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9 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **IN AND FOR THE COUNTY OF SANTA CRUZ**

<p>11 ELIJAH SOTO, INDIVIDUALLY AND ON 12 BEHALF OF ALL OTHERS SIMILARLY 13 SITUATED</p> <p>14 Plaintiffs,</p> <p>15 v.</p> <p>16 FUTURE MOTION, INC., a Delaware 17 Corporation and DOES 1 through 100, 18 inclusive,</p> <p>19 Defendants.</p>	<p>20 Case No.: 20CV01867</p> <p>21 Date: N/A 22 Time: N/A 23 Dept: N/A</p> <p>24 UNLIMITED CIVIL CASE 25 <u>CLASS ACTION COMPLAINT</u></p> <ol style="list-style-type: none"> 26 1. False Advertising in Violation of California Business & Professions Code §§ 17500, et seq. 27 2. Violation of Express Warranty Under Song-Beverly Consumer Warranty Act §§ 1790, et seq. 28 3. Violation of Implied Warranty Under Song-Beverly Consumer Warranty Act §§ 1790, et seq. 3. Violation of Consumer Legal Remedies Act §§ 1750, et seq. 4. Unfair Business Practices in Violation of California Business & Professions Code §§ 17200, et seq. 5. Breach of Express Warranty 6. Negligent Misrepresentation 7. Unjust Enrichment 8. Conversion <p>9. DEMAND FOR JURY TRIAL 10. DEMAND FOR PUNITIVE DAMAGES</p>
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1 **PRELIMINARY STATEMENT**

2 1. This is a Class Action under California Code of Civil Procedure § 382, seeking
3 declaratory relief, injunctive relief, monetary damages, statutory and punitive damages,
4 equitable relief, and attorney fees and costs, under, *inter alia*, False Advertising in Violation of
5 California Business & Professions Code §§ 17500, *et seq.*, Violation of Express and Implied
6 Warranties under Song-Beverly Consumer Warranty Act (Civil Code §§ 1790, *et seq.*),
7 Violation of Consumer Legal Remedies Act (Civil Code §§ 1750, *et seq.*), Unfair Business
8 Practices in Violation of California Business & Professions Code §§ 17200, *et seq.*, Breach of
9 Express Warranty, Negligent Misrepresentation, Unjust Enrichment, and Conversion.

10 2. Plaintiff Elijah Soto brings this Class Action against Future Motion, Inc., and
11 DOES 1 through 100, inclusive (“Defendants”), on behalf of himself, by and through his
12 attorneys, and all other owners (the “Class”) of the Onewheel+ XR (“Class Vehicle” or “XR”)¹
13 to obtain relief for certain misrepresentations and a complete failure to warrant, in violation of
14 California’s consumer protection laws and common law.

15 3. Defendants design, manufacture, and market the XR as an all-terrain vehicle but
16 fail to offer sufficient repair facilities or warrant repairs arising from the Class Vehicle’s
17 ordinary and advertised use. Moreover, Defendants fail to warrant repairs arising from issues
18 caused by the XR’s advertised and ordinary use, oftentimes and without evidence, blaming the
19 malfunctions on “third-party repairs.” Ultimately, and as a result of Defendants’ willful
20 conduct, XR owners are forced to pay exorbitant fees for the return of their property, or are
21 otherwise completely denied the use and enjoyment of the Class Vehicle, many of which were
22 purchased for over \$1,800.00.

23 4. The “Class Period” is designated as of the time from February 1, 2018, through
24 the date of the trial and is based upon allegations that Defendants misrepresented material facts,
25 failed to honor express and implied warranties, and continue to market and sell XR as having
26

27 ¹ Onewheel XR is a battery operated single-wheeled skateboard designed for “on-and-off-road journeys of 12-18
28 miles.” See Onewheel Press Release at https://www.dropbox.com/sh/yv8mktvkea3quee/AAB1XudZCjdrM4op5Wq1IMmla/press-releases?dl=0&preview=CES+2018+Onewheel+XR+press+release.pdf&subfolder_nav_tracking=1

1 all-terrain capabilities. The allegations are based upon personal knowledge and belief as to
2 their own acts, and upon information and belief (based on investigation by Plaintiff, the Putative
3 Class, and Counsel) as to all other matters and allegations, Plaintiff believes substantial
4 evidentiary support exists after a reasonable opportunity for further investigation and discovery
5 of evidence, as follows.

