

**CONFORMED COPY
ORIGINAL FILED**
Superior Court of California
County of Los Angeles

JUN 03 2021

Sherri R. Carter, Executive Officer/Clerk of Court

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Daniel M. Hattis (SBN 232141)
Paul Karl Lukacs (SBN 197007)
HATTIS & LUKACS
400 108th Avenue NE, Suite 500
Bellevue, WA 98004
Telephone: (425) 233-8650
Facsimile: (425) 412-7171
Email: dan@hattislaw.com
Email: pkl@hattislaw.com

Stephen P. DeNittis, Esq. (Pro Hac Vice to be submitted)
Shane T. Prince, Esq. (Pro Hac Vice to be submitted)
DENITTIS OSEFCHEN PRINCE, P.C.
5 Greentree Centre, Suite 410
525 Route 73 N.
Marlton, New Jersey 08057
Telephone: (856) 797-9951
Facsimile: (856) 797-9978
Email: sdenittis@denittislaw.com
Email: sprince@denittislaw.com

Attorneys for Plaintiffs and the Proposed Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
UNLIMITED CIVIL**

JANETTE LISNER,
JENNIFER QUIROZ NUNEZ, and
JAMES ANDREWS,
for Themselves, as Private Attorneys
General, and On Behalf Of All
Others Similarly Situated,

Plaintiffs,

v.

AERO OPCO LLC;
SPARC GROUP LLC;
AERO OPERATIONS LLC;
and DOES 1-5, inclusive,

Defendants.

Case No. **21ST CV20847**

CLASS ACTION

COMPLAINT FOR:

1. Violation of Consumers Legal Remedies Act, Cal. Civ. Code § 1750 *et seq.*
2. Violation of False Advertising Law, Cal. Bus. & Prof. Code § 17500 *et seq.*
3. Violation of Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.*

JURY TRIAL DEMANDED

BY FAX

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I. INTRODUCTION AND SUMMARY - 1 -

II. PARTIES..... - 2 -

III. JURISDICTION AND VENUE - 5 -

IV. FACTUAL ALLEGATIONS OF AEROPOSTALE’S FALSE DISCOUNT
ADVERTISING SCHEME..... - 6 -

 A. Aeropostale’s False Reference Prices - 9 -

 B. Aeropostale’s False “Free” Offers. - 13 -

V. PLAINTIFFS’ COMPREHENSIVE INVESTIGATION..... - 16 -

 A. Plaintiffs’ Allegations Are Based On A Sweeping Six-Year
 Investigation By Plaintiffs’ Counsel. - 16 -

VI. CUSTOMERS WERE HARMED AS A RESULT OF AEROPOSTALE’S
FALSE DISCOUNT ADVERTISING SCHEME - 21 -

VII. PLAINTIFFS’ FACTUAL ALLEGATIONS - 22 -

 A. Plaintiff Janette Lisner - 22 -

 B. Plaintiff Jennifer Quiroz Nunez - 25 -

 C. Plaintiff James Andrews - 27 -

VIII. CLASS ACTION ALLEGATIONS - 30 -

CAUSES OF ACTION - 32 -

COUNT I: Violation of the Consumers Legal Remedies Act
 California Civil Code § 1750 *et seq.* - 32 -

COUNT II: Violation of California’s False Advertising Law
 California Business and Professions Code § 17500 *et seq.* - 35 -

COUNT III: Violation of California’s Unfair Competition Law
 California Business and Professions Code § 17200 *et seq.* - 37 -

PRAYER FOR RELIEF - 40 -

JURY DEMAND - 41 -

1 Plaintiffs Janette Lisner, Jennifer Quiroz Nunez and James Andrews, for themselves, as
2 private attorneys general on behalf of the general public, and on behalf of all others similarly
3 situated, allege as follows, on personal knowledge and on the investigation of their counsel,
4 against Defendants Aero OpCo LLC, SPARC Group LLC, and Aero Operations, LLC;
5 (collectively “Defendants” or “Aeropostale”); and Defendants Does 1–5, inclusive:

6 **I. INTRODUCTION AND SUMMARY**

7 1. Aeropostale is a designer, marketer, and retail seller of casual clothing and
8 accessories, targeting primarily the teen and young adult market. Almost all the items offered
9 for sale by Aeropostale in its Aeropostale stores are branded as “Aeropostale” products, and are
10 offered and sold exclusively by Aeropostale. In 2019, Aeropostale had over \$1 billion in sales
11 revenues in 2019 in its brick-and-mortar Aeropostale stores and on its retail website.

12 2. For years, Aeropostale has perpetrated a massive false discount advertising
13 scheme across nearly all of its Aeropostale-branded products and sales channels (i.e., in
14 Aeropostale’s brick-and-mortar retail stores and on the Aeropostale website). Specifically,
15 Aeropostale advertises perpetual or near perpetual storewide “sales” and percentage-off
16 discounts—typically 50% to 70% off—from Aeropostale’s self-created list prices for its
17 products. Aeropostale represents its list prices, which are printed on price tags attached to the
18 items it sells and are advertised on its website with a slash-through, to be the “regular” and
19 normal selling prices of the items. The list prices function as reference prices from which the
20 advertised sales discounts are calculated. Aeropostale also advertises “free” offers such as
21 “Buy 1 Get 1 Free” or “Buy 1 Get 2 Free,” where Aeropostale represents that it will include
22 one or two more of a given item (or of a specified similar item) for “free” if the customer pays
23 the list price for the item.

24 3. Aeropostale’s purported discounts and reference prices are false because
25 Aeropostale never or rarely offers or sells its products at the advertised list price. Rather,
26 Aeropostale invents inflated and fictitious list prices in order to enable it to advertise perpetual
27 discounts and store-wide “sale” events to induce customers to purchase its products.
28 Aeropostale’s purported “free” offers are likewise false because Aeropostale directly recovers

1 the cost of the “free” items by first doubling or tripling the item selling price to the inflated—
2 and otherwise never charged—list price.

3 4. Aeropostale’s marketing plan is to trick its customers into believing that the list
4 price printed on its product tags and on its product webpages is the regular and normal price for
5 its products, and that its products are worth this inflated list price, such that the lower
6 advertised sale price represents a special bargain.

7 5. Aeropostale’s nationwide fraudulent advertising scheme harmed consumers like
8 Plaintiffs Janette Lisner, Jennifer Quiroz Nunez, and James Andrews, who each purchased
9 falsely discounted products in a California Aeropostale retail store or from the Aeropostale
10 website. Customers were harmed because they would not have purchased the items at the prices
11 they paid had they known the items had not been regularly offered at the higher list price.
12 Customers did not enjoy the actual discounts Aeropostale represented and promised to them,
13 and the items they purchased were not in fact worth the inflated amount that Aeropostale
14 represented to them. Customers were also harmed because Aeropostale’s false advertising
15 scheme fraudulently increased demand for Aeropostale’s products, thereby shifting the demand
16 curve and enabling Defendants to charge more than they otherwise could have charged for their
17 products.

18 6. Consequently, each Plaintiff brings this action on her or his own behalf as a
19 deceived Aeropostale customer; as a private attorney general seeking the imposition of public
20 injunctive relief against Defendants; and as a representative plaintiff on behalf of a class of
21 California consumers seeking, among other things, that Defendants be ordered to disgorge all
22 revenues they have unjustly received from the proposed Class due to Defendants’ intentional
23 and unlawful pattern and practice as described herein of using false reference prices, false
24 discounts, and false “free” offers.

25 **II. PARTIES**

26 7. Plaintiff Janette Lisner is a citizen of the United States of America and
27 California and an individual and a natural adult person who resides in Los Angeles County,
28 California.

1 8. Plaintiff Jennifer Quiroz Nunez is a citizen of the United States of America and
2 California and an individual and a natural adult person who resides in Tulare County,
3 California.

4 9. Plaintiff James Andrews is a citizen of the United States of America and
5 California and an individual and a natural adult person who resides in Riverside County,
6 California.

7 10. Defendant Aero OpCo LLC is a limited liability company chartered under the
8 laws of the State of Delaware. Aero OpCo LLC currently has and at all relevant times had its
9 executive, marketing and technology operations in the states of New Jersey and New York.
10 Based on Plaintiffs' investigation, Aero OpCo LLC manages and/or managed the retail and
11 website operations of the Aeropostale brand and has conducted the unlawful actions described
12 herein. According to the Aeropostale website, Defendant Aero OpCo LLC is responsible for
13 operating the retail website at www.aeropostale.com.¹ On September 15, 2016, Aero OpCo
14 LLC filed an application to register as a foreign LLC with the California Secretary of State
15 which listed the Aero OpCo LLC business address as 112 W 34th Street, Floor 22, New York,
16 New York 10120. On September 11, 2019, Aero OpCo LLC filed a Statement of Information
17 with the California Secretary of State which listed the Aero Opco LLC business address as 125
18 Chubb Avenue, 5th Floor, Lyndhurst, New Jersey 07071. On February 25, 2020, Aero OpCo
19 LLC filed with the California Secretary of State a Name Change Amendment in which it stated
20 that Aero OpCo LLC had changed its name to SPARC Group LLC.

