

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

DAVID STERN On Behalf of Himself and All
Other Persons Similarly Situated,

Plaintiff,

-against-

ELECTROLUX HOME PRODUCTS, INC.,

Defendants.

Case No.:

CLASS ACTION

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff, by his attorneys, Nagel Rice LLP, and Poulos LoPiccolo PC, on behalf of himself and all others similarly situated, make the following allegations on personal knowledge and information and belief:

I. INTRODUCTION

1. Plaintiff brings this action for actual damages, equitable relief, including restitution, injunctive relief, and disgorgement of profits, and all other relief available on behalf of himself and all similarly-situated individuals and entities who own or have owned refrigerators sold by the Defendant, Electrolux Home Products, Inc. (“Electrolux” or “Defendant”) containing a defect that causes the refrigerators’ drawers and shelving to repeatedly break and fall apart within months after purchase of the refrigerators. This defect requires numerous service calls, repairs, and repurchasing of the defective parts, which only break again shortly thereafter. The essential function of a refrigerator is to be able to safely store the food purchased in a cold environment until the owners are ready to prepare meals and eat the food purchased. The repeated breakage of the flimsy shelving and drawers can cause damage to the food resulting in otherwise fresh and unblemished produce being damaged resulting in waste

and expense resulting in these refrigerators being unable to perform an essential function. Upon information and belief, the defect exists in the Electrolux and Frigidaire Gallery Side-by-side refrigerators, including but not limited to the following model numbers: DGHK2355TF, FGHC2355PF, FGHC2331PF, LGHK2336TF, LGHK2336TD, FGSC2335TD, FGSC2335TF, FGSS2335TF, GRSS2652AF, GRSS2352AF, GRSC2352AD and GRSC2352AF (the “Refrigerators”).

2. All of the claims asserted herein arise out of Electrolux’s design and/or manufacture, warranting, advertising and selling of the Refrigerators.

3. Upon information and belief, Electrolux has designed, manufactured, warranted, marketed, advertised and sold the Gallery Line of appliances, including Refrigerators to thousands of consumers throughout the United States commencing in 2017.

4. The Refrigerators are designed and manufactured with a uniform and inherent design and/or manufacturing defect that causes the Refrigerators to have faulty shelves and drawers which are very flimsy and repeatedly crack, break and fall apart (the “Defect”). Because of the Defect, the Refrigerators are deficient; do not meet advertised standards and fail of their essential purpose.

5. Electrolux knew, or was reckless in not knowing, at or before the time it sold the first unit, that the Refrigerators contained the Defect and that the Refrigerators’ shelves and drawers would fail prematurely due to the Defect. Electrolux had sole and exclusive possession of this knowledge.

6. Notwithstanding this knowledge, Electrolux made uniform and material misrepresentations and uniformly concealed material information in its marketing, advertising, and sale of the Refrigerators, which Electrolux knew to be defective, both at the time of sale

and on an ongoing basis.

7. At all times, in every communication, Electrolux made uniform written misrepresentations to and/or uniformly concealed from Plaintiff and everyone in the chain of distribution the defects in the Refrigerators, and failed to remove the Refrigerators from the marketplace or take adequate remedial action. Instead, Electrolux sold and serviced the Refrigerators even though it knew, or was reckless in not knowing, that the Refrigerator's shelving and drawers were defectively designed or manufactured, would fail prematurely, and would ultimately result in Plaintiff's inability to properly store items in the Refrigerator and would have to repeatedly incur expense and inconvenience in calling for service or purchasing and installing replacement shelves throughout the period of ownership of the Refrigerator.

8. The Refrigerators' shelves and drawers have in fact failed prematurely, whether within or outside of applicable warranty periods.

9. As a consequence of Electrolux's false and misleading statements and active and ongoing concealment of the Defect, Plaintiff and the Class and Subclass purchased and currently own defective Refrigerators and have incurred damages.

10. Plaintiff asserts claims on behalf of himself and the Class and Subclass under the New York General Business Law, § 349 and § 350 ("NY GBL §§349-350"). Plaintiff also asserts claims on behalf of himself and the Class and Subclass for breach of implied warranties, negligent misrepresentation, and unjust enrichment under New York law.

11. Plaintiff seeks actual damages, injunctive relief, restitution and/or disgorgement of profits, statutory damages, attorneys' fees, costs, and all other relief available to the Class and Subclass.

II. PARTIES

12. Plaintiff David Stern resides in Seaford, New York and is a citizen of the State of New York.

13. Defendant Electrolux is a Delaware corporation, with its principal place of business in Charlotte, North Carolina. Frigidaire is Electrolux's largest brand in North America.

III. JURISDICTION AND VENUE

14. This court has subject matter jurisdiction over this action pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d)(2), exclusive of interest and costs, and because at least one class member is of diverse citizenship from the Defendant; there are more than 100 class members nationwide; and the aggregate amount in controversy exceeds \$5,000,000. This Court also has personal jurisdiction over the parties because Defendant conducts substantial business in New York, has had systematic and continuous contacts with New York, and has agents and representatives that can be found in this State.

15. Venue is proper in this District under 28 U.S.C. § 1391 because the Lead Plaintiff is a resident of this judicial district, a substantial part of the events giving rise to the claims occurred and emanated out of this District, and Defendant's conduct has injured Class members residing in this District. Accordingly, this Court has jurisdiction over this action and venue is proper in this Judicial District.

16. Defendant is amenable to personal jurisdiction in New York State. A substantial portion of the wrongdoing alleged in the Complaint took place in New York State and Electrolux conducts business within the state sufficient to be considered present in New York.

IV. FACTUAL BACKGROUND

17. On information and belief, Electrolux has been engaged in the business of designing, manufacturing, warranting, marketing, advertising, and selling Electrolux-brand refrigerators and other appliances in the United States since 2007.

18. Electrolux is one of the world's leading manufacturers of refrigerators and other appliances. Electrolux has designed, manufactured, warranted, marketed, advertised and sold several product lines of refrigerators. Electrolux sells high-end refrigerators through major retail stores such as Best Buy and Lowes, as well as smaller home appliances such as Plessers to consumers throughout the United States. Electrolux refrigerators are available in three varieties: (1) French door with bottom freezer, (2) side-by-side, and (3) the "all refrigerator" style.

19. Electrolux uniformly markets its refrigerators as highly rated, top-of-the-line appliances. For example, Electrolux touts special features such as CrispSeal® Plus Crisper "to help prevent produce from spoiling: advanced CrispSeal® Plus keeps produce fresh with a seal that blocks out dry air, plus an added filter reduces the gas that causes produce to ripen faster." The "EvenTemp™ Cooling System [to] keep your food fresh and reduce freezer burn with our variable speed compressor that reacts quickly to temperature fluctuations and constantly circulates cold air throughout the fresh food and freezer compartments" and "SpaceWise® Organization System" so you can "Find a place for everything with our flexible organization system, including three removable glass shelves, adjustable gallon door bin, and a slim design ice maker that holds 9 pounds of ice without taking up valuable shelf space." See <https://www.frigidaire.com/Kitchen-Appliances/Refrigerators/Side-By-Side-Refrigerator/GRSC2352AD/>.

