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SUPERIOR COURT OF NEW JERSEY
COUNTY OF BERGEN
FINANCE DIVISION

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Daniel Ramirez, :

Plaintiff :

v. :

SAMSUNG ELECTRONICS :

AMERICA, INC. a New Jersey :

Corporation and SAMSUNG :

ELECTRONICS CO., LTD., a :

Foreign Limited Liability Company, :

And :

John Doe (1-Unlimited) :

And :

ABC Corporation (1-Unlimited) :

Defendants :

**SUPERIOR COURT OF NEW JERSEY
BERGEN COUNTY- Law Division**

No.: _____

COMPLAINT

Daniel Ramirez, Individually, by his attorneys as and for their Complaint respectfully allege:

JURISDICTION AND VENUE

1. This is an action for damages in excess of Fifteen Thousand Dollars (\$15,000) exclusive of interest, costs and attorneys' fees.
2. Plaintiff, Daniel Ramirez is and has been a resident of Stanislaus County, in Patterson California.
3. Defendant **SAMSUNG ELECTRONICS AMERICA, INC.** ("SAMSUNG") is a New Jersey Corporation with its principal place of business located at 85 Challenger Road Ridgefield Park, NJ 07660-0511.
4. Defendant SAMSUNG'S registered agent for service is The Corporation Trust Company located at 820 Bear Tavern Road, West Trenton, NJ, 08628.
5. Defendant **SAMSUNG ELECTRONICS CO., LTD.**, is a foreign corporation with its principal place of business at 129, Samsung-ro, Yeongtong-gu, Suwon-si, Gyeonggi-do, Korea.
6. SAMSUNG is in the business of manufacturing, designing, testing, assembling, supplying, selling, importing, and distributing electronics, including the "Samsung Galaxy S7 Edge" cell phone and its component parts that are the subject of this lawsuit.

BACKGROUND

7. On the morning of March 11, 2016, at approximately 11:00 A.M., Mr. Ramirez went to a Best Buy store located at 3401 Dale Road Modesto, California 95356 with the intention to purchase a Verizon Samsung Galaxy S7 Edge cell phone.
8. Mr. Ramirez ultimately purchased a black Verizon Samsung Galaxy S7 Edge cell phone.
(Exhibit A – Copy of the receipt)

9. On the morning of Monday May 30, 2016, at approximately 9:00 A.M., Mr. Ramirez arrived at the Campus Book and Supply Store in Akron, Ohio for a construction project in the scope of his employment for National Property Solutions Group (“NPSG”).

10. Upon arriving at work at approximately 9:00 A.M. Mr. Ramirez placed the Samsung Galaxy S7 Edge cell phone in his front right pocket.

11. Shortly after arriving to the job site, Mr. Ramirez heard a whistling and screeching sound and noticed his pocket vibrating and moving around, as well as thick smoke ascending from his pocket.

12. Mr. Ramirez reached into his right pants pocket to try to grab the Samsung Galaxy S7 Edge cell phone out and immediately felt his fingers burns.

13. Suddenly and without warning, the Samsung Galaxy S7 Edge cell phone exploded and caught fire in Mr. Ramirez’s pants – burning directly through his boxers and pants (Exhibit B – Photo of Boxers; Exhibit C – Photo of Pants), and engulfing Mr. Ramirez’s leg in flames.