6 **JURISDICTION AND VENUE**

7 5. Venue is proper in this Court pursuant to Civil Code of Procedure sections 395
8 and 395.5. Defendants' principal place of business is in the County of Santa Cruz. The injuries
9 that gave rise to this Class Action Complaint have been sustained as a result of Defendants'
10 illegal conduct that occurred, in part, in the County of Santa Cruz.

11 **PARTIES**

12 6. Plaintiff Soto is a resident of the State of California. He currently resides in
13 Sacramento, California. In 2020, Plaintiff purchased the XR from Defendants online website.

14 7. Defendants are a Delaware corporation with headquarters in Santa Cruz,
15 California. Defendants entered into a contract with Representative Plaintiff in the County of
16 Santa Cruz for the sale of the XR.

17 8. Those Defendants identified as DOES 1 through 100, inclusive, were, at all
18 times herein-mentioned, business affiliates, successors, officers, directors, partners, and/or
19 managing agents of the Defendants. Plaintiff is informed and believes, and on that basis, alleges
20 that, at all times herein-mentioned, each of the Defendants identified as DOES 1 through 100,
21 inclusive, conduct violates various California consumer statutes, warranty statutes, and common
22 law.

23 9. Plaintiff Soto is unaware of the true names and capacities of those Defendants
24 sued herein as DOES 1 through 100, inclusive, and therefore sues Defendants by fictitious
25 names. Plaintiff will seek leave of court to amend this Complaint when such names are
26 ascertained. Plaintiff is informed and believes, and, on that basis, alleges that each of the
27 fictitiously-named Defendants is/was responsible in some manner for, gave consent to, ratified,
28

1 and/or authorized the conduct herein alleged and that the Plaintiff’s and Class Members’
2 damages were proximately caused thereby.

3 10. Plaintiff Soto is informed and believes and, on that basis, alleges that, at all times
4 herein-mentioned, each of the Defendants was the agent and/or the employee of the remaining
5 Defendants and, in doing the acts herein alleged, was acting within the scope of such agency
6 and/or employment.

7 **FACTUAL BACKGROUND**

8 11. Defendants design, manufacture, and market several lines of recreational
9 vehicles, often described as single-wheeled electric skateboards.

10 12. In January 2018, Defendants released the XR – which is capable of speeds in
11 excess of 20 miles per hour – as “an extended range model for on-and-off-road journeys,” and
12 as “an upgrade from the existing Onewheel+. . . .”² Defendants sell the XR throughout the
13 United States over the internet and in retail stores.



24
25 Figure 1: Image of Onewheel+ XR taken from <https://onewheel.com/pages/customize>

26
27
28 ² *Id.*

1 13. On the XR specific product page, Defendants represent that the XR “dominate[s]
2 any terrain” and feature riders traversing wet, sandy beaches and rocky roads, as well as
3 launching off various obstacles.



1 Figure 2: Screenshots taken from <https://onewheel.com/products/xr>

2 14. Unfortunately, Defendants fail to warrant repairs arising from issues caused by
3 the XR's advertised and ordinary use, oftentimes and without evidence, blaming the
4 malfunctions on "third-party repairs." This is so even when no such third-party repairs were
5 conducted, and/or when such repairs were not and could not have been the cause of the
6 underlying issues.

7 15. To add insult to injury, Defendants, as a practice, and as a result of their patent
8 stranglehold on the product and its components, provide no other means of repair apart from
9 shipping the Class Vehicle to their facility in San Jose, California. When the repairs are
10 inevitably denied, Defendants require XR owners to shell out hundreds of dollars, oftentimes
11 refusing to return the Class Vehicle to owners until payment is made.

12 16. Accordingly, XR owners, through no fault of their own, are forced to gamble on
13 the chance that their \$1,800 XR may be unlawfully held hostage, or alternatively, to continue
14 using the Class Vehicle in a defective and nonconforming condition, subjecting themselves and
15 the public at large to potential death and/or grave bodily injury.

16 17. Despite Defendants' warranties and representations that the XR is an all-terrain
17 vehicle, the reality is the XR has not withstood the test. This colossal failure has resulted in
18 substantial monetary losses, serious safety concerns, a diminution in value, and the loss of use
19 and enjoyment of the Class Vehicle.

20 18. Below is a sampling of customer complaints which can be found online:

21  **haare** Jan 8, 2020, 8:25 PM

22 I absolutely love onewheels. I have 3rd XR now. First 2 where broken in less than a year. 2nd one with
23 no custom parts, no modifications. The company claims it is all weather device, however it is not. In
24 ther adds they use it in wet conditions even in snow. It is not able to stand rainy conditions. First 2 of
25 my XR broke because of waterdamage. And the warranty does not pay for this. So beware. They
26 advertise it as all wheather device but it is not. And if it breaks they don't cover it. Here is a short video
27 of my experience to warn others.

