

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

Civil Action No.

SAFELITE GROUP, INC.,
a Delaware corporation, and
SAFELITE FULFILLMENT, INC.,
A Delaware corporation,

Plaintiffs,

v.

INNOVATIVE MARKETING SYSTEMS, INC.,
d/b/a SAFEVUE AUTOGLASS, an Arizona
corporation, AJ AURIT, an individual,
KANYANAT LEEDOM, an individual,
CRAIG LEEDOM, an individual, and
JOHN DOES 1-30, individuals whose true
names are unknown,

Defendants.

COMPLAINT AND JURY DEMAND

Plaintiffs Safelite Group, Inc. and Safelite Fulfillment, Inc. (collectively, "Safelite"), for their Complaint against Defendant Innovative Marketing Systems, Inc., d/b/a Safevue Autoglass, AJ Aurit, Kanyanat Leedom, Craig Leedom and John Does 1-30, allege as follows:

PARTIES

1. Safelite Group, Inc. is a Delaware corporation with its principal place of business located at 2400 Farmers Drive, Columbus, Ohio.

2. Safelite Fulfillment, Inc. is a Delaware corporation with its principal place of business located at 2400 Farmers Drive, Columbus, Ohio.

3. Upon information and belief, Innovative Marketing Solutions, Inc., d/b/a Safevue Autoglass (“Safevue”), is an Arizona corporation with its principal place of business at 303 E. Gurley Street, Suite 123, Prescott, Arizona.

4. Upon information and belief, Kanyanat Leedom is an individual who is the president, chief executive officer and director of Safevue whose address is 1335 Quail Drive, Munds Park, Arizona.

5. Upon information and belief, Craig Leedom is an individual who is a resident of Thailand and has represented himself as an owner and/or officer of Safevue.

6. Upon information and belief, AJ Aurit is an individual who is a resident of Colorado and has represented himself as an owner and/or officer of Safevue.

7. John Does 1-30 are individuals whose true names are unknown but who are believed to be employees or agents of Safevue involved in telemarketing activities and whose residence addresses in Colorado are unknown.

JURISDICTION AND VENUE

8. This action arises under §§ 1114(1) and 1125(a) of the Lanham Act, 15 U.S.C. §§ 1051 *et seq.*, the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. §§ 6101 *et seq.*, the Colorado Consumer Protection Act, Colo. Rev. Stat. §§ 6-1-105 *et seq.*, and other statutory and common laws of the State of Colorado.

9. This Court has jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338 and 1367.

10. Additionally, this Court has jurisdiction pursuant to 28 U.S.C. § 1332 because the plaintiffs and the defendants are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

11. This Court has personal jurisdiction over Defendants because they transact business and have caused an injury to Safelite within the State of Colorado.

12. Venue is proper within this district pursuant to 28 U.S.C. § 1391(b).

FACTS

Safelite's Trademarks and Business in Colorado

13. Safelite Group, Inc. is multi-faceted vehicle glass organization which has been in business since 1947, serving nearly four million customers a year nationwide.

14. Safelite Fulfillment, Inc. is a subsidiary of Safelite Group, Inc., which operates auto glass repair and replacement retail locations and mobile service across the United States, including in Colorado.

15. Safelite operates 20 retail business locations in Colorado, most of which operate in the Denver metropolitan area or along the Front Range. Safelite serves approximately 210,000 customers in Colorado each year.

16. Safelite owns valid and subsisting federal trademark registrations issued by the United States Patent and Trademark Office for the SAFELITE, SAFELITE AUTO GLASS and SAFELITE AUTOGLASS (and Design) marks, including those listed in the chart attached as **Exhibit 1**.

17. Safelite has used the Safelite®, Safelite Auto Glass® and Safelite AutoGlass® marks (collectively, the "Safelite® Trademarks") nationwide and in Colorado for approximately 50 years.

18. Safelite enjoys a valuable reputation and goodwill among consumers as a provider of high-quality auto glass and auto glass repair and replacement services. The Safelite® Trademarks have come to be recognized and associated by consumers exclusively with the high-

quality auto glass products and services provided by Safelite. Safelite's products and services are widely sought by consumers around the nation and in Colorado because of their excellent reputation.

