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9
10 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA

11
12 CHARLES DRAKE, individually
and on behalf of all others similarly
13 situated,

14 *Plaintiff,*

15 v.

16 HAIER US APPLIANCE SOLUTIONS INC.,
17

18 *Defendant.*
19

Case No. 1:23-cv-00939

Class Action Complaint

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1 **I. Introduction.**

2 1. About 40% of American households use natural gas stoves. Many households use the
3 stove daily to cook in the home. Recent studies confirm however, that gas cooking has important
4 risks. Gas stoves “emit air pollutants... at levels the EPA and World Health Organization have said
5 are unsafe and linked to respiratory illness, cardiovascular problems, cancer, and other health
6 conditions.”¹ For example, gas stoves emit nitrogen oxides, which are “gases [that] can worsen
7 asthma and other lung diseases.”² This is true for all consumers, adults and children alike, but is
8 especially risky for children. *Id.* Children living in households with gas stoves are “42% more likely
9 to have asthma.”³

10 2. This risk is avoidable; manufacturers can reasonably design gas stoves to mitigate the
11 risk of pollutants. Manufacturers also can—and should—disclose the risk of pollutants to consumers,
12 who can then make an informed choice about whether to buy a gas stove or an electric stove (which
13 does not carry the same risk).

14 3. Defendant Haier US Appliance Solutions Inc. makes, sells, and markets household
15 appliances, including gas stoves, ovens, and ranges.

16 4. Plaintiff purchased a gas stove made by Defendant. Plaintiff believed that the product
17 was free from defects, and he did not know that gas cooking has significant pollutant risks. Had he
18 known of the risks of pollutants from the gas stove, he would not have purchased it.

19 5. Plaintiff brings this case for himself and for other consumers who purchased
20 Defendant’s gas stoves, ovens, and range products.

21 **II. Parties.**

22 6. Plaintiff Charles Drake is domiciled in McKinleyville, California.

23 7. The proposed class and subclasses (identified below) includes citizens of all states.
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26 ¹ [https://www.bloomberg.com/news/articles/2023-01-09/us-safety-agency-to-consider-ban-
27 on-gas-stoves-amid-health-fears](https://www.bloomberg.com/news/articles/2023-01-09/us-safety-agency-to-consider-ban-on-gas-stoves-amid-health-fears)

² [https://www.consumerreports.org/appliances/indoor-air-quality/is-your-gas-range-a-health-
28 risk-a6971504915/](https://www.consumerreports.org/appliances/indoor-air-quality/is-your-gas-range-a-health-risk-a6971504915/)

³ [https://www.health.harvard.edu/blog/have-a-gas-stove-how-to-reduce-pollution-that-may-
harm-health-202209072811](https://www.health.harvard.edu/blog/have-a-gas-stove-how-to-reduce-pollution-that-may-harm-health-202209072811)

1 8. Defendant Haier US Appliance Solutions is a Delaware corporation with a principal
2 place of business in Louisville, Kentucky.

3 9. Defendant makes, distributes, sells, and markets gas stoves, ovens, and range products,
4 including under the GE brand, and has done so throughout any applicable statute of limitations
5 period.

6 **III. Jurisdiction and Venue.**

7 10. This Court has original jurisdiction pursuant to the Class Action Fairness Act, 28
8 U.S.C. § 1332(d). The amount in controversy exceeds the sum or value of \$5,000,000, exclusive of
9 interest and costs, and the matter is a class action in which one or more members of the proposed
10 class are citizens of a state different from the Defendant.

11 11. This Court has personal jurisdiction over Defendant. Defendant does business in
12 California. It advertises and sells its Products in California, and serves a market for its Products in
13 California. Due to Defendant's actions, its Products have been marketed and sold to consumers in
14 California, and harmed consumers in California. Plaintiff's claims arise out of Defendant's contacts
15 with this forum. Due to Defendant's actions, Plaintiff purchased one of Defendant's Products in
16 California, and was harmed in California.

17 12. Venue is proper under 28 U.S.C. § 1391(b)(1) and 28 U.S.C. § 1391(d) because
18 Defendant would be subject to personal jurisdiction in this District if this District were a separate
19 State. Defendant advertises and sells its Products to customers in this District, serves a market for its
20 Products in this District, and Plaintiff's claims arise out of Defendant's contacts in this forum. Venue
21 is also proper under 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to the
22 claim occurred here.

23 **IV. Facts.**

24 13. About 40% of American households use natural gas stoves.⁴ Many households use the
25 stove daily to cook in the home.

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⁴ https://www.washingtonpost.com/business/energy/biden-isnt-coming-for-your-gas-stove-states-are/2023/01/13/12353d1e-9353-11ed-90f8-53661ac5d9b9_story.html

1 14. Defendant makes, markets, and sells residential gas stoves, gas ranges, and gas ovens
2 (“Defendant’s Products” or “Products”), including under the GE brand. Some examples of
3 Defendant’s Products are shown below:⁵



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11 GE Profile™ Smart 30" Free-Standing Self
Clean Gas Fingerprint Resistant Range wi...
Model #: PGB935YPFS

12 ★★★★★ (673)



11 GE® 30" Free-Standing Gas Range
Model #: JGB660DPWW

12 ★★★★★ (3994)



11 GE® 30" Free-Standing Gas Range
Model #: JGB660DPBB

12 ★★★★★ (3994)



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15 15. Defendant sells its products specifically for home use, and markets to consumers for
16 home use. In fact, the only intended use for Defendant’s Products is for cooking inside the home.

