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**UNITED STATES DISTRICT COURT**

**FOR THE NORTHERN DISTRICT OF CALIFORNIA**

WILLIAM A. SHIRLEY, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

L.L. BEAN, INC., a Maine corporation,

Defendant.

Case No.:

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

1 Plaintiff William A. Shirley (“Plaintiff”), individually and on behalf of all others similarly  
2 situated, upon personal knowledge as to facts pertaining to himself and on information and belief  
3 as to all other matters, by and through his undersigned counsel, brings this class action complaint  
4 against defendant L.L. Bean, Inc. (“L.L. Bean” or “Defendant”).

### 5 NATURE OF THE ACTION

6 1. Since 1912, L.L. Bean has sought and earned the trust and respect of its customers  
7 by providing a “100% Satisfaction Guarantee,” pursuant to which it has promised to exchange or  
8 replace items if a customer determined that the item was not “completely satisfactory” (the  
9 “Guarantee”). This highly publicized and widely known Guarantee has, for decades, been part  
10 of the benefit of the bargain for purchasers of L.L. Bean products. L.L. Bean’s Guarantee has  
11 become almost entirely intertwined with the L.L. Bean brand.

12 2. On February 9, 2018, L.L. Bean rescinded the Guarantee and announced  
13 significant limitations.

14 3. In a February 9, 2018 letter from L.L. Bean Executive Chairman Shawn O.  
15 Gorman, posted on L.L. Bean’s Facebook page (and e-mailed to some previous customers  
16 including Plaintiff), L.L. Bean announced it had “updated” its Guarantee. In a marked shift from  
17 the decades-old Guarantee, the new terms require proof of purchase for all returns, in addition to  
18 excluding from coverage completely returns where L.L. Bean determines certain “Special  
19 Conditions” apply, including products damaged by “misuse,” “improper care,” and “excessive  
20 wear and tear.” The Guarantee of “complete satisfaction,” bargained and paid for by loyal  
21 customers for years, has been suddenly and unilaterally withdrawn by L.L. Bean.

22 4. As a result of L.L. Bean’s deceptive and unfair repudiation of its Guarantee and  
23 violation of the Magnuson-Moss Warranty Act and other laws, Plaintiff and all other L.L. Bean  
24 customers who bought products before February 9, 2018, did not receive what they bargained  
25 for.

26 5. Plaintiff brings this action on behalf of himself and all others similarly situated to  
27 recover the lost benefit of the bargain attributable to L.L. Bean’s repudiation of its warranty, or  
28 in the alternative, to require L.L. Bean to honor the terms of its warranty that was the basis of the

bargain, and a declaration that: (1) L.L. Bean's February 9, 2018 announcement that it would no longer honor the Guarantee with no end date or questions asked constitutes a violation of the law and a breach of warranty; (2) L.L. Bean must continue to honor the warranty with no end date and no questions asked as to goods purchased prior to February 9, 2018; and (3) L.L. Bean must provide the best notice practicable under the circumstances designed to reach past and future L.L. Bean customers and corrective advertising regarding the changes to its warranty.

### **JURISDICTION AND VENUE**

6. This Court has original subject matter jurisdiction over the case under 28 U.S.C. § 1332(d) because the case is brought as a class action under Federal Rule of Civil Procedure ("Fed. R. Civ. P.") 23, at least one member of the proposed Classes (defined below) is of diverse citizenship from L.L. Bean, the proposed Classes include more than 100 members, and the aggregate amount in controversy exceeds five million dollars, excluding interest and costs.

7. Venue is proper in this District under 28 U.S.C. § 1391 because L.L. Bean engaged in substantial conduct relevant to Plaintiff's claims within this District and has caused harm to members of the proposed Classes residing within this District.

### **PARTIES**

8. Plaintiff William A. Shirley is a resident of Berkeley, California. Plaintiff has purchased numerous items from L.L. Bean's website, as recently as November of 2017. The L.L. Bean Guarantee, which would allow him to return his purchases at any time if he was not completely satisfied, was part of the basis of Plaintiff's bargain with L.L. Bean. Given the Company's sudden reversal of its long-standing Guarantee, however, Plaintiff has been injured and has been deprived of the benefit that formed a basis of the bargain between him and L.L. Bean

9. Defendant L.L. Bean is a Maine corporation headquartered in Freeport, Maine.

### **FACTUAL ALLEGATIONS**

10. L.L. Bean was founded in 1912 by Leon Leonwood (L.L.) Bean and, under the leadership of his grandson, Leon Gorman, was eventually transformed into a globally recognized brand of outdoor clothing and equipment. L.L. Bean opened its first retail store in Freeport,

Maine in 1917 and now operates at least 30 domestic retail stores outside of Maine—as far south as Virginia and as far west as Colorado—as well as 10 outlets. L.L. Bean opened its first international retail store in Tokyo in 1992, and currently operates approximately 25 stores and outlets in Japan. In 1995, L.L. Bean launched its website, which serves over 200 countries and territories. L.L. Bean also mails catalogs to customers in every state and over 150 countries.