20. On the website for the Frigidaire Gallery collection the Company states: “Experience the ultimate in flexibility with over 100 ways to organize.” And “Make room for all of your items with our edge-to-edge Flip-Up and Slide-Under shelves, and over 100 ways to customize.” See <https://www.frigidaire.com/Collections/Gallery-Collection/>

21. Plaintiff and the Class have not experienced the storage benefits in their refrigerator advertised by Electrolux.

The Defect

22. The Refrigerators fail to perform as advertised, because the drawers and shelves begin breaking within months of purchase.

23. The Defect renders the Refrigerators unusable or in need of frequent repair.

24. Electrolux failed to adequately design, manufacture, and/or test the Refrigerators to ensure they were free from defects at the time of sale.

25. At all relevant times, Plaintiff has used his Refrigerator in a foreseeable manner and in the manner in which they were intended to be used.

26. The Defect, which manifests during the expected useful life of the Refrigerators, both within and outside applicable warranty periods, is substantially likely to prevent the Refrigerators from performing their essential function, making, making it impossible for Plaintiff to use his Refrigerator as intended during its expected useful life.

27. The Defect rendered the Refrigerators unfit for the ordinary purpose for which refrigerators are sold at the time they were sold to Plaintiff and members of the Class.

28. The Defect has necessitated and will continue to necessitate replacement of shelving and drawer parts and/or costly repairs to the Refrigerators.

29. The Refrigerators have a uniform design or manufacturing defect that causes the shelves to drawers to break.

Plaintiff's Experience with the Refrigerator

30. On November 29, 2019, Plaintiff purchased a new Frigidaire Gallery 22.2 Cu. Ft. Counter-depth Side-by-side Refrigerator-Stainless Steel (model number FGSC2335TF) containing the defects from Plesser's Appliance in Babylon, New York for approximately \$999.00.

31. Since Plaintiff was redoing his kitchen he purchased all matching appliances that were Frigidaire brand, Gallery Series. The Refrigerator was delivered and installed in February 2020.

32. The three shelves which have drawers underneath them in Plaintiff's Refrigerator began breaking within a year of purchase.

33. Plaintiff notified both Electrolux Customer Care and Plesser's Appliances that the shelves were breaking but Electrolux advised him that it was too late to utilize the warranty.

34. Since purchasing the Refrigerator **all** of the bottom shelves, which are made of brittle plastic and glass have broken. The shelves should be able to support the plastic drawers but they cannot.

35. Three different shelves experienced breakage and had to be repaired. The replacement frames, could be repurchased at a cost \$60 each, but it was clear that the shelves and frames would merely break again. Plaintiff has even tried to superglue the frames but this would only last for a few weeks. Plaintiff tried resting the drawer on top of the glass shelf below it but that caused the frames to break more and the glass would collapse. In exasperation, Plaintiff has now added wood to the frames to make them functional but the inside of the Refrigerator is quite

unsightly. Moreover, the shelves that came with the refrigerator never would slide smoothly as represented in advertising.

Plaintiff and Class Members' Reasonable Expectations

36. In purchasing the Refrigerator, Plaintiff legitimately expected the refrigerator to operate in accordance with all of its intended purposes – including having the capability to safely store foods needing refrigerator in a safe and effective manner.

37. Consumers reasonably expect that refrigerators like the Refrigerators at issue here will function properly for at least 10 years. The Association of Home Appliance Manufacturers has found that the life expectancy of refrigerators is 14 years for side-by-side models.

38. Plaintiff and members of the Class reasonably expected the materials making up the interior shelving and drawers in the Refrigerators to remain intact during the Refrigerators' expected useful lives.

39. Plaintiff and members of the Class reasonably expected Electrolux to disclose the existence of a defect that was known to Electrolux at the time of sale, namely that the shelves were brittle and flimsy and would break repeatedly under normal use.

40. Because of the Defect, Plaintiff's Refrigerator failed during its expected useful life, within or outside applicable warranty periods.

41. As a result of the Defect alleged herein, Plaintiff has experienced failure of his Refrigerator, did not get what he paid for, and has incurred actual damages.

Electrolux was Aware of the Defect

42. Before it sold the Refrigerators, Electrolux knew, or was reckless in not knowing, that the Refrigerators contained a defect that would cause the shelving and drawers inside the Refrigerators to break repeatedly

43. Electrolux did not implement a plan to address the defect and instead manufactured and sold subsequent models that contained the same defect.

44. Upon information and belief, the Defect was a known issue to Electrolux at or about the time it began distributing refrigerators with the components containing the Defect.

45. Indeed, Electrolux has been selling replacement shelf frames since 2010. The replacement shelf can currently be found for sale on Amazon - <https://www.amazon.com/Frigidaire-241969501-Shelf-without-Refrigerator/dp/B00M0YUOO6> - and it lists the manufacturer as “Frigidaire” and that it is a “Brand new oem part” [or Original Equipment Manufacturer part] which was first available for sale on “February 7, 2010.”

46. Thus, upon information and belief, Electrolux has known about this problem since as early as February 2010 as it has been selling replacement shelving for the refrigerators at issue that contain the Defect since then.

47. Consumers, including Plaintiff, have complained repeatedly to Electrolux about this Defect, but Electrolux refuses to address and rectify the problem and has failed and refused to reimburse customers for lost groceries, replacement parts or repairs, citing expired warranty periods.

48. Electrolux was or should have been aware at the time it sold the Refrigerators that they were defective as many of the Complaints posted on various websites complaining of this exact problem were responded to by representatives of Electrolux. The following is a small

sample of recent consumer complaints regarding the Defect as detailed on <https://www.homedepot.com/p/FRIGIDAIRE-GALLERY-22-1-cu-ft-Side-by-Side-Refrigerator-in-Stainless-Steel-Counter-Depth-FGSC2335TF/303015062> :

July 20, 2021

Disappointed

I've had this Frigidaire for about 5 years. Ice maker stopped working after a year or two. A leak occurred at one point and filled my freezer with water, including the ice bin which has been a solid block of ice that I cannot remove from the freezer without unplugging the unit for hours... no thank you. Drawers in the freezer slip out of the grooves often enough that it's as if they're not wide enough, so: poor design. Refrigerator side is a bit better. I would advise shopping around.

by STP

Response from FrigidaireSupport

July 26, 2021

Hi, STP! Thanks for sharing your feedback. We're sorry to hear that you're having some issues with the ice maker and drawers! If you are continually getting frost in the freezer, we recommend checking the seal on the door for any gaps, damage, or debris that could be letting in cold air. If you need further assistance, feel free to reach out by Live Chat on our website or by phone at 800-374-4432 Monday through Friday, 8:30am to 8:00pm EST. ~Ashton

May 21, 2021

So Dissatisfied

The vegetable and fruit bins freeze everything you put in even on the lowest setting available. Within two months the handles are all scratched. There are several dents and scratches on the doors. Might be fingerprint proof but not scratch and dent resistant!! Nothing fits with the weird door things on the bottom. Shelves would have been better. Picture I provided shows frozen water on the side bin. Don't have a clue why ice would form in a produce bin when there is no water present.

by JMC

Response from FrigidaireSupport

May 27, 2021

Hi, JMC! We are sorry to hear you are having issues with your refrigerator. We do have some tips that should help. Lower humidity conditions may result in freezing in drawers. We suggest adjusting the humidity control to allow for more air flow in and out of the drawer.

