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10 UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 LIZETT ANGUIANO, an individual; on
13 behalf of themselves and all other similarly
14 situated persons;

15 PLAINTIFF,

16 v.

17 SAMSUNG ELECTRONICS AMERICA,
INC., a New York Corporation; and
18 SAMSUNG ELECTRONICS CO., LTD.,
a Foreign Corporation,

19 DEFENDANTS.

CASE NO.:

CLASS ACTION COMPLAINT

1. FRAUDULENT CONCEALMENT / NON-DISCLOSURE;
 2. VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW;
 3. VIOLATIONS OF CALIFORNIA'S FALSE ADVERTISING LAW;
 4. VIOLATION OF CALIFORNIA'S CONSUMER LEGAL REMEDIES ACT; AND
 5. UNJUST ENRICHMENT
- JURY TRIAL DEMANDED

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CLASS ACTION COMPLAINT

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1 Plaintiff **LIZETTE ANGUIANO** (hereinafter, "**PLAINTIFF**") bring this action on behalf
2 of themselves and all other similarly situated individuals, by and through their attorneys, for
3 injunctive relief, restitution and damages caused by the conduct of **DEFENDANTS SAMSUNG**
4 **ELECTRONICS AMERICA, INC.** and **SAMSUNG ELECTRONICS CO., LTD.** (collectively
5 hereinafter, "**SAMSUNG**"), and each of them, as follows:

6 **I. INTRODUCTION**

7 1. **SAMSUNG** manufactures and sells smartphones.

8 2. As of the date of filing both Samsung (SSNLF) and other multi-national
9 corporations have stated that Samsung smartphones pose a threat to the safety of consumers.

10 3. These dangers made international headlines when numerous Samsung Note7
11 devices exploded and burst into flames leading to a complete recall of the product.

12 4. Every air passenger carrier in the United States has banned the carrying of a
13 Samsung Note 7 on an airplane.

14 5. Until recently, airlines would make a special announcement during the boarding
15 and pre-take off period warning passengers that they had to turn over their Samsung Note 7
16 smartphones.

17 6. These warnings are unparalleled.

18 7. Despite the well-chronicled safety concerns with the Samsung Note 7, **SAMSUNG**
19 continues to sell, market, and distribute other smartphones which are at risk of overheating, fire
20 and explosion.

21 8. The Consumer Product Safety Commission (CPSC) ordered the recall of over 1
22 million of these smartphones.

23 9. **SAMSUNG** has recalled the Note7.

24 10. **SAMSUNG** continues to release updates on its recall efforts, including a
25 December 9, 2016 update.¹

26 11. However **SAMSUNG** has left other products in the marketplace and the safety
27 issues are not limited to the Note7.

28 ¹ <http://www.samsung.com/us/note7recall/> (Last accessed January 19, 2017 at 11:20 a.m.)

1 12. The Note7 recall appears to be at least in part a public relations effort to comfort the
2 public that there was a technical fix to a pervasive problem.

3 13. **SAMSUNG** has been made repeatedly aware of the issues with its smartphones, yet
4 has failed to warn consumers of the dangers posed by the lithium ion batteries in the devices.
5 **SAMSUNG** markets its phones as durable and reliable on a 24/7 basis.

6 14. **SAMSUNG** encourages consumers to use their phone for all aspects of their lives,
7 including use both inside and outside the home.

8 15. However, **SAMSUNG** has concealed from consumers that the products are, in fact,
9 dangerous to the user and the public in general.

10 16. **SAMSUNG** designs, manufactures and advertises the batteries in its smartphones to
11 have maximum duration with minimum charge times.

12 17. **SAMSUNG** designs, manufactures and advertises its smartphones to have superior
13 computing capacity and power, and to effectively run a multitude of applications and processes
14 simultaneously.

15 18. **SAMSUNG**'s approach to designing a product with each of these, and other,
16 qualities led **SAMSUNG** to manufacture smartphones which pose a risk of overheating, fire and
17 explosion.

18 19. While **SAMSUNG** recalled the Note7, it has failed, and continues to fail, to recall
19 other dangerous products, failed to warn consumers of the dangers they pose, and failed to
20 adequately respond to consumers whose phones have suffered from overheating, fire and
21 explosion.

22 20. The extreme risk of overheating, fire, and explosion along with **SAMSUNG**'s
23 concomitant refusal to recall the products leaves **PLAINTIFF** and each member of the Class
24 owning phones that have the propensity for overheating and fire.

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1 **II. JURISDICTION AND VENUE**

2 21. This action is within the jurisdiction of this Court by virtue of 28 U.S.C.
3 §1332(d)(2). **PLAINTIFF** and **SAMSUNG** are citizens of different states and the amount in
4 controversy of this action exceeds the sum of \$5,000,000, exclusive of interest and costs.

5 22. This Court has personal jurisdiction over the Plaintiff **LIZETTE AGUIANO**
6 because she resides in California, and submits to the Court's jurisdiction in this case.

7 23. This Court has personal jurisdiction over **SAMSUNG ELECTRONICS**
8 **AMERICA, INC.**, because it conducted and continues to conduct substantial business in
9 California, and has sufficient minimum contacts with California, including: Samsung Media
10 Solutions Center America, a division of **SAMSUNG ELECTRONICS AMERICA, INC.**, is
11 based out of Mountain View, California.

12 24. **SAMSUNG ELECTRONICS AMERICA, INC.**'s printer product division is
13 headquartered in Irvine, California.

14 25. This Court has personal jurisdiction over **SAMSUNG ELECTRONICS CO., LTD**
15 because it conducted and continues to conduct substantial business in California, and has sufficient
16 minimum contacts with California, including: Samsung Strategy and Innovation Center, a global
17 organization within **SAMSUNG'S** Device Solutions division, is headquartered in Menlo Park,
18 California.

19 26. Samsung Information Systems America is headquartered in San Jose, California;
20 Samsung Semiconductor, Inc. is headquartered in San Jose, California; and, Samsung Open
21 Innovation Center is located in Palo Alto, California.

22 27. Venue is proper in this Court under 28 U.S.C. § 1391 because **SAMSUNG**
23 innovates, researches, develops, improves, and markets a substantial amount of phones in this
24 District.

25 28. **SAMSUNG'S** Media Solutions Center (which is a Research and Development
26 Center) is located in this District, "delivers innovative, connected experiences across Samsung's
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1 **mobile** and digital ecosystem that enhance the experience of owning a Samsung product,”² is
2 “[c]omprised of two six-story LEED Platinum designed office buildings totaling nearly 385,000
3 square feet, and two parking structures,” and “serves as an epicenter of innovation and is home to
4 some of the world’s top talent,” including “more than 250 doctorate recipients from some of the
5 best schools around the globe.”³

6 29. According to a SAMSUNG press release, the “great successes” of the labs housed
7 at the Media Solutions Center “benefit Samsung’s vast portfolio of mobile, visual display, home
8 appliance, wearable and audio and stereo products.”⁴

9 30. SAMSUNG also maintains and operates a Strategy and Innovation headquarters
10 “within Samsung’s Device Solutions division, with the core missions of open innovation in
11 collaboration with entrepreneurs and strategic partners,” within this District.

12 31. Samsung’s Information Systems America and Semiconductor divisions are
13 headquartered in this District.⁵

14 32. Therefore, a substantial part of the events and/or omissions alleged in this
15 complaint, giving rise to PLAINTIFF’ claims, occurred in, emanated from and/or were directed
16 from this District.

17 33. Venue is also proper because SAMSUNG is subject to this District’s personal
18 jurisdiction with respect to this action.

19 **III. THE PARTIES**

20 **A. PLAINTIFF**

21 34. Plaintiff AGUIANO is a resident of San Diego, California. Plaintiff AGUIANO
22 purchased a Samsung Galaxy S6 Edge smartphone in California, and suffered the injuries and
23 damage complained of herein in the State of California.

