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16 UNITED STATES DISTRICT COURT

17 SOUTHERN DISTRICT OF CALIFORNIA

18 BERTHA CASTANEDA, On Behalf of  
19 Herself, All Others Similarly Situated and  
20 the General Public,

21 Plaintiff,

22 v.

23 FILA USA, INC.,

24 Defendant.

Case No.:

CLASS ACTION

CLASS ACTION COMPLAINT FOR:

1. VIOLATION OF THE UNFAIR  
COMPETITION LAW, Business and  
Professions Code §17200 *et seq.*;
2. VIOLATION OF THE CONSUMERS  
LEGAL REMEDIES ACT, Civil Code  
§1750 *et seq.*; AND
3. BREACH OF EXPRESS WARRANTY

DEMAND FOR JURY TRIAL

28

1 Plaintiff Bertha Castaneda (“Plaintiff”) brings this action on behalf of herself and all  
2 others similarly situated against Defendant Fila USA, Inc., (“Fila” or “Defendant”), and states:

3 **NATURE OF ACTION**

4 1. Fila manufactures, markets, and sells a line of premium priced women’s  
5 clothing known as the Fila Body Toning System apparel collection (“BTS Apparel”). The  
6 BTS Apparel includes pants, shorts, capri pants and tank tops. Through an extensive and  
7 nationwide advertising campaign, Fila promises that BTS Apparel will provide to anyone  
8 who wears the apparel a variety of health benefits ordinary workout clothing cannot provide.  
9

10 2. For example, on each and every BTS Apparel product label, Defendant  
11 promises that BTS Apparel will “Sculpt [and] Tone” the body, causing a “50% increase in  
12 muscle workouts” while walking, running, or just doing errands and provide “41% more  
13 support” than traditional workout clothing. Fila’s extensive print and online advertising  
14 campaign builds on this deceptive message through similar health benefit taglines: “50%  
15 increase in muscle workouts” and “41% more support.”  
16

17 3. In truth, Fila’s BTS Apparel does not provide these promised benefits. There  
18 are no well-designed scientific studies that support Fila’s performance claims which, by their  
19 very specificity, imply that they are well grounded in fact and scientifically supported. Fila’s  
20 representations are false, misleading, and reasonably likely to deceive the public.  
21

22 4. Despite the deceptive nature of Fila’s claims and assertions, Defendant has  
23 employed numerous methods to convey its deceptive message to consumers throughout the  
24 United States. Fila conveyed, and continues to convey, its deceptive performance claims  
25 through a variety of media, including point of sale displays, television, newspapers,  
26 magazines, direct mail, social media initiatives, and the Internet.  
27  
28

1



1 she resided in this judicial district. Venue is also proper under 18 U.S.C. §1965(a) because  
2 Defendant transacts substantial business in this District.

3 **PARTIES**

4 10. At all times relevant to this matter, Plaintiff Bertha Castaneda resided and  
5 continues to reside in this district. Plaintiff was exposed to and saw Fila's false and  
6 misleading labeling and advertising claims, purchased BTS Apparel in reliance on those  
7 claims and as a result of the alleged acts of unfair competition, suffered injury in fact and lost  
8 money. Had Plaintiff known the truth about Fila's misrepresentations and omissions, Plaintiff  
9 would not have purchased BTS Apparel.  
10

11 11. Defendant Fila USA, Inc., a wholly owned subsidiary of Fila Korea Ltd, is  
12 organized and existing under the laws of the State of Delaware. Defendant's headquarters is at  
13 1 Fila Way, Sparks Glencoe, Maryland, 21152-9393. Defendant is registered to do and does  
14 business in the state of California. Defendant sells its BTS Apparel on its website and in third-  
15 party retail stores nationwide, including throughout California.  
16

