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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

BRENNA CEJA, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

WAL-MART STORES, INC., a Delaware
corporation.

Defendants.

CASE NO.

CLASS ACTION COMPLAINT FOR:

1. **Violations of the *Business and Professions Code* §17200**
2. **Violations of the *Business and Professions Code* §17500**
3. **Violation of the Consumer Legal Remedies Act California Civil Code § 1750, et seq**
4. **Unjust Enrichment**
5. **Violations of Consumer Fraud Laws**

JURY TRIAL DEMANDED

Plaintiff Brenna Ceja ("Plaintiff") brings this complaint on behalf of herself and all others similarly situated. All allegations in this Complaint ("Complaint") are based upon information and belief, except for those allegations which pertain to the Plaintiff named herein and her counsel. Plaintiff's information and beliefs are based upon, *inter alia*, the investigation conducted to date by Plaintiff and her counsel. Each allegation in this Complaint either has evidentiary support or is likely to have evidentiary support after a reasonable opportunity for further

investigation and discovery. Plaintiff hereby alleges as follows:

NATURE OF THE ACTION

1. This action seeks to remedy the unfair, deceptive, and unlawful business practices of Wal-Mart Stores, Inc. (“Wal-Mart” or “Defendant”) with respect to the marketing, advertising, warranting, and sales of its “rollback” priced merchandise. Specifically, during the Class Period (defined below), Wal-Mart advertised false former prices and false price discounts with the intention of artificially inflating urgency and demand in its customer base and increasing the company’s sales and profits.

2. Wal-Mart, the Arkansas-based behemoth is easily the planet's largest retailer¹. Wal-Mart operates retail and other stores in various formats around the world. The Walmart U.S. segment includes the Company’s mass merchant concept in the United States (“U.S.”), operating under the “Walmart” or “Wal-Mart” brand with various formats, including supercenters, discount stores, Neighborhood Markets and other small stores, as well as walmart.com.

3. From day one Wal-Mart recognized that consumers are price-conscious – a trend which appears to be increasing.

4. Indeed, Walmart’s mission statement is “Saving people money so they can live better.”² This statement is synonymous to the company’s slogan, “Save money. Live better.”

5. As part of a scheme to make Wal-Mart’s merchandise more attractive to consumers, boost its sales, and ultimately increase its profits Wal-Mart offers, in addition to its “everyday low prices” discounted “rollback” merchandise.

6. During the Class Period, however, Wal-Mart misrepresented the existence, nature and amount of price discounts by purporting to offer specific dollar discounts from expressly referenced former retail prices, which were misrepresented as “was” or the company’s

¹<https://www.forbes.com/sites/laurengensler/2016/05/27/global-2000-worlds-largest-retailers/#4a56b96fbbb0>.

² http://www.annualreports.com/HostedData/AnnualReportArchive/w/NYSE_WMT_2008.pdf; http://s2.q4cdn.com/056532643/files/doc_financials/2014/Annual/2014-annual-report.pdf; See also <http://corporate.walmart.com>

original/regular retail prices. These purported discounts were false, however, because the referenced former retail prices were fabricated and did not represent Wal-Mart's true original retail prices for the purportedly discounted items. Furthermore, the advertised "was" prices for Wal-Mart's "roll-back" discounted items were not the prevailing market retail prices within three months next immediately preceding the publication of the advertised former prices, as required by California law.

7. California statutory and regulatory law expressly prohibits false former pricing schemes. Cal. Bus. & Prof. Code § 17501, entitled "Worth or value; statements as to former price," states:

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

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

8. Similarly, the Federal Trade Commission ("FTC") describes false former pricing schemes, similar to Wal-Mart's in all material respects, as deceptive:

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

16 F.R. § 233.1(a).

9. Upon information and belief, Wal-Mart's false price advertising scheme, disseminated to California and Nationwide consumers via its in-store display advertising, print advertising and Internet Web site (www.walmart.com), was rampant as part of a massive, years-long, pervasive campaign and was consistent across all of Walmart's stores. For example, Wal-

1 Mart's in-store pricing scheme was prominently displayed directly above the purportedly "rolled
2 back" items, with express references to former "was" prices that never existed and/or did not
3 constitute the prevailing market retail prices for such products within the three months next
4 immediately preceding the publication of the advertisement.

5 10. Upon information and belief, hundreds of thousands of California consumers were
6 victims of Wal-Mart's deceptive, misleading and unlawful pricing scheme and thousands more
7 will be deceived if Wal-Mart's practices continue.

8 11. Wal-Mart knew (and knows) that its comparative price advertising was (and is
9 again) false, deceptive, misleading and unlawful under California law.

10 12. Wal-Mart fraudulently concealed from and intentionally failed to disclose to
11 Plaintiff and others similarly situated the truth about its advertised price discounts and former
12 prices.

13 13. At all relevant times, Wal-Mart has been under a duty to Plaintiff and others
14 similarly situated to disclose the truth about its "was" or former prices.

15 14. The facts which Wal-Mart misrepresented and/or failed to disclose (and which
16 Wal-Mart continues to misrepresent and/or fail to disclose) are material facts that a reasonable
17 person would consider material, i.e., facts which would contribute to a reasonable person's
18 decision to purchase products. Wal-Mart's false representations of "regular" and "original" prices
19 and false representations of purported savings, discounts and bargains are objectively material to
20 the reasonable consumer, and therefore reliance upon such representations may be presumed as a
21 matter of law.

22 15. Plaintiff saw and relied upon such false representations of "was" prices and
23 discounts when purchasing merchandise at Wal-Mart. Plaintiff would not have made such
24 purchases but for Wal-Mart's false representations of "was" prices and price discounts.

25 16. Plaintiff reasonably and justifiably acted and relied to her detriment on Wal-Mart's
26 false "original" price representations and failure to disclose, and concealment of, the truth about
27 Wal-Mart's false price-comparison advertising scheme in purchasing merchandise at Wal-Mart.
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17. Wal-Mart intentionally concealed and failed to disclose the truth about its misrepresentations and false former price advertising scheme for the purpose of inducing Plaintiff and others similarly situated to purchase merchandise at Wal-Mart. As such, Plaintiff seeks relief in this action individually and as a class action on behalf of all purchasers in the United States of Defendant's falsely advertised "roll back" priced products (the "Class"). Plaintiff also seeks relief in this action individually and as a class action on behalf of a subclass of all purchasers in California of Defendant's falsely advertised "roll back" priced products (the "California Class").

18. Through its false and deceptive marketing, advertising and pricing scheme, Wal-Mart violated (and continues to violate) California and other State laws prohibiting advertising goods for sale as discounted from former prices which are false, and prohibiting misleading statements about the existence and amount of price reductions. Specifically, Wal-Mart violated (and continues to violate) California's *Business & Professions Code* §§ 17200, et seq. (the "UCL"), California's *Business & Professions Code* §§ 17500, et seq. (the "FAL"), the California Consumers' Legal Remedies Act, California *Civil Code* §§ 1750, et seq. (the "CLRA"); the Federal Trade Commission Act ("FTCA"), which prohibits "unfair or deceptive acts or practices in or affecting commerce" (15 U.S.C. § 45(a)(1)) and specifically prohibits false advertisements (15 U.S.C. § 52(a)); the warranty laws of the States as detailed below; and common law.

