

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

MICHAEL KAUFMANN and DEBBIE
THAYER, on behalf of themselves and others
similarly situated,

Plaintiffs,

v.

NORDIC WARE, INC.

Defendant.

Case No. 0:25-cv-01379-ECT-DLM

**FIRST AMENDED CLASS ACTION
COMPLAINT**

DEMAND FOR JURY TRIAL

FIRST AMENDED CLASS ACTION COMPLAINT

Plaintiffs Michael Kaufmann and Debbie Thayer (“Plaintiffs”), by and through their attorneys, makes the following allegations pursuant to the investigation of their counsel and based upon information and belief, except as to allegations specifically pertaining to themselves and their counsel, which are based on personal knowledge, against Nordic Ware, Inc. (“Defendant”).

NATURE OF ACTION

1. This is a class action lawsuit on behalf of purchasers of Defendant’s Nordic Ware Aluminum Bakeware (the “Products¹”) in the United States.
2. Defendant manufactures, labels, advertises, markets and sells aluminum bakeware under its “Nordic Ware” label, all directed from Minnesota. Defendant sells the Products throughout the United States, including in the States of California, New York, and Minnesota.

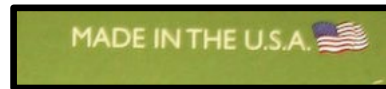
¹The Products include all aluminum bakeware sold by Defendant that is labeled, packaged, or marketed with claims that the products are “made in the USA,” “Made in America,” or “American Made.”

3. Defendant is one of the leading market players in the 3.84 billion dollar bakeware industry. Indeed, in 2019, Defendant’s sales marketing executive vice president Jennifer Dalquist, reported that the Defendant had sold more than 72 million bundt pans *alone*. Ms. Dalquist also reported that in 2019 Defendant’s bundt pans were so popular they simply couldn’t “keep them in stock.” Further, as of 2019, bundt pans were only 20% of Defendant’s business. In fact, in February 2019 Ms. Dalquist disclosed that Defendant sold 10 times more in cookie sheets alone. According to Ms. Dalquist, “the math on that,” is “a pan every couple seconds being sold somewhere in the world.”

4. Moreover, Defendant’s 2019 sales are a mere drop in the bucket. The following year, during the COVID-19 pandemic, Defendant saw an increase in sales of “around 400%.”

5. Defendant advertises, markets, and sells the Products as products that are “made in the USA,” “made in America,” or “American made” (collectively the “USA Representations”), along with a prominent image of the flag of the United States of America:







6. Defendant even goes so far as to stamp the actual pans with an impression that states the Products are “Made in the USA”:



7. Defendant features the USA Representations on online listings for the products:



Nordic Ware Naturals Half Sheet - USA Made Aluminum Sheet Pan, 2-Pack
 Visit the Nordic Ware Store
 4.7 ★★★★★ (40,562)
 7K+ bought in past month

\$27.99 (\$14.00 / Count)
 ✓prime One-Day
 FREE Returns

Save up to 10% with business pricing. Sign up for a free Amazon Business account
 Rewards await with Amazon Visa. [Unlock a \\$60 Amazon Gift Card on approval for Amazon Visa, plus get 3% back on your Amazon purchases.](#)

May be available at a lower price from [other sellers](#), potentially without free Prime shipping.

Style: **Half Sheet**

Half Sheet \$27.99 (\$14.00 / Count) FREE Delivery Tomorrow 10 AM - 3 PM	3-Piece Pan Set \$36.56 FREE Delivery Tomorrow 10 AM - 3 PM	Two Half Sheets wit... \$29.99 (\$10.00 / Count) FREE Delivery Wednesday	Two Half Sheets wit... \$29.99 FREE Delivery Wednesday
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Roll over image to zoom in



BUNDT® > BAKEWARE > COOKWARE > ACCESSORIES > MICROWAVE > SALE > Q



Naturals® Baker's Half Sheet Pan

\$18.00

★★★★★ 60
 read reviews (62) | write a review

Voted "Best Baking Sheet," the Baker's Half Sheet is an essential tool in the kitchen you will use in many different ways. From sheet pan dinners and baked goods to food prep, our top-rated Naturals® Bakeware collection is made of pure aluminum for superior heat conductivity and produces consistently evenly browned baked goods every time. These premium pans have lifetime durability and will never rust. Encapsulated galvanized steel rims prevent warping. Creativity meets natural aluminum sustainability.

SKU: 43100



Crown Bundt® Pan

\$42.00

★★★★★ 20
 read reviews (20) | write a review

Our fantastic 70th anniversary pan! Inspired by our Scandinavian roots, it combines Old World patina with fresh, fun panache! Bake an elegant 10-cup cake that will wow your guests. Features a durable PFOA-free nonstick interior for easy release and cleanup. Lifetime warranty. Proudly made in the USA.

SKU: 91777



8. Defendant's CEO, David Dalquist has admitted that consumers will pay a “premium for U.S.-made products” and that Defendant has found that consumers are willing to pay approximately a 10 percent premium for an American-made product versus an import.

9. Problematically for consumers, the USA Representations are false and misleading because all, or virtually all of the aluminum and bauxite used to make the Products is obtained outside of the United States, and all of the transformation of bauxite into alumina and the transformation of alumina into aluminum occurred in Canada.

10. Plaintiffs bring this action individually, and on behalf of all similarly situated individuals who purchased the falsely and deceptively labeled Products for violations of Minnesota Statute §§ 325F.67, *et. seq.* and 325F.68, *et seq.*, New York General Business Law §§ 349 and 350, California’s Consumer Legal Remedies Act (“CLRA”), Cal. Civ. Code §§ 1750, *et seq.*, California’s False Advertising Act (“FAL”), Cal. Bus. & Prof. Code §§ 17500, *et seq.*, California’s Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code §§ 17200 *et seq.*, breach of express warranty, unjust enrichment, and fraud.

PARTIES

11. Plaintiff Michael Kaufmann is a citizen and resident of New York, New York who has an intent to remain there, and is therefore a domiciliary of New York. On November 28, 2023, Plaintiff purchased a two pack of Nordic Ware Naturals Aluminum Quarter Sheet Pans from Amazon.com for \$21.52. That same day, Plaintiff also purchased a two pack of Nordic Ware Natural Aluminum Commercial Baker’s Half Sheet Pans from Amazon.com for \$21.99. Prior to his purchase of the Products, Plaintiff reviewed the product’s labeling and packaging and saw that his Products were labeled and marketed as being “made in the USA.” In purchasing the Product, Plaintiff relied on Defendant’s representations that the Products were “made in the

USA.” Plaintiff saw these representations prior to, and at the time of purchase, and understood them as representations and warranties that his Products were “made in the USA” and that all, or virtually all, of the components in the Products were sourced from the USA. Plaintiff relied on these representations and warranties in deciding to purchase his Products. Accordingly, those representations and warranties were part of the basis of the bargain, in that he would not have purchased his Products on the same terms had he known those representations were not true. In making his purchase, Plaintiff paid a price premium for Products that were “made in the USA” of at least 10%. In other words, he paid a price premium of at least \$2.15 for his quarter sheet pans and at least \$2.20 for his half sheet pans. Had Plaintiff known that the “made in the USA” claim was false and misleading, Plaintiff would not have purchased the Products, or would have paid substantially less for the Products.

