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15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**

18 LISA FELICE, JUSTIN GARFIELD, and
19 NICHOLAS POSTON on behalf of themselves
20 and all others similarly situated,

20 Plaintiffs,

21 v.

22 GUARDIAN TECHNOLOGIES LLC and
23 LASKO PRODUCTS LLC,

24 Defendants.

Case No. 3:23-cv-04685-MMC

**FIRST AMENDED CLASS ACTION
COMPLAINT**

JURY TRIAL DEMANDED

1 Plaintiffs Lisa Felice, Justin Garfield, and Nicholas Poston (“Plaintiffs”) bring this action
2 on behalf of themselves and all others similarly situated against Defendants Guardian Technologies
3 LLC (“Guardian”) and Lasko Products LLC (“Lasko”) (collectively, “Defendants”). Plaintiffs
4 make the following allegations pursuant to the investigation of their counsel and based upon
5 information and belief, except as to the allegations specifically pertaining to themselves, which are
6 based on personal knowledge.

7 **NATURE OF THE ACTION**

8 1. This is an action arising from the false and misleading representations that
9 Defendants make about their GermGuardian AC4300 and AC4825 Series¹ Air Purifiers (the
10 “Products” or, the “Purifiers”) and replacement bulbs.

11 2. In an era of great anxiety about airborne pathogens, Defendants prey on consumers’
12 fears by misrepresenting that its Air Purifiers can kill a material amount of bacteria, viruses and
13 mold by way of a small ultraviolet-c (“UV” or “UV-C”) bulb housed in a chamber inside each of
14 its Products. UV-C light is a type of ultraviolet light that *can* effectively kill pathogens, but only
15 under the right conditions.

16 3. Unbeknownst to Plaintiffs and other similarly situated consumers, however, there
17 are multiple fatal flaws with the design of the Products such that the UV bulbs do not, and cannot,
18 provide any material antimicrobial benefits for the consumer. In reality, use of the UV-emitting
19 bulbs has no material purpose other than to give Defendants cover for selling their Products at
20 inflated prices.

21 4. Defendants know this but have continued hocking their wares *and* replacement UV
22 bulbs since the outset of the COVID-19 pandemic.

23 5. Defendants’ false and misleading representations regarding the UV feature induced
24 reasonable consumers like Plaintiffs into purchasing the Products and replacement bulbs. Had
25 Plaintiffs and all other similarly situated consumers known that, contrary to Defendants’

26 _____
27 ¹ This includes model numbers AC4825E, AC4825W, and AC4825DLX. Further research and
28 discovery may reveal that more of Defendants’ air purifiers are similarly incapable of removing a
material amount of airborne pathogens. Plaintiffs reserve the right to amend their complaint as
more information comes to light.

1 representations, the UV feature in the Purifiers provides no actual material antimicrobial benefit,
2 they would have paid less for the Purifiers and the replacement bulbs or not purchased them at all.

3 6. Plaintiffs assert claims on behalf of themselves and all other similarly situated
4 purchasers of Defendants' Air Purifiers and replacement UV-C bulbs for: (i) violation of
5 California's Consumers Legal Remedies Act ("CLRA"), Cal. Civil Code §§ 1750, *et seq.*; (ii)
6 fraud; and (iii) breach of express warranty.

7 **PARTIES**

8 7. Plaintiff Lisa Felice is a citizen of California, and resides in the city of San Mateo,
9 California. While in California, Plaintiff Felice purchased the GermGuardian AC4825DLX 3-in-1
10 Air Cleaning Air Purifier from Defendants' Amazon store page around approximately April 2021
11 for \$89.99. Plaintiff Felice was attracted to the Product in particular because of the advertised UV-
12 C light. As described more specifically in paragraphs 39-44 and 48 below, Plaintiff Felice
13 reviewed the Product's Amazon page and relied on Defendants' warranties and representations on
14 the Amazon page about the Product's antimicrobial capabilities prior to purchasing the Product.
15 Plaintiff Felice reasonably relied on Defendants' representations and believed that the UV-C bulb
16 housed within the Product was capable of killing a material amount of microbes making it more
17 effective against these airborne pathogens than standard air purifiers which only have HEPA filters.
18 Had Defendants not warranted and represented that the Product's UV feature was capable of
19 sanitizing the air and killing a material number of airborne pathogens as they did, Plaintiff Felice
20 would not have purchased the Product or would have paid substantially less for it.

21 8. Plaintiff Nicholas Poston is a citizen of California, and resides in the city of Castro
22 Valley, California. While in California, Plaintiff Poston purchased the GermGuardian AC4825E 4-
23 in-1 Air Cleaning Air Purifier from Defendants' Amazon.com store page on January 26, 2023 for
24 \$99.99. Plaintiff Poston also purchased replacement bulbs for the Product. Plaintiff Poston
25 specifically sought out a UV-C air purifier and was drawn to the Product because it advertised the
26 UV-C light so prominently. As described more specifically in paragraphs 39-44 and 48 below,
27 Plaintiff Poston reviewed the Product's Amazon page and relied on Defendants' warranties and
28 representations about the Product's antimicrobial capabilities prior to purchasing the Product.

1 Plaintiff Poston reasonably relied on Defendants' representations and believed that the UV-C bulb
2 housed within the Product was capable of killing a material amount of microbes making it more
3 effective against these airborne pathogens than standard air purifiers which only have HEPA filters.
4 Had Defendants not warranted and represented that the Product's UV-C feature was capable of
5 sanitizing the air and killing a material number of airborne pathogens as they did, Plaintiff Poston
6 would not have purchased the Product and replacement bulbs or would have paid substantially less
7 for them.

8 9. Plaintiff Justin Garfield is a citizen of California, and resides in the city of Hermosa
9 Beach, California. While in California, Plaintiff Garfield purchased the GermGuardian AC4825E
10 4-in-1 Air Cleaning Air Purifier from Defendants' Amazon.com store on November 25, 2022 for
11 \$64.99. In that same Amazon.com order, Plaintiff Garfield also purchased the GermGuardian
12 AC4300BPTCA for \$129.89. As described more specifically in paragraphs 39-44 and 48 below,
13 Plaintiff Garfield reviewed the Products' Amazon pages and relied on Defendants' warranties and
14 representations about the Products' antimicrobial capabilities prior to purchasing the Products.
15 Plaintiff Garfield reasonably relied on Defendants' representations and believed that the UV-C
16 bulbs housed within the Products were capable of killing a material amount of microbes, making it
17 more effective against these airborne pathogens than standard air purifiers, which only have HEPA
18 filters. Had Defendants not warranted and represented that the Product UV feature was capable of
19 sanitizing the air and killing a material number of airborne pathogens as they did, Plaintiff Garfield
20 would not have purchased the Products or would have paid substantially less for them.

21 10. Defendant Guardian Technologies, LLC, is a limited liability company organized
22 under the State of Delaware with its principal place of business at 6251 Bluestone Blvd., Euclid,
23 Ohio 44132.

24 11. Defendant Lasko Products, LLC is a Pennsylvania limited liability company with its
25 principal place of business at 820 Lincoln Ave, West Chester, Pennsylvania 19380.

