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16
17 **UNITED STATES DISTRICT COURT**
18 **EASTERN DISTRICT OF CALIFORNIA**
19

20
21 LINDA L. RAABE, on Behalf of Herself
22 and All Others Similarly Situated,
23
24 Plaintiff,
25
26 vs.
27
28 SAMSUNG ELECTRONICS AMERICA,
INC., SAMSUNG ELECTRONICS CO.,
LTD, THE HOME DEPOT, INC., LOWE'S
HOME CENTERS, LLC., BEST BUY CO.,
INC., SEARS HOLDING CORPORATION,
Defendants.

) Case No.:
)
) **CLASS ACTION COMPLAINT FOR:**
)
) **1) Breach of Implied Warranty**
) **2) Strict Liability**
) **3) Negligence**
) **4) Breach of Express Warranty**
) **5) Magnuson-Moss Violation**
) **(Written Warranty)**
) **6) Magnuson-Moss Violation**
) **(Express Warranty)**
) **7) Unjust Enrichment**
) **8) State Consumer Protection Acts**
) **9) Fraud**
) **DEMAND FOR JURY TRIAL**
)

1 **CLASS ACTION COMPLAINT**

2 Plaintiff Linda L. Raabe (“Plaintiff” or “Raabe”), by her attorneys, on behalf of herself and
3 the Class set forth below, alleges the following upon information and belief, except for those certain
4 allegations that pertain to Plaintiff, which are based on Plaintiff’s personal knowledge.

5 **NATURE OF THE ACTION**

6 1. This action relates to the marketing and selling of certain defective Samsung home
7 washing machines that have latent and inherent defects and Samsung’s failed recall of these same
8 washing machines. These washing machines “explode,” or suffer catastrophic failure during a given
9 machine’s normal usage because of a design defect and/or manufacturing flaw.

10 2. On January 30, 2013, Raabe purchased a Recalled Washing Machine (model number
11 WA400PJHDWR/AA) from a Best Buy store in Citrus Heights, California

12 3. On November 4, 2016, Samsung began a recall (Recall # 17-028) of 34 distinct
13 models (the “Recalled Washing Machine(s)”), all being models of Samsung top-load washing
14 machines, including the model purchased by Plaintiff as described above. The stated reason for the
15 recall is that “[t]he [Samsung] washing machine top can unexpectedly detach from the washing
16 machine chassis during use, posing a risk of injury from impact.” The recall bulletin further notes
17 that “Samsung has received 733 reports of washing machines experiencing excessive vibration or
18 the top detaching from the washing machine chassis. There are nine related reports of injuries,
19 including a broken jaw, injured shoulder, and other impact or fall-related injuries.” See,
20 <http://www.cpsc.gov/recalls/2017/samsung-recalls-top-loading-washing-machines>.

21 4. According to the Consumer Product Safety Commission (the “CPSC”), the remedies
22 provided in Samsung’s recall bulletin allow consumers the option of any one of the following: (1)
23 an in-home repair or retrofit that includes reinforcement of the washer’s top and a free one-year
24 extension of the manufacturer’s warranty; (2) a rebate to be applied towards the purchase of a new
25 Samsung or other brand of washing machine, along with free installation of the new unit and
26 removal of the old unit; or (3) a full refund for consumers who purchased their washing machine
27 within the past thirty days of the recall announcement. See, *id.*

28

1 5. None of the options were available to Plaintiff because: (1) the retrofit that Samsung
2 proposes does not actually fix the machine so that Plaintiff can use it as intended at sale; (2) the
3 rebate is a fraction of the cost of replacement; and (3) Plaintiff purchased her machines before the
4 recall.

5 6. Plaintiff brings this action on behalf of herself and other purchasers of the Recalled
6 Washing Machines in the United States, its possessions, or territories from March 2011 to
7 November 2016. Plaintiff seeks relief in the form of: (1) an injunction against Defendants from any
8 further sales of the Recalled Washing Machines and to take such other remedial action as may
9 otherwise be requested herein; and (2) money damages to adequately and reasonably compensate
10 owners of the Recalled Washing Machines who have, through no fault of their own, purchased
11 defective and dangerous Samsung washing machines.

12 **PARTIES**

13 7. Plaintiff Raabe is a citizen of the State of California and is a resident of this District
14 in Citrus Heights.

15 8. Defendant Samsung Electronics Co., Ltd. Is a South Korean corporation
16 headquartered in Seoul, South Korea. On information and belief, Samsung Electronics Co., Ltd.
17 designs and manufactures the Recalled Washing Machines that have been sold to Plaintiff and other
18 consumers in this District. At all times relevant hereto, Samsung Electronics Co., Ltd. was in the
19 business of distributing, marketing, promoting, and selling the recalled Washing Machines
20 described herein throughout the United States and in this District. Thus, Samsung Electronics, Co.,
21 Ltd. purposely directed its conduct towards this District and at all times relevant engaged in a
22 continuous course of business in this District by selling thousands of its washing machines and
23 other consumer goods in this District every year.

24 9. Defendant Samsung Electronics America, Inc. is a New York corporation with
25 headquarters in Ridgefield Park, New Jersey and is a wholly-owned subsidiary of Samsung
26 Electronics, Co., Ltd. Samsung Electronics America, Inc. is the warrantor of the products designed,
27 manufactured, and distributed by Samsung Electronics Co., Ltd., and acts as Samsung Electronics
28 Co., Ltd.'s agent in the processing of warranty claims related to defects in the manufacturing or

1 materials used by Samsung Electronics Co., Ltd. during the manufacturing process. At all times
2 relevant hereto, Samsung Electronics America, Inc. was in the business of distributing, marketing,
3 promoting, and selling the Recalled Washing Machines described herein throughout the United
4 States and in this District. Samsung Electronics America, Inc. engages in a continuous course of
5 business in this District and based upon information and belief sells thousands of washing machines
6 and other consumer goods in this District on an annual basis. Defendants Samsung Electronics Co.,
7 Ltd. and Samsung Electronics America, Inc. are referred to collectively herein as “Samsung.”

8 10. Home Depot, Inc. (“Home Depot”) is a Delaware corporation with its headquarters
9 in Atlanta, Georgia. At all times relevant hereto, Home Depot was in the business of distributing,
10 marketing, promoting, and selling the Recalled Washing Machines described herein throughout the
11 United States and in this District. Home Depot engages in a continuous course of business in this
12 District and, based upon information and belief, sells thousands of washing machines and other
13 consumer goods in this District on an annual basis.

14 11. Lowe’s Home Centers, LLC, is a North Carolina limited liability corporation with its
15 headquarters in Wilkesboro, North Carolina. Upon information and belief, Lowe’s Home Centers,
16 LLC’s managers are Lowe’s Companies, Inc., Ricky Damron, Robert Hull, Ross McCanless,
17 Robert Niblock, and Jennifer Weber. Upon information and belief, all of the managers of Lowe’s
18 Home Centers, LLC, aside from Lowe’s Companies, Inc., are officers of Lowe’s Companies, Inc.
19 Upon information and belief, all managers of Lowe’s Home Centers, LLC are citizens of the state
20 of North Carolina. At all times relevant hereto, Lowe’s was in the business of distributing,
21 marketing, promoting, and selling the Recalled Washing Machines described herein throughout the
22 United States and in this District. Lowe’s engages in a continuous course of business in this
23 District and, based upon information and belief, sells thousands of washing machines and other
24 consumer goods in this District on an annual basis.

