

**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

*Attorneys for Plaintiff*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

SANDRA SEEGER, on behalf of herself  
and all others similarly situated,

Plaintiff,

v.

LENSCRAFTERS, INC., an Ohio  
corporation, LUXOTTICA RETAIL  
NORTH AMERICA, INC., an Ohio  
corporation, LUXOTTICA GROUP  
S.P.A., an Italian corporation, and DOES  
1 through 50, inclusive,

Defendants.

Case No.: '17CV1372 JM 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"); California Civil Code Sections 1750, *et seq.***

**[DEMAND FOR JURY TRIAL]**

1 Plaintiff SANDRA SEEGERT (“Plaintiff”) brings this action on behalf of herself  
 2 and all others similarly situated against Defendants LENS CRAFTERS, INC.,  
 3 LUXOTTICA RETAIL NORTH AMERICA, INC., and LUXOTTICA GROUP S.P.A.  
 4 (“Lens Crafters”), and states:

## 5 I. NATURE OF ACTION

6 1. “If everyone is getting a deal, is anyone really getting a deal?”<sup>1</sup> This class  
 7 action targets Lens Crafters’ unlawful, unfair, and fraudulent business practice of  
 8 advertising fictitious prices and corresponding phantom discounts on the prescription  
 9 lenses sold at their Lens Crafters’ retail stores. This practice of false reference pricing  
 10 occurs where a retailer fabricates a fake regular, original, and/or former reference price,  
 11 and then offers an item for sale at a deep “discounted” price. Retailers also carry out this  
 12 misleading discount practice with other methods such as, “buy one, get one free,” or “buy  
 13 one, get second for \_\_\_% off.” Whatever the form of the discount, the result is the same: a  
 14 sham price disparity that misleads consumers into believing they are receiving a good deal  
 15 and induces them into making a purchase. Retailers drastically benefit from employing a  
 16 false reference-pricing scheme and experience increased sales.

17 2. The California legislature prohibits this misleading practice. The law  
 18 recognizes the reality that consumers often purchase merchandise marketed as being “on  
 19 sale” purely because the proffered discount seemed too good to pass up. Accordingly,  
 20 retailers have an incentive to lie to customers and advertise false sales. The resulting harm  
 21 is tangible—the bargain hunter’s expectations about the product she purchased is that it  
 22 has a higher perceived value and she may not have purchased the product but for the false  
 23 savings.

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 26 <sup>1</sup> David Streitfeld, *It’s Discounted, but is it a Deal? How List Prices Lost Their Meaning*,  
 27 New York Times, [https://www.nytimes.com/2016/03/06/technology/its-discounted-but-](https://www.nytimes.com/2016/03/06/technology/its-discounted-but-is-it-a-deal-how-list-prices-lost-their-meaning.html)  
 28 [is-it-a-deal-how-list-prices-lost-their-meaning.html](https://www.nytimes.com/2016/03/06/technology/its-discounted-but-is-it-a-deal-how-list-prices-lost-their-meaning.html), (March 6, 2016), last accessed April  
 28, 2017.

1           3.     Lens Crafters utilizes false and misleading reference prices in the marketing  
2 and selling of prescription lenses at its Lens Crafters' retail stores. Lens Crafters  
3 continuously offers a substantial discount on its prescription lenses with the purchase of  
4 any eyeglass or sunglasses frame at its retail stores. *See e.g.* Exhibit A, example of  
5 promotion. For example, Lens Crafters regularly promotes, “\_\_\_% Off Lenses with Frame  
6 Purchase” (the “Promotion”). *See e.g., id.*

7           4.     Lens Crafters advertises its lenses for sale by displaying a large sign on the  
8 floor of its retail store that sets forth the “Exclusive Lens Options” along with  
9 corresponding images reflecting the purported quality of the image for each lens. *See*  
10 Exhibit B, advertisement of prescription lenses. The sign also displays the prices for each  
11 lens; however, the only prices reflected on the sign are the discounted prices taken after the  
12 Promotion. *See id.*, “Pricing includes 40% off lens offer (Frame purchase required). The  
13 regular price of the lenses, which is not revealed to customers until after the transaction is  
14 complete, (*see* Exhibit C, Plaintiff's receipt showing original price of lenses before  
15 discount), is substantially discounted by the Promotion to create the sale price based on the  
16 Promotion. Lens Crafters' Promotion explains that the discount is taken off the lenses and  
17 thus, the savings applies to the lenses. *See* Exhibits A-C. The sale price represents the  
18 savings the customer is purportedly saving off the regular price on the prescription lenses  
19 by purchasing the eyewear.

20           5.     However, the regular price for the lenses is a **total fiction**. The prescription  
21 lenses sold at the Lens Crafters' retail stores are never offered for sale, nor actually sold,  
22 at the regular price. Thus, the regular price is false and is used exclusively to induce  
23 consumers into believing that the lenses were once sold at the regular price and from which  
24 the false and discount and corresponding sale price is derived. Lens Crafters' deceptive  
25 pricing scheme has the effect of tricking consumers into believing they are receiving a  
26 significant deal by purchasing merchandise at a steep discount, when in reality, consumers  
27 are paying for merchandise at its regular or original retail price.  
28

1           6.       The advertised discounts are fictitious because the regular reference price for  
2 the lenses does not represent a *bona fide* price at which Lens Crafters previously sold a  
3 substantial quantity of the prescription lenses for a reasonable period of time as required  
4 by the Federal Trade Commission (“FTC”). In addition, the regular price of the lenses was  
5 not the prevailing market retail price within the three months immediately preceding the  
6 publication of the advertised former regular price, as required by California law.