17 **FACTUAL ALLEGATIONS**

18 12. In October 2010, Fila launched its BTS Apparel collection in the United  
19 States, proclaiming it to be the "first" women's fitness toning apparel that "shapes the body  
20 and dramatically improves workout efficiency."<sup>1</sup> BTS Apparel is sold online and through  
21 third party retailers. The BTS Apparel line consists of the following products:  
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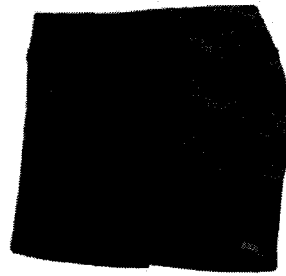
28 <sup>1</sup> Fila Launches Revolutionary Women's Fitness Toning Collection press release, *available at*  
<http://www.fila.com/2010-10-12/2010-10-12,default,pg.html> (last visited Apr. 18, 2011).

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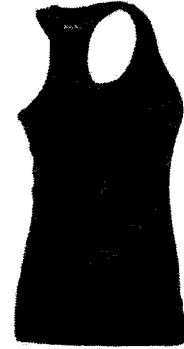
Toning Resistance Pant



Toning Resistance Short



Toning Resistance Tank



Toning Resistance Tight Capri



Toning Resistance Capri



Toning Resistance Long Tight

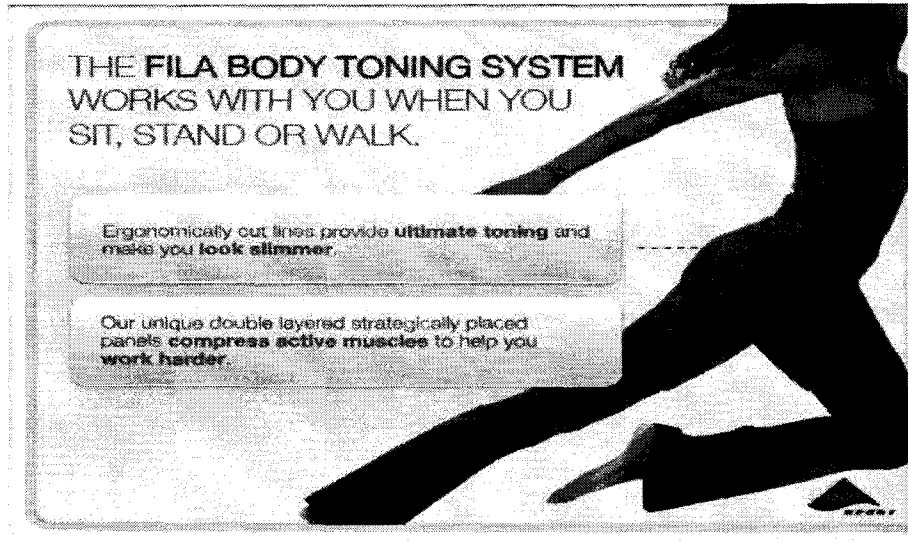


13. Fila claims that “after extensive research, INVISTA’s LYCRA® SPORT fabric was selected by Fila as the ideal foundation for the Body Toning System.” According to Fila, as a result of BTS Apparel’s double-layered panels of LYCRA® SPORT fabric engineering, all those who wear BTS Apparel will experience significant health and exercise benefits.

14. Since its launch, Fila has consistently conveyed the message to consumers throughout the United States that wearing BTS Apparel increases muscle workouts and efficiency, and will tone and sculpt one’s body, going so far as to claim a 50% increase in

1 muscle workouts while “walking, running, or just doing errands” and “41% more support”  
2 than traditional workout pants.

