

**CARLSON LYNCH SWEET KILPELA & CARPENTER, LLP**

Todd D. Carpenter (CA 234464)  
402 West Broadway, 29th Floor  
San Diego, California 92101  
Telephone: 619.756.6994  
Facsimile: 619.756.6991  
tcarpenter@carlsonlynch.com

Edwin J. Kilpela  
Gary F. Lynch  
1133 Penn Avenue  
5th Floor  
Pittsburgh, Pennsylvania 15222  
Telephone: (412) 322-9243  
Facsimile: (412) 231-0246  
ekilpela@carlsonlynch.com  
glynch@carlsonlynch.com

*Attorneys for Plaintiff and  
Proposed Class Counsel*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

SIOBHAN MORROW, on behalf of  
herself and all others similarly situated,

Plaintiff,

vs.

ASCENA RETAIL GROUP, INC., a  
Delaware corporation, ANN INC, a  
Delaware corporation, and DOES 1- 50,  
inclusive,

Defendants.

Case No. '16CV0344 LAB BLM

**CLASS ACTION**

**COMPLAINT**

- 1. Violation of California’s Unfair Competition Laws (“UCL”); California Business & Professions Code Sections 17200, et seq.**
- 2. Violation of California’s False Advertising Laws (“FAL”); California Business & Professions Code Sections 17500, et seq.**
- 3. Violations of California Consumer Legal Remedies Act (“CLRA”); Civ. Code § 1750, et seq.**

**IDEMAND FOR JURY TRIAL**

1 Plaintiff SIOBHAN MORROW brings this action on behalf of herself and all others  
2 similarly situated against Defendant ASCENA RETAIL GROUP, INC. and Defendant  
3 ANN INC. (“Defendants”), and states:

4 **I. NATURE OF ACTION**

5 1. This is a class action regarding Defendants’ false and misleading  
6 advertisement of “market” prices, and corresponding phantom “savings” on clothing,  
7 shoes and fashion apparel sold in its retail outlet stores, including Ann Taylor Factory  
8 stores. During the Class Period (defined below), Defendants advertised false price  
9 discounts for merchandise sold throughout its retail outlet stores.

10 2. During the Class Period, Defendants continually misled consumers by  
11 advertising clothing, shoes and fashion apparel at discounted, “savings” prices.  
12 Defendants would compare the “sale” prices to false “market” prices, which were  
13 misrepresented as the “market” retail prices from which the “savings” was discounted.  
14 The advertised discounts were nothing more than mere phantom markdowns because the  
15 represented market prices were artificially inflated and were never the original prices for  
16 clothing, shoes and fashion apparel sold at Defendants’ retail outlet stores. In addition,  
17 the represented “market” prices were not the prevailing marketing retail prices within  
18 three months next immediately preceding the publication of the advertised former prices,  
19 as required by California law.

20 3. Defendants convey their deceptive pricing scheme to consumers through  
21 promotional materials, in-store displays, and print advertisements. For example, in  
22 Defendants’ retail outlet stores, the pricing scheme is prominently displayed, advertising  
23 deep discounts, including “50% off” various items throughout the store.

24 4. The “market price” never existed and/or did not constitute the prevailing  
25 market retail prices for such products within the three months immediately preceding the  
26 publication of the sales tag. Defendants sell their own, exclusive, branded products.  
27 There is no other “market price” for the products being sold other than the price set at  
28

1 Defendants' retail outlet stores. The difference between the "sale" and "regular" prices is  
2 a false savings percentage used to lure consumers into purchasing products they believe  
3 are significantly discounted.

4 5. Through their false and misleading marketing, advertising and pricing  
5 scheme, Defendants violated, and continue to violate California law prohibiting  
6 advertising goods for sale as discounted from former prices which are false, and  
7 prohibiting misleading statements about the existence and amount of price reductions.  
8 Specifically, Defendants violated, and continue to violate, California's Business &  
9 Professions Code §§ 17200, *et seq* (the "UCL"), California's Business & Professions  
10 Code §§ 17500, *et seq* (the "FAL"), the California Consumers' Legal Remedies Act,  
11 California Civil Code §§ 1750, *et seq* (the "CLRA"), and the Federal Trade Commission  
12 Act ("FTCA"), which prohibits "unfair or deceptive acts or practices in or affecting  
13 commerce" (15 U.S.C. § 45(a)(1)) and false advertisements. 15 U.S.C. § 52(a).

