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the Proposed Class*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

**ELIZABETH M. COSIN,  
individually, and on behalf of others  
similarly situated,**

**Plaintiff,**

**vs.**

**JOHNSON HEALTH TECH  
RETAIL, INC.,**

**Defendant.**

**CASE NO. 3:25-cv-5085**

**CLASS ACTION COMPLAINT**

**DEMAND FOR JURY TRIAL**

Plaintiff, Elizabeth M. Cosin (“Plaintiff”), individually and on behalf of all others similarly situated, brings this action against Defendant, Johnson Health Tech Retail, Inc. (“Defendant”). Plaintiff’s allegations as to Plaintiff’s own actions are based on personal knowledge. The other allegations are based on counsel’s investigation, and information and belief.

**INTRODUCTION**

1. This case concerns a deceptively dangerous product and its manufacturer’s

1 inadequate recall efforts.

2       2.       Approximately 3.8 million units of BowFlex branded Model 552, 52.5 LB  
3 Adjustable Dumbbells and Model 1090, 90 LB Adjustable Dumbbells (the “Products”)  
4 were sold from as early as 2004 through May 2025 for between \$200 and \$800.

5       3.       Prior to April 23, 2024, the Products were sold by Nautilus, Inc. (a.k.a.  
6 BowFlex, Inc.) (hereinafter, “Nautilus/BowFlex” or the “Predecessor”). However, in  
7 March 2024, Nautilus/BowFlex filed for bankruptcy protection. On March 4, 2024,  
8 Nautilus/BowFlex and Defendant Johnson Health Tech Retail, Inc. entered into an asset  
9 purchase agreement for Defendant to acquire Predecessor’s assets. On April 23, 2024,  
10 Defendant began selling the Products.

11       4.       On June 5, 2025, Defendant and the U.S. Consumer Product Safety  
12 Commission (“CPSC”) announced the recall of roughly 3.8 million BowFlex branded  
13 Model 552, 52.5 LB Adjustable Dumbbells and Model 1090, 90 LB Adjustable  
14 Dumbbells.<sup>1</sup> Consumers were warned to “immediately stop using the recalled Bowflex  
15 adjustable dumbbells” because the Products’ “weight plates can dislodge from the  
16 handle during use, posing an impact hazard.” *Id.* Defendant stated that it had received  
17 “12 reports of the plates dislodging during use with no injuries for units it sold.  
18 [Nautilus/BowFlex] received 337 reports of the plates dislodging during use for units it  
19 sold, including 111 resulting in injuries such as concussions, abrasions, broken toes or  
20 contusions.” *Id.* The potential for the Products’ weight plates to dislodge from the  
21 handle during use is referred to herein as the “Defect.”

22       5.       Under the terms of Defendant’s recall claim procedure, only customers who  
23 purchased the Products from April 23, 2024, through May 2025 are entitled to receive  
24 either a full refund of the purchase price (in the form of a voucher) or replacement  
25 dumbbells.

26 \_\_\_\_\_  
27 <sup>1</sup> [https://www.cpsc.gov/Recalls/2025/Johnson-Health-Tech-Trading-Recalls-BowFlex-Adjustable-Dumbbells-Due-to-Impact-Hazard-Including-3-7-Million-Sold-by-](https://www.cpsc.gov/Recalls/2025/Johnson-Health-Tech-Trading-Recalls-BowFlex-Adjustable-Dumbbells-Due-to-Impact-Hazard-Including-3-7-Million-Sold-by-Nautilus-Inc)  
28 Nautilus-Inc (last visited June 13, 2025).

6. Customers who purchased the Products prior to April 23, 2024, are not being offered replacement dumbbells or full refund voucher. Instead, Defendant has arbitrarily limited those customers – who account for approximately 3.7 million (*i.e.*, 96%) of the affected Products – to the wholly inadequate option of requesting a prorated voucher and a one-year membership to Defendant’s JRNY digital fitness app.

7. Customers have reported that these prorated vouchers vary in amounts from \$20 to \$95.<sup>2</sup> A new set of 552 dumbbells retails for \$429 and a new set of 1090 dumbbells retails for \$799.<sup>3</sup> The prorated vouchers are effectively worthless because customers will be forced to shell out hundreds of dollars to replace their defective and unsafe Products with comparable dumbbells.

8. Plaintiff and Class members have suffered economic injury based on their purchase of the Products, which they would not have bought had they known the truth.

9. Plaintiff is filing this class action lawsuit to seek all available relief to consumers, to raise awareness that Defendant’s Products are a hazard, and to “encourage companies to take greater care in avoiding the production [and sale] of hazardous products in the first place.” *Kaupelis v. Harbor Freight Tools USA, Inc.*, 2019 WL 6998661 at \*10 (C.D. Cal. Oct. 9, 2019) (*quoting In re Mattel, Inc.*, 588 F. Supp. 2d 1111, 1115-16 (C.D. Cal. 2008)).

### **PARTIES**

10. Plaintiff Elizabeth Cosin is a Healdsburg, California citizen who purchased the Products in this judicial district. On December 5, 2020, Plaintiff purchased a BowFlex 552 Dumbbell kit online from bowflex.com for \$379.54. The serial numbers for Plaintiff’s Model 552 Dumbbells are 002-6841SFE20476298 and 002-

<sup>2</sup> [https://www.reddit.com/r/Bowflex/comments/1145sqi/552\\_recall\\_refund\\_amount/](https://www.reddit.com/r/Bowflex/comments/1145sqi/552_recall_refund_amount/) (last visited June 13, 2025).

<sup>3</sup> <https://www.bowflex.com/product/552-results-series-adjustable-dumbbells/ZMK4011008.html> & <https://www.bowflex.com/product/1090-results-series-adjustable-dumbbells/ZMK4011009.html> (last visited June 13, 2025).

1 6841SFE20476017. On June 5, 2025, Plaintiff received a Safety Recall Notice from  
2 Defendant via email advising her of the voluntary recall for the Products. Defendant  
3 offered Plaintiff a \$60 prorated voucher towards the purchase of replacement dumbbells  
4 from their website.

5 11. Plaintiff's claim is typical of all Class members in this regard.

