

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

CASE NO. _____

Charles Ellert, Tosin Adesina, Aaron)	<u>CLASS ACTION</u>
Dombeck, George Doukas, and Chad Whitaker)	
individually and on behalf of all)	JURY TRIAL DEMANDED
others similarly situated,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
YAMAHA MOTOR CORPORATION,)	
U.S.A., INC.)	
)	
Defendant.)	

CLASS ACTION COMPLAINT

Plaintiffs Charles Ellert, Tosin Adesina, Aaron Dombeck, George Doukas, and Chad Whitaker (“Plaintiffs”), individually and on behalf of all others similarly situated, bring this Class Action Complaint against Defendant Yamaha Motor Corporation, U.S.A., Inc. (“Yamaha” the “Company,” or “Defendant”) and alleges, based upon personal knowledge as to Plaintiffs and Plaintiffs’ own acts, and on information and belief as to all other matters based upon, *inter alia*, the investigation of counsel, as follows:

NATURE OF THE ACTION

1. This is a simple case of consumer deception. Beginning in December 2023, and in later advertisements, including in or around August 2024, Yamaha advertised to consumers that they would receive a “Free 2nd Battery” – consisting of a “free second battery and battery end cap” – if they purchased one of seven applicable Yamaha e-bikes or Power Assist Bicycles. Examples

of these advertisements include:¹

YAMAHA POWER ASSIST BICYCLES

NOW MORE CASH BACK!*

Plus, a FREE 2nd battery** & extended battery warranty*** on select models!

*The YAMAHA Fan Rewards offer cannot be combined with other promotions except for Yamaha Finance promotions available in-store. Promotion benefits valid on new retail units and are not eligible on used or demo model purchases.
**Customer Cash offer good on the following models purchased between August 23, 2024 and November 4, 2024: \$3,599 customer cash on YDX-MORO 07 Special Edition; \$2,560 customer cash on YDX-MORO 07; \$2,370 customer cash on YDX-MORO 05; \$2,200 customer cash on YDX-MORO Pro; \$1,820 customer cash on YDX-MORO; \$1,660 customer cash on Wabash RT; \$1,250 customer cash on CrossCore RC.
***Free 2nd battery promotion applies to new customers that purchased a YDX-MORO 07 SE, YDX-MORO 07, YDX-MORO Pro, YDX-MORO 05, YDX-MORO, CrossCore RC, or Wabash RT between August 23, 2024 and November 4, 2024. Upon completion of the warranty registration, a free second battery and battery end cap (\$1,400 value) will be shipped directly to the registered owners at no additional charge.
***Five-year factory limited warranty applies to drive unit, battery, and frame and rigid fork for all models that are warranty-registered on or after December 1, 2023.

5 YEAR BATTERY WARRANTY

EXTRA CASH

THE THRILL OF SAVING
We're thrilled you're choosing Yamaha! So, we're giving you up to up to \$800 customer cash on select models*!

EXTRA CAPACITY

ELEVATE YOUR JOURNEY
Get a FREE 2nd 500Wh lithium-ion battery (a \$1,400 value!) on select models**!
So go further, climb harder, and explore more without the worry of running out of power.

EXTRA CONFIDENCE

RIDE WITH ASSURANCE
We are so confident in the technology of our e-Bikes, we're expanding our already robust factory limited warranty to FIVE years*! It's just one more way to show we stand behind our bikes and are committed to giving YOU the best long-term support you deserve.

5 YEAR BATTERY WARRANTY

YAMAHA POWER ASSIST BICYCLES

*Customer Cash offer good on the following models purchased between December 1, 2023 and March 30, 2024: \$800 customer cash on Wabash RT; \$500 customer cash on YDX-MORO Pro, YDX-MORO, and CrossCore RC; \$200 customer cash on YDX-MORO 07 and YDX-MORO 05.
**Free 2nd battery promotion applies to new customers that purchased a YDX-MORO 07 SE, YDX-MORO 07, YDX-MORO Pro, YDX-MORO 05, YDX-MORO, CrossCore RC, or Wabash RT. Upon completion of the warranty registration and new owner's survey, free 2nd battery (\$1,400 value) will be shipped to the registered owners at no charge.
*Five-year factory limited warranty applies to drive unit, battery, and frame and rigid fork for all models that are warranty-registered on or after December 1, 2023.

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Promotions | yamaha motor corporation, U.S.A.

Promotions

YAMAHA FANS PROMOTION!

Up to \$3,900 OFF listed price on select models!

See discount from listed price in shopping cart.

Customer Cash offer good on the following models purchased between August 23, 2024 and November 4, 2024.

- \$1,800 customer cash on [CrossCore RC](#)
- \$2,040 customer cash on [Cruiser](#)
- \$2,520 customer cash on [Wabash RT](#)
- \$2,880 customer cash on [YDX-MORO](#)
- \$3,300 customer cash on [YDX-MORO Pro](#)
- \$3,480 customer cash on [YDX-MORO 05](#)
- \$3,840 customer cash on [YDX-MORO 07](#)

FREE 2nd 500Wh lithium-ion battery

Free 2nd battery promotion applies to new customers that purchased a YDX-MORO 07 SE, YDX-MORO 07, YDX-MORO Pro, YDX-MORO 05, YDX-MORO, CrossCore RC, or Wabash RT between August 23, 2024 and November 4, 2024. Upon completion of the warranty registration, a free second battery and battery end cap (\$1,400 value) will be shipped directly to the registered owners at no additional charge within 120 days of purchase date.

Extended limited warranty to FIVE years!

Five-year factory limited warranty applies to drive unit, battery, and frame and rigid fork for all models that are warranty-registered on or after December 1, 2023.

Promotional rider required on closed course. Model specifications subject to change. Review the Owner's Manual, instruction material and product warning labels before operation. Ride safely, and always wear properly with a helmet and appropriate protective clothing. Ride responsibly and respect the environment. Observe all state and local laws and regulations, lower risk under the influence of alcohol or other drugs. ©2024 Yamaha Motor Corporation, U.S.A. All rights reserved. Offer subject to change.

NOW MORE CASH BACK!

~~\$5799~~ MSRP
- **\$3480** CUSTOMER CASH BACK

NOW \$2319 Dealer prices may vary. The final price will be shown in your cart.

BUY ONLINE >>

PLUS

5 YEAR BATTERY WARRANTY + **FREE 2ND BATTERY**

YAMAHA MOTOR CORPORATION, U.S.A. CONTACT

YAMAHA BICYCLES

FITNESS/LIFESTYLE ALL ROADS MOUNTAIN TECHNOLOGY OUR STORY BUY NOW

WANT TO BUY IN-STORE?

Find Your Local Authorized Dealer

YAMAHA FAN REWARDS PROMOTION TERMS & CONDITIONS

The YAMAHA Fan Rewards offer cannot be combined with other promotions except for Yamaha Finance promotions available in-store. Promotion benefits valid on new retail units and are not eligible on used or demo model purchases.

*Customer Cash offer good on the following models purchased between August 23, 2024 and November 4, 2024: \$3,900 customer cash on YDX-MORO 07 Special Edition; \$3,840 customer cash on YDX-MORO 07; \$3,480 customer cash on YDX-MORO 05; \$3,300 customer cash on YDX-MORO Pro; \$2,880 customer cash on YDX-MORO; \$2,520 customer cash on Wabash RT; \$2,040 customer cash on Cruiser; \$1,800 customer cash on CrossCore RC. While supplies last.

**Free 2nd battery promotion applies to new customers that purchased a YDX-MORO 07 SE, YDX-MORO 07, YDX-MORO Pro, YDX-MORO 05, YDX-MORO, CrossCore RC, or Wabash RT between August 23, 2024 and November 4, 2024. Upon completion of the warranty registration, a free second battery and battery end cap (\$1,400 value) will be shipped directly to the registered owners at no additional charge within 120 days of purchase date. While supplies last.

***Five-year factory limited warranty applies to drive unit, battery, and frame and rigid fork for all models that are warranty-registered on or after December 1, 2023.

¹ In addition to the Free 2nd Battery, Yamaha's promotion also included an extended five (5) year limited factory warranty and was coupled with significant discounts off the e-bikes Manufacturer's Suggested Retail Prices.

2. The promotion of the Free 2nd Battery was a material and significant inducement to drive consumers to purchase Yamaha's qualifying E-Bikes. In fact, depending upon the E-Bike purchased, the value of the Free 2nd Battery, including battery end cap, which Yamaha stated in its advertisements was \$1,400.00, exceeded that of the E-Bike's purchase price.

3. The promotion of a free component item, such as the Free 2nd Battery advertised by Yamaha here, with the purchase of a qualifying product within a specified period of time is well understood by the American public: in the event the qualifying product is purchased within the applicable time period, the consumer would expect to receive the Free 2nd Battery at no additional cost. But, in many cases, that is not what happened with Yamaha's Free 2nd Battery promotional offer.

4. In many cases, Yamaha told consumers who purchased a qualifying product within the applicable time period that they will not be receiving the Free 2nd Battery.

5. Yamaha's excuses for failing to honor its promotional offer have varied. Yamaha has told some purchasers that the promotion was always "While Supplies Last" despite not including that disclaimer in many of its advertisements of the Free 2nd Battery promotion. Yamaha has told other purchasers that they would not be receiving the Free 2nd Battery because their E-Bike's warranty was not registered on or before October 21, 2024, an arbitrary cutoff date and qualifying event that was not included in any advertisements of the Free 2nd Battery promotion. When responding to Better Business Bureau Complaints, Yamaha provided contradicting representations about whether it would or could deliver Free 2nd Batteries, while also stating multiple times that the inability to provide qualifying customers a Free 2nd Battery was "a fluid situation and [Yamaha] will strive to accommodate all customers but do apologize to those who remain disappointed."

6. Yamaha's Free 2nd Battery promotion was deceptive to reasonable consumers, such as Plaintiffs, who expected that by purchasing the qualifying E-Bike during the promotional period, they would receive the Free 2nd Battery.

7. Yamaha's failure to honor the Free 2nd Battery as advertised is, among other things, an unfair and deceptive trade practice in violation of state consumer protection laws.

8. Yamaha's failure to honor the Free 2nd Battery promotional offer also constitutes a breach of contract and the implied covenant of good faith and fair dealing, and Yamaha has been unjustly enriched by its conduct.

9. As more fully detailed below, Plaintiffs acted upon Yamaha's promotional offers and purchased E-Bikes, which Yamaha promised would include a Free 2nd Battery, within the applicable time period and reasonably expected that Yamaha would deliver the Free 2nd Battery in accordance with the terms stated in the promotional offer, to wit: "Upon completion of the warranty registration, a free second battery and battery end cap (\$1,400 value) will be shipped to the registered owners at no additional charge."

10. However, Plaintiffs have not received a Free 2nd Battery and Yamaha has not, otherwise, informed Plaintiffs they will be receiving it.

11. As a result of Yamaha's deceptive and unfair conduct, breach of contract, including the implied covenant of good faith and fair dealing, and ill-gotten gains, Plaintiffs and members of the classes (defined below) have suffered damages by not receiving the Free 2nd Battery they were promised would be delivered by purchasing a qualifying E-Bike during the applicable time period.