26 **JURISDICTION AND VENUE**

27 12. This Court has subject matter jurisdiction over this action pursuant to the Class
28 Action Fairness Act of 2005, Pub. L. No. 109-2 Stat. 4 ("CAFA"), which amends 28 U.S.C. §

1 1332, at new subsection (d), conferring federal jurisdiction over class actions where, as here: (a)
2 there are 100 or more members in the proposed classes; (b) some members of the proposed classes
3 have a different citizenship from Defendants; and (c) the claims of the proposed class members
4 exceed the sum or value of five million dollars (\$5,000,000) in aggregate. *See* 28 U.S.C. §
5 1332(d)(2) and (6).

6 13. This Court has personal jurisdiction over Defendants because Defendants conduct
7 significant business in California such that they have purposefully availed themselves of the privilege
8 of doing business in California.

9 14. Venue is proper in this Court under 28 U.S.C. § 1391 because Defendants transact
10 significant business within this District, at least one plaintiff resides within this District, and a
11 substantial part of the events giving rise to Plaintiffs' claims took place within this District.

12 **FACTUAL ALLEGATIONS**

13 **A. Air Purifiers And The Air Purifier Market**

14 15. The Environmental Protection Agency estimates that “about 67 million tons of
15 pollution were emitted into the atmosphere in the United States” in 2021. This pollution comes at
16 great cost to human health: “[p]oor air quality is responsible for an estimated 100,000 premature
17 deaths in the United States each year.” Exposure to pollution has also been linked to symptoms of
18 depression and anxiety, and general cognitive decline.

19 16. As a result, public concern about air pollution is high. In fact, one 2019 survey
20 found that, of about 1000 responses, 43% of respondents indicated that they had a “great deal” of
21 concern about air pollution in the United States, and 31% indicated that they had a “fair amount” of
22 concern for air pollution. Taken together, 74% of respondents expressed concern about air
23 pollution. This is in line with the EPA’s concerns: the agency places indoor air pollution among
24 the top five environmental health risks.

25 17. Concerns about air quality would skyrocket in 2020, however, as wildfires
26 intensified and the COVID-19 virus shut down the globe. The virus’s airborne transmissibility
27 necessitated mask mandates. The N95 mask became daily-wear, and people were forced to think
28 about the air they breathe more than ever before.

1 18. As expected, consumer demand to combat airborne pathogens helped the air
2 purifiers market explode from \$8.05 billion in 2019 to \$13.97 billion in 2022. As one market
3 analyst put it: “[t]he COVID-19 pandemic has increased the demand for air purifiers, with the
4 growing awareness of COVID-19 associated respiratory ailments and the rising need to curb cross-
5 contamination. Factors such as increasing airborne diseases and growing health consciousness
6 among consumers are driving the market.”

7 19. Air purifiers come in various forms. Among the most effective purifiers are
8 purifiers with HEPA filters. HEPA is an acronym for “High Efficiency Particulate Air.”

9 20. Specifically, a HEPA filter is a type of pleated mechanical filter that typically
10 consists of sheets of randomly arranged fiberglass or plastic fibers held in an accordion shape by
11 aluminum separators. To be called a HEPA filter, the filter must capture at least 99.97% of dust,
12 pollen, mold, bacteria, and any airborne particles with a size of 0.3 microns. 0.3 microns is not the
13 floor, however. It is the size at which a particle is most likely to escape from the filter. Particles
14 bigger or smaller than 0.3 microns have a greater than 99.97% chance of being caught in a HEPA
15 filter.

16 21. Even though the SARS-CoV-2 virus is about 0.125 microns in diameter, the CDC
17 has stated that “air purifiers can help reduce airborne contaminants, including viruses, in a home or
18 confined space.” This is because most COVID-19 viruses are not floating in the air alone, they
19 typically hitch a ride on a larger particulate that is expelled when an infected person breathes out,
20 coughs, or sneezes. These particles are much larger than 0.3 microns and are efficiently trapped by
21 HEPA filters.

22 22. The reason why consumers may care that the air purifier they purchase meets the
23 HEPA standard is self-evident. It offers near certain protection against the transmission of airborne
24 pathogens in the home (if the purifier is given enough time to circulate the air), and it can also filter
25 out pollution, such as smoke from wildfires, which are growing ever more frequent.

26 23. Consumers, especially those with pre-existing pulmonary and immune disorders
27 want the assurance that the HEPA standard provides, and are willing to pay more for filters which
28 meet or exceed the 99.97% efficiency HEPA standard and protect against pathogens. A 2020 study

1 by Molekule, Inc. (makers of a competing air purifier) confirmed this: 77% of respondents said
 2 they would be willing to pay more for an air purifier that removes viruses.

3 24. So, there is a captive and potentially lucrative audience of consumers who want an
 4 air purifier that has robust purification features. The problem for manufacturers is that consumer
 5 expectations are met by the HEPA filter, and it is difficult to differentiate oneself from all the other
 6 competitors when everyone is offering essentially the same product. Defendants found a solution.

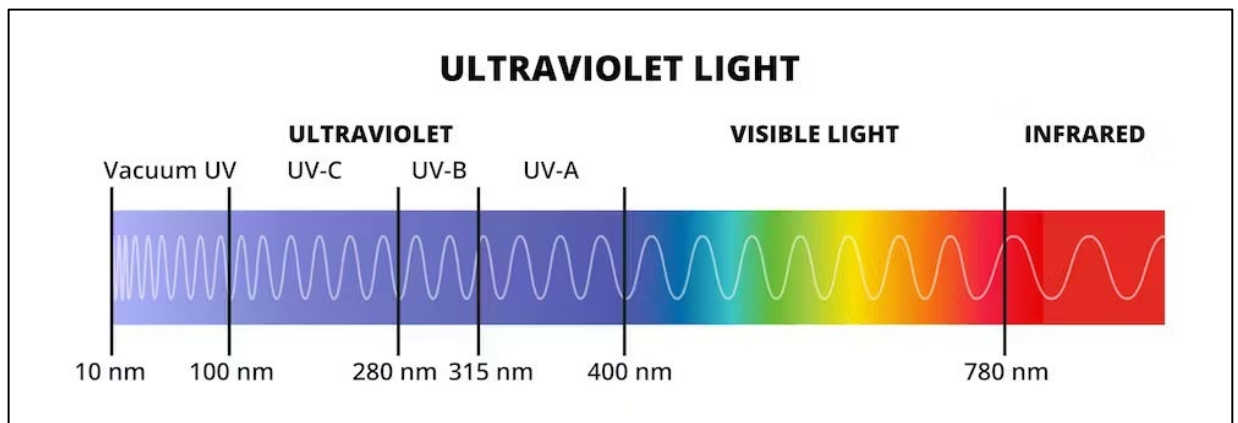
7 25. By inserting an ultraviolet lightbulb into their Products and marketing it as a key
 8 feature, Defendants represented to consumers that its Products had materially greater antimicrobial
 9 capabilities than air purifiers which “only” used a HEPA filter.

10 26. Testing shows that these representations were wholly false and misleading. The UV
 11 “feature” in Defendants’ Products is nothing more than a ploy to squeeze more money from
 12 unsuspecting consumers.