6 12. Before purchasing the Product, Plaintiff reviewed the Product details,  
7 descriptions, specifications and features on bowflex.com. The Product was marketed as  
8 an "adjustable dumbbell" that is designed to "replace 15 sets of weights with 1" by using  
9 "selection dials [that] easily take you from one exercise to the next." Plaintiff understood  
10 this to mean that the Product was a safe, reliable, and durable alternative to conventional  
11 dumbbells. None of Defendant's materials disclosed the Defect. If the Product's  
12 labeling, packaging, web content, or user manual had disclosed the Defect, then Plaintiff  
13 would not have purchased the Product, or would not have purchased the Product on the  
14 same terms.

15 13. Defendant Johnson Health Tech Trading, Inc. is a Wisconsin corporation  
16 with its principal place of business located at 1600 Landmark Drive, Cottage Grove,  
17 Wisconsin, and is a citizen of Wisconsin.

### 18 **JURISDICTION AND VENUE**

19 14. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §  
20 1332(d)(2)(A) because this case is a class action where the aggregate claims of all  
21 members of the proposed class are in excess of \$5,000,000.00, exclusive of interest and  
22 costs, and at least one member of the proposed class is citizen of a state different from  
23 Defendant.

24 15. This Court has personal jurisdiction over Defendant because a substantial  
25 portion of the events that gave rise to Plaintiff's claims occurred in California. This  
26 Court also has personal jurisdiction over Defendant because Defendant conducts and  
27 transacts business in the state of California, contracts to supply goods within the State of  
28 California, and supplies goods within the State of California.

16. Venue in this judicial district is proper pursuant to 28 U.S.C. §1391(b)(2) because Plaintiff resides in this District and a substantial portion of the events that gave rise to Plaintiff's claims occurred in this District. *See also* Declaration of Elizabeth Cosin Regarding Venue Pursuant to Cal. Civ. Code § 1780(d), attached as Ex. A.

## FACTUAL ALLEGATIONS

17. **Product at Issue:** The BowFlex branded Model 552 and Model 1090 SelectTech Adjustable Dumbbells at issue in this case were sold at “Johnson Fitness & Wellness, DICK’S Sporting Goods and Best Buy stores nationwide and online at [www.Bowflex.com](http://www.Bowflex.com) and [www.Amazon.com](http://www.Amazon.com) as early as 2004 through April 2024 by [Nautilus/BowFlex], and from May 2024 through May 2025 by Johnson Health Tech Trading Inc. for between \$200 and \$800.”<sup>4</sup> There were approximately 3,844,200 units sold during this period in the United States. “The dumbbells were sold in pairs and single units in the color black and include handles, weight plates and a molded plastic tray. The model 552 dumbbells adjust from 5 to 52.5 pounds and the model 1090 adjusts from 10 to 90 pounds using manual adjustment knobs while the weights are nested in the base. The model and serial number are printed on a sticker located on the bottom of the molded plastic tray.” *Id.*

18. According to the CSPC, the serial numbers for the affected Products fall within the following ranges:

<sup>4</sup> <https://www.cpsc.gov/Recalls/2025/Johnson-Health-Tech-Trading-Recalls-BowFlex-Adjustable-Dumbbells-Due-to-Impact-Hazard-Including-3-7-Million-Sold-by-Nautilus-Inc>

Model	Serial Number Range
BowFlex 552 Adjustable Dumbbells	00182M243902233–00182M243902592 00182MAG220200463C–00182MAG221204535C 00182SFE213414844C–00182SFE234002231C 100182M242800001–100182M250201440 100182MAG20431227C–100182MAG233500372 100182P244100067–100182P244602976 100182SFE213709609–100182SFE235206276 100748M243200001–100748M244300252 100748MAG222400734–100748MAG23500660 100748P242900001–100748P245205632 100748SFE220908785–100748SFE233513811 X00748MAG233003670–X00748MAG233003672 X00748SFE233202493–X00748SFE233203161 Z00748MAG233003670
BowFlex 1090 Adjustable Dumbbells	4551MAG21452813–4551MAG23350381 4551SFE23320001–4551SFE23501949

19. The following are photos of the Products:



BowFlex Model 552 52.5lb Adjustable Dumbbell



BowFlex Model 1090 90lb Adjustable Dumbbell

20. **Defect at Issue:** According to the CSPC: “The weight plates can dislodge from the handle during use, posing an impact hazard.”

21. Defendant “has received 12 reports of the plates dislodging during use with no injuries for units it sold. [Nautilus/BowFlex] received 337 reports of the plates dislodging during use for units it sold, including 111 resulting in injuries such as concussions, abrasions, broken toes or contusions.”

22. The Defect affects all of the Products at issue. Defendant and the CSPC have stated that “[c]onsumers should immediately stop using the recalled Bowflex adjustable dumbbells.”

23. The cause of the Defect is the same for all of the Products at issue.

24. **Relevant Time Period:** All of the omissions and misrepresentations at issue were uniformly and consistently made at all times while the Products were sold between 2004 through May 2025. Notwithstanding the Nautilus/BowFlex bankruptcy and subsequent asset purchase by Defendant in March 2024, there were no material changes to the Products themselves, to the marketing and branding of the Products, or to other consumer-facing materials during the relevant period.

25. **The Omission and Misrepresentations:** Defendant represented the Products as “adjustable dumbbells” that are designed to “replace 15 sets of weights with

1 1” by using “selection dials [that] easily take you from one exercise to the next.”  
 2 Reasonable consumers understood this to mean that the Products were safe, reliable, and  
 3 durable alternatives to conventional dumbbells and would not drop weight plates or risk  
 4 dropping weight plates during normal use.

