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Trevor Ormond

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE –UNLIMITED CIVIL**

TREVOR ORMOND,
individually and on behalf of all
others similarly situated,

Plaintiff,

v.

GIBSON BRANDS, INC.

Defendant.

Case No.: 30-2021-01212948-CU-BT-CXC

**CLASS ACTION COMPLAINT FOR
DAMAGES AND PUBLIC
INJUNCTIVE RELIEF**

- I. VIOLATION OF THE
SONG-BEVERLY
CONSUMER WARRANTY
ACT;**
- II. VIOLATION OF THE
CONSUMER LEGAL
REMEDIES ACT;**
- III. VIOLATION OF
CALIFORNIA’S UNFAIR
COMPETITION LAW**

JURY TRIAL DEMANDED



1 1. Plaintiff Trevor Ormond (“Plaintiff”), on behalf of himself and all others similarly
2 situated, brings this class action suit against Gibson Brands, Inc. (“Defendant”)
3 for violations of California’s Song Beverly Consumer Warranty Act (“SBA”),
4 *California Civil Code* §§ 1790, *et seq.*; California’s Consumer Legal Remedies
5 Act (“CLRA”), *California Civil Code* §§ 1750, *et seq.*; and California’s Unfair
6 Competition Law (“UCL”), *California Business and Professions Code* §§ 17200,
7 *et seq.*

8 **SUMMARY**

9 2. Defendant is a manufacturer of consumer goods and advertises that its products
10 are sold with express warranties.

11 3. Defendant includes with its product packaging a warranty registration form, and
12 also makes a warranty registration form available online.

13 4. The SBA explicitly requires a manufacturer who chooses to provide a warranty or
14 product registration card or form, or an electronic online warranty or product
15 registration form, to be completed and returned by the consumer, to have the card
16 or form include statements that:

- 17 a. Inform the consumer that the card or form is for product registration; and,
- 18 b. Inform the consumer that failure to complete and return the card or form
19 does not diminish the individual’s warranty rights.

20 5. Defendant intentionally omitted any such statements that are expressly required
21 by the SBA.

22 6. As a result of Defendant’s unlawful and deceitful business practices, Defendant is
23 able to chill warranty claims and benefit economically by duping consumers into
24 thinking they do not have warranty rights unless they fill out the form and provide
25 their personal information to Defendant. Or even worse, consumers actually do
26 not have the warranties that were promised to them when they purchased their
27 products as they must now register their warranties, a requirement that was not
28 disclosed at the time of purchase. Consumers are thus additionally deceived into



1 purchasing products they would not have, had they known they did not actually
2 come with warranties.

3 7. Either scenario results in Defendant benefitting at the consumer's expense.

4 8. Defendant's unlawful and deceptive practices alleged herein violate the SBA, the
5 CLRA, and the UCL.

6 **PARTIES**

7 9. Plaintiff is, and at all times mentioned herein was, an individual residing in the
8 County of Orange, State of California.

9 10. Plaintiff is a purchaser of Defendant's Les Paul Traditional Pro V Mahogany Top
10 Electric Guitar (the "Product").

11 11. Upon information and belief, Defendant is a corporation organized under the laws
12 of Delaware with its headquarters in Nashville, Tennessee that does continuous
13 and substantial business throughout the state of California, including Orange
14 County.

15 12. At all relevant times, Defendant was engaged in the business of marketing,
16 supplying, and selling its products in California, including the Product purchased
17 by Plaintiff, to the public through a system of marketers, retailers and distributors.

18 13. All acts of employees of Defendant as alleged were authorized or ratified by an
19 officer, director, or managing agent of the employer.

20 **JURISDICTION AND VENUE**

21 14. Subject matter jurisdiction is proper in this Court over the California causes of
22 action, and because the amount in controversy is within the jurisdictional limit of
23 this Court.

24 15. This Court has personal jurisdiction over Defendant because Defendant conducts
25 business in the County of Orange, State of California; and, Plaintiff was injured
26 in the County of Orange where Plaintiff resides.