12. Because of the relatively small amount of damages suffered by Plaintiffs and each class member, a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure is the

only mechanism that defrauded consumers have to obtain redress for their damages and to put a stop to Yamaha's unlawful conduct.

JURISDICTION AND VENUE

13. The Court has jurisdiction over this action pursuant to 28 U.S.C. §1332(d), because at least one Class member is of diverse citizenship from Yamaha, there are more than 100 Class members nationwide, and the aggregate amount in controversy exceeds \$5,000,000, exclusive of costs and interest.

14. The Court has personal jurisdiction over Yamaha because Yamaha has purposefully availed itself of the privilege of conducting business activities in the State of Florida.

15. Venue is proper in this District, pursuant to 28 U.S.C. §1391, because a substantial part of the acts or omissions giving rise to the claims brought herein occurred or emanated within this District, Yamaha has marketed, advertised, and sold the qualifying E-Bikes and Free 2nd Battery's via its online website and through its authorized dealers in this District, and Yamaha has caused harm to Plaintiffs and other class members who reside in this District.

PARTIES

16. Plaintiff Charles Ellert is a citizen and resident of the State of Florida.

17. Plaintiff Tosin Adesina is a citizen and resident of the State of New York.

18. Plaintiff Aaron Dombeck is a citizen and resident of the State of New York.

19. Plaintiff George Doukas is a citizen and resident of the State of Maryland.

20. Plaintiff Chad Whitaker is a citizen and resident of the State of Pennsylvania.

21. Defendant Yamaha is an American multinational corporation organized and existing under the laws of the State of California with its principal place of business in Cypress, California. Yamaha has historical connections with Yamaha Motor Corporation, a global manufacturing conglomerate based in Japan that is a world leader in manufacturing motors,

motorcycles and other motor-based modes of transportation under the Yamaha brand name. Yamaha has been manufacturing E-Bikes for thirty (30) years and, according to its website, “pioneered the first e-Bike back in 1993.”

FACTUAL ALLEGATIONS

I. The Federal Trade Commission’s Guidance on the Use of the Word “Free”

22. The Federal Trade Commission (“FTC” or “Commission”) has long been concerned about businesses using the term “free” in marketing or promotional materials, because that word, which frequently attracts consumers, can easily lead to deception.

23. Accordingly, over 50 years ago, the FTC published its **“FTC GUIDE CONCERNING USE OF THE WORD ‘FREE’ AND SIMILAR REPRESENTATIONS.”**

36 FR 21517, Part 251 (Nov. 10, 1971) (the “FTC Guide”), which explained, in relevant part:

(a) General. (1) The offer of “Free” merchandise or service is a promotional device frequently used to attract customers. Providing such merchandise or service with the purchase of some other article or service has often been found to be a useful and valuable marketing tool.

(2) Because the purchasing public continually searches for the best buy, and regards the offer of “Free” merchandise or service to be a special bargain, *all such offers must be made with extreme care so as to avoid any possibility that consumers will be misled or deceived.* Representative of the language frequently used in such offers are “Free”, “Buy 1-Get 1 Free”, “2-for-1 Sale”, “50% off with purchase of Two”, “1 Sale”, etc. . . .

(b) *Meaning of “Free”.* (1) *The public understands that*, except in the case of introductory offers in connection with the sale of a product or service (See paragraph (f) of this section), *an offer of “Free” merchandise or service is based upon a regular price for the merchandise or service which must be purchased by consumers in order to avail themselves of that which is represented to be “Free”.* *In other words, when the purchaser is told that an article is “Free” to him if another article is purchased, the word “Free” indicates that he is paying nothing for that article and no more than the regular price for the other. Thus, a purchaser has a right to believe that the merchant will not directly and immediately recover, in whole or in part, the cost of the free merchandise or service by marking up the price of the article which must be purchased, by the substitution of inferior merchandise or service, or otherwise.*

(2) The term regular when used with the term price, means the price, in the same quantity, quality and with the same service, at which the seller or advertiser of the product or service has openly and actively sold the product or service in the geographic market or trade area in which he is making a “Free” or similar offer in the most recent and regular course of business, for a reasonably substantial period of time, i.e., a 30-day period. For consumer products or services which fluctuate in price, the “regular” price shall be the lowest price at which any substantial sales were made during the aforesaid 30-day period. Except in the case of introductory offers, if no substantial sales were made, in fact, at the “regular” price, a “Free” or similar offer would not be proper.

(c) Disclosure of conditions. When making “Free” or similar offers all the terms, ***conditions and obligations upon which receipt and retention of the “Free” item are contingent should be set forth clearly and conspicuously at the outset of the offer so as to leave no reasonable probability that the terms of the offer might be misunderstood.*** Stated differently, all of the terms, conditions and obligations should appear in close conjunction with the offer of “Free” merchandise or service. For example, disclosure of the terms of the offer set forth in a footnote of an advertisement to which reference is made by an asterisk or other symbol placed next to the offer, is not regarded as making disclosure at the outset. However, mere notice of the existence of a “Free” offer on the main display panel of a label or package is not precluded provided that (1) the notice does not constitute an offer or identify the item being offered “Free”, (2) the notice informs the customer of the location, elsewhere on the package or label, where the disclosures required by this section may be found, (3) no purchase or other such material affirmative act is required in order to discover the terms and conditions of the offer, and (4) the notice and the offer are not otherwise deceptive. . . .

36 FR 21517, §§251.1(a)-(c) (emphasis added).

24. Thus, it is clear that the FTC proscribes – in no uncertain terms – Yamaha from failing to deliver the Free 2nd Battery to any customer who purchased a qualifying E-Bike within the time prescribed by Yamaha’s promotion.

25. Nearly all state consumer protection laws, including Florida’s Deceptive and Unfair Trade Practices Act (“FDUTPA”) (*see* FLA. STAT. §501.204(2)); Maryland’s Consumer Protection Act (“Maryland CPA”) (*see* Md. Code Ann., Com. Law § 13-105); New York’s General Business Law § 349 (“New York GBL”) (*see* N.Y. Gen. Bus. Law § 349(d)); and Pennsylvania’s Unfair Trade Practices and Consumer Protection Law (*see* 73 P.S. § 201-1, *et seq.*) provide that courts

are to give due consideration and weight to the FTC's interpretation of the Federal Trade Commission Act.

II. Yamaha's Deceptive Free 2nd Battery Promotion to Induce Consumers to Purchase Its Oversupplied E-Bike's

26. Yamaha "pioneered the first e-Bike in 1993."

27. Since that time, until the end of 2024, Yamaha sold E-Bike's to consumers in the United States through its extensive network of authorized dealers and third-party retailers.

28. Following the COVID-19 pandemic, the popularity of E-Bikes initially soared amongst consumers in the United States – as did the number of entrants competing against Yamaha to sell them.

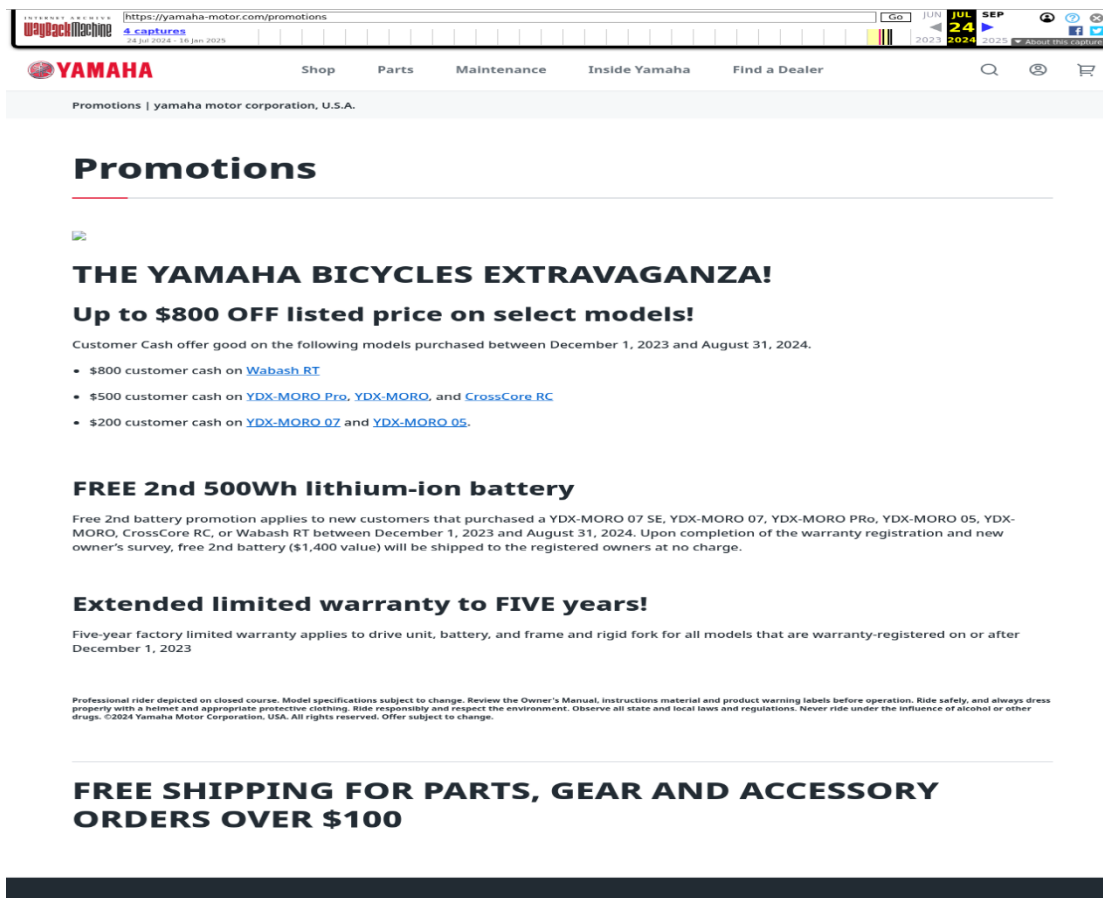
29. To meet the post COVID-19 demand, Yamaha substantially increased its production and supply of E-Bikes available for purchase in the United States.

30. Unfortunately for Yamaha, the increased demand for E-Bikes waned, leading to an oversupply of Yamaha's E-Bike inventory.

31. It is against this backdrop that Yamaha came to offer the Free 2nd Battery promotion.

32. Beginning on December 1, 2023, Yamaha began offering "Up to \$800 OFF" the listed price on various model E-Bikes purchased between December 1, 2023, and August 31, 2024, plus a "Free 2nd 500 lithium-ion battery" and an extended five-year limited factory warranty.

33. With respect to the free second battery, the initial promotion clarified in fine print denoted by an "***" that "Upon completion of the warranty registration and new owner's survey, a free second battery and battery end cap (\$1,400 value) will be shipped directly to the registered owner at no additional charge." Below is an example of this promotional offer:



(the “Initial Promotion”).

34. Some advertisements promoted the Free 2nd Battery offer between December 1, 2023 and December 31, 2024:



35. Other than the foregoing requirement for completing a warranty registration and new owner's survey, neither of which Yamaha required to be done within any time period, the Initial Promotion did not contain any preconditions other than the purchase of a qualifying model within the specified timeframe.

36. In or around August 2024, despite still being within the timeframe covered by the Initial Promotion, Yamaha sweetened the incentives by substantially increasing the customer cash discount on its E-Bike models.

