

1 KNEUPPER & COVEY, PC
2 A. Lorraine Weekes, Esq. (CA SBN 332369)
3 lorraine@kneuppercovey.com
4 Kevin Kneupper, Esq. (CA SBN 325413)
5 kevin@kneuppercovey.com
6 A. Cyclone Covey, Esq. (CA SBN 335957)
7 cyclone@kneuppercovey.com
8 17011 Beach Blvd., Suite 900
9 Huntington Beach, CA 92647
10 Tel: 657-845-3100
11 Fax: 855-596-3707

12 *Attorneys for Plaintiff Jeremy Sher*
13 *And the Putative Class*

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14 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF LOS ANGELES**

16 JEREMY SHER, on behalf of himself and
17 all others similarly situated,

18 Plaintiff,

19 vs.

20 RAINBOW SANDALS, INC.,

21 Defendant.

Case No. **23STCV23449**

CLASS ACTION

COMPLAINT FOR:

1. Breach of Express Warranty;
2. Violation of the Magnuson-Moss
Warranty Act;
3. Violation of the Song-Beverly Consumer
Warranty Act;
4. Violation of the Consumers Legal
Remedies Act; and
5. Violation of the Unfair Competition Law.

DEMAND FOR JURY TRIAL

1 Plaintiff Jeremy Sher, by and through the undersigned counsel, on behalf of himself and
2 all others similarly situated, hereby files this Class Action Complaint against Defendant Rainbow
3 Sandals, Inc. (Rainbow) and alleges as follows:

4 **INTRODUCTION**

5 1. Rainbow is a shoe and apparel company known for its high-end flip-flops.
6 Rainbow brands itself as selling “The World’s Best Made Sandals Since 1974” and uses slogans,
7 such as “For the Long Ride . . .” and “Mileage Plus . . .” that foreground the longevity and
8 durability of its sandals.

9 2. Defendant Rainbow has misrepresented to consumers and continues to
10 misrepresent to consumers that many of its products come with a lifetime guarantee. Specifically,
11 Rainbow represents that many of its sandals come with “The Rainbow® Guarantee” which “is
12 for the lifetime of the sole. The sandals will be eligible for warranty until you have worn through
13 anywhere on the top or bottom layer of the sole.”

14 3. In actuality, Rainbow does not offer purchasers of its sandals a warranty for the
15 lifetime of the sandals’ sole: Defendant routinely denies consumers who seek to have Rainbow
16 repair manufacturing defects *during the lifetime of their sandals’ soles*. As such, Defendant’s
17 representations regarding the Rainbow® Guarantee it offers are false and misleading.

18 4. This is a class action brought on behalf of consumers, like Jeremy Sher, who
19 believed Rainbow when it touted its lifetime-of-the-sole guarantee, paid a premium for sandals
20 that come with a lifetime-of-the-sole guarantee, and then got far less than they bargained for when
21 Rainbow refused to repair manufacturing defects in their sandals *during the lifetime of the*
22 *sandals’ soles*.

23 **JURISDICTION AND VENUE**

24 5. This court has jurisdiction over this action pursuant to the California Constitution,
25 Article VI, section 10.

26 6. This court has personal jurisdiction over Defendant Rainbow because Rainbow
27 purposely directed its advertising and sales to California residents as described herein and because
28 Rainbow has its principal place of business in California and is incorporated in California.

1 *The Rainbow Guarantee*

2 15. Rainbow’s website describes the Rainbow® Guarantee:

3 **RAINBOW GUARANTEE**

4 The Rainbow® Guarantee is for the lifetime of the sole. The sandals will be
5 eligible for warranty until you have worn through anywhere on the top or bottom
6 layer of the sole.

7 RAINBOW® SANDALS will repair your sandals if they are damaged or
8 defective due to manufacturing defects only. If your sandals are covered under
9 our warranty and we are unable to repair them, we will issue a new pair.

10 **SIGNATURE SERIES GUARANTEE POLICY**

11 Rainbow® Guarantee

12 Rainbow Sandals will repair your sandals if they are damaged or defective due to
13 manufacturing defects only. If you sandals are covered under our warranty and we
14 are unable to repair them, we will issue a new pair. If a Signature Series Sandal is
15 covered under the lifetime warranty and cannot be repaired we will replace your
16 sandals with another Signature Series pair based on product availability. If no
17 Signature Series sandals are available we will replace your sandals with a new
18 pair of regular sandals of your choice. No additional refund will be issued.²

19 16. Beneath the guarantee are pictures showing defects covered by the Rainbow
20 Guarantee, which include: (1) “**Strap Pulling Out from Toe Straps[:]** If toe strap comes unglued
21 and pulls cleanly from between the layers of the sandal;” (2) “**Strap Pulling Out from Side
22 Strap[:]** If side straps come unglued and pull cleanly from between the layers of the sandals;”
23 and (3) “**Delamination of layers[:]** The top or bottom sole coming unglued and separating from
24 the middle layer of colored foam.”