12. Plaintiff Debbie Thayer is a citizen and resident of Redding, California who has an intent to remain there, and is therefore a domiciliary of California. On September 21, 2022, Plaintiff purchased a Nordic Ware Crown Bundt Pan from Amazon.com for \$36.00 each. On December 1, 2024, Plaintiff purchased two Nordic Ware Brilliance 5 Cup Bundt Pans from Amazon.com for \$40.19. Prior to her purchase of the Products, Plaintiff reviewed the product’s labeling and packaging and saw that her Products were labeled and marketed as being “made in America” and “American Made.” In purchasing the Products, Plaintiff relied on Defendant’s representations that the Products were “made in America” and “American Made.” Plaintiff saw these representations prior to, and at the time of purchase, and understood them as representations and warranties that her Products were “made in America” and “American Made” and that all, or virtually all, of the components in the Products were sourced from the USA. Plaintiff relied on these representations and warranties in deciding to purchase her Products.

Accordingly, those representations and warranties were part of the basis of the bargain, in that she would not have purchased her Products on the same terms had she known those representations were not true. In making her purchase, Plaintiff paid a price premium for Products that were “made in America” of at least 10%. In other words, she paid a price premium of at least \$3.60 for her Brilliance Bundt and at least \$4.02 for her Crown Bundt. Had Plaintiff known that the “made in America” and “American Made” claims were false and misleading, Plaintiff would not have purchased the Products, or would have paid substantially less for the Products.

13. Plaintiff Thayer remains interested in purchasing bakeware that is truly “made in the USA,” and would consider purchasing the Products in the future if Defendant ensured the USA Representation was accurate and truthful. However, she cannot know for certain whether the false labeling of the Products has been corrected. The composition of the Products may change over time, but Plaintiff will be unable to rely on the Products’ USA Representation in the future as she will not be able to determine whether the Products’ are truly “made in America.”

14. Defendant Nordic Ware, Inc. is a Minnesota corporation with its principal place of business at 5005 County Road 25, St. Louis Park, Minnesota 55416. Defendant markets, sells, and distributes the Products throughout the United States, including in the State of New York. Defendant marketed and sold the Products during the class period.

JURISDICTION AND VENUE

15. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2)(a) because: (1) this case is a class action where the aggregate claims of all members of the proposed class are in excess of \$5,000,000.00 exclusive of interest and costs; (2) there are over 100 members of the putative class; and (3) there is minimal diversity, because at least one

class member is a citizen of a state different than Defendant and, because Plaintiffs are citizens of New York and California, while Defendant is a Minnesota corporation with its principal place of business in Minnesota.

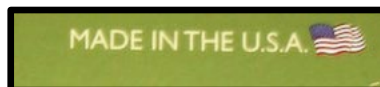
16. This Court has personal jurisdiction over Defendant pursuant to 18 U.S.C. §§ 1965(b) and (d) because Defendant maintains its principal place of business in, and is thus a resident of, this State, maintains minimum contacts with the United States and this State and intentionally avails itself of the laws of the United States and this State by conducting a substantial amount of business in Minnesota.

17. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because Defendant resides in this District.

FACTUAL ALLEGATIONS

A. Defendant Misrepresents the Products are “Made in the USA”

18. Defendant falsely and misleadingly labels its Products, as depicted above (*supra* ¶¶ 3-5) and below, as being “made in the USA.”



19. Defendant is well aware that the USA Representations are material to an ordinary and reasonable consumer in deciding what products to purchase and deciding to pay more to purchase Defendant's products compared to similar products not bearing the USA Representation claims. The USA Representations on the Products' packaging, labeling, advertising, and marketing are conspicuous and designed to grab the consumer's attention using color versions of the United States flag to drive home the origin claims. The Products prominently make the USA Representations on the front label, packaging, and on the physical products.

20. In this way, Defendant's carefully designed its labels, advertising, packaging, and products, including the placement of the USA representation, to perpetuate the false notion that the Products are in fact "made in the USA." Defendant intends that ordinary and reasonable consumers viewing the Products will read the claim, understand the claim, and rely on the claim to make purchasing decisions.

B. "Made in USA" Labeling

21. Traditionally, the Federal Trade Commission ("FTC") has required that products marketed and advertised as "Made in the USA" be "all or virtually all" made in the United States.

22. In 1996, the FTC published its Enforcement Policy Statement on U.S. Origin Claims to guide marketers that wanted to make an unqualified "Made in the USA" claim under the "all or virtually all" standard as well as those who wanted to make a qualified "Made in the USA claim."

23. In 2021, the FTC formally enacted the rule on Made in USA Labeling (the “Labeling Rule”). Under 16 C.F.R. § 323, “Made in the United States” means:

any representation, express or implied, that a product or service, or a specified component thereof, is of U.S. origin, including, but not limited to, a representation that such product or service is “made,” “manufactured,” “built,” “produced,” “created,” or “crafted” in the United States or in America, or any other unqualified U.S.-origin claim.

16 C.F.R. § 323(a).

24. Per the FTC, examples of express “Made in USA” claims include, but are not limited to, “Made in USA,” “Our products are American-made,” “USA,” “Manufactured in USA,” or “Built in USA.”

25. Examples of implied claims include, but are not limited to, US. Symbols or geographic references like U.S. flags, U.S. maps, or references to U.S. locations of headquarters or factories.

26. The Labeling Rule codified the “all or virtually all” standard for “Made in USA” claims on products:

it is an unfair or deceptive act or practice within the meaning of section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1), to label any product as Made in the United States unless the final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States.

16 C.F.R. § 323.2.

27. The FTC has also clarified that “all or virtually all” means that the product should contain no – or negligible – foreign content.

28. The FTC has gone on to give examples of deceptive conduct arising from the foreign content in products with “Made in USA” claims, including but not limited to the following:

Example 1: A company produces watches at a plant in Nevada using mostly U.S. parts and labor. All watches include movements, which are the parts that allow the watch to keep time. The company uses inexpensive Swiss movements in its watches. Movements account for a small proportion of the costs to make the company’s watches, but without the movements, the watches can’t tell time. Because movements are essential to the watches’ function, an unqualified Made in USA claim is likely deceptive.

Example 2: A table lamp is assembled in the U.S. from American-made brass, an American-made Tiffany-style lampshade, and an imported base. The base accounts for a small percent of the total cost of making the lamp. An unqualified Made in USA claim is deceptive for two reasons: The base is not far enough removed in the manufacturing process from the finished product to be of little consequence and it’s a significant part of the final product.