21 11. Defendant SPARC Group LLC ("SPARC") is a limited liability company
22 chartered under the laws of the State of Delaware. Based on Plaintiffs' investigation, SPARC
23 Group LLC manages the retail and website operations of the Aeropostale brand and has
24 conducted the unlawful actions described herein. SPARC describes itself as the "Operating
25 Company for leading global brands including Aeropostale, Brooks Brothers, Forever 21, Lucky
26

27 ¹ See Aeropostale Terms & Conditions at <https://www.aeropostale.com/terms-of-service.html>,
28 which states: "Aeropostale.com is operated by Aero OpCo LLC ("Aero") on behalf of itself
and its affiliates (the "Web Site")."

1 Brand and Nautica.”² SPARC Group LLC is a joint venture between Simon Property Group,
2 L.P. and Authentic Brands Group LLC. SPARC currently has and at all relevant times had its
3 executive, marketing and technology operations in the states of New Jersey and New York.
4 Marc Miller, the CEO of SPARC Group LLC, currently lists his location on his LinkedIn
5 profile as “New York City Metropolitan Area.”³ The SPARC Group LLC official company
6 webpage on LinkedIn lists its location as “New York, NY.”⁴

7 12. Defendant Aero Operations LLC is a limited liability company chartered under
8 the laws of the State of Delaware. Aero Operations LLC currently has and at all relevant times
9 in the past has had its executive operations in New York, New York or Lyndhurst, New Jersey.
10 Based on Plaintiffs’ investigation, Aero Operations LLC is involved in the operations of the
11 Aeropostale brand and has materially assisted the other defendants in conducting the unlawful
12 actions described herein. On September 15, 2016, Aero Operations LLC filed an application to
13 register as a foreign LLC with the California Secretary of State which listed the Aero
14 Operations LLC business address as 112 W 34th Street, Floor 22, New York, New York 10120.
15 On September 11, 2019, Aero Operations LLC filed a Statement of Information with the
16 California Secretary of State which listed the Aero Operations LLC business address as 125
17 Chubb Avenue, 5th Floor, Lyndhurst, New Jersey 07071. The Statement of Information listed
18 the type of business as “real estate investment.” The Statement of Information lists Marc D.
19 Miller as the CEO of Aero Operations; Mr. Miller is also listed as the CEO of Aero Opco LLC
20 and of SPARC Group LLC in filings with the California Secretary of State.

21 13. Defendants Aero OpCo LLC, SPARC Group LLC, and Aero Operations LLC
22 (collectively, “Defendants” or “Aeropostale”), own and/or operate approximately 500 brick-
23 and-mortar Aeropostale retail stores throughout the United States, including 57 in California.
24

25 ² See SPARC Group company LinkedIn webpage at:
26 <https://www.linkedin.com/company/sparc-group-llc/> (last accessed April 19, 2021).

27 ³ See Marc Miller’s LinkedIn profile webpage at <https://www.linkedin.com/in/marc-miller-ba10821/> (last accessed April 19, 2021).

28 ⁴ See SPARC Group company LinkedIn webpage at:
<https://www.linkedin.com/company/sparc-group-llc/> (last accessed April 19, 2021).

1 Defendants also own and/or operate a retail website www.aeropostale.com, through which
2 Defendants advertise and sell their goods, with said website being regularly seen and used by
3 consumers in California and throughout the United States to purchase goods from Aeropostale.

4 14. Defendants also operate distribution centers in Ontario, California and South
5 River, New Jersey.

6 15. Defendants Doe 1 through Doe 5, inclusive, aided and/or abetted Defendants
7 Aero OpCo LLC, SPARC Group LLC, and/or Aero Operations LLC, in such a manner that
8 Doe 1 through Doe 5, inclusive, are each directly, contributorily, vicariously, derivatively
9 and/or otherwise liable for the acts or omissions of Aeropostale pled herein. Plaintiffs are
10 currently unaware of the true identities of Doe 1 through Doe 5, inclusive; upon learning the
11 true identities of Doe 1 through Doe 5, inclusive, Plaintiffs anticipate either freely amending
12 the operative complaint or requesting leave from the Court to amend the operative complaint.

13 16. The allegations of this Complaint only concern Aeropostale's actions since
14 September 16, 2016, during which time Defendants have owned and/or operated the
15 Aeropostale business.

16 **III. JURISDICTION AND VENUE**

17 17. **Subject Matter Jurisdiction.** This Court has subject matter jurisdiction over
18 this civil action pursuant to, among other bases, Section 10 of Article VI of the California
19 Constitution.

20 18. **Personal Jurisdiction.** This Court has personal jurisdiction over Defendants
21 pursuant to, among other bases, California Code of Civil Procedure Section 410.10 because: (1)
22 Defendants are authorized to do business and regularly conduct business in California; (2) the
23 claims alleged herein took place in California; and (3) Defendants have committed tortious acts
24 within the State of California (as alleged, without limitation, throughout this Complaint).

25 19. Defendants own and/or operate approximately 57 brick-and-mortar Aeropostale
26 retail stores in California and operate a distribution center in Ontario, California. Defendants
27 also operate the Aeropostale website, through which Aeropostale advertises and sells its goods
28 to individuals throughout California.

1 20. **Venue.** Venue is proper in Los Angeles County because, without limitation, the
2 County of Los Angeles is the county in which at least one of the transactions which is the
3 subject of this Complaint occurred.

4 **IV. FACTUAL ALLEGATIONS OF AEROPOSTALE’S FALSE DISCOUNT**
5 **ADVERTISING SCHEME**

6 21. Aeropostale currently operates approximately 500 brick-and-mortar Aeropostale
7 retail stores throughout the United States, including 57 in California.

8 22. Aeropostale also operates a retail website at www.aeropostale.com, through
9 which Aeropostale advertises and sells its goods, which is regularly seen and used to purchase
10 goods from Aeropostale by consumers throughout the United States, including in California.

11 23. Almost all the items offered by Aeropostale are branded as “Aeropostale”
12 products and are exclusively offered for sale and sold by Aeropostale in its retail stores and on
13 its website. In other words, the products offered by Aeropostale in its stores are not offered or
14 sold by, and are not available from, any other retailer.

15 24. Aeropostale had over \$1 billion in sales revenues in 2019 in its brick-and-mortar
16 Aeropostale stores and on its retail website.

17 25. In significant part, however, Aeropostale’s revenues have been the product of a
18 massive false discount advertising scheme. Aeropostale perpetually advertises nearly all of its
19 products with significant discounts of 50-70% from a false reference price, in order to trick its
20 customers into believing the advertised “sale” price represents a special bargain from
21 Aeropostale’s usual and regular prices. In fact, unbeknownst to its customers, Aeropostale’s
22 discounts are never-ending, and its products are never or virtually never offered at the supposed
23 regular price. Aeropostale perpetrates this illegal scheme in order to induce consumers to
24 purchase its products and to increase the amount it can charge for its products.

25 26. Decades of academic research has established that the use of reference prices,
26 such as those utilized by Aeropostale, materially impacts consumers’ behavior. A reference
27 price affects a consumer’s perception of the value of the transaction, the consumer’s
28 willingness to make the purchase, and the amount of money the consumer is willing to pay for

1 the product.⁵

2 27. When a reference price is bona fide and truthful, it may help consumers in
3 making informed purchasing decisions. In contrast, consumers are harmed when retailers, such
4 as Aeropostale, advertise their products with inflated false reference prices. The false reference
5 prices deceive consumers, deprive consumers of a fair opportunity to accurately evaluate the
6 offer, and result in purchasing decisions based on false pretenses.

7 28. False reference pricing such as that employed by Aeropostale causes consumers
8 to pay more than they otherwise would have paid for products. False reference pricing also
9 fraudulently increases consumer demand for products, shifting the demand curve and enabling
10 retailers to charge higher prices—to everyone—than they otherwise could have charged.

11 29. Beyond the adverse impact upon consumers' welfare, the practice of employing
12 false reference pricing also negatively affects the integrity of competition in retail markets. A
13 retailer's use of false reference prices constitutes an unfair method of competition, injuring
14 honest competitors that sell the same or similar products, or otherwise compete in the same
15 market, using valid and accurate reference prices. Businesses who play by the rules—and the
16 investors in those businesses—are penalized if the unlawful advertising practices of their
17 competitors go unchecked.

18 30. California law, as well as federal regulations, prohibit false reference pricing
19

20 ⁵ See, e.g., Rajesh Chandrashekar & Dhruv Grewal, *Assimilation of Advertised Reference*
21 *Prices: The Moderating Role of Involvement*, 79 J. Retailing 53 (2003); Pilsik Choi & Keith S.
22 *Coulter, It's Not All Relative: The Effects of Mental and Physical Positioning of Comparative*
23 *Prices on Absolute Versus Relative Discount Assessment*, 88 J. Retailing 512 (2012); Larry D.
24 *Compeau & Dhruv Grewal, Comparative Price Advertising: An Integrative Review*, 17 J. Pub.
25 *Pol'y & Mktg.* 257 (1998); Larry D. Compeau, Dhruv Grewal & Rajesh Chandrashekar,
26 *Comparative Price Advertising: Believe It or Not*, 36 J. Consumer Aff. 284 (2002); David
27 *Friedman, Reconsidering Fictitious Pricing*, 100 Minn. L. Rev. 921 (2016); Dhruv Grewal &
28 *Larry D. Compeau, Consumer Responses to Price and its Contextual Information Cues: A*
Synthesis of Past Research, a Conceptual Framework, and Avenues for Further Research, in 3
Rev. of Mktg. Res. 109 (Naresh K. Malhotra ed., 2007); Daniel J. Howard & Roger A. Kerin,
Broadening the Scope of Reference Price Advertising Research: A Field Study of Consumer
Shopping Involvement, 70 J. Mktg. 185 (2006); Aradhna Krishna, Richard Briesch, Donald R.
Lehmann & Hong Yuan, *A Meta-Analysis of the Impact of Price Presentation on Perceived*
Savings, 78 J. Retailing 101 (2002); Balaji C. Krishnan, Sujay Dutta & Subhash Jha,
Effectiveness of Exaggerated Advertised Reference Prices: The Role of Decision Time
Pressure, 89 J. Retailing 105 (2013); and Tridib Mazumdar, S. P. Raj & Indrahit Sinha,
Reference Price Research: Review and Propositions, 69 J. Mktg. 84 (2005).