7           7.       Through its false and misleading marketing, advertising, and pricing scheme,  
8 Lens Crafters violated and continues to violate, California and federal law prohibiting  
9 advertising goods for sale as discounted from former prices that are false, and prohibiting  
10 misleading statements about the existence and amount of price reductions. Specifically,  
11 Lens Crafters violated and continues to violate: California’s Unfair Competition Law,  
12 Business and Professions Code §§ 17200, *et seq.* (the “UCL”); California’s False  
13 Advertising Law, Business and Professions Code §§ 17500, *et seq.* (the “FAL”); the  
14 California Consumer Legal Remedies Act, Civil Code §§ 1750, *et seq.* (the “CLRA”); and  
15 the Federal Trade Commission Act (“FTCA”), which prohibits “unfair or deceptive acts or  
16 practices in or affecting commerce” (15 U.S.C. § 45(a)(1)) and false advertisements (15  
17 U.S.C. § 52(a)).

18           8.       Plaintiff brings this action on behalf of herself and other similarly situated  
19 consumers who have purchased one or more Lens Crafters’ prescription lenses in  
20 conjunction with the Promotion of “\_\_% Off Lenses with Frame Purchase” at Defendant’s  
21 Lens Crafters’ retail stores. Plaintiff seeks to halt the dissemination of this false,  
22 misleading, and deceptive pricing scheme, to correct the false and misleading perception it  
23 has created in consumer’s minds, and to obtain redress for those who have purchased  
24 merchandise tainted by this deceptive pricing scheme. Plaintiff also seeks to enjoin Lens  
25 Crafters from using false and misleading misrepresentations regarding retail price  
26 comparisons in their labeling and advertising permanently. Further, Plaintiff seeks to  
27 obtain damages, restitution, and other appropriate relief in the amount by which Lens  
28

1 Crafters was unjustly enriched as a result of its sales of merchandise offered at a false  
2 discount.

3 9. Finally, Plaintiff seeks reasonable attorneys' fees pursuant to California Code  
4 of Civil Procedure § 1021.5, as this lawsuit seeks the enforcement of an important right  
5 affecting the public interest and satisfies the statutory requirements for an award of  
6 attorneys' fees.

## 7 **II. JURISDICTION AND VENUE**

8 10. This Court has original jurisdiction of this Action pursuant to the Class Action  
9 Fairness Act, 28 U.S.C. § 1332(d)(2). The matter in controversy, exclusive of interests and  
10 costs, exceeds the sum or value of \$5,000,000 and at least some members of the proposed  
11 Class have a different citizenship from Lens Crafters.

12 11. The Southern District of California has personal jurisdiction over the  
13 Defendants named in this action. Defendants Lens Crafters, Inc., Luxottica Retail North  
14 America, Inc., and Luxottica Group S.p.A. are corporations or other business entities that  
15 are authorized to conduct and/or do conduct business in the State of California. Lens  
16 Crafters intentionally avails itself of the California market through the ownership and  
17 operation of approximately 134 retail stores in California.

18 12. Venue is proper under 28 U.S.C. § 1391(b)(2) because Lens Crafters transacts  
19 substantial business in this District. A substantial part of the events giving rise to Plaintiff's  
20 claims arose here.

## 21 **III. PARTIES**

### 22 **Plaintiff**

23 13. Plaintiff Sandra Seegert resides in San Diego, California. Mrs. Seegert, in  
24 reliance on Lens Crafters' false and deceptive advertising, marketing, and "discount"  
25 Promotion, purchased a pair of Gunmetal Grey Armani Exchange Eyeglasses, Style No.  
26 AX1020 and single vision Featherwates Classic Lenses, Standard Anti-Reflective  
27 prescription lenses on or about April 15, 2017 at a Lens Crafters retail store located in  
28

1 Westfield Plaza Bonita Mall at 3030 Plaza Bonita Road, National City, California 91950.  
2 Mrs. Seegert went to Lens Crafters to look for a new pair of prescription glasses for herself.

3 14. Upon walking into the store, Mrs. Seegert saw a sign advertising the  
4 Promotion “40% Off Lenses with Frame Purchase.” The sign Mrs. Seegert viewed looked  
5 similar to the sign pictured in Exhibit A. Mrs. Seegert continued to see the same Promotion  
6 offered on a couple signs within the Lens Crafter store.

7 15. Mrs. Seegert had an eye exam at Eye Exam of California, which was  
8 conducted at the Lens Crafters retail store, and received her prescription. Later that day,  
9 Mrs. Seegert returned to the store to pick out frames and lenses. After trying on a few  
10 different styles, she ultimately selected a pair of Gunmetal Grey Armani Exchange  
11 Eyeglasses, Style No. AX1020. Upon examining the frames, Mrs. Seegert observed the  
12 price tag attached to the frames, which advertised the regular price of the frames as  
13 \$120.00. Mrs. Seegert then spoke with a sales associate about the type of lenses she should  
14 purchase. Mrs. Seegert selected the Featherwates Classic Lenses, Standard Anti-Reflective  
15 prescription lenses for \$179.00, originally priced at \$298.34, as displayed on her receipt.  
16 Mrs. Seegert reasonably believed that she would be getting a good deal if she purchased a  
17 pair of frames and received 40% off a pair of lenses that had a value significantly higher  
18 than the discounted price.

