

Yitzchak Kopel (Bar No. 905352012)
BURSOR & FISHER, P.A.
888 Seventh Avenue
New York, NY 10019
Telephone: (646) 837-7150
Fascimile: (212) 989-9163
Email: ykopel@bursor.com

Attorney for Plaintiffs

CHRISTOPHER GALLO, HOWARD TANG,
and KENNETH PETERSEN, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

TELEBRANDS CORPORATION,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
ESSEX COUNTY

Docket No.

CIVIL ACTION

Plaintiffs Christopher Gallo, Kenneth Peterson, and Howard Tang (“Plaintiffs”), by and through their attorneys, make the following allegations pursuant to the investigation of their counsel and based upon information and belief, except as to allegations specifically pertaining to themselves and their counsel, which are based on personal knowledge, against Defendant Telebrands Corporation (“Defendant”).

NATURE OF THE ACTION


1. This is a class action lawsuit on behalf of purchasers of expandable Silver Bullet and Pocket Hose Bullet Garden Hoses (the “Hoses”) in the United States.
2. The Hoses are designed to be stored in a compact size, grow into a full-sized hose when used, then shrink back to the original size for storage when not in use.
3. Defendant represents that the Hoses have a “durable outer shell” that “won’t snag,

tear, or wear.” Defendant further represents that the hoses are “Super-Durable.”

4. Unfortunately for consumers, however, the Hoses are a sham. Despite Defendant’s representations and advertisements of durability, the Hoses quickly wear and develop leaks, making the Hoses unusable and worthless.

5. Telebrands has defended against and settled multiple class action lawsuits concerning the Silver Bullet Hose defects and leaks, yet Defendant continues to sell the Hoses in their defective condition.¹

6. Internet reviews are rife with complaints describing the defective Hoses. A sampling of reviews from Amazon.com follows²:


 Steven H Cole

★☆☆☆☆ **Leaks appear out of nowhere!**

Reviewed in the United States on June 16, 2019

Color: 25 Feet | **Verified Purchase**

First time I used, it sprung a leak.



38 people found this helpful

|

¹ See *Alex Arreguin Jr. v. Telebrands*, Case No. CIVRS1307798, Sup. Ct. of Cal. (San Bernadino County) (complaint filed on November 6, 2009, 2014 Settlement Agreement and Release); *Inocencio v. Telebrands Corp.*, L04378-16, Sup. Ct. of N.J. (Bergen County) (amended complaint filed August 31, 2016, 2016 Settlement Agreement and Release).

² https://www.amazon.com/Pocket-Hose-Original-Silver-BulbHead/dp/B07JQZWJJS/ref=sr_1_3?dchild=1&gclid=Cj0KCQjw0emHBhC1ARIsAL1QGN e9QMyvPqTgExPxAyBKuBjzww_Z9BJMirnxspfsUS1hDOxaDezCugaAqzgEALw_wcB&hva did=323481117801&hvdev=c&hvlocphy=9067609&hvnetw=g&hvqmt=b&hvrnd=4301482442 272136326&hvtargid=kwd-391789806940&hydacr=26720_9854608&keywords=the%2Bbullet%2Bhose&qid=162707383 0&sr=8-3&th=1



Consumer Advocate

★☆☆☆☆ **WORST Pocket Hose I've ever received**

Reviewed in the United States on June 26, 2019

Color: 25 Feet | **Verified Purchase**

LEAKED profusely from the minute I turned water on. Yes, all the gaskets were in place and I've owned MANY of this type of hose but NEVER seen one leak like this.

FASTEST return to Amazon I may ever make.

P.S. This hose also lacks a shutoff valve which most other expandable hoses include.

33 people found this helpful



Steven C Mello

★☆☆☆☆ **Terrible product**

Reviewed in the United States on June 22, 2019

Color: 25 Feet | **Verified Purchase**

I used the hose three times and then it developed small pinholes I will never buy another one again

23 people found this helpful

Helpful

Report abuse



Hans Gunder

★☆☆☆☆ **Do not buy this worthless product**

Reviewed in the United States on July 13, 2019

Color: 25 Feet | **Verified Purchase**

Hands down the worst product I've ever purchased. First use and it is leaking like a sieve from BOTH connections. My time is too valuable to return, but it is my civic duty to warn others. Straight to the trash can.



