

Exhibit A

**IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
 MARION COUNTY, ILLINOIS**

BRIAN SLAFTER, individually and on)
 behalf of all similarly situated individuals,)

Plaintiff,)

v.)

HAIER US APPLIANCE SOLUTIONS,)
 INC., a Delaware corporation,)

Defendant.)

No. 2021MR148

Hon.

CLASS ACTION COMPLAINT

CLASS ACTION COMPLAINT

Plaintiff Brian Slafter (“Plaintiff”) brings this Class Action Complaint against Defendant Haier US Appliance Solutions, Inc. (a/k/a “General Electric Appliances”) (“Defendant”) on his own behalf, and on behalf of a Class of individuals who purchased certain defective air conditioning units designed, manufactured, and sold by Defendant. On behalf of himself and the proposed Class of individuals who purchased Defendant’s products, Plaintiff seeks damages, restitution, and injunctive relief against Defendant for selling air conditioning units that are defective in their design. Plaintiff, for his Class Action Complaint, alleges as follows upon personal knowledge as to himself and his own acts and experiences, and as to all other matters, upon information and belief, including investigation by his attorneys.

INTRODUCTION

1. Haier is a Chinese multinational company that manufactures home and consumer appliances.

2. In 2016, Haier acquired General Electric Appliances, a subsidiary of General Electric Company. General Electric Appliances is one of the largest producers of consumer

appliances in the world, and does business throughout the United States, including in Illinois.

3. Several models of Defendant's air conditioning units are defectively designed such that the circuit board malfunctions rendering them inoperable and worthless. Defendant has known, or reasonably should have known, that these air conditioning units were defective. Nonetheless, Defendant actively concealed the defect from its customers and continued to sell them.

4. Plaintiff, like other consumers nationwide, purchased one of Defendant's defective air conditioning units based on the express and/or implied representations made by Defendant that it would properly function for a reasonable length of time.

5. Nowhere did Defendant disclose to Plaintiff and other purchasers of its defective air conditioning units that their circuit board had a latent defect that would cause the units to malfunction and render them inoperable. Had Defendant accurately disclosed this information, Plaintiff and other members of the Class would not have purchased Defendant's defective air conditioning units.

6. Plaintiff brings this action on behalf of himself and other similarly situated consumers to obtain redress for those who purchased Defendant's defective air conditioning units.

JURISDICTION AND VENUE

7. This Court may assert personal jurisdiction over Defendant pursuant to 735 ILCS 5/2-209 in accordance with the Illinois Constitution and the Constitution of the United States, because Defendant is doing business within this state and because Plaintiff's claims arise out of Defendant's unlawful in-state actions, as Defendant sold the defective air conditioning units in Illinois, including in this County.

8. Venue in this Court is proper because the Plaintiff resides in Centralia, Illinois, in

the jurisdiction of this Court and bought the defective air conditioning at issue in this jurisdiction.

PARTIES

9. Plaintiff is a resident of Centralia, Illinois.

10. Defendant Haier is a Delaware corporation, with its headquarters located in Louisville, Kentucky. Defendant conducts business selling appliances throughout the country, including in Illinois, and distributes, advertises, and sells the defective air conditioning units to thousands of consumers in Illinois.

COMMON FACTUAL ALLEGATIONS

11. Defendant is a national leader in the production of home and consumer appliances, doing business throughout the United States, including in Illinois.

12. One of Defendant's products are several models of air conditioning units produced by its subsidiary General Electric Appliances, including specifically the air conditioning unit models, AEW06LYQ1, AHC14AZ, AHS14AX, AHC08LYW2, and any other models assembled with the same circuit board parts/design (the "Defective Air Conditioning models").

13. Defendant represents that its Defective Air Conditioning models function properly and have specific features, including connecting and controlling the units through wireless internet, remotely controlling air temperature and fan speed, and other general operation features. However, as detailed below, Defendant's Defective Air Conditioning models do not function as represented and are defective by design.

14. Each of Defendant's Defective Air Conditioning models contains a common design defect that causes the circuit board to malfunction. On information and belief, one reason the circuit boards are susceptible to malfunction is because they lack a protective coating to guard against moisture and temperature changes caused by the operation of the air conditioners.

15. Manufacturers of products that use circuit boards know they are fragile but necessary components to any electrical device. Circuit boards are particularly likely to fail when they work in high temperature and high humidity environments, especially environments that alternate between hot and cold.¹ For this reason, it is the industry standard for air conditioning manufacturers to apply conformal coating to air conditioning units' circuit boards to protect them from the temperature changes and moisture.²

16. On information and belief, the Defective Air Conditioning models in question either lack a conformal coating, or the conformal coating is inadequately applied, resulting in little protection to the circuit board from moisture and temperature change. As a result, their circuit boards are prone to moisture damage which causes numerous malfunctions and even complete failure.

17. The defects in the manufacturing and/or design of the circuit boards for the Defective Air Conditioning Models render them unfit for their ordinary purpose for which they are used depriving the purchasers of the benefit of the bargain.

18. Defendant knew or should have known that manufacturing air conditioning units with circuit boards that are susceptible to malfunction would result in a high frequency of unit failure.

19. Furthermore, Defendant knew or should have known that the Defective Air Conditioning models contained a latent defect because high rates of negative reviews describing issues caused by circuit board malfunctions were reported on its consumer website, and other websites, by frustrated customers.

¹ <https://www.pcbcart.com/article/content/select-pcb-coating.html> (last accessed Aug. 31, 2021).

² <https://dm.henkel-dam.com/is/content/henkel/lt-6917-brochure-printed-circuit-board-protection-1> (last accessed Aug. 31, 2021).

20. For example, one of Defendant's Defective Air Conditioning models, model # AHC14AZ, has over 700 reviews on the Defendant's consumer website, with nearly 19% of those reviews expressing problems associated with a malfunctioning circuit board.

21. On Lowe's website, a major retailer of consumer products across the country, the model # AHC14AZ air conditioner has over 1,000 reviews, with approximately 17% of them involving problems associated with a malfunctioning circuit board.

