

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CLASS REPRESENTATION

CASE NO:
DIVISION:

TROY SMITH, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

COSTA DEL MAR, INC.,
a Florida corporation,

Defendant.

CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Troy Smith (“Smith” or “Plaintiff”), by and through undersigned counsel, hereby
sues Costa Del Mar, Inc. (“Costa”), individually and on behalf of a nationwide class of consumers.

In support, Plaintiff alleges as follows:

INTRODUCTION

1. This class action lawsuit seeks damages under the Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301, *et seq.* (“MMWA”), for customers harmed by Costa’s illegal fees to process its “Lifetime Warranty” against manufacturer’s defects in its sunglasses.

2. At all relevant times, Costa aggressively promoted and advertised its sunglasses as being “backed for life” and touted its sunglasses warranty as “the best in the industry,” with “no gimmicks” and “no disclaimers.”

3. On the side of every box of non-prescription, non-promotional Costa sunglasses sold during the relevant time period, Costa prominently displayed the words “**BACKED BY OUR**

LIFETIME WARRANTY” in all capitalized letters, along with the promise, “we stand behind our craftsmanship with a rock solid Lifetime Warranty against manufacturer’s defects.”

4. Once a consumer purchased Costa sunglasses and opened the package, a warranty card (placed on the inside of the package) titled, “Costa’s Lifetime Warranty,” provided that Costa will “warrant these sunglasses against defects in materials or workmanship for the life-time of the product.”

5. And to avoid any confusion about its full warranty, Costa touted on its website, under the heading, “**BACKED FOR LIFE**,” that, “because we monitor the quality of every pair of sunglasses we build, we back them with a lifetime warranty. If a pair of Costas needs to be fixed, they get sent back to the shop where they were made and the Costa Repair Shop experts will bring them back to ‘like-new’ standards. Our product quality, backed by our Lifetime Warranty, makes Costa Sunglasses the best value available in the sunglass industry today. No other manufacturer offers a combination that even comes close.”

6. Costa advertised elsewhere on its website that its sunglasses are “**BUILT BY HAND. BACKED FOR LIFE.**”

7. In brochures distributed to customers and retailers, Costa stated, “at Costa, we stand behind our work. That’s why every pair of sunglasses we make is backed with a Lifetime Warranty against manufacturer’s defects.”

8. As applied by Costa during the relevant time period, Costa’s purported “Lifetime Warranty” against manufacturer’s defects violates federal law because consumers were required to pay an illegal fee to take advantage of it. More specifically, although Costa offered “Costa’s Lifetime Warranty,” Costa did not repair or replace Costa sunglasses damaged by a manufacturer’s defect “without charge,” as required by the MMWA. Instead, during the relevant time period,

Costa charged consumers a fee—\$11.95 plus tax—to repair or replace sunglasses with a manufacturer’s defect.

9. Costa’s actions—advertising, promoting, and offering a “Lifetime Warranty,” but charging consumers \$11.95 plus tax per warranty claim for sunglasses with a manufacturer’s defect—violate the MMWA, which requires warrantors like Costa advertising full lifetime warranties to remedy consumer products “*without charge*.”

10. As a consequence of Costa’s illegal practices, Plaintiff and the class members have purchased Costa sunglasses under the false impression that their sunglasses are protected for life against manufacturer’s defects at no charge to them (when Costa, in fact, requires consumers to pay an illegal fee). Congress passed the MMWA specifically to curb false and deceptive warranty practices, like those warranty practices employed by Costa.

11. Significantly, each consumer in the class has purchased Costa sunglasses subject to Costa’s Lifetime Warranty. Each of these class members have experienced the same harm, in the same manner, and bring this action in an effort to obtain redress for Costa’s false and deceptive warranty practices, which constitute a clear violation of the MMWA.

12. Plaintiff brings this case pursuant to Florida Rule of Civil Procedure 1.220 on behalf of a class of Costa sunglass purchasers, seeking damages, including costs of suit, interest, and reasonable attorneys’ fees to remedy Costa’s illegal warranty practices.

