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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA-SAN FRANCISCO DIVISION

EVERETT ELLIS; FREDRICK P. HEGE, JR.;	) Civil Case No.
MIKE FISHER; MICHAEL W. DAVIS;	)
JANE SCHMIT; JOHNNY WALKER;	) ANTITRUST CLASS ACTION
JOHN E. MCDOWELL; MARTA MICHAUD;	) COMPLAINT
TIMOTHY DUFFY; SEAN G. TARJOTO;	) INJUNCTIVE
TODD STOWATER; DAVID C. KELLER;	) STATE ANTITRUST, UNFAIR
JAMIE THAEMERT; SCOT DUNLAP;	) TRADE PRACTICE AND
SCOTT HUFFMAN; CHARLES RUSHER;	) CONSUMER PROTECTION
JENNIFER RUSHER; DAVID STANDRIDGE;	) STATUTES - DAMAGES
TROY GIBSON; GARTH RUSSELL, M.D.;	)
BHRAC, LLC, d/b/a BEVERLY HILLS RENT-A-CAR;	) Indirect Purchasers' Complaint
BEVERLY HILLS LEASING LLC;	) Class Action
CETACEA SOUND, INC.;	)
COMPUTING SOLUTIONS, INC., d/b/a	) DEMAND FOR JURY TRIAL
WIRED! BY COMPUTING SOLUTIONS,	)
d/b/a WIRED! TECHNOLOGY PARTNERS;	)
GOSSETT MOTOR CARS, INC., d/b/a	)
GOSSETT KIA; GOSSETT MOTOR CARS,	)

INC., d/b/a GOSSETT MAZDA;)
 1 GOSSETT MOTOR CARS, INC., d/b/a)
 2 GOSSETT HYUNDAI; GOSSETT MOTOR)
 CARS, INC., d/b/a GOSSETT MITSUBISHI;)
 3 GOSSETT MOTOR CARS, INC., d/b/a)
 4 GOSSETT AUDI; GOSSETT MOTOR CARS,)
 INC., d/b/a GOSSETT VOLKSWAGEN;)
 5 GOSSETT MOTOR CARS, INC., d/b/a)
 6 GOSSETT PORSCHE; GOSSETT MOTOR)
 CARS, INC., d/b/a/ GOSSETT CHRYSLER/)
 7 JEEP/DODGE; GOSSETT MOTOR CARS,)
 INC., d/b/a GOSSETT FIAT OF MEMPHIS;)
 8 WE 3 GOSSETT, LLC, d/b/a GOSSETT)
 VOLKSWAGEN OF GERMANTOWN;)
 9 WE 3 GOSSETT, LLC, d/b/a GOSSETT KIA SOUTH;)
 10 WE 3 GOSSETT, LLC, d/b/a GOSSETT HYUNDAI)
 SOUTH; WE 3 GOSSETT, LLC, d/b/a GOSSETT)
 11 FIAT; AUTORAMA, INC., d/b/a MERCEDES BENZ)
 OF MEMPHIS, on behalf of themselves)
 12 and all others similarly situated,)
 13

Plaintiffs,

v.

15 PANASONIC CORPORATION; PANASONIC)
 16 CORPORATION OF NORTH AMERICA;)
 SANYO ELECTRIC GROUP, LTD.; SANYO)
 17 ELECTRONIC DEVICE (U.S.A.))
 CORPORATION; TAIYO YUDEN CO., LTD.;)
 18 TAIYO YUDEN (USA) INC.; NEC TOKIN)
 CORPORATION; NEC TOKIN AMERICA,)
 19 INC.; KEMET CORPORATION; KEMET)
 20 ELECTRONICS CORPORATION; NIPPON)
 21 CHEMI-CON CORPORATION; UNITED)
 CHEMI-CON CORPORATION; HITACHI)
 22 CHEMICAL CO. LTD.; HITACHI CHEMICAL)
 COMPANY AMERICA, LTD.; NICHICON)
 23 CORPORATION; NICHICON (AMERICA))
 CORPORATION; AVX CORPORATION;)
 24 RUBYCON CORPORATION; RUBYCON)
 AMERICA INC.; ELNA CO., LTD.; ELNA)
 25 AMERICA INC.; MATSUO ELECTRIC CO.,)
 26 LTD.; TOSHIN KOGYO CO., LTD.; VISHAY)
 27 INTERTECHNOLOGY, INC.; SAMSUNG)
 ELECTRO-MECHANICS; SAMSUNG)
 28 ELECTRO-MECHANICS AMERICA, INC.;)

1 **ROHM CO., LTD.; and ROHM**)
2 **SEMICONDUCTOR U.S.A., LLC;**)
3 **and DOES 1 through 100 inclusive,**)

4 *Defendants.*)
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Plaintiffs bring this action individually, and on behalf of a class of all persons and entities similarly situated (the “Class”), for nationwide injunctive relief under the antitrust laws of the United States and for damages under the antitrust, unfair trade practice, unfair competition and consumer protection laws of various states against the Defendants Panasonic Corporation; Panasonic Corporation of North America; Sanyo Electric Group, Ltd.; Sanyo Electronic Device (U.S.A.) Corporation; Taiyo Yuden Co., Ltd.; Taiyo Yuden (USA) Inc.; NEC Tokin Corporation; NEC Tokin America, Inc.; KEMET Corporation; KEMET Electronics Corporation; Nippon Chemi-Con Corporation; United Chemi-Con Corporation; Hitachi Chemical Co., Ltd.; Hitachi Chemical Company America, Ltd.; Nichicon Corporation; Nichicon (America) Corporation; AVX Corporation; Rubycon Corporation; Rubycon America Inc.; Elna Co., Ltd.; Elna America Inc.; Matsuo Electric Co., Ltd.; Toshin Kogyo Co., Ltd.; Vishay Intertechnology, Inc.; Samsung Electro-Mechanics; Samsung Electro-Mechanics America, Inc.; ROHM Co., Ltd.; and ROHM Semiconductor U.S.A., LLC; and Does 1 through 100, inclusive (together, the “Defendants”). Plaintiffs allege facts regarding themselves based on personal knowledge, and on information and belief, as to all other factual allegations, as follows:

NATURE OF THE ACTION

1. This civil antitrust action seeks damages under state antitrust, unfair trade, unfair competition and consumer protection laws and injunctive relief for the collusive and concerted restraint of trade in Aluminum and tantalum electrolytic capacitors orchestrated by the Defendants—all of whom are leading manufacturers and direct competitors in the global capacitors industry—during a period spanning from at least January 1, 2005, to present (the “Class Period”). Aluminum and tantalum electrolytic capacitors are necessary components for electronic products that are identifiable, discrete physical component objects, which do not change form or become an indistinguishable part of the particular product in which they are contained. Therefore, Aluminum and tantalum capacitors follow a specific traceable, physical chain directly from the Defendants through direct purchasers through distribution to the indirect purchasers of the electronic products, which contain the Aluminum and tantalum capacitors. The capacitors are separate, removable and readily identifiable parts within the electronic products

1 and are marked by electronic markers, or readily identifiable characteristics typically associated
2 with a particular Defendant manufacturer.

3 2. Capacitors are one of the fundamental components found in electrical circuits.
4 Capacitors are passive electronic components that store, filter and regulate electrical energy and
5 current flow, but do not actually provide an electrical charge to a circuit. All electronic devices
6 we use today, from the cheapest household appliances to our personal computers to multi-million
7 dollar machinery and vehicles, employ various electrical circuits working in concert to perform
8 the various tasks for which we use them. By electrical current flowing through a circuit, the path
9 for which is usually defined by a printed circuit board (“PCB”), electronic signals can be
10 amplified, simple and complex computations can be performed, data can be moved from one
11 place to another, and the myriad other tasks that make our electronic devices perform can be
12 executed.

13 3. All capacitors have the same basic, physical and easily identifiable structure.
14 Two parallel metal electrode plates are separated by a non-conducting dielectric (*i.e.*, the
15 insulating material in the capacitor that allows it to hold a charge). When a capacitor is
16 connected to a power source, an electric field develops across the dielectric, causing a positive
17 charge to collect on one plate and a negative charge to collect on the other plate. Without the
18 flow of electrical current, electronic circuit boards, as well as the devices that contain them, will
19 not work. Accordingly, circuits must not only have a source for current, but also means for
20 storing and regulating the flow of that current. While either a battery or a connection to an
21 external power supply typically provides current to a circuit, capacitors are separate, passive and
22 integrated into electrical circuits primarily to store charge and govern electrical flow so that the
23 tasks and applications we ask of our electrical devices, such as computers, audio receivers,
24 televisions, smartphones, MP3 players, digital cameras, automotive engine control units,
25 entertainment systems, etc., have sufficiently available and immediately dischargeable electrical
26 charge to perform when commanded to do so. Capacitors can store electric charges for long
27 periods of time and retain the electric charge even when disconnected from a power source.

1 4. Capacitors are ubiquitous and omnipresent components in the electronic devices
2 we use. Capacitors have a set of distinguishable characteristics and properties that make them
3 suitable for certain applications in electronic products and electronic settings. Electronic
4 products contain at least one capacitor, but often contain numerous capacitors. An average
5 smartphone, for example, employs hundreds of capacitors of varying capacitance (*i.e.*, the
6 potential amount of charge a capacitor can store), dielectric (*i.e.*, the insulating material in the
7 capacitor that allows it to hold a charge) and form factors (*i.e.*, size and shape). Computers can
8 contain hundreds of capacitors mounted on motherboards. Most modern automobiles also use
9 hundreds of capacitors in their onboard electrical, navigation, entertainment and diagnostic
10 systems.

11 5. As society's dependence on technology has grown, so too has the demand of
12 electronic device manufacturers for the components necessary to produce their innovative
13 products. Given that capacitors are fundamental to the operation of practically all electronic
14 devices, it is not surprising that the market for capacitors is big business. Indeed, recent reports
15 indicate that global revenues for all manufacturers in the capacitor industry in 2013 totaled
16 approximately \$16 billion based on the sales of trillions of capacitors, and industry analysts
17 estimate that global revenues will reach over \$18 billion for the fiscal year 2014 and over \$20
18 billion by 2016. These numbers are extraordinary, especially when the average price per unit for
19 capacitors over the last five years has been \$0.01178, or \$11.78 per thousand units.

20 6. The multi-billion dollar market for capacitors, however, is one susceptible to
21 anticompetitive manipulation. Capacitors are particularly subjective and sensitive to price-fixing
22 because of the existing, captive market. The unlawful conspiracy affected prices of individual
23 electrolytic capacitors, in addition to the products contained the incorporated capacitors. Given
24 the significantly high barriers to entering the already mature capacitors manufacturing industry
25 and achieving the large volume of sales required to reach economies of scale and profitability,
26 the global capacitors market is dominated by a limited number of large manufacturers. This is
27 especially true in the market for Aluminum and tantalum electrolytic capacitors. The fact that
28 these supposed competitors (specifically the Defendants named herein) sell mutually

1 interchangeable commoditized products and adjust the prices and market availability of their
2 products in concert indicate that true competition in the capacitors market has been foreclosed
3 and that pricing of individual, discrete electrolytic capacitors can be manipulated by the
4 Defendants, thus, increasing the price of the separate component and, ultimately, passed on the
5 distribution chain to the final electronic product purchased by consumers.

6 7. Generally speaking, capacitors of like capacitance, dielectric and form factor are
7 mutually interchangeable. Price is thus the most obvious differentiation among these products for
8 purchasers. Accordingly, any agreement among manufacturers to fix, raise, maintain or stabilize
9 prices on Aluminum and tantalum electrolytic capacitors or to reduce their market availability
10 without justification, reduces or even negates price competition to the detriment of purchasers.

11 8. The threat of anticompetitive manipulation in the Aluminum and tantalum
12 electrolytic capacitors market is not a hypothetical concern. Rather, the threat has become reality
13 due to the actions of Defendants, who, as the leading global manufacturers of these types of
14 electrolytic capacitors, have collusively and concertedly manipulated price competition for
15 capacitors directed to both U.S. and international purchasers over nearly a decade. Indeed, after
16 many years of active concealment, Defendants' anticompetitive acts recently have drawn the
17 attention of law enforcement and regulatory agencies in the United States, the People's Republic
18 of China, Japan, South Korea, Taiwan and Europe, all of which opened investigations earlier this
19 year. At least one capacitor manufacturer, believed to be Defendant Panasonic, has self-reported
20 its unlawful price fixing and is cooperating with authorities in at least the United States and
21 China in exchange for amnesty from prosecution, and has disclosed background details regarding
22 the cartel's membership and the scope of Defendants' conspiracy.

23 9. Defendants formed, maintained, enforced and concealed a global cartel.
24 Defendants took these unlawful steps because demand for their Aluminum and tantalum
25 electrolytic capacitor product lines began to wane in the early 2000s. While Aluminum
26 electrolytic capacitors have been relied upon by electronics manufacturers for decades, and used
27 in products such as televisions, stereos, and desktop computers, they tend to be bulky in size and
28 shape relative to other capacitors and are limited in the amount of capacitance they can provide

1 at smaller sizes. In other words, they lack “volumetric efficiency.” As technology has advanced
2 in the last decade toward smaller, more portable and multifunctional devices—e.g., from desktop
3 computers to tablets and smartphones, or from stereos to personal music devices—many
4 electronics manufacturers could no longer afford to provide Aluminum electrolytic capacitors a
5 footprint on the PCBs in their streamlined and compact products.

6 10. Tantalum capacitors have significantly better volumetric efficiency than
7 Aluminum capacitors because of tantalum’s natural non-conductive properties and its thinner
8 dielectric, as well as the ability of manufacturers to produce very small tantalum capacitors with
9 high capacitance. But making these capacitors is expensive; it is a labor- and resource-intensive
10 process. Even without Defendants’ anticompetitive acts, tantalum electrolytic capacitors are
11 more expensive than other capacitors. Further, due to certain of their physical properties,
12 tantalum capacitors can short circuit and catch fire if subjected to voltage spikes only slightly
13 more than their rated capacitance value, at times destroying the devices in which they are
14 installed.

15 11. Since at least early 2000s, Defendants have been faced with declining demand for
16 and profits from the sale of their Aluminum and tantalum electrolytic capacitor product
17 portfolios. Nonetheless, there remains a sizeable market for these capacitors. Industry analysts
18 report that global revenues for Aluminum and tantalum electrolytic capacitors were
19 approximately \$5.74 billion for fiscal year 2013, though this was approximately a \$570 million
20 drop from 2012 and nearly a \$1.1 billion drop from 2005. To slow any further decline in
21 demand, and to ensure that sales of their respective product portfolios would remain profitable,
22 Defendants agreed that price competition among themselves for their mutually interchangeable
23 Aluminum and tantalum electrolytic capacitors had to cease.

24 12. For at least the last nine and a half years, Defendants conspired together by
25 directly and indirectly communicating with each other to effectuate a scheme to control market
26 prices of Aluminum and tantalum electrolytic capacitors directed toward and sold into the United
27 States market. Defendants also agreed to combine and perform the various acts necessary to
28 achieve the anticompetitive purposes of this scheme.

1 13. This conspiracy was furthered and facilitated by a course of anticompetitive
2 conduct, including agreements and understandings among Defendants to fix, raise, maintain and
3 stabilize prices for Aluminum and tantalum electrolytic capacitors and to restrain their respective
4 product output through extending product lead times based on false, deceptive, misleading and
5 pretextual reasons.

6 14. The conspiracy was facilitated by the cartelized nature of the Aluminum and
7 tantalum electrolytic capacitor industry, which is dominated by and consists primarily of
8 Defendants, who in the past held and continue to hold secret discussions, and who made
9 agreements between and among themselves to exchange nonpublic and commercially sensitive
10 information concerning pricing, production capacity, costs, raw materials, and distribution. From
11 the inception of the conspiracy to date, Defendants have concealed their anticompetitive and
12 unlawful conduct from the public, including Plaintiffs and the Class, in furtherance of the
13 conspiracy.

14 15. Defendants' cartel has been successful in achieving the anticompetitive and
15 unlawful ends for which it was formed. Through their concerted actions, Defendants created the
16 market conditions that made it economically feasible for all cartel members to fix, raise, maintain
17 or stabilize artificially high prices on the capacitors they sold during the Class Period to
18 purchasers in the United States. Defendants were effective in moderating—and even negating—
19 the normal downward pressures on prices for capacitors caused by price competition,
20 oversupply, reduction of demand and technological change.

21 16. Defendants' anticompetitive and unlawful conduct resulted in the increase or
22 slowed the decrease of Aluminum and tantalum capacitor prices for products sold in the United
23 States during the Class Period. As a result, Plaintiffs and the Class paid artificially inflated prices
24 for the capacitors they directly purchased from Defendants. By paying these inflated prices,
25 which exceeded the amount Plaintiffs and the Class would have paid for the Aluminum and
26 tantalum electrolytic capacitors they purchased if pricing for the capacitors had been determined
27 by a competitive market, Plaintiffs and the Class have been injured in their business and property
28 and continue to suffer such injuries to date as a direct and proximate result of Defendants'

actions. The economic injury and harm is direct and traceable through the product distribution chain. The cost of the component part comprises a substantial part of the finished product cost, which the component capacitor is inserted and which can be traced through the distribution chain. Plaintiffs bring this action pursuant to one antitrust theory and the damages asserted by the indirect purchasers are directly traceable from the manufacturers through direct purchasers through distribution and are directly linked to the antitrust theory brought in this class action lawsuit.

JURISDICTION, VENUE AND INTRADISTRICT ASSIGNMENT

17. Plaintiffs bring this action on behalf of themselves as well as that of the Class for equitable relief, costs of suit, and reasonable attorney's fees arising from Defendants' violations of Section 1 of the Sherman Act (15 U.S.C. § 1), as well as any damages, including treble damages where applicable, and all equitable relief afforded them under the state laws pleaded herein.

18. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1337(a) and Sections 4 and 16 of the Clayton Act (15 U.S.C. §§ 15(a) and 26).

19. This Court has diversity subject-matter jurisdiction over this class action pursuant to the Class Action Fairness Act of 2005, which amends 28 U.S.C. § 1332, to add a new subsection (d) conferring federal jurisdiction over class actions where, as here, "any member of a class of plaintiff[s] is a citizen of a State different from any defendant" and the aggregated amount in controversy exceeds five million dollars (\$5,000,000), exclusive of interest and costs. See 28 U.S.C. 1332(d) and (6). Venue is proper in this judicial district pursuant to the federal Clayton Act (15 U.S.C. § 22), and 28 U.S.C. § 1391(b), (c) and (d), because a substantial part of the events giving rise to Plaintiffs' claims occurred in this District, a substantial portion of the affected interstate trade and commerce was carried out in this District, one or more of the Defendants reside in this District, is licensed to do business in this District, or transacts business in this District and defendants were engaged in an anticompetitive conspiracy that was directed at and had the intended effect of causing injury to persons residing in, located in, or doing business in this district and directly in other states throughout the United States, including this

District. In addition, the media has reported that the Antitrust Division of the United States Department of Justice (“DOJ”) is conducting an investigation into the capacitors industry and that the investigation is being conducted out of the United States Attorney’s Office for the District of Northern California. Based on the DOJ’s past practice with regard to similar antitrust investigations, Plaintiffs believes that a federal criminal grand jury either has been or will soon be empaneled in the Northern District of California to hear the DOJ’s evidence derived from this investigation and ultimately decide on whether to criminally indict any capacitors manufacturers (such as one or more of the Defendants in this antitrust class action). Accordingly, the DOJ’s San Francisco-based capacitors industry investigation, and the likely empanelment of a grand jury here, are additional facts confirming the propriety of the Northern District of California as the venue for this antitrust class action.

20. Pursuant to Civil Local Rule 3.2 (c) and (e), assignment of this case to the San Francisco Division of the United States District Court for the Northern District of California is proper because the interstate trade and commerce involved and affected by Defendants’ violations of the antitrust laws action was substantially conducted with, directed to or impacted Plaintiffs and members of the Class in counties located within the Division.

PARTIES

Plaintiffs

21. *Arizona* – Plaintiff David C. Keller is an Arizona citizen residing at 10547 E. Salt Bush Drive, Scottsdale, Maricopa County, Arizona. Plaintiff Keller purchased products in Arizona containing Aluminum and tantalum electrolytic capacitors indirectly from one or more Defendants during the Class Period. As a result of Defendants’ unlawful conduct and conspiracy, Plaintiff Keller suffered economic injury in Arizona.

22. *Arkansas* - Plaintiff Everett Ellis is an Arkansas citizen residing at 94 Emerald Drive, Maumelle, Pulaski County, Arkansas. Plaintiff Ellis purchased products in Arkansas containing Aluminum and tantalum electrolytic capacitors indirectly from one or more Defendants during the Class Period. As a result of Defendants’ unlawful conduct and conspiracy, Plaintiff Ellis suffered economic injury in Arkansas. Plaintiff Computing Solutions,

1 Inc., d/b/a Wired! By Computing Solutions, d/b/a Wired! Technology Partners ("Wired"), is an
2 Arkansas corporation with its address in Pulaski County, Arkansas. Plaintiff Wired purchased
3 products in Arkansas containing Aluminum and tantalum electrolytic capacitors indirectly from
4 one or more Defendants during the Class Period. As a result of Defendants' unlawful conduct
5 and conspiracy, Plaintiff Wired suffered economic injury in Arkansas.

6 23. *California* - Plaintiff BHRAC, LLC, d/b/a Beverly Hills Rent-A-Car, is a Nevada
7 limited liability company, whose principal place of business is 9732 S. Santa Monica Blvd.,
8 Beverly Hills, CA 90210, Los Angeles County, California. Plaintiff BHRAC, LLC has locations
9 throughout California, including the Northern District of California. Plaintiff BHRAC, LLC
10 purchased products in California containing Aluminum and tantalum electrolytic capacitors
11 indirectly from one or more Defendants during the Class Period. As a result of Defendants'
12 unlawful conduct and conspiracy, Plaintiff BHRAC, LLC suffered economic injury in California.
13 Plaintiff Beverly Hills Leasing LLC, is a Nevada limited liability company, whose principal
14 place of business is Los Angeles, Los Angeles County, California.

15 24. *Florida* – Plaintiff Garth Russell, M.D. is a Florida citizen residing at 5344
16 Woodland Lakes Drive, #325, Palm Beach Gardens, Palm Beach County, Florida. Plaintiff Dr.
17 Russell purchased products in Florida containing Aluminum and tantalum electrolytic capacitors
18 indirectly from one or more Defendants during the Class Period. As a result of Defendants'
19 unlawful conduct and conspiracy, Plaintiff Dr. Russell suffered economic injury in Florida.

20 25. *Hawaii* – Plaintiff Timothy Duffy is a Hawaii citizen residing at Kapaa, Kanai
21 County, Hawaii. Plaintiff Duffy purchased products in Hawaii containing Aluminum and
22 tantalum electrolytic capacitors indirectly from one or more Defendants during the Class Period.
23 As a result of Defendants' unlawful conduct and conspiracy, Plaintiff Duffy suffered economic
24 injury in Hawaii.

25 26. *Iowa* – Plaintiff Todd Stowater is an Iowa citizen residing at 120 North
26 Thorington Street, Algona, Kossuth County, Iowa. Plaintiff Stowater purchased products in Iowa
27 containing Aluminum and tantalum electrolytic capacitors indirectly from one or more
28

1 Defendants during the Class Period. As a result of Defendants' unlawful conduct and
2 conspiracy, Plaintiff Stowater suffered economic injury in Iowa.

3 27. *Kansas* – Plaintiff Jamie Thaemert is a Kansas citizen residing at 7814 Conser
4 Street, Overland Park, Johnson County, Kansas. Plaintiff Thaemert purchased products in
5 Kansas containing Aluminum and tantalum electrolytic capacitors indirectly from one or more
6 Defendants during the Class Period. As a result of Defendants' unlawful conduct and
7 conspiracy, Plaintiff Thaemert suffered economic injury in Kansas.

8 28. *Michigan* - Plaintiffs Charles and Jennifer Rusher are Michigan citizens residing at
9 194 Shinnecock Drive, Brighton, Livingston County, Michigan. Plaintiffs purchased products in
10 Michigan containing Aluminum and tantalum electrolytic capacitors indirectly from one or more
11 Defendants during the Class Period. As a result of Defendants' unlawful conduct and conspiracy,
12 Plaintiffs suffered economic injury in Michigan.

13 29. *Minnesota* - Plaintiff Mike Fisher is a Minnesota citizen residing at 12808 Kohler
14 Lane, Audubon, Becker County, Minnesota. Plaintiff Fisher purchased products in Minnesota
15 containing Aluminum and tantalum electrolytic capacitors indirectly from one or more
16 Defendants during the Class Period. As a result of Defendants' unlawful conduct and
17 conspiracy, Plaintiff Fisher suffered economic injury in Minnesota.

18 30. *Mississippi* – Plaintiff John E. McDowell is a Mississippi citizen residing at 267
19 Higginbotham Drive, Waterford, Marshall County, Mississippi. Plaintiff McDowell purchased
20 products in Mississippi containing Aluminum and tantalum electrolytic capacitors indirectly
21 from one or more Defendants during the Class Period. As a result of Defendants' unlawful
22 conduct and conspiracy, Plaintiff McDowell suffered economic injury in Mississippi.

23 31. *Missouri* - Plaintiff Scott Huffman is a Missouri citizen residing at 16208 E. 23rd
24 Street, Independence, Jackson County, Missouri. Plaintiff Huffman purchased products in Missouri
25 containing Aluminum and tantalum electrolytic capacitors indirectly from one or more Defendants
26 during the Class Period. As a result of Defendants' unlawful, unfair and fraudulent conduct and
27 deceptive and fraudulent conspiracy, Plaintiff Huffman suffered economic injury in Missouri.
28 Plaintiff Midwest Audio Corporation is a corporation located at 16208 E. 23rd Street, Independence,

1 Jackson County, Missouri. Plaintiff Midwest Audio Corporation purchased products in Missouri
2 containing Aluminum and tantalum electrolytic capacitors indirectly from one or more Defendants
3 during the Class Period. As a result of Defendants' unlawful, unfair and fraudulent conduct and
4 deceptive and fraudulent conspiracy, Plaintiff Midwest Audio Corporation suffered economic injury
5 in Missouri.