22. On Walmart's website, the model # AEW06LYQ1 air conditioner has over 1,300 reviews, with nearly 15% of those reviews being low ratings and expressing problems relating to a malfunctioning circuit board.

23. Other air conditioner manufacturers do not share similar high rates of failure. For example, Frigidaire's model # FHWW082WCE air conditioner has over 1,700 reviews on Walmart's website, with only about 3% of those reviews being negative. Moreover, the negative reviews almost entirely involve a manufacturing or handling error, such as a dent in a specific unit or a delivery problem, or simply a dissatisfaction with the cooling provided.

24. Similarly, the Quiet Window Air Conditioner model # 95820, has over 600 reviews on Hammacher Schlemmer's website, with less than 3% of those reviews being negative. Moreover, most of the negative reviews involved the degree of quietness from the supposedly "quiet" unit.

25. As a final example, the LG model # LW1017ERSM air conditioner has over 800 reviews on Walmart's website, with less than 4% negative reviews, with the negative reviews mostly concerning rattling noises and delivery problems.

26. The above survey illustrates that consumers who purchased Defendant's Defective Air Conditioning models experienced problems associated with a malfunctioning circuit board at

a significantly higher rate than in the rest of the industry.

27. Defendant's Defective Air Conditioning models have circuit boards that contain a design and/or manufacturing defect that has resulted in high failure rates among them.

28. Additionally, Defendant's knowledge of the latent defect in its Defective Air Conditioning models and active concealment of the issue resulted in injury to many customers.

29. Defendant expressly and impliedly warranted, via user manuals, advertisements, its website, and in-store product labeling that its Defective Air Conditioning models are fit to use for their ordinary purpose of cooling air in interior spaces.

30. Plaintiff, as well as other consumers nationwide, reasonably relied on Defendant's representations and warranties that its products would function as warranted.

31. However, Plaintiff, as well as other consumers nationwide who purchased Defendant's Defective Air Conditioning models, were deceived because Defendant failed to disclose the latent defect in their circuit boards.

32. Plaintiff, as well as other consumers nationwide, would not have purchased Defendant's Defective Air Conditioning models, or would have paid materially less for them, had they known that they contained a defect in their circuit boards.

33. Further, Defendant's limited warranty for its Defective Air Conditioning models represents that Defendant will replace and repair, free of charge, any part of the air conditioner that fails due to a defect within one year from the date of the original purchase until the remainder of the original one-year warranty.

34. Defendant is unable to conform to its limited warranty by repairing or replacing the Defective Air Conditioning models because any replacement would have the same defective component, thus effectively leaving Plaintiff and the members of the Class with no recourse.

35. As a direct, proximate, and foreseeable result of Defendant's conduct, Plaintiff and the other members of the Class have suffered damages, including actual damages in the amount of the purchase price paid for the Defective Air Conditioning models.

FACTS SPECIFIC TO PLAINTIFF

36. On or about May 1, 2020 Plaintiff visited Walmart located in Centralia, Illinois to purchase an air conditioning unit.

37. Plaintiff compared various air conditioning units before he chose to purchase one of Defendant's Defective Air Conditioning models.

38. Plaintiff purchased Defendant's model unit AEW06LYQ1 based on Defendant's representations and warranties that it will function as represented and would be usable for its ordinary purpose as an air conditioner.

39. Specifically, Plaintiff relied on representations made on the box containing the air conditioner that it would regulate temperature both through the control panel on the unit as well as by the included remote control, turn off and on as needed, provide 6,000 BTU of cooling power, and function with several different modes including "eco, fan, high, med, low, auto."³

40. Plaintiff, like thousands of other consumers who purchased Defendant's Defective Air Conditioning models, reasonably believed that Defendant's air conditioner would function as represented.

41. On or about September 1, 2020, just three months after purchasing his air conditioner, Plaintiff began experiencing problems with his unit. Plaintiff's air conditioner failed to regulate the temperature, would turn on and off without any user input, and Plaintiff was

³ <https://www.geappliances.com/appliance/GE-115-Volt-Electronic-Room-Air-Conditioner-AEW06LY> (last accessed Aug. 31, 2021).

generally unable to control the air conditioner.

42. As a result of the above stated malfunctions, Plaintiff is now unable to use his air conditioning unit.

43. Plaintiff and the other members of the Class were deceived and misled by Defendant's warranties and representations that its Defective Air Conditioning models would function as advertised and warranted and could be used for their ordinary intended purpose.

44. These representations were a material factor that influenced Plaintiff's and other members of the Class' decision to purchase Defendant's Defective Air Conditioning models and Plaintiff and the other members of the Class would not have purchased such products had they known that they contained a circuit board defect.

45. Further, Defendant had knowledge of the latent defect existing in its Defective Air Conditioning models and actively concealed it, materially misleading Plaintiff and the other members of the Class.

46. Plaintiff, as well as other members of the Class, would like to purchase one of Defendant's products in the future, however due to the Defective Air Conditioning models' latent defect, Plaintiff and other members of the Class are unable to tell whether any product they might purchase would function as warranted.

47. As a result, Plaintiff and the other members of the Class have been damaged by their purchases of Defendant's Defective Air Conditioning models and have been deceived into purchasing a product that they believed would be capable of functioning as represented and warranted by Defendant when in fact, it could not due to a circuit board defect.

48. Defendant has received significant profits from the sale of its defectively designed Defective Air Conditioning models.

CLASS ALLEGATIONS

49. Plaintiff brings this action on behalf of himself and similarly situated individuals pursuant to 735 ILCS § 5/2-801. Plaintiff seeks to represent a Class and Subclass of individuals defined as follows:

- (i) The Class: All Persons in the United States who purchased one of Defendant's air conditioners model numbers AEW06LYQ1, AHC14AZ, AHS14AX, AHC08LYW2, and any other models assembled with the same circuit board parts/design, within the applicable statute of limitations.
- (ii) The Illinois Subclass: All persons in the United States who, within three years prior to the commencement of this action, purchased one of Defendant's air conditioners model numbers AEW06LYQ1, AHC14AZ, AHS14AX, AHC08LYW2, and any other models assembled with the same circuit board parts/design, within the applicable statute of limitations, in the state of Illinois.