25 17. If one scrolls all the way past the “Rainbow Guarantee” and its associated photos,
26 one eventually reaches the “Non Guarantee Policy,” which provides: “RAINBOW® SANDALS
27 will NOT Repair or Replace your sandals if they have any of the below issues occurring. The
28 situations described below are wear and tear issues. If any of the below are present on your sandals

² “Rainbow Guarantee,” Rainbow Sandals Inc.,
<https://www.rainbowsandals.com/customer-service/rainbow-guarantee> (last accessed June 26,
2023) (changes made to font, font size, and font formatting for readability).

1 the warranty is immediately voided, regardless if a manufacturing defect is also present.”

2 18. Underneath this language one finds photographs of the wear and tear issues
3 contemplated by the Non Guarantee Policy. These include: (1) “**Bottom or Top Sole Wearing**
4 **Through to Soft Colored Insert**[:] Wearing the sandals from the top or bottom sole into the soft
5 colored insert between the top and bottom soles.” (2) “**Excessive Abuse**[:] Chewed Strap from
6 Dog, Gouged or Ripped materials, Skateboard Abuse, Cuts, Slashes, Burns, etc.”; (3) “**Torn Toe**
7 **Straps**[:] If the side/toe straps tear out from the surface of the sandal or if the strap itself is cut or
8 torn.” (4) “**Torn/Cut Side Straps**[:] If the side/toe straps tear out from the surface of the sandal
9 or if the strap itself is cut or torn;” and (5) “**Cracked Leather and/or Materials Water**
10 **Damage**[:] Any damage as a result of the sandal coming in contact with moisture, i.e. bowed,
11 shrunk, faded, wrinkled materials, cracked leather.”

12 19. Rainbow uses its “lifetime guarantee” as a selling point when hawking its sandals.
13 For example, the ad copy on the product page for Rainbow’s Luxury Leather - Single Layer Arch
14 Support with a 1/2" Narrow Strap women’s flip-flop on Rainbow’s website concludes: “The
15 Luxury Leather Collection is of course backed by the Rainbow® Sandals Lifetime Guarantee.”³
16 Nothing on that product page discloses that because of Defendant’s routine refusals to honor the
17 Rainbow Guarantee, purchasers will not actually receive protection against manufacturing defects
18 throughout the lifetime of the covered sandals’ soles.

19 20. Consumers who’ve already forked over the cash for sandals covered by the
20 lifetime-of-the-sole Rainbow® Guarantee (“Guaranteed Sandals”) often find, however, that
21 Rainbow weaponizes its so-called “Non Guarantee Policy” against them in ways that render the
22 lifetime-of-the-sole Rainbow® Guarantee virtually worthless. Specifically, they find that during
23 the lifetime of their Guaranteed Sandals’ soles, Rainbow refuses to repair manufacturing defects
24 based on the pretense that normal wear-and-tear voids the Rainbow® Guarantee pursuant to
25 Rainbow’s “Non Guarantee Policy.”

26
27 ³ See “Luxury Leather - Single Layer Arch Support with a 1/2" Narrow Strap,” Rainbow
28 Sandals Inc., https://www.rainbowsandals.com/product/301ALLN0_LADIES (last accessed
September 25, 2023).

1 21. Consumers victimized by Rainbow’s predatory, deceptive, and wildly
2 unreasonable application of the “Non Guarantee Policy” routinely take to the internet to complain
3 about Rainbow’s anti-consumer practices and to highlight the deceptive nature of the company’s
4 representations concerning the Rainbow Guarantee.

5 22. For example, on July 19, 2022, one consumer complained to the Better Business
6 Bureau: “-I purchased a pair of rainbow sandals in April ‘21 -The leather on them has separated
7 from the cushion, indicating a manufacturers defect based on their ‘lifetime guarantee’-Rainbow
8 Sandals says that this is not covered due to the sandals leather being cracked, even though that is
9 not the defect in the product I’m looking to get coverage on.-Rainbow Sandals has a misleading
10 ‘lifetime guarantee.’”⁴

11 23. On April 17, 2023, one consumer, “kevin m,” submitted the following review of
12 Defendant to the Better Business Bureau:⁵

13 Always wore rainbow sandals growing up...then I actually grew up. I had a sole
14 completely detach from the sandal but when I contacted them I was told that the
15 condition of the leather wasn't up to par for a GUARANTEE? I owned them for
16 less than a year. It was clearly an issue with the adhesive that failed because it was
17 the first time in 20 years I'd had this type of issue. Also they sent me photos of a
18 different, more distressed pair of sandals to show how my GUARANTEE didn't fit
19 their criteria for replacement. Absolutely a scam promise.