PARTIES, JURISDICTION AND VENUE

13. Plaintiff Troy Smith is a citizen of the State of Florida.

14. Costa is a corporation incorporated under the laws of the State of Florida, with its principal place of business in Daytona Beach, Florida.

15. Costa conducts business throughout the State of Florida, including within the Fourth Judicial Circuit in and for Duval County, Florida. Costa has received and continues to receive substantial revenue and profits in Duval County and throughout the state of Florida.

16. Upon information and reasonable belief, the proposed class consists of hundreds of thousands of members nationwide.

17. The Court has original subject-matter jurisdiction over this proposed class action pursuant to Fla. Stat. § 26.012. This is an action for damages in excess of \$50,000, exclusive of interest, costs, and attorneys' fees.

18. Costa is subject to the jurisdiction of this Court because Costa is a resident of the state. Costa also operates, conducts, engages in, and carries on a business in the state of Florida.

19. Venue is proper in this Court pursuant to Fla. Stat. § 47.051 because the cause of action accrued here.

FACTUAL ALLEGATIONS

Costa and its "Lifetime Warranty"

20. Costa manufactures, markets, advertises and sells sunglasses across the United States.

21. Costa touts its "rock solid" sunglasses lifetime warranty.

22. During the relevant time period, Costa advertised to consumers through a variety of mediums a "backed for life" "Lifetime Warranty" against manufacturer's defects. In other words, Costa advertised that it fully warrants its sunglasses against manufacturer's defects.

23. Costa's "Lifetime Warranty" was uniformly printed on the side of every Costa sunglasses box, placed on a card inside of every Costa sunglasses box, and was part of the basis of the bargain for each purchase.

24. Apparently recognizing that its warranty practices violate the MMWA, Costa eventually changed its packaging and other promotional materials so that its claims that its sunglasses are backed by a “Lifetime Warranty” are now replaced with claims that its sunglasses are backed by a “Limited Lifetime Warranty.” In other words, Costa recognized that it was advertising and promoting a full “Lifetime Warranty,” but not honoring such in accordance with the MMWA. So, Costa changed its warranty information to state that Costa offers a “Limited Lifetime Warranty,” rather than a “Lifetime Warranty” as its packaging and promotional material previously represented.

25. During the relevant time period, in order for consumers to take advantage of Costa’s “Lifetime Warranty,” Costa required that consumers send their damaged sunglasses to Costa’s warranty center for evaluation by Costa. Once the consumer sent his or her sunglasses to the warranty center, Costa inspected the sunglasses to determine the cause of the damage.

26. If Costa determined that the consumer’s sunglasses were damaged as a result of a manufacturer’s defect, Costa honored its advertised “Lifetime Warranty” but charged the consumer \$11.95 plus tax per warranty claim. The fee that Costa charged consumers to take advantage of Costa’s “Lifetime Warranty” is illegal under the MMWA.

Plaintiff’s MMWA Claim

27. In 2014, Plaintiff purchased a pair of Costa Fisch sunglasses backed by Costa’s purported “Lifetime Warranty” against manufacturer’s defects.

28. In September of 2015, Plaintiff sent his sunglasses to Costa’s warranty center for inspection.

29. After inspection, Costa determined that Plaintiff's rubber gaskets (nose piece) needed to be replaced and the lenses were delaminated, and that these issues were caused by a manufacturer's defect.

30. Costa purported to honor the "Lifetime Warranty" but violated its obligations under the MMWA by charging Plaintiff \$11.95 plus tax to take advantage of Costa's "Lifetime Warranty."