28 Figure 3: Customer review found online at
<https://community.onewheel.com/topic/8856/warranty-issues-consider-this-before-buying-onewheel>



Thomas



08/22/2019

We purchased a one wheel XR for my son less than a year ago. A couple of months after riding it the LED lights went out. Since shipping is so costly due to the weight and having a lithium battery poses additional issues when shipping we decided to wait until it needed full servicing. We looked online for servicing for our one wheel. Plastic pads on the bottom, new wood foot boards, tire and reload your computer for \$215. We called one wheel and provided them our board serial # and was told to go online and pay the \$215 tune up fee before shipping the item to them. We sent the XR in for the tune up then received an email from one wheel that the cost for this tune up is actually \$315 which is NOT mentioned on their website or during our phone call prior with them. They also indicated additional damage charges for the "wrong" screws used. However we've never taken apart the board or made any changes. We responded to one wheel to let them know of our concern of these additional charges given we have not taken apart or done any type of work on the board. They were essentially not helpful and invoiced is for.... \$150 casing \$113.75 double bearing \$52.76 labor. Buyer BEWARE!!!! Your \$215 tune up is going to be more like \$600. They have no customer service and effectively scam consumers.



Victor S



01/14/2020

This company is unethical and has terrible customer service. I bought a Onewheel XR has it for just about a year and went to the beach last summer and road it on the tough sand just as it is advertised on their website with them riding it on the tough sand. Four minutes later my board died and I sent it to them and they said it was compromised due to water and wanted over \$1000 to fix my board when all I did was use it as advertised. Their boards are not water-resistant. they advertise it as water-resistant but they are not. Their technicians emailed me saying "The battery module is not waterproof. Even with a gasket that is not damaged, exposing the board to wet conditions can allow water to damage the board." This statement put me in distraught because they advertise their boards as being water-resistant but here they clearly say if any water gets in contact with the board it can cause damage. I have tried to dispute with them to fix my board because I did nothing but use it as advertised. However, they simply will not help me

Figure 4: Customer reviews found online at <https://www.bbb.org/us/ca/santa-cruz/profile/electric-vehicles/future-motion-inc-1216-358110/customer-reviews>

FACTS SPECIFIC TO REPRESENTATIVE PLAINTIFF

19. Plaintiff Elijah Soto purchased the XR on January 11, 2020 from Defendants' official website. Five months later, on May 15, 2020, Mr. Soto contacted Defendants as a result of the XR's motor cutting in and out while riding, causing a complete failure and serious safety issues.

1 20. On May 20, 2020, Defendants responded to Mr. Soto’s email and instructed him
2 to leave the Class Vehicle on the charger overnight. Defendants, however, provided a shipping
3 label in the event that the “quick fix” did not work.

4 21. The next day, Mr. Soto informed Defendants that the Class Vehicle was still not
5 working. At that time, Defendants provided instructions to ship the Class Vehicle to their repair
6 facility in San Jose, California.

7 22. Defendants received the Class Vehicle on June 3, 2020. After evaluating Mr.
8 Soto’s XR, Defendants discovered “that there was a component in the battery circuit that was
9 not functioning properly.”³ As a result, Defendants replaced the battery circuit and conducted
10 “extensive tests”⁴ on the board post-repair to ensure that it was working properly. Defendants
11 then shipped Mr. Soto’s Class Vehicle back to his address.

12 23. Regrettably, on June 14, 2020, Mr. Soto contacted Defendants after the motor cut
13 off again, this time while Mr. Soto was trail riding. Although not seriously injured, Mr. Soto
14 was once again forced to go through the entire arduous process of shipping the Class Vehicle
15 to Defendants’ sole repair facility. After Defendants’ so-called evaluations, Defendants
16 emailed Mr. Soto on July 2, 2020, claiming that his board was “powering on and charging as
17 per specification.”⁵ Nevertheless, Defendants told Mr. Soto that the technicians discovered a
18 new issue during the physical inspection. Namely, that there were multiple stripped screws and
19 loose bolts on the rails as a result of a tire change by a third party, which Defendants claimed
20 was not covered by the warranty.⁶ Although Defendants claimed they previously conducted
21 “extensive tests”⁷ on the Class Vehicle and did not detect these alleged third-party repairs, and
22 despite no third-party repairs having been made in the meantime, Defendants informed Mr.
23 Soto that the XR would only be returned if he paid them \$252.00, including \$80.00 for roundtrip
24 shipping.

