

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
ESSEX VICINAGE

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Attorneys for Plaintiff, State-operated School District of the City of Newark, on behalf of itself and all those similarly situated

State-operated School District of the City of Newark, on behalf of itself and all those similarly situated,

Plaintiff,

vs.

FieldTurf USA, Inc. f/k/a FieldTurf International, Inc.; FieldTurf Tarkett, Inc.; FieldTurf, Inc.; and ABC Corp. I-X.

Defendants.

SUPERIOR COURT OF NEW JERSEY
CIVIL DIVISION, ESSEX COUNTY
DOCKET NO.

1-8386-16

CIVIL ACTION

CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, the State-operated School District of the City of Newark ("Plaintiff"), hereby files this class action complaint on behalf of itself and all others similarly situated, by and through the undersigned attorneys, against defendants FieldTurf USA, Inc. f/k/a FieldTurf International, Inc.; FieldTurf Tarkett, Inc.; FieldTurf, Inc.; and ABC Corp. I-X (collectively, "Defendants"), and alleges as follows:

NATURE OF THE CASE

1. This is a putative class action on behalf of more than 100 New Jersey boards of education, school districts, schools, municipalities, colleges, universities and other institutions

who have purchased and/or received from Defendants certain defective synthetic turf fields and/or field turf products (“Defective Turf Fields”) between in or around 2005 and the present.

2. Defendants marketed the Defective Turf Fields to have certain characteristics, including a usable life span of at least 10 years, and provided certain express and/or implied warranties to that effect.

3. Upon information and belief, by 2006, Defendants were aware that the Defective Turf Fields were defective, and prone to cracking, splitting and breaking apart long before they should, and long before the express and/or implied warranties accompanying the sale of the Defective Turf Fields expired. Defendants began to receive complaints from a substantial amount of their customers that the Defective Turf Fields were prematurely deteriorating. Nevertheless, Defendants continued to market and sell the Defective Turf Fields as “proven to be the most durable and longest-lasting synthetic turf system in the marketplace.”

4. Defendants sold the Defective Turf Fields to approximately 1,500 municipalities, schools, and other institutions throughout the United States between 2005 and 2012. The average Defective Turf Field is estimated to have cost between \$300,000 and \$500,000. At least 133 of these fields were installed in New Jersey.

5. Plaintiff, on behalf of the putative class, brings this action to recover from Defendants the value of the diminished life span of the Defective Turf Fields, the replacement cost of the Defective Turf Fields, other damages related to the Defective Turf Fields purchased by the putative class members, and such other relief as the Court may deem equitable and just.

THE PARTIES

6. Plaintiff is a school district under State intervention having offices located at 2 Cedar Street, Newark, NJ 07102.

7. Upon information and belief, FieldTurf USA, Inc. f/k/a FieldTurf International, Inc., is a Florida corporation, with its principal place of business located at 175 North Industrial Blvd, Calhoun, Georgia 30701, and, at all relevant times, was conducting business in the State of New Jersey.

8. Upon information and belief, FieldTurf Tarkett, Inc. and FieldTurf, Inc. are Canadian Corporations with principal place of business at 7445 Cote de Liesse Rd., Suite 200, Montreal, Quebec, H4T 1G2, CA, and, at all relevant times, were conducting business in the State of New Jersey.

9. ABC Corp. I-X represents fictitious defendant corporations, whose identities are not yet known, and who were responsible for the design, manufacture, marketing, sale, or installation of the Defective Turf Fields.

VENUE

10. Venue in this action properly lies in Essex County pursuant to R. 4:3-2(a) because at least some of the products at issue were sold there, and the cause of action arose there.

FACTUAL ALLEGATIONS

A. DEFENDANTS KNOWINGLY MANUFACTURE AND SELL DEFECTIVE TURF FIELDS.

11. Defendants manufacture, market, sell and/or warrant synthetic turf fields throughout the United States and worldwide.

12. Between 2005 and 2012, many of Defendants' customers in New Jersey included boards of education, school districts, schools, municipalities and other municipal entities.

