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10 *Attorneys for Plaintiff and the Putative Classes*

11
 12 **IN THE UNITED STATES DISTRICT COURT**
 13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

14 ERIC DICKINSON, individually and on
 15 behalf of all others similarly situated,

16 Plaintiff,

17 v.

18 24 HOUR FITNESS USA, INC., a California
 19 Corporation, 24 HOUR FITNESS
 20 HOLDINGS, LLC, a Delaware Limited
 Liability Company, and 24 HOUR FITNESS
 21 UNITED STATES, INC., a Delaware
 Corporation,

22 Defendants.

Case No: 3:17-cv-4877

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 Eric Dickinson (“Plaintiff”), individually and on behalf of all others similarly
2 situated, based on the investigation of counsel as to the actions and omissions of
3 defendants herein, and by his own individual knowledge as to those averments
4 pertaining to their own circumstances, hereby complain against defendants 24 Hour
5 Fitness USA, Inc., 24 Hour Fitness Holdings, LLC, and 24 Hour Fitness United
6 States, Inc. (collectively, “24 Hour Fitness” or “Defendants”) as follows:

7 **INTRODUCTION**

8 1. This is a civil class action seeking monetary damages, restitution, and
9 injunctive and declaratory relief from 24 Hour Fitness arising from its deceptive and
10 misleading labeling and marketing of merchandise sold within its various gym
11 locations.

12 2. During the Class Period, 24 Hour Fitness misrepresented the existence,
13 nature, and amount of price discounts on products for sale onsite by purporting to
14 offer steep discounts off of fabricated, arbitrary, and false former prices.

15 3. Specifically, within its various gyms located around the country, 24 Hour
16 Fitness represented “Reg Price[s]” that were artificial, arbitrary, and did not represent
17 a bona fide price at which 24 Hour Fitness offered the products on a regular basis for a
18 reasonably substantial period of time. Nor were the advertised “Reg Price[s]”
19 prevailing market retail prices within three months immediately preceding the
20 publication of the advertised former prices, as required by California law.

21 4. Having touted a false “Reg Price,” 24 Hour Fitness then offered,
22 immediately adjacent to the false “Reg Price” representation, to sell the given product
23 at a “NOW ONLY!” price, which supposedly represented a discount off of the false
24 “Reg Price.”

25 5. But 24 Hour Fitness’ “Reg Price,” which represented to consumers the
26 purported market or former price of the product, was a sham. The “Reg Price”
27 advertised for a given product did not represent a market price at all — much less a
28

1 former price in the preceding three months. Rather, these “Reg Prices” are fictional
2 creations designed to enable 24 Hour Fitness phantom markdowns—thereby
3 influencing consumer behavior, increasing sales, and promoting 24 Hour Fitness as a
4 low-cost retailer.

5 6. Plaintiff believed the truth of the price representations attached to the
6 products he purchased from 24 Hour Fitness, which expressly told him that he was
7 getting a bargain on his purchases. But, Plaintiff was not receiving a bargain at all.

8 7. Through its false and deceptive marketing, advertising, and pricing
9 scheme, 24 Hour Fitness violated (and continues to violate) California law prohibiting
10 advertising goods for sale as discounted from former prices which are false, and
11 prohibiting misleading statements about the existence and amount of price reductions.
12 Specifically, 24 Hour Fitness violated (and continues to violate) California’s False
13 Advertising Law (“FAL”), CAL. BUS. & PROF. CODE §§ 17501, *et seq.*; the California
14 Unfair Competition Law (“UCL”), CAL. BUS. & PROF. CODE §§ 17200, *et seq.*; the
15 California’s Consumers Legal Remedies Act (“CLRA”), Cal. Civ. Code § 1770, *et*
16 *seq.*; and the Federal Trade Commission Act (“FTCA”), which prohibits “unfair or
17 deceptive acts or practices in or affecting commerce” and specifically prohibits false
18 advertisements. 15 U.S.C. § 52(a); 15 U.S.C. § 45(a)(1).

19 8. Plaintiff, individually and on behalf of all others similarly situated, seeks
20 restitution and other equitable remedies, including declaratory relief and injunctive
21 relief under the UCL and FAL.

22 **JURISDICTION AND VENUE**

23 9. This Court has original jurisdiction over the subject matter of this action
24 pursuant to the Class Action Fairness Act, 28 U.S.C. §§1332(d), 1446, and 1453(b).
25 Plaintiff and class members are citizens of different states as the Defendants, and more
26 than two-thirds of the proposed plaintiff class, on the one hand, and Defendants, on
27 the other, are citizens of different states. The aggregate amount in controversy for
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1 Plaintiff and the Class members exceeds \$5 million, exclusive of interest and costs.

2 10. This Court has personal jurisdiction over Defendants because Defendants
3 are headquartered in California, conduct business in California, and otherwise
4 intentionally avail themselves of the markets in California to render the exercise of
5 jurisdiction by this Court proper. Defendants have marketed, promoted, distributed,
6 and sold the offending products in California.

7 11. Venue is proper in this District pursuant to 28 U.S.C. §1391(b) because a
8 substantial part of the acts and transactions giving rise to the violations of law
9 complained of herein occurred in this District, and because Defendants:

10 (a) conduct business itself or through agent(s) in this District by advertising,
11 marketing, distributing, and/or retailing its products in this District; and/or

12 (b) are licensed or registered in this District; and/or

13 (c) otherwise have sufficient contacts with this District to justify Defendants
14 being fairly brought into court in this District.

