

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Beaudry v. The NOCO Company, Inc.

Beaudry · No. 25-cv-01467-JST · Decided July 2, 2025

OPINION

Beaudry v. The NOCO Company, Inc.

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 PETER BEAUDRY, Case No. 25-cv-01467-JST 8 Plaintiff,

ORDER GRANTING IN PART AND

9 v. DENYING IN PART MOTION TO

DISMISS AND DENYING MOTION TO

10 THE NOCO COMPANY, INC., STAY DISCOVERY

11 Defendant. Re: ECF No. 6 12 13 Before the Court is Defendant The NOCO Company, Inc.’s
motion to dismiss. ECF No. 6. 14 The Court will grant the motion in part and deny it in part. The
Court will deny as moot NOCO’s 15 motion to stay discovery pending resolution of its motion to
dismiss, ECF No. 31.

16 I. BACKGROUND

17 For the purpose of deciding this motion, the Court accepts as true the following factual 18
allegations from the complaint, ECF No. 1-1. Defendant NOCO manufactures several models—
19 the GB20, GB40, GB50, GB70, and GB150—of products designed to jump-start dead vehicle
20 batteries (“the Products”). Id. ¶¶ 8–13. The Products are available for sale on NOCO’s website
21 and via online retailer Amazon, and NOCO is the “#1 Best Seller in Jump Starters” on
Amazon. 22 Id. ¶¶ 13, 16. The Products’ Amazon webpages represent that they allow a user to
“Start Dead 23 Batteries” and “Safely jump start a dead battery in seconds,” and they further
represent that the 24 Products are “easy-to-use” and “mistake-proof.” Id. ¶ 14. 25 But the Products
have a defect, alleged on information and belief, that prevents them from 26 sensing that they are
connected to a battery if the battery has less than 2 volts of power remaining. 27 Id. ¶ 21. The
Products will not jump start a battery under these conditions, and consequently 1 reliable as
advertised.” Id. ¶ 23. 2 Plaintiff and putative class representative Peter Beaudry purchased a new
GB150 Product 3 through Amazon on August 5, 2024. Id. ¶ 31. He relied on the representations
on the Amazon 4 website that the Product was “ultrasafe,” “mistake-proof,” and could “start dead
batteries”— 5 including on boats. Id. ¶ 33. When Beaudry’s boat battery died, however, the

Product failed to 6 jump-start it. Id. ¶ 35. When Beaudry used a friend's jump starter, he was able to jump-start his 7 boat. Id. ¶ 36. 8 Beaudry filed his complaint in the Sonoma County Superior Court on December 27, 2024, 9 alleging claims for: (1) breach of implied warranty of fitness for a particular purpose, Cal. Com. Code § 2315; (2) breach of implied warranty of merchantability, Cal. Com. Code § 2314(2); 11 (3) breach of implied warranty of fitness for a particular purpose, California Song-Beverly Act, 12 Cal. Civ. Code § 1790 et seq.; (4) breach of implied warranty of merchantability, California Song- 13 Beverly Act; (5) violations of California False Advertising Law Cal. Bus. & Prof. Code § 17500 et 14 seq. ("FAL"); and (6) violations of California Unfair Competition Law, Cal. Bus. & Prof. Code 15 § 17200 et seq. ("UCL"). NOCO removed the action to this federal court on February 12, 2025. 16 ECF No. 1. 17 NOCO moved to dismiss the action on February 19, 2025. ECF No. 6. Beaudry opposes 18 the motion, ECF No. 22, and NOCO has filed a reply, ECF No. 24. On May 7, 2025, NOCO also 19 moved to stay discovery pending resolution of the instant motion to dismiss. ECF No. 31. 20 Beaudry opposes that motion, ECF No. 33, and Beaudry filed a reply. ECF No. 36.1

