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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

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NEOTERIC SOLUTION INC. D/B/A
WOWPARTS,

Case No.:

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Plaintiff,

**COMPLAINT FOR STRICT PRODUCTS
LIABILITY, BREACH OF WARRANTY,
AND CONTRIBUTION**

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v.

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DONGGUAN HOSOWELL
TECHNOLOGY CO., LTD.,
HOSOWELL (HK) TECHNOLOGY CO.,
LTD., and DOES 1 to 100, inclusive,

DEMAND FOR JURY TRIAL

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Defendants.

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Plaintiff Neoteric Solution Inc. d/b/a Wowparts (hereinafter “Plaintiff”), by and through
its counsel, alleges against defendants Dongguan Hosowell Technology Co., Ltd. and Hosowell
(HK) Technology Co., Ltd. (jointly “Hosowell”) as follows:

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THE PARTIES

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1. Plaintiff is a company organized under the laws of the state of California with its
principal place of business located at 3120 Osgood Court, Fremont, California. Plaintiff is
engaged in the wholesale and retail of electronics products, including laptop replacement
batteries, power supplies, etc.

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1 2. Defendant Dongguan Hosowell Technology Co., Ltd. is a company organized
2 under the laws of the People’s Republic of China, with its principal place of business at No. 88,
3 Yinying Road, Gaoying Village, Dalang Town, Dongguan City, Guangdong Province, China,
4 Postal Code 523771 and with an operations and distribution center in Fremont, California.

5 3. Defendant Hosowell (HK) Technology Co., Ltd. is a company organized under the
6 laws of Hong Kong, with its principal place of business at No. 88, Yinying Road, Gaoying
7 Village, Dalang Town, Dongguan City, Guangdong Province, China, Postal Code 523771 and
8 with an operations and distribution center in Fremont, California.

9 4. Defendants’ operations and distribution center in Fremont, California is known as
10 Bay Valley Parts, Inc., with a principal place of business at 3133 Osgood Court, Fremont,
11 California 94539.

12 **JURISDICTION AND VENUE**

13 5. This Court has jurisdiction under 28 U.S.C. § 1332, in that this is a civil action
14 between citizens of different states and/or countries, and in which the amount of controversy
15 exceeds the sum or value of \$75,000, exclusive of interest and costs. The Court has supplemental
16 jurisdiction over all other claims under U.S.C. § 1367.

17 6. Personal jurisdiction and venue is proper in this Court under 28 U.S.C. § 1391(a)
18 and (b) because (i) Defendants have set up operations and distribution center in to this judicial
19 district, (ii) Defendants have sold products to this judicial district and (iii) a substantial part of the
20 events giving rise to Plaintiff’s claims occurred in this judicial district.

21 7. At all times relevant hereto, Hosowell engaged in business in, targeted business in
22 and purposefully availed themselves of business in California and throughout the United States,
23 was involved in the distribution, marketing, sale and/or placing into the stream of commerce of
24 computer replacement batteries and developed, manufactured, distributed, promoted, marketed,
25 and/or sold in interstate commerce the replacement battery at issue in this litigation.

26 8. Intradistrict assignment to any division under Civil L.R. 3-5(b) and 3-2(c) is
27 proper because a substantial part of the alleged events and/or acts, occurred in one or more of the
28 counties listed in Local Rule 3-2(d).

FACTUAL BACKGROUND

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2 9. Plaintiff purchased replacement batteries from Hosowell from May to September
3 2012. As a business routine, Plaintiff sent purchase orders to Hosowell to purchase replacement
4 batteries in bulk. Hosowell shipped its products to its Bay Valley Parts, Inc. Plaintiff picked up
5 the ordered products from Bay Valley Parts, Inc. Plaintiff paid the orders to Hosowell.

6 10. Plaintiff placed the replacement batteries for sale in Amazon.com or eBay.com.
7 Customers placed orders online and Plaintiff shipped batteries to customers based on the online
8 orders. Plaintiff did not alter the replacement batteries, and redistributed the products in the same
9 condition as they were sent to Plaintiff from Hosowell.