17 **A. Gas stoves produce health-harming pollutants.**

18 16. Recent studies have confirmed that gas stoves harm the health of the households that
19 use it.⁶

20 17. Gas stoves “emit air pollutants such as nitrogen dioxide, carbon monoxide and fine
21 particulate matter at levels the EPA and World Health Organization have said are unsafe and linked
22 to respiratory illness, cardiovascular problems, cancer, and other health conditions.”⁷

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26 ⁵ <https://www.geappliances.com/ge-appliances/kitchen/ranges/gas-ranges/>

27 ⁶ <https://www.consumerreports.org/appliances/indoor-air-quality/is-your-gas-range-a-health-risk-a6971504915/>

28 ⁷ <https://www.bloomberg.com/news/articles/2023-01-09/us-safety-agency-to-consider-ban-on-gas-stoves-amid-health-fears>

1 18. In particular, nitrogen oxides (sometimes written as NO_x or NO₂),⁸ are hazardous to
2 human health. “A recent study published by researchers at Stanford calculated that emission of
3 nitrogen dioxide from certain gas burners or ovens rose above the standard set for outdoors by the
4 Environmental Protection Agency (EPA) within a few minutes.”⁹

5 19. Further, “recent EPA research also linked long-term NO₂ exposure to cardiovascular
6 effects, diabetes, poorer birth outcomes, premature mortality, and cancer.”¹⁰ It is also linked to
7 “reduced cognitive performance, especially in children.” *Id.* “[E]arly-life exposure to air pollution
8 from indoor gas appliances may be negatively associated with neuropsychological development
9 through the first 4 years of life, particularly among genetically susceptible children.” *Id.* “The gases
10 can worsen asthma and other lung diseases.”¹¹ “In short, research shows that even low levels of NO₂
11 exposure are dangerous, especially to the vulnerable.”¹²

12 20. “Yet...homes with gas stoves have around 50 percent, ranging up to over 400 percent,
13 higher levels of NO₂ than homes with electric stoves.”¹³ Concentrations of NO₂ emissions from gas
14 stoves can exceed US outdoor pollution standards several times over when conducting common
15 cooking tasks like boiling water, baking a cake, roasting meat, and frying bacon with a gas stove. *Id.*
16 Thus, children living in households with gas stoves are “42% more likely to have asthma.”¹⁴ A
17 recent study “found that 12.7%...of current childhood asthma in the US is attributable to gas stove
18 use.”¹⁵ This is a level that is “similar to the childhood asthma burden attributed to secondhand smoke
19

20 ⁸ The term NO_x is a common term for nitrogen oxides that include nitric oxide (NO) and
21 nitrogen dioxide (NO₂). [https://www.encyclopedia.com/earth-and-environment/ecology-and-
22 environmentalism/environmental-studies/nox-nitrogen-oxides](https://www.encyclopedia.com/earth-and-environment/ecology-and-environmentalism/environmental-studies/nox-nitrogen-oxides)

23 ⁹ [https://www.health.harvard.edu/blog/have-a-gas-stove-how-to-reduce-pollution-that-may-
24 harm-health-202209072811](https://www.health.harvard.edu/blog/have-a-gas-stove-how-to-reduce-pollution-that-may-harm-health-202209072811)

25 ¹⁰ [https://www.vox.com/energy-and-environment/2020/5/7/21247602/gas-stove-cooking-
26 indoor-air-pollution-health-risks](https://www.vox.com/energy-and-environment/2020/5/7/21247602/gas-stove-cooking-indoor-air-pollution-health-risks)

27 ¹¹ [https://www.consumerreports.org/appliances/indoor-air-quality/is-your-gas-range-a-health-
28 risk-a6971504915/](https://www.consumerreports.org/appliances/indoor-air-quality/is-your-gas-range-a-health-risk-a6971504915/)

¹² [https://www.vox.com/energy-and-environment/2020/5/7/21247602/gas-stove-cooking-
indoor-air-pollution-health-risks](https://www.vox.com/energy-and-environment/2020/5/7/21247602/gas-stove-cooking-indoor-air-pollution-health-risks)

¹³ [https://www.vox.com/energy-and-environment/2020/5/7/21247602/gas-stove-cooking-
indoor-air-pollution-health-risks](https://www.vox.com/energy-and-environment/2020/5/7/21247602/gas-stove-cooking-indoor-air-pollution-health-risks)

¹⁴ [https://www.health.harvard.edu/blog/have-a-gas-stove-how-to-reduce-pollution-that-may-
harm-health-202209072811](https://www.health.harvard.edu/blog/have-a-gas-stove-how-to-reduce-pollution-that-may-harm-health-202209072811)

¹⁵ [IJERPH | Free Full-Text | Population Attributable Fraction of Gas Stoves and Childhood
Asthma in the United States \(mdpi.com\)](https://www.mdpi.com/ijerph/14/11/21247602)

1 exposure.”¹⁶ Data shows that, “the higher the nitrogen dioxide level, the more severe the asthma
2 symptoms in children and adults.”¹⁷

3 21. For these reasons, the American Medical Association recently adopted a resolution
4 “recogniz[ing] the association between the use of gas stoves, indoor nitrogen dioxide levels and
5 asthma,” and committed to informing “members and, to the extent possible, health care providers, the
6 public, and relevant organizations that use of a gas stove increases household air pollution and the
7 risk of childhood asthma and asthma severity.”¹⁸

8 **B. Defendant knows of this defect.**

9 22. Defendant is aware that its Products emit health-harming pollutants.