11. L.L. Bean has long maintained a reputation for outstanding customer service, both among its customers and throughout the retail industry. This positive reputation (and consequent revenue) was largely founded on L.L. Bean’s comprehensive Guarantee that, until recently, read as follows:

#### Easy Returns & Exchanges

We make pieces that last, and if they don’t, we want to know about it. L.L. himself always said that he “didn’t consider a sale complete until goods are worn out and the customer still satisfied.” Our guarantee is a handshake – a promise that we’ll be fair to each other. So if something’s not working or fitting or standing up to its task or lasting as long as you think it should, we’ll take it back. We want to make sure we keep our guarantee the way it’s always been for over a century.<sup>1</sup>

12. Commenting on the Guarantee in August 2016, an L.L. Bean spokesperson told Business Insider that the “vast majority” of customers adhere to the original intent of the Guarantee:

Our guarantee is not a liability, but rather a customer service asset – an unacknowledged agreement between us and the customer, that always puts the customer first and relies on the goodwill of our customers to honor the original intent of the guarantee.<sup>2</sup>

<sup>1</sup> This quote has been copied from an Internet archive of L.L. Bean’s website as it appeared in November 2016. See Easy Returns & Exchanges, L.L. BEAN, <https://web.archive.org/web/20161128235134/https://www.llbean.com/llb/shop/510624?page=returns-and-exchanges> (last visited May 4, 2018).

<sup>2</sup> Dennis Green, *L.L. Bean is considering dropping its legendary return policy because of ‘fraudulent returns,’* BUSINESS INSIDER (Feb. 10, 2017), <http://www.businessinsider.com/ll-bean-is-considering-dropping-its-return-policy-2017-2> (last visited May 4, 2018).

13. In addition to serving as a “customer service asset,” the Guarantee provided L.L. Bean with a tremendous amount of marketing material, both in-store<sup>3</sup> and on its website.<sup>4</sup>



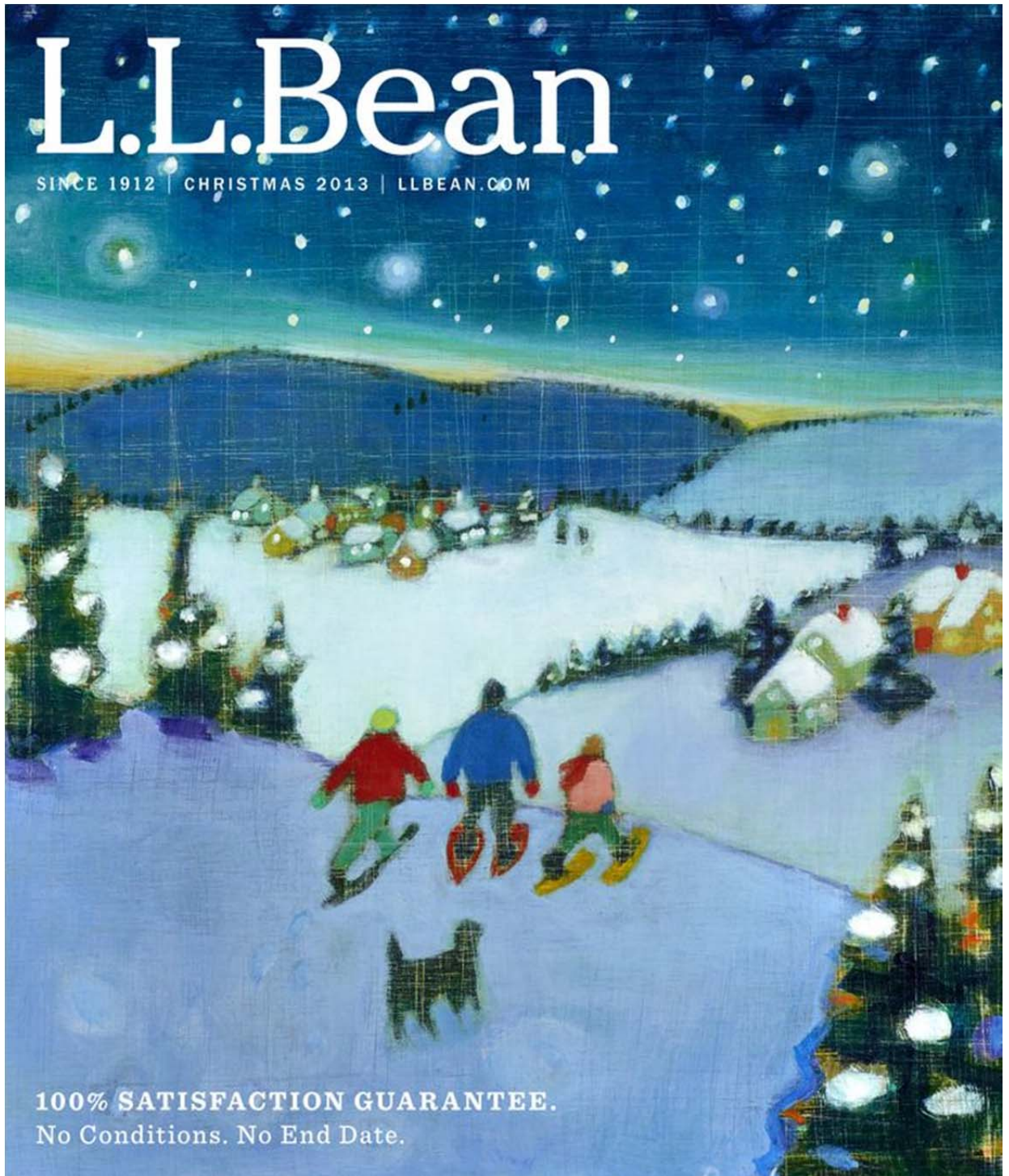
<sup>3</sup> See, e.g., Anna Maconachy, *Photos: L.L. Bean Opens in Columbus*, COLUMBUS UNDERGROUND (Nov. 20, 2015), [http://www.columbusunderground.com/l-l-bean-columbus-am1\\_](http://www.columbusunderground.com/l-l-bean-columbus-am1_) (last visited May 4, 2018).