19 16. However, the prescription lenses were never offered for sale or sold at the  
20 \$298.34 price, nor were they offered for sale or sold at that price within the 90-day period  
21 immediately preceding Mrs. Seegert’s purchase. Therefore, Mrs. Seegert was damaged by  
22 her purchase of the prescription lenses.

23 **Defendant**

24 17. Plaintiff is informed and believes, and upon such information and belief  
25 alleges, Defendant Luxottica Group, S.p.A. is an Italian corporation doing business in  
26 California. Further, Plaintiff is informed and believes, and upon such information and  
27 belief alleges that Defendant Luxottica Group S.p.A. is the largest eyewear company in the  
28 world, operating optical retail brands such as Lens Crafters, Pearle Vision, and Sunglass

1 Hut and eyewear brands such as Ray-Ban, Oakley, and Oliver Peoples. Defendant  
2 Luxottica Group, S.p.A. made over 10 billion dollars in net sales in 2015.

3 18. Plaintiff is informed and believes, and upon such information and belief  
4 alleges, Defendant Lens Crafters, Inc. is an Ohio corporation with its headquarters located  
5 at 4000 Luxottica Place, Mason, Ohio 45040.

6 19. Plaintiff is informed and believes, and upon such information and belief  
7 alleges, Defendant Luxottica Retail North America, Inc. is an Ohio corporation with its  
8 headquarters located at 4000 Luxottica Place, Mason, Ohio 45040.

9 20. Plaintiff is informed and believes, and upon such information and belief  
10 alleges, Defendant Lens Crafters, Inc. is a wholly owned subsidiary of Defendant Luxottica  
11 Retail North America, Inc. and/or Defendant Luxottica Group S.p.A.

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

#### 19 **IV. FACTUAL BACKGROUND**

##### 20 **The Fraudulent Sale Discounting Scheme**

21 22. Lens Crafters is the nation's largest optical retailer, with over 130 stores in  
22 California and over 880 stores nationwide. Defendants sell prescription lenses and  
23 eyewear, and provide vision care services such as scheduled eye exams and customized  
24 fittings at its Lens Crafters locations. Defendants offer for sale a variety of designer brand  
25 eyeglass and sunglass frames and specialized lenses tailored to the customer's various  
26 needs such as single vision, bifocals and trifocals, progressives, indoor/outdoor, night  
27 driving, among others. Defendants directly market their merchandise to consumers via in-  
28 store advertisements and its e-commerce website (lenscrafters.com).



23. Lens Crafters engages in a scheme to defraud its customers by perpetually discounting its merchandise, namely, its prescription lenses, in its retail stores. Lens Crafters consistently advertises a large discounted sale price on its prescription lenses with the purchase of a pair of frames. Specifically, Lens Crafters regularly offers a Promotion of “\_\_\_% Off Lenses with Frame Purchase” and advertises this offer on a placard located at the front of the store. *See e.g.* Exhibit A. The sale price associated with the Promotion conveys to the customer a deeply discounted price at which the lenses are presently being offered for sale. *See e.g.* Exhibit B.

24. However, at no time are the Lens Crafters’ prescription lenses ever offered for sale anywhere at the regular price. The regular price is merely a false reference price, which Lens Crafters utilizes to deceptively manufacture a deeply discounted sale price on the prescription lenses sold at the Lens Crafters retail stores during the class period.

25. This practice is not accidental. Rather, this practice is a fraudulent scheme intended to deceive consumers into: 1) making purchases they otherwise would not have made; and/or 2) paying substantially more for merchandise consumers believed was heavily discounted and thus, worth more than its actual value.

26. Retailers, including Lens Crafters, understand that consumers are susceptible to a good bargain, and therefore, Lens Crafters has a substantial interest in lying in order to generate sales. A product’s “regular,” “original,” or “market” price matters to consumers because it serves as a baseline upon which consumers perceive a product’s value. In this case, Lens Crafters’ regular price of their prescription lenses conveys to consumers, including Mrs. Seegert, “the product’s worth and the prestige that ownership of the product conveys.” *See Hinojos v. Kohl’s Corp.*, 718 F.3d 1098, 1106 (9th Cir. 2013) (citing Dhruv Grewal & Larry D. Compeau, Comparative Price Advertising: Informative or Deceptive?, 11 J. Pub. Pol’y & Mktg. 52, 55 (Spring 1992) (“By creating an impression of savings, the presence of a higher reference price enhances subjects’ perceived value and willingness to buy the product.”); *id.* at 56 (“[E]mpirical studies indicate that as discount



1 size increases, consumers' perceptions of value and their willingness to buy the product  
2 increase, while their intention to search for a lower price decreases.”).

3 27. Lens Crafters' pricing advertisements uniformly include the same Promotion,  
4 (i.e. “\_\_\_% Off with Frame Purchase”), to create the discounted sale price of their  
5 prescription lenses. This uniform scheme intends to and does provide misinformation to  
6 the customer. This misinformation communicates to consumers, including Mrs. Seegert,  
7 that the prescription lenses sold at the Lens Crafters retail stores have a greater value than  
8 the advertised sale price.

9 28. As the Ninth Circuit recognizes, “[m]isinformation about a product's ‘normal’  
10 price is . . . significant to many consumers in the same way as a false product label would  
11 be.” *See Hinojos*, 718 F.3d at 1106.

