

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA**

NORMAN WALTON,)
individually and on behalf of all)
others similarly situated,)

Plaintiff,)

v.)

CIVIL ACTION NO.:

HAHASMART INC.;)
AFFILIATE SOLAR, INC.,)

Defendants.)

COMPLAINT

COMES NOW, the Plaintiff, Norman Walton (“Plaintiff”), on behalf of himself and others similarly situated, and brings this civil action to recover damages against the above-named Defendants, and for causes of action would show unto the Court, the following:

NATURE OF THE ACTION

1. Plaintiff, Norman Walton, files this Class Action lawsuit against Defendants HahaSmart Inc. (“HahaSmart”) and Affiliate Solar, Inc. (“Affiliate”) on behalf of himself and all others similarly situated due to Defendants’ violation of the Alabama Deceptive Trade Practices Act (“DTPA”), the California Unfair Competition Law (“UCL”), and the California Consumers Legal Remedies Act (“CLRA”) in the advertising, sale, and installation of solar PV systems.

2. HahaSmart and Affiliate are solar energy companies who market, advertise, and sell solar panels to homeowners throughout the United States, including Alabama.

3. In all phases of their business, HahaSmart and Affiliate market and advertise to consumers that their solar products will save the consumer money.

4. In many instances, the consumers, like the Plaintiffs in this lawsuit, do not save money, and in fact lose money.

5. Plaintiff files this lawsuit on behalf of all consumers (the “Class”) who live in the State of Alabama, and nationwide, and purchased solar PV systems from the Defendants, but did not “save money” as a result of the installation of the solar PV systems.

PARTIES, JURISDICTION AND VENUE

6. Plaintiff Norman Walton is over the age of eighteen (18) years, and is domiciled in Jefferson County, Alabama.

7. Defendant HahaSmart Inc. is a corporation, with its principal place of business in California and is domiciled in California.

8. HahaSmart did and does business in the State of Alabama at all times material herein.

9. Defendant Affiliate Solar, Inc. is a corporation, with its principal place of business in Utah and is domiciled in Utah.

10. Affiliate did, and does, business in the State of Alabama at all times material herein.

11. This Court has jurisdiction over the class claims in this case pursuant to the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1332(d), which explicitly provides for the original jurisdiction of the Federal Courts over any class action in which any member of the Plaintiff Class is a citizen of a state from any Defendant, and in which the matter in controversy exceeds in the aggregate the sum of \$5,000,000.00, exclusive of interest and costs.

12. Plaintiff and all members of the Class allege that the total claims of the individual members of the proposed Plaintiff Class are in excess of \$5,000,000.00 in the aggregate, exclusive of interest and costs, as required by 28 U.S.C. § 1332(d)(2) and (5).

13. Plaintiff is domiciled in Alabama and a citizen of Alabama. Defendants are domiciled and considered citizens of California and Utah.

14. Therefore, minimal diversity of citizenship exists under CAFA as required by 28 U.S.C. § 1332(d)(2)(A).

15. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to this Class Action Complaint occurred in this district.

16. All Defendants are subject to the Court's personal jurisdiction with respect to this action because they both did business in Alabama at all relevant times.

FACTS

17. At all times relevant to this action, Defendants HahaSmart and Affiliate marketed, advertised, and sold solar energy products, including residential solar panels, to consumers in Alabama, and throughout the United States.

18. HahaSmart and Affiliate marketed, advertised, and sold solar panels (also referred to as a solar PV system) to the Plaintiff.

19. In all phases of their marketing, HahaSmart and Affiliate represent to consumers that the consumer will save money as a result of purchasing the Defendants' solar panels.