10 11. On June 16, 2014, Philadelphia Contributionship Insurance Company (hereinafter
11 “PCIC”), a/s/o Giuseppe Anniballi, filed a complaint against Plaintiff and Amazon.com
12 (hereinafter “Amazon”), a copy of which is attached as Exhibit 1. (PCIC v. Neoteric, et al., U.S.
13 District Court for the District of New Jersey, Docket No. 2:14-cv-03836-SDW-LDW.)

14 12. Further, on September 16, 2015, Alanna Staton and Robert Staton, the tenants, and
15 Giuseppe Anniballi, the landlord, (hereinafter jointly the “Staton & Anniballi”) jointly filed a
16 complaint against Plaintiff and Amazon, a copy of which is attached as Exhibit 2. (Staton, et al.
17 v. Neoteric, et al., U.S. District Court for the District of New Jersey, Docket No. 2:15-06875-
18 SDW-LDW.)

19 13. Both the PCIC complaint and the Staton & Anniballi complaint allege essentially
20 the same facts. On or about September 17, 2012, a fire erupted at the property located at 54 The
21 Terrace, Rutherford, NJ (the “Property”), owned by Giuseppe Anniballi (the “Insured”) and
22 insured by PCIC.

23 14. Both complaints allege that the fire was found to have originated in a battery pack
24 which had been purchased from Plaintiff through Amazon online several days before by the
25 Insured’s tenant Staton.

26 15. Both allege that the replacement battery was delivered on September 17, 2012 and
27 installed in accordance with the directions provided and then allowed the unit to charge.

28 16. Both allege that shortly after the replacement battery was installed it began to

1 overheat.

2 17. Both allege that the battery thereafter started a fire, which spread throughout the
3 Insured’s Property.

4 18. Both allege that due to the fire, significant property damage was sustained to the
5 Insured’s Property and to the Staton.

6 19. Both allege that as a direct and proximate result of the damage sustained, a claim
7 for property damage was submitted to PCIC, for repair and restoration work at the Insured’s
8 Property.

9 20. Both allege that as a result of the aforementioned claims, PCIC paid for the
10 damages incurred in the amount of \$313,176.74. PCIC alleges that as a result of these payments,
11 PCIC now, as subrogee of Giuseppe Anniballi, seeks to recover the aforementioned damages
12 from Plaintiff and Amazon.

13 21. Further, Staton has suffered a personal property loss of \$25,831. Staton seeks to
14 recover damages from Plaintiff and Amazon.

15 22. Both brought claims for Strict Products Liability and Breach of Warranty, as set
16 forth fully in the attached complaints.

17 23. Defendant Amazon.com has filed a cross-claim for indemnification against
18 Plaintiff in the U.S. District Court action.

19 24. On September 16, 2014, Plaintiff filed a Third Party Complaint against Hosowell
20 in the U.S. District Court action.

21 25. On September 8, 2015, 2014, Hosowell filed a motion to dismiss action based on
22 New Jersey court’s lack of jurisdiction.

23 26. Hosowell is fully liable to Plaintiff, and Plaintiff seeks to recover its entire share of
24 any judgment against it in this action.

25 **Count I - Strict Products Liability**

26 27. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 to 26 as if
27 fully set forth herein.

28 28. Between approximately May and September 2012, Plaintiff purchased one or more

1 replacement batteries from Hosowell.

2 29. Between May and September 2012, Plaintiff received the replacement batteries
3 from Hosowell.

4 30. Plaintiff did not open, alter, adjust, change or in any way impact any replacement
5 battery it received from Hosowell.

6 31. Assuming (but not agreeing) that the facts regarding the sale and distribution of a
7 replacement battery in the underlying complaints are true, on or about September 11, 2012,
8 Plaintiff received an order from Robert Staton to purchase a replacement battery for a laptop.

9 32. Assuming (but not agreeing) that the facts regarding the sale and distribution of a
10 replacement battery in the underlying complaints are true, Plaintiff sent a replacement battery to
11 Robert Staton on or about September 12, 2012.

12 33. Assuming (but not agreeing) that the facts regarding the sale and distribution of a
13 replacement battery in the underlying complaints are true, when Plaintiff sent a battery to Mr.
14 Staton, it sent a battery in exactly the same condition as it had received the battery from
15 Hosowell.