12 **Plaintiff's Investigation**

13 29. Plaintiff's investigation of Lens Crafters revealed that prescription lenses  
14 sold at the Lens Crafters' retail stores are priced uniformly. That is, the prescription lenses  
15 sold at the Lens Crafters retail store bear a false regular price. Lens Crafters also uniformly  
16 advertises the Promotion of “\_\_\_% Off Lenses with Frame Purchase” uniformly at each of  
17 its retail stores. Plaintiff's investigation confirmed that Lens Crafters' prescription lenses  
18 were priced with false discount prices in the 90-day period immediately preceding  
19 Plaintiff's purchase of her prescription lenses and eyeglass frames.

20 30. Plaintiff's investigation included observing the pricing practices at five Lens  
21 Crafters retail stores in San Diego County, including: 1640 Camino Del Rio North, San  
22 Diego, California 92108 (“Mission Valley”); 4353 La Jolla Village Drive, Suite H-20, San  
23 Diego, California 92122 (“La Jolla”); 3030 Plaza Bonita Road, Suite 1485, National City,  
24 California 91950 (“National City”); 539 Parkway Plaza, El Cajon, California 92020 (“El  
25 Cajon”); and 2665 B West Vista Way, Oceanside, California 92054 (“Oceanside”). The  
26 false regular price and corresponding purported discount-pricing scheme was both uniform  
27 and identical at all stores investigated.  
28

1           31. The fraudulent pricing scheme applies to all prescription lenses offered on  
2 sale and sold at every Lens Crafters retail store, including the prescription lenses purchased  
3 by Mrs. Seegert on April 15, 2017. All prescription lenses were offered at a discounted  
4 sale price substantially less than their “regular” price for every day Plaintiff’s investigation  
5 was conducted and for well over 90 days at a time.

6           32. In fact, as the date of this filing, all Lens Crafters’ prescription lenses offered  
7 for sale at the Lens Crafters retail stores that Plaintiff’s counsel investigated, including the  
8 prescription lenses Mrs. Seegert purchased, remained on sale at discounted prices set forth  
9 in the Promotion.

10           **Plaintiff and the Class Are Injured by Lens Crafters’ Deceptive Pricing Scheme**

11           33. The regular price listed and advertised on Lens Crafters’ prescription lenses  
12 are fake reference prices, utilized only to perpetuate Lens Crafters’ fake discount scheme.

13           34. Lens Crafters knows that its comparative price advertising is false, deceptive,  
14 misleading, and unlawful under California and federal law.

15           35. Lens Crafters fraudulently concealed from and intentionally failed to disclose  
16 to Plaintiff and other members of the Class the truth about its advertised discount prices  
17 and former reference prices.

18           36. At all relevant times, Lens Crafters has been under a duty to Plaintiff and the  
19 Class to disclose the truth about its false discounts.

20           37. Plaintiff relied upon Lens Crafters’ artificially inflated regular price and false  
21 discount price when purchasing the prescription lenses and eyeglass frames from Lens  
22 Crafters. Plaintiff would not have made such purchase but for Lens Crafters’  
23 representations regarding the false regular price and the fictitious sale price of the  
24 merchandise after the Promotion. Plaintiff may in the future shop at Lens Crafters’ retail  
25 stores.

26           38. Plaintiff and the Class reasonably and justifiably acted and relied on the  
27 substantial price differences that Lens Crafters advertised, and made purchases believing  
28 that they were receiving a substantial discount on an item of greater value than it actually

1 was. Plaintiff, like other Class members, was lured in, relied on, and was damaged by the  
2 deceptive pricing scheme that Lens Crafters carried out.

3 39. Lens Crafters intentionally concealed and failed to disclose material facts  
4 regarding the truth about false former price advertising in order to provoke Plaintiff and  
5 the Class to purchase merchandise in its Lens Crafters retail stores.

## 6 **V. CLASS ALLEGATIONS**

7 40. Plaintiff brings this action on behalf of herself and all other similarly situated  
8 Class members pursuant to Rule 23 of the Federal Rules of Civil Procedure and seeks  
9 certification of the following Class against Lens Crafters for violations of California state  
10 laws:

11 All persons who, within the State of California, from July 5, 2013 through the  
12 present (the “Class Period”), purchased lenses at a discount with a frame  
13 purchase at a Lens Crafters retail store and who have not received a refund or  
14 credit for their purchase(s).

15 Excluded from the Class are Lens Crafters, as well as its officers, employees, agents,  
16 or affiliates, and any judge who presides over this action, as well as all past and present  
17 employees, officers, and directors of Lens Crafters. Plaintiff reserves the right to expand,  
18 limit, modify, or amend this class definition, including the addition of one or more  
19 subclasses, in connection with her motion for class certification, or at any other time, based  
20 upon, *inter alia*, changing circumstances and/or new facts obtained during discovery.

21 41. **Numerosity:** The class members are so numerous that joinder of all members  
22 is impracticable. Plaintiff is informed and believes that the proposed Class contains  
23 hundreds of thousands of individuals who have been damaged by Lens Crafters’ conduct  
24 as alleged herein. The precise number of Class members is unknown to Plaintiff.

