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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MATTHEW GEISE, on behalf of himself and  
all others similarly situated,  
  
Plaintiff,  
  
v.  
  
AMAZON.COM LLC, dba AMAZON.COM  
WASHINGTON LLC, a Delaware limited  
liability company; and AMAZON  
FULFILLMENT SERVICES, INC., a Delaware  
corporation,  
  
Defendants.

CLASS ACTION COMPLAINT

NO.

**CLASS ACTION COMPLAINT FOR  
DAMAGES, INJUNCTIVE RELIEF  
AND RESTITUTION**

**JURY DEMAND**

COMES NOW Plaintiff, by and through his undersigned attorneys, and alleges as follows for his complaint against Defendants:

**I. JURISDICTION AND VENUE**

1.1 Subject-Matter Jurisdiction. This Court has original jurisdiction over all claims asserted in this action pursuant to 28 U.S.C. § 1332. Plaintiff Geise is a citizen of Washington, and Defendants Amazon.com, doing business as Amazon.com Washington LLC, and Amazon Fulfillment Services, Inc. (“Amazon”) are both citizens of Delaware. Furthermore, the matter in controversy exceeds the sum or value of \$5,000,000.

1.2 Personal Jurisdiction. This Court also has personal jurisdiction over all

1 Defendants. Amazon is registered to do and regularly conducts business in Washington State.

2 1.3 Venue. Venue is proper in King County because Plaintiff resides in King  
3 County and Amazon resides and transacts business in King County.

4 1.4 Governing Law. The claims of Plaintiff and the Class members asserted in this  
5 class action complaint are brought solely under state law causes of action and are governed  
6 exclusively by Washington law. The claims of Plaintiffs and the Class members are individual  
7 claims and do not unite or enforce a single title or right to which Plaintiffs and the Class have a  
8 common and undivided interest.

9  
10 **II. PARTIES**

11 2.1 Plaintiff Matthew Geise is a Washington resident who lives in Seattle, King  
12 County Washington.

13 2.2 Plaintiff, as Class Representative, seeks to represent a class of persons (the  
14 “Class”) defined as follows:

15 All individuals and entities who own or have owned an Amazon  
16 Kindle 2 or Kindle DX installed in a Kindle Cover designed by  
17 Amazon. Excluded from the Class are Defendants, their legal  
18 representatives, assigns and successors and any entity in which  
19 Defendants have a controlling interest. Also excluded is the  
20 judge to whom this case is assigned and any member of the  
21 judge’s immediate family.

22 2.3 Defendant Amazon.com LLC, doing business as Amazon.com Washington  
23 LLC, is a Delaware corporation with its principle place of business in Washington State.

24 2.4 Defendant Amazon Fulfillment Services, Inc. is a Delaware corporation with its  
25 principle place of business in Washington State.  
26  
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1 **III. GENERAL ALLEGATIONS**

2 3.1 Amazon sells wireless reading devices that allow consumers to download and  
3 read electronic books. Amazon currently sells two types of such devices, the Kindle 2 and the  
4 Kindle DX (“Amazon Kindles” or “Kindles”). Amazon also sells covers to protect the Kindles  
5 (“Amazon Kindle Covers” or “Kindle Covers”). The Kindle Covers are embossed with the  
6 word “amazonkindle.” On its website, Amazon describes the Amazon Kindle Covers as  
7 follows:

8 “Designed to fit Kindle (2nd Generation), this is an approved Kindle Compatible  
9 product.”

10 **“Designed by Amazon**, this is the official leather book cover for Kindle (2nd  
11 Generation). This unique book cover is not only stylish, but offers optimal protection  
12 and comfort. A patent-pending hinge secures your Kindle to the cover. Simply attach  
13 Kindle (2nd Generation) into the cover and rest assured it will stay firmly in place even  
14 when you're on the go.”

15 **“Designed by Amazon**, this is the official leather book cover for Kindle DX. This  
16 unique book cover is not only stylish, but offers optimal protection and comfort. A  
17 patent-pending hinge secures your Kindle DX to the cover. Simply attach Kindle DX  
18 into the cover and rest assured it will stay firmly in place even when you're on the go.”