Regarding water on the side bin, please ensure the doors are closing and sealing properly. We hope this helps! Please join us on a live chat via our branded page if further assistance is needed. - Bianca

Dec 30, 2020

Looks good - but falls apart after 9 months

This Frigidaire Gallery (their premium brand) refrigerator looks good, but after only 9 months of use two by mature adults, it's falling apart. Both lower bins have broken where they slide into the frame and both frames have broken. On top of that, the unit will only dispense crushed ice, not cubes. And what does Frigidaires customer service have to say, "the internal parts have no warrant - but don't worry, we will sell you replacement parts at a 20% discount totaling \$249.00. I was so stunned, I forgot to mention the ice issue. Stay away from this product.
by

Jan 6, 2021

Hello, Bfforest! Thank you for your feedback. We're sorry to hear that the bins have broken and the issue with the icemaker not dispensing cubed ice. This isn't what we would want for you, and we would like to help with resolving the issues with the refrigerator. Please reach out to us at Socialcare@Frigidaire.com, with the details of your issue and your product information. - Katrina

Oct 27, 2020

Noisy cheap

[This review was collected as part of a promotion.] Was in our new home and runs loud and in the first year the side shelves started cracking
by

Nov 4, 2020

Hello, Sue S! Thank you for reaching out to us. It's great to hear that the refrigerator is working well, except for the issue with the shelf cracking. We would like the opportunity to make this right. Please be on the lookout for an email from us. We look forward to your reply! Should you need further assistance, please feel free to chat with us online at Frigidaire.com or contact us via phone at 800-374-4432 Monday-Friday, 8:30 am- 8:00 pm EST. -Katrina

Jun 4, 2020

The plastic is cheaply made.

[This review was collected as part of a promotion.] I bought this refrigerator about 2 years ago and it is loud but I got used to it. Today, a piece of frozen meat maybe weighing 1 pound fell off the shelf and damaged the bottom of the refrigerator. You would think a product would not crack from this kind of fall. Since it is not product failure it can not be repaired under warranty. How can a company make such a cheap product.

by

Response from Outline Outreach Specialist

June 11, 2020

Hello, rlassale! Thank you for your feedback! We sincerely apologize for your experience with your Frigidaire refrigerator. Rest assured, we make every effort to manufacture quality products and your concerns have not gone unnoticed. We have contacted you directly via email regarding your concerns. Should you need further assistance, please feel free to chat with us online or contact us via phone at 800-374-4432 M-F, 8:30 am- 8:00 pm.

Apr 28, 2020

Lots of problems with this refrigerator

[This review was collected as part of a promotion.] We purchased a complete set of Frigidaire appliances for our kitchen remodel. All of the appliances are working great EXCEPT for this refrigerator. The refrigerator has a number of problems: 1. The plastic pegs that hold up the bottom drawer in broke, causing the drawer to fall. Our previous refrigerator worked flawlessly; therefore, we're very disappointed with our new refrigerator. We're hoping that Frigidaire can repair it so it works properly.

by

May 5, 2020

Hi, Gnorizo! We appreciate you taking the time out to share your feedback with us and bringing your concerns to our attention. Please know we make every effort to manufacture quality products, and your experience does not go unnoticed for continuous improvement. Based on the information provided, we see that you were able to reach out to consumer care previously and they were able to resolve your concerns. If you are still experiencing any matters, please chat with us by going to www.frigidaire.com or call us at 1-800-374-4432 Monday-Friday 8:30 am-8 pm EST. Best Regards, Ciara

Apr 10, 2020

One of the plastic side bins already broke

[This review was collected as part of a promotion.] We just got this fridge & a side bin BROKE IN LESS THAN A MONTH
by

Response from Online Outreach SpecialistHideApr 14, 2020

Hello, Lisa1959! Thank you for your review. Rest assured, we make every effort to manufacture quality products and your concerns have not gone unnoticed. Our design and engineer teams are constantly looking for feedback such as yours for opportunities for improvement. We would like to see how we can assist. To do so, I have sent you an email regarding your concerns. Should you need further assistance, please feel free to chat with us online or contact us via phone at 800-374-4432 M-F, 8:30 am- 8:00 pm.
~Briana

Jul 19, 2021

Very Unhappy-Never Again

Purchased this refrigerator in May of 2019. I have had to have this serviced twice since I purchased it. The vegetable draw freezes everything. Any item in the back of the refrigerator also freezes. The bottom shelf on the door split in half and one of the other shelves cracked. I am so disappointed.
by

Response from Online Outreach SpecialistHideJul 21, 2021

Hi, LAJC! Thank you for reaching out with your experience! We're sorry to hear it has not been entirely positive. If items are freezing in the vegetable drawer, the humidity setting may be too low. Try adjusting it to a higher humidity; a high setting is better for leafy vegetables. If items are freezing near the back wall, they may be arranged in a way that is trapping frigid air from the vents.

Try rearranging the items for better airflow and ensure they are not blocking any vents. If you have any further concerns or need assistance with the broken shelves, please contact us by Live Chat on Frigidaire.com or by phone at 800-374-4432 Monday through Friday, 8:30am to 8:00pm EST at your convenience. We will be happy to help! Best, Ashton

Jul 17, 2021

Worst Fridge Ever For Sure

This fridge has every problem that every customer mentioned and has from early on. Door bins broken, freezing vegetables no matter the setting, and the door seal on the fridge side is hanging on the bottom? Total trash. Do not buy.

by DJ S

Response from Online Outreach SpecialistHideJul 19, 2021

Hello DJ S! Thank you for sharing your experience with us! Hopefully you will give us another try to get things right! We can understand your concerns and will love to work with you to reach a resolution. We have sent you an email to gather more information to see how best to get this taken care of for you. -Kiara

Feb 3, 2021

Loud vibrating noise

[This review was collected as part of a promotion.] I have already had one service technician out to find out why a loud vibrating/rubbing sound emits from the bottom of the refrigerator. I believe it's a fan rubbing against something. He never looked under the unit but simply said it was the compressor using a higher mode. He didn't know how to force the compressor to a higher mode to hear the sound. He left. Now I'm forced to make a second call on a new refrigerator that was installed a couple of weeks ago. I also had a defective door shelf break off which resulted in 4 broken jars.

by Irritated Frigidaire Owne

Response from Online Outreach Specialist

Response from Online Outreach SpecialistHide

Feb 11, 2021

Hello, Valued Consumer! Thank you for sharing your experience with us. We are sorry to hear that you have not had the best

experience. In researching, we see where service was provided and parts were sent out for your concerns. If further assistance is needed, please feel free to connect with us directly. ~Briana

Oct 19, 2020

Terrible quality

Bought this fridge June 2019, the first one had many issues and it was replaced in October 2019 through warranty and complaint. The second one I thought was good now a year later my freezer shelves are falling out of the wall of the fridge and the freezer seal will not hold causing frost to build up. I wish I hadn't bought multiple pieces of the suite in black stainless now I'm stuck with the Frigidaire brand and this awful fridge!