14 6. Plaintiff brings this action on behalf of herself and other similarly situated  
15 consumers who have purchased one or more items of clothing, shoes or fashion apparel at  
16 Defendants' retail outlet stores that were deceptively represented as discounted from false  
17 former prices in order to halt the dissemination of this false, misleading, and deceptive  
18 price scheme, correct the false and misleading perception it has created in the minds of  
19 consumers, and obtain redress for those who have purchased these products. Plaintiff  
20 seeks restitution and other equitable remedies, including an injunction under the UCL and  
21 FAL; and restitution, damages and an injunction under the CLRA.

## 22 **II. JURISDICTION AND VENUE**

23 7. This Court has original jurisdiction of this Action pursuant to the Class  
24 Action Fairness Act, 28 U.S.C §1332 (d)(2). The matter in controversy, exclusive of  
25 interest and costs, exceeds the sum or value of \$5,000,000 and at least some members of  
26 the proposed Class have a different citizenship from Defendants.

27 8. The Southern District of California has personal jurisdiction over the  
28 Defendants named in this action because Defendants are corporations or other business

1 entities authorized to conduct and do conduct business in the State of California.  
2 Defendant Ascena Retail Group, Inc. is registered with the California Secretary of State to  
3 do sufficient business with sufficient minimum contacts in California. Defendants  
4 intentionally avail themselves of the California market through the ownership and  
5 operation of approximately 13 retail outlet Ann Taylor Factory stores, and other retail  
6 outlet stores within the State of California.

7 9. Venue is proper under 18 U.S.C. §1965(a) because Defendants transact  
8 substantial business in this District. A substantial part of the events giving rise to  
9 Plaintiff's claims arose here.

### 10 **III. PARTIES**

#### 11 **Plaintiff**

12 10. SIOBHAN MORROW resides in San Diego, California. Plaintiff, in reliance  
13 on Defendants' false and deceptive advertising, marketing and "discount" pricing  
14 schemes, purchased a pair of pants for herself for approximately \$40.00 on or around  
15 November 13, 2015 at an Ann Taylor Factory Store located in San Diego, California. The  
16 pair of pants was advertised as having an original price of \$79.99. That price was  
17 discounted and represented to Plaintiff as "50% off" according to the price tag and related  
18 signage. However, this product was never offered for sale at \$79.99 at Defendants' retail  
19 outlet store, nor was it offered at that price within the 90-day time period immediately  
20 preceding Plaintiff's purchase. Therefore, Ms. Morrow was damaged by her purchase of  
21 the product.

#### 22 **Defendant**

23 11. Plaintiff is informed and believes, and upon such information and belief  
24 alleges, Defendant Ascena Retail Group, Inc. is a Delaware corporation with its principal  
25 executive offices in Mahwah, New Jersey. Defendant Ascena Retail Group, Inc. is the  
26 parent company of wholly-owned subsidiary Defendant Ann Inc. Defendants operate  
27 Ann Taylor and related outlet Ann Taylor Factory stores as well as the anntaylor.com  
28 website, and advertises, markets, distributes, and/or sells clothing and clothing accessories

1 in California and throughout the United States.

2       **12.** Plaintiff is informed and believes, and upon such information and belief  
3 alleges, Defendant Ann Inc. is a Delaware corporation with its principal executive offices  
4 in New York, New York.

5       **13.** Plaintiff does not know the true names or capacities of the persons or entities  
6 sued herein as DOES 1-50, inclusive, and therefore sues such Defendants by such  
7 fictitious names. Plaintiff is informed and believes, and upon such information and belief  
8 alleges, that each of the DOE Defendants is in some manner legally responsible for the  
9 damages suffered by Plaintiff and the Class members as alleged herein. Plaintiff will  
10 amend this Complaint to set forth the true names and capacities of these Defendants when  
11 they have been ascertained, along with appropriate charging allegations, as may be  
12 necessary.