31. Plaintiff paid the \$11.95 plus tax charged by Costa to take advantage of the "Lifetime Warranty."

32. Costa's actions—by advertising a "Lifetime Warranty" but charging Plaintiff and other consumers \$11.95 plus tax per warranty claim—violate the MMWA, which requires warrantors providing full lifetime warranties to remedy consumer products "*without charge.*"

33. As an immediate, direct, and proximate result of Costa's illegal warranty practices, Costa has unfairly and unjustly charged customers \$11.95 plus tax on each warranty claim made under a purported "Lifetime Warranty" against manufacturer's defects on Costa sunglasses.

34. Plaintiff and the members of the class have paid \$11.95 plus tax per warranty claim to Costa, when the MMWA requires that Costa honor its warranty "without charge."

35. Costa failed to comply with its obligations under the MMWA, and each of the members of the class were harmed by Costa's failures.

CLASS ALLEGATIONS

36. Plaintiff brings this action both on behalf of himself and as a class action pursuant to Florida Rule of Civil Procedure 1.220 on behalf of the following class (the "Class"):

**COUNT I - VIOLATION OF THE MAGNUSON-MOSS WARRANTY ACT
(15 U.S.C. §§ 2301, et seq.):**

All citizens in the United States who, prior to Costa's switch to a "Limited Lifetime Warranty," purchased a pair of Costa sunglasses backed by a "Lifetime Warranty" who, within the applicable limitations period, paid Costa a fee to repair or replace those sunglasses damaged by a manufacturer's defect.

Excluded from the Class are: (1) Defendant, any entity or division in which Defendant has a controlling interest, and their legal representatives, officers, directors, assigns, and successors; (2) the judge to whom this case is assigned and the judge's staff; and (3) counsel for each of the parties in this case.

37. Plaintiff reserves the right to amend the Class definition if further information and discovery indicates that the Class definition should be narrowed, expanded, or otherwise modified, including but not limited to, the creation of subclasses, if necessary.

38. Plaintiff does not know the exact number of Class members because such information is in the exclusive control of Costa. Based on the information available to Plaintiff, it is readily apparent that the number of consumers in the Class is in the hundreds of thousands of consumers and is so large as to make joinder impracticable, if not impossible.

39. Certification of Plaintiff's claims for class-wide treatment is appropriate because Plaintiff can prove the elements of his claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

40. **Numerosity**: The members of the Class are so numerous and geographically dispersed that individual joinder of all Class members is impracticable. While Plaintiff believes that there are hundreds of thousands of members of the Class, the precise number of Class members is unknown to Plaintiff, but may be ascertained from Costa's books and records.

41. **Commonality and Predominance**: This action involves common questions of law and fact which predominate over any questions affecting individual Class members including, without limitation:

- a. Whether Costa engaged in the conduct alleged herein;
- b. Whether Costa charged customers a fee to repair or replace sunglasses damaged by a manufacturer's defect;
- c. Whether Costa's conduct constitutes a violation of the MMWA as asserted herein;
- d. Whether Plaintiff and the other members of the Class were illegally charged a fee for Costa to repair or replace sunglasses damaged by a manufacturer's defect, when those sunglasses were subject to a "Lifetime Warranty"; and
- e. Whether Plaintiff and the other members of the Class were injured by Costa's conduct and, if so, the appropriate class-wide measure of damages for Class members.

42. **Typicality**: Plaintiff's claims are typical of the claims of the Class because, among other things, all Class members were comparably injured through Costa's wrongful conduct as described herein. All Class members purchased Costa sunglasses purportedly backed by Costa's "Lifetime Warranty" for damage to the sunglasses as a result of a manufacturer's defect, and were illegally charged a fee by Costa to repair those sunglasses damaged by a manufacturer's defect. The injuries to each Class member were caused directly by Costa's wrongful conduct. Plaintiff's claims arise from the same practices and course of conduct that give rise to the claims of the Class members and are based on the same legal theories.

43. **Adequacy**: Plaintiff is an adequate Class representative because his interests do not conflict with the interests of the other members of the Class. Neither Plaintiff nor counsel have any

interests that conflict with or are antagonistic to the interests of the Class members. Plaintiff has retained highly competent and experienced class action attorneys to represent his interests and those of the members of the Class. Plaintiff and his counsel have the necessary resources to adequately and vigorously litigate this class action, and Plaintiff and his counsel are aware of their fiduciary responsibilities to the Class members and will diligently discharge those duties by seeking the maximum possible recovery for the Class.