10 23. Since the 1980s, the natural gas industry—of which Defendant is a constituent—has
11 worried that the US Consumer Product Safety Commission would regulate gas stove emissions due to
12 indoor air quality concerns.¹⁹

13 24. This is because “[s]cientists have long known that gas stoves emit pollutants that
14 irritate human airways and can cause or exacerbate respiratory problems.”²⁰ “[S]tudies dating back
15 decades have shown harmful effects from the NO₂ in gas cooking stoves.”²¹

16 25. In 1986, a report by the Clean Air Scientific Advisory Committee of the U.S.
17 Environmental Protection Agency stated, “Health effects data from epidemiological studies in gas
18 stove homes suggest that young children are at increased risk of respiratory symptom; and infection
19 from exposures to elevated concentrations of N02. Other groups at risk to N02 exposures are
20 asthmatics and bronchitics.”²² It further warned, “Human epidemiologic studies suggest that exposure
21 to nitrogen dioxide may lead to increased respiratory illness rates among children.” *Id.* at 6.

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23 ¹⁶ [IJERPH | Free Full-Text | Population Attributable Fraction of Gas Stoves and Childhood
24 Asthma in the United States \(mdpi.com\)](#)

25 ¹⁷ [Have a gas stove? How to reduce pollution that may harm health - Harvard Health](#)

26 ¹⁸ [https://policysearch.ama-
assn.org/policyfinder/detail/gas%20stove?uri=%2FAMADoc%2Fdirectives.xml-D-135.964.xml;](https://policysearch.ama-
assn.org/policyfinder/detail/gas%20stove?uri=%2FAMADoc%2Fdirectives.xml-D-135.964.xml;)
<https://publicinterestnetwork.org/updates/update-ama-moves-forward-resolution-gas-stove-pollution/>

27 ¹⁹ [https://www.npr.org/2023/02/04/1149736969/gas-stove-makers-have-a-pollution-solution-
theyre-just-not-using-it](https://www.npr.org/2023/02/04/1149736969/gas-stove-makers-have-a-pollution-solution-
theyre-just-not-using-it); <https://www.sciencenews.org/archive/cleaner-cooking-gas>

28 ²⁰ <https://www.scientificamerican.com/article/the-health-risks-of-gas-stoves-explained/>

²¹ <https://www.scientificamerican.com/article/the-health-risks-of-gas-stoves-explained/>

²² Report of the Clean Air Scientific Advisory Committee, May 9, 1986, at 5.

1 26. Subsequent studies have confirmed the harmful effects of pollutants from gas stoves.
2 “In a 1992 meta-analysis of studies on this topic, scientists at the EPA and Duke University found
3 that nitrogen dioxide exposure that is comparable to that from a gas stove increases the odds of
4 children developing a respiratory illness by about 20 percent.”²³ “A 2013 meta-analysis of 41 studies
5 found that gas cooking increases the risk of asthma in children and that NO₂ exposure is linked with
6 currently having a wheeze.” *Id.* And “[m]ost recently, a study published last December found that
7 12.7 percent of childhood asthma cases in the U.S. can be attributed to gas stove use.” *Id.*

8 27. Like other makers of gas stoves, Defendant monitors and keeps track of research on
9 the health effects of its products. This is diligence that large companies like Defendant routinely do
10 when selling a consumer product. Defendant is aware of the fact that its Products emit harmful
11 pollutants. It is further aware that use of gas stoves increases the rates of respiratory illness in adults
12 and children.

13 **C. Safe alternative designs that would reduce the danger are available.**

14 28. Further, the harms could have been avoided through safe, reasonable alternative
15 designs. Alternative gas stove designs that “reduce harmful emissions, without sacrificing heat, have
16 been available for decades.”²⁴ As one example, the “jet-powered infrared gas-range burner,”
17 developed in the 1980s, “consumed about 40% less natural gas to reach cooking temperatures and
18 emitted 40% less nitrogen oxides.”²⁵ Another design proposed in the 1980s was the use of a flame
19 insert, which cuts the NO_x emissions “more than 40 percent” when the burner is turned on high, and
20 even more at low burner settings.²⁶

21 29. Despite this, Defendant failed to use an alternative design to avoid these harms and
22 reduce harmful pollutants from gas stoves.

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26 ²³ <https://www.scientificamerican.com/article/the-health-risks-of-gas-stoves-explained/>

27 ²⁴ <https://www.npr.org/2023/02/04/1149736969/gas-stove-makers-have-a-pollution-solution-theyre-just-not-using-it>

28 ²⁵ <https://www.npr.org/2023/02/04/1149736969/gas-stove-makers-have-a-pollution-solution-theyre-just-not-using-it>

²⁶ <https://www.sciencenews.org/archive/cleaner-cooking-gas>

1 **D. Defendant should have warned of the pollutant risk.**

2 30. While Defendant is aware of the harmful health effects of gas cooking, everyday
3 consumers are unaware of these risks. Consumers shopping for a new oven, range, or stove have
4 very little information about the health risks of gas appliances.

5 31. Consumers remain unaware because nothing on Defendant’s packaging, instructions,
6 or warning labels suggest that the gas stoves regularly emit pollutants that are harmful to human
7 health. Further, the labels and warnings do not mention any risk of nitrogen oxides.

8 32. Defendant sold its Products for cooking inside the home, while omitting any warning
9 of the serious defect due to the harmful emissions. Defendant knew of the defect, but actively
10 concealed it. Defendant should have, but did not, warn consumers of the fact that its Products emit
11 harmful pollutants when used for cooking. Defendant should have, but did not, warn consumers of
12 the risk of nitrogen oxides. These warnings could have been included on the packaging, stickers, or
13 instruction manual for the product. But Defendant did not include any such warning.

14 33. Defendant had a duty to warn of the defect. The defect was an unreasonable safety
15 hazard. Defendant could have avoided this risk by using available design-arounds. In addition, the
16 defect was central to the gas stove’s function (i.e. its safety for use cooking inside the home).
17 Defendant had exclusive knowledge of the defect. Defendant actively concealed the defect from
18 consumers by failing to disclose it. Defendant also made partial representations that are misleading
19 because other material facts were not disclosed. For example, it warned of some risks of the Product
20 (e.g., it included extensive warnings about fire), but failed to warn that the Product emits harmful
21 pollutants like nitrogen oxide. This led consumers to believe that there was no such risk.