21 II. JURISDICTION

22 The Court has jurisdiction under 28 U.S.C. § 1332.

23 III. LEGAL STANDARD

24 To survive a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), a 25 complaint must contain "a short and plain statement of the claim showing that the pleader is 26 entitled to relief." Fed. R. Civ. P. 8(a)(2). Dismissal "is appropriate only where the complaint 27 1 lacks a cognizable legal theory or sufficient facts to support a cognizable legal theory." 2 Mendiondo v. Centinela Hosp. Med. Ctr., 521 F.3d 1097, 1104 (9th Cir. 2008). "[A] complaint 3 must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible 4 on its face.'" Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atl. Corp. v. Twombly, 5 550 U.S. 544, 570 (2007)). Factual allegations need not be detailed, but the facts must be "enough 6 to raise a right to relief above the speculative level." Twombly, 550 U.S. at 555. 7 "A claim has facial plausibility when the plaintiff pleads factual content that allows the 8 court to draw the reasonable inference that the defendant is liable for the misconduct alleged." 9 Ashcroft, 556 U.S. at 678. While this standard is not "akin to a 'probability requirement,' . . . it 10 asks for more than a sheer possibility that a defendant has acted unlawfully." Id. (quoting 11 Twombly, 550 U.S. at 556). "Where a complaint pleads facts that are 'merely consistent with' a 12 defendant's liability, it 'stops short of the line between possibility and plausibility of entitlement to 13 relief.'" Id. (quoting Twombly, 550 U.S. at 557). 14 In determining whether a plaintiff has met the plausibility requirement, a court must 15 "accept all factual allegations in the complaint as true and construe the pleadings in the light most 16 favorable" to the plaintiff. Knieval v. ESPN, 393 F.3d 1068, 1072 (9th Cir. 2005).

17 IV. REQUESTS FOR JUDICIAL NOTICE

18 NOCO asks the Court to take judicial notice of, or find incorporated by reference in the 19

complaint, several documents: two Amazon product listing webpages, for the NOCO GB40 and 20 NOCO GB150, ECF No. 6 at 14–15; two Amazon NOCO product reviews, both of which are 21 quoted in the complaint, *id.* at 6; the NOCO GB150 User Guide, *id.*; three Amazon reviews not 22 quoted in the complaint, ECF No. 6-1 ¶¶ 5, 6, 7; and “screenshots of Amazon AI reports for ‘ease 23 of use’ for all NOCO Boost Products,” *id.* ¶ 8. 24 In general, “district courts may not consider material outside the pleadings when assessing 25 the sufficiency of a complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure.” 26 *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 998 (9th Cir. 2018). But on a motion to 27 dismiss, the court may “consider materials incorporated into the complaint” when “the complaint 1 document’s authenticity is not in question[,] and there are no disputed issues as to the document’s 2 relevance.” *Coto Settlement v. Eisenberg*, 593 F.3d 1031, 1038 (9th Cir. 2010). A document is 3 incorporated by reference when the complaint “refers extensively to the document or the 4 document forms the basis of the plaintiff’s claim.” *Khoja*, 899 F.3d at 1002 (quoting *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003)). This doctrine “prevents plaintiffs from selecting 6 only portions of documents that support their claims, while omitting portions of those very 7 documents that weaken—or doom—their claims.” *Id.* 8 A. Amazon Listing Webpages 9 NOCO refers to two Amazon product listing webpages but does not provide authority to 10 support the Court’s consideration of those documents. Nonetheless, Beaudry’s complaint refers 11 extensively to the Amazon product listing webpage for the GB40, see ECF No. 1-1 ¶ 14-15 & n.5, 12 and the Court finds that document incorporated by reference. The complaint refers only in passing 13 to the Amazon product listing webpage for the GB150, and the Court does not consider that 14 document. 15 B. Product Reviews 16 Beaudry quotes extensively (but selectively) in his complaint from the product reviews 17 submitted as Exhibits 1 and 2, ECF Nos. 6-2, 6-3. The Court accordingly finds those documents 18 incorporated by reference in the complaint. The remaining reviews appear nowhere in Beaudry’s 19 complaint, and NOCO’s request is denied as to those documents. 20 C. User Guide 21 NOCO asks the Court to take judicial notice of the Product user guide because it is a 22 publicly available document, citing *Husain v. Campbell Soup Co.*, 747 F. Supp. 3d 1265 (N.D. 23 Cal. 2024). ECF No. 6 at 15 n.4. *Husain* does not discuss public availability at all, concluding 24 instead that the documents at issue there were incorporated by reference into the complaint. 747 25 F. Supp. 3d at 1273 n.1. In fact, as this Court has previously held, “a document is not ‘judicially 26 noticeable simply because it appears on a publicly available website.’” *In re Cal. Bail Bond 27 Antitrust Litig.*, 511 F. Supp. 3d 1031, 1040 (N.D. Cal. Jan. 5, 2021) (quoting *Rollins v. Dignity* 1 support for its request that the Court take judicial notice of the user guide, the Court denies the 2 request.