3 15. Fila repeats these deceptive statements in its online advertisements. The  
4 following is an example of an online advertisement from Fila’s Facebook website:<sup>2</sup>  
5

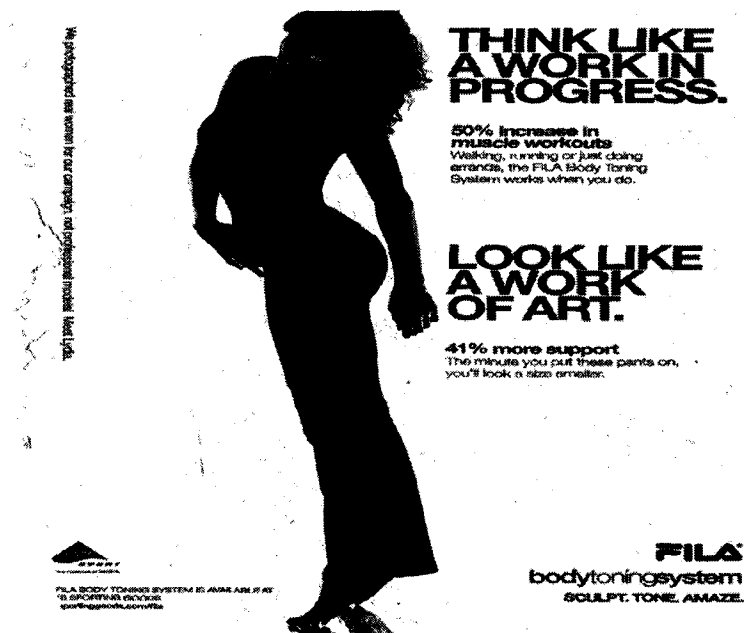


16 16. The images appearing on internet banners also convey the purported toning  
17 benefits of BTS Apparel:  
18



28  
<sup>2</sup> <http://www.facebook.com/FilaToning> (last visited Apr. 18, 2011).

1           17. Fila's print advertisements contain substantially similar deceptive messages  
2 about the ability of BTS Apparel to provide these health benefits. The following typical print  
3 advertisement is illustrative, representing that wearing BTS Apparel results in a "50%  
4 increase in muscle workouts [w]orking, running, or just doing errands" and provides "41%  
5 more support" the minute the customer puts the pants on:  
6



19           18. Similarly, another print advertisement claims that BTS Apparel will  
20 "compress[ ] active muscles for a 50% increase in muscle workouts."  
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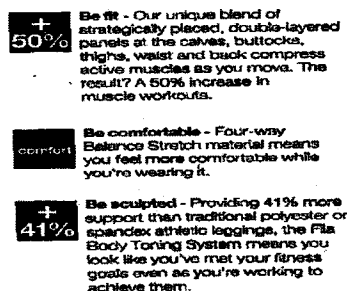
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19. Fila repeats its misrepresentations on its website: [www.Fila.com](http://www.Fila.com). This website is available to the general public and Fila's advertisements in other media promote this website. Without sufficient testing or adequate substantiation, Fila represents that BTS Apparel will "sculpt" and "tone" the body and improve athletic performance:



1  
2           20. Fila repeats the claim that BTS Apparel tones and sculpts the body, increases  
3 muscle workouts by 50% and provides 41% more support than traditional workout clothing  
4 on the labels attached to each item of BTS Apparel, such as the following:



**SCULPT. TONE. AMAZE.**

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12           21. Despite Fila's advertising representations regarding the wide-ranging health  
13 benefits of BTS Apparel, Fila lacks adequate scientific evidence supporting its  
14 representations.

15           22. The subject advertising misled Plaintiff and Class members. Plaintiff  
16 purchased BTS Apparel and in doing so, read, considered and based her decisions to buy the  
17 clothing on the above-cited label misrepresentations. Fila's misrepresentations were a  
18 material factor in Plaintiff's decision to purchase BTS Apparel. Plaintiff would not have  
19 purchased BTS Apparel had she known that BTS Apparel was not proven to provide the  
20 advertised benefits, and that Defendant did not possess competent scientific evidence to  
21 support the claims that it made about these products.  
22

23           23. As a result of Defendant's unlawful conduct, Plaintiff and the Class members  
24 have been damaged by their purchases of BTS Apparel because they were deceived into  
25 purchasing a product that they believed, based on Fila's representations, is effective in  
26 sculpting and toning the body, providing significantly more support than traditional workout  
27 clothing, and causing a significant increase in muscle workouts while walking, running, or  
28

1 just doing errands, when, in fact, it is not.