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25 ² See Samsung, U.S. Divisions, available at: http://www.samsung.com/us/aboutsamsung/samsung_electronics/us_divisions/

26 ³ “Research at the Core of SAMSUNG Research America’s New Mountain View Campus,” SAMSUNG Newsroom
27 (Sept. 1, 2015) available at: <https://news.SAMSUNG.com/global/research-at-the-core-of-SAMSUNG-research-americas-new-mountain-view-campus>. (Last accessed January 19, 2017)

28 ⁴ *Ibid.*

⁵ See SAMSUNG, U.S. Divisions, available at:
http://www.SAMSUNG.com/us/aboutSAMSUNG/SAMSUNG_electronics/us_divisions/.

1 **B. DEFENDANTS**

2 35. **PLAINTIFF** is informed and believe, and thereon allege, that **SAMSUNG**
3 **ELECTRONICS CO., LTD.** was, at all relevant times mentioned herein, a foreign corporation
4 organized and existing under the laws of the Republic of Korea, with its principal place of business
5 located at 129 Samsung-Ro, Yeongtong-Gu, Suwon-si, Gyeonggi-do, Korea. **SAMSUNG**
6 **ELECTRONICS CO., LTD.** is the parent company of **SAMSUNG ELECTRONICS**
7 **AMERICA, INC.**

8 36. **PLAINTIFF** is informed and believe, and thereon allege, that **SAMSUNG**
9 **ELECTRONICS AMERICA, INC.** was, at all relevant times mentioned herein, a New York
10 corporation organized and existing under the laws of the state of New York and registered with the
11 California Secretary of State to conduct business in California.

12 37. **SAMSUNG ELECTRONICS AMERICA, INC.** holds itself out as “a recognized
13 innovation leader in consumer electronics design and technology.”

14 38. **SAMSUNG ELECTRONICS AMERICA, INC.** is also a wholly owned
15 subsidiary of Defendant **SAMSUNG ELECTRONICS CO., LTD.**

16 39. **SAMSUNG** is one of the largest seller of smartphones in the world.

17 40. In early 2016, **SAMSUNG** held one of the largest shares of the United States’
18 smartphone market.

19 **C. AGENCY & CONCERT OF ACTION**

20 41. At all times herein mentioned, **SAMSUNG**, and each of them, hereinabove, were
21 the agents, servants, employees, partners, aiders and abettors, and/or joint venturers of each of the
22 **SAMSUNG** entities named herein and were at all times operating and acting within the purpose
23 and scope of said agency, service, employment, partnership, enterprise, and/or joint venture, and
24 each Defendant has ratified and approved the acts of each of the remaining **SAMSUNG** entities.
25 Each of the **SAMSUNG** entities aided and abetted, encouraged, and rendered substantial
26 assistance to the other **SAMSUNG** entities in breaching their obligations to **PLAINTIFF** and the
27 Class, as alleged herein. In taking action to aid and abet and substantially assist the commission of
28 these wrongful acts and other wrongdoings complained of, as alleged herein, each of the

1 **SAMSUNG** entities acted with an awareness of his/her/its primary wrongdoing and realized that
 2 his/her/its conduct would substantially assist the accomplishment of the wrongful conduct,
 3 wrongful goals, and wrongdoing.

4 **IV. FACTUAL ALLEGATIONS**

5 **A. SAMSUNG'S GALAXY S AND NOTE PRODUCTS**

6 42. **SAMSUNG** makes Android-based mobile devices, including the "Galaxy" line of
 7 smartphones, phablets, and tablets.

8 43. New smartphones are released each year and are identified as part of the "Galaxy
 9 S" series.

10 44. The first generation "Galaxy S" phone was available in June 2010.

11 45. Subsequently **SAMSUNG** released the SII, SIII, S4, S5, S6, and S7.

12 46. In between the roll-out of a new flagship model, **SAMSUNG** commonly released
 13 one or more iterations of the prior flagship model.

14 47. These interim iterations are often followed by variants that have the word "Edge,"
 15 "Edge+," or "Active" added to the model name. *See* Table in ¶49

16 48. In late 2011, **SAMSUNG** began selling a high-end smartphone/tablet hybrid which
 17 it called the "Galaxy Note." Galaxy Note products were larger than regular smartphones and
 18 include a stylus for additional functionality.

19 49. Since April 2015, **SAMSUNG** has released the following Galaxy S6, and S7:

GALAXY S SERIES	
Model	Release Date
S6	April 2015
S6 Edge	April 2015
S6 Active	July 2015
S6 Edge+	August 2015
S7	March 2016
S7 Edge	March 2016
S7 Active	June 2016

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GALAXY NOTE SERIES	
Model	Release Date
Note 5	August 2015
Note 7	August 2016

50. The “Galaxy S” and “Galaxy Note” phones are powered by lithium ion batteries.

51. Lithium-ion batteries power a host of consumer electronic devices, including computers and power tools.

52. Prior to the Note5 and S6 models, the battery was removable.

53. For the Note5, Note7, S6, and S7 models, the battery is encompassed in the product and is not removable by a consumer.

54. The batteries in SAMSUNG’s phones are measured in milli-ampere hours (“mAh”), which is a unit of electric charge that expresses the capacity of a battery – how much total energy a battery can discharge before needing to be recharged.

55. A battery’s discharge rate is the amount of current being drawn from the battery.

56. The length of time a battery will run depends on both the battery’s capacity and discharge rate.

57. The Note7 and S6 Active use lithium ion batteries with the same capacity.

58. The S6 Edge+, S7 and Note5 use lithium ion batteries with the same capacity.

59. The S7 Edge and S7 Active both use lithium ion batteries with greater capacity than the Note7.

60. The following chart shows the battery capacity of SAMSUNG’S Note and Galaxy S devices:

GALAXY S SERIES	
Model	Battery Capacity
S6	2,550 mAh
S6 Edge	2,600 mAh
S6 Edge+	3,000 mAh
S7	3,000 mAh

S6 Active	3,500 mAh
S7 Edge	3,600 mAh
S7 Active	3,900 mAh

GALAXY NOTE SERIES	
<u>Model</u>	<u>Battery Capacity</u>
Note 5	3,000 mAh
Note 7	3,500 mAh

61. The Galaxy S6 Active, the Galaxy S7 Edge, and the Galaxy S7 Active all contain batteries with at least the capacity of the recalled Note7 battery.

62. The S6, S6 Edge, S6 Edge+, S6 Active, S7, S7 Edge, S7 Active, and Note5 (the "Subject Phones"), as well as the Note7, all pose a risk of overheating, fire and explosion as they were designed, engineered, developed, manufactured, produced and/or assembled in a substantially similar manner to the Note7.

63. SAMSUNG has recalled the Note7, but has not done so with respect to the Subject Phones, including the smartphone that Plaintiff purchased.

B. THE LITHIUM ION BATTERIES IN SAMSUNG'S SMARTPHONES POSE A DANGER TO PLAINTIFF AND THE PUBLIC

64. The dangers posed by lithium ion batteries made headlines after numerous SAMSUNG Note7 devices exploded and burst into flames.

65. The Consumer Product Safety Commission ordered a formal recall of the Note7.

66. SAMSUNG initially offered an exchange program for the Note7.

67. While investigation into the Note7 defect is ongoing, SAMSUNG has admitted an unspecified "battery cell issue" is a root problem.

68. Lithium ion batteries are often used in consumer electronics.

69. However, these batteries present inherent risks which require software, hardware and design solutions and protections to operate safely.

1 70. The electrolyte material in these batteries is highly volatile, flammable, and
2 potentially explosive if it gets too hot.