50. Excluded from the Class and Subclass are any members of the judiciary assigned to preside over this matter; any officer or director of Defendant; and any immediate family member of such officer or director.

51. There are thousands of members of the Class and Subclass, making the members of the Class and Subclass so numerous that joinder of all members is impracticable. Although the exact number of members of the Class and Subclass is currently unknown to Plaintiff, the members can be easily identified through Defendant's records, or the records of the retailers who sold Defendant's Defective Air Conditioning models.

52. Plaintiff's claims are typical of the claims of the Class and Subclass he seeks to represent, because the basis of Defendant's liability to Plaintiff and the Class and Subclass is substantially the same, and because Defendant's conduct has resulted in similar injuries to Plaintiff and to the Class and Subclass.

53. There are many questions of law and fact common to the claims of Plaintiff and the Class and Subclass, and those questions predominate over any questions that may affect individual

members of the Class and Subclass. Common questions for the Class and Subclass include, but are not limited to, the following:

- (a) Whether the circuit board in Defendant's Defective Air Conditioning models are defectively designed and/or manufactured;
- (b) Whether Haier knew or reasonably should have known about the potential defects prior to distributing the Defective Air Conditioning models;
- (c) Whether Haier concealed and/or failed to disclose the defects in its Defective Air Conditioning models;
- (d) Whether Defendant advertised and/or warranted that its Defective Air Conditioning models would function free from defect;
- (e) Whether Haier breach express and/or implied warranties in relation to the Defective Air Conditioning models;
- (f) Whether Hair was unjustly enriched by receiving moneys in exchange for its Defective Air Conditioning models;
- (g) Whether Haier should be ordered to disgorge all or part of its ill-gotten profits it received from the sale of its Defective Air Conditioning models;
- (h) Whether Defendant's conduct violated the Illinois Consumer Fraud Act and other such similar statutes;
- (i) Whether as a result of Defendant's misrepresentations or omissions of material facts related to its Defective Air Conditioning models, Plaintiff and the other members of the Class and Subclass have suffered ascertainable monetary losses;

(j) Whether Plaintiff and the other members of the Class and Subclass are entitled to monetary and/or restitutionary and/or injunctive relief or other remedies, and, if so, the nature of such remedies.

54. Absent a class action, most members of the Class and Subclass would find the cost of litigating their claims to be prohibitively expensive and would thus have no effective remedy. The class treatment of common questions of law and fact is superior to multiple individual actions or piecemeal litigation in that it conserves the resources of the courts and the litigants and promotes consistency and efficiency of adjudication.

55. Plaintiff will fairly and adequately represent and protect the interests of the other members of the Class and Subclass he seeks to represent. Plaintiff has retained counsel with substantial experience in prosecuting complex litigation and class actions. Plaintiff and his counsel are committed to vigorously prosecuting this action on behalf of the other members of the Class and Subclass and have the financial resources to do so. Neither Plaintiff nor his counsel have any interest adverse to those of the other members of the Class and Subclass.

56. Defendant has acted and failed to act on grounds generally applicable to the Plaintiff and the other members of the Class and Subclass, requiring the Court's imposition of uniform relief to ensure compatible standards of conduct toward the members of the Class and Subclass and making injunctive or corresponding declaratory relief appropriate for the Class and Subclass as a whole.

COUNT I

For Violations of Consumer Protection Laws (On behalf of Plaintiff and the Class and Subclass)

57. Plaintiff repeats and incorporates the allegations above as if fully set forth herein.

58. The Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS

502/1 *et seq.* (“ICFA”), as well as other materially identical consumer fraud statutes enacted by states throughout the county, prohibit deceptive acts and practices in the sale of products such as Defendant’s Defective Air Conditioning models.

59. Plaintiff and the other members of the Class and Subclass are “consumers” or “persons,” as defined under the ICFA and other states’ consumer protection laws.

60. Defendant’s conduct as alleged herein occurred in the course of trade or commerce.

61. Defendant’s actions in representing that its Defective Air Conditioning models can function as advertised and for their ordinary purpose of use, free from defect, when in fact they contained a latent defect causing them to malfunction and fail, offends public policy, has caused and continues to cause substantial injury to consumers, and constitutes an unfair and deceptive trade practice.

62. Upon information and belief, and given the fact that Defendant designs, manufactures, and distributes its Defective Air Conditioning models, creates the products’ labeling and advertising, and considering the significant amount of negative reviews appearing on Defendant’s and other retailers’ websites, Defendant knew or should have known at all relevant times that its Defective Air Conditioning models contained a latent defect that caused the products to malfunction. Nonetheless Defendant continued to advertise and sell its Defective Air Conditioning models without disclosing the defect to consumers such as Plaintiff and the other members of the Class and Subclass.

63. Defendant intended for consumers to rely on its representations and omissions regarding its Defective Air Conditioning models when choosing to purchase them, and customers did rely on such representations and omissions to make an informed decision as to whether to purchase the products.

64. Plaintiff and other members of the Class and Subclass did reasonably rely on Defendant's misrepresentations and omissions in choosing to purchase its Defective Air Conditioning models and would not have purchased them, or would have paid materially less for them, had Defendant not made false representations and not actively concealed that its Defective Air Conditioning models suffer from a latent defect in their circuit boards that renders them inoperable.

65. As a direct and proximate cause of Defendant's unlawful practices, Plaintiff and the other members of the Class and Subclass suffered actual damages, including monetary losses for the purchase price of Defendant's Defective Air Conditioning models which they purchased and which did not function as represented, and in fact contained a latent defect causing the units to malfunction.