16 34. Hosowell knew that Plaintiff would and did sell Hosowell's replacement batteries
17 in New Jersey and in the U.S. and intended that Plaintiff did and does so.

18 35. At all times relevant, if the replacement battery was defective as to design and
19 manufacture, as alleged in the underlying complaints, this was solely because of the actions of
20 Hosowell and was the responsibility of Hosowell.

21 36. If any of the defects alleged in the underlying complaints were present in the
22 subject battery, this was solely because of the actions of Hosowell and was the responsibility of
23 Hosowell.

24 37. If the replacement battery in issue was unsafe for its intended use, as set forth in
25 the underlying complaints, this was solely because of the actions of Hosowell and was the
26 responsibility of Hosowell.

27 38. If Plaintiff is strictly liable for damages as alleged in the underlying complaints,
28 such liability arises solely because of the actions of Hosowell and is the responsibility of

1 Hosowell.

2 39. If the fire and subsequent damage to the property were due to claimed defective
3 and unreasonably dangerous conditions as alleged in the underlying complaints, such matters
4 were due solely to the actions of Hosowell and are the responsibility of Hosowell.

5 40. Therefore, Plaintiff demands judgment against Hosowell, and each of them, for all
6 of the sums that may be adjudged against Plaintiff in PCIC's favor, in Staton's favor, or in
7 Amazon's favor on the cross-claim.

8 **Count II - Breach of Warranty**

9 41. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 to 40 as if
10 fully set forth herein.

11 42. If Plaintiff is found to have expressly and/or impliedly warranted the subject
12 replacement battery as being of merchantable quality, as safe and fit for the purpose intended
13 when used under ordinary conditions and in an ordinary and foreseeable matter, such warranty
14 will have arisen solely due to the actions of Hosowell and is the responsibility of Hosowell.

15 43. Hosowell expressly and/or impliedly warranted that the subject battery was of
16 merchantable quality, and was safe and fit for the purpose intended when used under ordinary
17 conditions and in an ordinary and foreseeable matter.

18 44. If any fire or damage sustained by PCIC's Insured and by Staton was caused by
19 any breach of express or implied warranties, such breach was due to the sole actions of Hosowell
20 and is the responsibility of Hosowell.

21 45. If, as a direct and proximate result of any breach of express or implied warranties,
22 the incident in the underlying complaint occurred and damaged PCIC's Insured and Staton, this
23 was due to the sole actions of Hosowell and is the responsibility of Hosowell.

24 46. If, PCIC and/or Staton suffered any damages, as alleged in the underlying
25 complaints, this was due to the sole actions of Hosowell and is the responsibility of Hosowell.

26 47. Therefore, Plaintiff demands judgment against Hosowell, and each of them, for all
27 of the sums that may be adjudged against Plaintiff in PCIC's favor, in Staton's favor, or in
28 Amazon's favor on the cross-claim.

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Count III - Contribution

48. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 to 47 as if fully set forth herein.

47. Plaintiff demands judgment of contribution against Hosowell, and each of them.

DEMAND FOR JURY TRIAL

Plaintiff demands that this action be tried by a jury for all issues which are so triable.

DATED: November 9, 2015

LAW OFFICES OF DANNING JIANG

By: /s/ Danning Jiang
 Danning Jiang, Esq.

Attorneys for Plaintiff
Neoteric Solution Inc. d/b/a
Wowparts

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
Newark Vicinage

PHILADELPHIA CONTRIBUTIONSHIP
INSURANCE COMPANY A/S/O GIUSEPPE
ANNIBALLI,

Plaintiff,

v.

NEOTERIC SOLUTIONS INC. d/b/a
WOWPARTS

and

AMAZON.COM, INC.,

Defendants.

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DOCKET NO.: _____
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Civil Action
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COMPLAINT
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Plaintiff, Philadelphia Contributionship Insurance Company a/s/o Giuseppe Anniballi, by way of Complaint, says:

JURISDICTION

1. Jurisdiction in this case is based on diversity of citizenship of the parties and the amount in controversy. The plaintiff is an insurance provider based in the State of Pennsylvania. The location of the incident underlying this litigation is in Rutherford, New Jersey. Defendant Neoteric Solutions, Inc. d/b/a WowParts is a corporation having its principal place of business in the State of California. Defendant Amazon.com, Inc. is a corporation having its principal place of business in the State of Washington. The amount in controversy exceeds the sum of seventy five thousand dollars (\$75,000.00), exclusive of interest and costs.

