his mortgage provider.

27           27. Upon information and belief, Plaintiff would pay to Defendant the sum of money,  
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1 owed for his monthly mortgage, and Defendant would transmit the funds to Plaintiff's mortgage  
2 servicer. Defendant would provide to Plaintiff a receipt for the transaction.

3 28. In reliance on these representations, Plaintiff purchased Defendant's bill  
4 payment service and made payments to his mortgage provider, through Defendant's service,  
5 from July 2017 to October 2017.

6 29. In or around November 2017, Plaintiff was informed that he failed to make four  
7 (4) monthly mortgage payments and his mortgage provider began the process to foreclose his  
8 home.

9 30. Subsequently, Plaintiff learned from Defendant that the 4 payments, which he  
10 utilized Defendant's bill payment services to pay his mortgage provider, were unsuccessful and  
11 Defendant failed to notify Plaintiff of the payment's success.

12 31. As a result of Defendant's failure to notify Plaintiff of the success of the payment  
13 made through their service, Plaintiff has experience economic loss due to the payment of  
14 valuable consideration for the service that he did not receive and the money provided to  
15 Defendant to pay for his mortgage.

16 32. Had Plaintiff known that Defendant's bill payment service would not transfer the  
17 funds to pay for his mortgage, even though provided with the receipt indicating its success and  
18 failing to disclose its failure, Plaintiff would not have purchased Defendant's bill payment  
19 service.

20 33. Furthermore, Plaintiff did not discover, nor could he have discovered, the true  
21 nature and quality of the bill payment service until after Plaintiff had purchased the service.

22 34. In fact, Defendant would not inform Plaintiff whether the payment was  
23 unsuccessful, even though providing a receipt to him indicating the contrary.

24 35. Plaintiff relied on the fact that the bill payment service was being advertised as  
25 being a service, namely that if Plaintiff complied with the terms of the bill payment service,  
26 then Defendant would process his payments when needed, at the time of his payments. Plaintiff  
27 was never informed, in writing, orally, or in any conspicuous manner, that his payments did not  
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1 process.

2 36. When using Defendant's bill payment service, Defendant informed Plaintiff that  
3 his funds would transfer if he would comply with the bill payment service's terms and  
4 conditions. Plaintiff relied on Defendant's statements about the nature and quality of the bill  
5 payment service in deciding to transfer funds to his mortgage provider. Plaintiff felt assured by  
6 Defendant that the bill payment service would be as represented by Defendant, namely that if  
7 Plaintiff completed the regular payments, then funds would transfer as needed. Plaintiff would  
8 not have agreed to purchase Defendant's bill payment service if he had known that Defendant's  
9 bill payment service would not transfer funds properly other than what Defendant represented.

10 37. Defendant never informed Plaintiff that the bill payment service would not  
11 transfer funds even though Plaintiff complied with the terms and conditions of the service.

12 38. Knowledge of the true nature and quality of Defendant's bill payment service  
13 would have impacted Plaintiff's decision to purchase said services from Defendant over other  
14 brands or sellers of bill payment services. Plaintiff would have found it important to his purchase  
15 decision to know exactly what he was purchasing, and he believed that he was purchasing bill  
16 payment services where if Plaintiff complied with the terms and conditions, Defendant would  
17 transfer his funds to his mortgage provider.

18 39. Plaintiff felt ripped off and cheated by Defendant for receiving bill payment  
19 service that was different in nature and quality that which Defendant represented. Plaintiff  
20 believes that Defendant will continue its action of not processing customer's bill payments that  
21 deviates significantly from Defendant's representations, namely in the form of telling customers  
22 that if they complied with the terms and conditions of the services, Defendant would process  
23 their bill payments, when it in fact it does not, unless Defendant's practices are halted by way  
24 of an injunction.

25 40. As a result of Defendant's fraudulent practices, described herein, Plaintiff has  
26 suffered emotional distress, wasted time, loss of money, and anxiety.

