

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Jonathan M. Sedgh  
MORGAN & MORGAN  
850 3rd Ave, Suite 402  
Brooklyn, NY 11232  
Phone: (212) 738-6839  
Fax: (813) 222-2439  
jsedgh@forthepeople.com

Jean S. Martin  
Francesca K. Burne  
MORGAN & MORGAN  
201 N. Franklin St. 7<sup>th</sup> Floor  
Tampa, FL 33602  
813-559-4908  
jeanmartin@forthepeople.com  
fburne@forthepeople.com

Elaine A. Ryan  
Colleen M. Auer  
AUER RYAN, P.C.  
20987 N. John Wayne Parkway  
#B104-374  
Maricopa, AZ 85139  
520-705-7332  
eryan@auer-ryan.com  
cauer@auer-ryan.com

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

Shan Harter, on behalf of himself and  
others similarly situated,

Plaintiff,

v.

The Home Depot, Inc., a Delaware  
corporation, and Satco Products, Inc., a  
New York corporation,

Defendants.

No.

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiff Shan Harter, by and through his attorneys, brings this action on behalf of himself and all other similarly situated consumers against Defendants The Home Depot, Inc. (“Home Depot”) and Satco Products, Inc. (“Satco”), and alleges as follows:

1 **NATURE OF THE ACTION**

2 1. This case involves a pattern of deceptive and unfair business practices by  
3 Satco and Home Depot in the marketing and sale of exterior post-mounted and wall-  
4 mounted lanterns.

5 2. Satco manufactures, and Home Depot markets, sells and distributes over the  
6 internet and in its retail stores, exterior post-mounted and wall-mounted lanterns with  
7 “clear beveled glass” shade, and are available in black or white finish (collectively, “the  
8 Lanterns”).<sup>1</sup>

9 3. Home Depot sells the Lanterns under its “Hampton Bay” trademark, as well  
10 as under Satco’s “Glomar” trademark.

11 4. The Lanterns are packaged in cardboard boxes that prominently represent  
12 that they are for “exterior” use on “uncovered” “porches/patios” with shades constructed  
13 of “clear beveled glass.” These representations also appear on the Home Depot’s website  
14 for the Lanterns.

15 5. In fact, the Lanterns’ shades are not constructed entirely of clear beveled  
16 glass as represented. Instead, each of the 8 panels comprising the shade are partially  
17 constructed of clear beveled plastic.

18 6. Yet, nowhere on the product box, or on Home Depot’s website where the  
19 Lanterns also may be purchased, is there any disclosure of the approximate 1 ½ inch by 2  
20 inch clear beveled plastic at the base of each shade panel.

21 7. The omission that the base of each panel is constructed of clear beveled  
22 plastic components rather than glass is a material omission because the Lanterns are

---

23 <sup>1</sup> The Lanterns include without limitation: Hampton Bay Black Post-Mounted Lantern,  
24 Model #HB7029-05, SKU 884-4630; Hampton Bay White Post-Mounted Lantern, Model  
25 #HB7029-06, SKU 885-255; Glomar Black Post-Mounted Lantern, Model #HD-899;  
26 Glomar White Post-Mounted Lantern, Model #HD-897; Hampton Bay Black Wall-  
27 Mounted Lantern, Model #HB7028-05, SKU 882582; Hampton Bay White Wall-Mounted  
28 Lantern, Model #HB7028-06, SKU 883902; Glomar Black Wall-Mounted Lantern, Model  
#HD-890; Glomar White Wall-Mounted Lantern, Model #HD-888.

1 marketed for outdoor use in uncovered locations where, among other conditions, they will  
2 be exposed to the sun. Importantly, whereas glass will maintain its clear color when  
3 exposed to the sun, the plastic used in the Lanterns will turn yellow in color due to sun  
4 exposure.

5 8. When manufacturers and their retailers, like Defendants here, make  
6 representations about the materials of which their products are constructed, the reasonable  
7 consumer justifiably trusts that the manufacturer and retailer, being in a greater position  
8 of knowledge, have accurately represented their products' composition.

9 9. At the point-of-sale, consumers purchasing the Lanterns, both in-store and  
10 over the internet, must rely on Defendants' product representations because they cannot  
11 inspect the products themselves as they are packaged in non-transparent boxes or located  
12 at off-site warehouses.

13 10. And, even upon unpackaging the Lanterns and installing them, a reasonable  
14 consumer would not necessarily notice how the beveled shade panels transition from glass  
15 to plastic toward the bottom as both materials are clear in color, are identically beveled,  
16 and the transition from glass to plastic is camouflaged by framing masking the transition.

17 11. Because the Lantern shades are partially constructed of clear beveled plastic  
18 made to resemble glass, Defendants' "clear beveled glass" shade product description and  
19 representations are false, misleading and deceptive.