15 12. Intradistrict Assignment: pursuant to Civil Local Rules 3-2(c), a
16 substantial part of the events or omissions that give rise to the claims herein occurred
17 in Contra Costa County, and it is therefore appropriate to assign this action to the San
18 Francisco Division.

19 **PARTIES**

20 13. Plaintiff Eric Dickinson (“Dickinson”) is a resident of Costa Mesa,
21 California. Plaintiff purchased the products alleged herein from Club 891, also located
22 in Costa Mesa, California.

23 14. Upon information and belief, Defendant 24 Hour Fitness USA, Inc., a
24 California corporation, Defendant 24 Hour Fitness Holdings, LLC, a Delaware limited
25 liability company, and Defendant 24 Hour Fitness United States, Inc., a Delaware
26 corporation are headquartered in San Ramon, California. Upon information and belief,
27 24 Hour Fitness is the largest privately owned and operated chain of fitness centers,
28

1 with more than 400+ clubs located in 13 states and Asia, and a membership in excess
2 of 4 million.¹

3 **FACTUAL ALLEGATIONS**

4 15. At its gym locations, 24 Hour Fitness offers for sale certain health and
5 nutrition products.

6 16. Both members and non-members of 24 Hour Fitness are able to purchase
7 these products.

8 17. On or about June 4, 2017, Plaintiff shopped in 24 Hour Fitness Club 891,
9 located in Costa Mesa, California. He observed promotional discounts for both
10 Dymatize ISO100 Hydrolyzed Protein Powder and Cellular C4 Powder.

11 18. Specifically, 24 Hour Fitness advertised Dymatize ISO100 Hydrolyzed
12 Protein Powder with a “Reg Price,” or regular price, of \$74.99, and a “NOW ONLY!”
13 or sale price of \$49.99, as below.



27
28 ¹ https://www.24hourfitness.com/company/about_us/ (last visited July 29, 2017)

1 19. Additionally, 24 Hour Fitness advertised Cellular C4 Powder (30
2 servings) with a “Reg Price,” or regular price, of \$39.99, and a “NOW ONLY!” or
3 sale price of \$29.99, as below.



17 20. Enticed by the idea of paying a price significantly less than the market
18 price, Plaintiff was induced to purchase two items: (i) a 3lb container of Dymatize
19 ISO100 Hydrolyzed Protein Powder, Item No. 705016353132, and (ii) a 30-serving
20 container of Cellular C4 Powder, Item No. 81 0390028436. Plaintiff purchased these
21 items for the advertised “NOW ONLY!” sale price, as set forth above.

22 21. By purchasing the Dymatize ISO100 Hydrolyzed Protein Powder and
23 Cellular C4 Powder for the “NOW ONLY!” sale price of \$49.99 and \$29.99,
24 respectively, instead of the “Reg Price” or market price, Plaintiff was led to believe
25 that he saved 33% and 25%, respectively, on his purchases.

26 22. In reality, the “Reg Price” was not a bona fide price at 24 Hour Fitness
27 offered the products on a regular basis for a reasonably substantial period of time.
28

1 Nor were the advertised “Reg Price[s]” prevailing market retail prices within three
2 months immediately preceding the publication of the advertised former prices. Thus,
3 Plaintiff was deceived by the false price comparison into making a full retail purchase
4 with no discount.

5 23. Plaintiff and class members’ reliance on 24 Hour Fitness’ false price
6 comparison advertising was reasonable. In fact, empirical market studies provide an
7 incentive for retailers to engage in this false and fraudulent behavior:

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

13 Dhruv Grewal and Larry D. Compeau, *Comparative Price Advertising: Informative or*
14 *Deceptive?*, JOURNAL OF PUBLIC POLICY & MARKETING, Vol. 11, No. 1, at 52 (Spring
15 1992). In short:

16 [b]y creating an impression of savings, the presence of a higher reference
17 price enhances subjects’ perceived value and willingness to buy the
18 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.

19 *Id.* at 55-56.

20 24. By using both a “Reg Price” and a “NOW ONLY!” price, Defendant
21 communicates that its products are discounted from their normal, everyday pricing,
22 and are less expensive than the market price. Plaintiff and the putative class rely on
23 these representations to make purchasing decisions. Thus, 24 Hour Fitness makes the
24 “regular” price as large as possible to exaggerate the savings that are supposedly
25 realized by either (1) using the highest price at which a product has ever been listed at
26 its stores (regardless of when the price was established or if it represents the price at
27 which the product would normally be sold), or (2) completely fabricating the baseline
28 price. Accordingly, 24 Hour Fitness knows, or should have known, that it misinforms

1 its consumers regarding the discount pricing of its products.

2 25. 24 Hour Fitness’ illusory discounts are particularly misleading because
3 consumers often decide to make purchases based on an internal reference price;
4 customers will often make a purchasing decision when they believe products to be less
5 expensive than the perceived “normal” value of a given item.