27 16. Venue is proper.
28

FACTUAL ALLEGATIONS

- 1
- 2 17. On or around July 19, 2020, Plaintiff visited the Guitar Center in Lake Forest,
- 3 California, looking to purchase a new guitar.
- 4 18. Plaintiff saw many different guitars from different manufacturers advertised for
- 5 sale at the Guitar Center.
- 6 19. According to the website for Guitar Center, Guitar Center is authorized to provide
- 7 warranty service for various product brands, including Gibson.¹
- 8 20. While viewing the guitars, Plaintiff saw Defendant’s Product, a Les Paul
- 9 Traditional Pro V Mahogany Top Electric Guitar, advertised for sale.
- 10 21. Plaintiff believed that the Product was accompanied by a warranty, as any
- 11 reasonable consumer would for this type of costly piece of musical equipment.
- 12 22. Plaintiff did not see any disclaimers or other information notifying Plaintiff that
- 13 any special steps would be required to enjoy the benefits of a warranty.
- 14 23. Reasonably and personally believing the Product came with a warranty, Plaintiff
- 15 purchased the Product for Plaintiff’s personal use from the Guitar Center for
- 16 approximately \$1,700.
- 17 24. Upon opening the Product’s packaging, Plaintiff discovered a warranty
- 18 registration form titled, “Gibson Gold Warranty” contained within the Product’s
- 19 packaging (*see **Exhibit A*** attached hereto).
- 20 25. Plaintiff was surprised that said form instructed Plaintiff that he was required to
- 21 complete the form (and provide his personal information) in order to receive the
- 22 warranty benefits.
- 23 26. Specifically, the warranty registration form instructed to “[p]lease supply
- 24 requested information, sign and mail within 15 days of purchase to assure
- 25 warranty coverage.”
- 26 27. The form also required Plaintiff to provide his personal information, including
- 27

28 ¹ www.guitarcenter.com/Services/Repairs.gc#gc-repairs-about-repairs, last accessed July 27, 2021.



1 name, address, email address, and telephone number as well as asking extremely
2 pointed demographic and marketing questions.

3 28. This is not what Plaintiff reasonably expected at the time of purchase, nor what
4 Plaintiff bargained for.

5 29. Defendant's warranty registration form did not inform Plaintiff that it was for
6 *product* registration and that failure to complete and return the card did *not*
7 *diminish Plaintiff's warranty rights* as required by *California Civil Code* § 1793.1.

8 30. In addition to providing physical warranty cards in its product's packaging,
9 Defendant also makes warranty registration form available online on its website.

10 31. Specifically, Defendant's website contains a link titled "Warranty Registration &
11 Info."²

12 32. Upon information and belief, in response to Plaintiff's demand for corrective
13 action (dated June 17, 2021) and served pursuant to Cal. Civ. Code § 1782(a) at
14 the place of purchase on June 21, 2021,³ Defendant changed its online registration
15 form at <https://www.gibson.com/Support/Warranty-Registration> to include the
16 phrase: "Failure to register your product purchase will not diminish your warranty
17 rights."

18 33. As of the date of the filing of this Complaint, Defendant's website still contains
19 the label "Warranty-Registration" in the website's URL and on its main webpage.⁴

20 34. Prior to the recent website changes, Defendant's website did not did not inform
21 consumers that the online warranty registration form was for *product* registration
22 and it did not inform consumers that failure to fill-out the online form did *not*
23 *diminish their warranty rights* as required by *California Civil Code* § 1793.1.

24
25
26 ² <https://www.gibson.com/> (last visited July 26, 2021).

27 ³ The pre-litigation demand was also served on Defendant's agent for service on June 22, 2021.

28 ⁴ See *Gibson, Support, Warranty Registration & Info*, <https://www.gibson.com/> (last visited July 26, 2021).

- 1 35. Additionally, prior to the recent website changes, when a consumer clicked the
2 “Warranty Registration & Info” link on Defendant’s website, a consumer was
3 directed to a webpage (<https://www.gibson.com/Support/Warranty-Registration>)
4 with instructions to “Register your Product to activate your Gibson Warranty.”
5 See **Exhibit B** attached hereto.
- 6 36. When a consumer selects a product to register, Defendant’s website requires a
7 consumer to enter his or her name, email address, country, place of purchase, and
8 color or finish of the instrument.
- 9 37. Upon information and belief, Defendant uses the personal information it collects
10 from the online registration form for its own business and marketing purposes and
11 for its own economic benefit.
- 12 38. Upon information and belief, Defendant intends for the warranty registration
13 requirement to have a chilling effect on warranty claims, preventing customers
14 who have not registered, or who choose not to register their warranties from
15 making warranty claims, thereby saving Defendant money in warranty repair and
16 administration costs.
- 17 39. Defendant has no right to access personal customer information through warranty
18 registration for these purposes, by not making the legally mandated disclosures to
19 customers.
- 20 40. Plaintiff would like to purchase additional products from Defendant in the future
21 if he can be assured that a warranty is not contingent on registration and/or
22 providing his personal information. However, as currently disclosed by
23 Defendant, Plaintiff is unable to determine whether a particular product made by
24 Defendant contains a warranty registration form.
- 25 41. Had the Product’s advertising disclosed that a product warranty was contingent on
26 completing a warranty registration card and providing personal information,
27 Plaintiff would not have purchased the Product, or alternatively would paid less
28 for the Product.