13. Upon information and belief, Defendants have the largest share of the synthetic turf field market in the country, and began selling the Defective Turf Fields under the Duraspine, Prestige XM and other product lines in or around 2005.

14. Upon information and belief, Defendants marketed the Defective Turf Fields to last 10 or more years, and promised customers that the blades of their synthetic grass would “stand up” like natural grass. Defendants also marketed the Defective Turf Fields to be more cost effective than maintaining a real grass field.

15. Upon information and belief, Defendants marketed the Defective Turf Fields to be made of the most durable and high quality materials, and warranted that the Defective Turf Fields would provide strong wear resistance. Defendants claimed the Defective Turf Fields product line “has proven to be the most durable and longest-lasting synthetic turf system in the marketplace.”

16. Upon information and belief, Defendants provided many of their customers with an 8 year manufacturer’s warranty for repair or replacement of all, or any portion, of the synthetic turf field that experienced premature wear at no cost to the customer.

17. Upon information and belief, in or around 2006, Defendants became aware that the Defective Turf Fields were deteriorating, breaking apart, fading, shredding, tearing, shedding, and lying flat prematurely, and that this was causing problems with customers using the fields Defendants had sold to them.

18. Upon information and belief, candid, internal email discussions among Defendants’ executives about their overblown sales pitches, reveal that Defendants were well aware as early as 2006 that the Defective Turf Fields would not perform as they were sold,

warranted, and marketed to do. Nevertheless, Defendants never changed their marketing campaign for the Defective Turf Fields.

19. On or about March 1, 2011, Defendants commenced an action against their polyethylene fiber supplier TenCate Thiolon in the United States District Court for the Northern District of Georgia bearing civil action no. 4:11-CV-50-TWT (the “TenCate Action”).

20. In their complaint in the TenCate Action, Defendants alleged that from 2005 through March 2011, TenCate was Defendants’ exclusive supplier of the monofilament fiber which Defendants used in the Defective Turf Fields. Defendants further alleged, *inter alia*, that prior to 2007, TenCate changed both the formula and the process by which it made the fiber, rendering the fiber “less durable,” thereby “increasing the likelihood of premature fiber degradation under certain conditions” and further, manufactured the fiber with an “[in]adequate amount of ultraviolet stabilizers required to prevent loss of tensile strength,” thus exacerbating the fiber’s “premature disintegration during the warranty period.”

21. Defendants admitted that in 2009, Defendants “received complaints from a significant number of customers in North America who had purchased . . . fields. Some customers reported that the fibers on their fields were splitting and shedding during routine use (e.g., covering player uniforms during sports games and practices). Other customers reported excessive thinning and fading of the fibers – especially along white and yellow lines, logos and other field areas composed of colored yarn. Still other customers reported that large areas of their fields in all colors had degraded dramatically.”

22. Defendants further alleged against TenCate that “In many instances, customers complained that fiber in one tufted row of a field was failing, while fiber of the same color in an immediately adjacent tufted row was not failing. The existence of variable degradation rates in

fiber exposed to the same environmental and wear conditions suggested, at a minimum, that the [TenCate material] was not performing in a uniform manner. Upon information and belief, such a marked variability in performance means that TenCate had quality control issues in their extrusion processes that resulted in alterations to what should have been chemically indistinguishable fibers.”

23. At that time, Defendants claimed 167 of their Defective Turf Fields had prematurely failed, and they estimated at least \$21.3 million in future damages due to problems with their supplier.

24. Upon information and belief, Defendants began receiving customer complaints about Defective Turf Fields failing much earlier, and commenced their own investigation into the defects in the fibers by 2006.

25. In the TenCate Action, Eric Daliere, Defendants’ CEO, testified under oath that at the very same time that Defendants filed the lawsuit against TenCate, they (1) considered the product to be defective; (2) was, nevertheless, in the process of installing 41 new fields made with the defective fibers without telling their customers their fields would likely fail prematurely; (3) was replacing the defective fields that did fail with the same defective material, and (4) continued to make a profit on the defective fields at the expense of their unknowing customers. Excerpts from the transcript of Mr. Daliere’s testimony are attached hereto as Exhibit A and incorporated herein by this reference (“Evolution” is TenCate’s trade name for the fibers).