6 26. By featuring “discounts” derived from improper price comparisons, 24
7 Hour Fitness takes advantage of this well-documented behavior in order to influence
8 its customers into purchasing an item. 24 Hour Fitness’ practices also mollify
9 consumers’ concerns about missing a “better deal” and discourages comparison
10 shopping by creating a false sense of urgency (an impression that the “NOW ONLY!”
11 pricing is temporary and that a consumer should act quickly or lose significant
12 savings).

13 27. 24 Hour Fitness also inflates its “Reg Price” to maintain the illusion that
14 24 Hour Fitness pricing is consistently lower than other retailers. If 24 Hour Fitness
15 actually advertised a valid “Reg Price” that accurately reflected the current market
16 price of a product, consumers would be aware that 24 Hour Fitness does not provide
17 the deals it purportedly offers and would not make purchases from its stores.

18 28. By way of example, in the three months preceding Plaintiff’s purchase,
19 bodybuilding.com offered Dymatize ISO100 Hydrolyzed Protein Powder, 3 lbs, for a
20 price of \$49.99. 24 Hour Fitness’ “Reg Price” was significantly more expensive—at
21 \$74.99. Yet, 24 Hour Fitness advertises that its Dymatize ISO100 Hydrolyzed Protein
22 Powder, 3 lbs, is substantially discounted at the “NOW ONLY!” sale price of
23 \$49.99—even though the “Reg Price” of \$74.99 was not the actual, bona fide price at
24 which 24 Hour Fitness offered the product on a regular basis for a reasonably
25 substantial period of time, and was not prevailing market retail price within three
26 months immediately preceding the publication of the advertised former price.

27 29. And, on or about the time of Plaintiff’s purchase, GNC.com offered the
28

1 Dymatize ISO100 Hydrolyzed Protein Powder, 3 lbs, for \$49.99. 24 Hour Fitness’
2 “Reg Price” was significantly more expensive—at \$74.99. Yet, 24 Hour Fitness
3 advertises that its Dymatize ISO100 Hydrolyzed Protein Powder, 3 lbs, is
4 substantially discounted at the “NOW ONLY!” sale price of \$49.99—even though the
5 “Reg Price” of \$74.99 was not the actual, bona fide price at which 24 Hour Fitness
6 offered the product on a regular basis for a reasonably substantial period of time, and
7 was not prevailing market retail price within three months immediately preceding the
8 publication of the advertised former price.

9 30. Additionally, in the three months preceding Plaintiff’s purchase,
10 bodybuilding.com offered the Cellular C4 Powder, 30 servings, for \$26.99. 24 Hour
11 Fitness’ “Reg Price” was significantly more expensive—at \$39.99. Yet, 24 Hour
12 Fitness advertises that its Cellular C4 Powder is substantially discounted at the “NOW
13 ONLY!” sale price of \$29.99—even though the “Reg Price” of \$39.99 was not the
14 actual, bona fide price at which 24 Hour Fitness offered the product on a regular basis
15 for a reasonably substantial period of time, and was not prevailing market retail price
16 within three months immediately preceding the publication of the advertised former
17 price.

18 31. And, on or about the time of Plaintiff Dickinson’s purchase, GNC.com
19 offered the Cellular C4 Powder, 30 servings, for \$26.99. 24 Hour Fitness’ “Reg
20 Price” was significantly more expensive—at \$39.99. Yet, 24 Hour Fitness advertises
21 that its Cellular C4 Powder is substantially discounted at the “NOW ONLY!” sale
22 price of \$29.99—even though the “Reg Price” of \$39.99 was not the actual, bona fide
23 price at which 24 Hour Fitness offered the product on a regular basis for a reasonably
24 substantial period of time, and was not prevailing market retail price within three
25 months immediately preceding the publication of the advertised former price.

26 32. These false discounts are not limited to the products that Plaintiff
27 purchased. Instead, these false and misleading discounts appear on a large percentage
28

1 of 24 Hour Fitness’ products.

2 33. Despite the “Reg Price”/“NOW ONLY!” scheme used by 24 Hour
3 Fitness, Plaintiff would purchase products in the future from 24 Hour Fitness
4 locations, if discount representations accurately reflect former prices and discounts.
5 Currently, however, Plaintiff and consumers have no realistic way to know which —
6 if any — of 24 Hour Fitness’ price comparisons are truthful. If the Court were to
7 issue an injunction ordering 24 Hour Fitness to comply with California’s comparative
8 price advertising laws, and prohibiting 24 Hour Fitness’ use of the deceptive practices
9 discussed herein, Plaintiff would likely shop for 24 Hour Fitness products again in the
10 near future.

11 34. By marketing products’ “Reg Prices” at artificially high levels – levels
12 that would not be competitive in the current prevailing market – 24 Hour Fitness
13 concocts discounts that do not exist.

14 35. Such practice is not new; retailers have historically used the same
15 misleading tactic. In response, both California lawmakers and federal regulators
16 prohibited such injurious conduct. As stated above, California Business &
17 Professions Code, section 17501, specifically states that:

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

22 (Emphasis added).

23 36. The provision of section 17501 differentiates subjective uncertainty from
24 clear illegality. The market price at the time of publication of such an advertisement
25 is the average price charged in the locality where the advertisement is published.
26 Accordingly, 24 Hour Fitness can only include a “Reg Price” in its advertisements, for
27 comparative purposes, if (1) the prevailing market price has been researched (in each
28 relevant market) and the “Reg Price” is the average retail market price within the past

1 three months, or (2) it advertises the date on which the published “Reg Price” was last
2 in effect. 24 Hour Fitness does neither.