#### 13 **IV. FACTUAL BACKGROUND**

14       **14.** On or around November 13, 2015, Plaintiff went shopping at the Las  
15 Americas Premium Outlets in San Diego, California to purchase clothing and related  
16 apparel for herself and her family. Upon examining a particular pair of women's "M  
17 Pants" at the Ann Taylor Factory store, she observed that the pants were advertised at  
18 "50% off". Plaintiff observed signage within the store and the price tag on the pants  
19 which represented that the pants were "50% off". Believing that she was receiving a  
20 significant value by purchasing a pair of pants for \$39.99 that were originally priced at  
21 \$79.99, she decided to purchase the pants and proceeded to the cash register where she did  
22 in fact purchase the pants.

23       **15.** Specifically, relying upon Defendants' misrepresentations and false and  
24 deceptive advertising, Plaintiff purchased the pants for \$39.99. The receipt for the pants  
25 stated: "YOU SAVED 40.00". The price tag indicated the original or "market" price of  
26 the pants was "\$79.99", and that they were being offered at a discount, described as  
27 "79.99 – 40.00 Special % Off Total". These purported "market" prices and corresponding  
28 price "discounts" and savings were false and misleading, as the prevailing retail price for

1 the “M Pants” during the three months immediately prior to Plaintiff’s purchase was not  
2 the \$79.99 “market” price advertised by Defendants.

3       **16.** Plaintiff would not have purchased the pants without the misrepresentations  
4 made by Defendants. As a result, Plaintiff has been personally victimized by and suffered  
5 economic injury as a direct result of Defendants’ unlawful, unfair and fraudulent conduct.

6       **17.** Defendants know that their comparative price advertising is false, deceptive,  
7 misleading and unlawful under California law.

8       **18.** Defendants fraudulently concealed from and intentionally failed to disclose  
9 to Plaintiff and other members of the proposed class the truth about its advertised price  
10 and former prices.

11       **19.** At all relevant times, Defendants have been under a duty to Plaintiff and the  
12 proposed class to disclose the truth about its false discounts.

13       **20.** Plaintiff relied upon Defendants’ artificially inflated “market” price and false  
14 discounts when purchasing her pants at Defendants’ Ann Taylor Factory store. Plaintiff  
15 would not have made such purchases but for Defendants’ representations of fabricated  
16 original “market” prices and false discounts.

17       **21.** Plaintiff and the Class reasonably and justifiably acted and relied on the  
18 substantial price differences that Defendants advertised, and made purchases believing  
19 that they were receiving a substantial discount on an item of greater value than it actually  
20 was. Plaintiff, like other class members, was lured in, relied on, and damaged by these  
21 pricing schemes that Defendants carried out.

22       **22.** Defendants intentionally concealed and failed to disclose material facts  
23 regarding the truth about false former price advertising in order to provoke Plaintiff and  
24 the proposed class to purchase Ann Taylor branded products in its Ann Taylor Factory  
25 and/or retail outlet stores and/or on its Internet website.

26 **V. CLASS ALLEGATIONS**

27       **23.** Plaintiff brings this action on behalf of herself and all other similarly situated  
28 Class members pursuant to Rule 23(a), (b)(2) and (b)(3) of the Federal Rules of Civil

1 Procedure and seeks certification of the following Class against Defendants for violations  
2 of California state laws:

3 All persons who, within the applicable statute of limitations preceding the  
4 filing of this action, purchased one or more items offered at a purported  
5 discount from an “original” or “regular” or “manufacturer’s suggested” price  
6 at one of Defendant’s retail stores.

7 Excluded from the Class are Defendants, as well as their officers, employees,  
8 agents or affiliates, and any judge who presides over this action, as well as all past and  
9 present employees, officers and directors of Defendants. Plaintiff reserves the right to  
10 expand, limit, modify, or amend this class definition, including the addition of one or  
11 more subclasses, in connection with her motion for class certification, or at any other  
12 time, based upon, *inter alia*, changing circumstances and/or new facts obtained during  
13 discovery.