13 **B. UV-C Technology And Air “Sanitation”**

14 27. Defendants market themselves based on a technical limitation with HEPA filters:
 15 while a HEPA filter can effectively trap viruses, it cannot kill them directly.² This is where the
 16 germicidal ultraviolet-c (“UV-C”) light bulb comes in.

17 28. The ultraviolet light spectrum spans from about 180 to 380 nanometers (“nm”), just
 18 below the visible light spectrum which spans from 380nm to 700nm. The term “nanometers”
 19 refers to the wavelength of light, and the shorter the wavelength of light, the more energetic it is.



27 ² Useful marketing, to be sure, but this conveniently ignores the fact that a pathogen that is trapped
 28 in a HEPA filter isn’t going anywhere. It may not be killed by the filter, but it will still die inside
 of it.

1 Germicidal UV-C light is at the shorter end of the ultraviolet spectrum, with wavelengths between
2 180nm and 280nm.

3 29. Ultraviolet light has the potential to kill pathogens because it damages their DNA,
4 RNA, and proteins. However, this potential is tied to the wavelength of UV light that the pathogen
5 is exposed to. The longer the wavelength (closer to 400nm) the *less* effective the UV light is at
6 killing microbes. UV-C light is in what's called the "germicidal" range of the UV spectrum, from
7 180nm to 280nm. A sweet-spot where UV light is most destructive to microbial structures. This is
8 why UV-C light is known as "germicidal ultraviolet-c."

9 30. Germicidal efficacy is determined by two other variables: the amount of UV light
10 being emitted at once (i.e., the intensity), and how long the microbe is exposed to the light.

11 31. Thus, there are three factors which determine how effective a UV-C device can be
12 at inactivating pathogens: the wavelength of UV-light emitted, the amount of UV-light emitted at
13 once, and how long a pathogen will be exposed to the light as it passes through the product. These
14 three metrics (wavelength, intensity of radiation, and time exposed to radiation) combine to form
15 what's known as the "UV Dose." The unit of measurement for UV Dose is milli-Joules per square
16 centimeter (mJ/cm^2). For example, 90% of COVID-19 virus particles are inactivated by a UV
17 Dose of roughly $2 \text{ mJ}/\text{cm}^2$.³

18 32. So, for a manufacturer to legitimately claim that its product can "kill" certain
19 microbes, its device must (1) expose all microbes to UV-C radiation for an appropriate amount of
20 time, and (2) use a bulb capable of delivering the range of UV Doses required to neutralize each of
21 the claimed microbes. This is important because the UV Dose required to kill specific microbes
22 can vary greatly.

23 33. COVID-19 is a *particularly sensitive* pathogen when it comes to UV-C radiation.
24 Other pathogens, and especially mold spores, require significantly greater UV Doses to get

25 _____
26 ³ Measuring viral inactivation with UV-C light is a difficult task, and the scientific community has
27 yet to come to a true consensus as to the UV Dose required. $2\text{mJ}/\text{cm}^2$ is a conservative estimate
28 that gives a UV-C device manufacturers such as Defendants the greatest chance to substantiate any
antimicrobial (i.e., "kills 99.99% of germs") claims. Studies have estimated 90% UV-C
inactivation of aerosolized SARS-CoV-2 particles to be achievable with UV Doses from between
 $0.42 \text{ mJ}/\text{cm}^2$ up to $7.0 \text{ mJ}/\text{cm}^2$ or more.

1 anywhere close to 90% inactivation. For example, for 90% inactivation: *E-Coli* requires about 2.2
2 mJ/cm², *Staphylococcus Aureus* (staph infection) requires about 3.5 mJ/cm², influenza strains
3 require about 5.5 mJ/cm², rhinovirus (the common cold) requires about 6.5 mJ/cm², and
4 *Aspergillus niger* (common mold) requires about 119 mJ/cm².

5 34. Meeting such UV Dose requirements in home air purification products has always
6 been difficult. In fact, according to the Centers for Disease Control and Prevention, “the use of UV
7 lamps and HEPA filtration in a single unit would not be expected to have any infection-control
8 benefits not provided by use of the HEPA filter alone.”⁴

9 35. The reason for this is simple: the UV-C bulb in a small home air purifier is too small
10 and weak to effectively kill a material amount of pathogens as they pass through the unit. The
11 wavelength is right, but the amount of radiation and the time exposed to radiation are both too low.
12 Either the bulb would have to emit significantly more UV-C radiation over a shorter span of time,
13 or the air would have to move at a near stand-still to effectively deliver the UV Dose required to
14 inactivate a pathogen. Keeping the air still would be anathema to one of an air purifiers core
15 functions: circulating a room’s worth of air through it over a reasonably short period of time.

16 36. The large majority of consumers do not know that UV-C bulbs in consumer-grade
17 air purifiers are ineffective, however, and so a goldmine of profit has presented itself to air purifier
18 manufacturers like Defendants. Jamming a UV-C bulbs into an air purifier allows the Defendants
19 to suggest that its Products offer some benefits that a purifier with only a HEPA filter cannot
20 provide. Namely, that it will kill a material amount of airborne pathogens more effectively than a
21 purifier that “only” has a HEPA filter. The truth is, however, that the UV-C light adds *no value* to
22 the Air Purifiers and functions merely as a way for manufacturers like Defendants, to upsell their
23 consumers.

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28 ⁴ See www.cdc.gov/mmwr//preview/mmwrhtml/00035909.htm

C. Defendants’ Products And Advertising

37. Defendants manufacture multiple air purifiers that feature UV-C bulbs in their design. The Air Purifiers at issue in this action are those that house a UV-C bulb in a compartment at the top of the device.⁵ Pictured and demarcated in red below.



⁵ Notably, this compartment is almost entirely shielded off from the fan compartments below, meaning that little air actually circulates around the bulb, and only an insignificant amount of light leaves the compartment. The Air Purifiers at issue in this action feature virtually the same upper chamber bulb design, and are therefore substantially similar for all relevant purposes.

1 38. Defendants manufacture, distribute, and sell the Air Purifiers to California residents
 2 and nationwide. To take advantage of consumers and its competitors, and knowing full well that
 3 its Products cannot deliver on various UV-C claims that allege independent and incremental germ-
 4 killing benefits, Defendants engage in various unfair and deceptive practices to ensure that their
 5 Products are purchased by consumers over any competing HEPA filter equipped air purifiers.
 6 Defendants make virtually identical false and misleading claims about the Air Purifiers’
 7 capabilities across its official website, Amazon.com, and on the Products’ packaging.