1 42. Upon information and belief, Defendant has not recalled its products that contain
2 a warranty registration form.

3 43. To date, even after making changes to its website, Defendant still tricks consumers
4 into providing their personal information in order to obtain warranty benefits by
5 stating on its website, “All products purchased from an authorized international
6 dealer *must be registered* with that authorized international distributor,”
7 notwithstanding a latter statement by Defendant on the same webpage that
8 “Failure to register your product purchase will not diminish your warranty
9 rights.”⁵

10 CLASS ALLEGATIONS

11 44. Plaintiff brings this action on behalf of himself and on behalf of all others similarly
12 situated (the “Classes”), pursuant to California Code of Civil Procedure Section
13 382 and/or California Code of Civil Procedure Section 1782.

14 45. Plaintiff represents and is a member of the Classes, consisting of:

15 a. All persons who purchased one or more of Defendant’s
16 products within California during the four (4) years
17 immediately preceding the filing of the Complaint through
18 the date of class certification, which were accompanied by a
19 warranty or product registration card or form, or an electronic
20 online warranty or product registration form, to be completed
21 and returned by the consumer, which do not contain
22 statements, each displayed in a clear and conspicuous
23 manner, informing the consumer that: i) the card or form is
for product registration, and ii) informing the consumer that
failure to complete and return the card or form does not
diminish his or her warranty rights.

24 b. All persons who purchased one or more of Defendant’s
25 products within California during the four (4) years
26 immediately preceding the filing of the Complaint through
the date of class certification, which were accompanied by a

27
28 ⁵ www.gibson.com/Support/Warranty-Registration (emphasis added), last accessed July 27, 2021.

1 warranty or product registration card or form, or an electronic
2 online warranty or product registration form, which is
3 labeled as a warranty registration or a warranty confirmation.

- 4 c. All persons who purchased one or more of Defendant's
5 products within California during the three (3) years
6 immediately preceding the filing of the Complaint through
7 the date of class certification, which were advertised as being
8 accompanied with an express warranty but which do not
9 contain a warranty, and/or contain warranty activation,
confirmation or registration cards requiring persons to
provide their personal data or take additional steps in order
to receive a warranty.

10 46. Products that meet the above Class definitions are referred to herein as "Class
11 products."

12 47. Defendant and its employees or agents are excluded from the Classes.

13 48. Plaintiff does not presently know the number of members in the Classes but
14 believes the Class members number in the several thousands, if not substantially
15 more. Thus, this matter should be certified as a class action to assist in the
16 expeditious litigation of this matter.

17 49. Plaintiff and members of the Classes were harmed by the acts of Defendant in
18 violating Plaintiff's and the putative Class members' rights.

19 50. Plaintiffs reserve the right to expand the class definition to seek recovery on
20 behalf of additional persons as warranted, as facts are learned through further
21 investigation and discovery.

22 51. The joinder of the Class members is impractical and the disposition of their claims
23 in the class action will provide substantial benefits both to the parties and to the
24 court.

25 52. The Classes can be identified through Defendant's records, Defendant's agents'
26 records, and/or records of the retailer from which the products were purchased.