1 practices such as those perpetrated by Aeropostale. California’s Unfair Competition Law and
2 False Advertising Law generally forbid unfair business practices and false advertising (i.e., Cal.
3 Bus. and Prof. Code §§ 17200 *et seq.* and 17500 *et seq.*). Regarding sales to consumers for
4 household purposes, the California Consumers Legal Remedies Act prohibits “[m]aking false
5 or misleading statements of fact concerning reasons for, existence of, or amounts of, price
6 reductions.” Cal. Civ. Code § 1770(a)(13).

7 31. The United States Court of Appeals for the Ninth Circuit has recognized the
8 abuses that flow from false reference pricing practices: “Most consumers have, at some point,
9 purchased merchandise that was marketed as being ‘on sale’ because the proffered discount
10 seemed too good to pass up. Retailers, well aware of consumers’ susceptibility to a bargain,
11 therefore have an incentive to lie to their customers by falsely claiming that their products have
12 previously sold at a far higher ‘original’ price in order to induce customers to purchase
13 merchandise at a purportedly marked-down ‘sale’ price. Because such practices are
14 misleading—and effective—the California legislature has prohibited them.” *Hinojos v. Kohl’s*
15 *Corp.*, 718 F.3d 1098, 1101 (9th Cir. 2013).

16 32. The California Court of Appeal has likewise recognized the importance of
17 California’s false reference price advertising statutes in protecting consumers: “Our Legislature
18 has adopted multiple statutes that specifically prohibit the use of deceptive former price
19 information and misleading statements regarding the amount of a price reduction. ... These
20 statutes make clear that ... our Legislature has concluded ‘reasonable people can and do attach
21 importance to [a product’s former price] in their purchasing decisions.’ (alterations in original)
22 (quoting *Kwikset Corp. v. Superior Court*, 246 P.3d 877, 892 (Cal. 2011)).” *Hansen v.*
23 *Newegg.com Americas, Inc.*, 25 Cal.App.5th 714, 730 (2018).

24
25
26
27
28

1 33. The Federal Trade Commission (“FTC”) has also described what constitutes
2 false reference pricing practices:

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

16 C.F.R § 233.1.

11 34. Aeropostale’s false discounting scheme is similar in all material respects to the
12 deceptive practices described and prohibited by these false reference pricing laws and
13 regulations.

14 **A. Aeropostale’s False Reference Prices**

15 35. Aeropostale intentionally and deceptively indicates to consumers that the
16 advertised “sale” prices in its retail stores represent significant discounts from Aeropostale’s
17 own regular and normal prices for its products. Aeropostale’s regular practice is to post large
18 signs throughout its retail stores advertising that virtually all of its products are “XX% OFF”
19 (typically 50-70% off). These signs are typically pre-printed, but Aeropostale also posts hand-
20 written signs on black chalkboard in its stores to further give the appearance of a special
21 limited-time sale. But in fact, the percentage-off savings and discounts are perpetual, and are
22 calculated based on the inflated and fictitious reference price listed on the product tags.

1 36. Below are photographs taken at an Aeropostale store on July 7, 2019, which are
2 representative of Aeropostale's in-store advertising at any given time:

3 **Percentage-Off Discount Advertising**



1 37. In this example, Aeropostale advertises an “ENTIRE STORE 50-70% OFF”
2 sales event. The promised discounts are advertised on large signs both outside and inside the
3 store. Signage on the racks adjacent to the clothing items prominently advertises “50% OFF,”
4 “60% OFF” and “70% OFF” in bold lettering. Aeropostale has also placed hand-written
5 chalkboard signs in the store which advertise discounts such as “50% OFF” and “70% OFF.”

6 38. But in fact, Aeropostale perpetually advertises these 50-70% storewide savings
7 whether it is in the middle of summer, whether it is Black Friday, or whether it is in the middle
8 of April.

9 39. For example, on April 23, 2021, Aeropostale advertised on its website a similar
10 “50-70% OFF ENTIRE SITE” sale. See the screenshot below:

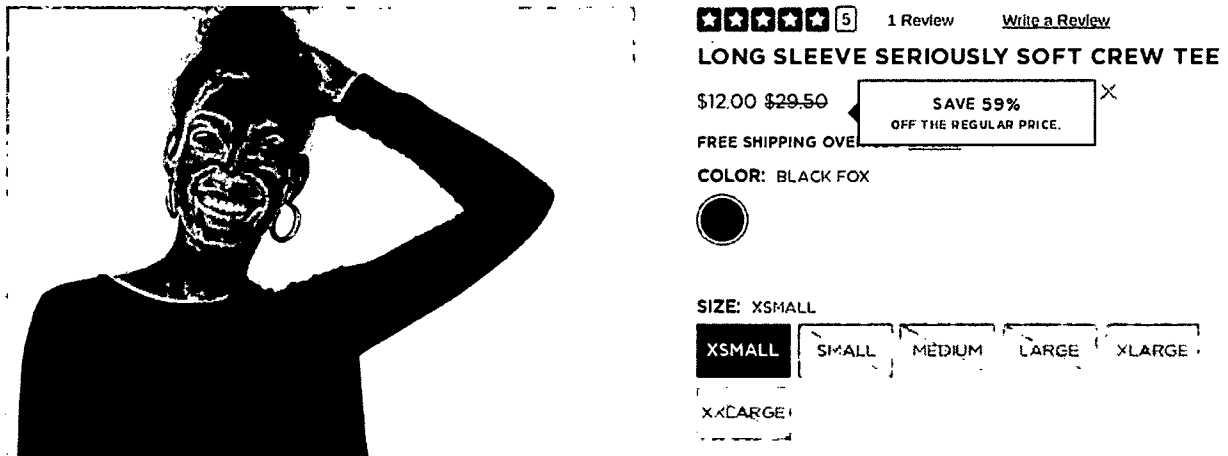
11 **Homepage of Aeropostale Website April 23, 2021**



13
14
15
16
17
18 40. Advertised discounts such as these are viewed both under the law and by the
19 reasonable consumer to refer to discounts from Aeropostale’s own regular sales prices for those
20 products. *See* 16 C.F.R § 233.1; *see also* 4 Cal. Code Reg. § 1301.

1 41. There can be no doubt that Aeropostale intends that consumers interpret and
 2 understand the list prices printed on its product tags and on its website to stand for
 3 Aeropostale’s regular selling prices for those products. In fact, for years on its product
 4 webpages on the Aeropostale website, Aeropostale has prominently advertised that the savings
 5 are from Aeropostale’s “REGULAR PRICE.” See the screenshot below:

6 **Aeropostale Product Webpage August 20, 2020**



15 42. This screenshot is of the product webpage for the Long Sleeve Seriously Soft
 16 Crew Tee (“Crew Tee”) taken from the Aeropostale website on August 20, 2020. Aeropostale
 17 features a prominent red box with the phrase “SAVE 59% OFF THE REGULAR PRICE.”
 18 The 59% savings was calculated based on the represented “regular” slash-through list price of
 19 \$29.50. Further, for maximum impact, Aeropostale designed this red box (containing the false
 20 advertising “SAVE 59% OFF THE REGULAR PRICE”) as an animation on its product
 21 webpages which suddenly flies in from the right side of the screen and bounces up against the
 22 strike-through list price.

23 43. The advertised savings was false. Since November 1, 2019, Aeropostale had
 24 never charged more than the \$12.00 selling price for the Crew Tee. Notably, based on counsel’s
 25 investigation, from November 26, 2019 through August 19, 2020 Aeropostale charged \$7.00
 26 for the Crew Tee (\$5.00 less than the supposed \$12.00 “sale” price). Thus, customers who
 27 purchased the falsely discounted Crew Tee on August 20, 2020 had been tricked by
 28 Aeropostale into paying \$5.00 more than the true “regular price” of the Crew Tee.

1 44. Aeropostale’s false discount advertisements and sales events are intended by
2 Aeropostale to trick its customers into believing that its products have a value of, and are
3 usually sold at, the list prices printed on the product tags and on the product webpages, and that
4 the purported “sale” prices and advertised discounts represent a special and limited-time
5 bargain.

6 45. In fact, the price and discount representations on the signage and the list prices
7 on the product price tags are false and misleading, because customers are not receiving the
8 special bargain that Aeropostale has led them to believe. The specific amounts of the
9 percentage-off or dollar discount may slightly change over time, but the existence of a
10 significant discount on each product is perpetual.

11 **B. Aeropostale’s False “Free” Offers.**

12 46. Another related discount practice by Aeropostale is to advertise “Buy 1 Get 1
13 Free” or “Buy 1 Get 2 Free” offers for its products.

