

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ABIGAIL SHAUGHNESSY, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

NESPRESSO USA, INC.,

Defendant.

Case No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Abigail Shaughnessy (“Plaintiff”) brings this action on behalf of herself and all others similarly situated against Defendant Nespresso USA, Inc. (“Defendant”) for the manufacture, marketing, and sale of consumer products that include espresso and coffee machines sold under the Nespresso Vertuo brand name (the “Products”). Plaintiff makes the following allegations pursuant to the investigation of her counsel and based upon information and belief, except as to the allegations specifically pertaining to herself, which are based on personal knowledge.

NATURE OF ACTION

1. This is a class action against Defendant for the marketing, manufacture, and/or sale of consumer products (the “Products”), the warranties of which include statements that condition the continued validity of the warranties on the use of only an authorized repair service and/or authorized replacement parts (a “tying arrangement” or “unlawful repair restriction”). Tying arrangements that “state or imply that a consumer must buy or use an item or service from a particular company to keep their warranty coverage” violate state and federal law.¹ Here, in addition to unlawful restrictions against third-party parts and repair services, the Products’

¹ <https://www.ftc.gov/business-guidance/resources/businesspersons-guide-federal-warranty-law>.

warranty states and/or implies that consumers need to purchase Nespresso Vertuo branded Coffee Capsules from Nespresso, at inflated prices, to keep their warranty coverage. Had Plaintiff – or other reasonable class members – been aware that the tying arrangement was unlawful, she would not have purchased the Product, or she would have paid significantly less for it.

2. Plaintiff brings her claims against Defendant individually and on behalf of a class of all other similarly situated purchasers of the Products for: (i) violations of the Magnuson-Moss Warranty Act, (ii) unjust enrichment, (iii) fraud, (iv) fraudulent omission, and (v) declaratory judgement.

PARTIES

3. Plaintiff Abigail Shaughnessy is, and at all times relevant to this action has been, a resident of Winthrop, Massachusetts and a citizen of Massachusetts. In or about July 2020, Ms. Shaughnessy purchased one Nespresso Vertuo Next Premium Coffee Machine for \$121.54 from the Bed Bath & Beyond website, which shipped the Product to her home. Ms. Shaughnessy purchased the Product, reasonably believing its warranty complied with state and federal law. However, the Product Ms. Shaughnessy purchased did not comply with state and federal law because the unlawful tying arrangement attached to the warranty stated and/or implied that she would need to purchase Nespresso Vertuo branded Coffee Capsules from Nespresso to keep her warranty coverage. Ms. Shaughnessy would not have purchased the Product, or she would have paid significantly less for the Product, had she known that the Product did not comply with state and federal law. The warranty for the Product Ms. Shaughnessy purchased can be found at https://www.nespresso.com/shared_res/mos/docs/us/US_VERTUO_NEXT_USER_MANUAL.pdf.

4. Because of Defendant's written warranty, Ms. Shaughnessy purchased several Nespresso Vertuo branded Coffee Capsules at inflated prices. She would have liked to use cheaper third-party coffee capsules, but her warranty, as written, implied that she was prohibited from doing so.

5. Defendant Nespresso USA, Inc. is a Delaware corporation with its principal place of business at 101 Park Ave, New York, NY 10178. Defendant markets and distributes the Products throughout the United States. Defendant sells its products to consumers on websites and retail stores nationwide.

JURISDICTION AND VENUE

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

7. This Court has personal jurisdiction over Defendant because a substantial portion of the events that gave rise to Plaintiff's claims occurred in this District and because Defendant's principal place of business is in this District.

8. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a substantial portion of the events giving rise to Plaintiff's claims took place within this District at Defendant's principal place of business.

COMMON FACTUAL ALLEGATIONS

I. Defendant's Business Activities

9. Defendant distributes consumer products to retailers throughout the United States, who then sell the appliances to consumers.

10. Defendant's products include espresso and coffee machines sold under the "Nespresso Vertuo" brand name.

11. All the relevant Products include the same unlawful repair restriction in their warranties.

12. Defendant has advertised, marketed, offered for sale, sold, and distributed products through authorized dealers to consumers.

13. Defendant's Products include a "written warranty" as defined by the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(6), in the form of a limited warranty ("Warranty Statement").

14. The length of the limited warranty offered by Defendant is one year.

15. Defendant's limited warranty includes the aforementioned tying arrangement.

II. Defendant Conditions Warranty Coverage On Purchasing First-Party Nespresso Vertuo Coffee Capsules, As Well As Additional Unlawful Repair Restrictions

16. In numerous instances, Defendant, through its warranty statements on the Products, conditions warranty coverage on the usage and purchase of Defendant's own Nespresso Vertuo Coffee Capsules, rather than allowing consumers to purchase cheaper third-party coffee capsules.

17. Specifically, Defendant's warranty states: "This appliance is designed for Nespresso Vertuo coffee capsules available exclusively through the Nespresso Club or your Nespresso authorized representative."²

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https://www.nespresso.com/shared_res/mos/docs/us/US_VERTUO_NEXT_USER_MANUAL.pdf.

18. Defendant's warranty also states the following: "Only use capsules intended for this appliance,"³ and "This machine operates with Nespresso Vertuo capsules."⁴

19. Defendant's warranty also states, "This limited guarantee does not apply to any defect resulting from ... failure to follow the product instructions ... [or] unauthorized product modification or repair."⁵

20. In these passages, Defendant clearly implies that the full advantage of the Product's Warranty is only available to users who purchase expensive first party Nespresso Vertuo Coffee Capsules.

21. Under Defendant's warranty, Defendant, in effect, provides parts in a manner which impedes or precludes the choice by the consumer to perform necessary labor to install such parts.

22. By conditioning its warranty in this manner, Defendant has violated the tying prohibition in the Magnuson-Moss Warranty Act, which prohibits companies from conditioning their warranties on a consumer's use of any article or service (other than an article or service provided without charge under the terms of the warranty) identified by brand, trade, or corporate name.

23. Defendant's practices also violate state laws, as well as Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1), which prohibits unfair or deceptive actors or practices, as well as unfair methods of competition, in or affecting commerce. Section 5 also encompasses violations of the Sherman Act, which prohibits certain exclusionary and other anticompetitive conduct.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

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