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17 **UNITED STATES DISTRICT COURT**

18 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

19 Kiana Horn, on behalf of herself and all
others similarly situated,

20 Plaintiff,

21 vs.

22 NuWave, LLC,

23 Defendant.

CASE NO.

CLASS ACTION

COMPLAINT

DEMAND FOR JURY TRIAL

24
25 Plaintiff Kiana Horn (“Plaintiff” or “Ms. Horn”), on behalf of herself and all
26 others similarly situated, brings this Class Action Complaint against Defendant
27 NuWave, LLC (“NuWave” or “Defendant”) and in support alleges as follows.
28

INTRODUCTION

1
2 1. NuWave, LLC, founded in 1993, is a manufacturer and retailer of
3 kitchen appliances. NuWave’s flagship product is the NuWave Oven, a countertop
4 oven that uses a combination of infrared, conduction, and convection heat to cook
5 food.¹ NuWave claims that its ovens are unique because of their “high-quality plastic
6 dome[s] ... selected for their high durability.”² By NuWave’s own estimation, “over
7 6 million NuWave Ovens have been sold” since the product first launched.³

8 2. NuWave markets and sells two of its four current NuWave Oven models,
9 the NuWave Oven Pro and the NuWave Oven Pro Plus,⁴ with clear plastic domes
10 (“Standard Domes”) that are susceptible to cracking after minimal usage. NuWave
11 also markets and sells two of its four current NuWave Oven models, the NuWave
12 Oven Pro Plus with Power Dome and the NuWave Oven Elite,⁵ with amber-colored
13 plastic domes (“Power Domes”) that, although touted to be an improvement on the
14 Standard Domes, are also susceptible to cracking after minimal usage. NuWave
15 previously marketed and sold its original NuWave Oven. All models of the ovens
16 currently or previously sold are referred to herein as “NuWave Oven” or “Ovens.”
17 Both the Standard Domes and Power Domes are collectively referred to as “Domes.”

18 3. Accordingly, NuWave sells a product into the stream of commerce that
19

20 ¹ See *Features*, NuWave,
21 <http://www.nuwaveoven.com/common/NW52T08/features.asp> (last visited July 29,
2019).

22 ² See *Frequently Asked Questions*, NuWave,
23 <http://www.nuwaveoven.com/b239/asp/faq.asp> (last visited July 29, 2019).

24 ³ *About Us*, NuWave, <https://nuwavenow.com/AboutUs> (last visited July 29, 2019).

25 ⁴ See *Current NuWave Models*, NuWave,
<http://www.nuwaveoven.com/common/NW52T08/features.asp> (last visited July 29,
2019).

26 ⁵ See *Current NuWave Models*, NuWave,
27 <http://www.nuwaveoven.com/common/NW52T08/features.asp> (last visited Aug. 14,
2019).

28 (footnote continued)

1 does not perform as promised and suffers from a uniform defect.

2 4. Notably, this defect is the subject of hundreds of online complaints,
3 many of which NuWave has publicly responded to.⁶ Yet despite NuWave's
4 knowledge of the defect, it continues to falsely advertise the Ovens as being "high-
5 quality,"⁷ "dishwasher safe,"⁸ and "durable [and] shatter resistant."⁹

6 5. These marketing representations constitute express warranties, as does
7 the following statement in the owner's manual NuWave provides to each purchaser of
8 the Ovens:

9 **The infrared cooking system including** power head, **dome**, cooking
10 rack, liner pan, base, and all electrical components **are to be free from**
11 **defects and [sic] workmanship** under normal household use, when

13 ⁶ See, e.g., *NuWave Oven Reviews and Complaints*, Pissed Consumer,
14 <https://nuwave-oven.pissedconsumer.com/nuwave-oven-nuwave-dome-review-from-orlando-florida-20150617652076.html>; <https://nuwave-oven.pissedconsumer.com/nuwave-oven-dome-20150914699410.html>;
15 <https://nuwave-oven.pissedconsumer.com/nuwave-oven-nuwave-dome-review-from-bellevue-washington-20150414621901.html>; <https://nuwave-oven.pissedconsumer.com/nuwave-oven-nuwave-dome-review-from-port-lincoln-south-australia-20150627656993.html>; <https://nuwave-oven.pissedconsumer.com/nuwave-dome-issues-and-nuwave-wants-me-to-pay-65-dollars-for-a-new-improved-dome-20150612649201.html> (all last visited July 29,
20 2019).

21 ⁷ See *Frequently Asked Questions*, NuWave,
22 <http://www.nuwaveoven.com/b239/asp/faq.asp> (last visited last visited July 29,
2019).

23 ⁸ *Id.*

24 ⁹ See *NuWave Oven Product Pages*, Bed Bath and Beyond,
25 <https://www.bedbathandbeyond.com/store/product/nuwave-oven-pro-in-black/1043094011?Keyword=nuwave+oven+pro>; J.C. Penny,
26 <https://www.jcpenny.com/p/nuwave-oven-pro-20631/pp5005430969?pTplType=regular>; Walmart,
27 <https://www.walmart.com/ip/NuWave-20634-Oven-Pro-Plus-Red/338006618> (all
last visited last visited July 29, 2019).

28 (footnote continued)

1 operated in accordance with the Manufacturer’s written instructions
2 provided with each unit for one (1) year from date of purchase.¹⁰

3 6. By selling its Ovens with a known defect that causes them to crack in
4 less than a year, NuWave violates these express warranties.

5 7. NuWave also fails to live up to its promises when the defect manifests
6 itself. NuWave specifically warrants that it will provide replacement parts or repairs
7 for its Ovens within the one-year warranty period:

8 The NuWave Oven is covered for a full one (1) year under normal use.
9 NuWave, LLC will provide the necessary parts and labor to repair or
10 replace the NuWave Oven during this time.¹¹

11 However, this offer is illusory. The Standard Dome is frequently out of stock, and
12 even when it is in stock, consumers must pay shipping and handling costs almost
13 equivalent to the price of the product in order to obtain one.

14 8. In fact, instead of providing consumers with free, non-defective
15 replacements for their cracked and unusable Standard Domes, NuWave has a standard
16 practice of manipulating consumers into paying to upgrade to NuWave’s newer, more
17 expensive Power Dome, an amber-colored dome which is advertised as being
18 “virtually indestructible.”¹² NuWave specifically tells consumers who complain about
19

20 ¹⁰ *NuWave Pro Plus Infrared Oven Manual & Complete Cookbook*, QVC,
21 http://www.qvc.com/footers/cd/pdf/K45095_NuWavePro_Manual.pdf (last visited
last visited July 29, 2019) (emphasis added).