3 37. Federal regulations also proscribe such deceptive comparative pricing
4 conduct:

5 . . . a reduction from the advertiser's own former price for an article. If
6 the former price is the actual, bona fide price at which the article was
7 offered to the public on a regular basis for a reasonably substantial period
8 of time, it provides a legitimate basis for the advertising of a price
9 comparison. Where the former price is genuine, the bargain being
10 advertised is a true one. If, on the other hand, the former price being
11 advertised is not bona fide but fictitious--for example, where an artificial,
12 inflated price was established for the purpose of enabling the subsequent
13 offer of a large reduction--the “bargain” being advertised is a false one;
14 the purchaser is not receiving the unusual value he expects. In such a
15 case, the “reduced” price is, in reality, probably just the seller's regular
16 price.

17 16 C.F.R. § 233.1(a) (emphasis added).

18 38. As a result, a business acts improperly when it manufactures or
19 exaggerates a discount intended to make products appear more attractive.

20 CLASS ALLEGATIONS

21 39. Plaintiff brings this action as a class action pursuant to Federal Rule of
22 Civil Procedure 23 for the following nationwide Class of persons:

23 All persons nationwide who, within the applicable statute of limitations
24 preceding the filing of this action, purchased product(s) with an
25 advertised discount from 24 Hour Fitness.

26 40. In the alternative, Plaintiff brings this action as a class action pursuant to
27 Federal Rule of Civil Procedure 23 for the following state-wide Class of persons:

28 All persons in the State of California who, within the applicable statute of
limitations preceding the filing of this action, purchased product(s) with
an advertised discount from 24 Hour Fitness.

41. Excluded from the Class are 24 Hour Fitness, its parents, subsidiaries,
affiliates, officers and directors, any entity in which 24 Hour Fitness has a controlling

1 interest, all customers who make a timely election to be excluded, governmental
2 entities, and any judge, justice or judicial officer presiding over this matter and
3 members of their immediate families and judicial staff.

4 42. Plaintiff reserves the right to amend the Class definition if further
5 investigation and discovery indicates that the Class definition should be narrowed,
6 expanded, or otherwise modified.

7 43. Numerosity. While the exact number of Class members is unknown to
8 Plaintiff at this time, and will be ascertained through appropriate discovery, Plaintiff is
9 informed and believes that the Class consists of thousands of members. The number
10 of individuals who comprise the Class is so numerous that joinder of all such persons
11 is impracticable and the disposition of their claims in a class action, rather than in
12 individual actions, will benefit both the parties and the courts.

13 44. Typicality. Plaintiff's claims are typical of the claims of the other
14 members of the Class. All members of the Class have been and/or continue to be
15 similarly affected by 24 Hour Fitness' wrongful conduct as complained of herein, in
16 violation of federal and state law. Plaintiff is unaware of any interests that conflict
17 with or are antagonistic to the interests of the Class.

18 45. Adequacy of Representation. Plaintiff will fairly and adequately protect
19 the Class members' interests and have retained counsel competent and experienced in
20 consumer class action lawsuits and complex litigation. Plaintiff and his counsel have
21 the necessary financial resources to adequately and vigorously litigate this class
22 action, and Plaintiff is aware of his duties and responsibilities to the Class.

23 46. Commonality. 24 Hour Fitness has acted with respect to the Class in a
24 manner generally applicable to each Class member. Common questions of law and
25 fact exist as to all Class members and predominate over any questions wholly
26 affecting individual Class members. There is a well-defined community of interest in
27 the questions of law and fact involved in the action, which affect all Class members.

1 Among the questions of law and fact common to the Class are, *inter alia*:

2 a. Whether, during the Class Period, 24 Hour Fitness used false
3 representations and falsely advertised price discounts on its products sold in its stores;

4 b. Whether, during the Class Period, 24 Hour Fitness advertised its
5 “discounted” products in a deceptive, false, or misleading manner;

6 c. Whether, during the Class Period, the market prices advertised by
7 24 Hour Fitness were the prevailing market prices for the respective products sold in
8 stores during the three month periods preceding the dissemination and/or publication
9 of the advertised former prices;

10 d. Whether, during the Class Period, 24 Hour Fitness’ advertised
11 “Reg Price” for its products are determined by averaging the price of the given
12 product in the prevailing market over the previous three months;

13 e. Whether 24 Hour Fitness engaged in unfair, unlawful, and/or
14 fraudulent business practices under California Law;

15 f. Whether 24 Hour Fitness misrepresented and/or failed to disclose
16 material facts about its product pricing and discounts;

17 g. Whether 24 Hour Fitness has made false or misleading statements
18 of fact concerning the reasons for, existence of, or amounts of price reductions;

19 h. Whether 24 Hour Fitness advertised the date on which the “Reg
20 Price” of a product was determined;

21 i. Whether 24 Hour Fitness’ alleged business practices constitute
22 unfair methods of competition and unfair or deceptive acts or practices in violation of,
23 *inter alia*, CAL. BUS. & PROF. CODE §§ 1770, *et seq.*, by making false or misleading
24 statements of fact concerning reasons for, existence of, or amounts of price reductions;