by Acarli08

Response from Outline Outreach SpecialistShow

Nov 3, 2020

Hello, Acarli08! Thank you for reaching out to us. We are sorry to hear of the issues with the freezer shelves and of the frost build up. We see that you've been in touch with us and currently working with a technician to resolve your issues. If this does not resolve your issues, we're here to help. Feel free to chat with us online at Frigidaire.com or via phone at 800-374-4432 Mon-Fri 8:30am – 8:00pm EST. -Katrina

Sep 28, 2020

Cheap and flimsy

[This review was collected as part of a promotion.] We bought the fridge almost 3 months ago. It was broken on the inside, water valve was broken from the outside which caused major damage and the doors had a broken seal. It looks great but it is not built well. Cheap plastic drawers that feel as they are about to break. We must of called fridgidair over 10 times waited for a service representative and got disconnected after being put on hold. After a battle they have still yet to replace the fridge- we are now going into October..... Fridgidaire you owe us better than this product and the service that we didn't receive!

by Jen1mortgage

Response from Outreach Social SpecialistShow

Oct 15, 2020

Hi Jen1mortgage, Thanks for sharing your feedback. We're sorry your experience didn't match your expectations. It was an

uncommon instance and we'll do better. Please take a moment to chat with us at Frigidaire.com or call us at 877-435-3287. Our Customer Care and Live Chat teams are available Monday through Friday from 8:30 am-8 pm EST. We would love to make things right if you give us another chance. ~Corletta

Jul 27, 2020

Bad experience with Frigidaire

[This review was collected as part of a promotion.] Bought this side by side in Jan, still food freezing in fridge side, techs have visited still not working, cannot use one vegetable drawer, regret buying this, tried calling Frigidaire several times was on hold for over an hour each time.

Response from Online Outreach SpecialistHide

Aug 12, 2020

Hello, Oh well thats life! Thanks for reaching out to us. I'm not pleased to learn about your issues with the refrigerator. I reviewed your account and see where you have been account with us recently. If the current service visit doesn't resolve the issue, please reach back out to us for assistance. Bianca

Jul 10, 2020

Sorriest made fridge I have ever owned in 72 years

[This review was collected as part of a promotion.] Icemaker never worked cheap made shelves piece of crap disappointed in Frigidaire for this Made in Mexico and it shows
by Boaz1970

Response from Online Outreach SpecialistShow

Response from Online Outreach SpecialistHide

Jul 25, 2020

Hello, Boaz1970! We are not pleased to learn you are not satisfied with the refrigerator. Please know we make every effort to manufacture quality products and your feedback will not go unnoticed. I reviewed your file and see your concerns have been addressed. Please reach back out to us if you need further assistance. Bianca

Jun 11, 2020

Terrible

[This review was collected as part of a promotion.] I purchased a few months ago and can't believe how loud this refrigerator is. The

crispers keep freezing all everything in the drawers and for some reason the plastic condiment holders are extremely poorly made and all have cracked.

Response from Online Outreach SpecialistHide

Jun 19, 2020

Hi, Klarson75! We greatly apologized for any matters you have experienced due to the issues with the refrigerator. Please know we make every effort to manufacture quality products. We were able to see a resolution was provided in this matter. If you need further assistance, please reach out to us. Bianca

Dec 10, 2019

DO NOT WASTE YOUR MONEY! PLEASE!!

We have had this fridge for 6 months. Within the 1st week of having it, and very little food, the glass shelves started getting sticky. The drawers constantly get stuck like there is liquids stuck to it. I cannot tell you how many times I have cleaned it out completely to wipe it down thinking there is something making it stick and hard to open. NOPE, just poorly made. Lets talk about the ice machine. IT SUCKS!!! Hardly produces ICE! Its a joke. Now onto my final issue that I came here to try and find, is the Storage bins on the door. The one that is suppose to hold a gallon of milk...Guess what Magically broke off. YES, this bin, and looking to replace it is a joke. Youre looking at \$80 for one bin! What a ripoff. I WILL NEVER purchase Frigidaire products again. I wish we would have brought our LG fridge with us, that was over 10 years old and still working great. And 0 issues like this. Maybe 1 bin in ten years Ive had to replace with that old fridge, and it was \$20. PLEASE DO NOT WASTE YOUR MONEY ON THIS PIECE OF JUNK!

by Lindsey

Response from FrigidaireSupportShow

Helpful?

Response from FrigidaireSupportHide

Dec 18, 2019

Hi, Lindsey! Thank you for your detailed review. We're sorry to hear that you have been disappointed by your experience! The ice maker should produce between 2 and 3 pounds of ice in 24 hours at the recommended temperature setting. If you are having trouble with drawers or need a replacement door bin, we would be happy to see what we can do to help! Please reach out to us by Live Chat

or by phone at 800-374-4432 Monday through Friday, 8:30am to 8:00pm EST at your convenience. ~Ashton

Oct 23, 2019

This fridge broke after 5 years

We have had this fridge for 5 years and it started making loud noises and stopped working. The seal on the door has been falling off and the lever for the water and ice broke. Two of the shelves broke after a year. I would highly recommend buying a different refrigerator. I thought that a refrigerator should last longer than 5 years.
by

Response from FrigidaireSupportHide

Oct 25, 2019

Hi, Kk35.

Thank you for taking the time to share your experience with us.

I feel awful to learn your fridge hasn't performed as expected.

Though no manufacturer can guarantee against repairs or service visits with any of their models, I'm sorry for the experience with your appliance. Rest assured, we make every effort to manufacture quality products.

We would like to learn more about your experience.

At your earliest convenience, please send us a quick note along with your fridge's serial and model number via our email socialcare@frigidaire.com.

We appreciate your feedback and we will be happy to use your experience for future reference.

Regards-
Derrick

Oct 1, 2019

Problems from day 1

[This review was collected as part of a promotion.] Bought 9/2 got it 9/8 broken shelves cracked drawers still waiting on new ones on 9/15 two clips for shelf supports broke off not real happy with product especially for price
by

Response from Online Outreach SpecialistHide

Oct 3, 2019

Hello, 77guido. Thank you for your review and rating. I am upset to learn you are having some hiccups with your fridge. I have reached out via email to review your concerns about the recent experience with your appliance. For any immediate assistance, we can be reached at 800-374-4432. Our Customer Care Team is available Monday through Friday from 8:30am-8pm EST. Regards-Derrick

Sep 26, 2019

So noisy

[This review was collected as part of a promotion.] I bought this fridge last month. It's so noisy. It has a terrible high pitch almost all the time. The crisp/vegetable drawers are freezing fresh items. The door and drawers hit easily and already appear scratched and worn. We have a repair man scheduled to come evaluate the noise in 2 weeks. So much for trouble free new appliance.