19. Plaintiff, individually and on behalf of all others similarly situated, seeks restitution and other equitable remedies, including an injunction under the UCL and FAL; and restitution, damages and an injunction under the CLRA.

PARTIES

20. Plaintiff is a citizen of California and an individual consumer. During the Class Period, Plaintiff purchased products purportedly offered by Defendant on "roll back" discounted pricing featuring false and deceptive "was" price representations and comparisons on multiple occasions in the four years predating the filing of this Complaint. Such "roll back" purchases were primarily made at the Wal-Mart retail stores located in Anderson, California and Redding, California. However, in the four years predating the filing of this case,

1 Plaintiff has made purchases at other Wal-Mart retail locations within the State of California and
2 via the internet at www.walmart.com. For example, Plaintiff purchased two air mattresses in
3 April of 2016 from the Redding, California retail store which were advertised, marketed and
4 represented by Wal-Mart to be offered on “rollback” discount pricing featuring “was” pricing
5 which Plaintiff later learned to be artificially inflated, false and deceptive.

6 21. Prior to purchasing the “roll back” priced items, Plaintiff read and relied upon false
7 and misleading statements that were prepared by and/or approved by Defendant and its agents
8 and disseminated through highlighted signage placed directly in front of the subject products. For
9 each purchase, she understood that she was paying a specific discounted price for the item and
10 that such pricing was being offered by Wal-Mart for a limited time. But for Defendant’s
11 misrepresentations, Plaintiff would not have purchased the “roll back” priced products. Plaintiff
12 thus was damaged by Defendant’s practice. Plaintiff continues to purchase items from Wal-Mart
13 and thus, faces imminent future harm.

14 22. Defendant Wal-Mart is an American multinational retailing corporation that
15 operates as a chain of hypermarkets, discount department stores, and grocery stores. Wal-Mart is
16 headquartered in Little Rock, Arkansas. Wal-Mart distributes, markets, advertises, and sells “roll
17 back” priced items in California and throughout the rest of the United States.

18 **JURISDICTION AND VENUE**

19 23. This Court has original jurisdiction over the claims asserted herein individually
20 and on behalf of the class pursuant to 28 U.S.C. §1332, as amended in February 2005 by the Class
21 Action Fairness Act. Subject matter jurisdiction is proper because: (1) the amount in controversy
22 in this class action exceeds five million dollars, exclusive of interest and costs; and (2) a
23 substantial number of the members of the proposed classes are citizens of a state different from
24 that of Defendant. Personal jurisdiction is proper as Defendant has purposefully availed
25 themselves of the privilege of conducting business activities within this District.

26 24. The Eastern District of California has personal jurisdiction over the Defendant
27 named in this action because Defendant is a corporation or other business entity authorized to do
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1 business in the State of California and registered with the California Secretary of State to do
2 sufficient business with sufficient minimum contacts in California, and/or otherwise intentionally
3 avails itself of the California market through the ownership and operation of approximately retail
4 stores within the State of California including the store in Redding and Anderson at which
5 Plaintiff made purchases, to render the exercise of jurisdiction by the California courts consistent
6 with traditional notions of fair play and substantial justice.

7 25. Defendant, a citizen of Arkansas, has distributed, marketed, advertised and sold
8 the "roll back" priced merchandise with the false and deceptive former pricing, which are the
9 subject of the present complaint, in this District. As such, venue is proper in this judicial district
10 under 28 U.S.C. §1391(b)(2), because Defendant conducts business in this District and a
11 substantial part of the acts or omissions giving rise to the claims set forth herein occurred in this
12 District.

13 **ALLEGATIONS OF FACT**

14 **Wal-Mart's "Roll Back" Pricing**

15 26. It is known that consumers do not evaluate prices singly, but rather judge prices in
16 reference to standards that may be objective or subjective.³ Thus, a comparative price
17 advertisement featuring both the offered price and a (higher) comparative price is an attempt to
18 impose a reference or standard price for the consumer.

19 27. As noted by the FTC, "[o]ne of the most commonly used forms of bargain
20 advertising is to offer a reduction from the advertiser's own former price for an article." 16 C.F.R.
21 § 233.1(a).

22 28. In "former price comparisons" the seller compares the price offered with the
23 seller's former (higher) price. When "former" is used to refer to a price, the issue related to
24 deception is whether the "former" price is true in the sense the seller did intentionally sell the item
25 at the former price. Wal-Mart's "roll back" pricing scheme employs this alternative comparative
26

27 ³ Consumer Perceptions of Comparative Price Advertisements, Albert J. Della Bitta, Kent B. Monroe, And John M.
28 McGinnis, Journal of Marketing Research Vol. XVIII (November 1981), 416-27, at 417.

1 price format.

2 29. Wal-Mart has employed “rollback” pricing for decades and has advertised such
3 pricing as discounted pricing through a decades-long uniform integrated marketing campaign.
4 Such campaigns have been disseminated to the Plaintiff and the members of the Class via print,
5 television, radio and internet media. Indeed, for consumers, the term “rollback” has become
6 synonymous with discounts.

7 30. Throughout the relevant time period, Wal-Mart has offered purportedly discounted
8 pricing through “rollbacks” on items throughout its retail stores in California and throughout the
9 country.

10 31. Even single item subject to this litigation is advertised in the same manner
11 regardless of whether the item is sold by Defendant in one of its retail stores or via the internet or
12 the type of merchandise being sold (e.g. personal hygiene, grocery, electronic, baby/ toddler
13 items, clothing, sporting goods, etc.).

14 32. Each and every “rollback” discounted item is denoted by red rollback signature
15 attached, at the point of sale, to the price tag of the item and within eye sight of the consumer thus
16 guaranteeing that each member of the Class was exposed to the representation in advance of his
17 or her purchase. Each “rollback” tagged item prominently featured the purported “was” or former
18 price as well as the discounted “rollback” price.