37. Specifically, in addition to the Free 2nd battery and extended warranty, Yamaha began offering up to \$2,599 in customer cash depending upon the model of the E-Bike being purchased:



YAMAHA POWER ASSIST BICYCLES

NOW MORE CASH BACK!*

Plus, a FREE 2nd battery** & extended battery warranty*** on select models!

The YAMAHA Fan Rewards offer cannot be combined with other promotions except for Yamaha Finance promotions available in-store. Promotion benefits valid on new retail units and are not eligible on used or demo model purchases.

*Customer Cash offer good on the following models purchased between August 23, 2024 and November 4, 2024. \$2,599 customer cash on YDX-MORO 07 Special Edition; \$2,560 customer cash on YDX-MORO 07; \$2,320 customer cash on YDX-MORO 05; \$2,200 customer cash on YDX-MORO Pro; \$1,920 customer cash on YDX-MORO; \$1,680 customer cash on Wabash RT; \$1,200 customer cash on CrossCore RC.

**Free 2nd battery promotion applies to new customers that purchased a YDX-MORO 07 SE, YDX-MORO 07, YDX-MORO Pro, YDX-MORO 05, YDX-MORO, CrossCore RC, or Wabash RT between August 23, 2024 and November 4, 2024. Upon completion of the warranty registration, a free second battery and battery end cap (\$1,400 value) will be shipped directly to the registered owners at no additional charge.

***Five-year factory limited warranty applies to drive unit, battery, and frame and rigid fork for all models that are warranty-registered on or after December 1, 2023.

5 YEAR BATTERY WARRANTY + 



(the “Updated Promotion”).

38. For the Updated Promotion and Free 2nd Battery, Yamaha continued to require a warranty registration but eliminated the new owner survey and did not add any other qualifications for receipt of the Free 2nd Battery.

39. With the substantial increase in customer cash added to the Free 2nd Battery and extended warranty, the Updated Promotion quickly became very popular and spread across the internet.

40. By early September 2024, comment forums referencing the Updated Promotion began to appear on high-visibility websites such as Slickdeals, Reddit and Electric Bike Forums.

41. The threads created on these and other websites extol the quality of the promotion, of which the Free 2nd Battery was a significant part, *e.g.*, “Yamaha has insane ebike deals right now” (r/cycling on Reddit, 9/11/24); “Amazing deals at Yamaha currently...and they include a second battery!” (Electric Bike Forums, 9/8/24); “Yamaha is having a 60 percent off sale...If you need a road or emtb, this seems too good to be true” (r/ebikes on Reddit, 9/8/24); “Yamaha ditching

stock at ½ price event going on now!” (EMTB Forums, 9/7/24).²

42. By mid-October 2024, questions arose regarding the availability of batteries and/or Yamaha’s ability to fulfill the Free 2nd Battery promotion.

43. On or around October 15, 2024, a third-party Yamaha authorized dealer, ebikes508, stated on its website that the Free 2nd Battery promotion will end on all bikes purchased after October 19, 2024.

44. Upon information and belief, in or around the third week of October, Yamaha similarly communicated with dealers and customers that they were either running low on or were out of batteries available to fulfill the Free 2nd Battery promotional offer.

45. For example, one customer was told by a Yamaha dealer that all extra batteries available at the time of the Updated Promotion were gone as of October 21, 2024.

I was finally able to pick up my Crosscore today, and when I asked the salesman about the extra battery and steps to receive it, he told me that his contact at Yamaha had informed him that as of Monday all the extra batteries were gone, and not to expect a battery if you hadn't picked up your bike and registered it before Monday. Pretty disappointing news! Has anyone else heard the same?³

46. Another dealer advised a customer that the official end date for registration to qualify for the Free 2nd Battery was October 22, 2024.

I asked about the batteries. (He actually brought it up first, sounds like they are getting a lot of calls on batteries.) He said the official end date for registration (assuming showing in their system) to qualify for the battery was 10/22. He stated that they are as supplies last and he can’t guarantee it. Hopefully I just squeaked in. I guess

²https://www.reddit.com/r/cycling/comments/1fe7vxx/yamaha_has_insane_ebike_deals_right_now/; <https://forums.electricbikereview.com/threads/amazing-deals-at-yamaha-currently.56636/>; <https://www.emtbforums.com/threads/yamaha-ditching-stock-at-1-2-price-event-going-on-now.39937/>; https://www.reddit.com/r/ebikes/comments/1fbo82a/yamaha_is_having_a_60_percent_off_sale/.

³https://www.reddit.com/r/Yamahaebikes/comments/1gbb8u4/extra_battery_promo_ended_according_to_dealership/.

I'll find out in 120 days or less...⁴

47. Other customers called Yamaha directly and were told by Yamaha that the cutoff to receive the Free 2nd Battery was registration by October 21, 2024.⁵

48. Another customer was advised by Yamaha that the Free 2nd Battery will no longer be sent when Yamaha's stock of promotional batteries runs out, which Yamaha advised was independent from its regular stock of batteries.

49. Some customers filed complaints against Yamaha with the Better Business Bureau ("BBB"); Yamaha's responses have been wildly inconsistent,⁶ representing all of the following:

We apologize to the consumer for any frustration he has experienced relating to our Yamaha Fan Rewards promotion. With the promotion, customers received an exceptional 60% off, plus a free extended 5-year warranty and a 2nd battery was Offered as a bonus gift while supplies lasted. It was a great offer, and we were thrilled by how many people took advantage of it.

Due to extremely high demand, the limited supply of the 2nd batteries allocated for the promotion was quickly claimed, and the stipulation of while supplies last was always a part of the promotions terms and conditions on our web site. Because of unexpected delays in shipping lithium-ion batteries, it is taking us longer than we anticipated. We are delighted, however, to be able to inform Mr. ***** that his battery has been dispatched and he should receive it shortly.

We're grateful he took part in the promotion and is part of our Yamaha community. If theres anything else he ever needs especially regarding warranty support were here for him.

We apologize to the consumer for his disappointment in our Yamaha Fan Rewards Promotion. With that promotion, customers received an exceptional 60% off, plus a free extended 5-year warranty — and a 2nd battery was offered as a bonus gift while supplies lasted. It was a great offer, and we were thrilled by how many people took advantage of it.

⁴ *Id.*

⁵ https://www.reddit.com/r/Yamahaebikes/comments/1g93357/yamaha_no_longer_advertising_free_extra_battery/?share_id=3bPuilphJHJ5FV8taLonW&utm_content=1&utm_medium=ios_app&utm_name=ioscss&utm_source=share&utm_term=1.

⁶ <https://www.bbb.org/us/ca/cypress/profile/motorcycle-supplies/yamaha-motor-corporation-usa-1126-33458/complaints?page=1>.

Due to extremely high demand, the limited supply of the 2nd batteries allocated for the promotion was quickly claimed. While I know that can be disappointing, the offer included the condition that the part was only available while supplies lasted.

We still have batteries in our inventory, but those are strictly reserved for warranty service needs only. So, if a consumer's product experiences a qualifying issue, their 5-year warranty will absolutely cover it. But those parts are no longer available as promotional items.

We totally understand this may not be the news the consumer was hoping for, and we really appreciate their understanding. It's important to us to honor the full value of what they received — especially the long-term protection that comes with their extended 5-year warranty.

We're grateful they took part in the promotion and are part of our Yamaha community. If there's anything else they ever need especially regarding warranty support — we're here for them.

Due to the shipping regulations and packaging requirements of a lithium-ion battery, is it (sic) taking longer than the originally quoted 120 days for some of our customers to receive their bonus batteries and end caps, and we do continue to strive to fulfill these requests. While it is extremely doubtful that this consumer will receive a free bonus battery due to the vehicle being warranty registered with a purchase date near the end of our Yamaha Fan Rewards promotion, we have his information on file and will inform him should the situation change.

Due to our limited supply, bicycles that were purchased and/or warranty registered toward the end of the final promotion period may not receive the second battery. We would like to accommodate as many customers as we can with the extra battery and will continue to distribute them while supplies last.

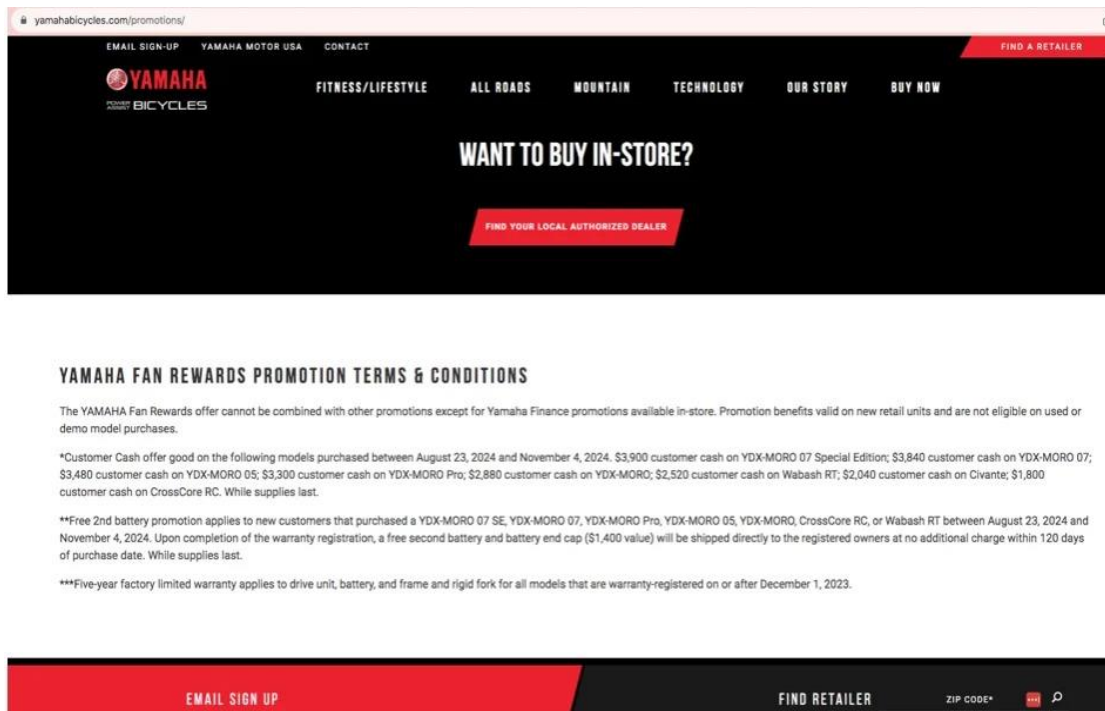
We apologize to the consumer for any miscommunication or confusion regarding our Ebike promotion. While an exact date is not known at this time, we continue to allocate additional batteries to customers who purchased qualifying Ebikes during the promotional period and anticipate that our available supply may be exhausted when it comes to vehicles warranty registered in mid-October.

Although the terms and conditions specified that the free second battery promotion was limited to available stock, we are making every effort to supply batteries for as many qualifying units as quickly as possible. We are dispatching batteries every day and ask for everyone's patience while we process these requests.

Again, we are very sorry that we may not be able to accommodate all customers who purchased a ***** Dower Assist Ebike during our deep discount promotion with a free second battery. When we had such an overwhelming response to the promotion we added a disclaimer to the Terms and Conditions online stating that the batteries would be provided while supplies lasted. This remains a fluid situation and we will strive to accommodate all customers but do apologize to those who may remain disappointed.