3 71. Dr. Donald Sadoway, a Materials Chemistry professor at MIT, described why
4 lithium ion batteries explode in an interview with *Time Magazine*:

5 If the temperature gets high enough . . . at some point, if you get up to about 400-
6 500 degrees Centigrade, the metal oxide in the negative electrode actually starts
7 liberating oxygen. And that's really dangerous, because now, instead of having a
8 fire . . . getting its oxygen from the air surrounding it, it's getting its oxygen from
inside the battery itself. ***The term of art is, this has now become a bomb.*** You've
got fuel and oxygen in the same place at the same time.⁶

9 72. This is known as a "thermal runaway" event, after which the battery will catch fire
10 or explode.

11 73. A thermal runaway event generates high temperatures exceeding 1100 degrees
12 Fahrenheit. It can happen in a variety of circumstances, including when the battery is overcharged,
13 when it is rapidly discharged, when there is a cell defect, when there is cell damage, and in heat.⁷

14 74. Scientific American published the following:

15 ... ***faulty batteries can be overcharged. Well-made batteries will stop charging***
16 ***automatically once they're full***, but that's not always the case for faulty batteries,
17 If left plugged in for too long, the lithium ions can collect in one spot and be
deposited as metallic lithium within the battery.... Also, heat from the overcharging
18 can cause oxygen bubbles within the gel, which are highly reactive with metallic
lithium.⁸

19 75. In cellular phones, both software and hardware regulate the temperature, charging
20 and use of the battery.

21 76. If the software protocols are programmed or set incorrectly a thermal runaway
22 event can occur.

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25 ⁶ <http://time.com/4485396/samsung-note-7-battery-fire-why/>
(Visited January 12, 2017 at 11:36 a.m.)

26 ⁷ See, Federal Aviation Administration ("FAA"), Summary of Findings from Previous Tests – Lithium-ion, available
27 at: [http://www.icao.int/safety/DangerousGoods/pptfaa/Full scale ion and large format.pptx](http://www.icao.int/safety/DangerousGoods/pptfaa/Full%20scale%20ion%20and%20large%20format.pptx) (last accessed January 12,
2017).

28 ⁸ <https://www.scientificamerican.com/article/the-science-behind-samsung-phone-battery-fires/> (last accessed January
12, 2017) (emphasis added).

1 77. A careless manufacturing process that leaves unwanted material in the battery can
2 also lead to thermal runaway.

3 78. A poorly manufactured separator that breaks can also lead to thermal runaway. As
4 can a defective thermal spreader can lead to a thermal runaway.

5 79. **SAMSUNG** initially stated the Note7's problem was limited to only one (1) of its
6 two (2) battery supply sources.

7 80. After the initial recall and exchange of the Note7 devices, more explosions of the
8 devices were reported.

9 81. On October 13, 2016, **SAMSUNG** announced it was recalling all Note7 devices,
10 original and exchanged. The Wall Street Journal reported that:

11 The X-ray and CT scans showed a pronounced bulge.

12 After reports of Galaxy Note 7 smartphones catching fire spread in early
13 September, Samsung Electronics Co. executives debated how to respond. Some
14 were skeptical the incidents amounted to much, according to people familiar with
15 the meetings, but others thought the company needed to act decisively.

16 A laboratory report said scans of some faulty devices showed a protrusion in Note
17 7 batteries supplied by Samsung SDI Co., a company affiliate, while phones with
18 batteries from another supplier didn't.

19 It wasn't a definitive answer, and there was no explanation for the bulges. But with
20 consumers complaining and telecom operators demanding answers, newly
21 appointed mobile chief D.J. Koh felt the company knew enough to recall 2.5 million
22 phones. His suggestion was backed by Samsung's third-generation heir apparent,
23 Lee Jae-yong, who has advocated for more openness at one of the world's most
24 opaque conglomerates.

25 That decision in early September—to push a sweeping recall based on what turned
26 out to be incomplete evidence—is now coming back to haunt the company.

27 Two weeks after Samsung began handing out millions of new phones, with
28 batteries from the other supplier, the company was forced to all but acknowledge
that its initial diagnosis was incorrect, following a spate of new incidents, some
involving supposedly safe replacement devices. With regulators raising fresh
questions, Messrs. Lee and Koh decided to take the drastic step of killing the phone
outright.

82. **SAMSUNG** instructed consumers who had a Note7 device to “please power down
immediately” and “contact the carrier or retail outlet where they purchased their device.”⁹

⁹ See “Samsung Note7 Safety Recall” available at <http://www.samsung.com/us/note7recall/>, updated December 9, 2016. 9 (Last Accessed January 19, 2017)

1 SAMSUNG stated that it was announcing the program “in cooperation with the U.S. Consumer
2 Product Safety Commission and in partnership with carriers and retailers.”¹⁰

3 83. Consumers could turn in their Note7 devices (both the original and exchanged
4 versions) for refunds, exchanges for SAMSUNG products or other smartphones and offered
5 between \$25 and \$100 “bill credits.”

6 84. Consumers who exchanged their Note7 for other SAMSUNG devices were offered
7 \$100 bill credits. Consumers who elected to receive a refund or purchase a different brand of
8 smartphone, were offered \$25 bill credits, “less any incentive credits already received.”¹¹

9 85. Outside of the Note7 recall, SAMSUNG has taken no steps to recall or warn
10 consumers about the risks of overheating, fire and explosion posed by its Subject Phones.

11 C. **SAMSUNG WAS AND IS AWARE OF OVERHEATING PROBLEMS WITH**
12 **THE SUBJECT PHONES, FAILED TO FIX THE PROBLEM OR WARN**
13 **ITS CUSTOMERS**

14 86. SAMSUNG made the choice to increase the power of the battery in the Subject
15 Phones despite knowing that older models and generations with less powerful batteries were
16 experiencing problems with overheating, catching fire, and even exploding. The problem dates
17 back several years; and well before the release of the Subject Phones.

18 87. The media and consumer protection agencies had reported the occurrence of similar
19 incidents in other models of SAMSUNG phones and electronic devices.

20 88. Despite knowledge of danger, SAMSUNG failed to fix the root problem, notify or
21 warn the public of the dangers its electronic devices presented, initiate a recall of all devices where
22 overheating, explosion, and/or fire were foreseeable, or otherwise address the problem.

23 89. Instead, SAMSUNG provided individual consumers with replacements without
24 disclosing the risks and defects in the Subject Phones.

25 90. The CPSC has recorded numerous consumer incident reports of SAMSUNG
26 phones and accessories overheating, catching fire, and even exploding.

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¹⁰ *Ibid.*

¹¹ *Ibid.*

1 91. The reports relate to a variety of devices—including the Galaxy S2, Galaxy Tab 2,
2 Galaxy Tab 3, Galaxy S3, Galaxy S4 Active, Galaxy S5, Galaxy S6, Galaxy S6 Edge, and Galaxy
3 S6 Active. The consumer complaints of such problems date back to August of 2011.

4 92. Consumer reports to CPSC regarding unsafe Samsung Galaxy S and Samsung
5 Galaxy Note products (not including complaints regarding the Note7) include the following:

6 • On December 6, 2012, a Health Care Professional reported that a Galaxy S3 got
7 “warm” and caused a “partial thickness” burn on a consumer’s right cheek. CPSC Report No.
20121206-FE67D-2147461269.

8 • On February 28, 2013, a consumer reported that he or she observed a Galaxy S2
9 “overheating” and “battery swelling.” The consumer expressed “[f]ear of battery fire.” CPSC
Report No. 20130228-0C612-2147458351.

10 • On August 16, 2013, a consumer reported that a Galaxy S2 began “hissing,” made a
11 loud “POP,” and filled the room with a noxious smoke. The incident occurred while the device
was charging at night. CPSC Report No. 20130816-D0B19-2147453034.

12 • On January 20, 2014, a consumer reported that a Samsung Galaxy S3 and charging
13 cord became “visibly burned and melted.” The consumer reported “[i]t looks like it had been on
fire momentarily.” The incident occurred while the device was charging. CPSC Report No.
14 20140120-0DFDC-2147448018.