5 26. Indeed, since 2006, the Owner’s Manual and Workout Guide for the Model  
 6 1090 Dumbbells stated: “This innovative dumbbell is a versatile training tool that will  
 7 help you reach your fitness goal. This product has been carefully engineered and  
 8 manufactured to provide a wide array of weight options starting at 10 lbs (4.5 kg) and  
 9 going all the way up to 90 lbs (40.8 kg).”<sup>5</sup> The Owner’s Manuals further described the  
 10 Products as featuring “an exclusive locking mechanism designed to ensure proper and  
 11 complete selection of the weight plates as well as to ensure weight plate retention during  
 12 the workout.” As the Products’ User Manuals explain, the “locking mechanism serves  
 13 two important purposes: 1. The mechanism will prevent deselecting (dropping) weight  
 14 plates from the dumbbell when it is NOT in the dumbbell base. 2. The mechanism will  
 15 prevent partial selection of the weight plates in which the plates are not fully supported  
 16 and the locking pin is not fully engaged” (collectively, the “Representations”).

17 27. However, these Representations were false and misleading, including  
 18 because the Products were not safe, reliable, and durable. Despite Defendants’ express

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19 <sup>5</sup> See SelectTech® BD1090 Dumbbells Owner’s Manual and Workout Guide  
 20 (Copyrighted 2006),  
 21 [https://parts.bowflex.com/resource.php?url=http://productload.johnsonfit.com/inc/uploaded\\_media/0d56858b643fe2fc097e09164f9a96a7/owners\\_guide/451b2005c38c74b6ebf3214fe636d6e4.pdf](https://parts.bowflex.com/resource.php?url=http://productload.johnsonfit.com/inc/uploaded_media/0d56858b643fe2fc097e09164f9a96a7/owners_guide/451b2005c38c74b6ebf3214fe636d6e4.pdf) (last visited June 13, 2025). Similarly, since 2008, the Owner’s  
 22 Manual and Workout Guide for the Model 552 Dumbbell stated: “This innovative  
 23 dumbbell is a versatile training tool that will help you reach your fitness goal. This  
 24 product has been carefully engineered and manufactured to provide a wide array of  
 25 weight options starting at 5 lbs (2.27 kg) and going all the way up to 52.5 lbs.  
 26 (23.9kg).” See SelectTech® BD552 Dumbbells Owner’s Manual and Workout Guide  
 27 (Copyrighted 2008),  
 28 [https://parts.bowflex.com/resource.php?url=http://productload.johnsonfit.com/inc/uploaded\\_media/269126e6aa494c43d59d38284c4386f6/owners\\_guide/2ac709843477dffdd63ec2c3ef90dbf3.pdf](https://parts.bowflex.com/resource.php?url=http://productload.johnsonfit.com/inc/uploaded_media/269126e6aa494c43d59d38284c4386f6/owners_guide/2ac709843477dffdd63ec2c3ef90dbf3.pdf) (last visited June 13, 2025).

1 representation that the Products were designed “to ensure weight plate retention,” the  
2 Products nonetheless drop weight plates or risk dropping weight plates during workouts  
3 due to the Defect. Defendant failed to disclose that the “weight plates can dislodge from  
4 the handle during use, posing an impact hazard” (the “Omission”). There is no warning  
5 of any kind of the Defect anywhere on the Products’ labels, on the websites where the  
6 Products were sold, on the Products themselves, or in the Owners’ Manuals.

7 28. The omission and misrepresentations pertain to an unreasonable safety  
8 hazard that reasonable consumers consider to be material.

9 29. Plaintiffs and class members would not have bought the Products, or would  
10 not have bought them on the same terms, if the Defect had been disclosed. The  
11 materiality of the Defect also is demonstrated by the existence of the recall.

12 30. Defendant did not disclose the Defect on the product packaging or labeling  
13 or in any other customer-facing document or display. Retailers’ sales personnel and  
14 customer service representatives also did not disclose the Defect.

15 31. At the time of purchase, Plaintiff and class members did not know and did  
16 not have reason to know that the Products were defective. Defendant, and its  
17 predecessor, had exclusive knowledge of that fact.

18 32. Defendant made partial representations to Plaintiff and class members,  
19 while suppressing the safety Defect. Specifically, Defendant marketed the Products as  
20 safe, reliable, and durable, while knowing that those representations were not true and  
21 failing to disclose the Defect.

22 **33. Defendant’s Knowledge of the Defect:**

23 34. Defendant was aware of the Defect at the time of its purchase of its  
24 Predecessor’s assets.

25 35. Before the products were first launched, Defendant and its Predecessor  
26 knew about the defect as a result of pre-release testing.

27 36. After launch, Defendant and its Predecessor monitored a variety of sources  
28 of information to detect signs of defects. These sources of information include warranty

1 claim data, customer complaints to Defendant and its Predecessor, replacement part data,  
2 field reports, and CPSC correspondence. Defendant and its Predecessor knew that for  
3 every complaint made, there is a statistical likelihood that there were many more  
4 unreported incidents, and Defendant and its Predecessor made projections about the  
5 likely manifestation rate and future warranty claims based on the number of known  
6 complaints.

7 37. Defendant and its Predecessor also monitored and would have known about  
8 consumer complaints to the CPSC. When a consumer posts a complaint on the CPSC  
9 website, all of the relevant information provided to the CPSC is automatically sent via  
10 email to the manufacturer and retailers. Monitoring complaints to the CPSC is standard  
11 industry practice that serves as an early warning mechanism to spot defects that cause  
12 safety hazards, and Defendant and its Predecessor adhered to that practice.

13 38. There have been numerous complaints regarding the Products improperly  
14 dropping weight plates that have been reported to the CSPC since at least 2011. On  
15 March 14, 2011, a consumer submitted the following complaint to the CSPC regarding  
16 their Model 1090 dumbbells:<sup>6</sup>

17 When consumer dials in the weights on the weight lifting set,  
18 they do not lock on to the dumbbell so when it is lifted up, the  
19 dumbbell plates often fall off. Consumer had one fall onto his  
20 foot as he lifted the dumbbell from the stand. The plates fall off  
sometimes when he is working out with them.

21 39. Prior to Defendant's purchase of its Predecessor's assets, Defendant had the  
22 opportunity to access and inspect all records pertaining to its Predecessor's business.  
23 Section 6.6 provided:<sup>7</sup>

24 Prior to the Closing, Sellers shall permit representatives of

25 <sup>6</sup> <https://www.saferproducts.gov/PublicSearch/Detail?ReportId=1170739> (last visited  
26 June 13, 2025).