14 47. However, in all cases, Aeropostale’s promise of “Buy 1 Get 1 Free” or “Buy 1
15 Get 2 Free” is false and deceptive. Whenever Aeropostale makes such a purported “Free” offer,
16 Aeropostale first inflates the selling price of the product to the (never otherwise charged) price
17 listed on the tag. Given Aeropostale’s perpetual “discount” pricing of 50-70% off the list price,
18 this means Aeropostale is directly recovering the cost of the “free” product(s) by doubling or
19 tripling the price of the first product, such that the customer is in fact not getting any deal at all.

20
21
22
23
24
25
26
27
28

1 48. For example, below are two screenshots from the Aeropostale website
2 demonstrating Aeropostale’s false free offer scheme.

3 **Aeropostale Website January 13, 2021**
4 **Advertised With a 50% Discount from an Inflated Reference Price**



11
12 **Aeropostale Website January 14, 2021**
13 **Advertised With False “BUY 1 GET 1 FREE” Offer (Selling Price is Exactly Doubled)**



14
15
16
17
18
19
20 49. This item, the Max Stretch Air Athletic Skinny Jean, was always either offered
21 by Aeropostale for sale at \$27.48 or less, or at the \$54.95 price with a “Buy 1 Get 1 Free” offer.
22 Note that \$27.48 is exactly 50% of \$54.95. In other words, on January 14, 2021, (see the
23 screenshot above) Aeropostale formulaically doubled the selling price in order to offer its
24 supposed “Buy 1 Get 1 Free” offer.

1 50. Aeropostale similarly advertises “Buy 1 Get 1 Free” and “Buy 1 Get 2 Free”
2 offers in its retail stores. For example, below are photographs taken at an Aeropostale retail
3 store on July 7, 2019, showing “Buy 1 Get 1 Free” and “Buy 1 Get 2 Free” advertising.

4 **“Buy 1 Get 1 Free” and “Buy 1 Get 2 Free” Advertising**



1 51. The Federal Trade Commission warns sellers advertising “Free” offers that
2 “Where the seller, in making such an offer, increases his regular price of the article required to
3 be bought, or decreases the quantity and quality of that article, or otherwise attaches strings
4 (other than the basic condition that the article be purchased in order for the purchaser to be
5 entitled to the ‘free’ or ‘1¢’ additional merchandise) to the offer, the consumer may be
6 deceived.” 16 C.F.R § 233.4. “In other words, when the purchaser is told that an article is
7 ‘Free’ to him if another article is purchased, the word ‘Free’ indicates that he is paying nothing
8 for that article and no more than the regular price for the other. *Thus, a purchaser has a right to*
9 *believe that the merchant will not directly and immediately recover, in whole or in part, the*
10 *cost of the free merchandise or service by marking up the price of the article which must be*
11 *purchased . . .” 16 C.F.R. § 251.1 (emphasis added).*

12 52. Aeropostale engages in exactly this deceptive and unlawful practice when it
13 recovers the cost of the supposedly “free” product(s) by doubling or tripling the price of the
14 first product. Aeropostale’s “free” offer representations are false, and the customer is not in fact
15 getting the bargain that Aeropostale is advertising.

16 53. Meanwhile, these “BUY 1 GET 1 FREE” or “BUY 1 GET 2 FREE” offer days,
17 on which Aeropostale increases the price of the first product to the list price, do not constitute
18 bona fide offers to sell the product at the list price because the product is only offered at the list
19 price when accompanied by a supposedly “FREE” offer. Thus, Aeropostale cannot credibly
20 claim to “establish” its list prices via this deceptive free offer scheme, which is itself an
21 independent unlawful act and practice.

22 **V. PLAINTIFFS’ COMPREHENSIVE INVESTIGATION**

23 **A. Plaintiffs’ Allegations Are Based On A Sweeping Six-Year Investigation By**
24 **Plaintiffs’ Counsel.**

25 54. Plaintiffs’ allegations concerning Aeropostale’s false discount advertising
26 scheme are based on a comprehensive investigation by Plaintiffs’ counsel of Aeropostale’s
27 pricing practices for a period of over six years. Plaintiffs’ counsel has been monitoring and
28 scraping the Aeropostale website on an automated daily basis with a proprietary software

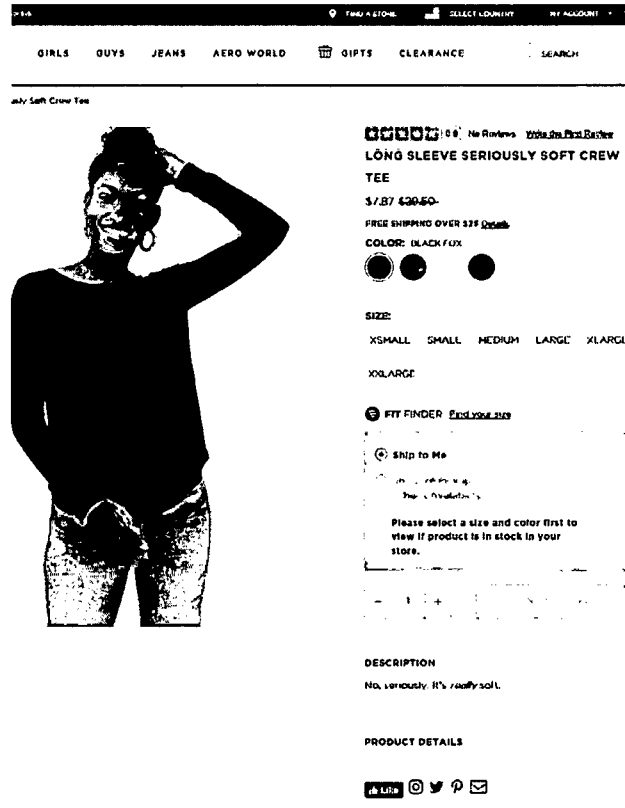
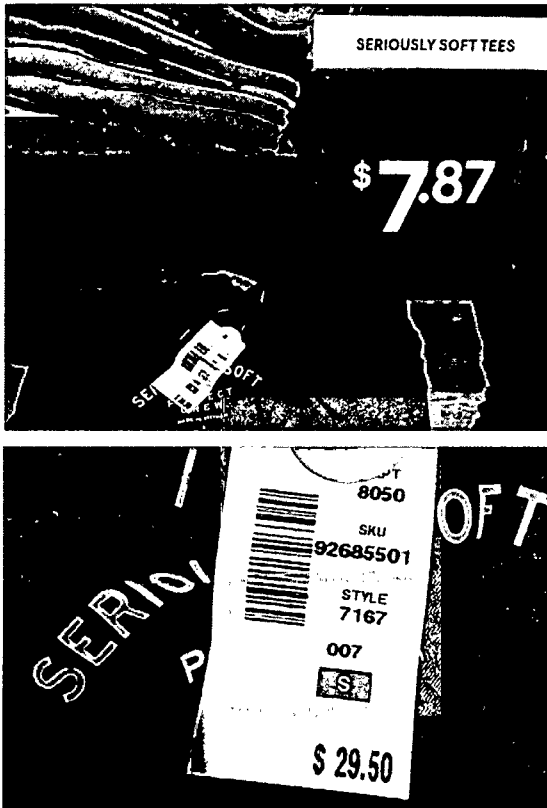
1 program since November 5, 2014. Plaintiffs' counsel has compiled and extracted daily pricing
2 and marketing data from the website for nearly all of the products Aeropostale has offered
3 during this time. In total, Plaintiffs' counsel has assembled and analyzed a comprehensive
4 historical database of daily prices and time-stamped screenshots of over 3.6 million daily
5 offerings for over 32 thousand products over this more than six-year period. (Note, while
6 counsel has been investigating the Aeropostale business since November 5, 2014, the
7 allegations of this Complaint only concern Aeropostale's actions since September 16, 2016,
8 during which time Defendants have owned and/or operated the Aeropostale business.)

9 55. Plaintiffs' counsel has also investigated brick-and-mortar Aeropostale retail
10 stores and has found that Aeropostale's false discount practices and product pricing are
11 substantially the same both online and in-store. Virtually all products that Aeropostale offers in
12 its brick-and-mortar retail stores are also available and are advertised on the Aeropostale
13 website. Based on the investigation of Plaintiffs' counsel, Aeropostale offers and advertises
14 these products with identical list prices and at substantially the same sale prices both on the
15 Aeropostale website and in its brick-and-mortar stores in California and throughout the nation.
16 Thus, Plaintiffs' counsel's comprehensive evidence, statistics, and analysis which establishes
17 the falsity of Aeropostale's discount advertising online, is equally applicable to establishing the
18 falsity of Aeropostale's discount advertising in its brick-and-mortar retail stores.