2 24. Fila, by contrast, reaped enormous profits from its false marketing and  
3 advertising campaign.

4 **CLASS ACTION ALLEGATIONS**

5  
6 25. Plaintiff brings this action on behalf of herself and all those similarly situated  
7 pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure. The proposed  
8 Class is defined as:

9 All persons who purchased Fila BTS Apparel in the United States.  
10 Excluded from the Class are Defendant and its officers, directors and  
11 employees and those who purchased Fila BTS Apparel for the purpose  
of resale.

12 26. *Numerosity*. The members of the Class are so numerous that their individual  
13 joinder is impracticable. Plaintiff is informed and believes, and on that basis alleges, that the  
14 proposed Class contains tens of thousands of members. The precise number of Class  
15 members is unknown to Plaintiff. The true number of Class members is known by Fila,  
16 however, and thus, such Class members may be notified of the pendency of this action by first  
17 class mail, electronic mail, and published notice.

18 27. *Existence and Predominance of Common Questions of Law and Fact*.  
19 Common questions of law and fact exist as to all members of the Class and predominate over  
20 any questions affecting only individual Class members. These common legal and factual  
21 questions include, but are not limited to, the following:

22  
23 (a) whether Fila had adequate substantiation for its claims prior to making  
24 them;

25 (b) whether the claims discussed above are true, or are misleading, or  
26 objectively reasonably likely to deceive;

27 (c) whether Fila's alleged conduct violates public policy;  
28

- 1 (d) whether the alleged conduct constitutes violations of the laws asserted;
- 2 (e) whether Fila engaged in false or misleading advertising;
- 3 (f) whether Plaintiff and Class members have sustained monetary loss and
- 4 the proper measure of that loss; and
- 5 (g) the appropriate remedies, including corrective advertising and other
- 6 injunctive relief.
- 7

8 28. **Typicality.** Plaintiff's claims are typical of the claims of the members of the

9 Class because, *inter alia*, all Class members were injured through the uniform misconduct

10 described above, were subject to Defendant's deceptive statements, including deceptive claims

11 that accompanied each and every piece of BTS Apparel sold. Plaintiff is advancing the same

12 claims and legal theories on behalf of herself and all members of the Class.

13 29. **Adequacy of Representation.** Plaintiff will fairly and adequately protect the

14 interests of the members of the Class. Plaintiff has retained counsel experienced in complex

15 consumer class action litigation, and Plaintiff intends to prosecute this action vigorously.

16 Plaintiff has no adverse or antagonistic interests to those of the Class.

17

18 30. **Superiority.** A class action is superior to all other available means for the fair

19 and efficient adjudication of this controversy. The damages or other financial detriment

20 suffered by individual Class members is relatively small compared to the burden and expense

21 that would be entailed by individual litigation of their claims against the Defendant. It would

22 thus be virtually impossible for the Class, on an individual basis, to obtain effective redress

23 for the wrongs done to them. Furthermore, even if Class members could afford such

24 individualized litigation, the court system could not. Individualized litigation would create

25 the danger of inconsistent or contradictory judgments arising from the same set of facts.

26 Individualized litigation would also increase the delay and expense to all parties and the court

27 system from the issues raised by this action. By contrast, the class action device provides the

28

1 benefits of adjudication of these issues in a single proceeding, economies of scale, and  
2 comprehensive supervision by a single court, and presents no unusual management  
3 difficulties under the circumstances here.

4 31. Unless a Class is certified, Fila will retain monies received as a result of its  
5 conduct that were taken from Plaintiff and Class members.

6  
7 **COUNT I**

8 **Violation of Business & Professions Code §17200, et seq.**

9 32. Plaintiff repeats and re-alleges the allegations contained in the paragraphs  
10 above, as if fully set forth herein.