22 ¹¹ *NuWave Oven Terms and Conditions*, NuWave
23 https://www.nuwaveoven.com/resource/html/terms_condition.asp (last visited July
29, 2019). NuWave sometimes touts a three-year warranty on its Power Domes.

24 ¹² The Power Dome currently retails for \$48.90 on NuWave’s website (\$34.95 plus
25 approximately \$13.95 shipping and handling). Some consumers have reported that
26 the company has offered to send them the new dome for a “warranty price” of
27 \$20.00 plus shipping and handling. In any event, consumers should not have to pay
anything to replace their domes because of a defect NuWave promised it would
remedy.

28 (footnote continued)

1 the defective Standard Domes that they should pay extra to upgrade to the Power
2 Dome in order to avoid future issues.¹³ Notably, despite the company’s claims that
3 the Power Dome is “shatter-resistant” and “uses similar technology applied in the
4 manufacturing of jumbo jet windshields and NASA spaceships,”¹⁴ it is also
5 susceptible to cracking.¹⁵

6 9. Consumers who, despite NuWave’s unfair and deceptive tactics
7 described above, are able to obtain a replacement Standard Dome or Power Dome
8 find that it suffers from the same defect as the one they originally purchased. Many
9 consumers have gone through the trouble of replacing their defective Domes multiple
10 times, only to experience the same cracking each time.

11 10. Plaintiff and consumers like her have all experienced the same defect—
12 failure of the Domes via cracking or shattering—after using the Ovens as directed.
13 Despite numerous consumer complaints, however, NuWave has not publicly
14 acknowledged the defect or attempted to fix it. Further, consumers cannot take
15 advantage of NuWave’s one-year warranty as detailed herein.

16 11. NuWave continues to promote and market its faulty Ovens and continues
17

18 ¹³ See, e.g., *NuWave Oven Consumer Complaint*, Pissed Consumer [https://nuwave-](https://nuwave-oven.pissedconsumer.com/nuwave-oven-dome-20150914699410.html)
19 [oven.pissedconsumer.com/nuwave-oven-dome-20150914699410.html](https://nuwave-oven.pissedconsumer.com/nuwave-oven-dome-20150914699410.html) (last visited
20 Apr. 30, 2018) (in response to a consumer complaint regarding a cracked oven
21 dome, Jessica C., a verified NuWave representative writes: “Nuwave continues to
22 strive to update and refine our products to be more modern and efficient. That being
23 said we do now offer our new Power Dome ... The virtually- indestructible Power
24 Dome is built to withstand extreme temperatures ... the Power Dome uses similar
25 technology applied in the manufacturing of jumbo jet windshields and NASA
26 spaceships.”).

24 ¹⁴ *Id.*

25 ¹⁵ See, e.g., *NuWave Oven Consumer Complaints and Reviews*, Pissed Consumer
26 [https://nuwave-](https://nuwave-oven.pissedconsumer.com/power-dome-20130330396828.html)
27 [oven.pissedconsumer.com/power-dome-20130330396828.html](https://nuwave-oven.pissedconsumer.com/power-dome-20130330396828.html);
28 [https://nuwave-oven.pissedconsumer.com/elite-model-w-super-dome-cracked-after-](https://nuwave-oven.pissedconsumer.com/elite-model-w-super-dome-cracked-after-only-11-mos-despite-3-yr-warranty-20140918536002.html)
[only-11-mos-despite-3-yr-warranty-20140918536002.html](https://nuwave-oven.pissedconsumer.com/elite-model-w-super-dome-cracked-after-only-11-mos-despite-3-yr-warranty-20140918536002.html) (last visited July 29,
2019).

(footnote continued)

1 to profit handsomely from their sale, as well as from the sale of its Power Domes,
2 which consumers are urged to buy when their Standard Domes fail, or they complain
3 about the defect. NuWave’s conduct is deceptive and harmful to consumers.

4 12. The Domes are a material feature of the Ovens. Without intact domes,
5 the ovens are essentially worthless. Not only are ovens with cracked Domes incapable
6 of properly retaining heat, they are also not safe to use. Specifically, the cracked
7 Domes may emit heat, steam, or hot oil that can cause burns or other injuries. The
8 cracked Domes also pose a fire hazard. Indeed, the first page of the NuWave Oven
9 Pro Plus owner’s manual instructs consumers to “never operate this appliance if it has
10 ... [been] damaged.”¹⁶

11 13. Reasonable consumers expect that the Ovens, which retail for up to
12 \$150.80 on NuWave’s website,¹⁷ will continue to be functional and safe after minimal
13 use. And reasonable consumers, including Plaintiff, would not have purchased the
14 Ovens, or would have paid less for them, had they known the ovens suffer from a
15 defect that causes their domes to crack.

16 14. As a result of the defect in the Ovens, which is well-documented and
17 known to Defendant, Plaintiff and the proposed class have suffered damages.

18 **JURISDICTION AND VENUE**

19 15. This Court has original jurisdiction over this civil action under 28 U.S.C.
20 § 1332(d) because this action is a class action filed under Rule 23 of the Federal Rules
21 of Civil Procedure, the amount in controversy exceeds \$5,000,000 exclusive of
22 interest and costs, and there are members of the class who are citizens of a different
23 state than the Defendant NuWave.

24 16. This Court has personal jurisdiction over Defendant for reasons

25 _____
26 ¹⁶ *NuWave Pro Plus Infrared Oven Manual & Complete Cookbook*, QVC,
27 http://www.qvc.com/footers/cd/pdf/K45095_NuWavePro_Manual.pdf (last visited
28 July 29, 2019).

¹⁷ \$119.85 plus approximately \$30.95 shipping and handling.

1 including but not limited to the following: Plaintiff's claims against NuWave arise
2 out of its conduct within the State of California, including its dissemination within the
3 State of California of false and misleading representations, including but not limited
4 to its claims that the Ovens are "high-quality" and "durable [and] shatter resistant"
5 when, in fact, they are not.

6 17. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because a
7 substantial part of the events or omissions giving rise to the claims asserted herein
8 occurred in this district.

9 **PARTIES**

10 18. Plaintiff Kiana Horn is a citizen of California who resides in Lancaster,
11 California.

12 19. Defendant NuWave, LLC, is an Illinois limited liability company with
13 its headquarters and principal place of business in Libertyville, Illinois. NuWave
14 designs, manufactures, and markets a range of kitchen appliances, including various
15 models of the NuWave Oven, the NuWave Precision Induction Cooktop, the NuWave
16 Brio Digital Air Fryer, and the NuWave Nutri-Pot Digital Pressure Cooker. NuWave
17 sells its products globally through its website, as well as through various retailers,
18 including Walmart, Macy's, Kohl's, Bed Bath and Beyond, Home Depot, Sears, Best
19 Buy, and Target.