26. Defendants continued to market, manufacture and/or sell Defective Turf Fields to municipalities, schools and other customers throughout the country, and specifically within New Jersey, until at least 2012. The majority of these fields were funded with taxpayer dollars.

B. DEFENDANTS CONCEALED THE DEFECT FROM CUSTOMERS.

27. Upon information and belief, during the relevant time period, Defendants were aware the Defective Turf Fields were deteriorating faster than expected and would not last as long as promised.

28. Upon information and belief, Defendants tried to cover up their knowledge of the defect, instructing an IT consultant to delete damaging internal emails.

29. Upon information and belief, Defendants never endeavored to tell their customers about the problems with the Defective Turf Fields, or how to identify premature failure of the Defective Turf Fields, despite knowing for nearly a decade that the Defective Turf Fields were defective, were deteriorating prematurely, and were prone to premature failures.

30. Upon information and belief, Defendants concealed the defect to complaining customers, claiming that the premature failure of the Defective Turf Fields is due to problems with maintenance, despite knowing the product is, in fact, defective.

31. Upon information and belief, during the relevant time period, Defendants sold the Defective Turf Fields to approximately 1,500 customers throughout the United States. Most of the Defective Turf Fields cost between \$300,000 and \$500,000, and were paid for with taxpayer dollars. All told, Defendants sold an estimated \$570 million worth of Defective Turf Fields, which Defendants knew were prone to cracking, splitting and breaking apart well within their marketed lifespan and well within the warranty period.

32. Defendants admit they have replaced nearly 20% of the Defective Turf Fields with warranty claims. Upon information and belief, the remaining 80% have not been replaced.

However, all or nearly all of the fields installed by Defendants between 2005 and 2012 are subject to premature deterioration, premature failure and are otherwise defective. See, e.g., The 100-Yard Deception, The Star Leger Dec. 4, 2016, FT 1-12 (finding that nearly all of the 50 FieldTurf fields surveyed showed deterioration, and citing a University of Michigan Space Lab test confirming the strength of the turf to be below industry standards) (available at <https://readymag.com/njdotcom/fieldturf/>)..

33. Upon information and belief, Defendants did not timely contact their customers to inform them of the defect in the Defective Turf Fields.

C. DEFENDANTS PROVIDED A DEFECTIVE FIELD TO PLAINTIFF WELL AFTER DEFENDANTS KNEW OF THE DEFECTS IN THE PRODUCT.

34. Plaintiff contracted with Defendants, and/or is an intended third party beneficiary of contracts with Defendants, to purchase and/or obtain for value a synthetic turf field at five locations that Plaintiff controls and/or manages.

35. Upon information and belief, despite knowing of the defects in 2006, Defendants did not disclose any of the foregoing to Plaintiff prior to, at, or after the time that Plaintiff obtained the Defective Turf Fields from Defendants, nor did Defendants disclose such facts prior to or at the time they received payments for the Defective Turf Fields.

36. Upon information and belief, Defendants did not notify Plaintiff of the litigation against TenCate, nor did Defendants notify Plaintiff of the 167 premature field failures involving the same Evolution fiber used by Defendants in the Defective Turf Fields they sold.

37. Defendants have not replaced the Defective Turf Fields nor compensated Plaintiff in any way for the false and misleading claims about Defendants' product.

CLASS ACTION ALLEGATIONS

38. Plaintiff brings this action and seeks to certify and maintain it as a class action under Rule 4:32 of the New Jersey Court Rules, on behalf of itself and a putative class, initially defined as follows:

All customers of Defendants who purchased and/or received from Defendants synthetic turf field and/or turf field products in the State of New Jersey from January 1, 2005 to the present.

(the "Class").

Excluded from the Class are Defendants, their affiliates, employees, officers and directors, and the judicial officers and their immediate family members and associated court staff assigned to this case. Plaintiff reserves the right to modify, change or expand the Class definition after conducting discovery.