14 **24. *Numerosity:*** The class members are so numerous that joinder of all members  
15 is impracticable. Plaintiff is informed and believes that the proposed Class contains  
16 hundreds of thousands of individuals who have been damaged by Defendants’ conduct as  
17 alleged herein. The precise number of Class members is unknown to Plaintiff.

18 **25. *Existence and Predominance of Common Questions of Law and Fact:***  
19 This action involves common questions of law and fact, which predominate over any  
20 questions affecting individual Class members. These common legal and factual questions  
21 include, but are not limited to, the following:

22 **a.** Whether, during the Class Period, Defendants used false “market” or  
23 “original” price labels and falsely advertised price discounts on their  
24 Ann Taylor branded products they sold in their Ann Taylor Factory  
25 and/or retail outlet stores;

26 **b.** Whether, during the Class Period, the “original” or “market” prices  
27 advertised by Defendants were the prevailing market prices for the  
28 respective Ann Taylor branded products during the three months

1 period preceding the dissemination and/or publication of the advertised  
2 former prices;

3 c. Whether Defendants' alleged conduct constitutes violations of the laws  
4 asserted;

5 d. Whether Defendants engaged in unfair, unlawful and/or fraudulent  
6 business practices under the laws asserted;

7 e. Whether Defendants engaged in false or misleading advertising;

8 f. Whether Plaintiff and Class members are entitled to damages and/or  
9 restitution and the proper measure of that loss; and

10 g. Whether an injunction is necessary to prevent Defendants from  
11 continuing to use false, misleading or illegal price comparison.

12 **26. Typicality:** Plaintiff's claims are typical of the claims of the members of the  
13 Class because, *inter alia*, all Class members have been deceived (or were likely to be  
14 deceived) by Defendants' false and deceptive price advertising scheme, as alleged herein.  
15 Plaintiff is advancing the same claims and legal theories on behalf of herself and all  
16 members of the class.

17 **27. Adequacy:** Plaintiff will fairly and adequately protect the interests of the  
18 members of the Class. Plaintiff has retained counsel experienced in complex consumer  
19 class action litigation, and Plaintiff intends to prosecute this action vigorously. Plaintiff  
20 has no antagonistic or adverse interest to those of the Class.

21 **28. Superiority:** The nature of this action and the nature of laws available to  
22 Plaintiff and the Class make the use of the class action format a particularly efficient and  
23 appropriate procedure to afford relief to her and the class for the wrongs alleged. The  
24 damages or other financial detriment suffered by individual Class members is relatively  
25 modest compared to the burden and expense that would be entailed by individual  
26 litigation of their claims against Defendants. It would thus be virtually impossible for  
27 Plaintiff and Class members, on an individual basis, to obtain effective redress for the  
28 wrongs done to them. Absent the class action, Class members and the general public



1 would not likely recover, or would not likely have the chance to recover, damages or  
2 restitution, and Defendants will be permitted to retain the proceeds of its fraudulent and  
3 deceptive misdeeds.

4       **29.** All Class members, including Plaintiff, were exposed to one or more of  
5 Defendants’ misrepresentations or omissions of material fact claiming that former  
6 “original” advertised prices were in existence. Due to the scope and extent of Defendants’  
7 consistent false “discount” price advertising scheme, disseminated in a years-long  
8 campaign to California consumers via a number of different platforms – in-store displays,  
9 print advertisements, etc. – it can be reasonably inferred that such misrepresentations or  
10 omissions of material fact were uniformly made to all members of the Class. In addition,  
11 it can be reasonably presumed that all Class members, including Plaintiff, affirmatively  
12 acted in response to the representations contained in Defendants’ false advertising scheme  
13 when purchasing Ann Taylor branded merchandise at Defendants’ Ann Taylor Factory  
14 and/or retail outlet stores.

15       **30.** Defendants keep extensive computerized records of its customers through,  
16 *inter alia*, customer loyalty programs, co-branded credit cards and general marketing  
17 programs. Defendants have one or more databases through which a significant majority  
18 of Class members may be identified and ascertained, and they maintain contact  
19 information, including email and home addresses, through which notice of this action  
20 could be disseminated in accordance with due process requirements.