20 **CLASS ACTION ALLEGATIONS**

21 20. Plaintiff brings this action on behalf of herself and the members of a class
22 comprised of:

23 All persons residing in the State of California who purchased the
24 NuWave Standard Dome and/or Power Dome and/or any NuWave
25 Oven Model containing the Standard Dome or Power Dome, including
26 the NuWave Oven, NuWave Oven Pro, NuWave Oven Pro Plus,
27 NuWave Oven Pro Plus with Power Dome, and NuWave Oven Elite
28

1 primarily for personal, family or household purposes, and not for resale
2 (the “Class”).

3 21. The questions here are ones of common or general interest such that there
4 is a well-defined community of interest among the class members. These questions
5 predominate over questions that may affect only individual class members because
6 NuWave has acted on grounds generally applicable to the class with respect to its
7 Ovens and Standard Domes, and Power Domes (“the Products”). Such common legal
8 or factual questions include, but are not limited to:

- 9 a. Whether the Products are defective;
- 10 b. Whether the Products are defectively designed and/or
11 manufactured;
- 12 c. Whether Defendant knew or reasonably should have known about
13 the defects prior to distributing the Products to Plaintiff and the
14 Class;
- 15 d. Whether Defendant concealed from and/or failed to disclose to
16 Plaintiff and the Class the problems with the Products;
- 17 e. Whether Defendant knew or reasonably should have known about
18 the defects after distributing the Products to Plaintiff and the
19 Class;
- 20 f. Whether Defendant breached express warranties relating to the
21 Products;
- 22 g. Whether Defendant breached implied warranties relating to the
23 Products;
- 24 h. Whether Defendant was unjustly enriched by receiving moneys in
25 exchange for Products that were defective;
- 26 i. Whether Defendant should be ordered to disgorge all or part of the
27 ill-gotten profits it received from the sale of the defective Products;
- 28 j. Whether Plaintiff and the class are entitled to damages, including

1 compensatory, exemplary, and statutory damages, and the amount
2 of such damages;

3 k. Whether Defendant should be enjoined from selling and
4 marketing its defective Products; and

5 l. Whether Defendant engaged in unfair, unconscionable, or
6 deceptive trade practices by selling and/or marketing the defective
7 Products.

8 22. Members of the Class are so numerous that joinder is impracticable.
9 While the exact number of class members is unknown to Plaintiff, it is believed that
10 each comprises thousands of members geographically disbursed throughout the
11 United States.

12 23. It is impracticable to bring class members' individual claims before the
13 Court. Class treatment permits a large number of similarly situated persons or entities
14 to prosecute their common claims in a single forum simultaneously, efficiently, and
15 without the unnecessary duplication of evidence, effort, expense, or the possibility of
16 inconsistent or contradictory judgments that numerous individual actions would
17 engender. The benefits of the class mechanism, including providing injured persons
18 or entities with a method for obtaining redress on claims that might not be practicable
19 to pursue individually, substantially outweigh any difficulties that may arise in the
20 management of this class action.

21 24. Plaintiff's claims are typical of the members of the Class as all class
22 members are similarly affected by NuWave's actionable conduct. Plaintiff and all
23 members of the Class purchased the Products when they contained a common defect
24 that makes them worthless. In addition, NuWave's conduct that gave rise to the claims
25 of Plaintiff and class members (i.e., delivering defective Ovens and Domes, making
26 false claims with respect to the Ovens and Domes, and breaching warranties
27 respecting the Ovens and Domes) is the same for all members of the class.

28 25. Plaintiff will fairly and adequately protect the interests of the members

1 of the Class because she has no interests antagonistic to, or in conflict with, the
2 consumers that she seeks to represent. Furthermore, Plaintiff has retained counsel
3 experienced and competent in the prosecution of complex class action litigation.

4 26. Plaintiff knows of no difficulty to be encountered in this action that
5 would preclude its maintenance as a class action.

6 27. Defendant has acted or refused to act on grounds generally applicable to
7 the class, thereby making final injunctive relief or corresponding declaratory relief
8 with respect to the class as a whole appropriate

9 **FACTUAL BACKGROUND AND GENERAL ALLEGATIONS**

10 **A. NuWave's Deceptive and Misleading Marketing of Its Ovens and Domes**

11 28. NuWave first introduced its line of signature countertop ovens in 2002.¹⁸
12 Since then, the company has spent millions of dollars on marketing the ovens,
13 including through a series of infomercials which “have dominated the media for over
14 15 years.”¹⁹ In these infomercials, NuWave boasts that its ovens are “the number one
15 infrared cooking device[s] in the world” and claims they are able to cook food “up to
16 50% faster than a conventional oven, while using up to 85% less energy.” NuWave’s
17 aggressive marketing campaign has been enormously effective. The company claims
18 that “over 6 million NuWave Ovens have been sold since its launch.”²⁰

19 29. NuWave specifically states in its infomercials that the Ovens are “safe
20 for the consumer,”²¹ and claims on its website that the Standard Domes on the Ovens

21 _____
22 ¹⁸ *NuWave Oven: 20 Years of Continuous Innovation and Growing*, NuWave,
23 https://nuwavenow.com/Timeline?ref_version=DIRECT (last visited July 29, 2019).

24 ¹⁹ *NuWave Oven Infomercial Archive*, NuWave,
25 https://nuwavenow.com/Infomercial?ref_version=DIRECT (last visited July 29,
2019).

26 ²⁰ *About Us*, NuWave, <https://nuwavenow.com/AboutUs> (last visited July 29, 2019).

27 ²¹ *See NuWave Oven Infomercial*, YouTube,
28 https://www.youtube.com/watch?v=nSPduK_iMhU at 4:00 P.M. (last visited July
29, 2019).

(footnote continued)

1 are “high-quality,”²² “dishwasher safe,”²³ and “selected for their high durability.”²⁴ In
2 fact, several versions of the boxes for the Pro Model Ovens have referred to the
3 Standard Domes as “lightweight [and] durable” and made of “highly durable
4 polycarbonate,” as shown below.²⁵



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14 30. Furthermore, several retailers that sell the Ovens, including Bed Bath
15 and Beyond, J.C. Penny, and Walmart, relying on information supplied and approved
16 by NuWave, currently advertise them as having “[d]urable, shatter resistant
17 polycarbonate dome[s].”²⁶

18 31. However, a virtually unending stream of consumer complaints contradict
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20 ²² *Frequently Asked Questions*, NuWave,
21 <http://www.nuwaveoven.com/b239/asp/faq.asp> (last visited July 29, 2019).