<sup>4</sup> See, e.g., screenshot of L.L. Bean return policy, as of December 2017, available at [https://web.archive.org/web/20130516210231/http://www.llbean.com:80/customerService/aboutLLBean/guaranteed\\_popup.html](https://web.archive.org/web/20130516210231/http://www.llbean.com:80/customerService/aboutLLBean/guaranteed_popup.html) (last visited May 4, 2018).

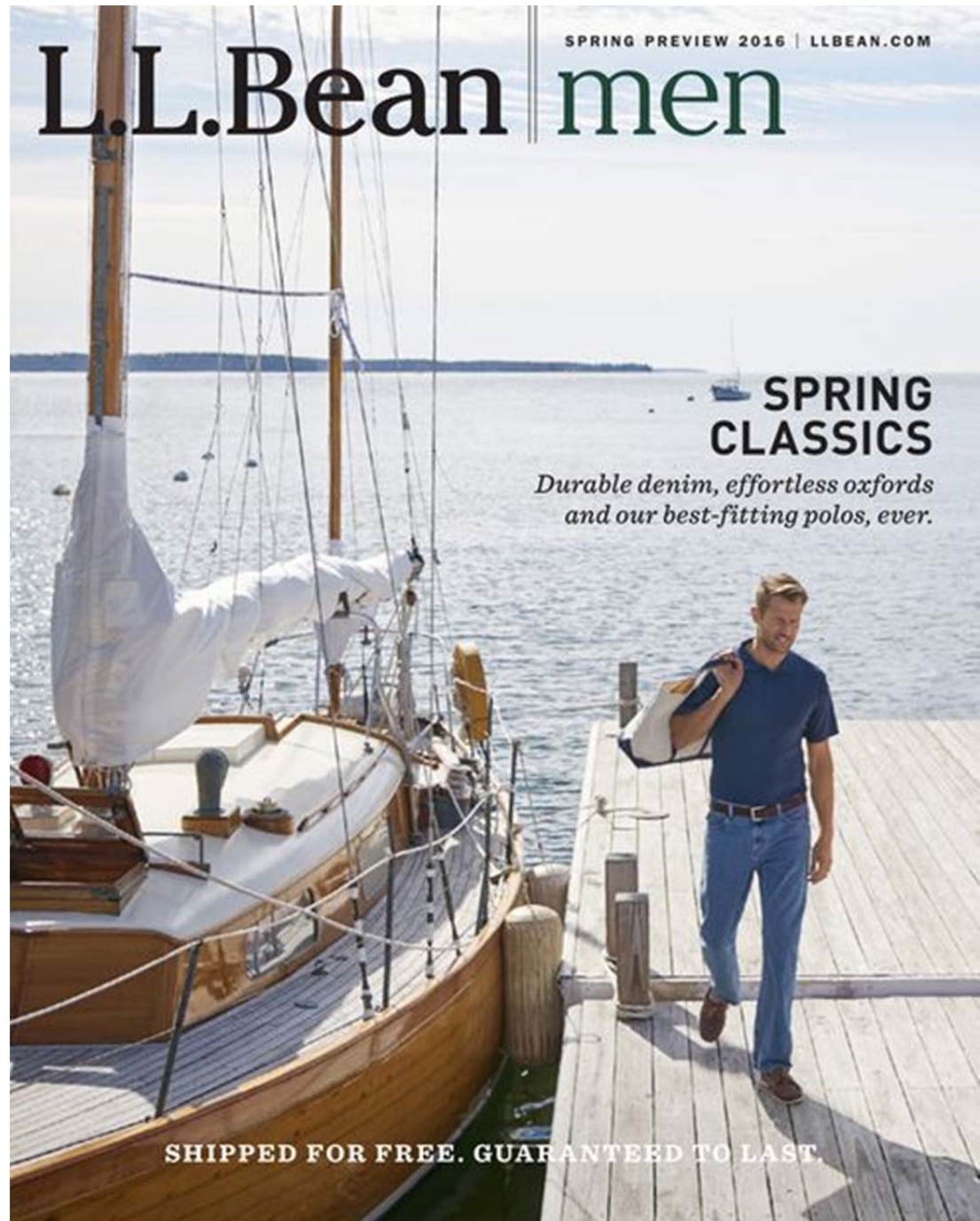
14. For years, L.L. Bean catalogs also proudly touted L.L. Bean's purportedly "rock-solid" 100% Satisfaction Guarantee:



1           15.     The cover of the Christmas 2013 catalog, for example, promised that the 100%  
2 satisfaction Guarantee had “No Conditions” and “No End Date.”