15 • On April 17, 2014, a consumer reported that a Galaxy S4 started to “smell” and
16 “smoke,” causing the charger to melt into the phone. The incident occurred while the device was
charging. CPSC Report No. 20140417-51573-2147445343.

17 • On April 25, 2014, a consumer reported that a Galaxy S3 made a “loud pop,” and
18 “the battery ... shot the back cover and battery out of the phone spraying a black fluid out and
pouring out black smoke ... the battery pack was red in color and smoking hot” The device
was charging at the time. CPSC Report No. 20140425-7FBF6-2147445126

19 • On May 1, 2014, a consumer reported that a Galaxy S4 became “extremely hot”
20 and burned the consumer’s son. The consumer contacted Samsung about the incident, but they had
not called back at the time of the report. The consumer reported he felt the “phone is dangerous.”
21 CPSC Report No. 20140501-C2DA6-2147444903.

22 • On May 12, 2014, a consumer reported that a Galaxy S4 “became so hot it melted
23 the cable. I’m not sure if there was fire but the device was certainly smoking.” The device was
charging at the time. CPSC Report No. 20140512-5B5C8-2147444606.

24 • On September 29, 2014, a consumer reported that a Galaxy S4 began smoking and
25 the “battery caught on fire,” damaging the consumer’s floor. The consumer reported the incident
directly to Samsung. CPSC Report No. 20140929-BD00A-1431381

26 • On November 2, 2014, a consumer reported that a Galaxy S4 began burning in the
27 consumer’s pocket. When the consumer pulled the phone out of his or her pocket, it seared the
consumer’s skin. The consumer further reported “[t]he temperature was equivalent to pulling
28 something out of the oven after baking or boiling water and dunking your hand in it.” CPSC
Report No. 20141102-D37FA-2147439274.

- 1 • On November 13, 2014, a consumer reported that a refurbished Galaxy S4 awoke
2 the consumer with the smell of burning electronics, and burned the consumer's hand before the
3 consumer realized "the phone was starting to catch fire." The consumer further reported that
4 "[t]he charging port was burnt, the cord was melted, and [his or her] sheets and mattress pad were
5 burnt." CPSC Report No. 20141113-0F420-2147438923.
- 6 • On December 30, 2014, a consumer reported that a Galaxy S4 "literally melted to
7 [the consumer's] counter" while charging. The consumer further reported that "[t]he area around
8 the charging port was black and melted." CPSC Report No. 20141230-C86A9-2147437158.
- 9 • On July 24, 2015, a consumer reported that a Galaxy Note 2 "became hot," and
10 emitted "large amounts of smoke" and "sparks." The consumer further reported that the battery
11 "projected out of the back of the device ... leaving burn marks and a hole in the carpet." CPSC
12 Report No. 20150724-ABD3B-2147429986.
- 13 • On August 9, 2015, a consumer reported that a Galaxy S5 began "smoking from the
14 point at which the charge plugs into the phone." Both the phone and charger had "burn marks and
15 were melted slightly." The consumer further reported that he or she feared the phone or charger
16 would have started a fire if the consumer had not woken up. CPSC Report No. 20150809-FD1A7-
17 2147429518.
- 18 • On September 19, 2015, a consumer reported that the Samsung charging device for
19 a Galaxy S6 was "overheating excessively under normal use." "The consumer further reported
20 that the heating was "severe" enough to burn the consumer. CPSC Report No. 20150919-9088D-
21 2147428266.
- 22 • On December 29, 2015, a consumer reported that a Samsung phone charger for a
23 "Newer Samung Galaxy" had "almost started on fire." The "phone was red hot," the tip of the
24 charger was black, and the phone was "completely toast." The consumer further reported: "Totally
25 unsafe! My house could have started on fire." CPSC Report No. 20151229-96F83-2147425364.
- 26 • On January 18, 2016, a consumer reported that a Galaxy S6 Edge became
27 "extremely hot to touch," and developed a crack in the screen. CPSC Report No. 20160118-
28 B87EB-2147424570.
- On January 23, 2016, a consumer reported that a Galaxy S6 began emitting a
"strange smell," and that the Samsung charger was "warped, melted, and discolored." The
consumer further reported that the phone was "extremely hot" to the point it would have "burned a
small child." The incident occurred while the phone was charging. CPSC Report No. 20160123-
F8845-2147424397.
- On January 14, 2016, a consumer reported that a charging device for a Galaxy S4
got "extremely hot and started to melt." CPSC Report No. 20160114-AC115-1545877.
- On March 21, 2016, a consumer reported that a Samsung charging device for a
Galaxy S6 "caught on fire and melted." CPSC Report No. 20160321-83C90-2147420788.
- On September 16, 2016, a consumer reported that a Galaxy S4 Active "melted" into
the charging cable. The phone burned the consumer's finger. The consumer further reported that
the phone "probably could have got a fire." CPSC Report No. 20160916-61984-2147414098.
- On September 16, 2016, a consumer reported that the battery of a Samsung Galaxy
S5 is "bulging" and the phone is "warm to touch." The consumer further reported that Samsung
refused to do anything other than sell the customer a new battery because the phone "had not yet
exploded." CPSC Report No. 20160916-13A98-2147414102.

1 • On September 16, 2016, a consumer reported that a Samsung Galaxy S6 Active
2 “burned up while charging via a Samsung charger.” The incident set off smoke alarms, filled the
3 customer’s bedroom with smoke, charred curtains and bedding, and burned through the hardcover
4 of a book. The consumer reported that she contacted Samsung about the incident, and that
5 Samsung gave her the “runaround.” CPSC Report No. 20160916-1BB3F-2147414093.

6 93. Consumers have submitted many additional complaints consumers to
7 saferproducts.gov. Reports at saferproducts.gov related to the Subject Phones include the
8 following complaints:

9 • On November 16, 2015, a consumer reported suffering “a first degree burn of my
10 right ring finger due to excessive heat from the charger at the point of connection to the phone
11 while on ‘fast charge’ mode.”

12 • On September 23, 2016, a consumer reported using a Samsung Galaxy S6 “when it
13 started reporting it no longer had service. It then got very hot near the power button. I burnt my
14 finger trying to get it to turn off.” The consumer explained that “Despite getting hot enough that I
15 got a burn that blistered, the phone has never reported itself as being overheated.”

16 • On September 21, 2016, a consumer reported their Galaxy S6 “heats up to the point
17 where it can’t be used because it’ll burn,” and that Samsung had refused to address his serious
18 concern about his own safety and risk of fire or explosion.

19 • On September 19, 2016, a consumer reported their five month old Galaxy S6
20 charger was overheating and had “melted plastic from the overheating of the charger.” The
21 consumer reported the “Heating is severe,” and that the phone “gets very hot to the touch. . .
22 enough to burn myself.” The consumer also reported that the “chargers are original chargers, from
23 the box . . . that came with the phone.”

24 • On August 17, 2016, a consumer being burned and scarred as a result of repeated
25 overheating of their Galaxy S6 Edge.

26 • On January 18, 2016, a consumer reported that “during operation” of their Galaxy
27 S6 Edge, it “became extremely hot to touch and the screen developed a crack.”

28 • On September 30, 2016, a consumer reported the following about their Galaxy S6
Active: “9-26-2016 I woke up at 5:30 took phone off charger and did usual checking email and
played games on phone until 6:30. Phone was not hot that I could tell. After taking kids to the bus
about 20 minutes without using the phone I took it out of my pocket laid it on my bed and it
popped really loud and start spewing smoke and melted plastic out of the phone on both ends,
screen shattered and the case melted. The smoke alarms went off and the phone was too hot to
touch.”