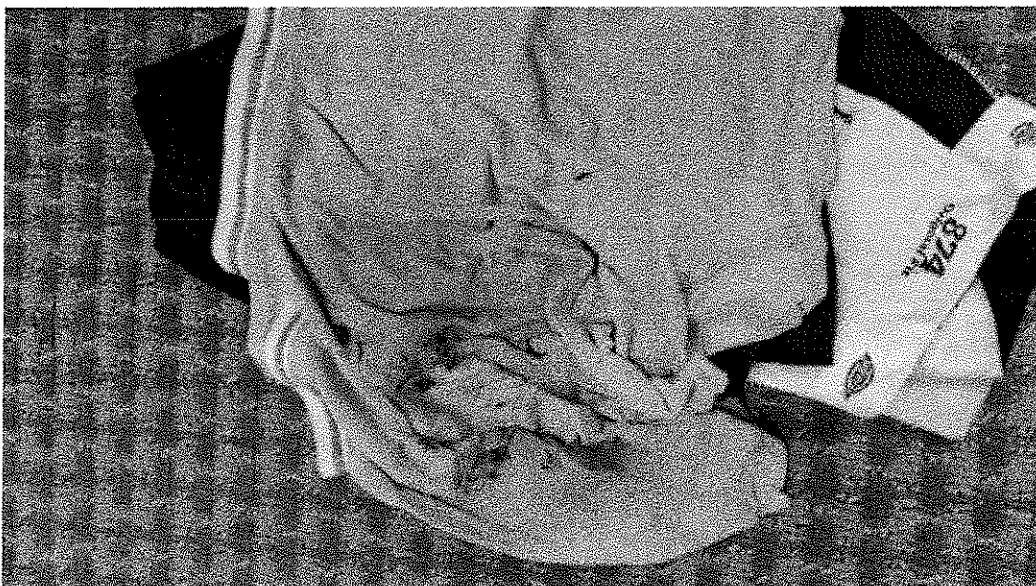


Exhibit B – Photo of Boxers after the explosion of the Samsung Galaxy S7 Edge in Mr. Ramirez’s pocket.



Exhibit C – Photo of Boxers after the explosion of the Samsung Galaxy S7 Edge in Mr. Ramirez’s front right pocket.

14. Although Mr. Ramirez was able to remove the cell phone, he was unable to quickly remove his pants and boxers because of the Samsung Galaxy S7 Edge cell phone ignited his pants and melted them to his leg leaving Mr. Ramirez in shock and extreme pain.

15. Mr. Ramirez’s Samsung Galaxy S7 Edge cell phone was completely charred and destroyed as a result of the explosion. (Exhibit D – Compilation of Pictures of Mr. Ramirez’s exploded cell phone).