22 ²³ *Id.*

23 ²⁴ *Id.*

24 ²⁵ Arrows inserted.

25 ²⁶ *See NuWave Oven Product Pages*, Bed Bath and Beyond,
26 [https://www.bedbathandbeyond.com/store/product/nuwave-oven-pro-in-](https://www.bedbathandbeyond.com/store/product/nuwave-oven-pro-in-black/1043094011?Keyword=nuwave+oven+pro)
27 [black/1043094011?Keyword=nuwave oven pro](https://www.jcpenny.com/p/nuwave-oven-pro-20631/pp5005430969?pTplType=regular); J.C. Penny,
28 [https://www.jcpenny.com/p/nuwave-oven-pro-](https://www.jcpenny.com/p/nuwave-oven-pro-20631/pp5005430969?pTplType=regular)
[20631/pp5005430969?pTplType=regular](https://www.walmart.com/ip/NuWave-20634-Oven-Pro-Plus-Red/338006618); Walmart,
<https://www.walmart.com/ip/NuWave-20634-Oven-Pro-Plus-Red/338006618> (all
last visited July 29, 2019).

(footnote continued)

1 NuWave's representations about the quality and durability of its Ovens:

2 I was cooking something on my nuwave and **the dome cracked** ... I
3 payed [sic] to [sic] much MONEY for this to happen. **They said it was**
4 **durable.**²⁷

5 * * *

6 **Dome cracked** in several places ... **the add [sic] said it was**
7 **indestructible!** Now, I find out, this is typical!²⁸

8
9 ... the plastic dome always ends up cracking also the **commercial**
10 **states it is dishwasher safe.**²⁹

11 * * *

12 **Cracked. Said was durable.** Misrepresented. I shouldn' [sic] pay for
13 defected [sic] product³⁰

14 * * *

15 Nuwave advertises the dome is durable. Misrepresented.³¹

16 * * *

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19 ²⁷ *NuWave Oven Consumer Complaint, Pissed Consumer, <https://nuwave-oven.pissedconsumer.com/4/RT-P.html> (last visited July 29, 2019).*

20 ²⁸ *NuWave Oven Consumer Complaint, Pissed Consumer, <https://nuwave-oven.pissedconsumer.com/dome-cracked-in-several-places-201712231154747.html> (last visited July 29, 2019).*

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22 ²⁹ *NuWave Oven Consumer Complaint, Pissed Consumer, <https://nuwave-oven.pissedconsumer.com/the-nuwave-oven-is-amazing-however-201706051056749.html> (last visited July 29, 2019).*

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24 ³⁰ *NuWave Oven Consumer Complaint, Pissed Consumer, <https://nuwave-oven.pissedconsumer.com/nuwave-oven-oven-food-dome-review-201702201010995.html> (last visited July 29, 2019).*

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26 ³¹ *NuWave Oven Consumer Complaint, Pissed Consumer, <https://nuwave-oven.pissedconsumer.com/nuwave-oven-oven-food-dome-review-201702191010920.html> (last visited July 29, 2019).*

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28 (footnote continued)

1 I had my unit 6 months then the dome melted and cracked.³²

2 * * *

3 My dome cracked ... I have taken very good care of it, hand wash only,
4 and it sits on the counter so it's not moved to and from places.³³

5 32. Many consumers have reported that they have gone through multiple
6 domes only to experience the exact same defect every time—after minimal use, the
7 dome cracks:

8 Since I have purchased my nuwave oven **I had to buy the plastic dome**
9 **4 times** because it keeps cracking.³⁴

10 * * *

11 While in use at normal use the dome cracked and the crack continued
12 to grow. **This is the second dome to crack.** I will not purchase another
13 Nu- Wave Oven.³⁵

14 * * *

15 **I have 3 nu waves and love the oven, but the domes keep cracking.**
16 I bought 2 ovens last year at the same time and the first dome broke
17 within a couple months. And a few months later the 2nd one broke.³⁶

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19 ³² *NuWave Oven Consumer Complaint, Pissed Consumer, [https://nuwave-](https://nuwave-oven.pissedconsumer.com/faulty-dome-201803231217172.html)*
20 *oven.pissedconsumer.com/faulty-dome-201803231217172.html* (last visited July 29,
21 2019).

22 ³³ *NuWave Oven Consumer Complaint, Pissed Consumer, [https://nuwave-](https://nuwave-oven.pissedconsumer.com/dome-cracked-and-warped-201801161170327.html)*
23 *oven.pissedconsumer.com/dome-cracked-and-warped-201801161170327.html*
(last visited July 29, 2019).

24 ³⁴ *NuWave Oven Consumer Complaint, Pissed Consumer, [https://nuwave-](https://nuwave-oven.pissedconsumer.com/sick-and-tired-of-have-to-spend-money-each-time-my-nuwave-plastic-dome-cracks-201704111032919.html)*
25 *oven.pissedconsumer.com/sick-and-tired-of-have-to-spend-money-each-time-my-*
nuwave-plastic-dome-cracks-201704111032919.html (last visited July 29, 2019).

26 ³⁵ *NuWave Oven Consumer Complaint, Pissed Consumer, [https://nuwave-](https://nuwave-oven.pissedconsumer.com/nuwave-oven-oven-review-201704041029941.html)*
27 *oven.pissedconsumer.com/nuwave-oven-oven-review-201704041029941.html* (last
visited July 29, 2019).

28 ³⁶ *NuWave Oven Consumer Complaint, Pissed Consumer, <https://nuwave->*
(footnote continued)

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* * *

Not only did the original [sic] dome crack after 9 months but I then purchased another one at full price. **Now my second dome has broken** in a little less than [sic] a year.³⁷

* * *

Got one for my daughter and she is having the same issues with hers. So that makes 2 NuWave ovens that are not living up to expectations.³⁸

* * *

I have had two of these Nuwave products & **both times the dome has cracked** ... with all the reviews about the same problem occurring why doesn't Nuwave look into this and fix it.³⁹

* * *

I have owned 2 and plastic domes cracked to pieces will not hold up to heat after 10 uses pure junk will never buy again.⁴⁰

* * *

oven.pissedconsumer.com/dome-is-no-good-201802151190771.html (last visited July 29, 2019).

³⁷ *NuWave Oven Consumer Complaint*, Pissed Consumer, <https://nuwave-oven.pissedconsumer.com/defective-dome-horrible-customer-service-201802221195203.html> (last visited July 29, 2019).