20 24. On November 27, 2018, “King D.” of Trabuco, California posted on the Yelp!
21 Page for Defendant’s San Clemente location:⁶

22 Quality and service has gone way downhill since my last review. I purchased USA-
23 made sandals in June, and, six months later, the soles are coming apart. I sent them
24 in for warranty replacement.

25 A week later, I received a letter stating, “Even though a true manufacturing defect
26 is present...the manufacturer’s warranty is voided since your sandals have a non-
27 covered issue.”

28 The non-covered issue they are referring to is a slightly frayed strap. The threads

⁴ See <https://www.bbb.org/us/ca/san-clemente/profile/custom-shoes/rainbow-sandals-inc-1126-13166605/complaints> (last accessed September 25, 2023).

⁵ See <https://www.bbb.org/us/ca/san-clemente/profile/custom-shoes/rainbow-sandals-inc-1126-13166605/customer-reviews> (last accessed September 25, 2023).

⁶ See [https://www.yelp.com/biz/rainbow-sandals-san-clemente-3?hrid=aRlugMtwEHJdS3HPtEtJlQ&utm_campaign=www_review_share_popup&utm_medium=copy_link&utm_source=\(direct\)](https://www.yelp.com/biz/rainbow-sandals-san-clemente-3?hrid=aRlugMtwEHJdS3HPtEtJlQ&utm_campaign=www_review_share_popup&utm_medium=copy_link&utm_source=(direct)) (last accessed September 25, 2023).

1 on the strap came loose (another manufacturing defect), which caused the fraying.

2 I'm really disappointed. These are no longer the world's greatest sandals :(

3 25. On July 3, 2018, Paige R. from Paradise Valley, Arizona, posted on the Yelp! Page
4 for the San Clemente Rainbow sandals locations:⁷

5 I grew up in SC and my family, kids, everyone, have been buying Rainbow forever.
6 We've now had two instances where the toe straps have cleanly broken loose.
7 Rainbow would not honor their stated warranty. Guess this family is going to
8 another brand. Perhaps Reef? Done with Rainbow

9 26. On April 14, 2015, Mike S. from Honolulu, Hawaii, posted on the Yelp! Page for
10 the San Clemente Rainbow location:⁸

11 Good luck getting them to honor the lifetime warranty. They're all in your face
12 about it the time of purchase. But, when it's come times to utilize it, they quickly
13 backpedal by denying all responsibility and pushing the small print. Never again.
14 Get them from somewhere else. You will be disappointed. Overpriced rubbish.
15 What a joke!

16 27. On August 22, 2015, Alex W. from Irvine California, posted on the Yelp! Page for
17 a San Clement Rainbow location:⁹

18 Would not replace defective sandals I bought here said they were not covered by
19 warranty even though they were clearly made defective. So much for a lifetime
20 warranty against manufacturing defects, I also did not wear through any layer of
21 the sandals so they were suppose to be covered. After 10 years of wearing rainbows
22 never again as they are made poorly and will not back up their product with their
23 lifetime warrenty. [sic]

24 28. Plaintiff is informed and believes that these reviews and comments accurately
25 reflect the experiences the posting consumers had with Defendant Rainbow.

26 29. Based on the number of online complaints concerning Rainbow's failure to honor
27 its lifetime warranty, which date back more than five years, Plaintiff is informed and believes that

28 ⁷ See [https://www.yelp.com/biz/rainbow-sandals-san-clemente-3?hrid=T8Izg2jZKDVIPSS-0UkVTQ&utm_campaign=www_review_share_popup&utm_medium=copy_link&utm_source=\(direct\)](https://www.yelp.com/biz/rainbow-sandals-san-clemente-3?hrid=T8Izg2jZKDVIPSS-0UkVTQ&utm_campaign=www_review_share_popup&utm_medium=copy_link&utm_source=(direct)) (last accessed September 25, 2023).