27 53. There is a well-defined community of interest in the questions of law and fact to
28

1 the Classes that predominate over questions which may affect individual Class
2 members, including the following:

- 3 a. Whether the Class products were sold with warranty or product
4 registration cards or forms, or electronic online warranty or product
5 registration forms, which did not contain statements, each displayed in a
6 clear and conspicuous manner, informing the consumer that the card or
7 form is for product registration, and informing the consumer that failure
8 to complete and return the card or form does not diminish his or her
9 warranty rights.
- 10 b. Whether the Class products were sold with warranty or product
11 registration cards or forms, or electronic online warranty or product
12 registration forms, which are labeled as warranty registration or warranty
13 confirmation.
- 14 c. Whether the Class products were sold with express warranties;
- 15 d. Whether the Class products make warranty rights contingent on
16 registration;
- 17 e. Whether Defendant intends warranty registration to act as a barrier to
18 warranty claims;
- 19 f. Whether Defendant intends to use warranty registration as a means for
20 obtaining Class members' personal information;
- 21 g. How Defendant uses Class members' personal information;
- 22 h. Whether Defendant violated the SBA by making Class products'
23 warranties contingent on registration;
- 24 i. Whether Defendant violated the SBA by not disclosing to Class members
25 that by not submitting warranty registration cards, or online forms, their
26 warranty rights would not be diminished;
- 27 j. Whether Defendant engaged in false or deceptive advertising practices in
28 violation of the CLRA by not disclosing the warranty registration

1 requirement of Class products to Class members prior to their purchases;

2 k. Whether Defendant is liable for damages, and the amount of such
3 damages; and

4 l. Whether Class members are entitled to equitable relief including
5 injunctive relief.

6 54. Plaintiff's claims are typical of the claims of the Classes since Plaintiff purchased
7 a Class product, as did each member of the Classes.

8 55. Plaintiff and all Class members sustained injuries arising out of Defendant's
9 wrongful conduct and deception.

10 56. Plaintiff is advancing the same claims and legal theories on behalf of himself and
11 all absent Class members.

12 57. Plaintiff will fairly and adequately represent and protect the interests of the
13 Classes in that Plaintiff has no interests antagonistic to any member of the
14 Classes.

15 58. Absent a class action, the Classes will continue to face the potential for
16 irreparable harm. In addition, these violations of law will be allowed to proceed
17 without remedy and Defendant will likely continue such illegal conduct.

18 59. Plaintiff has retained counsel experienced in handling class action claims and
19 individual claims involving breach of warranties and unlawful business practices.

20 60. A class action is a superior method for the fair and efficient adjudication of this
21 controversy. The injury suffered by each individual Class member is relatively
22 small in comparison to the burden and expense of individual prosecution of the
23 complex and extensive litigation necessitated by Defendant's conduct. It would
24 be virtually impossible for members of the Class individually to redress
25 effectively the wrongs done to them. Even if the members of the Class could
26 afford such individual litigation, the court system could not. Individualized
27 litigation presents a potential for inconsistent or contradictory judgments.
28 Individualized litigation increases the delay and expense to all parties, and to the



1 court system, presented by the complex legal and factual issues of the case.

2 61. By contrast, the class action device presents far fewer management difficulties,
3 and provides the benefits of single adjudication, an economy of scale, and
4 comprehensive supervision by a single court. Upon information and belief,
5 members of the Classes can be readily identified and notified based on, inter alia,
6 Defendant's own records, product serial numbers, submitted warranty activation
7 cards, warranty claims, registration records, and database of complaints.

8 62. Defendant has acted, and continues to act, on grounds generally applicable to the
9 Classes, thereby making appropriate final injunctive relief and corresponding
10 declaratory relief with respect to the Class as a whole.

11 **FIRST CAUSE OF ACTION**

12 **VIOLATION OF CALIFORNIA'S SONG-BEVERLY CONSUMER**

13 **WARRANTY ACT**

14
15 63. Plaintiff incorporates all of the above paragraphs of this Complaint as though fully
16 stated in this cause of action.

17 64. The Product and Class products are "consumer goods" as defined by *California*
18 *Civil Code* § 1791(a).

19 65. Plaintiff and Class members are "buyers" as defined by *California Civil Code* §
20 1791(b).

21 66. "Every manufacturer, distributor, or retailer making express warranties with
22 respect to consumer goods shall fully set forth those warranties in simple and
23 readily understood language[.]" *California Civil Code* § 1793.1(a)(1).

24 67. "If the manufacturer, distributor, or retailer provides a warranty or product
25 registration card or form, or an electronic online warranty or product registration
26 form, to be completed and returned by the consumer, the card or form **shall** contain
27 statements, each displayed in a clear and conspicuous manner, that do all of the
28 following:

1 a. Informs the consumer that the card or form is for product registration.

2 b. Informs the consumer that failure to complete and return the card or form
3 does not diminish his or her warranty rights.” *California Civil Code* §
4 1793.1(a)(1)(A)-(B).