27 <sup>7</sup> See March 4, 2024 Asset Purchase Agreement,  
28 [https://www.sec.gov/ix?doc=/Archives/edgar/data/0001078207/000162828024008736/  
bfx-20240304.htm](https://www.sec.gov/ix?doc=/Archives/edgar/data/0001078207/000162828024008736/bfx-20240304.htm) (last visited June 13, 2025).

Purchaser to have reasonable access during regular business hours and upon reasonable notice, and in a manner so as not to interfere with the normal business operations of Sellers, to all premises, property, books, records (including Tax records), Contracts, and documents of or pertaining to the Business (provided that any representatives of Purchaser shall be subject to the confidentiality obligations under the Confidentiality Agreement or otherwise agree in writing to be bound by the terms of such Confidentiality Agreement applicable to Purchaser thereunder) and Acquired Assets. If requested, Purchaser shall be permitted to conduct a physical inspection of Inventory within 10 business days of the Closing.

40. Defendant acknowledged that it conducted an independent inspection and investigation in Section 8.1 of the asset purchase agreement, which provided:

PURCHASER ACKNOWLEDGES THAT PURCHASER HAS CONDUCTED AN INDEPENDENT INSPECTION AND INVESTIGATION OF THE PHYSICAL CONDITION OF ALL ACQUIRED ASSETS AND ALL SUCH OTHER MATTERS RELATING TO OR AFFECTING THE ACQUIRED ASSETS AS PURCHASER DEEMS NECESSARY OR APPROPRIATE AND THAT IN PROCEEDING WITH ITS ACQUISITION OF THE ACQUIRED ASSETS, EXCEPT FOR ANY REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN SECTION IV, PURCHASER IS DOING SO BASED SOLELY UPON SUCH INDEPENDENT INSPECTIONS AND INVESTIGATIONS. ACCORDINGLY, PURCHASER WILL ACCEPT THE ACQUIRED ASSETS AT THE CLOSING “AS IS,” “WHERE IS,” AND “WITH ALL FAULTS.”

41. Defendant nonetheless proceeded with purchasing its Predecessor’s assets despite knowledge of the Defect. Defendant then waited until there were at least 349 complaints of the weight plates dislodging during use, “including 111 resulting in injuries such as concussions, abrasions, broken toes or contusions,” before issuing the Recall.

42. **No Adequate Remedy at Law:**

43. Plaintiff and members of the putative class are entitled to equitable relief because no adequate remedy at law exists.

44. Legal remedies are inadequate because they are not equally prompt and certain and in other ways efficient as equitable relief.

1        45. Damages are not equally certain as restitution because the standard that  
2 governs restitution is different than the standard that governs damages. Hence, the Court  
3 may award restitution even if it determines that Plaintiff fails to sufficiently adduce  
4 evidence to support an award of damages.

5        46. Damages and restitution are not the same amount. Unlike damages,  
6 restitution is not limited to the amount of money Defendant wrongfully acquired plus  
7 the legal rate of interest. Equitable relief, including restitution, entitles a plaintiff to  
8 recover all profits from the wrongdoing, even where the original funds taken have grown  
9 far greater than the legal rate of interest would recognize. Plaintiff seeks non-  
10 restitutionary disgorgement of profits in connection with their unjust enrichment claims.

11        47. Legal claims for damages are not equally certain as restitution because  
12 equitable claims entail few elements.

13        48. Nor does Defendant's June 5, 2025, recall is unfair and inadequate as it  
14 improperly distinguishes between purchasers who purchased the Products before April  
15 23, 2024, and those who purchased after. For customers, like Plaintiff, who purchased  
16 the Products prior to April 23, 2024, Defendant is refusing to offer replacement  
17 dumbbells or full refund voucher. Instead, Defendant has arbitrarily limited those  
18 customers to the wholly inadequate option of requesting a prorated voucher (that  
19 reportedly ranges from \$20 to \$95) and providing a one-year membership to Defendant's  
20 JRNY digital fitness app. Customers have reported that these prorated vouchers vary in  
21 amounts from \$20 to \$95, and replacement dumbbells cost between \$429 and \$799.  
22 These prorated vouchers are effectively worthless since customers will be forced to shell  
23 out hundreds of dollars to replace their defective and unsafe Products with comparable  
24 dumbbells.

25        49. Furthermore, Plaintiff and members of the putative class have no recourse  
26 against Nautilus/BowFlex – the company responsible for the Products prior to April 24,  
27 2024 – because Nautilus/BowFlex went bankrupt in March 2024 and is no longer in  
28 existence.

1           50. In short, significant differences in proof and certainty establish that any  
2 potential legal claim cannot serve as an adequate remedy at law.

3           51. **The Recall Does Not Render This Lawsuit Moot:**

4           52. The recall does not render this lawsuit moot because it does not provide all  
5 of the same relief available in this lawsuit.

6           53. Under the recall, Defendant is only providing a “refund of the purchase  
7 price in the form of a voucher, or a replacement” for the Products to consumers who  
8 purchased the Products from April 23, 2024, through May 2025.

9           54. Plaintiff and members of the putative class are consumers who purchased  
10 the products prior to April 23, 2024. For these consumers, Defendant is not offering to  
11 replace their Products or refund the full purchase price. Instead, these consumers are  
12 only “eligible to receive a prorated refund voucher to be put toward the purchase of  
13 products available on BowFlex.com and a one-year complimentary subscription to  
14 [Defendant’s] JRNY Fitness App.”

15           55. Defendant is not providing appropriate refunds or replacements to any  
16 Class members. Instead, it is only offering prorated refunds that amount to a fraction of  
17 the price for replacement dumbbells. These options are not sufficient for Plaintiff and  
18 members of the Class for numerous reasons, including because the remedy offered to  
19 Plaintiff and Class members: (i) unfairly and arbitrarily distinguishes between  
20 purchasers of the Products who are harmed in an identical way; (ii) does not account for  
21 the time period when they were not permitted to use the Products due to the Defect; and  
22 (iii) offers no solution for purchasers who no longer trust the reliability of Defendant’s  
23 products and do not wish to continue to do business with them, or those that do not feel  
24 safe or capable of fixing and properly maintaining the Product themselves with the threat  
25 of potential death or serious injury if they were to not properly fix or maintain the  
26 Products.