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

- a. Whether, during the Class Period, Lens Crafters used false regular prices and falsely advertised price discounts on its lenses sold in its Lens Crafters retail stores;
- b. Whether, during the Class Period, the regular prices advertised by Lens Crafters were the prevailing market prices for the respective Lens Crafters merchandise during the three months preceding the dissemination and/or publication of the advertised former prices;
- c. Whether Lens Crafters' alleged conduct constitutes violations of the laws asserted;
- d. Whether Lens Crafters engaged in unfair, unlawful, and/or fraudulent business practices under the laws asserted;
- e. Whether Lens Crafters engaged in false or misleading advertising;
- f. Whether Plaintiff and Class members are entitled to damages and/or restitution and the proper measure of that loss; and
- g. Whether an injunction is necessary to prevent Lens Crafters from continuing to use false, misleading, or illegal price comparison.

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

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

45. **Superiority:** The nature of this action and the nature of the laws available to Plaintiff and the Class make the use of the class action format a particularly efficient and appropriate procedure to afford relief to her and the Class for the wrongs alleged. The damages or other financial detriment suffered by individual Class members is relatively

1 modest compared to the burden and expense that would be entailed by individual litigation  
 2 of their claims against Lens Crafters. It would thus be virtually impossible for Plaintiff  
 3 and Class members, on an individual basis, to obtain effective redress for the wrongs done  
 4 to them. Absent the class action, Class members and the general public would not likely  
 5 recover, or would not likely have the chance to recover, damages or restitution, and Lens  
 6 Crafters will be permitted to retain the proceeds of its fraudulent and deceptive misdeeds.

7 46. All Class members, including Plaintiff, were exposed to one or more of Lens  
 8 Crafters' misrepresentations or omissions of material fact claiming that former prices were  
 9 in fact *bona fide*. Due to the scope and extent of Lens Crafters' consistent false "discount"  
 10 price advertising scheme, disseminated in a years-long campaign to California consumers,  
 11 it can be reasonably inferred that such misrepresentations or omissions of material fact  
 12 were uniformly made to all members of the Class. In addition, it can be reasonably  
 13 presumed that all Class members, including Plaintiff, affirmatively acted in response to the  
 14 representations contained in Lens Crafters' false advertising scheme when she purchased  
 15 her prescription lenses and eyeglass frames at the Lens Crafters retail store.

16 47. Lens Crafters keeps extensive computerized records of its customers through,  
 17 *inter alia*, customer loyalty rewards programs and general marketing programs. Lens  
 18 Crafters has one or more databases through which a significant majority of Class members  
 19 may be identified and ascertained, and it maintains contact information, including email  
 20 and home addresses, through which notice of this action could be disseminated in  
 21 accordance with due process requirements.

## 22 VI. CAUSES OF ACTION

### 23 FIRST CAUSE OF ACTION

#### 24 Violation of California's Unfair Competition Law ("UCL") 25 California Business & Professions Code Section 17200, *et seq.*

26 48. Plaintiff repeats and re-alleges the allegations contained in every preceding  
 27 paragraph as if fully set forth herein.  
 28

1           49. The UCL defines “unfair business competition” to include any “unlawful,  
2 unfair or fraudulent” act or practice, as well as any “unfair, deceptive, untrue or  
3 misleading” advertising. Cal. Bus. & Prof. Code § 17200.

4           50. The UCL imposes strict liability. Plaintiff need not prove that Lens Crafters  
5 intentionally or negligently engaged in unlawful, unfair, or fraudulent business practices—  
6 but only that such practices occurred.

7           ***“Unfair” Prong***

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

13           52. Lens Crafters’ actions constitute “unfair” business practices because, as  
14 alleged above, Lens Crafters engaged in misleading and deceptive price comparison  
15 advertising that represented false regular prices and corresponding deeply discounted sale  
16 prices. The original prices for the lenses were nothing more than fabricated “regular”  
17 prices leading to phantom markdowns. Lens Crafters’ acts and practices offended an  
18 established public policy of transparency in pricing, and engaged in immoral, unethical,  
19 oppressive, and unscrupulous activities that are substantially injurious to consumers.

20           53. The harm to Plaintiff and Class members outweighs the utility of Lens  
21 Crafters’ practices. There were reasonably available alternatives to further Lens Crafters’  
22 legitimate business interests other than the misleading and deceptive conduct described  
23 herein.

24           ***“Fraudulent” Prong***

25           54. A business act or practice is “fraudulent” under the UCL if it is likely to  
26 deceive members of the consuming public.

27           55. Lens Crafters’ acts and practices alleged above constitute fraudulent business  
28 acts or practices as they have deceived Plaintiff and are highly likely to deceive members

1 of the consuming public. Plaintiff relied on Lens Crafters' fraudulent and deceptive  
 2 representations regarding its regular prices for the prescription lenses that Lens Crafters  
 3 sells at its retail stores. These misrepresentations played a substantial role in Plaintiff's  
 4 decision to purchase those products at steep discounts, and Plaintiff would not have  
 5 purchased those products without Lens Crafters' misrepresentations.

6 ***"Unlawful" Prong***

7 56. A business act or practice is "unlawful" under the UCL if it violates any other  
 8 law or regulation.