29. Raw materials and components are also included in the “all or virtually all” analysis. The FTC has provided the following example to guide marketers:

Example 3: If the gold in a gold ring is imported, an unqualified Made in USA claim for the ring is deceptive. That’s because of the significant value the gold is likely to represent relative to the finished product, and because the gold — an integral component — is only one step back from the finished article. By contrast, consider the plastic in the plastic case of a clock radio otherwise made in the U.S. of U.S.-made components. If the plastic case was made from imported petroleum, a Made in USA claim is likely to be appropriate because the petroleum is far enough removed from the finished product, and is an insignificant part of it as well.

C. Reasonable Consumers are Misled by the USA Representations

30. The USA Representations lead reasonable consumers, like Plaintiffs, into believing the Products are “made in the USA” and “made in America.” More, specifically,

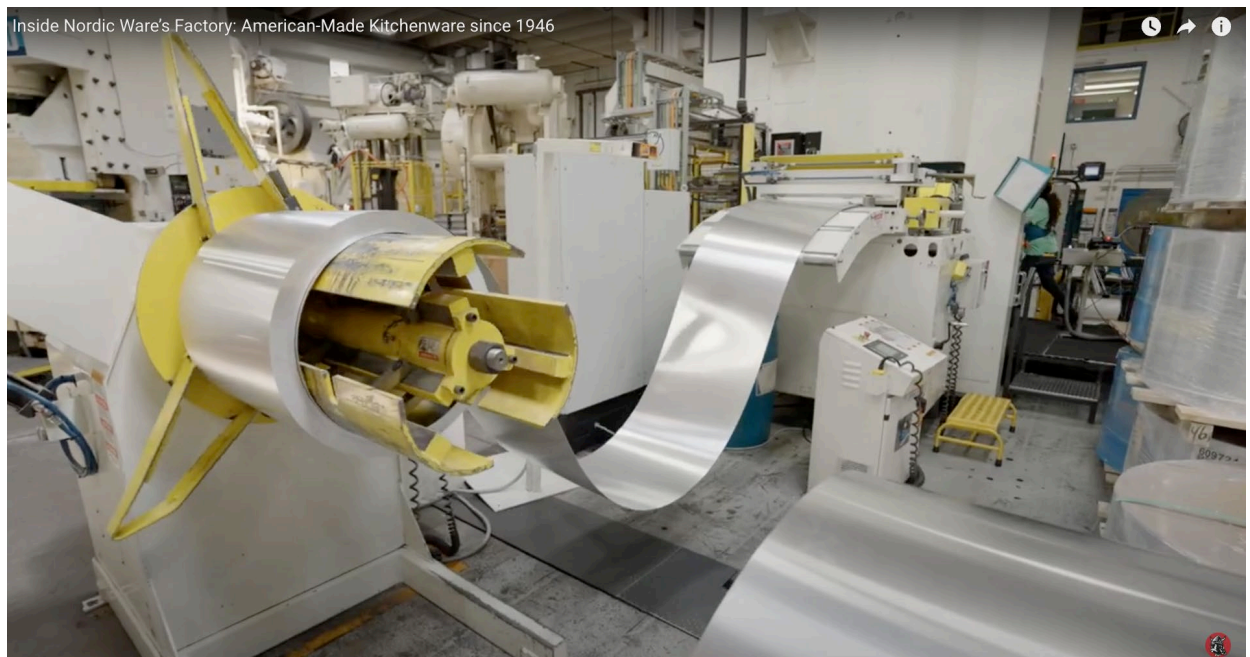
reasonable and ordinary consumers interpret the USA Representations to mean that all parts of a product, including any natural resources it contains, originated in the United States.

31. The USA Representations are material to ordinary and reasonable consumers. Indeed, in 2020 when the FTC conducted a workshop and called for public comment on Made in the USA labeling, one comment noted that Consumer Reports testing found that 80% of consumers prefer to buy American products. Similarly, another comment reported that 2018 testing found that 92% of survey respondents had a favorable view of manufactured goods in America.

32. Moreover, as discussed above, Defendant's CEO has admitted that consumers will pay a "premium for U.S.-made products" and that consumers are willing to pay approximately a 10 percent premium for an American-made product versus an import.

33. Similarly, Mr. Dalquist has admitted that Nordic Ware "cater[s] to the people that appreciate American-made products[,] and "[t]hat's who buys Nordic Ware."

34. But Nordic Ware's USA Representations are false. Indeed, Mr. Dalquist has admitted the primary component used to manufacture the Products is aluminum sourced in the form of 5,000 pound coils imported from Canada and that Nordic Ware has been facing higher costs for Canadian aluminum. Aluminum alloys are normally supplied as semi-finished products in sheet, plate, coil, extrusion, tube, or wire form. Photos of the aluminum coils in use at Defendant's factory are below:



35. Further, in or around March of 2025 following a surge in litigation relating to Made in USA labeling, Defendant began to revise its online labeling and marketing. Defendant has not revised labels and marketing for Products available in retail stores. The new online

labeling and marketing features a qualified claim stating that the Products are “made in America with domestic and imported materials”, as shown below:



Naturals® Baker's Half Sheet Pan Set of 2

\$29.99

★★★★★ 56
read reviews (57) | write a review

Our top-rated Naturals® Bakeware collection is made of pure aluminum for superior heat conductivity and produces consistently evenly browned baked goods every time. These premium pans have lifetime durability and will never rust. Encapsulated galvanized steel rims prevent warping. Creativity meets natural aluminum sustainability. Voted “Best Baking Sheet,” the Baker's Half Sheet is an essential tool in the kitchen you will use in many different ways, from sheet pan dinners to baked goods to food prep. The set includes two half sheets!

SKU: 43180



MADE IN AMERICA
WITH DOMESTIC AND IMPORTED MATERIALS

36. Aluminum is a fundamental component of Defendant’s bakeware because it is lighter and transmits heat more evenly than other materials used for bakeware. Indeed, Defendant’s founder, H. David Alquist specifically designed the Products out of cast aluminum because of these characteristics.

37. That the aluminum is sourced internationally is no surprise because the raw material for aluminum is bauxite, the only commercial ore of aluminum.

38. The largest suppliers of bauxite for aluminum include Australia, Guinee, India, Brazil, and Jamaica.

39. In contrast, none of the bauxite mined in the U.S. has been used for aluminum since approximately 1981.

40. Indeed, in 2023, only a limited amount of bauxite was produced for non-metallurgical use in Alabama, Arkansas, and Georgia. U.S.-mined bauxite is used for abrasives,

high-temperature refractory materials, and as a high-strength proppant for hydraulic fracturing of oils and gas wells.