27 41. Plaintiff alleges on information and belief that it is Defendant's policy and  
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1 practice to misrepresent the true nature and quality of its bill payment services. Plaintiff asserts  
2 that this practice constitutes a fraudulent omission of a material fact relating to the nature and  
3 quality of its products that would be important to a reasonable consumer to know at the time  
4 they purchase Defendant's bill payment services.

5 42. Plaintiff alleges on information and belief that Defendant's policy and practice  
6 is to materially misrepresent the nature and quality of its bill payment service, through said  
7 fraudulent omissions and misrepresentations, to induce consumers to reasonably rely on the said  
8 misrepresentations, in order to induce their purchase of bill payment service from Defendant  
9 over law abiding competitors.

10 43. Defendant has a duty to disclose the true nature and quality of its bill payment  
11 service, including whether its Defendant will not transfer funds even though Plaintiff complied  
12 with the terms and conditions, to consumers prior to the time they agree to purchase the bill  
13 payment service from Defendant. Defendant has a duty to disclose the inconsistencies of these  
14 services because such consistencies would be highly important to a reasonable customer.

15 44. Such sales tactics rely on falsities and have a tendency to mislead and deceive a  
16 reasonable consumer.

17 45. Defendant expressly represented to Plaintiff, through written statements, the true  
18 nature and quality of its products.

19 46. Plaintiff alleges that such representations were part of a common scheme to  
20 mislead consumers and incentivize them to purchase Defendant's bill payment service.

21 47. In purchasing the Class Products, Plaintiff relied upon Defendant's  
22 representations.

23 48. Such representations were clearly false because the true nature and quality of the  
24 bill payment service was different than represented.

25 49. Plaintiff would not have purchased the service if he knew that the above-  
26 referenced statements made by Defendant were false.

27 50. Had Defendant properly marketed, advertised, and represented the Class  
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1 Products, Plaintiff would not have purchased the products.

2 51. Plaintiff agreed to give his money, attention, and time to Defendant because of  
3 the nature and quality of the bill payment service that was advertised. Defendant benefited from  
4 falsely advertising the nature and quality of its bill payment service. Defendant benefited on the  
5 loss to Plaintiff and provided nothing of benefit to Plaintiff in exchange.

6 52. Had Defendant properly marketed, advertised, and represented the Class  
7 Products, no reasonable consumer who purchased or attempted to purchase the bill payment  
8 service would have believed that Defendant would process bill payments after customers  
9 comply with the terms and conditions.

10 53. Defendant's acts and omissions were intentional, and resulted from Defendant's  
11 desire to mislead consumers into purchasing bill payment service that will not transfer funds,  
12 even though Plaintiff and consumers comply with the required terms and conditions.

13 **CLASS ACTION ALLEGATIONS**

14 54. Plaintiff brings this action, on behalf of himself and all others similarly situated,  
15 and thus, seeks class certification under California Code of Civil Procedure § 382.

16 55. The class Plaintiff seeks to represent (the "Class") is defined as follows:

17 All consumers, who, between the applicable statute of limitations  
18 and the present, purchased or attempted to purchase Class  
19 Products, and whose Class Products, namely Defendant's bill  
payment service, would not transfer funds even through the  
jewelry was inspected semi-annually.

20 56. As used herein, the term "Class Members" shall mean and refer to the members  
21 of the Class described above.

22 57. Excluded from the Class is Defendant, its affiliates, employees, agents, and  
23 attorneys, and the Court.

24 58. Plaintiff reserves the right to amend the Class, and to add additional subclasses,  
25 if discovery and further investigation reveals such action is warranted.

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

2             60.   No violations alleged in this complaint are contingent on any individualized  
3     interaction of any kind between Class members and Defendant.

4             61.   Rather, all claims in this matter arise from the identical, false, affirmative  
5     representations of the services, when in fact, such representations were false.