 • On September 16, 2016, a consumer reported their Galaxy S6 Active “burned up
while charging via a Samsung charger. The smoke alarms went off and our bedroom was filled
with smoke. There was char on the curtains about 2 feet away from the bed and charred marks on
the headboard; the phone burned through the hardcover of a book.” The consumer complained
about receiving the “runaround” from Samsung customer service and suffering through substantial
delays prior to receiving a replacement and check for the property damage.

 • On September 2, 2016, a consumer reported the battery in their Galaxy S6 Active
caught fire and nearly caused a house fire.

1 • On June 21, 2016, a consumer reported that at “12:30am on June 9, 2016 using the
2 Samsung charger that is issued with the phone. The phone was sitting on the side of the bed, with
3 nothing covering it, and around 4am [] it pretty much exploded and caught on fire. The sound was
4 so loud it woke my child up in the next room. The fire burnt through my sheets, mattress . . .”

5 • On October 1, 2016, a consumer reported their Galaxy S7 was having significant
6 problems with the “phone getting extremely and dangerously hot.” The consumer reported the
7 problem to Samsung, but was told that the S7 was not affected by the recall of the Note7 and that
8 Samsung would not replace it because it was outside the 30-day warranty period. According to the
9 report, the problem worsened until the “phone got so hot that it melted into the [] case.”

10 • On September 26, 2016, a consumer reported her phone charger cord was “hot,
11 melted and smoking” while her Galaxy S7 was plugged in and charging.

12 • On September 16, 2016, a consumer reported her “two-month-old Samsung S7
13 Edge got so hot that it burned my hand and I could not hold onto it.”

14 • On September 10, 2016, a consumer reported he had placed his S7 Edge in his
15 “right front pocket” and that “shortly thereafter he noticed his phone whistling, screeching, and
16 vibrating, as well as smoke coming from his pocket.” According to the report, the consumer
17 suffered burns to his hand when he tried to remove the phone from his pocket and that, “without
18 warning the S7 Edge exploded and caught fire” causing second and third degree burns.

19 94. **SAMSUNG** is and was aware of these reports and the hazards posed by their
20 phones because consumers report the incidents directly to **SAMSUNG**.

21 95. **SAMSUNG** has also acknowledged the reports by responding on the consumer
22 agency’s website with a boilerplate response.

23 96. Consumers have reported that **SAMSUNG** fails to take their complaints seriously,
24 and refused to provide any compensation beyond merely replacing the dangerous and defective
25 phones with similarly risky products.

26 97. **SAMSUNG** even took specific steps to attempt to address the overheating issues in
27 designing the hardware for the S7, relying on unconventional technology and unproven designs to
28 attempt to provide a partial solution to the overheating problems in its smartphones hardware
designs.

98. **SAMSUNG’S** website describes the new hardware used to attempt to address these
concerns, known as a “thermal spreader.”

1 99. According to SAMSUNG, the thermal spreader it designed was “unlike
2 conventional thermal spread technology.”¹²

3 100. SAMSUNG’s team responsible for designing the system further stated that “due to
4 the spatial limits of smartphones, the cooling system’s cooling capacity alone is not enough to cool
5 the device.

6 101. We need to calculate the amount of electric current and optimize the heat control
7 algorithm to minimize occurring heat. In other words, the new thermal spreader hardware controls
8 the heat more effectively but the software heat-control algorithm must be made compatible to
9 ensure best performance.”¹³

10 **D. SAMSUNG’S CONCEALED OF THE DANGERS POSED BY ITS**
11 **PRODUCTS**

12 102. Despite knowledge of the overheating problem existing across multiple models and
13 generations of SAMSUNG phones and despite choosing to put increasingly powerful batteries in
14 smaller spaces in the Subject Phones, SAMSUNG concealed from consumers the risks of fire,
15 explosion and overheating.

16 103. SAMSUNG marketed the S6 Active as indestructible, innovative, and better than
17 ever.

18 104. According to SAMSUNG: “AT&T is bringing its customers the toughest and most
19 advanced member of the Galaxy S family. The Samsung Galaxy S6 Active . . . is designed with
20 your active lifestyle in mind. It gives you the durability you want while boasting a sleek,
21 lightweight design and all of the innovation the Galaxy S6 has to offer.”¹⁴

22 105. It is “[b]uilt to withstand whatever everyday life throws its way, the Samsung
23 Galaxy S6 active has IP68 certified casing that is water resistant up to 1.5 meters for up to 30
24 minutes, shock resistant, and dust proof.”¹⁵

25 ¹² See <https://news.samsung.com/global/faces-of-innovation-galaxy-s7-s7-edge-how-we-created-the-cooling-system-in-the-galaxy-s7-and-s7-edge>. (Last Accessed January 19, 2017)

26 ¹³ *Ibid.*

27 ¹⁴ “Samsung Galaxy S6 active Available Exclusively at AT&T,” Samsung Newsroom (June 9, 2015) available at:
28 <https://news.samsung.com/global/Samsung-galaxy-s6-active-available-exclusively-at-att>. (Last accessed January 20,
2017)

¹⁵ *Ibid.*

1 106. Tim Baxter, President, Chief Operating Officer, and General Manager of
 2 **SAMSUNG has stated:** “With the Galaxy S6 active, we’re delivering consumers with high
 3 durability coupled with the powerful performance of Samsung’s latest flagship smartphone. The
 4 result is a smartphone that brings ruggedized capabilities and water resistance coupled with the
 5 camera, battery and design features that empower our consumers and business users to do more.”¹⁶

6 107. According to Kwangjin Bae, the Principal Engineer at IT & Mobile
 7 Communications, “the goal was to make Samsung latest flagship smartphone as strong and durable
 8 as possible,” for which, “[t]he development team for the Galaxy S6 worked around the clock. It
 9 was one of the most difficult times of my life and all the members of the group from bottom to the
 10 top worked together as one in developing the new product. It was not an easy task because it was
 11 uncharted territory for all of us.”¹⁷

12 108. **SAMSUNG** has also publicly stated that its smartphones are state of the art, thereby
 13 implying full safety: “[i]n introducing innovation, not only in design and engineering, but also in
 14 manufacturing processes, Samsung adheres to its notoriously strict quality control policy. Each
 15 product undergoes intense durability testing such as drop tests, bending test and performance
 16 testing among many other steps. Samsung takes to ensure the highest quality products. By fusing
 17 together innovation with durability, Samsung is able to provide the level of quality consumers
 18 expect from Samsung.”¹⁸

19 109. **SAMSUNG** marketed the S6 Edge+ as being “More than a phone, it’s the hub of
 20 your life, always with you, always on...you do everything with your phone... shouldn’t you expect
 21 more from it?” And **SAMSUNG** also worked to decrease the charging time, advertising that, on
 22 the S6, S7 and Note5 models that charging was faster than ever and the phone could be fully
 23 charged in ninety minutes.

24
 25 ¹⁶ *Ibid.*

26 ¹⁷ “[Editorial] The Perfect Fusion: The Story Behind the Metal and Glass of the Galaxy S6,” Samsung Newsroom
 27 (June 1, 2015) available at: <https://news.Samsung.com/global/the-perfect-fusion-the-story-behind-the-metal-and-glass-of-the-galaxy-s6-ass-and-metal-was-not-without-its-challenges-the-story-behind-the-galaxy-s6-sound>. (Last accessed
 on January 19, 2017)

28 ¹⁸ “Forming Glass, Metal Frame – The Art of Craftsmanship in the Galaxy S6,” Samsung Newsroom (March 2, 2015)
 available at: <https://news.samsung.com/global/forming-glass-forging-metal-the-art-of-craftsmanship-in-the-galaxy-s6>.
 (Last accessed on January 19, 2017)

1 110. **SAMSUNG** advertised the S6 as having “next level performance” and “next level
2 charging,” including built in wireless charging.