25 12. Best Buy Co., Inc. (“Best Buy”), is a Minnesota corporation with its headquarters in
26 Richfield, Minnesota. At all times relevant hereto, Best Buy was in the business of distributing,
27 marketing, promoting, and selling the Recalled Washing Machines described herein throughout the
28 United States and in this District. Best Buy engages in a continuous course of business in this

1 District and, based upon information and belief sells thousands of washing machines and other
2 consumer goods in this District on an annual basis.

3 13. Sears Holding Corp. (“Sears”) is a Delaware corporation with its headquarters in
4 Hoffman Estates, Illinois. At all times relevant hereto, Sears was in the business of distributing,
5 marketing, promoting, and selling the Recalled Washing Machines described herein throughout the
6 United States and in this District. Sears engages in a continuous course of business in, this District
7 and, based upon information and belief sells thousands of washing machines and other consumer
8 goods in this District on an annual basis.

9 14. Samsung, Home Depot, Lowe’s, Best Buy and Sears are referred to collectively
10 herein as “Defendants.”

11 **JURISDICTION AND VENUE**

12 15. This Court has original jurisdiction over this Class action pursuant to 28 U.S.C. §
13 1332(d)(2). The claims of the Class members are in excess of \$5,000,000 in aggregate, exclusive of
14 interest and costs, and at least one member of the Class is a citizen of a state different from at least
15 one of the Defendants. For example, Plaintiff is a California Citizen and none of the Defendants are
16 citizens of the state of California.

17 16. This Court has jurisdiction over Defendants because they transact business in this
18 state, have purposely availed themselves of the laws of this state, and because a substantial part of
19 the events giving rise to Plaintiff’s causes of action occurred in this state. In addition, Plaintiff
20 resides in this District. Therefore venue is appropriate pursuant to 28 U.S.C. § 1391.

21 **FACTUAL ALLEGATIONS**

22 17. On January 30, 2013, Raabe purchased a Recalled Washing Machine (model number
23 WA400PJHDWR/AA) from a Best Buy store in Citrus Heights, California. Raabe’s Recalled
24 Washing Machine performed as she expected when purchased.

25 18. On May 13, 2013, Raabe contacted Samsung when her Recalled Washing Machine
26 failed to properly clean her bedding. When Raabe complained that her sheets were coming out of
27 the washer with streaks of soapy residue, a Samsung Customer Service representative asked her if
28 she had used the bedding cycle to clean her sheets. When Raabe stated that she had use the normal

1 cycle, as she had done with her previous washing machine, she was told that the new style machine
2 functions differently and that she needed to use a “stronger cycle” for bedding. The Samsung
3 Customer Service representative told Plaintiff that she should only use the “bedding” cycle for her
4 sheets.

5 19. On November 4, 2016, Samsung announced a “recall involve[ing] 34 models of
6 Samsung top-load washing machines. The Recalled Washing Machines have mid-controls or rear-
7 controls. “The model numbers and serial information can be found on two labels affixed to the back
8 of the machine.” <https://www.cpsc.gov/recalls/2017/samsung-recalls-top-load-washing-machines>.
9 The stated reason for the recall is that “[t]he [Samsung] washing machine top can unexpectedly
10 detach from the washing machine chassis during use, posing a risk of injury from impact.” The
11 recall bulletin further notes that “Samsung has received 733 reports of washing machines
12 experiencing excessive vibration or the top detaching from the washing machine chassis. There are
13 nine related reports of injuries, including a broken jaw, injured shoulder, and other impact or fall-
14 related injuries.” *See, id.*

15 20. Raabe purchased her Recalled Washing Machine new and it appeared to be in
16 excellent condition without any perceivable damage or defect. Moreover, Raabe has used her
17 Recalled Washing Machine solely for its intended purpose as a personal home appliance until
18 November 4, 2016, when Samsung announced the recall.

19 21. According to the CPSC, Samsung’s recall allows owners of Recalled Washing
20 Machines the option of any one of the following: (1) an in-home repair that includes reinforcement
21 of the washer’s top and a free one-year extension of the manufacturer’s warranty; (2) a rebate to be
22 applied towards the purchase of a new Samsung or other brand washing machine, along with free
23 installation of the new unit and removal of old unit; or (3) a full refund for consumers who
24 purchased their washing machine within the past 30 days of the recall announcement.

25 22. In Raabe’s circumstance, the full refund option was unavailable because she had
26 purchased the Recalled Washing Machine outside of the thirty (30) day period.

27 23. The rebate option was also a poor option because it provided a fraction of the cost to
28 purchase a new machine to replace the Recalled Washing Machine. Plaintiff was offered \$236.00 in

1 rebates if she purchased a new Samsung washing machine or \$136.00 if she purchased a non-
2 Samsung washing machine to replace her Recalled Washing Machine, which originally cost
3 \$629.00.

4 24. The repair option was not viable as well, as described below.

5 25. On or about November 11, 2016, a repair technician visited Plaintiff's home to
6 "repair" the machine under the terms of the Recall. The repair technician informed Plaintiff that
7 there was a problem with a certain part heating up during the bedding spin cycle, which caused
8 excessive vibration in the machine that, in worst case scenarios, could cause the top of her machine
9 to fly off. The "repair" performed on Plaintiff's Recalled Washing Machine did not thing to address
10 this defect.

11 26. Plaintiff also receive a "Home Label Kit" from Samsung, which contained new
12 settings and warning stickers to be placed on Plaintiff's Recalled Washing Machine. The new labels
13 provided to Plaintiff did not repair the issues with her machine. The new settings labels simply
14 change the names of the washing cycles. For example, the "delicate" cycle on Raabe's Recalled
15 Washing Machine is now labeled as "Bedding/Delicates," in spite of Samsung's explicit instruction
16 to Plaintiff in 2013 that bedding required a stronger cycle for proper cleaning.

17 27. The repair option does not, in fact, repair the excessive vibration issues with the
18 Recalled Washing Machines. To reduce costs, Samsung has contracted with local entities to
19 reinforce or replace the lid of the Recalled Washing Machines with a retrofit. Additionally, instead
20 of using appliance repair companies to institute the retrofit, Samsung has hired local subcontractors
21 who are more in the line of handymen. For example, in many areas, Samsung is using Dish
22 Network subcontractors, whose job primarily consists of installing television satellite dishes on
23 residences, to install the new washing machine lids. In essence, Samsung does not use individuals
24 qualified to repair or evaluate the safety of the Recalled Washing Machines. The repairmen simply
25 come to your house and snap on a new lid. Several they have claimed the process takes less than
26 fifteen (15) minutes.

27 28. In addition, it is difficult, if not impossible, to get Samsung to provide the repair
28 option. When consumers request that Samsung repair their machine, it often takes weeks or months

1 for a repair person to come and make the retrofit, and at times Samsung has refused to provide the
2 repair at all, claiming that there is nobody in a consumer's area that can make the repair. As a result,
3 regardless of the option consumers choose they, like Plaintiff, are left with a Recalled Washing
4 Machine that is unfit for use.