22 **E. Defendant overcharges millions of consumers.**

23 34. If Defendant disclosed the truth— that is, that its Products emit harmful pollutants, the
24 price of its Products would fall dramatically.

25 35. For example, a recent study showed that consumer demand for gas stoves falls as
26 consumers become informed of the harms of gas stoves. Forty-six percent of gas-stove owning adults
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1 were interested in replacing their gas stoves after being informed of the study showing the link
2 between gas stove pollution and childhood asthma.²⁷

3 36. If consumers knew the truth, demand for Defendants' prices would drop, and
4 Defendants could not sell their Products at current prices.

5 37. In addition, the defective design of gas stoves reduces their value. Consumers pay for
6 a stove that is safe for home cooking, but receive a less valuable stove—one with a defective design
7 that carries significant (and undisclosed) air pollution risks.

8 **F. Plaintiff was misled and harmed by Defendant.**

9 38. In November 2022, Charles Drake purchased a GE gas stove from Poletski's Home
10 Appliances in Eureka, California. The stove had the model number of JGS66DEKWW.²⁸



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26 39. Mr. Drake relied on the representations on the marketing materials, instruction
27 manual, installation guide, and stickers on the stove disclosing risks. The marketing materials,

28 ²⁷ <https://morningconsult.com/2023/01/31/natural-gas-stove-bans-remain-divisive/>

²⁸ <https://www.geappliances.com/appliance/GE-30-Free-Standing-Gas-Range-JGBS66DEKWW?rec=true>

1 instruction manual, installation guide, and stickers did not disclose or warn that the product emitted
2 harmful pollutants, such as nitrogen oxides. Thus, at the time of purchase, Plaintiff was unaware that
3 the product emitted harmful pollutants such as nitrogen oxide.

4 40. Plaintiff purchased Defendant's Product on the assumption that using the Product
5 would not expose him to a significant air pollutant risk. Plaintiff would not have purchased
6 Defendant's Product had he known that it emitted harmful pollutants like nitrogen oxide.

7 41. As a result, Plaintiff suffered injury in fact when he: (a) spent money to purchase a
8 Product he would not otherwise have purchased absent Defendant's misconduct; (b) overpaid for the
9 Product due to Defendant's misconduct; and (c) paid for a defective product that, in truth, is worth
10 less than he paid for it.

11 42. Defendant's conduct is ongoing and continuing, such that prospective injunctive relief
12 is necessary. Plaintiff likes Defendant's Products, and would purchase Defendant's Products in the
13 future if the Product was redesigned to avoid emitting harmful pollutants. He faces an imminent risk
14 of harm, however, because he cannot rely on representations that the Product is safe for cooking
15 inside the home or the absence of any pollutant warning. Absent injunctive relief, Defendant may
16 continue to advertise, promote, and sell the Products while representing that it is safe, and without
17 warning the public about the health risks.

18 **G. No adequate remedy at law.**

19 43. Plaintiff seeks damages and, in the alternative, restitution. Plaintiff is permitted to
20 seek equitable remedies in the alternative because he has no adequate remedy at law.

21 44. A legal remedy is not adequate if it is not as certain as an equitable remedy. To obtain
22 a full refund as damages, Plaintiff must show that the Product he received has essentially no market
23 value. In contrast, Plaintiff can seek restitution without making this showing. This is because Plaintiff
24 purchased a Product that he would not otherwise have purchased, but for Defendant's omissions.
25 Obtaining a full refund at law is less certain than obtaining a refund in equity.

26 45. In addition, the elements of Plaintiff's equitable claims are different and do not require
27 the same showings as Plaintiff's legal claims. For example, to obtain damages under the CLRA, a
28 plaintiff must show that they complied with the CLRA's notice requirement for damages. No such

1 requirements exist to obtain restitution. Because a plaintiff must make this additional showing to
2 obtain damages, rather than restitution, the legal remedies are more uncertain.

3 46. Finally, the remedies at law available to Plaintiff are not equally prompt or otherwise
4 efficient. The need to schedule a jury trial may result in delay. And a jury trial will take longer, and
5 be more expensive, than a bench trial.

6 **V. Class Action Allegations.**

7 47. Plaintiff brings certain claims on behalf of the proposed class of:

- 8 • Nationwide Class: all persons who purchased Defendant's Products while living in the
9 United States during the applicable statute of limitations (the "Nationwide Class").
- 10 • California Subclass: all persons who, while living in the state of California, purchased
11 Defendant's Products during the applicable statute of limitations; and
- 12 • Consumer Protection Subclass: all persons who, while living in certain identified
13 states (the "Consumer Protection Subclass States"), purchased Defendant's Products
14 States during the applicable statute of limitations.

15 48. The Consumer Protection Subclass States are as follows: California, Connecticut,
16 Illinois, Maryland, Missouri, and New York.

17 49. The following people are excluded from the proposed Class and Subclasses: (1) any
18 Judge or Magistrate Judge presiding over this action and the members of their family; (2) Defendant,
19 Defendant's subsidiaries, parents, successors, predecessors, and any entity in which the Defendant or
20 its parents have a controlling interest and their current employees, officers, and directors; (3) persons
21 who properly execute and file a timely request for exclusion from the class; (4) persons whose claims
22 in this matter have been finally adjudicated on the merits or otherwise released; (5) Plaintiff's counsel
23 and Defendant's counsel, and their experts and consultants; and (6) the legal representatives,
24 successors, and assigns of any such excluded persons.