31 people found this helpful

Helpful

Report abuse

7. Upon information and belief, Defendant is a large company that is well-aware of the issues with its products. Thus, it is certain that Defendant is well-aware its Hoses are defective but continues selling them to unsuspecting consumers nationwide.

8. Plaintiffs are purchasers of the Hoses who assert claims for breach of express warranty and the consumer protection laws of the state of New York, on behalf of themselves and all similarly situated purchasers of the Hoses.

PARTIES

9. Plaintiff Christopher Gallo is a citizen of New York who resides in Peekskill, New York. Mr. Gallo purchased one of Defendant's Hoses in early spring 2021. However, the Hose quickly wore out and developed leaks shortly after purchase.

10. Prior to purchasing the Hose, Mr. Gallo carefully read the Hose's labeling and marketing, including the representations that they contain a "durable outer shell" that "won't snag, tear, or wear" and are "Super-Durable." Mr. Gallo understood these statements to mean that the Hose would not wear out and develop leaks shortly after purchase, and relied on them in that he would not have purchased the Hose at all, or would have only been willing to pay a substantially reduced price for the Hose had he known that these representations were false and misleading.

11. Plaintiff Kenneth Peterson is a citizen of New York who resides in Canandaigua, New York. Mr. Gallo purchased one of Defendant's Hoses in spring 2019. However, the Hose quickly wore out and developed leaks shortly after purchase.

12. Prior to purchasing the Hose, Mr. Peterson carefully read the Hose's labeling and marketing, including the representations that they contain a "durable outer shell" that "won't snag, tear, or wear" and are "Super-Durable." Mr. Peterson understood these statements to mean that the Hose would not wear out and develop leaks shortly after purchase, and relied on them in that he would not have purchased the Hose at all, or would have only been willing to pay a substantially reduced price for the Hose had he known that these representations were false and

misleading.

13. Plaintiff Howard Tang is a citizen of Florida who resides in Mount Dora, Florida. Mr. Tang purchased one of Defendant's Hoses in late spring 2020. However, the Hose quickly wore out and developed leaks shortly after purchase.

14. Prior to purchasing the Hose, Mr. Tang carefully read the Hose's labeling and marketing, including the representations that they contain a "durable outer shell" that "won't snag, tear, or wear" and are "Super-Durable." Mr. Tang understood these statements to mean that the Hose would not wear out and develop leaks shortly after purchase, and relied on them in that he would not have purchased the Hose at all, or would have only been willing to pay a substantially reduced price for the Hose had he known that these representations were false and misleading.

15. Defendant Telebrands Corporation is a New Jersey corporation with a principal place of business at 79 Two Bridges Road, Fairfield, NJ. Defendant distributes the Hoses throughout the state of New York and the United States.

JURISDICTION AND VENUE

16. This Court has jurisdiction over this action as a court of general jurisdiction.

17. This Court has personal jurisdiction over Defendant because Defendant is at home in this state. Defendant regularly and systematically conducts business in this county and sells the Hoses to customers in this county, including members of the putative Class.

18. Venue is likewise proper in this district pursuant to New Jersey Rules of Court, Rule 4:3-2(a) because this is the county in which Defendant resides at the time of the commencement of this action.

19. All conditions precedent necessary for filing this Complaint have been satisfied

and/or such conditions have been waived by the conduct of the Defendant.

CLASS REPRESENTATION ALLEGATIONS

20. Plaintiffs seek to represent a class defined as all persons in the United States who purchased the Hoses (the “Class”). Excluded from the Class are persons who made such purchase for purpose of resale.

21. Plaintiffs also seek to represent a subclass defined as all Class members who purchased the Hoses in New York (the “New York Subclass”).

22. Members of the Class and New York Subclass are so numerous that their individual joinder herein is impracticable. On information and belief, members of the Class and New York Subclass number in the millions. The precise number of Class members and their identities are unknown to Plaintiffs at this time but may be determined through discovery. Class members may be notified of the pendency of this action by mail and/or publication through the distribution records of Defendant and third-party retailers and vendors.