³⁸ *NuWave Oven Consumer Complaint*, Pissed Consumer, <https://nuwave-oven.pissedconsumer.com/clear-dome-cracks-and-continues-to-crack-20170112990129.html> (last visited July 29, 2019).

³⁹ *NuWave Oven Consumer Complaint*, Pissed Consumer, <https://nuwave-oven.pissedconsumer.com/cracked-dome-201802051183487.html> (last visited July 29, 2019).

⁴⁰ *NuWave Oven Consumer Complaint*, Pissed Consumer, <https://nuwave-oven.pissedconsumer.com/defective-plastic-dome-201709251105791.html> (last visited July 29, 2019).

(footnote continued)

1 **I have bought three of these things and the domes continue to crack**

2 ... I feel the company should recall and replace all the domes that have
3 cracked for no reason.⁴¹

4 33. Many of the online complaints are accompanied by pictures that show
5 cracking that ranges from bad to catastrophic.⁴²

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21 ⁴¹ *NuWave Oven Consumer Complaint*, Pissed Consumer, <https://nuwave-oven.pissedconsumer.com/dome-keeps-breaking-201707291081099.html> (last
22 visited July 29, 2019).

23 ⁴² The sources of these photographs, in order, are: <https://nuwave-oven.pissedconsumer.com/nuwave-oven-oven-food-dome-review-201702201010995.html>; <https://nuwave-oven.pissedconsumer.com/clear-dome-cracks-and-continues-to-crack-20170112990129.html>; <https://nuwave-oven.pissedconsumer.com/nuwave-oven-oven-review-from-stevensville-maryland-20160222795606.html>; <https://nuwave-oven.pissedconsumer.com/14/RT-P.html>;
24 <https://nuwave-oven.pissedconsumer.com/the-dome-is-cracked-in-several-places-201711291139084.html> (all last visited July 29, 2019).

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21 34. The problem is not only that NuWave sells defective products—and that
22 NuWave misleadingly and deceptively markets those products as “high quality,”
23 “durable,” “safe,” and “shatter resistant” when they are demonstrably not—but also
24 that NuWave attempts to cover up the problem rather than acknowledging or fixing
25 it. Many consumers have complained that, when they have contacted NuWave
26 customer service to try and get a replacement dome, they have been kept in the dark
27 or explicitly misled about the fact that the cracking is a common, known defect
28 associated with the Domes:

1 for the consumer,”⁴⁶ “high-quality,”⁴⁷ and “dishwasher safe,”⁴⁸ and that the Standard
2 Domes on the Ovens are “selected for their high durability,”⁴⁹ “lightweight [and]
3 durable,” and made of “highly durable” and “shatter resistant polycarbonate.”⁵⁰

4 38. In this way, NuWave actively misleads consumers about the true nature
5 the Ovens and their Domes. Reasonable consumers would consider the existence of a
6 cracking defect to be important in determining whether to purchase the Ovens and
7 Domes, given that the Ovens cannot be used with damaged domes.

8 39. NuWave knows, or reasonably should know, that its representations are
9 deceptive, misleading, and unlawful, and intends that consumers rely on them.

10 40. As the direct and proximate result of NuWave’s false, deceptive and/or
11 misleading statements, Plaintiff and members of the putative Class have suffered
12 injury in fact and a loss of money or property through the out-of-pocket costs
13 expended to purchase the Ovens and Domes.

14 **B. NuWave Breaches Its Express Warranties**

15 **i. NuWave Breaches Its Express Warranties Regarding the Quality,**
16 **Durability, and Workmanship of Its Ovens and Domes**

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19 ⁴⁶ See *NuWave Oven Infomercial*, YouTube,
20 https://www.youtube.com/watch?v=nSPduK_iMhU at 1:12 P.M. (last visited July
21 29, 2019).

22 ⁴⁷ See *Frequently Asked Questions*, NuWave,
23 <http://www.nuwaveoven.com/b239/asp/faq.asp> (last visited July 29, 2019).

24 ⁴⁸ *Id.*

25 ⁴⁹ *Id.*

26 ⁵⁰ See *NuWave Oven Product Pages*, Bed Bath and Beyond,
27 [https://www.bedbathandbeyond.com/store/product/nuwave-oven-pro-in-](https://www.bedbathandbeyond.com/store/product/nuwave-oven-pro-in-black/1043094011?Keyword=nuwave+oven+pro)
28 [black/1043094011?Keyword=nuwave oven pro](https://www.jcpenny.com/p/nuwave-oven-pro-20631/pp5005430969?pTplType=regular); J.C. Penny,
[https://www.jcpenny.com/p/nuwave-oven-pro-](https://www.jcpenny.com/p/nuwave-oven-pro-20631/pp5005430969?pTplType=regular)
[20631/pp5005430969?pTplType=regular](https://www.walmart.com/ip/NuWave-20634-Oven-Pro-Plus-Red/338006618); Walmart,
<https://www.walmart.com/ip/NuWave-20634-Oven-Pro-Plus-Red/338006618>
(all last visited July 29, 2019).

(footnote continued)

1 41. By making the representations described above—specifically, that the
2 Ovens are “safe for the consumer,”⁵¹ “high-quality,”⁵² and “dishwasher safe,”⁵³ and
3 that the Domes on the Ovens are “selected for their high durability,”⁵⁴ “lightweight
4 [and] durable,” and made of “highly durable” and “shatter resistant
5 polycarbonate”⁵⁵—NuWave expressly warrants that the Ovens will remain intact and
6 continue to be functional after a reasonable period of use.

7 42. In addition to the express warranties contained in its marketing materials,
8 NuWave provides each purchaser of an Oven with an owner’s manual that contains a
9 warranty stating that the Ovens and their Domes are free from defects:

10 The infrared cooking system including power head, dome, cooking
11 rack, liner pan, base, and all electrical components are to be free from
12 defects and [sic] workmanship under normal household use, when
13 operated in accordance with the Manufacturer’s written instructions
14 provided with each unit for one (1) year from date of purchase.⁵⁶

15 43. Both NuWave’s marketing language and the written warranty contained
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17 ⁵¹ See *NuWave Oven Infomercial*, YouTube,
18 https://www.youtube.com/watch?v=nSPduK_iMhU at 10:15 A.M. (last visited
19 July 30, 2019).

20 ⁵² See *Frequently Asked Questions*, NuWave,
<http://www.nuwaveoven.com/b239/asp/faq.asp> (last visited July 30, 2019).