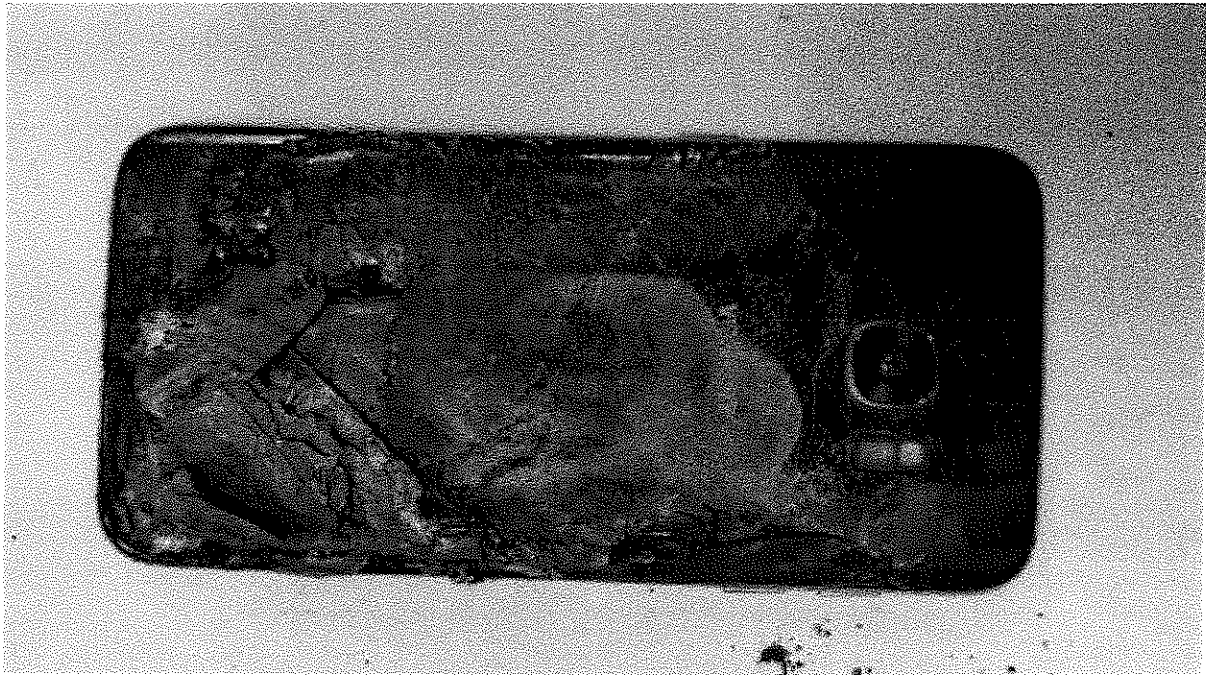


Exhibit D – Back Side of Phone

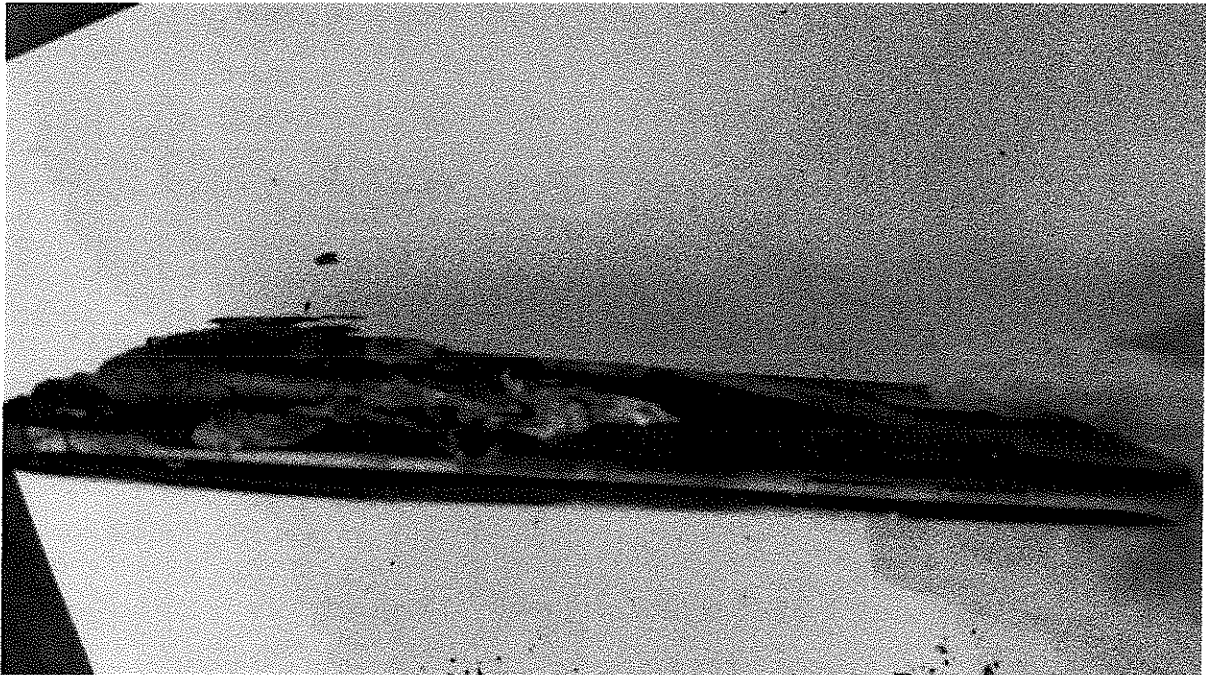


Exhibit D – Side View of Cell Phone.

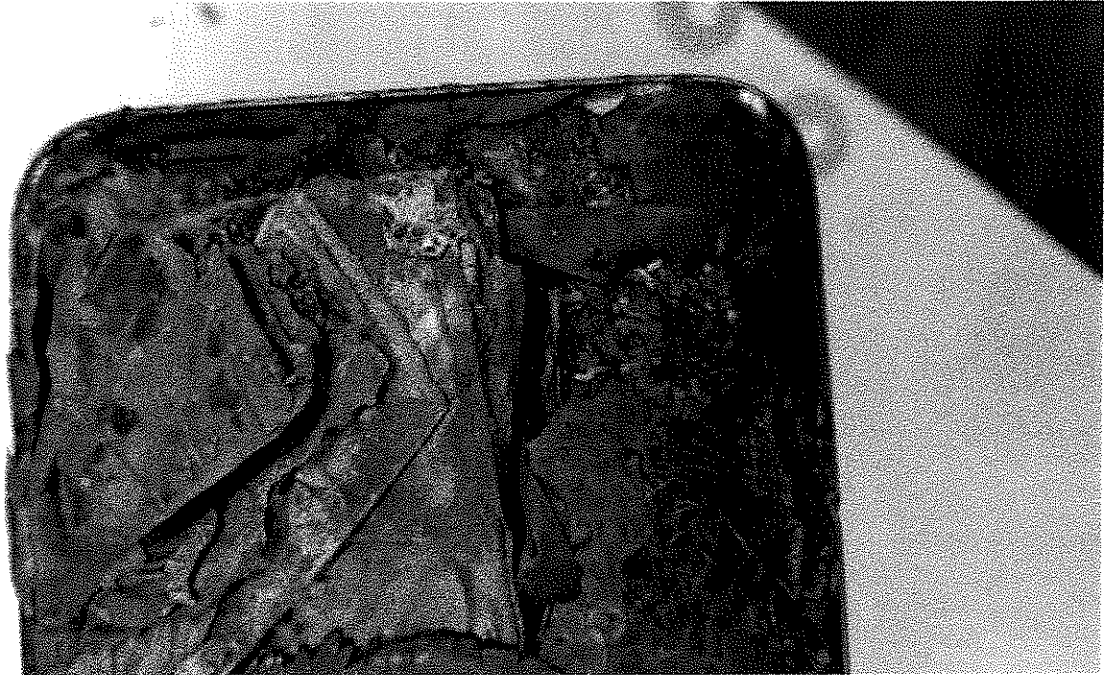


Exhibit D – Close up of Bottom of Backside of Cell Phone.