Yamaha Motor Corporation, U.S.A.

50. In or around this time and consistent with customer feedback regarding having not received their Free 2nd Battery, Yamaha added a “while supplies last” disclaimer to some of its advertisements for the Free 2nd Battery promotion:



51. However, other advertisements of the Free 2nd Battery Promotion without the “while supplies last” disclaimer remained on Yamaha’s website.

52. In the months that followed the Free 2nd Battery Promotion, some qualifying customers who were initially told by Yamaha that they would not be receiving the Free 2nd Battery did receive one, while others still have yet to receive a Free 2nd Battery contrary to the Free 2nd

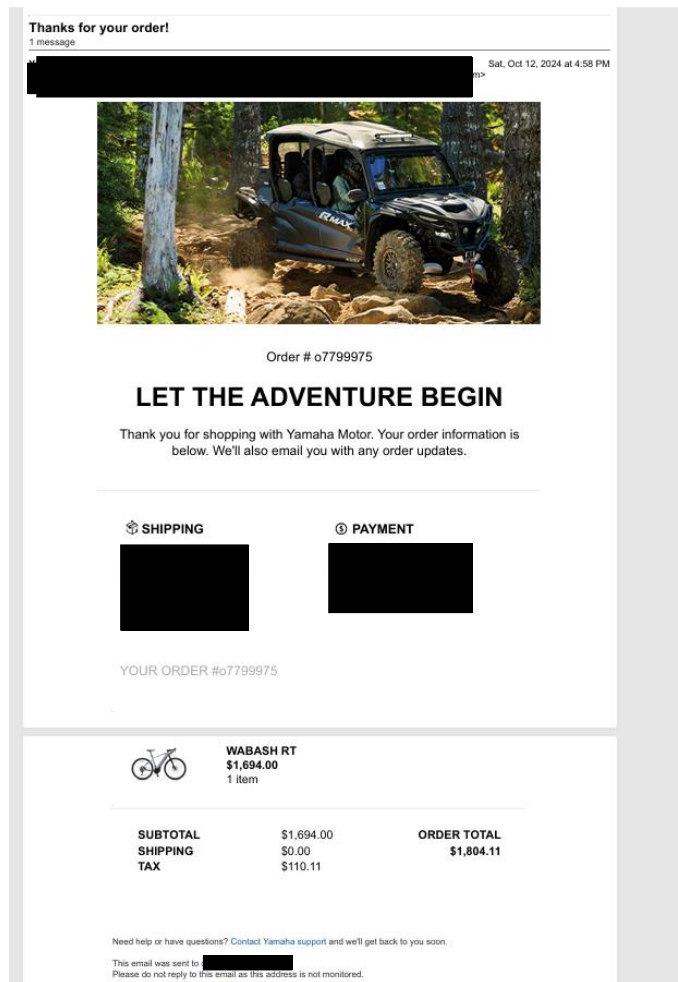
Battery promotion and Yamaha's promise.

The Experience of Plaintiffs and other Class Members

1. Charles Ellert

53. In or around mid-to-late September 2024, Plaintiff became aware of the Free 2nd Battery promotion.

54. Plaintiff then proceeded to visit Yamaha's website to purchase a 2024 Yamaha Wabash RT and was provided with the following receipt:



55. Prior to purchasing his 2024 Yamaha Wabash RT, Plaintiff reviewed the Free 2nd Battery promotional offer on Yamaha's website and saw that Yamaha was offering a "FREE 2nd

Battery” on select models, including the Wabash RT:



56. After viewing Yamaha’s promise to provide a free second battery and battery end cap, which Yamaha valued at \$1,400.00, Plaintiff accepted the promotional offer by purchasing the Wabash RT.

57. The Wabash RT E-bike was delivered to Plaintiff’s local Yamaha dealer on or about October 26, 2024, and was subsequently registered with Yamaha on or about November 8, 2024.

58. Plaintiff relied on Yamaha’s Free 2nd Battery representation in deciding to purchase his Wabash RT E-bike, and thus, Plaintiff purchased the qualifying E-bike on the reasonable, but mistaken, belief that he would receive a Free 2nd Battery as part of his purchase.

59. Plaintiff would not have purchased the Wabash RT E-Bike had he known that Yamaha would not provide him with a Free 2nd Battery.

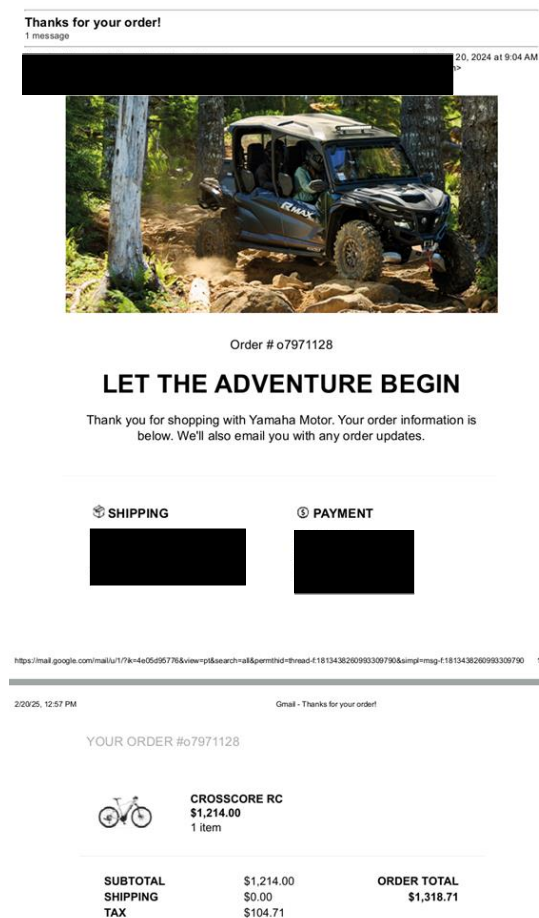
60. Although Plaintiff recently received a battery from Yamaha, to date, Plaintiff has not received his battery end cap, which is necessary to utilize the battery in the E-Bike.

61. When he inquired with Yamaha about rectifying this, he was answered with a pre-recorded message and then his calls were disconnected, and Yamaha has not, otherwise, provided Plaintiff all that Yamaha promised.

2. Tosin Adesina

62. On or about September 29, 2024, Plaintiff became aware of the Free 2nd Battery promotion.

63. Plaintiff then proceeded to visit Yamaha's website to purchase a Yamaha 2024 CrossCore RC and was provided with the following receipt:



64. Prior to purchasing his 2024 CrossCore RC, Plaintiff reviewed the Free 2nd Battery promotional offer on Yamaha's website and saw that Yamaha was offering a "FREE 2nd Battery"

on select models, including the CrossCore RC:



65. After viewing Yamaha's promise to provide a free second battery and battery end cap, which Yamaha valued at \$1,400.00, Plaintiff accepted the promotional offer by purchasing the CrossCore RC.

66. The CrossCore RC E-bike was registered with Yamaha on or about October 23, 2024, prior to being delivered to Plaintiff on or about November 21, 2024.

67. Plaintiff relied on Yamaha's Free 2nd Battery representation in deciding to purchase his CrossCore RC E-bike, and thus, Plaintiff purchased the qualifying E-bike on the reasonable, but mistaken, belief that he would receive a Free 2nd Battery as part of his purchase.

68. Plaintiff would not have purchased the CrossCore RC E-Bike had he known that Yamaha would not provide him with a Free 2nd Battery.

69. Although Plaintiff recently received a battery from Yamaha, to date, Plaintiff has not received his battery end cap, which is necessary to utilize the battery in the E-Bike.

70. When he inquired with Yamaha, he was told that he would not be receiving the Free 2nd Battery.


3. Aaron Dombeck

71. In or around mid-September 2024, Plaintiff Aaron Dombeck became aware of the Free 2nd Battery promotion.

72. Prior to purchasing his Yamaha 2024 CrossCore RC, Plaintiff reviewed the Free 2nd Battery promotional offer on Yamaha's website and saw that Yamaha was offering a "FREE 2nd Battery" on select models, including the CrossCore RC:

Promotions | yamaha motor corporation, U.S.A.

Promotions



FREE 2ND BATTERY

+

5 YEAR WARRANTY

+

MORE CASH BACK

YAMAHA FANS PROMOTION!

Up to \$3,900 OFF listed price on select models!

See discount from listed price in shopping cart.

Customer Cash offer good on the following models purchased between August 23, 2024 and November 4, 2024.

- \$1,800 customer cash on [CrossCore RC](#)
- \$2,040 customer cash on [Cruante](#)
- \$2,520 customer cash on [Wabash RT](#)
- \$2,880 customer cash on [YDX-MORO](#)
- \$3,300 customer cash on [YDX-MORO Pro](#)
- \$3,480 customer cash on [YDX-MORO 05](#)
- \$3,840 customer cash on [YDX-MORO 07](#)

FREE 2nd 500Wh lithium-ion battery

Free 2nd battery promotion applies to new customers that purchased a YDX-MORO 07 SE, YDX-MORO 07, YDX-MORO Pro, YDX-MORO 05, YDX-MORO, CrossCore RC, or Wabash RT between August 23, 2024 and November 4, 2024. Upon completion of the warranty registration, a free second battery and battery end cap (\$1,400 value) will be shipped directly to the registered owners at no additional charge within 120 days of purchase date.

Extended limited warranty to FIVE years!

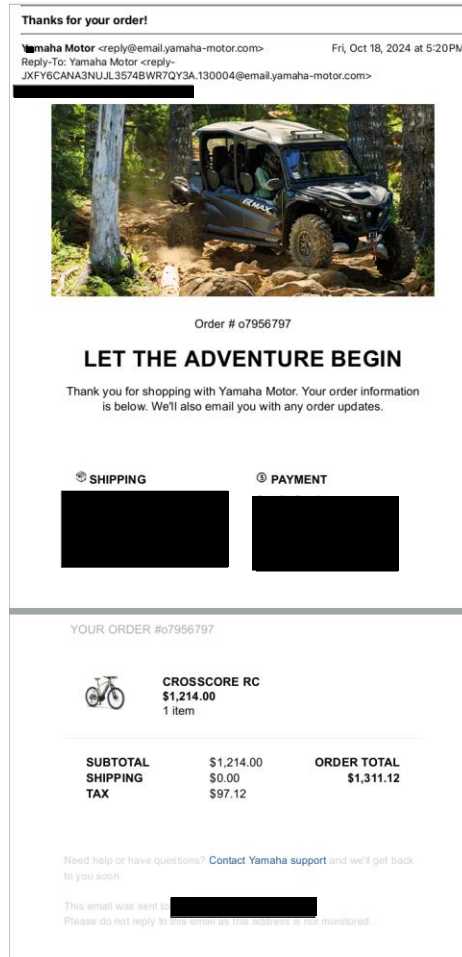
Five-year factory limited warranty applies to drive unit, battery, and frame and rigid fork for all models that are warranty-registered on or after December 1, 2023.

Professional rider depicted on closed course. Model specifications subject to change. Review the Owner's Manual, instructions material and product warning labels before operation. Ride safely, and always dress properly with a helmet and appropriate protective clothing. Ride responsibly and respect the environment. Observe all state and local laws and regulations. Never ride under the influence of alcohol or other drugs. ©2024 Yamaha Motor Corporation, USA. All rights reserved. Offer subject to change.