20 12. Defendants have consistently and repeatedly represented that the Lanterns  
21 contain "clear beveled glass" shades, including on the front of the product packaging and  
22 on the home page of Home Depot's product website, such that all consumers are  
23 necessarily exposed to the representation prior to, or at, the point-of-sale.

24 13. As a result of Defendants' false, misleading and deceptive "clear beveled  
25 glass" shade product description, Plaintiff and members of the proposed Class have  
26 purchased the Lanterns designed for outdoor use with shades partially constructed of  
27 plastic that will yellow over time, materially diminishing their aesthetic appeal.  
28

1           14. Plaintiff brings this action on behalf of himself and other similarly situated  
2 consumers who have purchased the Lanterns to halt the dissemination of this false,  
3 misleading and deceptive advertising message, correct the false and misleading perception  
4 it has created in the minds of consumers, and obtain redress for those who have purchased  
5 the Lanterns. Based on violations of both common law and state statutes, Plaintiff seeks  
6 injunctive, restitutionary and monetary relief for consumers who purchased Defendants'  
7 Lanterns.

8                                   **JURISDICTION AND VENUE**

9           15. This Court has original jurisdiction over this case under the provisions of the  
10 Class Action Fairness Act codified at 28 U.S.C. §1332(d)(2). There is diversity of  
11 citizenship because, among other reasons, (i) Plaintiff is a citizen of Arizona,  
12 (ii) Defendant Home Depot is a citizen, for diversity purposes, of Georgia, and Defendant  
13 Satco is a citizen of New York. The amount in controversy in this action exceeds  
14 \$5,000,000 and there are more than 100 members in the proposed Class.

15           16. This Court has personal jurisdiction over Defendants because Defendants are  
16 authorized to do, and do, business in New York. Defendants have marketed, promoted,  
17 distributed and sold the Lanterns in New York and Defendants have sufficient minimum  
18 contacts with this State and/or sufficiently avail themselves of the markets in this State  
19 through their promotion, sales, distribution and marketing within this State to render the  
20 exercise of jurisdiction by this Court permissible.

21           17. Venue is proper under 18 U.S.C. §1965(a) because Defendants transact  
22 substantial business in this district and a substantial part of the events or omissions giving  
23 rise to Plaintiff's claims occurred in this judicial district, as Defendant Satco is  
24 headquartered in Brentwood, New York.

25                                   **PARTIES**

26           1. Plaintiff Shan Harter resides in Chandler, Arizona and is a citizen and  
27 resident of Arizona. On or about October 31, 2017, Plaintiff was exposed to, and saw,  
28

1 Defendants’ “clear beveled glass” shade product representations by reading the front, back  
2 and sides of the Hampton Bay Exterior Post-Mounted Lantern Box at a Home Depot store  
3 in Chandler, Arizona. Based on the “clear beveled glass” shade representations on the box,  
4 Plaintiff purchased the 4 Exterior Post-Mounted Lanterns and Bases Home Depot had in  
5 stock and paid approximately \$56.00 for each Lantern and Base. He also ordered an  
6 additional 61 Exterior Post-Mounted Lanterns and Bases and paid approximately \$28.78  
7 for each Lantern and \$5.80 for each Base he ordered. Had Plaintiff known that the shade  
8 was partially constructed of clear beveled plastic, he would not have purchased the  
9 Lanterns. As a result, Plaintiff has suffered injury in fact, incurred ascertainable monetary  
10 loss and damages, and has otherwise been harmed by Defendants’ conduct.

11 18. Defendant Home Depot is a public corporation incorporated under the laws  
12 of the state of Delaware. Home Depot’s corporate headquarters is located at 2455 Paces  
13 Ferry Road S.E., Suite #C-20, Atlanta, Georgia 30339. Home Depot promotes, markets,  
14 distributes, and sells the Lanterns to consumers nationwide.

15 19. Defendant Satco is a corporation organized and existing under the laws of  
16 the state of New York. Satco’s headquarters is located at 110 Heartland Boulevard,  
17 Brentwood, New York 11717. Satco manufactures, promotes, markets, distributes, and  
18 sells the Lanterns to consumers nationwide.

19 **FACTUAL ALLEGATIONS**

20 **The Lanterns**

21 20. Defendants manufacture, distribute, market and sell the Lanterns online and  
22 in Home Depot stores nationwide. Each Lantern retails between approximately \$28.00-  
23 \$84.00.

24 21. Throughout the relevant time period, Defendants have consistently conveyed  
25 the message to consumers that the Lanterns are designed for outdoor use with a “clear  
26 beveled glass” shade.

27 22. Defendants’ “clear beveled glass” shade representations are false, misleading  
28

1 and deceptive.