3 111. **SAMSUNG** has advertised and marketed the S7 models by explaining that it was
4 “not just launching a new phone, we are launching a new way of thinking about what a phone can
5 do.” **SAMSUNG** stated, “our phones go everywhere with us,” and told consumers “Time is
6 valuable. If time is the most valuable thing, why would you waste time charging your phone” in
7 advertising the “fast charging” capabilities of the S7 models.

8 112. **SAMSUNG** has advertised the S7 Active as the “toughest Samsung ever” and
9 touted its battery performance and fast charging capability.

10 113. Despite these descriptions and marketing efforts, **SAMSUNG** concealed from
11 consumers the risks of overheating, fire, and explosion posed by the Subject Phones.

12 114. **SAMSUNG**’s omissions were material to consumers’ purchasing decisions because
13 if consumers had been warned of the dangers of the products, they would not have purchased the
14 Subject Phones or would have paid less for the Subject Phones.

15 115. Even while **SAMSUNG** was performing its recalls of the Note7, it continued to
16 attempt to conceal the scope of the problem.

17 116. **SAMSUNG** has issued copyright claims to YouTube in order to take down parody
18 videos posted by the public of the Note7 bursting into flames or exploding.¹⁹

19 117. And despite the well-publicized recall of the Note7, **SAMSUNG** continues to hide
20 the risks of the Subject Phones, and has taken insufficient steps to warn its customers or recall
21 additional products subject to the same dangers.

22 118. **SAMSUNG** knew the Subject Phones were defectively designed or manufactured,
23 would fail without warning, posed a risk to the public, and were not suitable for their intended use.

24 119. Until the problem became too widespread, publicized, and pervasive to ignore with
25 the Note7, **SAMSUNG** failed to warn **PLAINTIFF**, the Class and the public about the inherent
26 dangers of the Subject Phones, despite having a duty to do so.

27

28 ¹⁹ BBC News, October 21, 2016, “Samsung ‘blocks’ exploding Note 7 parody videos” (available at <http://www.bbc.com/news/technology-37713939>). (Last accessed January 20, 2017)

1 120. Additionally, **SAMSUNG** has continued to fail to warn consumers of the dangers
2 related to the Subject Phones, implying the Note7 is an outlier and that **SAMSUNG'S** other
3 products, including the Subject Phones, are safe.

4 121. **SAMSUNG** owed **PLAINTIFF** a duty to disclose the defective nature of Subject
5 Phones, including the dangerous risk of explosion, fire and overheating, because **SAMSUNG**:

6 a. possessed exclusive knowledge of the defects rendering the Subject Phones
7 inherently more dangerous and unreliable than similar smartphone products; and,

8 b. intentionally concealed the dangerous situation with the Subject Phones through
9 their marketing campaign and recall programs.

10 122. **SAMSUNG**, and each of them, designed, engineered, developed, manufactured,
11 tested, produced, assembled, labeled, supplied, imported, distributed, and sold the Subject Phones
12 and their component parts and constituents, which were intended by **SAMSUNG**, and each of
13 them, to be used as a consumer smartphone.

14 123. The Galaxy S6 is unsafe for its intended use by reason of defects in its design,
15 engineering, development, manufacturing, testing, production, and/or assembly, such that it cannot
16 safely serve its purpose, but can instead expose the public and **PLAINTIFF** to serious injury.

17 124. The Galaxy S6 Edge is unsafe for its intended use by reason of defects in its design,
18 engineering, development, manufacturing, testing, production, and/or assembly, such that it cannot
19 safely serve its purpose, but can instead expose the public and **PLAINTIFF** to serious injury.

20 125. The Galaxy S6 Edge+ is unsafe for its intended use by reason of defects in its
21 design, engineering, development, manufacturing, testing, production, and/or assembly, such that it
22 cannot safely serve its purpose, but can instead expose the public and **PLAINTIFF** to serious
23 injury.

24 126. The Galaxy S6 Active is unsafe for its intended use by reason of defects in its
25 design, engineering, development, manufacturing, testing, production, and/or assembly, such that it
26 cannot safely serve its purpose, but can instead expose the public and **PLAINTIFF** to serious
27 injury.

28

1 127. The Galaxy Note5 is unsafe for its intended use by reason of defects in its design,
2 engineering, development, manufacturing, testing, production, and/or assembly, such that it cannot
3 safely serve its purpose, but can instead expose the public and **PLAINTIFF** to serious injury.

4 128. The Galaxy S7 is unsafe for its intended use by reason of defects in its design,
5 engineering, development, manufacturing, testing, production, and/or assembly, such that it cannot
6 safely serve its purpose, but can instead expose the public and **PLAINTIFF** to serious injury.

7 129. The Galaxy S7 Edge is unsafe for its intended use by reason of defects in its design,
8 engineering, development, manufacturing, testing, production, and/or assembly, such that it cannot
9 safely serve its purpose, but can instead expose the public and **PLAINTIFF** to serious injury.

10 130. The Galaxy S7 Active is unsafe for its intended use by reason of defects in its
11 design, engineering, development, manufacturing, testing, production, and/or assembly, such that it
12 cannot safely serve its purpose, but instead exposes the public and **PLAINTIFF** to serious injury.

13 **E. PLAINTIFF's EXPERIENCES**

14 131. **PLAINTIFF** purchased a Samsung Galaxy S6 Edge at Best Buy in San Diego,
15 California.

16 132. **SAMSUNG** has not sent a simple mailer envelope to return the phone and finally
17 send a replacement smartphone.

18 133. **PLAINTIFF's** phone also runs hot.

19 134. **PLAINTIFF** is concerned the product is not safe and poses a risk of fire.

20 **V. CLASS ACTION ALLEGATIONS**

21 135. The following Class and Subclass may properly be maintained as a Class action
22 pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure:

23 Class: All persons residing in the State of California who purchased, in the State of
24 California, at least one (1) of the Subject Phones at any time during the four (4) year
25 period preceding the filing of this Class Action Complaint and continuing through
the date of trial. The Subject Phones are the S6, S6 Edge, S6 Edge+, S6 Active, S7,
S7 Edge, S7 Active, and Note5 and Galaxy S6 Edge.

26 CLRA Subclass: All persons residing in the State of California who purchased, in
27 the State of California, for personal, family, or household purposes, at least one (1)
28 of the Subject Phones at any time during the three (3) year period preceding the

1 filing of this Class Action Complaint.²⁰ The Subject Phones are the S6, S6 Edge, S6
2 Edge+, S6 Active, S7, S7 Edge, S7 Active, and Note5.

3 136. Excluded from the Class are **SAMSUNG**, their employees, co-conspirators,
4 officers, directors, legal representatives, heirs, successors and wholly or partly owned subsidiaries
5 or affiliated companies; Class Counsel and their employees; and the judicial officers and their
6 immediate family members and associated court staff assigned to this case. Also excluded are any
7 individuals claiming damages from personal injuries arising from an overheating, fire, explosion or
8 other incident. Further excluded is any individual who after purchase of a Subject Phone returned
9 the Subject Phone and received a full refund of his or her purchase price.

10 137. In the addition, the following Class may properly be maintained as a class action
11 pursuant to FRCP 23(b)(2) on behalf of the following individuals:

12 Injunction Class: All persons residing in the State of California who, following trial,
13 remain in possession of a Subject Phone. The Subject Phones are the S6, S6 Edge,
14 S6 Edge+, S6 Active, S7, S7 Edge, S7 Active and Note 5.

15 138. Excluded from the Injunction Class are **SAMSUNG**, its employees, co-
16 conspirators, officers, directors, legal representatives, heirs, successors and wholly or partly owned
17 subsidiaries or affiliated companies; Class Counsel and their employees; and the judicial officers
18 and their immediate family members and associated court staff assigned to this case. Also
19 excluded are any individuals claiming damages from personal injuries arising from an overheating,
20 fire, explosion or other incident.