PARTIES

2. Plaintiff, Philadelphia Contributionship Insurance Company (“PCIC”) is an insurance company doing business in the Commonwealth of Pennsylvania with a principal business address of 210 S. Fourth Street, Philadelphia, PA 19106.

3. At all relevant times hereto, Plaintiff PCIC was the insurer for the property owned by Giuseppe Anniballi (“the insured”), located at 54 The Terrace, Rutherford, NJ 07070.

4. Defendant, Neoteric Solutions, Inc. d/b/a WowParts (“WowParts”) is a company involved in the distribution, marketing, and sale of electronic accessories, including but not limited to computer batteries, and has a principal business address of 2110 Rheem Drive Suite C, Pleasanton, CA 94588.

5. Defendant, Amazon.com, Inc. (“Amazon”) is a company involved in the distribution, marketing, and digital sale of items, including but not limited to computer batteries, and has a principal corporate headquarters of business address of 1200 12th Ave. South, Suite 1200, Seattle, WA 98144-2734.

BACKGROUND

6. On or about September 17, 2012, a fire erupted at the property located at 54 The Terrace, Rutherford NJ (“the property”), which was owned by Guiseppe Anniballi and insured by Plaintiff PCIC.

7. The fire was found to have originated in a battery pack which had been purchased online several days prior by a tenant of the insured from Defendant WowParts through Defendant Amazon.

8. The replacement battery was delivered on September 17, 2012 and installed in accordance with the directions provided and then allowed the unit to charge.

9. Shortly after the replacement battery was installed it began to overheat.

10. The battery thereafter started a fire, which spread throughout the Anniballi property.

11. Due to the fire, significant property damage was sustained to the property of PCIC's insured.

12. As a direct and proximate result of the damages sustained, a claim for property damage was submitted to plaintiff, PCIC, for repair and restoration work to the Anniballi home.

13. As a result of the aforementioned claims, PCIC paid for the damages incurred in the amount \$313,176.74 for the subject property.

14. As a result of these payments, PCIC now, as subrogee of Giuseppe Anniballi, seeks to recover the aforementioned damages from the defendants, WowParts and Amazon.

COUNT I
STRICT PRODUCTS LIABILITY

15. Plaintiff repeats the allegations set forth in paragraphs 1 through 14 as though set forth at length herein.

16. Defendants Amazon and Wowparts were at all relevant times hereto involved in the distribution, marketing, sale and/or placing into the stream of commerce, computer replacement batteries, and did distribute, market, sell and/or place into the stream of commerce the replacement battery at issue in this case.

17. At all times relevant to this Complaint, the replacement battery was defective as to design and manufacture at the time it left the facilities of Defendants.

18. The defects present at the time the battery was sold, distributed, or placed into the stream of commerce include, but are not limited to:

- a. The replacement battery presented an unreasonably dangerous risk that it would cause a fire while in use;
- b. The materials and the design of the replacement battery were insufficient or inadequate so as to prevent the replacement battery from causing a fire while in use;
- c. Defendants failed to ensure the presence of adequate safety features, including but not limited to adequate thermal sensors, in order to prevent the replacement battery from overheating and causing a fire;
- d. Defendants failed to ensure the presence of features which might prevent an electrical malfunction from causing a fire;
- e. The replacement battery was unsafe for its intended and foreseeable uses;
- f. The materials and design of the replacement battery created an unreasonably dangerous risk of fire; and
- g. Failure to incorporate safety devices or features capable of detecting and/or interrupting a failure or preventing a failure from causing a fire.

19. Upon information and belief, at the time of the fire the replacement battery was in substantially the same condition as it was the time it was distributed, marketed, and/or sold by Defendant.

20. Under the circumstances then and there existing, Defendants' replacement battery was unsafe for its intended use for the reason that the product had caused an unreasonably dangerous condition.