2 23. Each and every consumer who purchases the Lanterns is exposed to these  
3 deceptive representations, which prominently appear on the front and sides of each box  
4 and on the home page of Home Depot's website where the Lanterns also may be  
5 purchased.

6

7

**FRONT OF BOX**

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**RIGHT SIDE OF BOX**



# LEFT SIDE OF BOX

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28






1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# HOME DEPOT WEBPAGE

3/1/23, 5:33 PM Hampton Bay 3-Light Black Outdoor Lamp HB7029-05 - The Home Depot



Weather Resistant

Weather Resistant

Hover Image to Zoom

**\$39.97**

Pay **\$14.97** after **\$25 OFF** your total qualifying purchase upon opening a new card. [Apply for a Home Depot Consumer Card](#)

**How To Get It**

This item is **unavailable** at Mesa,AZ.  
[Check Nearby Stores](#)  
 Delivery is **unavailable** for this product.

**Free & Easy Returns In Store or Online**  
 Return this item within 90 days of purchase. [Read Return Policy](#)

<https://www.homedepot.com/p/Hampton-Bay-3-Light-Black-Outdoor-Lamp-HB7029-05/205202509> 2/5

3/1/23, 5:33 PM Hampton Bay 3-Light Black Outdoor Lamp HB7029-05 - The Home Depot

**Product Details**

This Hampton Bay 7-1/2 in. outdoor post lantern features a solid black finish and eight sides of clear, beveled glass. This simple, elegant design compliments any exterior decor. These fixtures are built with cast aluminum to last, and they are suitable for use in wet locations.

**Additional Resources**  
 From the Manufacturer

**Specifications**  
 Dimensions: H 20.75 in, W 7.5 in, D 7.5 in

**Questions & Answers**  
 30 Questions

**Customer Reviews**  
 4.3 out of 5 ★★★★★ (115)

**The Shade is Not Entirely Clear Beveled Glass and is Designed to Conceal That Fact**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

24. Each of the shade's 8 panels are approximately 7 ½ inches in length. Despite Defendants' representations that the Lanterns feature "clear beveled glass," the top 6 inches of the panels are clear beveled glass down to a frame surround, at which point the panels are then constructed of clear beveled plastic to the base of the shade.

25. The transition from glass to plastic is seamless and unnoticeable as both the glass and plastic are clear, identically beveled, and the transition occurs between the frame surround and the base 1 ½ inches from the bottom of the panels.

26. In short, the panels are intentionally designed to look like clear beveled glass from top to bottom. And, that is what they appear to be upon visual inspection by consumers. Even were consumers to "tap" along the entire length of the panels, they would not discern any difference in materials.

**Defendants Substitute Plastic for Glass to Increase Their Profit Margins and Revenues**

27. Clear beveled glass is much more expensive to manufacture than plastic. Not only does the glass itself cost more than plastic, but beveled glass must be cut while beveled plastic is formed using molds. Thus, by substituting approximately 1 ½ by 2 inch pieces of beveled plastic toward the base of the shade panels, Defendants significantly cut production costs leading to larger profit margins.

28. These cost savings are not passed on to consumers. Instead, Defendants charge a premium price for the Lanterns which consumers are willing to pay for the added benefits of clear beveled glass panels on their outdoor light fixtures. The demand for glass Lanterns that will not discolor is so high that Defendants have been able to almost triple the price of the Lanterns during the relevant period.

29. Further, Defendants are able to attract more customers and charge a higher price for their Lanterns than they otherwise could charge absent the false claims leading to an increase in revenues.

30. Reasonable consumers, including Plaintiff and Class members, would and

1 did attach importance to Defendants’ representations regarding the shades when deciding  
2 whether to purchase the Lanterns. Plaintiff and Class members relied on the statement that  
3 the shades were made of glass, and Defendants’ misrepresentations were and are material.

4 **The Plastic Yellows Over Time Destroying the Lanterns’ Aesthetic Value**

5 31. Consumers have not only paid inflated prices for the Lanterns, but they have  
6 purchased products designed to fail for their intended and advertised use as exterior lighting  
7 products. As the Lanterns’ aesthetic appeal is a key product feature, the Lanterns’ ability  
8 to maintain that aesthetic appeal over time is important to consumers.

9 32. Because the Lanterns are designed for outdoor use in “uncovered” “porches  
10 and patios,” they will be exposed to the elements including the sun.

11 33. Unlike glass, the plastic used in the Lanterns yellows over time when  
12 exposed to the sun. Plastic yellowing occurs when polymer chains degrade. This happens  
13 in either the presence of oxygen and UV light or sufficient heat.

14 34. Because of this inevitable degradation and resulting yellowing of common  
15 plastics, many consumers are willing to pay more for decorative outdoor lights constructed  
16 of glass.