27           56. In Plaintiff’s case, she was informed that she was entitled to a prorated  
28 voucher totaling \$60 for her Model 552 Dumbbells that originally cost her \$379.54.

1 Stated otherwise, Defendant has offered Plaintiff a prorated voucher equivalent to 15.8%  
2 of the price she paid for her dumbbells – which are no longer usable.

3 57. The CLRA provides that “in no case shall the total award of damages in a  
4 class action be less than one thousand dollars (\$1,000).” Cal. Civ. Code § 1780(a)(1).  
5 That is far greater than what is provided by the Recall, which for Plaintiff and the  
6 putative class, is a fraction of the price paid for their Products.

7 58. The recall was only briefly publicized and in a very limited manner.  
8 Therefore, many eligible class members who purchased from retail store remain unaware  
9 of it, and the response rate has been low. The amount and reach of the publicity  
10 concerning the notice of recall was not comparable to the typical notice provided in a  
11 class action.

12 **59. Predecessor’s Bankruptcy Does Not Bar Recovery From Defendant:**

13 60. On Defendant’s “Dumbbell Recall Information” website, Defendant  
14 attempts to justify why consumers like Plaintiff and members of the putative class are  
15 not being offered replacement dumbbells or vouchers equal to the purchase price they  
16 actually paid. As Defendant explains:<sup>8</sup>

17 Customers who purchased a BowFlex 552 or 1090 dumbbell prior to  
18 April 23, 2024 from Nautilus, Inc. (a.k.a. BowFlex Inc.) are being  
19 offered a prorated voucher rather than a replacement or full refund  
20 voucher. Here’s what we are doing and why we are doing it:

- 21 • The original company that sold the product prior to April 23, 2024,  
22 Nautilus, Inc., went bankrupt. That company no longer exists.
- 23 • That bankrupt company, Nautilus, designed, manufactured, and sold  
24 these dumbbell sets prior to filing for bankruptcy in 2024. We were  
25 not involved in any aspect of the products Nautilus made and sold  
26 prior to April 23, 2024.
- 27 • Our company acquired some of that bankrupt company’s assets last  
28 April through the bankruptcy process—but we did not buy the

<sup>8</sup> <https://www.bowflex.com/dumbbell-recalls.html> (last visited June 13, 2025).

company or its liabilities. We did not assume any responsibility for past sales or issues with the products Nautilus made and sold.

- We did not make any money from 552 and 1090 dumbbells sold by Nautilus before it went out of business. Simply put: we had no involvement with the design, manufacture, or sale of these dumbbells prior to April 23, 2024.
- We are stepping up to provide the pro-rated voucher to U.S. consumers who bought recalled dumbbells from a bankrupt company, even though we have no obligation to do so. Offering this voucher is a good-faith gesture from our company to help U.S. consumers replace the product—even if they bought recalled dumbbells from Nautilus several years ago. Making this extra effort fully aligns with our company’s commitment to helping our customers lead healthy lives.
- We encourage all customers to participate in this recall to obtain the remedy we are proactively making available through this voluntary recall.

We are doing our best to support the affected customers of bankrupt Nautilus, Inc. in a meaningful way.

61. As a result of Nautilus/BowFlex’s bankruptcy and subsequent asset sale to Defendant, Plaintiff and the putative class have no recourse against Nautilus/BowFlex, the original manufacturer of the Products.

62. Following Defendant’s acquisition of Nautilus/BowFlex’s assets, Defendant reaped the benefits of its Predecessor’s goodwill and reputation in the industry. Indeed, from April 23, 2024, through May 2025, Defendant continued to manufacture and sell the Products in the same manner that its Predecessor did. Specifically, Defendant continued using:

- the same dumbbell designs for the Products;
- the same branding and marketing materials for the Products;
- the same user manuals for the Products;<sup>9</sup>

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<sup>9</sup> See n.4 & 5, *supra*.

- the same website (www.bowflex.com); and
- the same phone numbers (1-800-618-8853 & 1-800-605-3369).

63. When Defendant took over and continued to operate its predecessor's established dumbbell business on April 24, 2024, it became an integral part of the overall producing and marketing enterprise for the Products. Fairness thus requires Defendant to assume responsibility for and bear the cost of the defective Products as that is a burden that was necessarily attached to Defendant enjoying its Predecessor's goodwill in the continued operation of the business.

### **CLASS ALLEGATIONS**

64. ***Class Definition:*** Plaintiff brings this action as a class action pursuant to Federal Rules of Civil Procedure 23(b)(2) and 23(b)(3) on behalf of herself, on behalf of all others similarly situated, and as a member of the Class defined as follows:

All citizens of California who purchased Defendant's Products before April 23, 2024, in the State of California (the "Class").

65. Excluded from the Class are: (i) Defendant, its assigns, successors, and legal representatives; (ii) any entities in which Defendant has a controlling interest; (iii) federal, state, and/or local governments, including, but not limited to, their departments, agencies, divisions, bureaus, boards, sections, groups, counsels, and/or subdivisions; (iv) all persons presently in bankruptcy proceedings or who obtained a bankruptcy discharge in the last three years; and (v) any judicial officer presiding over this matter and their staff, and persons within the third degree of consanguinity to such judicial officer.

66. Plaintiff reserves the right to amend or otherwise alter the class definition presented to the Court at the appropriate time, or to propose or eliminate sub-classes, in response to facts learned through discovery, legal arguments advanced by Defendant, or otherwise.

67. This action is properly maintainable as a class action pursuant to Federal Rule of Civil Procedure 23 for the reasons set forth below.

1       68. **Numerosity:** Members of the Class are so numerous that their individual  
2 joinder herein is impracticable. On information and belief, the Class includes thousands  
3 of consumers. The precise number of Class Members and their identities is unknown to  
4 Plaintiff at this time but may be determined through discovery. Class Members may be  
5 notified of the pendency of this action by mail and/or publication through the distribution  
6 records of Defendant, its retailers, their agents, or other means.