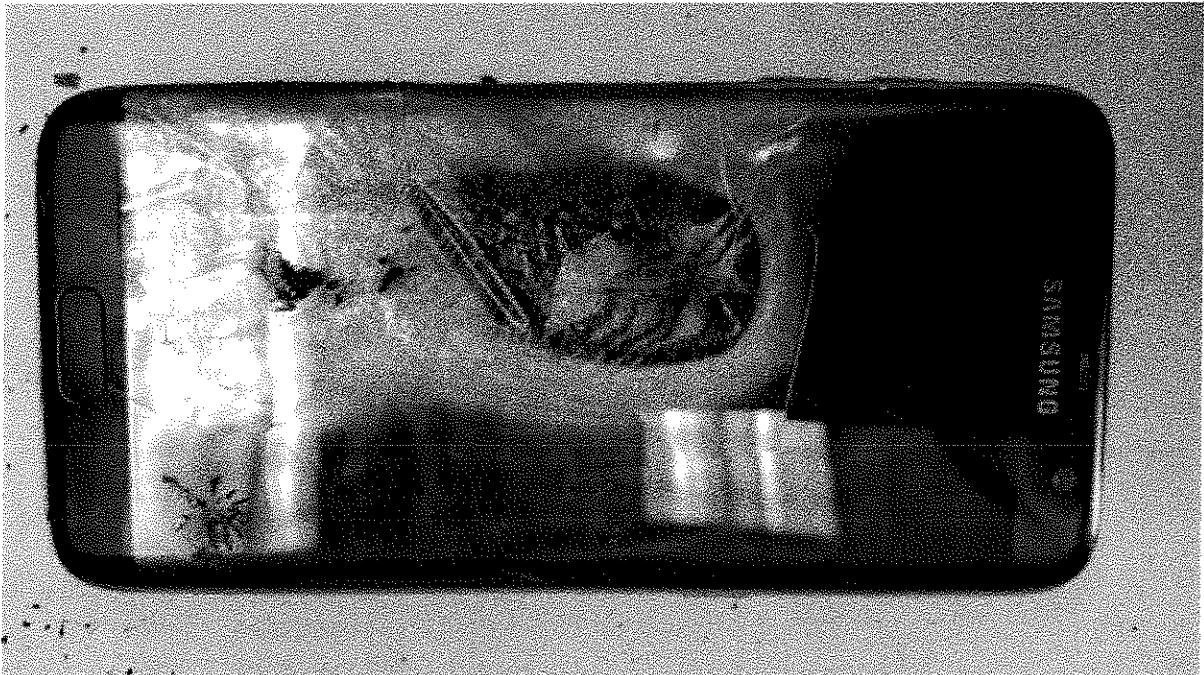
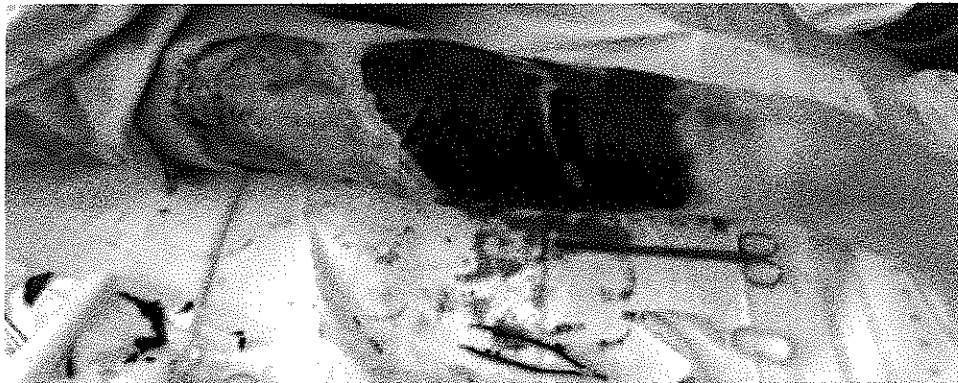


Exhibit D – Front View of Cell Phone.

16. The Samsung Galaxy S7 Edge cell phone battery explosion and current fire caused extensive damage to Mr. Ramirez, including but not limited to second degree burns to his right thumb and index finger as well as second and third degree burns to his right upper leg.

17. Mr. Ramirez was transported to Akron Children's Hospital, in Akron, Ohio where he was treated for his burns from the explosion.