19. The Safelite® Trademarks are a valuable business and marketing asset to Safelite and indicate to consumers the high-quality goods and services originating only from Safelite. Safelite has expended substantial time, effort and money in advertising, promoting and marketing goods and services with the Safelite® Trademarks throughout the United States and in Colorado for the past several decades. As a result, the Safelite® Trademarks have become famous.

Safevue's Operations in Colorado

20. Beginning some time in 2010, Safevue began operating an auto glass repair and replacement business in Colorado.

21. Safevue has no common ownership with Safelite and is not an agent of Safelite. Safelite does not contract with Safevue to provide any auto glass repair or replacement services to consumers.

22. Safelite has not granted Safevue permission to use the Safelite® Trademarks in commerce or in any other context.

23. Upon information and belief, Safevue is not registered as a foreign entity authorized to conduct business in Colorado by the Secretary of State.

24. Upon information and belief, Safevue does not operate any retail store locations where technicians or installers may repair or replace auto glass in customer vehicles. Upon information and belief, Safevue's installers provide service to customers exclusively through its

mobile service; that is, Safevue's technicians and glass installers drive to the location of the customer's vehicle to perform glass repair or replacement work.

25. Safevue has a website, <http://safevue-autoglass.com>, which lists its business address as 820 S. Monaco Parkway, Suite 337, Denver, Colorado 80224 and provides a telephone number. See Exhibit 2. Upon information and belief, the address that is listed on the website is a UPS store with no reference to Safevue.

26. Upon information and belief, Safevue operates a telemarketing call center at 7190 W. 38th Street, Wheat Ridge, Colorado. Upon information and belief, Safevue employs approximately 20 to 30 telemarketers who make outbound, unsolicited calls to consumers to promote and sell Safevue's services.

27. Safevue, on its website and in other promotional materials, uses the name Safevue Autoglass and a logo with the initials "SV" and places the "®" symbol next to the marks, indicating that they are federally registered trademarks. See Exhibit 2.

28. Upon information and belief, Safevue's marks are not registered with the federal Patent and Trademark Office or with the Colorado Secretary of State. The use of the "®" symbol with a trademark that has not achieved federal registration misleads and confuses consumers.

29. Customers have been and are likely to be confused by the similarity of the name "Safevue" to the Safelite® Trademarks.

Safevue's Misrepresentations to Consumers

30. In placing unsolicited calls to consumers, Safevue's telemarketing employees have at times falsely identified themselves as representing Safelite or calling on behalf of Safelite.

31. Safevue's telemarketing employees have at times falsely stated to consumers that Safevue is affiliated with or used to be affiliated with Safelite, or was spun off from the same company as Safelite.

32. Safevue's telemarketing employees have at times falsely stated to consumers that Safevue is the company hired by Safelite to provide mobile, on-site auto glass repair or replacement services for Safelite customers.

33. Consumers have been actually confused or are likely to become confused by Safevue's telemarketing calls in which it is "passing off" as Safelite and misrepresenting that it is affiliated with or an agent of Safelite.

34. Safelite does not make outbound, unsolicited telemarketing "cold calls" to consumers for the purpose of advertising and promoting Safelite's goods and services.

35. Consumers who have been contacted by Safevue's telemarketing employees have called Safelite to complain about the calls, which they believed were initiated by Safelite as a result of Safevue's misrepresentations and false statements or as a result of the close similarity of the Safevue name to the Safelite® Trademarks.

36. For example, in October 2011, a Safelite customer service representative received a call from a consumer who complained about receiving a telemarketing call from someone claiming to represent Safelite. While the consumer was still on the line, Safelite's representative called the telemarketer's number obtained by the consumer and talked to a woman who identified herself as a representative for Safevue. Safelite's representative asked whether she worked with Safelite AutoGlass. The woman responded:

Safevue Representative: We do work with them. They handle most of the insurance claims. We are a separate entity though. What can I help you with today?

Safelite Representative: Gotcha. OK, no I'm just kind of calling around. I just didn't know if Safevue and Safelite were connected in any way, but you answered my question.