39. Class members include, inter alios, municipalities, public and private schools and their respective boards, counties, public and private colleges and universities, local education foundations, and private institutions.

1. Numerosity and Ascertainability

40. This action satisfies the requirements of Rule 4:32-1. There are at least 133 Class members who purchased the same Defective Turf Fields from Defendants in New Jersey during the relevant time period. Individual joinder of all Class members is impracticable.

41. The Class is readily ascertainable based on Defendants' records and other publically available information.

2. Predominance Of Common Issues

42. Questions of law and fact that have common answers that are the same for each Class member predominate over questions affecting only individual Class members, including but not limited to:

- a. whether the product is defective;
- b. whether Defendants misrepresented the Defective Turf Fields;
- c. whether Defendants' conduct violated the New Jersey Consumer Fraud Act;
- d. whether Defendants' conduct violated the Truth in Consumer Contract Warranty and Notice Act;
- e. Whether Defendants breached the implied and express warranties accompanying the sale of the Defective Turf Fields; and
- f. whether Plaintiff and Class members are entitled to monetary damages and/or other remedies and, if so, the nature of any such relief.

3. Typicality

43. Plaintiff's claims are typical of the claims of the Class members, and arise from the same course of wrongful conduct by Defendants. The relief Plaintiff seeks is typical of the relief sought for the absent Class members.

4. Adequate Representation

44. Plaintiff will fairly and adequately represent and protect the interests of the Class. Plaintiff has retained counsel with substantial experience in complex litigation, contract litigation, and class action lawsuits.

45. Plaintiff and its proposed Class Counsel are committed to vigorously prosecuting this action on behalf of the Class, and have the financial resources to do so. Proposed Class Counsel have investigated and identified potential claims in the action. In addition, Plaintiff has no relationship with Defendants except as a customer.

46. Neither Plaintiff nor its proposed Class Counsel have interests adverse to or antagonistic to those of the Class.

5. Superiority

47. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because Plaintiff's legal claims are applicable to each Class member, common questions of fact and law predominate, the conduct of this action as a class action presents far fewer management difficulties, far better conserves judicial resources and the parties' resources, and far more effectively protects the rights of each Class member than would piecemeal litigation.

48. The prosecution of separate actions by individual members of the Class would run the risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct for Defendants in this action. Prosecution as a class action will eliminate the possibility of repetitious litigation.

49. The prosecution of separate actions by individual members of the Class would create the risk that adjudications with respect to individual members of the Class would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

50. Defendants have acted or refused to act on grounds generally applicable to Plaintiff and all Class members, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.

51. A class action will cause an orderly and expeditious administration of the claims of the Class and will foster economies of time, effort, and expense.

52. Plaintiff does not anticipate any difficulty in the management of this litigation.

TOLLING OF STATUTES OF LIMITATION

53. Any applicable statute(s) of limitations has been tolled by Defendants' knowing and active concealment and denial of the facts alleged herein. Plaintiff and members of the putative class could not have reasonably discovered the true nature of the defect until shortly before this class action litigation was commenced. Defendants were and remain under a continuing duty to disclose to Plaintiff and members of the putative class the true character, quality, and nature of the defect. As a result of the active concealment by Defendants, any and all applicable statutes of limitations otherwise applicable to the allegations herein have been tolled.

COUNT ONE

(Violation of the New Jersey Consumer Fraud Act)

54. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

55. The New Jersey Consumer Fraud Act ("NJCFRA") protects consumers against "any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise" N.J.S.A. 56:8-2.

56. Defendants engaged in unlawful conduct in violation of the NJCFA by making knowing and intentional omissions about the Defective Turf Fields.

57. Defendants engaged in unlawful conduct in violation of the NJCFA because they did not fully and truthfully disclose to their customers the true nature of the Defective Turf Fields, namely that the Defective Turf Fields were prone to premature deterioration, and lacked the durability needed to be fit for use as a synthetic turf field.