5 68. “No warranty or product registration card or form, or an electronic online warranty
6 or product registration form, may be labeled as a warranty registration or a
7 warranty confirmation.” *California Civil Code* § 1793.1(b).

8 69. By providing a warranty registration form online and in printed form that instructs
9 a consumer to register the warranty with Plaintiff’s Product and Class members’
10 products, which does not inform Plaintiff and Class members that the printed
11 warranty registration form and online registration form are for product registration
12 only and that warranty rights will not be diminished by failing to register the
13 product, Defendant is in violation of its affirmative obligations under the SBA.

14 70. Defendant values its ability to include registration cards with its products and
15 online, and as a result of being permitted to include the cards and online form
16 without the statutorily prescribed language, Defendant received, and continues to
17 receive, a benefit which Plaintiff and Class members did not realize they paid for.

18 71. Had Plaintiff and Class members been aware of these terms, they would not have
19 paid the price they did.

20 72. Plaintiff and Class members would have paid less for their products had they been
21 aware of these terms. The premium paid is a benefit received by Defendant and
22 should be returned to Plaintiff.

23 73. Plaintiff and Class members have been damaged by not receiving the warranty
24 they were promised, or alternatively, even if warranties do exist, by rightfully
25 believing they do not have warranty rights.

26 74. Defendant benefits, at Plaintiff’s and Class members’ expense, from this tactic as
27 its costs for repairing products under warranty, as well as administering product
28 warranties, are reduced.



1 75. Class members who did provide their personal information have been damaged by
2 being forced to relinquish their personal information based on Defendant’s
3 statutorily mandated omissions.

4 76. Plaintiff and Class members are entitled to damages, including reimbursement of
5 the purchase price of the Class products, under *California Civil Code* §1794(a)
6 and §1794(b).

7 77. In addition to the other amounts recovered, Plaintiffs and Class members are
8 entitled to a civil penalty of two-times the amount of actual damages, pursuant to
9 *California Civil Code* §1794(c).

10 78. Plaintiff and class members are further entitled to recover as part of the judgment
11 a sum equal to the aggregate amount of costs and litigation related expenses,
12 including but not limited to attorney’s fees, reasonably incurred in connection with
13 the commencement and prosecution of this action under *California Civil Code*
14 §1794(d).

15 **SECOND CAUSE OF ACTION**

16 **VIOLATION OF CALIFORNIA’S CONSUMER LEGAL REMEDIES ACT**

17 79. Plaintiff incorporates all of the above paragraphs of this Complaint as though fully
18 stated in this cause of action.

19 80. Plaintiff and Class members are “consumers” within the meaning of *California*
20 *Civil Code* §1761(d).

21 81. The sale of Plaintiff’s and Class members’ products are “transactions” within the
22 meaning of *California Civil Code* §1761(e).

23 82. Plaintiff’s and Class members’ products are “goods” within the meaning of
24 *California Civil Code* §1761(a).

25 83. The CLRA prohibits “representing that goods or services have sponsorship,
26 approval, characteristics, ingredients, uses, benefits, or quantities that they do not
27 have.” *California Civil Code* §1770(a)(5).

28 84. The CLRA prohibits “representing that goods or services are of a particular



1 standard, quality, or grade, or that goods are of a particular style or model, if they
2 are of another.” *California Civil Code* §1770(a)(7).

3 85. The CLRA prohibits “advertising goods or services with intent not to sell them as
4 advertised.” *California Civil Code* §1770(a)(9).

5 86. The CLRA prohibits “representing that a transaction confers or involves rights,
6 remedies, or obligations that it does not have or involve, or that are prohibited by
7 law.” *California Civil Code* §1770(a)(14).

8 87. The CLRA prohibits “representing that the consumer will receive a rebate,
9 discount or other economic benefit, if earning the benefit is contingent on an event
10 to occur after the transaction.” *California Civil Code* §1770(a)(17).

11 88. Defendant promised, advertised and represented at time of sale that Plaintiff and
12 Class members would receive a warranty with no strings attached.

13 89. However, Defendant failed to disclose on exterior packaging of Plaintiff’s Product
14 and Class members’ products advertising information which was concealed inside
15 the packaging; namely that the warranty must be registered, in violation of SBA’s
16 requirements.

17 90. Defendant’s concealment of material warranty terms was done deliberately and
18 intentionally with the purpose of deceiving Plaintiff and Class members and
19 inducing them into purchasing the Class products, or alternately providing their
20 personal information.