⁸ See [https://www.yelp.com/biz/rainbow-sandals-san-clemente-3?hrid=mCnTaBfbPvYe8meCGgd7xg&utm_campaign=www_review_share_popup&utm_medium=copy_link&utm_source=\(direct\)](https://www.yelp.com/biz/rainbow-sandals-san-clemente-3?hrid=mCnTaBfbPvYe8meCGgd7xg&utm_campaign=www_review_share_popup&utm_medium=copy_link&utm_source=(direct)) (last accessed September 25, 2023).

⁹ See [https://www.yelp.com/biz/rainbow-sandals-san-clemente-3?hrid=hbh2P3ikMUSPDKeG76AZWw&utm_campaign=www_review_share_popup&utm_medium=copy_link&utm_source=\(direct\)](https://www.yelp.com/biz/rainbow-sandals-san-clemente-3?hrid=hbh2P3ikMUSPDKeG76AZWw&utm_campaign=www_review_share_popup&utm_medium=copy_link&utm_source=(direct)) (last accessed September 25, 2023).

1 Defendant Rainbow is aware that numerous reasonable consumers have been misled by
2 Defendant’s representations concerning its “lifetime guarantee.” Plaintiff is informed and
3 believes that notwithstanding its knowledge of the misleading and deceptive nature of its
4 representations concerning the Rainbow Guarantee, Defendant persisted in advertising its
5 Guaranteed Sandals in a misleading manner.

6 ***Mr. Sher’s Individual Allegations***

7 30. In 2011, Jeremy Sher purchased a pair of leather sandals from a brick-and-mortar
8 store operated by Defendant and located in the County of Los Angeles.

9 31. At the time Mr. Sher purchased these shoes, the operative lifetime guarantee
10 Rainbow offered was substantively the same as the currently-offered Rainbow Guarantee.

11 32. On the Rainbow Guarantee webpage, Rainbow instructs its customers: “If you are
12 not sure if your sandals are covered under the lifetime warranty please email pictures of the top
13 and bottom of both sandals to customer service at Info@RainbowSandals.com for review before
14 mailing them in.”¹⁰

15 33. On February 27, 2023, Mr. Sher sent
16 an email to info@RainbowSandals.com. The leather
17 lining of his Rainbow sandals was pulling away from
18 the sole of his shoe. Mr. Sher wrote: “I’m fairly
19 confident that my sandals will qualify for
20 replacement due to the delamination, if nothing else,
21 but wanted to confirm before I went to the trouble to
22 send them in. Here are photos. I tried to be thorough,
23 and the soles are holding up great as far as I can tell.”



24 34. Mr. Sher’s February 27, 2023 email
25 included a photo showing that his sandals’ soles were
26
27
28
Figure 1 Photo included with Mr. Sher’s first
February 27, 2023 email to Rainbow.

10 ¹⁰ “Rainbow Guarantee,” Rainbow Sandals Inc.,
<https://www.rainbowsandals.com/customer-service/rainbow-guarantee> (last accessed September
25, 2023).

1 intact.

2 35. Mr. Sher's email also included
3 photos showing that, due to a manufacturing
4 defect, the top layer of the sandal was
5 delaminating from the sole.



Figure 2 Delamination of Mr. Sher's sandal.

6 36. Wear was visible on the
7 sandals' straps in some of the photos Mr. Sher
8 sent to Rainbow on February 27, 2023.

9 37. On February 27, 2023,
10 Rainbow wrote back to Mr. Sher refusing to
11 repair his delaminated sandals. Rainbow wrote:
12 "Thank you for sending us the photos,
13 unfortunately torn straps are not covered under
14 our warranty. Our warranty covers
15 manufacturing defects such as straps pulling out,
16 stitching coming undone, layers of the sandals
17 separating, leather bubbling, anything that
18 would indicate the sandals were not constructed



Figure 3 Wear visible on the strap of Mr. Sher's sandal.

19 properly. Wear and tear issues such as worn down soles, torn straps, cracked leather, dog chew,
20 etc. are not covered because they are caused by use which as a manufacture we have no control
21 over. Please let us know if you have additional questions."

22 38. Mr. Sher promptly wrote back on February 27, 2023, reiterating that "the layers of
23 the sandal are separating." Mr. Sher acknowledged that the straps were not in perfect condition
24 but, he wrote: "the layer of the sandals are separating from the sole." He concluded: "I look
25 forward to hearing back that these sandals qualify for replacement!"

26 39. Rainbow's only response to Mr. Sher's second email was to refer Mr. Sher to its
27 "Non-Guarantee Policy."