21. By distributing, selling, and/or placing into the stream of commerce the replacement battery in a defective condition, Defendants are strictly liable for the damages sustained by Plaintiff's insured.

22. The fire, and the subsequent damage to the property of Plaintiff's insured, was due to and proximately caused by the aforementioned defective and unreasonably dangerous conditions.

WHEREFORE, plaintiff, the Philadelphia Contributionship Insurance Company a/s/o Anniballi Giuseppe, demands judgment in their favor against defendants, Neoteric Solutions, Inc. d/b/a WowParts and Amazon.com, Inc, in the amount of \$313,176.74, together with the costs of this action, and any other relief this Court may deem just and proper.

COUNT II
BREACH OF WARRANTY

23. Plaintiff repeats the allegations set forth in paragraphs 1 through 22 above, as though set forth at length herein.

24. At all times relevant to this Complaint, Defendants Amazon and Wowparts were at all relevant times hereto involved in the distribution, marketing, sale and/or placing into the stream of commerce, computer replacement batteries, and did distribute, market, sell and/or place into the stream of commerce the replacement battery at issue in this case.

25. Defendants, Amazon and Wowparts, expressly and/or impliedly warranted that the subject replacement battery was of merchantable quality, and was safe and fit for the purpose intended when used under ordinary conditions and in an ordinary or foreseeable manner.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
Newark Vicinage

ALANNA STATON; ROBERT STATON;
and GIUSEPPE ANNIBALLI,

Plaintiff(s),

v.

DOCKET NO.:

Civil Action

NEOTERIC SOLUTIONS INC., d/b/a
WOWPARTS and AMAZON.COM, INC.,

COMPLAINT

Defendant(s).

Plaintiffs, Alanna Staton, Robert Staton and Giuseppe Anniballi, by way of Complaint against the defendants, Neoteric Solutions, Inc., d/b/a Wowparts, and Amazon.Com, Inc., says:

JURISDICTION

1. Jurisdiction in this case is based on diversity of citizenship of the parties and the amount in controversy. The plaintiffs are owners/renters of property in the State of New Jersey. The location of the incident underlying this litigation is in Rutherford, New Jersey. Defendant, Neoteric Solutions Inc., d/b/a Wowparts, is a corporation having its principal place of business in the State of California. Defendant, Amazon.com, Inc., is a corporation having its principal place of business in the State of Washington. The amount in controversy exceeds the sum of seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs--\$25,831.00 as to the Staton claim and \$53,786.53 as to the Anniballi claim.

PARTIES

2. Plaintiffs, Alanna Staton and Robert Staton, were the renters of property situate at 54 The Terrace located in Rutherford, New Jersey ("the property").

3. Plaintiff, Giuseppe Anniballi, was the owner of property situate at 54 The Terrace located in Rutherford, New Jersey ("the property").

4. The defendant, Neoteric Solutions, Inc., d/b/a WowParts ("WowParts"), is a company authorized to do business in the State of New Jersey and involved in the distribution, marketing and sale of electronic accessories including, but not limited to, computer batteries, and has a principal place of business located at 2110 Rheem Drive, Suite C, Pleasanton, California 94588.

5. The defendant, Amazon.com, Inc. ("Amazon"), is a company authorized to do business in the State of New Jersey and involved in the distribution, marketing and digital sale of items including, but not limited to, computer batteries, and has a principal place of business located at 1200 12th Avenue South, Suite 1200, Seattle, Washington 98144-2734.

BACKGROUND

6. On or about September 17, 2012, a fire erupted at the property located at 54 The Terrace located in Rutherford, New Jersey ("the property"), which was owned by plaintiff, Giuseppe Anniballi, and being rented by plaintiffs, Alanna Staton and Robert Staton.

7. The fire was found to have originated in a battery pack which had been purchased online several days prior by plaintiffs from defendant, WowParts, through defendant, Amazon.

8. The replacement battery was delivered on September 17, 2012 and installed in accordance with the directions provided and then allowed the unit to charge.