8 39. Below are screenshots from the AC4825E’s Amazon page in March 2021 and in
 9 January 2023 – in both images Defendant states that the Product “Kills germs: UV-C light helps

Air Quality › Air Purifiers › HEPA Air Purifiers

Germ Guardian True HEPA Filter Air Purifier with UV Light Sanitizer, Eliminates Germs, Filters Allergies, Pollen, Smoke, Dust Pet Dander, Mold Odors, Quiet 22 inch 4-in-1 Air Purifier for Home AC4825E

Visit the Germ Guardian Store

★★★★★ 33,305 ratings | 309 answered questions

Price: **\$84.99** (\$84.99 / Count) + \$111.92 Shipping & Import Fees Deposit to Finland [Details](#)

Coupon Save an extra 10% when you apply this coupon. [Details](#)

Color	Grey
Brand	Germ Guardian
Item Dimensions LxWxH	10.25 x 6.75 x 21.5 inches
Power Source	Corded Electric
Item Weight	8.6 Pounds

About this item

- 4-in-1 air purifier for home: True HEPA air filter reduces up to 99.97% of harmful germs, dust, pollen, pet dander, mold spores, and other allergens as small as .3 microns from the air
- Kills germs: UV-C light helps kill airborne viruses such as influenza, staph, rhinovirus, and works with Titanium Dioxide to reduce volatile organic compounds**
- Traps allergens pre filter traps dust, pet hair, and other large particles while extending the life of the HEPA filter. Bulb wattage is 55 watts
- Reduces odors: Activated charcoal filter helps to reduce unwanted odors from pets, smoke, cooking fumes, and more


Roll over image to zoom in

25 kill airborne viruses such as influenza, staph, rhinovirus.”⁶

26
 27 ⁶ The advertising and marketing of the AC4300BPTCA across all retailers featured virtually
 28 identical images and statements (as depicted in the images below) that were read and relied upon
 by Plaintiff Garfield in making his purchase, including “UV-C Light Kills airborne germs &
 viruses.”

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ating, Cooling & Air Quality > Air Purifiers > HEPA Air Purifiers

 **Germ Guardian Air Purifier for Home, Bedroom, Office, H13 HEPA Filter, Removes Dust, Allergens, Smoke, Pollen, Odors, Mold, UV-C Light Helps Kill Germs, 22 Inch, Dark Gray, AC4825E**

[Visit the GermGuardian Store](#)
★★★★★ 53,412 ratings | 547 answered questions

\$99⁹⁹ (\$99.99 / Count)

No Import Fees Deposit & \$40.11 Shipping to Netherlands [Details](#) ▾

Size: **1 Pack**

1 Pack 2 Pack

Color: **Black**

Color	Black
Brand	GermGuardian
Power Source	Corded Electric
Item Weight	8.55 Pounds
Control Method	Touch

About this item

- 3-IN-1 AIR PURIFIER FOR HOME - True HEPA air filter reduces up to 99.97% of harmful germs, dust, pollen, pet dander, mold spores, and other allergens as small as 0.3 microns from the air
- **KILLS GERMS** - UV-C light helps kill airborne viruses such as influenza, staph, rhinovirus, and works with Titanium Dioxide to reduce volatile organic compounds

15 40. Plaintiffs read and relied upon this statement when making their purchase decisions.
16 Plaintiffs interpreted this statement to mean that the Product’s UV-C bulb would “kill germs” and
17 would provide a material antimicrobial benefit over that provided by a HEPA filter alone. Plaintiff
18 Garfield read and relied upon this statement when purchasing the AC4300BPTCA as well.

19 41. Below is another screenshot from further down the March 2021 Amazon page:
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UV-C LIGHT
Kills airborne germs & viruses

TRUE HEPA FILTER
Captures dust mites, pollen, & pet dander

PRE-FILTER & CHARCOAL FILTER
Captures large dust particles, pet hair, & absorbs odors

Multiple Levels of Cleaning

- HEPA Filter** Captures 99.97% of dust and allergens
- Charcoal Filter** Reduces common odors from pets, smoking and cooking
- UV-C Light** UV-C Light helps reduce airborne bacteria, viruses, and mold spores
- TIO2 treatment** Works with the UV-C to reduce VOCs

Captures Dust & Allergens
HEPA Filter captures dust and allergens such as household dust, pet dander, mold spores and plant pollens.

UV-C Fights Germs
UV-C light helps reduce airborne bacteria, viruses, mold spores* and works with Titanium Dioxide to reduce volatile organic compounds (VOCs).
**Tested with Staphylococcus Albus, and Escherichia Coli, & Phi-X174*

Reduces Odors
Equipped with a charcoal filter that reduces common odors from pets, smoking and cooking.

42. The screenshot shows a “features” graphic with an exploded view of the Purifier at the top. This diagram features an illustration of a germ in a bullet point with a line connecting to the UV-C Bulb. Next to the bullet point is text reading “UV-C LIGHT Kills airborne germs & viruses.” Below this is an illustration of germs with the claim “UV-C FIGHTS GERMS.”

43. The January 2023 Amazon page, and the AC4300BPTCA Amazon page, features a nearly identical graphic with the same “UV-C Light Kills” and “UV-C Fights” germs claims:



44. Plaintiffs read and relied upon these statements when making their purchase decisions. Plaintiffs interpreted these statements to mean that the Product’s UV-C bulb would “kill germs” and would provide a material antimicrobial benefit over that provided by a HEPA filter alone. Plaintiff Garfield read and relied upon this statement when purchasing the AC4300BPTCA as well.

1 45. Defendant makes similar claims on the Products’ physical packaging, using the
2 same “exploded” view of the purifier as was featured on Amazon and claiming that “UV-C light
3 **goes beyond filtration** to kill germs” and “**destroys the DNA of germs** eliminating their ability to
4 reproduce” (emphasis added):



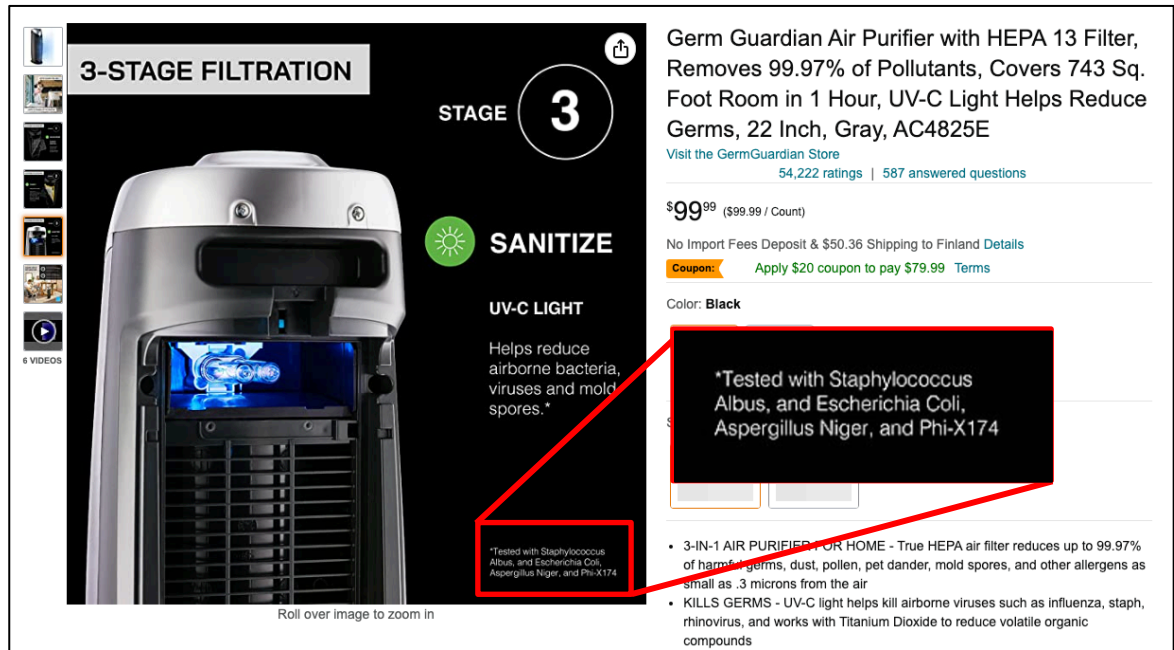
20 46. Thus, in all of its marketing and packaging materials, Defendant conveys the net
21 impression to consumers that the UV-C light kills a material amount of microbes as air circulates
22 through the unit.