28 40. Frustrated, Mr. Sher sent an email (on February 27, 2023) to Rainbow's executive

1 team explaining his experience and his disappointment with Rainbow’s refusal to fulfil its
2 commitment to repair his sandals’ delamination pursuant to its Rainbow Guarantee.

3 41. Sabrina Sexton, Rainbow’s Executive Vice President for Sales & Operations wrote
4 back, admitting that “Yes, the delamination, and the stitching coming out are defects that are
5 generally covered for repair” Ms. Sexton then stated that even though these manufacturing
6 defects were generally covered by the Rainbow Guarantee, Rainbow would not repair Mr. Sher’s
7 sandals. Ms. Sexton did not contend that the soles on Mr. Sher’s sandals had worn through.
8 Rather, she claimed that *during the lifetime of the sandals*, the sandals were outside the lifetime
9 of-the-sole guarantee because their leather had cracked and the straps exhibited some tearing:
10 “Had this been sent in prior to the leather cracking, and the straps tearing away like they did,”
11 Ms. Sexton wrote, “they would have been repaired for you.”

12 42. On February 28, 2023, Mr. Sher wrote back to Rainbow’s executives highlighting
13 the absurdity and duplicity of Rainbow’s refusal to repair the manufacturing defects in his sandals.
14 “I have owned the sandals for 10 years,” he wrote. “I have abided by the rules of not applying
15 lotions/oils or whatever, I haven’t submerged them in water, etc. The condition of the strap is
16 normal wear and tear - the fact that using that as an excuse to not repair the sole IS the problem
17 The fact that you advertise as ‘the world’s best made sandals’ IS the problem. If the policy of the
18 warranty is that normal wear and tear to the strap can void the warranty of the sole THAT’S a
19 problem.” Despite his frustration, Mr. Sher remained open to the possibility that Rainbow might
20 cure its breach and honor its commitment under the lifetime guarantee. He wrote, in bold: “**If**
21 **you'd like to fix or repair the sandals I'll look forward to hearing back about that.**”

22 43. Despite Mr. Sher’s pleas that Rainbow honor its lifetime guarantee, Rainbow
23 would not budge. It persisted in refusing to repair the manufacturing defects present in Mr. Sher’s
24 sandals *even though* these defects manifested during the lifetime of the sandals’ soles.

25 44. Mr. Sher filed a demand for arbitration against Defendant Rainbow with the
26 American Arbitration Association (the AAA).

27 45. On June 9, 2023, the AAA informed the Parties to the arbitration that Rainbow
28 had not submitted its arbitration provision to the AAA for review and had not paid certain fees

1 that were required to be paid before the AAA would administer an arbitration involving Defendant
2 Rainbow. Defendant Rainbow did not pay the required fees and did not submit its arbitration
3 provision to the AAA for review within the timeframe provided for by the AAA. Accordingly,
4 on July 20, 2023, the AAA administratively closed its file and declined to administer the
5 arbitration between Plaintiff Sher and Defendant.

6 46. On July 13, 2023, Mr. Sher notified Defendant, via a notice sent via certified mail,
7 return receipt requested, that it had one final opportunity to cure its breach of express warranty
8 and repair his defective sandals. The notice Mr. Sher sent Rainbow indicated that Mr. Sher was
9 writing on behalf of not only himself, but also on behalf of a class of similarly situated consumers.

10 47. On or around August 2, 2023, Defendant Rainbow emailed Plaintiff stating that it
11 was willing to repair or replace his defective sandals.

12 48. On August 17, 2023, Plaintiff responded via email indicating that he would like a
13 pair of replacement sandals. Plaintiff provided Defendant his mailing address.

14 49. As of the filing of this Class Action Complaint, more than thirty days after Plaintiff
15 provided Defendant his mailing address, Plaintiff has not received any replacement sandals from
16 Defendant. Nor has Plaintiff received and response to his August 17, 2023 email advising him of
17 when to expect the replacement sandals.

18 CLASS ACTION ALLEGATIONS

19 50. Pursuant to California Code of Civil Procedure section 382, Jeremy Sher, the
20 named individual Plaintiff, seeks class certification. Plaintiff proposes the following Class
21 definitions:

22 **Class:** All natural persons in the United States who, within the applicable statute of
23 limitations period until the date notice is disseminated, purchased sandals from Rainbow
24 for personal, consumer, and/or household use from any collection other than: Comfort
25 Classics; East Cape; The Cloud; Holoholo; Mariner; Mocca Loaf; Mocca Shoe;
26 Navigator; North Cove; Cloud Collection; The Cottons; The Flirty Braidy; Westscape;
27 Baja Boots; T-Street; Bella; Lola; Tango; Gala; South Cove; Escape; Sandiva; Grombows;
28 and Kidcapes.