20. Examples of the marketing on the Defendants' websites and social media are attached to this Complaint as **Exhibit A, B, C, D, and E**. Specifically:

- a. **Exhibit A** is an example of the marketing present on the homepage of the website of Affiliate on April 13, 2022 at 11:08 AM.
- b. **Exhibit B** is an example of the marketing present on the website of HahaSmart on April 13, 2022 at 9:56 AM in a post titled "Get Affordable Solar in 4 Easy Steps".
- c. **Exhibit C** is an example of the marketing present on the website of HahaSmart on April 13, 2022 at 11:08 AM in a blog posted titled "Eight Reasons to Go Solar Before 2021".

- d. **Exhibit D** is an example of the marketing present on the Facebook page of HahaSmart on April 13, 2022 at 9:59 AM.
- e. **Exhibit E** is an example of the marketing present on the Instagram page of Affiliate as of April 13, 2022 at 9:09 AM.

21. Defendants' marketing consistently represented to the average consumer that if the consumer purchased a solar PV system, they would save money.

For example:

- a. As shown in **Exhibit A**, Affiliate represented the following on the homepage of its website:



- b. As shown in **Exhibit B**, HahaSmart represented the following on its own website:

Enjoy Savings. Share with friends.

- c. As shown in **Exhibit C**, HahaSmart also represented the following on its own website:

Lower Your Electric Bills

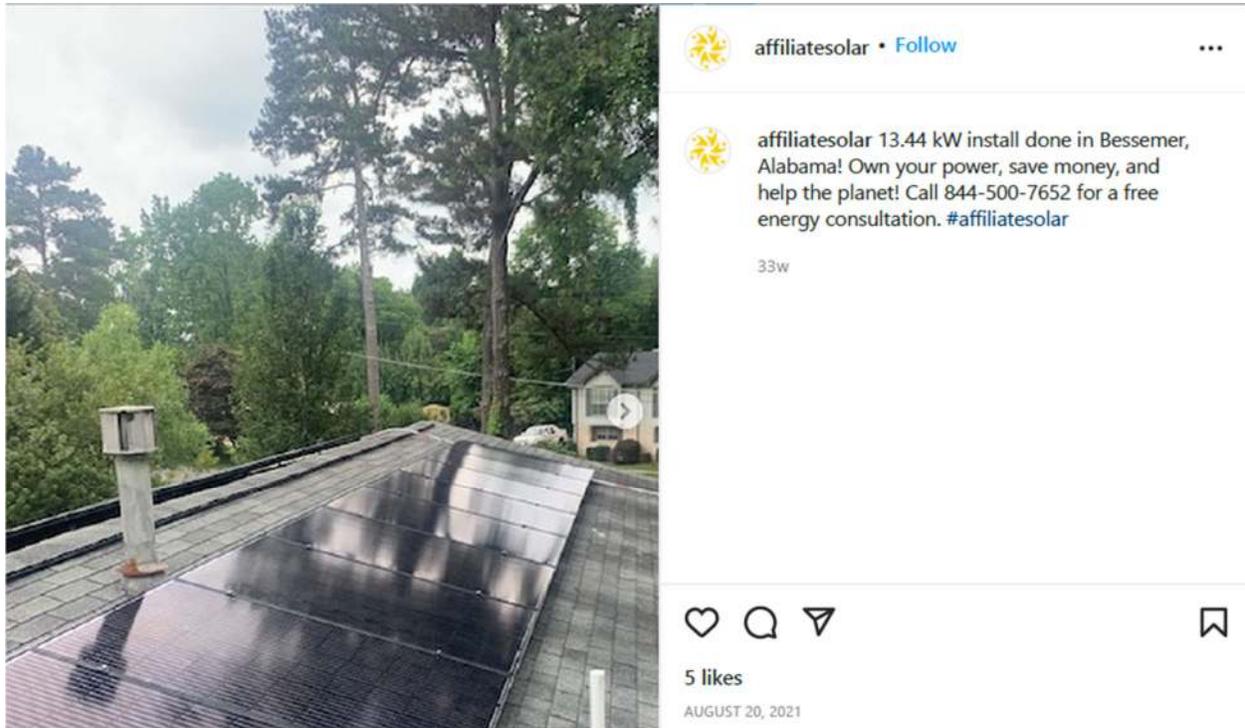
Most people are going to want to lower their electricity bills. When you install a solar power system, you are taking a major step towards doing that. As mentioned above, a solar panel installation is going to generate free solar power throughout the entire lifetime of the solar power [system](#). Say your solar panel installation doesn't produce 100% of the energy that you consume, the solar power is still going to reduce your utility bills, saving you a lot of money.