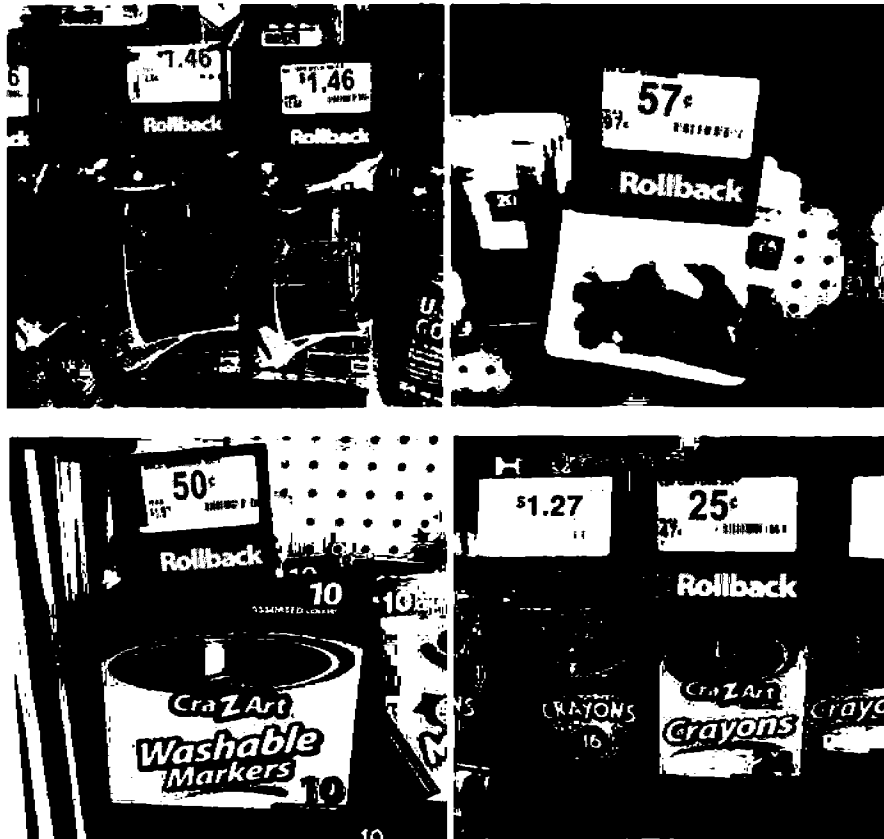
19 33. For example:
20
21

22 ///

23 ///

24 ///

25 ///



34. Additionally, items offered for sale via the internet expressly represented the amount of the discount being offered to the customer.

Straight Talk Apple iPhone 5S 16GB 4G LTE Prepaid Smartphone

1330 reviews Q&A By: Apple Walmart #: 555941311

\$149⁰⁰

Was \$450.00

2-Day Shipping

Actual Color : Choose an option

Quantity: 1

Add to Cart

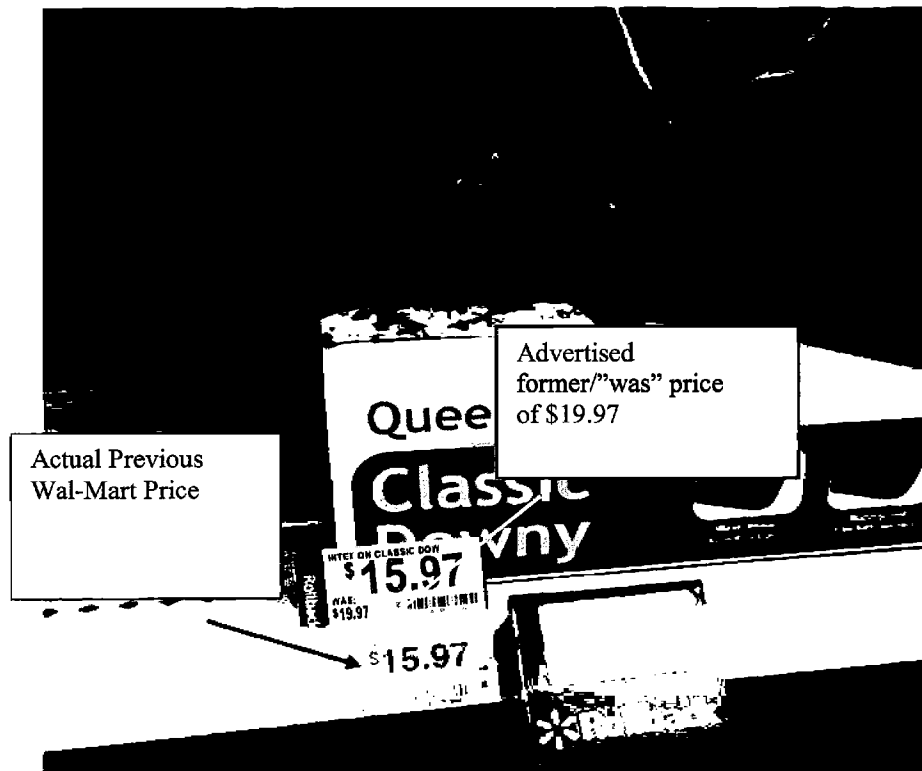
Add to List

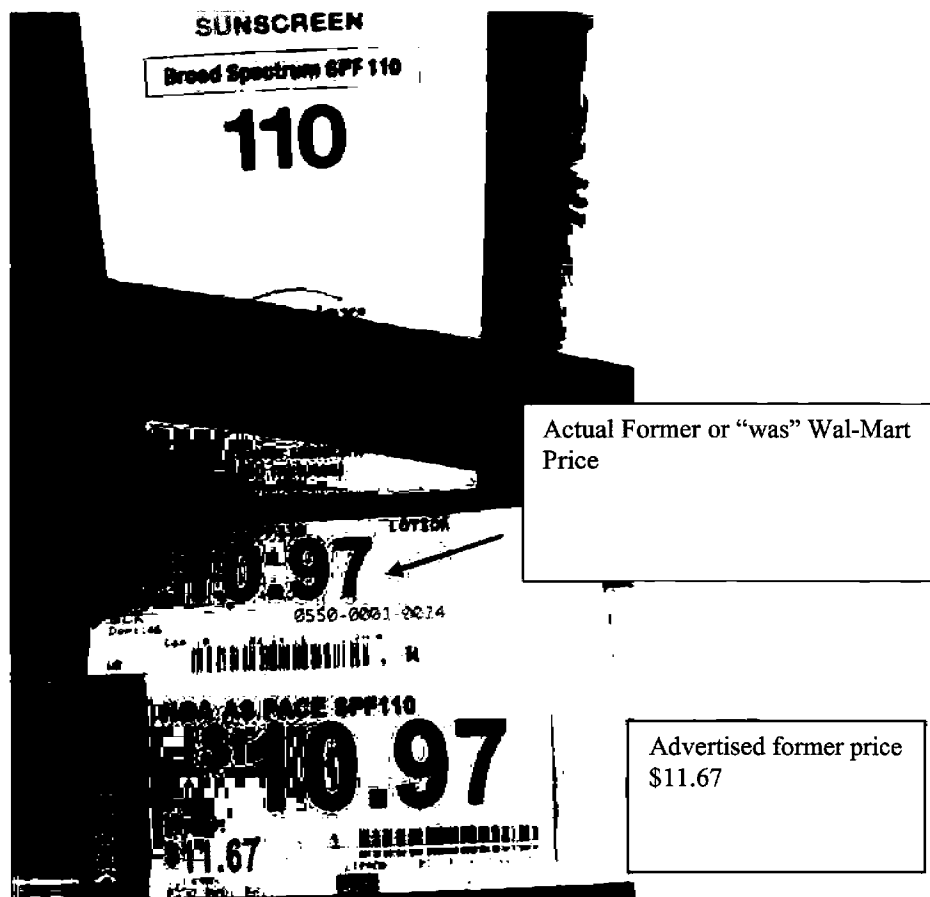
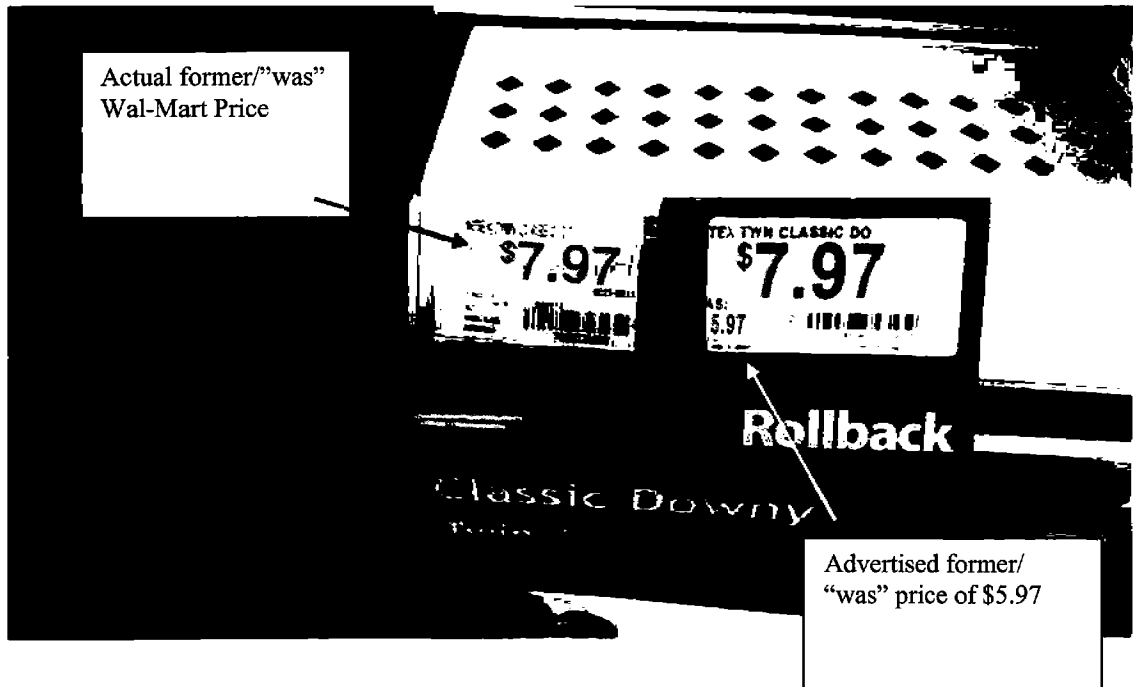
Add to Registry