9 57. Lens Crafters' acts and practices alleged above constitute unlawful business  
 10 acts or practices as they have violated state and federal law in connection with their  
 11 deceptive pricing scheme. The Federal Trade Commissions Act ("FTCA") prohibits  
 12 "unfair or deceptive acts or practices in or affecting commerce" (15 U.S.C. § 45(a)(1)) and  
 13 prohibits the dissemination of any false advertisements. 15 U.S.C. § 52(a). Under the  
 14 Federal Trade Commission, false former pricing schemes, similar to the ones implemented  
 15 by Lens Crafters, are described as deceptive practices that would violate the FTCA:

16 (a) One of the most commonly used forms of bargain advertising is to offer a  
 17 reduction from the advertiser's own former price for an article. If the  
 18 former priced is the actual, bona fide price at which the article was offered  
 19 to the public on a regular basis for a reasonably substantial period of time,  
 20 it provides a legitimate basis for the advertising of a price comparison.  
 21 Where the former price is genuine, the bargain being advertised is a true  
 22 one. If, on the other hand, the former price being advertised is not bona  
 23 fide but fictitious—for example, where an artificial, inflated price was  
established for the purpose of enabling a subsequent offer of a large  
reduction—the "bargain" being advertised is a false one; the purchaser  
 24 is not receiving the unusual value he expects. In such a case, the "reduced"  
 25 price is, in reality, probably just the seller's regular price.

26 (b) A former price is not necessarily fictitious merely because no sales at the  
 27 advertised price were made. The advertiser should be especially careful,  
 28 however, in such a case, that the price is one at which the product was  
 openly and actively offered for sale, for a reasonably substantial period of  
 time, in the recent, regular course of her business, honestly and in good



1 faith—and, of course, not for the purpose of establishing a fictitious higher  
2 price on which a deceptive comparison might be based.

3 16 C.F.R. § 233.1(a) and (b) (emphasis added).

4 58. In addition to federal law, California law also expressly prohibits false former  
5 pricing schemes. California’s False Advertising Law, Bus. & Prof. Code § 17501,  
6 (“FAL”), entitled “*Worth or value; statements as to former price,*” states:

7 For the purpose of this article the worth or value of any thing advertised is the  
8 prevailing market priced, wholesale if the offer is at wholesale, retail if the  
9 offer is at retail, at the time of publication of such advertisement in the locality  
wherein the advertisement is published.

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

14 Cal. Bus. & Prof. Code § 17501(emphasis added).

15 59. As detailed in Plaintiff’s Third Cause of Action below, the Consumer Legal  
16 Remedies Act, Cal. Civ. Code § 1770(a)(9), (“CLRA”), prohibits a business from  
17 “[a]dvertising goods or services with intent not to sell them as advertised,” and subsection  
18 (a)(13) prohibits a business from “[m]aking false or misleading statements of fact  
19 concerning reasons for, existence of, or amounts of price reductions.”

20 60. The violation of any law constitutes an “unlawful” business practice under the  
21 UCL.

22 61. As detailed herein, the acts and practices alleged were intended to or did result  
23 in violations of the FTCA, the FAL, and the CLRA.

24 62. Lens Crafters’ practices, as set forth above, have misled Plaintiff, the  
25 proposed Class, and the public in the past and will continue to mislead in the future.  
26 Consequently, Lens Crafters’ practices constitute an unlawful, fraudulent, and unfair  
27 business practice within the meaning of the UCL.  
28

63. Lens Crafters' violation of the UCL, through its unlawful, unfair, and fraudulent business practices, are ongoing and present a continuing threat that Class members and the public will be deceived into purchasing products based on price comparisons of arbitrary and inflated regular prices and substantially discounted sale prices. These false comparisons created phantom markdowns and lead to financial damage for consumers like Plaintiff and the Class.

64. Pursuant to the UCL, Plaintiff is entitled to preliminary and permanent injunctive relief and order Lens Crafters to cease this unfair competition, as well as disgorgement and restitution to Plaintiff and the Class of all Lens Crafters' revenues associated with its unfair competition, or such portion of those revenues as the Court may find equitable.

## **SECOND CAUSE OF ACTION**

### **Violation of California's False Advertising Law ("FAL") California Business and Professions Code Section 17500, *et seq.***

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

66. Cal. Bus. & Prof. Code § 17500 provides:

It is unlawful for any . . . corporation . . . with intent . . . to dispose of . . . personal property . . . to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated . . . from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement . . . which is **untrue or misleading**, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading . . . (Emphasis added).

67. The "intent" required by Section 17500 is the intent to dispose of property, and not the intent to mislead the public in the disposition of such property.

68. Similarly, this section provides that "no price shall be advertised as a former price of any advertised thing, unless the alleged former prices was the prevailing market price . . . within three months next immediately preceding the publication of the

1 advertisement or unless the date when the alleged former price did prevail is clearly,  
2 exactly, and conspicuously stated in the advertisement.” Cal. Bus. & Prof. Code § 17501.

3 69. Lens Crafters’ routine of advertising discounted prices from false regular  
4 prices, which were never the prevailing market prices of those products and were materially  
5 greater than the true prevailing prices, was an unfair, untrue, and misleading practice. This  
6 deceptive marketing practice gave consumers the false impression that the lenses were  
7 regularly sold on the market for a substantially higher price than they actually were;  
8 therefore, leading to the false impression that the lenses sold at the Lens Crafters retail  
9 stores were worth more than they actually were.

10 70. Lens Crafters misled consumers by making untrue and misleading statements  
11 and failing to disclose what is required as stated in the Code alleged above.