66. Defendant's conduct is in violation of the ICFA and other states' consumer protection laws, and pursuant to 815 ILCS 505/10a and other such states' consumer protection laws, Plaintiff and the other members of the Class and Subclass are entitled to damages in an amount to be proven at trial, reasonable attorney's fees, injunctive relief prohibiting Defendant's unfair and deceptive practices going forward, and any other penalties or awards that may be appropriate under applicable law.

COUNT II
Breach of Implied Warranty of Merchantability
(On behalf of Plaintiff and the Class and Subclass)

67. Plaintiff repeats and incorporates the allegations above as if fully set forth herein.

68. Defendant is and was at all relevant times a merchant with respect to its Defective Air Conditioning models.

69. A warranty that goods shall be merchantable and fit for their ordinary purposes for

which such goods are used is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind.

70. Defendant was at all relevant times involved in the manufacturing, and is the distributor, warrantor, and/or seller of its Defective Air Conditioning models.

71. Defendant provided implied warranties that the Defective Air Conditioning models were merchantable and fit for the ordinary purpose for which they were used and sold to Plaintiff and other members of the Class and Subclass as functioning air conditioners.

72. Defendant breached the implied warranty of merchantability because the Defective Air Conditioning models contained a latent defect in their circuit boards which rendered them unfit for the ordinary purpose that air conditioners are used for as they were inoperable.

73. Plaintiff and other members of the Class and Subclass have had sufficient direct dealings with Defendant, as they relied on Defendant's advertisements, product labels, user manuals, and representations to determine the functionality of its Defective Air Conditioning models when deciding to purchase them.

74. Additionally, Plaintiff and other members of the Class and Subclass were intended beneficiaries of Defendant's warranties as the retailers of Defendant's Defective Air Conditioning models were not intended to be their ultimate consumers.

75. Plaintiff and the other members of the Class and Subclass would not have purchased Defendant's Defective Air Conditioning models had they known that they were defective and were not fit for their ordinary use.

76. As a direct and proximate result of Defendant's breach of its implied warranty of merchantability, Plaintiff and the other members of the Class and Subclass have been damaged in an amount to be determined at trial.

COUNT III
Unjust Enrichment
(On behalf of Plaintiff and the Class and Subclass)

77. Plaintiff hereby incorporates the allegations set forth above.

78. Plaintiff and the other members of the Class and Subclass conferred a benefit on Defendant by purchasing its Defective Air Conditioning models.

79. It is inequitable and unjust for Defendant to retain the revenues obtained from Plaintiff's and the other members of the Class and Subclass' purchases of Defendant's Defective Air Conditioning models because Defendant misrepresented the functionality, qualities, and benefits of its products and Plaintiff and the other members of the Class and Subclass would not have purchased Defendant's products had Defendant not made these misrepresentations.

80. Accordingly, because Defendant will be unjustly enriched if it is allowed to retain such funds, Defendant must pay restitution to Plaintiff and the other members of the Class and Subclass in the amount which Defendant was unjustly enriched by each of their purchases of Defendant's Defective Air Conditioning models.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and the Class and Subclass, prays for the following relief:

1. An order certifying the Class and Subclass as defined above;
2. An awarded of actual or compensatory damages, or, in the alternative, disgorgement of all funds unjustly retained by Defendant as a result of its unlawful practices;
3. An award of reasonable attorney's fees and costs;
4. Award such further relief as the Court deems reasonable and just.

DATED: September 16, 2021

Respectfully submitted,

BRIAN SLAFTER, individually and on behalf of
similarly situated individuals

By: /s/ Jordan R. Frysinger
One of Plaintiff's Attorneys

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Attorneys for Plaintiff and the Putative Class

**IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
MARION COUNTY, ILLINOIS**

BRIAN SLAFTER, individually and on)
behalf of all similarly situated individuals,)

Plaintiff,)

v.)

HAIER US APPLIANCE SOLUTIONS,)
INC., a Delaware corporation,)

Defendant.)
_____)

No. 2021MR148

Hon.

JURY TRIAL DEMAND

DEMAND FOR JURY

Plaintiff, Brian Slafter, herein demands a trial by jury (12) in the above-captioned case.

Dated: September 16, 2021

Respectfully submitted,

BRIAN SLAFTER, individually and on behalf of
all similarly situated individuals

By: /s/ Jordan R. Frysinger
One of Plaintiff's Attorneys

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Attorneys for Plaintiff and the Putative Class

**IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
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BRIAN SLAFTER, individually and on)
behalf of similarly situated individuals,)
)
 Plaintiff,)
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 v.)
)
 HAIER US APPLIANCE SOLUTIONS,)
 INC., a Delaware corporation,)
)
 Defendant.)
)
 _____)

No. 2021-MR-148

Hon. Judge Joel Powless

NOTICE OF MOTION

To:

Haier US Appliance Solutions, Inc.
c/o The Corporation Trust Company
Corporation Trust Center 1209 Orange St.
Wilmington, DE 19081

On October 25th, 2021, at 11:00 a.m. or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Joel Powless or any Judge sitting in that Judge’s stead, by Zoom video conference, and present *Plaintiff’s Motion for Class Certification or, Alternatively, for a Deferred Class Certification Ruling Pending Discovery.*

Dated: September 22, 2021

Respectfully Submitted,

Brian Slafter, individually and on behalf of a class of similarly situated individuals

By: /s/ Jordan R. Frysinger
One of Plaintiff’s Attorneys

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on this 22nd day of September, 2021 before 5:00 p.m. a copy of Plaintiff's Motion for Class Certification or, Alternatively, for a Deferred Class Certification Ruling Pending Discovery was sent to Defendant's Agent by way of first class mail by depositing the same in a United States Mailbox.

/s/ Jordan R. Frysinger
Jordan R. Frysinger, Esq.

**IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
MARION COUNTY, ILLINOIS**

BRIAN SLAFTER, individually and on)
behalf of all similarly situated individuals,)

Plaintiff,)

v.)

HAIER US APPLIANCE SOLUTIONS,)
INC., a Delaware corporation,)

Defendant.)