21 ⁵³ *Id.*

22 ⁵⁴ *Id.*

23 ⁵⁵ See *NuWave Oven Product Pages*, Bed Bath and Beyond,
[https://www.bedbathandbeyond.com/store/product/nuwave-oven-pro-in-black/1043094011?Keyword=nuwave oven pro](https://www.bedbathandbeyond.com/store/product/nuwave-oven-pro-in-black/1043094011?Keyword=nuwave+oven+pro); J.C. Penny,
24 <https://www.jcpenny.com/p/nuwave-oven-pro-20631/pp5005430969?pTplType=regular>; Walmart,
25 <https://www.walmart.com/ip/NuWave-20634-Oven-Pro-Plus-Red/338006618> (all
26 last visited July 29, 2019).

27 ⁵⁶ *NuWave Pro Plus Infrared Oven Manual & Complete Cookbook*, QVC,
28 http://www.qvc.com/footers/cd/pdf/K45095_NuWavePro_Manual.pdf (last visited
July 30, 2019).

1 in the owner's manual form the basis of the bargain for consumers.

2 44. NuWave violates these express written warranties by selling its Pro
3 Model Ovens with a known defect that causes them to crack in less than a year.

4 **ii. NuWave Breaches Its Express Warranty Regarding Consumers'**
5 **Right to Obtain Replacement Parts**

6 45. In addition to violating its express written warranties with respect to the
7 quality and workmanship of its products, NuWave also fails to honor its promise to
8 replace or repair defective parts within the one-year warranty period applicable to the
9 Power Dome and three-year warranty on some Power Domes.

10 46. When consumers attempt to take advantage of this warranty, however,
11 they find that the Standard Dome is not in stock, or if it is, they must pay unreasonable
12 shipping costs to obtain it:

13 My unit was 7 months old ... **despite still being under "warranty",**
14 **they would not replace it** ... [The customer service representative]
15 first offered me the upgraded "power dome" for \$20 plus \$13.95
16 shipping. When I told them that was unreasonable, I was then told they
17 would lower the shipping to \$9.95, cost of dome is the same.⁵⁷

18 * * *

19 That dome cracked into 3 pieces. I called New Wave, and i was told
20 that **if i would only spend \$50.00 more dollars, they would send a**
21 **new one** that has a 3 year warranty. Why would i want to spend an
22 additional \$50.00 for something that will not last more than 3 years,
23 after paying over \$100.00 for my oven?⁵⁸

24 _____
25 ⁵⁷ *NuWave Oven Consumer Complaint, Pissed Consumer, [https://nuwave-](https://nuwave-oven.pissedconsumer.com/defective-dome-horrible-customer-service-201802221195203.html)*
26 *oven.pissedconsumer.com/defective-dome-horrible-customer-service-*
27 *201802221195203.html* (last visited July 29, 2019).

28 ⁵⁸ *NuWave Oven Consumer Complaint, Pissed Consumer, <https://nuwave->*
(footnote continued)

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New wave want to charge you to replace it ... they claim to have one is stronger on newer models that last longer, still plastic. But that leave us still with no good replacement for those that have the old models.⁵⁹

* * *

Original oven dome cracked, two long sweeping cracks ... **No replacements available.** Like an unsuspecting consumer I assumed the fault was mine and purchased the power pro plus.”⁶⁰

* * *

I have now purchased 4 nu wave ovens. Every Dome cracks within the first couple of months in use ... **The company refuses to replace the plastic domes and when customers to buy new ones each time ...The domes are never in stock** from the 1st nuwave I purchased to the 4 one that is now broken.⁶¹

* * *

I change 2 times my dome and payed [sic] for the shipping and still cracked in 1 week. Now they are asking me to pay another \$20 to send

oven.pissedconsumer.com/nuwave-double-dipping-201707141074161.html (last visited July 29, 2019).

⁵⁹ *NuWave Oven Consumer Complaint*, Pissed Consumer, <https://nuwave-oven.pissedconsumer.com/dome-new-wave-oven-201709071097525.html> (last visited July 29, 2019).

⁶⁰ *NuWave Oven Consumer Complaint*, Pissed Consumer, <https://nuwave-oven.pissedconsumer.com/nuwave-oven-oven-review-201703121020003.html> (last visited July 29, 2019).

⁶¹ *NuWave Oven Consumer Complaint*, Pissed Consumer, <https://nuwave-oven.pissedconsumer.com/nu-wave-dome-issues-20170126997904.html> (last visited July 29, 2019).

(footnote continued)

1 me a [sic] upgrade dome because **they don't have anymore the clear**
2 **one**. They are a scam don't buy it and don't trust them.⁶²

3 47. In addition to confirming that NuWave makes it impossible or
4 unreasonably costly for consumers to obtain replacement Standard Domes, these
5 complaints also reveal a troubling pattern. Specifically, they demonstrate that when
6 consumers complain about their cracked Standard Domes, NuWave has a standard
7 practice of failing and/or refusing to offer a replacement, and instead pressuring them
8 to pay to upgrade to NuWave's newer, more expensive Power Dome.

9 48. On the consumer complaint website, www.pissedconsumer.com, almost
10 all of NuWave's responses to consumer complaints about cracked domes contain the
11 following language, which urges consumers to upgrade to the Power Dome:

12 Dear Nuwave Oven Customer,
13 Thank you for your honest feedback. Nuwave sincerely apologizes for
14 the issues you are having with your Nuwave dome ... Nuwave
15 continues to strive to update and refine our products to be more modern
16 and efficient. That being said, we do now offer our new Power Dome
17 ... The virtually- indestructible Power Dome is built to withstand
18 extreme temperatures. Made from polyphenylsulfone (PPSU), a
19 material which delivers superior impact resistance while remaining
20 BPA-free, the Power Dome uses similar technology applied in the
21 manufacturing of jumbo jet windshields and NASA spaceships. In fact,
22 the Power Dome is so strong, it's backed by a 3- year warranty.⁶³

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24 ⁶² *NuWave Oven Consumer Complaint*, Pissed Consumer, [https://nuwave-](https://nuwave-oven.pissedconsumer.com/new-wave-oven-20170118993387.html)
25 [oven.pissedconsumer.com/new-wave-oven-20170118993387.html](https://nuwave-oven.pissedconsumer.com/new-wave-oven-20170118993387.html) (last visited
26 July 29, 2019).

27 ⁶³ *NuWave Oven Consumer Complaint*, Pissed Consumer, [https://nuwave-](https://nuwave-oven.pissedconsumer.com/nu-wave-dome-issues-20170126997904.html)
28 [oven.pissedconsumer.com/nu-wave-dome-issues-20170126997904.html](https://nuwave-oven.pissedconsumer.com/nu-wave-dome-issues-20170126997904.html) (last visited
July 29, 2019).