25 50. Certification of Plaintiff's claims for class-wide treatment is appropriate because
26 Plaintiff can prove the elements of his claims on a class-wide basis using the same evidence as would
27 be used to prove those elements in individual actions alleging the same claims.

1 ***Numerosity & Ascertainability.***

2 51. The proposed class contains members so numerous that separate joinder of each
3 member is impractical. There are tens or hundreds of thousands of class members. The precise
4 number of class members is unknown to Plaintiff at this time.

5 52. Members of the proposed class can be identified through public notice.

6 ***Predominance of Common Questions.***

7 53. There are questions of law and fact common to the proposed class. Common
8 questions of law and fact include, without limitation:

- 9 (1) Whether Defendant misrepresented and/or failed to disclose material facts
10 concerning the Products;
11 (2) Whether Defendant's conduct was unfair and/or deceptive;
12 (3) Whether Defendant breached an implied warranty;
13 (4) What damages are needed to compensate Plaintiff and the proposed class; and
14 (5) Whether an injunction is necessary to prevent Defendant from continuing to
15 market and sell the Products.

16 ***Typicality & Adequacy.***

17 54. Plaintiff's claims are typical of the other class members' claims. Like other class
18 members, Plaintiff purchased Defendant's Product.

19 55. The interests of the members of the proposed class and subclasses will be adequately
20 protected by Plaintiff and his counsel. Plaintiff's interests are aligned with, and do not conflict with,
21 the interests of the members of the proposed class or subclasses that they seek to represent.
22 Moreover, Plaintiff has retained experienced and competent counsel to prosecute the class and
23 subclasses' claims.

24 ***Superiority.***

25 56. The prosecution of separate actions by individual members of the proposed class
26 would create a risk of inconsistent or varying adjudication with respect to individual members, which
27 would establish incompatible standards for the parties opposing the class. For example, individual
28

1 adjudication would create a risk that the same product is found unfit for its ordinary use for some
2 proposed class members, but not for others.

3 57. Common questions of law and fact predominate over any questions affecting only
4 individual members of the proposed class. These common legal and factual questions arise from
5 certain central issues which do not vary from class member to class member, and which may be
6 determined without reference to the individual circumstances of any particular class member.

7 58. A class action is superior to all other available methods for the fair and efficient
8 adjudication of this litigation because individual litigation of each claim is impractical. It would be
9 unduly burdensome to have individual litigation of millions of individual claims in separate lawsuits,
10 every one of which would present the issues presented in this lawsuit.

11 **VI. Claims.**

12 **Count I: Violation of California's Unfair Competition Law**

13 **(on behalf of Plaintiff and the California Subclass)**

14 59. Plaintiff incorporates by reference and re-alleges each and every allegation set forth
15 above as though fully set forth herein.

16 60. Plaintiff brings this cause of action on behalf of himself and members of the California
17 Subclass.

18 61. Defendant has violated California's Unfair Competition Law (UCL) by engaging in
19 unlawful, fraudulent, and unfair conduct (i.e., violating each of the three prongs of the UCL).

20 ***The Unlawful Prong***

21 62. As alleged in detail above and below, Defendant engaged in unlawful conduct by
22 violating the CLRA, FAL, and Song-Beverly Consumer Warranty Act, as incorporated here.

23 ***The Fraudulent Prong***

24 63. As alleged in detail above, Defendant's representations and omissions concerning the
25 product's defect were misleading. Defendant's representations and omissions were likely to deceive,
26 and did deceive, Plaintiff and reasonable consumers.

1 ***The Unfair Prong***

2 64. Defendant violated established public policy by violating the CLRA, the FAL, and the
3 Song-Beverly Consumer Warranty Act, as alleged below and incorporated here. The unfairness of
4 this practice is tethered to a legislatively declared policy (that of the CLRA, FAL, and the Song-
5 Beverly Consumer Warranty Act).

6 65. Defendant's conduct caused substantial injury to Plaintiff and Subclass members. The
7 harm to Plaintiff and the Subclass greatly outweighs the public utility of Defendant's conduct (which
8 is none). Defendant distributed household appliances that emit harmful pollutants, when reasonable
9 alternative designs exist. Defendant also omitted any warning about these pollutants. These actions
10 do not have public utility. This injury was not outweighed by any countervailing benefits to
11 consumers or competition.

12 66. Plaintiff and the Subclass could not have reasonably avoided this injury. As alleged
13 above, Defendant's representations and omissions were deceptive to reasonable consumers.

14 67. Defendant's conduct, as alleged above, was immoral, unethical, oppressive,
15 unscrupulous, and substantially injurious to consumers.

16 68. Defendant's conduct violated the public policy against misleading product labels and
17 defective products, which is tethered to the CLRA and FAL, as well as the Song-Beverly Consumer
18 Warranty Act.

19 * * *

20 69. For all prongs, Plaintiff saw and reasonably relied on Defendant's misleading
21 representations and omissions when purchasing the Product.

22 70. Defendant sold its Products specifically for cooking inside the home, while omitting
23 any warning of the serious safety defect regarding harmful emissions. Defendant knew of the defect,
24 but actively concealed it. Defendant should have, but did not, warn consumers of the risk of harmful
25 pollutants while cooking. This warning could have been included on the packaging for the product,
26 or on stickers on the product itself. But Defendant did not include any such warning.

27 71. As alleged in detail above, Defendant had a duty to warn of this defect.
28

1 72. As alleged in detail above, Defendant’s misleading representations and omissions
2 were material. The defect would have been important to the purchase of Plaintiff and other
3 reasonable consumers. Subclass-wide reliance can be inferred because Defendant’s
4 misrepresentations were material, i.e., a reasonable consumer would consider them important in
5 deciding whether to buy Defendant’s Products. Defendant’s misleading representations and
6 omissions were a substantial factor in Plaintiff’s purchase decision and the purchase decisions of
7 class members.