3 V. DISCUSSION

4 A. Implied Warranty of Merchantability and Implied Warranty of Fitness (California Commercial Code) 5 NOCO brings a claim for breach of the implied warranty of merchantability and the 6 implied warranty of fitness. “The elements of the claim of breach of implied warranty of

7 merchantability are (1) the plaintiff bought a consumer good (i.e., a good used primarily for 8 personal, family or household purposes) manufactured or distributed by the defendant; (2) the 9 defendant was in the business of manufacturing or distributing the particular consumer good to 10 retail buyers; and (3) the consumer good (a) was not of the same quality as those generally 11 acceptable in the trade; or (b) was not fit for the ordinary purposes for which such goods are used; 12 or (c) was not adequately contained, packed and labeled; or (d) did not measure up to the promises 13 or facts stated on the container or label.” *Moradian v. Mercedes-Benz USA, LLC*, No. 2:21-cv- 14 09979-MEMF (AFMx), 2022 WL 4596650, at *5 (C.D. Cal. Mar. 17, 2022); *Thornton v. Micro- 15 Star Int’l Co.*, No. 2:17-cv-03231-CAS-AFMx, 2018 WL 5291925, at *11 (C.D. Cal. Oct. 23, 16 2018) (noting that the substantive elements for the Song-Beverly Act mirror those of the 17 California Commercial Code). Furthermore, under the implied warranty provision of the 18 California Commercial Code, a plaintiff asserting breach of warranty claims must stand in vertical 19 contractual privity with the defendant. *Mega RV Corp. v. HWH Corp.*, 225 Cal. App. 4th 1318, 20 1333 (2014); *Clemens v. DaimlerChrysler Corp.*, 534 F.3d 1017, 1023 (9th Cir. 2008). 21 NOCO argues that Beaudry’s California Commercial Code claims for implied warranty of 22 merchantability and implied warranty of fitness for a particular purpose should be dismissed 23 because Beaudry does not plead that he has vertical privity of contract with NOCO. ECF No. 6 at 24 17–18. Beaudry “does not oppose NOCO’s motion with respect to his specific claims of breach of 25 implied warranty of merchantability and fitness brought under the California Commercial Code.” 26 ECF No. 22 at 12. The Court dismisses those claims with prejudice. 27 1