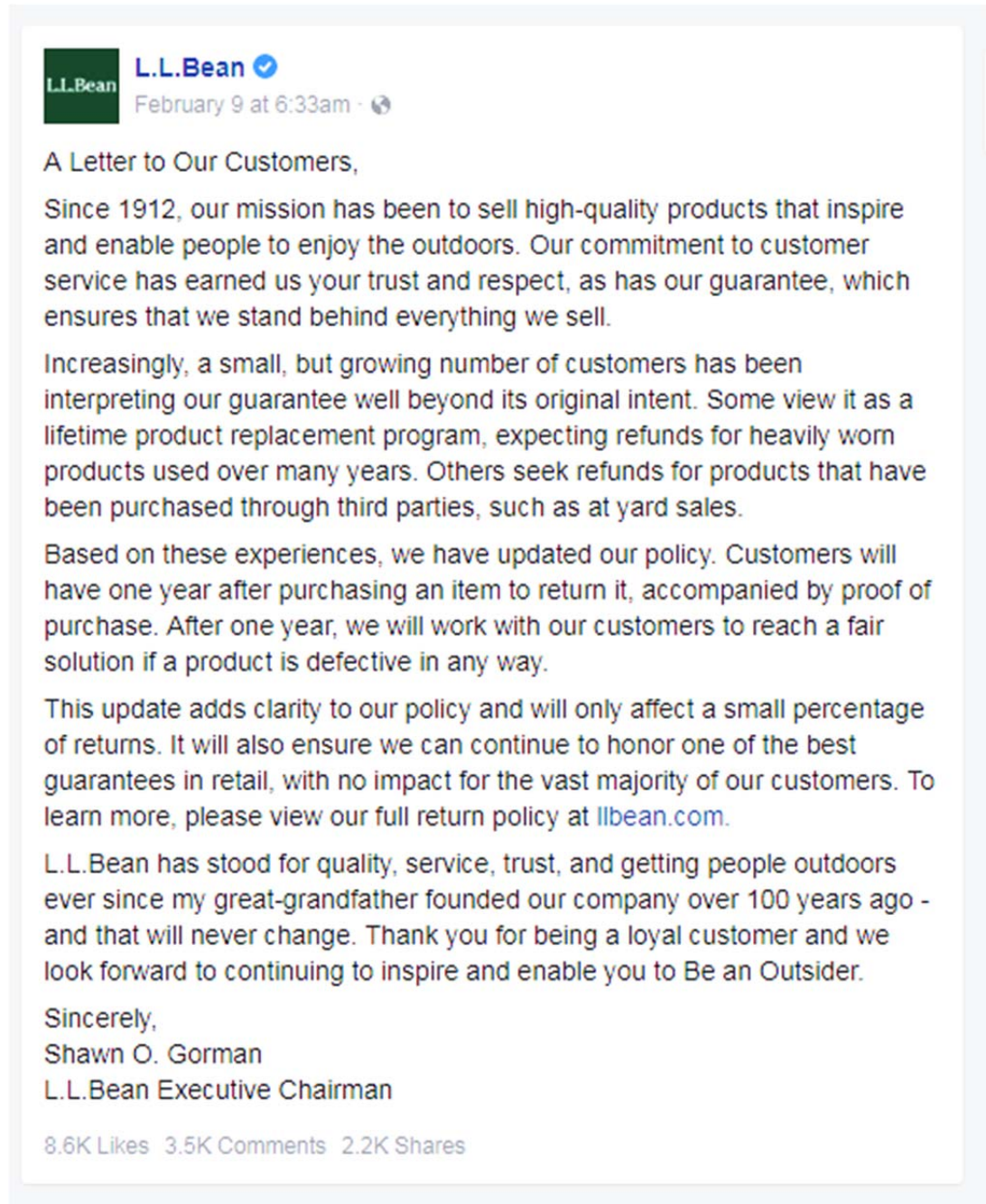
1           16. The Guarantee also implicitly and explicitly represented to customers that L.L.  
2 Bean's products were well-made and remarkably long-lasting.



1           17. The Spring 2015 issue of L.L. Bean Fishing promised: “At L.L. Bean, your  
2 satisfaction doesn’t have a time limit.”



18. On February 9, 2018, however, time suddenly ran out on L.L. Bean's promise of 100% satisfaction. In a statement posted on the L.L. Bean Facebook page (and e-mailed to some customers including Plaintiff), L.L. Bean's Executive Chairman announced that, effective immediately, "[c]ustomers will have one year after purchasing an item to return it, accompanied by proof of purchase."



19. The return policy on the L.L. Bean's website was then changed to read:

If you are not 100% satisfied with one of our products, you may return it within one year of purchase for a refund. After one year, we will consider any items for return that are defective due to materials or craftsmanship.

We require proof of purchase to honor a refund or exchange. If you provide us your information when you check out, we will typically have a record of your purchase. Otherwise, we require a physical receipt.

Please include your proof of purchase with the products you wish to return or exchange and bring it with you to any of our stores, or include it in your package of returned item(s). We will reimburse the original purchase price to either your original method of payment or as a merchandise credit.

#### **Special Conditions**

To protect all our customers and make sure that we handle every return or exchange with reasonable fairness, we cannot accept a return or exchange (even within one year of purchase) in certain situations, including:

- Products damaged by misuse, abuse, improper care or negligence, or accidents (including pet damage)
- Products showing excessive wear and tear
- Products lost or damaged due to fire, flood, or natural disaster
- Products with a missing label or label that has been defaced
- Products returned for personal reasons unrelated to product performance or satisfaction
- Products that have been soiled or contaminated, until they have been properly cleaned
- Returns on ammunition either in our stores or through the mail
- On rare occasions, past habitual abuse of our Return Policy<sup>5</sup>

20. The dramatic change in the Guarantee has caused an outcry among L.L. Bean's customers, with many angrily arguing that the changes are too restrictive and others declaring that they will no longer shop at L.L. Bean.

21. Customers who have had warranty returns of purchases made prior to February 9, 2018, improperly denied by L.L. Bean have taken to social media to express their displeasure:

<sup>5</sup> L.L. Bean Returns and Exchanges webpage as of February 10, 2018, available at <https://web.archive.org/web/20180210234829/https://www.llbean.com/llb/shop/510624?page=returns-and-exchanges> (last visited May 4, 2018).