25 j. Whether 24 Hour Fitness’ business practices, alleged herein,
26 constitute misleading and deceptive advertising under, *inter alia*, CAL. BUS. & PROF.
27 CODE §§ 17500-01;

28

1 k. Whether 24 Hour Fitness’ business practices, alleged herein,
2 constitute “unlawful,” “unfair,” or “fraudulent” business acts or practices under, *inter*
3 *alia*, CAL. BUS. & PROF. CODE §§ 17200, including: whether 24 Hour Fitness’
4 advertisement of illusory discounts constitutes “unlawful” or “unfair” business
5 practices by violating the public policies set out in CAL. CIV. CODE §§ 1770(a)(13),
6 CAL. BUS. & PROF. CODE §§ 17500-01, 16 C.F.R. § 233.1, and other California and
7 federal statutes and regulations;

8 l. Whether 24 Hour Fitness’ conduct, as alleged herein, was
9 intentional and knowing;

10 m. Whether class members are entitled to damages and/or restitution,
11 and in what amount;

12 n. The nature and extent of equitable remedies, including restitution
13 of shipping costs; and declaratory and injunctive relief to which Plaintiff and the class
14 are entitled

15 o. Whether 24 Hour Fitness is likely to continue using false,
16 misleading, or illegal price comparisons such that an injunction is necessary; and

17 p. Whether Plaintiff and Class members are entitled to an award of
18 reasonable attorneys’ fees, pre-judgment interest, and costs of suit.

19 47. Superiority of Class Action. A class action is superior to all other
20 available methods for the fair and efficient adjudication of this controversy since
21 joinder of all members is impracticable. Furthermore, as the damages suffered by
22 individual Class members may be relatively small, the expense and burden of
23 individual litigation make it virtually impossible for Class members to individually
24 redress the wrongs done to them. There will be no difficulty in managing this action
25 as a class action.

1 **FIRST CAUSE OF ACTION**
2 **Violation of CAL. BUS. & PROF. CODE §§ 17500, *et seq.* -**
3 **Untrue, Misleading, and Deceptive Advertising**
4 **(On Behalf of the Nationwide Class**
5 **or, in the Alternative, the California Class)**

6 48. Plaintiff hereby incorporates by reference each of the allegations
7 contained in the preceding paragraphs of this Complaint.

8 49. California Business and Professional Code, section 17501, states that:

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

14 For the purpose of section 17501, the retail market price at the time of
15 publication of such advertisement is the retail price in locality wherein
16 the advertisement is published.

17 50. At all material times, 24 Hour Fitness engaged in a scheme of advertising
18 that its products were subject to a discount when such discounts were illusory and did
19 not reflect the “prevailing marketing price” of the item for a particular time period in a
20 particular location, or even the price at which the product was recently sold 24 Hour
21 Fitness’ stores.

22 51. At all material times, 24 Hour Fitness did not include the date on which
23 its “Reg Price” was established.

24 52. 24 Hour Fitness’ advertisement of an inflated “Reg Price” misrepresented
25 and/or omitted the true nature of 24 Hour Fitness’ pricing. Said advertisements were
26 made to consumers located throughout the country and in the State of California and
27 come within the definition of advertising as contained in Cal. Bus. & Prof. Code §§
28 17500, *et seq.* Such promotional materials were intended as inducements to purchase
products in 24 Hour Fitness locations and are statements disseminated by 24 Hour
Fitness to Plaintiff and other members of the Class. 24 Hour Fitness knew, or in the

1 exercise of reasonable care should have known, that the statements regarding its
2 pricing were false, misleading, deceptive and violated California law.

3 53. 24 Hour Fitness has prepared and distributed within the United States, via
4 its nationwide gym locations, advertising that its products were subject to substantial
5 discounts. Plaintiff necessarily and reasonably relied on 24 Hour Fitness' statements
6 regarding the pricing of its products, and all members of the Class were exposed to
7 such statements. Consumers, including Plaintiff and members of the Class, were
8 among the intended targets of such representations.

9 54. The above acts of 24 Hour Fitness, in disseminating said misleading and
10 deceptive statements throughout the United States, including to Plaintiff and members
11 of the Class, were and are likely to deceive reasonable consumers by obfuscating the
12 true nature of 24 Hour Fitness' discounts. Thus, the above acts constitute violations
13 of CAL. BUS. & PROF. CODE §§ 17500, *et seq.*

14 55. Plaintiff and other members of the Class who purchased products from
15 24 Hour Fitness' locations suffered a substantial injury. Had Plaintiff and members of
16 the Class known that 24 Hour Fitness' materials, advertisements, and other
17 inducements misrepresented and/or omitted the true nature of 24 Hour Fitness'
18 discounts, they would not have purchased products from 24 Hour Fitness, or would
19 have paid less for them.