by Heidi disappointed

Response from Online Outreach SpecialistShow

Sep 30, 2019

Hi, Heidi! We thank you for taking the time to share your feedback with us. Typically, the compressor operates at a higher pressure when first starting and the noise should disappear as the refrigerator continues to run and balance pressures. Modern, high-efficiency compressors operate much faster than older models. The compressor may have a high-pitched hum or pulsating sound, which is normal. If your door and drawers hit easily. When installing refrigerator adjacent to wall, cabinet or other appliance that extends beyond front edge of unit, 20" minimum clearance recommended to allow for optimum 120° to 180° door swing, providing complete drawer / crisper access and removal. (Absolute 4-1/2" minimum clearance will only allow for 90° door swing which will provide drawer / crisper access with restricted removal.) We understand that you have a technician coming out pertaining to your concerns, after their visit, feel free to reach out to us and let us know how it went. Kindly, Ciara

Nov 3, 2017

Worst Refridgerator Ever

If I could give zero stars I would. The fridge never stops running and has a high pitched running sound. The shelves get stuck and fall down when they are opened. Water from the dispenser is warm. Ice cubes are too small. Do not buy.

by Rob

49. For those Refrigerators that have failed within the applicable warranty period, Electrolux has provided repairs that do not address the underlying defect and do nothing to prevent subsequent failure. Electrolux was aware, had reason to know, or was reckless in not knowing that its warranty repairs would not cure or rectify the defect but would instead merely delay the impact of the Defect which caused reoccurring failures. By providing such ineffective warranty repairs Electrolux merely postponed the failure of the Refrigerators until after the expiration of applicable warranties.

50. The repairs that Electrolux recommends do not address the underlying defect and do nothing to prevent subsequent failure in the Refrigerator's shelving and drawers.

51. Electrolux knew that the repairs it recommended would not cure the Defect. Nonetheless, it refuses to refund customers for the cost of repairs or replace the necessary parts with ones that function properly and hold up under ordinary condition.

Electrolux's Omissions and Misrepresentations

52. Electrolux failed to adequately design, manufacture, and/or test the Refrigerators to ensure that they were free from the Defect, and/or knew, had reason to know, or was reckless in not knowing of the Defect when it uniformly warranted, advertised, marketed and sold the Refrigerators to Plaintiff and the Class.

53. Electrolux did not disclose to its customers the fact that the Defect existed at the time of sale and that the Defect would render the Refrigerators unable to perform their essential function well before the end of their expected useful lives. Nor did Electrolux disclose

that warranty or the recommended post-warranty repairs would not cure or rectify the Defect and would only, at best, briefly delay the impact of the Defect which would occur again.

54. Instead, in its uniform marketing and advertising, Electrolux falsely represented that the Refrigerators were free from defects.

55. Electrolux knew that consumers were unaware of the latent defect and that they reasonably expected the Refrigerators to contain shelves and drawers that were sturdy enough to last for the expected useful life of the Refrigerator. Electrolux also knew that customers expected Electrolux to disclose a defect that would prevent the Refrigerators from performing their function long before the end of their expected useful lives, and that such disclosure would impact consumers' decision whether to purchase the Refrigerators. Electrolux knew and intended for consumers to rely on its material omissions with regard to the Defect when purchasing the Refrigerators.

56. As a result of Electrolux's uniform omissions and misrepresentations in its marketing and advertising, Plaintiff believed that the Refrigerator he purchased would operate without defects, and Plaintiff purchased an Electrolux Refrigerator in reliance on that belief.

57. Electrolux's representations that the Refrigerators were free from defects were not true. Electrolux knew or was reckless in not knowing when it sold the Refrigerators that the Defect would manifest long before the end of the Refrigerators' expected useful lives, rendering the Refrigerators unable to function properly and in need of continual repairs.

58. Electrolux had the capacity to, and did, deceive consumers into believing that they were purchasing refrigerators that were free from defects and could be used safely and practically.

59. Electrolux actively concealed from and/or failed to disclose to Plaintiff, the Class and Subclass, and everyone, the true defective nature of the Refrigerators, and failed to remove the Refrigerators from the marketplace or take adequate remedial action. Electrolux represented that the Refrigerators were free of defects even though it knew or was reckless in not knowing when it sold the Refrigerators that they contained a defect that would render the drawers and shelves in the Refrigerators unable to perform their function and need frequent replacement at significant expense. Furthermore, Electrolux sold and serviced the Refrigerators even though it knew, or was reckless in not knowing, that the Refrigerators were defective and that Plaintiff and Class members would be unable to use the Refrigerators for their intended purpose for the duration of their expected useful life.

60. To this day, Electrolux continues to misrepresent and/or conceal material information from Plaintiff, the Class and the public about the Defect in the Refrigerators.

Fraudulent Concealment Allegations

61. Plaintiff's claim arises in part out of Electrolux's fraudulent concealment of the Defect. To the extent that Plaintiff's claims arise from Electrolux's fraudulent concealment, there is no one document or communication, and no one interaction, upon which Plaintiff bases his claim. He alleges that at all relevant times, including specifically at the time he purchased his Refrigerator, Electrolux knew, had reason to know, or was reckless in not knowing, of the Defect; Electrolux was under a duty to disclose the Defect based upon its exclusive knowledge of it, its representations about its products, and its concealment of the Defect; and Electrolux never disclosed the Defect to the Plaintiff or anyone at any time or place or in any manner.

62. Plaintiff makes the following specific fraud allegations with as much specificity as possible absent access to the information necessarily available only to Electrolux:

a. Who: Electrolux concealed the Defect from Plaintiff, the Class, and everyone in the chain of distribution. Plaintiff is unaware of, and therefore unable to identify, the true names and identities of those individuals at Electrolux responsible for such decisions.

b. What: Electrolux knew, or had reason to know, at the time it sold the Refrigerators, or was reckless in not knowing, the fact that an existing defect in the Refrigerators would cause the shelves and drawers in the Refrigerator to frequently break before the end of their expected useful lives, within or outside the applicable warranty periods.

c. When: Beginning no later than the date the first unit was sold, Electrolux concealed this material information at all times with respect to the Refrigerators, including before the time of sale, on an ongoing basis, and continuing to this day.

d. Where: Electrolux concealed this material information in every communication it had with Plaintiffs, the Class, and everyone in the chain of distribution. Plaintiff is aware of no document, communication, or other place or thing, in which Electrolux disclosed this material information to anyone outside of Electrolux. Such information appears in no sales documents, no displays, no advertisements, no warranties, no owner's manual, nor on Electrolux's website.

e. How: Electrolux concealed this material information by not disclosing it to Plaintiff, the Class, the Subclass or anyone in the chain of distribution at any time or place or in any manner, even though it knew this information and knew that it would be important to a reasonable consumer, and even though its omissions with regard to

the Defect and consequent premature failures of the shelves and drawers were contrary to its representations about the Refrigerators.

f. Why: Electrolux concealed this material information for the purpose of inducing Plaintiff and Class and Subclass members to purchase the defective Refrigerators at full price rather than purchasing competitors' refrigerators or paying Electrolux less for the Refrigerators, given their limited utility and need for frequent parts replacement. Had Electrolux disclosed the truth, Plaintiff (and reasonable consumers) would not have bought the Refrigerator, or would have paid less for them.