41. Moreover, the Atlantic Alumina Company LLC (“Atalco”) owns the last operating alumina refinery in the United States. While the refinery is located in Gramercy, Louisiana, the bauxite it refines is mined from Atalco mines located in Jamaica.

42. Given the foregoing, it is virtually impossible to source U.S.-mined bauxite and U.S.-made aluminum in the United States. As such, the aluminum used in Defendant’s products necessarily must be sourced from foreign nations. Canada is a logical source because it is the world’s fourth-largest primary aluminum producer, following China, India, and Russia. Bauxite is not mined domestically in Canada, and Canadian refineries rely on imported bauxite to support their aluminum production. Moreover, Canadian aluminum is easily accessible to Defendant because Canada and Minnesota share a border. As a result, Canadian aluminum would have lower transportation time and costs.

43. Without aluminum (and bauxite) sourced from outside the United States, Defendant would not be able to manufacture its Products, all of which are aluminum based. First, as described above, all – or virtually all – of the bauxite ore used to create aluminum is sourced from outside of the United States. Second, Defendant has admitted that its aluminum is sourced from Canada, meaning that all, or virtually all, of the aluminum in the products is sourced from outside the United States, rendering the USA Representations false and misleading.

D. No Adequate Remedy at Law

44. Plaintiff Thayer and members of the California Subclass are entitled to equitable relief as no adequate remedy at law exists.

45. **Broader Statutes of Limitations.** The statutes of limitations for the causes of action pled herein vary. The limitations period is four years for claims brought under the UCL,

which is one year longer than the statutes of limitations under the FAL and CLRA. Thus, California Subclass Members who purchased the Products more than 3 years prior to the filing of the complaint will be barred from recovery if equitable relief were not permitted under the UCL. Similarly, California Subclass Members who purchased the Products prior to the furthest reach-back under the statute of limitations for breach of warranty or fraud will be barred from recovery if equitable relief were not permitted for restitution/unjust enrichment.

46. **More Prompt, Certain, and Efficient.** Legal remedies are inadequate because they are not equally prompt and certain and in other ways efficient as equitable relief. Legal claims for damages are not equally certain as restitution because claims under the UCL and other equitable claims entail few elements.

47. **Broader Scope of Conduct.** In addition, the scope of actionable misconduct under the unfair prong of the UCL is broader than the other causes of action asserted herein. It includes, for example, Defendant's overall unfair marketing scheme to promote and brand the Products with the USA Representations, including the Products' label and packaging, over a long period of time, in order to gain an unfair advantage over competitor products and to take advantage of consumers' desire for products that comport with the USA Representations. The UCL also creates a cause of action for violations of law (such as statutory or regulatory requirements and court orders related to similar representations and omissions made on the type of products at issue). Thus, Plaintiff and the California Subclass may be entitled to restitution under the UCL, while not entitled to damages under other causes of action asserted herein (e.g., the FAL requires actual or constructive knowledge of the falsity; the CLRA is limited to certain types of plaintiffs (an individual who seeks or acquires, by purchase or lease, any goods or

services for personal, family, or household purposes) and other statutorily enumerated conduct; common law fraud claims require a showing of actual deception or reliance).

48. **Injunctive Relief to Cease Misconduct and Dispel Misperception.** Injunctive relief is appropriate on behalf of Plaintiff and the California Subclass because Defendant continues to misrepresent the Products with the USA Representations. Injunctive relief is necessary to prevent Defendant from continuing to engage in the unfair, fraudulent, and/or unlawful conduct described herein and to prevent future harm – none of which can be achieved through available legal remedies (such as monetary damages to compensate past harm). Further, injunctive relief, in the form of removing the USA Representations is necessary to dispel the public misperception about the Products that has resulted from years of Defendant’s unfair, fraudulent, and unlawful marketing efforts. An injunction requiring removal of the claim will prevent the ongoing deception and repeat purchases based thereon. It is also not available through a legal remedy (such as monetary damages). In addition, injunctive relief is necessary because, because discovery and Plaintiff’s investigation has not yet completed. Moreover, example, because the court has not yet certified any class, the following remains unknown: the scope of the class, the identities of its members, their respective purchasing practices, prices of past/future Product sales, and quantities of past/future Product sales.

49. **Public Injunction.** Further, because a “public injunction” is available under the UCL, damages will not adequately “benefit the general public” in a manner equivalent to an injunction.

50. **Procedural Posture – Incomplete Discovery & Pre-Certification.** Lastly, this is an initial pleading in this action, and discovery has not yet commenced and/or is at its initial stages. No class has been certified yet. No expert discovery has commenced and/or completed.

The completion of fact/non-expert and expert discovery, as well as the certification of this case as a class action, are necessary to finalize and determine the adequacy and availability of all remedies, including legal and equitable, for Plaintiff's individual claims and any certified class or subclass. Plaintiff therefore reserves the right to amend this complaint and/or assert additional facts that demonstrate this Court's jurisdiction to order equitable remedies where no adequate legal remedies are available for either Plaintiff and/or any certified class or subclass. Such proof, to the extent necessary, will be presented prior to the trial of any equitable claims for relief and/or the entry of an order granting equitable relief.

CLASS ALLEGATIONS

51. **Class Definition.** Plaintiffs seek to represent a class defined as all persons in the United States who purchased Products with unqualified USA Representations within the applicable statute of limitations (the "Class"). Excluded from the Class are governmental entities, Defendant, Defendant's affiliates, parents, subsidiaries, employees, officers, directors, and co-conspirators, and anyone who purchased the Products for resale. Also excluded is any judicial officer presiding over this matter and the members of their immediate families and judicial staff.

52. **Subclass Definitions.**

a. **Multistate Breach of Express Warranty Subclass.** Plaintiffs also seek to represent a subclass consisting of Class members who purchased Products with unqualified USA Representations in the states of Alaska, California, Colorado, Delaware, Iowa, Kansas, Maine, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wyoming within the applicable statute of limitations.

b. **New York Subclass.** Plaintiff Kaufmann also seeks to represent a subclass consisting of Class members who purchased Products with unqualified USA Representations in New York within the applicable statute of limitations.

c. **California Subclass.** Plaintiff Thayer also seeks to represent a subclass consisting of Class members who purchased the Products with unqualified USA Representations in California within the applicable statute of limitations.

53. Subject to additional information obtained through further investigation and discovery, the foregoing definition of the Class and Subclasses may be expanded or narrowed by amendment or amended complaint.

54. **Numerosity.** The members of the Class and Subclasses are geographically dispersed throughout the United States and are so numerous that individual joinder is impracticable. Upon information and belief, Plaintiffs reasonably estimates that there are thousands of members in the Class and Subclasses. Although the precise number of Class members is unknown to Plaintiffs, the true number of Class members is known by Defendant and may be determined through discovery. Class members may be notified of the pendency of this action by mail and/or publication through the distribution records of Defendant and third-party retailers and vendors.