1
2 51. Excluded from the Class are governmental entities, Defendants, any entity in
3 which Defendants have a controlling interest, and Defendants’ officers, directors, affiliates, legal
4 representatives, employees, co-conspirators, successors, subsidiaries, and assigns. Also excluded
5 from the Class is any judge, justice, or judicial officer presiding over this matter and the members
6 of their immediate families and judicial staff.

7 52. Plaintiff reserves the right to amend or modify the class descriptions by altering
8 them or by making them more specific or by dividing the class members into subclasses or
9 limiting the issues as appropriate.

10 53. The Class is ascertainable and constitutes a well-defined community of interest.

11 54. **Numerosity:** Plaintiff and the Class are informed and believe, and on that basis
12 allege, that the Class is so numerous that individual joinder of all members would be
13 impracticable. Plaintiff and the Class are informed and believe, and on that basis alleged, that the
14 class is greater than 500 consumers geographically dispersed throughout the United States.

15 55. **Commonality:** Defendant’s practices and omissions were applied uniformly to all
16 members of the Class such that the questions of law and fact are common to all members of the
17 Class. All members of the putative Class were and are similarly affected by having purchased
18 Guaranteed Sandals from Defendant and the relief sought herein is for the benefit of Plaintiff and
19 all members of the putative Class.

20 56. Questions of law and fact common to the Class exist that predominate over
21 questions affecting only individual members. The common questions of law and fact include:

- 22 a. Whether Defendant markets Guaranteed Sandals in a manner that is false or
23 misleading;
- 24 b. Whether the wrongful conduct detailed in this Class Action Complaint constitutes
25 unfair or unlawful business practices;
- 26 c. Whether it is “reasonable” to read the Non Guarantee Policy together with the
27 Rainbow Guarantee such that Defendant has no warranty obligations under the
28 latter, *even during the lifetime of a given sandal’s sole*, if any of the wear-and-tear

1 issues identified in the Non Guarantee Policy are present;

- 2 d. The extent to which Class members overpaid for flip-flops that came with highly
3 limited guarantee that was far less comprehensive than the lifetime-of-the-sole
4 Guarantee used to market the sandals;
- 5 e. Whether the class is entitled to recover statutory attorney's fees; and
- 6 f. Whether Plaintiff and the Class are entitled to appropriate remedies, including
7 injunctive relief.

8 57. **Typicality:** The claims asserted by Plaintiff in this action are typical of the claims
9 of the members of the Class as the claims arise from the same course of conduct by Defendants,
10 all members of the Class have been similarly affected by Defendants' course of conduct, and the
11 relief sought is common.

12 58. **Adequacy:** Plaintiff will fairly and adequately represent and protect the interests
13 of the members of the Class. Plaintiff has no interest adverse to the interests of the other Class
14 members. Plaintiff has retained competent counsel with substantial experience in complex
15 litigation and litigation involving consumer issues and Plaintiff's counsel are committed to
16 vigorously prosecuting this action on behalf of the Class.

17 59. **Superiority:** A class action is superior to other available methods for the fair and
18 efficient adjudication of the present controversy, in that it will permit a large number of claims to
19 be resolved in a single forum simultaneously, efficiently, and without the unnecessary hardship
20 that would result from the prosecution of numerous individual actions and the duplication of
21 discovery, effort, expense and burden on the courts that individual actions would engender. The
22 benefits of proceeding as a class action, including providing a method for obtaining redress for
23 claims that would not be practical to pursue individually, far outweigh any difficulties that it
24 might be argued could arise in connection with the management of this class action. These
25 benefits make class litigation superior to any other method available for the fair and efficient
26 adjudication of these claims. Absent a class action, it would be highly unlikely that many
27 members of the Class would be able to protect their own interests because the cost of litigation
28 through individual lawsuits might exceed expected recovery.

1 unreasonable.”

2 64. Defendant Rainbow’s “Non-Guarantee Policy” purports to excuse Rainbow from
3 its obligation under the Rainbow Guarantee to repair manufacturing defects that occur during the
4 lifetime of a shoe’s sole if a given Guaranteed Sandal exhibits certain routine signs of wear-and-
5 tear.

6 65. It is not reasonable to construe the Rainbow Guarantee and the Non-Guarantee
7 Policy as consistent with one another: under the former Rainbow warrants that it will repair
8 manufacturing defects during the lifetime of a Guaranteed Sandal’s sole, under the latter,
9 Rainbow disavows its obligation to repair manufacturing defects during the lifetime of a
10 Guaranteed Sandal’s sole.