25
26 _____
³ See email dated June 8, 2020, attached hereto as Exhibit A.

⁴ *Id.*

⁵ See email date July 2, 2020, attached hereto as Exhibit B.

⁶ *Id.* Tire changes are an inevitable part of the XR’s use since each tire has a shorter lifespan than the XR.

⁷ See email dated June 8, 2020, attached hereto as Exhibit A.

1 or designate and authorize in the State of California as service or repair
2 facilities independent repair or service facilities reasonably close to all
3 areas where its consumer goods are sold to carry out the terms of the
warranties.

- 4 (3) Whether Defendants violated and/or continue to violate the Song-
5 Beverly Consumer Warranty Act §§ 1790, *et seq.*, since the XR (a)
6 would not pass without objection in trade under the contract
7 description; (b) is unfit for the ordinary purposes for which the Class
8 Vehicles would be used; and/or (c) cannot be made to conform to the
9 promises or affirmations of fact made on the XR's labeling.
- 10 (4) Whether Defendants violated and/or continue to violate Consumer
11 Legal Remedies Act §§ 1750, *et seq.*, by falsely representing that the
12 vehicle is all-terrain and that Defendants would honor their warranties
13 as it relates to Plaintiff and the Class.
- 14 (5) Whether Defendants engaged and/or continue to engage in Unfair
15 Business Practices in Violation of California Business & Professions
16 Code §§ 17200, *et seq.*, through its use of unfair, deceptive, untrue, or
17 misleading advertising as it relates to Plaintiff and the Class.
- 18 (6) Whether Defendants breached and/or continue to breach the express
19 warranty that the Class Vehicle is all terrain and that performance is
20 not substantially impaired by the very use of the XR as marketed and
21 advertised.
- 22 (7) Whether Defendants negligently misrepresented that the XR is all-
23 terrain and that Defendants would honor their warranties as it relates
24 to Plaintiff and the Class.
- 25 (8) Whether Defendants were unjustly enriched by marketing and selling
26 the XR as an all-terrain vehicle when the very use of the Class Vehicle
27 as marketed and advertised would substantially impair its use, safety,
28 enjoyment, and value.
- (9) Whether Defendants have wrongfully exercised control over Plaintiff's
and the Class's XRs by refusing to return the XRs unless and until the
Class pays repairs that should be covered under the warranty and incurs
exorbitant shipping costs.

(c) **Typicality:** The Class claims are typical of the claims of the Plaintiff. Plaintiff and all members of the Class sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of state laws as alleged herein.

(d) **Superiority of Class Action:** Since the damages suffered by individual class members, while not inconsequential, may be relatively small, the expense and burden of individual litigation by each member makes, or may make it impractical for class members to seek redress individually for the wrongful conduct alleged herein. Should separate actions be brought or be required to be brought by each individual class member, the resulting multiplicity of lawsuits would cause undue hardship and expense for the Court and the litigants. The

1 prosecution of separate actions would also create a risk of inconsistent rulings,
2 which might be dispositive of the interests of other class members who are not
3 parties to the adjudication and/or may substantially impede their ability to
adequately protect their interests.

- 4 (e) **Adequacy of Representation**: Plaintiff is an adequate representative of the Class,
5 in that Plaintiff's claims are typical of those of the Class. Plaintiff has the same
6 interests in the litigation of this case as the Class. Plaintiff is committed to the
7 vigorous prosecution of this case, and has retained competent counsel,
experienced in litigation of this nature. Plaintiff is not subject to any individual
8 defenses unique from those conceivably applicable to the class as a whole.
Plaintiff anticipates no management difficulties in this litigation.

9 **CAUSES OF ACTION**

10 **FIRST CAUSE OF ACTION**

11 **False Advertising Law**

12 **(Cal. Bus. & Prof. Code §§ 17500, *et seq.*)**

13 **(On Behalf of the Plaintiff and the Class)**

14 28. Plaintiff, individually and on behalf of the Class, incorporates in this cause of
15 action each and every allegation of the preceding paragraphs, with the same force and effect as
16 though fully set forth herein.

17 29. California's False Advertising Law (Cal. Bus. & Prof. Code §§ 17500, *et seq.*)
18 ("FAL"), prohibits unfair, deceptive, untrue, or misleading advertising. The Cal. Bus. Prof.
19 Code § 17500 specifically prohibits:

20 [a]ny person . . . to make or disseminate or cause to be disseminated
21 from this state before the public in any state . . . in any advertising
22 device . . . or in any manner or means whatever, including over the
internet any statement concerning . . . personal property or services,
23 professional or otherwise, or performance or disposition thereof,
24 which is untrue or misleading and which is known or which by
25 exercise of reasonable care should be known, to be untrue or
misleading.