No. 2021-MR-148

Hon. Judge Joel Powless

**PLAINTIFF’S MOTION FOR CLASS CERTIFICATION OR, ALTERNATIVELY,
FOR A DEFERRED CLASS CERTIFICATION RULING PENDING DISCOVERY**

Plaintiff Brian Slafter, by and through his undersigned counsel, pursuant to 735 ILCS 5/2-801, moves for entry of an order certifying the Class and Subclass proposed below, appointing Plaintiff as Class Representative, and appointing Plaintiff’s attorneys as Class Counsel. Alternatively, Plaintiff requests, to the extent the Court determines further evidence is necessary to prove any element of 735 ILCS 5/2-801, that the Court defer consideration of this Motion pending a reasonable period to complete discovery. *See, e.g., Ballard RN Center, Inc. v. Kohll’s Pharmacy & Homecare, Inc.*, 2015 IL 118644, at ¶¶ 42–43 (citing *Damasco v. Clearwire Corp.*, 662 F.3d 891, 896–97 (7th Cir. 2011)). In support of his Motion, Plaintiff submits the following Memorandum of Law.

Dated: September 22, 2021

Respectfully Submitted,

Brian Slafter, individually and on behalf of a class
of similarly situated individuals

By: /s/ Jordan R. Frysinger
One of Plaintiff’s Attorneys

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Attorneys for Plaintiff and the Putative Class

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S
MOTION FOR CLASS CERTIFICATION OR, ALTERNATIEY, FOR
A DEFERRED CLASS CERTIFICATION RULING PENDING DISCOVERY**

This Court should certify a national class of all individuals who purchased defective air conditioning units designed, manufactured, and sold by Defendant, Haier US Appliance Solutions, Inc. (a/k/a “General Electric Appliances”) (“Defendant”), as well as an Illinois subclass for purchasers who, within three years of the commencement of this action, purchased one of Defendant’s defective air conditioner units.

Defendant, a multinational company that manufactures home and consumer appliances, has violated various state consumer protection laws by its practice of designing, manufacturing, and selling certain defective air conditioning units that are prone to malfunction. Plaintiff, a purchaser of one of Defendant’s defective air conditioner units, learned of Defendant’s wrongful conduct and brought suit on behalf of the Class and Subclass of similarly situated individuals to put a stop to Defendant’s deceptive practice of profiting from selling defective air conditioner units, and to obtain redress for all persons injured by its conduct.

Plaintiff alleges that Defendant’s misconduct violates numerous laws including the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 502/1 *et seq.* (“ICFA”), as well as other materially identical consumer fraud statutes enacted by states throughout the country, Breach of Implied Warranty of Merchantability, and Unjust Enrichment.

I. FACTUAL BACKGROUND

A. The Underlying Misconduct.

Defendant is a national leader in the production of home and consumer appliances, doing business throughout the United States, including in Illinois. (Compl., ¶ 11.) One of Defendant’s products are several models of air conditioning units, AEW06LYQ1, AHC14AZ, AHS14AX,

AHC08LYW2, along with other models assembled with the same circuit board, parts or design, which are prone to malfunction due to a common design defect in the models' circuit board (the "Defective Air Conditioning models"). (Compl. at ¶¶ 12, 14.) Defendant represents that its Defective Air Conditioning models function properly and have specific features, including connecting and controlling the units through wireless internet, remotely controlling air temperature and fan speed, and other general operational features. (*Id.* at ¶ 13.) However, due to the design defect that causes the model units to malfunction, Defendant's Defective Air Conditioning models do not function as represented. (*Id.* at ¶¶ 13, 14.) Unfortunately, the defects in the manufacturing and/or design of the circuit boards for the Defective Air Conditioning models render them unfit for their ordinary purpose for which they are used depriving the purchasers of the benefit of the bargain. (*Id.* at ¶ 17.) Defendant, who designed, manufactured, and distributed the Defective Air Conditioning models, knew or should have known, that their air conditioning units contained circuit boards that are susceptible to malfunction. (*Id.* at ¶¶ 18,19.) Further, Defendant knew or should have known, that the Defective Air Conditioning models contained a defect because high rates of negative reviews about their model units were reported on its own, as well as others', consumer website. (*Id.* at ¶ 19.)

For example, Plaintiff, relying on the representations made on the box containing Defendant's Defective Air Conditioning model AEW06LYQ1, purchased the unit based on Defendant's representations and warranties. (*Id.* at ¶ 38.) Specifically, Plaintiff relied on Defendant's representations that the air conditioner would regulate temperature both through the control panel as well as by the included remote control, turn off and on as needed, provide 6,000 BTU of cooling power, and function with several different modes including "eco, fan, high, med, low, auto." (*Id.* at ¶ 39.) Additionally, Plaintiff, like thousands of other consumers who purchased

Defendant's Defective Air Conditioning models, relied on Defendant's representations that its models would function properly. (Compl. at ¶ 40.) However, just three months after purchasing Defendant's Defective Air Conditioning model, Plaintiff began experiencing problems with his unit. (*Id.* at ¶41.) Plaintiff's air conditioner unit failed to regulate the temperature, would turn on and off without any user input, and Plaintiff was generally unable to control the air conditioner. (*Id.* at ¶ 41.) Thus, Plaintiff is unable to use his air conditioning unit due to its malfunction. (*Id.* at ¶ 42.) Plaintiff, like other members of the Class and Subclass, was misled by Defendant's warranties and representations that its Defective Air Conditioning models would function as warranted and could be used for their ordinary intended purpose. (*Id.* at ¶ 43.) These representations were a material factor that influenced Plaintiff and other members of the Class and Subclass to purchase Defendant's Defective Air Conditioning models. (*Id.* at ¶ 44.) As a result, Plaintiff and other members of the Class and Subclass have been damaged by their purchases of Defendant's Defective Air Conditioning models and have been deceived into purchasing a product that they believed would be capable of functioning as represented and warranted by Defendant. (*Id.* at ¶ 47.) On behalf of himself and all others similarly situated across the United States, Plaintiff brings this class action and seeks redress for damages and other relief arising from Defendant's unlawful actions.