Get a Great Return On Your Investment

d. As shown in **Exhibit D**, HahaSmart represented the following on its Facebook page:

Save money when you go solar with HahaSmart! 😊

e. As shown in **Exhibit E**, Affiliate represented the following on its Instagram account:



22. The representation that the consumer will save money is not true in many instances.

23. The Plaintiff in this case purchased solar panels for his home in Bessemer, Alabama, from HahaSmart and Affiliate on January 21, 2021, for the sum of \$55,000.00.

24. While in the process of soliciting the Plaintiff's business, during the execution of the purchase Agreement, and even after entering into the Agreement,

representatives from HahaSmart and Affiliate, including the owners of the company, told the Plaintiff that he would save money by purchasing the Defendants' solar PV system.

25. The representations made by the representatives of the Defendants were similar to those made on the Defendants' websites and social media.

26. In particular the Defendants made the following representations to the Plaintiff:

- a. On multiple occasions between December 14, 2020 and January 21, 2021, the authorized salesman for Affiliate named "JD" orally represented to the Plaintiff that he would save money if he bought the solar PV system.
- b. One of the owners of both Defendants, Kim Eaves, told the Plaintiff on the phone in December 2020 and January 2021 that he would save money by purchasing the solar PV system, ratifying the representations of her salesman, JD.
- c. After entering into the Agreement to purchase the solar PV system in January of 2021, Mrs. Eaves continued to represent to the Plaintiff via text messages and phone calls that he would save money due to the purchase of the solar PV system.
- d. Mrs. Eaves and Mr. Eaves even went so far as to show up at the Plaintiff's house unannounced after the Plaintiff signed the Agreement. They both informed the Plaintiff in person that the system was going to work well at his house and affirmed that he would save money by purchasing and installing the solar PV system.

- e. These representations continued until July of 2022 wherein the Plaintiff was informed that he would not, in fact, save money due to the purchase of the solar PV system.

27. The Defendants committed deceptive conduct by representing to a consumer, such as the Plaintiff, that he would save money by purchasing a solar PV system, when in fact the consumer loses money after the purchase of the solar PV system.

28. The Defendants' representations that a consumer will save money is likely to induce and mislead a reasonable consumer to believe that they would save money by entering into an agreement with the Defendants to install solar PV systems.

29. In compliance with the notice provisions of Ala. Code § 8-19-10(e) and Cal. Civ. Code § 1782(a) and to request relief on behalf of himself and all other similarly situated customers, the Plaintiff sent letters to both Defendants on April 27, 2022.

30. As of the date of this filing, neither Defendant has responded to the Plaintiff or his attorneys.

CLASS ALLEGATIONS

31. Plaintiff brings this action individually and on behalf of the following proposed classes (collectively the "Class") against Defendants pursuant to Fed. R. Civ. P. 23:

Alabama Class: All customers of the Defendants who purchased solar PV systems for property in Alabama, during the applicable statute of limitations who did not save money by purchasing the solar PV system.

Nationwide Class: All customers of the Defendants who purchased solar PV systems during the applicable statute of limitations who did not save money by purchasing the solar PV system.

32. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown at the present time, it is estimated that there are thousands of members in the Class.

33. Despite the numerical size of the Class, the identities of the Class members can be ascertained by Defendants' records.

34. Plaintiff and his counsel do not anticipate any difficulties in the management of this action as a class action.

35. Plaintiff will fairly and adequately represent the interests of the Class. Plaintiff is committed to vigorously prosecute this action and have retained competent counsel experienced in class action litigation.