Safevue Representative: At one point we were. They decided to start manufacturing their glass in Germany, at which point we decided to break off, and keep our sales here in the United States. But we do auto glass, and are you looking to do a replacement or a repair, sir?

37. In another example, in April 2011, an area sales manager for Safelite received a call at her home from a telemarketer whose number that, upon information and belief, is used by Safevue. The caller told the woman that he was calling previous customers of Safelite to see if they had any auto glass that needed repair or replacement. The Safelite employee asked the caller for his name and his company's name, and he responded "Joe Hunter with Safelite." The Safelite employee knew that Safelite did not make unsolicited calls to consumers. During her conversation with the caller, she asked three times whether the caller was from Safelite. Each time the caller said "yes."

38. On or about September 27, 2011, a Denver resident was contacted by a caller who identified himself as a representative of Safelite and asked whether the resident had any cracks in his vehicle's glass that needed to be repaired or replaced. The resident said he needed a repair done and made arrangements to have the caller send out a technician to make the repairs on September 28, 2011. The resident asked whether the person would be arriving in a "Safelite" marked vehicle. The caller then told him that he was with Safevue, not Safelite, and that Safelite contracted with Safevue to conduct mobile repairs. The resident scheduled the appointment. After the call, the resident called Safelite to see if Safevue was a subcontractor of Safelite. A Safelite representative informed the resident that Safevue does not perform repairs on behalf of Safelite and is not authorized to do so.

39. On or about December 1, 2011, a Safelite employee received a call from a former customer who reported that she had been contacted “out of the blue” by a caller who identified himself as “John at Safevue Auto Glass.” Upon information and belief, he asked the customer if she needed any windshield repairs and told her that Safevue used to do all the mobile work for Safelite but broke off from Safelite after it was bought out by a Belgian company. The customer expressed concern to the Safelite employee about the validity of the caller’s claims. The Safelite employee explained that the caller’s claims were false.

40. In October 2011, a consumer from Denver, Colorado, received a call from a caller at a telephone number that, upon information and belief, is used by Safevue. The caller said he was with Safelite and wanted to know whether she had any chips or cracks in her windshield that needed repair. The consumer was familiar with Safelite through advertising she has seen. The consumer asked how the caller knew her number because it is listed on the National Do Not Call Registry and the Colorado No-Call List. The caller told her they had her number because she was a previous customer of Safelite. When she told the caller she was not a previous customer of Safelite, the caller hung up on her. The consumer reported the call to a Safelite representative, who informed her that the call did not come from Safelite.

41. Safelite has gathered information from additional consumers who have similarly reported receiving calls from Safevue telemarketers who identified themselves as representatives of Safelite.

42. Upon information and belief, Safevue telemarketers have called numerous consumers whose telephone numbers are registered with the National Do Not Call Registry and the Colorado No-Call List and have represented themselves as Safelite or an affiliate of Safelite.

Safevue's Illegal Rebate and Referral Practices

43. On Safevue's website, Safevue advertises that it has an "Affiliate Referral Program" in which it will provide payments to insurance agencies and other automotive service businesses for referring customers to Safevue for auto glass repair and replacement. A copy of the website's page is attached as **Exhibit 3**.

44. The website states:

Safevue Autoglass has a unique referral program exclusively designed for Insurance Agencies and Automotive Centers. Safevue Autoglass will pay you up to **\$50.00** for every insurance approved windshield repair or replacement you refer to us. Simple as that!

See Exhibit 3.

45. The website page shows a sample check for \$50 signed by Defendant AJ Aurit.

See Exhibit 3.

46. The website page also shows sample sporting event and concert tickets, and states: "Check out our Appreciation Incentive Packages: Sports, Theatre Concerts." The page also states: "If you are in a position or your workplace / company puts you in a position to make continuous referrals then we will issue a personal Safevue Autoglass identification card with easy to follow instructions on the back." See Exhibit 3.

47. Safevue also has advertised its Affiliate Referral Program via a YouTube video posted online, which may be viewed at <http://www.youtube.com/watch?v=REf-bdYkoNs>. A transcript of the video's dialog is attached as **Exhibit 4**.

48. Additionally, upon information and belief, Safevue has advertised its Affiliate Referral Program in brochures and other marketing materials that have been provided to insurance agents.