55. **Existence and Predominance of Common Questions of Law and Fact.** Common questions of law and fact exist as to all members of the Class and Subclasses and predominate over any questions affecting only individual Class members. These common legal and factual questions include, but are not limited to:

- a. whether Defendant's labeling, marketing, and promotion of the Products is false and misleading;

- b. whether Defendant's conduct was unfair and/or deceptive; and
- c. whether Plaintiffs and the Classes have sustained damages with respect to the claims asserted, and if so, the proper measure of their damages.

56. With respect to the New York Subclass, additional question of law and fact common to the members that predominate over questions that may affect individual members include whether Defendant violated GBL §§ 349 and 350.

57. With respect to the California, additional question of law and fact common to the members that predominate over questions that may affect individual members include whether Defendant violated the CLRA, FAL, and UCL.

58. **Typicality.** The claims of the named Plaintiffs are typical of the claims of other members of the Class in that the named Plaintiffs were exposed to Defendant's false and misleading marketing, purchased the Products, and suffered a loss as a result of that purchase.

59. **Adequacy of Representation.** Plaintiffs are adequate representatives of the Class and Subclasses because their interests do not conflict with the interests of the Class members they seek to represent, they have retained competent counsel that is highly experienced in complex consumer class action litigation, and Plaintiffs intend to vigorously prosecute this action on behalf of the Class and Subclass. Furthermore, Plaintiffs have no interests that are antagonistic to those of the Class or Subclasses.

60. **Superiority.** A class action is superior to all other available means for the fair and efficient adjudication of this controversy. The damages or other financial detriment suffered by individual Class and Subclass members are relatively small compared to the burden and expense of individual litigation of their claims against Defendant. It would, thus, be virtually impossible for the Class or Subclass on an individual basis, to obtain effective redress for the

wrongs committed against them. Furthermore, even if Class or Subclass members could afford such individualized litigation, the court system could not. Individualized litigation would create the danger of inconsistent or contradictory judgments arising from the same set of facts. Individualized litigation would also increase the delay and expense to all parties and the court system from the issues raised by this action. By contrast, the class action device provides the benefits of adjudication of these issues in a single proceeding, economies of scale, and comprehensive supervision by a single court, and presents no unusual management difficulties under the circumstances.

CAUSES OF ACTION

COUNT I

Violation of the Minnesota Prevention of Consumer Fraud Act (Minn. Stat. § 325F.68, *et seq.*) (On behalf of the Class)

61. Plaintiffs incorporate by reference the allegations contained in all preceding paragraphs of this complaint.

62. Defendant is a citizen of the State of Minnesota.

63. Minnesota’s Private Attorney General Statute (Minn. Stat. § 8.31, subd. 3a) allows Plaintiffs and the Class to bring a claim under Minn. Stat. § 325F.69.

64. The Minnesota Prevention of Consumer Fraud Act prohibits “[t]he act, use, or employment by any person of any fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely therein in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby. . .” Minn. Stat. § 325F.69(1). Defendant advertised and represented to Plaintiffs and members of the Class that the Products possessed certain qualities and characteristics, including but not limited the USA Representations, when in fact all or

virtually all of the bauxite and aluminum used to make the Products is obtained outside of the United States, and all of the making, manufacturing, and or production of the aluminum in the Products takes place outside of the United States, including all of the transformation of bauxite into alumina and the transformation of alumina into aluminum.

65. Other states across the Country have enacted substantially similar consumer protection statutes which require the same or similar showings of proof, and which prevent the unlawful conduct described herein. ²

66. Defendant's made advertisements and representations to Plaintiffs and the Class that the Products were "made in the USA," when in fact all or virtually all of the bauxite and aluminum used to make the Products is obtained outside of the United States, and all of the making, manufacturing, and or production of the aluminum in the Products takes place outside of the United States, including all of the transformation of bauxite into alumina and the transformation of alumina into aluminum.

67. Defendant states that the Products purchased are "made in the USA."

68. Defendant intended for Plaintiffs and the Class to rely upon, and accept as true, the representations and omissions with respect to the USA Representations.

² See Alaska Stat. § 45.50.471, *et seq.*, Ark. Code § 4-88-101, *et seq.*, Colo. Rev. Stat. § 6-1-105, *et seq.*, Conn. Gen. Stat. § 42-110b, *et seq.*, 6 Del. Code § 2511, *et seq.*, D.C. Code § 28-3901, *et seq.*, Fla. Stat. § 501.201, *et seq.*, Ga. Code Ann. § 10-1-393, *et seq.* and Ga. Code Ann. § 10-1-370 *et seq.*, Haw. Rev. Stat. § 480, *et seq.*, Idaho Code § 48-601, *et seq.*, 815 ILCS § 505/1, *et seq.*, Kan. Stat. § 50-623, *et seq.*, Ky. Rev. Stat. § 367.110, *et seq.*, La. Rev. Stat. § 51:1401, *et seq.*, M.G.L. c. 93A, *et seq.*, Me. Rev. Stat. Ann. tit. 5, § 205-A, *et seq.*, Md. Com. Law Code § 13-101, *et seq.*, Mich. Stat. § 445.901, *et seq.*, Missouri Stat. § 407.010, *et seq.*, Neb. Rev. Stat. §§ 59-1601, *et seq.*, Nev. Rev. Stat. § 598.0903, *et seq.*, N.H. Rev. Stat. § 358-A:1, *et seq.*, N.J. Rev. Stat. § 56:8-1, *et seq.*, N.M. Stat. § 57-12-1, *et seq.*, N.Y. Gen. Bus. Law § 349 *et seq.*, N.D. Cent. Code § 51-15-01, *et seq.*, Ohio Rev. Code Sec. 4165.01 *et seq.*, Okla. Stat. 15 § 751, *et seq.*, Or. Rev. Stat. § 646.605, *et seq.*, R.I. Gen. Laws. § 6-13.1-1, *et seq.*, S.C. Code Laws § 39-5-10, *et seq.*, S.D. Code Laws § 37-24-1, *et seq.*, Tex. Bus. & Com. Code § 17.45, *et seq.*, 9 Vt. § 2451, *et seq.*, Va. Code § 59.1-196, *et seq.*, Wash. Rev. Code. § 19.86.010, *et seq.*, W. Va. Code § 46A-6-101, *et seq.*, Wis. Stat. Ann. § 100.18, *et seq.*

69. Defendant's representations and omissions with respect to USA Representations were made in connection with the sale of the Products to Plaintiffs and the Class

70. Defendant intentionally and/or knowingly misrepresented that the Products were "made in the USA" to Plaintiffs and the Class.

71. Defendant's unfair or deceptive acts or practices were likely to deceive reasonable consumers that the Products were "made in the USA," when in fact all or virtually all of the bauxite and aluminum used to make the Products is obtained outside of the United States, and all of the making, manufacturing, and or production of the aluminum in the Products takes place outside of the United States, including all of the transformation of bauxite into alumina and the transformation of alumina into aluminum.