23 47. Another illustration in the January 2023 product page on Amazon.com (below)
24 confirms that Defendants intend that the UV-C light acts as a third, independent stage of filtration
25 in the Products:

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48. To further legitimize their antimicrobial claims, Defendants added fine text to the bottom-right corner of the image above, stating: “Tested with *Staphylococcus Albus*, and *Escherichia Coli*, *Aspergillus Niger*, and *Phi-X174*.” As noted in paragraph 33 above, these pathogens require significantly greater UV Doses to be inactivated than what is required for COVID-19.

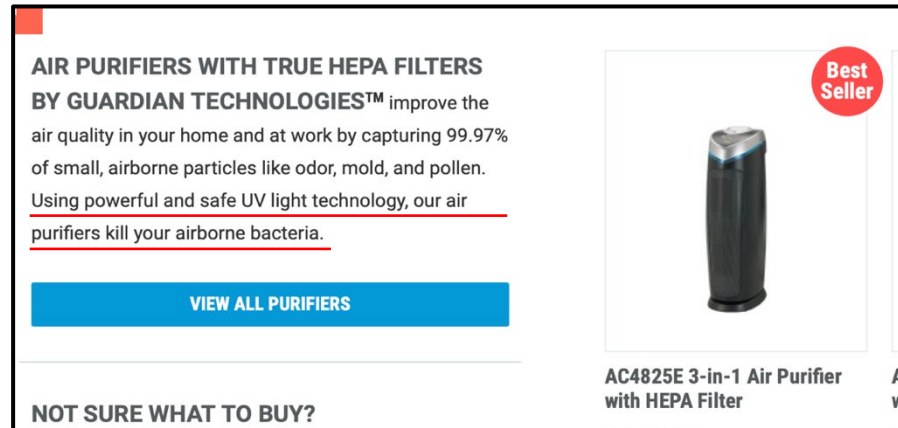
49. On top of this, Defendants’ website makes the same claims as its Amazon pages, that “UV-C light helps reduce airborne viruses such as influenza, staph, rhinovirus”:



50. And also claim on their website that “The Power of UV-C light kills bacteria and viruses:



1 51. Defendants have also claimed: “More than just a filter, the UV-C light kills germs,”⁷
2 and, “[u]sing powerful and safe UV light technology, our air purifiers kill airborne bacteria.”



10 52. The above image also shows that Defendants have attempted to trick consumers into
11 believing that the UV-C and HEPA features provide a combined 99.97% removal benefit when, in
12 fact, the HEPA standard alone requires at least 99.97% removal of small particles.

13 53. What’s more, on the 2020 version of Defendant GermGuardian’s website⁸,
14 GermGuardian made the following claims:

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- “GermGuardian AC4825 4-in-1 Air Purifier with HEPA Filter, **UVC Sanitizer** and Odor Reduction, 22-Inch Tower” (emphasis added);
 - “UV-C Light Works with filters to kill germs and bacteria”;
 - “UV-C Kills Airborne Mold & Germs”;
 - “What is UV-C light?
UV-C is part of the ultra-violet light spectrum that is filtered out by the earth’s atmosphere. The “C” stands for the particular frequency of UV light that kills germs.”;
 - “Why is UV-C light so effective?
UV-C light is highly effective at penetrating thin-walled germs like viruses and bacteria. The light alters the genetic structure of the germ, and they die.”

23 54. Thus, throughout the Class Period, Defendants have uniformly represented that the
24 UV-C bulb in the Products “kills” a material amount of germs, bacteria, and viruses, and that the

25 ⁷ <https://web.archive.org/web/20190107030917/https://www.guardiantechnologies.com/ac4825-3-in-1-air-cleaning-system-with-true-hepa-uv-c-sanitizer-and-odor-reduction-22-inch-tower-by-germguardian.html/>

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27 ⁸ <https://web.archive.org/web/20200807013011/https://www.guardiantechnologies.com/ac4825-3-in-1-air-cleaning-system-with-true-hepa-uv-c-sanitizer-and-odor-reduction-22-inch-tower-by-germguardian.html>

28

1 Products provide greater antimicrobial benefits than Purifiers which only have a HEPA filter. No
 2 matter where consumers purchased the Products – on Amazon, at a brick-and-mortar retailer, or on
 3 Defendants’ website – they encountered substantially similar imagery and claims.

4 55. Defendants’ tactic has been wildly successful. As of this writing, the
 5 GermGuardian AC4825 series are the 22nd best-selling air purifiers on Amazon.com, selling well
 6 over 4,000 units a month on the site.

7 56. Defendants proclaim their success boldly. Before they had received the CLRA
 8 notice letter sent by Plaintiffs’ counsel, they featured this image on their Products’ Amazon pages:



18 57. As to the replacement bulbs, Defendants’ website emphasizes that bulbs in the
 19 AC4300 and AC4825 series Air Purifiers “**need[] to be replaced every 10-12 month[s]**”, and that
 20 “use of this genuine Guardian Technologies™ replacement part **will maintain the product's**
 21 **performance**” (emphasis added).⁹ Defendants charge \$19.99 per bulb.

22 58. Defendants are selling a lie, however. The benefits Defendants so boldly claim their
 23 Products provide are illusory. Based on the design of the Products, it is scientifically impossible
 24 for the Products’ UV-C bulb to provide any materially significant antimicrobial benefits over
 25 competing air purifiers that only have a HEPA filter. But, Defendants do not need to take the word
 26 of Plaintiffs’ counsel on this. As explained below, the past President of the International

27
28 ⁹ <https://lasko.com/collections/replacement-bulbs/products/lb4000-replacement-uv-c-bulb-for-ac4800-model-series-air-cleaning-systems>

1 Ultraviolet Association tested the UV-C feature of the AC4825 series of Air Purifiers and
2 determined it does not, and cannot, provide any material benefit.

3 **D. Defendants' Products Do Not, And Cannot, Perform As Advertised**

4 59. As described below, Defendants' representations that the UV-C bulb in the Products
5 is capable of providing any material germ "killing" or "reduction" benefits are demonstrably false.