49. Upon information and belief, Safevue provides to insurance agents in Colorado \$50 referral vouchers as an incentive to have them refer customers to Safevue. A copy of a voucher used by Safevue is attached as **Exhibit 5**.

50. Safevue also has advertised in a brochure that it will pay customers to repair or replace their windshields. One brochure states:

Did You Know that Safevue Autoglass WILL PAY YOU up to \$100.000 to repair or replace your windshield! (Insurance Approved). NO STRINGS ATTACHED.

See Exhibit 6.

51. Safevue's offers to pay insurance agents or others as an incentive to refer customers and its offers to pay cash to consumers for performing repairs when the repair is covered by insurance is illegal under Colorado law.

52. Safevue's practices have the effect of reducing or eliminating the need for actual payment of required copayments and deductibles by an insured for property damages and interfere with contractual obligations entered into by the insured and insurer. See Colo. Rev. Stat. § 18-13-119.5.

53. Safevue's practices are injurious to the public interest because they have the effect of increasing insurance costs by removing the incentives that copayments and deductibles create in making the consumer a cost-conscious purchaser. See Colo. Rev. Stat. § 18-13-119.5.

54. Upon information and belief, Defendants will continue to commit the acts complained of herein unless enjoined.

55. Upon information and belief, Defendants' acts were willful and carried out in bad faith, or with reckless disregard for or with willful blindness to Safelite's rights, for the purpose of trading on Safelite's reputation.

56. The intentional nature of Defendants' unlawful acts renders this an "exceptional" case pursuant to 15 U.S.C. § 1117(a), entitling Safelite to all damages set forth therein, including reasonable attorneys' fees.

COUNT I
Trademark Infringement (Uses of Safelite® Trademarks) – 15 U.S.C. § 1114
(Against All Defendants)

57. Safelite incorporates by reference the allegations contained in each of the paragraphs above.

58. Defendants' use of the Safelite® Trademarks as alleged herein is likely to cause confusion, to cause mistake, or to deceive consumers as to the source of origin of Defendants' goods and services.

59. Defendants' aforesaid acts constitute trademark infringement in violation of the trademark laws of the United States, 15 U.S.C. § 1114, and at common law.

60. The foregoing acts of infringement have been and continue to be deliberate, willful, and wanton, making this an exceptional case within the meaning of 15 U.S.C. § 1117.

61. As a result of the aforesaid acts by Defendants, Safelite has been severely injured in its business and property.

62. The injury to Safelite is and continues to be immediate and irreparable.

63. An award of monetary damages alone cannot fully compensate Safelite for its injuries and Safelite lacks an adequate remedy at law.

COUNT II
Trademark Infringement (Uses of Safevue Trademark) – 15 U.S.C. § 1114
(Against All Defendants)

64. Safelite incorporates by reference the allegations contained in each of the paragraphs above.

65. Defendants' use of the "Safevue" name as alleged herein is likely to cause confusion, to cause mistake, or to deceive consumers as to the source of origin of Defendants' goods and services.

66. Defendants' aforesaid acts constitute trademark infringement in violation of the trademark laws of the United States, 15 U.S.C. § 1114, and at common law.

67. The foregoing acts of infringement have been and continue to be deliberate, willful, and wanton, making this an exceptional case within the meaning of 15 U.S.C. § 1117.

68. As a result of the aforesaid acts by Defendants, Safelite has been severely injured in its business and property.

69. The injury to Safelite is and continues to be immediate and irreparable.

70. An award of monetary damages alone cannot fully compensate Safelite for its injuries and Safelite lacks an adequate remedy at law.

COUNT III
Federal Unfair Competition – 15 U.S.C. § 1125(a)
(Against all Defendants)

71. Safelite incorporates by reference the allegations contained in each of the paragraphs above.

72. Defendant's use of Safelite's trademark as alleged herein constitutes unfair competition, false representation, and false designation of origin upon and in connection with Defendant's goods and services, and thus violates 15 U.S.C. § 1125(a), as well as common law.