72. Plaintiffs and the Class relied upon, and were in fact deceived by, Defendant's USA Representations in deciding to purchase the Products over similar products offered by competitors.

73. Plaintiffs and the Class were injured in fact and suffered actual damages as a result of their reliance on Defendant's representations and omissions with respect to the USA Representations. Defendant's wrongful conduct was the direct and proximate cause of the injuries to Plaintiffs and the Class. Because of Defendant's fraudulent conduct, the value of the Products has been greatly diminished.

74. Had Plaintiffs and the Class been aware the USA Representations were false, Plaintiffs and the Class would have either paid less for their Products or would not have purchased them at all. Plaintiffs and the Class did not receive the benefit of their bargain as a result of Defendant's misconduct.

75. Pursuant to Minn. Stat. § 8.31, subd. 3a, Plaintiffs and the Class seek actual damages, attorneys' fees, and any other just and proper relief available under the Minnesota Prevention of Consumer Fraud Act.

COUNT II
False Advertising
(Minn. Stat. § 325F.67, *et seq.*)
(On behalf of the Class)

76. Plaintiffs incorporate by reference the allegations contained in all preceding paragraphs of this complaint.

77. Minnesota's False Statement in Advertising Act ("FSAA"), Minn. Stat. § 325F.67, provides a cause of action to "any person, firm, corporation, or association" who purchases goods or services through advertising which "contains any material assertion, representation, or statement of fact which is untrue, deceptive, or misleading." Consumer protection laws of other states make similar conduct unlawful.

78. Where, as here, Plaintiffs' claims inure to the public benefit, Minnesota's Private-Attorney General Statute, Minn. Stat. § 8.31, subd. 3a, allows individuals who have been injured through a violation of the FSAA to bring a civil action and recover damages, together with costs and disbursements, including reasonable attorney's fees.

79. By engaging in the conduct herein, Defendant violated and continue to violate Minn. Stat. § 325F.67 and the similar laws of other states.

80. Defendant's misrepresentations, knowing omissions, and use of other sharp business practices include, by way of example:

- a. Defendant's fraudulent, misleading, and deceptive statements relating to the true quality and characteristics of the Products;
- b. Defendant's fraud and misrepresentations by omission with respect to information about the USA Representation and Defendant's knowledge of the falsity of those representations;

- c. Defendant's concealment of the true nature of the Products and the origin of the Products' components; and
- d. Defendant's omission that the Products were not "made in the USA," because all or virtually all of the bauxite and aluminum used to make the Products is obtained outside of the United States, and all of the making, manufacturing, and or production of the aluminum in the Products takes place outside of the United States, including all of the transformation of bauxite into alumina and the transformation of alumina into aluminum.

81. As a result of Defendant's conduct, Plaintiffs and those similarly situated have suffered actual damages in that they have purchased Products that were deceptively sold as "made in the USA" and worth less than the price they paid. There is an association between Defendant's acts and omissions as alleged herein and the damages suffered by Plaintiffs and those similarly situated.

82. As a result of Defendant's untrue, deceptive, and misleading assertions and representations about the Products, Plaintiffs and the Class have suffered damages because they would have either paid less for their Products or would not have purchased them at all had they known the Products were not "made in the USA." Plaintiffs and the Class did not receive the benefit of their bargain as a result of Defendant's misconduct.

83. Defendant has similarly violated the consumer-protection statutes of the various states.

84. Pursuant to Minn. Stat. § 8.31, subd. 3a, Plaintiffs and the Class seek actual damages, attorneys' fees, and any other just and proper relief available under the Minnesota Prevention of Consumer Fraud Act.

COUNT III
Violation of New York's Gen. Bus. Law § 349
(On Behalf of the New York Subclass)

85. Plaintiffs incorporate by reference the allegations contained in all preceding paragraphs of this complaint.

86. Plaintiff Kaufmann brings this claim individually and on behalf of the members of the proposed New York Subclass against Defendant.

87. Defendant committed deceptive acts and practices by employing false, misleading, and deceptive representations and/or omissions about the place of origin of the Products to mislead consumers into believing the Products are “made in the USA.”

88. Plaintiff has standing to pursue this claim because he has suffered an injury-in-fact and has lost money or property as a result of Defendant’s deceptive acts and practices. Specifically, Plaintiff purchased the Products for his own personal use. In doing so, Plaintiff relied upon Defendant’s false, misleading, and deceptive representation that the Products were “made in the USA.” Plaintiff spent money in the transaction that he otherwise would not have spent had he known the truth about Defendant’s advertising claims.

89. Defendant’s deceptive acts and practices were directed at consumers.

90. Defendant’s deceptive acts and practices are misleading in a material way because they violate consumers’ reasonable expectations. Defendant knew consumers would purchase the Products and/or pay more for them under the false – but reasonable – belief that the Products were “made in the USA,” when in fact all or virtually all of the bauxite and aluminum used to make the Products is obtained outside of the United States, and all of the making, manufacturing, and or production of the aluminum in the Products takes place outside of the United States, including all of the transformation of bauxite into alumina and the transformation of alumina into aluminum.

91. By advertising so prominently that the Products were “made in the USA,” Defendant proves that information about the place of origin for the Products is material to consumers. If such information was not material, Defendant would not feature it prominently in the marketing, labeling, and advertising of the Products. As a result of its deceptive acts and practices, Defendant has sold thousands, if not millions, of Products to unsuspecting consumers across New York. If Defendant has advertised its Products truthfully and in a non-misleading fashion, Plaintiff and other members of the New York Subclass would not have purchased them or would not have paid as much as they did for them.

92. As a direct and proximate result of Defendant’s false, misleading, and deceptive misrepresentations and/or omissions, Plaintiff and members of the New York Subclass were injured in that they: (1) paid money for Products that were not what Defendant represented; (2) were deprived of the benefit of the bargain because the Products they purchased were different than Defendant advertised; and (3) were deprived of the benefit of the bargain because the Products they purchased had less value than Defendant represented. Had Defendant not breached the express warranty by making the false representations alleged herein. Plaintiff and Class and New York Subclass Members would not have purchased the Products or would not have paid as much as they did for them.

COUNT IV
Violation of New York’s Gen. Bus. Law § 350
(On Behalf of the New York Subclass)

93. Plaintiffs incorporate by reference the allegations contained in all preceding paragraphs of this complaint.

94. Plaintiff Kaufmann brings this claim individually and on behalf of the members of the proposed New York Subclass against Defendant.

95. Based on the foregoing, Defendant engaged in consumer-oriented conduct that is

deceptive or misleading in a material way which constitutes false advertising in violation of Section 350 of the New York General Business Law by misrepresenting the qualities and characteristics of the Product.