35. The use of these terms and imagery is designed to, and does, induce consumers, such as Plaintiff and the members of the putative classes, into believing that the “rollback” merchandise is being offered at a price discounted from Wal-Mart’s former or standard retail price and that such pricing is being offered for a limited time as compared to Wal-Mart’s “everyday low pricing” which it offers continuously on items throughout the store.

36. Such pricing comparisons were false and deceptive because the marketed, advertised, warranted, and represented former or “was” price were fabricated and did not represent Wal-Mart’s true former, usual or original retail prices for the purportedly discounted items. Furthermore, the advertised “was” prices for Wal-Mart’s “roll-back” discounted items were not the prevailing market retail prices within three months next immediately preceding the publication of the advertised former prices, as required by California law. Indeed, an inspection of various products by Plaintiff revealed, Wal-Mart’s former prices were, in fact, at or around the purported discount price:





37. Plaintiff and class members' reliance upon Defendant's false price comparison advertising was not only reasonable, but entirely intended by Wal-Mart. For example, empirical marketing studies have provided an incentive for retailers to engage in this false and fraudulent behavior:

[c]omparative price advertising offers consumers a basis for comparing the relative value of the product offering by suggesting a monetary worth of the product and any potential savings. ... [A] comparative price advertisement can be construed as deceptive if it makes any representation, or involves any practice that may materially mislead a reasonable consumer⁴.

38. In short: "[b]y creating an impression of savings, the presence of a higher reference price enhances subjects' perceived value and willingness to buy the product.... Thus, if the reference price is not truthful, a consumer may be encouraged to purchase as a result of a false sense of value."⁵

Plaintiff and the Members of the Class were Deceived By Defendant's Deceptive Price Comparisons and Suffered Injury as a Result Thereof

39. Believing she was able to pay significantly less than what certain products were worth and normally sell for in the retail marketplace, Plaintiff was induced to purchase merchandise from Defendant which was offered at prices significantly lower than its stated original prices. Plaintiff purchased such items after relying on Wal-Mart's false discounts and false "original" former prices for such products. Plaintiff would not have purchased such products if she had known that Defendant's representations were false and misleading.

40. Consumers lack the meaningful ability to test or independently ascertain the truthfulness of price tags such as representations of former pricing especially at the point of sale. Although Plaintiff was able to uncover the deception by unearthing the actual former pricing tags behind several of the "rollback" discounted merchandise, the prior tags for most such products

⁴ Comparative Price Advertising: Informative or Deceptive?, Dhruv Grewal and Larry D. Compeau, Journal of Public Policy & Marketing, Vol. 11, No. 1, at 52 (Spring 1992).

⁵ Id. at 55, 56.

1 had been removed. Without such evidence of Wal-Mart's prior pricing, consumers such as
2 Plaintiff would not know Wal-Mart's actual merchandise pricing history by simply reading the
3 "Rollback" price tag; its discovery requires investigation beyond the retail store and knowledge
4 of industry and corporate pricing structures beyond that of the average consumer. Thus,
5 reasonable consumers must, and do, rely on companies such as Wal-Mart to honestly report
6 merchandise pricing history and companies such as Wal-Mart intend and know that consumers
7 rely upon such comparative pricing statements in making their purchasing decisions. Such
8 reliance by consumers is also eminently reasonable, since companies are prohibited from making
9 false or misleading statements on its products under federal and state law.

10 41. As such, Defendant unscrupulously capitalizes on consumers' heightened demand for
11 discount priced merchandise by deceptively labeling, advertising, and marketing its "rollback"
12 price items.

13 **TOLLING OF THE STATUTE OF LIMITATIONS, FRAUDULENT CONCEALMENT,**
14 **EQUITABLE TOLLING, AND CONTINUING VIOLATIONS**

15 42. Plaintiff did not discover, and could not have discovered, through the exercise of
16 reasonable diligence the existence of the claims sued upon herein until immediately prior to
17 commencing this civil action.

18 43. Any applicable statutes of limitation have been tolled by Defendant's affirmative acts
19 of fraudulent concealment and continuing misrepresentations, as the facts alleged above reveal.

20 44. Because of the self-concealing nature of Defendant's actions and its affirmative acts
21 of concealment, Plaintiff and the Classes assert the tolling of any applicable statutes of limitations
22 affecting the claims raised herein.

23 45. Defendant continues to engage in the deceptive practice, and consequently, unwary
24 consumers are injured on a daily basis by Defendant's unlawful conduct. Therefore, Plaintiff and
25 the Classes submit that each instance that Defendant engaged in the conduct complained of herein
26 and each instance that a member of any Class purchased rollback merchandise constitutes part of
27 a continuing violation and operates to toll the statutes of limitation in this action. Defendant is
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1 estopped from relying on any statute of limitations defense because of its unfair or deceptive
2 conduct.