6 60. Internationally renowned expert on the use of UV-C light in air and water
7 disinfection, James Malley, PhD., has reviewed the AC4825 series purifier and analyzed its design
8 and its UV-C light "feature." Dr. Malley is Professor of Civil Engineering at the University of
9 New Hampshire, UNH-CEE, past President of the International Ultraviolet Association (IUVA),
10 and currently serves as Chair of the IUVA Task Force Sub-Group on Development of UV
11 Disinfection Guidance and Validation of Surface and Air Disinfection Devices, and is Editor-in-
12 Chief of *UV Solutions* (formerly *IUVA News*). He is uniquely qualified to evaluate the Products,
13 their design, and the capabilities of their UV-C light.

14 61. As discussed by Dr. Malley in his report, the Purifier's ability to sanitize the air with
15 UV light "is based upon delivering an adequate UV dose to the media being treated (*i.e.*, air, water
16 or solid surface) that will achieve the acceptable level of inactivation of a target pathogenic micro-
17 organism (*i.e.*, bacteria, virus, protozoa or fungi – aka mold)."

18 62. Dr. Malley explains that: "UV dose is measured as the irradiance (I) multiplied by
19 the fluid residence time (T). Irradiance is measured by calibrated optical instruments typically
20 termed radiometers and is reported in units of milliWatt per square centimeter (mW/cm²).
21 Irradiance is typically measured for each wavelength of light output by the UVGI device." In lay
22 terms, irradiance is the intensity of UV radiation being emitted and residence time is how long a
23 particle is exposed to that radiation as it travels through the product.

24 63. Dr. Malley further explains that: "Contact time is measured for most UVGI devices
25 treating air or water as the volume of the reaction chamber divided by the volumetric flowrate of
26 the media being treated and is reported in seconds. Since UV dose = I*T the units for UV dose are
27 then reported as mW-sec/cm² and since 1 mW-sec = 1 mJ the overall units of UV dose are
28 mJ/cm²." "The UV dose is then compared to the specified UV dose response to determine the

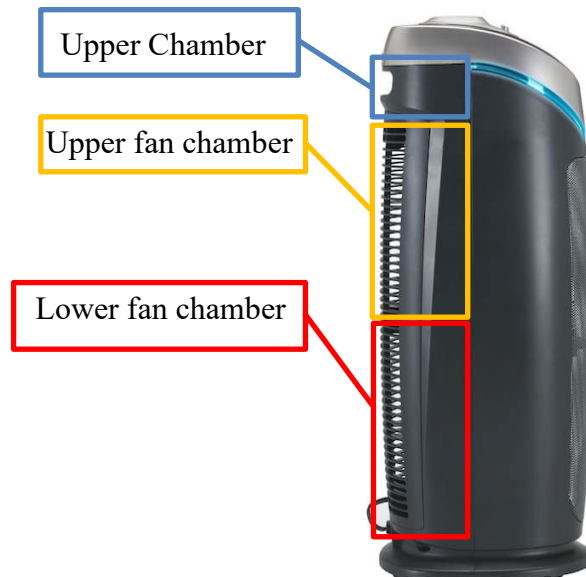
1 performance as percent removal of the UVGI device.”

2 64. In other words, as discussed above in Section B, the ability of a UV device to
 3 sanitize the air (AKA the “UV Dose” it delivers) is determined by the wavelength of light, the
 4 amount of light being emitted, and the amount of time the pathogen would be exposed to that light
 5 as it travels through the product.

6 65. According to Dr. Malley, common pathogens require the following approximate UV
 7 Doses to be neutralized at a rate of 90% (meaning, 10% of pathogens survive the exposure):

8 Pathogen	UV Dose
9 Pathogenic <i>Escherichia coli</i> 0157:H7	2.2 mJ/cm ²
10 <i>Staphylococcus aureus</i>	3.5 mJ/cm ² ,
Common influenza strains	2.0 to 8.9 mJ/cm ²
11 <i>Aspergillus niger</i>	119.0 mJ/cm ²
Rhinovirus (comparable to poliovirus and other enteroviruses)	6.5 mJ/cm ²
12 SARS-CoV-2 virus	2 mJ/cm ²

13 66. Dr. Malley evaluated the Product and its design. As described in his report, he
 14 assessed the UV lamp and measured the UV irradiance for the upper chamber (UC), upper fan
 15 chamber (UFC), and lower fan chamber (LFC) of the Product. Dr. Malley also measured the
 16 residence times (time it takes for a particle to travel through a certain space) for each chamber at
 17 both the minimum and maximum flow settings.



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 26 67. Dr. Malley then determined the UV dose for each chamber “by multiplying the
 27 irradiance by the residence time for the maximum and minimum flow settings” as follows:
 28

Chamber	UV Dose (Min. Flow Rate)	UV Dose (Max. Flow Rate)
UC	0.93 mJ/cm ²	0.43 mJ/cm ²
UFC	(Below Detection)	(Below Detection)
LFC	(Below Detection)	(Below Detection)
Flow Weighted Average UV Dose	0.019 mJ/cm²	0.008 mJ/cm²

68. As can be seen in the chart above, UV Dose is highest (0.93 mJ/cm²) at the minimum flow rate because that is when air is moving the slowest through the device and has the longest time to be exposed to any UV-C radiation.

69. Unfortunately for Plaintiffs and the Class, Dr. Malley concluded that:

The UV microbial inactivation aspects of the GermGuardian® Device Model Number: AC4825E produced by Guardian Technologies, LLC (26251 Bluestone Boulevard Euclid, OH 44132) were evaluated and found to be insignificant based upon inadequate often zero UV dose resulting from insignificant often zero UV irradiance combined with short residence times significantly less than 1 second at maximum and minimum flow settings of the device. **This inadequate if not undetectable UV dose delivery would result in overall performance that would provide no significant inactivation of viruses, bacteria or mold.**

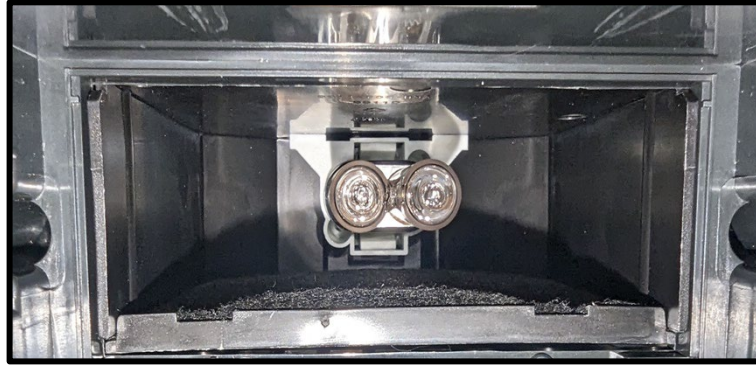
70. To put it simply, the UV-C “feature” in Defendants’ Products is not capable of providing any meaningful protection to consumers above and beyond what an air purifier with just a HEPA filter can provide.

71. As Dr. Malley’s testing shows, the upper and lower fan chambers receive UV Doses below the detectable limit, so any air that flows through those two chambers will not receive any significant UV Doses either. This is the vast majority of air because that is where the fans are located.

72. Only air that circulates through the Upper Chamber where the bulb is housed will receive any measurable UV Dose, and even then, the dose is so low that not a single contaminant mentioned by Defendants in their advertising would be acceptably neutralized. For instance, the highest UV Dose measured by Dr. Malley was 0.93 mJ/cm² inside the Upper Chamber with the fans on their lowest setting. This is not even half of the 2 mJ/cm² required to neutralize 90% of SARS-CoV-2 (COVID-19) particles.