17 35. The yellowing does not occur immediately upon exposure to the sun. It can  
18 take years of daily sun exposure before a noticeable yellowing occurs.

19 **The Uniform Glass Appearance of the Panels and the Latent Discoloration Defect**  
20 **Kept Consumers from Discovering the Plastic Substitutions.**

21 36. Because the shade panels were purposefully designed to appear as all “clear  
22 beveled glass” and the plastic portions would not noticeably yellow for several years after  
23 installation, Defendants should have prominently disclosed that the shade panels were  
24 partially constructed of clear beveled plastic pieces between the frame surround and the  
25 base of the shade. Defendants also should have disclosed that the plastic components will  
26 yellow over time when exposed to the sun.

27 37. Yet, nowhere do Defendants disclose that the panels are partially constructed  
28

1 of plastic – not on the box, not on the Lanterns, not in the Product Manual, not on Home  
2 Depot’s website, nowhere.

3 38. Defendants also do not disclose that portions of the panels will yellow over  
4 time. The Product Manual mentions nothing about yellowing of the panels – only that the  
5 black or white “finish” “over time will naturally weather and fade.”

6 **Plaintiff’s Experience**

7 39. The Lanterns are individually packaged in boxes stating on the front and each  
8 of the side panels that the shade is “clear beveled glass.” The Instruction Manual inside  
9 the box under the “Features” heading states: “Three-light exterior post lantern in black  
10 finish (SKU 884-463) or white finish (SKU 885-255) and clear beveled glass.” Upon  
11 visual inspection by Plaintiff, the Lanterns appeared to be constructed of clear beveled  
12 glass as represented.

13 40. Plaintiff hired a contractor to install the Lanterns atop the block wall  
14 surrounding his home. As this project required substantial concrete and electrical work,  
15 the Lanterns remained in their boxes until approximately August 26, 2018 when  
16 installation was completed.

17 41. It was not until July 22, 2022, that Plaintiff discovered that the Lanterns were  
18 not clear beveled glass as represented. At or about that time, Plaintiff proceeded to clean  
19 what he believed was dust and spider webs that had accumulated along the bottom portions  
20 of the clear glass panels of all the Lanterns along his border wall. Plaintiff believed the  
21 yellowing he had noticed had been caused by dust and debris. Only as he started to clean  
22 the panels did Plaintiff then discover that the yellow discoloration was not debris, but  
23 rather the yellowing of the plastic pieces between the frame surround and the base of the  
24 Lanterns.

25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



42. Plaintiff immediately contacted Home Depot to discuss that the Lanterns were not clear beveled glass as represented and that the plastic had yellowed. Plaintiff demanded that Home Depot provide him with clear beveled glass replacements or refund his money and installation costs. Home Depot referred Plaintiff to Satco, the product manufacturer.

43. From July 2022 through January 23, 2023, Plaintiff was toggled back-and-forth between Home Depot and Satco, both of whom had Plaintiff provide them with documentation and information only to ultimately reject his claim.

**The Impact of Defendants’ Wrongful Conduct**

44. Defendants continue to unequivocally, falsely, deceptively, and misleadingly convey through their advertising and labeling one uniform message: The Lanterns are “clear beveled glass.”

45. Plaintiff and Class members have been, and will continue to be, deceived or misled by Defendants’ deceptive clear-beveled-glass representations. Plaintiff would not have purchased the Lanterns had he known that Defendants’ clear-beveled-glass

1 representations were false and misleading. Defendants knew that purchasers of the  
2 Lanterns would reasonably expect the Lanterns to be made with clear beveled glass.  
3 Plaintiff and Class members have precisely that expectation. Further, Defendants knew  
4 that purchasers of the Lanterns would reasonably expect that the Lanterns would be  
5 covered under its Limited Warranty if the yellowing of the undisclosed plastic panels  
6 manifested during the warranty period, just as Plaintiff and other consumers expected.

7 46. As a result, Plaintiff and the Class members have been damaged in their  
8 purchases of the Lanterns.

9 **Tolling of The Statute of Limitations**

10 47. The causes of action alleged accrued upon discovery that the Lanterns are  
11 partially made with plastic rather than being wholly clear beveled glass as represented  
12 by Defendants. Because Defendants used beveled plastic that looks like glass and  
13 concealed that they use plastic rather than the advertised glass, Plaintiff and members of  
14 the Class did not discover, and could not have discovered, the plastic through reasonable  
15 and diligent investigation. Reasonable and diligent investigation did not and could not  
16 reveal a factual basis for a cause of action based on Defendants' concealment.

17 48. Any applicable statutes of limitation have been tolled by Defendants'  
18 knowing, active, and ongoing concealment and denial of the facts as alleged herein.