26 30. Defendants falsely advertised and promoted over the internet and in their
27 promotional materials that the Class Vehicle is all terrain and that Defendants would honor their
28 warranties.

31. These advertisements, inducements and representations, on its blogs, websites,
and other promotional materials, come within the meaning of false advertising as defined in

1 Cal. Bus. & Prof. Code §§ 17500, *et seq.*, in so much that they were intended as inducements
2 for board sport enthusiasts to purchase the XR.

3 32. Defendants knew or should have known that these statements were deceptive
4 and misleading because repair issues arise from its ordinary and advertised use. Defendants'
5 false advertisements were calculated to induce Plaintiff and the Class to purchase the Class
6 Vehicle — which they otherwise would not have purchased or would have otherwise purchased
7 the Class Vehicle for less — to increase profits and ratings.

8 33. Defendants' actions caused injury to Plaintiff and the Class because: a) they
9 would not have purchased the product if they had known that the Class Vehicle did not have
10 the functionality or performance features as expressly advertised and warranted by Defendants
11 or they would have paid substantially less for the Class Vehicle; (b) they paid a premium price
12 for the Class Vehicle as a result of Defendants' false warranties and misrepresentations; and (c)
13 they purchased a Class Vehicle that did not have the functionality, performance features,
14 qualities, or value promised by Defendants.

15 34. Defendants have improperly obtained money or else caused Plaintiff and the
16 Class to unnecessarily expend time and resources to ship and repair the XR for issues that
17 should have been covered under the warranty. Thus, Plaintiff requests that Defendants return
18 this money to Plaintiff and the Class and enjoin Defendants from continuing to violate Cal. Bus.
19 & Prof. Code §§ 17500, *et seq.*, in the future.

20 35. Pursuant to Cal. Code Civ. Proc. § 1021.5, Plaintiff also requests that the Court
21 award reasonable attorneys' fees and costs.

22 **SECOND CAUSE OF ACTION**
23 **Violation of Express Warranty Under the Song-Beverly Consumer Warranty Act**
24 **(Cal. Civ. Code §§ 1790 *et seq.*)**
25 **(On Behalf of the Plaintiff and the Class)**

26 36. Plaintiff, individually and on behalf of the Class, incorporates in this cause of
27 action each and every allegation of the preceding paragraphs, with the same force and effect as
28 though fully set forth herein.

1 37. Defendants' Class Vehicle is a "consumer good" and Plaintiff and the Class are
2 "buyers" within the meaning of Cal. Civ. Code § 1791. Defendants are also a "manufacturer,"
3 "distributor," or "retail seller" under Cal. Civ. Code § 1791. In connection with the sale of its
4 Class Vehicle, Defendants provided written, oral, and implied warranties, that "the PRODUCT,
5 other than the footpad, tire and battery pack, will be free from defects in materials and
6 workmanship for a period of 12 months / 2000 KM (1243 miles), whichever comes first. The
7 warranty for the footpad, tire, and battery pack is 6 months/1000 KM (622 miles)."

8 38. Moreover, under § 1793.2(a)(1)(A), Defendants failed to "[m]aintain sufficient
9 service and repair facilities reasonably close to all areas where [the XRs] are sold to carry out
10 the terms of [its] warranties or designate and authorize in this state as service or repair facilities
11 independent repair or service facilities reasonably close to all areas where its consumer goods
12 are sold to carry out the terms of the warranties."

13 39. Within the applicable warranty period, Plaintiff and the Class were forced to
14 ship the Class Vehicle to the only authorized repair facility in San Jose, California. The
15 authorized repair facility, however, was unable to conform the Class Vehicle to the applicable
16 warranties, depriving each individual of the use of the Class Vehicle.

17 40. Despite Plaintiff and the Class performing each and every duty required under
18 the terms of the warranty agreement and under the provisions of the Song-Beverly Consumer
19 Warranty Act, Defendants failed to repair the defective and nonconforming Class Vehicle as
20 warranted, which suffers and continues to suffer from the defective conditions that substantially
21 impair the Class Vehicle's use, value, and safety. In addition, the Defendants failed to maintain
22 repair facilities reasonably close to all areas where the XR was sold, resulting in exorbitant
23 shipping costs.

