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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”)<sup>1</sup>, 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.<sup>2</sup> 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 <sup>1</sup> 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 <sup>2</sup> <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           10.     Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Defendant  
2 does substantial business in this District, and a substantial part of the events giving rise to  
3 Plaintiff's claims took place within this District because Plaintiff purchased her Product in this  
4 District.

### COMMON FACTUAL ALLEGATIONS

#### **The Overheating Defect**

7           11.     Defendant sells electric heating pads and deep-tissue massage products. Among the  
8 various products sold by Defendant are its Mighty Bliss electric heating pads, which are the  
9 Products at issue here. The Products include those manufactured between July 2021 through July  
10 2022, and include the MB-001 (NA-H1121B/NA-H21B), MB-002 (NA-H21C), and PE-MtyBlis-  
11 HeatPad-12x24-Gry-V2 E-MtyBlis-HeatPad-12x24-Gry (NA-H1121B/NA-H21B) models.

12           12.     The Products were made with a defect (hereinafter, the "Defect") involving  
13 functional electric components of the heating pad. The Defect results in the electric heating pad  
14 overheating, causing burning or sparking, posing a significant injury hazard. In fact, Defendant has  
15 already received at least 31 complaints of shocks, burns, and rashes or irritation injuries resulting  
16 from the Defect.<sup>3</sup> Between July 2021 and September 2022, Defendant received at least **286**  
17 **complaints** related to the Defect. The Defect is substantially likely to materialize during the useful  
18 life of the Products.

19           13.     With over 500,000 units sold at approximately \$30 each, Defendant profited  
20 enormously from its failure to disclose the Products' Defect sooner.

21           14.     The Defect at issue here renders the Products unsafe to operate. Defendant had  
22 exclusive knowledge of the Defect, which was not known to Plaintiff or class members.

23           15.     Defendant made partial representations to Plaintiff and class members while  
24 suppressing the safety defect. Specifically, by displaying the Products and describing their  
25 features, the product packaging implied that the Products were suitable for use as an electric  
26 heating pad, without disclosing that they had a critical safety-related defect that could result in  
27 harm to users of the Products.

28           <sup>3</sup> *Id.*

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 webpage<sup>4</sup> 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 website<sup>5</sup>, 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 <sup>4</sup> [https://www.amazon.com/stores/MIGHTYBLISS/page/90994D21-7E4C-452A-AB97-849D3AD3768E?ref\\_=ast\\_bln](https://www.amazon.com/stores/MIGHTYBLISS/page/90994D21-7E4C-452A-AB97-849D3AD3768E?ref_=ast_bln)

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

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