23. Common questions of law and fact exist as to all Class members and predominate over questions affecting only individual Class members. Common legal and factual questions include, but are not limited to whether Defendant’s labeling, marketing and promotion of the Hoses is false and misleading.

24. The claims of the named Plaintiffs are typical of the claims of the Class in that the named Plaintiffs were exposed to Defendant’s false and misleading marketing and promotional materials and representations, purchased the Hoses, and suffered a loss as a result of that purchase.

25. Plaintiffs are adequate representatives of the Class and New York Subclass because their interests do not conflict with the interests of the Class members they seek to

represent, they have retained competent counsel experienced in prosecuting class actions, and they intend to prosecute this action vigorously. The interests of Class members will be fairly and adequately protected by Plaintiffs and their counsel.

26. The class mechanism is superior to other available means for the fair and efficient adjudication of the claims of Class members. Each individual Class member may lack the resources to undergo the burden and expense of individual prosecution of the complex and extensive litigation necessary to establish Defendant's liability. Individualized litigation increases the delay and expense to all parties and multiplies the burden on the judicial system presented by the complex legal and factual issues of this case. Individualized litigation also presents the potential for inconsistent or contradictory judgments. In contrast, the class action device presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court on the issue of Defendant's liability. Class treatment of the liability issues will ensure that all claims and claimants are before this Court for consistent adjudication of the liability issues.

COUNT I

Deceptive Acts Or Practices, New York Gen. Bus. Law § 349

27. Plaintiffs incorporate by reference and re-allege each and every allegation set forth above as though fully set forth herein.

28. Plaintiffs bring this claim individually and on behalf of members of the New York Subclass against Defendant.

29. By the acts and conduct alleged herein, Defendant committed unfair or deceptive acts and practices by making false representations on the label of the Hoses.

30. The foregoing deceptive acts and practices were directed at consumers.

31. The foregoing deceptive acts and practices are misleading in a material way

because they fundamentally misrepresent the durability of the Hoses by representing that they contain a “durable outer shell” that “won’t snag, tear, or wear” and are “Super-Durable.”

32. Plaintiffs and members of the New York Subclass were injured as a result because (a) they would not have purchased the Hoses if they had known that the Hoses were not durable and would wear and develop leaks shortly after purchase, and (b) they overpaid for the Hoses on account of the misrepresentations that they contain a “durable outer shell” that “won’t snag, tear, or wear” and are “Super-Durable.”

33. On behalf of themselves and other members of the New York Subclass, Plaintiffs seek to enjoin the unlawful acts and practices described herein, to recover their actual damages or fifty dollars, whichever is greater, three times actual damages, reasonable attorneys’ fees and costs, and an order enjoining Defendant’s deceptive conduct, and any other just and proper relief available under Section 349 of the New York General Business Law.

COUNT II

False Advertising, New York Gen. Bus. Law § 350

34. Plaintiffs incorporate by reference and re-allege each and every allegation set forth above as though fully set forth herein.

35. Plaintiffs brings this claim individually and on behalf of members of the New York Subclass against Defendant.

36. Based on the foregoing, Defendant has engaged in consumer-oriented conduct that is deceptive or misleading in a material way which constitutes false advertising in violation of Section 350 of the New York General Business Law by misrepresenting that the Hoses contain a “durable outer shell” that “won’t snag, tear, or wear” and are “Super-Durable.”

37. The foregoing advertising was directed at consumers and was likely to mislead a reasonable consumer acting reasonably under the circumstances.

38. This misrepresentation has resulted in consumer injury or harm to the public interest.

39. As a result of this misrepresentation, Plaintiffs and members of the New York Subclass have suffered economic injury because (a) they would not have purchased the Hoses if they had known that the Hoses were not durable and would wear and develop leaks shortly after purchase, and (b) they overpaid for the Hoses on account of the misrepresentation that they contain a “durable outer shell” that “won’t snag, tear, or wear” and are “Super-Durable.”

40. On behalf of themselves and other members of the New York Subclass, Plaintiffs seek to enjoin the unlawful acts and practices described herein, to recover their actual damages or five hundred dollars, whichever is greater, three times actual damages, and reasonable attorneys’ fees and costs, and an order enjoining Defendant’s deceptive conduct, and any other just and proper relief available under Section 350 of the New York General Business Law.