11 66. Because it is unreasonable to construe the Rainbow Guarantee as consistent with
12 the Non-Guarantee, the “negation or limitation” (the Non-Guarantee Policy) is inoperative.

13 67. Rainbow breached its express warranty (the Rainbow Guarantee) when it refused
14 to repair manufacturing defects that manifested during the lifetime of the Guaranteed Sandals’
15 soles.

16 68. When the Guaranteed Sandals of Mr. Sher and the Class members exhibited
17 manufacturing defects during the lifetimes of their soles, Plaintiff and other the members of the
18 Class took reasonable steps to notify Defendant within a reasonable time of the defects.

19 69. Defendant refused to repair the Guaranteed Sandals as required by its written
20 warranty.

21 70. Defendant’s refusal to repair the manufacturing defects in the Guaranteed Sandals
22 is a breach of its express warranty, the Rainbow Guarantee.

23 71. Mr. Sher and the members of the Class were harmed by Defendant’s breach of its
24 express warranty insofar as they had paid a premium for sandals that came with a lifetime
25 guarantee and were deprived the benefit of that bargain by Defendant refusal to honor the lifetime
26 guarantee.

27 72. The sandals Plaintiff and the Class purchased have a lower value than they would
28 have if Defendant did not breach its express warranty.

1 Magnuson-Moss Warranty Act because they are “buyer[s] (other than for purposes of resale) of
2 any consumer product.” *See* 15 U.S.C. section 2301(3).

3 78. Rainbow is a supplier within the meaning of the Magnuson-Moss Warranty Act
4 because it is a “person engaged in the business of making a consumer product directly or indirectly
5 available to consumers.” 15 U.S.C. § 2301(4).

6 79. Rainbow is a warrantor within the meaning of the Magnuson-Moss Warranty Act
7 because it is “a supplier or other person who gives or offers to give a written warranty or who is
8 or may be obligated under an implied warranty.” 15 U.S.C. § 2301(5).

9 80. Rainbow breached its written warranty by refusing to fulfil its obligations under
10 the Rainbow Guarantee.

11 81. Though Mr. Sher gave Rainbow reasonable notice on behalf of both himself and
12 the Class that Defendant had failed to fulfil its obligations under the written warranty, Rainbow
13 did not cure its breach.

14 82. As alleged above, Mr. Sher and the Class suffered damages as a result of
15 Rainbow’s breach of its written warranty.

16 83. Rainbow’s breach of its written warranty is a violation of the Magnuson-Moss
17 Warranty Act and Mr. Sher and the Class are entitled to bring an action for damages and other
18 legal and equitable relief in this court. *See* 15 U.S.C. § 2310(d)(1)(A).

19 84. Rainbow further violated the Magnuson-Moss Warranty Act by failing to comply
20 with the 15 U.S. Code section 2303(a)’s requirement that written warranties be designated either
21 “full” or “limited.” Rainbow violated this provision because its written warranty (the Rainbow
22 Guarantee) applies to products costing more than \$10.00 and is neither designated “full” nor
23 “limited.”

24 85. Plaintiff and the Class are also entitled to recover their attorneys’ fees based on
25 actual time expended and costs. *See* 15 U.S.C. § 2310(d)(2).

1 defects that lasted as long as those products' soles.

2 101. These violations of the CLRA were malicious because Rainbow carried them out
3 intentionally to maximize its profits and the expense of the victimized consumers it had deceived
4 into overpaying for sandals that came with a written warranty that provided for far more robust
5 and extensive that the coverage Rainbow actually, in practice, provided. These violations were
6 carried out with a willful and conscious disregard of the rights of Mr. Sher and the Class insofar
7 as the violations duped these consumers into paying for sandals which came with a written
8 warranty that offered far fewer benefits and far less value than Mr. Sher and the Class were led
9 to believe they offered. Mr. Sher's injuries — paying a premium for sandals that come with a
10 "lifetime guarantee" and then missing out on the benefits of that guarantee due to Rainbow's
11 wrongful conduct — are the intended outcome of Rainbow's CLRA violations.

12 102. Mr. Sher and the Class are informed and believe that the CLRA violations alleged
13 herein were committed, authorized or ratified by Rainbow's officers, directors, or managing
14 agents in California. This belief is informed by the fact that on February 27, 2023, Mr. Sher sent
15 a lengthy email to Rainbow executives and officers explaining how its refusal to repair
16 manufacturing defects in his sandals during their soles' lifetime was a breach of the Rainbow
17 Guarantee. The recipients of this email included Jay Longley (President), Jack Robbins
18 (Executive Vice President and General Counsel), Don Daley (Director of Retail Operations), and
19 Sabrina Sexton (Vice President Sales and Operations). Rainbow did not change course after Mr.
20 Sher alerted it to its unlawful conduct.