I was just denied my return of the same storm chasers boots on the phone with the manager at the danbury fair ct location they didn't even see the product they looked up my information & because I returned them a few times before for the same issue they refuse to exchange them out for a better quality boot. they are supposed to be water proof but completely soak my socks I have 2 pairs. They didn't even look at the boots in person. The manager was was mean & telling as of yesterday the new policy took affect & there is nothing we can do if I came thursday they would've replaced them!! What kind of company is LL Bean to treat ppl this way & They clearly stated that after 1 year they would still accept defective items But their associates clearly don't understand that!!! I WILL NEVER GO BACK TO LL BEAN AGAIN!!!!!! I hope they go outta business!!!!!!

Like · Reply · 6d

· Feb 12



Replying to @LLBean

Kiddo's 1 year old coat zipper broke literally the day before the policy changed...store can't find the record under our names and said they can't look up through the credit card. She talked to me like I was a liar, and I cried in the car for 10 min. This was a ton of \$ for us 😞



· 12m



Saved this thing for more than year and for what??? A lady to tell me they can't replace my moccasins that HAVE A TEAR IN THE SEAM.

@LLBean



Monday at 10:02 AM · 🌐



Dear **L.L.Bean** it has been nice shopping with you all these 35+ years. I've enjoyed over paying for kids clothing and spending lots on money (like lots!!) with you annually to outfit all my kids and outdoor gear. However now that you told me that my \$170 kids jacket purchased 2 months ago didn't hold up because "something happened to it" when it was clearly a inferior product that ripped without any signs of damage/stress/abrasion or abuse, I'm calling you out.

Oh and when I politely asked you to look at the jacket because kids accidents don't happen on patterns that follow the fabric weak point. (Ya know there is this thing called physics and science.....) you then shockingly reply to me that it must have been something my 7 year old kid cut at school with an exacto knife.....really Beans, really!!!! Did you just insult me and my child?? Check my E records, do those \$ metrics look like I'm a WT yard sale returner??? Let me school you on fabrics, those are two exactly similar right angle shapes that no way resemble kiddo abuse....thats poor fabric failing. WTF

I say to you two words. AMAZON PRIME!! Been nice knowing you Beans, I will spent my money elsewhere.

Sad!!!

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**Cary Weston** @cary\_weston · Apr 15

Hoping @LLBeanService can help - gloves fell apart after one season .. helpful LL Bean phone rep encouraged us to bring back - sales rep at Bangor Outlet refused to exchanged..confused



2/21/2018

Levie Y.

**Negative****Review**

"LI bean integrity has died" I bought a pair of boots from LL Bean. I hardly wore them and the soles literally fell off. I called and they said they could mail them back and they would return them. more than a month later someone contacted me and said they couldn't find any record of my purchase and that they would not repair them. Even though they had an unconditional satisfaction guarantee when I bought them guarantee when I bought them, they tried to say that because they had decided to do away with that and said so in their newest catalog they didn't have to honor that. They then tried to tell me that it was actually "ordinary wear and tear" the boots were hardly used, the soles were almost new! If this is representative of LL Beans standard of quality and integrity, I WILL NEVER DO BUSINESS WITH THEM AGAIN !!! and I would recommend to anyone considering buying Bean products that they shop somewhere else as well. I was a loyal LL Bean customer for over 40 years and I am sad to loose this option for quality products and company integrity has died.

Was this review helpful? ☐ Yes ☐ No

[1] person found this review helpful

2/18/2018

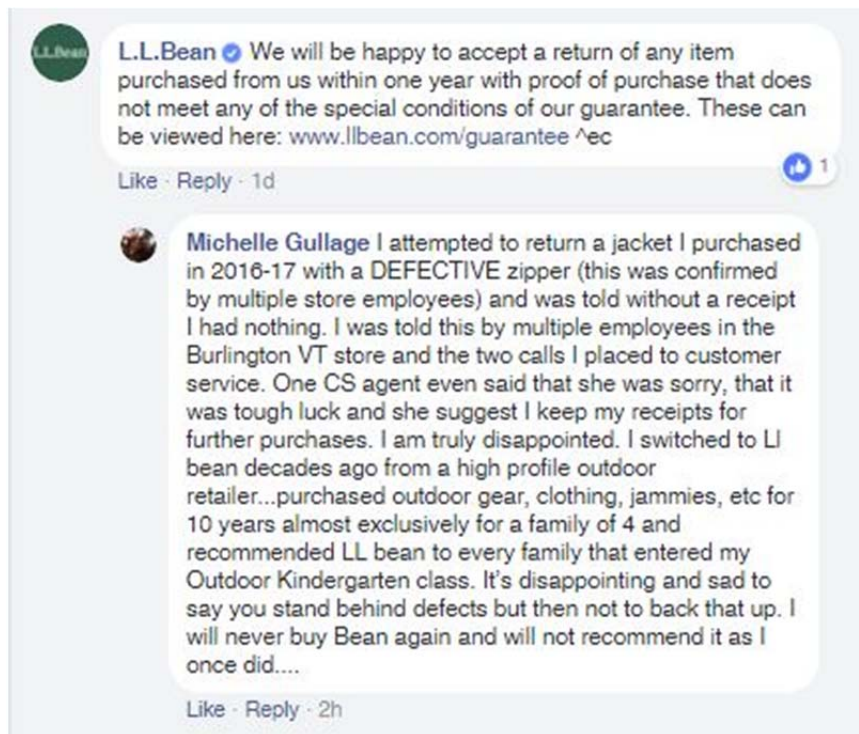
Mark S.