24 41. Under Cal. Civ. Code §§ 1791.1(d) and 1794, Plaintiff and the Class are entitled
25 to damages and other legal and equitable relief, including, at their election, the right to revoke
26 acceptance of the Class Vehicle or the overpayment or diminution in value of the Class Vehicle,
27 and are also entitled to reasonable attorneys' fees and costs.
28

1 Class have been damaged by the diminished value of the Class Vehicle, the Class Vehicle's
2 malfunctioning, and the actual and potential increased maintenance, shipping, and repair costs.

3 49. Under Cal. Civ. Code §§ 1791.1(d) and 1794, Plaintiff and the Class are entitled
4 to damages and other legal and equitable relief, including, at their election, the right to revoke
5 acceptance of the Class Vehicle or the overpayment or diminution in value of their Class
6 Vehicle, and are also entitled to reasonable attorneys' fees and costs.

7 **FOURTH CAUSE OF ACTION**
8 **Violation of the California Consumer Legal Remedies Act**
9 **(Cal. Civ. Code §§ 17500, *et seq.*)**
10 **(On Behalf of the Plaintiff and the Class)**

11 50. Plaintiff, individually and on behalf of the Class, incorporates in this cause of
12 action each and every allegation of the preceding paragraphs, with the same force and effect as
13 though fully set forth herein.

14 51. This cause of action is brought pursuant to the California Consumer Legal
15 Remedies Act ("CLRA"), Cal. Civ. Code §§ 17500, *et seq.*

16 52. Plaintiff and all Class members are "consumers" within the meaning of Cal. Civ.
17 Code § 1761(d).

18 53. The sale of the Class Vehicles to Plaintiff and the Class were "transactions"
19 within the meaning of Cal. Civ. Code § 1761(e).

20 54. The Class Vehicle purchased by Plaintiff and the Class are "goods" within the
21 meaning of Cal. Civ. Code § 1761(a).

22 55. As alleged herein, Defendants falsely advertised that the Class Vehicle is all-
23 terrain and that Defendants would honor their warranties. Specifically, Defendants violated
24 Cal. Civ. Code § 1770(a)(7), which prohibits "[r]epresenting that goods are of a particular
25 standard, quality, or grade . . ."

26 56. Plaintiff relied on Defendants' false representations that the Class Vehicle is all
27 terrain and that Defendants would honor their warranties. Plaintiff would not have purchased
28 the Class Vehicle or would have paid significantly less for the Class Vehicle, but for Defendants'
unlawful conduct. The Class was likely to also have relied upon Defendants' deceptive

1 advertising and promotional materials. Plaintiff and the Class acted reasonably when they
2 purchased the Class Vehicle based on Defendants’ false representations.

3 57. As a result of Defendants’ false representations, Plaintiff and the Class were
4 injured because: a) they would not have purchased the product if they had known that the Class
5 Vehicle did not have the functionality or performance features as expressly and impliedly
6 warranted by Defendants or they would have paid substantially less for the Class Vehicle; (b)
7 they paid a premium price for the Class Vehicle as a result of Defendants’ false warranties and
8 misrepresentations; and (c) they purchased a Class Vehicle that did not have the functionality,
9 performance features, qualities, or value promised by Defendants.

10 58. Under Cal. Civ. Code § 1780(a), Plaintiff and members of the Class seek
11 injunctive and equitable relief for Defendants’ violations of the CLRA. On September 3, 2020,
12 Plaintiff sent notification to Defendants via a demand letter of his intent to pursue penalties
13 under the CLRA, which will provide Defendants an opportunity to cure the unlawful practice,
14 consistent with Cal. Civ. Code § 1782. If Defendants fail to take corrective action within 30
15 days of receipt of a demand letter, Plaintiff also requests damages as permitted under Cal. Civ.
16 Code § 1782(d).

17 **FIFTH CAUSE OF ACTION**
18 **Unfair Business Practices**
19 **(Cal. Bus. & Prof. Code §§ 17200, *et seq.*)**
20 **(On Behalf of the Plaintiff and the Class)**

21 59. Plaintiff, individually and on behalf of the Class, incorporates in this cause of
22 action each and every allegation of the preceding paragraphs, with the same force and effect as
23 though fully set forth herein.

24 60. California’s Unfair Business Practices Law prohibits (Cal. Bus. & Prof. Code §
25 17200, § *et seq.*) (“UCL”) defines unfair business practice to include “unlawful, unfair, or
26 fraudulent” act or practice as well as “any unfair, untrue, or misleading” advertising. A business
27 act is unlawful if it violates any other law or regulation.

28 61. A business act or practice is “unfair” under the UCL if the reasons, justifications,
and motives of the alleged wrongdoer are outweighed by the gravity of the harm to the alleged

1 victims. A business act or practice is “fraudulent” under the UCL if it is likely to deceive
2 members of the consuming public. A business act or practice is “unlawful” under the UCL if
3 it violates any other law or regulation.