11 33. California Business & Professions Code §17200, et seq., prohibits acts of  
12 unfair competition, which means and includes any “unlawful, unfair or fraudulent business  
13 act or practice,” or any “unfair, deceptive, untrue or misleading advertising.” For the reasons  
14 discussed above, Fila has violated §17200’s prohibition against engaging in unlawful acts and  
15 practices by, *inter alia*, making the representations and omissions of material facts, as set  
16 forth more fully herein, and violating Civil Code §§1572, 1573, 1709, 1711, 1770, Business  
17 & Professions Code §§17200, et seq., 17500, et seq., and similar laws in other states.

18  
19 34. Plaintiff and the Class reserve the right to allege other violations of law, which  
20 constitute other unlawful business acts or practices. Such conduct is ongoing and continues  
21 to this date.

22 35. Defendant’s acts, omissions, misrepresentations, practices and non-disclosures  
23 as alleged herein also constitute “unfair” business acts and practices within the meaning of  
24 Business and Professions Code §17200 et seq., in that its conduct is substantially injurious to  
25 consumers, offends public policy, and is immoral, unethical, oppressive, and unscrupulous as  
26 the gravity of the conduct outweighs any alleged benefits attributable to such conduct.  
27

28 36. As stated in this complaint, Plaintiff alleges violations of consumer protection,

1 unfair competition and truth in advertising laws in California and other states resulting in  
2 harm to consumers. Plaintiff asserts violations of the public policy of engaging in false and  
3 misleading advertising, unfair competition and deceptive conduct towards consumers. This  
4 conduct constitutes violations of the unfair prong of Business & Professions Code §17200 *et*  
5 *seq.*

6  
7 37. There were reasonably available alternatives to further Defendant's legitimate  
8 business interests, other than the conduct described herein.

9 38. Defendant's claims, nondisclosures and misleading statements, as more fully  
10 set forth above, were also false, misleading and/or likely to deceive the consuming public  
11 within the meaning of Business & Professions Code §17200 *et seq.*

12 39. Defendant's labeling, website and other advertisements, as described herein,  
13 also constitute unfair, deceptive, untrue and misleading advertising.

14 40. Defendant's conduct caused and continues to cause substantial injury to  
15 Plaintiff and the other Class members. Plaintiff has suffered injury in fact and has lost money  
16 as a result of Defendant's unfair conduct.

17 41. Plaintiff, on behalf of herself, all others similarly situated, and the general  
18 public, seeks restitution of all money obtained from Plaintiff and the members of the Class  
19 collected as a result of unfair competition, an injunction prohibiting Defendant from  
20 continuing such practices, corrective advertising and all other relief this Court deems  
21 appropriate, consistent with Business & Professions Code §17203.

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23  
24 **COUNT II**

25 **Violations of the Consumers Legal Remedies Act –**  
26 **Civil Code §1750 *et seq.***

27 42. Plaintiff re-alleges and incorporates by reference the allegations contained in  
28 the paragraphs above as if fully set forth herein.



1 consumers of its intent to so act. A copy of the letter is attached hereto as Exhibit A.

2 48. If Defendant fails to rectify or agree to rectify the problems associated with the  
3 actions detailed above and give notice to all affected consumers within 30 days of the date of  
4 written notice pursuant to §1782 of the Act, Plaintiff will amend this complaint to add claims  
5 for actual, punitive and statutory damages, as appropriate.  
6

7 49. Defendant's conduct is fraudulent, wanton and malicious.

8 50. Pursuant to §1780(d) of the Act, attached hereto as Exhibit B is the affidavit  
9 showing that this action has been commenced in the proper forum.

10 **COUNT III**

11 **Breach of Express Warranty**

12 51. Plaintiff re-alleges and incorporates by reference the allegations contained in  
13 the paragraphs above as if fully set forth herein.