6 32. *Nebraska* - Plaintiff Troy Gibson is a Nebraska citizen residing at 5073 S. 174th
7 Street, Omaha, Douglas County, Nebraska. Plaintiff Gibson purchased products in Nebraska
8 containing Aluminum and tantalum electrolytic capacitors indirectly from one or more
9 Defendants during the Class Period. As a result of Defendants' unlawful conduct and
10 conspiracy, Plaintiff Gibson suffered economic injury in Nebraska.

11 33. *Nevada* – Plaintiff BHRAC, LLC is a Nevada limited liability company, whose
12 branch business address is 3566 Polaris Avenue, Las Vegas, Clark County, Nevada. Plaintiff
13 BHRAC, LLC purchased products in Nevada containing Aluminum and tantalum electrolytic
14 capacitors indirectly from one or more Defendants during the Class Period. As a result of
15 Defendants' unlawful conduct and conspiracy, Plaintiff BHRAC, LLC suffered economic injury
16 in Nevada. Plaintiff Beverly Hills Leasing LLC, is a Nevada limited liability company, whose
17 principal place of business is Los Angeles, Los Angeles County, California.

18 34. *New Mexico* - Plaintiff David Standridge is a New Mexico citizen residing at 1516
19 San Pedro Drive NE, Albuquerque, Bernalillo County, New Mexico. Plaintiff Standridge purchased
20 products in New Mexico containing Aluminum and tantalum electrolytic capacitors indirectly from
21 one or more Defendants during the Class Period. As a result of Defendants' unlawful conduct and
22 conspiracy, Plaintiff Standridge suffered economic injury in New Mexico.

23 35. *New York* - Plaintiff Marta Michaud is a New York citizen residing at 249 1/2
24 East 13 Street New York, New York County, New York. Plaintiff Michaud purchased products
25 in New York containing Aluminum and tantalum electrolytic capacitors indirectly from one or
26 more Defendants during the Class Period. As a result of Defendants' unlawful conduct and
27 conspiracy, Plaintiff Michaud suffered economic injury in New York.

1 36. *North Carolina* - Plaintiff Scot Dunlap is a North Carolina citizen residing at 511
2 Bilyeu Street, Raleigh, Wake County, North Carolina. Plaintiff Dunlap purchased products in
3 North Carolina containing Aluminum and tantalum electrolytic capacitors indirectly from one or
4 more Defendants during the Class Period. As a result of Defendants' unlawful conduct and
5 conspiracy, Plaintiff Dunlap suffered economic injury in North Carolina.

6 37. *North Dakota* - Plaintiff Jane Schmit is a North Dakota citizen residing at 4259
7 Coventry Drive South, Fargo, Cass County, North Dakota. Plaintiff Schmit purchased products
8 in North Dakota containing Aluminum and tantalum electrolytic capacitors indirectly from one
9 or more Defendants during the Class Period. As a result of Defendants' unlawful conduct and
10 conspiracy, Plaintiff Schmit suffered economic injury in North Dakota.

11 38. *Oregon* - Plaintiff Sean G. Tarjoto is an Oregon citizen residing at 10612 SW
12 Adele Drive, Portland, Oregon. Plaintiff Tarjoto purchased products in Oregon containing
13 Aluminum and tantalum electrolytic capacitors indirectly from one or more Defendants during
14 the Class Period. As a result of Defendants' unlawful conduct and conspiracy, Plaintiff Tarjoto
15 suffered economic injury in Oregon.

16 39. *Tennessee* – Plaintiff Johnny Walker is a Tennessee citizen residing at 3335
17 Kenbridge Drive, Bartlett, Tennessee, Shelby County. Plaintiff Walker purchased products in
18 Tennessee containing Aluminum and tantalum electrolytic capacitors indirectly and from one or
19 more Defendants during the Class Period. As a result of Defendants' unlawful conduct and
20 conspiracy, Plaintiff Walker suffered economic injury in Tennessee. Plaintiff Cetacea Sound,
21 Inc. is a Tennessee business with its principal place of business at 2950 Airways Blvd, Memphis,
22 Shelby County, Tennessee. Plaintiff Cetacea Sound, Inc. purchased products in Tennessee
23 containing Aluminum and tantalum electrolytic capacitors indirectly from one or more
24 Defendants during the Class Period. As a result of Defendants' unlawful conduct and
25 conspiracy, Plaintiff Cetacea Sound, Inc. suffered economic injury in Tennessee. Plaintiff
26 Gossett Motor Cars, Inc., is a Delaware corporation, registered to do business in Tennessee, with
27 its principal place of business at 1900 Covington Pike Road, Memphis, Shelby County,
28 Tennessee. Plaintiff Gossett Motor Cars, Inc. purchased products in Tennessee containing

1 Aluminum and tantalum electrolytic capacitors indirectly from one or more Defendants during
 2 the Class Period. As a result of Defendants' unlawful conduct and conspiracy, Plaintiff Gossett
 3 Motor Cars, Inc. suffered economic injury in Tennessee. Plaintiff Gossett Motor Cars, Inc., does
 4 business under the following assumed names and locations:

5 Gossett Fiat of Memphis, 2670 Germantown Parkway, Memphis, Tennessee;

6 Gossett Kia, 1900 Covington Pike Road, Memphis, Tennessee;

7 Gossett Mazda, 1870 Covington Pike Road, Memphis, Tennessee;

8 Gossett Hyundai, 1870 Covington Pike Road, Memphis, Tennessee;

9 Gossett Mitsubishi, 1870 Covington Pike Road, Memphis, Tennessee;

10 Gossett Audi, 1875 Covington Pike Road, Memphis, Tennessee;

11 Gossett Volkswagen, 1875 Covington Pike Road, Memphis, Tennessee;

12 Gossett Porsche, 1875 Covington Pike Road, Memphis, Tennessee;

13 Gossett Chrysler/Jeep/Dodge, 1901 Covington Pike Road, Memphis, Tennessee.

14 40. Plaintiff Gossett Motor Cars, Inc. conducts business throughout several states
 15 where it sells cars and trucks affected by the unlawful price-fixing conspiracy alleged herein and
 16 where it paid an unlawful overcharge for cars and trucks, where were subject to the unlawful
 17 conspiracy, combination and trust alleged herein.

18 41. Plaintiff Gossett Motor Cars, Inc. purchases and sells various types of foreign
 19 vehicles and relies heavily on lower pricing of the cars and trucks to maintain its business and
 20 keep automobiles affordable for consumers in Tennessee. Plaintiff paid an artificial overcharge
 21 and suffered economic injury by purchasing products (automobiles and trucks), which were
 22 subject to Defendant's unlawful conspiracy, combination and trust, in violation of Tennessee law,
 23 and which substantially affected the entire economy and Tennessee marketplace. This unlawful
 24 conspiracy, which substantially affected and impacted products sold in Tennessee, was
 25 concealed, suppressed and hidden from Plaintiffs during all relevant times herein.

26 42. WE 3 Gossett LLC, is a domestic limited liability corporation organized under the
 27 laws of the State of Tennessee, with its principal place of business located at 1875 Covington
 28 Pike Road, Memphis, Shelby County, Tennessee. Plaintiff WE 3 Gossett LLC, does business in

1 Tennessee under the following assumed names at the following locations:

2 Gossett Fiat, 1875 Covington Pike Road, Memphis, Tennessee;

3 Gossett Volkswagen of Germantown, 7420 Winchester Road, Germantown,
4 Tennessee;

5 Gossett Kia South, 2660 Mt. Moriah Road, Memphis, Tennessee;

6 Gossett Hyundai South, 2680 Mt. Moriah Road, Memphis, Tennessee.

7 43. Plaintiff WE 3 Gossett, LLC purchases and sells various types of foreign vehicles
8 and relies heavily on lower pricing of the cars and trucks to maintain its business and keep
9 automobiles affordable for consumers in Tennessee. Plaintiff WE 3 Gossett, LLC paid an
10 overcharge and suffered economic injury by purchasing products (automobiles and trucks),
11 which were subject to Defendant's unlawful conspiracy, combination and trust, in violation of
12 Tennessee law, and which substantially affected the entire economy and Tennessee marketplace.
13 This unlawful conspiracy, which substantially affected and impacted products sold in Tennessee,
14 was concealed, suppressed and hidden from Plaintiffs during all relevant times herein.

15 44. Plaintiff Autorama, Inc. is a domestic corporation organized under the laws of the
16 State of Tennessee, doing business in Tennessee under the assumed name of Mercedes-Benz of
17 Memphis, at its principal place of business at 5389 Poplar Avenue, Memphis, Tennessee.
18 Plaintiff Autorama, Inc. purchases and sells various types of foreign vehicles and relies heavily
19 on lower pricing of the cars and trucks to maintain its business and keep automobiles affordable
20 for consumers in Tennessee. Plaintiff Autorama, Inc. paid an overcharge and suffered economic
21 injury by purchasing products (automobiles and trucks), which were subject to Defendant's
22 unlawful conspiracy, combination and trust, in violation of Tennessee law, and which
23 substantially affected the entire economy and Tennessee marketplace. This unlawful conspiracy,
24 which substantially affected and impacted products sold in Tennessee, was concealed,
25 suppressed and hidden from Plaintiffs during all relevant times herein.

26 45. *Vermont* - Plaintiff Fredrick P. Hege, Jr., is a Vermont citizen residing at 286
27 Sawdust Alley, Townshend, Windham County, Vermont. Plaintiff Hege purchased products in
28 Vermont containing Aluminum and tantalum electrolytic capacitors indirectly from one or more

Defendants during the Class Period. As a result of Defendants' unlawful conduct and conspiracy, Plaintiff Hege suffered economic injury in Vermont.

46. *West Virginia* - Plaintiff Michael W. Davis is a West Virginia citizen residing at 310 Ernest Way, Kanawha County, Charleston, West Virginia. Plaintiff Davis purchased products in West Virginia containing Aluminum and tantalum electrolytic capacitors indirectly from one or more Defendants during the Class Period. As a result of Defendants' unlawful conduct and conspiracy, Plaintiff Davis suffered economic injury in West Virginia.

Defendants

1. Panasonic and Sanyo

47. Defendant Panasonic Corporation is a Japanese corporation with its principal place of business located at 1006, Oaza Kadoma, Kadoma-shi, Osaka 571-8501, Japan. Until October 1, 2008, Panasonic Corporation operated under the name of Matsushita Electric Industrial Co., Ltd. During the Class Period, Panasonic Corporation manufactured, sold and distributed Aluminum and tantalum electrolytic capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout the United States.

48. Defendant Panasonic Corporation of North America, a wholly owned subsidiary of Panasonic Corporation, is a Delaware corporation with its principal place of business located at Two Riverfront Plaza, Newark, New Jersey 07102. During the Class Period, Panasonic Corporation of North America sold and distributed Aluminum and tantalum electrolytic capacitors to customers throughout the United States.

49. Defendant Sanyo Electric Group, Ltd., a Japanese corporation, is, as of December 2009, a wholly owned subsidiary of Panasonic Corporation, with its principal place of business located at 15-5, Keihan-Hondori, 2-Chome, Moriguchi City, Osaka 570-8677, Japan. During the Class Period, Sanyo Electric Group, Ltd., manufactured, sold and distributed Aluminum tantalum electrolytic capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout the United States.

50. Defendant Sanyo Electronic Device (U.S.A.) Corporation, a Delaware corporation, is a wholly owned subsidiary of Sanyo Electric Group, Ltd., with its principal place

1 of business located at 2055 Sanyo Avenue, San Diego, California 92154. During the Class
2 Period, Sanyo Electronic Device (U.S.A.) Corporation sold and distributed tantalum electrolytic
3 capacitors to customers throughout the United States.

4 51. Defendants Panasonic Corporation, Panasonic Corporation of North America,
5 Sanyo Electric Group, Ltd., and Sanyo Electronic Device (U.S.A.) Corporation are collectively
6 referred to herein as “Panasonic.” With regard to any allegations pertaining to Sanyo Electric
7 Group, Ltd. And Sanyo Electric Device (U.S.A.) Corporation prior to their acquisition by
8 Panasonic, they are referred to herein as “Sanyo.”

9 **2. Taiyo Yuden**

10 52. Defendant Taiyo Yuden Co., Ltd., is a Japanese corporation with its principal
11 place of business located at 6-16-20, Ueno, Taito-ku, Tokyo 110-0005, Japan. During the Class
12 Period, Taiyo Yuden Co., Ltd., manufactured, sold and distributed tantalum electrolytic
13 capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout
14 the United States.

15 53. Defendant Taiyo Yuden (USA) Inc., an Illinois corporation, is a wholly owned
16 subsidiary of Taiyo Yuden Co., Ltd., with its principal place of business located at 10 North
17 Martingale Road, Suite 575, Schaumburg, Illinois 60173. During the Class Period, Taiyo Yuden
18 (USA) Inc. sold and distributed Aluminum and/or tantalum electrolytic capacitors to customers
19 throughout the United States.

20 54. Defendants Taiyo Yuden Co., Ltd., and Taiyo Yuden (USA) Inc. are collectively
21 referred to herein as “Taiyo Yuden.”

22 **3. NEC Tokin**

23 55. Defendant NEC Tokin Corporation is a Japanese company with its principal place
24 of business located at 7-1, Kohriyama 6-chome, Taihaku-ku, Sendai-shi, Miyagi 982-8510,
25 Japan. During the Class Period, NEC Tokin Corporation manufactured, sold, and distributed
26 Aluminum and/or tantalum electrolytic capacitors either directly or through its subsidiaries,
27 agents or affiliates throughout the United States.

1 56. Defendant NEC Tokin America, Inc., a California Corporation, is a wholly owned
2 subsidiary of NEC Tokin Corporation with its principal place of business located at 2460 North
3 First Street, Suite 220, San Jose, California 95131. During the Class Period, NEC Tokin
4 America, Inc., sold and distributed Aluminum and/or tantalum electrolytic capacitors throughout
5 the United States.

6 57. Defendants NEC Tokin Corporation and NEC Tokin America, Inc., are together
7 referred to herein as “NEC Tokin.”

8 **4. KEMET**

9 58. Defendant KEMET Corporation is a Delaware corporation with its principal place
10 of business located at 2835 Kemet Way, Simpsonville, South Carolina 29681. During the Class
11 Period, KEMET Corporation manufactured, sold and distributed Aluminum and tantalum
12 electrolytic capacitors directly or through its subsidiaries, agents or affiliates to customers
13 throughout the United States.

14 59. On March 12, 2012, KEMET Corporation announced that it agreed to form a
15 capital and business alliance with NEC Tokin Corporation because of their respective professed
16 interests in increasing its tantalum electrolytic capacitor sales, reducing costs in areas such as
17 procurement and production, sharing their technological knowledge, and benefiting financially
18 through the cross-selling of each other’s products. As a result of this alliance, KEMET received
19 34% of the outstanding shares of NEC Tokin (the remainder being held by non-party NEC
20 Corporation), which provided KEMET with 51% of the outstanding voting rights. KEMET
21 currently holds the option to purchase NEC Corporation’s shares in NEC Tokin, which would
22 thereby effect an acquisition of NEC Tokin by KEMET.

23 60. Defendant KEMET Electronics Corporation, a Delaware corporation, is a wholly
24 owned subsidiary of KEMET Corporation with its principal place of business located at 2835
25 Kemet Way, Simpsonville, South Carolina 29681. During the Class Period, KEMET Electronics
26 Corporation manufactured, sold and distributed Aluminum and tantalum electrolytic capacitors
27 directly or through its subsidiaries, agents or affiliates to customers throughout the United States.
28

61. Defendants KEMET Corporation and KEMET Electronics Corporation are together referred to herein as “KEMET.” The KEMET-NEC Tokin alliance shall be referred to herein as “KEMET-NEC Tokin.”

5. Nippon Chemi-Con

62. Defendant Nippon Chemi-Con Corporation is a Japanese corporation with its principal place of business located at 5-6-4, Osaki, Shinagawa-ku, Tokyo 141-8605, Japan. During the Class Period, Nippon Chemi-Con Corporation manufactured, sold, and distributed Aluminum electrolytic capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout the United States.

63. Defendant United Chemi-Con Corporation, an Illinois Corporation, is a wholly owned subsidiary of Nippon Chemi-Con Corporation with its principal place of business located at 9801 West Higgins Road, Rosemont, Illinois 60018. During the Class Period, United Chemi-Con manufactured, sold and distributed Aluminum electrolytic capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout the United States.

64. Defendants Nippon Chemi-Con Corporation and United Chemi-Con Corporation are together referred to herein as “Nippon Chemi-Con.”

6. Hitachi Chemical

65. Defendant Hitachi Chemical Co., Ltd., is a Japanese corporation with its principal place of business located at Grantokyo South Tower, 1-9-2, Marunouchi, Chiyoda-ku, Tokyo, 100-6606, Japan. During the Class Period, Hitachi Chemical Co., Ltd., manufactured, sold, and distributed Aluminum electrolytic capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout the United States.

66. Defendants Hitachi Chemical Company America, Ltd., a New York corporation, is a wholly owned subsidiary of Hitachi Chemical Co., Ltd. with its principal place of business located at 10080 North Wolfe Road, Suite SW3-200, Cupertino, California 95014. During the Class Period, Hitachi Chemical Co. America sold and distributed Aluminum electrolytic capacitors to customers throughout the United States.

67. Defendants Hitachi Chemical Co., Ltd. and Hitachi Chemical Company America, Ltd. are together referred to herein as “Hitachi.”

7. Nichicon

68. Defendant Nichicon Corporation is a Japanese corporation with its principal place of business located at Karasumadori Oike-agaru, Nakagyo-ku, Kyoto, 604-0845 Japan. During the Class Period and until the company’s sale of its tantalum capacitor production operations to AVX Corporation in February 2013, Nichicon Corporation manufactured, sold, and distributed tantalum electrolytic capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout the United States. During the entire Class Period, Nichicon Corporation manufactured, sold and distributed Aluminum electrolytic capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout the United States.

69. Defendant Nichicon (America) Corporation, an Illinois corporation, is a wholly owned subsidiary of Nichicon Corporation with its principal place of business located at 927 East State Parkway, Schaumburg, Illinois 60173. During the Class Period and until Nichicon Corporation’s sale of its tantalum capacitor production operations to AVX Corporation in February 2013, Nichicon (America) Corporation sold, and distributed tantalum electrolytic capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout the United States. During the entire Class Period, Nichicon (America) Corporation sold and distributed Aluminum electrolytic capacitors to customers throughout the United States.

70. Defendants Nichicon Corporation and Nichicon (America) Corporation are together referred to herein as “Nichicon.”

8. AVX

71. Defendant AVX Corporation is a Delaware Corporation with its principal place of business located at One AVX Boulevard, Fountain Inn, South Carolina 29644. It is a subsidiary of Kyocera Corporation, a Japanese corporation that owns approximately 72% of the outstanding common stock in AVX Corporation. In or about February 2013, AVX acquired Nichicon’s tantalum capacitor production facilities in Japan and China, thereby expanding their global tantalum capacitor manufacturing operations. During the Class Period, AVX Corporation

1 manufactured, sold and distributed tantalum electrolytic capacitors either directly or through its
2 subsidiaries, agents or affiliates to customers throughout the United States.

3 72. Defendant AVX Corporation is referred to herein as “AVX.”

4 **9. Rubycon**

5 73. Defendant Rubycon Corporation is a Japanese corporation with its principal place
6 of business located at 1938-1, Nishi-Minowa, Ina-City, Nagano 399-4593, Japan. During the
7 Class Period, Rubycon Corporation manufactured, sold, and distributed Aluminum electrolytic
8 capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout
9 the United States.

10 74. Defendant Rubycon America Inc., an Illinois corporation, is a wholly owned
11 subsidiary of Rubycon Corporation with its principal place of business located at 4293 Lee
12 Avenue, Gurnee, Illinois 60031. During the Class Period, Rubycon America Inc. sold and
13 distributed Aluminum electrolytic capacitors to customers throughout the United States.

14 75. Defendants Rubycon Corporation and Rubycon America Inc. are together referred
15 to herein as “Rubycon.”

16 **10. Elna**

17 76. Defendant Elna Co., Ltd., is a Japanese corporation with its principal place of
18 business located at 3-8-11 Shin-Yokohama, Kohoku-ku, Yokohama, Kanagawa Prefecture, 222-
19 0033, Japan. During the Class Period, Elna Co., Ltd., manufactured, sold, and distributed
20 Aluminum electrolytic capacitors either directly or through its subsidiaries, agents or affiliates to
21 customers throughout the United States.

22 77. Defendant Elna America Inc., a California corporation, is a wholly owned
23 subsidiary of Elna Co., Ltd., with its principal place of business located at 879 West 190th Street,
24 Suite 100, Gardena, California 90248. During the Class Period, Elna America Inc. sold and
25 distributed Aluminum electrolytic capacitors to customers throughout the United States.

26 78. Defendants Elna Co., Ltd., and Elna America Inc. are together referred to herein
27 as “Elna.”
28

11. Matsuo

79. Defendant Matsuo Electric Co., Ltd., is a Japanese corporation with its principal place of business located at 3-5- Sennari-cho, Toyonaka-shi, Osaka 561-8558, Japan. During the Class Period, Matsuo Electric Co., Ltd., manufactured, sold and distributed Aluminum and tantalum electrolytic capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout the United States. Matsuo Electric Co., Ltd., is referred to herein as “Matsuo.”

12. Toshin Kogyo

80. Defendant Toshin Kogyo Co., Ltd., is a Japanese corporation with its principal place of business at Tsukasa Bldg. 2-15-4, Uchikanda Chiyoda-ku, Tokyo, Japan. During the Class Period, Toshin Kogyo Co., Ltd., manufactured, sold, and distributed Aluminum and tantalum electrolytic capacitor products either directly or through its subsidiaries or affiliates throughout the United States. Toshin Kogyo Co., Ltd., is referred to herein as “Toshin Kogyo.”

13. Vishay

81. Defendant Vishay Intertechnology, Inc., is a Delaware corporation with its principal place of business located at 63 Lancaster Avenue, Malvern, Pennsylvania 19355. During the Class Period, Vishay Intertechnology, Inc., manufactured, sold, and distributed Aluminum and tantalum electrolytic capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout the United States. Vishay Intertechnology, Inc., is referred to herein as “Vishay.”

14. SEMCO

82. Defendant Samsung Electro-Mechanics is a South Korean corporation with its principal place of business located at Gyeonggi-Do Suwon-Si Youngtong-Gu Maeyoung-Ro 150 (Maetan-Dong) 443-743, South Korea. It is a wholly-owned subsidiary of Samsung Group, a South Korean *chaebol* (i.e., a business conglomerate). During the Class Period, Samsung Electro-Mechanics manufactured, sold, and distributed tantalum electrolytic capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout the United States.

83. Defendant Samsung Electro-Mechanics America, Inc., a California corporation, is a subsidiary of Samsung Electro-Mechanics with its principal place of business located at 3333 Michelson Drive, Suite 500, Irvine, California 92612. During the Class Period, Samsung Electro-Mechanics America, Inc., sold and distributed tantalum electrolytic capacitors to customers throughout the United States.

84. Defendants Samsung Electro-Mechanics and Samsung Electro-Mechanics America, Inc., are together referred to herein as “SEMCO.”

15. ROHM

85. Defendant ROHM Co., Ltd., is a Japanese corporation with its principal place of business located at 21 Saiin Mizosaki-cho, Ukyo-ku, Kyoto 615-8585 Japan. During the Class Period, ROHM Co., Ltd. manufactured, sold, and distributed tantalum electrolytic capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout the United States.

86. Defendant ROHM Semiconductor U.S.A., LLC, a Delaware limited liability corporation, is a subsidiary of ROHM Co., Ltd. with its principal place of business located at 2323 Owen Street, Suite 150, Santa Clara, California 95054. During the Class Period, ROHM Semiconductor U.S.A., LLC, sold and distributed tantalum electrolytic capacitors to customers throughout the United States.

87. Defendants ROHM Co., Ltd., and ROHM Semiconductor U.S.A., LLC, are together referred to herein as “ROHM.”

16. DOES 1 through 100

88. Plaintiffs are informed, believe, and thereon allege that DOES 1 through 100 manufactured, sold or distributed Aluminum and tantalum electrolytic capacitors either directly or through its subsidiaries, agents or affiliates to customers throughout the United States. Plaintiffs will seek leave of Court to replace the fictitious names of these entities with their true names when they are discovered.

89. The true names and capacities of Defendants DOES 1 through 100 are unknown to Plaintiffs at this time, and Plaintiffs therefore sue said Defendants by such fictitious names.

1 Plaintiffs allege, on information and belief, that each DOE defendant is responsible for the
2 actions herein alleged. Plaintiffs will seek leave of Court to amend this Complaint when the
3 names of said Doe defendants have been ascertained, or when the facts concerning their liability
4 have been ascertained, or as otherwise permitted by the Court.

5 90. Collectively, the Defendants are referred to hereinafter as “Defendants.”

6 **AGENTS AND CO-CONSPIRATORS**

7 91. The anticompetitive, unfair, false, deceptive, unconscionable and unlawful acts
8 alleged against the Defendants in this class action complaint were authorized, ordered or
9 performed by Defendants’ respective officers, agents, employees, or representatives, while
10 actively engaged in the management, direction, or control of Defendants’ businesses or affairs.

11 92. Various persons and/or firms not named as Defendants herein may have
12 participated as co-conspirators in the violations alleged herein and may have performed acts and
13 made statements in furtherance thereof.

14 93. Each Defendant acted as the principal, agent or joint venturer of, or for other
15 Defendants with respect to the acts, violations, and common course of conduct alleged herein. In
16 particular, each Defendant headquartered outside the United States relied on their agents in the
17 United States to implement, enforce and conceal the cartel through their global sales and
18 marketing systems and actively participated in the United States in concealing unlawful
19 information from being discovered by the Plaintiffs.