4 62. Defendants have engaged in fraudulent and unfair business practices as it relates
5 to the marketing, sale, and warranting of the XR.

6 63. The business acts and practices alleged herein are unfair because they caused
7 Plaintiff and the Class to falsely believe that Defendants were offering an all-terrain Class
8 Vehicle, yet issues arise due to its ordinary and advertised use that make the Class Vehicle
9 inoperable or else result in costly repairs that should, but are not, covered under the warranty.
10 This deception was likely to have induced reasonable consumers, including Plaintiff, to
11 purchase Defendants’ Class Vehicle, which they otherwise would not have purchased, or would
12 have paid substantially less for the Class Vehicle.

13 64. The gravity of the harm to Plaintiff and the Class resulting from these unfair acts
14 and practices outweighs any conceivable reasons, justifications, and/or motives of Defendants
15 for engaging in such deceptive acts and practices. By committing the acts and practices alleged
16 herein, Defendants engaged in, and continue to engage in, unfair business practices within the
17 meaning of Cal. Bus. & Prof. Code §§ 17200, et seq.

18 65. Defendants have also violated the “unlawful” prong of the UCL by violating
19 several California laws, as alleged herein, including the FAL and CLRA.

20 66. Defendants have also violated the “fraudulent” prong of the UCL by misleading
21 Plaintiff and the Class to believe that the Class Vehicle is all terrain and that Defendants would
22 honor their warranties.

23 67. As a result of Defendants’ unlawful acts, Plaintiff and the Class were injured
24 because they: a) they would not have purchased the product if they had known that the Class
25 Vehicle did not have the functionality or performance features as expressly warranted by
26 Defendants or they would have paid substantially less for the Class Vehicle; (b) they paid a
27 premium price for the Class Vehicle as a result of Defendants’ false warranties and
28 misrepresentations; and (c) they purchased a Class Vehicle that did not have the functionality,

1 performance features, qualities, or value promised by Defendants. Therefore, Plaintiff requests
2 that this Court cause Defendants to return this money to Plaintiff and the Class, and to enjoin
3 Defendant from continuing to violate the UCL as alleged herein.

4 **SIXTH CAUSE OF ACTION**
5 **Breach of Express Warranty**
6 **(On Behalf of the Plaintiff and the Class)**

7 68. Plaintiff, individually and on behalf of the Class, incorporates in this cause of
8 action each and every allegation of the preceding paragraphs, with the same force and effect as
9 though fully set forth herein.

10 69. In connection with the sale of the Class Vehicle, Defendants issued express
11 warranties that the Class Vehicle is all terrain and that Defendants would honor their warranties.

12 70. Defendants' affirmation of fact and promise in the advertisements and
13 promotional materials that the Class Vehicle is all terrain and that Defendants would honor their
14 warranties became the basis of the bargain between Defendants and Plaintiff and the Class,
15 thereby creating express warranties that the Class Vehicle would conform to Defendants'
16 affirmation of fact, representations, promise, and description.

17 71. Similarly, Defendants created written express warranties and expressly
18 warranted to Plaintiff, the Class, that the Class Vehicles would be of high quality, at a minimum
19 would work properly and comfortably, and would be free from defects and fit for normal use.
20 Defendants also expressly warranted that certain defects, including repair issues that arose from
21 its ordinary and marketed use would be remedied at no cost to the purchaser.

22 72. Defendants breached these warranties, thus denying Plaintiff and the Class the
23 benefit of their bargain. Put simply, the Class Vehicle at issue here does not live up to
24 Defendants' express warranties.

25 73. Plaintiff and the Class were injured because: a) they would not have purchased
26 the product if they had known that the Class Vehicle did not have the functionality or
27 performance features as expressly warranted by Defendants or they would have paid
28 substantially less for the Class Vehicle; (b) they paid a premium price for the Class Vehicle as
a result of Defendants' false warranties and misrepresentations; and (c) they purchased a Class

1 Vehicle that did not have the functionality, performance features, qualities, or value promised
2 by Defendants.

3 **SEVENTH CAUSE OF ACTION**
4 **Negligent Misrepresentation**
5 **(On Behalf of the Plaintiff and the Class)**

6 74. Plaintiff, individually and on behalf of the Class, incorporates in this cause of
7 action each and every allegation of the preceding paragraphs, with the same force and effect as
8 though fully set forth herein.

9 75. Defendants represented and led consumers to believe that the Class Vehicle is
10 all-terrain and that Defendants would honor their warranties.