3 46. Defendant's conduct was and is, by its nature, self-concealing. Still, Defendant,
4 through a series of affirmative acts or omissions, suppressed the dissemination of truthful
5 information regarding its illegal conduct, and actively has foreclosed Plaintiff and the Classes
6 from learning of its illegal, unfair, and/or deceptive acts. These affirmative acts included
7 concealing the discrepancy in price between the purported original price of the rollback
8 merchandise and the actual price at which Wal-Mart offered merchandise for sale.

9 47. By reason of the foregoing, the claims of Plaintiff and the Classes are timely under any
10 applicable statute of limitations, pursuant to the discovery rule, the equitable tolling doctrine, and
11 fraudulent concealment.

12 48. Plaintiff brings this action individually and on behalf of all other persons similarly
13 situated. The Classes which Plaintiff seeks to represent comprise (hereafter referred to
14 collectively as the "Classes": The Classes are sufficiently numerous, as each includes thousands
15 of persons who have purchased the Product. Thus, joinder of such persons in a single action or
16 bringing all members of the Classes before the Court is impracticable for purposes of Rule
17 23(a)(1). The question is one of a general or common interest of many persons and it is
18 impractical to bring them all before the Court. The disposition of the claims of the members of
19 the Classes in this class action will substantially benefit both the parties and the Court.

20 **The Nationwide Class:**

- 21 a. All persons in the United States who: (1) purchased merchandise from Wal-Mart
22 on discounted "roll back prices which advertised "was" prices that did not match
23 the Defendant's former retail price for the item; (2) anytime from April 20, 2013
24 until the date of judgment; (3) for personal or household use, and not for resale or
25 distribution purposes. Specifically excluded from this Class is Defendant's
26 officers, directors, or employees, any entity in which Defendant has a controlling
27 interest; and any affiliate, legal representative, heir, or assign of Defendant. Also
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1 excluded are any federal, state, or local governmental entities, any judicial officer
2 presiding over this action and the members of his/her immediate family and
3 judicial staff, and any juror assigned to this action. (hereafter the “Nationwide
4 Class”).

5 **The California Sub-Class**

6 b. All persons in California who (1) purchased merchandise from Wal-Mart on
7 discounted “roll back prices which advertised “was” prices that did not match the
8 Defendant’s former retail price for the item; (2) anytime from April 20, 2013 until
9 the date of judgment; (3) for personal or household use, and not for resale or
10 distribution purposes. Specifically excluded from this Class is Defendant’s
11 officers, directors, or employees of Defendant; any entity in which Defendant has
12 a controlling interest; and any affiliate, legal representative, heir, or assign of
13 Defendant. Also excluded are any federal, state, or local governmental entities,
14 any judicial officer presiding over this action and the members of his/her
15 immediate family and judicial staff, and any juror assigned to this action.
16 (hereafter the “California Class”)

17 49. Plaintiff reserves the right to modify or amend the definition of the proposed Class
18 and/or add subclasses before the Court determines whether certification is appropriate.

19 50. There are questions of law and fact common to each Class for purposes of Rule
20 23(a)(2), including whether Defendant’s price tags contain misrepresentations that misled
21 Plaintiff and the other members of the Classes to believe the Product was offered at a specific
22 discounted price when it was not; Whether Defendant’s price tags advertised, marketed and
23 warranted incorrect “was” prices” for items during the Class Period. The members of each Class
24 were and are similarly affected by having purchased rollback priced items as promoted, marketed,
25 advertised, and warranted by Defendant as set forth in detail herein, and the relief sought herein
26 is for the benefit of Plaintiff and other members of the Classes. Thus, there is a well-defined
27 community of interest in the questions of law and fact involved in this action and affecting the
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1 parties.

2 51. Plaintiff asserts claims that are typical of the claims of each respective Class for
3 purposes of Rule 23(a)(3). Plaintiff and all members of each respective Class have been subjected
4 to the same wrongful conduct because they have purchased that “roll back” discounted products,
5 which were not actually discounted as represented. Plaintiff elected to purchase those item in
6 reliance on such representations. Plaintiff and the members of each Class have thus been
7 damaged.

8 52. Plaintiff will fairly and adequately represent and protect the interests of the other
9 members of each respective Class for purposes of Rule 23(a)(4). Plaintiff has no interests
10 antagonistic to those of other members of each respective Class. Plaintiff is committed to the
11 vigorous prosecution of this action and has retained counsel experienced in litigation of this nature
12 to represent her. Plaintiff anticipates no difficulty in the management of this litigation as a class
13 action.

14 53. Class certification is appropriate under Rule 23(b)(2) because Defendant has acted on
15 grounds that apply generally to each Class, so that final injunctive relief or corresponding
16 declaratory relief is appropriate respecting each Class as a whole. Defendant utilizes an
17 integrated, nationwide messaging campaign that includes uniform misrepresentations that misled
18 Plaintiff and the other members of each Class as well as a uniform and integrated pricing program.

19 54. Class certification is appropriate under Rule 23(b)(3) because common questions of law
20 and fact substantially predominate over any questions that may affect only individual members
21 of each Class. Among these common questions of law and fact are: Defendant engaged in a
22 common course of conduct giving rise to the legal rights sought to be enforced by the members
23 of each respective Class. Similar or identical statutory and common law violations and deceptive
24 business practices are involved. Individual questions, if any, pale by comparison to the numerous
25 common questions that predominate.

26 a. whether Defendant misrepresented or omitted material facts in connection
27 with the promotion, marketing, advertising and sale of “rollback” discounted
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1 items;

2 b. whether Defendant's "rollback" pricing scheme is likely to deceive the
3 members of each Class;

4 c. whether Defendant's conduct is unethical, oppressive, unscrupulous,
5 and/or substantially injurious to consumers;

6 d. whether Defendant's acts and practices in connection with the promotion,
7 marketing, advertising, distribution, and sale of the "rollback" priced items
8 violated the laws alleged herein;

9 e. whether Plaintiff and members of the Classes are entitled to injunctive and
10 other equitable relief; and

11 f. whether Defendant was unjustly enriched by its' conduct.

12 55. The injuries sustained by Plaintiff and the members of each Class flow, in each
13 instance, from a common nucleus of operative facts – Defendant's misconduct.

14 56. Plaintiff and the members of each Class have been damaged by Defendant's
15 misconduct. The members of each Class have paid for a product that would not have been
16 purchased in the absence of Defendant's deceptive scheme.

17 57. Proceeding as a class action provides substantial benefits to both the parties and the
18 Court because this is the most efficient method for the fair and efficient adjudication of the
19 controversy. Members of each Class have suffered and will suffer irreparable harm and damages
20 as a result of Defendant's wrongful conduct. Because of the nature of the individual claims of
21 the members of each Class, few, if any, could or would otherwise afford to seek legal redress
22 against Defendant for the wrongs complained of herein, and a representative class action is
23 therefore the appropriate, superior method of proceeding and essential to the interests of justice
24 insofar as the resolution of claims of the members of each Class is concerned. Absent a
25 representative class action, members of each Class would continue to suffer losses for which they
26 would have no remedy, and Defendant would unjustly retain the proceeds of its ill-gotten gains.
27 Even if separate actions could be brought by individual members of each Class, the resulting
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1 multiplicity of lawsuits would cause undue hardship, burden, and expense for the Court and the
2 litigants, as well as create a risk of inconsistent rulings, which might be dispositive of the interests
3 of the other members of each Class who are not parties to the adjudications and/or may
4 substantially impede their ability to protect their interests.