1 This statement confirms what the consumer complaints make clear—that when
2 consumers contact NuWave to complain about the defective Standard Domes, the
3 company tries to extract more money from them by encouraging them to purchase the
4 newer, more expensive, and supposedly stronger Power Dome.

5 49. This “solution” is no solution at all. As one consumer succinctly put it,
6 after receiving the response above:

7 when I called for remediation, your company offered to sell me another
8 part ... I think you are responsible for the poor choice of materials, poor
9 construction, and therefore should upgrade on any all of the products
10 out there in the field with similar problems. I see this as dodging the
11 issue, and surely not a fair solution.⁶⁴

12 **THE EXPERIENCE OF THE NAMED PLAINTIFF**

13 50. Plaintiff Horn purchased a NuWave Pro Oven with Standard Dome for
14 her personal use.

15 51. She made her purchase over the phone directly from NuWave after
16 watching an infomercial on television in the late summer of 2015. Shortly after her
17 purchase, Ms. Horn’s Oven was delivered to her home in Lancaster, California.

18 52. In less than one year after her purchase, Plaintiff Horn’s Standard Dome
19 cracked, rendering the Oven unusable.

20 53. Shortly after her Standard Dome cracked, she contacted NuWave to ask
21 NuWave to honor its warranty. Instead of doing so, NuWave attempted to sell her a
22 “new and improved dome,” which Ms. Horn flatly refused. She was and remains
23 unwilling to “upgrade” her dome at additional cost because she believes it is unfair
24

25 ⁶⁴ *NuWave Oven Consumer Complaint, Pissed Consumer*, [https://nuwave-
26 oven.pissedconsumer.com/nuwave-sidesteps-responsibility-for-shabby-
27 workmanship-design-but-offers-to-sell-you-replacement-parts-to-remedy-the-
28 problem-201801231174802.html](https://nuwave-oven.pissedconsumer.com/nuwave-sidesteps-responsibility-for-shabby-workmanship-design-but-offers-to-sell-you-replacement-parts-to-remedy-the-problem-201801231174802.html) (last visited July 29, 2019) (emphasis added).

1 for NuWave to require her to expend additional resources to replace her defective
2 dome.

3 54. A few weeks after refusing to come out of pocket for a replacement
4 dome, and due to the fact that NuWave refused to honor its warranty, Plaintiff Horn’s
5 mother purchased a replacement Standard dome directly from NuWave for the sole
6 purpose of replacing Plaintiff Horn’s cracked dome. Plaintiff Horn accepted her
7 mother’s gift and was the exclusive user of the replacement Standard Dome.

8 55. Approximately one year later, the replacement dome cracked rendering
9 it and her oven unusable.

10 56. Prior to her purchase, Ms. Horn saw advertisements for the NuWave
11 OvenPro that claimed it was a high-quality, reliable product. She purchased the oven
12 in reliance upon those promises—believing that the NuWave oven was, in fact,
13 durable and built from high-quality materials and would not prematurely fail. Ms.
14 Horn suffered injury as a result of the purchases of the NuWave Oven Pro and
15 replacement Standard Dome because she was deceived into purchasing them based
16 on Defendant’s representations.

17 57. At no time did Defendant provide Ms. Horn with any warnings
18 concerning the cracking defect associated with its Ovens. Had Plaintiff Horn known
19 of the existence of the defect, she would not have purchased the Oven or replacement
20 Standard Dome or would have paid significantly less for them.

21 58. Additionally, had Plaintiff Horn known the NuWave Ovens were not
22 “high quality,” “durable,” “safe,” or “shatter resistant,” she would not have purchased
23 them or would have paid significantly less for them.

24 59. Plaintiff Horn would purchase NuWave Pro Model Ovens and/or Domes
25 in the future to the extent she could be assured they were not defective.

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FIRST CLAIM FOR RELIEF

Breach of Express Warranty

Cal. Com. Code § 2313

60. Plaintiff incorporates by reference the allegations set forth above.

61. Plaintiff and the members of the Class formed a contract with Defendant at the time they purchased the Products. As part of that contract, Defendant represents that the Products are “high quality,” “durable,” “safe,” and “shatter resistant,” and by providing consumers with owner’s manuals stating that “the infrared cooking system including ... dome ... are to be free from defects and [sic] workmanship under normal household use.”⁶⁵

62. These representations constitute express warranties and became part of the basis of the bargain between Plaintiff and the members of the Class, on the one hand, and Defendant, on the other.

63. Defendant made the above-described representations to induce Plaintiff and the members of the Class to purchase the Products, and Plaintiff and the members of the Class relied on the representations in purchasing the Products.

64. All conditions precedent to Defendant’s liability under the above-referenced contract have been performed by Plaintiff and the other members of the Class.

65. Defendant breached the express warranties about the Products because, as alleged above, the Products are not “high quality,” “durable,” “safe,” and “shatter resistant,” as promised, nor is the “dome ... free from defects and [sic] workmanship under normal household use” as Defendant claims in the owner’s manual.

66. As a result of Defendant’s breaches of express warranty, Plaintiff and

⁶⁵ *NuWave Pro Plus Infrared Oven Manual & Complete Cookbook*, QVC, http://www.qvc.com/footers/cd/pdf/K45095_NuWavePro_Manual.pdf (last visited July 29, 2019).

1 “Advertising goods or services with intent not to sell them as advertised,” Cal. Civ.
2 Code § 1770(a)(9); (b) “Representing that goods or services are of a particular
3 standard, quality, or grade, or that goods are of a particular style or model, if they are
4 of another,” Cal. Civ. Code § 1770(a)(7); and (c) “Representing that a transaction
5 confers or involves rights, remedies, or obligations that it does not have or involve,”
6 Cal. Civ. Code § 1770(a)(14).

7 82. NuWave violated those provisions of the CLRA by selling the Products
8 to Plaintiff and Class members when it knew the Products were defective, rather than
9 of a high quality as it advertised.

10 83. Plaintiff and other members of the Class relied on NuWave’s
11 misrepresentations in deciding whether to purchase the Products.

12 84. As a direct and proximate result of NuWave’s conduct, Plaintiff and
13 other members of the Class were injured.

14 85. Plaintiff is concurrently serving NuWave with a CLRA notification via
15 certified mail, return receipt requested.

16 86. The notice letter sets forth the relevant facts, notifies NuWave of its
17 CLRA violations, and requests that NuWave promptly remedy those violations.