1 56. For example, the images below demonstrate how Aeropostale’s list prices, sales
 2 prices, and advertised purported discounts are substantially the same both online and in-store:

3 **Aeropostale Retail Store**

4 **Aeropostale Website**

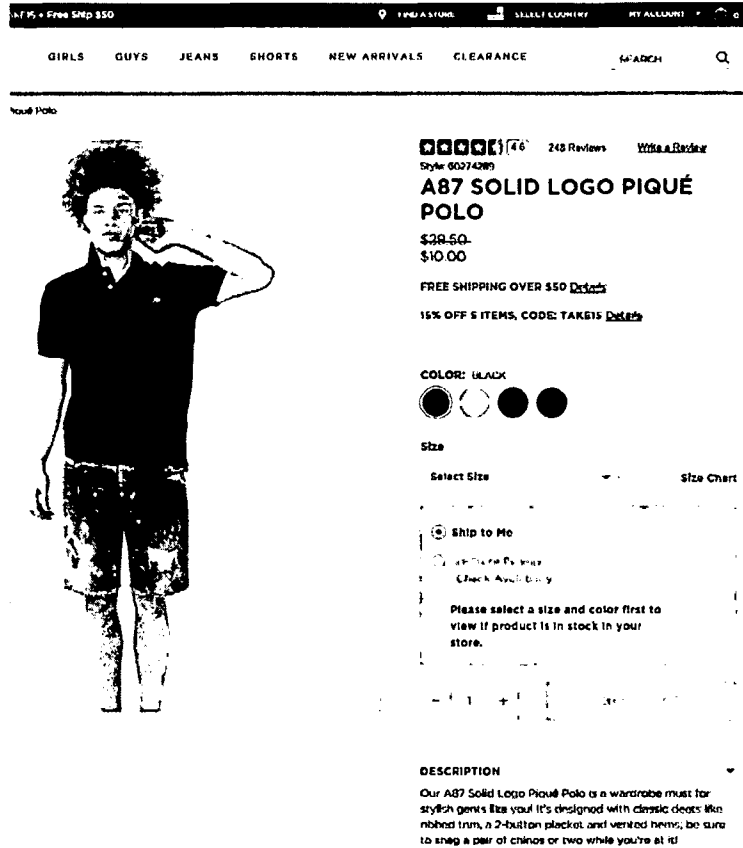
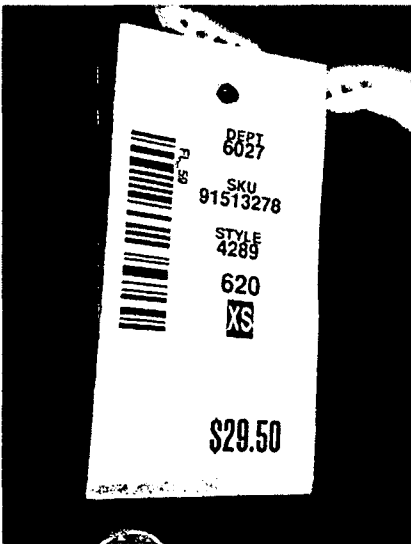
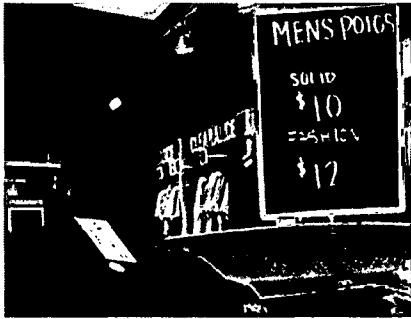


20 57. The images above are of the Aeropostale Long Sleeve Seriously Soft Crew Tee
 21 (“Crew Tee”). The photographs on the left were taken at an Aeropostale retail store on
 22 November 26, 2019. The screenshot on the right was taken the same day on Aeropostale’s
 23 website of the identical Crew Tee. The top photographs on the left show the \$7.87 sale price
 24 and the \$29.50 list price printed on the item tag. On the website, Aeropostale advertised the
 25 same \$29.50 list price (here represented with a strike-through indicating it is the higher regular
 26 price), alongside the same \$7.87 sale price.

1 58. The images below further demonstrate how Aeropostale’s list prices, sales
 2 prices, and advertised purported discounts are substantially the same both online and in-store:

3 **Aeropostale Retail Store**

4 **Aeropostale Website**



59. The images above are of the Aeropostale A87 Solid Logo Pique Polo (“Solid
 21 Polo”). The photographs on the left were taken at an Aeropostale retail store on July 7, 2019.
 22 The screenshot on the right was taken the same day on Aeropostale’s website of the identical
 23 Solid Polo. The photographs on the left show the \$10.00 sale price and the \$29.50 list price
 24 printed on the item tag. On the website, Aeropostale advertised the same \$29.50 list price (here
 25 represented with a strike-through indicating it is the higher regular price), alongside the same
 26 \$10.00 sale price.

60. Plaintiffs’ counsel’s exhaustive big-data analysis of millions of data points over
 a six-year period for more than 32,000 products shows that Aeropostale advertises perpetual

1 discounts for nearly all of its products. The percentage-off and other discounts are always false,
2 and Aeropostale’s list prices (i.e., reference prices) from which the discounts are calculated are
3 false and inflated. In fact, for most of the products that Aeropostale advertises with a discount
4 or with a “Free” offer, Aeropostale has *never*—not even for a single day—offered the product
5 at the list price in its stores without a discount or “free” offer.

6 61. On information and belief, on those rare occasions that Aeropostale offers some
7 of its products at list price, it does so in bad faith, solely for the purpose of “establishing” its list
8 price to attempt to exculpate itself from legal liability for its illegal pricing scheme. It is
9 Aeropostale’s intent to sell few if any products at list price, and in fact Aeropostale sells no, or
10 practically no, products at list price.

11 62. Also based on investigation by Plaintiffs’ counsel, brick-and-mortar Aeropostale
12 mainline stores and Aeropostale “Factory” stores are substantially identical and are for all
13 intents and purposes the same. The mainline and factory stores typically advertise the same
14 store-wide “sale” events, and consistently offer identical products with identical list prices at
15 substantially the same sales prices. In addition, the Aeropostale mainline stores and the
16 Aeropostale Factory stores have substantially the same physical layout and offer substantially
17 the same customer experience.

18 63. Counsel’s comprehensive investigation has revealed that the Aeropostale
19 business has been perpetrating this massive false discount advertising scheme online and in
20 Aeropostale retail stores (including throughout California) since at least November 5, 2014,
21 through to the present day. (However, the allegations of this Complaint only concern
22 Aeropostale’s actions since September 16, 2016, during which time Defendants have owned
23 and/or operated the Aeropostale business.)

24 64. The false or misleading nature of Aeropostale’s reference prices and purported
25 discounts were at all relevant times masked or concealed or hidden such that an ordinary
26 consumer exercising reasonable care under all the circumstances would not have known of or
27 discovered their false or misleading nature.

28 65. By Aeropostale’s design, the false advertising scheme by its very nature is

1 hidden and impossible for the typical consumer to discover. Consumers who shopped at
2 Aeropostale retail stores or on the Aeropostale website would have no way to know the true
3 daily price histories and past selling prices for the products they viewed and purchased.
4 Consumers would have no way to know that the list prices printed on the product tags and on
5 the product webpages were fictitious and inflated and that the advertised savings were false.
6 Consumers would have no way to know that Aeropostale’s false discounting practices extended
7 across all of Aeropostale’s products and stores and sales channels.

8 66. In fact, counsel for Plaintiffs only found evidence for Aeropostale’s advertising
9 scheme as part of an expensive and expansive 6-year investigation of Aeropostale’s pricing
10 practices in general.

11 67. Aeropostale continues to advertise false reference prices, false discounts, and
12 false free offers in its California stores and on its website (and in its stores nationwide) to this
13 day. There is no reason to believe that Aeropostale will voluntarily and permanently cease its
14 unlawful practices. Moreover, in the unlikely event that Aeropostale were to cease its unlawful
15 practices, Aeropostale can and is likely to recommence these unlawful practices.

16 68. In acting toward consumers and the general public in the manner alleged herein,
17 Aeropostale acted with and was guilty of malice, fraud, and oppression and acted in a manner
18 with a strong and negative impact upon Plaintiffs, the Class, and the public.

19 **VI. CUSTOMERS WERE HARMED AS A RESULT OF AEROPOSTALE’S FALSE**
20 **DISCOUNT ADVERTISING SCHEME**

21 69. As a direct and proximate result of Aeropostale’s false discount advertising
22 scheme and the acts and omissions described herein, all California consumers who have
23 purchased a product in a California Aeropostale retail store or from the Aeropostale website
24 that was advertised with a reference price, discount, or “free” offer have been harmed, have
25 suffered an injury-in-fact, and have lost money or property.

26 70. **First**, customers were harmed because they would not have purchased the items
27 at the prices they paid had they known the items had not been regularly offered at the higher list
28 price. Customers paid more than they otherwise would have paid for the products they

1 purchased.

2 71. **Second**, customers were harmed because they did not enjoy the actual discounts
3 Aeropostale represented and promised to them.

4 72. **Third**, customers were harmed because the items they purchased were not in
5 fact worth the inflated amount that Aeropostale represented to them. In fact, the items did not
6 normally sell for, and were not actually worth, the fictitious and invented list price that
7 Aeropostale printed on its price tags and on its website.

8 73. **Fourth**, customers were harmed because they were victims of Aeropostale's
9 fraud on the market. Aeropostale's false advertising scheme fraudulently increased demand for
10 Aeropostale's products, thereby shifting the demand curve and enabling Defendants to charge
11 their customers more than they otherwise could have charged. Aeropostale's fraud on the
12 market enabled Aeropostale to charge everyone more for all of its products, by artificially
13 stimulating demand based on false pretenses and fraud. But for the false advertising scheme,
14 Aeropostale would have had to charge less money for its products in order to enjoy the same
15 level of demand for its products.