11 76. Defendants knew or should have known that these statements were deceptive
12 and misleading at the time they were made.

13 77. Defendants materially misrepresented and/or actively concealed material facts,
14 including that the Class Vehicle is not all-terrain and that Defendants would not honor their
15 warranties.

16 78. Based on the above, Plaintiff and the Class paid a premium for the Class Vehicle.
17 Plaintiff and the Class members were unaware of the truth and would not have acted as they
18 did if they had known of the concealed and/or otherwise misrepresented facts.

19 79. Because of the concealment and misrepresentation of material facts regarding
20 the Class Vehicle, Plaintiff and the Class sustained damages in an amount to be determined at
21 trial.

22 **EIGHTH CAUSE OF ACTION**
23 **Unjust Enrichment**
24 **(On Behalf of the Plaintiff and the Class)**

25 80. Plaintiff, individually and on behalf of the Class, incorporates in this cause of
26 action each and every allegation of the preceding paragraphs, with the same force and effect as
27 though fully set forth herein.


28 81. As a result of Defendants' wrongful and deceptive conduct, Plaintiff and the
Class have suffered a detriment while Defendants have received a benefit.

1 I. Such other and further relief as may appear necessary and appropriate.

2 Respectfully Submitted,

3
4
5 **LAW OFFICES OF CONNOR W. OLSON**

6
7
8 Dated: September 4, 2020

9 By: 
10 **Connor W. Olson, SBN 291493**
11 520 Capitol Mall, Suite 150
12 Sacramento, CA 95814
13 connor@cwo-law.com
14 Phone: 916-905-7276

15 **Tiangay M. Kemokai, SBN 331807**
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20 Phone: 916-213-0908


21 **Attorneys for Representative Plaintiff**
22 **and Putative Class**

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff and the Classes hereby demand trial by jury of all issues triable as of right by
3 jury.

4
5 **LAW OFFICES OF CONNOR W. OLSON**

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8 Dated: September 4, 2020

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20 Phone: 916-213-0908

21 **Attorneys for Representative Plaintiff**
22 **and Putative Class**

EXHIBIT A

EXHIBIT B

From: Future Motion Inc <support@onewheel.com>
Date: July 2, 2020 at 10:47:32 AM PDT
To: Elijah [REDACTED]
Subject: Form Submitted: I need technical help with my Onewheel
Reply-To: Future Motion Inc <support@onewheel.com>

Hi Elijah,

Thanks for your patience.

The techs extensively tested your board again to attempt to replicate the issue, however, they found that your board was powering on and charging as expected per specification. The technician also test rode your board in multiple different scenarios to see how the board would perform and experienced no shut offs.

During the physical inspection, they found that as a result of a tire change done by a third party, there are multiple stripped screws and loose bolts on the rails. As a result, the board will need a rail replacement in order to re-install the necessary parts.

Damage resulting from alterations is not within the scope of warranty policy and below is a breakdown of the cost of repairs and shipping:

Rail Set	\$93.28
Rebuild	\$26.38
Labor	\$52.76
Roundtrip Shipping	\$80.00
<hr/>	
Total	\$252.42

Feel free to reach out with any questions. Once you approve this quote I'll send you the invoice and upon payment, the repair on your board will resume. We are looking forward to getting you back riding soon!

Best,
Andi
Onewheel Team

On Mon, 29 Jun at 1:06 PM , Elijah [REDACTED] wrote:
Hi, I just wanted to check in on the status of my board. Hope everything is going good. Can't wait to get back to riding!

On Jun 25, 2020, at 10:10 AM, Future Motion Inc
<support@onewheel.com> wrote:

Hi Elijah,

Thank you so much for letting us know.

I shared that information with the technicians, and they are continuing the evaluation and testing. I will reach out to you soon with more information!

Feel free to reach out with any questions! We will get you back to riding soon.

Best,
Onewheel Team

On Wed, 24 Jun at 12:33 PM ,
Elijah.soto.82
<elijah[REDACTED]> wrote:
I was also not given any error message on my onewheel app.

On Jun 23, 2020, at
5:32 PM, Future
Motion Inc
<support@onewheel.com>
wrote:

Hi
Elijah,

Thanks
for your
patience!

The
techs
are
asking
for
some
more
information
about
the
issue
with
your
board.
After it
died

during
your
ride, did
you
plug it
in to
charge?
If so, for
how
long?
Was the
board
completely
unresponsive
after
charging
if you
did
charge
it? Did
you
receive
any
error
messages
on the
app?

Best,
Onewheel
Team