5 **FIRST CAUSES OF ACTION**

6 **FALSE AND MISLEADING ADVERTISING IN VIOLATION OF BUSINESS &**
7 **PROFESSIONS CODE § 17200, *et seq.***

8 **(By Plaintiff and California Class against Defendant)**

9 58. Plaintiff repeats and realleges the allegations set forth above, and incorporates the same
10 as if set forth herein at length.

11 59. This cause of action is brought pursuant to California *Business and Professions Code*
12 § 17200, *et seq.*

13 60. In the marketing and advertising of “rollback” discounted items, Defendant makes
14 false and misleading statements regarding the quantity of the discounted.

15 61. Defendant is aware that the claims that it makes about the amount of the “rollback”
16 discounts are false, misleading and unsubstantiated.

17 62. As alleged in the preceding paragraphs, the misrepresentations by Defendant of the
18 material facts detailed above constitute an unfair and fraudulent business practice within the
19 meaning of California *Business & Professions Code* § 17200.

20 63. In addition, Defendant uses of various forms of advertising media to advertise, call
21 attention to or give publicity to the sale of goods or merchandise which are not as represented in
22 any manner constitute unfair competition, unfair, deceptive, untrue or misleading advertising, and
23 an unlawful business practice within the meaning of *Business & Professions Code* §§ 17531 and
24 17200, which advertisements have deceived and are likely to deceive the consuming public, in
25 violation of California *Business & Professions Code* § 17500.

26 64. There were reasonably available alternatives to further Defendant’s legitimate business
27 interests, other than the conduct described herein.

65. All of the conduct alleged herein occurs and continues to occur in Defendant Wal-Mart's business. Defendant Wal-Mart's wrongful conduct is part of a pattern or generalized course of conduct repeated on thousands of occasions daily.

66. Pursuant to *Business & Professions Code* §§ 17203 and 17535, Plaintiff and the members of the Classes seek an order of this Court enjoining Defendant from continuing to engage, use, or employ its practice of advertising the sale and use of the "rollback" priced products. Likewise, Plaintiff and the members of the Classes seek an order requiring Defendant to disclose such misrepresentations, and additionally request an order awarding Plaintiff and the members of the Class restitution of the money wrongfully acquired by Defendant by means of responsibility attached to Defendant's failure to disclose the existence and significance of said misrepresentations.

SECOND CAUSE OF ACTION

**FALSE AND MISLEADING ADVERTISING IN VIOLATION OF BUSINESS &
PROFESSIONS CODE § 17500, *et seq.***

(By Plaintiff and California Class against Defendant)

67. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs, and incorporates the same as if set forth herein at length.

68. This cause of action is brought pursuant to California *Business and Professions Code* § 17500, *et seq.*

69. In its advertising of "roll back" discount-priced merchandise, Defendant advertises false former prices and false price discounts, all as set forth above.

70. Defendant is aware that the claims that it makes about the former pricing and the price discounts of the "roll back" priced merchandise are false, misleading and unsubstantiated and that such prices were not prevailing market price as above defined within three months next immediately preceding the publication of the advertisement.

71. As alleged in the preceding paragraphs, the misrepresentations by Defendant of the material facts detailed above constitute an unfair and fraudulent business practice within the

1 meaning of California *Business & Professions Code* § 17500.

2 72. In addition, Defendant's use of various forms of advertising media to advertise, call
3 attention to or give publicity to the sale of goods or merchandise which are not as represented in
4 any manner constitutes unfair competition, unfair, deceptive, untrue or misleading advertising,
5 and an unlawful business practice within the meaning of California *Business & Professions Code*
6 §§ 17531 and 17200, which advertisements have deceived and are likely to deceive the consuming
7 public, in violation of California *Business & Professions Code* § 17500.

8 73. Pursuant to California *Business & Professions Code* §§ 17203 and 17535, Plaintiff and
9 the members of the Classes seek an order of this Court enjoining Defendant from continuing to
10 engage, use, or employ its practice of falsely and deceptively advertising the price discounts and
11 former prices of its "Rollback" priced items. Likewise, Plaintiff and the members of the Classes
12 seek an order requiring Defendant to disclose such misrepresentations, and additionally request
13 an order awarding Plaintiff restitution of the money wrongfully acquired by Defendant by means
14 of responsibility attached to Defendant's failure to disclose the existence and significance of said
15 misrepresentations.

16 **THIRD CAUSE OF ACTION**

17 **VIOLATION OF CALIFORNIA CIVIL CODE § 1750, *et seq.***

18 **(By Plaintiff and California Class against Defendant)**

19 74. Plaintiff repeats and realleges all the allegations of the previous paragraphs, and
20 incorporates the same as if set forth herein at length.

21 75. This cause of action is brought pursuant to California *Civil Code* § 1750, *et seq.*, the
22 Consumers Legal Remedies Act.

23 76. The Consumer Class consists of thousands of persons, the joinder of whom is
24 impracticable.

25 77. There are questions of law and fact common to the classes, which questions are
26 substantially similar and predominate over questions affecting the individual members, including
27 but not limited to:

1 (a) Whether Defendant represented that the “rollback” discount-priced merchandise has
2 characteristics, benefits, uses or quantities which it does not have;

3 (b) Whether the existence, extent and significance of the major misrepresentations regarding
4 the purported price discounts of the “rollback” discount-priced merchandise violate the Act; and

5 (c) Whether Defendant knew of the existence of these misrepresentations.

6 78. The policies, acts, and practices heretofore described were intended to result in the sale
7 of “rollback” discount-priced merchandise to the consuming public and violated and continue to
8 violate § 1770(a)(5) of the Act by representing that the “rollback” discount-priced merchandise
9 has characteristics, benefits, uses or quantities which it does not have.

10 79. Defendant fraudulently deceived Plaintiff and the Classes by representing that the
11 “rollback” discount-priced merchandise has certain characteristics, benefits, uses and qualities
12 which it does not have. In doing so, Defendant intentionally misrepresented and concealed
13 material facts from Plaintiff and the Classes, specifically and not limited to that the advertised
14 “former” prices of the “rollback” discount-priced merchandise were inflated. Said
15 misrepresentations and concealment were done with the intention of deceiving Plaintiff and the
16 Classes and depriving them of their legal rights and money.

17 80. Defendant knew that the “former” prices at which it advertised its “rollback” discount-
18 priced merchandise were inflated.

19 81. Defendant’s actions as described hereinabove were done with conscious disregard of
20 Plaintiff’s rights and Defendant was wanton and malicious in its concealment of the same.

21 82. Pursuant to § 1780(a) of the Act, Plaintiff seeks injunctive relief in the form of an order
22 enjoining the above-described wrongful acts and practices of Defendant, including, but not
23 limited to, an order enjoining Defendant from distributing such false advertising and
24 misrepresentations. Plaintiff shall be irreparably harmed if such an order is not granted.