5 29. The repair or retrofit offered by the recall does not fix the Recalled Washing
6 Machines. The retrofit merely reinforces or replaces the lid of the Recalled Washing Machine, but
7 consumers are then advised that they cannot use the Recalled Washing Machine for many of its
8 intended purposes, such as using the high cycles needed to wash bedding, towels and heavy
9 garments. In essence, the retrofit may barely do enough to keep the Recalled Washing Machines
10 from exploding (although that remains to be seen) but the repairs do not make the Recalled
11 Washing Machines fit for the purposes they were marketed and sold to accomplish.

12 30. As a result, under the terms of Samsung's agreement with the CPSC, Samsung is
13 required to fully refund or replace the washing machine. See,
14 [http://www.click2houston.com/consumer/feds-say-samsung-not-following-consumer-product-](http://www.click2houston.com/consumer/feds-say-samsung-not-following-consumer-product-safety-commission-agreement)
15 [safety-commission-agreement](http://www.click2houston.com/consumer/feds-say-samsung-not-following-consumer-product-safety-commission-agreement). For this reason, and upon information and belief, Samsung is
16 deliberately making it as difficult as possible for individuals to have their Recalled Washing
17 Machines repaired because it exposes Samsung to having to offer a comparable replacement once
18 consumers discover that the repair is ineffective.

19 31. Likewise, the rebates that Samsung offers to consumers are often a fraction of the
20 cost that consumers actually paid for their washing machines, and after multiple frustrating
21 interactions with Samsung, it becomes apparent that it is difficult, if not impossible, to get Samsung
22 to provide Plaintiff and consumers with relief that would allow them to use their washing machines
23 as they were marketed.

24 **THE RECALLED WASHING MACHINES**

25 32. The Recalled Washing Machines at issue in this action all have high-speed "direct-
26 drive" mechanisms that spin the washer tub at speeds of approximately 1100 revolutions per
27 minute. The framing and dampening system of the Recalled Washing Machines is inadequate to
28 withstand the force generated by each such machine's direct drive system.

1 33. The models of Samsung’s Recalled Washing Machines include the following:

- 2 WA40J3000AW/A2 WA45H7000AP/A2 WA45H7000AW/A2
3 WA45H7200AW/A2 WA45K7600AW/A2 WA45K7100AW/A2
4 WA48H7400AW/A2 WA48J7700AW/A2 WA48J7770AP/A2
5 WA48J7770AW/A2 WA50K8600AV/A2 WA50K8600AW/A2
6 WA52J8700AP/A2 WA52J8700AW/A2 WA400PJHDWR/AA
7 WA422PRHDWR/AAWA456DRHDSU/AAWA456DRHDWR/AA
8 WA476DSHASU/A1 WA476DSHAWR/A1WA484DSHASU/A1
9 WA484DSHAWR/A1 WA48H7400AP/A2 WA50F9A6DSW/A2
10 WA50F9A7DSP/A2 WA50F9A7DSW/A2 WA50F9A8DSP/A2
11 WA50F9A8DSW/A2 WA52J8060AW/A2 WA5451ANW/XAA
12 WA5471ABP/XAA WA5471ABW/XAA WA56H9000AP/A2
13 WA56H9000AW/A2

14 34. The Recalled Washing Machines range in price from approximately \$550.00 to
15 \$1500.00 and come with an express one-year manufacturer’s warranty.

16 35. As explained above, this case involves Recalled Washing Machines that, in many
17 instances, “explode.” When the Recalled Washing Machines explode, they do so with such force
18 that the machines are irreparably damaged. Indeed, the force of the explosion is capable of
19 seriously injuring people and damaging property, which Samsung has been aware of, rendering the
20 Recalled Washing Machines unsafe for ordinary use.

21 36. Because of the inherent safety risk, the recall now includes a “Home Label Kit” or
22 stickers that state that “consumers should only use the delicate or waterproof cycles when washing
23 bedding, water-resistant and bulky items. The lower spin speed in the delicate or waterproof cycles
24 lessens the risk of the washing machine top unexpectedly detaching from the washing machine
25 chassis.” See, <https://www.cpsc.gov/recalls/2017/samsung-recalls-top-load-washing-machines>.
26 However, even on the lower spin speeds, the Recalled Washing Machines are still dangerous and
27 may experience excessive vibration.

28 37. Even if a consumer is able to have Samsung “repair” their defective washing
machine, they are still unable to use it for its intended purpose. After the repair is completed,
Samsung advises consumers not to use the washing machines on heavy settings that would typically
be used to wash bedding or heavier garments. In essence, Samsung has left consumers with the
choice of using a defective product for the life of the product (regardless of whether the recall’s

1 reinforcement measures are applied or not), accepting a rebate that is often well below the amount it
2 costs to actually replace a defective machine, or simply doing without.

3 38. The defects in the Recalled Washing Machines are latent defects respecting the
4 design of the machines and/or the manufacturing process related to the Recalled Washing Machines
5 and such defects would not reasonably be discoverable by consumers when purchasing any of the
6 Recalled Washing Machines. These latent defects relate principally to the Recalled Washing
7 Machines having structural and design defects in their framing and dampening systems which can
8 cause the tubs to loosen and become projectiles over time. Such defects in the Recalled Washing
9 Machines manifest only after the point of sale and such manifestation often occurs outside of
10 Samsung's express warranty period of one year.

11 39. In selling the Recalled Washing Machines, Samsung provided a uniform, express
12 one-year factory warranty against manufacturing defects in materials and workmanship. This
13 express warranty further protects against defects in the tub for three years, as well as defects in the
14 direct drive system for 10 years. The warranty for the Recalled Washing Machines is offered on a
15 take-it-or-leave-it basis, and consumers are not afforded an opportunity to negotiate for more
16 favorable terms in the warranty because of the parties' relative bargaining power. In addition to the
17 express warranty described above, Samsung marketed, advertised, and warranted that the Recalled
18 Washing Machines were of merchantable quality and fit for their intended purpose. Samsung
19 further marketed, advertised, and warranted that the Recalled Washing Machines were free from
20 defects and the Recalled Washing Machines did not pose an unreasonable risk to persons or
21 property.

22 40. Samsung knew that the Recalled Washing Machines were prone to these defects and,
23 therefore, that the Recalled Washing Machines were inherently defective, unmerchantable and unfit
24 for their intended use. Beginning as early as 2011, Samsung received high numbers of consumer
25 complaints related to the Recalled Washing Machines for problems with their spin cycles, high
26 vibrations, breaking springs, and even explosions related to the Recalled Washing Machines' spin
27 cycles. Moreover, Samsung has known that the exploding Washing Machines cause actual physical
28 injury to consumers since no later than approximately October 24, 2013, when a woman in

1 California was physically injured by a Samsung Washing Machine explosion. This incident lead
2 Samsung to inspect her washing machine on November 22, 2013.

3 **CLASS ALLEGATIONS**

4 41. Raabe brings this suit as a class action on behalf of herself and on behalf of others
5 similarly situated pursuant to Federal Rule of Civil Procedure 23(a), 23(b)(2), and/or 23(b)(3) (the
6 “Class”). The proposed Class consists of:

7 All residents of the United States and its territories or possessions who purchased a new
8 Recalled Washing Machine or otherwise acquired a Recalled Washing Machine from March
9 2011 to November 2016, primarily for household use and not for resale.

10 42. Raabe also bring this suit as a class action on behalf of the following subclass
11 (“California Subclass”):

12 All residents of the State of California who purchased a new Recalled Washing Machine or
13 otherwise acquired a Recalled Washing Machine from March 2011 to November 2016,
14 primarily for household use and not for resale.