16 **VII. PLAINTIFFS' FACTUAL ALLEGATIONS**

17 **A. Plaintiff Janette Lisner**

18 74. Plaintiff Janette Lisner is, and at all relevant times has been, a California
19 resident and citizen.

20 75. Ms. Lisner has been a regular shopper at Aeropostale for many years.

21 76. **In-Store Purchase of Women's Cami.** Ms. Lisner has made numerous
22 purchases of purportedly discounted products in Aeropostale's brick-and-mortar stores in
23 California.

24 77. For example, on June 22, 2020, Ms. Lisner visited an Aeropostale store located
25 in the Northridge Fashion Center in Northridge, California 91324.

26 78. While at the store, Ms. Lisner saw prominent signs that advertised significant
27 sales and percentage-off discounts on merchandise throughout the store.

28 79. Ms. Lisner viewed a women's basic camisole ("Cami") that had a price tag

1 showing a price of \$6.50 and which Aeropostale advertised as being on sale for \$4.00.

2 80. Relying on Aeropostale's representations, Ms. Lisner reasonably believed that
3 the Cami was normally offered for sale and sold by Aeropostale for the \$6.50 tagged price.
4 Ms. Lisner reasonably believed that the Cami was thereby worth and had a value of \$6.50, the
5 price set forth on the price tag by Aeropostale. Ms. Lisner reasonably believed that the
6 advertised "sale" price of \$4.00—a purported monetary discount of \$2.50—represented a
7 special bargain.

8 81. Relying on Aeropostale's representations, Ms. Lisner purchased five Camis
9 (three in one color, Item #96627506, one in another color, Item #92584977, and one in a third
10 color, Item #96627506).

11 82. On the paper receipt that Ms. Lisner received at the cash register and which
12 Ms. Lisner viewed, Aeropostale stated that the sale price of each Cami was "\$4.00," and that
13 Ms. Lisner was enjoying a "Discount" of "(\$2.50)" from the regular price. These
14 representations on the receipt further indicated to Ms. Lisner that each Cami had a value of and
15 was normally and regularly sold by Aeropostale for \$6.50, and that the \$4.00 sale price she
16 paid was a bargain price after Aeropostale applied a "Discount" that resulted in a monetary
17 savings of "(\$2.50)."

18 83. However, the \$6.50 reference price printed on Aeropostale's price tag and the
19 advertised discount of \$2.50 were false and deceptive. In reality, and unbeknownst to
20 Ms. Lisner, Aeropostale had never offered the Cami at the purported regular price of \$6.50 in
21 its stores.

22 84. **Online Purchase of Shelf Cami.** Ms. Lisner has also made purchases of
23 purportedly discounted products from Aeropostale's website.

24 85. On October 5, 2020, Ms. Lisner visited the Aeropostale website to shop for
25 clothing items. Ms. Lisner viewed and ultimately purchased several items from the website that
26 day. For example, Ms. Lisner viewed webpages advertising a shelf camisole ("Shelf Cami").

27 86. On the product webpage for the Shelf Cami, Ms. Lisner viewed several
28 representations, including a reference price and a sale price for the Shelf Cami. Ms. Lisner

1 viewed a strike-through reference price of “\$10.50.” Directly below the reference price, Ms.
2 Lisner viewed the sale price of \$4.40.

3 87. Relying on Aeropostale’s representations, Ms. Lisner reasonably believed that
4 the Shelf Cami was normally offered for sale and sold by Aeropostale for the \$10.50 reference
5 price. Ms. Lisner reasonably believed that the Shelf Cami was thereby worth and had a value of
6 \$10.50. Ms. Lisner reasonably believed that the advertised “sale” price of \$4.40—a purported
7 monetary discount of \$6.10—represented a special bargain.

8 88. Relying on Aeropostale’s representations, Ms. Lisner purchased two Shelf
9 Camis (Item #022918350).

10 89. However, the advertised regular price and discount for the Shelf Camis were
11 false and deceptive because, unbeknownst to Ms. Lisner, Aeropostale had never offered the
12 Shelf Camis at their advertised regular price of \$10.50.

13 90. The products purchased by Ms. Lisner from Aeropostale were not in fact worth
14 the advertised regular prices that Aeropostale had led Ms. Lisner to believe. Contrary to
15 Aeropostale’s representations, Ms. Lisner did not enjoy the advertised and promised savings for
16 the products that she purchased.

17 91. Aeropostale’s advertised false reference prices and advertised false discounts
18 were material misrepresentations and inducements to Ms. Lisner’s purchases.

19 92. As a direct and proximate result of Aeropostale’s acts and omissions, Ms. Lisner
20 was harmed, suffered an injury-in-fact, and lost money or property.

21 93. Ms. Lisner reasonably relied on Aeropostale’s material misrepresentations. If
22 Ms. Lisner had known the truth, she would not have purchased the Camis or Shelf Camis or
23 any of the other products she purchased from Aeropostale at the prices she paid. Ms. Lisner did
24 not enjoy the actual discounts Aeropostale represented and promised to her. The products were
25 not in fact worth the inflated amounts that Aeropostale represented to her. Additionally,
26 Aeropostale’s false advertising scheme fraudulently increased demand for Aeropostale’s
27 products, thereby shifting the demand curve and enabling Aeropostale to charge Ms. Lisner
28 more for its products than Aeropostale otherwise could have charged.

1 94. Ms. Lisner has a legal right to rely now, and in the future, on the truthfulness
2 and accuracy of Aeropostale’s representations regarding its advertised reference prices and
3 discounts.

4 95. Ms. Lisner has been a regular shopper at Aeropostale, and would shop there
5 again if she could have confidence regarding the truth of Aeropostale’s prices and the value of
6 its products.

7 96. Ms. Lisner will be harmed if, in the future, she is left to guess as to whether
8 Aeropostale is providing a legitimate sale or not, and whether products are actually worth the
9 amount that Aeropostale is representing.

10 97. If Ms. Lisner were to purchase again from Aeropostale without Aeropostale
11 having changed its unlawful and deceptive conduct alleged herein, Ms. Lisner would be
12 harmed on an ongoing basis and would be harmed once or more in the future.

13 **B. Plaintiff Jennifer Quiroz Nunez**

14 98. Plaintiff Jennifer Quiroz Nunez is, and at all relevant times has been, a
15 California resident and citizen.

16 99. Ms. Nunez has been a regular shopper at Aeropostale for many years. She has
17 made numerous purchases of purportedly discounted products in Aeropostale’s brick-and-
18 mortar stores in California.

19 100. For example, on March 29, 2021, Ms. Nunez visited an Aeropostale store
20 located in the Visalia Mall in Visalia, California 93277.

21 101. While at the store, Ms. Nunez saw prominent signs that advertised significant
22 sales and percentage-off discounts on merchandise throughout the store.

23 102. Ms. Nunez viewed signage adjacent to several pairs of denim shorts that
24 advertised that the shorts were “BUY 1 GET 1 FREE.” Ms. Nunez viewed the price tags
25 attached to two pairs of denim shorts, which each showed a price of \$59.95.

26 103. Relying on Aeropostale’s representations, Ms. Nunez reasonably believed that
27 the denim shorts were normally offered for sale and sold by Aeropostale for the \$59.95 tagged
28 price. Ms. Nunez reasonably believed that the denim shorts were thereby worth and had a value

1 of \$59.95, the price set forth on the price tag by Aeropostale. Ms. Nunez reasonably believed
2 that the advertised “BUY 1 GET 1 FREE” offer—a purported monetary discount of \$59.95 for
3 purchasing two pairs of denim shorts—represented a special bargain.

4 104. Relying on Aeropostale’s representations, Ms. Nunez purchased one pair of
5 denim shorts for \$59.95 (Item #93390793) and received a second pair of denim shorts,
6 purportedly for “free” (Item #93412967).

7 105. On the paper receipt that Ms. Nunez received at the cash register and which
8 Ms. Nunez viewed, Aeropostale made additional product pricing and value representations
9 regarding the pairs of denim shorts. Aeropostale printed on the receipt that the regular price for
10 each pair of denim shorts was “\$59.95,” and that the second pair of denim shorts was “100.0%
11 Off” the regular price of \$59.95, comprising a monetary discount of “(\$59.95).” These
12 representations on the receipt further indicated to Ms. Nunez that each pair of denim shorts had
13 a value of and was normally and regularly sold by Aeropostale for \$59.95, and that the “free”
14 pair of denim shorts she received after paying the full regular price for the first pair of denim
15 shorts was a bargain price after Aeropostale applied a special “BUY 1 GET 1 FREE” discount
16 that resulted in a monetary savings of “(\$59.95).”

17 106. However, the \$59.95 reference price printed on Aeropostale’s price tag and
18 receipt, the advertised discount of “BUY 1 GET 1 FREE,” and the \$59.95 in claimed monetary
19 savings were false and deceptive. In reality, and unbeknownst to Ms. Nunez, Aeropostale had
20 never offered either pair of denim shorts in its stores at the purported regular price of \$59.95.
21 The denim shorts were not in fact worth the \$59.95 price that Aeropostale had led her to
22 believe. Each pair of denim shorts had nearly always been advertised with a “BUY 1 GET 1
23 FREE” offer or with a “50% OFF” discount from the \$59.95 purported regular price. Contrary
24 to Aeropostale’s representations, Ms. Nunez did not enjoy the advertised and promised savings
25 of \$59.95 for the “free” pair of denim shorts.