19 3.2 Internet complaint board and product review sites contain scores, if not  
20 hundreds, of complaints from Kindle owners whose Kindles have been damaged by the Kindle  
21 Covers:

22 **“Cover CRACKED the face of my Kindle**

23 The design of this cover is FLAWED!!!!

24 It clips into the side of the Kindle, and the pressure from the clip CRACKED the  
25 face...”

26 Posted June 26, 2009 on [http://reportfair.com/kindle/amazon-kindle-leather-cover-fits-  
27 2nd-generation-kindle.html](http://reportfair.com/kindle/amazon-kindle-leather-cover-fits-2nd-generation-kindle.html))

“My cover did the same thing and now Amazon is saying that their ‘design team’ tested  
the cover and it is a ‘user problem not a defect’. I am VERY unhappy seeing that it is  
clearing a defect. There is nothing on the website to the effect that the cover ‘can cause  
damage to Kindle if improperly used’. I still don't know how one can improperly use a

1 electronic book that sits on the bedside table only and is read at nite. I am VERY  
2 disappointed. Supervisor was NO help at all.”

3 Posted July 9, 2009 on <http://www.kindleboards.com/-index.php?topic=8422.0>

4 “This has happened to me now, too. Unfortunately, Amazon is not being so  
5 responsive. First they told me the problem was due to ‘customer use patterns.’ I asked,  
6 ‘You mean, like, reading?’ Now they are offering to send me a new kindle for a \$200  
7 ‘service fee.’ This is not good. Not good at all.”

8 Posted June 25, 2009 on <http://www.kindleboards.com/-index.php?topic=8422.0>

9 “I have had my Kindle DX for almost a month, and thought the cover was very well  
10 designed. But yesterday, I found a slight bulge in the case of the Kindle above the upper  
11 clasp, and a small crack. Unlike the experience of others who have commented on the  
12 same issue, I got the same excellent customer service I've always gotten from Amazon.  
13 They said it was a known problem and that they would overnight me a new Kindle.  
14 They said the cover is being redesigned. So I'm waiting to see if they come up with  
15 something new.”

16 Posted July 10, 2009 on [http://www.amazon.com/Amazon-Kindle-DX-Leather-  
17 Cover/product-reviews/B001T0HYCM?pageNumber=2](http://www.amazon.com/Amazon-Kindle-DX-Leather-Cover/product-reviews/B001T0HYCM?pageNumber=2)

18 “This is garbage. The hinge caused a crack on the left side of my kindle, and Amazon  
19 has been horrible about helping with this issue. I am sorry, but if an accessory is  
20 purchased to PROTECT the product, the company should certainly be liable if it is the  
21 cause of the damage. Very displeased with Amazon and will never recommend anyone  
22 buy a Kindle. I hope Sony sells their ebooks like wildfire now!”

23 Posted July 13, 2009 on [http://www.amazon.com/review/R2ABQ40JUUHAB8/-  
24 ref=cm\\_srch\\_res\\_rtr\\_alt\\_3](http://www.amazon.com/review/R2ABQ40JUUHAB8/-ref=cm_srch_res_rtr_alt_3)

25 “THIS ITEM SHOULD BE SOLD WITH THE FOLLOWING PROVISIO: This cover  
26 can at the least buckle your kindle surface and at the worst cause it to cease working.  
27 Soon after receiving the kindle DX, I noticed a buckle and crack on the surface of the  
kindle. Soon after, the kindle stopped working completely. The prongs in the cover had  
damaged the kindle. As both form and function were compromised, Amazon quickly  
replaced the unit and cover. Ten days after new kindle had arrived, I noticed a slight  
crack and bulge on the surface. I immediately purchased a cover without prongs.”