20 **TRADE AND COMMERCE**

21 94. During the Class Period, each Defendant, directly or through one or more of their
22 respective parents, subsidiaries, agents or affiliates, sold Aluminum and/or tantalum electrolytic
23 capacitors in the United States in a continuous and uninterrupted flow of interstate commerce
24 and foreign commerce, including through and into this judicial district.

25 95. During the Class Period, Defendants collectively controlled the market for
26 Aluminum and tantalum electrolytic capacitors, both globally and also in the United States.
27
28

1 96. Defendants’ business activities substantially affected interstate trade and
2 commerce in the United States and caused antitrust injury in the United States to Plaintiffs and
3 members of the Class.

4 **FACTUAL ALLEGATIONS**

5 **I. WHAT CAPACITORS DO AND HOW THEY WORK**

6 97. Capacitors are electronic components that serve as one of the fundamental
7 building blocks of all types of electrical circuits. Virtually every electrical circuit contains one or
8 more capacitors. In the taxonomy of electrical components, capacitors are categorized as
9 “passive” components. That is, capacitors do not require electrical power to operate. Instead, the
10 physical properties of the materials that compose a passive component cause it to perform the
11 task for which it is employed.

12 98. Generally, a capacitor is used in an electric circuit to store electrical charge. In
13 this regard, it is distinguished from a battery in that a battery provides electrical charge to a
14 circuit. Capacitors can store charges for long periods of time, even when removed from an
15 electric circuit, and they can charge and discharge fully and instantaneously when required to do
16 so. The amount of charge the capacitor can hold at a given voltage defines its capacitance.

17 99. In its basic form, a capacitor consists of two or more parallel conductive metal
18 plates that are neither connected to nor touching each other, but are electrically separated by
19 some form of insulating material. The insulating layer between a capacitor’s plates is commonly
20 called the dielectric. When a voltage is applied to the two plates, an electric field is created
21 between them; positive charge will collect on one plate and negative charge on the other. The
22 dielectric, a non-conductive material, does not permit the electric current to flow between the
23 metal plates.

24 100. One way to visualize how a capacitor stores a charge is to imagine it as a
25 municipal water tower hooked into a town’s water supply. A water tower “stores” water
26 pressure—when the water system pumps produce more water than a town needs, the excess is
27 stored in the water tower. Then, at times of high demand, the excess water flows out of the tower
28

1 to keep the pressure up. A capacitor stores electrical charge in the same way and can then release
2 it when an electric circuit requires a charge to execute a task.

3 101. The most commonly used dielectrics used in capacitors are composed of
4 ceramics, Aluminum, film or a rare metal called tantalum.

5 **II. TYPES OF CAPACITORS AND THEIR USES**

6 102. Capacitors are usually distinguished from each other by whether they are
7 electrolytic or electrostatic. Electrolytic capacitors are polarized, meaning that they have positive
8 and negative leads that must be positioned the correct way in an electric circuit (*i.e.*, the positive
9 lead, the cathode, must go to the positive side of the power source, and the negative lead, or
10 anode, must go to the negative side). In contrast, electrostatic capacitors are not polarized (*i.e.*,
11 they do not have a positive and negative leads) and therefore can be installed in either direction
12 with respect to the flow of current.

13 103. Electrolytic capacitors have historically been considered to have higher
14 capacitance than electrostatic capacitors. Because of their ability to hold larger charges,
15 electrolytic capacitors have typically been used for power filtering, coupling or buffering in
16 sophisticated electrical devices, such as televisions, computers, mobile phones, smart phones,
17 tablets, and technology used by the medical, military industrial and aerospace industries.

18 104. Electrolytic and electrostatic capacitors are further distinguished within these two
19 categories by the material from which their dielectrics are made. Electrolytic capacitors use
20 Aluminum or tantalum dielectrics, whereas ceramic capacitors are electrostatic. Flux capacitors
21 are not part of this case.

22 **A. Electrolytic Capacitors**

23 **1. Aluminum Capacitors**

24 105. Aluminum electrolytic capacitors are made of two Aluminum foils and a paper
25 spacer soaked in electrolyte. One of the two Aluminum foils is covered with an oxide layer
26 serving as the dielectric, and that foil acts as the anode, while the uncoated foil acts as a cathode.
27 The anode, electrolyte-soaked paper and cathode are stacked. The stack is then wound up, placed
28

1 into a cylindrical enclosure usually made of Aluminum and connected to an electric circuit
2 through surface mounting on PCBs or attached by radial or axial pins.

3 106. The thinness of the Aluminum oxide layer dielectric allows for relatively high
4 capacitance, though an Aluminum capacitor's capacitance can only increase by increasing the
5 surface area covered by the dielectric. This requires additional stacking and winding of the foil
6 layers, thus increasing the capacitors' physical size. As a result, Aluminum capacitors typically
7 have lower volumetric efficiency than tantalum or certain types of ceramic capacitors. Further,
8 Aluminum capacitors have a higher propensity to leak the charge they hold as opposed to
9 tantalum and certain types of ceramic capacitors.

10 107. Aluminum capacitors frequently are used in a variety of larger electronic devices,
11 such as consumer audio and video devices, televisions, video game consoles, desktop and laptop
12 computers, automotive electronics and power inverters.

13 2. Tantalum Capacitors

14 108. Tantalum capacitors exploit the tendency of tantalum metal to form a non-
15 conductive protective oxide surface layer. They consist of tantalum powder sintered (*i.e.*, formed
16 by high pressure) into a pellet shape—often called a “sponge”—as the negative plate of the
17 capacitor, with the tantalum pentoxide forming on the pellet's surface serving as the dielectric,
18 and an electrolytic solution or conductive solid serving as the positive plate. The dielectric layer
19 thus can be very thin—thinner than the similar layer in, for instance, an Aluminum electrolytic
20 capacitor. Accordingly, a tantalum capacitor can have high capacitance in a small volume, and
21 thus can have high volumetric efficiency. Tantalum capacitors historically have primarily been
22 used in the computer end market, as well as the telecommunications end market.

23 109. Tantalum capacitors are, however, susceptible to short-circuiting or catastrophic
24 thermal runaway failure and destruction by fire if subject to inconsistent voltage or voltage
25 spikes, as such inconsistencies can tax and break down the capacitor's extremely thin dielectric.

26 110. Aside from the risk of catastrophic failure, tantalum capacitors are generally
27 reliable. They have high resistance to leaking charge and have lower equivalent series resistance
28 (*i.e.*, the speed at which electric charge is released from the capacitor) than Aluminum

1 electrolytic capacitors of the same capacitance rating. Accordingly, tantalum capacitors at times
2 are used in complex electronic devices in which their small size and high capacitance are
3 required, *e.g.*, mobile phones, smart phones, personal computers, tablet devices and automotive
4 electronics.

5 111. The Defendant tantalum capacitor manufacturers have, at various times over the
6 last decade, claimed that shortages of raw tantalum ore have caused the high prices for their
7 capacitors and the longer lead times for their production. Specifically, Defendants raised supply
8 shock concerns to industry analysts and the investing public at various times in 1997, 2000,
9 2008, 2011 and 2012 based on concerns that certain tantalum mines were closing, other mines
10 were not producing ore at the necessary levels, and the worry that tantalum's designation as a
11 "conflict mineral" under Section 1502 of the 2010 Dodd-Frank Wall Street Reform and
12 Consumer Protection Act ("Dodd-Frank") would reduce their access to ore and/or would
13 increase the market premium for conflict-free tantalum ore. Dodd-Frank requires that companies
14 sourcing tantalum use independent private sector auditors to audit their supply chains and submit
15 annual conflict minerals reports to the Securities and Exchange Commission.

16 112. The availability and cost of tantalum ore, along with the numerous steps required
17 to manufacture tantalum capacitors, has been explained by Defendants and some industry
18 analysts as the reason why these capacitors have historically been so expensive. As a result, the
19 use of tantalum capacitors is usually limited to applications where the specific high capacitance
20 they provide is required.

21 **B. Ceramic Electrostatic Capacitors**

22 113. A ceramic capacitor is a non-polarized capacitor made out of two or more
23 alternating layers of ceramic and metal in which the ceramic material acts as the dielectric and
24 the metal acts as the electrodes. The ceramic dielectric is a mixture of finely ground granules of
25 paraelectric or ferroelectric materials, modified by mixed oxides that are necessary to achieve the
26 capacitor's desired characteristics. The great plasticity of ceramic raw material enables
27 manufacturers to produce an enormous diversity of styles, shapes and dimensions of capacitors.
28 Because the thickness of the ceramic dielectric layer can be easily controlled and produced by

1 the desired application voltage, ceramic capacitors are available with rated voltages up to the 30
2 kV range. Currently, the smallest discrete ceramic capacitor is about the physical size of the head
3 of a pin, though advances in materials science and refinement of manufacturing processes may
4 eventually permit fabrication of even smaller components.

5 114. The most prevalent form of ceramic capacitor is known as a multilayer ceramic
6 capacitor (“MLCC”). Industry analysts report that for fiscal year 2014, MLCCs are estimated to
7 account for approximately 95% of the global ceramic market in terms of volume and
8 approximately 94% in terms of value. MLCCs are constructed with alternating layers that result
9 in single capacitors connected in parallel. This method, called “stacking” increases the
10 component’s capacitance because its surface area is increased by stacking up multiple layers of
11 ceramic dielectric materials and metal electrode materials.

12 115. Technological and material advancements have permitted manufacturers to
13 increase the number of layers in MLCCs while at the same time miniaturizing the components.
14 The result of these improvements is that MLCCs tend to have higher greater volumetric
15 efficiency than Aluminum electrolytic capacitors, and can also compete with tantalum
16 electrolytic capacitors in small form factor applications. Both Aluminum and tantalum
17 electrolytic capacitors, however, must increase in physical size to increase capacitance. The
18 capacitance of Aluminum electrolytic capacitors can be increased only through tightly winding
19 Aluminum metal foil, thereby increasing the surface area as well as the total size of the
20 component. In similar fashion, capacitance in tantalum electrolytic capacitors is increased only
21 by expanding the size of the tantalum pellet in the capacitor, which in turn increases the total size
22 of the capacitor.

23 116. Currently, MLCCs typically cost only a fraction of Aluminum or tantalum
24 electrolytic capacitors. Ceramics, however, are not an easy cure for purchasers seeking to save
25 costs on the electronic devices they produce that require high capacitance in a small form factor,
26 *e.g.*, mobile phones, smart phones and tablet computers. Because electric circuits are designed to
27 accommodate specific types of active and passive components with specific technical and
28 operational characteristics, ceramic capacitors cannot immediately be integrated into PCBs or

1 other types of circuits that require either Aluminum or tantalum electrolytic capacitors. Stated
2 differently, capacitors with differing capacitance, dielectric and form factor are not
3 interchangeable with each other. Redesigning and reengineering a product's electrical circuits is
4 therefore required to accommodate any changes to the electrical components contained within
5 them. This is a lengthy, resource-intensive effort that requires a product manufacturer essentially
6 to redesign a product and change and redefine its supply chain resources, all while still working
7 to meet ongoing demand for its finished products.

8 **III. THE MARKET CONDITIONS IN WHICH DEFENDANTS' CONSPIRACY**
9 **ORIGINATED**

10 117. Generally, capacitors are purchased by one of three categories of purchasers: (1)
11 original equipment manufacturers ("OEMs") who install capacitors directly into their products;
12 (2) electronic manufacturing service providers ("EMS Providers") who manufacture PCBs and
13 other electric circuit products that contain capacitors and which are integrated into end-use
14 products manufactured by others; and (3) third-party electronics distributors that sell capacitors
15 to various consumers.

16 118. The demand for capacitors over the last decade has been largely tied to the
17 demand for consumer electronics, which currently accounts for approximately 90% of global
18 unit demand. The computer end-use market segment historically has accounted for a significant
19 portion of global capacitor consumption, but that segment has experienced decreasing sales of
20 high-passive component content laptops and desktops in recent years. Industry analysts have
21 indicated that declining demand for these products has negatively impacted the demand for
22 tantalum and Aluminum capacitors, which have historically derived close to 50% of their
23 revenues from the computer market. In addition, the consumer audio-video segment, which has
24 also historically accounted for a significant portion of global capacitor consumption, has also
25 faced significant decreasing sales over the last decade due to portable music devices, tablets and
26 smart phones meeting modern consumers' audio-visual needs. The fall off of the audio-visual
27 market had a significant impact on the demand for Aluminum electrolytic capacitors.

119. Over the past decade, ceramic electrostatic capacitors have outperformed the other primary capacitor dielectrics (specifically the tantalum and Aluminum electrolytics) in terms of volume of products globally consumed and the value of that demand. In terms of volume, industry data shows that unit consumption of ceramic capacitors over the last decade has increased 7%, from approximately 84% for fiscal year 2004 to an estimated 91% for 2014. During the same period, consumption of tantalum electrolytic capacitors dropped from approximately 2.5% of global volume for fiscal year 2004 to an estimated 1.1% for 2014, and consumption of Aluminum electrolytic capacitors dropped from approximately 9.9% for fiscal year 2004 to an estimated 6.8% for fiscal year 2014.

120. The value of the tantalum electrolytic capacitors sold over the last decade has declined from approximately 12.6% of the global value for fiscal year 2004 to an estimated 10.4% for 2014, while the global value of Aluminum electrolytic capacitors has declined from approximately 33.1% for fiscal year 2004 to an estimated 22.6% for 2014.

121. The North and South American market for capacitors accounts for approximately \$2.2 billion for fiscal year 2014, or roughly 12 percent of the global market. Ceramics account for approximately 47% of capacitor consumption in the Americas, followed by Aluminum capacitors with approximately 17%, and tantalum capacitors with 14%.

122. Aluminum and tantalum electrolytic capacitor manufacturers have faced stagnant and/or reduced demand over the last decade.

123. With specific regard to Aluminum electrolytic capacitors, purchasers began to find them too volumetrically inefficient to be useful in many electronic devices sold today. Historically, most electronic devices have been larger physically than they are today. In the past, the larger footprint required by Aluminum capacitors on PCBs found in devices such as televisions, stereo equipment, and personal computers was not problematic.

124. With the development of technologies and processes that allowed manufacturers to miniaturize certain types of capacitors while, at the same time, increasing their volumetric efficiency, manufacturers of electronic devices began to design and produce smaller, more portable and more functionally integrated products that met, if not surpassed, the complexity of

1 predecessor devices that used Aluminum capacitors. For many consumer-focused devices—*e.g.*,
2 smart phones, tablet computers, laptop computers, personal navigation devices—smaller
3 capacitors with greater capacitance had to be used to execute the various complex tasks for
4 which the devices were employed. Because many of these new electronic devices have
5 essentially come to replace the devices that historically used bulky Aluminum capacitors—*e.g.*,
6 tablets, smart phones and personal music devices replacing televisions, personal computers and
7 stereos—the market for Aluminum electrolytic capacitors had grown relatively stagnant as of
8 late 2004, but noticeably declined starting in late 2007 to early 2008.

9 125. With specific regard to tantalum electrolytic capacitors, demand declined over the
10 last decade in large part because they were often unavailable and, as a result, expensive. Though
11 tantalum electrolytic capacitors have a high volumetric efficiency and other operational
12 characteristics often desired by OEMs and EMS Providers for use in small form factor
13 applications, many purchasers over time came to expect that their demand for tantalum
14 capacitors could not economically be met.

15 126. Manufacturing tantalum electrolytic capacitors is a labor- and resource-intensive
16 process. Industry sources have noted there are over 70 steps required to be taken to manufacture
17 a tantalum electrolytic capacitor. The manufacturing process for these capacitors is completely
18 different from that required for making Aluminum electrolytic or even ceramic capacitors, and it
19 requires different raw materials, supply chains and fabrication operations. Further, the limited
20 availability of tantalum ore, especially when compared to availability of raw materials required
21 to make other capacitors, has been claimed by tantalum capacitor manufacturers as a cause for
22 limited production and high costs.

23 127. Many capacitor purchasers make products that specifically require tantalum
24 electrolytic capacitors and the electrical circuits incorporated in these products cannot be
25 redesigned and reengineered to use any other capacitors. As a result, these purchasers have no
26 choice but to weather the availability and cost issues attendant to using tantalum capacitors.
27 Other purchaser's products, however, are not solely dependent on the specific performance
28 tantalum capacitors provide the electric circuits they employ. In those instances, purchasers over

1 time undertook the lengthy and resource intensive effort to redesign and reengineer the electric
2 circuits they employ in their manufactured products to incorporate more available and affordable
3 capacitors containing dielectrics other than tantalum. This gradual—and therefore not
4 immediate—process accounts for much of the decrease in demand for tantalum electrolytic
5 capacitors over at least the last decade.

6 128. The decline in demand for both Aluminum and tantalum electrolytic capacitors
7 began in early 2000s, though it became more pronounced when the global economy crashed
8 starting in late 2007. The global financial crisis caused consumer demand at all levels—globally
9 and domestically—to fall significantly. According to industry data, consumption for capacitors
10 dropped nearly 10% globally between fiscal year 2008 and 2009. Though economic stimulus
11 packages orchestrated by the United States, China and EU countries caused some growth in the
12 volume of capacitors consumed in fiscal year 2011, global consumption still dropped year over
13 year approximately 7% in 2012 and 14% in 2013.

14 129. By the close of fiscal year 2008, global consumption for Aluminum electrolytic
15 capacitors had already declined approximately 14% from 2005. This decline has continued to the
16 present day, with consumption in 2014 estimated to be approximately 30% lower than it was in
17 2005. Similarly, by the close of fiscal year 2008, global consumption for tantalum capacitors
18 dropped approximately 37% from 2005, and with consumption in 2014 estimated to be
19 approximately 53% less than it was in 2005.

20 **IV. DEFENDANTS' COLLUSIVE ANTICOMPETITIVE PRACTICES**

21 130. In the context of this marked decline in demand for Aluminum and tantalum
22 electrolytic capacitors since at least the early 2000s, any price competition among the Defendants
23 for the mutually interchangeable and substitutable components they produce would be sure to
24 reduce any profitability they could hope to reap from these product markets. Specifically, given
25 the significant costs related to running Defendants' respective capacitor manufacturing
26 operations, keeping abreast of technological change and innovation, as well as the ongoing
27 variable costs of raw materials, labor and distribution chain operations, Defendants' profit
28 margins on Aluminum and tantalum electrolytic capacitors would, by the operation of basic

1 principles of economics, grow thinner if they were required to compete against each other for
2 sales.

3 131. At least prior to the beginning of 2005, Defendants each were aware of the
4 significant market share each of them held, both individually and collectively, in the mature, yet
5 declining market for Aluminum and tantalum electrolytic capacitors. Relatedly, Defendants each
6 were also aware of the inability of capacitor manufacturers with smaller market share to
7 successfully compete against them and meet market demand due to their evident capacity and
8 resource constraints.

9 132. Additionally, at least prior to the beginning of 2005, Defendants were aware that
10 their Aluminum and tantalum electrolytic capacitors products of like capacitance, dielectric and
11 form factor are in most instances mutually interchangeable for each other. For example, one
12 manufacturer's Aluminum electrolytic capacitors of a given capacitance and form factor often
13 can be substituted for another manufacturer's Aluminum capacitors with the same capacitance
14 and form factors; the same goes for tantalum electrolytic capacitors produced by different
15 manufacturers with the same capacitance and form factors. Aluminum electrolytic capacitors,
16 however, are not mutually interchangeable with tantalum electrolytic capacitors, and vice versa.

17 133. Further, Defendants were also aware of how fundamentally necessary capacitors
18 are to the function of electric circuits, and how other types of passive electrical components (*e.g.*,
19 inductors, resistors) cannot serve as a substitute for or a functional equivalent to an Aluminum or
20 tantalum electrolytic capacitor.

21 134. Finally, Defendants were aware that all types of purchasers—OEMs, EMS
22 Providers and third-party distributors—were almost always committed to inflexible production
23 or delivery deadlines to their respective customers, and therefore would incur any price increases
24 on the capacitors they required to avoid the usually greater cost of production delays or customer
25 dissatisfaction.

26 135. In their collective and individual consideration of the market conditions,
27 Defendants agreed to operate as a cartel to foreclose competition and protect each of its members
28 from price competition. By forming this cartel, Defendants intended to wring as much

1 profitability out of the Aluminum and tantalum electrolytic capacitors market as possible before
2 their product portfolios for these capacitors become technologically obsolete or became
3 consigned to the comparatively unprofitable niche market.

4 136. Defendants together reached an agreement to concertedly fix prices and reduce
5 output on Aluminum and tantalum electrolytic capacitors some time before, and in any event no
6 later than, January 1, 2005. This agreement was reached through both oral and written
7 communication among executives, officers, sales representatives and employees of the
8 Defendant companies. The exchanges of these communications occurred in person, through
9 electronic or paper correspondence, text messaging or telephonic or video communications in the
10 period preceding the beginning of the Class Period.

11 137. The specific date upon which Defendants' cartel and their collusive behavior
12 commenced (assuming it is even capable of determination given the nature of secret
13 conspiracies) is information known only to Defendants. Plaintiffs will amend this class action
14 complaint upon discovering sufficient evidence pointing to a specific start date for Defendants'
15 conspiracy.

16 138. Defendants intended to restrain trade in Aluminum and tantalum electrolytic
17 capacitors primarily in two ways.

18 139. First, Defendants agreed to end price competition among themselves as to their
19 respective Aluminum and tantalum electrolytic capacitors product portfolios by concertedly
20 fixing, raising, maintaining or stabilizing the prices for these products, thereby removing the
21 prices offered to purchasers from a competitive market.

22 140. To achieve their collective goal of artificially setting the price for their respective
23 Aluminum and tantalum electrolytic capacitor product portfolios, each of the Defendants shared
24 with each other, either through correspondence or during in-person meetings, confidential and
25 competitively sensitive information pertaining to their product pricing. By way of illustration and
26 not limitation, Defendants shared, among other things, information pertaining to the fixed and
27 variable costs that impacted their product pricing. With knowledge of each other's competitively
28

1 sensitive information, Defendants were able to collectively determine and coordinate the pricing
2 for the mutually interchangeable products in their respective capacitor portfolios.

3 141. Defendants were able to maintain the concerted pricing on their Aluminum and
4 tantalum electrolytic capacitors through regular interaction with and communication among
5 members of the cartel on the topic of pricing, and by publishing pricing information and cross-
6 reference materials (*i.e.*, charts or other materials that identify which capacitors of a given
7 Defendant are mutually interchangeable for capacitors of another Defendant) and sharing them
8 with both the public and Defendants' largest third-party authorized distributors, most of whom
9 distribute capacitors for a significant number of Defendants.

10 142. If at any time any of the Defendants priced any of its portfolio products outside
11 the cartel's coordinated pricing, the Defendant would become aware either through notice from
12 its fellow cartel members or from its largest third party authorized distributors. The pricing for
13 the product at issue would then adjust back to the price determined by the cartel's members.

14 143. Defendants' concerted pricing has gone unnoticed to date for many reasons,
15 including, by way of example and without limitation: (1) the sheer number and variety of
16 Aluminum and tantalum electrolytic capacitors in Defendants' respective product portfolios
17 makes it difficult for purchasers to track market-wide movement in pricing, especially when
18 purchasers are primarily interested in only products with a specific capacitance, dielectric and
19 form factor; (2) pricing for these capacitors changes frequently; and (3) noncompetitive pricing
20 is masked at times by high volume sales of these commoditized products, in which bulk
21 purchasers may receive volume discounts.

22 144. Aside from concertedly setting non-competitive prices for their Aluminum prices,
23 Defendants also agreed to concertedly quote product lead times to purchasers. This permitted
24 Defendants to meter out the supply of their mutually interchangeable products available on the
25 market, thereby keeping demand high and, at times, unmet.

26 145. Defendants agreed to restrain their output in an effort to curb the practice of
27 certain purchasers who would buy large lots of products from Defendants when prices appeared
28 to be low, but would abstain when prices were higher. Defendants intended their practice of

1 quoting similar production lead times for their mutually interchangeable products to smooth out
2 the inconsistent volume of purchases by these purchasers. At the same time, Defendants intended
3 this practice to complement their efforts to artificially maintain a non-competitive price for their
4 products.

5 146. To achieve the cartel's goal of quoting uniform production lead times to
6 purchasers, Defendants regularly interacted and communicated with other Defendants in the
7 cartel on the topic of product lead times.

8 147. Defendants regularly provided to purchasers and the public pretextual excuses for
9 the increase of production lead times, such as problems obtaining raw materials (*e.g.*, tantalum
10 ore) necessary for production, shipping delays, and production delays caused by natural disasters
11 (*e.g.*, the 2011 Tohoku earthquake and tsunami, typhoons in Asia, flooding in Thailand and other
12 countries where Defendants' capacitor manufacturing facilities are located). Because the
13 justifications Defendants provided for long production lead times were credible, customers were
14 lulled into believing them, despite Defendants' conspiracy. Defendants concertedly coordinated
15 to lengthen these production lead times unjustifiably in order to foster the cartel's scheme to
16 maintain noncompetitive prices for the Defendants' Aluminum and tantalum electrolytic
17 capacitors.

18 148. The effects of Defendants' concerted and collusive actions were significant and,
19 in fact, were counter to what the market would expect given the comparative and continual
20 decline in demand for Aluminum and tantalum electrolytic capacitors that began in the early
21 2000s. Notably, industry and government data suggests that per unit prices for Aluminum and
22 tantalum electrolytic capacitors began to stabilize in 2005.

23 149. From 2005 to present, industry data shows that per unit prices for tantalum
24 electrolytic capacitors have increased approximately \$0.008, or \$8.82 per thousand.

25 150. In 2005, Aluminum electrolytic capacitors began to stop their price decline from
26 approximately \$55.06 per thousand in 2003. In 2005, industry data shows that the price per unit
27 for Aluminum electrolytic capacitors was \$46.76 per thousand units, and their per unit price
28 hovered between approximately \$40.00 and \$46.00 per thousand until 2013. In effect,

Defendants' conspiracy permitted manufacturers of Aluminum electrolytic capacitors (the Defendants herein) to slow the market-driven decline in price for their products, and to fix prices at supracompetitive levels.

