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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JORDAN NELSON, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

WHELE, LLC d/b/a PERCH,

Defendant.

Case No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiff Jordan Nelson (“Plaintiff”) brings this action on behalf of herself and all others
2 similarly situated against Defendant Whele, LLC (“Defendant”) for the manufacture, marketing,
3 and sale of Mighty Bliss electric heating pads. Plaintiff makes the following allegations pursuant
4 to the investigation of her counsel and based upon information and belief, except as to the
5 allegations specifically pertaining to herself, which are based on personal knowledge.

6 NATURE OF ACTION

7 1. This is a class action against Defendant for the manufacture and sale of its electric
8 heating pads (the “Products”)¹, all of which suffer from an identical defect in design. Specifically,
9 the Products overheat during charging or use and create the potential for a burn or fire hazard.
10 Such a design defect is extraordinarily dangerous and has rendered the Products unsuitable for their
11 principal and intended purpose.

12 2. Due to the dangerous nature of the defect, Defendant initiated a recall (the “Recall”)
13 of its electric heating pads.² However, the Recall is grossly inadequate, as it does not provide
14 consumers, like Plaintiff, with immediate monetary relief, and it fails to provide sufficient notice to
15 consumers.

16 3. Plaintiff brings her claims against Defendant individually and on behalf of a class of
17 all other similarly situated purchasers of the Products for (1) violation of California’s Consumers
18 Legal Remedies Act (“CLRA”), Civil Code §§ 1750, *et. seq.*; (2) violation of California’s Unfair
19 Competition Law, Cal. Bus. & Prof. Code §§ 17200-17210; (3) fraud; (4) unjust enrichment; (5)
20 breach of implied warranties; and (6) violations of the Magnuson-Moss Warranty Act.

21 PARTIES

22 4. Plaintiff Jordan Nelson is, and at all times relevant to this action has been, a resident
23 of Pleasant Hill, California. In approximately April 2022, Ms. Nelson purchased the Mighty Bliss
24 Blue Electric Heating Pad, Large (12” x 24”) online from Amazon. Ms. Nelson purchased the
25 Product because she believed it was fit for use as an electric heating pad. However, the Product

26 ¹ The Mighty Bliss electric heating pads products at issue include the following: Blue Electric
27 Heating Pad, Large (12” X 24”); Blue Electric Heating Pad, Extra-Large (20” X 24”); and Grey
Electric Heating Pad, Large (12” X 24”).

28 ² <https://www.mightyblissheatingpadrecall.expertinquiry.com>.

1 Ms. Nelson purchased was not fit for use as an electric heating pad due to the Product's defect
2 concerning overheating. Ms. Nelson would not have purchased the Product had she known that the
3 Product was unfit to perform its intended purpose, rendering the Product useless.

4 5. The Product that Ms. Nelson purchased malfunctioned shortly after she purchased
5 it, causing rashes, and skin irritation. Ms. Nelson no longer uses the Product because of the
6 significant injury risk and fire hazard posed by the Defect. The Lot No. shown on the Product
7 purchased by Ms. Nelson is 211103 and is included in Defendant's product recall.

8 6. Ms. Nelson reviewed the Product's packaging prior to purchase. Defendant
9 disclosed on the packaging that the Product was an electric heating pad and described features
10 typical of electric heating pads but did not disclose the Defect. Had there been a disclosure, Ms.
11 Nelson would not have bought the Product because the Defect would have been material to her, or
12 at the very least, she would have purchased the Product at a substantially reduced price. Ms.
13 Nelson relied on the packaging in making her purchase decision. Ms. Nelson continues to desire to
14 purchase the Product from Defendant and knows that the composition of the Product may change
15 over time. She is unable, however, to determine if the Product is safe and will perform as intended.

16 7. Defendant Whele, LLC is a Delaware limited liability company and, upon
17 information and belief, has its principal place of business at 222 Berkeley Street, Boston, MA
18 02116. Defendant manufactures, markets, and distributes the Products throughout the United
19 States.

20 **JURISDICTION AND VENUE**

21 8. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.
22 § 1332(d) because there are more than 100 class members and the aggregate amount in controversy
23 exceeds \$5,000,000, exclusive of interest, fees, and costs, and at least one Class member is a
24 citizen of a state different from Defendant.

25 9. This Court has personal jurisdiction over Defendant because Defendant conducts
26 substantial business within California such that Defendant has significant, continuous, and
27 pervasive contacts with the State of California.

28

1 **Defendant's Inadequate Recall**

2 16. On October 24, 2022, Defendant issued a recall of the Products.

3 17. The recall was due to a serious injury hazard associated with the Products.

4 Specifically, Defendant admitted that its Products had a defect in design and materials that resulted
5 in the electric heating pads overheating, causing burning or sparking, posing a significant injury
6 hazard.

7 18. Defendant issued a recall of over 500,000 Products in the United States.

8 19. The recall allowed Defendant to *say* it was doing right by its customers, but in fact
9 the recall protected Defendant's profits by suppressing returns:

10 (a) Upon information and belief, a majority of the purchases of the Mighty Bliss
11 Products occurred through Amazon. However, the Mighty Bliss Amazon webpage⁴ demonstrates
12 that Defendant provides no information relating to the Products recall or the Defect. Although
13 Defendant posted information relating to the Products recall and Defect on the Mighty Bliss
14 website⁵, the information only reaches a limited portion of Mighty Bliss purchasers; and

15 (b) Defendant has not offered immediate refunds to consumers, but instead, has
16 had consumers engage in an at-length claims process to confirm that the units at issue are no longer
17 in use and does not provide adequate relief to consumers. It also requires consumers to still be in
18 possession of the Products.

19 **Defendant's Pre-Sale Knowledge Of The Defect**

20 20. At least one year prior to issuing the recall, Defendant had received numerous
21 reports of the Products' Defect.

22 21. Indeed, Defendant has publicly disclosed that from at least July 2021 to September
23 2022, Defendant received over **286 complaints** related to the Products' Defect.

24 22. Defendant, however, did not issue a recall on the Products until October 24, 2022.

25 23. Thus, Defendant was on notice of the Products' Defect for at least 15 months prior
26 to issuing the recall.

27 ⁴ https://www.amazon.com/stores/MIGHTYBLISS/page/90994D21-7E4C-452A-AB97-849D3AD3768E?ref_ast_bln

28 ⁵ <https://www.mightyblissheatingpadrecall.expertinquiry.com/>

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