73. After viewing Yamaha's promise to provide a free second battery and battery end cap, which Yamaha valued at \$1,400.00, Plaintiff accepted the promotional offer by purchasing the CrossCore RC.

74. Specifically, Plaintiff visited Yamaha's website to purchase a Yamaha 2024

CrossCore RC and was provided with the following receipt after completing the purchase:



75. The CrossCore RC E-bike was delivered to Plaintiff's local Yamaha dealer on or about November 8, 2024, and was subsequently registered with Yamaha.

76. Plaintiff relied on Yamaha's Free 2nd Battery representation in deciding to purchase his CrossCore RC E-bike, and thus, Plaintiff purchased the qualifying E-bike on the reasonable, but mistaken, belief that he would receive a Free 2nd Battery as part of his purchase.

77. Plaintiff would not have purchased the CrossCore RC E-Bike had he known that Yamaha would not provide him with a Free 2nd Battery.

78. To date, Plaintiff has not received his Free 2nd Battery from Yamaha.

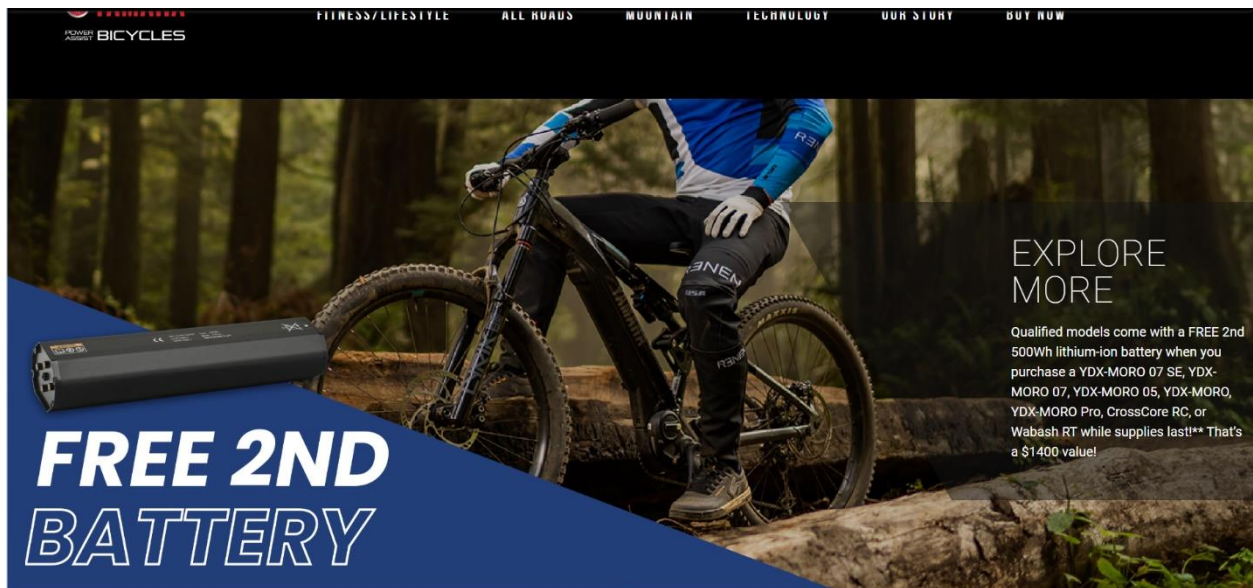
79. When he inquired with Yamaha, he was told that it did not matter that he ordered and paid for the bike in the timeframe to receive a second battery.

4. George Doukas

80. In or around early October 2024, Plaintiff became aware of the Free 2nd Battery promotion via Facebook.

81. Plaintiff then proceeded to visit Yamaha's website and purchased a Yamaha CrossCore RC 2023.

82. Prior to purchasing his CrossCore RC 2023, Plaintiff reviewed the Free 2nd Battery promotional offer on Yamaha's website and saw that Yamaha was offering a "FREE 2nd Battery" on select models, including the CrossCore RC:



83. After viewing Yamaha's promise to provide a free second battery and battery end cap, which Yamaha valued at \$1,400.00, Plaintiff accepted the promotional offer by purchasing the CrossCore RC.

84. The CrossCore RC E-bike was delivered to Plaintiff's local Yamaha dealer and was subsequently registered with Yamaha on or around October 26, 2024.

85. Plaintiff relied on Yamaha's Free 2nd Battery representation in deciding to purchase his CrossCore RC E-bike, and thus, Plaintiff purchased the qualifying E-bike on the reasonable, but mistaken, belief that he would receive a Free 2nd Battery as part of his purchase.

86. Plaintiff would not have purchased the CrossCore RC E-Bike had he known that Yamaha would not provide him with a Free 2nd Battery.

87. To date, Plaintiff has not received his Free 2nd Battery from Yamaha.

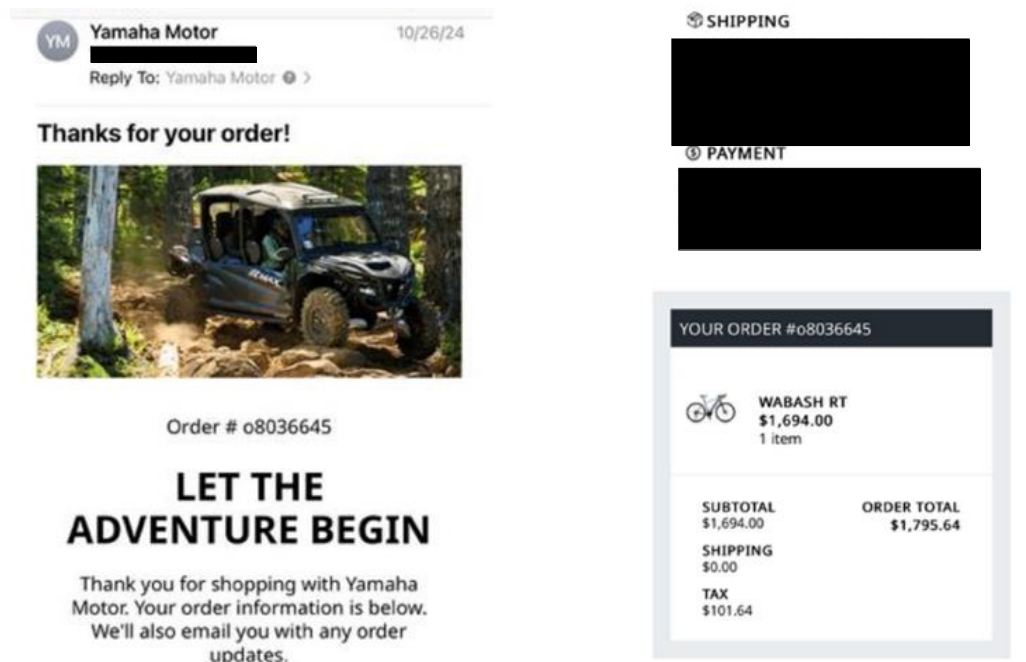
88. Plaintiff was unable to reach anyone at Yamaha despite trying to reach them multiple times. When he inquired with his local dealer, he was told that Yamaha would not be honoring the terms of the promotion.

5. Chad Whitaker

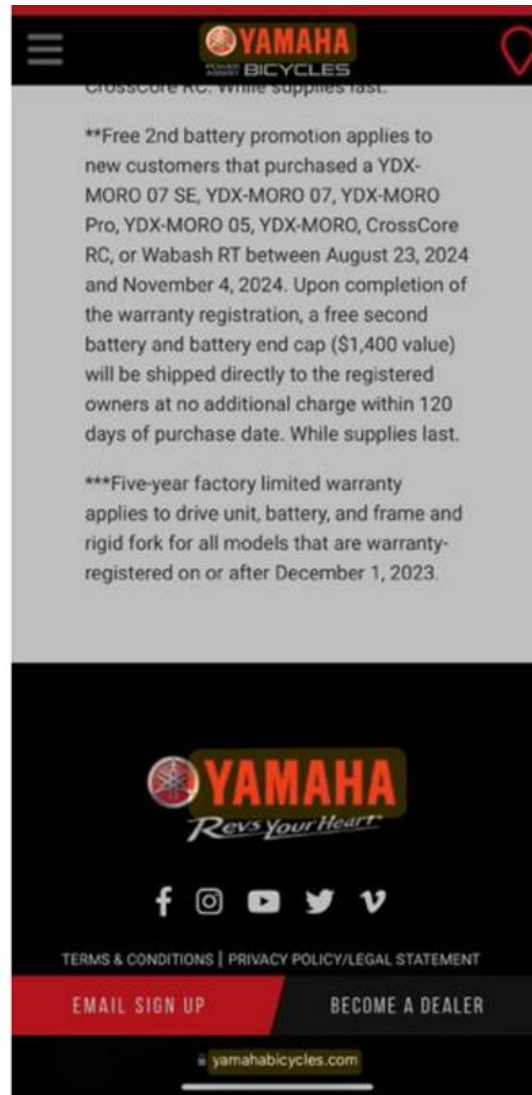
89. Plaintiff Chad Whitaker is a citizen and resident of the State of Pennsylvania.

90. On or about October 24, 2024, Plaintiff became aware of the Free 2nd Battery promotion via Facebook.

91. Plaintiff then proceeded to visit Yamaha's website. Plaintiff purchased a 2024 Yamaha Wabash RT and was provided with the following receipt:



92. Prior to purchasing his 2024 Yamaha Wabash RT, Plaintiff reviewed the Free 2nd Battery promotional offer on Yamaha's website and saw that Yamaha was offering a "FREE 2nd Battery" on select models, including the Wabash RT:



93. After viewing Yamaha's promise to provide a free second battery and battery end cap, which Yamaha valued at \$1,400.00, Plaintiff purchased the Wabash RT.

94. The Wabash RT E-bike was delivered to Plaintiff's local Yamaha dealer on or about November 15, 2024, and was subsequently registered with Yamaha on or about November 15, 2024.

95. Plaintiff relied on Yamaha's Free 2nd Battery representation in deciding to purchase his Wabash RT E-bike, and thus, Plaintiff purchased the qualifying E-bike on the reasonable, but mistaken, belief that he would receive a Free 2nd Battery as part of his purchase.

96. Plaintiff would not have purchased the Wabash RT E-Bike had he known that Yamaha would not provide him with a Free 2nd Battery.

97. To date, Plaintiff has not received his Free 2nd Battery from Yamaha.

98. When he inquired with Yamaha, he was told that it did not matter that he ordered and paid for the bike in the timeframe to receive a second battery.