21 91. Defendant knows, or should have known, that were it to display on the exterior of
22 product packaging the material warranty terms it hides inside the product packing
23 (even if such terms are not valid), Plaintiff and Class members would not purchase
24 the Class products or would not pay a premium for them.

25 92. Thus, Defendant’s conduct violates *California Civil Code* § 1770(a)(5),
26 1770(a)(7), 1770(a)(9), 1770(a)(14), and 1770(a)(17).

27 93. Plaintiff and Class members relied on Defendant’s representations.

28 94. As a result of Defendant’s false representations and deceitful conduct regarding

1 its warranties, Plaintiff and Class members were injured because they: (a) would
2 not have purchased the Class products if the true facts were known concerning the
3 Defendant's false and misleading warranty claims at time of purchase, or Plaintiff
4 and Class members would have paid substantially less; (b) paid a premium price
5 for the Class Products as a result of Defendant's false warranties and
6 misrepresentations; (c) purchased products that did not have the sponsorship,
7 characteristics, and qualities promised by Defendant; and (d) had to take additional
8 steps and actions in order to receive the benefit they should have already entitled
9 to.

10 95. Under *California Civil Code* § 1780(a) and (b), Plaintiff, individually and on
11 behalf of the Classes, seeks an injunction requiring Defendant to cease and desist
12 the illegal conduct alleged in this Complaint. Specifically, Plaintiff and Class
13 members are entitled to a permanent injunction that compels Defendant to
14 immediately: (1) cease and desist from the continued sale of the products that
15 contain the same or similar misrepresentations as the Class products; (2) initiate a
16 corrective advertising campaign to notify Class members who are victims of the
17 above-described illegal conduct about the true nature the Class products and
18 associated warranty; and (3) initiate a full recall of the Class products with an offer
19 to refund the purchase price, plus reimbursement of interest, including a full recall
20 of any of Defendant's products that contain the improper warranty registration
21 form.

22 96. Pursuant to § 1782(a) of the CLRA, in a letter dated June 17, 2021, Plaintiff's
23 counsel notified Defendant in writing, via certified mail, particular violations of §
24 1770 of the CLRA and demanded that Defendant rectify the problems associated
25 with the actions detailed above and give notice to all affected consumers of
26 Defendant's intent to act.

27 97. Said CLRA demand was received by Defendant's registered agent on June 22,
28 2021.

1 98. However, Defendant failed, within 30 days of receipt of Plaintiff’s demand, to
2 provide Plaintiff with an appropriate correction, repair, replacement, or other
3 remedy, and Defendant’s June 28, 2021 response letter offered no relief or cure
4 for the Class Members.

5 99. Although Defendant has made some changes to its website following receipt of
6 Plaintiff’s CLRA demand, there has been no indication that Defendant has recalled
7 the products with the improper warranty forms (including the form received by
8 Plaintiff, *see* **Exhibit B**).

9 100. Plaintiff and the putative Classes are entitled to, and seek, public injunctive relief
10 prohibiting such conduct in the future and to recover money damages.

11 101. Pursuant to § 1782 (e), Plaintiff and the Classes assert claims for damages and
12 attorneys’ fees and costs.

13 102. Attached hereto as **Exhibit C** is a sworn declaration from Plaintiff pursuant to
14 California Civil Code § 1780(d).

15
16 **THIRD CAUSE OF ACTION**
VIOLATION OF CALIFORNIA’S UNFAIR COMPETITION LAW

17 103. Plaintiff incorporates all of the above paragraphs of this Complaint as though fully
18 stated in this cause of action.

19 104. The UCL defines “unfair business competition” to include any “unlawful, unfair
20 or fraudulent” act or practice, as well as any “unfair, deceptive, untrue or
21 misleading” advertising. *California Business and Professions Code* § 17200.

22 105. The UCL imposes strict liability. Plaintiff need not prove that Defendant
23 intentionally or negligently engaged in unlawful, unfair, or fraudulent business
24 practices – but only that such practices occurred.

25
26 **“Unfair” Prong**

27 106. A business act or practice is “unfair” under the UCL if it offends an established
28 public policy or is immoral, unethical, oppressive, unscrupulous or substantially

1 injurious to consumers, and that unfairness is determined by weighing the reasons,
2 justifications and motives of the practice against the gravity of the harm to the
3 alleged victims.