B. The Proposed Class and Subclass

Plaintiff brings this action on behalf of himself and similarly situated individuals pursuant to 735 ILCS § 5/2-801. Plaintiff seeks to represent the following Class and Subclass defined as follows:

The Class: All Persons in the United States who purchased one of Defendant's air conditioners model numbers AEW06LYQ1, AHC14AZ, AHS14AX, AHC08LYW2, and any other models assembled with the same circuit board parts/design, within the applicable statute of limitations.

The Illinois Subclass: All persons in the United States who, within three years prior to the commencement of this action, purchased one of the Defendant’s air conditioners model numbers AEW06LYQ1, AHC14AZ, AHS14AX, AHC08LYW2, and any other models assembled with the same circuit board pats/design, within the applicable statute of limitations, in the state of Illinois.

(Compl. ¶ 49.) As explained below, the proposed Class and Subclass satisfy each of the four requirements for certification under Section 2-801 of the Illinois Code of Civil Procedure— numerosity, commonality, adequacy of representation, and fair and efficient adjudication. A class action is not just appropriate here, it is also the only way that the members of the putative Class and Subclass can obtain appropriate redress for Defendant’s unlawful conduct.

III. ARGUMENT

A. Standards for Class Certification

To obtain class certification, it is not necessary for a plaintiff to establish that he will prevail on the merits of the action. *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 178 (1974) (“[T]he question is not whether the plaintiff or plaintiffs have stated a cause of action or will prevail on the merits, but rather whether the requirements of Rule 23 are met.” (internal quotation marks and citation omitted)). As such, in determining whether to certify a proposed class, the Court should accept the allegations of the complaint as true. *Ramirez v. Midway Moving & Storage, Inc.*, 378 Ill. App. 3d 51, 53 (1st Dist. 2007).

To proceed with a class action, the movant must satisfy the “prerequisites for the maintenance of a class action” set forth in Section 2-801 of the Illinois Code of Civil Procedure, which provides:

An action may be maintained as a class action in any court of this State and a party may sue or be sued as a representative party of the class only if the court finds:

- (1) The class is so numerous that joinder of all members is impracticable.

- (2) There are questions of fact or law common to the class, which common questions predominate over any questions affecting only individual members.
- (3) The representative parties will fairly and adequately protect the interest of the class.
- (4) The class action is an appropriate method for the fair and efficient adjudication of the controversy.

735 ILCS 5/2-801. As demonstrated below, each prerequisite is established for the Class and Subclass, and the Court should therefore certify the proposed Class and Subclass.

Section 2-801 is modeled after Rule 23 of the Federal Rules of Civil Procedure and “federal decisions interpreting Rule 23 are persuasive authority with regard to questions of class certification in Illinois.” *Avery v. State Farm Mut. Auto. Ins. Co.*, 216 Ill. 2d 100, 125 (Ill. 2005). Circuit courts have broad discretion in determining whether a proposed class meets the requirement for class certification and ought to err in favor of maintaining class certification. *Ramirez*, 378 Ill. App. 3d at 53. While a court may rule on class certification without requiring further discovery, *see* Manual for Complex Litigation (Fourth) § 21.14, at 255 (2004), courts have found that discovery is helpful prior to addressing a motion for class certification. *See, e.g., Ballard RN Center, Inc. v. Kohll’s Pharmacy & Homecare, Inc.*, 2015 IL 118644, at ¶ 42 (“If the parties have yet to fully develop the facts needed for certification, then they can also ask the district court to delay its ruling to provide time for additional discovery or investigation.”) (quoting *Damasco v. Clearwire Corp.*, 662 F.3d 891, 896 (7th Cir. 2011)).

All the prerequisites for class certification are satisfied here, even though Plaintiff has not yet had an opportunity to engage in and complete discovery. However, in the interests of establishing a more fully developed record before ruling on class certification issues, the Court should defer ruling on this Motion pending the completion of discovery and submission of supplemental briefing.

B. The Numerosity Requirement is Satisfied

The first step in certifying a class is a showing that “the class is so numerous that joinder of all members is impracticable.” 735 ILCS 5/2-801(1). This requirement is met when “join[ing] such a large number of plaintiffs in a single suit would render the suit unmanageable and, in contrast, multiple separate claims would be an imposition on the litigants and the courts.” *Gordon v. Boden*, 224 Ill. App. 3d 195, 200 (1st Dist. 1991) (citing *Steinberg v. Chicago Med. Sch.*, 69 Ill.2d 320, 337 (Ill. 1977)). To satisfy this requirement a plaintiff need not demonstrate the exact number of class members but, must offer a good faith estimate as to the size of the class. *Smith v. Nike Retail Servs., Inc.*, 234 F.R.D. 648, 659 (N.D. Ill. 2006).

Plaintiff alleges that there are at least thousands of members of the Class and Subclass. (Compl. ¶ 51.) Because definitive evidence of numerosity can only come from the records of Defendant and its agents, it is proper to rely upon the allegations of the Complaint in certifying the Class. *See* 2 A. Conte & H. Newberg, *Newberg on Class Actions* § 7.20, at 66 (stating that where numerosity information is in the sole possession of the party opposing the class, courts generally rely on the complaint as prima facie evidence or defer ruling).

Additionally, the members of the putative Class and Subclass can be easily and objectively determined from Defendant’s records and the records of the retailers who sold Defendant’s Defective Air Conditioning models. Furthermore, it would be completely impracticable to join the claims of the members of the Class and Subclass, because they are disbursed throughout the nation and throughout Illinois, and because absent a class action, few members could afford to bring an individual lawsuit over the amounts at issue in this case, since each individual member’s claim is relatively small. *See Gordon*, 224 Ill. App. 3d at 200. Accordingly, the first prerequisite for class certification is met.