28 Posted July 11, 2009 on [http://www.amazon.com/gp/community-content-  
29 search/results/ref=cm\\_srch\\_q\\_rtr/?query=crack&search-alias=community-  
30 reviews&x=0&y=0&idx.asin=B001T0HYCM](http://www.amazon.com/gp/community-content-search/results/ref=cm_srch_q_rtr/?query=crack&search-alias=community-reviews&x=0&y=0&idx.asin=B001T0HYCM)

1           3.3     On February 14, 2009, Plaintiff Geise purchased an Amazon Kindle 2 for his  
2 wife’s birthday. Mr. Geise purchased the Kindle on Amazon’s website and paid \$359.00  
3 (before tax) for the Kindle. Mr. Geise also purchased an Amazon Kindle leather case (“Kindle  
4 Cover”) to protect the Kindle from damage. Mr. Geise purchased the Kindle Cover on  
5 Amazon’s website as well, paying \$29.99 for it. The Kindle Cover is embossed with the word  
6 “amazonkindle.” Mr. Geise understood that the Kindle Cover he purchased for the Kindle was,  
7 in fact, compatible with the Kindle and would not damage the Kindle as a result of ordinary  
8 use. Amazon never disclosed to Plaintiff that using the Kindle Cover with the Kindle would  
9 damage the Kindle.

10           3.4     Mr. Geise’s wife, Alisa Brodkowitz, installed the Kindle in the Kindle Cover.  
11 She used the Kindle without incident for approximately 4 months. However, after  
12 approximately 3 months, Ms. Brodkowitz noticed that the Kindle was cracking at or near where  
13 the Kindle Cover attaches to the Kindle. The cracks grew over time. On July 6, 2009, the  
14 Kindle screen froze and the Kindle has not worked since.

15           3.5     On July 7, 2009, Mr. Geise called Amazon customer service to make a warranty  
16 claim as directed in the Kindle Device Warranty (a copy of the Kindle Device Warranty is  
17 available online and provided with the brochure enclosed with the Kindle). Mr. Geise spoke  
18 with a customer service representative. He advised the representative that his wife’s Kindle  
19 was cracking along the attachment points for the Kindle Cover and that the screen had frozen  
20 and that he would like to make a warranty claim. The representative told Mr. Geise that while  
21 the frozen screen may be covered by the warranty, the cracking of the Kindle would not. He  
22 explained that Mr. Geise could send the Kindle in to Amazon so they could evaluate what had  
23 caused the frozen screen and if they determined that the screen had not frozen due to misuse or  
24 neglect then they may be able to repair it under the warranty. With respect to the cracking of  
25 the Kindle, the representative advised Mr. Geise that under no circumstances would the  
26 cracking be covered because the only way to crack the Kindle at the cover attachment points  
27

1 was to open the cover backwards. He explained that Mr. Geise could send the Kindle to  
2 Amazon along with \$200.00 to cover the cost of repairing the cracks. Amazon would then  
3 evaluate whether the frozen screen was covered by the warranty at no cost.

4         3.6 Mr. Geise then handed the phone over to his wife, Ms. Brodkowitz. Ms.  
5 Brodkowitz spoke with the same customer service representative who confirmed his position—  
6 i.e., that the cracking of the cover only occurs through misuse by opening the cover backwards  
7 and the only way to repair the cracking was to send in \$200.00. She advised the representative  
8 that she has never opened the Kindle backwards and that she wished to dispute the warranty  
9 claim denial. She asked the representative to put Amazon’s position in writing. The  
10 representative refused, saying that he was concerned that he might be creating “admissible  
11 evidence.” Ms. Brodkowitz then asked for the address of Amazon’s legal department and to  
12 speak to a supervisor. The customer service agent told Ms. Brodkowitz that his supervisor was  
13 unavailable but that one would return her call.

14         3.7 Later that evening a supervisor from Amazon called Ms. Brodkowitz. The  
15 phone call originated from (206) 266-1000. The Amazon customer service representative  
16 identified herself as a supervisor named Jill. She told Ms. Brodkowitz that cracking of the  
17 Kindle was a “common problem.” Due to the number of people who complained about cracks  
18 in the Kindle at the cover attachment points, Amazon had sent the Kindle to the cover  
19 manufacturer. The cover manufacturer did some testing and concluded that the only way to  
20 crack the Kindle at the cover attachment points was to open the Kindle cover backwards. She  
21 also explained that the cracks could occur through other misuse of the Kindle, detaching or  
22 attaching the Kindle cover incorrectly or dropping it. She further explained that when a  
23 customer sends in the \$200 fee for “repairing” the Kindle cracks, Amazon actually sends the  
24 customer a replacement Kindle (it was unclear whether the replacement Kindle would be new  
25 or a refurbished Kindle) and repairs the returned Kindle for use as a refurbished Kindle.