**Negative****Review**

Disappointed and furious that LL Beans is retroactively applying their new return policy; this is simply dishonest. Recently hassled at MA store during a return and told that all returns would be evaluated on a case by case basis; even those purchased under previous 100% satisfaction guarantee and with receipt. What to go LL!

Was this review helpful? ☐ Yes ☐ No

[2] people found this review helpful



22. On April 5, 2018, nearly two months after L.L. Bean rescinded its 100% Guarantee and one day before L.L. Bean was required to respond to a lawsuit filed against it in the Northern District of Illinois for the repudiation of its 100% Satisfaction Guarantee, L.L. Bean modified its website to state, for the first time, “Please note that products purchased before February 9, 2018, are not subject to this one-year time limit.” L.L. Bean then attached a printout of its newly modified website to the motion to dismiss it filed in that case,<sup>6</sup> but (1) failed to disclose that the modification was made just the preceding day; and (2) concealed the portion of the web page pertaining to the new “Special Conditions,” which clearly still apply to purchases made before February 9, 2018. In other words, while L.L. Bean may now, in response to the *Bondi* litigation, be permitting returns for purchases made more than a year ago (a fact yet to be determined), such purchases still must meet various other new conditions that were not originally part of the bargain, including proof of purchase, no “excessive wear and tear” or “damage[] by misuse, abuse, improper care or negligence, or accidents (including pet damage).”

23. L.L. Bean rescinded its 100% Satisfaction Guarantee for purchases made prior to February 9, 2018, has denied proper returns in retail outlets across the country on that basis, as with Plaintiff and many others, and has done all it can to attempt to obscure this conduct from the public.

24. Plaintiff and the members of the Classes did not receive that which was promised and represented to them. Unbeknownst to Plaintiff and the other Class members, rather than purchasing products accompanied by a 100% Satisfaction Guarantee, they were purchasing products that would become subject to an exceptionally limited warranty, for which proof of purchase was required. Accordingly, because Plaintiff and the other Class members did not receive the benefit of the bargain, Plaintiff and the Class members overpaid for the products they purchased.

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<sup>6</sup> See *Bondi v. L.L. Bean, Inc.*, No. 18-CV-1101 (N.D. Ill.), ECF No. 18.

**CLASS ALLEGATIONS**

25. Plaintiff brings this case as a class action pursuant to Fed. R. Civ. P. 23(b)(2) and (b)(3), on behalf of a class defined as follows (sometimes referred to as the “Nationwide Class”):

All persons in the United States and its territories who purchased, other than for resale, products from L.L. Bean prior to February 9, 2018.

Excluded from the Nationwide Class are: (i) L.L. Bean and its officers and directors, agents, affiliates, subsidiaries, and authorized distributors and dealers; (ii) all Nationwide Class members that timely and validly request exclusion from the Nationwide Class; and (iii) the Judge presiding over this action.

26. Alternatively, Plaintiff brings this case as a class action pursuant to Fed. R. Civ. P. 23(b)(2) and (b)(3) on behalf of the following subclass (sometimes referred to as the “California Subclass”):

All persons in the State of California who purchased, other than for resale, products from L.L. Bean prior to February 9, 2018.

Excluded from the California Subclass are: (i) L.L. Bean and its officers and directors, agents, affiliates, subsidiaries, and authorized distributors and dealers; (ii) all California Subclass members that timely and validly request exclusion from the California Subclass; and (iii) the Judge presiding over this action. The Nationwide Class and the California Subclass are sometimes collectively referred to herein as the “Classes.”

27. Certification of Plaintiff’s claims for class-wide treatment is appropriate because Plaintiff can prove the elements of his claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

28. The members of the Classes are so numerous that joinder of the members of the Classes would be impracticable. On information and belief, the Nationwide Class numbers in the tens of thousands while the California Subclass numbers in the thousands.

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1           29. Common questions of law and fact exist as to all members of the Classes and  
2 predominate over questions affecting only individuals. Such common questions of law or fact  
3 include, *inter alia*:

- 4           A. Whether L.L. Bean engaged in the conduct alleged;
- 5           B. Whether L.L. Bean breached its contracts with Plaintiff and members of the  
6 Classes;
- 7           C. Whether L.L. Bean's conduct violated the California Consumer Legal Remedies  
8 Act ("CLRA"), Cal. Civ. Code § 1750;
- 9           D. Whether L.L. Bean's conduct violated the California Unfair Competition Law  
10 ("UCL"), Business and Professions Code § 17200;
- 11           E. Whether Plaintiff and members of the Classes have been damaged and, if so, the  
12 measure of such damages;
- 13           F. Whether L.L. Bean unjustly retained a benefit conferred by Plaintiff and the  
14 members of the Classes;
- 15           G. Whether Defendant's conduct violated the Magnuson-Moss Warranty Act; and
- 16           H. Whether Plaintiff and members of the Classes are entitled to equitable relief,  
17 including, but not limited to, a constructive trust, restitution, declaratory, and  
18 injunctive relief.

19           30. Plaintiff's claims are typical of the claims of the Classes because, among other  
20 things, Plaintiff and the Classes were injured through the substantially uniform misconduct  
21 described above. Plaintiff is advancing the same claims and legal theories on behalf of himself  
22 and all members of the Classes.

23           31. Plaintiff is an adequate representative of the Classes because his interests do not  
24 conflict with the interests of the members of the Classes he seeks to represent, he has retained  
25 counsel competent and experienced in complex commercial and class action litigation, and  
26 Plaintiff intends to prosecute this action vigorously. The interests of the Classes will be fairly and  
27 adequately protected by Plaintiff and his counsel.