V. NEW YORK'S SUBSTANTIVE LAW APPLIES TO THE PROPOSED NATIONWIDE CLASS

63. Plaintiff incorporates the foregoing paragraphs as if fully restated herein.

64. New York's substantive laws apply to the proposed nationwide Class, as set forth in this Complaint, because Plaintiff properly brings this action in this District. A United States Court sitting in diversity presumptively applies the substantive law of the State in which it sits.

65. New York's substantive laws may be constitutionally applied to the claims of Plaintiff and the Class under the Due Process Clause, 14th Amend., § 1, and the Full Faith and Credit Clause, art. IV., § 1, of the U.S. Constitution. New York has significant contact, or significant aggregation of contacts, to the claims asserted by Plaintiff and all Class members, thereby creating state interests that ensure that the choice of New York's state law is not arbitrary or unfair.

66. Defendant conducts substantial business in New York providing New York with an interest in regulating Defendant's conduct under New York's laws. Defendant's decision to regularly conduct business in New York and avail itself to New York's laws render the application of New York law to the claims at hand constitutionally permissible.

67. The injury to Plaintiff and a significant number of proposed Class Members by virtue of the misconduct alleged, occurred in New York. Plaintiff resides in New York and purchased the defective product in New York.

68. New York has a materially greater interest than any other State in enforcing its laws with respect to the conduct of corporations located in and doing business in New York.

69. The application of New York's laws to the proposed Nationwide Class Members is also appropriate under New York's choice of law rules because New York has significant contacts to Plaintiff's claims and to the Nationwide Class Members.

VI. CLASS ACTION ALLEGATIONS

70. Plaintiff brings this action on behalf of himself and all other persons similarly situated, pursuant to Rule 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure.

71. The Class that Plaintiff seeks to represent is defined as follows:

National Class (the "Class"):

All persons or entities residing in the United States who own, or have owned, Electrolux refrigerator models DGHK2355TF, FGHC2355PF, FGHC2331PF, LGHK2336TF, LGHK2336TD, FGSC2335TD, FGSC2335TF, FGSS2335TF, GRSS2652AF, GRSS2352AF, GRSC2352AD and GRSC2352AF and/or any other Electrolux refrigerator model containing a defect that causes the refrigerator's shelves and drawer and associated parts to break prematurely and continuously.

72. Alternatively, Plaintiff proposes the following state specific subclass if it is later determined by the Court for one or more of the causes of action, the choice of law rules require the application of the State law based on each Plaintiff's residence, and not those of New York:

New York Subclass (the "Subclass")

All persons or entities residing in New York who own, or have owned, Electrolux refrigerator models DGHK2355TF, FGHC2355PF, FGHC2331PF, LGHK2336TF, LGHK2336TD, FGSC2335TD, FGSC2335TF, FGSS2335TF, GRSS2652AF, GRSS2352AF,

GRSC2352AD and GRSC2352AF and/or any other Electrolux refrigerator model containing a defect that causes the refrigerator's shelves and drawer and associated parts to break prematurely and continuously.

73. Excluded from the Class and Subclass are (a) Electrolux, any entity in which Electrolux has a controlling interest, and its legal representatives, officers, directors, employees, assigns, and successors, (b) the United States government and New York agency or instrumentality thereof; (c) the judge to whom this case is assigned and any member of the judge's immediate family; and (d) individuals with claims for personal injury, wrongful death and/or emotional distress.

74. **Numerosity/Impracticability of Joinder:** The members of the Class and Subclass are so numerous that joinder of all members would be impracticable. The proposed Classes includes tens of thousands of members. The Classes are composed of an easily ascertainable, self-identifying set of individuals and entities that own or owned the Refrigerators. The precise number of Class and Subclass members can be ascertained by reviewing documents in Defendant's possession, custody, and control.

75. **Commonality and Predominance:** There are common questions of law and fact that predominate over any questions affecting only individual members of the Class and Subclass. These common legal and factual questions, include, but are not limited to, the following:

- a) Whether Defendant Electrolux's Refrigerators were defectively designed, manufactured, marketed, distributed and sold;
- b) Whether Defendant Electrolux's knew or should have known that the Refrigerators were defectively designed, manufactured, marketed, distributed and sold;

- c) Whether Defendant Electrolux knowingly concealed the defective nature of the Refrigerators;
- d) Whether Defendant Electrolux engaged in illegal business practices by failing to recall or sufficiently repair the Refrigerators without charging the class members;
- e) Whether Defendant Electrolux misrepresented the durability and usefulness of the Refrigerator;
- f) Whether, by the misconduct set forth herein; Defendant Electrolux violated consumer protection statutes and/or false advertising statutes and/or state deceptive business practice statutes;
- g) Whether, by the misconduct set forth herein; Defendant Electrolux violated expressed and implied warranty statutes;
- h) Whether, by the misconduct set forth herein; Defendant Electrolux violated the common laws of negligent misrepresentation and unjust enrichment;
- i) Whether, by the misconduct set forth herein; Defendant Electrolux breached its duty of good faith and fair dealing; and
- j) The nature and extent of damages and other remedies to which the conduct of Defendant Electrolux entitles the class and subclass members;
- k) Whether Electrolux's acts and omissions violated the New York's General Business Law § 349 , *et seq.*;

76. **Typicality**: Plaintiff's claims are typical of the claims of the members of the Class and Subclass. Plaintiff and all Class and Subclass members have been injured by the same wrongful practices by Electrolux. Plaintiff's claims arise from the same practices and course of conduct that give rise to the claims of the Class and Subclass members and are based

on the same legal and remedial theories.

77. **Adequacy**: Plaintiff will fully and adequately assert and protect the interests of the Class and Subclass, and has retained class counsel who are experienced and qualified in prosecuting class actions. Neither Plaintiff nor his attorneys have any interests that are contrary to or conflicting with the Class or Subclass.

78. **Superiority**: A class action is superior to all other available methods for the fair and efficient adjudication of this lawsuit, because individual litigation of the claims of all Class and Subclass members is not economically feasible and is procedurally impracticable. While the aggregate damages sustained by the Class and Subclass are in the millions of dollars, and are no less than five million dollars upon information and belief, the individual damages incurred by each Class and Subclass member resulting from Electrolux's wrongful conduct are too small to warrant the expense of individual suits. The likelihood of individual Class and Subclass members prosecuting their own separate claims is remote, and, even if every Class member could afford individual litigation, the court system would be unduly burdened by individual litigation of such cases. Individual members of the Class and Subclass do not have a significant interest in individually controlling the prosecution of separate actions, and individualized litigation would also present the potential for varying, inconsistent, or contradictory judgments and would magnify the delay and expense to all of the parties and to the court system because of multiple trials of the same factual and legal issues. Plaintiff knows of no difficulty to be encountered in the management of this action that would preclude its maintenance as a class action. In addition, Electrolux has acted or refused to act on grounds generally applicable to the Class and Subclass and, as such, final injunctive relief or corresponding declaratory relief with regard to the members of the Class and Subclass as a

whole is appropriate.

VII. TOLLING

Discovery Rule

77. The causes of action alleged herein accrued upon discovery of the defective nature of the Refrigerators. Because the Defect is latent, and Electrolux concealed it, Plaintiffs and members of the Class and Subclass did not discover and could not have discovered the Defect through reasonable and diligent investigation. Reasonable and diligent investigation into the cause of the Defect did not and could not reveal a factual basis for a cause of action based on Electrolux's concealment of the Defect.