25 83. Plaintiff requests that this Court enter such orders or judgments as may be necessary
26 to restore any person in interest any money which may have been acquired by means of such
27 unfair business practices, and for such relief as provided in California *Civil Code* § 1780 and the
28

1 Prayer For Relief.

2 84. Pursuant to California *Civil Code* §1782, Plaintiff gave Defendant notice by certified
3 mail on October 16, 2016, of the particular violations of California *Civil Code* § 1770. The Notice
4 requested that Defendant rectify the problems associated with the actions alleged in this
5 Complaint, and give notice to all affected consumers of its intent to so act. Defendant has not yet
6 responded to this Notice.

7 **FOURTH CAUSE OF ACTION**

8 **UNJUST ENRICHMENT**

9 **(By Plaintiff, California Class and National Class**

10 **Against Defendant)**

11 85. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs, and
12 incorporates the same as if set forth herein at length.

13 86. Plaintiff brings this claim individually, as well as on behalf of members of the
14 nationwide Class and California Class pursuant to California law. Although there are numerous
15 permutations of the elements of the unjust enrichment cause of action in the various states, there
16 are few real differences. In all states, the focus of an unjust enrichment claim is whether the
17 Defendant was unjustly enriched. At the core of each state's law are two fundamental elements
18 – the Defendant received a benefit from the plaintiff and it would be inequitable for the Defendant
19 to retain that benefit without compensating the plaintiff. The focus of the inquiry is the same in
20 each state. Since there is no material conflict relating to the elements of unjust enrichment
21 between the different jurisdictions from which class members will be drawn, California law
22 applies to the claims of the Class.

23 87. In the alternative, Plaintiff brings this claim individually as well as on behalf of the
24 California Class and National Class.

25 88. At all times relevant hereto, Defendant deceptively marketed, advertised, and sold its
26 “rollback” discount –priced merchandise to Plaintiff and the Class.

27 89. Plaintiff and members of the Class conferred upon Defendant non-gratuitous payments
28

1 for Defendant's "rollback" discount –priced merchandise that they would not have due to
2 Defendant's deceptive advertising, and marketing. Defendant accepted or retained the non-
3 gratuitous benefits conferred by Plaintiff and members of the Class, with full knowledge and
4 awareness that, as a result of Defendant's deception, Plaintiff and members of the Class were not
5 receiving a price discount as they would have expected.

6 90. Defendant has been unjustly enriched in retaining the revenues derived from purchases
7 of Defendant's "rollback" discount –priced merchandise by Plaintiff and members of the Class,
8 which retention under these circumstances is unjust and inequitable because Defendant
9 misrepresented that the "rollback" discount –priced merchandise were offered to them at an
10 artificially inflated discount price, which caused injuries to Plaintiff and members of the Class
11 because they purchased such items when they otherwise would not have.

12 91. Retaining the non-gratuitous benefits conferred upon Defendant by Plaintiff and
13 members of the Class under these circumstances made Defendant's retention of the non-
14 gratuitous benefits unjust and inequitable. Thus, Defendant must pay restitution to Plaintiff and
15 members of the Class for their unjust enrichment, as ordered by the Court.

16 **FIFTH CAUSE OF ACTION**

17 **VIOLATIONS OF CONSUMER FRAUD LAWS**

18 **(By Plaintiff, on Behalf of Herself, the California Class, and the Nationwide**
19 **Class against Defendant)**

20 92. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs, and
21 incorporates the same as if set forth herein at length.

22 93. Plaintiff brings this Count individually under the laws of the state where she purchased
23 Defendant's "rollback" discount-priced merchandise and on behalf of all other persons who
24 purchased Defendant's "rollback" discount-priced merchandise in States having similar laws
25 regarding consumer fraud and deceptive trade practices.

26 94. Plaintiff and each of the other members of the Classes are consumers, purchasers, or
27 other persons entitled to the protection of the consumer protection laws of the State in which they
28

1 purchased the Product.

2 95. The consumer protection laws of the State in which Plaintiff and the other members of
3 the Classes purchased the Product declare that unfair or deceptive acts or practices, in the conduct
4 of trade or commerce, are unlawful.

5 96. Forty States and the District of Columbia have enacted statutes designed to protect
6 consumers against unfair, deceptive, fraudulent, and unconscionable trade and business practices
7 and false advertising and that allow consumers to bring private and/or class actions. These
8 statutes are found at:

- 9 a. Alabama Deceptive Trade Practices Act, Ala. Code §8-19-1 *et seq.*;
- 10 b. Alaska Unfair Trade Practices and Con
- 11 c. Consumer Protection Act, Alaska Code §45.50.471 *et seq.*;
- 12 d. Arkansas Deceptive Trade Practices Act, Ark. Code Ann. §4-88-101 *et seq.*;
- 13 e. California Consumer Legal Remedies Act, Cal. Civ. Code §1750 *et seq.*, and
14 California's Unfair Competition Law, Cal. Bus. & Prof. Code §17200 *et seq.*;
- 15 f. Colorado Consumer Protection Act, Colo. Rev. Stat. §6-1-101 *et seq.*;
- 16 g. Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. §42-110a *et seq.*;
- 17 h. Delaware Deceptive Trade Practices Act, Del. Code tit. 6§2511 *et seq.*;
- 18 i. District of Columbia Consumer Protection Procedures Act, D.C. Code §28 3901 *et*
19 *seq.*;
- 20 j. Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. Ann. §501.201 *et seq.*;
- 21 k. Georgia Fair Business Practices Act, Ga. Code Ann. §10-1-390 *et seq.*;
- 22 l. California Unfair and Deceptive Practices Act, California Revised Statues §480-1 *et*
23 *seq.*, and California Uniform Deceptive Trade Practices Act, Haw. Rev. Stat. §481A-
24 1 *et seq.*;
- 25 m. Idaho Consumer Protection Act, Idaho Code Ann. §48-601 *et seq.*;
- 26 n. Illinois Consumer Fraud and Deceptive Business Practices Act, 815 Ill. Comp. Stat.
27 Ann. 505/1 *et seq.*;
- 28 o. Kansas Consumer Protection Act, Kan. Stat. Ann §50 626 *et seq.*;