15 43. Unless otherwise indicated, the Class and the California Subclass are referred to
16 herein jointly as the “Class.”

17 44. The members of the Class are so numerous that joinder is impracticable. Samsung is
18 one of the largest manufacturers of residential washing machines in the world and it sells many
19 thousands of residential washing machines annually in the United States and in the State of
20 California through retailers such as Lowe’s, The Home Depot, Best Buy and Sears.

21 45. Raabe’s claims are typical of the claims of the entire Class because Raabe purchased
22 a new Recalled Washing Machine, which Raabe purchased in January 2013 from a Best Buy store
23 in Citrus Heights, California.

24 46. Raabe will fairly and adequately represent and protect the interests of the other Class
25 members for purposes of Federal Rule of Civil Procedure 23(a)(4). Raabe has no interests
26 antagonistic to those of other Class members. Raabe is committed to the vigorous prosecution of
27 this action and has retained counsel experienced in litigation of this nature to represent them.

28

1 47. Class certification is appropriate under Federal Rule of Civil Procedure 23(b)(3)
2 because common questions of law and fact exist as to all members of the Class and predominate
3 over any questions affecting only individual members of the Class, including, but not limited to:

- 4 a. whether the Recalled Washing Machines pose unreasonable safety risks to
5 consumers;
- 6 b. whether Defendants knew, or should have known, that the products it sold into the
7 stream of commerce pose unreasonable safety risks to consumers;
- 8 c. whether Defendants concealed the safety risks the Recalled Washing Machines pose
9 to consumers;
- 10 d. whether the safety risks the Recalled Washing Machines pose to consumers
11 constitute material facts that reasonable purchasers would have considered in
12 deciding whether to purchase a washing machine;
- 13 e. whether the Recalled Washing Machines possess material defects;
- 14 f. whether Defendants knew or should have known of the inherent defects in the
15 Recalled Washing Machines when it placed them into the stream of commerce;
- 16 g. whether Defendants concealed the defects from consumers;
- 17 h. whether the existence of the defects are material facts reasonable purchasers would
18 have considered in deciding whether to purchase a washing machine;
- 19 i. whether the Recalled Washing Machines are merchantable;
- 20 j. whether the Recalled Washing Machines are fit for their intended use;
- 21 k. whether Defendants were unjustly enriched by the sale of defective Recalled
22 Washing Machines to the Plaintiff class;
- 23 l. whether any false warranties, misrepresentations, and material omissions by
24 Samsung concerning its defective Recalled Washing Machines caused Class
25 Members' injuries; and
- 26 m. whether Defendants should be enjoined from further sales of the Recalled Washing
27 Machines.

28 48. Class certification under Federal Rule of Civil Procedure 23(b)(3) is superior to other
available methods for the fair and efficient adjudication of this controversy. Since the damages
suffered by individual Class members may be relatively small, the expense and burden of individual

1 litigation make it virtually impossible for the Class members to seek redress for the wrongful
2 conduct alleged. Raabe knows of no difficulty which will be encountered in the management of this
3 litigation which would preclude its maintenance as a class action.

4 49. Class members have suffered and will suffer irreparable harm and damages as a
5 result of Defendants' wrongful conduct.

6 **FIRST CAUSE OF ACTION**

7 **(Breach of Implied Warranty of Merchantability Against All Defendants)**

8 50. Raabe re-alleges and incorporates the preceding paragraphs as if fully set forth
9 herein.

10 51. The Recalled Washing Machines owned by Raabe and Class Members were
11 defectively designed and manufactured and pose serious and immediate safety risks to consumers
12 and the public.

13 52. These defects were present in such machines at the point of sale of the Recalled
14 Washing Machines.

15 53. Such defects place consumers and the public at serious risk for their own safety
16 when the Recalled Washing Machines are used in consumers' homes.

17 54. At all times relevant hereto, Samsung, Lowe's, The Home Depot, Best Buy, and
18 Sears were under a duty imposed by law requiring that a manufacturer's and merchant's product be
19 reasonably fit for the ordinary purposes for which the product is used, and that the product be
20 acceptable in trade for the product description. This implied warranty of merchantability is part of
21 the basis for the bargain between Samsung, Lowe's, The Home Depot, Best Buy and Sears, on the
22 one hand, and Raabe and Class Members, on the other.

23 55. Notwithstanding the aforementioned duty, at the time of delivery, Defendants
24 breached the implied warranty of merchantability in that the Recalled Washing Machines were
25 defective and posed a serious safety risk at the time of sale, would not pass without objection, are
26 not fit for the ordinary purposes for which such goods are used (safely washing clothes in a
27 residential setting), and failed to conform to the standard performance of like products used in the
28 trade.

1 56. Defendants knew or should have known that the Recalled Washing Machines pose a
2 safety risk and are defective and knew or should have known that selling the Recalled Washing
3 Machines to Raabe and Class Members constituted a breach of the implied warranty of
4 merchantability.

5 57. As a direct and proximate result of Defendants' breach of the implied warranty of
6 merchantability, Raabe and Class Members bought the Recalled Washing Machines without
7 knowledge of their defects or their serious safety risks.

8 58. As a direct and proximate result of Defendants' breach of the implied warranty of
9 merchantability, Raabe and Class Members purchased unsafe products which could not be used for
10 their intended purpose including washing bedding, water-resistant items, and bulky items in a
11 residential setting.

12 59. As a direct and proximate result of Defendants' breach of the implied warranty of
13 merchantability, Raabe and Class Members have suffered damages and did not receive the benefit
14 of their bargain.

15 60. Defendants were unjustly enriched by keeping the profits for the unsafe products
16 while never having to incur the cost of repair, replacement, retrofit, or a recall.

17 61. The defectively designed Recalled Washing Machines purchased by Raabe and all
18 other Class Members are unfit for their intended and ordinary purposes because they are prone to
19 break and even explode when operated as instructed and intended by Defendants.

20 62. As a direct and proximate result of Defendants' breach of the implied warranty of
21 merchantability, Raabe and all the Class Members have suffered loss.

22 **SECOND CAUSE OF ACTION**

23 **(Strict Liability Against Samsung)**

24 63. Raabe re-alleges and incorporates the preceding paragraphs as if fully set forth
25 herein.

26 64. Samsung is engaged in the business of designing, manufacturing, distributing,
27 advertising, marketing, promoting, and/or selling home appliances, and did design, manufacture,
28 distribute, advertise, market, promote and/or sell the Recalled Washing Machines at issue herein.

1 65. Samsung's Washing Machines were expected to and did reach Raabe and Class
2 Members without substantial change in the condition in which they were manufactured, sold and
3 distributed.

4 66. The Recalled Washing Machines were in a defective and unreasonably dangerous
5 condition when they left Samsung's possession or control in that, under normal conditions, usage
6 and applications, they could not withstand the use for which they were intended.

7 67. Raabe and Class Members used the subject Washing Machines in a manner
8 reasonably intended by Samsung.

9 68. The Recalled Washing Machines were defective because they were not safe for
10 ordinary and intended use; Samsung failed to provide Raabe and Class Members either directly or
11 indirectly, with adequate and sufficient warning regarding the known or foreseeable risks and
12 dangers inherent in the Recalled Washing Machines; the Recalled Washing Machines contained
13 material design, materials, and manufacturing defects and were not reasonably safe due to such
14 defects; the design, methods of manufacture, and testing of the Recalled Washing Machines did not
15 conform to generally recognized and prevailing standards or the state of the art in existence at the
16 time the design was made and the Recalled Washing Machines were manufactured; and at the time
17 the Recalled Washing Machines left Samsung's control, the foreseeable risks associated with the
18 Recalled Washing Machines' design exceeded the benefits associated with that design.