C. Common Questions of Law and Fact Predominate

The second requirement of Section 2-801(2) is met where there are “questions of fact or law common to the class” and those questions “predominate over any questions affecting only individual members.” 735 ILCS 5/2-801(2). Such common questions of law or fact exist when the members of the proposed class have been aggrieved by the same or similar misconduct. *See Miner v. Gillette Co.*, 87 Ill.2d 7, 19 (Ill. 1981); *Steinberg*, 69 Ill.2d at 342. These common questions must also predominate over any issues affecting individual class members. *See O-Kay Shoes, Inc. v. Rosewell*, 129 Ill. App. 3d 405, 408 (1st Dist. 1984). Here, the claims of the members of the Class and Subclass arise out of the same activity by Defendant, are based on the same legal theory, and implicate, among others, the following common issues: whether the circuit board in Defendant’s Defective Air Conditioning models are defectively designed and/or manufactured; whether Defendant knew or reasonably should have known about the potential defects prior to distributing the Defective Air Conditioning models; whether Defendant concealed and/or failed to disclose the defects in its Defective Air Conditioning models; whether Defendant advertised and/or warranted that its Defective Air Conditioning models would function free from defect; whether Defendant breach any implied warranties in relation to the Defective Air Conditioning models; whether Defendant was unjustly enriched by receiving moneys in exchange for its Defective Air Conditioning models; whether Defendant should be ordered to disgorge all or part of its ill-gotten profits it received from the sale of its Defective Air Conditioning models; whether Defendant’s conduct violated the Illinois Consumer Fraud Act and other such similar statutes; whether as a result of Defendant’s misrepresentations or omissions of material facts related to its Defective Air Conditioning models, Plaintiff and the other members of the Class and Subclass have suffered ascertainable monetary losses; and whether Plaintiff and the other members of the Class and

Subclass are entitled to monetary and/or restitutionary and/or injunctive relief or other remedies, and, if so, the nature of such remedies. (Compl. ¶ 53.)

As alleged, and as will be shown through obtainable evidence, Defendant engaged in a common course of conduct with regard to designing, manufacturing, and selling model air conditioning units that contained a defective circuit board. Any potential individualized issues remaining after common issues are decided would be de minimis. Accordingly, common issues of fact and law predominate over any individual issues, and Plaintiff has satisfied this hurdle to certification.

D. Adequate Representation

The third prong of Section 2-801 requires that “[t]he representative parties will fairly and adequately protect the interest of the class.” 735 ILCS 5/2-801(3). The class representative’s interests must be generally aligned with those of the class members, and class counsel must be “qualified, experienced and generally able to conduct the proposed litigation.” *See Miner*, 87 Ill.2d at 14; *see also Eshaghi v. Hanley Dawson Cadillac Co., Inc.*, 214 Ill. App. 3d 995, 1000 (1st Dist. 1991). The purpose of this adequacy of representation requirement is “to insure that all Class members will receive proper, efficient, and appropriate protection of their interests in the presentation of the claim.” *Purcell & Wardrobe Chtd. v. Hertz Corp.*, 175 Ill. App. 3d 1069, 1078 (1st Dist. 1988).

In this case, Plaintiff has the exact same interest as the members of the proposed Class and Subclass. Plaintiff has alleged that, like the other members of the Class and Subclass, he purchased one of Defendant’s Defective Air Conditioning models. Plaintiff’s pursuit of this matter against Defendant demonstrates that he will be a zealous advocate for the Class and Subclass. Further, proposed class counsel has regularly engaged in major complex and class action litigation in state

and federal courts and have been appointed as class counsel in numerous complex consumer class actions. Accordingly, the proposed class representative and proposed class counsel will adequately protect the interests of the members of the Classes, thus satisfying Section 2-801(3).

E. Fair and Efficient Adjudication of the Controversy

The final requirement for class certification under 5/2-801 is met where “the class action is an appropriate method for the fair and efficient adjudication of the controversy.” 735 ILCS 5/2-801(4). “In applying this prerequisite, a court considers whether a class action: (1) can best secure the economies of time, effort and expense, and promote uniformity; or (2) accomplish the other ends of equity and justice that class actions seek to obtain.” *Gordon*, 224 Ill. App. 3d at 203. In practice, a “holding that the first three prerequisites of section 2-801 are established makes it evident that the fourth requirement is fulfilled.” *Gordon*, 224 Ill. App. 3d at 204; *Purcell & Wardrope Chtd.*, 175 Ill. App. 3d at 1079 (“The predominance of common issues [may] make a class action . . . a fair and efficient method to resolve the dispute.”). Because numerosity, commonality and predominance, and adequacy of representation have been satisfied in the instant case, it is “evident” that the appropriateness requirement is met as well.

Other considerations further support certification in this case. A “controlling factor in many cases is that the class action is the only practical means for class members to receive redress.” *Gordon*, 586 N.E.2d at 467; *Eshaghi*, 574 N.E.2d at 766 (“In a large and impersonal society, class actions are often the last barricade of...protection.”). A class action is superior to multiple individual actions “where the costs of litigation are high, the likely recovery is limited” and individuals are unlikely to prosecute individual claims absent the cost-sharing efficiencies of a class action. *Maxwell*, 2004 WL 719278, at *6. This is especially true in cases involving deceptive trade practices against thousands of consumers, which can involve significant injury to the those

effected, but result in many small, individual claims. Here, absent a class action, most members of the Class and Subclass would find the cost of litigating their claims to be prohibitive, given that Defendant's air conditioner models normally cost between \$200 and \$500 per unit and multiple individual actions would be judicially inefficient.

Certification of the proposed Class and Subclass is necessary to ensure that Defendant's conduct becomes compliant with Illinois law, including the Illinois Consumer Fraud and Deceptive Practices Act, 815 ILCS 505/1, *et seq.*, along with state and nationwide common law, to ensure that the Class' and Subclass' members' rights are sufficiently protected, and to compensate those individuals who have had their statutorily and common law protected rights violated. Were this case not to proceed on a class-wide basis, it is unlikely that any significant number of members of the Class and Subclass would be able to obtain redress, or that Defendant would willingly implement the relief sought by Plaintiff on behalf of the Class and Subclass. Thus, proceeding as a class action here is an appropriate method to fairly and efficiently adjudicate the controversy.