1           3.8     Ms. Brodkowitz told Jill that she had never opened the Kindle backwards and  
2 that she had not otherwise misused it. She advised Jill that she believed her warranty claim was  
3 being wrongfully denied. She stated that her husband had purchased the cover to protect the  
4 Kindle but she believed that the cover had damaged the Kindle. She asked Jill to put Amazon's  
5 position in writing to her by emailing her. Jill agreed to do so, and later that same evening sent  
6 Ms. Brodkowitz an email summarizing Amazon's position:

7           Thank you for contacting us about the cracking in your Kindle  
8 casing where the cover attaches. I'm sorry, but the issue you  
9 reported isn't covered by the terms of the warranty.

10           For damage that is not covered by our warranty, you can still  
11 receive a replacement Kindle for a \$200 service fee. If you would  
12 like to take advance [sic] of this option, please contact customer  
13 support at 1-866-321-8851 or at  
14 <http://www.amazon.com/kindlesupport>.

15           We look forward to seeing you again at Amazon.com.

16           ...

17           Best regards,

18           Jill N.

19           3.9     Amazon never disclosed to Plaintiff or the Class that ordinary use of the Kindle  
20 in the Amazon-designed Kindle Cover would cause damage to the Kindle, including, but not  
21 limited to, cracks in the Kindle itself and the malfunctioning of the Kindle.

22           3.10    If Amazon had disclosed the true facts about the Kindle and the Kindle Cover,  
23 those facts would have been material to Plaintiff and to other reasonable consumers, including  
24 the Class Members, and they would not have purchased either the Kindle, the Kindle Cover, or  
25 both.

26           3.11    As a result of Amazon's misconduct, Plaintiff and the Class have suffered actual  
27 damages in that the Kindles they own or owned have prematurely cracked and failed as a result  
of being installed in Kindle Covers. Because of the relatively small size of the typical

1 damages, and the modest resources of most consumers, it is unlikely that most Class Members  
2 could afford to seek recovery against Amazon on their own. A class action is therefore the only  
3 viable, economical and rational means for members of the Class to recover from Amazon for  
4 the damages it has caused.

#### 5 **IV. CLASS ACTION ALLEGATIONS**

6 4.1 Plaintiff brings this action as a class action pursuant to Civil Rule 23(b)(2) and  
7 Rule 23(b)(3) on behalf of himself and the Class. This action satisfies the numerosity,  
8 commonality, typicality, adequacy, predominance, and superiority requirements as set forth in  
9 Civil Rule 23(a) and Rule 23(b)(3). The Class is defined as follows:

10 All individuals and entities who own or have owned an Amazon  
11 Kindle 2 or Kindle DX installed in a Kindle Cover designed by  
12 Amazon. Excluded from the Class are Defendants, their legal  
13 representatives, assigns and successors and any entity in which  
14 Defendants have a controlling interest. Also excluded is the  
15 judge to whom this case is assigned and any member of the  
16 judge's immediate family.

17 Claims for personal injury are specifically excluded from the Class.

18 4.2 Numerosity: (CR 23(a)(1)): Although the actual size of the Class is uncertain,  
19 Plaintiff is informed and believes that the Class is comprised of tens of thousands of consumers  
20 throughout the United States and that joinder is impractical. The disposition of the claims of  
21 these Class Members in a single class action will provide substantial benefits to all parties and  
22 to the Court.