7       69. **Commonality and Predominance:** Common questions of law and fact  
8 exist as to all Class Members and predominate over questions affecting only individual  
9 Class Members. Common legal and factual questions include, but are not limited to:

10           (a) Whether Defendant knew or should have known of the Defect at  
11 issue in this case, and if so, when it discovered the Defect;

12           (b) Whether knowledge of the Defect at issue in this case would be  
13 important to a reasonable person, because, among other things, it poses an  
14 unreasonable safety hazard;

15           (c) Whether Defendant failed to disclose and concealed the existence of  
16 the Defect from potential customers; and

17           (d) Whether Defendant's conduct, as alleged herein, violates the  
18 consumer protection laws asserted here.

19       70. **Typicality:** Plaintiff's claims are typical of the claims of the Class in that  
20 Plaintiff and the Class sustained damages as a result of Defendant's uniform wrongful  
21 conduct, based upon Defendant's failure to inform Plaintiff and all others similarly  
22 situated that the products at issue here can be dangerous.

23       71. **Adequacy:** Plaintiff will fairly and adequately protect the interests of Class  
24 members. Plaintiff has retained counsel that is highly experienced in complex consumer  
25 class action litigation, and Plaintiff intends to vigorously prosecute this action on behalf  
26 of the Class. Plaintiff has no interests that are antagonistic to those of the Class. Plaintiff  
27 has no past or present financial, employment, familial, or other relationship with any of  
28 the attorneys in this case that would create a conflict of interest with the proposed class

1 members.

2 72. **Superiority:** A class action is superior to all other available methods for  
 3 the fair and efficient adjudication of this controversy for, *inter alia*, the following  
 4 reasons: prosecutions of individual actions are economically impractical for members of  
 5 the Class; the Class is readily definable; prosecution as a class action avoids repetitious  
 6 litigation and duplicative litigation costs, conserves judicial resources, and ensures  
 7 uniformity of decisions; and prosecution as a class action permits claims to be handled  
 8 in an orderly and expeditious manner.

9 73. Without a class action, Defendant will continue a course of action that will  
 10 result in further damages to the Plaintiff and Members of the Class and will likely retain  
 11 the benefits of its wrongdoing.

## 12 **CAUSES OF ACTION**

### 13 **COUNT I**

#### 14 **Violations of California's Unfair Competition Law ("UCL")** 15 **(Cal. Bus. & Prof. Code §§ 17200 *et seq.*)**

16 74. Plaintiff incorporates by reference and re-alleges each and every allegation  
 17 set forth above as though fully set forth herein.

18 75. Plaintiff brings this claim individually and on behalf of the members of the  
 19 proposed Class against Defendant.

20 76. Defendant's conduct constitutes an unfair business act and practice  
 21 pursuant to California Business & Professions Code §§ 17200, *et seq.* (the "UCL"). The  
 22 UCL provides, in pertinent part: "Unfair competition shall mean and include unlawful,  
 23 unfair or fraudulent business practices and unfair, deceptive, untrue or misleading  
 24 advertising . . . ."

25 77. Plaintiff brings this claim seeking restitution or disgorgement of the  
 26 amounts Defendant acquired through the unfair, unlawful, and fraudulent business  
 27 practices, as described herein; and injunctive relief to stop Defendant's misconduct, as  
 28 described herein.

1 78. Defendant's knowing conduct, as alleged herein, constitutes a "fraudulent"  
2 and/or "unfair" business practice, as set forth in California Business & Professions Code  
3 §§ 17200-17208.

4 ***Defendant's Conduct Constitutes a Fraudulent Business Practice***

5 79. Defendant's conduct constitutes a fraudulent business practice because, as  
6 set forth herein, consumers are likely to be deceived by Defendant's Omission and  
7 Representations.

8 80. Defendant was and is aware that its Omission and Representations are  
9 material to consumers.

10 81. Defendant was and is aware that its Omission and Representations are  
11 misleading, as described herein.

12 82. Defendant had an improper motive—to derive financial gain at the expense  
13 of accuracy or truthfulness—in its practices related to the labeling and advertising of the  
14 Products.

15 83. There were reasonable alternatives available to Defendant to further  
16 Defendant's legitimate business interests, other than the conduct described herein.

17 ***Defendant's Conduct Constitutes an Unfair Business Practice***

18 84. Defendant's conduct violates both the "Immoral Test" and the "Balancing  
19 Test" under California law, which are used to analyze whether conduct is "unfair".

20 85. Defendant's conduct violates the Immoral Test because Defendant  
21 intentionally makes the Representations to increase sales of the Products.

22 86. Defendant was and is aware that its Omission and Representations are  
23 misleading, as described herein.

24 87. Defendant's conduct is substantially injurious because consumers purchase  
25 the misrepresented Products in reliance on Defendant's Omission and Representations.

26 88. Defendant's conduct also violates the "Balancing Test" because the utility  
27 of Defendant's conduct in labeling the Products with the Omission and Representations  
28 is outweighed by the harm to consumers.

1 89. As set forth herein, the Omission and Representations are optional,  
2 voluntary advertising statements.

3 90. Defendant makes the Omission and Representations to increase sales of the  
4 Products and to the detriment of consumers, who are misled and deceived.

5 91. Consumers are directly harmed by Defendant's conduct in that they would  
6 not have purchased the Products if they had known the truth.

7 92. Defendant's conduct is also substantially injurious because it prevents  
8 consumers from making informed purchasing decisions.

9 93. In addition, Defendant's conduct is injurious to competition because  
10 Defendant's misrepresentation of its Products prevents consumers from making an  
11 informed choice between its Products and other similar products, which are not  
12 misrepresented.

13 94. Defendant had an improper motive—to derive financial gain at the expense  
14 of accuracy or truthfulness—in its practices related to the labeling and advertising of the  
15 Products.

16 95. There were reasonable alternatives available to Defendant to further  
17 Defendant's legitimate business interests, other than the conduct described herein.

18 96. Plaintiff and members of the Class could not have reasonably avoided  
19 injury. Defendant's uniform Omission and Representations regarding the Products were  
20 likely to deceive, and Defendant knew or should have known that its Omission and  
21 Representations were misleading.