12 71. As a direct and proximate result of Lens Crafters’ misleading and false  
13 advertisements, Plaintiff and the Class have suffered injury in fact and have lost money.  
14 As such, Plaintiff requests that this Court order Lens Crafters to restore this money to  
15 Plaintiff and all Class members, and to enjoin Lens Crafters from continuing these unfair  
16 practices in violation of the UCL in the future. Otherwise, Plaintiff, Class members, and  
17 the broader public will be irreparably harmed and/or denied an effective and complete  
18 remedy.

19 **THIRD CAUSE OF ACTION**

20 **Violation of California’s Consumers Legal Remedies Act (“CLRA”),**  
21 **California Civil Code Section 1750, *et seq.***

22 72. Plaintiff repeats and re-alleges the allegations contained in every preceding  
23 paragraph as if fully set forth herein.

24 73. This cause of action is brought pursuant to the CLRA, Cal. Civ. Code § 1750,  
25 *et seq.* Plaintiff and each member of the proposed Class are “consumers” as defined by  
26 Cal. Civ. Code § 1761(d). Lens Crafters’ sale of their merchandise to Plaintiff and the  
27 Class were “transactions” within the meaning of Cal. Civ. Code § 1761(e). The products  
28 purchased by Plaintiff and the Class are “goods” within the meaning of Cal. Civ. Code §  
1761(a).

1           74. Lens Crafters violated and continues to violate the CLRA by engaging in the  
2 following practices proscribed by Cal. Civ. Code § 1770(a) in transactions with Plaintiff  
3 and the Class which were intended to result in, and did result in, the sale of Lens Crafters  
4 products:

- 5           a. Advertising goods or services with intent not to sell them as advertised;  
6           (a)(9);
- 7           b. Making false or misleading statements of fact concerning reasons for,  
8           existence of, or amounts of price reductions; (a)(13).

9           75. Pursuant to Section 1782(a) of the CLRA, on July 5, 2017, Plaintiff's counsel  
10 notified Lens Crafters in writing by certified mail of the particular violations of § 1770 of  
11 the CLRA and demanded that it rectify the problems associated with the actions detailed  
12 above and give notice to all affected consumers of Lens Crafters' intent to act.

13           76. If Lens Crafters fails to respond to Plaintiff's letter, fails to agree to rectify the  
14 problems associated with the actions detailed above, or fails to give notice to all affected  
15 consumers within 30 days of the date of written notice, as proscribed by Section 1782,  
16 Plaintiff will move to amend her Complaint to pursue claims for actual, punitive, and  
17 statutory damages, as appropriate against Lens Crafters. As to this cause of action at this  
18 time, Plaintiff seeks only injunctive relief.

## 19 **VII. PRAYER FOR RELIEF**

20           77. Wherefore, Plaintiff, on behalf of herself and all other members of the Class,  
21 requests that this Court award relief against Lens Crafters as follows:

- 22           a. An order certifying the Class and designating Sandra Seegert as the  
23           Class Representative and her counsel as Class Counsel;
- 24           b. Awarding Plaintiff and the proposed Class members damages;
- 25           c. Awarding restitution and disgorgement of all profits and unjust  
26           enrichment that Lens Crafters retained from Plaintiff and the Class  
27           members as a result of its unlawful, unfair, and fraudulent business  
28           practices described herein;

- 1           d.     Awarding declaratory and injunctive relief as permitted by law or  
2               equity, including: enjoining Lens Crafters from continuing the unlawful  
3               practices as set forth herein, and directing Lens Crafters to identify,  
4               with Court supervision, victims of its misconduct and pay them all  
5               money they are required to pay;  
6           e.     Order Lens Crafters to engage in a corrective advertising campaign;  
7           f.     Awarding attorneys' fees and costs; and  
8           g.     For such other and further relief as the Court may deem necessary or  
9               appropriate.

10 **VIII. DEMAND FOR JURY TRIAL**

11           78.    Plaintiff hereby demands a jury trial for all the claims so triable.  
12

13 Dated: July 5, 2017

**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) 756-6994  
Facsimile: (619) 756-6991  
tcarpenter@carlsonlynch.com

## 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**

Sandra Seegert, 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 Bar No.: 234464) 619-756-6994  
402 West Broadway, 29th Floor  
San Diego, CA 92101

**DEFENDANTS**

Lenscrafters, Inc., an Ohio corporation; Luxottica Retail North America, Inc., an Ohio corporation; Luxottica Group S.P.A., an Italian corporation

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

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

Attorneys (If Known)

**'17CV1372 JM BLM**

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

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party) (JDT)
- ☐ 2 U.S. Government Defendant
- ☒ 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 checked="" 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 checked="" type="checkbox"/> 3 | Foreign Nation                                                | <input type="checkbox"/> 6 | <input checked="" type="checkbox"/> 6 |

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

Click here for: Nature of Suit Code Descriptions.

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	<b>PERSONAL INJURY</b> <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	<b>PERSONAL INJURY</b> <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 <b>PERSONAL PROPERTY</b> <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 <b>LABOR</b> <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 <b>IMMIGRATION</b> <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 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <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)) <b>FEDERAL TAX SUITS</b> <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"/> 376 Qui Tam (31 USC 3729(a)) <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 checked="" 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
<b>REAL PROPERTY</b> <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	<b>CIVIL RIGHTS</b> <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	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <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 <b>Other:</b> <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 - Transfer    ☐ 8 Multidistrict Litigation - Direct File

**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. section 1332(d)

Brief description of cause:

1) Violation of Cal. Bus. & Prof. 17200; 2) Violation of Cal. Bus. & Prof. 17500; 3) Violation of Cal. Civ. Code 1750

**VII. REQUESTED IN COMPLAINT:**

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    DEMAND \$

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

07/05/2017

/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 there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven 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 – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- 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.