8 73. Plaintiff and Subclass members were injured as a direct and proximate result of
9 Defendant’s conduct because: (a) they would not have purchased the Product if they had known of
10 the defect, (b) they overpaid for the product because the product is sold at a price premium due to
11 Defendant’s misleading representations and omissions, or (c) they received a product that was
12 defective and thus less valuable than what they paid for.

13 **Count II: Violation of California’s False Advertising Law (FAL)**

14 **(on behalf of Plaintiff and the California Subclass)**

15 74. Plaintiff incorporates by reference and re-alleges each and every allegation set forth
16 above in Sections I-IV as though fully set forth herein.

17 75. Plaintiff brings this cause of action on behalf of himself and members of the California
18 Subclass.

19 76. As alleged more fully above, Defendant has falsely advertised its Products by
20 misleadingly representing that the Products are safe and fit for cooking inside the home while
21 omitting any warning that the Products emit harmful pollutants. Plaintiff relied on these
22 representations and omissions. The representation and omissions are misleading because the
23 Products emit health-harming pollutants. Defendant knew of this defect, but failed to include any
24 warning about the defect.

25 77. As alleged more fully above, Defendant’s representations and omissions were likely to
26 deceive, and did deceive, Plaintiff and reasonable consumers. Defendant knew, or reasonably should
27 have known, that its representations and omissions were misleading.

1 78. As alleged in detail above, Defendant’s misrepresentations and omissions were
2 material. Thus, subclass-wide reliance can be inferred.

3 79. As alleged in detail above, Defendant’s representations and omissions were a
4 substantial factor and proximate cause in causing damages and losses to Plaintiff and subclass
5 members.

6 80. Plaintiff and subclass members were injured as a direct and proximate result of
7 Defendant’s conduct because (a) they would not have purchased the Product if they had known of the
8 defect, (b) they overpaid for the product because the product is sold at a price premium due to
9 Defendant’s misleading representations and omissions, or (c) they received a product that was
10 defective and thus less valuable than what they paid for.

11 **Count III: Violation of California’s Consumer Legal Remedies Act (CLRA)**
12 **(on behalf of Plaintiff and the California Subclass)**

13 81. Plaintiff incorporates by reference and re-alleges each and every allegation set forth
14 above in Sections I-IV as though fully set forth herein.

15 82. Plaintiff brings this cause of action on behalf of himself and members of the California
16 Subclass.

17 83. Plaintiff and the other members of the California Subclass are “consumers,” as the
18 term is defined by California Civil Code § 1761(d).

19 84. Plaintiff, the other members of the California Subclass, and Defendant have engaged
20 in “transactions,” as that term is defined by California Civil Code § 1761(e).

21 85. The conduct alleged in this Complaint constitutes unfair methods of competition and
22 unfair and deceptive acts and practices for the purpose of the CLRA, and the conduct was undertaken
23 by Defendant in transactions intended to result in, and which did result in, the sale of goods to
24 consumers.

25 86. As alleged more fully above, Defendant has violated the CLRA by advertising its
26 Products in a way that is misleading or is likely to deceive consumers. Defendant’s statements and
27 omissions led Plaintiff and other members of the California Subclass to believe that its Products are
28 safe and fit for ordinary use when cooking in the home, when in fact, the Products emit health-

1 harming pollutants. Defendant has also violated the CLRA by failing to warn of a material defect
2 with the product.

3 87. As a result of engaging in such conduct, Defendant has violated California Civil Code
4 §§ 1770(a)(2), (a)(5), (a)(7), and (a)(9).

5 88. As alleged more fully above, Defendant's conduct was likely to deceive, and did
6 deceive, Plaintiff and reasonable consumers. Defendant knew that its products emitted harmful
7 pollutants. Defendant's failure to warn consumers that the Products emit harmful pollutants was
8 deceptive.

9 89. Plaintiff saw and reasonably relied on Defendant's misleading representations and
10 omissions when purchasing the Product.

11 90. As alleged in detail above, Defendant had a duty to warn of this defect.

12 91. As alleged in detail above, Defendant's misleading representations and omissions
13 were material. Thus, subclass-wide reliance can be inferred. Defendant's misleading representations
14 and omissions were a substantial factor in Plaintiff's purchase decision and the purchase decisions of
15 subclass members.

16 92. Plaintiff and subclass members were injured as a direct and proximate result of
17 Defendant's conduct because (a) they would not have purchased the Product if they had known of the
18 defect, (b) they overpaid for the product because the product is sold at a price premium due to
19 Defendant's misleading representations and omissions, or (c) they received a product that was
20 defective and thus less valuable than what they paid for.

21 93. Accordingly, pursuant to California Civil Code § 1780(a)(2), Plaintiff, on behalf of
22 himself and all other members of the California Subclass, seeks injunctive relief.

23 94. CLRA § 1782 NOTICE. On February 23, 2023, Plaintiff mailed a notice letter to
24 Haier US Appliance Solutions at its Louisville, Kentucky headquarters. This letter provided notice of
25 Defendant's violation of the CLRA and demanded that Defendant correct the unlawful, unfair, false
26 and/or deceptive practices alleged here. If Defendant does not fully correct the problem for Plaintiff
27 and for each member of the class within 30 days of receipt, Plaintiff and the class will seek all
28 monetary relief allowed under the CLRA.

Count IV: Breach of Implied Warranty

Pursuant to Song-Beverly Consumer Warranty Act

(on behalf of Plaintiff and the California Subclass)

1
2
3
4 95. Plaintiff incorporates by reference and re-alleges each and every allegation set forth
5 above in Sections I-IV as though fully set forth herein.