V. INDUSTRY CHARACTERISTICS INDICATING AND FACILITATING DEFENDANTS' CONSPIRACY TO RESTRAIN TRADE IN THE ALUMINUM AND TANTALUM ELECTROLYTIC CAPACITOR MARKET

151. For at least as long as the Class Period, the Aluminum and tantalum electrolytic capacitor industry has demonstrated numerous characteristics that have served to facilitate Defendants' conspiracy. By way of illustration and not limitation, the industry has exhibited (1) market concentration among a limited number of participants; (2) high barriers to entry for new market participants; (3) mutual interchangeability of Defendants' products; (4) inelasticity of demand; (5) commoditization; (6) weak demand in a mature market; (7) a large number of purchasers with limited purchasing power; and (8) ease of information sharing among Defendants.

A. Market Concentration

152. Despite the ascendancy of ceramic capacitors as the dominant product in the global capacitors market, the market for Aluminum and tantalum electrolytic capacitors remains quite significant. In 2004, the global volume of Aluminum and tantalum electrolytic capacitors consumed was approximately 12% of the market. Consumption for 2014 is estimated to be approximately 8% of global volume. The revenues for these sales—given the higher per unit price of both Aluminum and tantalum electrolytic capacitors relative to ceramic capacitors—approximate an estimated \$6 billion for fiscal year 2014 alone. Industry data show that Aluminum and tantalum capacitors together currently account for approximately 31% of North and South American capacitor consumption (most of which are presumably consumed in North America), which is valued at approximately \$680 million.

153. Market power in the Aluminum and tantalum electrolytic manufacturing industry itself is highly concentrated—a fact that is conducive to the type of collusive activity alleged herein.

1 154. Though there are a relatively large number of companies that produce Aluminum
2 electrolytic capacitors and sell them into the global and U.S. markets, significant market power is
3 concentrated in the Defendants. In all, industry data show that the 13 largest manufacturers of
4 Aluminum electrolytic capacitors account for approximately 92% of the market's current
5 revenue. Specifically, industry analysts report that Defendants Nippon Chemi-Con, Nichicon,
6 Rubycon, Panasonic, AVX and Elna currently together hold approximately 65% of the global
7 market. Adding in the smaller market shares of Defendants Hitachi, Matsuo and Toshin Kogyo,
8 Defendants' collective share in the Aluminum electrolytic capacitors market is approximately
9 70%.

10 155. Given the relatively small market share (*i.e.*, mostly 3% or less) and capacity
11 constraints of the other (non-Defendant) companies selling products in the global Aluminum
12 electrolytic capacitors market, the Defendants' concerted actions have impacted pricing and
13 output in the Aluminum capacitor market during the Class Period. There was not a reasonable
14 threat that manufacturers who were not members of the cartel could undercut the cartel's
15 concerted pricing and meet all or a significant part of market demand for mutually
16 interchangeable Aluminum capacitors at more competitive prices.

17 156. Industry data show that the seven largest manufacturers of tantalum electrolytic
18 capacitors account for approximately 95% of the global market's current revenue. Industry
19 analysts report that Defendants KEMET-NEC Tokin, Panasonic, AVX, Vishay SEMCO and
20 ROHM currently together hold approximately 90% of the global market.

21 157. Given the relatively small market share (*i.e.*, mostly 3% or less) and capacity
22 constraints of the other companies selling products in the global electrolytic capacitors market,
23 the Defendants' concerted actions have impacted pricing and output in the tantalum capacitor
24 market during the Class Period. There was not a reasonable threat that manufacturers who were
25 not included in the cartel could undercut the cartel's concerted pricing and meet all or a
26 significant part of market demand for mutually interchangeable capacitors at more competitive
27 prices.

B. High Barriers to Entry

158. In a market free of price fixing, higher profits draw in other market participants who wish to capture a share of profits. Where members of a cartel conspire to raise prices in a market, those higher prices generate higher profits for the cartel's members. In industries characterized by substantial barriers to entry, however, cartel members may be able to raise prices to supracompetitive levels and reap high levels of profits.

159. Companies seeking to manufacture and sell Aluminum and tantalum electrolytic capacitors without having any prior involvement in the capacitors market face various significant barriers to their entry.

160. The electrolytic capacitors manufacturing industry is a mature one dominated by established corporations, each having diverse product portfolios, multinational operations and global market reach. These companies have significant experience in the global capacitors industry and established reputations with both sellers of raw materials and purchasers of finished capacitors. These companies typically have access to significant financial resources that not only allow them to commit the capital necessary to bring online new fabrication operations and facilities or to expand/retrofit existing ones to meet market demand and adjust to technological changes, but also to establish and secure necessary supply chain commitments for all raw materials they require. Defendants are all established manufacturers in the electrolytic capacitors industry.

161. For a prospective capacitor manufacturer, setting up competitive manufacturing operations and supply chain operations is a significant financial and logistic hurdle to market entry. A new entrant seeking to build electrolytic capacitors fabrication operations and facilities faces not only the sizeable cost of building fabrication plants, but also the costs of acquiring the necessary production technology, hiring and retaining skilled and knowledgeable manpower, and securing the raw materials and supply chain commitments necessary to manufacture competitive products. These costs would exceed hundreds of millions of dollars. Many of the Defendant manufacturers have developed internal processing capabilities for raw materials and have

1 established relationships with raw materials producers that all but insure that their requirements
2 will be met.

3 162. These hurdles, however, are not the only barriers a new market entrant faces. For
4 a new market entrant consistently to products and sell competitively and to create and sustain a
5 diverse product portfolio, it must invest in substantial research and development operations.
6 Additionally, the new entrant must create and maintain global sales and marketing operations so
7 that its products can be attractive to capacitor purchasers and disrupt their existing relationships
8 with the established electrolytic capacitor manufacturers.

9 163. Ultimately, to be competitive, a new market entrant has to commit to significant
10 financial and operational undertakings to establish itself in an industry where—in the absence of
11 any price manipulation—profit margins are not large and economies of scale must be achieved in
12 order to reach profitability. Moreover, because the global demand for capacitors has shifted
13 significantly in favor of ceramics over the last decade, a new market entrant's commitment of the
14 necessary financing and resources to establish itself in the electrolytic capacitors market would
15 be fraught with risk.

16 164. The fact that no new manufacturers have begun producing exclusively Aluminum
17 or tantalum electrolytic capacitors in well over a decade—other than through acquisition of
18 companies or business units already producing specific electrolytic capacitor products—strongly
19 suggests that the electrolytic capacitors market is foreclosed to new competition.

20 **C. Mutual Interchangeability of Defendants' Electrolytic Capacitors**

21 165. As noted earlier, capacitors of like capacitance, dielectric, and form factor are
22 mutually interchangeable. A specific Aluminum or tantalum electrolytic capacitor manufactured
23 by one of the Defendants therefore can be exchanged for a product of another Defendant with the
24 same technical and operational specifications. There are no other defining physical
25 characteristics that differentiate Defendants' various Aluminum or tantalum electrolytic
26 capacitor products from each other.

27 166. Defendants are aware of the fungibility of their specific products. Indeed,
28 Defendants have made product cross-reference materials available through their respective web

1 sites, product catalogs, and/or other materials distributed to capacitor purchasers. These cross-
2 reference materials identify a specific Defendants' capacitor product by either product number or
3 technical and operational specifications, and it identifies specific mutually interchangeable
4 products manufactured by competitor Defendants. These products are easily identifiable and
5 incorporated through electronic products sold throughout the United States purchased by
6 Plaintiffs and the Class and subject to the unlawful artificially inflated pricing.

7 167. In addition to many of Defendants' products being directly interchangeable,
8 products with differing capacitance, dielectric and form factor—depending on circuit design and
9 certain technical requirements—can be interchangeable for each other. There are a number of
10 general rules recognized in the capacitors industry that govern such interchangeability, for
11 example: (1) using a capacitor with a higher capacitance value than the circuit requires is
12 sometimes acceptable; (2) a capacitor with a better capacitance tolerance can replace a looser
13 tolerance component; (3) a capacitor with a higher voltage rating may be used in place of, or as a
14 substitute for, a lower voltage rated component; (4) a physically smaller capacitor may be
15 acceptable if lead spacing is the same and electrical specifications differences are acceptable; (5)
16 a capacitor with a better temperature rating can replace a lower temperature rated component; (6)
17 a capacitor with a more stable temperature coefficient can replace a component with a less stable
18 temperature coefficient; (7) a capacitor with a lower dissipation factor can replace one with a
19 higher dissipation factor; (8) a capacitor with a lower ESR can replace one with a higher ESR;
20 (9) a capacitor with a higher ripple current rating can replace one with a lower ripple current
21 rating; and (10) a capacitor with a lower leakage current rating can replace one with a higher
22 leakage current rating.

23 168. Because purchasers are aware of the mutual interchangeability of Defendants'
24 respective capacitor products of like capacitance, dielectric and form factor, along with the
25 possibility that certain products that are not directly fungible can still replace each other,
26 Defendants present purchasers a broad portfolio of product choices that can meet their needs.
27 Accordingly, but for Defendants' noncompetitive maintenance of pricing, price would be the
28

1 primary means of competition among Defendants in the Aluminum and tantalum electrolytic
2 capacitor market.

3 **D. Inelastic Demand**

4 169. Inelastic demand means that increases in price result in limited declines in
5 quantity sold in the market. For a cartel to profit from raising prices above competitive levels,
6 demand must be inelastic at competitive prices such that cartel members are able to raise prices
7 without triggering a decline in sales revenue that would make the price increase unprofitable. In
8 simple terms, demand is inelastic when the loss in volume arising from a price increase is small
9 relative to the magnitude of the increase in price, allowing higher prices to increase revenues and
10 profits.

11 170. The demand for Aluminum and tantalum electrolytic capacitors is inelastic. When
12 there are few or no substitutes for a product, purchasers have little choice but to pay higher prices
13 in order to produce their product. As set forth above, capacitors serve as a fundamental
14 component in the electric circuits employed to make functional a wide variety of products within
15 different end-markets. No other type of passive electrical component (*e.g.*, inductors, resistors)
16 can serve as a substitute or a functional equivalent to a capacitor in an electric circuit.
17 Accordingly, a purchaser that is either an OEM or an EMS Provider simply cannot design an
18 electric circuit to bypass its need for a capacitor with a certain capacitance, dielectric and form
19 factor.

20 171. Capacitors are also often a comparatively inexpensive cost input in electrical
21 devices, so a purchaser facing higher prices for capacitors would generally pay that increased
22 price rather than forgo its opportunity to sell the device that includes the capacitors.

23 172. Though the specific capacitors that Defendants manufacture are either mutually
24 interchangeable for each other when a specific electric circuit is designed to incorporate them,
25 this does not demonstrate price elasticity. Rather, this fact affirms the ubiquitous need for
26 capacitance in electric circuits and the inability of purchasers of capacitors to forgo their use in
27 their products or find a cost effective, functional substitute for them.

1 173. Indeed, demand inelasticity for capacitors is particularly acute when a given
2 electric circuit or an electronic device requires not just a capacitor, but one with a specific
3 capacitance, dielectric and form factor. In that instance, a purchaser has no choice but to buy a
4 specific capacitor with the required technical and operational characteristics.

5 **E. Commoditization**

6 174. When a product is characterized as a commodity, market participants typically
7 compete on the basis of price rather than other attributes such as product quality or customer
8 service. Where competition occurs principally on the basis of price, it is easier to implement and
9 monitor a cartel because price is more often objectively measurable and observable than non-
10 price factors such as service.

11 175. Because Aluminum and tantalum electrolytic capacitors are mass-produced
12 products generally sold by Defendants in lots of 1,000 pieces that have relatively standardized
13 technical and operational characteristics for the various mutually interchangeable models
14 manufactured and sold by the Defendants, the electrolytic capacitor products at issue are largely
15 commoditized.

16 176. Defendants recognize that their Aluminum and tantalum capacitors are
17 commoditized products. Based on the type of electrolytic capacitor they produce, Defendants
18 face relatively similar raw materials and production costs. Accordingly, even without
19 Defendants' sharing of confidential and competitively sensitive information as part of their price-
20 fixing conspiracy, Defendants would have approximate knowledge of each other's costs and the
21 bases for their respective prices. However, by having access to their co-conspirators' pricing
22 information, Defendants can more easily implement their scheme to maintain noncompetitive
23 prices for Aluminum and tantalum electrolytic capacitors.

24 **F. Weak Demand**

25 177. Static or declining demand is one factor which makes the formation of a collusive
26 arrangement more likely. Under normal business conditions, when faced with weak demand
27 conditions, firms will attempt to increase sales by taking market share from competitors by
28 decreasing prices. For this reason, firms faced with static or declining demand have a greater

1 incentive to collude to avoid price competition with competitors in order to ballast their declining
2 business.

3 178. As alleged herein, the overall demand for Aluminum and tantalum capacitors has
4 declined significantly since the early 2000s. Demand for Aluminum and tantalum electrolytic
5 capacitors is closely tied to the demand for consumer electronics. Over the past decade, declining
6 sales of desktop computers and television sets have weakened demand for passive electronic
7 components and capacitors in particular. In 2012, for example, sales of televisions and desktop
8 computers declined roughly 10% from the previous year, whereas demand for laptop computers
9 declined only 2%. The impact of this decline in consumer electronic demand on capacitor
10 demand is evident in the static growth observed by the overall market and the negative growth
11 trends reported in some segments by certain Defendants.

12 179. For instance, Nichicon's 2013 Annual Report states that the company's 21.7%
13 decrease in capacitor sales "is attributed to declining demand for digital home electronics and
14 inverter equipment." Similarly, Taiyo Yuden's 2013 Annual Report notes that "[t]he electronics
15 industry, to which [TaiyoYuden] belongs, has seen continued growth from the smartphone and
16 tablet device markets. In contrast to this, the PC and television markets remain sluggish. Overall
17 this has caused weaker demand for electronic components." AVX Corporation made the same
18 observation in its 2013 Annual Report stating, "[o]verall sales prices for our commodity
19 component products declined during 2013."

20 **G. Large Number of Purchasers With Limited Purchasing Power**

21 180. In a market with many purchasers, each of whom forms a small share of the total
22 marketplace, there is less incentive for cartel members to cheat on collusive pricing
23 arrangements, since each potential sale is small while the risk of disrupting the collusive pricing
24 agreement carries large penalties.

25 181. In the market for Aluminum and tantalum electrolytic capacitors, Defendants each
26 have historically sold and currently sell to a wide number of purchasers around the globe, the
27 vast majority of whom during the Class Period make up no more than 10% of each Defendant's
28 respective annual net sales, year over year.

1 182. Defendants therefore had many reasons during the Class Period to coordinate
2 pricing and market supply availability with each other within the auspices of their cartel.

3 183. Defendants concertedly priced their respective capacitor products during the Class
4 Period, and also provided lockstep quotation of production lead times to purchasers.

5 **H. Ease of Information Sharing Among Defendants**

6 184. Because of their common membership in trade associations and interrelated
7 business relationships between certain executives, officers, and employees of the Defendants,
8 there were many opportunities both before and during the Class Period for Defendants to collude
9 by discussing competitive information regarding their respective Aluminum and tantalum
10 electrolytic capacitor products. The ease of communication was facilitated by the use of
11 meetings, telephone conversations, e-mail messages, written correspondence and text messaging.
12 Defendants took advantage of these opportunities to discuss, and agree upon, their pricing for the
13 various types of capacitors they produce.

14 185. Industry trade associations make a market more susceptible to collusive behavior
15 because they can provide a pretext under which conspirators can exchange sensitive company
16 information such as pricing and market allocation.

17 186. A number of industry trade associations exist in the capacitor industry. One of the
18 largest trade associations for the industry, the Electronic Components Industry Association
19 (“ECIA”), claims Defendants AVX, KEMET and Panasonic as members. According the ECIA,
20 its members are granted access to “industry peers and executive networking,” and events where
21 they can be “face-toface with leaders of the authorized electronic components industry.”
22 Likewise, the European Passive Components Industry Association provides similar networking
23 opportunities, and it includes Defendants Nichicon, AVX and Panasonic among its members.

24 187. Aside from these formalized means of exchanging information among each other,
25 Defendants have among them numerous informal links between their former and current
26 colleagues, co-venturers, or partners employed by other Defendant companies. These links
27 provided them the means and opportunity to exchange competitively sensitive information.
28 Despite the billions of dollars of revenue generated by the capacitors industry worldwide, it is

1 still a narrow segment of the overall electronic components industry, and the key decision-
2 makers for the major producers had personal access to each other both directly and indirectly.

3 188. Further, Defendants can procure relatively detailed competitive information from
4 industry analysts. The capacitor industry is analyzed by a limited number of market research
5 firms that deal in detailed industry data. Each of these firms offers, for a fee, market data on
6 pricing, supply, and other key indicators of market activity as well as market projections. The
7 capacity and pricing information procured by these analysts is provided directly from industry
8 participants, including certain of Defendants. Given the limited number of analysts that cover the
9 capacitors industry, those that do are often provided highly detailed information and direct access
10 to decision-makers for the capacitors manufacturers, including Defendants.

11 **VI. CURRENT U.S. AND INTERNATIONAL ANTITRUST INVESTIGATIONS**
12 **INTO ANTICOMPETITIVE PRACTICES IN THE CAPACITORS INDUSTRY**

13 189. Defendants' conspiracy to artificially fix, raise, maintain or stabilize prices for
14 Aluminum and tantalum electrolytic capacitors, as well as to restrict the output of such
15 capacitors, has only recently been discovered by law enforcement and regulatory authorities both
16 in the United States and throughout Asia.

17 190. In April 2014, the Antitrust Division of the United States Department of Justice
18 ("DOJ") confirmed to industry sources that the government has opened an investigation into
19 price fixing in the capacitors industry, and sources report that this investigation is being
20 conducted out by the United States Attorney's Office for the Northern District of California.

21 191. Media and industry sources have reported that this investigation has been ongoing
22 for some time, and that the DOJ has been coordinating its efforts to investigate the capacitors
23 industry with the People's Republic of China's National Development and Reform Commission
24 ("NDRC"), an agency entrusted with regulating price-related anticompetitive activity by the
25 Chinese State Council. During March 2014, the NDRC conducted several raids on Chinese
26 operations of Japanese capacitors manufacturers.

1 192. Media and industry sources indicate that a member of the cartel—believed to be
2 Panasonic, a Defendant in this action—has approached U.S. and Chinese authorities to self-
3 report its involvement in the conspiracy and to request prosecutorial leniency and amnesty.

4 193. The U.S. Antitrust Criminal Penalty Enhancement and Reform Act (“ACPERA”)
5 provides leniency benefits for a participant in a price-fixing conspiracy that voluntarily discloses
6 its conduct to the Department of Justice (“DOJ”). A November 19, 2008 presentation on the
7 DOJ’s website explains that “[a conditional leniency] applicant must admit its participation in a
8 criminal antitrust violation involving price fixing...before it will receive a conditional leniency
9 letter.” One of the leniency benefits for a conspirator that is accepted into the ACPERA program
10 is that the applicant is not charged with a criminal offense and is not required to plead guilty to
11 criminal charges.

12 194. By applying for leniency through ACPERA, the cartel member believed to be
13 Panasonic must have admitted to price fixing in the capacitors industry.

14 195. On or about July 2, 2014, the NDRC publicly confirmed its investigation into the
15 capacitors industry though a report by published in the China Price Supervision and Antitrust
16 Journal and written by Xu Kunlin, Director-General of the NDRC’s Price Supervision and
17 Antimonopoly Bureau. In this report, Xu revealed that one Japanese capacitor company self-
18 reported its cartel activity in March 2014, and that this company and other Japanese capacitor
19 manufacturers held regular conferences to exchange market information related to their products.
20 Media and industry sources have quoted Xu as saying that the Japanese manufacturer seeking
21 amnesty would receive complete leniency.

22 196. The United States and the PRC, however, are not the only countries investigating
23 price fixing in the capacitors industry.

24 197. Media and industry sources report that the Japan Fair Trade Commission
25 (“JFTC”) has been investigating price fixing of Aluminum and tantalum electrolytic capacitors
26 for some time now. On or about June 24, 2014, the JFTC conducted raids of approximately eight
27 capacitors manufacturers believed to be members of the cartel, including Panasonic, NEC Tokin,
28 Hitachi Chemical, Nichicon and Nippon Chemi-Con. According to media reports citing sources

1 close to the JFTC's investigation, sales executives and other officials from the raided companies
2 discussed and decided on price increases for capacitors for at least several years. It is reported
3 that the JFTC suspects that the raided companies formed a cartel in order to boost profits after
4 they had suffered financial setbacks following the global financial crisis stemming from the
5 collapse of Lehman Brothers in 2008 and the 2011 Tohoku earthquake and tsunami in Eastern
6 Japan.

7 198. Since the beginning of 2014, investigations into the capacitors industry also have
8 been opened by the South Korean Fair Trade Commission, the Taiwanese Fair Trade
9 Commission, and the European Commission's competition authority.

10 199. To date, few of the Defendants have commented about their being subject to these
11 raids. Defendant Panasonic has confirmed that it was raided by both the JFTC and South Korean
12 authorities.

13 200. Defendant Taiyo Yuden has admitted to having been raided by the NDRC and has
14 stated that it is cooperating with Chinese authorities.

15 201. Defendant NEC Tokin has confirmed that it has been contacted or raided by
16 American, Chinese and European authorities and has stated that it is cooperating with authorities.

17 202. Toshin Kogyo has confirmed that it has been contacted by Japanese, Chinese and
18 Taiwanese authorities.

19 203. For some of Defendants—especially Panasonic and Sanyo—these investigations
20 are not the first time they have been scrutinized by law enforcement and competition authorities
21 for anticompetitive behavior. These Defendants have a documented history of cartel behavior
22 and antitrust price-fixing recidivism.

23 204. Both Panasonic and Sanyo have been investigated by the DOJ in the last several
24 years for participating in price-fixing conspiracies involving automotive parts and lithium ion
25 battery cells.

26 205. Panasonic pled guilty for its role in a nearly six and a half year-long conspiracy to
27 fix prices of switches, steering angle sensors, and automotive high intensity discharge ballasts
28 installed in cars sold in the United States and elsewhere.

1 206. Panasonic agreed to pay a \$45.8 million criminal fine, and a number of its
2 executives pled guilty in exchange for limited fines and imprisonment.

3 207. Sanyo agreed to plead guilty for its role in a year and a half long conspiracy to fix
4 prices on cylindrical lithium ion battery cells sold worldwide for use in notebook computer
5 battery packs, and agreed to pay a \$10.731 million criminal fine.

6 **VII. FRAUDULENT CONCEALMENT**

7 208. Plaintiffs did not have actual nor constructive knowledge of the pertinent facts
8 constituting their claims for relief asserted herein, despite their diligence in trying to discover
9 such facts. Plaintiffs and members of the Class did not discover, and could not have discovered
10 through the exercise of reasonable diligence, the existence of the unlawful conspiracy alleged
11 herein until in or about March 2014, when investigations by the DOJ and competition and law
12 enforcement authorities in the People's Republic of China, Japan, Taiwan, South Korea and the
13 European Commission were made public.

14 209. Defendants engaged in a secret conspiracy that did not give rise to facts that
15 would put Plaintiffs or the Class on inquiry notice that there was a conspiracy among capacitor
16 manufacturers to artificially fix, raise, maintain or stabilize prices for Aluminum or tantalum
17 electrolytic capacitors, as well as to restrict their respective output by unjustifiably extending
18 production lead times. In fact, Defendants had secret discussions about price and output and, in
19 furtherance of the conspiracy and falsely and deceptively attributed the causes of their unlawful
20 conspiracy to other false reasons with the intention of concealing the true nature of their
21 conspiracy. Defendants agreed not to discuss publicly the nature of the scheme. Defendants also
22 gave pretextual justifications for the pricing changes and the reductions in output that occurred
23 during the Class Period. Plaintiffs and members of the Classes had no means of obtaining any
24 facts or information concerning any aspect of Defendants' dealings with OEMs or other direct
25 purchasers, much less the fact that they had engaged in the secret combination, trust and
26 conspiracy alleged herein.

1 210. Indeed, Defendants relied on a variety of market-based explanations for pricing
2 changes and reductions in output through extension of production lead times in order to conceal
3 the conspiracy.

4 211. With regard to Aluminum electrolytic capacitors, Defendants often attributed
5 price changes and increased production lead times to difficulties procuring the necessary raw
6 materials to manufacture their products.

7 212. For example, in 2010, Defendants Nichicon, Nippon Chemi-Con and Panasonic
8 each made a number public statements to industry and technology media in which they attributed
9 supply limitations and price quote adjustments to shortages of Aluminum foil and increasing
10 costs for other raw materials required for manufacturing.

11 213. These explanations are belied by industry reports and data that characterize
12 Aluminum foil as a widely available raw material, and Aluminum electrolytic capacitors as being
13 the product least susceptible to raw material price shocks.

14 214. With regard to tantalum electrolytic capacitors, Defendants often falsely attributed
15 price changes and increased production lead times to difficulties procuring the necessary
16 tantalum to manufacture their products.

17 215. For example, in 2010 and 2011, Defendants Vishay and Panasonic each made a
18 number of deceptive and misleading public statements to industry and technology media
19 attributing supply limitations and pricing adjustments for their tantalum electrolytic capacitors to
20 raw materials supply issues.

21 216. These explanations are belied by industry and other media reports that criticize
22 the lack of true visibility into the market for tantalum, highlight tantalum capacitor
23 manufacturers' close ties and business arrangements with tantalum mining operations, and
24 recognize manufacturers' efforts to process certain raw materials in-house.