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

- 8             (a)   Whether Defendant engaged in unlawful, unfair, or deceptive business
- 9                 practices in selling Class Products to Plaintiff and other Class Members;
- 10            (b)   Whether Defendant made misrepresentations with respect to the Class
- 11                 Products sold to consumers;
- 12            (c)   Whether Defendant profited from the sale of the wrongly advertised bill
- 13                 payment service;
- 14            (d)   Whether Defendant violated California Bus. & Prof. Code § 17200, *et*
- 15                 *seq.*, California Bus. & Prof. Code § 17500, *et seq.*, and Cal. Civ. C.
- 16                 §1750 *et seq.*;
- 17            (e)   Whether Plaintiff and Class Members are entitled to equitable and/or
- 18                 injunctive relief;
- 19            (f)   Whether Defendant's unlawful, unfair, and/or deceptive practices harmed
- 20                 Plaintiff and Class Members; and
- 21            (g)   The method of calculation and extent of damages for Plaintiff and Class
- 22                 Members.

23             63.   Plaintiff is a member of the Class he seeks to represent

24             64.   The claims of Plaintiff are not only typical of all Class members, they are  
25     identical.

26             65.   All claims of Plaintiff and the Class are based on the exact same legal theories.

27             66.   Plaintiff has no interest antagonistic to, or in conflict with, the Class.

67. Plaintiff is qualified to, and will, fairly and adequately protect the interests of each Class Member, because Plaintiff bought Class Products from Defendant during the Class Period. Defendant's unlawful, unfair and/or fraudulent actions concerns the same business practices described herein irrespective of where they occurred or were experienced. Plaintiff's claims are typical of all Class Members as demonstrated herein.

1 misleading, and deliberately made the aforementioned representations and omissions in order  
2 to deceive reasonable consumers like Plaintiff and other Class Members.

3 75. As a direct and proximate result of Defendant's misleading and false advertising,  
4 Plaintiff and the other Class Members have suffered injury in fact and have lost money or  
5 property, time, and attention. Plaintiff reasonably relied upon Defendant's representations  
6 regarding the Class Products. In reasonable reliance on Defendant's false advertisements,  
7 Plaintiff and other Class Members purchased the Class Products. In turn Plaintiff and other  
8 Class Members ended up with products that were different in ways that put them in danger, and  
9 therefore Plaintiff and other Class Members have suffered injury in fact.

10 76. Plaintiff alleges that these false and misleading representations made by  
11 Defendant constitute a "scheme with the intent not to sell that personal property or those  
12 services, professional or otherwise, so advertised at the price stated therein, or as so advertised."

13 77. Defendant advertised to Plaintiff and other putative class members, through  
14 written representations and omissions made by Defendant and its employees, that the Class  
15 Products would be of a particular nature and quality.

16 78. Thus, Defendant knowingly sold Class Products to Plaintiff and other putative  
17 class members.

18 79. The misleading and false advertising described herein presents a continuing  
19 threat to Plaintiff and the Class Members in that Defendant persists and continues to engage in  
20 these practices, and will not cease doing so unless and until forced to do so by this Court.  
21 Defendant's conduct will continue to cause irreparable injury to consumers unless enjoined or  
22 restrained. Plaintiff is entitled to preliminary and permanent injunctive relief ordering  
23 Defendant to cease its false advertising, as well as disgorgement and restitution to Plaintiff and  
24 all Class Members Defendant's revenues associated with their false advertising, or such portion  
25 of those revenues as the Court may find equitable.



1 **SECOND CAUSE OF ACTION**

2 **Violation of Unfair Business Practices Act**

3 **(Cal. Bus. & Prof. Code §§ 17200 *et seq.*)**

4 80. Plaintiff incorporates by reference each allegation set forth above as fully set  
5 forth herein.

6 81. Actions for relief under the unfair competition law may be based on any business  
7 act or practice that is within the broad definition of the UCL. Such violations of the UCL occur  
8 as a result of unlawful, unfair or fraudulent business acts and practices. A plaintiff is required  
9 to provide evidence of a causal connection between a defendants' business practices and the  
10 alleged harm—that is, evidence that the defendants' conduct caused or was likely to cause  
11 substantial injury. It is insufficient for a plaintiff to show merely that the Defendant's conduct  
12 created a risk of harm. Furthermore, the "act or practice" aspect of the statutory definition of  
13 unfair competition covers any single act of misconduct, as well as ongoing misconduct.