99. Consumers around the country have reported similar experiences in online message boards about not receiving a Free 2nd Battery despite purchasing a qualifying E-Bike and registering it. For example, one consumer stated:

I bought 3 moros on the promotion. When we call we always get told we will receive a call back from a supervisor of some sort. They dont call back.⁷

100. Another consumer commented:

Called yamaha today [Feb. 26, 2025]. Oct 21st registration. They said I won't be getting a battery. I thought I read in one of the posts that as long as you registered on Oct 21st or earlier that we would be getting one. Guess not.⁸

101. Another customer put together his own draft complaint and stated:

On February 13th, Yamaha Motors Corporation has confirmed their failure to me to perform on our agreed upon contract. My bike was registered 10/22 as a point of reference to all of you out there... Yamaha. Must. Pay. We can not sit by and let this corporation steam roll us and scam us out of what is rightfully ours. I used to like this company, which is part of the reason I bought this bike to begin with... but to hell with the executives that made the decision to cut

⁷ https://www.reddit.com/r/yamahanobattery/comments/1i542oe/yamaha_contact/

⁸ https://www.reddit.com/r/yamahanobattery/comments/liyu7e5/called_yamaha_today_oct_21st_registration_they/

people off but continue their deceptive practices. These batteries exist out there, as many people have heard from reps about a large January shipment, myself included. Yamaha is just being a cheap ass about getting them shipped here to NA. They promised, they need to deliver.⁹

102. Having felt cheated by Yamaha, some qualifying customers have contacted their state's attorney general, initiated successful chargebacks in the amount of the value of the Free 2nd Battery as stated by Yamaha, filed fraud claims with the Federal Trade Commission and/or filed small claims' actions against Yamaha.¹⁰ Others have taken their fight to the BBB. *See supra* at ¶ 49.

103. And while some qualifying customers have received their Free 2nd Battery despite being told repeatedly by Yamaha that they would not be receiving it, Yamaha's fulfillment for these customers reveals the falsity of its previous representations that its battery stock had been depleted or that its offer was "while supplies last."

104. Accordingly, Yamaha's nationwide scheme has deprived qualifying customers millions of dollars by failing to deliver on its promise of a Free 2nd Battery with the purchase of a qualifying E-Bike.

CLASS ALLEGATIONS

105. Plaintiffs bring this action as a class action pursuant to Rule 23(a), 23(b)(2), 23(b)(3), and/or 23(c)(4), on behalf of himself and all others similarly situated as members of the following classes:

All persons or entities in the United States (including its Territories and the District of Columbia) that purchased a qualifying Yamaha

⁹ https://www.reddit.com/r/yamahanobattery/comments/1iozqg0/draft_complaint_for_your_use/

¹⁰

https://www.reddit.com/r/yamahanobattery/comments/1kbj6x4/anyone_filed_in_small_claims_court_yet_any/

E-bike from Yamaha or authorized Yamaha dealers and were not provided with a Free 2nd Battery after registering their qualifying E-Bike (the “Nationwide Class”); and

All persons or entities residing in Florida that purchased a qualifying Yamaha E-bike from Yamaha or authorized Yamaha dealers and were not provided with a Free 2nd Battery after registering their qualifying E-Bike (the “Florida Class”) (collectively, the “Classes”).

All persons or entities residing in New York that purchased a qualifying Yamaha E-bike from Yamaha or authorized Yamaha dealers and were not provided with a Free 2nd Battery after registering their qualifying E-Bike (the “New York Class”) (collectively, the “Classes”).

All persons or entities residing in Maryland that purchased a qualifying Yamaha E-bike from Yamaha or authorized Yamaha dealers and were not provided with a Free 2nd Battery after registering their qualifying E-Bike (the “Maryland Class”) (collectively, the “Classes”).

All persons or entities residing in Pennsylvania that purchased a qualifying Yamaha E-bike from Yamaha or authorized Yamaha dealers and were not provided with a Free 2nd Battery after registering their qualifying E-Bike (the “Pennsylvania Class”) (collectively, the “Classes”).

106. Subject to additional information obtained through further investigation and discovery, the foregoing definition of the Classes may be expanded or narrowed by amendment or amended complaint. Specifically excluded from the proposed Classes are the Defendant, its officers, directors, agents, trustees, parents, children, corporations, trusts, representatives, employees, principals, servants, partners, joint venturers, or entities controlled by the Defendant, and their heirs, successors, assigns, or other persons or entities related to or affiliated with the Defendant and/or their officers and/or directors, or any of them; the Judge assigned to this action, and any member of the Judge’s immediate family as well as any of Plaintiffs’ counsel.

107. Certification of Plaintiffs’ claims for Class-wide treatment is appropriate because

Plaintiffs can prove the elements of his claims on a Class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claim.

108. ***Numerosity.*** Rule 23(a)(1) of the Federal Rules of Civil Procedure: The members of the Classes are so numerous and geographically dispersed that individual joinder of all Class members is impracticable. Plaintiffs are informed and believe, and on that basis allege, that the proposed Classes contain many tens or hundreds of thousands of members. The precise number of Class members is unknown to Plaintiffs but may be ascertained from Yamaha's books and records. Class members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. mail, electronic mail, Internet postings, and/or published notice.

109. ***Commonality and Predominance.*** Rules 23(a)(2) and (b)(3) of the Federal Rules of Civil Procedure: This action involves common questions of law and fact, which predominate over any questions affecting individual Class members, including, but not limited to:

- a. Whether Yamaha committed a deceptive or unfair trade practice in violation of consumer state laws by the acts and practices complained of herein;
- b. Whether Yamaha's Free 2nd Battery promotional offer and Plaintiffs' acceptance of and payment for the E-bikes created a contract;
- c. Whether Yamaha breached the implied covenant of good faith and fair dealing within every contract by failing to honor the Free 2nd Battery it advertised with the purchase of a qualifying E-Bike;
- d. Whether Yamaha has been unjustly enriched by failing to honor the Free 2nd Battery it advertised with the purchase of a qualifying E-Bike;
- e. Whether Plaintiffs and the Classes are entitled to damages, and the proper

measure of damages;

f. Whether Plaintiffs and the Classes are entitled to injunctive relief to stop the wrongdoing complained of herein.

110. **Typicality.** Rule 23(a)(3) of the Federal Rules of Civil Procedure: Plaintiffs' claims are typical of the other Class members' claims because, among other things, all Class members were comparably injured through Yamaha's wrongful conduct as described above. All claims seek recovery on the same legal theories and are based upon Yamaha's common course of conduct.

111. **Adequacy.** Rule 23(a)(4) of the Federal Rules of Civil Procedure: Plaintiffs are adequate Class representatives because their interests do not conflict with the interests of the other members of the Class they seek to represent; Plaintiffs have retained counsel competent and experienced in complex class action litigation; and Plaintiffs intend to prosecute this action vigorously. The Class's interests will be fairly and adequately protected by Plaintiffs and their counsel.

112. **Declaratory Relief.** Rule 23(b)(2) of the Federal Rules of Civil Procedure: Yamaha has acted or refused to act on grounds generally applicable to Plaintiffs and Class members, thereby making appropriate declaratory relief, with respect to the Classes as a whole.

113. **Superiority.** Rule 23(b)(3) of the Federal Rules of Civil Procedure: A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Plaintiffs and Class members are relatively small compared to the burden and expense that would be required to individually litigate their claims against Yamaha, so it would be impracticable for Class members to individually seek redress for Yamaha's wrongful conduct. Even if Class members could afford individual litigation,

the court system could not. Individualized litigation creates a potential for inconsistent or contradictory judgments, and it increases the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

114. ***Particular Issues.*** Rule 23(c)(4) of the Federal Rules of Civil Procedure: The Classes may be certified for certain issues, including:

a. Did Yamaha commit an unfair and deceptive trade practice by inducing Plaintiffs and the Classes to purchase a qualifying Yamaha E-Bike based on the promise to deliver a Free 2nd Battery?

b. Are Plaintiffs and the Classes “consumers” entitled to protection under the consumer protection laws of Florida, New York, Maryland, and/or Pennsylvania?

c. Does Yamaha’s Free 2nd Battery promotional offer and Plaintiffs’ acceptance and payment constitute an enforceable contract?

d. Did Yamaha breach the implied covenant of good faith and fair dealing incorporated into all contracts by failing to honor the Free 2nd Battery it advertised with the purchase of a qualifying E-Bike?

e. Was Yamaha unjustly enriched with ill-gotten gains obtained as a result of its promotional offer with regard to the Free 2nd Battery?

115. Adequate notice can be given to Class members directly using information maintained in Defendant’s records or through notice by publication.

116. Damages may be calculated from the data maintained in Defendant’s records, so that the cost of administering a recovery for the Classes can be minimized. The precise amount of

damages available to Plaintiffs and the other members of the Classes are not a barrier to class certification.

CAUSES OF ACTION

COUNT I

Violation of the Florida Deceptive and Unfair Trade Practices Act (FLA. STAT. §501.201, *et seq.*) On Behalf of the Florida Class

117. Plaintiffs reallege and incorporate by reference all preceding allegations as though fully set forth herein.

118. Plaintiff Charles Ellert (“Florida Plaintiff”) brings this claim on behalf of himself and the Florida Class.

119. Florida Plaintiff and the Florida Class members are “consumers” within the meaning of FLA. STAT. §501.203(7).

120. Yamaha is engaged in “trade” or “commerce” within the meaning of FLA. STAT. §501.203(8).

121. The Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”) makes unlawful “[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.” FLA. STAT. §501.204(1).

122. In the course of its business, Yamaha violated FDUTPA by knowingly misrepresenting and/or intentionally concealing material facts regarding the Free 2nd Battery promotion. Specifically, in marketing, offering for sale, and selling its qualifying E-Bikes, Yamaha engaged in one or more of the following unfair or deceptive acts or practices prohibited by FLA. STAT. §501.204(1):

- (a) representing that the purchasers would receive a Free 2nd Battery with a value of \$1,400.00 at no additional cost;

- (b) advertising the qualifying E-Bikes with the intent not to deliver the Free 2nd Battery as advertised;
- (c) engaging in other conduct which created a likelihood of confusion or of misunderstanding; and/or
- (d) using or employing deception, fraud, false pretense, false promise or misrepresentation, or the concealment, suppression, or omission of a material fact with intent that others rely upon such concealment, suppression, or omission, in connection with the advertisement and sale of its qualifying E-Bikes.

123. Yamaha's Free 2nd Battery promotion was material to Florida Plaintiff and the Florida Class, and Yamaha misrepresented, concealed, or failed to disclose its intent to not to deliver on its promise with the intention that Florida Plaintiff and the Florida Class would rely on the misrepresentations, concealments, and omissions. Had they known the truth, Florida Plaintiff and the Florida Class would not have purchased their respective qualifying Yamaha E-Bikes.

124. Florida Plaintiff and the Florida Class members had no way of discerning that Yamaha's representations were false and misleading, or otherwise learning the facts that Yamaha had concealed or failed to disclose.

125. Yamaha had an ongoing duty to Florida Plaintiff and the Florida Class members to refrain from unfair and deceptive practices under FDUTPA in the course of its business. Specifically, Yamaha owed Florida Plaintiff and the Florida Class members a duty to disclose all the material facts concerning the availability of its Free 2nd Battery and its intent not to honor its promise to deliver the Free 2nd Battery with the purchase of a qualifying E-Bike because it possessed exclusive knowledge, it intentionally concealed such material facts from Florida

Plaintiff and the Florida Class members, and/or it made misrepresentations that were rendered misleading because they were contradicted by withheld facts.

126. Florida Plaintiff and the Florida Class members suffered ascertainable loss and actual damages as a direct and proximate result of Yamaha's concealment, misrepresentations, and/or failure to disclose material information.