21 **VI. CAUSES OF ACTION**

22                                   **FIRST CAUSE OF ACTION**  
23                                   **Violation Unfair Competition Law**  
                                  **Business and Professions Code § 17200 et seq.**

24       **31.** Plaintiff repeats and re-alleges the allegations contained in every preceding  
25 paragraph as if fully set forth herein.

26       **32.** The UCL defines unfair business competition to include any “unlawful,  
27 unfair or fraudulent” act or practice, as well as any “unfair, deceptive, untrue or  
28

1 misleading” advertising. Cal. Bus. Prof. Code § 17200.

2       **33.** The UCL imposes strict liability. Plaintiff need not prove that Defendants  
3 intentionally or negligently engaged in unlawful, unfair, or fraudulent business practices –  
4 but only that such practices occurred.

5       **34.** A business act or practice is “unfair” under the UCL if it offends an  
6 established public policy or is immoral, unethical, oppressive, unscrupulous or  
7 substantially injurious to consumers, and that unfairness is determined by weighing the  
8 reasons, justifications and motives of the practice against the gravity of the harm to the  
9 alleged victims.

10       **35.** Defendants’ actions constitute “unfair” business acts or practices because, as  
11 alleged above, Defendants engaged in misleading and deceptive price comparison  
12 advertising that represented false “regular” prices and “discount” prices that were nothing  
13 more than fabricated “regular” prices leading to phantom markdowns. Defendants’ acts  
14 and practices offended an established public policy, and engaged in immoral, unethical,  
15 oppressive, and unscrupulous activities that are substantially injurious to consumers.

16       **36.** The harm to Plaintiff and Class members outweighs the utility of  
17 Defendants’ practices. There were reasonably available alternatives to further  
18 Defendants’ legitimate business interests, other than the misleading and deceptive conduct  
19 described herein.

20       **37.** A business act or practice is “fraudulent” under the UCL if it is likely to  
21 deceive members of the consuming public.

22       **38.** A business act or practice is “unlawful” under the UCL if it violates any  
23 other law or regulation.

24       **39.** Defendants’ acts and practices alleged above have deceived Plaintiff and are  
25 highly likely to deceive members of the consuming public. Plaintiff relied on Defendants’  
26 fraudulent and deceptive representations regarding its “market” prices for Ann Taylor  
27 branded products that Defendants sell at their Ann Taylor Factory and/or other retail  
28 outlet stores. These misrepresentations played a substantial role in Plaintiff’s decision to

1 purchase merchandise at a steep discount, and Plaintiff would not have purchased such  
2 merchandise without Defendants' misrepresentations.

3 **40.** The FTCA prohibits "unfair or deceptive acts or practices in or affecting  
4 commerce" (15 U.S.C. § 45(a)(1)) and prohibits the dissemination of any false  
5 advertisements. 15 U.S.C. § 52(a). Under the FTC, false former pricing schemes, similar  
6 to the ones implemented by Defendants, are described as deceptive practices that would  
7 violate the FTCA:

8 (a) One of the most commonly used forms of bargain advertising is to offer a  
9 reduction from the advertiser's own former price for an article. If the former  
10 price is the actual, bona fide price at which the article was offered to the  
11 public on a regular basis for a reasonably substantial period of time, it  
12 provides a legitimate basis for the advertising of a price comparison. Where  
13 the former price is genuine, the bargain being advertised is a true one. If, on  
14 the other hand, the former price being advertised is not bona fide but  
15 fictitious – for example, where an article price, inflated price was established  
16 for the purpose of enabling the subsequent offer of a large reduction – the  
17 "bargain" being advertised is a false one; the purchaser is not receiving the  
18 unusual value he expects.

19 (b) A former price is not necessarily fictitious merely because no sales at the  
20 advertised price were made. The advertiser should be especially careful,  
21 however, in such a case, that the price is one at which the product was openly  
22 and actively offered for sale, for a reasonably substantial period of time, in  
23 the recent, regular course of her business, honestly and in good faith – and, of  
24 course, not for the purpose of establishing a fictitious higher price on which a  
25 deceptive comparison might be based.