96. On behalf of himself and other members of the New York Subclass, Plaintiff seeks to recover his actual damages or fifty (50) dollars, whichever is greater, three times actual damages, and reasonable attorney's fees.

97. The foregoing advertising was directed at consumers and was likely to mislead a reasonable consumer acting reasonably under the circumstances.

98. These misrepresentations have resulted in consumer injury or harm to the public interest.

99. As a result of Defendant's misrepresentations, Plaintiff and members of the New York Subclass have suffered economic injury because they would not have purchased the Products, or would have paid substantially less for the Products, if they had known that the Products were not "made in the USA."

100. On behalf of himself and other members of the New York Subclass, Plaintiff seeks to recover his actual damages or five hundred dollars, whichever is greater, three times actual damages, and reasonable attorney's fees.

COUNT V
Violation of California's Consumer Legal Remedies Act
Cal. Bus. & Prof. Code § 1750, *et seq.*
(On Behalf of the California Subclass)

101. Plaintiffs incorporate by reference the allegations contained in all preceding paragraphs of this complaint.

102. Plaintiff Thayer brings this claim individually and on behalf of the members of the proposed California Subclass against Defendant.

103. Plaintiff and the California Subclass are “consumers,” as the term is defined by California Civil Code § 1761(d).

104. Plaintiff, Class Members, and Defendant have engaged in “transactions” as that term is defined by California Civil Code § 1761(e).

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

106. As alleged more fully above, Defendant has violated the CLRA by falsely representing to Plaintiff and the other Class Members that the Products are “made in the USA” when in fact all or virtually all of the bauxite and aluminum used to make the Products is obtained outside of the United States, and all of the making, manufacturing, and or production of the aluminum in the Products takes place outside of the United States, including all of the transformation of bauxite into alumina and the transformation of alumina into aluminum.

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

108. Defendant’s USA Representations were likely to deceive, and did deceive, Plaintiff and reasonable consumers. Defendant knew, or should have known through the exercise of reasonable care, that these statements were inaccurate and misleading.

109. Defendant’s misrepresentations were intended to induce reliance, and Plaintiff saw, read, and reasonably relied on them when purchasing Products. Defendant’s misrepresentations were a substantial factor in Plaintiffs’ purchase decision.

110. In addition, class-wide reliance can be inferred because Defendant’s

misrepresentations were material, i.e., a reasonable consumer would consider them important in deciding whether to buy the Products.

111. Defendant's misrepresentations were a substantial factor and proximate cause in causing damages and losses to Plaintiff and the California Subclass.

112. Plaintiff and the California Subclass were injured as a direct and proximate result of Defendant's conduct because (1) they would not have purchased the Products if they had known that the Products were not "made in the USA"; and (2) they overpaid for the Products because the products are sold at a price premium due to Defendant's misrepresentations.

113. Accordingly, Plaintiff Thayer, on behalf of herself and all other members of the California Subclass, seeks damages and to enjoin the unlawful acts and practices described herein.

114. On April 12, 2025, a CLRA demand letter was sent to Defendant's headquarters and registered agent, via certified mail with return receipt requested. This letter provided notice of Defendant's violation of the CLRA, for Plaintiff Thayer and the class, and demanded that Defendant correct the unlawful, unfair, false and/or deceptive practices alleged herein.

COUNT VI
Violation of California's False Advertising Law
Cal. Bus. & Prof. Code §§ 17500, *et seq.*
(On Behalf of the California Subclass)

115. Plaintiffs incorporate by reference the allegations contained in all preceding paragraphs of this complaint.

116. Plaintiff Thayer brings this claim individually and on behalf of the members of the proposed California Subclass against Defendant.

117. Defendant's acts and practices, as described above, have deceived and are likely to continue to deceive Class Members and the public. As described throughout this Complaint,

Defendant misrepresented the Products as being “made in the USA. By its actions, Defendant disseminated uniform advertising regarding the Products to and across California and the United States. The advertising was, by its very nature, unfair, deceptive, untrue, and misleading within the meaning of Cal. Bus. & Prof. Code §§ 17500, *et seq.* Such advertisements were intended to – and likely did – deceive the consuming public.

118. The above-described false, misleading, and deceptive advertising Defendant disseminated continues to have a likelihood to deceive in that Defendant represented that the Products are “made in the USA” when in fact all or virtually all of the bauxite and aluminum used to make the Products is obtained outside of the United States, and all of the making, manufacturing, and or production of the aluminum in the Products takes place outside of the United States, including all of the transformation of bauxite into alumina and the transformation of alumina into aluminum.

119. Defendant, nonetheless, continues to represent otherwise to consumers.

120. In making and disseminating these statements, Defendant knew, or reasonably should have known, that its advertisements were untrue and misleading in violation of California law. Plaintiff Thayer and the California Subclass based their purchasing decision on Defendant’s USA Representations. Plaintiff and the California Subclass were injured in fact and lost money as a result.

121. The misrepresentations by Defendant about the material facts described and detailed herein constitute false and misleading advertising and, therefore, constitute a violation of Cal. Bus. & Prof. Code §§ 17500, *et seq.*

122. As a result of Defendant’s wrongful conduct, Plaintiff and the Class Members lost money in an amount to be proven at trial. Plaintiff and the Class Members are therefore entitled

to restitution as appropriate for this cause of action.

123. Plaintiff Thayer seeks all available relief under the FAL.

COUNT VII
Violation of California's Unfair Competition Act
Cal. Bus. & Prof. Code § 17200, *et seq.*
(On Behalf of the California Subclass)

124. Plaintiffs incorporate by reference the allegations contained in all preceding paragraphs of this complaint.

125. Plaintiff Thayer brings this claim individually and on behalf of the members of the proposed California Subclass against Defendant.

126. California Business and Professions Code § 17200 prohibits “any unlawful, unfair, or fraudulent business act or practice.” For the reasons discussed above, Defendant has engaged unlawful, unfair, and fraudulent business acts or practices in violation of California Business and Professions Code § 17200.

127. Defendant has violated the UCL by engaging in unlawful business practices by violating the CLRA, Cal. Civ. Code §§ 1770(a)(4), (a)(5), (a)(7), and (a)(9), by violating California's False Advertising Law, Cal. Bus. & Prof. Code §§ 17500, *et seq.*, and by violating the common law by, inter alia, making false representations and warranties concerning the Products and retaining the unlawfully obtained benefit therefrom. Plaintiff reserves the right to allege additional violations of law which constitute other unlawful business acts or practices.

128. Defendant has also violated the UCL's prohibition on unfair business practices because its conduct is substantially injurious to consumers, offends public policy, and is immoral, unethical, oppressive, and unscrupulous as the gravity of the conduct outweighs any alleged benefits attributable to such conduct.

129. There were reasonably available alternatives to further Defendant's legitimate

business interest other than by engaging in the conduct described above.