36. Plaintiff and Class members have no interests antagonistic to or in conflict with other Class members.

37. Plaintiff is represented by lawyers who have had extensive experience in prosecuting class actions and will adequately represent the purported Class in this action.

38. This action raises numerous questions of law and facts common to the Class members, which predominate over any questions that may affect particular Class members. Such common questions of law and fact include but are not limited to the following:

- a. Did the Defendants represent that by purchasing a solar PV system, the consumer will save money;
- b. Did the consumers save money;
- c. Were the representations that a consumer will save money deceptive;
- d. Were the representations that a consumer will save money likely to mislead the average consumer;
- e. Whether Plaintiff and the Class are entitled to statutory damages;
- f. Whether Plaintiff and the Class are entitled to actual damages;
- g. Whether Plaintiff and the Class are entitled to injunctive relieve;
- h. Whether Plaintiff and the Class are entitled to the recovery of attorneys' fees;
- i. Whether Plaintiff and the Class are entitled to the recovery of litigation costs;
- j. Whether Defendants' practices violate the Alabama Deceptive Trade Practices Act;
- k. Whether Defendants' practices violated state consumer protections statutes by misrepresenting aspects of their service.

39. The claims or defenses of the represented parties are typical of the claims or defenses of the Class.

40. Plaintiff has the same interests as to the other Class members in prosecuting the claims against Defendants.

41. Plaintiff and all the members of the Class sustained damages as a result of Defendants' wrongful conduct.

42. Additionally, Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief or corresponding declaratory relief appropriate with respect to the Class as a whole.

43. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Common issues predominate.

44. Furthermore, the expense and burden of individual litigation make it extraordinarily difficult for Class members to redress the wrongs done to them individually.

COUNT ONE

*AGAINST BOTH DEFENDANTS ON BEHALF OF THE PLAINTIFF,
INDIVIDUALLY, AND ON BEHALF OF THE ALABAMA CLASS*

**VIOLATION OF THE ALABAMA DECEPTIVE
TRADE PRACTICES ACT ("DTPA")**

45. Plaintiff re-alleges and incorporates by reference the factual allegations as stated in paragraphs 1 through 44 as pertinent to the allegations contained within this Count.

46. This count is brought pursuant to the Alabama Deceptive Trade Practices Act, (“DTPA”) on behalf of the Alabama class as defined above.

47. Defendants’ conduct alleged herein violates the legislatively declared policies in the DTPA.

48. Defendants misled Plaintiff and the Class members by advertising and marketing that their solar PV systems would save money, when in reality, it does not save money and actually causes the consumer to lose money.

49. As a result of Defendants’ “unfair” and “deceptive” conduct, Plaintiff and the members of the Class entered into agreements with the Defendants that they would not otherwise have agreed to.

50. Specifically, by representing that the solar PV system would save money, when it does not, the Defendants violated Ala. Code §§ 8-19-5(2), (5), (11), and (27).

51. Defendants have violated the above-referenced sections of the Act by engaging in the unfair and deceptive practices as described herein that offend public policies and are immoral, unethical, unscrupulous and substantially injurious to consumers.

52. Prior to filing this Complaint and in compliance with the DTPA, Plaintiff and the Alabama Class provided the Defendants with notice of their violations.

WHEREFORE, Plaintiff, individually and on behalf of the Alabama Class demands judgment against Defendants for damages, attorneys’ fees, and costs, in an amount that would be just and proper.

COUNT TWO

*AGAINST DEFENDANT HAHASMART ON BEHALF OF THE PLAINTIFF,
INDIVIDUALLY, AND ON BEHALF OF THE NATIONWIDE CLASS*

**VIOLATION OF CAL. BUS. & PROF. CODE § 17200, et seq. –
“Unfair” Business Acts and Practices**

53. Plaintiff re-alleges and incorporates by reference the factual allegations as stated in paragraphs 1 through 44 as pertinent to the allegations contained within this Count.