14 52. Plaintiff, and each member of the Class, formed a contract with Defendant at  
15 the time Plaintiff and the other members of the Class purchased BTS Apparel. The terms of  
16 that contract include the promises and affirmations of fact made by Defendant through its  
17 marketing campaign, as described above. This product advertising constitutes express  
18 warranties, became part of the basis of the bargain, and is part of a standardized contract  
19 between Plaintiff and the members of the Class on the one hand, and Defendant on the other.  
20

21 53. All conditions precedent to Defendant's liability under this contract have been  
22 performed by Plaintiff and the Class.  
23

24 54. Defendant breached the terms of this contract, including the express  
25 warranties, with Plaintiff and the Class because BTS Apparel did not provide the above-  
26 described benefits.

27 55. As a result of Defendant's breach of its warranty, Plaintiff and the Class have  
28 been damaged in the amount of the purchase price of the products they purchased.



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**PRAYER FOR RELIEF**

Wherefore, Plaintiff prays for a judgment:

- A. Certifying the Class as requested herein;
- B. Awarding Plaintiff and the proposed Class members damages;
- C. Awarding restitution of Defendant's revenues to Plaintiff and the proposed Class members;
- D. Awarding injunctive relief as permitted by law or equity, including: enjoining Defendant from continuing the unlawful practices as set forth herein, and directing Defendant to identify, with Court supervision, victims of its conduct and pay them all money it is required to pay;
- E. Ordering Defendant to engage in a corrective advertising campaign;
- F. Awarding attorneys' fees and costs; and
- G. Providing such further relief as may be just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial of her claims by jury to the extent authorized by law.

Dated: May 11, 2011

BONNETT, FAIRBOURN, FRIEDMAN  
& BALINT, P.C.

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**CIVIL COVER SHEET**

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

<p><b>I. (a) PLAINTIFFS</b> Bertha Castenada</p> <p><b>(b)</b> County of Residence of First Listed Plaintiff <u>Imperial</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p><b>(c)</b> Attorney's (Firm Name, Address, and Telephone Number) Patricia N. Syverson, Bonnett, Fairbourn, Friedman &amp; Balint, P.C., 2901N. Central Ave., Ste. 1000, Phoenix, AZ 85012</p>	<p><b>DEFENDANTS</b> Fila USA, Inc.</p> <p>County of Residence of First Listed Defendant <u>Baltimore</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <p>(For Diversity Cases Only)</p> <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;"><b>PTF</b></td> <td style="width:10%;"><b>DEF</b></td> <td style="width:33%;">Incorporated or Principal Place of Business In This State</td> <td style="width:10%;"><b>PTF</b></td> <td style="width:10%;"><b>DEF</b></td> </tr> <tr> <td></td> <td><input checked="" type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td></td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	<b>PTF</b>	<b>DEF</b>	Incorporated or Principal Place of Business In This State	<b>PTF</b>	<b>DEF</b>		<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1		<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<p><b>PERSONAL INJURY - Med. Malpractice</b></p> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<p><b>REAL PROPERTY</b></p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p><b>CIVIL RIGHTS</b></p> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<p><b>PRISONER PETITIONS</b></p> <input type="checkbox"/> 510 Motions to Vacate Sentence <p><b>Habeas Corpus:</b></p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<p><b>LABOR</b></p> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<p><b>PROPERTY RIGHTS</b></p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
		<p><b>IMMIGRATION</b></p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<p><b>SOCIAL SECURITY</b></p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<p><b>FEDERAL TAX SUITS</b></p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from another district (specify)     6 Multidistrict Litigation     7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION** Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. 1332(d)(2)

Brief description of cause:  
Violation of Civil Code 1750, Business & Professional Code 17200, Breach of Express Warranty

**VII. REQUESTED IN COMPLAINT:**  CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23    **DEMAND \$** 5,000,000.00    CHECK YES only if demanded in complaint: **JURY DEMAND:**  Yes     No

**VIII. RELATED CASE(S) IF ANY** (See instructions):    JUDGE \_\_\_\_\_    DOCKET NUMBER \_\_\_\_\_

DATE: 05/11/2011    SIGNATURE OF ATTORNEY OF RECORD: s/ Patricia N. Syverson

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_