127. Pursuant to FDUTPA, Florida Plaintiff and the Florida Class seek monetary relief against Yamaha in the amount of actual damages, attorneys' fees, and any other just and proper relief available under the FDUTPA

COUNT II
Violation of the Maryland Consumer Protection Act, Md. Code Ann.
(Com. Law § 13-101, *et seq.*)
On Behalf of the Maryland Class

128. Plaintiffs reallege and incorporate by reference the preceding allegations at paragraphs 1 – 116 as though fully set forth herein.

129. Plaintiff George Doukas ("Maryland Plaintiff") brings this claim on behalf of himself and the Maryland Class.

130. Yamaha, Maryland Plaintiff, and the Maryland Class members are "persons" within the meaning of Md. Code Ann., Com. Law § 13-101(h).

131. The Maryland Consumer Protection Act ("Maryland CPA") provides that a person may not engage in any unfair and deceptive trade practice in the sale or lease of any consumer good, including representing that goods are of a particular standard, quality, or grade if they are not, advertising goods without intent to sell or lease them as advertised, selling goods knowing that a service, replacement or repair was needed, "failure to state a material fact if the failure deceives or tends to deceive," and "[d]eception, fraud, false pretense, false premise, misrepresentation, or knowing concealment, suppression, or omission of any material fact with the

intent that a consumer rely on the same,” Md. Code Ann., Com. Law § 13-301, regardless of whether the consumer is actually deceived or damaged, Md. Code Ann., Com. Law § 13-302. Yamaha engaged in unlawful trade practices, and unfair or deceptive acts or practices that violated the Maryland CPA.

132. Yamaha participated in unfair or deceptive trade practices that violated the Maryland CPA. In the course of its business, Yamaha violated the Maryland CPA by knowingly misrepresenting and/or intentionally concealing material facts regarding the Free 2nd Battery promotion. Specifically, in marketing, offering for sale, and selling its qualifying E-Bikes, Yamaha engaged in one or more of the following unfair or deceptive acts or practices prohibited by Maryland CPA:

- (a) representing that the purchasers would receive a Free 2nd Battery with a value of \$1,400.00 at no additional cost;
- (b) advertising the qualifying E-Bikes with the intent not to deliver the Free 2nd Battery as advertised;
- (c) engaging in other conduct which created a likelihood of confusion or of misunderstanding; and/or
- (d) using or employing deception, fraud, false pretense, false promise or misrepresentation, or the concealment, suppression, or omission of a material fact with intent that others rely upon such concealment, suppression, or omission, in connection with the advertisement and sale of its qualifying E-Bikes.

133. Yamaha also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression, or omission of any

material fact with intent that others rely upon such concealment, suppression, or omission, in connection with the sale of its qualifying E-Bikes.

134. Yamaha's unfair and deceptive acts or practices occurred repeatedly in Yamaha's trade or business and were capable of deceiving a substantial portion of the purchasing public.

135. Yamaha knew or should have known that its conduct violated the Maryland CPA.

136. Yamaha had an ongoing duty to Maryland Plaintiff and the Maryland Class members to refrain from unfair and deceptive practices under the Maryland CPA in the course of its business. Specifically, Yamaha owed Maryland Plaintiff and the Maryland Class members a duty to disclose all the material facts concerning the availability of its Free 2nd Battery and its intent not to honor its promise to deliver the Free 2nd Battery with the purchase of a qualifying E-Bike because it possessed exclusive knowledge, it intentionally concealed such material facts from Maryland Plaintiff and the Maryland Class members, and/or it made misrepresentations that were rendered misleading because they were contradicted by withheld facts.

137. Yamaha's Free 2nd Battery promotion was material to Maryland Plaintiff and the Maryland Class, and Yamaha misrepresented, concealed, or failed to disclose its intent to not to deliver on its promise with the intention that Maryland Plaintiff and the Maryland Class would rely on the misrepresentations, concealments, and omissions. Had they known the truth, Maryland Plaintiff and the Maryland Class would not have purchased their respective qualifying Yamaha E-Bikes.

138. Maryland Plaintiff and the Maryland Class members are reasonable consumers who had no way of discerning that Yamaha's representations were false and misleading, or otherwise learning the facts that Yamaha had concealed or failed to disclose.

139. As a direct and proximate result of Defendant's Yamaha's concealment, misrepresentations, and/or failure to disclose material information, Maryland Plaintiff and the Maryland Class members have suffered and will continue to suffer ascertainable loss and actual damages.

140. Pursuant to Md. Code Ann., Com. Law § 13-408, Maryland Plaintiff and the Maryland Class seek monetary relief against Yamaha in the amount of actual damages, attorneys' fees, and any other just and proper relief available under the Maryland CPA.

COUNT III
Violation of the New York General Business Law § 349
(N.Y. Gen. Bus. Law § 349)
On Behalf of the New York Class

141. Plaintiffs reallege and incorporate by reference the preceding allegations at paragraphs 1 – 116 as though fully set forth herein.

142. Plaintiffs Tosin Adesina and Aaron Dombeck ("New York Plaintiffs") bring this claim on behalf of themselves and the New York Class.

143. New York Plaintiffs and members of the New York Class are "persons" as defined by the New York General Business Law ("New York GBL"). N.Y. Gen. Bus. Law § 349(h).

144. Yamaha is a "person," "firm," "corporation," or "association" within the meaning of N.Y. Gen. Bus. Law § 349.

145. New York's General Business Law § 349 makes unlawful "[d]eceptive acts or practices in the conduct of any business, trade or commerce." N.Y. Gen. Bus. Law § 349.

146. In the course of its business, Yamaha violated the New York GBL by knowingly misrepresenting and/or intentionally concealing material facts regarding the Free 2nd Battery promotion. Specifically, in marketing, offering for sale, and selling its qualifying E-Bikes,

Yamaha engaged in one or more of the following unfair or deceptive acts or practices prohibited by the New York GBL:

- (a) representing that the purchasers would receive a Free 2nd Battery with a value of \$1,400.00 at no additional cost;
- (b) advertising the qualifying E-Bikes with the intent not to deliver the Free 2nd Battery as advertised;
- (c) engaging in other conduct which created a likelihood of confusion or of misunderstanding; and/or
- (d) using or employing deception, fraud, false pretense, false promise or misrepresentation, or the concealment, suppression, or omission of a material fact with intent that others rely upon such concealment, suppression, or omission, in connection with the advertisement and sale of its qualifying E-Bikes.

147. Yamaha's Free 2nd Battery promotion was material to New York Plaintiffs and the New York Class, and Yamaha misrepresented, concealed, or failed to disclose its intent to not to deliver on its promise with the intention that New York Plaintiffs and the New York Class would rely on the misrepresentations, concealments, and omissions. Had they known the truth, New York Plaintiffs and the New York Class would not have purchased their respective qualifying Yamaha E-Bikes.

148. New York Plaintiffs and the New York Class members had no way of discerning that Yamaha's representations were false and misleading, or otherwise learning the facts that Yamaha had concealed or failed to disclose.

149. Yamaha had an ongoing duty to New York Plaintiffs and the New York Class members to refrain from unfair and deceptive practices under the New York GBL in the course of its business. Specifically, Yamaha owed New York Plaintiffs and the New York Class members a duty to disclose all the material facts concerning the availability of its Free 2nd Battery and its intent not to honor its promise to deliver the Free 2nd Battery with the purchase of a qualifying E-Bike because it possessed exclusive knowledge, it intentionally concealed such material facts from New York Plaintiffs and the New York Class members, and/or it made misrepresentations that were rendered misleading because they were contradicted by withheld facts.

150. New York Plaintiffs and the New York Class members suffered ascertainable loss and actual damages as a direct and proximate result of Yamaha's concealment, misrepresentations, and/or failure to disclose material information.

151. Pursuant to N.Y. Gen. Bus. Law § 349(h), New York Plaintiffs and each New York Class member seek actual damages or \$50, whichever is greater, in addition to discretionary three times actual damages up to \$1,000 for Defendant's willful and knowing violation of N.Y. Gen. Bus. Law § 349.

152. New York Plaintiffs and the New York Class members also seek attorneys' fees, an order enjoining Yamaha's deceptive conduct, and any other just and proper relief available under the New York GBL.

COUNT IV
Violation of the New York General Business Law § 350
(N.Y. Gen. Bus. Law § 350)
On Behalf of the New York Class

153. Plaintiffs reallege and incorporate by reference the preceding allegations at paragraphs 1 – 116 as though fully set forth herein.

154. New York Plaintiffs bring this claim on behalf of themselves and the New York Class.

155. New York's General Business Law § 350, the New York False Advertising Act ("NY FAA"), makes unlawful "[f]alse advertising in the conduct of any business, trade or commerce[.]" False advertising includes "advertising, including labeling, of a commodity . . . if such advertising is misleading in a material respect," taking into account "the extent to which the advertising fails to reveal facts material in the light of . . . representations [made] with respect to the commodity." N.Y. Gen. Bus. Law § 350-a.

156. Yamaha caused to be made or disseminated throughout New York, through advertising, marketing, and other publications, representations that were untrue or misleading, and which were known, or which by the exercise of reasonable care should have been known to Yamaha, to be untrue and misleading to consumers, including New York Plaintiffs and the New York Class members.

157. In the course of its business, Yamaha violated the New York FAA by knowingly misrepresenting and/or intentionally concealing material facts regarding the Free 2nd Battery promotion. Specifically, in marketing, offering for sale, and selling its qualifying E-Bikes, Yamaha engaged in one or more of the following unfair or deceptive acts or practices prohibited by the New York FAA:

- (a) representing that the purchasers would receive a Free 2nd Battery with a value of \$1,400.00 at no additional cost;
- (b) advertising the qualifying E-Bikes with the intent not to deliver the Free 2nd Battery as advertised;
- (c) engaging in other conduct which created a likelihood of confusion or of

misunderstanding; and/or

(d) using or employing deception, fraud, false pretense, false promise or misrepresentation, or the concealment, suppression, or omission of a material fact with intent that others rely upon such concealment, suppression, or omission, in connection with the advertisement and sale of its qualifying E-Bikes.

158. Yamaha's Free 2nd Battery promotion was material to New York Plaintiffs and the New York Class, and Yamaha misrepresented, concealed, or failed to disclose its intent to not to deliver on its promise with the intention that New York Plaintiffs and the New York Class would rely on the misrepresentations, concealments, and omissions. Had they known the truth, New York Plaintiffs and the New York Class would not have purchased their respective qualifying Yamaha E-Bikes.

159. New York Plaintiffs and the New York Class members had no way of discerning that Yamaha's representations were false and misleading, or otherwise learning the facts that Yamaha had concealed or failed to disclose.

160. Yamaha had an ongoing duty to New York Plaintiffs and the New York Class members to refrain from unfair and deceptive practices under the New York FAA in the course of its business. Specifically, Yamaha owed New York Plaintiffs and the New York Class members a duty to disclose all the material facts concerning the availability of its Free 2nd Battery and its intent not to honor its promise to deliver the Free 2nd Battery with the purchase of a qualifying E-Bike because it possessed exclusive knowledge, it intentionally concealed such material facts from New York Plaintiffs and the New York Class members, and/or it made misrepresentations that were rendered misleading because they were contradicted by withheld facts.

161. New York Plaintiffs and the New York Class members suffered ascertainable loss and actual damages as a direct and proximate result of Yamaha's concealment, misrepresentations, and/or failure to disclose material information.