28

32. A class action is also warranted under Fed. R. Civ. P. 23(b)(2), because L.L. Bean has acted or refused to act on grounds that apply generally to the Classes, so that final injunctive relief or corresponding declaratory relief is appropriate as to the Classes as a whole. L.L. Bean has directed and continues to direct its conduct to all consumers in a uniform manner. Therefore, injunctive relief on a class-wide basis is necessary to remedy continuing harms to Plaintiff and the members of the Classes caused by L.L. Bean's continuing misconduct.

33. A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other detriment suffered by Plaintiff and the members of the Classes are relatively small compared to the burden and expense that would be required to individually litigate their claims against L.L. Bean, so it would be impracticable for members of the Classes to individually seek redress for L.L. Bean's wrongful conduct. Even if members of the Classes could afford individual litigation, the court system should not be required to undertake such an unnecessary burden. Individualized litigation would also create a potential for inconsistent or contradictory judgments and increase the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management difficulties and provides the benefits of a single adjudication, economies of scale, and comprehensive supervision by a single court.

## **CLAIMS FOR RELIEF**

### **COUNT I**

#### **Breach of Contract (On Behalf of the Nationwide Class)**

34. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 33 as if fully set forth herein.

35. Each and every sale of an L.L. Bean product, until February 9, 2018, included the Guarantee and created a contract between L.L. Bean and the purchaser of the product, including Plaintiff.



**COUNT III**  
**Violation of California Consumer Legal Remedies Act (“CLRA”), Cal. Civ. Code § 1750**  
**(On Behalf of the California Subclass)**

45. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 33 as if fully set forth herein.

46. L.L. Bean’s products are goods within the meaning of California Civil Code section 1761(a).

47. In the course of L.L. Bean’s business, it deceived consumers by suddenly eliminating its Guarantee. L.L. Bean compounded the deception by continuing to tout its “100% Satisfaction Guarantee,” and by continuously claiming that its products are “guaranteed to last.”

48. Defendant violated and continues to violate the CLRA by engaging in the following prohibited practices in transactions with Plaintiff and the other Class members which Defendant intended to result in, and did result in, the sale of L.L. Bean’s products:

- A. Representing that their products have characteristics, ingredients, uses, benefits, or quantities which they do not have (Cal. Civ. Code § 1770(a)(5));
- B. Representing that their products are of a particular standard, quality, or grade when they are of another (Cal. Civ. Code § 1770(a)(7));
- C. Advertising their goods with intent not to sell them as advertised (Cal. Civ. Code § 1770(a)(9));
- D. Representing that a transaction confers or involves rights, remedies, or obligations that it does not have or involve or that are prohibited by law (Cal. Civ. Code § 1770(a)(14)); and
- E. Representing that their products have been supplied in accordance with a previous representation when they have not (Cal. Civ. Code § 1770(a)(16)).

49. Defendant violated the CLRA by representing and failing to disclose material facts on its products’ labeling and associated advertising, as described above, when it knew that the representations were false and misleading and that the omissions were of material facts it was obligated to disclose.

50. Pursuant to California Civil Code section 1782(d), Plaintiff, individually and on behalf of the other Class members, seeks a Court order enjoining the above-described wrongful acts and practices of Defendant and for restitution and disgorgement.

51. Pursuant to California Civil Code section 1782, Plaintiff notified Defendant in writing by certified mail of the particular violations of California Civil Code section 1770 and demanded that Defendant rectify the problems associated with the actions detailed above and give notice to all affected consumers of Defendant's intent to so act.

52. Defendant has failed to rectify or agree to rectify the problems associated with the actions detailed above and to give notice to all affected consumers within 30 days of the date of written notice. Plaintiff therefore is entitled to, and hereby does seek, actual, punitive, and statutory damages for Defendant's violations of the CLRA. Defendant's conduct was knowing, fraudulent, wanton and malicious, thereby entitling Plaintiff and the members of the Class to whom this claim applies to punitive damages.

**COUNT IV**  
**Violation of California Consumer Unfair Competition Law ("UCL"), Business & Professions Code §§ 17200, *et seq.***  
**(On Behalf of the California Subclass)**

53. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 33 as if fully set forth herein.

54. The Unfair Competition Law, Business & Professions ("Bus. & Prof.") Code §§ 17200, *et seq.*, prohibits any unlawful, fraudulent, or unfair business act or practice and any false or misleading advertising.

55. In the course of conducting business, Defendant committed unlawful business practices by, among other things, making misrepresentations (which also constitute advertising within the meaning of Bus. & Prof. Code sections 17200 and 17500) and omissions of material facts regarding its Guarantee in its advertising, marketing, and sale of its products, as set forth more fully herein. Defendant's deceptive conduct constitutes a violation of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301. Defendant has also violated the Federal Trade Commission Act, 15 U.S.C. § 45.

1           56. This conduct constitutes violations of the unlawful prong of Bus. & Prof. Code  
2 section 17200.

3           57. In the course of conducting business, Defendant committed unfair business  
4 practices by, among other things, making the representations (which also constitute advertising  
5 within the meaning of Bus. & Prof. Code sections 17200 and 17500) and omissions of material  
6 facts regarding the Guarantee, as detailed above. There is no societal benefit from false  
7 advertising, only harm. Plaintiff and the other Class members paid for lower value products that  
8 were not what they purported to be. While Plaintiff and the other Class members were harmed,  
9 Defendant was unjustly enriched by its false representations and omissions. As a result,  
10 Defendant's conduct is unfair, as it offended an established public policy. Further, Defendant  
11 engaged in immoral, unethical, oppressive, and unscrupulous activities that are substantially  
12 injurious to consumers.