B. Implied Warranty of Merchantability (Song-Beverly Act) 2 Beaudry also brings an implied warranty of merchantability claim under California’s Song- 3 Beverly Consumer Warranty Act. Under that Act, “consumer goods sold in California carry an 4 implied warranty of merchantability, meaning . . . that they must be ‘fit for the ordinary purposes 5 of which such goods are used.’” *Bezirganyan v. BMW of N. Am., LLC*, 562 F. Supp. 3d 633, 641 6 (C.D. Cal. 2021) (quoting Cal. Civ. Code § 1791.1(a)(2)). This warranty “does not ‘impose a 7 general requirement that the goods precisely fulfill the expectation of the buyer. Instead, it 8 provides for a minimum level of quality.’” *Id.* (quoting *Am. Suzuki Motor Corp. v. Superior Ct.*, 9 37 Cal. App. 4th 1291, 1296 (1995)). Therefore, a plaintiff must allege that “the product lacks 10 even the most basic degree of fitness for ordinary use.” *Birdsong v. Apple, Inc.*, 590 F.3d 955, 958 11 (9th Cir. 2009) (quoting *Mocek v. Alfa Leisure, Inc.*, 114 Cal. App. 4th 402, 406 (2003)). 12 NOCO essentially argues that Beaudry fails to state a Song-Beverly Act implied warranty 13 claim because consumers like NOCO’s products. See ECF No. 6 at 19-20, 20 (“Not only has 14 Amazon recognized the high quality of the NOCO Jump Starters but consumers have as well.”). 15 These arguments rely upon documents the Court has declined to consider, *supra*, and improperly 16 invite the Court to resolve factual issues better left for summary judgment or trial. See *Khoja v. 17 Orexigen Therapeutics, Inc.*, 899 F.3d 988, 1003 (9th Cir. 2018) (reaffirming “the prohibition 18 against resolving factual disputes at the pleading stage”). Accordingly, the Court rejects those 19

arguments. 20 C. Implied Warranty of Fitness for a Particular Purpose 21 To state a claim for breach of implied warranty of fitness for a particular purpose, 22 a plaintiff must allege “(1) the purchaser at the time of contracting intends to use the goods for a particular purpose, (2) the seller at the 23 time of contracting has reason to know of this particular purpose, (3) the buyer relies on the seller’s skill or judgment to select or furnish 24 goods suitable for the particular purpose, and (4) the seller at the time of contracting has reason to know that the buyer is relying on such 25 skill and judgment.” 26 *Punian v. Gillette Co.*, No. 14-CV-05028-LHK, 2016 WL 1029607, at *18 (N.D. Cal. Mar. 27 15, 2016) (quoting *Frenzel v. AliphCom*, 76 F. Supp. 3d 999, 1021 (N.D. Cal. 2014)). “A 1 which is peculiar to the nature of his business whereas the ordinary purposes for which good are 2 used are those envisaged in the concept of merchantability and go to uses which are customarily 3 made of the goods in question.” *Punian*, 2016 WL 1029607, at *18 (quoting *Frenzel*, 76 F. Supp. 4 3d at 1021). 5 The Court finds that Beaudry does not allege a “particular purpose” as required under the 6 Song-Beverly Act. Beaudry’s complaint and opposition are unclear—and at times even 7 contradictory—about what the “particular purpose” is for which he alleges NOCO’s Products are 8 unfit. The opposition focuses on the fact that NOCO “advertises its products for use on boats” and 9 “Mr. Beaudry purchased his NOCO Jump Starter for use on his boat,” ECF No. 22 at 16, while the 10 complaint alleges only that “NOCO had reason to know that consumers of the NOCO Boost 11 Products would use them for a particular purpose: as a jump starter, most commonly for dead 12 vehicle batteries.” ECF No. 1-1 ¶ 76. Focusing on the allegations in the complaint, as the Court 13 must, the Court finds that use “as a jump starter,” *id.*, “up to 20 times on a single charge,” *Id.* ¶ 15, 14 and to “safely connect to any battery,” *id.* ¶ 12, are the ordinary purposes for which the Products 15 are customarily purchased. See *Punian*, 2016 WL 1029607, at *18 (purchasing batteries with a 16 ten-year guarantee with the intended purpose of “normal use” for “ten years” was not a particular 17 purpose “but rather the ordinary purpose for which Duralock Batteries are customarily 18 purchased”). 19 Accordingly, the Court dismisses with leave to amend Beaudry’s claim for implied 20 warranty of fitness for a particular purpose. 21 D. FAL Claim 22 California’s FAL prohibits any “untrue or misleading” advertising. Cal Bus. & Prof. Code 23 § 17500. “Under the FAL, . . . conduct is considered deceptive or misleading if the conduct is 24 ‘likely to deceive’ a reasonable consumer.” *Hadley v. Kellogg Sales Co.*, 273 F. Supp. 3d 1052, 25 1063 (N.D. Cal. 2017) (quoting *Williams v. Gerber Prods. Co.*, 552 F.3d 934, 938 (9th Cir. 26 2008)). Beaudry’s FAL claim is based on the allegedly deceptive statements that the Products are 27 “easy to use,” “mistake-proof,” and able to “start dead batteries.” ECF No. 1-1 ¶ 99. 1 statements on which he relied were in fact made by NOCO. Beaudry contends that he “has alleged 2 facts that raise a reasonable inference that NOCO is responsible for this content” by “alleg[ing] the 3 advertising and information appearing on NOCO’s Amazon webpage is identical to that on its 4 own webpage.” ECF No. 22 at 17–18. But what the complaint actually alleges is that the two 5 webpages contain some “similar claims,” not that they are identical. See ECF No. 1-1 ¶ 15. 6 Merely similar allegations do not give rise to the inference that NOCO was responsible

