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10 Attorneys for Defendants

11  
 12 **UNITED STATES DISTRICT COURT**  
 13 **EASTERN DISTRICT OF CALIFORNIA**

14 KYLE DEI ROSSI and MARK  
 LINTHICUM, on behalf of themselves and  
 15 those similarly situated,

16 Plaintiffs,

17 vs.

18 WHIRLPOOL CORPORATION, PACIFIC  
 SALES KITCHEN AND BATH  
 19 CENTERS, INC. and BEST BUY STORES,  
 LP,

20 Defendants.

CASE NO. 2:12-cv-00125-JAM-JFM

**ORDER GRANTING DEFENDANTS'  
 MOTION TO DISMISS PLAINTIFFS'  
 CLASS ACTION COMPLAINT,  
 DENYING PLAINTIFFS' REQUESTS  
 FOR JUDICIAL NOTICE, AND DENYING  
 DEFENDANTS' MOTION TO STRIKE  
 COUNT VIII AS MOOT**

1 Defendants Whirlpool Corporation (“Whirlpool”), Pacific Sales Kitchen and Bath  
2 Centers, Inc. (“Pacific Sales”), and Best Buy Stores, LP (“Best Buy”) move to dismiss the Class  
3 Action Complaint (“Complaint”) filed by Plaintiffs Kyle Dei Rossi and Mark Linthicum, on  
4 behalf of themselves and a putative class of similarly situated consumers. Also pending before  
5 the Court are Plaintiffs’ requests for judicial notice, and Defendants’ motion to strike Count VIII,  
6 which is a list of the consumer protection statutes of 49 states and the District of Columbia.

7 **ORDER**

8 Having reviewed the parties’ briefing and considered the arguments of counsel at the  
9 September 5, 2012, hearing, and for the reasons stated on the record at the hearing, Defendants’  
10 motion to dismiss is GRANTED in its entirety, with leave to amend all claims except for the  
11 claim for unjust enrichment. Any amended complaint shall be filed by September 25,  
12 2012. Defendants’ motion to strike Count VIII is denied as moot. Plaintiffs’ requests for  
13 judicial notice (Dkt. Nos. 37 and 45) are DENIED.

14 **IT IS SO ORDERED.**

15 DATED: 9/14/2012

/s/ John A. Mendez \_\_\_\_\_  
John A. Mendez  
Judge, United States District Court