13           58. Defendant's conduct violated consumer protection, unfair competition, and truth  
14 in advertising laws in California and other states, resulting in harm to consumers. Defendant's  
15 acts and omissions also violate and offend the public policy against engaging in false and  
16 misleading advertising, unfair competition, and deceptive conduct towards consumers. This  
17 conduct violates the unlawful prong of Bus. & Prof. Code section 17200.

18           59. There were reasonably available alternatives to further Defendant's legitimate  
19 business interests, other than the conduct described herein.

20           60. In the course of conducting business, Defendant committed fraudulent business  
21 acts or practices by, among other things, making the representations (which also constitute  
22 advertising within the meaning of Bus. & Prof. Code sections 17200 and 17500) and omissions  
23 of material facts regarding the Guarantee in its marketing and advertisements, as detailed above.

24           61. Plaintiff suffered injury in fact and lost money or property as a result of  
25 Defendant's conduct.

26           62. Plaintiff relied on Defendant's material misrepresentations and omissions, which  
27 are described above. Plaintiff suffered injury in fact and lost money as a result of Defendant's  
28 unlawful, unfair, and fraudulent practices.

63. Unless restrained and enjoined, Defendant will continue to engage in the above-described conduct in violation of Bus. & Prof. Code section 17200, entitling Plaintiff and the other Class members to injunctive relief. If Defendant continues to engage in the violations of Bus. & Prof. Code section 17200 described above, Plaintiff will likely be deceived in the future.

**COUNT V**

**Violation of Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301, *et seq.*  
(On behalf of the Nationwide Class)**

64. Plaintiff realleges and incorporates by reference paragraphs 1 through 33 as if fully set forth herein.

65. Plaintiff is a “consumer” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(3).

66. Defendant is a “supplier” and “warrantor” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(4)–(5).

67. L.L. Bean sells “consumer products” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

68. 15 U.S.C. § 2310(d)(1) provides a cause of action for any consumer that is damaged by the failure of a warrantor to comply with a written warranty.

69. Defendant’s representations as described herein that Plaintiff and other Class members would be able to return merchandise for any reason at any time is a written warranty within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(6).

70. The Guarantee formed a basis of the bargain.

71. Defendant failed to comply with the Guarantee as described herein. On February 9, 2018, L.L. Bean announced that it would refuse to honor the Guarantee.

72. Defendant knew, or should have known, that its misrepresentations regarding the Guarantee were material and formed the basis of the bargain between Plaintiff and the Class and Defendant, yet it proceeded with its decision to renounce the Guarantee.

73. Plaintiff and Class members were damaged as a result of Defendant’s breach of its written warranty, and they were deprived of their benefit of the bargain.

**COUNT VI**  
**Declaratory Relief**  
**(On behalf of the Nationwide Class)**

74. Plaintiff realleges and incorporates by reference paragraphs 1 through 33 as if fully set forth herein.

75. Pursuant to 28 U.S.C. § 2201, the Court may “declare the rights and legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.”

76. Defendant marketed, distributed, and sold its products with the Guarantee, as described herein.

77. On February 9, 2018, L.L. Bean publicly announced that it was no longer honoring the Guarantee and was instead imposing a new limited warranty subject to numerous exceptions and qualifications.

78. As a result of L.L. Bean’s conduct, Plaintiff and the other Class members who purchased L.L. Bean products and the Guarantee are deprived of the benefit of the bargain. Accordingly, Plaintiff seeks entry of the following declarations: (1) L.L. Bean’s February 9, 2018 announcement that it would no longer honor the Guarantee with no end date or questions asked constitutes a violation of the law and a breach of warranty; (2) L.L. Bean must continue to honor the warranty with no end date and no questions asked as to goods purchased prior to February 9, 2018; and (3) L.L. Bean must provide the best notice practicable under the circumstances designed to reach past and future L.L. Bean customers, and corrective advertising regarding the changes to its warranty, including a prominent one-page notification in its catalog for each edition distributed prior to February 9, 2019, and notification to each customer at the point of sale that products may be returned within one year for a refund, subject to special conditions, and, after one year, the item may be returned only if it is defective due to materials or craftsmanship, and that proof of purchase to honor the refund is required for any return.

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**REQUEST FOR RELIEF**

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, respectfully requests that the Court enter judgment in his favor and against defendant L.L. Bean as follows:

- A. Certifying the Classes under Fed. R. Civ. P. 23;
- B. Appointing Plaintiff as Class Representative and Plaintiff's Counsel as Class Counsel;
- C. Awarding Plaintiff and the members of the Classes damages and/or equitable relief as appropriate;
- D. Awarding Plaintiff and the Classes declaratory and injunctive relief;
- E. Awarding Plaintiff and the members of the Classes restitution and disgorgement;
- F. Imposing a constructive trust for the benefit of Plaintiff and the members of the Classes on the unjustly retained benefits conferred by Plaintiff and the other members of the Classes upon L.L. Bean;
- G. Awarding Plaintiff and the Classes reasonable attorneys' fees, costs, and expenses; and
- H. Granting such other relief as the Court deems just and appropriate.

**JURY TRIAL DEMAND**

Plaintiff, individually and on behalf of all others similarly situated, hereby requests a trial by jury on all claims so triable.

Dated: May 4, 2018

Respectfully submitted,

WOLF HALDENSTEIN ADLER  
FREEMAN & HERZ LLP

By: /s/ Rachele R. Rickert  
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