18 87. This cause of action currently only seeks injunctive relief. Plaintiff,
19 individually and on behalf of the Class, will amend this complaint to add damages
20 claims if Defendant does not remedy its violations as to Plaintiff and the members of
21 the Class within 30 days of receipt of Plaintiff’s CLRA notice letter.

22 88. Pursuant to Cal. Civ. Code § 1782(a)(2), Plaintiff, on behalf of herself
23 and members of the Class, demands judgment against Defendant under the CLRA for
24 injunctive and equitable relief only to enjoin the practices described herein. Plaintiff
25 also seeks to recover her and the Class members’ reasonable attorneys’ fees, costs,
26 and litigation expenses incurred.

27 89. Plaintiff, individually and as a member of the Class, has no adequate
28 remedy at law for the future unlawful acts, methods, or practices as set forth above.

1 FAL or violating it in the same fashion in the future as discussed herein. Otherwise,
2 Plaintiff and members of the Class may be irreparably harmed and/or denied an
3 effective and complete remedy if such an order is not granted.

4 **FIFTH CLAIM FOR RELIEF**

5 **Violation of the Unfair Competition Law (“UCL”)**

6 **Cal. Bus. & Prof. Code § 17200 *et seq.***

7 98. Plaintiff re-alleges and incorporates each and every allegation set forth
8 above as if fully written herein.

9 99. Plaintiff brings this claim for violation of the UCL on behalf of the Class.

10 100. The circumstances giving rise to Plaintiff’s and the Class members’
11 allegations include Defendant’s corporate policies regarding the sale and marketing
12 of the Products.

13 101. Under the UCL, “unfair competition” means and includes “any unlawful,
14 unfair or fraudulent business act or practice and unfair, deceptive, untrue or
15 misleading advertising and any act prohibited by” the CLRA or other law. Cal. Bus.
16 & Prof. Code § 17200.

17 102. By engaging in the acts and practices described herein, Defendant
18 commits one or more acts of “unfair competition” as the UCL defines the term.

19 103. Defendant committed, and continues to commit, “unlawful” business
20 acts or practices by violating the CLRA, FAL, and warranty statutes, as described
21 above.

22 104. Defendant committed, and continues to commit, “fraudulent” business
23 acts or practices by selling the Products to Plaintiff and Class members when it knew
24 the Products were defective, rather than of a high quality as it advertised.

25 105. Defendant committed, and continues to commit, “unfair” business acts
26 or practices by, among other things:

27 a. engaging in conduct for which the utility of the conduct, if any, is
28 outweighed by the gravity of the consequences to Plaintiff and the

- 1 members of the Class;
- 2 b. engaging in conduct that is immoral, unethical, oppressive,
- 3 unscrupulous, or substantially injurious to Plaintiff and the
- 4 members of the Class; and
- 5 c. engaging in conduct that undermines or violates the spirit or intent
- 6 of the consumer protection laws that this Complaint invokes.

7 106. Defendant commits unlawful, unfair, and/or fraudulent business acts or

8 practices by, among other things, engaging in conduct Defendant knew or should have

9 known was likely to and does deceive reasonable consumers, including Plaintiff and

10 the Class members.

11 107. As detailed above, Defendant's unlawful, unfair, and/or fraudulent

12 practices include making and distributing Products that are not of "high quality,"

13 "durable," "safe," and "shatter resistant" and by providing consumers with owner's

14 manuals falsely stating the "dome ... are to be free from defects and [sic] workmanship

15 under normal household use."

16 108. Plaintiff and the Class members believed Defendant's representations

17 about the quality and durability of the Products. Plaintiff and the Class members

18 would not purchase the Products, but for Defendant's misleading statements about the

19 Products and had they known they were sold with defective parts.

20 109. Plaintiff and the Class members are injured in fact and lost money as a

21 result of Defendant's conduct of misrepresenting that its Ovens were free of defects.

22 110. Plaintiff and the Class members seek declaratory relief, restitution for

23 monies wrongfully obtained, disgorgement of ill-gotten revenues and/or profits,

24 injunctive relief, and other relief allowable under Cal. Bus. & Prof. Code § 17203,

25 including enjoining Defendant from continuing to engage in its unfair, unlawful,

26 and/or fraudulent conduct alleged herein.

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SIXTH CLAIM FOR RELIEF

Unjust Enrichment/Quasi-Contract

111. Plaintiff re-alleges and incorporates each and every allegation set forth above as if fully written herein.

112. Plaintiff and members of the Class conferred a benefit upon NuWave. Namely, Plaintiff and members of the Class paid money to NuWave, directly and indirectly, for the Ovens.

113. NuWave voluntarily accepted and retained the monetary benefit conferred under circumstances that make it unjust and inequitable for NuWave to retain it without paying Plaintiff and members of the Class the value thereof. Specifically, NuWave retained that benefit even though the Ovens were defective.

114. When purchasing their Ovens, Plaintiff and Class members reasonably believed that the Ovens would perform as advertised and as warranted and would remain intact and continued to work after normal use.

115. Plaintiff and Class members received less than what they paid for in that the Ovens contain a defect that makes their Domes crack, rendering them useless.

116. Plaintiff and the Class conferred a benefit on NuWave by purchasing the Ovens. Had Plaintiff and Class members known about the Ovens' defect—which resulted in the Ovens becoming unusable—they would not have purchased the Ovens or would have paid significantly less for them.

117. NuWave should therefore be required to disgorge all profits, benefits, and other such compensation it obtained through its wrongful conduct.

REQUESTS FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and all others similarly situated, respectfully requests that this Court:

- A. Certify the Class pursuant to Rule 23 of the Federal Rules of Civil Procedure;
- B. Award damages to Plaintiff and the class in an amount to be determined

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at trial;

- C. Grant restitution to Plaintiff and the class and require NuWave to disgorge its ill-gotten gains;
- D. Declare that NuWave violated the consumer protection laws alleged in this Complaint, and permanently enjoin NuWave from engaging in the wrongful and unlawful conduct alleged herein;
- E. Award punitive damages, to the extent permitted by law, in an amount to be determined at trial;
- F. Award Plaintiff and the Class their expenses and costs of suit, including reasonable attorneys' fees to the extent provided by law;
- G. Award Plaintiff and the Class pre-judgment and post-judgment interest at the highest legal rate to the extent provided by law; and
- H. Award all such further relief as the Court deems appropriate.

DEMAND FOR JURY TRIAL

On behalf of herself and the Class, Plaintiff hereby demands trial by jury on all issues in this Complaint that are so triable.

Dated: September 13, 2019

Respectfully submitted,

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