58. Defendants knowingly misled Plaintiff and the Class, and intended that Plaintiff and the Class would rely on the misrepresentations, omissions, and acts of concealment so that they would purchase the Defective Turf Fields.

59. Defendants' conduct caused Plaintiff and Class members to suffer an ascertainable loss. In addition to direct monetary losses, Plaintiff and Class members have suffered an ascertainable loss by receiving less than what was promised.

60. A causal relationship exists between Defendants' unlawful conduct and the ascertainable losses suffered by Plaintiff and the Class. Had the true information concerning the Defective Turf Fields been disclosed, Plaintiff and the Class members would not have purchased the turf fields, or would have paid less for them had they decided to purchase them.

61. Plaintiff seeks an order requiring Defendants to: (1) immediately stop the unlawful practices stated in this Complaint; (2) make full restitution of all funds wrongfully obtained; (3) pay actual damages; (4) pay treble damages; and (5) pay interest, attorneys' fees, and costs pursuant to N.J.S.A. 56:8-19.

COUNT TWO

(Violations Of The Truth-In-Consumer Contract, Warranty And Notice Act)

62. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

63. Plaintiffs and Class members are consumers as defined by the Truth-in-Consumer Warranty and Notice Act (“TCCWNA”), at N.J.S.A. 56:12-15.

64. Defendants’ transactions with Plaintiff and Class members for the Defective Turf Fields are “consumer contracts,” “warranties” and/or “notices” as defined by TCCWNA.

65. The warranty information used by Defendants in the transactions with Plaintiff and the Class is a “consumer contract,” “warranty” and/or “notice” within the meaning of TCCWNA.

66. Defendants were sellers within the meaning of TCCWNA with respect to Plaintiff and the Class, and offered and entered into contracts that contained provisions contrary to the NJCFA.

67. Defendants offered and/or entered into a written consumer contract and/or gave or displayed a written notice which included misrepresentations and omissions that violated a clearly established right of Plaintiff and Class members as established by New Jersey law at the time the offer was made, the contract was signed, or the notice was given.

68. Defendants offered and/or entered into a written consumer contract and/or gave or displayed a written notice which included -- or failed to include -- a provision that violated Defendants’ clearly established responsibilities as established by New Jersey law at the time the offer was made, the contract was signed, or the notice was given.

69. Defendants are directly liable to Plaintiff and the Class for damages pursuant to TCCWNA.

70. Defendants are liable to Plaintiff and the Class for a statutory civil penalty of a minimum of \$100 per invoice/contract and reasonable attorney's fees and costs pursuant to N.J.S.A. 56:12-17.

71. Plaintiff, on behalf of itself and all others similarly situated, demands judgment against Defendants for damages, the statutory penalty, attorney's fees and costs and declaratory relief.

COUNT THREE
(Breach of Express Warranty)

72. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

73. Defendants expressly warranted that the Defective Turf Fields would be of high quality, would not suffer from premature deterioration, and would be useable as a turf field for at least ten years, as well as certain other express warranties.

74. Defendants breached the express warranties that accompanied the sale of the Defective Turf Fields because, inter alia, the Defective Turf Fields were not of high quality, and Defendants knew this. Moreover, the Defective Turf Fields prematurely deteriorated, and were not durable enough to be usable as turf fields for ten years, and were otherwise defective.

75. As a result, Plaintiff and Class members have suffered injury in fact and/or actual damages in an amount to be determined at trial.

76. Plaintiff, on behalf of itself and all others similarly situated, demands judgment against Defendants for damages and declaratory relief.

COUNT FOUR
(Breach of Implied Warranties)

77. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

78. The Defective Turf Fields were sold by Defendants, a seller of synthetic turf fields, with the contract description that they would be durable enough to function as a turf field for at least 10 years, and would not suffer from premature deterioration.

79. The Defective Turf Fields are defective in that they, inter alia, are not of the minimal standard for synthetic turf fields or the standard that Defendants impliedly warranted.

80. The defect has caused damages to Plaintiff and the Class.

81. Plaintiff and Class members relied on Defendants' skill and judgment as a turf field manufacturer in selecting the Defective Turf Fields for use as a synthetic turf field.