18. While at Akron Children's Hospital, Mr. Ramirez was treated for his extensive burns; which included a significant skin graft surgery to his right leg. (Exhibit E – Compilation of Pictures of Mr. Ramirez's injuries while in the hospital).





19. As a result of Defendants' negligence, strict liability, and other liability producing conduct and the explosion of the Samsung Galaxy S7 Edge cell phone battery and concurrent fire, Mr. Ramirez sustained severe, permanent and life-altering injuries including but not limited to his groin, legs, and lower back and is currently undergoing extensive physical therapy.

20. On August 2, 2016, SAMSUNG announced the release of its new smart cell phone the Galaxy Note 7 and started shipping to U.S. customers on August 19, 2016.¹

21. SAMSUNG delayed rollout of all of its phone related devices in response to various reports on social media showing charred and burnt phones as a result of "explosions" from the battery.²

¹ Mike Wuerthele, "Samsung stops shipments of 'exploding' Galaxy Note 7 Phones," APPLEINSIDER, August 31, 2016, 10:48 AM PT, available at <http://appleinsider.com/articles/16/08/31/samsung-stops-shipments-of-exploding-galaxy-note-7-phones>.

² *Id.*

22. Only two weeks later, Thursday, September 1, 2016 SAMSUNG representatives released an official statement explaining that they were ceasing all sales of the Samsung Galaxy Smartphone and issuing a global recall as a result of reports of 35 faulty phone batteries.³
23. The lithium-ion battery found in all of SAMSUNG'S Newer Galaxy Smartphones includes volatile and flammable chemical compounds that can become unstable if overheated or punctured, which can cause the battery to burst into flames or explode.⁴
24. Nearly every major US cell phone carrier, including but not limited to Verizon, T-Mobile, Sprint, and U.S. Cellular have released recall information for consumers who ordered SAMSUNG's Galaxy Note 7 smart phone.⁵ (Exhibit F -- Verizon Recall <http://www.verizon.com/about/news/meet-new-samsung-galaxy-note7-verizon-preorders-start-tomorrow>; Exhibit G -- T-Mobile Recall <https://newsroom.t-mobile.com/news-and-blogs/samsung-note7-update.htm>; Exhibit H -- Spring Recall <http://newsroom.sprint.com/news-releases/samsung-galaxy-note-7-sales-suspended-at-sprint.htm>; Exhibit I -- U.S. Cellular Recall <https://twitter.com/USCellular/status/771722349280370688>).
25. Recently, on September 5, 2016, "Business Korea" broke a story received previously on September 3, 2016 from online media outlet, "Phone Arena," that a consumer reported that his Samsung Galaxy S7 Edge cell phone caught fire, and posted two images of the severely charred

³ Claire Reilly, "Samsung Recalls Galaxy Note 7 Over Battery Flaw," CNET, Sept. 2, 2016, 10:09 PDT, *available at* <http://www.cnet.com/news/samsung-confirms-global-recall-replacement-galaxy-note-7-faulty-battery/>.

⁴ Paul Mozer and Su-Hyun Lee, "Samsung to recall 2.5 million Galaxy Note 7s Over Battery Fires," NYT, Sept. 2, 2016, *available at* http://www.nytimes.com/2016/09/03/business/samsung-galaxy-note-battery.html?_r=0; *See also*, Zoe Kleinman, "Why Do Lithium Batteries Explode?" BBC NEWS, Sept. 2, 2016, *available at* <http://www.bbc.com/news/technology-37255127>.

⁵ *See* Andrew Cunningham, "Samsung Will Recall Galaxy Note 7 Because Of Exploding Batteries," ARS TECHNICA, Sept. 2, 2016, 9:22 A.M., *available at* <http://arstechnica.com/gadgets/2016/09/samsung-will-recall-galaxy-note-7-because-of-exploding-batteries/>.

phone.⁶ This comes after reports that SAMSUNG offered its users an exchange offer, where they can swap their recalled Galaxy Note 7 with a Galaxy 7S or S7 Edge.

FIRST CAUSE OF ACTION: STRICT PRODUCTS LIABILITY AGAINST SAMSUNG

26. All preceding paragraphs are incorporated by reference as if stated fully herein.

27. Defendant SAMSUNG is engaged in the business of selling manufacturing, designing, testing, assembling, supplying, importing, and distributing electronics to the public, including the Galaxy S7 Edge cell phone purchased and used by Mr. Ramirez.

28. Defendant SAMSUNG placed the Galaxy S7 Edge cell phone in the stream of commerce for sale through retailers with knowledge that it would be used without inspecting for dangers or defects. Defendant SAMSUNG knew or should have known that the ultimate users, operators or consumers would not or could not properly inspect these products for dangerous conditions and that the detection of such defects and dangers would be beyond with capabilities of such persons.