23 4.3 Commonality: (CR 23(a)(2)): There exist questions of law and fact common to  
24 all members of the Class. Common questions include but are not limited to the following:

- 25 a. Whether the Kindle is subject to premature cracking and failure and is  
26 not suitable for use with the Kindle Cover;
- 27 b. Whether Amazon knew of the defective nature of the Kindle and/or  
Kindle Cover;

1 c. Whether Amazon failed to disclose material facts to Plaintiff and the  
2 Class, including the true defective nature of the Kindle and/or Kindle Cover;

3 d. Whether Amazon's failure to disclose material facts violated RCW  
4 19.86.010 *et seq.*;

5 e. Whether Amazon had a duty to Plaintiff and the Class to disclose the  
6 true nature of the Kindle and/or Kindle Cover;

7 f. Whether the facts not disclosed by Amazon to Plaintiff and the Class are  
8 material facts;

9 g. Whether Amazon knew that the Kindle and/or Kindle Cover would  
10 prematurely fail;

11 h. Whether Amazon expressly warranted that the Kindle would be free of  
12 defects for one year;

13 i. Whether Amazon breached its express warranty;

14 j. Whether Plaintiff and the Class are entitled to compensatory damages,  
15 restitution, and the amounts thereof respectively;

16 k. Whether Amazon should be declared financially responsible for  
17 notifying all Class Members of the defective Kindle and/or Kindle Cover, for the costs and  
18 expenses of repair and replacement of all Kindles and/or Kindle Covers, and for providing  
19 restitution of monies paid and inadequate value given; and

20 l. Whether Amazon should be ordered to disgorge, for the benefit of the  
21 Class, all or part of their ill-gotten profits received from the sale of defective Kindles and/or  
22 Kindle Covers and/or to make full restitution to Plaintiff and the Class Members.

23 4.4 Typicality: (CR 23(a)(3)): The claims of the representative Plaintiff are typical  
24 of the claims of the Class in that Plaintiff and all Class Members alike own or owned a Kindle  
25 that cracked or failed, or will crack or fail, prematurely as a result of being installed in a Kindle  
26 Cover. The representative Plaintiff and Class Members have also suffered common injuries as  
27

1 a result of Amazon's misconduct in that they have lost the use and value of the Kindle and have  
2 incurred and will continue to incur the cost of repairing and/or replacing the defective Kindle  
3 and/or Kindle Cover. The factual bases of Amazon's misconduct are common to all Class  
4 Members and represent a common thread of deliberate misconduct resulting in injury to all  
5 Class Members.

6 4.5 Adequacy: (CR 23(a)(4)): Plaintiff will fairly and adequately represent and  
7 protect the interests of the Class. Plaintiff has retained counsel with substantial experience in  
8 prosecuting consumer class actions, including actions involving defective products, failure to  
9 disclose material information regarding product performance, consumer protections statutes,  
10 and other matters involving consumer products. Plaintiff and his counsel are committed to  
11 vigorously prosecuting this action on behalf of the Class, and have the financial resources to do  
12 so. Neither Plaintiff nor his counsel has any interests adverse to those of the Class.

13 4.6 Injunctive Relief: (CR 23(b)(2)): Amazon has engaged in and continues to  
14 engage in business practices that are unfair, deceptive, unlawful and/or fraudulent in violation  
15 of Washington's Consumer Protection Act by, among other things, failing to disclose that the  
16 Kindle will fail prematurely when installed in a Kindle Cover and subjected to ordinary use.  
17 Plaintiff seeks class-wide injunctive relief, pursuant to CR 23(b)(2). Plaintiff seeks to enjoin  
18 Amazon from continuing to fail to disclose material facts regarding the Kindle.

19 4.7 Predominance of Common Questions: (CR 23(b)(3)): Amazon has engaged in  
20 a common course of unfair, deceptive, unlawful and/or fraudulent conduct affecting Plaintiffs  
21 and Class Members. The common issues that arise from this conduct and affect Plaintiffs and  
22 Class Members predominate over any individual issues. Adjudication of these common issues  
23 in a single action has important and desirable advantages of judicial economy.