54. HahaSmart’s actions as alleged in this Complaint constitute “unfair” business practices within the meaning of California Business and Professions Code § 17200, et seq. (“UCL”).

55. HahaSmart’s business practices, as alleged herein, are “unfair” because they offend established public policy and/or are immoral, unethical, oppressive, unscrupulous, and/or substantially injurious to their customers.

56. Additionally, HahaSmart’s conduct is “unfair” because HahaSmart’s conduct violated the legislatively declared policies not to engage in such practices based on California’s False Advertising Law (Bus. & Prof. Code § 17500, et seq.) and the Consumers Legal Remedies Act (Civ. Code § 1750, et seq.).

57. HahaSmart misled consumers, including the Plaintiff and Nationwide Class, into believing that the HahaSmart solar PV systems would save consumer money.

58. HahaSmart concealed this material fact from consumers, including the Plaintiff and Nationwide Class.

59. As a result of HahaSmart's "unfair" conduct, Plaintiffs and the Nationwide Class were exposed to the unfair conduct and spent money on solar PV systems that they would not otherwise have purchased.

60. HahaSmart's unfair business practices alleged herein constitute a continuing course of unfair competition because HahaSmart markets and sells their solar PV systems in a manner that offends public policy and/or in a fashion that is immoral, unethical, oppressive, unscrupulous, and/or substantially injurious to their customers.

WHEREFORE, Plaintiff, individually and on behalf of the Nationwide Class demands judgment against the Defendant for damages, attorneys' fees, and costs, in an amount that would be just and proper.

COUNT THREE

*AGAINST DEFENDANT HAHASMART ON BEHALF OF THE PLAINTIFF,
INDIVIDUALLY, AND ON BEHALF OF THE NATIONWIDE CLASS*

**Violation of Cal. Bus. & Prof. Code § 17200, et seq. –
“Deceptive” Acts and Practices**

61. Plaintiff re-alleges and incorporates by reference the factual allegations as stated in paragraphs 1 through 44 as pertinent to the allegations contained within this Count.

62. HahaSmart's actions as alleged in this Complaint constitute "deceptive" or "fraudulent" business practices within the meaning of California Business and Professions Code § 17200, *et seq.*, although no intent is alleged or required to establish Defendants' violation of this prong of the UCL.

63. HahaSmart's business practices, as alleged herein, are "deceptive" or "fraudulent" because they are likely to deceive consumers, including Plaintiff and the Nationwide Class members.

64. HahaSmart made material misrepresentations as stated above, failed to disclose all material information to purchasers of their solar PV systems, in regard to their true cost. Namely, that the solar PV system would save money when it does not.

65. As a result of HahaSmart's "deceptive" or "fraudulent" conduct, Plaintiff and the Nationwide Class were exposed to the Defendants' deceptive and fraudulent conduct and spent money on premium-priced solar PV systems that they would not otherwise purchased.

66. HahaSmart's business practices alleged herein constitute a continuing course of unfair competition since HahaSmart markets and sells their solar PV

systems in a manner that was and remains likely to deceive Nationwide Class members.

WHEREFORE, Plaintiff, individually and on behalf of the Nationwide Class demands judgment against Defendant for damages, attorneys' fees, and costs, in an amount that would be just and proper.

COUNT VI

*AGAINST DEFENDANT HAHASMART ON BEHALF OF THE PLAINTIFF,
INDIVIDUALLY, AND ON BEHALF OF THE NATIONWIDE CLASS*

**Violation of Cal. Bus. & Prof. Code § 17200, et seq.
“Unlawful” Business Practices**

67. Plaintiff re-alleges and incorporates by reference the factual allegations as stated in paragraphs 1 through 44 as pertinent to the allegations contained within this Count.