6 96. Plaintiff brings this cause of action on behalf of himself and members of the California
7 Subclass.

8 97. Plaintiff is a “buyer” within the meaning of Cal. Civ. Code §1791(b).

9 98. Defendant’s Products are “consumer goods” within the meaning of Cal. Civ. Code
10 §1791(a). Defendant’s Products are for use inside of the house.

11 99. Defendant is the “manufacturer” of Defendant’s Products within the meaning of Cal.
12 Civ. Code §1791(j). Defendant is in the business of manufacturing or distributing Defendant’s
13 Products.

14 100. As alleged in detail above, Defendant is aware that the consumers purchase its
15 Products for the purpose of cooking in the home. Consumers, including the California Subclass, rely
16 on the skill and judgment of Defendant as a supplier of home appliances when selecting products
17 suitable for home use. Defendant knew that Plaintiff and class members would justifiably rely on
18 Defendant’s particular skill and knowledge of home appliances in selecting or furnishing products
19 suitable for home cooking. But the Products were not fit for this purpose.

20 101. Defendant impliedly warranted that Defendant’s Products were in merchantable
21 condition and fit for the ordinary purpose for which the Products are used (cooking inside the home)
22 under Cal. Civ. Code §§ 1791.1(a) & 1792.

23 102. As alleged in detail above, Defendant’s Products did not have the quality that a buyer
24 would reasonably accept, and therefore were not merchantable.

25 103. As alleged in detail above, Defendant’s Products would not pass without objection in
26 the home appliances trade because they emit harmful pollutants, and fail to warn of these risks.

27 104. As alleged in detail above, Defendant’s Products are not adequately labeled because
28 they fail to disclose the risk of harmful pollutants.

1 105. Defendant breached the implied warranty of merchantability and fitness by selling its
 2 Products containing defects. These defects have deprived Plaintiff and the Subclass of the benefit of
 3 the bargain, and have caused the Products to depreciate in value.

4 106. Plaintiff and subclass members were injured as a direct and proximate result of
 5 Defendant’s conduct because (a) they would not have purchased the Product if they had known of the
 6 defect, (b) they overpaid for the product because the product is sold at a price premium due to
 7 Defendant’s misleading representations and omissions, or (c) they received a product that was
 8 defective and thus less valuable than what they paid for.

9 107. Plaintiff and Subclass members are entitled to damages and other legal and equitable
 10 relief, costs, and attorneys’ fees.

11 **Count V: Violations of State Consumer Protection Statutes**
 12 **(on behalf of Plaintiff and the Consumer Protection Subclass)**

13 108. Plaintiff incorporates by reference and re-alleges each and every allegation set forth
 14 above in Sections I-IV as though fully set forth herein.

15 109. This count is brought on behalf of Plaintiff and the Consumer Protection Subclass for
 16 violations of the following state consumer protection statutes:

| State | Statute |
|-------------|--|
| California | Cal. Bus. & Prof. Code § 17200, and the following; <i>Id.</i> §17500, and the following; Cal. Civ. Code §1750 and the following. |
| Connecticut | Conn. Gen Stat. Ann. § 42- 110, and the following. |
| Illinois | 815 ILCS § 501/1, and the following. |
| Maryland | Md. Code Ann. Com. Law, § 13-301, and the following. |
| Missouri | Mo. Rev. Stat. § 407, and the following. |
| New York | N.Y. Gen. Bus. Law § 349, and the following. |

1 110. Each of these consumer protection statutes prohibits unfair, unconscionable, and/or
2 deceptive acts or practices in the course of trade or commerce or in connection with the sales of
3 goods or services to consumers.

4 111. As alleged in detail above, Defendant's conduct, including the marketing and sale of
5 its Products to consumers, violates each statute's prohibitions.

6 112. As further alleged above, Defendant's misrepresentations and omissions were a
7 substantial factor in Plaintiff's purchase decision and the purchase decisions of Subclass members.
8 Defendant's misrepresentations and omissions were misleading to a reasonable consumer, and
9 Plaintiff and Subclass members reasonably relied on Defendant's misrepresentations.

10 113. Plaintiff and Subclass members were injured as a direct and proximate result of
11 Defendant's conduct because (a) they would not have purchased the Defendant's Products if they had
12 known the truth, (b) they overpaid for the Products because the Products are sold at a price premium
13 due to the misrepresentation and omissions, or and/or (c) they received a product that was defective
14 and thus less valuable than what they paid for.

15 114. In this way, Plaintiff and the members of the proposed Subclass have suffered an
16 ascertainable loss, in an amount to be determined at trial.

17 **Count VI: Breach of Implied Warranties**

18 **(on behalf of Plaintiff and the Nationwide Class)**

19 115. Plaintiff incorporates by reference each preceding and succeeding paragraph as though
20 fully set forth herein.

21 116. Plaintiff brings this count individually and for the Nationwide Class. In the
22 alternative, Plaintiff brings this cause of action on behalf of himself and the California Subclass.

23 ***Implied Warranty of Merchantability***

24 117. The Uniform Commercial Code § 2-314 states that "a warranty that [] goods shall be
25 merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of
26 that kind." "Merchantable" goods must be "fit for the ordinary purposes for which the goods are
27 used."
28

1 118. Defendant is and was, at all relevant times, a merchant with respect to home
2 appliances, and with respect to residential Products in particular. Defendant's Products each
3 constitutes a "good" under the UCC.

4 119. Plaintiff and class members purchased Defendant's Products.