29. The Galaxy S7 Edge cell phone was not reasonably fit, suitable, or safe to the ultimate operators or consumers for its intended or reasonably foreseeable purposes when manufactured, designed, tested, assembled, supplied, imported, distributed and/or sold by Defendant SAMSUNG as follows:

- a. The Galaxy S7 Edge cell phone was manufactured, designed, tested, assembled, supplied, imported, distributed and/or sold in an unsafe, unsuitable, unreasonable dangerous and defective condition such that the Galaxy S7 Edge cell phone had an unreasonable propensity to heat and catch fire during normal and foreseeable conditions;

⁶ Cho Jin-Young, "Explosion Not Related to Galaxy Note: Samsung Galaxy S7 Edge Catches Fire While Charging," BUSINESS KOREA, Sept. 5, 2016 11:15 A.M., *available at* <http://www.businesskorea.co.kr/english/news/ict/15751-explosion-not-related-galaxy-note-samsung-galaxy-s7-edge-catches-fire-while-charging>.

b. The Galaxy S7 Edge cell phone was manufactured, designed, tested, assembled, supplied, imported, distributed and/or sold in an unreasonably safe, suitable, fit, dangerous, and defective condition, such that the cell phone had an unreasonable propensity to explode during normal and foreseeable conditions;

c. The Galaxy S7 Edge cell phone was defective in its design, manufacture, and warnings, in that it failed to operate as marketed and advertised, and failed to alert users to the hazardous conditions described herein;

d. The Galaxy S7 Edge cell phone was defective due to inadequate, or the absence of, warnings or instructions, including warning stickers, placards, or proper documentation to alert users regarding the hazardous conditions described herein; and

e. The Galaxy S7 Edge cell phone was defective in that its risks outweighed its utility and/or in that a more practical, feasible, and safer alternative design existed that would have reduced or prevented the propensity of the lithium-ion battery to explode.

30. At the time of the subject incident, the Galaxy S7 Edge cell phone was in the substantially same condition as when sold and distributed by Defendant SAMSUNG.

31. For the reasons set forth above the Galaxy S7 Edge cell phone was unreasonably fit, suitable, and safe to foreseeable users, including Mr. Ramirez.

32. As a direct and proximate cause of the foregoing conduct of Defendant SAMSUNG, Mr. Ramirez sustained serious and permanent bodily injuries resulting in pain and suffering, permanent impairment, disability, mental anguish, inconvenience, loss of the enjoyment of life, expense of medical care and treatment, expense of hospitalization, lost wages, and ability to earn wages in the past and to be experienced in the future.

SECOND CAUSE OF ACTION: NEGLIGENCE AGAINST SAMSUNG

33. All preceding paragraphs are incorporated by reference as if stated fully herein.

34. Defendant SAMSUNG knew or in the exercise of due care should have known that the Galaxy S7 Edge cell phone would be used without inspection in an unreasonably fit, suitable, safe, and dangerous condition and would create a foreseeable risk of harm to users, including Mr. Ramirez. Defendant SAMSUNG was under a duty to properly and adequately manufacture, design, test, assemble, supply, import, distribute and/or sell the Galaxy S7 Edge cell phone in a reasonably fit, suitable, and safe condition as not to present a danger to members of the general public who reasonably and expectedly, under ordinary circumstances, would come into contact with it, including Mr. Ramirez.

35. Defendant SAMSUNG breached the duty owed to Mr. Ramirez by negligently selling manufacturing, designing, testing, assembling, supplying, importing, and/or distributing the Galaxy S7 Edge cell phone when it was not in a reasonably fit, suitable, or safe condition for foreseeable use, as follows:

- a. Failing to manufacture, design, test, assemble, supply, import, distribute and/or sell the Galaxy S7 Edge cell phone in such a manner that it would not spontaneously heat and catch fire;
- b. Failing to manufacture, design, test, assemble, supply, import, distribute and/or sell the Galaxy S7 Edge cell phone in such a manner that it would not spontaneously explode; and
- c. Failing to provide reasonable and adequate warnings to the suppliers, purchasers and users of the Galaxy S7 Edge cell phone to alert users of the dangerous conditions described herein.

36. The defects described above existed at the time the Galaxy S7 Edge cell phone left SAMSUNG's control and did not undergo substantial change.

37. Mr. Ramirez was a foreseeable user or consumer.

38. The negligence described above directly and proximately caused the incident and injuries sustained by Mr. Ramirez in that it directly and in natural continuous sequence, produced or sustainably contributed to his injuries.