14 **UNFAIR**

15 82. California Business & Professions Code § 17200 prohibits any "unfair . . .  
16 business act or practice." Defendant's acts, omissions, misrepresentations, and practices as  
17 alleged herein also constitute "unfair" business acts and practices within the meaning of the  
18 UCL in that its conduct is substantially injurious to consumers, offends public policy, and is  
19 immoral, unethical, oppressive, and unscrupulous as the gravity of the conduct outweighs any  
20 alleged benefits attributable to such conduct. There were reasonably available alternatives to  
21 further Defendant's legitimate business interests, other than the conduct described herein.  
22 Plaintiff reserves the right to allege further conduct which constitutes other unfair business acts  
23 or practices. Such conduct is ongoing and continues to this date.

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

27 84. Here, Defendant's conduct has caused and continues to cause substantial injury  
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1 to Plaintiff and members of the Class. Plaintiff and members of the Class have suffered injury  
2 in fact due to Defendant's decision to sell them falsely described Class Products. Thus,  
3 Defendant's conduct has caused substantial injury to Plaintiff and the members of the Class.

4 85. Moreover, Defendant's conduct as alleged herein solely benefits Defendant  
5 while providing no benefit of any kind to any consumer. Such deception utilized by Defendant  
6 convinced Plaintiff and members of the Class that the Class Products were a certain nature and  
7 quality in order to induce them to spend money on said Class Products. In fact, knowing that  
8 Class Products were not of this nature and quality, Defendant unfairly profited from their sale.  
9 Thus, the injury suffered by Plaintiff and the members of the Class is not outweighed by any  
10 countervailing benefits to consumers.

11 86. Finally, the injury suffered by Plaintiff and members of the Class is not an injury  
12 that these consumers could reasonably have avoided. After Defendant falsely represented the  
13 Class Products, Plaintiff and class members suffered injury in fact due to Defendant's sale of  
14 Class Products to them. Defendant failed to take reasonable steps to inform Plaintiff and class  
15 members that the Class Products were not advertised as having the nature and quality that they  
16 in fact have. As such, Defendant took advantage of Defendant's position of perceived power in  
17 order to deceive Plaintiff and the Class members to purchase a bill payment service where  
18 Defendant would not transfer funds even though Plaintiff complied with the terms and  
19 conditions. Therefore, the injury suffered by Plaintiff and members of the Class is not an injury  
20 which these consumers could reasonably have avoided.

21 87. Thus, Defendant's conduct has violated the "unfair" prong of California Business  
22 & Professions Code § 17200.

### 23 FRAUDULENT

24 88. California Business & Professions Code § 17200 prohibits any "fraudulent ...  
25 business act or practice." In order to prevail under the "fraudulent" prong of the UCL, a  
26 consumer must allege that the fraudulent business practice was likely to deceive members of  
27 the public.  
28

1           89. The test for “fraud” as contemplated by California Business and Professions  
2 Code § 17200 is whether the public is likely to be deceived. Unlike common law fraud, a §  
3 17200 violation can be established even if no one was actually deceived, relied upon the  
4 fraudulent practice, or sustained any damage.

5           90. Here, not only were Plaintiff and the Class members likely to be deceived, but  
6 these consumers were actually deceived by Defendant. Such deception is evidenced by the fact  
7 that Plaintiff agreed to purchase Class Products under the basic assumption that Defendant  
8 would repair the jewelry if Plaintiff would comply with semi-annual inspections, when in fact  
9 they would not, rather, they refused to repair Plaintiff’s jewelry, even though he complied with  
10 the semi-annual inspections. Plaintiff’s reliance upon Defendant’s deceptive statements is  
11 reasonable due to the unequal bargaining powers of Defendant and Plaintiff. For the same  
12 reason, it is likely that Defendant’s fraudulent business practice would deceive other members  
13 of the public.

14           91. As explained above, Defendant deceived Plaintiff and other Class Members by  
15 representing the Class Products as being a certain nature and quality when in reality they were  
16 a significantly different, and thus falsely represented the Class Products.