for the 7 content on the Amazon webpage such that Beaudry relied on statements made by NOCO. The 8 Court will dismiss Beaudry’s FAL claim for this reason. 9 The second defect is that two of the three statements Beaudry accuses—that the Products 10 are “easy to use” and “mistake-proof”—are nonactionable puffery. See *Lashify, Inc. v. Urban 11 Dollz LLC*, No. CV 22-6148-GW-AFMx, 2024 WL 3915093, at *8 (C.D. Cal. July 19, 2024) 12 (statements that products were “easy to use and sav[ed] time” were non-actionable puffery); see 13 *Anunziato v. eMachines Inc.*, 402 F. Supp. 2d 1133, 1139 (C.D. Cal. 2005) (general 14 representations concerning the “outstanding quality, reliability, and performance” of a product 15 were non-actionable puffery). If Beaudry amends his complaint, he should tailor his allegations 16 accordingly.² 17 NOCO also argues that the allegedly deceptive statements are not false or misleading 18 because of the presence of positive reviews for the products on their Amazon webpages. ECF No. 19 6 at 22–23. Because the Court has declined to take judicial notice of the reviews in question, and 20 because such a factual inquiry is improper at the motion to dismiss stage, see *Khoja*, 899 F.3d at 21 1003, the Court rejects this argument. 22 E. UCL Claim 23 “Because the UCL is written in the disjunctive, it establishes three varieties of unfair 24 competition—acts or practices which are unlawful, or unfair, or fraudulent.” *Aton Ctr., Inc. v. 25 United Healthcare Ins. Co.*, 93 Cal App. 5th 1214, 1248 (2023) (citation and quotation omitted). 26 2 By contrast, the Court finds that the statement that the Products can “start dead batteries” is not 27 puffery and can properly form the basis of an FAL claim. See *Cook, Perkiss & Liehe, Inc. v. N. 1* “An act can be alleged to violate any or all of the three prongs of the UCL—unlawful, unfair, or 2 fraudulent.” *Id.* (citation and quotation omitted). Beaudry claims that NOCO’s conduct violates 3 all three prongs. ECF No. 1-1 ¶¶ 109 (unlawful), ¶¶ 110–12 (unfair), ¶ 113 (fraudulent). NOCO 4 challenges Beaudry’s pleading of the unlawful and fraudulent prongs. ECF No. 6 at 24–25. 5 1. “Unlawful” Prong 6 A UCL action “to redress an unlawful business practice ‘borrows’ violations of other laws 7 and treat [them] . . . as unlawful practices independently actionable.” *Farmers Ins. Exch. V. 8 Superior Ct.*, 2 Cal. 4th 377, 383 (1992). NOCO argues that Beaudry fails to plead adequately his 9 other claims and thus his “unlawful” prong UCL claim likewise fails. ECF No. 6 at 25. Because 10 the Court above denies NOCO’s motion to dismiss Beaudry’s claim for implied warranty of 11 merchantability under the Song-Beverly Act, the Court also rejects Beaudry’s argument regarding 12 the “unlawful” prong of Beaudry’s UCL claim. 13 2. “Fraudulent” Prong 14 NOCO also argues that “to the extent that Mr. Beaudry’s unfair competition claim is 15 premised on his claim for false advertising, Mr. Beaudry failed to meet the stringent pleading 16 requirements of [Federal Rule of Civil Procedure] 9(b).” ECF No. 6 at 25. In particular, NOCO 17 argues Beaudry’s allegations fall short of the Rule 9(b) mark because Beaudry fails to allege that 18 NOCO actually made the statements on which Beaudry relied. Because the Court dismissed 19 Beaudry’s FAL claim on this ground, it also dismisses the “fraudulent” prong of Beaudry’s UCL 20 claim. 21 F. Class Allegations 22 Finally, NOCO urges the Court to strike Beaudry’s class claims, contending that Beaudry 23 fails to meet the requirements of Federal Rule of Civil Procedure 23(b). ECF No.