39. As a direct and proximate result of the foregoing negligence of Defendant SAMSUNG, Mr. Ramirez sustained serious and permanent bodily injuries, resulting in pain and suffering, permanent impairment, disability, mental anguish, loss for the capacity of enjoyment of life, expense of hospitalization, medical care and treatment in the past and to be obtained in the future, lost wages, and ability to earn wages in the past and to be experienced in the future.

**THIRD CLAUSE OF ACTION: BREACH OF IMPLIED WARRANTY AGAINST
SAMSUNG**

40. All preceding paragraphs are incorporated by reference as if stated fully herein.

41. Defendant SAMSUNG is engaged in the business of selling manufacturing, designing, testing, assembling, supplying, importing, and distributing electronics to the public, including the Galaxy S7 Edge cell phone purchased and used by Mr. Ramirez.

42. Defendant SAMSUNG placed the Galaxy S7 Edge cell phone in the stream of commerce for sale by retailers with knowledge that it would be used without inspecting for dangers or defects. Defendant SAMSUNG knew or should have known that the ultimate users, operators or consumers would not or could not properly inspect these products for dangerous conditions and that the detection of such defects and dangers would be beyond with capabilities of such persons.

43. The Galaxy S7 Edge cell phone unreasonably fit, suitable, or safe to the ultimate operators or consumers for its intended or reasonably foreseeable purposes when manufactured, designed,

tested, assembled, supplied, imported, distributed and/or sold by Defendant SAMSUNG in the following ways:

- a. The Galaxy S7 Edge cell phone was manufactured, designed, tested, assembled, supplied, imported, distributed and/or sold in an unreasonable, unfit, unsuitable, unsafe, dangerous and defective condition such that the Galaxy S7 Edge cell phone had an unreasonable propensity to heat and catch fire during normal and foreseeable conditions;
- b. The Galaxy S7 Edge cell phone was manufactured, designed, tested, assembled, supplied, imported, distributed and/or sold in an unreasonable, unfit, unsuitable, unsafe, dangerous and defective condition such that the Galaxy S7 Edge cell phone had an unreasonable propensity to explode during normal and foreseeable conditions;
- c. The Galaxy S7 Edge cell phone was defective in its design, manufacture, and warnings, in that it failed to operate as marketed and advertised, and failed to alert users to the hazardous conditions described herein;
- d. The Galaxy S7 Edge cell phone was defective due to inadequate, or the absence of, warnings or instructions, including warning stickers, placards, or proper documentation to alert users regarding the hazardous conditions described herein.
- e. The Galaxy S7 Edge cell phone was defective in that its risks outweighed its utility and/or in that a practical, feasible, and safer alternative design existed that would have reduced or prevented the propensity of the lithium-ion battery to explode.
- f. The Galaxy S7 Edge Cell Phone was designed, developed, tested, manufactured, assembled, sold, supplied, imported, and/or distributed in a manner which breached express or implied warranties of merchantability and/or fitness for its intended purpose.

44. At the time of the subject incident, the Galaxy S7 Edge cell phone was in the substantially same condition as when it left SAMSUNG'S control.

45. For the reasons set forth above the Galaxy S7 Edge cell phone was unreasonable, unfit, unsafe, unsuitable, dangerous, and defective to foreseeable users, including Mr. Ramirez.

46. As a direct and proximate cause of the foregoing conduct of Defendant SAMSUNG, Mr. Ramirez sustained serious and permanent bodily injuries resulting in pain and suffering, permanent impairment, disability, mental anguish, inconvenience, loss of the enjoyment of life, expense of medical care and treatment, expense of hospitalization, lost wages, and ability to earn wages in the past and to be experienced in the future.

**FOURTH CAUSE OF ACTION: SAMSUNG'S VIOLATION OF THE NEW JERSEY'S
CONSUMER FRAUD ACT**

47. All preceding paragraphs are incorporated by reference as if stated fully herein.

48. New Jersey's Consumer Fraud Act ("NJCFCA") prohibits "any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise. . . ." N.J.S. § 56:8-2. Defendant SAMSUNG engaged in unconscionable, fraudulent, and deceptive advertisement and/or sale practices that violated the NJCFCA, as more fully described herein.

49. New Jersey's Consumer Fraud Act defines "sale" expansively to include not only any sale, but also any "rental or *distribution*, *offer* for sale, rental or distribution or *attempt* directly or *indirectly* to sell, rent or distribute" N.J.S. § 56:8-1 (Emphasis added).