22 97. Plaintiff purchased the Products with the reasonable belief that the Products  
23 were safe and not defective, and without knowledge that the Products suffered from the  
24 Defect.

25 ***Defendant's Conduct Constitutes an Unlawful Business Act***

26 98. Defendant's misrepresentation of material facts, as set forth herein, also  
27 constitute an "unlawful" practice because they violate California Civil Code §§ 1572,  
28 1573, 1709, 1710, 1711, and 1770 and the laws and regulations cited herein, as well as

1 the common law.<sup>10</sup>

2 99. Defendant's conduct in making the Representations described herein, in the  
3 absence of any disclosure about the Defect, constitutes a knowing failure to adopt  
4 policies in accordance with and/or adherence to applicable laws, as set forth herein, all  
5 of which are binding upon and burdensome to its competitors.

6 100. This conduct engenders an unfair competitive advantage for Defendant,  
7 thereby constituting an unfair business practice under California Business & Professions  
8 Code §§ 17200-17208.

9 101. Plaintiff and members of the Class have been directly and proximately  
10 injured by Defendant's conduct in ways including, but not limited to, the monies paid to  
11 Defendant for the Products, interest lost, and consumers' unwitting support of a business  
12 enterprise that promotes deception and undue greed to the detriment of consumers, such  
13 as Plaintiff and Class members.

14 102. As a result of the business acts and practices described above, Plaintiff and  
15 members of the Class are entitled to such Orders and judgments that may be necessary  
16 to disgorge Defendant's ill-gotten gains and to restore to any person in interest any  
17 money paid for the Products as a result of the wrongful conduct of Defendant.

18 103. Pursuant to Civil Code § 3287(a), Plaintiff and the Class are further entitled  
19 to pre-judgment interest as a direct and proximate result of Defendant's unfair and  
20 fraudulent business conduct. The amount on which interest is to be calculated is a sum  
21

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22 <sup>10</sup> The California Civil Code Sections prohibit the following conduct: (i) § 1572: actual  
23 fraud, including by suggestion of an untrue fact or suppression of that which is true;  
24 (ii) § 1573: constructive fraud, including by breach of duty "by misleading another to  
25 his prejudice" and in any act or omission that the law declares to be fraudulent; (iii) §§  
26 1709-1711: willfully deceiving another or a particular class of persons "with intent to  
27 induce him to alter his position to his injury or risk", including by suggestion of a fact  
28 that is not true or suppression of a fact by one who is bound to disclose it, or by giving  
information "of other facts which are likely to mislead for want of communication of  
that fact"; (iv) § 1770: listing proscribed practices, including unfair methods of  
competition and unfair or deceptive acts and practices, as described herein.

1 certain and capable of calculation, and Plaintiff and the Class are entitled to interest in  
2 an amount according to proof.

3 104. With respect to restitution under the UCL claim, Plaintiff alleges in the  
4 alternative that Plaintiff and Class Members lack an adequate remedy at law for the  
5 reasons already alleged above.

6 **COUNT II**  
7 **Violation of California’s False Advertising Law (“FAL”)**  
8 **(Cal. Bus. & Prof. Code §§ 17500, *et seq.*)**

9 105. Plaintiff incorporates by reference and re-alleges each and every allegation  
10 set forth above as though fully set forth herein.

11 106. Plaintiff brings this claim individually and on behalf of the members of the  
12 proposed Class against Defendant.

13 107. California Business & Professions Code § 17500 prohibits “unfair,  
14 deceptive, untrue or misleading advertising . . .”

15 108. Defendant violated § 17500 by making the Representations and failing to  
16 disclose that the Products suffered from the Defect; and by representing that the Products  
17 possess characteristics and value that they do not have.

18 109. Defendant’s deceptive practices were designed to induce reasonable  
19 consumers like Plaintiff to purchase the Products.

20 110. Defendant’s uniform Representations were likely to deceive, and  
21 Defendant knew or should have known that they were misleading.

22 111. Plaintiff purchased the Products in reliance on the Product Representations,  
23 and without knowledge of Defendant’s Omission that the Products were defective.

24 112. Plaintiff and members of the Class have been directly and proximately  
25 injured by Defendant’s conduct in ways including, but not limited to, the price paid to  
26 Defendant for the Products, interest lost, and consumers’ unwitting support of a business  
27 enterprise that promotes deception and undue greed to the detriment of consumers, such  
28 as Plaintiff and Class members.

113. The above acts of Defendant were and are likely to deceive reasonable

1 consumers in violation of § 17500.

2 114. In making the Omission and Representations alleged herein, Defendant  
3 knew or should have known that the Omission and Representations were deceptive  
4 and/or misleading, and acted in violation of § 17500.

5 115. As a direct and proximate result of Defendant's unlawful conduct in  
6 violation of § 17500 Plaintiff and members of the Class request an Order requiring  
7 Defendant to disgorge its ill-gotten gains and/or award full restitution of all monies  
8 wrongfully acquired by Defendant by means of such acts of false advertising, as well as  
9 interests and attorneys' fees.

10 116. With respect to restitution under the FAL claim, Plaintiff alleges in the  
11 alternative that Plaintiff and Class Members lack an adequate remedy at law for the  
12 reasons already alleged above.

### 13 **COUNT III**

#### 14 **Violation of California's Consumer Legal Remedies Act ("CLRA")** 15 **(Cal. Civ. Code § 1750, *et seq.*)**

16 117. Plaintiff incorporates by reference and re-alleges each and every allegation  
17 set forth above as though fully set forth herein.

18 118. Plaintiff brings this claim individually and on behalf of the members of the  
19 proposed Class against Defendant.

20 119. Plaintiff brings this action pursuant to California's CLRA, Cal. Civ. Code  
21 § 1750, *et seq.*

22 120. The CLRA provides that "unfair methods of competition and unfair or  
23 deceptive acts or practices undertaken by any person in a transaction intended to result  
24 or which results in the sale or lease of goods or services to any consumer are unlawful."

25 121. The Products are "goods," as defined by the CLRA in California Civil Code  
26 §1761(a).

27 122. Defendant is a "person," as defined by the CLRA in California Civil Code  
28 §1761(c).