6 at 25–32. 24 “Courts in this District have held that Rule 12(b)(6) is not a proper vehicle for
dismiss 25 class claims.” *Sulzberg v. Happiest Minds Techs. Pvt. Ltd.*, No. 19-cv-05618-SVK,
2019 WL 26 6493984, at *2 (N.D. Cal. Dec. 3, 2019); see also *Gatling-Lee v. Del Monte Foods,*
Inc., No. 22- 27 CV-00892-JST, 2023 WL 11113888, at *14 (N.D. Cal. Mar. 28, 2023),
reconsideration denied

1 Feb. 28, 2024); *Williams v. Affinity Ins. Servs., Inc.*, No. 23-CV-06347-JST, 2024 WL 3153214,
at

2 } *8(N.D. Cal. June 24, 2024); *Bui-Ford v. Tesla, Inc.*, No. 4:23-CV-02321, 2024 WL 694485,
at 3 *8 (N.D. Cal. Feb. 20, 2024); *Dodson v. Tempur-Sealy Int’l, Inc.*, No. 13-CV-04984-JST,
2014 4 || WL 1493676, at *11 (N.D. Cal. Apr. 16, 2014). 5 Because NOCO has not shown that
“this [is] the rare case where the pleadings indicate that 6 || the class requirements cannot possibly
be met,” *Blair v. CBE Grp.*, No. 13-CV-134-MMA 7 (WVG), 2013 WL 2029155, at *5 (S.D. Cal.
May 13, 2013), the Court will deny NOCO’s motion 8 || to dismiss Beaudry’s class allegations.

9 CONCLUSION

10 For the foregoing reasons, the Court grants the motion in part and denies it in part. The 11
Court dismisses with prejudice Beaudry’s claims under the California Commercial Code for 12 ||
implied warranty of merchantability and implied warranty of fitness for a particular purpose; 5 13
dismisses without prejudice Beaudry’s FAL claim and the “fraudulent” prong of his UCL claim;
14 || and denies the motion as to Beaudry’s claim for implied warranty of merchantability under
the 3 15 Song-Beverly Act, the “unlawful” prong of Beaudry’s UCL claim, and the class
allegations. a 16 The Court grants Beaudry leave to amend solely to cure the deficiencies
identified in this 3 17 order. Any amended complaint shall be filed within 28 days. 18 NOCO’s
motion to stay discovery, ECF No. 31, is denied. 19 IT IS SO ORDERED. 20 Dated: July 2, 2025

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71 JON S. TIGA!

22 United States District Judge 23 24 25 26 27 28