19 69. Raabe and Class Members have suffered property damage and other incidental and
20 consequential damages as a direct and proximate result of the defective condition.

21 70. Samsung acted with malice, oppression and/or fraud, and in conscious and flagrant
22 disregard of the safety of their consumers, by manufacturing and selling the Recalled Washing
23 Machines known to them to be defective and unreasonably dangerous. As alleged, Samsung knew
24 or should have known that the Defects would cause their washing machines to fail, flood, damage
25 the Recalled Washing Machine and other property, and threaten the personal safety of consumers.
26 Samsung knew or was repeatedly informed of the serious defects in the Recalled Washing
27 Machines, yet failed to take any remedial action and instead continued to sell this defective product.

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1 Given Samsung's conscious disregard for the safety of the public, Raabe and Class Members seek
2 exemplary or punitive damages.

3 **THIRD CAUSE OF ACTION**
4 **(Negligence Against All Defendants)**

5 71. Raabe re-alleges and incorporates the preceding paragraphs as if fully set forth
6 herein.

7 72. Samsung owed a duty to Plaintiff and Class members to design, manufacture,
8 produce, test, inspect, market, distribute, and sell the Recalled Washing Machines with reasonable
9 care and in a workmanlike fashion, and had a duty to protect Plaintiff and Class members from
10 foreseeable and unreasonable risks of harm. Samsung breached that duty by, among other things,
11 defectively designing, manufacturing, testing, inspecting and distributing the Recalled Washing
12 Machines.

13 73. Best Buy, Home Depot, Lowe's, and Sears (the "Retailers") owed a duty to Plaintiff
14 and Class members to inspect, market, distribute, and sell the Recalled Washing Machines with
15 reasonable care and in a workmanlike fashion, and had a duty to protect Plaintiff and Class
16 members from foreseeable and unreasonable risks of harm. The Retailers breached that duty by,
17 among other things, failing to use reasonable care in inspecting, distributing, and marketing the
18 Recalled Washing Machines.

19 74. Defendants unreasonably failed to provide appropriate and adequate warnings and
20 instructions about the defective Washing Machines, and this failure was a proximate cause of the
21 harm for which damages are sought. In addition, at the time the Recalled Washing Machines left
22 their control, Defendants knew, or in the exercise of reasonable care should have known, the
23 Recalled Washing Machines posed a substantial risk of harm to the life and property of its
24 customers. When the Recalled Washing Machines left their control, Defendants knew, or in the
25 exercise of reasonable care should have known, the Recalled Washing Machines it designed,
26 manufactured, produced, tested, and/or inspected, marketed, distributed, and/or sold, created an
27 unreasonable safety risk and would fail to perform as intended.

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1 75. Samsung acted unreasonably in designing the Recalled Washing Machines, and this
2 conduct was a proximate cause of the harm for which damages are sought. Further, at the time the
3 Recalled Washing Machines left the control of Samsung, it unreasonably failed to adopt a safer,
4 practical, feasible, and otherwise reasonable alternative design that could then have been reasonably
5 adopted and that would have prevented or substantially reduced the risk of harm without
6 substantially impairing the usefulness, practicality, or desirability of the Recalled Washing
7 Machines. Furthermore, at the time the Recalled Washing Machines left the control of all
8 Defendants, their design was so defective that a reasonable person, aware of the relevant facts,
9 would not use or purchase a Defective Washing Machine of this design.

10 76. Defendants knew, or in the exercise of reasonable care should have known, that the
11 Recalled Washing Machines created unreasonable safety risks. Defendants further knew, or in the
12 exercise of reasonable care should have known, that the Recalled Washing Machines could cause
13 property damage and personal injury.

14 77. Based on this knowledge, Defendants had a duty to disclose to Plaintiff and Class
15 members, the serious safety risks posed by the Recalled Washing Machines and the defective nature
16 of the Recalled Washing Machines.

17 78. Defendants had a further duty not to put the Recalled Washing Machines on the
18 market and has a continuing duty to replace the Recalled Washing Machines, remove them from the
19 market and seek an adequate recall or return of them from all consumers. Defendants have failed to
20 do this in any meaningful way, and in fact, upon information and belief, the Recalled Washing
21 Machines can still be purchased from The Retailers today.

22 79. Samsung failed to exercise reasonable care with respect to the design, manufacture,
23 production, testing, inspection, marketing, distribution and sale of the Recalled Washing Machines
24 by, among other things, failing to design and manufacture the Recalled Washing Machines in a
25 manner ensuring that, under normal intended usage, they would not pose unreasonable risk to life
26 and property.

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1 80. Defendants failed to exercise reasonable care in failing to warn, or to warn
2 adequately and sufficiently, either directly or indirectly, Plaintiff and Class members of the defects
3 in the Recalled Washing Machines.

4 81. Defendants failed to exercise reasonable care when it knew of the safety risks the
5 Recalled Washing Machines posed and actively concealed those risks from Plaintiff and Class
6 members.

7 82. Defendants failed to exercise reasonable care when it knew of the safety risks the
8 Recalled Washing Machines posed and failed to replace, repair or recall the Recalled Washing
9 Machines that it knew were unsafe and defective.

10 83. As a direct and proximate result of Defendants' negligence, Plaintiff and Class
11 members bought the Recalled Washing Machines without knowledge of their defective nature or of
12 their serious safety risks.

13 84. As a direct and proximate result of Defendants' negligence, Plaintiff and Class
14 members purchased unsafe products which could not be used for their intended use.

15 85. As a direct and proximate result of Defendants' negligence, Plaintiff and Class
16 members have suffered damages.

17 86. Plaintiff and Class members seek to recover the damage caused by Defendants.
18 Given Defendants' conscious disregard for the safety of Plaintiff and Class members, they also seek
19 an award of exemplary damages.

20 **FOURTH CAUSE OF ACTION**

21 **(Breach of Express Warranty Against Samsung)**

22 87. Raabe re-alleges and incorporates the preceding paragraphs as if fully set forth
23 herein.

24 88. Samsung is and was at all times relevant a merchant with respect to washing
25 machines.

26 89. As set forth above, Samsung had knowledge of the defects alleged herein and that
27 they pose serious safety risks to consumers like Raabe and Class Members.

28

1 90. Despite that knowledge, at all times relevant, Samsung expressly warranted in
2 writing that its Washing Machines were “warranted by SAMSUNG against manufacturing defects
3 in materials and workmanship.”

4 91. In its warranty to customers, Samsung also warrants in writing that it provides the
5 following warranties: one year parts and labor; two years control board parts; three years stainless
6 steel tub part; and ten years motor components.

7 92. The Recalled Washing Machines have inadequate framing and dampening systems
8 to withstand the extreme forces generated by the direct drive system that powers the machines’
9 drums, often allowing the Recalled Washing Machines to fail by having the tub become
10 disassembled from the frame during a machine’s “explosion.” Moreover, the unbalanced load
11 warning is defective in that it fails to stop the Recalled Washing Machines’ spin cycle before the
12 machines explode.

13 93. Alternatively, the limitations in Samsung’s warranty are unconscionable as described
14 herein.

15 94. By selling Recalled Washing Machines containing these defects to consumers like
16 Raabe and Class Members after it gained knowledge of the defects, Samsung breached its express
17 warranty to provide washing machines that were free from defects.

18 95. Samsung also breached its express warranty to repair and correct material defects or
19 component malfunctions in its Recalled Washing Machines when it failed to do so despite
20 knowledge of the known defects and despite knowledge of alternative designs, alternative materials,
21 and options for retrofits.

22 96. The limited warranty of repair for the Recalled Washing Machines fails in its
23 essential purpose because the contractual remedy is insufficient to make Raabe and Class Members
24 whole and because Samsung has refused to provide the promised remedies within a reasonable time.

25 97. Also, as alleged in more detail herein, at the time Samsung warranted and sold the
26 Recalled Washing Machines, it knew that the Recalled Washing Machines did not conform to the
27 warranties and were inherently defective, and Samsung wrongfully and fraudulently misrepresented
28 and concealed material facts regarding its Washing Machines.

1 98. Accordingly, Raabe and Class Members are not limited to the limited warranty of
2 “repair” and Raabe and Class Members seek all remedies allowed by law.

3 99. As more fully detailed above, Samsung knew that Raabe’s washing machine was
4 susceptible to malfunction but failed to provide defect-free washing machines to Raabe or Class
5 Members or to timely provide an adequate retrofit to remedy the Recalled Washing Machines.

6 100. As more fully detailed above, Samsung was provided with notice and has been on
7 notice of the defects and of its breach of express written warranties through its own internal and
8 external testing as well as hundreds or thousands of consumer warranty claims reporting
9 malfunctions in the Recalled Washing Machines, and customer complaints, yet it failed to repair,
10 replace, or retrofit the Recalled Washing Machines to ensure they were free of materials defects or
11 component malfunctions as Samsung promised.

12 101. As a direct and proximate result of Samsung’s breach of its express warranty,

13 102. Raabe and Class Members have suffered damages.

14 103. Samsung has been unjustly enriched by keeping the profits from the sale of its unsafe
15 washing machines while never having to incur the cost of repair.

16 **FIFTH CAUSE OF ACTION**

17 **(Violations of Magnuson-Moss Act**

18 **(15 U.S.C. §§ 2301-2312)–Written Warranty Against Samsung)**

19 104. Raabe hereby incorporates by reference the allegations contained in all preceding
20 paragraphs of this Complaint as though set forth fully herein.

21 105. The Recalled Washing Machines are “consumer products,” as that term is defined by
22 15 U.S.C. § 2301(1).

23 106. Raabe and Class Members are “consumers,” as that term is defined by 15 U.S.C. §
24 2301(3).

25 107. Samsung is a “warrantor” and “supplier,” as those terms are defined by 15 U.S.C. §
26 2301(4) and (5).

27 108. Samsung provided Raabe and Class members with “written warranties,” as that term
28 is defined by 15 U.S.C. § 2301(6).

1 109. In its capacity as warrantor, and by the conduct described herein, any attempts by
2 Samsung to limit the express warranties in a manner that would exclude coverage of the Recalled
3 Washing Machines is unconscionable and any such effort to disclaim, or otherwise limit, liability
4 for the Recalled Washing Machines is null and void.

5 110. All jurisdictional prerequisites have been satisfied.

6 111. By Samsung's conduct as described herein, including Samsung's knowledge of the
7 defective Washing Machines and their action, and inaction, in the face of that knowledge, Samsung
8 has failed to comply with its obligations under its written and implied promises, warranties, and
9 representations.

10 112. As a result of Samsung's breach of express warranties, Raabe and Class Members
11 are entitled to revoke their acceptance of the Recalled Washing Machines, obtain damages and
12 equitable relief, and obtain attorneys' fees and costs pursuant to 15 U.S.C. § 2310.

13 **SIXTH CAUSE OF ACTION**

14 **(Violations of Magnuson-Moss Act**

15 **(15 U.S.C. §§ 2301-2312)—Implied Warranty Against All Defendants)**

16 113. Raabe hereby incorporates by reference the allegations contained in all preceding
17 paragraphs of this Complaint as though set forth fully herein.

18 114. Washing Machines are "consumer products," as that term is defined by 15 U.S.C. §
19 2301(1).

20 115. Raabe and Class members are "consumers," as that term is defined by 15 U.S.C. §
21 2301(3).

22 116. Samsung is a "warrantor" and "supplier," as those terms are defined by 15 U.S.C. §
23 2301(4) and (5).

24 117. Lowe's, The Home Depot, Best Buy, and Sears are "warrantors" as that term is
25 defined by 15 U.S.C. § 2301(5).

26 118. Defendants provided Raabe and Class Members with "implied warranties," as that
27 term is defined by 15 U.S.C. § 2301(7).

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1 119. In their capacity as warrantors and by the conduct described herein, any attempt by
2 Defendants to limit the implied warranties in a manner that would exclude coverage of the Recalled
3 Washing Machines is unconscionable and any such effort to disclaim, or otherwise limit, liability
4 for the Recalled Washing Machines is void.

5 120. All jurisdictional prerequisites have been satisfied herein.

6 121. By Defendants' conduct as described herein, including Defendants' knowledge of
7 the defects contained within the Recalled Washing Machines and their action, and inaction, in the
8 face of that knowledge, Defendants have failed to comply with its obligations under their written
9 and implied promises, warranties, and representations.

10 122. As a result of Defendants' breach of implied warranties, Raabe and Class members
11 are entitled to revoke their acceptance of the Recalled Washing Machines, obtain damages and
12 equitable relief, and obtain attorneys' fees and costs pursuant to 15 U.S.C. § 2310.

13 **SEVENTH CAUSE OF ACTION**

14 **(Unjust Enrichment Against All Defendants)**

15 123. Raabe re-alleges and incorporates the preceding paragraphs as if fully set forth
16 herein.

17 124. Defendants received proceeds from their sale of the defective Recalled Washing
18 Machines, which were purchased by Raabe and Class Members for an amount far greater than the
19 reasonable value of such machines because of such machines' defective character.

20 125. In exchange for the purchase price paid by Raabe and Class Members, Defendants
21 provided the defective Recalled Washing Machines that are likely to fail within their useful lives
22 and pose a material risk of "exploding." There is no reasonable or acceptable rate for washing
23 machines to explode. Such defects render the Recalled Washing Machines unfit, and indeed, unsafe
24 for their intended use.

25 126. Raabe and Class Members reasonably believed that the Recalled Washing Machines
26 would function as advertised and warranted, and did not know, nor could have known, that the
27 Recalled Washing Machines contained latent defects at the time of purchase.

28

1 127. Defendants know of and appreciate the benefit conferred by Raabe and Class
2 Members and has retained that benefit notwithstanding its knowledge that the benefit is unjust.

3 128. Under the circumstances, permitting Defendants to retain the proceeds and profits
4 from the sales of the defective Washing Machines described herein would be unjust. Hence,
5 Defendants should be required to disgorge this unjust enrichment.

6 **EIGHTH CAUSE OF ACTION**

7 **(Violation of State Consumer Protection Laws Against All Defendants)**

8 129. Raabe re-alleges and incorporates the preceding paragraphs as if fully set forth
9 herein.

10 130. Defendants' deceptive trade practices in, *inter alia*, misrepresenting the quality and
11 character of the Recalled Washing Machines violate the following state consumer statutes:

- 12 a. The Alabama Deceptive Trade Practices Act, Ala. Code §§ 8-19-
13 5(2), (3), (5), (7), and (27), et seq.;
- 14 b. The Alaska Unfair Trade Practices and Consumer Protection Act,
15 Alaska Stat. §§ 45.50.471-45.50.561;
- 16 c. The Arizona Consumer Fraud Act, A.R.S. § 44-1522;
- 17 d. The Arkansas Deceptive Trade Practices Act, Ark. Code Ann. §§ 4-88-107(a)(1)(10)
18 and 4-88-108(1)(2), et seq.;
- 19 e. The California Consumer Legal Remedies Act, Cal. Civ. Code § 1750, et seq., and
20 the California Unfair Competition Law, Cal. Bus. and Prof. Code, § 17200, et seq.;
- 21 f. The Colorado Consumer Protection Act, Col. Rev. Stat. Ann. §§ 6-1-105(1)(b), (c),
22 (e) and (g), et seq.;
- 23 g. The Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. § 42-110(b), et seq.;
- 24 h. The Delaware Consumer Fraud Act, Del. Code Ann. Title 6 § 2513, et seq.;
- 25 i. The District of Columbia Consumer Protection Act, D.C. Code §§ 28-3904(a), (d),
26 (e), (f) and (r), et seq.;
- 27 j. The Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. Ann. § 501.204(1),
28 et seq.;
- k. The Georgia Fair Business Practices Act, Ga. Code Ann. §§ 10-1-393(a) and (b)(2),
(3), (5), and (7), et seq.;

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- l. The Hawaii Deceptive Trade Practices Act, Haw. Rev. Stat. Ann. §§ 481A-3(a)(5), (7) and (12), et seq., and the Hawaii Consumer Protection Act, Haw. Rev. Stat. Ann. § 480-2(a), et seq.;
- m. The Idaho Consumer Protection Act, Idaho Code §§ 48-603(5), (7), (17) and (18), et seq., and Idaho Code § 48-603C, et seq.;
- n. The Illinois Consumer Fraud and Deceptive Trade Practices Act, 815 Ill. Stat. § 505/2, et seq., and the Illinois Uniform Deceptive Trades Practices Act, 815 Ill. Stat. §§ 510/2(a)(5), (7) and (12), et seq.;
- o. The Indiana Deceptive Consumer Sales Act, Ind. Code §§ 24-5-0.5-3(a) and (b)(1) and (2), et seq.;
- p. The Iowa Consumer Fraud Act, I.C.A. §§ 714H.3 and 714H.5, et seq.;
- q. The Kansas Consumer Protection Act, Kan. Stat. §§ 50-626(a) and (b)(1)(A)(D) and (b)(3), et seq.;
- r. The Kentucky Consumer Protection Act, Ky. Rev. Stat. §§ 367.170(1) and (2), et seq.;
- s. The Louisiana Unfair Trade Practices and Consumer Protection Law, La. Rev. Stat. Ann. § 51:1405(A), et seq.;
- t. The Massachusetts Consumer Protection Act, Ma. Gen. Laws Ann. Ch. 93A § 2(a), et seq.;
- u. The Maine Uniform Deceptive Trade Practices Act, 10 M.R.S.A. §§ 1212(1)(E) and (G), et seq., and the Maine Unfair Trade Practices Act, 5 M.R.S.A. § 207, et seq.;
- v. The Maryland Consumer Protection Act, Md. Code Commercial Law, §§ 13-301(1) and (2)(i)-(ii), and (iv), (5)(i), and (9)(i), et seq.;
- w. The Michigan Consumer Protection Act, M.C.P.L.A. §§ 445.903(1)(c)(e), (s) and (cc), et seq.;
- x. The Minnesota Uniform Deceptive Trade Practices Act, Minn. Stat. § 325D.44, subd. 1(5), (7) and (13), et seq., and the Minnesota Consumer Fraud Act, Minn. Stat. § 325F.69, subd. 1, and Minn. Stat. § 8.31, subd. 3(a);
- y. The Mississippi Consumer Protect Act, Miss. Code Ann. §§ 75-24-5(1), (2)(b), (c), (e), and (g), et seq.;
- z. The Missouri Merchandising Practices Act, Mo. Ann. Stat. § 407.020(1), et seq.;
- aa. The Montana Unfair Trade Practices and Consumer Protection Act, Mont. Code Ann. § 30-14-103, et seq.;

- 1 bb. The Nebraska Consumer Protection Act, Neb. Rev. Stat. § 591602, and the Nebraska
2 Uniform Deceptive Trade Practices Act, Neb. Rev. Stat. § 87-302(a)(5) and (7), et
3 seq.;
- 4 cc. The Nevada Deceptive Trade Practices Act, Nev. Rev. Stat. Ann. §§ 598.0915(5)
5 and (7), et seq.;
- 6 dd. The New Hampshire Consumer Protection Act, N.H. Rev. Stat. Ann. § 358-A:2(v)
7 and (vii), et seq.;
- 8 ee. The New Jersey Consumer Fraud Act, N.J. Stat. Ann. § 56:8-2, et seq.;
- 9 ff. The New Mexico Unfair Practices Act, N.M. Stat. Ann. §§ 57-12-2(D)(5)(7) and
10 (14) and 57-12-3, et seq.;
- 11 gg. The New York Business Law, N.Y. Gen. Bus. Law § 349(a);
- 12 hh. The North Carolina Unfair Trade Practices Act, N.C.G.S.A. § 75-1.1(a), et seq.;
- 13 ii. The North Dakota Unlawful Sales or Advertising Practices Act, N.D. Cent. Code §
14 51-15-02, et seq.;
- 15 jj. The Ohio Consumer Sales Practices Act, Ohio Rev. Code Ann. §§ 1345.02(A) and
16 (B)(1) and (2), et seq.;
- 17 kk. The Oklahoma Consumer Protection Act, 15 O.S. §§ 753(5), (7) and (20), et seq.;
- 18 ll. The Oregon Unfair Trade Practices Act, Or. Rev. Stat. §§ 646.608(1)(e)(g) and (u),
19 et seq.;
- 20 mm. The Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. §§
21 201-2(4)(v)(vii) and (xxi), and 201-3, et seq.;
- 22 nn. The Rhode Island Deceptive Trade Practices Act, R.I. Gen. Laws §§ 6-13.1-1(6)(v),
23 (vii), (xii), (xiii) and (xiv), et seq.;
- 24 oo. The South Carolina Unfair Trade Practices Act, S.C. Code Ann. § 39-5-20(a), et
25 seq.;
- 26 pp. The South Dakota Deceptive Trade Practices Act and Consumer Protection Act, S.D.
27 Codified Laws § 37-24-6(1), et seq.;
- 28 qq. The Tennessee Consumer Protection Act, Tenn. Code Ann. §§ 47-18-104(a), (b)(2),
(3), (5), and (7), et seq.;
- rr. The Texas Deceptive Trade Practices Consumer Protection Act, V.T.C.A., Bus. & C.
§§ 17.46(a), (b)(5) and (7), et seq.;

- 1 ss. The Utah Consumer Sales Practices Act, Utah Code Ann. §§ 13-11-4(1), (2)(a), (b),
2 and (i) et seq.;
- 3 tt. The Vermont Consumer Fraud Act, 9 V.S.A. § 2453(a), et seq.;
- 4 uu. The Virgin Islands Consumer Protection Law, V.I. Code Ann. tit. 12A, § 101, et
5 seq.;
- 6 vv. The Virginia Consumer Protection Act, Va. Code Ann. §§ 59.1-200(A)(5)(6) and
7 (14), et seq.;
- 8 ww. The Washington Consumer Protection Act, Wash. Rev. Code § 19.86.020, et seq.;
- 9 xx. The West Virginia Consumer Credit and Protection Act, W.V.A. Code § 46A-6-104,
10 et seq.; and
- 11 yy. The Wyoming Consumer Protection Act, Wyo. Stat. Ann. §§ 40-12-105(a), (i), (iii)
12 and (xv), et seq.

13 131. By this Cause of Action, Raabe plead on behalf of the Class violations of all the
14 foregoing consumer and deceptive trade practice laws.

15 **NINTH CAUSE OF ACTION**

16 **(Fraud Against Samsung)**

17 132. Raabe re-alleges and incorporates the preceding paragraphs as if fully set forth
18 herein.

19 133. Upon discovering that her Samsung washing machine was subject to recall, Raabe
20 quickly contacted Samsung to repair or replace the washing machine. Samsung represented in their
21 recall notice that they would repair any Recalled Washing Machine free of charge to the consumers,
22 including Raabe.

23 134. The truth is that Samsung cannot repair these washing machines. They can perform a
24 retrofit that will reinforce the washing machines, but it will not allow consumers to use these
25 washing machines for the purposes for which they were advertised and purchased. In addition, as
26 part of their agreement with the Consumer Protection Safety Commission, any washing machine
27 that cannot be repaired must be replaced by Samsung at no cost to the consumer. As a result,
28 Samsung is doing everything in its power to keep consumers from accepting the repair option,
including scheduling repairs and then having them cancelled, failing to return phone calls for those

1 who wish to schedule repairs, and other stalling tactics, in order to force consumers to accept the
2 rebate option, thereby freeing Samsung from the obligation to replace the washing machines once it
3 becomes apparent that the repair does not fully fix the problem.

4 135. Upon information and belief, Samsung had no intention of keeping their
5 representation that they would repair Raabe's defective washing machine, as it is in Samsung's
6 financial interest to force Raabe and other members of the class to use Samsung's proffered rebate
7 to purchase a new Samsung washing machine, or using Samsung's proffered rebate of a lesser
8 amount to purchase another brand of washing machine as the cost of the rebate is, on information
9 and belief, less expensive than the cost of repair to the Recalled Washing Machines. In addition,
10 Samsung is unable to repair the Recalled Washing Machines. Even after the retrofit is done and the
11 top of each washing machine is reinforced, consumers are still unable to use their washing machines
12 as intended. As a result, Samsung would owe every consumer who has their Recalled Washing
13 Machine repaired a full refund or a new washing machine immediately after the repair has been
14 completed. *See* [http://www.click2houston.com/consumer/feds-say-samsung-not-following-](http://www.click2houston.com/consumer/feds-say-samsung-not-following-consumer-product-safety-commission-agreement)
15 [consumer-product-safety-commission-agreement](http://www.click2houston.com/consumer/feds-say-samsung-not-following-consumer-product-safety-commission-agreement).

16 136. At the time Samsung made the representation that they would repair their Recalled
17 Washing Machines, they were fully aware of the cost savings they would receive by "encouraging"
18 owners of the Recalled Washing Machines, including Raabe, to take the proffered rebate rather than
19 having their existing washing machine repaired. As a result, Samsung intentionally made it difficult,
20 if not impossible, for Raabe and other members of the Class to obtain retrofits for their Samsung
21 washing machines, all in the hope consumers would choose to accept the rebate option instead of a
22 retrofit.

23 137. As a result of Samsung's fraud, Raabe and the class are entitled to full compensation
24 for the loss of their Recalled Washing Machines including time lost in seeking to have the Recalled
25 Washing Machines repaired and time and money spent finding other means to wash their
26 belongings while they waited for Samsung to repair their Recalled Washing Machines.

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1 **WHEREFORE**, Raabe individually and on behalf of the above defined Class, by and
2 through counsel, pray the Court grant the following relief:

3 A. An Order certifying this action as a class action pursuant to Rule 23 of the Federal
4 Rules of Civil Procedure;

5 B. An Order appointing Raabe as representative for the Class and appointing her
6 counsel as lead counsel for the Class;

7 C. An order awarding Raabe and all other Class Members damages in an amount to be
8 determined at trial for the wrongful acts of Samsung described herein;

9 D. An Order enjoining Samsung, Lows, The Home Depot, Best Buy, and Sears, their
10 agents, successors, employees, and other representatives from engaging in or continuing to engage
11 in the manufacture (in the case of Samsung), marketing, and sale of the defective Recalled Washing
12 Machines; requiring Samsung, Lows, The Home Depot, Best Buy and Sears to issue corrective
13 actions including notification, recall, service bulletins, and fully-covered replacement parts and
14 labor, or replacement of the Recalled Washing Machines; and requiring Samsung, Lowes, The
15 Home Depot, Best Buy, and Sears to preserve all evidence relevant to this lawsuit and notify
16 Recalled Washing Machine owners with whom it comes in contact of the pendency of this and
17 related litigation;

18 E. Restitution as authorized by law;

19 F. Payment to the Class of all damages associated with the replacement of the defective
20 products and parts, in an amount to be proven at trial;

21 G. An assessment of punitive damages, consistent with the actual harm Samsung has
22 caused and the reprehensibility of its wanton and willful conduct, and the need to punish and deter
23 such conduct;

24 H. An order awarding attorney's fees pursuant to applicable Federal and State law;

25 I. Interest as provided by law, including but not limited to pre judgment and post-
26 judgment interest as provided by rule or statute; and

27 J. Any and all other and further relief as this Court deems just, equitable, or proper.
28

JURY TRIAL DEMANDED

Plaintiff hereby demands that this matter be tried to a jury.

DATED: May 4, 2017

GREEN & NOBLIN, P.C.

By: /s/ Robert S. Green
Robert S. Green

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CIVIL COVER SHEET

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

I. (a) PLAINTIFFS

LINDA L. RAABE, on Behalf of Herself and All Others Similarly Situated,

(b) County of Residence of First Listed Plaintiff Sacramento (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Robert S. Green, GREEN & NOBLIN PC 4500 East Pacific Coast Highway, Fourth Floor Long Beach, California 90804

DEFENDANTS

SAMSUNG ELECTRONICS AMERICA, INC., SAMSUNG ELECTRONICS CO., LTD, THE HOME DEPOT, INC., LOWE'S HOME CENTERS, LLC., BEST BUY CO., INC., SEARS HOLDING

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

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

- 1 U.S. Government Plaintiff, 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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country).

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

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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, 6 Multidistrict Litigation

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(d)(2) Brief description of cause: Breach of warranty on defective washing machine

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Hon. Jesus G. Bernal DOCKET NUMBER 5:17-cv-00203-JGB-KK

DATE 05/04/2017 SIGNATURE OF ATTORNEY OF RECORD /s/ Robert S. Green

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Case 2:17-at-00476 Document 1-1 Filed 05/04/17 Page 2 of 2
INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Another Suit Seeks Reparation for Samsung 'Exploding' Washing Machines](#)