123. Plaintiff and members of the Class are "consumers," as defined by the

1 CLRA in California Civil Code §1761(d).

2 124. Purchase of the Products by Plaintiff and members of the Class are  
3 “transactions,” as defined by the CLRA in California Civil Code §1761(e).

4 125. Defendant violated Section 1770(a)(5) by representing that the Products  
5 have “characteristics, . . . uses [or] benefits . . . which [they] do not have” by making the  
6 Representations and Omission, as described herein.

7 126. Defendant also violated section 1770(a)(7) by representing that the  
8 Products “are of a particular standard, quality, or grade . . . if they are of another” by  
9 making the Representations and Omission, as described herein.

10 127. In addition, Defendant violated section 1770(a)(9) by advertising the  
11 Products “with intent not to sell them as advertised” in that the Products are  
12 misrepresented and misbranded as described herein.

13 128. Defendant’s uniform Representations and Omission regarding the Products  
14 were likely to deceive, and Defendant knew or should have known that its  
15 Representations were deceptive and/or misleading.

16 129. Plaintiff and members of the Class relied on Defendant’s unlawful conduct  
17 and could not have reasonably avoided injury.

18 130. Plaintiff and members of the Class were unaware of the existence of facts  
19 that Defendant suppressed and failed to disclose, including that the Products suffered  
20 from the Defect.

21 131. Plaintiff and members of the Class would not have purchased the Products  
22 had they known the truth about the Defect in the Products.

23 132. Plaintiff and members of the Class have been directly and proximately  
24 injured by Defendant’s conduct.

25 133. Such injury includes, but is not limited to, the purchase price of the Products  
26 and/or the price of the Products at which they were offered.

27 134. Moreover, Defendant’s conduct is malicious, fraudulent, and/or wanton in  
28 that Defendant intentionally misled and withheld material information from consumers,

1 including to increase the sale of the Products.

2 135. Pursuant to California Civil Code § 1782(a), on June 16, 2025, Plaintiff on  
3 her own behalf, and on behalf of members of the Class, provided notice to Defendant of  
4 the alleged violations of the Consumer Legal Remedies Act by notice letter setting forth  
5 Plaintiff's claims.

6 136. As a direct and proximate result of Defendant's unlawful conduct in  
7 violation of the CLRA, Plaintiff and members of the Class request an Order pursuant to  
8 § 1780 enjoining such future wrongful conduct on the part of Defendant.

9 137. Plaintiff seeks all relief available under this cause of action, other than  
10 monetary damages. Plaintiff may amend the Complaint in the future to add a damages  
11 claim.

12 138. With respect to restitution under the CLRA claim, Plaintiff alleges in the  
13 alternative that Plaintiff and Class Members lack an adequate remedy at law for the  
14 reasons already alleged above.

15 **COUNT IV**  
16 **Unjust Enrichment**

17 139. Plaintiff incorporates by reference and re-alleges each and every allegation  
18 set forth above as though fully set forth herein.

19 140. Plaintiff brings this claim individually and on behalf of the members of the  
20 proposed Class against Defendant.

21 141. To the extent required, Plaintiff asserts this cause of action in the alternative  
22 to legal claims, as permitted by Rule 8.

23 142. Plaintiff and the Class Members conferred a benefit on Defendant in the  
24 form of the gross revenues Defendant derived from the money Plaintiff and Class  
25 Members paid for the Products.

26 143. Defendant knew of the benefit conferred on it by Plaintiff and the Class  
27 Members.

28 144. Defendant has been unjustly enriched in retaining the revenues derived

1 from Plaintiff's and the Class Members' purchases of the Products, which retention of  
 2 such revenues under these circumstances is unjust and inequitable because Defendant  
 3 omitted that the Products were dangerous due to the Defect. This caused injuries to  
 4 Plaintiff and class members because they would not have purchased the Products or  
 5 would have paid less for them if the true facts concerning the Products had been known.

6 145. Defendant accepted and retained the benefit in the amount of the gross  
 7 revenues it derived from sales of the Products.

8 146. Defendant has profited by retaining the benefit under circumstances which  
 9 would make it unjust for Defendant to retain the benefit.

10 147. Plaintiff and the Class Members are, therefore, entitled to restitution in the  
 11 form of the revenues derived from Defendant's sale of the Products.

12 148. As a direct and proximate result of Defendant's actions, Plaintiff and Class  
 13 Members have suffered in an amount to be proven at trial.

14 149. Plaintiff and putative Class Members have suffered an injury in fact and  
 15 have lost money as a result of Defendant's unjust conduct.

16 150. Plaintiff and putative Class Members lack an adequate remedy at law with  
 17 respect to this claim and are entitled to non-restitutionary disgorgement of the financial  
 18 profits that Defendant obtained as a result of its unjust conduct.

## 19 **COUNT V**

### 20 **Fraud by Omission / Intentional Misrepresentation**

21 151. Plaintiff incorporates by reference and re-alleges each and every allegation  
 22 set forth above as though fully set forth herein.

23 152. Plaintiff brings this claim individually and on behalf of the members of the  
 24 proposed Class against Defendant.

25 153. This claim is based on a fraudulent omissions that the Products suffered  
 26 from the Defect and misrepresentations concerning the safety, reliability, and durability  
 27 of the Products. As discussed above, Defendant failed to disclose that the Products had  
 28 a dangerous Defect, while advertising that the Products were safe, reliable, and durable.

10           156. The fraudulent actions of Defendant caused damage to Plaintiffs and Class  
11 Members, who are entitled to damages and punitive damages.

13 || **PRAYER**

16           A.     For an order certifying the Class under Rule 23 of the Federal Rules of Civil  
17 Procedure; naming Plaintiff as representative of the Class; and naming Plaintiff's  
18 attorneys as Class Counsel to represent the Class;

C. For an order awarding, as appropriate, compensatory, statutory, and monetary damages to Plaintiff and the Class;

24 E. For an order awarding attorneys' fees and costs;

26 G. For such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a trial by jury on all issues so triable.

Dated: June 16, 2025

Respectfully submitted,

/s/ Frederick J. Klorczyk III

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