50. New Jersey's Consumer Fraud Act further provides that the actions described, "is declared to be an unlawful practice . . . *whether or not or not any person has been misled, deceived, or damaged . . .*" N.J.S. § 56:8-2 (Emphasis added).

51. Defendant SAMSUNG engaged in unconscionable, fraudulent, deceptive, or unlawful advertisement and/or sales practices with respect to the defective Samsung Galaxy 7S edge cell phone in violation of The New Jersey Consumer Fraud Act.

52. Defendant SAMSUNG's misrepresentations and omissions regarding the purported safety and reliability of the defective Samsung Galaxy S7 Edge cell phone were likely to deceive a reasonable purchaser, like Mr. Ramirez, and the information would have been material to a reasonable purchaser.

53. Defendant SAMSUNG engaged in these unlawful, fraudulent and, deceptive sales and advertisement practices in furtherance of its business.

54. Had Plaintiff known that the Samsung Galaxy S7 Edge cell phone posed a significant safety and life-threatening defect, he would not have purchased it.

55. As a direct and proximate cause result of Defendant SAMSUNG's violations of NJCFA, Mr. Ramirez suffered actual damages.

56. Defendant SAMSUNG's conduct constitutes unconscionable and unlawful advertisement, and fraudulent or deceptive sales practices in violation of N.J.S. § 56:8-2, and this Court should award Plaintiffs their costs and attorneys' fees pursuant to N.J.S. § 56:8-159, as well as "shall . . . award threefold the damages . . ." pursuant to N.J.S. §56:8-19.

WHEREFORE, Plaintiff demands Judgment against Defendants:

a. On the FIRST CAUSE OF ACTION, compensatory damages, punitive damages, interest, attorneys' fees, costs of suit and any such other relief as the Court deems just and proper;

b. On the SECOND CAUSE OF ACTION, compensatory damages, punitive damages, interest, attorneys' fees, costs of suit and any such other relief as the Court deems just and proper;

c. On the THIRD CAUSE OF ACTION, compensatory damages, punitive damages, interest, attorneys' fees, costs of suit and any such other relief as the Court deems just and proper;

d. On the FOURTH CAUSE OF ACTION, compensatory damages, treble damages, punitive damages, interest, attorneys' fees, costs of suit and any such other relief as the Court deems just and proper;

Respectfully submitted,



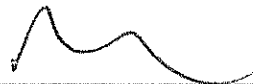
**MARC I. SIMON, ESQUIRE
HARRY B. GOSNEAR, ESQUIRE
T. MICHAEL MORGAN, ESQUIRE*
ANDREW P. FELIX, ESQUIRE*
EVAN ROSENBERG, ESQUIRE***

**Pending Admission Pro Hac Vice pursuant to R 1:21-2.*

DEMAND FOR TRIAL BY JURY

The plaintiff, Daniel Ramirez, demands trial by a jury on all of the triable issues of this Complaint, pursuant to New Jersey Court Rules 1:8-2(b) and 4:35-1(a).

SIMON & SIMON, P.C.



Marc I. Simon, Esquire

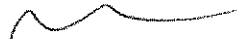
DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:5-1(c), T. Michael Morgan, Esquire* is designated as trial counsel for the plaintiff, Daniel Ramirez, in the above matter.

** Pending Admission Pro Hac Vice pursuant to R 1:21-2.*

In the alternative, Plaintiff will designate trial counsel pursuant to R 4:25-4.

SIMON & SIMON, P.C.




Marc I. Simon, Esquire

CERTIFICATION OF NO OTHER ACTIONS

Pursuant to R. 4:5-1(b)(2), it is hereby stated that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of our knowledge or belief. Also, to the best of our belief, no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in the above action. In addition, we recognize the continuing obligation of each party to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

SIMON & SIMON, P.C.

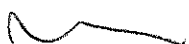


Marc I. Simon, Esquire

DEMAND FOR DISCOVERY OF INSURANCE COVERAGE

Pursuant to R. 4:10-2(b), demand is made that defendant disclose to plaintiff's attorney whether or not there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or indemnify or reimburse for payments made to satisfy the judgment and provide plaintiff's attorney with true copies of those insurance agreements or policies, including, but not limited to, any and all declaration sheets. This demand shall include and cover not only primary coverage, but also any and all excess, catastrophe, and umbrella policies.

SIMON & SIMON, P.C.



Marc I. Simon, Esquire

**DEMAND TO RESPOND TO FORM C AND FORM C(4) DISCOVERY
DIRECTED TO DEFENDANTS**

PLEASE TAKE NOTICE that the Plaintiff demands answers to Uniform Interrogatories as set forth in APPEDIX II of the New Jersey Court Rules.

SIMON & SIMON, P.C.



Marc I. Simon, Esquire