25 217. Additionally, these explanations are belied by certain other Defendants, such as
26 KEMET, which noted in a 2010 "Tantalum Market Update" letter in that the tantalum capacitor
27 industry is running at or near capacity, as witnessed by the increased lead times. *This immediate*
28 *issue is not the result of raw material availability but due to the lack of investment in capacity*

1 *over the last 10 years—a consequence of industry pricing pressures which have driven margins*
2 *to a point where we have been unable to realize reinvestment economics.* (Emphasis added.)

3 218. Aside from the product-specific explanations noted above, Defendants at various
4 times during the Class Period also issued a multitude of other non-market excuses for pricing
5 changes and reductions in output, such as labor shortages and shipping delays due to weather in
6 Asia.

7 219. More specifically, from 2011 to 2013, Defendants Hitachi Chemical, Nippon
8 Chemi- Con, Nichicon, Rubycon and Elna attributed some degree of production delays to the
9 lasting effects of the 2011 Tohoku earthquake and tsunami in eastern Japan.

10 220. Further, in 2011, Defendants NEC Tokin and ROHM attributed production delays
11 to flooding in Thailand.

12 221. Defendants multiple, steady misleading, deceptive, false and fraudulent
13 statements were meant to conceal their unlawful control of the Aluminum and tantalum capacitor
14 markets in order to manipulate supplies and pricing beyond any reasonably justifiable
15 adjustments necessary to account for any actual pricing impact or lead time increases. Indeed, the
16 excuses given by Defendants for their price changes and extended production lead times were
17 always misleading (if not outright false), because they were intended to lull Plaintiffs and
18 members of the Class into believing that the price changes and extended production lead times
19 were the normal result of competitive and economic market forces, rather than the product of
20 collusive, unlawful efforts. As alleged herein, Defendants and their co-conspirators made
21 statements in the media in support of price changes that were presumed to be true and were
22 designed to convince members of the Class to pay purportedly legitimate prices.

23 222. Defendants' explanations for price changes and extended lead times were
24 pretextual, false, deceptive, materially false or misleading, and served only to cover up
25 Defendants' conspiracy. As a result of Defendants' fraudulent concealment of their conspiracy,
26 the running of any statute of limitations has been tolled with respect to any claims that Plaintiffs
27 and the Class members have as a result of the anticompetitive and unlawful conduct alleged
28 herein.

VIII. EFFECTS OF DEFENDANTS' CONSPIRACY ON THE U.S. MARKET FOR ALUMINUM AND TANTALUM ELECTROLYTIC CAPACITORS AND INJURY TO PLAINTIFFS AND THE CLASS

223. Defendants' combination and conspiracy as set forth herein has had the following effects, among others:

a. Restraint on price competition among Defendants in the sale of their respective Aluminum and tantalum electrolytic capacitors during the Class Period to purchasers in the United States;

b. Prices for Aluminum and tantalum electrolytic capacitors sold by Defendants during the Class Period to purchasers in the United States have been raised, fixed, maintained, and stabilized at artificial and non-competitive levels;

c. The supply of Defendants' Aluminum and tantalum electrolytic capacitors available for sale during the Class Period to purchasers in the United States has been artificially and unjustifiably restrained; and

d. Direct purchasers from Defendants have been deprived of the benefit of free and open competition on the basis of price in the market for Aluminum and tantalum electrolytic capacitors.

224. Defendants fixed prices at artificially high levels throughout the United States and various states alleged herein affecting business, trade and commerce, substantially impacting the economies of the states, commerce and consumers. The market for Aluminum and/or tantalum electrolytic capacitors and the sale of electronic products containing the capacitors is inextricably linked and intertwined though consumers in the United States. Through Defendants' unlawful actions to fix, maintain, increase or stabilize prices and allocate customers for Aluminum and/or tantalum electrolytic capacitors, Defendants overcharged direct purchasers. Defendants' overcharge or artificially inflated component part pricing was passed on from direct purchasers to end users through the intervening links within the distribution chain between direct purchasers, resellers and end users throughout the United States and various states alleged herein. As a direct and proximate result of Defendants' anticompetitive and unlawful conduct,

1 Plaintiffs and the Class have been injured in their business and property in that, during the Class
 2 Period, they paid more for the Aluminum and/or tantalum electrolytic capacitors they purchased
 3 directly from Defendants than they would have in the absence of Defendants' conduct.

4 225. Plaintiffs, and others similarly situated have suffered damage by paying an
 5 overcharge and may be compensated through indirect purchaser laws as a result of Defendants'
 6 unlawful conspiracy and unlawful and unfair trade practices. Plaintiffs and the Class have been
 7 damaged in an amount subject to proof and to be determined at trial.

8 **CLASS ACTION ALLEGATIONS**

9 226. Plaintiffs bring this action on behalf of themselves and as a class action under
 10 Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure, seeking equitable and injunctive
 11 relief on behalf of the following class (the "Nationwide Class"):

12 All persons and entities that, during the period January 1, 2005 to the present, purchased
 13 electronic products, including automobiles, containing Aluminum or tantalum capacitors
 14 manufactured by the Defendants or any current subsidiary, affiliate thereof or co-
 15 conspirator.

16 227. Plaintiffs also bring this action on behalf of themselves and as a class action under
 17 Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure seeking damages pursuant to state
 18 antitrust, unfair competition, and consumer protection laws of the states whose laws are set forth
 19 below (the "Indirect Purchaser States"). These claims are brought by Plaintiffs on behalf of
 20 themselves and persons and entities in the Indirect Purchaser States listed below (the "Damages
 21 Class"):

22 All persons and entities in the Indirect Purchaser States that, during the period January 1,
 23 2005 to the present, purchased electronic products, including automobiles, containing
 24 Aluminum or tantalum capacitors manufactured by the Defendants or any current
 25 subsidiary, affiliate thereof or co-conspirator.

26 228. Alternatively, Plaintiffs bring Damages Class on behalf of all persons similarly
 27 situated pursuant to Rule 23 of the Federal Rules of Civil Procedure and/or respective state
 28 statute(s), on behalf of all members of the following classes (collectively, the "State Classes"),
 referred to together with the Damages Class as "Damages Classes.":

1 (a) **Arizona:** All persons and entities, during the period January 1, 2005, to
2 the present,

3 (a) purchased electronic products containing Aluminum or tantalum
4 capacitors manufactured by the Defendants or any current or former
5 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
6 vehicles containing Aluminum or tantalum capacitors manufactured by the
7 Defendants or any current or former subsidiary, affiliate thereof or co-
8 conspirator.

9 (b) **Arkansas:** All persons and entities, during the period January 1, 2005, to
10 the present,

11 (a) purchased electronic products containing Aluminum or tantalum
12 capacitors manufactured by the Defendants or any current or former
13 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
14 vehicles containing Aluminum or tantalum capacitors manufactured by the
15 Defendants or any current or former subsidiary, affiliate thereof or co-
16 conspirator.

17 (c) **California:** All persons and entities, during the period January 1, 2005, to
18 the present,

19 (a) purchased electronic products containing Aluminum or tantalum
20 capacitors manufactured by the Defendants or any current or former
21 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
22 vehicles containing Aluminum or tantalum capacitors manufactured by the
23 Defendants or any current or former subsidiary, affiliate thereof or co-
24 conspirator.

25 (d) **District of Columbia:** All persons and entities, during the period January
26 1, 2005, to the present,

27 (a) purchased electronic products containing Aluminum or tantalum
28 capacitors manufactured by the Defendants or any current or former

1 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
2 vehicles containing Aluminum or tantalum capacitors manufactured by the
3 Defendants or any current or former subsidiary, affiliate thereof or co-
4 conspirator.

5 (e) **Florida:** All persons and entities, during the period January 1, 2005, to the
6 present,

7 (a) purchased electronic products containing Aluminum or tantalum
8 capacitors manufactured by the Defendants or any current or former
9 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
10 vehicles containing Aluminum or tantalum capacitors manufactured by the
11 Defendants or any current or former subsidiary, affiliate thereof or co-
12 conspirator.

13 (f) **Hawaii:** All persons and entities, during the period January 1, 2005, to the
14 present,

15 (a) purchased electronic products containing Aluminum or tantalum
16 capacitors manufactured by the Defendants or any current or former
17 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
18 vehicles containing Aluminum or tantalum capacitors manufactured by the
19 Defendants or any current or former subsidiary, affiliate thereof or co-
20 conspirator.

21 (g) **Iowa:** All persons and entities, during the period January 1, 2005, to the
22 present,

23 (a) purchased electronic products containing Aluminum or tantalum
24 capacitors manufactured by the Defendants or any current or former
25 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
26 vehicles containing Aluminum or tantalum capacitors manufactured by the
27 Defendants or any current or former subsidiary, affiliate thereof or co-
28 conspirator.

1 (h) **Kansas:** All persons and entities, during the period January 1, 2005, to the
2 present,

3 (a) purchased electronic products containing Aluminum or tantalum
4 capacitors manufactured by the Defendants or any current or former
5 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
6 vehicles containing Aluminum or tantalum capacitors manufactured by the
7 Defendants or any current or former subsidiary, affiliate thereof or co-
8 conspirator.

9 (i) **Maine:** All persons and entities, during the period January 1, 2005, to the
10 present,

11 (a) purchased electronic products containing Aluminum or tantalum
12 capacitors manufactured by the Defendants or any current or former
13 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
14 vehicles containing Aluminum or tantalum capacitors manufactured by the
15 Defendants or any current or former subsidiary, affiliate thereof or co-
16 conspirator.

17 (j) **Massachusetts:** All persons and entities, during the period January 1,
18 2005, to the present,

19 (a) purchased electronic products containing Aluminum or tantalum
20 capacitors manufactured by the Defendants or any current or former
21 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
22 vehicles containing Aluminum or tantalum capacitors manufactured by the
23 Defendants or any current or former subsidiary, affiliate thereof or co-
24 conspirator.

25 (k) **Michigan:** All persons and entities, during the period January 1, 2005, to
26 the present,

27 (a) purchased electronic products containing Aluminum or tantalum
28 capacitors manufactured by the Defendants or any current or former

1 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
2 vehicles containing Aluminum or tantalum capacitors manufactured by the
3 Defendants or any current or former subsidiary, affiliate thereof or co-
4 conspirator.

5 (l) **Minnesota:** All persons and entities, during the period January 1, 2005, to
6 the present,

7 (a) purchased electronic products containing Aluminum or tantalum
8 capacitors manufactured by the Defendants or any current or former
9 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
10 vehicles containing Aluminum or tantalum capacitors manufactured by the
11 Defendants or any current or former subsidiary, affiliate thereof or co-
12 conspirator.

13 (m) **Mississippi:** All persons and entities, during the period January 1, 2005, to
14 the present,

15 (a) purchased electronic products containing Aluminum or tantalum
16 capacitors manufactured by the Defendants or any current or former
17 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
18 vehicles containing Aluminum or tantalum capacitors manufactured by the
19 Defendants or any current or former subsidiary, affiliate thereof or co-
20 conspirator.

21 (n) **Missouri:** All persons and entities, during the period January 1, 2005, to
22 the present,

23 (a) purchased electronic products containing Aluminum or tantalum
24 capacitors manufactured by the Defendants or any current or former
25 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
26 vehicles containing Aluminum or tantalum capacitors manufactured by the
27 Defendants or any current or former subsidiary, affiliate thereof or co-
28 conspirator.

1 (o) **Montana:** All persons and entities, during the period January 1, 2005, to
2 the present,

3 (a) purchased electronic products containing Aluminum or tantalum
4 capacitors manufactured by the Defendants or any current or former
5 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
6 vehicles containing Aluminum or tantalum capacitors manufactured by the
7 Defendants or any current or former subsidiary, affiliate thereof or co-
8 conspirator.

9 (p) **Nebraska:** All persons and entities, during the period January 1, 2005, to
10 the present,

11 (a) purchased electronic products containing Aluminum or tantalum
12 capacitors manufactured by the Defendants or any current or former
13 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
14 vehicles containing Aluminum or tantalum capacitors manufactured by the
15 Defendants or any current or former subsidiary, affiliate thereof or co-
16 conspirator.

17 (q) **Nevada:** All persons and entities, during the period January 1, 2005, to
18 the present,

19 (a) purchased electronic products containing Aluminum or tantalum
20 capacitors manufactured by the Defendants or any current or former
21 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
22 vehicles containing Aluminum or tantalum capacitors manufactured by the
23 Defendants or any current or former subsidiary, affiliate thereof or co-
24 conspirator.

25 (r) **New Hampshire:** All persons and entities, during the period January 1,
26 2005, to the present,

27 (a) purchased electronic products containing Aluminum or tantalum
28 capacitors manufactured by the Defendants or any current or former

1 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
2 vehicles containing Aluminum or tantalum capacitors manufactured by the
3 Defendants or any current or former subsidiary, affiliate thereof or co-
4 conspirator.

5 (s) **New Mexico:** All persons and entities, during the period January 1, 2005,
6 to the present,

7 (a) purchased electronic products containing Aluminum or tantalum
8 capacitors manufactured by the Defendants or any current or former
9 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
10 vehicles containing Aluminum or tantalum capacitors manufactured by the
11 Defendants or any current or former subsidiary, affiliate thereof or co-
12 conspirator.

13 (t) **New York:** All persons and entities, during the period January 1, 2005, to
14 the present,

15 (a) purchased electronic products containing Aluminum or tantalum
16 capacitors manufactured by the Defendants or any current or former
17 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
18 vehicles containing Aluminum or tantalum capacitors manufactured by the
19 Defendants or any current or former subsidiary, affiliate thereof or co-
20 conspirator.

21 (u) **North Carolina:** All persons and entities, during the period January 1,
22 2005, to the present,

23 (a) purchased electronic products containing Aluminum or tantalum
24 capacitors manufactured by the Defendants or any current or former
25 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
26 vehicles containing Aluminum or tantalum capacitors manufactured by the
27 Defendants or any current or former subsidiary, affiliate thereof or co-
28 conspirator.

1 (v) **North Dakota:** All persons and entities, during the period January 1,
2 2005, to the present,

3 (a) purchased electronic products containing Aluminum or tantalum
4 capacitors manufactured by the Defendants or any current or former
5 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
6 vehicles containing Aluminum or tantalum capacitors manufactured by the
7 Defendants or any current or former subsidiary, affiliate thereof or co-
8 conspirator.

9 (w) **Oregon:** All persons and entities, during the period January 1, 2005, to the
10 present,

11 (a) purchased electronic products containing Aluminum or tantalum
12 capacitors manufactured by the Defendants or any current or former
13 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
14 vehicles containing Aluminum or tantalum capacitors manufactured by the
15 Defendants or any current or former subsidiary, affiliate thereof or co-
16 conspirator.

17 (x) **South Carolina:** All persons and entities, during the period January 1,
18 2005, to the present,

19 (a) purchased electronic products containing Aluminum or tantalum
20 capacitors manufactured by the Defendants or any current or former
21 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
22 vehicles containing Aluminum or tantalum capacitors manufactured by the
23 Defendants or any current or former subsidiary, affiliate thereof or co-
24 conspirator.

25 (y) **South Dakota:** All persons and entities, during the period January 1,
26 2005, to the present,

27 (a) purchased electronic products containing Aluminum or tantalum
28 capacitors manufactured by the Defendants or any current or former

1 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
2 vehicles containing Aluminum or tantalum capacitors manufactured by the
3 Defendants or any current or former subsidiary, affiliate thereof or co-
4 conspirator.

5 (z) **Tennessee:** All persons and entities, during the period January 1, 2005, to
6 the present,

7 (a) purchased electronic products containing Aluminum or tantalum
8 capacitors manufactured by the Defendants or any current or former
9 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
10 vehicles containing Aluminum or tantalum capacitors manufactured by the
11 Defendants or any current or former subsidiary, affiliate thereof or co-
12 conspirator.

13 (aa) **Utah:** All persons and entities, during the period January 1, 2005, to the
14 present,

15 (a) purchased electronic products containing Aluminum or tantalum
16 capacitors manufactured by the Defendants or any current or former
17 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
18 vehicles containing Aluminum or tantalum capacitors manufactured by the
19 Defendants or any current or former subsidiary, affiliate thereof or co-
20 conspirator.

21 (bb) **Vermont:** All persons and entities, during the period January 1, 2005, to
22 the present,

23 (a) purchased electronic products containing Aluminum or tantalum
24 capacitors manufactured by the Defendants or any current or former
25 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
26 vehicles containing Aluminum or tantalum capacitors manufactured by the
27 Defendants or any current or former subsidiary, affiliate thereof or co-
28 conspirator.

1 (cc) **West Virginia:** All persons and entities, during the period January 1,
2 2005, to the present,

3 (a) purchased electronic products containing Aluminum or tantalum
4 capacitors manufactured by the Defendants or any current or former
5 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
6 vehicles containing Aluminum or tantalum capacitors manufactured by the
7 Defendants or any current or former subsidiary, affiliate thereof or co-
8 conspirator.

9 (dd) **Wisconsin:** All persons and entities, during the period January 1, 2005, to
10 the present,

11 (a) purchased electronic products containing Aluminum or tantalum
12 capacitors manufactured by the Defendants or any current or former
13 subsidiary or affiliate thereof or any co-conspirator, or (b) purchased
14 vehicles containing Aluminum or tantalum capacitors manufactured by the
15 Defendants or any current or former subsidiary, affiliate thereof or co-
16 conspirator.

17 229. The Nationwide Class and the Damages Classes are referred to herein as the
18 "Classes." Excluded from the Classes are Defendants, their parent companies, subsidiaries and
19 affiliates, any co-conspirators, federal government entities and instrumentalities of the federal
20 government, states and their subdivisions, agencies and instrumentalities.

21 230. Plaintiffs do not know the exact number of the members of the Classes. Plaintiffs
22 believe there are hundreds of thousands of members in each Class.

23 231. Common questions of law and fact exist as to all members of the Classes. This is
24 particularly true given the nature of Defendants' conspiracy, which was generally applicable to
25 all the members of the Classes, thereby making appropriate relief with respect to the Classes as a
26 whole. Questions of law or fact common to the Classes include, but are not limited to:

- 1 (a) Whether Defendants and their co-conspirators engaged in a combination,
2 conspiracy or trust among themselves to fix, raise, maintain or stabilize the prices
3 of Aluminum and tantalum capacitors;
- 4 (b) Whether Defendants and their co-conspirators agreed to allocate the
5 supply of Aluminum and tantalum capacitors sold in the United States;
- 6 (c) The identity of the participants in the alleged conspiracy;
- 7 (d) The duration of the alleged conspiracy and the acts carried out by
8 Defendants and their co-conspirators in furtherance of the conspiracy;
- 9 (e) Whether the conspiracy violated the Sherman Antitrust Act as alleged in
10 Count I;
- 11 (f) Whether the conspiracy violated state antitrust and unfair competition
12 laws, as alleged in Count II;
- 13 (g) Whether the conduct of the Defendants and their co-conspirators, as
14 alleged in this Class Action Complaint, caused injury to the business or property
15 of the Plaintiffs and the members of the Classes;
- 16 (h) The effect of the conspiracy on the prices of Aluminum and tantalum
17 capacitors sold in the United States during the Class Period;
- 18 (i) Whether the Defendants and their co-conspirators fraudulently concealed
19 the conspiracy's existence from the Plaintiffs and the members of the Classes;
- 20 (j) The appropriate injunctive and related equitable relief for the Nationwide
21 Class; and
- 22 (k) The appropriate class-wide measure of damages for the Damages Classes.

23 232. Plaintiffs' claims are typical of the claims of the members of the Classes, and
24 Plaintiffs will fairly and adequately protect the interests of the Classes. Plaintiffs and all
25 members of the Classes are similarly affected by Defendants' wrongful conduct in that they paid
26 artificially inflated prices for Aluminum and tantalum capacitors incorporated as a discrete,
27 separate component parts contained in electronic products and automobiles.

28

1 233. Plaintiffs' claims arise out of the same common course of conduct giving rise to
2 the claims of the other members of the Classes. Plaintiffs' interests are coincident with, and not
3 antagonistic to, those of the other members of the Classes. Plaintiffs are represented by counsel
4 who are competent and experienced in the prosecution of complex litigation, class actions,
5 antitrust, unfair competition, unfair trade, fraud and deceptive trade practices, small business and
6 consumer protection.

7 234. The questions of law and fact common to the members of the Classes
8 predominate over any questions affecting only individual members, including legal and factual
9 issues relating to liability and damages.

10 235. Class action treatment is a superior method for the fair and efficient adjudication
11 of the controversy, in that, among other reasons, such treatment will permit a large number of
12 similarly situated entities and persons to prosecute their common claims in a single forum
13 simultaneously, efficiently and without the unnecessary duplication of evidence, effort and
14 expense that numerous individual actions would engender. The benefits of proceeding through
15 the class mechanism, including the provision to injured entities and persons of a method for
16 obtaining redress for claims that might not be practicable to pursue individually, substantially
17 outweigh any difficulties that may arise in management of this class action.

18 236. The prosecution of separate actions by individual members of the Classes would
19 create a risk of inconsistent or varying adjudications, establishing incompatible standards of
20 conduct for Defendants.

21 **PLAINTIFFS AND CLASSES SUFFERED ANTITRUST INJURY**

22 237. During the Class Period, Plaintiffs and the members of the Classes paid supra-
23 competitive prices for Aluminum and tantalum capacitors, which are discrete, separate
24 component parts contained in electronic products and automobiles. The market for electronic
25 products and automobiles is inextricably linked and intertwined because the market for
26 Aluminum and tantalum capacitors exists to be incorporated into electronic products and
27 automobiles as end products used by consumers.

238. Aluminum and tantalum capacitors are identifiable, discrete physical products that remain essentially unchanged when incorporated into an electronic product or vehicle. As a result, Aluminum and tantalum capacitors follow a traceable, physical chain of distribution from the Defendants to Plaintiffs and the members of the Classes, and, therefore, any costs attributable to Aluminum and tantalum capacitors can be traced through the chain of distribution to Plaintiffs and the members of the Classes.

239. By reason of the alleged violations of the antitrust laws and unlawful and unfair trade practices, Plaintiffs and the members of the Classes have sustained injury to their businesses or property, having paid higher prices for Aluminum and tantalum capacitors incorporated into electronic products and automobiles (within the United States, including all states having laws permitting recovery of indirect purchasers as listed herein), than they would have paid in the absence of Defendants' illegal contract, combination, trust, or conspiracy, and, as a result, Plaintiffs have suffered damages in an amount presently undetermined. Plaintiffs' injuries are antitrust injuries of the type that the antitrust laws were meant to punish and prevent.

240. The alleged conspiracy inflated, fixed and stabilized the prices of Aluminum and tantalum capacitors and vehicles containing Aluminum and tantalum capacitors and restrained competition in the United States, including in all of the states having laws permitting recovery of damages by indirect purchasers, as listed herein, and therefore, had substantial effects on the commerce of the United States and substantial intrastate impact and effects on the economies of the states identified in this Class Action Complaint, which permit recovery of damages by indirect purchasers.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of State Antitrust Statutes

(On Behalf of Plaintiffs and the Damages Classes)

241. Plaintiffs incorporate by reference the allegations in the preceding paragraphs.

1 242. From as early as January 2005 until at least the filing of this Class Action
2 Complaint, Defendants and their co-conspirators engaged in a continuing contract, combination,
3 or conspiracy with respect to the sale of Aluminum and/or tantalum electrolytic capacitors in
4 unreasonable restraint of trade and commerce and in violation of the various state antitrust
5 statutes set forth below

6 243. The contract, combination, or conspiracy consisted of an agreement among the
7 Defendants and their co-conspirators to fix, raise, inflate, stabilize, and/or maintain at artificially
8 supracompetitive levels the price for Aluminum and/or tantalum electrolytic capacitors and to
9 allocate customers for Aluminum and/or tantalum electrolytic capacitors in the United States.

10 244. In formulating and effectuating this conspiracy, Defendants and their co-
11 conspirators performed acts in furtherance of the combination and conspiracy, including:

12 (a) Participating in meetings and conversations among themselves in the
13 United States and elsewhere during which they agreed to price Aluminum and/or
14 tantalum electrolytic capacitors at certain levels, and otherwise fix, increase,
15 inflate, maintain, or stabilize effective prices paid by Plaintiffs and members of
16 the classes with respect to Aluminum and/or tantalum electrolytic capacitors sold
17 in the United States;

18 a. Allocating customers and markets for Aluminum and/or tantalum
19 electrolytic capacitors in the United States in furtherance of their
20 agreements; and

21 b. Participating in meetings and conversations among themselves in the
22 United States and elsewhere to implement, adhere to, and police the
23 unlawful agreements they reached.

24 245. Defendants and their co-conspirators engaged in the actions described above for
25 the purpose of carrying out their unlawful agreements to fix, maintain, increase, or stabilize
26 prices and the allocate customers with respect to Aluminum and/or tantalum electrolytic
27 capacitors. As a result of Defendants unlawful actions to fix, maintain, increase or stabilize
28 prices and allocate customers for Aluminum and/or tantalum electrolytic capacitors, Defendants

1 overcharged direct purchasers and this overcharge or artificially inflated component part pricing
2 was passed on to end users through the intervening links within the distribution chain between
3 direct purchasers, resellers and end users.

4 246. Defendants' anticompetitive acts described above were knowing, willful, and
5 constitute violations or flagrant violations of the following state antitrust statutes.

6 247. Defendants have entered into an unlawful agreement in restraint of trade in
7 violation of the Arizona Revised Statutes, §§ 44-1401, *et seq.*

8 248. Defendants' combinations or conspiracies had the following effects:
9 (1) Aluminum and/or tantalum electrolytic capacitors price competition was restrained,
10 suppressed, and eliminated throughout Arizona; (2) Aluminum and/or tantalum electrolytic
11 capacitors prices were raised, fixed, maintained, and stabilized at artificially high levels
12 throughout Arizona; (3) Plaintiffs and members of the classes were deprived of free and open
13 competition; and (4) Plaintiffs and members of the classes paid supracompetitive, artificially
14 inflated prices for products containing Aluminum and/or tantalum electrolytic capacitors.

15 249. During the Class Period, Defendants' illegal conduct was intrastate, substantially
16 affected Arizona commerce, and was directed through the economy of the State of Arizona,
17 directly affecting trade, commerce and consumers residing in the State of Arizona.