24 4.8 Superiority: (CR 23(b)(3)): Plaintiff and the Class Members have all suffered  
25 and will continue to suffer harm and damages as a result of Amazon's unlawful and wrongful  
26 conduct. A class action is superior to other available methods for the fair and efficient  
27

1 adjudication of the subject controversy. Because of the relatively small size of the individual  
2 Class Members' claims, most Class Members likely would find the cost of litigating their  
3 individual claims to be prohibitive, and will have no effective remedy at law. Thus, absent a  
4 class action, Class Members will continue to incur damages and Amazon's misconduct will  
5 proceed without remedy. The class treatment of common questions of law and fact is also  
6 superior to multiple individual actions or piecemeal litigation in that it conserves the resources  
7 of the courts and the litigants, and promotes consistency and efficiency of adjudication. There  
8 is no impediment to the management of this action because of the virtual identity of the  
9 common questions of law and fact to all Class Members.

10 **V. FIRST CLAIM FOR RELIEF**

11 **(For Violations of RCW § 19.86.010 et seq.)**

12 5.1 Plaintiff repeats and realleges each and every allegation set forth in the  
13 paragraphs above as if fully set forth herein.

14 5.2 Amazon is a "person" within the meaning of the Washington Consumer  
15 Protection Act, RCW § 19.86.010(1), and conducts "trade" and "commerce" within the  
16 meaning of the Washington Consumer Protection Act, RCW § 19.86.010(2).

17 5.3 Plaintiff and the other Class Members are "persons" within the meaning of the  
18 Washington Consumer Protection Act, RCW § 19.86.010(1).

19 5.4 Amazon's actions are unfair and/or deceptive within the meaning of the  
20 Washington Consumer Protection Act, RCW § 19.86.010 *et seq.* Amazon engaged in an unfair  
21 or deceptive act or practice by failing to disclose the true nature of the Kindle's performance  
22 when installed in a Kindle Cover, including the inadequacies in manufacturing, design and  
23 material composition, the absence of testing to support the warranty, and that the Kindle cracks,  
24 breaks, and fails prematurely.

25 5.5 Amazon's unfair or deceptive acts or practices have occurred in its trade or  
26 business, and were and are capable of deceiving a substantial portion of the public. Amazon's  
27

1 general course of conduct has an impact on the public interest, and the acts complained of  
2 herein are ongoing and/or have a substantial likelihood of being repeated.

3 5.6 Amazon's conduct has injured the property of Plaintiff and the other Class  
4 Members, in that these consumers purchased Kindles that either have cracked and failed or will  
5 crack and fail prematurely, causing them to lose the use and value of their Kindles or  
6 expend monies to repair or replace them.

7 5.7 Plaintiff and the other Class Members are therefore entitled to an order enjoining  
8 the conduct complained of herein; actual damages, including a refund of any money Amazon  
9 acquired through their deceptive practices; treble damages; costs of suit, including a reasonable  
10 attorneys' fee; and such further equitable relief as the Court may deem proper.

11 **VI. SECOND CLAIM FOR RELIEF**  
12 **(For Breach of Express Warranty)**

13 6.1 Plaintiff repeats and realleges each and every allegation set forth in the  
14 paragraphs above as if fully set forth herein.

15 6.2 Plaintiff and the Class Members have entered into certain written warranty  
16 agreements with Amazon. Pursuant to the express warranty, Amazon warranted the Kindle  
17 "against defects in materials and workmanship under ordinary customer use for one year from  
18 the date of original retail purchase." Under the express warranty, Amazon was obligated to, at  
19 its option, "(i) repair the [Kindle] using either new or refurbished parts, (ii) replace the [Kindle]  
20 with a new or refurbished [Kindle], or (iii) refund the purchase price of the [Kindle]."

21 6.3 Amazon has breached the express warranty by providing defective Kindles to  
22 Plaintiff and Class Members and failing to repair or replace the Kindles or reimburse Plaintiff  
23 or the Class Members for the purchase price of the Kindles.

24 6.4 Amazon has received notice of the defect through complaints by Plaintiff and  
25 other consumers.



1 DATED this 14th day of July, 2009.

2 TERRELL MARSHALL & DAUDT PLLC

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