26 107. Aeropostale’s advertised false reference prices and advertised false free offer
27 were material misrepresentations and inducements to Ms. Nunez’s purchase.

28 108. As a direct and proximate result of Aeropostale’s acts and omissions, Ms. Nunez

1 was harmed, suffered an injury-in-fact, and lost money or property.

2 109. Ms. Nunez reasonably relied on Aeropostale's material misrepresentations. If
3 Ms. Nunez had known the truth, she would not have purchased the pairs of denim shorts from
4 Aeropostale at the price she paid. Ms. Nunez did not enjoy the actual discount Aeropostale
5 represented and promised to her. The pairs of denim shorts were not in fact worth the inflated
6 amount that Aeropostale represented to her. In fact, the pairs of denim shorts did not normally
7 sell for, and were not actually worth, the fictitious and invented list price that Aeropostale
8 printed on its price tag and on the receipt. Additionally, Aeropostale's false advertising scheme
9 fraudulently increased demand for Aeropostale's products including the denim shorts, thereby
10 shifting the demand curve and enabling Aeropostale to charge Ms. Nunez more for the pairs of
11 denim shorts than Aeropostale otherwise could have charged.

12 110. Ms. Nunez has a legal right to rely now, and in the future, on the truthfulness
13 and accuracy of Aeropostale's representations regarding its advertised reference prices and
14 discounts.

15 111. Ms. Nunez has been a regular shopper at Aeropostale, and would shop there
16 again if she could have confidence regarding the truth of Aeropostale's prices and the value of
17 its products.

18 112. Ms. Nunez will be harmed if, in the future, she is left to guess as to whether
19 Aeropostale is providing a legitimate sale or not, and whether products are actually worth the
20 amount that Aeropostale is representing.

21 113. If Ms. Nunez were to purchase again from Aeropostale without Aeropostale
22 having changed its unlawful and deceptive conduct alleged herein, Ms. Nunez would be
23 harmed on an ongoing basis and would be harmed once or more in the future.

24 **C. Plaintiff James Andrews**

25 114. Plaintiff James Andrews is, and at all relevant times has been, a California
26 resident and citizen.

27 115. Mr. Andrews has been a regular shopper at Aeropostale for many years. He has
28 made numerous purchases of purportedly discounted products in Aeropostale's brick-and-

1 mortar stores in California.

2 116. For example, on November 7, 2019, Mr. Andrews visited an Aeropostale store
3 located in the Moreno Valley Mall in Moreno Valley, California 92553.

4 117. Prior to entering the store, Mr. Andrews saw a large sign hanging in the window
5 by the storefront entrance advertising “Up to 70% OFF” all items in the store. While at the
6 store, Mr. Andrews saw prominent signs that advertised significant sales and percentage-off
7 discounts on merchandise throughout the store.

8 118. Mr. Andrews viewed signage adjacent to a black knit hat (“Hat”) which
9 advertised that the Hat was on sale for “60% OFF.” Mr. Andrews also viewed the price tag
10 attached to the Hat, which showed a price of \$19.50.

11 119. Relying on Aeropostale’s representations, Mr. Andrews reasonably believed that
12 the Hat was normally offered for sale and sold by Aeropostale for the \$19.50 tagged price. Mr.
13 Andrews reasonably believed that the Hat was thereby worth and had a value of \$19.50, the
14 price set forth on the price tag by Aeropostale. Mr. Andrews reasonably believed that the
15 advertised discount of “60% OFF”—which resulted in a purported “sale” price of \$7.80 and a
16 purported monetary discount of \$11.70—represented a special bargain.

17 120. Relying on Aeropostale’s representations, Mr. Andrews purchased the Hat
18 (Item #92652883).

19 121. On the paper receipt that Mr. Andrews received at the cash register and which
20 Mr. Andrews viewed, Aeropostale made additional product pricing and value representations
21 regarding the Hat. Aeropostale printed on the receipt that the sale price of the Hat was “\$7.80,”
22 and that Mr. Andrews was enjoying a “PROMO” of “60% OFF” the regular price of “\$19.50”
23 and a monetary discount of “(\$11.70).” These representations on the receipt further indicated
24 to Mr. Andrews that the Hat had a value of and was normally and regularly sold by Aeropostale
25 for \$19.50, and that the lower \$7.80 price he paid was a bargain price after Aeropostale applied
26 a special “60% OFF” “PROMO” discount that resulted in a monetary savings of “(\$11.70).”

27 122. However, the \$19.50 reference price printed on Aeropostale’s price tag and
28 receipt and the advertised discounts of “60% OFF” and \$11.70 in monetary savings were false

1 and deceptive. In reality, and unbeknownst to Mr. Andrews, Aeropostale had never offered the
2 Hat at the purported regular price of \$19.50 in its stores.

3 123. Aeropostale's advertised false reference prices and advertised false discounts
4 were material misrepresentations and inducements to Mr. Andrews' purchase.

5 124. As a direct and proximate result of Aeropostale's acts and omissions, Mr.
6 Andrews was harmed, suffered an injury-in-fact, and lost money or property.

7 125. Mr. Andrews reasonably relied on Aeropostale's material misrepresentations. If
8 Mr. Andrews had known the truth, he would not have purchased the Hat from Aeropostale at
9 the price he paid. Mr. Andrews did not enjoy the discount Aeropostale represented and
10 promised to him. The Hat was not in fact worth the inflated amount that Aeropostale
11 represented to him. In fact, the Hat did not normally sell for, and was not actually worth, the
12 fictitious and invented list price that Aeropostale printed on its price tag and on the receipt.
13 Additionally, Aeropostale's false advertising scheme fraudulently increased demand for
14 Aeropostale's products including the Hat, thereby shifting the demand curve and enabling
15 Aeropostale to charge Mr. Andrews more for the Hat than Aeropostale otherwise could have
16 charged.

17 126. Mr. Andrews has a legal right to rely now, and in the future, on the truthfulness
18 and accuracy of Aeropostale's representations regarding its advertised reference prices and
19 discounts.

20 127. Mr. Andrews has been a regular shopper at Aeropostale, and would shop there
21 again if he could have confidence regarding the truth of Aeropostale's prices and the value of
22 its products.

23 128. Mr. Andrews will be harmed if, in the future, he is left to guess as to whether
24 Aeropostale is providing a legitimate sale or not, and whether products are actually worth the
25 amount that Aeropostale is representing.

26 129. If Mr. Andrews were to purchase again from Aeropostale without Aeropostale
27 having changed its unlawful and deceptive conduct alleged herein, Mr. Andrews would be
28 harmed on an ongoing basis and would be harmed once or more in the future.

1 **VIII. CLASS ACTION ALLEGATIONS**

2 130. Plaintiffs bring this class-action lawsuit on behalf of themselves and the
3 members of the following class (the “Class”):

4 **All citizens of the State of California who, within the applicable**
5 **limitations period, purchased from an Aeropostale store located in**
6 **California or from the Aeropostale website one or more products**
7 **which was advertised or promoted by displaying or disseminating a**
8 **reference price or discount or a “Buy 1 Get 1 Free” or “Buy 1 Get**
9 **2 Free” offer.**

10 131. All claims and the Class definition are limited to claims which have not been
11 discharged in bankruptcy.

12 132. Specifically excluded from the Class are the Defendants, any entity in which a
13 Defendant has a controlling interest or which has a controlling interest in a Defendant, each
14 Defendant’s agents and employees and attorneys, the bench officers to whom this civil action is
15 assigned, and the members of each bench officer’s staff and immediate family.

16 133. *Numerosity.* Plaintiffs do not know the exact number of Class members but is
17 informed and believe that the Class easily comprises tens of thousands of individuals. As such,
18 Class members are so numerous that joinder of all members is impracticable.

19 134. *Commonality and Predominance.* Well-defined, nearly identical legal or factual
20 questions affect the members of the Class. These questions predominate over questions that
21 might affect individual Class members. These common questions include, but are not limited
22 to, the following:

- 23 a. Aeropostale’s policies and actions regarding its advertising;
- 24 b. The accuracy of Aeropostale’s advertised reference prices and discounts;
- 25 c. The accuracy of Aeropostale’s advertised free offers such as “Buy 1 Get
26 1 Free” and “Buy 1 Get 2 Free”;
- 27 d. Whether the alleged conduct of Aeropostale violates California Civil
28 Code § 1750 *et seq.*, California Business & Professions Code § 17500 *et seq.*, and California
Business & Professions Code § 17200 *et seq.*;
- e. Whether Plaintiffs and the Class have suffered injury and have lost

1 money or property as a result of such false or misleading discounts and reference prices;

2 f. Whether Defendants should be ordered to disgorge their unjust
3 enrichment; and

4 g. Whether Aeropostale should be enjoined from further engaging in the
5 misconduct alleged herein.

6 135. The prosecution of separate actions by individual members of the Class would
7 create a risk of inconsistent or varying adjudications with respect to individual members of the
8 Class which would establish incompatible standards of conduct for the party opposing the
9 Class.

10 136. The party opposing the Class has acted or refused to act on grounds generally
11 applicable to the Class, thereby making appropriate final injunctive relief with respect to the
12 Class as a whole.

13 137. **Typicality.** Plaintiffs' claims are typical of Class members' claims. Plaintiffs and
14 Class members all sustained injury as a result of Defendants' practices and schemes.