82. Defendants were aware of Plaintiff's and Class members' use for the Defective Turf Fields, and that Plaintiff and Class members were relying on Defendants in selecting the product.

83. The Defective Turf Fields were unfit for Plaintiff's and Class members' particular use, being unable to withstand being used as a synthetic turf field for the period of time that Defendants impliedly warranted.

84. The Defective Turf Fields's unfitness has caused Plaintiff and Class members' damages.

85. Plaintiff and the Class have suffered injury in fact and/or actual damages in an amount to be determined at trial.

86. Plaintiff, on behalf of itself and all others similarly situated, demands judgment against Defendants for damages and declaratory relief.

COUNT FIVE
(Breach of Contract)

87. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

88. Defendants entered into contracts with Plaintiff and Class members in which they agreed to, inter alia, sell a turf field that was warranted against manufacturer defects, and in which Defendants agreed to repair or replace all or any portion of a turf field provided by Defendants that prematurely deteriorates, wears or fails.

89. The fields provided by Defendants for Plaintiff and the Class are defective in that, inter alia, they suffered from premature deterioration, wearing and failure; accordingly, Defendants are obligated to replace them at no cost to Plaintiff and the Class.

90. Defendants have failed to replace the fields as they are required to do by contract.

91. Plaintiff and the Class have suffered injury in fact and/or actual damages in an amount to be determined at trial.

92. Plaintiff, on behalf of itself and all others similarly situated, demands judgment against Defendants for damages and declaratory relief.

COUNT SIX
(Breach of Covenant of Good Faith and Fair Dealing)

93. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

94. Defendants have a duty of good faith and fair dealing with respect to their dealings with Plaintiff and the Class members.

95. There is an implied duty of good faith and fair dealing in every contract, and Defendants had an implied duty to ensure that their marketing materials and other representations regarding the quality of the Defective Turf Fieldss were not false and misleading.

96. Defendants knew that the Defective Turf Fields lacked durability when they marketed, sold and/or provided the Defective Turf Fields for Plaintiff and Class members.

97. Defendants breached the covenant of good faith and fair dealing by engaging in deceptive and misleading representations of the quality of the Defective Turf Fields.

98. Defendants acted recklessly, maliciously, in bad faith, and without good cause, thereby preventing Plaintiff and the Class from receiving their reasonably expected benefits of their purchases.

99. Plaintiff and Class members relied to their detriment upon misleading assertions and conduct of Defendants and such reliance may be presumed based on the Defendants' unlawful conduct.

100. As a direct and proximate result of Defendants' deceptive, fraudulent, and unfair practices, Plaintiff and Class members have suffered injury in fact and/or actual damages in an amount to be determined at trial.

101. Plaintiff, on behalf of himself and all others similarly situated, demands judgment against Defendants for damages and declaratory relief.

COUNT SEVEN

(Fraud/Fraudulent Concealment/Fraudulent Misrepresentation)

102. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

103. Defendants made material misstatements of fact to Plaintiff and Class members regarding the quality and durability of the Defective Turf Fields. As a result, Plaintiff and the Class were fraudulently induced to purchase the Defective Turf Fields with false and inflated information.

104. These misstatements by Defendants were made with knowledge of their falsity, and with the intent that Plaintiff and members of the Class would rely upon them.

105. As described herein, Defendants fraudulently marketed the Defective Turf Fields as having the durability to be free from premature deterioration and to be used as turf fields for at least ten years, despite their knowledge that the product was defective.

106. At the time Defendants made these misrepresentations and concealments, and at the time Plaintiff and Class members purchased the Defective Turf Fields, Plaintiff and the Class were unaware of the falsity of these misrepresentations, and reasonably believed them to be true.

107. In making these representations, Defendants knew they were false and/or misleading, and intended that the Plaintiff and Class members would rely upon such misrepresentations.