- p. Kentucky Consumer Protection Act, Ky. Rev. Stat. Ann. §367.110 *et seq.*, and the Kentucky Unfair Trade Practices Act, Ky. Rev. Stat. Ann §365.020 *et seq.*;
- q. Louisiana Unfair Trade Practices and Consumer Protection Law, La. Rev. Stat. Ann. §51:1401 *et seq.*;
- r. Maine Unfair Trade Practices Act, Me. Rev. Stat. tit. 5 §205A *et seq.*, and Maine Uniform Deceptive Trade Practices Act, Me. Rev. Stat. Ann. tit. 10, §1211 *et seq.*,
- s. Massachusetts Unfair and Deceptive Practices Act, Mass. Gen. Laws ch. 93A;
- t. Michigan Consumer Protection Act, Mich. Comp. Laws §445.901 *et seq.*;
- u. Minnesota Prevention of Consumer Fraud Act, Minn. Stat. Ann. §325F.68 *et seq.*, and Minnesota Uniform Deceptive Trade Practices Act, Minn. Stat. §325D.43 *et seq.*;
- v. Mississippi Consumer Protection Act, Miss. Code Ann. §§75-24-1 *et seq.*;
- w. Missouri Merchandising Practices Act, Mo. Rev. Stat. §407.010 *et seq.*;
- x. Montana Unfair Trade Practices and Consumer Protection Act, Mont. Code Ann. §30-14-101 *et seq.*;
- y. Nebraska Consumer Protection Act, Neb. Rev. Stat. §59-1601 *et seq.*, and the Nebraska Uniform Deceptive Trade Practices Act, Neb. Rev. Stat. §87-301 *et seq.*;
- z. Nevada Trade Regulation and Practices Act, Nev. Rev. Stat. §598.0903 *et seq.*;
- aa. New Hampshire Consumer Protection Act, N.H. Rev. Stat. §358-A:1 *et seq.*;
- bb. New Jersey Consumer Fraud Act, N.J. Stat. Ann. §56:8 1 *et seq.*;
- cc. New Mexico Unfair Practices Act, N.M. Stat. Ann. §57 12 1 *et seq.*;
- dd. New York Deceptive Acts and Practices Act, N.Y. Gen. Bus. Law §349 *et seq.*;
- ee. North Dakota Consumer Fraud Act, N.D. Cent. Code §51 15 01 *et seq.*;
- ff. Ohio Consumer Sales Practices Act, Ohio Rev. Code Ann. §1345.02 and 1345.03; Ohio Admin. Code §109:4-3-02, 109:4-3-03, and 109:4-3-10;
- gg. Oklahoma Consumer Protection Act, Okla. Stat. tit. 15 §751 *et seq.*;
- hh. Oregon Unfair Trade Practices Act, Ore. Rev. Stat §646.608(e) & (g);
- ii. Rhode Island Unfair Trade Practices And Consumer Protection Act, R.I. Gen. Laws §6-13.1-1 *et seq.*;
- jj. South Carolina Unfair Trade Practices Act, S.C. Code Ann. §39-5-10 *et seq.*;

1 kk. South Dakota's Deceptive Trade Practices and Consumer Protection Law, S.D.
Codified Laws §§37 24 1 *et seq.*;

2 ll. Tennessee Consumer Protection Act, Tenn. Code Ann. §47-18-101 *et seq.*;

3 mm. Vermont Consumer Fraud Act, Vt. Stat. Ann. tit. 9, §2451 *et seq.*;

4 nn. Washington Consumer Fraud Act, Wash. Rev. Code §19.86.010 *et seq.*;

5 oo. West Virginia Consumer Credit and Protection Act, West Virginia Code §46A-6-101
6 *et seq.*; and

7 pp. Wisconsin Deceptive Trade Practices Act, Wis. Stat. §100.18 *et seq.*

8 97. The Product constitutes a product to which these consumer protection laws apply.

9 98. In the conduct of trade or commerce regarding its production, marketing, and sale of
10 the Product, Defendant engaged in one or more unfair or deceptive acts or practices, including,
11 but not limited to, uniformly representing to Plaintiff and each member of the Classes by means
12 of its packaging and labeling of the Product that it is a natural sweetener primarily made from the
13 monk fruit plant, as described herein.

14 99. Defendant's representations and omissions were false, untrue, misleading, deceptive,
15 and/or likely to deceive.

16 100. Defendant knew, or should have known, that its representations and omissions
17 were false, untrue, misleading, deceptive, and/or likely to deceive.

18 101. Defendant used or employed such deceptive and unlawful acts or practices with
19 the intent that Plaintiff and members of the Classes rely thereon.

20 102. Plaintiff and the other members of the Classes did so rely.

21 103. Plaintiff and the other members of the Classes purchased the Product produced by
22 Defendant which misrepresented the characteristics and nature of the Product.

23 104. Plaintiff and the other members of the Classes would not have purchased the
24 Product but for Defendant's deceptive and unlawful acts.

25 105. As a result of Defendant's conduct, Plaintiff and the other members of the Classes
26 sustained damages in amounts to be proven at trial.

27 106. Defendant's conduct showed complete indifference to, or conscious disregard for,
28

1 the rights and safety of others such that an award of punitive and/or statutory damages is
2 appropriate under the consumer protection laws of those states that permit such damages to be
3 sought and recovered.

4
5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff prays for judgment and relief against Defendant as follows:

7 A. that the Court certify the nationwide Class and the California Class under Rule 23
8 of the Federal Rules of Civil Procedure and appoint Plaintiff as Class Representative and her
9 attorneys as Class Counsel to represent the members of the Classes;

10 B. that the Court declare that Defendant's conduct violates the statutes referenced
11 herein;

12 C. that the Court preliminarily and permanently enjoin Defendant from conducting
13 its business through the unlawful, unfair, or fraudulent business acts or practices, untrue, and
14 misleading advertising and marketing and other violations of law described in this Complaint;

15 D. that the Court order Defendant to conduct a corrective advertising and information
16 campaign advising consumers that the "rollback" discount pricing was false and deceptive;

17 E. that the Court order Defendant to implement whatever measures are necessary to
18 remedy the unlawful, unfair, or fraudulent business acts or practices, untrue and misleading
19 advertising, and other violations of law described in this Complaint;

20 F. that the Court order Defendant to notify each and every individual and/or business
21 who purchased the discounted "rollback" priced merchandise of the pendency of the claims in
22 this action in order to give such individuals and businesses an opportunity to obtain restitution
23 from Defendant;

24 G. that the Court order Defendant to pay restitution to restore to all affected persons
25 all funds acquired by means of any act or practice declared by this Court to be an unlawful, unfair,
26 or a fraudulent business act or practice, untrue or misleading advertising, and marketing, plus pre-
27 and post-judgment interest thereon;

1 H. that the Court order Defendant to disgorge all monies wrongfully obtained and all
2 revenues and profits derived by Defendant as a result of its acts or practices as alleged in this
3 Complaint;

4 I. that the Court award damages to Plaintiff and the Classes;

5 J. the common fund doctrine, and/or any other appropriate legal theory; and

6 K. that the Court grant such other and further relief as may be just and proper.

7
8 DATED: April 20, 2017

BRADLEY/GROMBACHER, LLP

9
10 By: /S/ Kiley L. Grombacher, Esq
11 Kiley L. Grombacher, Esq.
12 Attorneys for Plaintiff
13

14 **JURY DEMAND**

15 Plaintiff demands a trial by jury on all issues so triable as a matter of right.

16
17 DATED: April 20, 2017

BRADLEY/GROMBACHER, LLP

18
19 By: /S/ Kiley L. Grombacher, Esq
20 Kiley L. Grombacher, Esq.
21 Attorneys for Plaintiff
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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

BRENNA CEJA, on behalf of herself and all others
similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

Bradley Grombacher, LLP, 2815 Townsgate Road, Suite
130, Westlake Village, CA 91361

DEFENDANTS

WAL-MART STORES, INC., a Delaware corporation

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

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

Attorneys (If Known)

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)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | |
|---|--|--|---|---|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | | |

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 (specify) ☐ 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):
Violation of 28 USC Section 1332
Brief description of cause:
Consumer Fraud, False Advertising, Unfair Business Practices

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

April 20, 2017

/s/ Kiley L. Grombacher, Esq.

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.