20 56. Plaintiff, on behalf of themselves and all other similarly situated
21 consumers, and as appropriate, on behalf of the general public, seek restitution and
22 injunctive relief: (1) prohibiting 24 Hour Fitness from continuing the unlawful
23 practices alleged herein, (2) directing 24 Hour Fitness to make corrective notices both
24 on its website and in other appropriate media, (3) allowing Class members to return
25 any products purchased from 24 Hour Fitness' gym locations, at 24 Hour Fitness'
26 expense, that were subject to 24 Hour Fitness' unlawful pricing policy or,
27 alternatively, requiring 24 Hour Fitness to price match any competitor's advertised
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1 price for the same product, and refund any shipping and handling fees for any
2 products purchased from 24 Hour Fitness' locations subject to 24 Hour Fitness'
3 unlawful pricing policy, and (4) any other relief deemed proper by the Court.

4 **SECOND CAUSE OF ACTION**
5 **Violation of CAL. BUS. & PROF. CODE §§ 17200, *et seq.* -**
6 **Unlawful Business Acts and Practices**
7 **(On Behalf of the Nationwide Class**
8 **or, in the Alternative, the California Class)**

9 57. Plaintiff hereby incorporates by reference each of the allegations
10 contained in the preceding paragraphs of this Complaint.

11 58. California Business and Professional Code, section 17501, states:

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

17 59. Federal regulations also prohibit the use of deceptive and illusory
18 discounts:

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

16 C.F.R. § 233.1(a).

1 60. California Civil Code § 1770(a)(5) prohibits representing goods or
2 services as having characteristics and benefits that they do not have.

3 61. California Civil Code § 1770(a)(7) prohibits representing goods or
4 services as having a particular standard, quality, or grade when they are of another.

5 62. California Civil Code § 1770(a)(9) prohibits advertising goods or
6 services with intent not to sell them as advertised.

7 63. California Civil Code § 1770(a)(13) prohibits making false or misleading
8 statements of fact concerning reasons for or the existence or amounts of price
9 reductions.

10 64. California Civil Code § 1770(a)(14) prohibits representing that a
11 transaction confers or involves rights which it does not have or involve.

12 65. The business practices alleged above are unlawful under California
13 Business & Professional Code §§ 17500, *et seq.*, California Civil Code §§ 1770(a)(9)
14 & (13), and federal regulations, each of which forbids 24 Hour Fitness' untrue,
15 fraudulent, deceptive, and/or misleading marketing and advertisements.

16 66. Plaintiff and Class members were harmed as a result of 24 Hour Fitness'
17 unfair competition and deceptive acts and practices. Had 24 Hour Fitness disclosed
18 the true nature of its "discounts," Plaintiff and the Class would not have been misled
19 into purchasing products from 24 Hour Fitness' locations, or, alternatively, would
20 have paid less for them.

21 67. Plaintiff, on behalf of themselves and all other similarly situated
22 consumers, and as appropriate, on behalf of the general public, seek restitution and
23 injunctive relief: (1) prohibiting 24 Hour Fitness from continuing the unlawful
24 practices alleged herein, (2) directing 24 Hour Fitness to make corrective notices both
25 on its website and in other appropriate media, (3) allowing Class members to return
26 any products purchased on 24 Hour Fitness locations, at 24 Hour Fitness' expense,
27 that were subject to 24 Hour Fitness' unlawful pricing policy or, alternatively,
28

1 requiring 24 Hour Fitness to price match any competitor's advertised price for the
2 same product, and refund any shipping and handling fees for any product purchased
3 on 24 Hour Fitness locations subject to 24 Hour Fitness' unlawful pricing policy, and
4 (4) any other relief deemed proper by the Court.

5 **THIRD CAUSE OF ACTION**
6 **Violation of CAL. BUS. & PROF. CODE §§ 17200, *et seq.* -**
7 **Unfair Business Acts and Practices**
8 **(On Behalf of the Nationwide Class**
9 **or, in the Alternative, the California Class)**

9 68. Plaintiff hereby incorporates by reference each of the allegations
10 contained in the preceding paragraphs of this Complaint.

11 69. Plaintiff and other members of the Class suffered a substantial injury by
12 virtue of 24 Hour Fitness' unlawful scheme of advertising that its products were
13 subject to a discount when such discounts were illusory and did not reflect the
14 "prevailing market price" of the item during any particular time period at a particular
15 location or even the price at which the product was previously sold at 24 Hour Fitness
16 locations.

17 70. 24 Hour Fitness' actions alleged herein violate the laws and public
18 policies of California and the federal government as set out in preceding paragraphs of
19 this Complaint.

20 71. There is no benefit to consumers or competition by allowing 24 Hour
21 Fitness to deceptively market and advertise nonexistent discounts in violation of
22 California Law.

23 72. The gravity of the harm imposed upon Plaintiff and Class members
24 outweighs any legitimate justification, motive, or reason for marketing and advertising
25 discounted products in a deceptive and misleading manner that violates California
26 law. Accordingly, 24 Hour Fitness' actions are immoral, unethical, and unscrupulous,
27 offend the established California public policies, and cause substantial injury to
28 Plaintiff and members of the Class.

1 73. The above acts of 24 Hour Fitness, in disseminating said misleading and
2 deceptive statements throughout California to consumers, including Plaintiff and
3 members of the Class, were and are likely to deceive reasonable consumers by
4 obfuscating the true nature and amount of the “discount” and the existence of the
5 “discounted” product in violation of Cal. Bus. & Prof. Code §§ 17500, *et seq.* and
6 California Civil Code §§ 1770(a)(9) & (13).