5 120. As the manufacturer of residential gas stoves, Defendant impliedly warranted to
6 Plaintiff and the class that the products were of merchantable quality and were safe for their ordinary
7 use in home cooking. In fact, as described in detail above, the products, when sold and at all times
8 after, were not in merchantable condition and were not fit for the ordinary purpose for which they are
9 used. Specifically, the Products are inherently flawed given a defect in design making them emit
10 health-harming pollutants when used to cook inside the home. The defective design makes them
11 unfit for ordinary purposes even when used correctly. In addition, Defendant's Products are not
12 adequately labeled because they fail to disclose the risk of harmful pollutants.

13 121. Thus, Defendant breached the implied warranty of merchantability in connection with
14 the sale and distribution of the Products.

15 122. Plaintiff and the class were foreseeable third-party beneficiaries of Defendant's sale of
16 the Products. Defendant sells the Products to retailers for distribution and sale to consumers such as
17 Plaintiff and class members.

18 123. Defendant's breach directly caused Plaintiff and class members harm. Plaintiff and
19 Subclass members were injured as a direct and proximate result of Defendant's conduct because (a)
20 they would not have purchased the Defendant's Products if they had known the truth, (b) they
21 overpaid for the Products because the Products are sold at a price premium due to the
22 misrepresentation and omissions, or and/or (c) they received a product that was defective and thus
23 less valuable than what they paid for.

24 ***Implied Warranty of Fitness***

25 124. The Uniform Commercial Code § 2-315 states that where a seller "has reason to know
26 any particular purpose for which the goods are required and that the buyer is relying on the seller's
27 skill or judgment to select or furnish suitable goods, there is unless excluded or modified under the
28 next section an implied warranty that the goods shall be fit for such purpose."

1 135. In deciding to purchase consumable products from Defendant, Plaintiff and the class
2 reasonably relied on Defendant's omissions to form the mistaken belief that the Products did not pose
3 a significant pollutant risk.

4 136. As alleged in detail above, Defendant's fraudulent conduct was knowing and
5 intentional. The omissions made by Defendant were intended to induce and actually induced Plaintiff
6 and class members to purchase the Products. Plaintiff would not have purchased the products had
7 they known of the defect. Class-wide reliance can be inferred because Defendant's omissions were
8 material, i.e., a reasonable consumer would consider them important to their purchase decision.

9 137. As alleged in detail above, Defendant had a duty to disclose the defect.

10 138. Plaintiff and class members were injured as a direct and proximate result of
11 Defendant's fraudulent omissions because (a) they would not have purchased the product if they had
12 known it was unsafe and unfit for use; (b) they overpaid for the product because it is sold at a price
13 premium due to Defendant's misleading representations and omissions, or (c) they received a product
14 that was defective and thus less valuable than what they paid for.

15 139. Defendant's acts were done maliciously, oppressively, deliberately, with intent to
16 defraud, and in reckless disregard of Plaintiff's rights and well-being to enrich Defendant.
17 Defendant's conduct warrants an assessment of punitive damages in an amount sufficient to deter
18 such conduct in the future, which amount is to be determined according to proof.

19 **Count VIII: Unjust Enrichment / Quasi-contract**

20 **(on behalf of Plaintiff and the Nationwide Class)**

21 140. Plaintiff incorporates by reference each preceding and succeeding paragraph as though
22 fully set forth herein.

23 141. Plaintiff brings this count individually and for the Nationwide Class. In the
24 alternative, Plaintiff brings this cause of action on behalf of himself and the California Subclass.

25 142. Plaintiff and class members conferred a tangible and material economic benefit upon
26 Defendant by purchasing the Products.

1 143. In exchange for the purchase price, Defendant provided a defective product, without a
2 reasonable warning. Defendant knew and appreciated the benefit they incurred from consumers
3 purchasing Products.

4 144. Thus, Defendant is aware of, and has retained, the unjust benefit conferred upon them
5 by Plaintiff and the class members.

6 145. Defendant received a direct and unjust benefit, at Plaintiff's and the class's expense.

7 146. Plaintiff and the class seek restitution.

8 **VII. Jury Demand.**

9 147. Plaintiff demands a jury trial on all issues so triable.

10 **VIII. Prayer for Relief.**

11 148. Plaintiff seeks the following relief individually and for the proposed class and
12 subclasses:

- 13 • An order certifying the asserted claims, or issues raised, as a class action;
 - 14 • An order appointing Plaintiff as representative for the Nationwide Class and each
15 Subclass, and appointing their counsel as lead counsel for the classes;
 - 16 • A judgment in favor of Plaintiff and the proposed classes;
 - 17 • Damages, treble damages, statutory damages, and punitive damages where applicable;
 - 18 • Restitution;
 - 19 • Disgorgement, and other just relief;
 - 20 • An order awarding Plaintiff and all other class members damages in an amount to be
21 determined at trial for the wrongful acts of Defendant;
 - 22 • Pre- and post-judgment interest on all amounts awarded;
 - 23 • Injunctive relief as pleaded or as the Court may deem proper;
 - 24 • Reasonable attorneys' fees and costs, as allowed by law;
 - 25 • Punitive damages; and
 - 26 • Any additional relief that the Court deems reasonable and just.
- 27
28

1 Dated: March 2, 2023

Respectfully submitted,

2 By: /s/ Christin Cho

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CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Charles Drake

(b) County of Residence of First Listed Plaintiff Humboldt (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Christin Cho, Dovel & Luner LLP (310-656-7066) 201 Santa Monica Blvd., Ste. 600, Santa Monica, CA 90401

DEFENDANTS

Haier US Appliance Solutions Inc.

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff 2 U.S. Government Defendant 3 Federal Question (U.S. Government Not a Party) 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and incorporation status.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation-Transfer 8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Consumer protection laws ; Jurisdiction exists under 28 U.S.C. § 1332(d)

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE

DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE X EUREKA-MCKINLEYVILLE

DATE 03/02/2023

SIGNATURE OF ATTORNEY OF RECORD

/s/ Christin Cho