68. HahaSmart's actions as alleged in this Complaint constitute an “unlawful” business practice within the meaning of California Business and Professions Code § 17200, *et seq.*, because HahaSmart's actions violated, *inter alia*, California Business and Professions Code § 17500, *et seq.*, which proscribes misleading advertising, and because they violated Civil Code § 1750, *et seq.*, the Consumers Legal Remedies Act, as alleged in this Complaint.

69. As a result of HahaSmart’s “unlawful” conduct, Plaintiff and the Nationwide Class were exposed to the unlawful conduct and spent money on premium-priced solar PV systems that they would not otherwise have.

70. HahaSmart’s business practices alleged herein constitute a continuing course of unfair competition since HahaSmart markets and sells their products in a manner that was and remains likely to be unlawful.

WHEREFORE, Plaintiff, individually and on behalf of the Nationwide Class demands judgment against Defendant for damages, attorneys’ fees, and costs, in an amount that would be just and proper.

COUNT VII

*AGAINST DEFENDANT HAHASmart ON BEHALF OF THE PLAINTIFF,
INDIVIDUALLY, AND ON BEHALF OF THE NATIONWIDE CLASS*

**Violation of Cal. Bus. & Prof. Code § 17500, et seq. –
Misleading Advertising**

71. Plaintiff re-alleges and incorporates by reference the factual allegations as stated in paragraphs 1 through 44 as pertinent to the allegations contained within this Count.

72. Defendants engaged in the advertising and marketing alleged herein to the public and offered for sale solar PV systems, nationwide, with the intent to directly or indirectly induce the sale of their solar PV systems, to purchasers of such solar PV systems nationwide; such advertisements originated in California and were intended to be conveyed to persons outside California.

73. HahaSmart's advertising and marketing representations regarding the money saving characteristics of the solar PV systems were false, misleading, and deceptive as set forth in detail above.

74. HahaSmart also concealed material information from the consuming public as set forth above that they were obligated to disclose about the actual cost savings of the solar PV systems in advertising and marketing materials.

75. HahaSmart's misrepresentations and omissions of material fact alleged herein deceived, or have the tendency and likelihood to deceive, the general public regarding the benefits and characteristics contained in the solar PV systems.

76. HahaSmart's misrepresentations and omissions of material fact as alleged herein were the type of factual statements that are objectively material, in that a reasonable person would attach importance to them, and were intended by HahaSmart to induce such persons to act on such information in making their purchase decisions.

77. At the time they made the misrepresentations and omissions alleged herein, HahaSmart reasonably should have known that such statements were untrue or misleading and thus in violation of Bus. & Prof. Code § 17500, *et seq.*

78. HahaSmart's business practices alleged herein constitute a continuing course of unfair competition since HahaSmart markets and sells their products in a manner that was and remains likely to deceive to Nationwide Class members.

WHEREFORE, Plaintiff, individually and on behalf of the Nationwide Class demands judgment against Defendant for damages, attorneys’ fees, and costs, in an amount that would be just and proper.

COUNT VIII

*AGAINST DEFENDANT HAHASMART ON BEHALF OF THE PLAINTIFF,
INDIVIDUALLY, AND ON BEHALF OF THE NATIONWIDE CLASS*

**VIOLATION OF THE CALIFORNIA CONSUMERS
LEGAL REMEDIES ACT (“CLRA”)**

79. Plaintiff re-alleges and incorporates by reference the factual allegations as stated in paragraphs 1 through 44 as pertinent to the allegations contained within this Count.

80. Plaintiffs brings this count against individually and on behalf of the Nationwide Class pursuant to the California Consumer Legal Remedies Act (“CLRA”) Cal. Civ. Code § 1750, *et seq*, against HahaSmart.

81. HahaSmart is a “person” as defined by California Civil Code § 1761(c).

82. Plaintiff and the Nationwide Class are “consumers” within the meaning of California Civil Code § 1761(d) because they purchased solar PV systems primarily for personal, family, or household use.