44. **Superiority**: A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Plaintiff and the other Class members are relatively small compared to the burden and expense that would be required to individually litigate their claims against Costa, so it would be impracticable for the Class members to individually seek redress for Costa's wrongful conduct. Even if Class members could afford individual litigation, the court system could not. Individualized litigation creates a potential for inconsistent or contradictory judgments, and increases the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management difficulties, and provides the benefit of single adjudication, economy of scale, and comprehensive supervision by a single court.

45. Having all claims nationwide be decided in a single lawsuit, in Florida where Costa is located, is efficient, economical, and fair.

THIS ACTION IS TIMELY

Plaintiff Timely Asserted His Rights in Another Forum

46. In August 2018, Plaintiff timely filed this action in the United States District Court for the Middle District of Florida, Jacksonville Division, on behalf of the same Class, alleging the

same misconduct against the same defendant (Costa), and asserting the same cause of action. That lawsuit is referred to herein as the “Federal Lawsuit.”

47. Plaintiff asserted in the Federal Lawsuit that federal subject-matter jurisdiction existed under the Class Action Fairness Act, 28 U.S.C. § 1332(d) (“CAFA”). At the time that Plaintiff filed the Federal Lawsuit, the weight of authority held that CAFA provided an independent basis to federal subject matter jurisdiction over MMWA claims. In fact, Costa agreed that the federal court had subject matter jurisdiction over the Federal Lawsuit. Costa answered the Complaint in the Federal Lawsuit and fully conceded that federal subject matter jurisdiction was appropriate.

48. For years, the district court, Costa, and Plaintiff operated under the understanding, fully supported by the relevant case law, that the federal court had subject matter jurisdiction over the Federal Lawsuit.

Plaintiff Diligently Pursued His and the Class’s Rights in Federal Court

49. Plaintiff and Costa vigorously litigated the Federal Lawsuit—undergoing extensive discovery, briefing cross motions for summary judgment, and briefing Plaintiff’s motion for class certification. Not once during any of the merits proceedings in the Federal Lawsuit did Costa ever challenge that the federal court had subject matter jurisdiction over the Federal Lawsuit.

50. After years of litigation, Plaintiff and Costa reached a global settlement on a class-wide basis on February 12, 2020 (the “Global Settlement”). The Global Settlement involved settlement, on a class-wide basis, of the Federal Lawsuit, as well as two additional class actions asserted against Costa: (i) *Haney v. Costa Del Mar, Inc.*, Case No. 16-2017-CA-004794-XXXX-MA, Fourth Judicial Circuit of Florida (hereinafter, “*Haney*”); and (ii) *Reed v. Costa Del Mar, Inc.*, Case No. 6:19-cv-1751-Orl-37LRH (M.D. Fla.) (hereinafter, “*Reed*”).

51. To effectuate the Global Settlement, Plaintiff amended the Complaint in the Federal Lawsuit to add the plaintiffs, claims, and classes from the *Haney* and *Reed* Actions. Costa and Plaintiff agreed to this procedure based on their respective counsel's evaluation of the state of the law and understanding that the federal court had appropriate jurisdiction over the Federal Lawsuit. The parties further agreed that, if the Global Settlement was not ultimately fully and finally approved in the Federal Lawsuit, no party's substantive or procedural rights would be prejudiced, in any manner, by the settlement or settlement proceedings. Along those lines, Costa and Plaintiff agreed that, if the Global Settlement was not fully and finally approved, the parties would revert to their litigation positions as they existed prior to the settlement.