18 250. As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs and
19 members of the classes have been injured in their business and property and are threatened with
20 further injury.

21 251. By reason of the foregoing, Defendants entered into agreements in restraint of
22 trade in violation of Ariz. Rev. Stat. §§ 44-1401, *et seq.* Accordingly, Plaintiffs and members of
23 the classes seek all forms of relief available under Ariz. Rev. Stat. §§ 44-1401, *et seq.*

24 252. Defendants have entered into an unlawful agreement in restraint of trade in
25 violation of the California Business and Professions Code, §§ 16700, *et seq.*

26 (a) During the Class Period, Defendants and their co-conspirators entered into
27 and engaged in a continuing unlawful trust in restraint of the trade and commerce
28 described above in violation of Section 16720 of the California Business and

1 Professions Code. Defendants, each of them, have acted in violation of Section
2 16720 to fix, raise, stabilize, and maintain prices of, and allocate markets for,
3 Aluminum and/or tantalum electrolytic capacitors at supracompetitive levels.

4 (b) The aforesaid violations of Section 16720, California Business and
5 Professions Code, consisted, without limitation, of a continuing unlawful trust and
6 concert of action among the Defendants and their co-conspirators, the substantial
7 terms of which were to fix, raise, maintain, and stabilize the prices of, and to
8 allocate markets for, Aluminum and/or tantalum electrolytic capacitors.

9 (c) For the purpose of forming and effectuating the unlawful trust, the
10 Defendants and their co-conspirators have done those things which they combined
11 and conspired to do, including but in no way limited to the acts, practices, and
12 course of conduct set forth above and the following: (1) Fixing, raising,
13 stabilizing, and pegging the price of Aluminum and/or tantalum electrolytic
14 capacitors; and (2) Allocating among themselves the production of Aluminum
15 and/or tantalum electrolytic capacitors.

16 (d) The combination and conspiracy alleged herein has had, *inter alia*, the
17 following effects upon the commerce of California: (1) Price competition in the
18 sale of Aluminum and/or tantalum electrolytic capacitors has been restrained,
19 suppressed, and/or eliminated in the State of California; (2) Prices for Aluminum
20 and/or tantalum electrolytic capacitors sold by Defendants and their co-
21 conspirators have been fixed, raised, stabilized, and pegged at artificially high,
22 non-competitive levels in the State of California and throughout the United States;
23 and (3) Those who purchased products containing Aluminum and/or tantalum
24 electrolytic capacitors from entities who purchased the chemical from Defendants
25 and their co-conspirators have been deprived of the benefit of free and open
26 competition.

27 (e) As a direct and proximate result of Defendants' unlawful conduct,
28 Plaintiffs and members of the classes have been injured in their business and

1 property in that they paid more for products containing Aluminum and/or
2 tantalum electrolytic capacitors than they otherwise would have paid in the
3 absence of Defendants' unlawful conduct. As a result of Defendants' violation of
4 Section 16720 of the California Business and Professions Code, Plaintiffs and
5 members of the classes seek treble damages and their cost of suit, including a
6 reasonable attorney's fee, pursuant to Section 16750(a) of the California Business
7 and Professions Code.

8 253. Defendants have entered into an unlawful agreement in restraint of trade in
9 violation of the District of Columbia Code Annotated §§ 28-4501, *et seq.*

10 (a) Defendants' combinations or conspiracies had the following effects
11 (1) Aluminum and/or tantalum electrolytic capacitors price competition was
12 restrained, suppressed, and eliminated throughout the District of Columbia;
13 (2) Aluminum and/or tantalum electrolytic capacitors prices were raised, fixed,
14 maintained, and stabilized at artificially high levels throughout the District of
15 Columbia; (3) Plaintiffs and members of the classes, who resided in the District of
16 Columbia and/or purchased products containing Aluminum and/or tantalum
17 electrolytic capacitors in the District of Columbia, were deprived of free and
18 open competition, in the District of Columbia; and (4) Plaintiffs and members of
19 the classes, who resided in the District of Columbia and/or purchased products
20 containing Aluminum and/or tantalum electrolytic capacitors in the District of
21 Columbia, paid supracompetitive, artificially inflated prices in the District of
22 Columbia for products containing Aluminum and/or tantalum electrolytic
23 capacitors.

24 (b) During the Class Period, Defendants' illegal conduct was intrastate,
25 substantially affected District of Columbia commerce, and was directed through
26 the economy of the District of Columbia, directly affecting trade, commerce and
27 consumers residing in the District of Columbia.
28

1 (c) As a direct and proximate result of Defendants' unlawful conduct,
2 Plaintiffs and members of the classes have been injured in their business and
3 property and are threatened with further injury.

4 (d) By reason of the foregoing, Defendants have entered into agreements in
5 restraint of trade in violation of District of Columbia Code Ann. §§ 28-4501, *et*
6 *seq.* Accordingly, Plaintiffs and members of the classes seek all forms of relief
7 available under District of Columbia Code Ann. §§ 28-45601, *et seq.*

8 254. Defendants have entered into an unlawful agreement in restraint of trade in
9 violation of the Hawaii Revised Statutes Annotated §§ 480-1, *et seq.* The allegations contained
10 herein involving the State of Hawaii are limited to unfair trade within Hawaii, thus, any
11 applicable notice to government entities is not required by statute due to the narrowing of the
12 allegations in this pleading.

13 (a) Defendants unlawful conduct had the following effects: (1) Aluminum
14 and/or tantalum electrolytic capacitors price competition was restrained,
15 suppressed, and eliminated throughout Hawaii; (2) Aluminum and/or tantalum
16 electrolytic capacitors prices were raised, fixed, maintained, and stabilized at
17 artificially high levels throughout Hawaii; (d) Plaintiffs and members of the
18 classes were deprived of free and open competition; and (4) Plaintiffs and
19 members of the classes pain supracompetitive, artificially inflated prices for
20 products containing Aluminum and/or tantalum electrolytic capacitors.

21 (b) During the Class Period, Defendants' illegal conduct was intrastate,
22 substantially affected Hawaii commerce and was directed throughout the
23 economy of the State of Hawaii directly affecting trade, commerce and consumers
24 residing within the State of Hawaii.

25 (c) As a direct and proximate result of Defendants' unlawful conduct,
26 Plaintiffs and members of the classes have been injured in their business and
27 property and are threatened with further injury.

(d) By reason of the foregoing, Defendants have entered in to agreements in restraint of trade in violation of Hawaii Revised Statutes Annotated §§ 480-4, *et seq.* Accordingly, Plaintiffs and members of the classes seek all forms of relief available under Hawaii Revised Statutes Annotated §§ 480-4, *et seq.*

255. Defendants have entered into an unlawful agreement in restraint of trade in violation of Iowa Code §§ 553.1, *et seq.*

(a) Defendants' combinations or conspiracies had the following effects: (1) Aluminum and/or tantalum electrolytic capacitors price competition was restrained, suppressed, and eliminated throughout Iowa; (2) Aluminum and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and stabilized at artificially high levels throughout Iowa; (3) Plaintiffs and members of the classes were deprived of free and open competition; and (4) Plaintiffs and members of the classes paid supracompetitive, artificially inflated prices for products containing Aluminum and/or tantalum electrolytic capacitors.

(b) During the Class Period, Defendants' illegal conduct was intrastate, substantially affected Iowa commerce and was directed throughout the economy of the State of Iowa directly affecting trade, commerce and consumers residing within the State of Iowa.

(c) As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs and members of the classes have been injured in their business and property and are threatened with further injury.

(d) By reason of the foregoing, Defendants have entered into agreements in restraint of trade in violation of Iowa Code §§ 553.1, *et seq.* Accordingly, Plaintiffs and members of the classes seek all forms of relief available under Iowa Code §§ 553.1, *et seq.*

256. Defendants have entered into an unlawful agreement in restraint of trade in violation of the Kansas Statutes Annotated, §§ 50-101, *et seq.*

1 (a) Defendants' combinations or conspiracies had the following effects: (1)
2 Aluminum and/or tantalum electrolytic capacitors price competition was
3 restrained, suppressed, and eliminated throughout Kansas; (2) Aluminum and/or
4 tantalum electrolytic capacitors prices were raised, fixed, maintained, and
5 stabilized at artificially high levels throughout Kansas; (3) Plaintiffs and members
6 of the classes were deprived of free and open competition; and (4) Plaintiffs and
7 members of the classes paid supracompetitive, artificially inflated prices for
8 products containing Aluminum and/or tantalum electrolytic capacitors.

9 (b) During the Class Period, Defendants' illegal conduct was intrastate,
10 substantially affected Kansas commerce and was directed throughout the
11 economy of the State of Kansas directly affecting trade, commerce and consumers
12 residing within the State of Kansas.

13 (c) As a direct and proximate result of Defendants' unlawful conduct,
14 Plaintiffs and members of the classes have been injured in their business and
15 property and are threatened with further injury.

16 (d) By reason of the foregoing, Defendants have entered into agreements in
17 restraint of trade in violation of Kansas Stat. Ann. §§ 50-101, *et seq.*
18 Accordingly, Plaintiffs and members of the classes seek all forms of relief
19 available under Kansas Stat. Ann. §§ 50-101, *et seq.*

20 257. Defendants have entered into an unlawful agreement in restraint of trade in
21 violation of the Maine Revised Statutes, Maine Rev. Stat. Ann. 10, §§ 1101, *et seq.*

22 (a) Defendants' combinations or conspiracies had the following effects: (1)
23 Aluminum and/or tantalum electrolytic capacitors price competition was
24 restrained, suppressed, and eliminated throughout Maine; (2) Aluminum and/or
25 tantalum electrolytic capacitors prices were raised, fixed, maintained, and
26 stabilized at artificially high levels throughout Maine; (3) Plaintiffs and members
27 of the classes were deprived of free and open competition; and (4) Plaintiffs and
28

1 members of the classes paid supracompetitive, artificially inflated prices for
2 products containing Aluminum and/or tantalum electrolytic capacitors.

3 (b) During the Class Period, Defendants' illegal conduct was intrastate,
4 substantially affected Maine commerce and was directed through the economy of
5 the State of Maine directly affecting trade, commerce and consumers residing
6 within the State of Maine.

7 (c) As a direct and proximate result of Defendants' unlawful conduct,
8 Plaintiffs and members of the classes have been injured in their business and
9 property and are threatened with further injury.

10 (d) By reason of the foregoing, Defendants have entered into agreements in
11 restraint of trade in violation of Maine Rev. Stat. Ann. 10, §§ 1101, *et seq.*
12 Accordingly, Plaintiffs and members of the classes seek all relief available under
13 Maine Rev. Stat. Ann. 10, §§ 1101, *et seq.*

14 258. Defendants have entered into an unlawful agreement in restraint of trade in
15 violation of the Michigan Compiled Laws Annotated §§ 445.771, *et seq.*

16 (a) Defendants' combinations or conspiracies had the following effects: (1)
17 Aluminum and/or tantalum electrolytic capacitors price competition was
18 restrained, suppressed, and eliminated throughout Michigan; (2) Aluminum
19 and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and
20 stabilized at artificially high levels throughout Michigan; (3) Plaintiffs and
21 members of the classes were deprived of free and open competition; and (4)
22 Plaintiffs and members of the classes paid supracompetitive, artificially inflated
23 prices for products containing Aluminum and/or tantalum electrolytic capacitors.

24 (b) During the Class Period, Defendants' illegal conduct was intrastate,
25 substantially affected Michigan commerce, and was directed through the economy
26 of the State of Michigan, directly affecting trade, commerce and consumers
27 residing in the State of Michigan.

(c) As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs and members of the classes have been injured in their business and property and are threatened with further injury.

(d) By reason of the foregoing, Defendants have entered into agreements in restraint of trade in violation of Michigan Comp. Laws Ann. §§ 445.771, *et seq.* Accordingly, Plaintiffs and members of the classes seek all relief available under Michigan Comp. Laws Ann. §§ 445.771, *et seq.*

259. Defendants have entered into an unlawful agreement in restraint of trade in violation of the Minnesota Annotated Statutes §§ 325D.49, *et seq.*

(a) Defendants' combinations or conspiracies had the following effects: (1) Aluminum and/or tantalum electrolytic capacitors price competition was restrained, suppressed, and eliminated throughout Minnesota; (2) Aluminum and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and stabilized at artificially high levels throughout Minnesota; (3) Plaintiffs and members of the classes were deprived of free and open competition; and (4) Plaintiffs and members of the classes paid supracompetitive, artificially inflated prices for products containing Aluminum and/or tantalum electrolytic capacitors.

(b) During the Class Period, Defendants' illegal conduct was intrastate, substantially affected Minnesota commerce, and was directed through the economy of the State of Minnesota, directly affecting trade, commerce and consumers residing in the State of Minnesota.

(c) As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs and members of the classes have been injured in their business and property and are threatened with further injury.

(d) By reason of the foregoing, Defendants have entered into agreements in restraint of trade in violation of Minnesota Stat. §§ 325D.49, *et seq.* Accordingly, Plaintiffs and members of the classes seek all relief available under Minnesota Stat. §§ 325D.49, *et seq.*

1 260. Defendants have entered into an unlawful agreement in restraint of trade in
2 violation of the Mississippi Code Annotated §§ 75-21-1, *et seq.*

3 (a) Defendants' combinations or conspiracies had the following effects: (1)
4 Aluminum and/or tantalum electrolytic capacitors price competition was
5 restrained, suppressed, and eliminated throughout Mississippi; (2) Aluminum
6 and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and
7 stabilized at artificially high levels throughout Mississippi; (3) Plaintiffs and
8 members of the classes who resided in Mississippi and/or purchased products
9 containing Aluminum and/or tantalum electrolytic capacitors in Mississippi were
10 deprived of free and open competition in Mississippi; and (4) Plaintiffs and
11 members of the classes who resided in Mississippi and/or purchased products
12 containing Aluminum and/or tantalum electrolytic capacitors in Mississippi paid
13 supracompetitive, artificially inflated prices in Mississippi for products containing
14 Aluminum and/or tantalum electrolytic capacitors.

15 (b) During the Class Period, Defendants' illegal conduct was intrastate,
16 substantially affected Mississippi commerce, and was directed through the
17 economy of the State of Mississippi, directly affecting trade, commerce and
18 consumers residing in the State of Mississippi.

19 (c) As a direct and proximate result of Defendants' unlawful conduct,
20 Plaintiffs and members of the classes have been injured in their business and
21 property and are threatened with further injury.

22 (d) By reason of the foregoing, Defendants have entered into agreements in
23 restraint of trade in violation of Mississippi Code Ann. § 75-21-1, *et seq.*
24 Accordingly, Plaintiffs and members of the classes seek all relief available under
25 Mississippi Code Ann. § 75-21-1, *et seq.*

26 261. Defendants have entered into an unlawful agreement in restraint of trade in
27 violation of the Nebraska Revised Statutes §§ 59-801, *et seq.*

(a) Defendants' combinations or conspiracies had the following effects: (1) Aluminum and/or tantalum electrolytic capacitors price competition was restrained, suppressed, and eliminated throughout Nebraska; (2) Aluminum and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and stabilized at artificially high levels throughout Nebraska; (3) Plaintiffs and members of the classes were deprived of free and open competition; and (4) Plaintiffs and members of the classes paid supracompetitive, artificially inflated prices for products containing Aluminum and/or tantalum electrolytic capacitors.

(b) During the Class Period, Defendants' illegal conduct was intrastate, substantially affected Nebraska commerce, and was directed through the economy of Nebraska, directly affecting trade, commerce and consumers residing in the State of Nebraska.

(c) As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs and members of the classes have been injured in their business and property and are threatened with further injury.

(d) By reason of the foregoing, Defendants have entered into agreements in restraint of trade in violation of Nebraska Revised Statutes §§ 59-801, *et seq.* Accordingly, Plaintiffs and members of the classes seek all relief available under Nebraska Revised Statutes §§ 59-801, *et seq.*

262. Defendants have entered into an unlawful agreement in restraint of trade in violation of the Nevada Revised Statutes Annotated §§ 598A.010, *et seq.*

(a) Defendants' combinations or conspiracies had the following effects: (1) Aluminum and/or tantalum electrolytic capacitors price competition was restrained, suppressed, and eliminated throughout Nevada; (2) Aluminum and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and stabilized at artificially high levels throughout Nevada; (3) Plaintiffs and members of the classes who resided in Nevada and/or purchased products containing Aluminum and/or tantalum electrolytic capacitors in Nevada were deprived of

1 free and open competition in Nevada; and (4) Plaintiffs and members of the
2 classes who resided in Nevada and/or purchased products containing Aluminum
3 and/or tantalum electrolytic capacitors in Nevada paid supracompetitive,
4 artificially inflated prices in Nevada for products containing Aluminum and/or
5 tantalum electrolytic capacitors.

6 (b) During the Class Period, Defendants' illegal conduct was intrastate,
7 substantially affected Nevada commerce, and was directed through the economy
8 of the State of Nevada, directly affecting trade, commerce and consumers residing
9 in the State of Nevada.

10 (c) As a direct and proximate result of Defendants' unlawful conduct,
11 Plaintiffs and members of the classes have been injured in their business and
12 property and are threatened with further injury.

13 (d) By reason of the foregoing, Defendants have entered into agreements in
14 restraint of trade in violation of Nevada Rev. Stat. Ann. §§ 598A.010, *et seq.*
15 Accordingly, Plaintiffs and members of the classes seek all relief available under
16 Nevada Rev. Stat. Ann. §§ 598A.010, *et seq.*

17 263. Defendants have entered into an unlawful agreement in restraint of trade in
18 violation of the New Hampshire Revised Statutes §§ 356:1, *et seq.*

19 (a) Defendants' combinations or conspiracies had the following effects: (1)
20 Aluminum and/or tantalum electrolytic capacitors price competition was
21 restrained, suppressed, and eliminated throughout New Hampshire; (2) Aluminum
22 and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and
23 stabilized at artificially high levels throughout New Hampshire; (3) Plaintiffs and
24 members of the classes were deprived of free and open competition; and (4)
25 Plaintiffs and members of the classes paid supracompetitive, artificially inflated
26 prices for products containing Aluminum and/or tantalum electrolytic capacitors.

27 (b) During the Class Period, Defendants' illegal conduct was intrastate,
28 substantially affected New Hampshire commerce, and was directed through the

economy of the State of New Hampshire, directly affecting trade, commerce and consumers residing in the State of New Hampshire.

(c) As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs and members of the classes have been injured in their business and property and are threatened with further injury.

(d) By reason of the foregoing, Defendants have entered into agreements in restraint of trade in violation of New Hampshire Revised Statutes §§ 356:1, *et seq.* Accordingly, Plaintiffs and members of the classes seek all relief available under New Hampshire Revised Statutes §§ 356:1, *et seq.*

264. Defendants have entered into an unlawful agreement in restraint of trade in violation of the New Mexico Statutes Annotated §§ 57-1-1, *et seq.*

(a) Defendants' combinations or conspiracies had the following effects: (1) Aluminum and/or tantalum electrolytic capacitors price competition was restrained, suppressed, and eliminated throughout New Mexico; (2) Aluminum and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and stabilized at artificially high levels throughout New Mexico; (3) Plaintiffs and members of the classes were deprived of free and open competition; and (4) Plaintiffs and members of the classes paid supracompetitive, artificially inflated prices for products containing Aluminum and/or tantalum electrolytic capacitors.

(b) During the Class Period, Defendants' illegal conduct was intrastate, substantially affected New Mexico commerce, and was directed through the economy of the State of New Mexico, directly affecting New Mexico trade, commerce and consumers residing in the State of New Mexico.

(c) As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs and members of the classes have been injured in their business and property and are threatened with further injury.

(d) By reason of the foregoing, Defendants have entered into agreements in restraint of trade in violation of New Mexico Stat. Ann. §§ 57-1-1, *et seq.*

1 Accordingly, Plaintiffs and members of the classes seek all relief available under
2 New Mexico Stat. Ann. §§ 57-1-1, *et seq.*

3 265. Defendants have entered into an unlawful agreement in restraint of trade in
4 violation of the New York General Business Laws §§ 340, *et seq.*

5 (a) Defendants' combinations or conspiracies had the following effects: (1)
6 Aluminum and/or tantalum electrolytic capacitors price competition was
7 restrained, suppressed, and eliminated throughout New York; (2) Aluminum
8 and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and
9 stabilized at artificially high levels throughout New York; (3) Plaintiffs and
10 members of the classes who resided in New York and/or purchased products
11 containing Aluminum and/or tantalum electrolytic capacitors in New York were
12 deprived of free and open competition in New York; and (4) Plaintiffs and
13 members of the classes who resided in New York paid supracompetitive,
14 artificially inflated prices for products containing Aluminum and/or tantalum
15 electrolytic capacitors when they purchased, in New York, products containing
16 Aluminum and/or tantalum electrolytic capacitors or purchased, in New York,
17 products containing Aluminum and/or tantalum electrolytic capacitors that were
18 otherwise of lower quality than would have been absent the conspirators' illegal
19 acts, or were unable to purchase products containing Aluminum and/or tantalum
20 electrolytic capacitors that they would have otherwise purchased absent the
21 illegal conduct.

22 (b) During the Class Period, Defendants' illegal conduct was intrastate,
23 substantially affected New York commerce, and was directed through the
24 economy of the State of New York, directly affecting trade, commerce and
25 consumers in the State of New York.

26 (c) As a direct and proximate result of Defendants' unlawful conduct,
27 Plaintiffs and members of the classes have been injured in their business and
28 property and are threatened with further injury.

(d) By reason of the foregoing, Defendants have entered into agreements in restraint of trade in violation of the New York Donnelly Act, §§ 340, *et seq.* The conduct set forth above is a per se violation of the Act. Accordingly, Plaintiffs and members of the classes seek all relief available under New York Gen. Bus. Law §§ 340, *et seq.*

266. Defendants have entered into an unlawful agreement in restraint of trade in violation of the North Carolina General Statutes §§ 75-1, *et seq.*

(a) Defendants' combinations or conspiracies had the following effects: (1) Aluminum and/or tantalum electrolytic capacitors price competition was restrained, suppressed, and eliminated throughout North Carolina; (2) Aluminum and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and stabilized at artificially high levels throughout North Carolina; (3) Plaintiffs and members of the classes who resided in North Carolina and/or purchased products containing Aluminum and/or tantalum electrolytic capacitors were deprived of free and open competition in North Carolina; and (4) Plaintiffs and members of the classes who resided in North Carolina and/or purchased products containing Aluminum and/or tantalum electrolytic capacitors in North Carolina paid supracompetitive, artificially inflated prices in North Carolina for products containing Aluminum and/or tantalum electrolytic capacitors.

(b) During the Class Period, Defendants' illegal conduct was intrastate, substantially affected North Carolina commerce and was directed through the economy of North Carolina, directly affecting trade, commerce and consumers residing in the State of North Carolina. As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs and members of the classes have been injured in their business and property and are threatened with further injury.

(c) By reason of the foregoing, Defendants have entered into agreements in restraint of trade in violation of North Carolina Gen. Stat. §§ 75-1, *et seq.*

Accordingly, Plaintiffs and members of the classes seek all relief available under North Carolina Gen. Stat. §§ 75-1, *et seq.*

267. Defendants have entered into an unlawful agreement in restraint of trade in violation of the North Dakota Century Code §§ 51-08.1-01, *et seq.*

(a) Defendants' combinations or conspiracies had the following effects: (1) Aluminum and/or tantalum electrolytic capacitors price competition was restrained, suppressed, and eliminated throughout North Dakota; (2) Aluminum and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and stabilized at artificially high levels throughout North Dakota; (3) Plaintiffs and members of the classes were deprived of free and open competition; and (4) Plaintiffs and members of the classes paid supracompetitive, artificially inflated prices for products containing Aluminum and/or tantalum electrolytic capacitors.

(b) During the Class Period, Defendants' illegal conduct was intrastate, substantially affected North Dakota commerce, and was directed through the economy of the State of North Dakota, directly affecting trade, commerce and consumers residing in the State of North Dakota.

(c) As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs and members of the classes have been injured in their business and property and are threatened with further injury.

(d) By reason of the foregoing, Defendants have entered into agreements in restraint of trade in violation of North Dakota Cent. Code §§ 51-08.1-01, *et seq.* Accordingly, Plaintiffs and members of the classes seek all relief available under North Dakota Cent. Code §§ 51-08.1-01, *et seq.*

268. Defendants have entered into an unlawful agreement in restraint of trade in violation of the Oregon Revised Statutes §§ 646.705, *et seq.* Plaintiffs will provide notice to Defendants and seek leave to amend pursuant to Oregon law. However, Defendants, upon information and belief, do not contain businesses or assets in the State of Oregon. Making pre-suit demand upon the Defendants for settlement would be futile and unnecessarily delay the

1 relief sought by Plaintiffs in this lawsuit under Oregon law. Moreover, the pre-suit demand
 2 conflicts with Federal Rules of Civil Procedure for commencing a lawsuit in federal court and
 3 the separation of powers doctrine.

4 (a) Defendants' combinations or conspiracies had the following effects: (1)
 5 Aluminum and/or tantalum electrolytic capacitors price competition was
 6 restrained, suppressed, and eliminated throughout Oregon; (2) Aluminum and/or
 7 tantalum electrolytic capacitors prices were raised, fixed, maintained, and
 8 stabilized at artificially high levels throughout Oregon; (3) Plaintiffs and members
 9 of the classes were deprived of free and open competition; and (4) Plaintiffs and
 10 members of the classes paid supracompetitive, artificially inflated prices for
 11 products containing Aluminum and/or tantalum electrolytic capacitors.

12 (b) During the Class Period, Defendants' illegal conduct was intrastate,
 13 substantially affected Oregon commerce, and was directed at the economy of the
 14 State of Oregon, directly affecting trade, commerce and consumers residing in the
 15 State of Oregon.

16 (c) As a direct and proximate result of Defendants' unlawful conduct,
 17 Plaintiffs and members of the classes have been injured in their business and
 18 property and are threatened with further injury.