IV. CONCLUSION

For the foregoing reasons, the requirements of 735 ILCS 5/2-801 are satisfied. Plaintiff respectfully request that the Court enter an Order certifying the proposed Class and Subclass, appointing Plaintiff as Class Representative, appointing McGuire Law, P.C. as Class Counsel, and awarding such additional relief as the Court deems reasonable. Alternatively, the Court should defer ruling on this Motion pending the completion of appropriate discovery and supplemental briefing.

Dated: September 22, 2021

Respectfully Submitted,

BRIAN SLAFTER, individually and on behalf of
classes of similarly situated individuals

By: /s/ Jordan R. Frysinger
One of Plaintiff's Attorneys

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Attorneys for Plaintiff and the Putative Class

STATE OF ILLINOIS, CIRCUIT COURT Marion COUNTY	SUMMONS	<i>For Court Use Only</i>
Instructions ▼ Enter above the county name where the case was filed. Enter your name as Plaintiff/Petitioner. Enter the names of all people you are suing as Defendants/ Respondents. Enter the Case Number given by the Circuit Clerk.	BRIAN SLAFTER, on behalf of a class, Plaintiff / Petitioner <i>(First, middle, last name)</i> v. HAIER US APPLIANCE SOLUTIONS, INC., et al. Defendant / Respondent <i>(First, middle, last name)</i>	2021-MR-148 Case Number

In 1, if your lawsuit is for money, enter the amount of money you seek from the Defendant/ Respondent.
In 2, enter your contact information. If more than 1 person is bringing this lawsuit, attach an <i>Additional Plaintiff/Petitioner Contact Information</i> form.
In 3, enter the name of the person you are suing and their address. If more than 1 person is being sued, attach an <i>Additional Defendant/Respondent Contact Information</i> form.

1. **Information about the lawsuit:**
 Amount claimed: +\$ 50,000.00

2. **Contact information for the Plaintiff/Petitioner:**
 Name *(First, Middle, Last)*: McGuire Law, P.C.
 Street Address, Apt #: 55 W Wacker Dr., 9th Fl
 City, State, ZIP: Chicago, IL 60601
 Telephone: (312) 893-7002
 See attached for additional Plaintiff/Petitioner contact information

3. **Contact information for the Defendant/Respondent:**
 Name *(First, Middle, Last)*: Haier US Appliance Solutions, Inc. c/o The Corporation Trust Company
 Street Address, Apt #: Corporation Trust Center 1209 Orange St.
 City, State, ZIP: Wilmington, DE 19801
 Telephone: (302) 658-7581
 See attached for additional Defendant/Respondent contact information

Important Information for the person receiving this form:

You have been sued.
 Follow the instructions on the next page on how to appear/answer.

- If you do not appear/answer the court may decide the case without hearing from you and enter a judgment against you for what the plaintiff/petitioner is asking.
- Your written appearance/answer must be filed on time and in the proper form.
- Forms for a written appearance/answer are available here:
<http://www.illinoiscourts.gov/forms/approved/default.asp>

If you cannot afford to pay the fee for filing your appearance/answer, ask the circuit clerk for an *application for waiver of court fees*.

You should read all of the documents attached.

In 4, the Circuit Clerk will give you the court date or appearance date, check any boxes that apply, and include the address of the court building and room where the Defendant/Respondent must file their response.

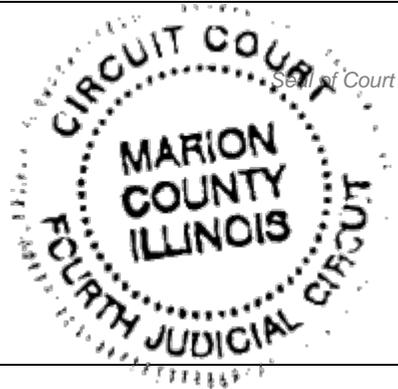
4. Instructions for person receiving this form (Defendant/Respondent):

To respond to this *Summons* you must:

- Go to court:
 On this date: _____ at this time: _____ a.m. p.m.
 Address: _____ Court Room: _____
 City, State, ZIP: _____
- File a written *Appearance* and *Answer/Response* with the court:
 On or before this date: _____ at this time: _____ a.m. p.m.
 Address: _____
 City, State, ZIP: _____
- File a written *Appearance* and *Answer/Response* with the court within 30 days from the day you receive this *Summons* (listed below as the "Date of Service").
 On this date: 10/25/21 at this time: 11:00 a.m. p.m.
 Address: Marion County Circuit Clerk, 100 East Main St.
 City, State, ZIP: Salem, IL 62881

STOP!
The Circuit Clerk will fill in this section.

Witness this Date: 9/23/2021
 Clerk of the Court: Jeffery Schicker



STOP!
The officer or process server will fill in the Date of Service.

This *Summons* must be served within 30 days of its date, listed above.

Date of Service: _____
(Date to be entered by an officer or process server on the copy of this Summons left with the Defendant/Respondent or other person.)

Plaintiff/Petitioner: To serve this *Summons*, you must hire the sheriff (or a private process server outside of Cook County) to deliver it and your Complaint/Petition to the Defendant/Respondent. If the sheriff (or private process server outside of Cook County) tries but can't serve the *Summons*, fill out another summons and repeat this process.

Attention: E-Filing is now mandatory for documents in civil cases with limited exemptions. To e-file, you must first create an account with an e-filing service provider. Visit <http://efile.illinoiscourts.gov/service-providers.htm> to learn more and to select a service provider. If you need additional help or have trouble e-filing, visit <http://www.illinoiscourts.gov/faq/gethelp.asp>, or talk with your local circuit clerk's office.

Enter the Case Number given by the Circuit Clerk: 2021-MR-148

DO NOT complete this section. The sheriff, or private process server will complete it.

By:

Signature

Print Name

FEES

By certified/registered \$ _____

Service and Return \$ _____

Miles: _____ \$ _____

Total \$ _____