26 **41.** California law also expressly prohibits false former pricing schemes. Cal.  
27 Bus. & Prof. Code §17501, entitled "*Value determinations; Former price advertisement,*"  
28 states:

1 For the purpose of this article the worth or value of any thing advertised is  
2 the prevailing market price, wholesale if the offer is at wholesale, retail if the  
3 offer is at retail, at the time of publication of such advertisement in the  
4 locality wherein the advertisement is published.

5 **No price shall be advertised as a former price of any advertised thing,**  
6 **unless the alleged former price was the prevailing market price as above**  
7 **defined within three months next immediately preceding the publication**  
8 **of the advertisement** or unless the date when the alleged former price did  
9 prevail is clearly, exactly and conspicuously stated in the advertisement.

10 [Emphasis added.]

11 42. As detailed in Plaintiff's Third Cause of Action below, Cal. Civ. Code §  
12 1770(a)(9), prohibits a business from "[a]dvertising goods or services with intent not to  
13 sell them as advertised," and subsection (a)(13) prohibits a business from "[m]aking false  
14 or misleading statements of fact concerning reasons for, existence of, or amounts of price  
15 reductions."

16 43. Defendants' practices, as set forth above, have misled Plaintiff, the proposed  
17 class, and the general public in the past and will continue to mislead in the future.  
18 Consequently, Defendants' practices constitute an unlawful an unfair business practice in  
19 within the meaning of the UCL.

20 44. Defendants' violation of the UCL through its unlawful, unfair and fraudulent  
21 business practices are ongoing and present a continuing threat that members of the public  
22 will be deceived into purchasing products based on price comparisons of arbitrary and  
23 inflated "regular" prices to "sale" prices that created merely phantom markdowns and lead  
24 to financial damage for consumers, like Plaintiff and the proposed Class.

25 45. Pursuant to the UCL, Plaintiff is entitled to preliminary and permanent  
26 injunctive relief ordering Defendants to cease this unfair competition, as well as  
27 disgorgement and restitution to Plaintiff and the Class of all of Defendants' revenues  
28 associated with its unfair competition, or such portion of those revenues as the Court may

1 find equitable.

2 **SECOND CAUSE OF ACTION**  
3 **Violation of the California False Advertising Law,**  
4 **California Business & Professions Code § 17500, *et seq.***

4 **46.** Plaintiff repeats and re-alleges the allegations contained in every preceding  
5 paragraph as if fully set forth herein.

6 **47.** Cal. Bus. & Prof. Code § 17500 provides that “[i]t is unlawful for  
7 any...corporation...with intent...to dispose of...personal property...to induce the public  
8 to enter into any obligation relating thereto, to make or disseminate or cause to be made or  
9 disseminated...from this state before the public in any state, in any newspaper or other  
10 publication, or any advertising device, or by public outcry or proclamation, or in any other  
11 manner or means whatever, including over the Internet, any statement...which is untrue or  
12 misleading, and which is known, or which by the exercise of reasonable care should be  
13 known, to be untrue or misleading....” [Emphasis added].

14 **48.** The “intent” required by Cal. Bus. & Prof. Code § 17500 is the intent to  
15 dispose of property, and not the intent to mislead the public in the disposition of such  
16 property.

17 **49.** Similarly, this section provides, “no price shall be advertised as a former  
18 price of any advertised thing, unless the alleged former prices was the prevailing market  
19 price...within three months next immediately preceding the publication of the  
20 advertisement or unless the date when the alleged former price did prevail is clearly,  
21 exactly, and conspicuously stated in the advertisement.” Cal Bus. & Prof. Code § 17501.

22 **50.** Defendants’ routine of advertising discounted prices from false “market”  
23 prices associated with its Ann Taylor Factory Store and other retail outlet products which  
24 were never the true prevailing “market” prices of those products and were materially  
25 greater than the true prevailing prices was an unfair, untrue and misleading practice. This  
26 deceptive marketing practice gave consumers the false impression that the products were  
27 regularly sold on the market for a substantially higher price than they actually were,  
28 therefore leading to the false impression that the Ann Taylor branded products were worth

1 more than they actually were.

2 **51.** Defendants misled consumers by making untrue and misleading statements  
3 and failing to disclose what is required as stated in the Code, as alleged above.