Fraudulent Concealment

78. Any applicable statutes of limitation have been tolled by Electrolux's knowing and active and ongoing concealment and denial of the facts as alleged herein. Plaintiff and the Class and Subclass have been kept ignorant by Electrolux of vital information essential to the pursuit of these claims, without any fault or lack of diligence on their part. Plaintiff and members of the Class and Subclass could not reasonably have discovered the true, latently defective nature of the Refrigerators.

Estoppel

79. Electrolux was and is under a continuing duty to disclose to the Plaintiff and the Class and Subclass the true character, quality, and nature of the Refrigerators. Electrolux knowingly, affirmatively, and actively concealed the true character, quality, and nature of the Refrigerators, and the concealment is ongoing. Plaintiff reasonably relied upon Electrolux's knowing, affirmative, and/or active and ongoing concealment. Based on the foregoing, Electrolux is estopped from relying on any statutes of limitation in defense of this action.

VIII. CLAIMS FOR RELIEF

FIRST COUNT (On behalf of the Class and Subclass)

(Violations of New York's General Business Law § 349, *et seq.*)

80. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

81. As the choice of law question cannot be conclusively addressed at this point in the litigation, if it is later determined by the Court that the choice of law rules require the application of the State law based on each Plaintiff's residence, and not those of New York, Plaintiff states this cause of action on behalf of a subclass of New York State residents.

82. Plaintiff and Class and Subclass members are consumers who purchased Electrolux Refrigerators for personal use. Plaintiff brings this action pursuant to New York General Business Law §§ 349 and 350.

83. New York's Deceptive Practices Act ("NYDPA") provides that "[d]eceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in this state are hereby declared unlawful." New York General Business Law § 349

84. The NYDPA also provides "[f]alse advertising in the conduct of any business, trade or commerce or in the furnishing of any service in this state is hereby declared unlawful." New York General Business Law § 350

85. The NYDPA provides a private cause of action to persons such as Plaintiff that have been injured as a result of deceptive acts or practices and provides for recovery of actual damages and statutory attorneys' fees.

86. Defendant engaged in consumer-oriented, commercial conduct by selling and

advertising the subject product.

87. Defendant misrepresented and omitted material information regarding the subject product and/or its packaging by failing to disclose known defects and risks.

88. Defendant's misrepresentations and concealment of material facts constitute unconscionable commercial practices, deception, fraud, false pretenses, misrepresentation, and/or the knowing concealment, suppression, or omission of materials facts with the intent that others rely on such concealment, suppression, or omission in connection with the sale and advertisement of the subject product, in violation of New York General Business Law ("GBL") §§ 349 and 350.

89. New York has enacted these statutes to protect consumers from deceptive, fraudulent, and unconscionable trade and business practices. Defendant violated these statutes by knowingly and falsely representing that the subject product and/or its packaging were fit to be used for the purpose for which it was intended, when Defendant knew it was defective and dangerous, and by other acts alleged herein.

90. Defendant engaged in the deceptive acts and practices alleged herein in order to sell the subject product to the public, including Plaintiff and class members.

91. As a direct and proximate result of Defendants' violations of GBL §§ 349 and 350, Plaintiff and Class and Subclass Members have suffered damages, for which they are entitled to compensatory damages, equitable and declaratory relief, punitive damages, costs and reasonable attorneys' fees.

92. That by reason of the foregoing, Plaintiff and the Class and Subclass Members have been damaged in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

SECOND COUNT (On behalf of the Class and Subclass)

(Fraudulent Concealment/Nondisclosure)

93. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

94. Electrolux knew or was reckless in not knowing at the time of sale that the Refrigerators shelves and drawers are defective in that they are substantially certain to fail well in advance of their anticipated useful life.

95. Electrolux fraudulently concealed from and/or intentionally failed to disclose to Plaintiff, the Class and Subclass, and all others in the chain of distribution the true defective nature of the Refrigerators, that they routinely broke, rendering the drawers and shelves unusable and inoperable.

96. Electrolux had exclusive knowledge of the Defect at the time of sale. The Defect is latent and not something that Plaintiff or Class or Subclass members could, in the exercise of reasonable diligence, have discovered independently prior to purchase.

97. Electrolux had the capacity to, and did, deceive consumers into believing that they were purchasing refrigerators with sturdy, useable shelves that could be used safely and practically without causing damage.

98. Electrolux undertook active and ongoing steps to conceal the Defect. Plaintiff is aware of nothing in Electrolux's advertising, publicity, or marketing materials that discloses the truth about the Defect, despite Electrolux's awareness of the problem.

99. The facts concealed and/or not disclosed by Electrolux to Plaintiff and the Class and Subclass are material facts in that a reasonable person would have considered them important in deciding whether or not to purchase (or to pay the same price for) a refrigerator.

100. Electrolux had a duty to disclose the fact that a defect existed at the time of sale by virtue of the fact that consumers would reasonably expect disclosure of the Defect.

101. Electrolux intentionally concealed and/or failed to disclose the problems with the Refrigerator for the purpose of inducing Plaintiff and the Class and Subclass to act thereon.

102. Plaintiff and the Class and Subclass justifiably acted or relied upon the concealed and/or non-disclosed facts to their detriment, as evidenced by their purchase of the Refrigerators and/or replacement shelves and drawers for the Refrigerators.

103. Had Plaintiff and the Class and Subclass known of the Defect they would not have purchased (or would have paid less for) the Refrigerators.

104. As a direct and proximate cause of Electrolux's misconduct, Plaintiff and Class and Subclass members have suffered actual damages in that they bought and own refrigerators that contain an inherent defect and that have prematurely failed or are substantially certain to prematurely fail within and outside applicable warranty periods, and they will be required to incur costs to repair and/or replace the defective components or the Refrigerators as a whole.

105. Electrolux's conduct has been and is wanton and/or reckless and/or shows a reckless indifference to the interests of others.

106. Electrolux has acted with malice by engaging in conduct that was and is intended by Electrolux to cause injury to the Plaintiff and the Class and Subclass.

107. Electrolux has committed fraud through its concealment of material facts known to Electrolux with the intent to cause injury to the Plaintiff and the Class and Subclass.

108. Plaintiff, on behalf of himself and all others similarly situated, demand judgment against Electrolux for actual and punitive damages for himself and each member of

the Class and Subclass, plus attorneys' fees for the establishment of a common fund, interest, and costs.

THIRD COUNT (On behalf of the Class and Subclass)

(Breach of Implied Warranties)

109. Plaintiff incorporates the above allegations by reference as if fully set forth herein.

110. Electrolux sold and promoted the Refrigerators, which it placed into the stream of commerce. Defendant knew or had reason to know of the specific use for which the Refrigerators were purchased, and it impliedly warranted that the Refrigerators were of merchantable quality and fit for such use.

111. Plaintiff and Class and Subclass members reasonably relied upon the expertise, skill, judgment, and knowledge of Defendant Electrolux and upon its implied warranty that the refrigerator were of merchantable quality and for such use.