73. Specifically, Safevue employees identified themselves as representatives or agents of Safelite in telephone calls made to consumers in Colorado. In doing so, Defendants invoked and used the Safelite® and Safelite AutoGlass® marks and attempted to trade upon the goodwill Safelite has developed in those marks.

74. Defendants have suggested an association, affiliation or sponsorship with or approval by Safelite so as to cause, or likely to cause, confusion or mistake, or to deceive consumers as to origin of Defendant's goods and services. Such use constitutes an effort to pass off such goods and services as originating from or approved by Safelite, all to the gain of Defendants and to the loss of and damage to Safelite.

75. Defendants' conduct has been willful and carried out in bad faith.

76. As a result of the aforesaid acts by Defendants, Safelite has been severely injured in its business and property.

77. The injury to Safelite is and continues to be immediate and irreparable. An award of monetary damages alone cannot fully compensate Safelite for its injuries and Safelite lacks an adequate remedy at law.

COUNT IV
Trademark Dilution – 15 U.S.C. § 1125(c)
(Against all Defendants)

78. Safelite incorporates by reference the allegations contained in each of the paragraphs above.

79. Defendants' use of Safelite's trademarks as alleged herein has caused and is likely to cause dilution, including blurring and tarnishment, of the distinctive quality of Safelite's famous trademark in violation of 15 U.S.C. § 1125(c)(1).

80. The foregoing acts of dilution result from Defendants' willful intention to trade upon Safelite's reputation, making this an exceptional case within the meaning of 15 U.S.C. § 1125(c)(2), entitling Safelite to the remedies set forth in 15 U.S.C. § 1117.

81. As a result of the aforesaid acts by Defendants, Safelite has been severely injured in its business and property.

82. The injury to Safelite is and continues to be immediate and irreparable.

83. An award of monetary damages alone cannot fully compensate Safelite for its injuries and Safelite lacks an adequate remedy at law.

COUNT V
Telemarketing and Consumer Fraud and Abuse Act
15 U.S.C. §§ 6102(a)(2) & 6104(a)
(Against all Defendants)

84. Safelite incorporates by reference the allegations contained in each of the paragraphs above.

85. Defendants engaged in a pattern and practice of deceptive and abusive telemarketing by fraudulently claiming to be Safelite or affiliated with Safelite.

86. Defendants provided substantial assistance and support to John Does 1-30, despite knowing or consciously avoiding knowing that the John Doe Defendants were engaged in the aforementioned deceptive and abusive telemarketing practices.

87. Defendants' conduct has been willful and carried out in bad faith.

88. Defendants have violated the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. §§ 6102(a)(2) and 6104(a); 16 C.F.R. § 310.3(b).

89. As a result of the aforesaid acts by Defendants, Safelite has been injured in its business and property, in an amount well in excess of \$50,000. The injury to Safelite is and continues to be immediate and irreparable.

COUNT VI
Deceptive Trade Practices
Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-1-105
(Against all Defendants)

90. Safelite incorporates by reference the allegations contained in each of the paragraphs above.

91. Defendants knowingly made or are making false representations as to the source, sponsorship, approval, or certification of its products and/or services.

92. Defendants' conduct has occurred in the course of Defendants' business.

93. Defendants' conduct has significantly impacted the public as actual or potential customers of Defendants' business.

94. Defendants' conduct was willful and carried out in bad faith.

95. Defendants' conduct has caused Safelite irreparable harm and injury and will continue to do so unless enjoined by this Court.

96. An award of monetary damages alone cannot fully compensate Safelite for its injuries and Safelite lacks an adequate remedy at law.

COUNT VII
State Unfair Competition – Colorado Common Law
(Against all Defendants)

97. Safelite incorporates by reference the allegations contained in each of the paragraphs above.

98. Defendants' conduct has caused and is likely to cause confusion, mistake, or deception as to the source or origin of Defendants' products and services, or the affiliation, sponsorship, or other relationship between the parties in violation of Colorado common law.

99. Defendants' conduct was willful and carried out in bad faith.

100. Defendants' conduct constitutes unfair competition in that Defendants attempted to copy and trade on the reputation and goodwill that Safelite has developed in its marks.

101. Defendants' conduct has caused Safelite irreparable harm and injury and will continue to do so unless enjoined by this Court.