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

19 **UNLAWFUL**

20           93. California Business and Professions Code Section 17200, et seq. prohibits “any  
21 unlawful...business act or practice.”

22           94. As explained above, Defendant deceived Plaintiff and other Class Members by  
23 representing the Class Products as being of a nature and quality different from what they actually  
24 were.

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

4 96. This practice of making these representations by Defendant is therefore an  
 5 "unlawful" business practice or act under Business and Professions Code Section 17200 *et seq.*

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

### 12 **THIRD CAUSE OF ACTION**

#### 13 **Violation of Consumer Legal Remedies Act**

14 **(Cal. Civ. Code §§ 1770 *et seq.*)**

15 98. Plaintiff incorporates the foregoing paragraphs as though the same were set forth  
 16 at length herein.

17 99. Defendant's actions as detailed above constitute a violation of the Consumer  
 18 Legal Remedies Act, Cal. Civ. Code §1770 to the extent that Defendant violated the following  
 19 provisions of the CLRA:

- 20 a. Passing off goods or services as those of another; Cal. Civ. Code § 1770(1);
- 21 b. Representing that goods or services are of a particular standard, quality, or
- 22 grade, or that goods are of a particular style or model, if they are of another;
- 23 Cal. Civ. Code § 1770(7);
- 24 c. Advertising goods or services with intent not to sell them as advertised; Cal.
- 25 Civ. Code §1770(9);
- 26 d. Representing that a transaction confers or involves rights, remedies, or
- 27 obligations which it does not have or involve, or which are prohibited by law;
- 28 Cal. Civ. Code §1770(14); and



- e. Representing that the subject of a transaction has been supplied in accordance with a previous representation when it has not; Cal. Civ. Code §1770(16).

100. On or about April 17, 2019, through his Counsel of record, using certified mail with a return receipt requested, Plaintiff served Defendant with notice of their violations of the CLRA (attached hereto as EXHIBIT A), and asked that Defendant correct, repair, replace or otherwise rectify the goods and services alleged to be in violation of the CLRA; this correspondence advised Defendant that it must take such action within thirty (30) calendar days, and pointed Defendant to the provisions of the CLRA that Plaintiff believes to have been violated by Defendant. Defendant has not replied to this correspondence in a satisfactory manner, and have thereby refused to timely correct, repair, replace or otherwise rectify the issues raised therein.

#### MISCELLANEOUS

101. Plaintiff and Class Members allege that they have fully complied with all contractual and other legal obligations and fully complied with all conditions precedent to bringing this action or that all such obligations or conditions are excused.

#### PRAYER FOR RELIEF

102. Plaintiff, on behalf of herself and the Class, requests the following relief:

- (a) An order certifying the Class and appointing Plaintiff as Representative of the Class;
- (b) An order certifying the undersigned counsel as Class Counsel;
- (c) An order requiring WAL-MART, INC., at its own cost, to notify all Class Members of the unlawful and deceptive conduct herein;
- (d) An order requiring WAL-MART, INC. to engage in corrective advertising regarding the conduct discussed above;
- (e) Actual damages suffered by Plaintiff and Class Members as applicable or full restitution of all funds acquired from Plaintiff and Class Members from the sale of misbranded Class Products during the relevant class

period;

(f) Punitive damages, as allowable, in an amount determined by the Court or jury;

(g) All reasonable and necessary attorneys' fees and costs provided by statute, common law or the Court's inherent power;

(h) Pre- and post-judgment interest; and

(i) All other relief, general or special, legal and equitable, to which Plaintiff and Class Members may be justly entitled as deemed by the Court.

**REQUEST FOR JURY TRIAL**

103. Plaintiff requests a trial by jury as to all claims so triable.

Dated: August 16, 2019

Respectfully submitted,

LAW OFFICES OF TODD M. FRIEDMAN, PC

By: 

TODD M. FRIEDMAN, ESQ.

Attorney for Plaintiff GORDON LOVETTE