19 49. At all relevant times, and continuing to this day, Defendants knowingly,  
20 affirmatively, and actively misrepresented and concealed the true character, quality, and  
21 composition of the Lanterns in the sale of them into the stream of commerce.

22 50. Had Plaintiff and Class members known that the Lanterns were not made  
23 of clear beveled glass and, thus, were not suitable for exposure to weather and outdoor  
24 elements, they would not have purchased the Lanterns.

25 51. Plaintiff's and Class members' lack of knowledge of the plastic used in the  
26 Lanterns was due to Defendants' concealment of the issue, and not through any failure  
27 or fault of Plaintiff and Class members.

28

1           52. For these reasons, Defendants are estopped from relying on any statute of  
2 limitations in defense of this action.

3           53. Additionally, Defendants are estopped from raising any defense of laches  
4 due to its own conduct as alleged herein.

5           54. The Lanterns are worth less than bargained for because the plastic used will  
6 yellow over time, but the advertised glass would not have done so.

7           55. Defendants reaped huge profits by sale of the Lanterns through misconduct  
8 and omission.

9           56. Plaintiff and members of the proposed Class were damaged by Defendants’  
10 conduct and/or omissions.

11           57. As a result of Defendants’ conduct and omissions, Plaintiff and the putative  
12 Class have purchased the Lanterns that do not perform as promised.

13           58. Plaintiff and the members of the Class have been forced to pay, or will pay,  
14 a substantial amount of money to replace the unsightly Lanterns once the yellowing  
15 begins, and thus the value of the Lanterns has been diminished.

16

17

### **CLASS ALLEGATIONS**

18

19

20

21

59. Plaintiff brings this action on behalf of himself and all other similarly situated consumers pursuant to Rule 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure and seeks certification of a nationwide Class and Arizona state subclass defined as follows:

22

#### **Nationwide Class**

23

24

All consumers in the United States who purchased the Lanterns (the “Nationwide Class”).

25

#### **Arizona SubClass**

26

27

All consumers in the state of Arizona who purchased the Lanterns (the “Arizona Subclass”).

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

60. Excluded from each of the above Classes are Defendants and their officers, directors and employees and those who purchased the Lanterns for the purpose of resale.

61. Plaintiff hereby reserves the right to amend or modify the Class definitions with greater specificity or division after having had an opportunity to conduct discovery.

62. Each of the proposed Classes meets the criteria for certification under Rule 23(a), (b)(2), (b)(3) and (c)(4).

63. **Numerosity. Fed. R. Civ. P. 23(a)(1).** Members of the Class are so numerous and geographically dispersed that joinder of all Class members is impracticable. As Home Depot is the world’s largest home improvement retailer with well over 1,500 store locations throughout the United States, Plaintiff is informed and believes, and on that basis alleges, that the proposed Class contains tens of thousands of members. The precise number of Class members is unknown to Plaintiff, but ascertainable through Home Depot’s customer loyalty and other automated purchaser tracking software.

64. **Commonality. Fed. R. Civ. P. 23(a)(2) and (b)(3).** Common questions of law and fact exist as to all members of the Class and predominate over questions affecting only individual Class members. The common legal and factual questions include, but are not limited to, the following:

- a. whether Defendants’ “clear beveled glass” representations are false, misleading, or objectively reasonably likely to deceive;
- b. whether Defendants engaged in false, deceptive, or misleading conduct;
- c. whether Defendants sold the Lanterns at inflated prices as a result of their misrepresentations;
- d. whether the alleged conduct constitutes violations of the laws asserted; and,
- e. whether Plaintiff and Class members are entitled to appropriate remedies, including actual and consequential damages, corrective advertising, and injunctive relief.



1           65.       **Typicality. Fed. R. Civ. P. 23(a)(3).** Plaintiff’s claims are typical of the  
2 claims of the members of the Class because, *inter alia*, all Class members were exposed  
3 to the identical “clear beveled glass” misrepresentations and material omissions and were  
4 injured through the uniform misconduct described above. Plaintiff is advancing the same  
5 claims and legal theories on behalf of himself and all members of the Class.

6           66.       **Adequacy. Fed. R. Civ. P. 23(a)(4).** Plaintiff will fairly and adequately  
7 represent and protect the interests of the members of the Class. Plaintiff has retained  
8 counsel competent and experienced in both consumer protection and class litigation.