102. An award of monetary damages alone cannot fully compensate Safelite for its injuries and Safelite lacks an adequate remedy at law.

COUNT VIII
Unjust Enrichment
(Against Safevue, Kanyanat Leedom, Craig Leedom, and AJ Aurit)

103. Safelite incorporates by reference the allegations contained in each of the paragraphs above.

104. Defendants' conduct in misrepresenting Safevue's affiliations, passing itself off as Safelite and trading upon the goodwill and reputation of Safelite has conferred a benefit upon Defendants that would not have been provided but for Safelite's expenditure of time and money to establish its marks, goodwill and reputation in Colorado.

105. Defendants appreciated and realized the benefit.

106. Defendants accepted the benefit without payment of its value to Safelite.

107. As a result of Defendants' conduct, Safelite is entitled to monetary damages in an amount to be proved at trial.

COUNT IX
Violation of Colorado No-Call List Act, Colo. Rev. Stat. § 6-1-906(1)
(Against all Defendants)

108. Safelite incorporates by reference the allegations contained in each of the paragraphs above.

109. Defendants made or caused to be made telephone solicitations to the telephone numbers of numerous residential and/or wireless telephone service subscribers in Colorado whose telephone numbers and zip codes were added to the Colorado no-call list in accordance with rules promulgated under Colo. Rev. Stat. § 6-1-905.

110. The telephone numbers of numerous residential and/or wireless telephone service subscribers solicited by Defendants were listed on the Colorado no-call list at the time Defendants made or caused to be made the telephone solicitations.

111. Defendants are not registered in accordance with the provisions of the Colorado No-Call List Act, Colo. Rev. Stat. § 6-1-905.

112. Defendants made or caused to be made the aforementioned telephone solicitations without previously registering in accordance with the provisions of the Colorado No-Call List Act, Colo. Rev. Stat. § 6-1-905.

113. Defendants made or caused to be made the aforementioned telephone solicitations by knowingly blocking or otherwise circumventing the residential subscriber's use of a caller identification service capable of allowing the display of Defendants' telephone number.

114. Based on information and belief, Defendants were not updating their call lists as required by the Colorado No-Call List Act, Colo. Rev. Stat. § 6-1-904(4).

115. Based on the aforementioned, Defendants violated the Colorado No-Call List Act, Colo. Rev. Stat. § 6-1-901 *et seq.*, thereby engaging in or causing another to engage in deceptive trade practices under Colo. Rev. Stat. § 6-1-105(1).

116. At all times, Defendants' conduct was fraudulent, willful, knowing, or intentional and carried out in bad faith.

117. In the course of its business, Safelite was injured as a result of Defendants' deceptive trade practices because, when making the aforementioned telephone solicitations, Defendants fraudulently claimed to be Safelite or affiliated with Safelite.

118. Defendants' conduct has caused Safelite irreparable harm and injury and will continue to do so unless enjoined by this Court.

119. An award of monetary damages alone cannot fully compensate Safelite for its injuries and Safelite lacks an adequate remedy at law.

COUNT X
Abuse of Property Insurance, Colo. Rev. Stat. § 18-13-119.5
(Against all Defendants)

120. Safelite incorporates by reference the allegations contained in each of the paragraphs above.

121. Defendants have engaged in business practices that have the effect of reducing or eliminating a consumers' need for actual payment of required copayments and deductibles to an insurance company for property damages sustained to their vehicles.

122. Defendants' conduct of offering and providing cash or gift incentives or rebates to consumers has the effect of interfering with contractual obligations entered into by the insured and the insurer relating to the payments of copayments or deductibles in violation of Colo. Rev. Stat. § 18-13-119.5(1).

123. Defendants have offered and provided cash or gift incentives to insurance agents in exchange for referring their insured customers to Safevue for the repair or replacement of auto glass in violation of Colo. Rev. Stat. § 18-13-199.5(3)(b).

124. Defendants' conduct has caused Safelite irreparable harm and injury and will continue to do so unless enjoined by this Court.