COUNT III

Breach of Express Warranty

41. Plaintiffs incorporate by reference and re-allege each and every allegation set forth above as though fully set forth herein.

42. Plaintiffs bring this claim individually and on behalf of members of the Class and New York Subclass against Defendant.

43. In connection with the sale of the Hoses, Defendant, as the designer, manufacturer, marketer, distributor, and/or seller issued written warranties by representing that the Hoses contain a “durable outer shell” that “won’t snag, tear, or wear” and are “Super-Durable.”

44. In fact, the Hoses do not conform to the above-referenced representations because the Hoses quickly wear and develop leaks, thereby making the Hoses unusable and worthless.

45. Plaintiffs and the members of the proposed Class and the New York Subclass were injured as a direct and proximate result of Defendant's breach because (a) they would not have purchased the Hoses if they had known that the Hoses were not durable and would wear and develop leaks shortly after purchase, and (b) they overpaid for the Hoses on account of the misrepresentation that they contain a "durable outer shell" that "won't snag, tear, or wear" and are "Super-Durable."

46. Plaintiffs' counsel notified Defendant of his claims in a demand letter, sent via FedEx, on July 27, 2021.

RELIEF DEMANDED

47. WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated, seek judgment against Defendant, as follows:

- a. For an order certifying the nationwide Class and the New York Subclass under N.J. Ct. R. 4:23 and naming Plaintiffs as representatives of the Class and New York Subclass and Plaintiffs' attorneys as Class Counsel to represent the Class and New York Subclass members;
- b. For an order declaring that Defendant's conduct violates the statutes referenced herein;
- c. For an order finding in favor of Plaintiffs, the nationwide Class, and the New York Subclass on all causes of action asserted herein;
- d. For compensatory, statutory, and punitive damages in amounts to be determined by the Court and/or jury;
- e. For prejudgment interest on all amounts awarded;
- f. For an order of restitution and all other forms of equitable monetary relief;
- g. For an order enjoining Defendant from continuing the illegal practices detailed herein and compelling Defendant to undertake a corrective advertising campaign; and
- h. For an order awarding Plaintiffs and the Class and New York Subclass their reasonable attorneys' fees and expenses and costs of suit.

DEMAND FOR TRIAL BY JURY

Plaintiffs demand a trial by jury of any and all issues in this action so triable of right.

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Yitzchak Kopel is hereby designated as trial counsel for the Plaintiffs in the above matter.

CERTIFICATION PURSUANT TO RULE 4:5-1

Pursuant to Rule 4:5-1, Plaintiffs disclose that the matter in controversy is the subject of another action styled as *Rash v. Telebrands Corporation*, Case No. 5:21-cv-00998, before Judge John William Holcomb in the Central District of California.

Dated: September 22, 2021

Respectfully submitted,

By: /s/ Yitzchak Kopel
 Yitzchak Kopel

Yitzchak Kopel (Bar No. 905352012)
BURSOR & FISHER, P.A.
888 Seventh Avenue
New York, NY 10019
Telephone: (646) 837-7150
Facsimile: (212) 989-9163
Email: ykopel@bursor.com

Attorney for Plaintiffs

Civil Case Information Statement

Case Details: ESSEX | Civil Part Docket# L-007123-21

Case Caption: GALLO CHRISTOPH VS TELEBRANDS
CORPORATI ON

Case Initiation Date: 09/22/2021

Attorney Name: YITZCHAK KOPEL

Firm Name: BURSOR & FISHER, P.A.

Address: 888 SEVENTH AVE

NEW YORK NY 10019

Phone: 6468377150

Name of Party: PLAINTIFF : Gallo, Christoph

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: COMPLEX COMMERCIAL

Document Type: Complaint with Jury Demand

Jury Demand: YES - 12 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Are sexual abuse claims alleged by: Christoph Gallo? NO

Are sexual abuse claims alleged by: HOWARD TANG? NO

Are sexual abuse claims alleged by: KENNETH PETERSEN? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? YES **Title 59?** NO **Consumer Fraud?** YES

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

09/22/2021

Dated

/s/ YITZCHAK KOPEL

Signed