9           67.       **Superiority. Fed. R. Civ. P. 23(b)(3).** A class action is superior to other  
10 available methods for the fair and efficient adjudication of this controversy. The expense  
11 and burden of individual litigation would make it impracticable or impossible for proposed  
12 Class members to prosecute their claims individually. It would thus be virtually  
13 impossible for the Class, on an individual basis, to obtain effective redress for the wrongs  
14 done to them. Furthermore, even if Class members could afford such individualized  
15 litigation, the court system could not. Individualized litigation would create the danger of  
16 inconsistent or contradictory judgments arising from the same set of facts. Individualized  
17 litigation would also increase the delay and expense to all parties and the court system  
18 from the issues raised by this action. By contrast, the class action device provides the  
19 benefits of adjudication of these issues in a single proceeding, economies of scale, and  
20 comprehensive supervision by a single court, and presents no unusual management  
21 difficulties under the circumstances here.

22           68.       **Injunctive and Declaratory Relief.** The Class also may be certified because  
23 Defendants have acted or refused to act on grounds generally applicable to the Class  
24 thereby making appropriate final declaratory and/or injunctive relief with respect to the  
25 members of the Class as a whole.

26           69.       Plaintiff seeks preliminary and permanent injunctive and equitable relief on  
27 behalf of the entire Class, on grounds generally applicable to the entire Class, to enjoin  
28

1 and prevent Defendants from engaging in the acts described, and requiring Defendants to  
2 provide full restitution to Plaintiff and Class members.

3 70. Unless a Class is certified, Defendants will retain monies received as a result  
4 of their conduct that were taken from Plaintiff and Class members. Unless a Class-wide  
5 injunction is issued, Defendants will continue to commit the violations alleged, and the  
6 members of the Class and the general public will continue to be misled.

7 **COUNT 1**  
8 **Violations of the Arizona Consumer Fraud Act,**  
9 **A.R.S. §§44-1521, *et seq.***  
10 **(On Behalf of Plaintiff and the Arizona Subclass)**

11 71. Plaintiff and members of the Class incorporate all of the allegations  
12 contained in paragraphs 1-70 as if fully set forth herein.

13 72. Defendants are “persons” as defined by A.R.S. §44-1521(6).

14 73. Defendants sold Plaintiff and Class members Lanterns which are  
15 “merchandise” as that term is defined by A.R.S. §44-1521.

16 74. Section 44-1522 of the Arizona Consumer Fraud Act prohibits:

17 The act, use or employment by any person of any deception, deceptive  
18 or unfair act or practice, fraud, false pretense, false promise,  
19 misrepresentation, or concealment, suppression or omission of any material  
20 fact with intent that others rely on such concealment, suppression or  
21 omission, in connection with the sale or advertisement of any merchandise  
22 whether or not any person has in fact been misled, deceived or damaged  
23 thereby.

24 *See* A.R.S. §44-1522(A).

25 75. Defendants used deception, used a deceptive act or practice, and fraudulently  
26 omitted and concealed material facts in connection with the sale or advertisement of  
27 “merchandise” in violation of A.R.S. §44-1522(A).

28 76. Defendants affirmatively misrepresented that the Lanterns contained shades  
made of “clear beveled glass” and omitted and concealed material facts, which they knew  
about and had the duty to disclose – namely, that the Lanterns were partially constructed

1 of beveled plastic that would yellow over time when exposed to the sun. The  
2 misrepresentations and omissions were designed to, and intended to, mislead consumers.

3 77. Defendants omitted and concealed the material facts even though in equity  
4 and good conscience those facts should have been disclosed, and they did so with the  
5 intent that others would rely on the omission, suppression, and concealment.

6 78. Upon information and belief, Defendants intentionally, affirmatively  
7 misrepresented, and omitted and concealed the material facts with the intention that  
8 consumers rely on the misrepresentations and omissions.

9 79. The misrepresented and concealed facts are material in that they are logically  
10 related to the transactions at issue and rationally significant to the parties in view of the  
11 nature and circumstances of those transactions.

12 80. Plaintiff and Class members were ignorant of the truth and relied on the  
13 misrepresented and concealed facts in purchasing the Lanterns and incurred damages as a  
14 consequent and proximate result.

15 81. But for Defendants' misrepresentations and omissions, the damage to  
16 Plaintiff and Class members would not have occurred.

17 82. Defendants knew or should have known that the Lanterns contained beveled  
18 plastic that would yellow upon prolonged sun exposure, which was certain to occur given  
19 that the Lanterns were designed for outdoor use. Defendants' actions in engaging in these  
20 deceptive acts and practices were intentional, knowing and willful, and wanton and  
21 reckless with respect to the rights of Plaintiff and Class members. Specifically,  
22 Defendants designed the Lanterns for outdoor use with plastic strategically placed under  
23 the framed surround at the lower end of the panels to create the illusion of all glass,  
24 knowing that the plastic would yellow upon prolonged sun exposure, but would not be  
25 detectable for several years after installation.

26 83. Plaintiff and Class members seek all available relief under A.R.S. §44-1521,  
27 *et seq.*, including, but not limited to, compensatory damages, punitive damages, injunctive  
28

1 relief, and attorneys' fees and costs.