21 139. Throughout discovery in this litigation, **PLAINTIFF** may find it appropriate and/or
22 necessary to amend the definition of the Class, the CLRA Subclass, and/or the Injunction Class.
23 **PLAINTIFF** will formally define and designate a Class definitions when they seek to certify the
24 Classes alleged herein.

25 140. Pursuant to Rule 23(a)(1), the Class is so numerous that joinder of all members is
26 impracticable. While the exact number of Class members is unknown to **PLAINTIFF** at this time,
27 **PLAINTIFF** believes there are millions of members of the Class.

28 ²⁰ **PLAINTIFF** representative, and members of the Class and the CLRA Subclass. Because all members of the CLRA
Subclass are also members of the Class, **PLAINTIFF** refers to the Class and the CLRA Subclass collectively as the
"Class" unless otherwise specified.

1 141. Pursuant to Rule 23(a)(3), **PLAINTIFF**'s claims are typical of the claims of the
2 other members of the Class. **PLAINTIFF** and other Class members received the same
3 nondisclosures about the safety and quality of Subject Phones. **PLAINTIFF** and Class members
4 purchased **SAMSUNG** Galaxy S and Edge products that they would not have purchased at all, or
5 for as much as they paid, had they known the truth regarding the overheating problems and fire
6 hazards. **PLAINTIFF** and the members of the Class have sustained injury in that they overpaid
7 for the **SAMSUNG** smartphones due to **SAMSUNG'S** wrongful conduct.

8 142. Pursuant to Rule 23(a)(4) and (g)(1), **PLAINTIFF** will fairly and adequately
9 protect the interests of the members of the Class and Injunction Class and have retained counsel
10 competent and experienced in class action and consumer fraud and protection litigation.

11 143. Pursuant to Rules 23(b)(2), **SAMSUNG** has acted or refused to act on grounds
12 generally applicable to the Injunction Class, thereby making appropriate final injunctive relief or
13 corresponding declaratory relief with respect to the Injunction Class as a whole. In particular,
14 **SAMSUNG** has failed to properly repair, exchange, recall or replace the Subject Phones.
15 **SAMSUNG** also continues to sell the Subject Phones and has failed to properly warn consumers
16 of the risks of overheating, fire and explosion with the Subject Phones.

17 144. Pursuant to Rule 23(a)(2) and (b)(3), common questions of law and fact exist as to
18 all members of the Class and predominate over any questions solely affecting individual members
19 thereof. Among the common questions of law and fact are as follows:

- 20 a. whether **SAMSUNG** had knowledge of the defects affecting the Subject
21 Phones;
- 22 b. whether **SAMSUNG** concealed defects affecting Subject Phones;
- 23 c. whether **SAMSUNG** violated the unlawful prong of the UCL by its
24 violation of the CLRA;
- 25 d. whether **SAMSUNG'S** omissions regarding the risks of the Subject Phones
26 were likely to deceive a reasonable person in violation of the fraudulent prong of the UCL;
- 27 e. whether **SAMSUNG'S** business practices, including the manufacture and
28 sale of phones with a risk of overheating, explosion and fire that **SAMSUNG** failed to adequately

1 investigate, disclose and remedy, offend established public policy and cause harm to consumers
2 that greatly outweighs any benefits associated with those practices;

3 f. whether **SAMSUNG'S** omissions regarding the risks of the Subject Phones
4 were likely to deceive a reasonable person in violation of the False Advertising Law;

5 g. whether **SAMSUNG** was unjustly enriched at the expense of **PLAINTIFF**
6 and the Class;

7 h. whether **PLAINTIFF** and the Class are entitled to damages, restitution,
8 profit disgorgement, equitable relief, and/or other relief; and

9 i. the amount and nature of such relief to be awarded to **PLAINTIFF** and the
10 Class.

11 145. Pursuant to Rules 23(b)(3), a Class action is superior to other available methods for
12 the fair and efficient adjudication of this controversy because joinder of all Class members is
13 impracticable. The prosecution of separate actions by individual members of the Class would
14 impose heavy burdens upon the courts and **SAMSUNG**, and would create a risk of inconsistent or
15 varying adjudications of the questions of law and fact common to the Class. A Class action would
16 achieve substantial economies of time, effort and expense, and would assure uniformity of decision
17 as to persons similarly situated without sacrificing procedural fairness.

18 146. As a direct and legal result of the wrongful conduct and/or omissions of
19 **SAMSUNG**, and each of them, **PLAINTIFF** has been harmed.

20 **VI. CAUSES OF ACTION**

21 **FIRST CAUSE OF ACTION**
22 **FRAUDULENT CONCEALMENT/NON-DISCLOSURE**
23 **CAL. CIV. CODE §§ 1709 AND 1710(3)**
(PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)

24 147. **PLAINTIFF** and the Class hereby realleges and incorporates by reference each and
25 every allegation set forth above, as if fully set forth in detail herein.

26 148. **SAMSUNG**, through its advertising and marketing of the Subject Phones,
27 concealed, and failed to disclose, material information regarding the fact that the Subject Phones
28

1 were defectively designed and prone to overheating, catching fire, and explosion despite knowing
2 that such specific and material information to **PLAINTIFF** and the Class.

3 149. **SAMSUNG** sought to fraudulently depict the Subject Phones as safe. But these
4 depictions failed to paint a true portrayal of the Subject Phones as **SAMSUNG** concealed, and
5 failed to disclose, material information regarding the fact that the Subject Phones were defectively
6 designed and prone to overheating, catching fire, and explosion, despite sole and exclusive
7 knowledge.

8 150. At no time, did **SAMSUNG** disclose to **PLAINTIFF** and the Class that the Subject
9 Phones were defectively designed and prone to overheating, catching fire, and explosion. Indeed,
10 despite direct knowledge to the contrary, **SAMSUNG** continually failed to disclose to consumers
11 that the Subject Phones were defectively designed and prone to overheating, catching fire, and
12 explosion.

13 151. **PLAINTIFF** and the Class interpreted **SAMSUNG** failure to disclose and
14 omissions as a representation that the Subject Phones did not pose the threat of danger by and
15 through, among others, overheating, fire, and/or explosion.

16 152. As a direct result of **SAMSUNG**'S failure to disclose that the Subject Phones were
17 defectively designed and prone to overheating, catching fire, and explosion, **PLAINTIFF**
18 purchased or otherwise paid money for the Subject Phones which they otherwise would not have
19 done had **SAMSUNG** disclosed the fact that the Subject Phones were defectively designed and
20 prone to overheating, catching fire, and explosion.

21 153. At all times mentioned herein, **SAMSUNG** was, and remain, in a superior position
22 to know the truth about the Subject Phones and their propensity to overheat, catch fire, and
23 explode.

24 154. The facts concealed by **SAMSUNG** are material facts because any reasonable
25 consumer would have considered the fact that the Subject Phones' propensity to overheat, catch
26 fire, and explode to be important in deciding whether to purchase the Subject Phones as opposed to
27 another, but less expensive, smartphone.
28

1 161. **SAMSUNG'S** business practices, including the manufacture and sale of phones with
2 a risk of overheating, explosion and fire that **SAMSUNG** has failed to adequately investigate,
3 disclose and remedy, offend established public policy and cause harm to consumers that greatly
4 outweighs any benefits associated with those practices, violating the unfair prong of the UCL.

5 162. **SAMSUNG'S** omissions regarding risks associated with the Subject Phones were
6 likely to deceive a reasonable person, violating the fraudulent prong of the UCL.

7 163. **SAMSUNG'S** violations of the CLRA and FAL alleged herein violate the unlawful
8 prong of the UCL.

9 164. **PLAINTIFF** and the Class are entitled to full restitution and/or disgorgement of
10 **SAMSUNG'S** revenues and profits resulting from the sale of the Subject Phones, and any other
11 relief provided for under the UCL.