112. Through the conduct alleged herein, Electrolux has breached the implied warranty of fitness for a particular purpose. The defectively designed Refrigerators were not fit for the particular purpose for which they were purchased by class members to perform. The Class and Subclass members purchased the Refrigerators for a particular purpose of being able to safely store food. Electrolux knew that the class members were purchasing the Refrigerators for this purpose and marketed the produces for this particular purpose even advertising the variety of shelf configurations that were possible with this Refrigerator.

113. Plaintiff and Class and Subclass Members relied on Defendant's misrepresentations by purchasing the Refrigerators.

114. Defendant knew or had reason to know that Plaintiff and Class and Subclass

Members were influenced to purchase the Refrigerator through Defendant's expertise, skill, judgment and knowledge in furnishing the products for their intended use.

115. The Refrigerators were not of merchantable quality and were not fit for their particular intended use because the design and/or manufacturing defects alleged herein render them prone to repeated breakage.

116. Defendant's actions, as complained of herein, breached their implied warranty that the Refrigerators were of merchantable quality as fit for such use, in violation of the Uniform Commercial Code (UCC § 2-314 and § 2-3154) and the common law of this State, as well as the common law and statutory laws of the other states.

117. Plaintiff and the Class and Subclass Members have incurred damage as described herein as a direct and proximate result of the failure of Defendant to honor its implied warranty. In particular, Plaintiff and Class and Subclass Members would not have purchased the Products had they known the truth about their defects; nor would they have suffered the collateral effects and damages associated with these defects.

FOURTH COUNT (On behalf of the Class and Subclass)

(Breach of Express Warranties)

118. Plaintiff incorporates the above allegations by reference as if fully set forth herein.

119. Defendant warranted that all of the Refrigerators were free from defects in material or workmanship at a time when it knew that the Refrigerators suffered from serious defects and nevertheless, continued to market and sell these Refrigerators with this express warranty.

120. Defendant has breached its express warranties, as set forth above, by supplying

the Refrigerator in a condition which does not meet the warranty obligations undertaken by Electrolux and by failing to repair or replace the defective Refrigerator or defective parts.

121. Defendant has received sufficient and timely notice of the breaches of warranty alleged herein. Despite this notice and Electrolux's knowledge, Electrolux refuses to honor its warranty, even though it knows of the inherent defect in the Refrigerator's shelving and drawers.

122. In addition, Electrolux has received, upon information and belief, hundreds if not thousands of complaints and other notices from its customers nationwide advising it of the defects complained of herein.

123. Plaintiff has given Defendant a reasonable opportunity to cure its failures with respect to its warranties, and Defendant failed to do so.

124. Defendant has failed to provide Plaintiff or the Class and Subclass members, as a warranty replacement, a product that conforms to the qualities and characteristics that Electrolux expressly warranted when it sold the Refrigerator to Plaintiff and the Class and Subclass.

125. As a result of Electrolux's breach of warranty, Plaintiff and the Class and Subclass have suffered damage in the amount to be determined at trial.

FIFTH COUNT (On behalf of the Class and Subclass)

(Unjust Enrichment)

126. Plaintiff incorporates the above allegations by reference as if fully set forth herein.

127. Electrolux has been unjustly enriched by the sale of the Refrigerators to Plaintiffs and the Class and Subclass members.

128. Plaintiff seeks to recover for Electrolux's unjust enrichment under New York State law.

129. Plaintiff and the Class and Subclass members conferred a benefit on Electrolux, but Electrolux failed to disclose its knowledge that Plaintiff did not receive what they paid for and misled Plaintiff and the Class and Subclass regarding the qualities of the Refrigerators while profiting from this deception.

130. The circumstances are such that it would be inequitable, unconscionable, and unjust to permit Electrolux to retain the benefit of these profits that it unfairly has obtained from Plaintiff and the Class and Subclass members.

131. Plaintiff and the Class and Subclass members, having been injured by Electrolux's conduct, are entitled to restitution or disgorgement of profits as a result of the unjust enrichment of Electrolux to their detriment.

SIXTH COUNT (On behalf of the Class and Subclass)

(Negligent Misrepresentation)

132. Plaintiff incorporates the above allegations by reference as if fully set forth herein.

133. Defendant Electrolux made a series of misrepresentations and material omissions, as alleged herein, and including misrepresentations in its standard written warranty and otherwise that it would repair defective Refrigerators. Defendant's statements were material, false, deceptive, and misleading and omitted material facts necessary to make the statements not misleading; such material misrepresentations and omissions were the result of the Defendant's negligence.

134. Defendant owed a duty to Plaintiff and members of the proposed Class and Subclass to exercise reasonable care in making representations about the Refrigerators.

135. Plaintiff and the proposed Class and Subclass members relied (or should be

presumed to have relied) on Defendant's material representations and omissions in purchasing the Refrigerators. As a result of their justifiable reliance, Plaintiff and member of the proposed Class and Subclass were induced to and did purchase the Refrigerators. Plaintiff's reliance and the proposed Class and Subclass members' reliance were reasonably foreseeable by Defendant (and in fact, that is why the Defendant made the misrepresentations that it did).

136. As a direct and proximate result of the negligent misrepresentations made by Defendant, Plaintiff and the proposed Class and Subclass members have been damaged.

SEVENTH COUNT (On behalf of the Class and Subclass)

(Breach of Good Faith and Fair Dealing)

137. Plaintiff incorporates the above allegations by reference as if fully set forth herein.

138. Defendant's actions injured the right of Plaintiff and Class and Subclass members to receive the benefits of the contract, in violation of New York common law and the common law of other states.

139. Plaintiff and the Class and Subclass members have incurred damages as described herein as a result of Defendant's breach of its duty of good faith and fair dealing.

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiff on behalf of himself and the Class and Subclass, pray for judgment against Electrolux granting the following relief:

1. An order certifying this case as a class action and appointing Plaintiff to represent the Class and Subclass and Plaintiff's counsel as Class counsel;
2. All recoverable compensatory and other damages sustained by Plaintiff and the Class and Subclass;

3. Restitution and disgorgement of all amounts obtained by Electrolux as a result of its misconduct, together with interest thereon from the date of payment, to the victims of such violations;

4. Actual, treble, and/or statutory damages for injuries suffered by Plaintiff and the Class and Subclass in the maximum amount permitted by applicable law;

5. An order (1) requiring Electrolux to immediately cease its wrongful conduct as set forth above; (2) enjoining Electrolux from continuing to conceal material information and conduct business via the unlawful, unfair and deceptive business acts and practices complained of herein; and (3) requiring Electrolux to refund to Plaintiff and all members of the Class and Subclass the funds necessary to repair or replace the Refrigerator's shelves and drawers as appropriate and/or refund to Plaintiff and all Class and Subclass members the funds paid to Electrolux for the defective replacement parts;

6. Statutory pre-judgment and post-judgment interest on the Class and Subclass damages;

7. Payment of reasonable attorneys' fees and costs as may be allowable under applicable law; and

8. Such other relief as the Court may deem just and proper.

X. DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all causes of action so triable.

DATED: June 22, 2022

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