2 **COUNT 2**

3 **Violations of New York Consumer Law for**  
4 **Deceptive Acts and Practices**  
5 **New York Gen. Bus. Law §349 and §350**  
6 **(On Behalf of Plaintiff and the Nationwide Class)**

7 84. Plaintiff and members of the Class incorporate all of the allegations  
8 contained in paragraphs 1-70 as if fully set forth herein.

9 85. New York General Business Law ("NYGBL") §349 and §350 prohibit  
10 deceptive acts or practices in the conduct of any business, trade, or commerce, or in the  
11 furnishing of any service in the state of New York.

12 86. NYGBL §350 prohibits false or misleading statements in the advertising of  
13 products such as the Lanterns.

14 87. By reason of the conduct alleged herein, Defendants have engaged in  
15 unlawful practices within the meaning of the NYGBL §349 and §350. The conduct alleged  
16 herein is a "business practice" within the meaning of the NYGBL §349 and §350 and the  
17 deception occurred within New York State.

18 88. Defendants violated the NYGBL §349 and §350 by advertising to Plaintiff  
19 and members of the Class that the Lanterns contained shades made of "clear beveled  
20 glass;" this representation was false and deceptive.

21 89. The aforementioned conduct is and was deceptive, false, and fraudulent and  
22 constitutes an unconscionable commercial practice in that Defendants have, by the use of  
23 false or deceptive marketing and advertising statements and/or knowing intentional  
24 material omissions, misrepresented and/or concealed the materials used in the  
25 manufacturing of its Lanterns.

26 90. Defendants' packaging and product labeling induced the Plaintiff and Class  
27 members to buy the Lanterns.

28 91. Defendants made the untrue and misleading statements and representations

1 willfully, wantonly, and with reckless disregard for the truth.

2 92. Defendants made the material misrepresentations described in this  
3 Complaint in the packaging and labeling of the Lanterns.

4 93. Defendants' material misrepresentations were substantially uniform in  
5 content, presentation, and impact upon consumers at large. Moreover, all consumers  
6 purchasing the Lanterns were and continue to be exposed to Defendants' material  
7 misrepresentations.

8 94. The acts by Defendants are and were deceptive acts or practices which are  
9 and/or were likely to mislead a reasonable consumer purchasing the Lanterns. Said  
10 deceptive acts and practices are material. The advertisement of the Lanterns by deceptive  
11 means as well as sales based on deceptive marketing in New York were consumer-oriented  
12 acts, thereby falling under the New York consumer fraud statute, NYGBL §349 and §350.

13 95. Defendants' wrongful conduct caused Plaintiff and members of the Class to  
14 suffer a consumer-related injury.

15 96. In addition to, or in lieu of, actual damages, because of the injury, Plaintiff  
16 and the Class seek statutory damages for each injury and violation which has occurred.

17 **COUNT 3**

18 **Unjust Enrichment**

19 **(On Behalf of Plaintiff and the Nationwide Class)**

20 97. Plaintiff repeats and realleges paragraphs 1-70 as if fully set forth herein.

21 98. As the intended and expected result of their conscious wrongdoing,  
22 Defendants have profited and benefited from the purchase of the Lanterns by Plaintiff and  
23 the Class.

24 99. Defendants have voluntarily accepted and retained these profits and benefits,  
25 with full knowledge and awareness that, as a result of Defendants' misrepresentations and  
26 misconduct, Plaintiff and the Class did not receive Lanterns of the quality, nature, fitness,  
27

28

1 or value that had been represented by Defendants, and that reasonable consumers  
2 expected.

3 100. Defendants have been unjustly enriched by their fraudulent and deceptive  
4 actions at the expense of Plaintiff and Class members.

5 101. Equity and good conscience militate against permitting Defendants to retain  
6 these profits and benefits.  
7

8 102. Defendants received proceeds from their sale of the Lanterns, which were  
9 purchased by Plaintiff and the Class for an amount far greater than the reasonable value  
10 because the Lanterns are made of plastic which will yellow over time, despite Defendants'  
11 representations to the contrary.  
12

13 103. It would be unjust and inequitable for Defendants to retain these profits and  
14 benefits, warranting disgorgement to Plaintiff and the Class of all monies paid for the  
15 Lanterns, and/or all monies paid for which Plaintiff and the Class did not receive benefit.  
16

17 104. As a direct and proximate result of Defendants' unjust enrichment, Plaintiff  
18 and Class members suffered injury and seek an order directing Defendants' disgorgement  
19 and the return to Plaintiff and the Class of the amount each improperly paid to Defendants.  
20

21 **PRAYER FOR RELIEF**

22 Wherefore, Plaintiff prays for a judgment:

- 23 A. Certifying the Classes as requested herein;  
24 B. Awarding restitution and disgorgement of Defendants' revenues to Plaintiff  
25 and the proposed Class members;  
26 C. Awarding injunctive relief as permitted by law or equity, including enjoining  
27 Defendants from continuing the unlawful practices as set forth herein;  
28

- 1 D. Awarding actual, statutory and punitive damages, as appropriate;
- 2 E. Ordering Defendants to engage in a corrective advertising campaign;
- 3 F. Awarding attorneys' fees and costs; and
- 4 G. Providing such further relief as may be just and proper.