162. New York Plaintiffs and the New York Class members are entitled to recover their actual damages or \$500, whichever is greater. Because Yamaha acted willfully or knowingly, New York Plaintiff and the New York Class members are entitled to recover three times actual damages, up to \$10,000.

COUNT V
Violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law
(73 P.S. § 201-1, *et seq.*)
On Behalf of the Pennsylvania Class

163. Plaintiffs reallege and incorporate by reference the preceding allegations at paragraphs 1 – 116 as though fully set forth herein.

164. Plaintiff Chad Whitaker ("Pennsylvania Plaintiff") brings this cause of action on behalf of himself and on behalf of the members of the Pennsylvania Class.

165. Pennsylvania Plaintiff and the Pennsylvania Class members purchased or leased their qualifying E-Bikes primarily for personal, family or household purposes within the meaning of 73 P.S. § 201-9.2.

166. All of the acts complained of herein were perpetrated by Yamaha in the course of trade or commerce within the meaning of 73 P.S. § 201-2(3).

167. The Pennsylvania Unfair Trade Practices and Consumer Protection Law ("Pennsylvania CPL") prohibits unfair or deceptive acts or practices, including: (a) "Representing that goods or services have . . . characteristics, . . . [b]enefits or qualities that they do not have;" (b) "Representing that goods or services are of a particular standard, quality or grade . . . if they are of another;" (c) "Advertising goods or services with intent not to sell them as advertised;" and

(d) "Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or misunderstanding." 73 P.S. § 201-2(4). Yamaha engaged in unlawful trade practices, and unfair or deceptive acts or practices that violated the Pennsylvania CPL.

168. In the course of its business, Yamaha violated the Pennsylvania CPL by knowingly misrepresenting and/or intentionally concealing material facts regarding the Free 2nd Battery promotion. Specifically, in marketing, offering for sale, and selling its qualifying E-Bikes, Yamaha engaged in one or more of the following unfair or deceptive acts or practices prohibited by the Pennsylvania CPL:

- (a) representing that the purchasers would receive a Free 2nd Battery with a value of \$1,400.00 at no additional cost;
- (b) advertising the qualifying E-Bikes with the intent not to deliver the Free 2nd Battery as advertised;
- (c) engaging in other conduct which created a likelihood of confusion or of misunderstanding; and/or
- (d) using or employing deception, fraud, false pretense, false promise or misrepresentation, or the concealment, suppression, or omission of a material fact with intent that others rely upon such concealment, suppression, or omission, in connection with the advertisement and sale of its qualifying E-Bikes.

169. Yamaha knew or should have known that its conduct violated the Pennsylvania CPL.

170. Yamaha's Free 2nd Battery promotion was material to Pennsylvania Plaintiff and the Pennsylvania Class, and Yamaha misrepresented, concealed, or failed to disclose its intent to

not to deliver on its promise with the intention that Pennsylvania Plaintiff and the Pennsylvania Class would rely on the misrepresentations, concealments, and omissions. Had they known the truth, Pennsylvania Plaintiff and the Pennsylvania Class would not have purchased their respective qualifying Yamaha E-Bikes.

171. Pennsylvania Plaintiff and the Pennsylvania Class members are reasonable consumers who had no way of discerning that Yamaha's representations were false and misleading, or otherwise learning the facts that Yamaha had concealed or failed to disclose.

172. Yamaha had an ongoing duty to Pennsylvania Plaintiff and the Pennsylvania Class members to refrain from unfair and deceptive practices under the Pennsylvania CPL in the course of its business. Specifically, Yamaha owed Pennsylvania Plaintiff and the Pennsylvania Class members a duty to disclose all the material facts concerning the availability of its Free 2nd Battery and its intent not to honor its promise to deliver the Free 2nd Battery with the purchase of a qualifying E-Bike because it possessed exclusive knowledge, it intentionally concealed such material facts from Pennsylvania Plaintiff and the Pennsylvania Class members, and/or it made misrepresentations that were rendered misleading because they were contradicted by withheld facts.

173. Pennsylvania Plaintiff and the Pennsylvania Class members suffered ascertainable loss and actual damages as a direct and proximate result of Yamaha's concealment, misrepresentations, and/or failure to disclose material information, including attorneys' fees.

COUNT VI
Breach of Contract
On Behalf of the Classes

174. Plaintiffs reallege and incorporate by reference the preceding allegations at paragraphs 1 – 116 as though fully set forth herein.

175. Plaintiffs bring this claim on behalf of themselves and the Classes.

176. Plaintiffs and Class members entered into materially similar Contracts with Yamaha when they accepted the terms of Yamaha's Free 2nd Battery promotional offer by paying for the qualifying E-Bike. The Terms and Conditions set forth in Yamaha's Free 2nd Battery promotional offer are, therefore, binding on both Yamaha and all Class members, including Plaintiffs.

177. Yamaha breached its Contracts with Plaintiffs and the Classes by failing to honor the Free 2nd Battery promotional offer, including failing to provide the Free 2nd Battery as promotionally offered and accepted by Plaintiffs and the Classes.

178. As a direct and proximate result of Yamaha's breach, Plaintiffs and Class members have been damaged by not receiving the Free 2nd Battery they were promised would be delivered by purchasing a qualifying E-Bike during the applicable time period.

COUNT VII
Breach of the Implied Covenant of Good Faith and Fair Dealing
On Behalf of the New York, Maryland, and Florida Classes

179. Plaintiffs reallege and incorporate by reference the preceding allegations at paragraphs 1 – 116 as though fully set forth herein.

180. Plaintiffs bring this claim on behalf of themselves and the New York, Maryland, and Florida Classes.¹¹

181. There is an implied covenant of good faith and fair dealing in every contract that neither party will do anything which will injure the right of the other to receive the benefits of the

¹¹ Plaintiffs recognize that Pennsylvania law does not recognize an independent cause of action for breach of an implied covenant of good faith and fair dealing. *McCabe v. Marywood Univ.*, 166 A.3d 1257, 1261 n.2 (Pa. Super. Ct. 2017). This claim is, therefore, not asserted on behalf of the Pennsylvania Class.

agreement.

182. The implied covenant of good faith and fair dealing requires each party to the contract to be honest in its dealings and not purposefully take actions that would unfairly prevent other parties from enjoying their rights or benefits under the contract or disappoint their reasonable expectations.

183. The implied covenant of good faith and fair dealing further requires that even when a contract confers decision-making power on a single party, the resulting discretion is nevertheless subject to an obligation that it be exercised in good faith and observe reasonable limits in exercising that discretion, consistent with the parties' purpose or purposes in contracting.

184. Good faith and fair dealing, in connection with entering into contracts and discharging performance and other duties according to their terms, means preserving the spirit not merely the letter-of the bargain. Put differently, the parties to a contract are mutually obligated to comply with the substance of their contract(s) in addition to its form. Evading the spirit of the bargain and abusing the power to specify terms constitute examples of bad faith in the performance of contracts.

185. Subterfuge and evasion violate the obligation of good faith in performance even when an actor believes his conduct to be justified. Bad faith may be overt or may consist of inaction, and fair dealing may require more than honesty. Examples of bad faith are evasion of the spirit of the bargain, willful rendering of imperfect performance, or abuse of a power to specify terms and interference with or failure to cooperate in the other party's performance

186. Under the express terms of the Free 2nd Battery with the purchase of a qualifying E-Bike promotion advertised by Yamaha, Plaintiffs and the New York, Maryland, and Florida Class members were to benefit through Yamaha's delivery of a Free 2nd Battery, while Yamaha

was supposed to benefit through consumers' payment for the qualifying E-Bikes.

187. Yamaha exhibited bad faith through its conscious scheme to offer a Free 2nd Battery and then not delivering it to qualifying customers.

188. Yamaha breached the implied covenant of good faith and fair dealing with respect to the specific contractual terms in the Free 2nd Battery promotion.

189. Plaintiffs and members of the New York, Maryland, and Florida Classes suffered damages and losses as described herein.

190. The damages and losses sustained by Plaintiffs and members of the New York, Maryland, and Florida Classes are the direct and proximate result of Yamaha's breaches of the covenant of good faith and fair dealing implied in the Free 2nd Battery promotion.

COUNT VIII
Unjust Enrichment
On Behalf of the Classes

191. Plaintiffs reallege and incorporate by reference the preceding allegations at paragraphs 1 – 116 as though fully set forth herein.

192. Plaintiffs bring this claim on behalf of themselves and the Classes.

193. Yamaha has been, and continues to be, unjustly enriched, to the detriment and at the expense of Plaintiffs and members of the Classes, as a result of its conduct directed against Plaintiffs and the Nationwide Class as a whole, including the collection of money from consumers for the purchase of qualifying E-Bikes who were promised the delivery of a Free 2nd Battery from Yamaha but did not receive one.

194. Yamaha has been unjustly benefitted through the unlawful or wrongful collection of money from the sale of qualifying E-Bikes without delivering the promised Free 2nd Battery to

the purchasers and continues to benefit to the detriment and at the expense of Plaintiffs and members of the Classes.

195. Accordingly, Yamaha should not be allowed to retain the proceeds from the benefits conferred upon it by Plaintiffs and members of the Classes, who seek disgorgement of Yamaha's unjustly acquired profits and other monetary benefits resulting from its unlawful conduct, and seek restitution for the benefit of Plaintiffs and the Classes, in an equitable and efficient fashion as the Court deems just and proper.

III. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of the members of the Classes, respectfully request the Court certify the proposed Classes, including designating Plaintiffs as a representative of the Classes and appointing the undersigned as Class Counsel, and the designation of any appropriate issue classes, under the applicable provisions of Fed. R. Civ. P. 23, and that the Court enter judgment in Plaintiffs' favor and against Yamaha including the following relief:

- A. Awarding actual and consequential damages;
- B. Granting injunctive and declaratory relief;
- C. Awarding any applicable statutory damages;
- D. For pre- and post-judgment interest to the Classes;
- E. For reasonable attorneys' fees and costs to counsel for the Classes; and
- F. Granting such other and further relief as is just and proper.

IV. DEMAND FOR JURY TRIAL

196. Plaintiffs and Class members hereby demand a trial by jury, pursuant to Fed. R. Civ. P. 38(b), of all issues so triable.

Dated: August 20, 2025.

Respectfully submitted,

/s/ Geoffrey Stahl

Geoffrey Stahl

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Rachel Bentley

Fla. Bar No.: 106870

Steven Calamusa

Fla. Bar No.: 992534

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CIVIL COVER SHEET

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

I. (a) PLAINTIFFS

Charles Ellert, Tosin Adesina, Aaron

Dombeck, George Doukas, and Chad Whitaker

(b) County of Residence of First Listed Plaintiff _____

(EXCEPT IN U.S. PLAINTIFF CASES)

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

Gordon and Partners PA, 4114 Northlake Blvd. Palm
Beach Gardens, FL 33410 (561) 799-5070**DEFENDANTS**

YAMAHA MOTOR CORPORATION, U.S.A., INC.

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

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

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

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

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

FLA. STAT. §501.201

Brief description of cause:

Violation of the Florida Deceptive and Unfair Trade Practices Act

VII. REQUESTED IN COMPLAINT:☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

8/20/2025

s/Geoffrey Stahl

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.