12 WHEREFORE, Plaintiff and the Class pray for relief as set forth below.

13
14 **THIRD CAUSE OF ACTION**
15 **VIOLATIONS OF CALIFORNIA'S FALSE ADVERTISING LAW**
16 **CAL. BUS. & PROF. CODE §§ 17500 *ET SEQ.***
17 **(PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

18 165. **PLAINTIFF** hereby realleges and incorporates by reference each and every
19 allegation set forth above, as if fully set forth in detail herein.

20 166. **SAMSUNG**, acting with intent to induce consumers to purchase the Subject
21 Phones, in violation of Cal. Bus. & Prof. Code Section 17500, made or disseminated or caused to
22 be made or disseminated the misleading statements alleged herein based upon their concealment of
23 the risk of overheating, fire and explosion associated with the Subject Phones.

24 167. The facts omitted by **SAMSUNG** were misleading to consumers, and the truth was
25 and is known to **SAMSUNG**, or by the exercise of reasonable care should have been known to
26 **SAMSUNG**.

27 168. **PLAINTIFF** and the Class relied upon **SAMSUNG** advertising in their decisions
28 to purchase the Subject Phones.

1 169. As a direct and legal result of the wrongful conduct and/or omissions of
2 **SAMSUNG**, and each of them, **PLAINTIFF** have been harmed.

3 WHEREFORE, **PLAINTIFF** and the Class pray for relief as set forth below.

4 **FOURTH CAUSE OF ACTION**
5 **VIOLATIONS OF THE CONSUMER LEGAL REMEDIES ACT**
6 **CAL. CIV. CODE §§ 1750 ET SEQ.**
7 **(PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

8 170. **PLAINTIFF** hereby realleges and incorporates by reference each and every
9 allegation set forth above, as if fully set forth in detail herein.

10 171. California Civil Code section 1770(a) provides that it is unlawful to use unfair
11 methods of competition and unfair or deceptive acts or practices in a transaction intended to result
12 or which results in the sale or lease of goods or services to any consumer. California Civil Code
13 section 1770(a) is specifically violated by, among other things: "Representing that goods or
14 services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which
15 they do not have." Cal. Civ. Code § 1770(a)(5).

16 172. The acts and practices on the part of **SAMSUNG**, as alleged herein, constituted and
17 constitute unlawful methods of competition, unfair, or deceptive acts undertaken in a transaction
18 which resulted in the sale of goods to consumers including, but in no way limited to, **SAMSUNG**
19 failure to disclose that the Subject Phones were prone to overheating, catching fire, and explosion.

20 173. Plaintiff seeks an order awarding restitution or disgorgement of **SAMSUNG'S**
21 revenues and profits from the sale of the Subject Phones.

22 174. As a direct and proximate result of **SAMSUNG'S** violations of the CLRA as
23 alleged herein, **PLAINTIFF** and Class have been injured by, including but not limited to, the
24 following: (a) the infringement of their legal rights as a result of being subjected to the common
25 course of fraudulent conduct alleged herein; (b) being induced to purchase the Subject Phones,
26 which they would not have done had they been fully informed of **SAMSUNG'S** acts, omissions,
27 practices, and nondisclosures as alleged herein, in violation of, *inter alia*, the CLRA, the FAL, and
28 the UCL; (c) being induced to rely on **SAMSUNG'S** deceptive, fraudulent, and intentional
omissions to their detriment as a result of **SAMSUNG'S** conduct as alleged in this Class Action

1 Complaint, in violation of, *inter alia*, the CLRA, the FAL, and the UCL; and (d) unknowingly
2 being subjected to fraudulent concealment and deceit as a result of SAMSUNG'S conduct.
3 Accordingly, SAMSUNG engaged in acts of fraud, malice, or oppression and in conscious
4 disregard of the rights and well-being of Plaintiff and the Class.

5 175. As a direct and proximate result of SAMSUNG conduct in violation of the CLRA,
6 PLAINTIFF and the Class have been harmed.

7 WHEREFORE, PLAINTIFF and the Class pray for relief as set forth below.

8 **FIFTH CAUSE OF ACTION**
9 **UNJUST ENRICHMENT**
10 **(PLAINTIFF AND THE CLASS AGAINST SAMSUNG)**

11 176. PLAINTIFF hereby re-alleges and incorporates by reference each and every
12 allegation set forth above, as if fully set forth in detail herein.

13 177. As a result of their wrongful and fraudulent acts and omissions, as set forth above,
14 pertaining to the Subject Phones, SAMSUNG charged a higher price for the Subject Phones than
15 the Subject Phones' true value and SAMSUNG obtained monies which rightfully belong to
16 PLAINTIFF and the Class.

17 178. SAMSUNG enjoyed the benefit of increased financial gains, to the detriment of
18 PLAINTIFF and the Class, who paid a higher price for Subject Phones which actually had lower
19 values. It would be inequitable and unjust for SAMSUNG to retain these wrongfully obtained
20 profits.

21 179. PLAINTIFF, therefore, seeks an order establishing SAMSUNG as constructive
22 trustee of the profits unjustly obtained, plus interest.

23 **VII. PRAYER FOR RELIEF**

24 WHEREFORE, PLAINTIFF pray that this Court enter judgment in their favor on every
25 claim for relief set forth above and award them relief including, but not limited to, the following:

- 26 1. An Order appointing PLAINTIFF to represent the Class pursuant to FRCP 23(a)
27 and designating PLAINTIFF's counsel as Class Counsel;
- 28 2. An order enjoining SAMSUNG from any future violations of the CLRA, FAL and
UCL;

- 1 3. An order enjoining **SAMSUNG** from selling the Subject Phones;
- 2 4. For economic losses, in an amount according to proof at trial;
- 3 5. For restitution for **PLAINTIFF** and the Class in an amount according to proof at
- 4 trial;
- 5 6. An award for **PLAINTIFF** for the costs of suit and reasonable attorneys' fees as
- 6 provided by law;
- 7 7. For interest upon any judgment entered as provided by law; and,
- 8 8. For such other and further relief as the Court may deem just and proper.

9 Dated: January 23, 2017

DEREK G. HOWARD LAW FIRM, INC.

By: /s/ Derek G. Howard
Derek G. Howard

13 JURY DEMAND

14 Plaintiff demands trial by jury on all issues so triable.

16 Dated: January 23, 2017

DEREK G. HOWARD LAW FIRM, INC.

By: /s/ Derek G. Howard
Derek G. Howard

JENKINS MULLIGAN & GABRIEL LLP

By: /s/ Daniel J. Mulligan
Daniel J. Mulligan

JS-CAND 44 (Rev. 07/16)

CIVIL COVER SHEET

The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
 LIZETT ANGUIANO, an individual; on behalf of herself and all other similarly situated persons,
(b) County of Residence of First Listed Plaintiff San Diego, California
 (EXCEPT IN U.S. PLAINTIFF CASES)
(c) Attorneys (Firm Name, Address, and Telephone Number)
 DEREK G. HOWARD LAW FIRM, INC.
 42 Miller Avenue, Mill Valley, CA 94941

DEFENDANTS
 SAMSUNG ELECTRONICS AMERICA, INC., a New York Corporation; and SAMSUNG ELECTRONICS CO., LTD., a Foreign Corporation
County of Residence of First Listed Defendant Bergen County, New Jersey
 (IN U.S. PLAINTIFF CASES ONLY)
 NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
 Attorneys (If Known)

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

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

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"/>	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6

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

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 of Veteran's Benefits <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	<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 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark 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 <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):
 28 USC 1332
 Brief description of cause:
 CONCEALMENT, VIOLATION OF CALIFORNIA LAW

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ TBD CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions): JUDGE Beth L. Freeman DOCKET NUMBER 5:16-cv-06391-BLF

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)
 (Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE: 01/23/17 SIGNATURE OF ATTORNEY OF RECORD: /s/ Derek G. Howard

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims Samsung Put Consumers at Risk with Note7 Response](#)