# EXHIBIT A



Exhibit A  
Page 2 of 2

# **EXHIBIT B**



# EXCLUSIVE LENS OPTIONS

All of our lenses come with UV Protection and Scratch Resistance.

Pricing includes 40% off lens offer (Frame purchase required)

## LC-HD Enhanced View<sup>®</sup> Premium Anti-Reflective Lens

- Optimized for sharpest, clearest, most vivid vision
- Ideal for strong prescriptions
- Easy-to-clean treatment
- Lessens glare and eye strain
- Thin and lightweight

Single  
Vision  
**\$269**

Enhanced View  
Progressive<sup>®</sup>  
**\$369**



## FeatherWates<sup>®</sup> Premium Anti-Reflective Lens

- Easy-to-clean treatment
- Lessens glare and eye strain
- Thin and lightweight
- Most impact-resistant

Single  
Vision  
**\$209**

Maximum View  
Progressive<sup>®</sup> MVP<sup>®</sup>  
**\$269**

Advanced View  
Progressive<sup>®</sup> AVP<sup>®</sup>  
**\$319**



## FeatherWates<sup>®</sup> Standard Anti-Reflective Lens

- Lessens glare and eye strain
- Thin and lightweight
- Most impact-resistant

Single  
Vision  
**\$179**

Maximum View  
Progressive<sup>®</sup> MVP<sup>®</sup>  
**\$239**

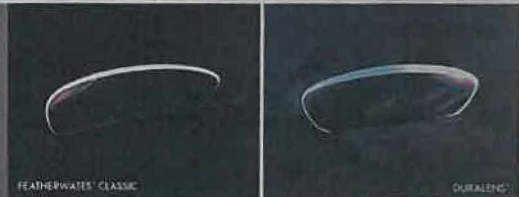


## FeatherWates<sup>®</sup> Classic Lens

- Thin and lightweight
- Most impact-resistant

Single  
Vision  
**\$129**

Maximum View  
Progressive<sup>®</sup> MVP<sup>®</sup>  
**\$189**



## Duralens<sup>®</sup>

- Enhanced scratch resistance

Single  
Vision  
**\$89**

Maximum View  
Progressive<sup>®</sup> MVP<sup>®</sup>  
**\$149**



**Transitions<sup>™</sup>**  
ADAPTIVE LENSES<sup>™</sup>

Changes from clear to dark.

Single Vision  
additional **\$99**

Maximum View Progressive<sup>®</sup> MVP<sup>®</sup>  
additional **\$99**

Lens prices include standard 40% off promotion. Prices do not include cost of frame. Images are for illustration purposes only.  
Have vision insurance? Ask us about specific pricing for your plan.

4-0902 © 2016

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## POLARIZED PRESCRIPTION LENSES HELP YOU:

- See what you've been missing
- Squint less
- Have more depth perception

HELLO SUNSHINE | Goodbye Glare

## RX SUN LENS OPTIONS



Exhibit B  
Page 2 of 2

# EXHIBIT C

# LENSCRAFTERS

Plaza Bonita Eye-Ca  
3030 Plaza Bonita Road, Spc 1485  
National City, CA 91950-8009  
619-267-8500

Receipt #: 1026004

Date: 4/15/17 @ 8:49 PM

Store: 137 Register: 1

Cashier: Christina 524747

Salesperson: Christina 524747

Item	Qty	Price	Amount
Order For Sandra Seegert			
Sales Order 1010163090137			

AX1020, Gun Mat, 54/17/145			
8053672626971	1	120.00	120.00

SV Fea Classic Std AR (Poly)			
20500000356687	1	298.34	179.00

Single Vision 0101 65 Asph  
Poly Fthrwts Classic Std AR 3011  
UV400  
Standard AR  
754449-40% OFF LENSES (40%) (119.34)

Subtotal	299.00
Tax	0.00

Total	299.00
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MasterCard	\$235.29
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\*\*\*\*\*0510

Auth #: H48427

Transaction Type: Sale

Entry Method: Swiped

Auth Time: 8:48 PM

**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

*Attorneys for Plaintiff and Class Counsel*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

SANDRA SEEGER, on behalf of herself  
and all others similarly situated,

Plaintiff,

v.

LENSCRAFTERS, INC., an Ohio  
corporation, LUXOTTICA RETAIL  
NORTH AMERICA, INC., an Ohio  
corporation, LUXOTTICA GROUP  
S.P.A., an Italian corporation, and DOES  
1-50, inclusive,

Defendants.

Case No.: '17CV1372 JM BLM

**DECLARATION IN SUPPORT OF  
JURISDICTION**

I, Todd D. Carpenter, declare under penalty of perjury the following:

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

2. Defendants Lenscrafters, Inc., Luxottica Retail North America, Inc., and Luxottica Group S.p.A. have done and are doing business in the County of San Diego.



1 Such business includes the marketing, distributing, and sale of prescription lenses and  
2 eyewear.

3 3. Plaintiff Sandra Seegert purchased her prescription lenses and eyeglass frames  
4 from a Lens Crafters' retail store in San Diego, California.

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

7 Executed this 5<sup>th</sup> day of July in San Diego, California.

8  
9 /s/ Todd D. Carpenter

10 Todd D. Carpenter  
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