73. What’s more, the Upper Chamber is blocked off from the rest of the device and does not have a fan, so hardly any air will circulate through that chamber to begin with.

1 74. Below is a clear view of the Upper Chamber with the UV-C bulb in the center. As
2 can be seen, it is predominantly shielded off from the two Fan Chambers, with thick foam padding
3 at the bottom:



10 75. Pictured below is the back of the device. A metal plate covers the Upper Chamber
11 where the UV-C bulb is housed, demarcated in red:

12 76. Dr. Malley's testing shows conclusively that any of Defendants' Products that have
13 the AC4825's multi-chamber design fail to deliver on their air purification promises.¹⁰



28 ¹⁰ To that end, the Air Purifiers listed in this complaint all feature substantially the same design, and any differences which may exist between them are immaterial for purposes of this action.

1 77. Indeed, Defendants’ Purifiers are no better at cleaning and sanitizing the air than
2 regular, cheaper, HEPA-filter-equipped air purifiers that do not have expensive UV-C bulbs
3 shoehorned in their designs.

4 78. The fact that, under rare circumstances, the bulb *may* inactivate an immaterial
5 amount of pathogens is not enough to save Defendants. In the antimicrobial context, consumers
6 expect at least 99.9% efficiency. Hand sanitizers and soaps are the prevailing antimicrobial
7 products consumers are familiar with. The claim made consistently with these products is “kills
8 99.9% of germs,” and that is what consumers expect for any other product claiming to have
9 antimicrobial features.

10 79. Defendants know this, which is why they advertise the UV-C “feature” next to the
11 HEPA-filter efficiency claim of 99.97%. Consumers are paying for a feature that *sanitizes* the air
12 *better* than a HEPA-filter. The UV-C bulb in Defendants’ Products does not do that. Not even
13 close. Testing of the Products shows that the UV bulbs they use could theoretically kill only a
14 minute fraction of microbes which pass through the Products. The “benefit” it provides is
15 immaterial to consumers.

16 80. In an attempt to save face, Defendants may argue that the Products function as
17 advertised because the air just needs to be recirculated multiple times and eventually every
18 pathogen is neutralized. This argument is nonsensical on its face. For one, the Products’ UV-C
19 light is so ineffective, the air in a room would have to be recirculated through the Products many
20 times to only *theoretically* inactivate a material number of pathogens. This would take many
21 hours, during which time an occupant in the room could be exposed to a pathogen that has yet to be
22 inactivated by the UV light. This argument also falsely assumes that the air in a room is
23 unchanging. But, by their very presence, people change the air in a room. Every breath, word,
24 cough, or sneeze dumps countless additional microbes into the air, leaving the Products caught in
25 an endless cycle of recirculation. It is a Sisyphean task that provides no material benefit to
26 consumers.

27 81. The UV-C bulb is a gimmick, added solely to give Defendants cover to charge a
28 premium for their Products and to differentiate themselves from competing air purifiers. It confers

1 no actual benefit onto consumers who paid a price premium for Defendants' Products under the
2 false but reasonable belief that the Air Purifiers would neutralize germs more effectively than
3 regular HEPA-filter air purifiers without a UV-C bulb.

4 **CLASS ALLEGATIONS**

5 82. Plaintiffs seek to represent a nationwide class defined as follows (the "Nationwide
6 Class"):

7 All individual residents in the United States who purchased a
8 GermGuardian AC4825E, AC4825W, AC4825DLX, AC4300, or
replacement UV bulbs for those products, during the applicable statutory
period.

9 83. Plaintiffs also seek to represent a California subclass defined as follows (the
10 "California subclass"):

11 All California residents who purchased a GermGuardian AC4825E,
12 AC4825W, AC4825DLX, AC4300, or replacement UV bulbs for those
products, during the applicable statutory period.

13 84. Excluded from the Classes are governmental entities, Defendants, Defendants'
14 affiliates, parents, subsidiaries, employees, officers, directors, and co-conspirators. Also excluded
15 is any judicial officer presiding over this matter and the members of their immediate families and
16 judicial staff.

17 85. Plaintiffs reserve the right to modify or expand the definition of the Classes to seek
18 recovery on behalf of additional persons as warranted as facts are learned in further investigation
19 and discovery.

20 86. Members of the Classes are so numerous that their individual joinder herein is
21 impracticable. The precise number of Class members and their identities are unknown to Plaintiffs
22 at this time but will be determined through discovery of Defendants' records. Class members may
23 be notified of the pendency of this action by mail, email, and/or publication.

24 87. Common questions of law and fact exist as to all Class members and predominate
25 over questions affecting only individual Class members. These common legal and factual
26 questions include, but are not limited to:

27 a. Whether the Products' UV-C bulb has any material germicidal effect;

- b. Whether Defendants' express representations about the capability of its Products included false and/or misleading statements and/or omissions;
- c. Whether Defendants' implied representations about the capability of its Products included false and/or misleading statements;
- d. Whether Defendants' conduct violated the CLRA, FAL, UCL;
- e. Whether Defendants' conduct breached express and implied warranties, and amounted to fraud;
- f. The nature of damages suffered by Plaintiffs, the Class, and Subclass.

88. Plaintiffs' claims are typical of the claims of the proposed Classes they seek to represent because Plaintiffs, like all members of the Classes, were induced by Defendants' false and misleading warranties to purchase Defendants' Products and subsequently did purchase Defendants' Products during the relevant class periods without knowing that Defendants' claims about the Products' air purifying capabilities were false and misleading. The representative Plaintiffs, like all members of the Classes, have been damaged by Defendants' misconduct in the very same way as the members of the Classes. Further, the factual bases of Defendants' misconduct are common to all members of the Class and Subclass and represent a common thread of misconduct resulting in injury to all members of the Classes.

89. Plaintiffs are adequate representatives of the Classes they seek to represent because their interests do not conflict with the interests of the members of the Classes they seek to represent, they have retained counsel competent and experienced in prosecuting class actions, and they intend to prosecute this action vigorously. The interests of the members of the Classes will be fairly and adequately protected by Plaintiffs and their counsel.

90. A class action is superior to other available means for the fair and efficient adjudication of the claims of the members of the Classes. Each individual member of the Classes may lack the resources to undergo the burden and expense of individual prosecution of the complex and extensive litigation necessary to establish Defendants' liability. Individualized litigation increases the delay and expense to all parties and multiplies the burden on the judicial system presented by the complex legal and factual issues of this case. Individualized litigation also

1 represents a potential for inconsistent or contradictory judgments. By contrast, the class action
2 device presents far fewer management difficulties and provides the benefits of single adjudication,
3 economy of scale, and comprehensive supervision by a single court on the issue of Defendants’
4 liability. Class treatment of the liability issues will ensure that all claims and claimants are before
5 this Court for consistent adjudication of the liability issues.