83. By representing that the purchase of a solar PV system from HahaSmart would save consumers money, HahaSmart violated California Civil Code § 1770(a)(5) & (7) as it represented that their solar PV systems were of a particular standard, quality, or grade when they were of another.

84. By representing that the purchase of a solar PV system from HahaSmart would save consumers money, HahaSmart violated California Civil Code § 1770(a)(2) as it misrepresented the certification of their solar PV systems.

85. By representing that the purchase of a solar PV system from HahaSmart would save consumers money, HahaSmart violated California Civil Code § 1770(a)(13) & (14) as it made false or misleading statements of fact concerning the existence or amounts of price reductions and representing that the purchase of the solar PV systems confers a right that does not exist (to save money).

86. By representing that the purchase of a solar PV system from HahaSmart would save consumers money, HahaSmart violated California Civil Code § 1770(a)(17) as it represented that consumers who purchased the solar PV systems will receive a rebate, discount, or other economic benefit contingent upon an event occurring subsequent to the consummation of the transaction (i.e. the performance of the solar PV system combined with rebates and credits will save the consumer money, after purchasing and installing the solar PV system).

87. HahaSmart's unfair and deceptive acts or practices occurred repeatedly in Defendant's trade or business and were capable of deceiving a substantial portion of the purchasing public.

88. Plaintiff alleges that HahaSmart knew that not all consumers would save money.

89. Because of their reliance on HahaSmart's representations, the Plaintiff and the Nationwide Class suffered an ascertainable loss of money by purchasing the solar PV systems.

90. HahaSmart had a duty to disclose that the solar PV systems would not save money, and in failing to disclose this pertinent information, HahaSmart knowingly and intentionally concealed material facts and breached its duty not to do so.

91. The fact that the solar PV systems do not save money is material to the Plaintiff and the Nationwide Class in that a reasonable consumer would have considered them to be important in deciding whether to purchase the solar PV system.

92. Had Plaintiff and the Nationwide class known that the solar PV system would not save them money, they would not have purchased them.

93. Plaintiff and the Nationwide class are reasonable consumers who expected the solar PV systems to save them money.

94. Because of HahaSmart's conduct, Plaintiff and the Nationwide class were harmed and suffered actual damages.

95. As a direct and proximate result of HahaSmart's unfair and/or deceptive acts or practices, Plaintiff and the Nationwide Class have suffered actual damages.

96. Prior to filing this Complaint and in compliance with the CLRA, Plaintiff and the Nationwide Class provided HahaSmart with notice of its violations.

WHEREFORE, Plaintiff, individually and on behalf of the Nationwide Class demands judgment against Defendant HahaSmart for damages, attorneys' fees, and costs, in an amount that would be just and proper.

PRAYER FOR RELIEF

Plaintiff, on behalf of himself and the Class, requests that the Court Order the following relief and enter judgment against the Defendants as follows:

A. An Order certifying the proposed Alabama Class and Nationwide Class under Rule 23 of the Federal Rules of Civil Procedure and appointing Plaintiff and his counsel to represent each Class;

B. A declaration that Defendants have engaged in the illegal conduct described herein;

C. An Order awarding declaratory and injunctive relief as permitted by law or equity, including permanently enjoining Defendants from continuing their unlawful practices as set forth herein;

D. A judgment awarding Plaintiff and the Class actual damages, punitive damages, and restitution in an amount according to proof and all other entitled awards under the DTPA, UCL, and CLRA;

- E. Ordering Defendants to engage in a corrective marketing campaign to current and future consumers;
- F. Awarding attorneys' fees and costs incurred in prosecuting this action;
- G. Pre-judgment and post-judgment interest; and
- H. All other relief that the Court deems necessary, just, and proper.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff, individually and on behalf of the Class, hereby demands a trial by jury.

RESPECTFULLY SUBMITTED,

/s/ D. G. Pantazis, Jr. _____

D. G. Pantazis, Jr.

Attorney for Plaintiff and Plaintiff Class

OF COUNSEL:

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