125. An award of monetary damages alone cannot fully compensate Safelite for its injuries and Safelite lacks an adequate remedy at law

COUNT XI
Constructive Trust under Colorado Law
(Against Safelive, Kanyanat Leedom, Craig Leedom, and AJ Aurit)

126. Safelive incorporates by reference the allegations contained in each of the paragraphs above.

127. Safelive states upon information and belief and thereon alleges that Defendants own and/or possess tangible real and/or personal properties and assets including, but not limited to, bank, savings, and/or other financial accounts, consisting of and/or obtained by profit derived from Defendants' unauthorized use of Safelive's marks.

128. Safelive is entitled to the profits Defendants have derived from the infringement of Safelive's marks under 15 U.S.C. § 1117(a) and Defendants' acts of unfair competition, palming off, and dilution.

129. Safelive has no adequate remedy at law and has suffered irreparable harm and damage as a result of Defendants' acts as aforementioned.

130. Defendants hold those tangible real and/or personal properties and assets consisting of and/or obtained by profit derived from Defendants' infringing activities as constructive trustee for the benefit of Safelive, in an amount thus far not determined.

PRAYER FOR RELIEF

WHEREFORE, Safelive prays:

1. That Defendants and their officers, directors, agents, representatives, attorneys and all persons acting or claiming to act on their behalf or under their direction or authority, and all persons acting in concert or in participation with Defendants, be preliminarily and permanently enjoined from:

(a) representing in any manner or by any method whatsoever that goods and services not sponsored, approved, or authorized by or originating from Safelite but provided by Defendants are sponsored, approved, or authorized by or originate with Safelite, or from otherwise taking any action likely to cause confusion, mistake, or deception of the public as to the origin, approval, sponsorship, or certification of such goods and services; and

(b) representing in any manner or by any method whatsoever that any business conducted by Safevue is connected, affiliated, or otherwise associated with Safelite, or from otherwise taking any action likely to cause confusion, mistake, or deception on the part of the public as to the connection, affiliation, or other association of Defendants' businesses with Safelite;

(c) using the trademarks Safelite®, Safelite Auto Glass® or Safelite AutoGlass®, or any other trademark that is a colorable imitation of or is confusingly similar in any manner to that trademark, on or in connection with the sale, offering for sale, advertisement, or promotion of any goods or services not originating from Safelite;

(d) using the name "Safevue" or any other name or mark that is confusingly similar in any manner to the Safelite® Trademarks or that causes or is likely to cause confusion by customers in connection with the sale, offering for sale, advertisement, or promotion of any goods or services not originating from Safelite; and

(e) giving, offering or otherwise providing monetary benefits to insurance agents, consumers, and others in an effort to obtain referrals for business or to provide incentives to customers to have glass repair or replacement performed by Safevue.

2. That Safelite be awarded damages consisting of all the profits Defendants gained and all the profits lost by Safelite as a result of Defendants' actions complained of herein.

3. That Safelite be awarded damages for injury to its business reputation and the loss of its goodwill as a result of Defendants' engagement in or assistance in deceptive and abusive telemarketing practices, and by Defendants' offer to sell and sales of goods and services that they misrepresented came from or were approved by Safelite.

4. That the damages assessed against Defendants be trebled pursuant to 15 U.S.C. § 1117, Colo. Rev. Stat. § 6-1-113(2)(a)(III), and any other federal or state statute that may provide such relief.

5. That Defendants pay exemplary damages for their willful conduct, as may be provided under federal or state law.

6. That Safelite be awarded its attorneys' fees and costs as provided by the federal and state statutory authorities aforementioned, or as may be recoverable under common law.

7. That Safelite be awarded pre- and post-judgment interest, as may be recoverable under statute or common law.

8. That Defendants be found to be jointly and severally liable for any award of damages, including punitive damages, and attorneys' fees and costs.

9. That Defendants be required to report to the court within 30 days after the entry of injunctive relief that they have taken corrective action and have fully complied with the Court's order.

10. That Safelite be awarded such other and further relief as the Court may deem just, proper and equitable.

JURY DEMAND

Safelite demands a trial by jury on all issues so triable.

Dated this 21st of December, 2011.

BAKER & HOSTETLER LLP

/s/ Holli L. Hartman

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Group, Inc. and Safelite Fulfillment,
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