21 103. The misrepresentations that form the basis of this CLRA claim were made by a
22 California corporation and emanated out from California. Additionally, Plaintiff is informed and
23 believes that the policies which led to Rainbow's violation of the CLRA were formulated and
24 codified by individuals within California. Plaintiff's belief that the unlawful conduct which forms
25 the basis of this CLRA claim occurred in California is also informed by the fact that Rainbow has
26 its principal place of business in California.

27 104. As a result of Rainbow's violations of the CLRA, Mr. Sher and the Class have, as
28 alleged above, suffered harm and seek injunctive relief prohibiting further violations of the CLRA

1 by Rainbow. Mr. Sher and the Class also seek to recover their attorneys' fees and costs.

2 105. Under California Civil Code section 1782(d), a plaintiff may without prior
3 notification file a complaint alleging violations of the CLRA that seeks injunctive relief only. If
4 the plaintiff later sends a CLRA notification letter and the defendant does not remedy the CLRA
5 violations within thirty days of the notification, then the plaintiff may amend its CLRA causes of
6 action to add claims for damages.

7 106. Plaintiff will send Rainbow a CLRA notification letter shortly after the filing of
8 this Class Action Complaint. Plaintiff intends to amend the Class Action Complaint to add claims
9 for damages for Rainbow's violations of the CLRA after the thirty-day notice period has elapsed
10 in the event that the CLRA violations that are identified above are not remedied.

11 **FIFTH CAUSE OF ACTION AGAINST RAINBOW**
12 **VIOLATIONS OF THE UNFAIR COMPETITION LAW**

13 **Cal. Bus. & Prof. Code § 17200, et seq. ("UCL")**

14 ***On behalf of Plaintiff and the Class***

15 107. The UCL prohibits "unfair competition," which includes any "unlawful, unfair, or
16 fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising." See
17 Cal. Bus. & Prof. Code § 17200.

18 108. Plaintiff brings this action under the "unlawful" and "unfair" prongs of the UCL.

19 ***Rainbow's Unlawful Acts***

20 109. As alleged in this complaint, Rainbow's conduct has violated the Consumers
21 Legal Remedies Act, the Song-Beverly Consumer Warranty Act, and the Magnuson-Moss
22 Warranty Act. These unlawful acts are a violation of the UCL.

23 ***Rainbow's Unfair Acts***

24 110. Defendant Rainbow's conduct is "unfair" and in violation of both the letter and
25 the spirit of the UCL; Rainbow acted in an unscrupulous, deceptive, oppressive, and substantially
26 injurious manner by advertising, to the public at large, that its Guaranteed Sandals come with a
27 "lifetime guarantee" when, in fact, the guarantee Rainbow *in practice* honors is so undercut by
28 exceptions that it is virtually meaningless and is not a lifetime guarantee in any sense of the word.

1 G. Public injunctive relief in the form of an order prohibiting Rainbow from
2 advertising any of its sandals as coming with a guarantee for the lifetime of the soles when
3 Rainbow does not actually, in practice, provide such a guarantee;

4 H. A finding that such injunctive relief constitutes public injunctive relief, has
5 resulted in the enforcement of an important right affecting the public interest, and otherwise meets
6 the requirements of California Civil Procedure Code section 1021.5;

7 I. An award of attorneys' fees and costs pursuant to California Civil Procedure Code
8 section 1021.5 and other applicable provisions;

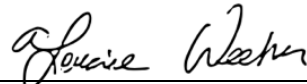
9 J. Such other relief as the Court may deem just and proper.

10 **DEMAND FOR JURY TRIAL**

11 Plaintiff demands that the claims herein asserted be determined by a jury.

12
13 DATED: September 27, 2023.

Respectfully submitted,

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15 

16 A. Lorraine Weekes, Esq. (CA SBN 332369)
17 Kevin Kneupper, Esq. (CA SBN 325413)
A. Cyclone Covey, Esq. (CA SBN 335957)

18 KNEUPPER & COVEY, PC
19 17011 Beach Blvd., Suite 900
20 Huntington Beach, CA 92647
21 Tel: 657-845-3100
22 Fax: 855-596-3707

23 *Attorneys for Plaintiff Jeremy Sher and the*
24 *Putative Class*