7 74. Plaintiff and Class members were harmed and suffered actual damages as
8 a result of 24 Hour Fitness’ unfair competition and deceptive acts and practices. Had
9 24 Hour Fitness disclosed the true nature of the discounts, Plaintiff and the Class
10 would not have purchased products from 24 Hour Fitness locations or, alternatively,
11 would have paid significantly less for them.

12 75. Plaintiff, on behalf of himself and all other similarly situated consumers,
13 and as appropriate, on behalf of the general public, seek restitution and injunctive
14 relief: (1) prohibiting 24 Hour Fitness from continuing the unlawful practices alleged
15 herein, (2) directing 24 Hour Fitness to make corrective notices both on its website
16 and in other appropriate media, (3) allowing Class members to return any products
17 purchased on 24 Hour Fitness’ website, at 24 Hour Fitness’ expense, that were subject
18 to 24 Hour Fitness’ unlawful pricing policy or alternatively requiring 24 Hour Fitness’
19 to price match any competitor’s advertised price for the same product, and refund any
20 shipping and handling fees for any product purchased on 24 Hour Fitness’ website
21 subject to 24 Hour Fitness’ unlawful pricing policy, and (4) any other relief deemed
22 proper by the Court.

23 **FOURTH CAUSE OF ACTION**
24 **Violation of CAL. BUS. & PROF. CODE §§ 17200, *et seq.* -**
25 **Fraudulent Business Acts and Practices**
26 **(On Behalf of the Nationwide Class**
27 **or, in the Alternative, the California Class)**

27 76. Plaintiff hereby incorporates by reference each of the allegations
28 contained in the preceding paragraphs of this Complaint.

1 77. Such acts of 24 Hour Fitness as described above constitute a fraudulent
2 business practice under Cal. Bus. & Prof. Code §§ 17200, *et seq.*

3 78. As more fully described above, 24 Hour Fitness misleadingly markets
4 and advertises its products as discounted from a “Reg Price,” when such discounts are
5 illusory and/or overstated. 24 Hour Fitness’ misleading marketing and advertisements
6 are likely to, and do, deceive reasonable consumers. Indeed, Plaintiff and other
7 members of the Class were unquestionably deceived about the nature of 24 Hour
8 Fitness’ pricing, as 24 Hour Fitness prominently displayed its products as discounted
9 in its stores, which consumers must use to purchase 24 Hour Fitness’ offerings.

10 79. 24 Hour Fitness’ misleading and deceptive practices caused Plaintiff and
11 other members of the Class to purchase the products and/or pay more than they would
12 have otherwise had they known the true nature of 24 Hour Fitness’ advertisements.

13 80. Plaintiff and Class members were harmed as a result of 24 Hour Fitness’
14 unfair competition and deceptive acts and practices.

15 81. Plaintiff, on behalf of themselves and all other similarly situated
16 consumers, and as appropriate, on behalf of the general public, seeks restitution and
17 injunctive relief: (1) prohibiting 24 Hour Fitness from continuing the unlawful
18 practices alleged herein, (2) directing 24 Hour Fitness to make corrective notices both
19 on its website and in other appropriate media, (3) allowing Class members to return
20 any products purchased at 24 Hour Fitness’ locations, at 24 Hour Fitness’ expense,
21 that were subject to 24 Hour Fitness’ unlawful pricing policy, or alternatively
22 requiring 24 Hour Fitness to price match any competitor’s advertised price for the
23 same product, refund any shipping and handling fees for any products purchased at 24
24 Hour Fitness’ website subject to 24 Hour Fitness’ unlawful pricing policy, and (4) any
25 other relief deemed proper by the Court.

FIFTH CAUSE OF ACTION
Violation of CAL. BUS. & PROF. CODE §§ 1750, *et seq.*
Consumers Legal Remedies Act
(On Behalf of the Nationwide Class
or, in the Alternative, the California Class)

1
2
3
4
5 82. Plaintiff hereby incorporates by reference each of the allegations
6 contained in the preceding paragraphs of this Complaint.

7 83. 24 Hour Fitness sells “goods” and “services” as defined by California
8 Civil Code § 1761.

9 84. Each of the Defendants is a "person" as defined by California Civil Code
10 § 1761(c).

11 85. Plaintiff and Class members are "consumers" within the meaning of
12 California Civil Code §1761(d) because they purchased the products from 24 Hour
13 Fitness for personal, family, or household use.

14 86. The sale of the products to Plaintiff and Class members *via* 24 Hour
15 Fitness locations is a “transaction” as defined by California Civil Code § 1761(e).