52. Among other things, the settlement agreement provided, "If, but only if, this Agreement is not approved . . . then . . . [a]ll of its provisions, and all negotiations, statements, and proceedings relating to it shall be without prejudice to the rights of Costa, Plaintiffs, or any Class Member, all of whom shall be restored to their respective positions existing immediately before the execution of this Agreement, except that the Parties shall cooperate in requesting that the Court set a new scheduling order such that no Party's substantive or procedural rights are prejudiced by the settlement negotiations and proceedings."

53. In the settlement agreement, Plaintiff and Costa agreed to seek the entry of a Final Judgment and Order finding, among other things, "that the Court has subject matter jurisdiction over the claims asserted in the Global Action" and retaining "jurisdiction relating to the administration, consummation, enforcement, and interpretation of the Agreement, the Final Judgment and Final Order, and for any other necessary purpose."

54. Because the Global Settlement was a class-wide settlement, the settlement agreement was subject to court approval. Accordingly, after reaching the settlement, Plaintiff and

Costa worked together to obtain court approval of the settlement agreement in the Federal Lawsuit. Throughout the settlement proceedings, Costa consistently maintained its position that federal subject matter jurisdiction was proper in the Federal Lawsuit and, consistent with the parties' settlement agreement, worked to obtain final approval of the settlement in federal court.

55. The nature of the class-wide settlement also made it impossible for Plaintiff to unilaterally dismiss and re-file the MMWA claims in this court or otherwise, once they were certified by the court in the Federal Lawsuit. In pertinent part, Federal Rule of Civil Procedure 23 provides: “[t]he claims, issues, or defenses of a certified class—or a class proposed to be certified for purposes of settlement—may be settled, voluntarily dismissed, or compromised only with the court’s approval.” Fed. R. Civ. P. 23(e).

56. Pursuant to the parties’ agreements, Plaintiff filed an Unopposed Motion for Preliminary Approval of Class Action Settlement, Certification of Settlement Class, Approval of Notice to Settlement Class, and Incorporated Memorandum of Law (the “Motion for Preliminary Approval”). Costa consented to the relief sought in the Motion for Preliminary Approval.

57. Consistent with the position continuously maintained by Costa, on September 3, 2020, the district court in the Federal Lawsuit entered an order preliminarily approving the parties’ Global Settlement and directing that class notice be issued to the certified classes. The district court acknowledged that it had subject matter jurisdiction over the Federal Lawsuit because its order expressly “*retain[ed] jurisdiction* to consider all further applications arising out of or connected with the proposed settlement.”

58. Throughout the course of the settlement proceedings, Costa and its counsel worked with Plaintiff and his counsel to make modifications to the settlement and seek Court approval of those modifications from the federal court. Not once during the settlement proceedings in the

district court did Costa ever assert that the district court lacked jurisdiction—to the contrary, Costa actively worked to advance the settlement and obtain approval of it.

59. Following notice of the Global Settlement to Class members, certain class members appeared in the case and objected to the settlement.

60. Plaintiff responded to the arguments raised by the objectors and moved for final approval of the settlement agreement. Again, Costa consented to final approval of the settlement.

61. The parties briefed the issues raised by the objectors and both Plaintiff's counsel and Costa's counsel argued, at the final approval hearing, that the Global Settlement should be fully and finally approved. At the final fairness hearing, no one—not Plaintiff, Costa, or the objectors—objected to the district court's subject matter jurisdiction over the Class's MMWA claim.

62. On September 21, 2021, the court in the Federal Lawsuit entered an Order addressing Plaintiff's Motion for Final Approval of Class Action Settlement. The Order granted in part, deferred in part, and denied in part final approval of the settlement. Consistent with both Costa's and Plaintiff's position in the Federal Lawsuit, the Court's order held: "the Court has jurisdiction over the subject matter of this action, and all matters relating to the settlement."

63. On January 27, 2022, the district court entered a final judgment and order that approved the settlement with certain adjustments. The January 27, 2022 Order again acknowledged that the court had federal subject matter jurisdiction by "*retain[ing] jurisdiction* to implement, administer, consummate, and enforce the Settlement Agreement."