4 **52.** As a direct and proximate result of Defendants' misleading and false  
5 advertisements Plaintiff and Class members have suffered injury in fact and have lost  
6 money. As such, Plaintiff requests that this Court order Defendants to restore this money  
7 to Plaintiff and all Class members, and to enjoin Defendants from continuing these unfair  
8 practices in violation of the UCL in the future. Otherwise, Plaintiff, Class members and  
9 the broader general public will be irreparably harmed and/or denied an effective and  
10 complete remedy.

11 **THIRD CAUSE OF ACTION**  
12 **Violation of the Consumers Legal Remedies Act ("CLRA"),**  
13 **California Civil Code § 1750, et seq.**

14 **53.** Plaintiff repeats and re-alleges the allegations contained in every preceding  
15 paragraph as if fully set forth herein.

16 **54.** This cause of action is brought pursuant to the Consumers Legal Remedies  
17 Act (CLRA), California Civil Code § 1750, et seq. and similar laws in other states.  
18 Plaintiff and each member of the proposed class are "consumers" as defined by California  
19 Civil Code § 1761(d). Defendants' sale of Ann Taylor branded products at its Ann Taylor  
20 Factory and/or other retail outlet stores to Plaintiff and the Class were "transactions"  
21 within the meaning of California Civil Code § 1761(e). The products purchased by  
22 Plaintiff and the Class are "goods" within the meaning of California Civil Code § 1761(a).

23 **55.** Defendants violated and continues to violate the CLRA by engaging in the  
24 following practices proscribed by California Civil Code § 1770(a) in transactions with  
25 Plaintiff and the Class which were intended to result in, and did result in, the sale of Ann  
26 Taylor branded products:

- 27 **a.** Advertising goods or services with intent not to sell them as  
28 advertised;
- b.** Making false or misleading statements of fact concerning reasons for,

1 existence of, or amounts of price reductions.

2 **56.** Pursuant to § 1782(a) of the CLRA, on February 10, 2016, Plaintiff's counsel  
3 notified Defendants in writing by certified mail of the particular violations of § 1770 of  
4 the CLRA and demanded that it rectify the problems associated with the actions detailed  
5 above and give notice to all affected consumers of Defendants' intent to act. If  
6 Defendants fail to respond to Plaintiff's letter or agree to rectify the problems associated  
7 with the actions detailed above and give notice to all affected consumers within 30 days of  
8 the date of written notice, as proscribed by § 1782, Plaintiff will move to amend her  
9 Complaint to pursue claims for actual, punitive and statutory damages, as appropriate  
10 against Defendants. As to this cause of action, at this time, Plaintiff seeks only injunctive  
11 relief.

12 **VII. PRAYER FOR RELIEF**

13 **57.** Wherefore, Plaintiff, on behalf of herself and on behalf of the other members  
14 of the Class, requests that this Court award relief against Defendants as follows:

- 15 **a.** An order certifying the class and designating SIOBHAN MORROW  
16 as the Class Representative and her counsel as Class Counsel;
- 17 **b.** Awarding Plaintiff and the proposed Class members damages;
- 18 **c.** Awarding restitution and disgorgement of all profits and unjust  
19 enrichment that Defendants obtained from Plaintiff and the Class  
20 members as a result of its unlawful, unfair and fraudulent business  
21 practices described herein;
- 22 **d.** Awarding declaratory and injunctive relief as permitted by law or  
23 equity, including: enjoining Defendants from continuing the unlawful  
24 practices as set forth herein, and directing Defendants to identify, with  
25 Court supervisions, victims of its misconduct and pay them all money  
26 they are required to pay;
- 27 **e.** Order Defendants to engage in a corrective advertising campaign;
- 28 **f.** Awarding attorneys' fees and costs; and

g. For such other and further relief as the Court may deem necessary or appropriate.