16 87. As described herein, 24 Hour Fitness violated the Consumers Legal
17 Remedies Act by falsely representing the nature, existence, and amount of price
18 discounts by fabricating inflated market or “Reg Price[s].” Such a pricing scheme
19 violates California Civil Code in at least the following ways:

20 a. Section 1770(a)(5) because 24 Hour Fitness represented that its
21 products have characteristics and benefits (discounts) that they do not have (because
22 the items were not actually sold at the advertised “Reg Price” for a reasonable period
23 of time, and thus no true discount is being offered);

24 b. Section 1770(a)(7) because 24 Hour Fitness represented that its
25 products were of a particular standard, quality, or grade (that the subject products
26 were worth a higher “Reg Price” and thus were more valuable) when they are of
27 another (the products are not worth the stated “Reg Price” and thus are not as valuable
28

1 as advertised);

2 c. Section 1770(a)(9) because 24 Hour Fitness advertised goods with
3 the intent not to sell them as advertised (because Defendant knew the goods were not
4 valued at the advertised “Reg Price”);

5 d. Section 1770(a)(13) because 24 Hour Fitness made false or
6 misleading statements of fact concerning the amount of a price reduction (because the
7 advertised “Reg Price[s]” were false and inflated, and thus the consumers did not
8 receive the discounts they thought they were receiving); and

9 e. Section 1770(a)(14) because 24 Hour Fitness represented that the
10 transaction confers or involves rights (the right to receive the offered discount
11 amount) which it does not have or involve (the stated discounts are false or inflated, so
12 that the consumer is not receiving the discount that was offered or advertised).

13 88. Plaintiff relied on 24 Hour Fitness’ false representations in deciding to
14 purchase goods at 24 Hour Fitness. Plaintiff would not have purchased such items
15 absent 24 Hour Fitness’ unlawful conduct.

16 89. Plaintiff and Class members were harmed as a result of 24 Hour Fitness’
17 unfair competition and deceptive acts and practices. Had 24 Hour Fitness’ disclosed
18 the true nature of its discounts, Plaintiff and the Class would not have been misled
19 into purchasing products from 24 Hour Fitness’ locations, or, alternatively, would
20 have paid less for them.

21 90. 24 Hour Fitness’ acts and omissions constitute unfair, deceptive, and
22 misleading business practices in violation of Civil Code § 1770(a).

23 91. Pursuant to the notice requirements under the CLRA, on August 22,
24 2017, Plaintiff notified 24 Hour Fitness in writing, by certified mail, of the violations
25 alleged herein and demanded that 24 Hour Fitness remedy those violations within
26 thirty (30) days of receipt. In the event 24 Hour Fitness fails to adequately respond
27

1 within the mandated 30-day time period, Plaintiff intends to amend this Complaint to
2 include a request for injunctive relief pursuant to the CLRA.

3 92. 24 Hour Fitness' conduct is malicious, fraudulent, and wanton in that 24
4 Hour Fitness intentionally and knowingly provided misleading information to the
5 public.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff and the proposed Class pray for relief and judgment as
8 follows:

9 A. For an order declaring that this action is properly maintained as a class
10 action, appointing Plaintiff as representatives for the Class, and appointing Plaintiff's
11 counsel as Class counsel;

12 B. For an order awarding Plaintiff and the members of the Class actual
13 damages, restitution, and/or disgorgement, and/or for an order directing each of the
14 Defendants to allow its customers to return any products purchased at 24 Hour Fitness
15 locations, at 24 Hour Fitness' expense, that were subject to 24 Hour Fitness' unlawful
16 pricing policy, or price match any competitor's advertised price for the same product
17 purchased from 24 Hour Fitness locations that were subject 24 Hour Fitness' unlawful
18 pricing policy;

19 E. For an order enjoining each of the Defendants from continuing to engage
20 in the unlawful and unfair business acts and practices as alleged herein;

21 F. For an order directing each of the Defendants to make corrective notices
22 on its website and in other appropriate publications.

23 G. For restitution of all shipping and handling fees charged for products
24 purchased at 24 Hour Fitness locations subject to 24 Hour Fitness' unlawful
25 advertising;

26 H. For an order awarding Plaintiff's attorneys' fees and costs of suit,
27 including expert witness fees, as permitted by law; and

1 I. Such other and further relief as this Court may deem just and proper.

2 **JURY TRIAL**

3 Plaintiff demands a trial by jury for all of the claims asserted in this Complaint
4 so triable.

5 Respectfully submitted,

6 **AHDOOT & WOLFSON, PC**

7
8
9 Dated: August 23, 2017

By: /s/ Tina Wolfson

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23 *Attorneys for Plaintiff*

24 *and the Putative Class*

CIVIL COVER SHEET

The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
Eric Dickinson

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
See attachment.

DEFENDANTS

24 HOUR FITNESS USA, INC., a California Corporation, 24 HOUR FITNESS HOLDINGS, LLC, a Delaware Limited Liability Company, and 24 HOUR FITNESS UNITED STATES, INC., a Delaware Corporation

County of Residence of First Listed Defendant Contra Costa County, California
(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 3 Federal Question (U.S. Government Not a Party)

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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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. §1332; Cal. Bus. & Prof. Code §§ 17501, et seq.; and Cal. Bus. & Prof. Code §§ 17200, et seq.
Brief description of cause:
Defendants misrepresented the existence, nature, and amount of price discounts on products for sale onsite by purporting to offer steep discounts off of fabricated, arbitrary, and false former prices.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: X Yes No

VIII. RELATED CASE(S), IF ANY (See instructions): JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)
(Place an "X" in One Box Only) X SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE 08/23/2017 SIGNATURE OF ATTORNEY OF RECORD Tina Wolfson

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate 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 Federal Rule of Civil Procedure 8(a), 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.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 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.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 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-CAND 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.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no 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 Federal Rule of Civil Procedure 23.
- 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-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.

Attachment to Civil Cover Sheet

I(c):

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