9. Shortly after the replacement battery was installed it began to overheat.

10. The battery thereafter started a fire, which spread throughout the property.

11. Due to the fire, significant property damage was sustained to plaintiff's personal property.

12. As a direct and proximate result of the damages sustained plaintiff, Giuseppe Anniballi, sustained severe and significant property damage to his property and plaintiffs, Alanna Staton and Robert Staton, were forced to incur significant expenses in order to replace their personal property as a result of the above-referenced fire.

FIRST COUNT
STRICT PRODUCTS LIABILITY

13. Plaintiffs repeat the allegations contained in all of the above-referenced paragraphs as if same were set forth more fully herein and makes them a part hereof.

14. At all times relevant hereto defendants were involved in the distribution, marketing, sale and/or placing into the stream of commerce, computer replacement batteries and did distribute, market, sell and/or place into the stream of commerce the replacement battery at issue in this case.

15. At all times relevant hereto, the replacement battery was defective as to design and manufacture at the time it left the facilities of defendants.

16. The defects present at the time the battery was sold, distributed or placed into the stream of commerce include, but are not limited to:

- a. The replacement battery presented an unreasonably dangerous risk that it would cause a fire while in use;
- b. The materials and the design of the replacement battery were insufficient or inadequate so as to prevent the replacement battery from causing a fire while in use;

- c. Defendants failed to ensure the presence of adequate safety features including, but not limited to, adequate thermal sensors in order to prevent the replacement battery from overheating and causing a fire;
- d. Defendants failed to ensure the presence of features which might prevent an electrical malfunction from causing a fire;
- e. The replacement battery was unsafe for its intended and foreseeable uses;
- f. The materials and design of the replacement battery created an unreasonably dangerous risk of fire; and
- g. Failure to incorporate safety devices or features capable of detecting and/or interrupting a failure or preventing a failure from causing a fire.

17. Upon information and belief, at the time of the fire the replacement battery was in substantially the same condition as it was the time it was distributed, marketed and/or sold by defendants.

18. Under the circumstances then and there existing, defendants' replacement battery was unsafe for its intended use for the reason that the product had caused an unreasonably dangerous condition.

19. By distributing, selling, and/or placing into the stream of commerce the replacement battery in a defective condition, defendants are strictly liable for the damages sustained by plaintiffs.

20. The fire, and the subsequent damage to plaintiffs' property, was due to and proximately caused by the aforementioned defective and unreasonably dangerous conditions.

WHEREFORE, plaintiffs demand judgment in their favor against the defendants in the amount of \$79,617.53, together with the costs of this action, and any other relief this Court may deem just and proper.

SECOND COUNT
BREACH OF WARRANTY

21. Plaintiff repeats the allegations contained in all of the above-referenced paragraphs as if same were more fully set forth herein and makes them a part hereof.

22. At all times relevant hereto, defendants were involved in the distribution, marketing, sale and/or placing into the stream of commerce, computer replacement batteries, and did distribute, market, sell and/or place into the stream of commerce the replacement battery at issue in this case.

23. Defendants expressly and/or impliedly warranted that the subject replacement battery was of merchantable quality, and was safe and fit for the purpose intended when used under ordinary conditions and in an ordinary or foreseeable manner.

24. The fire on September 17, 2012 and the consequent property damage sustained by plaintiffs was caused by defendants' breach of such express and/or implied warranties.

25. As a direct and proximate result of the breach of these express and/or implied warranties, the subject incident occurred, causing the property damage sustained by plaintiffs.

26. By reason of the foregoing, plaintiffs suffered damages in the total sum of \$79,617.53, together with interest and costs of this action.

WHEREFORE, plaintiffs demand judgment in their favor against the defendants in the amount of \$79,617.53, together with the costs of this action, and any other relief this Court may deem just and proper.

THIRD COUNT
NEGLIGENCE

27. Plaintiff repeats the allegations contained in all of the above-referenced paragraphs as if same were more fully set forth herein and makes them a part hereof.

28. Both claims in this matter, once combined, exceed the jurisdictional limit of this Court.

WHEREFORE, plaintiffs demand judgment in their favor against the defendants in the amount of \$79,617.53, together with the costs of this action, and any other relief this Court may deem just and proper.

KEARNS & DUFFY, P.C.

By: 

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Attorney for Plaintiff

Dated: September 16, 2015