108. Plaintiff and Class members did in fact rely upon Defendants' misrepresentations.

109. As a direct and proximate result of Defendants' deceptive, fraudulent, and unfair practices, Plaintiff and Class members have suffered injury in fact and/or actual damages in an amount to be determined at trial.

110. Plaintiff, on behalf of himself and all others similarly situated, demands judgment against Defendants for damages and declaratory relief.

COUNT EIGHT
(Negligence/ Negligent Misrepresentation)

111. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

112. Under the circumstances alleged, Defendants owed a duty to Plaintiff and Class to provide them with accurate information regarding the true qualities of the Defective Turf Fields.

113. Under the circumstances alleged, Defendants owed a duty to Plaintiff to prevent the premature deterioration or failure of the turf fields provided by Defendants.

114. Defendants' representations, as described herein, were false, negligent and material.

115. Defendants negligently made these misrepresentations with the understanding that Plaintiff and Class members would rely upon them.

116. Plaintiff and Class members did in fact reasonably rely upon these misrepresentations and concealments made by Defendants.

117. Defendants negligently failed to provide turf fields of the quality and durability to be used as intended.

118. Defendants negligently failed to provide accurate information to Plaintiff and the Class.

119. As a direct and proximate result of Defendants' negligent actions, Plaintiff and Class members have suffered injury in fact and/or actual damages in an amount to be determined at trial.

120. Plaintiff, on behalf of himself and all others similarly situated, demands judgment against Defendants for damages and declaratory relief.

COUNT NINE
(Unjust Enrichment)

121. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

122. Plaintiff and the Class conferred a tangible economic benefit on Defendants by purchasing the Defective Turf Fields. Plaintiff and the Class would not have purchased the

Defective Turf Fields had they known the true nature of the Defective Turf Fields, or they would have paid substantially less for them.

123. Because of Defendants' wrongful acts and omissions, Defendants were able to complete sales and charge a higher price for the Defective Turf Fields than the product's true value, and Defendants obtained monies which rightfully belong to Plaintiff and the Class.

124. Defendants enjoyed the benefit of increased financial gains, to the detriment of Plaintiff and other Class members. It would be inequitable and unjust for Defendants to retain these wrongfully obtained funds.

125. Therefore, in the alternative to the warranty and contract claims stated above, Plaintiff seeks an order requiring Defendants to make restitution and disgorgement to it and other members of the Class.

WHEREFORE, Plaintiff, on behalf of itself and all those similarly situated, demands judgment against Defendants as follows:

- A. Certification of a class, as defined here, for monetary relief pursuant to R. 4:32-1;
- B. Appointment of Plaintiff as class representative, and its attorneys as class counsel for the Class;
- C. Injunctive relief prohibiting Defendants from any further violations of the NJCFA and TCWWNA;
- D. Declaratory judgment that Defendants violated the NJFCA and TCWWNA;
- E. Actual damages;
- F. Treble damages;
- G. Statutory civil penalties payable to Plaintiff and each Class member;
- H. Reasonable attorney's fees and costs;
- I. Pre-judgment interest and post-judgment interest; and

J. Such other relief as the Court shall deem equitable and just

**RIKER DANZIG SCHERER
HYLAND & PERRETTI LLP**
Attorneys for Plaintiff, State-operated School
District of the City of Newark, on behalf of itself
and all those similarly situated

Dated: December 7, 2016

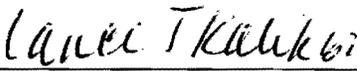
By: 
Lance J. Kalik

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Lance J. Kalik, Esq. is hereby designated as trial counsel on behalf of Plaintiff and all those similarly situated.

**RIKER DANZIG SCHERER
HYLAND & PERRETTI LLP**
Attorneys for Plaintiff, State-operated School
District of the City of Newark, on behalf of itself
and all those similarly situated

Dated: December 7, 2016

By: 
Lance J. Kalik

JURY DEMAND

Plaintiff, on behalf of itself and all those similarly situated, hereby demands a trial by jury to all issues so triable.

**RIKER DANZIG SCHERER
HYLAND & PERRETTI LLP**
Attorneys for Plaintiff, State-operated School
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