6 **COUNT I**

7 **Violations of California’s Consumer Legal Remedies Act (“CLRA”)**
8 **Cal. Civ. Code § 1750, *et seq.***

9 91. Plaintiffs hereby incorporate by reference the allegations contained in the preceding
10 paragraphs of this Complaint.

11 92. Plaintiffs bring this claim individually and on behalf of the members of the
12 proposed California Subclass against Defendants.

13 93. This claim is brought under the law of California.

14 94. Defendants are “person[s],” as defined by Cal. Civ. Code § 1761(e).

15 95. Plaintiffs and the California Subclass members are “consumers,” as defined by Cal.
16 Civ. Code § 1761(d).

17 96. The Products and replacement bulbs purchased by Plaintiffs and the California
18 Subclass members are “goods” as defined by Cal. Civ. Code § 1761(a).

19 97. The purchases by Plaintiffs and the California Subclass members constitute
20 “transactions,” as defined by Cal. Civ. Code § 1761(e).

21 98. As alleged more fully above, Defendants has violated the CLRA by using a third-
22 party to furnish false and misleading statements about the quality and capabilities of its Products to
23 attract and induce more consumers to purchase its Products than would have otherwise been
24 induced and attracted to the Products without those false and misleading statements.

25 99. As a result of engaging in such conduct, Defendants have violated California Civ.
26 Code §§ 1770(a)(5), (a)(7) and (a)(9).

27 100. Defendants’ conduct was likely to deceive, and did deceive, Plaintiffs and the
28 California Subclass members, all of whom are reasonable consumers. Defendants knew, or should

1 have known through exercise of reasonable care, that its claims about its Products' capabilities
2 were false and misleading.

3 101. Defendants' representations about its Products' capabilities were intended to induce
4 reliance, and Plaintiffs and the California Subclass members saw, read, and reasonably relied on
5 the false and misleading affirmative representations when deciding to purchase Defendants'
6 Products. Defendants' deceptive conduct was a substantial factor in Plaintiffs' purchase decisions
7 and the purchase decisions of the proposed California Subclass.

8 102. Plaintiffs and the members of the California Subclass have suffered harm as a result
9 of these violations of the CLRA because they incurred charges and/or paid monies for the Products
10 that they otherwise would not have incurred or paid.

11 103. On February 2, 2023, more than thirty days prior to the commencement of this
12 action under this section, Defendants were served with a notice letter on behalf of Plaintiffs that
13 complied in all respects with Cal. Civ. Code § 1782. The letter advised Defendants of the specific
14 acts and practices it committed in violation of the CLRA, and which particular sections of CLRA
15 Defendants breached. Plaintiffs' counsel also demanded that Defendants cease and desist from
16 such breaches and make full restitution by refunding the monies received therefrom.

17 **COUNT II**
18 **Fraud**

19 104. Plaintiffs incorporate by reference the foregoing paragraphs of this Complaint as if
20 fully stated herein.

21 105. Plaintiffs bring this claim individually and on behalf of the members of the Classes
22 against Defendants under the laws of California.

23 106. As discussed above, Defendants failed to disclose material facts about the Products,
24 namely, by failing to disclose to consumers that the UV-C light in the Products provides no
25 material antimicrobial benefits, despite expressly claiming that it did.

26 107. Defendants were in a position to know the true quality and capability of their
27 Products but affirmatively warranted that the Products had greater ability than they actually did.
28 Specifically, Defendants knew or should have known that the scientific consensus is that UV-C

1 lights in consumer-grade HEPA air purifiers offer no greater sanitary benefit than HEPA-filter air
2 purifiers alone.

3 108. The misrepresentations and omissions made by Defendants, upon which Plaintiffs
4 and the members of the Class and Subclass relied, were intended to induce and actually did induce
5 Plaintiffs and the members of the Class and Subclass to purchase the Products. Defendants
6 induced Plaintiffs and the members of the Class and Subclass to purchase the Products that
7 Plaintiffs and the members of the Class and Subclass would not have purchased, or would have
8 paid substantially less for, had Defendants been truthful about their Products' qualities and
9 capabilities.

10 109. Defendants' fraudulent actions caused damages to Plaintiffs, the Class, and Subclass
11 members, who are entitled to damages and other legal and equitable relief as a result.

12 **COUNT III**
13 **Breach of Express Warranty**

14 110. Plaintiffs hereby incorporate by reference the allegations contained in the preceding
15 paragraphs.

16 111. Plaintiffs bring this claim individually and on behalf of members of the proposed
17 Nationwide Class and California Subclass against Defendants.

18 112. Defendants' affirmation of fact that the Products could effectively kill a material
19 amount of microbes with UV-C light was the basis of the bargain between Defendants, Plaintiffs,
20 the Class and Subclass, thereby creating express warranties that the Products would conform to
21 Defendants' affirmations of fact and description.

22 113. Specifically, Defendants warranted that the "UV-C light kills airborne germs &
23 viruses" and that "UV-C helps reduce airborne bacteria, viruses [and] mold spores." *See supra* ¶¶
24 40-44 and 48.

25 114. However, testing on the Products' design proves that the UV-C light offers no
26 material antimicrobial benefit over that provided by an air purifier with a HEPA filter alone.

27 115. Plaintiffs and the members of the Nationwide Class and the California Subclass
28 were injured as a direct and proximate result of Defendants' breach because: (a) they would not

1 have purchased the Products and replacement bulbs if they had known that the UV-C light, in its
2 current strength and placement in the Products, does not and cannot “kill” or “help[] reduce
3 airborne [pathogens]”; (b) they paid for the Products due to Defendants’ false and misleading
4 claims about the Products’ capabilities; (c) they would not have purchased the Products on the
5 same terms if they had known the true facts; (d) they paid a price premium for the Products due to
6 Defendants’ false and misleading affirmations of fact; and (e) the Products did not have the
7 characteristics, qualities, and capabilities that Defendants promised.

8 116. On September 01, 2023, prior to filing this action, Defendants were served with a
9 pre-suit notice letter on behalf of Plaintiffs that complied in all respects with U.C.C. §§ 2-313 and
10 2-607. Plaintiffs’ counsel sent Defendants a letter advising Defendants that they breached an
11 express warranty and demanded that Defendants cease and desist from such breaches and make full
12 restitution by refunding the monies received therefrom.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiffs respectfully request that the Court grant Plaintiffs and all
15 members of the proposed Class and California Subclass the following relief against Defendants:

- 16 (a) For an order certifying the Nationwide Class and California Subclass and naming
17 Plaintiffs’ attorneys as Class Counsel to represent the members of the Classes;
- 18 (b) For an order declaring that Defendants’ conduct violates the statutes referenced
19 herein;
- 20 (c) For compensatory, statutory, and punitive damages in amounts to be determined by
21 the Court and/or jury;
- 22 (d) For prejudgment interest on all amounts awarded;
- 23 (e) For an order awarding Plaintiffs and the Class and Subclass their reasonable
24 attorneys’ fees and expenses and costs of suit; and
- 25 (f) Granting such other and further relief as may be just and proper.

26 **JURY DEMAND**

27 Plaintiffs demand a trial by jury of all issues so triable.

28

1 Dated: April 25, 2024

Respectfully submitted,

2 **BURSOR & FISHER, P.A.**

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