64. Accordingly, Costa was successful in maintaining its position in the Federal Lawsuit that the court had subject matter jurisdiction over the case, and Costa successfully lulled Plaintiff into pursuing his rights and those of the Class in federal court.

65. The objectors appealed the order finally approving the Global Settlement to the United States Court of Appeals for the Eleventh Circuit.

66. On appeal, Costa filed a Responsive Brief of Defendant-Appellee arguing that the Eleventh Circuit “should affirm the District Court’s Orders approving the settlement agreement.” Costa argued that “[t]he District Court appropriately reviewed *every aspect* of the settlement agreement at each of its iterations.”

The Eleventh Circuit Sua Sponte Raises Subject Matter Jurisdiction Concerns

67. In the Eleventh Circuit, no one—not Costa, Plaintiff, or the objectors—argued that the district court lacked federal subject matter jurisdiction over Plaintiff’s MMWA claim.

68. The Eleventh Circuit ultimately entered an Opinion vacating approval of the Global Settlement. The Eleventh Circuit held that the district court improperly considered certain values of injunctive relief when it evaluated the settlement. However, in a footnote in its Opinion, the Eleventh Circuit directed that “the district court should consider whether it had subject matter jurisdiction over the *Smith* lawsuit.” The Eleventh Circuit identified two federal circuit court opinions, issued after the filing of the Federal Lawsuit, holding that, when the jurisdictional requirements of the MMWA are not met, CAFA does not provide an alternative basis for a federal court to exercise subject matter jurisdiction over a case brought under the MMWA. The Eleventh Circuit has never addressed the jurisdictional question raised in its footnote.

69. The Eleventh Circuit remanded the case to the district court. In turn, the district court ordered supplemental briefing as to whether it could exercise subject matter jurisdiction over the MMWA claim asserted in the Federal Lawsuit.

Costa's Sudden Change in Position on Jurisdiction

70. Consistent with his position throughout the case, Plaintiff submitted a supplemental brief arguing that subject matter jurisdiction over the Federal Lawsuit was appropriate in federal court because CAFA provides an independent basis to jurisdiction over an MMWA claim.

71. Costa, however, submitted a supplemental brief dramatically changing the position it had conceded in its Answer and which it had advanced throughout the settlement proceedings. In a complete about-face, Costa, for the first time in six years, argued that there was no federal subject matter jurisdiction over the Federal Lawsuit and announced an intention, in open court, to argue that the statute of limitations had now lapsed on Plaintiff's claims, so the claims could not be refiled in state court after a dismissal on subject matter jurisdiction grounds.

72. The district court entered an Order on June 17, 2025 describing its "unenviable task of advising the parties that, notwithstanding the nearly seven years of litigation that have transpired since this case was filed, it is due to be dismissed for lack of subject matter jurisdiction." The Order dismissed the Federal Lawsuit "without prejudice for lack of subject matter jurisdiction."

73. To obtain overdue relief for himself and the Class, Plaintiff now refiles the Federal Lawsuit in this forum. At all material times, Plaintiff has diligently prosecuted the Federal Lawsuit and advanced his rights and the rights of the Class.

74. Given Costa's concessions and positions in the Federal Lawsuit, it is estopped and barred from taking an inconsistent position in this Court and arguing that dismissal is appropriate in light of the federal court's lack of jurisdiction. Costa would derive an unfair advantage, and Plaintiff would be subject to an unfair detriment, on the basis of any argument by Costa that this action is not timely.

75. Given Costa's arguments and positions in the Federal Lawsuit, Plaintiff was lulled and/or misled into delaying the assertion of his claims in this forum. Plaintiff timely asserted his

rights in federal court in the Federal Lawsuit and is blameless in his pursuit of those rights in that forum, given the state of the law at the time of filing the Federal Lawsuit and Costa's concessions and positions taken in that lawsuit.