19 (d) By reason of the foregoing, Defendants have entered into agreements in
 20 restraint of trade in violation of Oregon Revised Statutes §§ 646.705, *et seq.*
 21 Accordingly, Plaintiffs and members of the classes seek all relief available under
 22 Oregon Revised Statutes §§ 646.705, *et seq.*

23 269. Defendants have entered into an unlawful agreement in restraint of trade in
 24 violation of the South Dakota Codified Laws §§ 37-1-3.1., *et seq.*

25 (a) Defendants' combinations or conspiracies had the following effects: (1)
 26 Aluminum and/or tantalum electrolytic capacitors price competition was
 27 restrained, suppressed, and eliminated throughout South Dakota; (2) Aluminum
 28 and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and

1 stabilized at artificially high levels throughout South Dakota; (3) Plaintiffs and
2 members of the classes who resided in South Dakota and/or purchased products
3 containing Aluminum and/or tantalum electrolytic capacitors in South Dakota
4 were deprived of free and open competition in South Dakota; and (4) Plaintiffs
5 and members of the classes who resided in South Dakota and/or purchased
6 products containing Aluminum and/or tantalum electrolytic capacitors in South
7 Dakota paid supracompetitive, artificially inflated prices in South Dakota for
8 products containing Aluminum and/or tantalum electrolytic capacitors.

9 (b) During the Class Period, Defendants' illegal conduct was intrastate,
10 substantially affected South Dakota commerce, and was directed through the
11 economy of the State of South Dakota, directly affecting trade, commerce and
12 consumers residing in the State of South Dakota.

13 (c) As a direct and proximate result of Defendants' unlawful conduct,
14 Plaintiffs and members of the classes have been injured in their business and
15 property and are threatened with further injury.

16 (d) By reason of the foregoing, Defendants have entered into agreements in
17 restraint of trade in violation of South Dakota Codified Laws Ann. §§ 37-1, *et*
18 *seq.* Accordingly, Plaintiffs and members of the classes seek all relief available
19 under South Dakota Codified Laws Ann. §§ 37-1, *et seq.*

20 270. Defendants have entered into an unlawful agreement in restraint of trade in
21 violation of the Tennessee Code Annotated §§ 47-25-101, *et seq.*

22 (a) Defendants' combinations or conspiracies had the following effects: (1)
23 Aluminum and/or tantalum electrolytic capacitors price competition was
24 restrained, suppressed, and eliminated throughout Tennessee; (2) Aluminum
25 and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and
26 stabilized at artificially high levels throughout Tennessee; (3) Plaintiffs and
27 members of the classes who resided in Tennessee and/or purchased products
28 containing Aluminum and/or tantalum electrolytic capacitors in Tennessee were

1 deprived of free and open competition in Tennessee; and (4) Plaintiffs and
2 members of the classes who resided in Tennessee and/or purchased products
3 containing Aluminum and/or tantalum electrolytic capacitors in Tennessee paid
4 supracompetitive, artificially inflated prices in Tennessee for products containing
5 Aluminum and/or tantalum electrolytic capacitors.

6 (b) During the Class Period, Defendants' illegal conduct was intrastate,
7 substantially affected Tennessee commerce, and was directed through the
8 economy of the State of Tennessee, directly affecting trade, commerce and
9 consumers residing in the State of Tennessee. As a direct and proximate result of
10 Defendants' unlawful conduct, Plaintiffs and members of the classes have been
11 injured in their business and property and are threatened with further injury. The
12 effect of the conspiracy in Tennessee was primarily felt intrastate, throughout the
13 entire State of Tennessee and impacted the entire economy of Tennessee.

14 (c) By reason of the foregoing, Defendants have entered into agreements in
15 restraint of trade in violation of Tennessee Code Ann. §§ 47-25-101, *et seq.*
16 Accordingly, Plaintiffs and members of the classes seek all relief available under
17 Tennessee Code Ann. §§ 47-25-101, *et seq.*

18 271. Defendants have entered into an unlawful agreement in restraint of trade in
19 violation of the Utah Code Annotated §§ 76-10-911, *et seq.*

20 (a) Defendants' combinations or conspiracies had the following effects: (1)
21 Aluminum and/or tantalum electrolytic capacitors price competition was
22 restrained, suppressed, and eliminated throughout Utah; (2) Aluminum and/or
23 tantalum electrolytic capacitors prices were raised, fixed, maintained, and
24 stabilized at artificially high levels throughout Utah; (3) Plaintiffs and members of
25 the classes were deprived of free and open competition; and (4) Plaintiffs and
26 members of the classes paid supracompetitive, artificially inflated prices for
27 products containing Aluminum and/or tantalum electrolytic capacitors.
28

(b) During the Class Period, Defendants' illegal conduct was intrastate, substantially affected Utah commerce, and was directed through the economy of the State of Utah, directly affecting trade, commerce and consumers residing in the State of Utah.

(c) As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs and members of the classes have been injured in their business and property and are threatened with further injury.

(d) By reason of the foregoing, Defendants have entered into agreements in restraint of trade in violation of Utah Code Annotated §§ 76-10-911, *et seq.* Accordingly, Plaintiffs and members of the classes seek all relief available under Utah Code Annotated §§ 76-10-911, *et seq.*

272. Defendants have entered into an unlawful agreement in restraint of trade in violation of the Vermont Stat. Ann. 9 §§ 2451, *et seq.*

(a) Defendants' combinations or conspiracies had the following effects: (1) Aluminum and/or tantalum electrolytic capacitors price competition was restrained, suppressed, and eliminated throughout Vermont; (2) Aluminum and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and stabilized at artificially high levels throughout Vermont; (3) Plaintiffs and members of the classes were deprived of free and open competition; and (4) Plaintiffs and members of the classes paid supracompetitive, artificially inflated prices for products containing Aluminum and/or tantalum electrolytic capacitors.

(b) During the Class Period, Defendants' illegal conduct was intrastate, substantially affected Vermont commerce, and was directed through the economy of the State of Vermont, directly affecting trade, commerce and consumers residing in the State of Vermont.

(c) As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs and members of the classes have been injured in their business and property and are threatened with further injury.

1 (d) By reason of the foregoing, Defendants have entered into agreements in
2 restraint of trade in violation of Vermont Stat. Ann. 9 §§ 2451, *et seq.* Plaintiffs
3 are entitled to relief pursuant to Vermont Stat. Ann. 9 § 2465 and any other
4 applicable authority. Accordingly, Plaintiffs and members of the classes seek
5 relief available under Vermont Stat. Ann. 9 §§ 2451, *et seq.*

6 273. Defendants have entered into an unlawful agreement in restraint of trade in
7 violation of the West Virginia Code §§ 47-18-1, *et seq.*

8 (a) Defendants' combinations or conspiracies had the following effects: (1)
9 Aluminum and/or tantalum electrolytic capacitors price competition was
10 restrained, suppressed, and eliminated throughout West Virginia; (2) Aluminum
11 and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and
12 stabilized at artificially high levels throughout West Virginia; (3) Plaintiffs and
13 members of the classes who resided in West Virginia and/or purchased products
14 containing Aluminum and/or tantalum electrolytic capacitors in West Virginia
15 were deprived of free and open competition in West Virginia; and (4) Plaintiffs
16 and members of the classes who resided in West Virginia and/or purchased
17 products containing Aluminum and/or tantalum electrolytic capacitors in West
18 Virginia paid supracompetitive, artificially inflated prices in West Virginia for
19 products containing Aluminum and/or tantalum electrolytic capacitors.

20 (b) During the Class Period, Defendants' illegal conduct was intrastate,
21 substantially affected West Virginia commerce, and was directed through the
22 economy of the State of West Virginia, directly affecting trade, commerce and
23 consumers residing in the State of West Virginia.

24 (c) As a direct and proximate result of Defendants' unlawful conduct,
25 Plaintiffs and members of the classes have been injured in their business and
26 property and are threatened with further injury.

27 (d) By reason of the foregoing, Defendants have entered into agreements in
28 restraint of trade in violation of West Virginia Code §§ 47-18-1, *et seq.*

Accordingly, Plaintiffs and members of the classes seek all available under West Virginia Code §§ 47-18-1, *et seq.*

274. Defendants have entered into an unlawful agreement in restraint of trade in violation of the Wisconsin Statutes §§ 133.01, *et seq.*

(a) Defendants' combinations or conspiracies had the following effects: (1) Aluminum and/or tantalum electrolytic capacitors price competition was restrained, suppressed, and eliminated throughout Wisconsin; (2) Aluminum and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and stabilized at artificially high levels throughout Wisconsin; (3) Plaintiffs and members of the classes were deprived of free and open competition; and (4) Plaintiffs and members of the classes paid supracompetitive, artificially inflated prices for products containing Aluminum and/or tantalum electrolytic capacitors.

(b) During the Class Period, Defendants' illegal conduct was intrastate, substantially affected Wisconsin commerce, and was directed through the economy of the State of Wisconsin, directly affecting trade, commerce and consumers residing in the State of Wisconsin.

(c) As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs and members of the classes have been injured in their business and property and are threatened with further injury.

(d) By reason of the foregoing, Defendants have entered into agreements in restraint of trade in violation of Wisconsin Stat. §§ 133.01, *et seq.* Accordingly, Plaintiffs and members of the classes seek all relief available under Wisconsin Stat. §§ 133.01, *et seq.*

275. Plaintiffs and members of the classes in each of the above states have been injured in their business and property by reason of Defendants' unlawful combination, contract, conspiracy, and agreement. Plaintiffs and members of the classes have paid more for products containing Aluminum and/or tantalum electrolytic capacitors than they otherwise would have paid in the absence of Defendants' unlawful conduct. This injury is of the type the antitrust laws

1 of the above states were designed to prevent and flows from that which makes Defendants'
2 conduct unlawful.

3 276. In addition, Defendants have profited significantly from the aforesaid conspiracy.
4 Defendants' profits derived from their anticompetitive conduct come at the expense and
5 detriment of the Plaintiffs and members of the classes.

6 277. Accordingly, Plaintiffs and the members of the classes in each of the above
7 jurisdictions seek damages (including statutory damages where applicable), to be trebled or
8 otherwise increased as permitted by a particular jurisdiction's antitrust law, and costs of suit,
9 including reasonable attorneys' fees, to the extent permitted by the above state laws.

10 **SECOND CLAIM FOR RELIEF**

11 **Violation of State Consumer Protection Statutes**

12 **(On Behalf of Plaintiffs and the Damages Classes)**

13 278. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every
14 allegation set forth in the preceding paragraphs of this Class Action Complaint.

15 279. Defendants knowingly engaged in unlawful, unfair competition or unfair,
16 unconscionable, deceptive, or fraudulent acts or practices in violation of the state consumer
17 protection and unfair competition statutes listed below.

18 280. Defendants have knowingly entered into an unlawful agreement in restraint of
19 trade in violation of the Arkansas Code Annotated, § 4-88-101.

20 (a) Defendants knowingly agreed to, and did in fact, act in restraint of trade or
21 commerce by affecting, fixing, controlling, and/or maintaining at non-competitive
22 and artificially inflated levels, the prices at which products containing Aluminum
23 and/or tantalum electrolytic capacitors were sold, distributed, or obtained in
24 Arkansas and took efforts to conceal their agreements from Plaintiffs and
25 members of the classes.

26 (b) The aforementioned conduct on the part of the Defendants constituted
27 "unconscionable" and "deceptive" acts or practices in violation of Arkansas Code
28 Annotated § 4-88-107(a)(10).

(c) Defendants' unlawful conduct had the following effects: (1) Aluminum and/or tantalum electrolytic capacitors price competition was restrained, suppressed, and eliminated throughout Arkansas; (2) Aluminum and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and stabilized at artificially high levels throughout Arkansas; (3) Plaintiffs and members of the classes were deprived of free and open competition; and (4) Plaintiffs and members of the classes paid supracompetitive, artificially inflated prices for products containing Aluminum and/or tantalum electrolytic capacitors.

(d) During the Class Period, Defendants' illegal conduct was intrastate, substantially affected Arkansas commerce, and was directed through the economy of the State of Arkansas, directly affecting trade, commerce and consumers residing in the State of Arkansas.

(e) As a direct and proximate result of the unlawful conduct of the Defendants, Plaintiffs and the members of the classes have been injured in their business and property and are threatened with further injury.

(f) Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of Arkansas Code Annotated § 4-88-107(a)(10) and, accordingly, Plaintiffs and the members of the classes seek all relief available under that statute.

281. Defendants have engaged in unfair competition or unfair, unconscionable, deceptive or fraudulent acts or practices in violation of California Business and Professions Code § 17200, *et seq.*

(a) During the Class Period, Defendants committed and continue to commit acts of unfair competition, as defined by Sections 17200, *et seq.* of the California Business and Professions Code, by engaging in the acts and practices specified above.

(b) During the Class Period, Defendants illegal conduct was intrastate, substantially affected California commerce, and was directed through the

1 economy of the State of California, directly affecting trade, commerce and
2 consumers residing in the State of California.

3 (c) This claim is instituted pursuant to Sections 17203 and 17204 of the
4 California Business and Professions Code, to obtain restitution from these
5 Defendants for acts, as alleged in this Class Action Complaint, which violated
6 Section 17200 of the California Business and Professions Code, commonly
7 known as the Unfair Competition Law.

8 (d) The Defendants' conduct as alleged in this Class Action Complaint
9 violated Section 17200. The acts, omissions, misrepresentations, practices, and
10 non-disclosures of Defendants, as alleged herein, constituted a common,
11 continuous, and continuing course of conduct of unfair competition by means of
12 unfair, unlawful, and/or fraudulent business acts or practices within the meaning
13 of California Business and Professions Code, Section 17200, *et seq.*, including,
14 but not limited to, the violations of Section 16720, *et seq.*, of the California
15 Business and Professions Code, as set forth above;

16 (e) Defendants' acts, omissions, misrepresentations, practices, and
17 nondisclosures, as described above, whether or not in violation of Section 16720,
18 *et seq.*, of the California Business and Professions Code, and whether or not
19 concerted or independent acts, are otherwise unfair, unconscionable, unlawful, or
20 fraudulent;

21 (f) Defendants' acts or practices are unfair to purchasers of products
22 containing Aluminum and/or tantalum electrolytic capacitors in the State of
23 California within the meaning of Section 17200, California Business and
24 Professions Code; and

25 (g) Defendants' unlawful conduct had the following effects: (1) Aluminum
26 and/or tantalum electrolytic capacitors price competition was restrained,
27 suppressed, and eliminated throughout California; (2) Aluminum and/or tantalum
28 electrolytic capacitors prices were raised, fixed, maintained, and stabilized at

1 artificially high levels throughout California; (3) Plaintiffs and members of the
2 classes who resided in California and/or purchased products containing
3 Aluminum and/or tantalum electrolytic capacitors in California were deprived of
4 free and open competition in California; and (4) Plaintiffs and members of the
5 classes who resided in California and/or purchased products containing
6 Aluminum and/or tantalum electrolytic capacitors in California paid
7 supracompetitive, artificially inflated prices in California for products containing
8 Aluminum and/or tantalum electrolytic capacitors.

9 (h) Defendants' acts and practices are unlawful, fraudulent, or deceptive
10 within the meaning of Section 17200 of the California Business and Professions
11 Code.

12 (i) Plaintiffs and members of the classes are entitled to full restitution and/or
13 disgorgement of all revenues, earnings, profits, compensation, and benefits that
14 may have been obtained by Defendants as a result of such business acts or
15 practices.

16 (j) The illegal conduct alleged herein is continuing and there is no indication
17 that Defendants will not continue such activity into the future.

18 (k) The unlawful, fraudulent, deceptive, and unfair business practices of
19 Defendants, and each of them, as described above, have caused and continue to
20 cause Plaintiffs and the members of the classes to pay supracompetitive and
21 artificially inflated prices for products containing Aluminum and/or tantalum
22 electrolytic capacitors. Plaintiffs and the members of the classes suffered injury
23 in fact and lost money or property as a result of such unfair competition.

24 (l) The conduct of Defendants as alleged in this Class Action Complaint
25 violates Section 17200 of the California Business and Professions Code.

26 (m) As alleged in this Class Action Complaint, Defendants and their co-
27 conspirators have been unjustly enriched as a result of their wrongful conduct and
28 by Defendants' unfair competition. Plaintiffs and the members of the classes are

1 accordingly entitled to equitable relief including restitution and/or disgorgement
2 of all revenues, earnings, profits, compensation, and benefits that may have been
3 obtained by Defendants as a result of such business practices, pursuant to the
4 California Business and Professions Code, Sections 17203 and 17204.

5 282. Defendants have engaged in unfair competition or unlawful, unfair,
6 unconscionable, or deceptive acts or practices in violation of District of Columbia Code § 28-
7 3901, *et seq.*

8 (a) Defendants agreed to, and did in fact, act in restraint of trade or commerce
9 by affecting, fixing, controlling, and/or maintaining, at artificial and/or non-
10 competitive levels, the prices at which Aluminum and/or tantalum electrolytic
11 capacitors was sold, distributed, or obtained in the District of Columbia.

12 (b) The foregoing conduct constituted “unlawful trade practices” within the
13 meaning of D.C. Code § 28-3904.

14 (c) During the Class Period, Defendants’ illegal conduct was intrastate,
15 substantially affected District of Columbia commerce, and was directed through
16 the economy of the District of Columbia, directly affecting trade, commerce and
17 consumers residing in the District of Columbia.

18 (d) Defendants’ unlawful conduct had the following effects: (1) Aluminum
19 and/or tantalum electrolytic capacitors price competition was restrained,
20 suppressed, and eliminated throughout the District of Columbia; (2) Aluminum
21 and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and
22 stabilized at artificially high levels throughout the District of Columbia; (3)
23 Plaintiffs and members of the classes were deprived of free and open competition;
24 and (4) Plaintiffs and members of the classes paid supracompetitive, artificially
25 inflated prices for products containing Aluminum and/or tantalum electrolytic
26 capacitors.

27 (e) As a direct and proximate result of Defendants’ conduct, Plaintiffs and
28 members of the classes have been injured in their business and property and are

1 threatened with further injury. Defendants have engaged in unfair competition or
 2 unfair or deceptive acts or practices in violation of District of Columbia Code §
 3 28-3901, *et seq.*, and, accordingly, Plaintiffs and members of the classes seek all
 4 relief available under that statute.

5 283. Defendants have engaged in unfair competition or unlawful, unfair,
 6 unconscionable, or deceptive acts or practices in violation of the Florida Deceptive and Unfair
 7 Trade Practices Act, Fla. Stat. §§ 501.201, *et seq.*

8 (a) Defendants' unlawful conduct had the following effects: (1) Aluminum
 9 and/or tantalum electrolytic capacitors price competition was restrained,
 10 suppressed, and eliminated throughout Florida; (2) Aluminum and/or tantalum
 11 electrolytic capacitors prices were raised, fixed, maintained, and stabilized at
 12 artificially high levels throughout Florida; (3) Plaintiffs and members of the
 13 classes were deprived of free and open competition; and (4) Plaintiffs and
 14 members of the classes paid supracompetitive, artificially inflated prices for
 15 products containing Aluminum and/or tantalum electrolytic capacitors.

16 (b) During the Class Period, Defendants' illegal conduct was intrastate,
 17 substantially affected Florida commerce, and was directed through the economy
 18 of the State of Florida, directly affecting trade, commerce and consumers residing
 19 in the State of Florida.

20 (c) As a direct and proximate result of Defendants' unlawful conduct,
 21 Plaintiffs and members of the classes have been injured in their business and
 22 property and are threatened with further injury.

23 (d) Defendants have engaged in unfair competition or unlawful, unfair, or
 24 deceptive acts or practices in violation of Florida Stat. § 501.201, *et seq.*, and,
 25 accordingly, Plaintiffs and members of the classes seek all relief available under
 26 that statute.

27 284. Defendants have engaged in unfair competition or unlawful, unfair,
 28 unconscionable, or deceptive acts or practices in violation of the Massachusetts Gen. Laws, Ch.

93A, § 1, *et seq.* Plaintiffs will provide notice to Defendants and seek leave to amend pursuant to Massachusetts law. However, Defendants, upon information and belief, do not contain businesses or assets in the State of Massachusetts. Making pre-suit demand upon the Defendants for settlement would be futile and unnecessarily delay the relief sought by Plaintiffs in this lawsuit under Massachusetts law. Moreover, the pre-suit demand conflicts with Federal Rules of Civil Procedure for commencing a lawsuit in federal court and the separation of powers doctrine.

(a) Defendants agreed to, and did in fact, act in restraint of trade or commerce by affecting, fixing, controlling, and/or maintaining at non-competitive and artificially inflated levels, the prices at which Aluminum and/or tantalum electrolytic capacitors was sold, distributed, or obtained in Massachusetts and took efforts to conceal their agreements from Plaintiffs and members of the classes.

(b) The aforementioned conduct on the part of the Defendants constituted “unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce,” in violation of Massachusetts Gen. Laws, Ch. 93A, §§ 2, 11.

(c) Defendants’ unlawful conduct had the following effects: (1) Aluminum and/or tantalum electrolytic capacitors price competition was restrained, suppressed, and eliminated throughout Massachusetts; (2) Aluminum and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and stabilized at artificially high levels throughout Massachusetts; (3) Plaintiffs and members of the classes were deprived of free and open competition; and (4) Plaintiffs and members of the classes paid supracompetitive, artificially inflated prices for products containing Aluminum and/or tantalum electrolytic capacitors.

(d) During the Class Period, Defendants’ illegal conduct was intrastate, substantially affected Massachusetts commerce, and was directed through the economy of the State of Massachusetts, directly affecting trade, commerce and consumers in the State of Massachusetts.

1 (e) As a direct and proximate result of the unlawful conduct of the
2 Defendants, Plaintiffs and the members of the classes have been injured in their
3 business and property and are threatened with further injury.

4 (f) Defendants have engaged in unfair competition or unfair or deceptive acts
5 or practices in violation of Massachusetts Gen. Laws, Ch. 93A, §§ 2,11, and,
6 accordingly, Plaintiffs and the members of the classes seek all relief available
7 under those statutes.

8 285. Defendants have engaged in unfair competition or unlawful, unfair,
9 unconscionable, or deceptive acts or practices in violation of the Missouri Merchandising
10 Practices Act, Mo. Rev. Stat. § 407.010, *et seq.*

11 (a) Defendants engaged in the conduct described in this Class Action
12 Complaint in connection with the sale of products containing Aluminum and/or
13 tantalum electrolytic capacitors in a market that includes Missouri.

14 (b) During the Class Period, Defendants'' illegal conduct was intrastate,
15 substantially affected Missouri commerce, and was directed through the economy
16 of the State of Missouri, directly affecting trade, commerce and consumers
17 residing in the State of Missouri.

18 (c) Defendants agreed to, and in fact did, fix, control, and/or maintain at
19 artificial and non-competitive levels, the price at which Aluminum and/or
20 tantalum electrolytic capacitors was sold, distributed, or obtained in Missouri,
21 which conduct constituted unfair practices in that it was unlawful under federal
22 and state law, violated public policy, was unethical, oppressive, and unscrupulous,
23 and caused substantial injury to Plaintiffs and members of the classes.

24 (d) Defendants concealed, suppressed, and omitted to disclose material facts
25 to Plaintiffs and members of the classes concerning Defendants' unlawful
26 activities and artificially inflated prices for Aluminum and/or tantalum electrolytic
27 capacitors. The concealed, suppressed, and omitted facts would have been
28

1 important to Plaintiffs and members of the classes as they related to the cost of
2 products containing Aluminum and/or tantalum electrolytic capacitors.

3 (e) Defendants' unlawful conduct had the following effects: (1) Aluminum
4 and/or tantalum electrolytic capacitors price competition was restrained,
5 suppressed, and eliminated throughout Missouri; (2) Aluminum and/or tantalum
6 electrolytic capacitors prices were raised, fixed, maintained, and stabilized at
7 artificially high levels throughout Missouri; (3) Plaintiffs and members of the
8 classes were deprived of free and open competition; and (4) Plaintiffs and
9 members of the classes paid supracompetitive, artificially inflated prices for
10 products containing Aluminum and/or tantalum electrolytic capacitors.

11 (f) The foregoing acts and practices constituted unlawful practices in
12 violation of the Missouri Merchandising Practices Act.

13 (g) As a direct and proximate result of the above-described unlawful
14 practices, Plaintiffs and members of the classes suffered ascertainable loss of
15 money or property.

16 (h) Accordingly, Plaintiffs and members of the classes seek all relief available
17 under Missouri's Merchandising Practices Act, specifically Mo. Rev. Stat. §
18 407.020, which prohibits "the act, use or employment by any person of any
19 deception, fraud, false pretense, false promise, misrepresentation, unfair practice
20 or the concealment, suppression, or omission of any material fact in connection
21 with the sale or advertisement of any merchandise in trade or commerce," as
22 further interpreted by the Missouri Code of State Regulations, which provides for
23 the relief sought in this Count.

24 286. Defendants have engaged in unfair competition or unfair, unconscionable, or
25 deceptive acts or practices in violation of the Montana Unfair Trade Practices and Consumer
26 Protection Act of 1970, Mont. Code, §§ 30-14-103, *et seq.*, and Mont. Code, §§ 30-14-201, *et*
27 *seq.*

(a) Defendants unlawful conduct had the following effects: (1) Aluminum and/or tantalum electrolytic capacitors price competition was restrained, suppressed, and eliminated throughout Montana; (2) Aluminum and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and stabilized at artificially high levels throughout Montana; (3) Plaintiffs and members of the classes who resided in Montana and/or purchased products containing Aluminum and/or tantalum electrolytic capacitors in Montana were deprived of free and open competition in Montana; and (4) Plaintiffs and members of the classes who resided in Montana and/or purchased products containing Aluminum and/or tantalum electrolytic capacitors in Montana paid supracompetitive, artificially inflated prices in Montana for products containing Aluminum and/or tantalum electrolytic capacitors.