4 107. Defendant’s actions constitute “unfair” business practices because, as alleged
5 above, Defendant engaged in a misleading and deceptive practice of intentionally
6 omitting statutorily mandated warranty disclosures to consumers.

7 108. This is done to trick consumers into believing they don’t have warranty rights in
8 an effort to discourage warranty claim submissions, thus saving Defendant money
9 and increasing its profit margin. Or worse, to actually eliminate the warranty
10 promised at time of purchase.

11 109. Defendant tricks consumers into providing their personal information in order to
12 obtain a warranty when the consumers are not required to share their personal
13 information to obtain the benefit of an express warranty.

14 110. Defendant’s acts and practices offend an established public policy of transparency
15 in warranty rights, and engage in immoral, unethical, oppressive, and
16 unscrupulous activities that are substantially injurious to consumers.

17 111. The harm to Plaintiff and Class members grossly outweighs the utility of
18 Defendant’s practices as there is no utility to Defendant’s practices.

19
20 ***“Fraudulent” Prong***

21 112. A business act or practice is “fraudulent” under the UCL if it is likely to deceive
22 members of the consuming public.

23 113. Defendant’s acts and practices alleged above constitute fraudulent business acts
24 or practices as they deceived Plaintiff and are highly likely to deceive members of
25 the consuming public.

26 114. By not providing the required statutory language, Plaintiff and Class members can
27 only draw one conclusion: registration is required in order to receive and access
28 their warranty, contrary to the representations made at time of sale that the Product

1 was accompanied with an express warranty.

2 ***“Unlawful” Prong***

3
4 115. A business act or practice is “unlawful” under the UCL if it violates any other law
5 or regulation.

6 116. Defendant’s acts and practices alleged above constitute unlawful business acts or
7 practices as they have violated the plain language of the SBA as described in
8 Plaintiff’s First Cause of Action above.

9 117. As detailed in Plaintiff’s Second Cause of Action above, Defendant’s acts and
10 practices surrounding the sale also violate several provisions of the CLRA.

11 118. The violation of any law constitutes an “unlawful” business practice under the
12 UCL.

13 119. These acts and practices alleged were intended to or did result in violations of the
14 SBA and the CLRA.

15 120. Defendant’s practices, as set forth above, have misled Plaintiff, the Class
16 members, and the public in the past and will continue to mislead in the future.
17 Consequently, Defendant’s practices constitute an unlawful, fraudulent, and unfair
18 business practice within the meaning of the UCL.

19 121. Pursuant to the UCL, Plaintiff is entitled to preliminary and permanent injunctive
20 relief and order Defendant to cease this unfair competition, as well as
21 disgorgement and restitution to Plaintiff and the Class of all Defendant’s revenues
22 associated with its unfair competition, or such portion of those revenues as the
23 Court may find equitable.

24 **PRAYER FOR RELIEF**

25 Plaintiff prays that judgment be entered against Defendant as follows:

- 26 1. That this action be certified as a class action;
27 2. That Plaintiff be appointed as the representative of the Class;

3. That Plaintiff's attorneys be appointed Class Counsel;
4. For an order declaring Defendant's conduct to be unlawful;
5. For an order compelling Defendant to make restitution to Plaintiff and Class members under the SBA in an amount equal to the total amounts paid and payable for the Class products;
6. For actual damages;
7. For a civil penalty of two-times actual damages;
8. For punitive damages;
9. For actual damages, injunctive relief, restitution, and punitive damages pursuant to California Code of Civil Procedure § 1780;
10. For pre and post -judgment interest at the legal rate;
11. For injunctive and other equitable relief as necessary to protect the interests of Plaintiff and other Class members, including public injunctive relief, and an order prohibiting Defendant from engaging in the unlawful, unfair, deceptive and/or fraudulent acts described above;
12. For an order that Defendant engage in a corrective advertising campaign;
13. For an order of restitution and disgorgement of all profits and unjust enrichment that Defendant obtained from Plaintiff and the Class members as a result of its unlawful, unfair, and fraudulent business practices;
14. For attorney's fees, costs of suit, and out of pocket expenses; and
15. For such other and further relief that the Court deems proper.

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TRIAL BY JURY


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122. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands a trial by jury.

Dated: July 27, 2021

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: 

ABBAS KAZEROUNIAN, ESQ.
ATTORNEY FOR PLAINTIFF
AND THE PUTATIVE CLASS

[Additional Counsel for Plaintiff]

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