76. Plaintiff and the Class would be severely prejudice if Costa were permitted to argue that the claims asserted herein are barred as a result of the federal court's lack of jurisdiction. At the same time, Costa is not prejudiced in any manner by the maintenance of Plaintiff's claims, and those of the Class, in this lawsuit. Costa and Plaintiff litigated the Federal Lawsuit in federal court and ultimately settled the case on a class-wide basis, with Costa (i) conceding that the district court had jurisdiction, (ii) advancing the position that the district court had jurisdiction and due authority to approve the Global Settlement, and (iii) agreeing that nothing about the settlement shall affect Plaintiff's procedural or substantive rights.

COUNT I
VIOLATION OF THE MAGNUSON-MOSS WARRANTY ACT
(15 U.S.C. §§ 2301, *et seq.*)

77. Plaintiff, individually and on behalf of the Class, re-alleges and incorporates the allegations of paragraphs 1-76 as if fully set forth herein.

78. Plaintiff brings this count individually and on behalf of the Class.

79. Costa's acts and omissions, as alleged herein, violate the MMWA, which governs consumer product warranties and sets forth the rights of consumers and the obligations of warrantors who provide written warranties.

80. The MMWA allows consumers to bring civil actions for both legal and equitable relief. 15 U.S.C. § 2310(d)(1).

81. Plaintiff and the Class members are consumers, as defined in 15 U.S.C. § 2301(3).

82. Costa is a supplier and warrantor, as defined in 15 U.S.C. §§ 2301(4) and (5).

83. Costa sunglasses constitute a consumer product, as defined in 15 U.S.C. § 2301(1).

84. Costa has provided, advertised, and promoted a written warranty to Plaintiff and members of the Class in connection with the sale of Costa sunglasses that its sunglasses are backed by a “Lifetime Warranty” against manufacturer’s defects. This constitutes a written warranty within the meaning of the MMWA, 15 U.S.C. § 2301(6).

85. This written warranty was advertised and promoted by Costa through a variety of different means and types of mediums.

86. Costa’s “Lifetime Warranty” constitutes a full warranty under the MMWA.

87. Among other things, a full warranty requires the warrantor to remedy defects in a product within a reasonable time and *without charge*. 15 U.S.C. § 2304.

88. The term “without charge” means that the warrantor may not assess the consumer for any costs the warrantor or its representatives incur in connection with the required remedy or a warranted consumer product. 15 U.S.C. § 2304(d).

89. Costa has violated the MMWA by charging Plaintiff and members of the Class a fee in connection with warranty claims made against Costa sunglasses subject to Costa’s “Lifetime Warranty.”

90. A timely notice to Costa of its violations of the MMWA, on behalf of Plaintiff and all members of the Class, was sent to Costa by letter dated July 18, 2018. Through this letter, Costa was provided a reasonable opportunity to cure Costa’s illegal warranty practices. In response to the letter, Costa failed and/or has continued to refuse to cure its noncompliance.

91. Costa’s illegal warranty practices, as described herein, have resulted in damages to Plaintiff and the members of the Class who bought Costa sunglasses subject to a “Lifetime

Warranty,” but were charged an illegal fee in connection with warranty claims for sunglasses damaged as a result of a manufacturer’s defect.

WHEREFORE, Plaintiff Troy Smith, individually and on behalf of the Class, prays for relief as follows:

- a) An order certifying that this action is properly brought and may be maintained as a class action, that Plaintiff be appointed the class representative, and that Plaintiff’s counsel, Holland & Knight LLP, be appointed counsel for the Class;
- b) Compensatory damages, and all other damages allowable under the law, sustained by Plaintiff and the Class;
- c) Payment of costs of suit herein incurred;
- d) Pre-judgment and post-judgment interest at the maximum rate allowable at law on any amounts awarded;
- e) Payment of reasonable attorneys’ fees pursuant to 15 U.S.C. § 2310(d)(2); and
- f) Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all claims so triable.

Dated this 24th day of July, 2025.

HOLLAND & KNIGHT LLP

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