**VIII. DEMAND FOR JURY TRIAL**

58. Plaintiff hereby demands a jury trial for all of the claims so triable.

Dated: February 10, 2016

**CARLSON LYNCH SWEET  
KILPELA & CARPENTER, LLP**

*/s/ Todd D. Carpenter*

Todd D. Carpenter (CA 234464)  
402 West Broadway, 29th Floor  
San Diego, California 92101  
Telephone: (619) 347-3517  
Facsimile: (619) 756-6990  
tcarpenter@carlsonlynch.com

Edwin J. Kilpela  
Gary F. Lynch  
1133 Penn Avenue  
5th Floor  
Pittsburgh, Pennsylvania 15222  
Telephone: (412) 322-9243  
Facsimile: (412) 231-0246  
ekilpela@carlsonlynch.com  
glynch@carlsonlynch.com

*Attorneys for Plaintiff*



CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Siobhan Morrow, on behalf of herself and all others similarly situated,

(b) County of Residence of First Listed Plaintiff San Diego (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Todd D. Carpenter (CA SBN 234464) 402 West Broadway 29th Floor, San Diego, California 92101 619-756-6994

DEFENDANTS

ASCENA Retail Group, Inc., a Delaware corporation, ANN Inc., a Delaware corporation, and DOES 1 - 50, inclusive,

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) '16CV0344 LAB BLM

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. Sec 1332(d)(2), 15 U.S.C. Sec 45(a)(1) and 15 U.S.C. Sec 52(a) Brief description of cause: False and Misleading Advertising

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 02/10/2016 SIGNATURE OF ATTORNEY OF RECORD s/ TODD D. CARPENTER

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

**CARLSON LYNCH SWEET KILPELA & CARPENTER, LLP**

Todd D. Carpenter (CA 234464)  
402 West Broadway, 29th Floor  
San Diego, California 92101  
Telephone: 619.756.6994  
Facsimile: 619.756.6991  
tcarpenter@carlsonlynch.com

*Attorney for Plaintiff*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

SIOBHAN MORROW on behalf of  
herself and all others similarly situated,

Plaintiff,

v.

ASCENA RETAIL GROUP, INC., a  
Delaware corporation, ANN INC, a  
Delaware corporation, and DOES 1- 50,  
inclusive,

Defendants.

Case No.: '16CV0344 LAB BLM

**DECLARATION OF TODD D.  
CARPENTER RE: JURISDICTION**

I, Todd D. Carpenter, declare as follows:

1. I am an attorney duly licensed to practice before all of the courts of the State of California. I am a Partner in the law firm of Carlson Lynch Sweet Kilpela & Carpenter, LLP, and the counsel of record for Plaintiff in the above-entitled action.

2. Defendant Ascena Retail Group, Inc. has done and is doing business in the Southern District of California. Such business includes the marketing, distributing, and sale of clothing and clothing accessories.

1 3. Furthermore, Plaintiff Siobhan Morrow purchased clothing from  
2 Defendant in the Southern District of California.

3 I declare under penalty of perjury under the laws of the State of California  
4 that  
5 the foregoing is true and correct.

6 Executed this Wednesday, February 10, 2016 in San Diego, California.

7  
8 Dated: February 10, 2016

**CARLSON LYNCH SWEET  
KILPELA & CARPENTER, LLP**

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10  
11 /s/ Todd D. Carpenter  
12 Todd D. Carpenter (CA 234464)  
13 402 West Broadway, 29th Floor  
14 San Diego, California 92101  
15 Telephone: (619) 347-3517  
16 Facsimile: (619) 756-6990  
17 tcarpenter@carlsonlynch.com

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*Attorneys for Plaintiff*

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*Attorney for Plaintiff*

**IN THE UNITED STATES DISTRICT COURT  
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SIOBHAN MORROW on behalf of  
herself and all others similarly situated,

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I, Todd D. Carpenter, declare as follows:

1. I am an attorney duly licensed to practice before all of the courts of the State of California. I am a Partner in the law firm of Carlson Lynch Sweet Kilpela & Carpenter, LLP, and the counsel of record for Plaintiff in the above-entitled action.

2. Defendant Ann Inc. has done and is doing business in the Southern District of California. Such business includes the marketing, distributing, and sale of clothing and clothing accessories.

1           3.     Furthermore, Plaintiff Siobhan Morrow purchased clothing from  
2 Defendant in the Southern District of California.

3           I declare under penalty of perjury under the laws of the State of California  
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*Attorney for Plaintiff*