(b) During the Class Period, Defendants' illegal conduct was intrastate, substantially affected Montana commerce, and was directed through the economy of the State of Montana, directly affecting trade, commerce and consumers residing in the State of Montana.

(c) As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs and members of the classes have been injured in their business and property and are threatened with further injury.

(d) Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of Mont. Code, §§ 30-14-103, *et seq.*, and Mont. Code. §§ 30-14-201, *et seq.*, and accordingly, Plaintiffs and members of the classes seek all relief available under those statutes.

287. Defendants have engaged in unfair competition or unfair, unconscionable, or deceptive acts or practices in violation of the New Mexico Stat. § 57-12-1, *et seq.*

(a) Defendants agreed to, and did in fact, act in restraint of trade or commerce by affecting, fixing, controlling, and/or maintaining at a non-competitive and artificially inflated levels, the price at which Aluminum and/or tantalum

1 electrolytic capacitors was sold, distributed, or obtained in New Mexico and took
2 efforts to conceal their agreements from Plaintiffs and members of the classes.

3 (b) The aforementioned conduct on the part of the Defendants constituted
4 “unconscionable trade practices” in violation of N.M.S.A. § 57-12-3, in that such
5 conduct, *inter alia*, and as set forth in N.M.S.A. § 57-12-2E, resulted in a gross
6 disparity between the value received by Plaintiffs and the members of the classes
7 and the prices paid by them for products containing Aluminum and/or tantalum
8 electrolytic capacitors.

9 (c) Defendants’ unlawful conduct had the following effects: (1) Aluminum
10 and/or tantalum electrolytic capacitors price competition was restrained,
11 suppressed, and eliminated throughout New Mexico; (2) Aluminum and/or
12 tantalum electrolytic capacitors prices were raised, fixed, maintained, and
13 stabilized at artificially high levels throughout New Mexico; (3) Plaintiffs and
14 members of the classes were deprived of free and open competition; and (4)
15 Plaintiffs and members of the classes paid supracompetitive, artificially inflated
16 prices for products containing Aluminum and/or tantalum electrolytic capacitors.

17 (d) During the Class Period, Defendants’ illegal conduct was intrastate,
18 substantially affected New Mexico commerce, and was directed through the
19 economy of the State of New Mexico, directly affecting trade, commerce and
20 consumers residing in the State of New Mexico.

21 (e) As a direct and proximate result of the unlawful conduct of the
22 Defendants, Plaintiffs and the members of the classes have been injured in their
23 business and property and are threatened with further injury.

24 (f) Defendants have engaged in unfair competition or unfair or deceptive acts
25 or practices in violation of New Mexico Stat. § 57-12-1, *et seq.*, and, accordingly,
26 Plaintiffs and the members of the classes seek all relief available under that
27 statute.
28

1 288. Defendants have engaged in unfair competition or unfair, unconscionable, or
2 deceptive acts or practices in violation of N.Y. Gen. Bus. Law § 349, *et seq.*

3 (a) Defendants agreed to, and did in fact, act in restraint of trade or commerce
4 by affecting, fixing, controlling, and/or maintaining, at artificial and non-
5 competitive levels, the price at which Aluminum and/or tantalum electrolytic
6 capacitors was sold, distributed, or obtained in New York and took efforts to
7 conceal their agreements from Plaintiffs and the members of the classes.

8 (b) Defendants deceptively led purchasers, such as Plaintiffs and members of
9 the classes, to believe that the products containing Aluminum and/or tantalum
10 electrolytic capacitors they had purchased had been sold at a legal, competitive
11 price, when they had in fact been sold at a collusively obtained and inflated price,
12 that passed on to them the artificially inflated price of Aluminum and/or tantalum
13 electrolytic capacitors.

14 (c) The conduct of the Defendants described in this Class Action Complaint
15 constituted consumer-oriented deceptive acts or practices within the meaning of
16 N.Y. Gen. Bus. Law § 349, which resulted in consumer injury and broad adverse
17 impact on the public at large, and harmed the public interest of New York State in
18 an honest marketplace in which economic activity is conducted in a competitive
19 manner.

20 (d) Defendants' unlawful conduct had the following effects: (1) Aluminum
21 and/or tantalum electrolytic capacitors price competition was restrained,
22 suppressed, and eliminated throughout New York; (2) Aluminum and/or tantalum
23 electrolytic capacitors prices were raised, fixed, maintained, and stabilized at
24 artificially high levels throughout New York; (3) Plaintiffs and members of the
25 classes who reside in and/or made purchases of products containing Aluminum
26 and/or tantalum electrolytic capacitors in New York were deprived of free and
27 open competition and subject to Defendants' deceptive practices in New York;
28 and (4) Plaintiffs and members of the classes who reside in and/or made

1 purchases of products containing Aluminum and/or tantalum electrolytic
2 capacitors in New York paid supracompetitive, artificially inflated prices in New
3 York for products containing Aluminum and/or tantalum electrolytic capacitors,
4 and were subjected to Defendants' deceptive practice in New York.

5 (e) During the Class Period, Defendants' illegal conduct was intrastate,
6 substantially affected New York commerce, and was directed through the
7 economy of the State of New York, directly affecting trade, commerce and
8 consumers residing in the State of New York.

9 (f) During the Class Period, each of the Defendants named in this Class
10 Action Complaint directly, or indirectly and through affiliates they dominated and
11 controlled, manufactured, sold, and/or distributed Aluminum and/or tantalum
12 electrolytic capacitors in New York.

13 (g) Plaintiffs and members of the classes seek all relief available pursuant to
14 N.Y. Gen. Bus. Law § 349(h).

15 289. Defendants have engaged in unfair competition or unfair, unconscionable, or
16 deceptive acts or practices in violation of North Carolina Gen. Stat. § 75-1.1, *et seq.*

17 (a) Defendants agreed to, and did in fact, act in restraint of trade or commerce
18 by affecting, fixing, controlling, and/or maintaining, at artificial and non-
19 competitive levels, the price at which Aluminum and/or tantalum electrolytic
20 capacitors was sold, distributed, or obtained in North Carolina and took efforts to
21 conceal their agreements from Plaintiffs and members of the classes.

22 (b) The conduct of the Defendants described in this Class Action Complaint
23 constituted consumer-oriented deceptive acts or practices within the meaning of
24 North Carolina law, which resulted in consumer injury and broad adverse impact
25 on the public at large, and harmed the public interest of North Carolina consumers
26 in an honest marketplace in which economic activity is conducted in a
27 competitive manner.
28

1 (c) Defendants' unlawful conduct had the following effects upon purchasers
2 in North Carolina or products containing Aluminum and/or tantalum electrolytic
3 capacitors: (1) Aluminum and/or tantalum electrolytic capacitors price
4 competition was restrained, suppressed, and eliminated throughout North
5 Carolina; (2) Aluminum and/or tantalum electrolytic capacitors prices were
6 raised, fixed, maintained, and stabilized at artificially high levels throughout
7 North Carolina; (3) Plaintiffs and members of the classes who reside in North
8 Carolina and/or purchased products containing Aluminum and/or tantalum
9 electrolytic capacitors in North Carolina were deprived of free and open
10 competition in North Carolina; and (4) Plaintiffs and members of the classes who
11 resided in North Carolina and/or purchased products containing Aluminum and/or
12 tantalum electrolytic capacitors in North Carolina paid supracompetitive,
13 artificially inflated prices in North Carolina for products containing Aluminum
14 and/or tantalum electrolytic capacitors.

15 (d) During the Class Period, Defendants' illegal conduct was intrastate,
16 substantially affected North Carolina commerce, and was directed through the
17 economy of the State of North Carolina, directly affecting trade, commerce and
18 consumers residing in the State of North Carolina.

19 (e) During the Class Period, each of the Defendants named in this Class
20 Action Complaint, directly, or indirectly and through affiliated they dominated
21 and controlled, manufactured, sold, and/or distributed Aluminum and/or tantalum
22 electrolytic capacitors in North Carolina.

23 (f) Plaintiffs and members of the classes seek actual damages for their
24 injuries caused by these violations in an amount to be determined at trial and are
25 threatened with further injury. Defendants have engaged in unfair competition or
26 unfair or deceptive acts or practices in violation of North Carolina Gen. Stat. § 75-
27 1.1, *et seq.*, and, accordingly, Plaintiffs and members of the classes seek all relief
28 available under that statute.

1 290. Defendants have engaged in unfair competition or unfair, unconscionable, or
2 deceptive acts or practices in violation of the Rhode Island Unfair Trade Practice and Consumer
3 Protection Act, R.I. Gen. Laws §§ 6-13.1-1, *et seq.*

4 (a) Plaintiffs and members of the Damages Classes purchased Aluminum
5 and/or tantalum electrolytic capacitors for personal, family, or household
6 purposes.

7 (b) Defendants and their co-conspirators agreed to, and did in fact, act in
8 restraint of trade or commerce in a market that was intrastate and includes Rhode
9 Island, by affecting, fixing, controlling, and/or maintaining, at artificial and non-
10 competitive levels, the prices at which Aluminum and/or tantalum electrolytic
11 capacitors was sold, distributed, or obtained in Rhode Island. Defendants' illegal
12 conduct was intrastate, substantially affected Rhode Island commerce, and was
13 directed through the economy of the State of Rhode Island, directly affecting
14 trade, commerce and consumers residing in the State of Rhode Island.

15 (c) Defendants deliberately failed to disclose material facts to Plaintiffs and
16 members of the Damages Classes concerning their unlawful activities and
17 artificially inflated prices for Aluminum and/or tantalum electrolytic capacitors.
18 Defendants owed a duty to disclose such facts, and considering the relative lack of
19 sophistication of the average, non-business purchaser, they breached that duty by
20 their silence. Defendants misrepresented to all purchasers during the Class Period
21 that their Aluminum and/or tantalum electrolytic capacitor prices were
22 competitive and fair.

23 (d) Defendants' unlawful conduct had the following effects: (1) Aluminum
24 and/or tantalum electrolytic capacitors price competition was restrained,
25 suppressed, and eliminated throughout Rhode Island; (2) Aluminum and/or
26 tantalum electrolytic capacitors prices were raised, fixed, maintained, and
27 stabilized at artificially high levels throughout Rhode Island; (3) Plaintiffs and
28 members of the Damages Classes were deprived of free and open competition;

1 and (4) Plaintiffs and members of the Damages Classes paid supracompetitive,
2 artificially inflated prices for Aluminum and/or tantalum electrolytic capacitors.

3 (e) As a direct and proximate result of Defendants' violations of law,
4 Plaintiffs and members of the Damages Classes suffered an ascertainable loss of
5 money or property as a result of Defendants' use or employment of
6 unconscionable and deceptive commercial practices as set forth above. That loss
7 was caused by Defendants' willful and deceptive conduct, as described herein.

8 (f) Defendants' deception, including their omissions concerning the price of
9 Aluminum and/or tantalum electrolytic capacitors, likely misled all purchasers
10 acting reasonably under the circumstances to believe that they were purchasing
11 Aluminum and/or tantalum electrolytic capacitors at prices born by a free and fair
12 market. Defendants' omissions constitute information important to Plaintiffs and
13 members of the Damages Classes as they related to the cost of the Aluminum
14 and/or tantalum electrolytic capacitors they purchased.

15 (g) Defendants have engaged in unfair competition or unfair or deceptive acts
16 or practices in violation of Rhode Island Gen. Laws. § 6-13.1-1, *et seq.*, and,
17 accordingly, Plaintiffs and members of the Damages Classes seek all relief
18 available under that statute.

19 291. Defendants have engaged in unfair competition or unfair, unconscionable, or
20 deceptive acts or practices in violation of South Carolina Unfair Trade Practices Act, S.C. Code
21 Ann. §§ 39-5-10, *et seq.*

22 (a) Defendants' combinations or conspiracies had the following effects: (1)
23 Aluminum and/or tantalum electrolytic capacitors price competition was
24 restrained, suppressed, and eliminated throughout South Carolina; (2) Aluminum
25 and/or tantalum electrolytic capacitors prices were raised, fixed, maintained, and
26 stabilized at artificially high levels throughout South Carolina; (3) Plaintiffs and
27 members of the classes were deprived of free and open competition; and (4)
28

1 Plaintiffs and members of the classes paid supracompetitive, artificially inflated
2 prices for products containing Aluminum and/or tantalum electrolytic capacitors.

3 (b) During the Class Period, Defendants' illegal conduct was intrastate,
4 substantially affected South Carolina commerce, and was directed through the
5 economy of the State of South Carolina, directly affecting trade, commerce and
6 consumers residing in the State of South Carolina.

7 (c) As a direct and proximate result of Defendants' unlawful conduct,
8 Plaintiffs and members of the classes have been injured in their business and
9 property and are threatened with further injury.

10 (d) Defendants have engaged in unfair competition or unfair or deceptive acts
11 or practices in violation of S.C. Code Ann. §§ 29-5-10, *et seq.*, and, accordingly,
12 Plaintiffs and the members of the classes seek all relief available under that
13 statute.

14 292. Defendants have engaged in unfair competition or unfair, unconscionable, or
15 deceptive acts or practices in violation of 9 Vermont § 2451, *et seq.*

16 (a) Defendants agreed to, and did in fact, act in restraint of trade or commerce
17 in a market that includes Vermont, by affecting, fixing, controlling, and/or
18 maintaining, at artificial and non-competitive levels, the prices at which
19 Aluminum and/or tantalum electrolytic capacitors was sold, distributed, or
20 obtained in Vermont. Defendants' conduct was intrastate, substantially affected
21 Vermont commerce, and was directed through the economy of the State of
22 Vermont, directly affecting trade, commerce and consumers residing in Vermont.

23 (b) Defendants deliberately failed to disclose material facts to Plaintiffs and
24 members of the Damages Classes concerning Defendants' unlawful activities and
25 artificially inflated prices for Aluminum and/or tantalum electrolytic capacitors.
26 Defendants owed a duty to disclose such facts, and Defendants breached that duty
27 by their silence. Defendants misrepresented to all purchasers during the Class
28

1 Period that Defendants' Aluminum and/or tantalum electrolytic capacitor prices
2 were competitive and fair.

3 (c) Defendants' unlawful conduct had the following effects: (1) Aluminum
4 and/or tantalum electrolytic capacitors price competition was restrained,
5 suppressed, and eliminated throughout Vermont; (2) Aluminum and/or tantalum
6 electrolytic capacitors prices were raised, fixed, maintained, and stabilized at
7 artificially high levels throughout Vermont; (3) Plaintiffs and members of the
8 Damages Classes were deprived of free and open competition; and (4) Plaintiffs
9 and members of the Damages Classes paid supra-competitive, artificially inflated
10 prices for Aluminum and/or tantalum electrolytic capacitors.

11 (d) As a direct and proximate result of the Defendants' violations of law,
12 Plaintiffs and members of the Damages Classes suffered an ascertainable loss of
13 money or property as a result of Defendants' use or employment of
14 unconscionable and deceptive commercial practices as set forth above. That loss
15 was caused by Defendants' willful and deceptive conduct, as described herein.

16 (e) Defendants' deception, including their affirmative misrepresentations and
17 omissions concerning the price of Aluminum and/or tantalum electrolytic
18 capacitors, likely misled all purchasers acting reasonably under the circumstances
19 to believe that they were purchasing Aluminum and/or tantalum electrolytic
20 capacitors at prices set by a free and fair market. Defendants' misleading
21 conduct and unconscionable activities constitute unfair competition or unfair or
22 deceptive acts or practices in violation of 9 Vermont § 2451, *et seq.*, and,
23 accordingly, Plaintiffs and members of the Damages Classes seek all relief
24 available under that statute.

25 **THIRD CLAIM FOR RELIEF**

26 **Unjust Enrichment**

27 **(On Behalf of Plaintiffs and the Damages Classes)**

28 293. Plaintiffs incorporate by reference the allegations in the preceding paragraphs.

1 294. Plaintiffs bring this claim for unjust enrichment, in the alternative, under the laws
2 of all states listed in the First and Second Claims hereinabove, including Arizona, Arkansas,
3 California, Florida, Kansas, Hawaii, Iowa, Maine, Massachusetts, Montana, Michigan,
4 Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, New York,
5 North Carolina, North Dakota, Oregon, Pennsylvania Rhode Island, South Carolina, South
6 Dakota, Tennessee, Utah, Vermont, Washington, D.C., West Virginia and Wisconsin.
7 Defendants have been unjustly enriched by receiving inflated prices and unlawful prices as a
8 result of a conspiracy to violate laws in the United States. This unlawful conspiracy affected
9 commerce and manipulated prices of Aluminum and tantalum electrolytic capacitors.

10 295. This unlawful conspiracy affected and impacted the Plaintiffs who are persons or
11 entities that paid an overpayment as the result of Defendants' unlawful and inequitable behavior
12 in the United States, including the unjust enrichment laws of the States of Arizona, Arkansas,
13 California, Florida, Kansas, Hawaii, Iowa, Maine, Massachusetts, Montana, Michigan,
14 Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, New York,
15 North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee,
16 Utah, Vermont, Washington, D.C., West Virginia and Wisconsin.

17 296. As a result of their unlawful conduct described above, Defendants have and will
18 continue to be unjustly enriched. Defendants have been unjustly enriched by the receipt of, as a
19 minimum, unlawfully inflated prices and unlawful profits on Aluminum and/or tantalum
20 electrolytic capacitors.

21 297. Defendants have benefitted from their unlawful acts and it would be inequitable
22 for Defendants to be permitted to retain any of the ill-gotten gains resulting from the
23 overpayment made by Plaintiffs or the members of the classes for products containing
24 Aluminum and/or tantalum electrolytic capacitors.

25 298. Plaintiffs and the members of the classes are entitled to the amount of
26 Defendants' ill-gotten gains resulting from their unlawful, unjust, and inequitable conduct.
27 Plaintiffs and the members of the classes are entitled to the establishment of a constructive trust
28

1 consisting of all ill-gotten gains from which Plaintiffs and the members of the classes may make
2 claims on a pro rata basis.

3 299. Providing pre-lawsuit notice to the Defendants and the pursuit of any remedies
4 against the entities from which Plaintiffs and members of the classes purchased products
5 containing Aluminum and/or tantalum electrolytic capacitors subject to Defendants' conspiracy
6 would have been futile and would not have provided a true avenue for recovery or restitution of
7 the unlawfully obtained ill-gotten gains or artificially inflated prices, given that those entities did
8 not take part in Defendants' conspiracy. Thus unjust enrichment may be brought in this Court
9 and failure to exhaust or provide a pre-lawsuit notice under any of the States pled herein, which
10 may require such notice, or exhaustion, is not a bar to recovery under this alternative theory of
11 recovery for artificially inflating prices to the detriment of indirect purchasers.

12 **FOURTH CLAIM FOR RELIEF**

13 **Injunctive and Equitable Relief**

14 **(On Behalf of Plaintiffs and the Nationwide Class)**

15 300. Defendants and unnamed conspirators entered into and engaged in a contract,
16 combination, or conspiracy in unreasonable restraint of trade in violation of Section 1 of the
17 Sherman Act (15 U.S.C. § 1).

18 301. The acts done by each of the Defendants as part of, and in furtherance of, their
19 contract, combination, or conspiracy were authorized, ordered, or done by their officers, agents,
20 employees, or representatives while actively engaged in the management of Defendants' affairs.

21 302. At least as early as January 2002, and continuing until at least the filing of this
22 Complaint, the exact dates being unknown to Plaintiffs, Defendants and their co-conspirators
23 entered into a continuing agreement, understanding, and conspiracy in restraint of trade to
24 artificially fix, raise, stabilize, and control prices for Aluminum and/or tantalum electrolytic
25 capacitors, thereby creating anticompetitive effects.

26 303. The anticompetitive acts were intentionally directed at the United States market
27 for Aluminum and/or tantalum electrolytic capacitors and had a substantial and foreseeable effect
28

1 on interstate commerce by raising and fixing prices for Aluminum and/or tantalum electrolytic
2 capacitors throughout the United States.

3 304. The conspiratorial acts and combinations have caused unreasonable restraints in
4 the market for Aluminum and/or tantalum electrolytic capacitors.

5 305. As a result of Defendants' unlawful conduct, Plaintiffs and other similarly
6 situated indirect purchasers in the Nationwide Class who purchased Aluminum and/or tantalum
7 electrolytic capacitors have been harmed by being forced to pay inflated, supracompetitive
8 prices for Aluminum and/or tantalum electrolytic capacitors.

9 306. In formulating and carrying out the alleged agreement, understanding, and
10 conspiracy, Defendants and their co-conspirators did those things that they combined and
11 conspired to do, including but not limited to the acts, practices and course of conduct set forth
12 herein.

13 307. Defendants' conspiracy had the following effects, among others:

14 (a) Price competition in the market for Aluminum and/or tantalum electrolytic
15 capacitors has been restrained, suppressed, and/or eliminated in the United
16 States;

17 (b) Prices for Aluminum and/or tantalum electrolytic capacitors sold by
18 Defendants and their coconspirators have been fixed, raised, maintained, and
19 stabilized at artificially high, noncompetitive levels throughout the United States;

20 (c) Prices for products purchased by Plaintiffs and the members of the
21 Nationwide Class containing Aluminum and/or tantalum electrolytic capacitors
22 manufactured by Defendants and their coconspirators were inflated; and

23 (d) Plaintiffs and members of the Nationwide Class who purchased products
24 containing Aluminum and/or tantalum electrolytic capacitors indirectly from
25 Defendants have been deprived of the benefits of free and open competition.

26 308. Plaintiffs and members of the Nationwide Class have been injured and will
27 continue to be injured in their business and property by paying more for Aluminum and/or
28

1 tantalum electrolytic capacitors than they would have paid and will pay in the absence of the
2 conspiracy.

3 309. Plaintiffs and members of the Nationwide Class will continue to be subject to
4 Defendants' price-fixing, bid-rigging, and market allocations, which will deprive Plaintiffs and
5 members of the Nationwide Class of the benefits of free competition, including competitively-
6 priced Aluminum and/or tantalum electrolytic capacitors.

7 310. Plaintiffs and members of the Nationwide Class will continue to lose funds due to
8 overpayment for Aluminum and/or tantalum electrolytic capacitors.

9 311. The alleged contract, combination, or conspiracy is a *per se* violation of the
10 federal antitrust laws.

11 312. There being no injunction in force preventing repetition of Defendants'
12 conspiratorial conduct, Plaintiffs will face possible future antitrust injury unless this Court
13 enjoins the conduct and all improper information exchanges that facilitated it. Thus, Plaintiffs
14 and members of the Nationwide Class are entitled to an injunction against Defendants preventing
15 them from repeating the violations alleged herein.

16 **PRAYER AND DEMAND FOR JUDGMENT**

17 **WHEREFORE**, Plaintiffs respectfully request that the Court enter judgment on its
18 behalf and on behalf of the Class defined herein, by adjudging and decreeing that:

19 A. This action may proceed as a class action, with Plaintiffs serving as the Class
20 Representatives, and with Plaintiffs' counsel appointed as Class Counsel;

21 B. Defendants have combined and conspired in violation of Section 1 of the Sherman
22 Act, 15 U.S.C. § 1, and that Plaintiffs and the Class have been injured in their business and
23 property as a result of Defendants' violations and are entitled to nationwide injunctive relief;

24 C. Plaintiffs and the Class are entitled to recover actual and compensatory damages
25 sustained by them, as provided by the various state antitrust, unfair trade practice anti-
26 competition and consumer protection laws alleged herein, and that a joint and several judgment
27 in favor of Plaintiffs and the Class be entered against Defendants in an amount subject to proof at
28 trial, which is to be trebled in accordance with state law, where applicable;

1 D. Plaintiffs and the Class are entitled to pre-judgment and post-judgment interest on
2 the damages awarded them, and that such interest be awarded at the highest legal rate from and
3 after the date this class action complaint is first served on Defendants;

4 E. Plaintiffs and the Class are entitled to equitable relief appropriate to remedy
5 Defendants' past and ongoing restraint of trade, including:

6 a. A judicial determination declaring the rights of Plaintiffs and the Class,
7 and the corresponding responsibilities of Defendants; and

8 b. Issuance of a permanent injunction against Defendants and their parents,
9 subsidiaries, affiliates, successors, transferees, assignees and the respective
10 officers, directors, partners, agents, and employees thereof and all other persons
11 acting or claiming to act on their behalf from continuing and maintaining the
12 conspiracy or agreements alleged herein;

13 F. Defendants are to be jointly and severally responsible financially for the costs and
14 expenses of a Court-approved notice program through post and media designed to give
15 immediate notification to the Class;

16 G. Plaintiffs and the Class recover their costs and expenses of this suit, including
17 reasonable attorneys' fees as provided by law; and

18 H. Plaintiffs and the Class receive such other or further relief as may be just and
19 proper.

20
21 Dated: August 20, 2014

Respectfully submitted,

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23 **SHAPIRO DAVIS, INC.**

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SOUTH; WE 3 GOSSETT, LLC, d/b/a GOSSETT FIAT;
AUTORAMA, INC., d/b/a MERCEDES BENZ OF
MEMPHIS, on behalf of themselves and all others similarly situated,

JURY TRIAL DEMANDED

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demands a trial by jury of all the claims asserted in this complaint so triable.

Dated: August 20, 2014

Respectfully submitted,

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GOSSETT MOTOR CARS, INC., d/b/a
GOSSETT PORSCHE; GOSSETT MOTOR
CARS, INC. d/b/a/ GOSSETT CHRYSLER/
JEEP/DODGE; GOSSETT MOTOR CARS,
INC., d/b/a GOSSETT FIAT OF MEMPHIS;
WE 3 GOSSETT, LLC, d/b/a GOSSETT
VOLKSWAGEN OF GERMANTOWN;
WE 3 GOSSETT, d/b/a GOSSETT KIA SOUTH;

WE 3 GOSSETT, d/b/a GOSSETT HYUNDAI
SOUTH; WE 3 GOSSETT d/b/a GOSSETT FIAT;
AUTORAMA, INC., d/b/a MERCEDES BENZ OF
MEMPHIS, on behalf of themselves and all others similarly situated,