5 **DEMAND FOR JURY TRIAL**

6 Plaintiff hereby demands a trial of his claims by jury to the extent authorized by  
7 law.

8  
9 Dated: May 18, 2023

Respectfully submitted,

10  
11 s/ Jonathan M. Sedgh  
Jonathan M. Sedgh  
12 MORGAN & MORGAN  
13 850 3rd Ave, Suite 402  
Brooklyn, NY 11232  
14 Phone: (212) 738-6839  
15 Fax: (813) 222-2439  
jsedgh@forthepeople.com

16  
17 Jean S. Martin\*  
Francesca K. Burne \*  
18 MORGAN & MORGAN  
201 N. Franklin St. 7<sup>th</sup> Floor  
19 Tampa, FL 33602  
813-559-4908  
20 jeanmartin@forthepeople.com  
21 fburne@forthepeople.com

22 Elaine A. Ryan \*  
23 Colleen M. Auer\*  
AUER RYAN, P.C.  
24 20987 N. John Wayne Parkway  
#B104-374  
25 Maricopa, AZ 85139  
26 520-705-7332  
27 eryan@auer-ryan.com  
cauer@auer-ryan.com

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

*Counsel for Plaintiff and the Proposed Classes*

*\*to seek admission pro hac vice*



CIVIL COVER SHEET

The JS 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 by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Shan Harter, on behalf of himself and other similarly situated

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

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

Jonathan M. Sedgh, Morgan & Morgan, 850 3rd Ave. Suite 402, Brooklyn, NY 11232, Phone: (212) 738-6839

DEFENDANTS

The Home Depot, Inc., and Satco Products, Inc.

County of Residence of First Listed Defendant Suffolk, NY (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)

Does this action include a motion for temporary restraining order or order to show cause? Yes [ ] No [x]

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: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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

Large table with categories: CONTRACT, REAL PROPERTY, 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): 28 U.S.C. §1332(d)(2)

Brief description of cause: Unjust Enrichment, Violations of New York Consumer Law for Deceptive Acts and Practices and Arizona Consumer Fraud Act

VII. REQUESTED IN COMPLAINT:

[x] CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 500000 CHECK YES only if demanded in complaint: JURY DEMAND: [x] Yes [ ] No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE 5/18/23 SIGNATURE OF ATTORNEY OF RECORD

/s/ Jonathan Sedgh

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, \_\_\_\_\_, counsel for \_\_\_\_\_, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

**DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1**

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

**RELATED CASE STATEMENT (Section VIII on the Front of this Form)**

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

**NY-E DIVISION OF BUSINESS RULE 1(c)**

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County?  Yes  No
- 2.) If you answered "no" above:
  - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County?  Yes  No
  - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District?  Yes  No
  - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County?  Yes  No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

**BAR ADMISSION**

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes  No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain)  No

I certify the accuracy of all information provided above.

Signature: \_\_\_\_\_

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

Shan Harter, on behalf of himself and others similarly situated,

Plaintiff(s)

v.

The Home Depot, Inc., a Delaware corporation, and Satco Products, Inc., a New York corporation,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) The Home Depot, Inc. c/o Registered Agent CORPORATION SERVICE COMPANY 251 LITTLE FALLS DRIVE WILMINGTON DE 9808

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jonathan M. Sedgh MORGAN & MORGAN 850 3rd Ave, Suite 402 Brooklyn, NY 11232 Phone: (212) 738-6839 Fax: (813) 222-2439 jsedgh@forthepeople.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

BRENNA B. MAHONEY CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

Shan Harter, on behalf of himself and others similarly situated,

Plaintiff(s)

v.

The Home Depot, Inc., a Delaware corporation, and Satco Products, Inc., a New York corporation,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Satco Products, Inc. c/o LYNN GARTNER DUNNE, LLP 330 OLD COUNTRY RD STE 103 MINEOLA, NY, UNITED STATES, 11501

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jonathan M. Sedgh MORGAN & MORGAN 850 3rd Ave, Suite 402 Brooklyn, NY 11232 Phone: (212) 738-6839 Fax: (813) 222-2439 jsedgh@forthepeople.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

BRENNA B. MAHONEY CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: