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7 Attorneys for Defendant
 JOHNSON CONTROLS, INC. d/b/a COLEMAN

8
 9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA – EUREKA DIVISION

11
 12 RANDY SCOTT, individually and on behalf of
 others similarly situated,

13 Plaintiff,

14 v.

15 JOHNSON CONTROLS, INC. d/b/a
 16 COLEMAN,

17 Defendant.

Case No. 1:21-cv-05131

**DEFENDANT’S NOTICE OF
 REMOVAL**

Action Filed: March 30, 2021
 Complaint Served: June 2, 2021

([Lake County Superior Court
 Case No. CV421681])

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1 Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant JOHNSON CONTROLS,
2 INC. d/b/a COLEMAN (“Defendant” or “JCI”) hereby removes the above-entitled action from
3 the Superior Court of the State of California for the County of Lake, to the United States District
4 Court for the Northern District of California. Removal is warranted under the Class Action
5 Fairness Act, 28 U.S.C. § 1332(d) (“CAFA”). JCI provides the following “short and plain
6 statement of the grounds for removal” as required by 28 U.S.C. § 1446(a).

7 **THE REMOVED CASE**

8 1. The removed case is a class action originally filed on March 30, 2021, in the
9 Superior Court of California, County of Lake, styled *Randy Scott, individually and on behalf of*
10 *others similarly situated v. Johnson Controls, Inc. d/b/a Coleman*, Case No. CV421681, by
11 Plaintiff Randy Scott (“Plaintiff”). A true and accurate copy of the Class Action Complaint
12 (“Complaint”) is attached as **Exhibit A**.

13 2. Defendant was served with the Complaint on June 2, 2021. A true and accurate
14 copy of the executed Notice and Acknowledgment of Receipt – Civil executed by counsel for JCI
15 demonstrating service effective June 2, 2021 is attached as **Exhibit B**.

16 3. Plaintiff’s Complaint alleges three causes of action against JCI for violation of the
17 Song-Beverly Consumer Warranty Act; violation of the Consumers Legal Remedies Act; and
18 violation of California’s Unfair Competition Law.

19 4. This Court has jurisdiction over the action under CAFA because it is a civil action
20 in which the alleged amount in controversy exceeds \$5 million, exclusive of interest and costs;
21 there is minimal diversity between the parties; and the number of proposed class members is at
22 least 100. 28 U.S.C. § 1332(d)(2).

23 **DEFENDANT HAS SATISFIED THE**
24 **PROCEDURAL REQUIREMENTS FOR REMOVAL**

25 5. Venue is proper in this Court because it is the “district and division embracing the
26 place where [the] action is pending.” 28 U.S.C. § 1441(a).

27 6. Removal is timely because, under 28 U.S.C. § 1446(b), this notice of removal is
28 being filed within thirty days after receipt by Defendant. Defendant executed and returned a

1 Notice of Acknowledgment and Receipt of service of the Complaint on June 2, 2021. *See*
2 Exhibit B. This Notice of Removal is being filed on July 2, 2021. Defendant’s Notice of
3 Removal is therefore timely filed within thirty days of service of the Complaint.

4 7. No previous request has been made for the relief requested herein.

5 8. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served
6 on Plaintiff and a copy is being filed with the Clerk of Court for the Superior Court of the State of
7 California for the County of Lake.

8 9. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders
9 served upon Defendant are included in Exhibits A and B.

10 **MINIMAL DIVERSITY EXISTS**

11 10. An action satisfies CAFA’s requirements for minimal diversity if “any member of
12 a class of plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C. § 1332(d)(2).

13 11. For purposes of assessing diversity, a corporation is a citizen of “(1) the state
14 where its principal place of business is located, and (2) the state in which it is incorporated.”
15 *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006) (citing 28 U.S.C.
16 § 1332(c)(1)).

17 12. At the time the Complaint was filed in state court, Defendant Johnson Controls,
18 Inc. d/b/a Coleman was, and is, a Wisconsin corporation, with its principal place of business in
19 Wisconsin.

20 13. Defendant is therefore not a citizen of the State of California, the state in which
21 this suit has been brought.

22 14. Plaintiff appears to be a citizen of California. Compl. ¶ 9.

23 15. Minimal diversity of citizenship exists in this case. Defendant is a citizen of the
24 State of Wisconsin, and Plaintiff is a citizen of California. The parties’ citizenship therefore
25 satisfies the diversity requirements of CAFA.

26 **AMOUNT IN CONTROVERSY**

27 16. JCI denies that it is liable to Plaintiff for any amount of damages. Without
28 waiving that denial, and solely to establish the amount in controversy, JCI states that the amount

1 in controversy as alleged by Plaintiff, excluding interest and costs, exceeds CAFA’s \$5 million
2 amount in controversy requirement. 28 U.S.C. § 1332(d)(2).

3 17. “When measuring the amount in controversy a court must assume the allegations
4 in the complaint are true, and that a jury will return a verdict for the plaintiff on all claims.” *Ford*
5 *v. CEC Ent., Inc.*, 2014 WL 3377990, at *2 (N.D. Cal. July 10, 2014). The defendant need not
6 prove the plaintiff’s claims for damages, but may simply “set forth the underlying facts
7 supporting its assertion that the amount in controversy exceeds the statutory minimum.” *Id.*; *see*
8 *also* Schwarzer, Tashima, *et al.*, Cal. Prac. Guide: Fed. Civ. Pro. Before Trial (2016) § 2:3435, at
9 2D-172-173 (“Defendant’s notice of removal need include only a plausible allegation that the
10 amount in controversy exceeds the jurisdictional threshold.”).

11 18. A court may also consider the aggregate value of claims for punitive damages and
12 attorneys’ fees in calculating the amount in controversy. *See, e.g., Gibson v. Chrysler Corp.*, 261
13 F.3d 927, 945 (9th Cir. 2001) (punitive damages); *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150,
14 1155 (9th Cir. 1998) (attorneys’ fees). Specifically, when an underlying statute, such as the
15 Song-Beverly Act, authorizes an award of attorneys’ fees, “a reasonable estimate of fees likely to
16 be recovered may be used in calculating the amount in controversy.” *Brady v. Mercedes-Benz*
17 *USA, Inc.*, 243 F. Supp. 2d 1004, 1010 (N.D. Cal. 2002); *see also Soriano v. LendingTree, LLC*,
18 2018 WL 1788456, *2 (N.D. Cal. Apr. 16, 2018) (collecting cases).

19 19. Plaintiff seeks the following relief, as set forth in his “Prayer for Relief”:
20 restitution of the amount paid for the product; actual damages; a civil penalty of twice actual
21 damages; punitive damages; injunctive relief to protect the interests of Plaintiff and an order
22 prohibiting JCI from continuing to use its existing product registration card and warranty
23 materials; a corrective advertising campaign; and attorneys’ fees. Compl. at 16-17.

24 20. As set forth in the complaint, Plaintiff purchased the product at issue for \$3,790
25 and seeks damages or restitution in that amount. Compl. ¶¶ 19, 62, 104. At an approximate retail
26 price of \$3,790 per unit, 1,320 class members would suffice to meet the \$5 million minimum
27 requirement, even before civil penalties, punitive damages, and attorneys’ fees are considered.
28 However, while Plaintiff claims that he does not know the number of class members, he also

1 alleges that the number is “in the several thousands, if not substantially more.” Compl. ¶ 34.
2 Given that “several thousands” by definition means at least two thousand, restitution of the
3 purchase price of the item to the putative class as pled by Plaintiff is greater than \$7.5 million,
4 well above the jurisdictional minimum of the Court for purposes of CAFA.

5 **THE CLASS NUMBERS AT LEAST 100**

6 21. For a court to have jurisdiction under CAFA, the number of proposed class
7 members must be at least 100. 28 U.S.C. § 1332(d)(2). As stated above, Plaintiff alleges that the
8 class numbers “in the several thousands, if not substantially more,” a figure well above 100.
9 Compl. ¶ 34. The action therefore satisfies this element of CAFA jurisdiction.

10
11 WHEREFORE, Defendant respectfully removes the action now pending against it in the
12 Lake County Superior Court to this Honorable Court. Defendant requests this Court retain
13 jurisdiction for all further proceedings.

14
15 Dated: July 2, 2021

Respectfully submitted,

FAEGRE DRINKER BIDDLE & REATH LLP

By: /s/ Zoë K. Wilhelm

Zoë K. Wilhelm

Michael Jaeger

David A. Belcher

Attorneys for Defendant
JOHNSON CONTROLS, INC. d/b/a
COLEMAN

28 ACTIVE.127083494.01

EXHIBIT A

POS-015

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: 284607 NAME: Jason A. Ibey, Esq. FIRM NAME: Kazerouni Law Group, APC STREET ADDRESS: 321 N Mall Drive, Suite R108 CITY: St. George STATE: UT ZIP CODE: 84790 TELEPHONE NO.: 800-400-6808 FAX NO. : E-MAIL ADDRESS: jason@kazlg.com ATTORNEY FOR (Name): Randy Scott	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Lake STREET ADDRESS: 255 N. Forbes St., 4th Floor, Room 417 MAILING ADDRESS: 255 N. Forbes St., 4th Floor, Room 417 CITY AND ZIP CODE: Lakeport 95453 BRANCH NAME: Lakeport Division	
Plaintiff/Petitioner: Randy Scott Defendant/Respondent: Johnson Controls, Inc. d/b/a Coleman	
NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL	CASE NUMBER: CV421681

TO (insert name of party being served): Johnson Controls, Inc. d/b/a Coleman

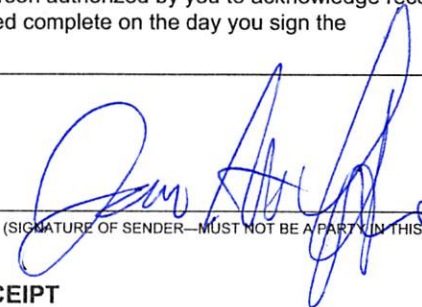
NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: May 13, 2021

Jason A. Ibey
(TYPE OR PRINT NAME)



(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of (to be completed by sender before mailing):

1. A copy of the summons and of the complaint.
2. Other (specify):

(To be completed by recipient):

Date this form is signed: _____

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY, ON WHOSE BEHALF THIS FORM IS SIGNED)

(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

JOHNSON CONTROLS, INC. d/b/a COLEMAN

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

RANDY SCOTT, individually and on behalf of others similarly situated

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SUPERIOR COURT
COUNTY OF LAKE

MAR 30 2021

Krista D. LeVier
BY Cierra Gaines
Deputy Clerk

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is: Sup. Ct. of CA, County of Lake
(El nombre y dirección de la corte es):

Lakeport Division
255 N. Forbes St., 4th Floor, Room 417, Lakeport, CA 95453

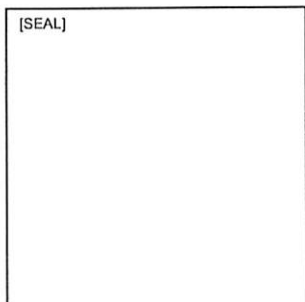
CASE NUMBER:
(Número del Caso): **421681**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Abbas Kazerounian, Kazerouni Law Group, APC, 245 Fischer Ave, Suite D1, Costa Mesa, CA, 92626; (800) 400-6808
Adib Assassi, Black Oak Law Firm, 1100 W. Town and Country Rd., Ste. 1250, Orange, CA 92868, (800) 500-0301

DATE: **MAR 30 2021** Clerk, by **Krista D. LeVier** **Cierra Gaines** Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):
 under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
4. by personal delivery on (date):

BY FAX

FILED
SUPERIOR COURT
COUNTY OF LAKE

MAR 30 2021

Krista D. LeVier
BY Cierra Gaines
Deputy Clerk

1 **KAZEROUNI LAW GROUP, APC**
2 Abbas Kazerounian, Esq. (SBN 249203)
3 ak@kazlg.com
4 245 Fischer Avenue, Unit D1
5 Costa Mesa, CA 92626
6 Telephone: (800) 400-6808
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8 **BLACK OAK LAW FIRM**
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11 1100 W. Town and Country Rd., Ste 1250
12 Orange, CA 92868
13 Telephone: (800) 500-0301
14 Facsimile: (800) 500-0301

15 Attorneys for Plaintiff,
16 Randy Scott

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **COUNTY OF LAKE – LAKEPORT DIVISION**
19 **UNLIMITED CIVIL**

20 **RANDY SCOTT, individually**
21 **and on behalf of others similarly**
22 **situated,**

23 Plaintiff,

24 v.

25 **JOHNSON CONTROLS, INC.**
26 **d/b/a COLEMAN**

27 Defendant.

Case No.: **CV 421681**

CLASS ACTION COMPLAINT

- 28 **I. VIOLATION OF THE SONG-
BEVERLY CONSUMER
WARRANTY ACT;**
- II. VIOLATION OF THE
CONSUMER LEGAL
REMEDIES ACT;**
- III. VIOLATION OF
CALIFORNIA’S UNFAIR
COMPETITION LAW**

JURY TRIAL DEMANDED



BY FAX

1 1. Plaintiff Randy Scott (“Plaintiff”), on behalf of himself and others similarly
2 situated, brings this class action suit against Johnson Controls, Inc. d/b/a
3 Coleman (“Defendant”) for violations of California’s Song Beverly Consumer
4 Warranty Act (“SBA”), *California Civil Code* §§ 1790, *et seq.*; California’s
5 Consumer Legal Remedies Act (“CLRA”), *California Civil Code* §§ 1750, *et*
6 *seq.*; and California’s Unfair Competition Law (“UCL”), *California Business*
7 *and Professions Code* §§ 17200, *et seq.*

8 **SUMMARY**

9 2. Defendant is a manufacturer of products and advertises that its products are sold
10 with express warranties.

11 3. Defendant makes warranty registration forms available.

12 4. The SBA explicitly requires a manufacturer who chooses to provide a warranty
13 or product registration card or form, or an electronic online warranty or product
14 registration form, to be completed and returned by the consumer, to have the
15 card or form include statements that:

- 16 a. Inform the consumer that the card or form is for product registration;
- 17 and,
- 18 b. Inform the consumer that failure to complete and return the card or form
- 19 does not diminish the individual’s warranty rights.

20 5. Defendant intentionally omits any such statements that are expressly required by
21 the SBA.

22 6. As a result of Defendant’s unlawful and deceitful business practices, Defendant
23 is able to chill warranty claims and benefit economically by duping consumers
24 into thinking they do not have warranty rights unless they fill out the form and
25 provide their personal information to Defendant. Or even worse, consumers
26 actually do not have the warranties that were promised to them when they
27 purchased their products as they must now register their warranties, a
28 requirement that was not disclosed at the time of purchase. Consumers are thus



1 additionally deceived into purchasing products they would not have, had they
2 known they did not actually come with warranties.

3 7. Either scenario results in Defendant benefitting at the consumer's expense.

4 8. Defendant's unlawful and deceptive practices alleged herein violate the SBA, the
5 CLRA, and the UCL.

6 **PARTIES**

7 9. Plaintiff is, and at all times mentioned herein was, an individual residing in the
8 County of Lake, State of California.

9 10. Defendant is a Wisconsin Corporation that does continuous and substantial
10 business throughout the state of California, including Lake County.

11 11. At all relevant times, Defendant was engaged in the business of marketing,
12 supplying, and selling its products, including the Product purchased by Plaintiff,
13 to the public through a system of marketers, retailers and distributors.

14 12. All acts of employees of Defendant as alleged were authorized or ratified by an
15 officer, director, or managing agent of the employer.

16 **JURISDICTION AND VENUE**

17 13. Subject matter jurisdiction is proper in this Court as the amount in controversy
18 is within the jurisdictional limit of this Court.

19 14. This Court has personal jurisdiction over Defendant because Defendant
20 conducts business in the County of Lake, State of California; and, Plaintiff was
21 injured in the County of Lake, where Plaintiff resides.

22 15. Venue is proper.

23 **FACTUAL ALLEGATIONS**

24 16. On or about May 15, 2020, Plaintiff searched online for a new gas furnace.

25 17. Plaintiff saw Defendant's DGAX Gas Furnace (the "Product") advertised for
26 sale.

27 18. It was represented to Plaintiff that the Product was accompanied by Defendant's
28 express warranties.



1 19. Relying on, and valuing, the affirmative warranty promise made regarding the
2 product, Plaintiff purchased the Product for approximately \$3,790.

3 20. Plaintiff later discovered that it did not come with a warranty as Plaintiff was led
4 to believe.

5 21. Contained within the Product’s packaging were instructions requiring Plaintiff to
6 “register” the Product’s warranty online in order to receive the complete benefits
7 of the warranty.

8 22. Specifically, Plaintiff was instructed to register for the Product’s warranty at
9 <http://www.colemanac.com/warranty-registration>, which contained, in part, the
10 following message:

11 REGISTER YOUR PRODUCT

12 Thank you for purchasing a Coleman® product and taking a moment to
13 register it. Your registration enforces your warranty coverage and will
14 keep you up to date on product information and offers.¹

15 23. The warranty registration card and online registration form failed to inform
16 Plaintiff that it was for *product* registration only, and did not inform Plaintiff that
17 failure to complete and return the card or online form did *not diminish Plaintiff’s*
18 *warranty rights* as required by *California Civil Code* § 1793.1.

19 24. Relying on Defendant’s deceptive statements, Plaintiff registered his Product by
20 providing his personal information.

21 25. Upon information and belief, Defendant uses the personal information it collects
22 from such cards and online forms for its own business and marketing purposes
23 and for its own economic benefit.

24 26. Upon information and belief, Defendant intends for the warranty registration
25 card and online form to have a chilling effect on warranty claims, preventing
26 customers who have not registered, or who choose not to register, their
27

28 ¹ Coleman, *Register Your Product*, <http://www.colemanac.com/warranty-registration>
(last visited March 29, 2021).

1 warranties from making warranty claims, thereby saving Defendant money in
2 warranty repair and administration costs.

3 27. Defendant has no right to access personal customer information through
4 warranty registration for these purposes, by not making the legally mandated
5 disclosures to customers.

6 28. Had the Product's advertisement conspicuously disclosed that the warranty was
7 contingent on registration by Plaintiff providing his personal information,
8 Plaintiff would not have purchased the Product, or alternatively would not have
9 paid a premium for the Product.

10 29. Plaintiff has not received the Product that Plaintiff bargained for.

11 **CLASS ALLEGATIONS**

12 30. Plaintiff brings this action on behalf of himself and on behalf of all others
13 similarly situated (the "Class"), pursuant to California Code of Civil Procedure
14 Section 382 and/or California Code of Civil Procedure Section 1782.

15 31. Plaintiff represents and is a member of the Class, consisting of:

16
17 a. All persons who purchased one or more of Defendant's
18 products within California during the four (4) years
19 immediately preceding the filing of the Complaint through
20 the date of class certification, which were accompanied by a
21 warranty or product registration card or form, or an
22 electronic online warranty or product registration form, to
23 be completed and returned by the consumer, which do not
24 contain statements, each displayed in a clear and
25 conspicuous manner, informing the consumer that: i) the
26 card or form is for product registration, and ii) informing
27 the consumer that failure to complete and return the card or
28 form does not diminish his or her warranty rights.

b. All persons who purchased one or more of Defendant's
products within California during the four (4) years
immediately preceding the filing of the Complaint through
the date of class certification, which were accompanied by a
warranty or product registration card or form, or an
electronic online warranty or product registration form,

1 which is labeled as a warranty registration or a warranty
2 confirmation.

3 c. All persons who purchased one or more of Defendant's
4 products within California during the four (4) years
5 immediately preceding the filing of the Complaint through
6 the date of class certification, who submitted product
7 registration forms.

8 d. All persons who purchased one or more of Defendant's
9 products within California during the three (3) years
10 immediately preceding the filing of the Complaint through
11 the date of class certification, which were advertised as
12 being accompanied with an express warranty but which do
13 not contain a warranty, and/or contain warranty activation,
14 confirmation or registration cards requiring persons to
15 provide their personal data or take additional steps in order
16 to receive a warranty.

17 32. Products that meet the above Class definition are referred to herein as "Class
18 products."

19 33. Defendant and its employees or agents are excluded from the Class.

20 34. Plaintiff does not presently know the number of members in the Class but
21 believes the Class members number in the several thousands, if not substantially
22 more. Thus, this matter should be certified as a class action to assist in the
23 expeditious litigation of this matter.

24 35. Plaintiff and members of the Class were harmed by the acts of Defendant in
25 violating Plaintiff's and the putative Class members' rights.

26 36. Plaintiffs reserve the right to expand the class definition to seek recovery on
27 behalf of additional persons as warranted, as facts are learned through further
28 investigation and discovery.

37. The joinder of the Class members is impractical and the disposition of their
claims in the class action will provide substantial benefits both to the parties and
to the court.

1 38. The Class can be identified through Defendant's records, Defendant's agents'
2 records, and/or records of the retailer from which the products were purchased.

3 39. There is a well-defined community of interest in the questions of law and fact
4 to the Class that predominate over questions which may affect individual Class
5 members, including the following:

6 a. Whether the Class products were sold with warranty or product
7 registration cards or forms, or electronic online warranty or product
8 registration forms, which did not contain statements, each displayed in a
9 clear and conspicuous manner, informing the consumer that the card or
10 form is for product registration, and informing the consumer that failure
11 to complete and return the card or form does not diminish his or her
12 warranty rights.

13 b. Whether the Class products were sold with warranty or product
14 registration cards or forms, or electronic online warranty or product
15 registration forms, which are labeled as warranty registration or
16 warranty confirmation.

17 c. Whether the Class products were sold with express warranties;

18 d. Whether the Class products make warranty rights contingent on
19 registration;

20 e. Whether Defendant intends warranty registration to act as a barrier to
21 warranty claims;

22 f. Whether Defendant intends to use warranty registration as a means for
23 obtaining Class members' personal information;

24 g. How Defendant uses Class members' personal information;

25 h. Whether Defendant violated the SBA by making Class products'
26 warranties contingent on registration;

27 i. Whether Defendant violated the SBA by not disclosing to Class
28 members that by not submitting warranty registration cards, or online

1 forms, their warranty rights would not be diminished;

2 j. Whether Defendant engaged in false or deceptive advertising practices
3 in violation of the CLRA by not disclosing the warranty registration
4 requirement of Class products to Class members prior to their
5 purchases;

6 k. Whether Defendant is liable for damages, and the amount of such
7 damages; and

8 l. Whether Class members are entitled to equitable relief including
9 injunctive relief.

10 40. Plaintiff's claims are typical of the claims of the Class since Plaintiff purchased
11 a Class product, as did each member of the Class.

12 41. Plaintiff and all Class members sustained injuries arising out of Defendant's
13 wrongful conduct and deception.

14 42. Plaintiff is advancing the same claims and legal theories on behalf of herself
15 and all absent Class members.

16 43. Plaintiff will fairly and adequately represent and protect the interests of the
17 Class in that Plaintiff has no interests antagonistic to any member of the Class.

18 44. Absent a class action, the Class will continue to face the potential for irreparable
19 harm. In addition, these violations of law will be allowed to proceed without
20 remedy and Defendant will likely continue such illegal conduct.

21 45. Plaintiff has retained counsel experienced in handling class action claims and
22 individual claims involving breach of warranties and unlawful business
23 practices.

24 46. A class action is a superior method for the fair and efficient adjudication of this
25 controversy. The injury suffered by each individual Class member is relatively
26 small in comparison to the burden and expense of individual prosecution of the
27 complex and extensive litigation necessitated by Defendant's conduct. It would
28 be virtually impossible for members of the Class individually to redress



1 effectively the wrongs done to them. Even if the members of the Class could
2 afford such individual litigation, the court system could not. Individualized
3 litigation presents a potential for inconsistent or contradictory judgments.
4 Individualized litigation increases the delay and expense to all parties, and to
5 the court system, presented by the complex legal and factual issues of the case.

6 47. By contrast, the class action device presents far fewer management difficulties,
7 and provides the benefits of single adjudication, an economy of scale, and
8 comprehensive supervision by a single court. Upon information and belief,
9 members of the Class can be readily identified and notified based on, inter alia,
10 Defendant's own records, product serial numbers, submitted warranty activation
11 cards, warranty claims, registration records, and database of complaints.

12 48. Defendant has acted, and continues to act, on grounds generally applicable to
13 the Class, thereby making appropriate final injunctive relief and corresponding
14 declaratory relief with respect to the Class as a whole.

15 **FIRST CAUSE OF ACTION**

16 **VIOLATION OF CAL. CIV. CODE §§ 1790, *ET SEQ.***

17 **CALIFORNIA'S SONG-BEVERLY CONSUMER WARRANTY ACT**

18 49. Plaintiff incorporates all of the above paragraphs of this Complaint as though
19 fully stated in this cause of action.

20 50. The Product and Class products are "consumer goods" as defined by *California*
21 *Civil Code* § 1791(a).

22 51. Plaintiff and Class members are "buyers" as defined by *California Civil Code* §
23 1791(b).

24 52. "Every manufacturer, distributor, or retailer making express warranties with
25 respect to consumer goods shall fully set forth those warranties in simple and
26 readily understood language[.]" *California Civil Code* § 1793.1(a)(1).

27 53. "If the manufacturer, distributor, or retailer provides a warranty or product
28 registration card or form, or an electronic online warranty or product registration

1 form, to be completed and returned by the consumer, the card or form **shall**
2 contain statements, each displayed in a clear and conspicuous manner, that do all
3 of the following:

4 a. Informs the consumer that the card or form is for product registration.

5 b. Informs the consumer that failure to complete and return the card or
6 form does not diminish his or her warranty rights.” *California Civil*
7 *Code* § 1793.1(a)(1)(A)-(B).

8 54. “No warranty or product registration card or form, or an electronic online
9 warranty or product registration form, may be labeled as a warranty registration
10 or a warranty confirmation.” *California Civil Code* § 1793.1(b).

11 55. By providing a card, or online registration form, with Plaintiff’s Product and
12 Class members’ products labeled as “Warranty Registration,” which does not
13 inform Plaintiff and Class members that the card is for product registration and
14 that warranty rights will not be diminished if the card is not completed,
15 Defendant is in violation of its affirmative obligations under the SBA.

16 56. Defendant values its ability to include warranty registration forms with its
17 products, and as a result of being permitted to include the forms without the
18 statutorily prescribed language, Defendant received, and continues to receive, a
19 benefit which Plaintiff and Class members did not realize they paid for.

20 57. Had Plaintiff and Class members been aware of these terms, they would not have
21 paid the price they did.

22 58. Plaintiff and Class members would have paid less for their products had they
23 been aware of these terms. The premium paid is a benefit received by Defendant
24 and should be returned to Plaintiff.

25 59. Plaintiff and Class members have been damaged by not receiving the warranty
26 they were promised, or alternatively, even if warranties do exist, by rightfully
27 believing they do not have warranty rights.

28 60. Defendant benefits, at Plaintiff’s and Class members’ expense, from this tactic as



1 its costs for repairing products under warranty, as well as administering product
2 warranties, are reduced.

3 61. Plaintiff and Class members who did provide their personal information have
4 been damaged by being forced to relinquish their personal information based on
5 Defendant’s statutorily mandated omissions.

6 62. Plaintiff and Class members are entitled to damages, including reimbursement of
7 the purchase price of the Class products, under *California Civil Code* §1794(a)
8 and §1794(b).

9 63. In addition to the other amounts recovered, Plaintiffs and Class members are
10 entitled to a civil penalty of two-times the amount of actual damages, pursuant to
11 *California Civil Code* §1794(c).

12 64. Plaintiff and class members are further entitled to recover as part of the judgment
13 a sum equal to the aggregate amount of costs and litigation related expenses,
14 including but not limited to attorney’s fees, reasonably incurred in connection
15 with the commencement and prosecution of this action under *California Civil*
16 *Code* §1794(d).

17 **SECOND CAUSE OF ACTION**

18 **VIOLATION OF CAL. CIV. CODE §§ 1750, ET SEQ.**

19 **CALIFORNIA’S CONSUMER LEGAL REMEDIES ACT**

20 65. Plaintiff incorporates all of the above paragraphs of this Complaint as though
21 fully stated in this cause of action.

22 66. Plaintiff and Class members are “consumers” within the meaning of *California*
23 *Civil Code* §1761(d).

24 67. The sale of Plaintiff’s and Class members’ products are “transactions” within the
25 meaning of *California Civil Code* §1761(e).

26 68. Plaintiff’s and Class members’ products are “goods” within the meaning of
27 *California Civil Code* §1761(a).

28 69. The CLRA prohibits “representing that goods or services have sponsorship,



1 approval, characteristics, ingredients, uses, benefits, or quantities that they do not
2 have.” *California Civil Code* §1770(a)(5).

3 70. The CLRA prohibits “representing that goods or services are of a particular
4 standard, quality, or grade, or that goods are of a particular style or model, if
5 they are of another.” *California Civil Code* §1770(a)(7).

6 71. The CLRA prohibits “advertising goods or services with intent not to sell them
7 as advertised.” *California Civil Code* §1770(a)(9).

8 72. The CLRA prohibits “representing that a transaction confers or involves rights,
9 remedies, or obligations that it does not have or involve, or that are prohibited by
10 law.” *California Civil Code* §1770(a)(14).

11 73. The CLRA prohibits “representing that the consumer will receive a rebate,
12 discount or other economic benefit, if earning the benefit is contingent on an
13 event to occur after the transaction.” *California Civil Code* §1770(a)(17).

14 74. Defendant promised, advertised and represented at time of sale that Plaintiff and
15 Class members would receive a warranty with no strings attached.

16 75. However, Defendant failed to conspicuously disclose on its advertisement or
17 exterior product packaging that the product must be “registered” and also failed
18 to state on its registration form that failure to do so will not diminish consumers’
19 warranty rights.

20 76. Defendant’s concealment of material warranty terms and omission of statutorily
21 required language was done deliberately and intentionally with the purpose of
22 deceiving Plaintiff and Class members and inducing them into purchasing the
23 Class products, or alternately providing their personal information.

24 77. Defendant knows, or should have known, that were it to properly disclose the
25 material warranty terms and language it conceals (even if Defendant may claim
26 such terms are not valid), Plaintiff and Class members would not purchase the
27 Class products or would not pay a premium for them.

28 78. Thus, Defendant’s conduct violates *California Civil Code* § 1770(a)(5),

1 1770(a)(7), 1770(a)(9), 1770(a)(14), and 1770(a)(17).

2 79. Plaintiff relied on Defendant's representations.

3 80. As a result of Defendant's false representations and deceitful conduct regarding
4 its warranties, Plaintiff and Class members were injured because they: (a) would
5 not have purchased the Class products if the true facts were known concerning
6 the Defendant's false and misleading warranty claims at time of purchase, or
7 Plaintiff and Class members would have paid substantially less; (b) paid a
8 premium price for the Class Products as a result of Defendant's false warranties
9 and misrepresentations; (c) purchased products that did not have the sponsorship,
10 characteristics, and qualities promised by Defendant; and (d) had to take
11 additional steps and actions in order to receive the benefit they should have
12 already entitled to.

13 81. Plaintiff and Class members who did provide their personal information have
14 been damaged by being forced to relinquish their personal information.

15 82. Under *California Civil Code* § 1780(a) and (b), Plaintiff, individually and on
16 behalf of the Class, seek an injunction requiring Defendant to cease and desist
17 the illegal conduct alleged in this Complaint. Specifically, Plaintiff and Class
18 members are entitled to a permanent injunction that compels Defendant to
19 immediately: (1) cease and desist from the continued sale of the products that
20 contain the same or similar misrepresentations as the Class products; (2) initiate
21 a corrective advertising campaign to notify Class members who are victims of
22 the above-described illegal conduct about the true nature the Class products and
23 associated warranty; and (3) initiate a full recall of the Class products with an
24 offer to refund the purchase price, plus reimbursement of interest.

25 83. Pursuant to § 1782(a) of the CLRA, on or about March 29, 2021, Plaintiff's
26 counsel notified Defendant in writing via certified mail return receipt requested
27 of the particular violations of § 1770 of the CLRA and demanded that it rectify
28 the problems associated with the actions detailed above and give notice to all

1 affected consumers of Defendant’s intent to act.

2 84. If Defendant fails to respond to Plaintiff’s letter, fails to agree to rectify the
3 problems associated with the actions detailed above, or fails to give notice to all
4 affected consumers within 30 days of the date of written notice, Plaintiff reserves
5 the right to amend the Complaint to pursue claims for actual, punitive, and
6 statutory damages, as appropriate against Defendant. As to this cause of action,
7 at this time, Plaintiff seeks only injunctive relief.

8 85. Attached hereto as **Exhibit A** is a sworn declaration from Plaintiff pursuant to
9 *California Civil Code* § 1780(d).

10 **THIRD CAUSE OF ACTION**

11 **VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, ET SEQ.**

12 **CALIFORNIA’S UNFAIR COMPETITION LAW**

13 86. Plaintiff incorporates all of the above paragraphs of this Complaint as though
14 fully stated in this cause of action.

15 87. The UCL defines “unfair business competition” to include any “unlawful, unfair
16 or fraudulent” act or practice, as well as any “unfair, deceptive, untrue or
17 misleading” advertising. *California Business and Professions Code* § 17200.

18 88. The UCL imposes strict liability. Plaintiff need not prove that Defendant
19 intentionally or negligently engaged in unlawful, unfair, or fraudulent business
20 practices – but only that such practices occurred.

21 **“Unfair” Prong**

22 89. A business act or practice is “unfair” under the UCL if it offends an established
23 public policy or is immoral, unethical, oppressive, unscrupulous or substantially
24 injurious to consumers, and that unfairness is determined by weighing the
25 reasons, justifications and motives of the practice against the gravity of the harm
26 to the alleged victims.

27 90. Defendant’s actions constitute “unfair” business practices because, as alleged
28 above, Defendant engaged in a misleading and deceptive practice of



1 intentionally omitting statutorily mandated warranty disclosures to consumers.

2 91. This is done to trick consumers into believing they don't have warranty rights in
3 an effort to discourage warranty claim submissions, thus saving Defendant
4 money and increasing its profit margin. Or worse, to actually eliminate the
5 warranty promised at time of purchase.

6 92. Defendant tricks consumers into providing their personal information in order to
7 obtain a warranty when the consumers are not required to share their personal
8 information to obtain the benefit of an express warranty.

9 93. Defendant's acts and practices offend an established public policy of
10 transparency in warranty rights, and engage in immoral, unethical, oppressive,
11 and unscrupulous activities that are substantially injurious to consumers.

12 94. The harm to Plaintiff and Class members grossly outweighs the utility of
13 Defendant's practices as there is no utility to Defendant's practices.

14 ***"Fraudulent" Prong***

15 95. A business act or practice is "fraudulent" under the UCL if it is likely to deceive
16 members of the consuming public.

17 96. Defendant's acts and practices alleged above constitute fraudulent business acts
18 or practices as they deceived Plaintiff and are highly likely to deceive members
19 of the consuming public.

20 97. By not providing the required statutory language, Plaintiff and Class members
21 can only draw one conclusion: registration is required in order to receive and
22 access their warranty, contrary to the representations made at time of sale that
23 the Product was accompanied with an express warranty.

24 ***"Unlawful" Prong***

25 98. A business act or practice is "unlawful" under the UCL if it violates any other
26 law or regulation.

27 99. Defendant's acts and practices alleged above constitute unlawful business acts or
28 practices as they have violated the plain language of the SBA as described in

1 Plaintiff's First Cause of Action above.

2 100. As detailed in Plaintiff's Second Cause of Action above, Defendant's acts and
3 practices surrounding the sale also violate several provisions of the CLRA.

4 101. The violation of any law constitutes an "unlawful" business practice under the
5 UCL.

6 102. These acts and practices alleged were intended to or did result in violations of
7 the SBA and the CLRA.

8 103. Defendant's practices, as set forth above, have misled Plaintiff, the Class
9 members, and the public in the past and will continue to mislead in the future.
10 Consequently, Defendant's practices constitute an unlawful, fraudulent, and
11 unfair business practice within the meaning of the UCL.

12 104. Pursuant to the UCL, Plaintiff is entitled to preliminary and permanent
13 injunctive relief and order Defendant to cease this unfair competition, as well as
14 disgorgement and restitution to Plaintiff and the Class of all Defendant's
15 revenues associated with its unfair competition, or such portion of those
16 revenues as the Court may find equitable.

17 **PRAYER FOR RELIEF**

18 Plaintiff prays that judgment be entered against Defendant as follows:

- 19 1. That this action be certified as a class action;
- 20 2. That Plaintiff be appointed as the representative of the Class;
- 21 3. That Plaintiff's attorneys be appointed Class Counsel;
- 22 4. For an order declaring Defendant's conduct to be unlawful;
- 23 5. For an order compelling Defendant to make restitution to Plaintiff and
24 Class members under the SBA in an amount equal to the total amounts
25 paid and payable for the Class products;
- 26 6. For actual damages;
- 27 7. For a civil penalty of two-times actual damages;
- 28 8. For punitive damages;

- 1 9. For pre and post -judgment interest at the legal rate;
- 2 10. For injunctive and other equitable relief as necessary to protect the interests
- 3 of Plaintiff and other Class members, as well as public injunctive relief,
- 4 and an order prohibiting Defendant from engaging in the unlawful, unfair,
- 5 deceptive and fraudulent acts described above;
- 6 11. For an order that Defendant engage in a corrective advertising campaign;
- 7 12. For an order of restitution and disgorgement of all profits and unjust
- 8 enrichment that Defendant obtained from Plaintiff and the Class members
- 9 as a result of its unlawful, unfair, and fraudulent business practices;
- 10 13. For attorney's fees, costs of suit, and out of pocket expenses; and
- 11 14. For such other and further relief that the Court deems proper.

12 **TRIAL BY JURY**

13 105. Pursuant to the Seventh Amendment to the Constitution of the United States of
14 America, Plaintiff is entitled to, and demands a trial by jury.

15
16 Dated: March 29, 2021

Respectfully submitted,

17
18 **KAZEROUNI LAW GROUP, APC**

19 
20 _____
ABBAS KAZEROUNIAN, ESQ.

21 Jason A. Ibey, Esq. (SBN: 284607)
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27 Email: jason@kazlg.com

28 *ATTORNEYS FOR PLAINTIFF*


Exhibit A

DECLARATION OF RANDY SCOTT

I, RANDY SCOTT, DECLARE:

1. On or about May 15, 2020, I purchased a DGAX Gas Furnace (the “Product”).
2. At the time of my payment and review of the Product, I was located in Lake County, where I also reside.
3. Also, it is my understanding that Defendant, Johnson Controls, Inc. d/b/a Coleman does business in the County of Lake, State of California.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct, and that this declaration was executed on 03/29/2021.

By: 
Randy Scott



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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Coleman Warranty Cards Dupe Consumers on Rights, Class Action Claims](#)