130. Defendant has further violated the UCL's prohibition on fraudulent business practices by making knowingly, or that which Defendant reasonably should know, false and misleading representations and warranties about its Products which were likely to deceive the consuming public within the meaning of Bus. & Prof. Code § 17200.

131. Plaintiff and the California Subclass suffered a substantial injury by virtue of buying Products they would not have purchased absent Defendant's unlawful, unfair, and fraudulent marketing and advertising about the capability of its Products.

132. There is no benefit to consumers or competition from marketing claiming that the Products was "made in the USA," when it was not.

133. Plaintiff and the California Subclass had no way of reasonably knowing that the Products they purchased was not marketed, packaged, or labeled accurately. Thus, they could not have reasonably avoided the injury each of them suffered.

134. The gravity of the consequences of Defendant's conduct as described outweighs any justification, motive, or reason therefore, particularly considering the available legal alternatives which exist in the marketplace. Such conduct is immoral, unethical, unscrupulous, offends established public policy, or is substantially injurious to Plaintiff and the California Subclass.

135. Plaintiff seeks all available relief under the UCL.

COUNT VIII
Breach of Express Warranty
(On Behalf of the Class and Subclasses)

136. Plaintiffs incorporate by reference the allegations contained in all preceding paragraphs of this complaint.

137. Plaintiffs bring this claim individually and on behalf of the members of the

proposed Class and Subclasses against Defendant.

138. As the designer, manufacturer, marketer, distributor, and/or seller of the Product, Defendant issued an express warranty by representing to consumers at the point of purchase that the Products was “made in the USA.”

139. Defendant’s representations were part of the description of the Products and the bargain upon which the Products were offered for sale and purchased by Plaintiffs and Class Members who reasonably relied on those representations.

140. In fact, the Products do not conform to the above-referenced representation because, as alleged in detail above, all or virtually all of the bauxite and aluminum used to make the Products is obtained outside of the United States, and all of the making, manufacturing, and or production of the aluminum in the Products takes place outside of the United States, including all of the transformation of bauxite into alumina and the transformation of alumina into aluminum. Thus, the warranty was breached.

141. On April 2, 2025 and April 15, 2025, prior to the filing of this Complaint, Plaintiffs’ counsel sent Defendant warranty notice letters that complied in all respects with U.C.C. 2-607. The letters provided notice of breach of express warranty. The letter was sent via certified mail with return receipt to Defendant advising Defendant that it was in violation of the U.C.C. 2-607 and state consumer protection laws and demanding that it cease and desist from such violations and make full restitution by refunding the monies received therefrom. The letters stated that they were sent on behalf of Plaintiffs and all other similarly situated purchasers.

142. As a direct and proximate results of Defendant’s breach, Plaintiffs and Class Members were injured because they: (1) paid money for Products that were not as Defendant represented; (2) were deprived of the benefit of the bargain because the Products they purchased

were different than Defendant advertised; and (3) were deprived of the benefit of the bargain because the Products they purchased had less value than Defendant represented. Had Defendant not breached the express warranty by making the false USA Representations alleged herein, Plaintiffs and Class Members would not have purchased the Products or would not have paid as much as they did for them.

143. Plaintiffs seek all available relief under this cause of action.

COUNT IX
Unjust Enrichment
(On Behalf of the California Subclass)

144. Plaintiffs incorporate by reference the allegations contained in all preceding paragraphs of this complaint.

145. Plaintiff Thayer brings this claim individually and on behalf of the members of the proposed California Subclass against Defendant.

146. To the extent required by law, Plaintiff alternatively styles this cause of action as a quasi-contract claim seeking restitution.

147. Plaintiff and the California Subclass conferred benefits on Defendant by purchasing the Products.

148. Defendant has been unjustly enriched in retaining the revenues derived from the California Subclasses' purchases of the Products. Retention of those monies under these circumstances is unjust and inequitable because Defendant warranted that the Products were "made in the USA" all or virtually all of the bauxite and aluminum used to make the Products is obtained outside of the United States, and all of the making, manufacturing, and or production of the aluminum in the Products takes place outside of the United States, including all of the transformation of bauxite into alumina and the transformation of alumina into aluminum. Defendant's misrepresentations caused injuries to Plaintiff and the California Subclass because

they would not have purchased the Products if the true facts were known.

149. Because Defendant's retention of the non-gratuitous benefits conferred on it by Plaintiff and the California Subclass is unjust and inequitable, Defendant must pay restitution to Plaintiff and the California Subclass for its unjust enrichment, as ordered by the Court.

150. Plaintiff and the California Subclass have suffered an injury in fact and have lost money as a result of Defendant's unjust conduct. They lack an adequate remedy at law with respect to this claim and are entitled to non-restitutionary disgorgement of the financial profits that Defendant obtained as a result of its unjust conduct.

COUNT X
Fraud

(On Behalf of the Class and California and New York Subclasses)

151. Plaintiffs incorporate by reference the allegations contained in all preceding paragraphs of this complaint.

152. Plaintiffs bring this claim individually and on behalf of the members of the proposed Class and California and New York Subclasses against Defendant.

153. As discussed above, Defendant provided Plaintiffs and Class and Subclass members with false or misleading material information about the Products, including but not limited to the fact that the Products were "made in the USA."

154. These misrepresentations were made with knowledge of their falsehood.

155. The misrepresentations made by Defendant, upon which Plaintiffs and Class and Subclass members reasonably and justifiably relied, were intended to induce, and actually induced Plaintiffs and Class and Subclass members to purchase the Product.

156. The fraudulent actions of Defendant caused damage to Plaintiffs and Class and Subclass members, who are entitled to damages and other legal and equitable relief as a result.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, seek judgment against Defendant as follows:

- a. Certifying the Class and Subclasses under Rule 23 of the Federal Rules of Civil Procedure and naming Plaintiffs as representative of the Class and Multistate Express Warranty Subclass, Plaintiff Kaufmann as representative of the New York Subclass, and Plaintiff Thayer as representative of the California Subclass, and Plaintiff's attorneys as Class Counsel to represent the Class and Subclass members;
- b. Declaring that Defendant's conduct violates the statutes referenced herein;
- c. Finding in favor of Plaintiffs, the Class, and the Subclasses against Defendant on all counts asserted herein;
- d. Awarding Plaintiffs and Class and Subclass members their costs and expenses incurred in the action, including reasonable attorneys' fees;
- e. For compensatory, statutory, and punitive damages in amounts to be determined by the Court and/or jury;
- f. Ordering Defendant to pay pre-judgment interest on all amounts awarded; and
- g. Providing such further relief as may be just and proper.

JURY TRIAL DEMANDED

Pursuant to Federal Rule of Civil Procedure 28(b), Plaintiffs demand a trial by jury of any and all issues in this action so triable of right.

Dated: June 25, 2025

Respectfully submitted,

/s/ Brittany S. Scott

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