15 138. **Adequacy.** Plaintiffs will fairly and adequately protect Class members' interests.
16 Plaintiffs have no interests antagonistic to Class members' interests. Plaintiffs have retained
17 counsel who have considerable experience and success in prosecuting complex class action and
18 consumer protection cases.

19 139. Further, a class action is superior to all other available methods for fairly and
20 efficiently adjudicating this controversy. Each Class member's interests are small compared to
21 the burden and expense required to litigate each of their claims individually, so it would be
22 impractical and would not make economic sense for Class members to seek individual redress
23 for Aeropostale's conduct. Individual litigation would add administrative burden on the courts,
24 increasing the delay and expense to all parties and to the court system. Individual litigation
25 would also create the potential for inconsistent or contradictory judgments regarding the same
26 uniform conduct. A single adjudication would create economies of scale and comprehensive
27 supervision by a single judge. Moreover, Plaintiffs do not anticipate any difficulties in
28 managing a class action trial.

1 140. By its conduct and omissions alleged herein, Aeropostale has acted and refused
2 to act on grounds that apply generally to the Class, such that final injunctive relief and
3 declaratory relief is appropriate respecting the Class as a whole.

4 **CAUSES OF ACTION**

5 **COUNT I**

6 **Violation of the Consumers Legal Remedies Act
California Civil Code § 1750 *et seq.***

7 141. Plaintiffs reallege and incorporate by reference all paragraphs alleged
8 hereinbefore.

9 142. Plaintiffs bring this claim in their individual capacities, as private attorneys
10 general seeking the imposition of public injunctive relief, and as representatives of a putative
11 class.

12 143. Each of Defendants Aero OpCo LLC, SPARC Group LLC, Aero Operations
13 LLC, and each Doe defendant is a “person,” as defined by California Civil Code § 1761(c).

14 144. Plaintiffs Janette Lisner, Jennifer Quiroz Nunez, and James Andrews are each a
15 “consumer,” as defined by California Civil Code § 1761(d).

16 145. The Aeropostale products purchased by each Plaintiff from Aeropostale are
17 “goods” as defined by California Civil Code § 1761(a).

18 146. Plaintiffs’ purchases from Aeropostale each constitutes a “transaction,” as
19 defined by California Civil Code § 1761(e).

20 147. The unlawful methods, acts or practices alleged herein to have been undertaken
21 by Aeropostale were all committed intentionally. The unlawful methods, acts or practices
22 alleged herein to have been undertaken by Aeropostale did not result from a bona fide error
23 notwithstanding the use of reasonable procedures adopted to avoid such error.

24 148. With regard to this count of the pleading which alleges one or more violations of
25 the CLRA, venue is proper in the Los Angeles County Superior Court because, without
26 limitation, the County of Los Angeles is the county in which at least one transaction which is
27 the subject of this Complaint occurred. A declaration establishing that this Court has proper
28 venue for this count is attached hereto as **Exhibit A**.

1 149. Aeropostale's methods, acts and practices, including Aeropostale's
2 misrepresentations, active concealment, and failures to disclose, violated and continue to
3 violate the CLRA in ways including, but not limited to, the following:

4 a. Aeropostale misrepresented that its products had characteristics, benefits,
5 or uses that they did not have (Cal. Civ. Code § 1770(a)(5));

6 b. Aeropostale advertised its products with an intent not to sell them as
7 advertised (Cal. Civ. Code § 1770(a)(9));

8 c. Aeropostale made false or misleading statements of fact concerning
9 reasons for, existence of, or amounts of, price reductions. (Cal. Civ. Code § 1770(a)(13)); and

10 d. Aeropostale represented that its products were supplied in accordance
11 with previous representations when they were not (Cal. Civ. Code § 1770(a)(16)).

12 150. With respect to omissions, Aeropostale at all relevant times had a duty to
13 disclose the information in question because, inter alia: (a) Aeropostale had exclusive
14 knowledge of material information that was not known to Plaintiffs and the Class;
15 (b) Aeropostale concealed material information from Plaintiffs and the Class; and
16 (c) Aeropostale made partial representations which were false and misleading absent the
17 omitted information.

18 151. Aeropostale's misrepresentations and nondisclosures deceive and have a
19 tendency to deceive the general public.

20 152. Aeropostale's misrepresentations and nondisclosures are material, in that a
21 reasonable person would attach importance to the information and would be induced to act on
22 the information in making purchase decisions.

23 153. As a direct and proximate result of these violations, Plaintiffs and the Class were
24 harmed, suffered injury-in-fact, and lost money.

25 154. First, Plaintiffs and the Class were harmed because they would not have
26 purchased the items at the prices they paid had they known the items had not been regularly
27 offered at the higher list price.

28 155. Second, Plaintiffs and the Class were harmed because they did not enjoy the

1 actual discounts Aeropostale represented and promised to them.

2 156. Third, Plaintiffs and the Class were harmed because the items they purchased
3 were not in fact worth the inflated amount that Aeropostale represented to them. In fact, the
4 items did not normally sell for, and were not actually worth, the fictitious and invented list
5 price that Aeropostale printed on its price tags and listed on its website.

6 157. Fourth, Plaintiffs and the Class were harmed because they were victims of
7 Aeropostale's fraud on the market. Aeropostale's false advertising scheme fraudulently
8 increased demand for Aeropostale's products, thereby shifting the demand curve and enabling
9 Defendants to charge their customers more than they otherwise could have charged.
10 Aeropostale's fraud on the market enabled Aeropostale to charge everyone more for all of its
11 products, by artificially stimulating demand based on false pretenses and fraud. But for the
12 false advertising scheme, Aeropostale would have had to charge less money for its products in
13 order to enjoy the same level of demand for its products.

14 158. Aeropostale's conduct alleged herein caused substantial injury to Plaintiffs, the
15 Class, and the public. Aeropostale's conduct is ongoing and is likely to continue and recur
16 absent a permanent injunction. Accordingly, Plaintiffs seek an order enjoining Aeropostale
17 from committing such practices. Plaintiffs also seek attorneys' fees and costs.

18 159. Plaintiffs individually seek public injunctive relief, under the CLRA, to protect
19 the general public from Aeropostale's false discount advertising and omissions.

20 160. In accordance with California Civil Code § 1782(a), on April 29, 2021,
21 Plaintiffs' counsel, on behalf of Plaintiff James Andrews, served Aeropostale with notice of its
22 CLRA violations by certified mail, return receipt requested. On June 2, 2021, Plaintiffs'
23 counsel, on behalf of Plaintiffs Janette Lisner and Jennifer Quiroz Nunez, likewise served
24 Aeropostale with notice of its CLRA violations by certified mail, return receipt requested.

25 161. If Aeropostale fails to provide appropriate relief for its CLRA violations within
26 30 days of its receipt of Plaintiffs' June 2, 2021 notification letter, Plaintiffs will amend this
27 complaint to seek compensatory and exemplary damages as permitted by Cal. Civ. Code §§
28 1780 and 1782(b), along with attorneys' fees and costs.

COUNT II

**Violation of California's False Advertising Law
California Business and Professions Code § 17500 et seq.**

1
2
3 162. Plaintiffs reallege and incorporates by reference all paragraphs alleged
4 hereinbefore.

5 163. Plaintiffs bring this claim in their individual capacities, as private attorneys
6 general seeking the imposition of public injunctive relief, and as representatives of a putative
7 class.

8 164. Aeropostale has engaged in false or misleading advertising in violation of
9 California's statutory False Advertising Law ("FAL").

10 165. Aeropostale has advertised reference prices and corresponding discounts that are
11 false, misleading, and have a capacity, likelihood or tendency to deceive reasonable consumers.
12 *See, e.g., Kasky*, 27 Cal.4th at 951 (UCL and FAL prohibit "not only advertising which is false,
13 but also advertising which, although true, is either actually misleading or which has a capacity,
14 likelihood or tendency to deceive or confuse the public" (citation omitted)); *Hansen v.*
15 *Newegg.com Americas, Inc.*, 25 Cal.App. 5th 714, 722 (2018) (same); *Overstock.com, Inc.*,
16 2014 WL 657516, at *23 (same).

17 166. Aeropostale, with intent directly or indirectly to dispose of personal property or
18 to perform services, or to induce the public to enter into any obligation relating thereto, makes,
19 disseminates, has made or disseminated, causes to be made or disseminated, and has caused to
20 be made or disseminated, before the public in the State of California and throughout the United
21 States, in any newspaper or other publication, or any advertising device, or by public outcry or
22 by proclamation, or in any other manner or means, including over the Internet, statements
23 concerning that personal property or those services, and concerning any circumstance or matter
24 of fact connected with the proposed performance or disposition thereof, which are untrue or
25 misleading and which are known (or which by the exercise of reasonable care should be
26 known) to be untrue or misleading.

27 167. Independently, Aeropostale has made or disseminated or caused to be so made
28 or disseminated any such statement as part of a plan or scheme with the intent not to sell that

1 personal property or those services, professional or otherwise, so advertised at the price stated
2 therein, or as so advertised.

3 168. With respect to omissions, Aeropostale at all relevant times had a duty to
4 disclose the information in question because, inter alia: (a) Aeropostale had exclusive
5 knowledge of material information that was not known to Plaintiffs and the Class;
6 (b) Aeropostale concealed material information from Plaintiffs and the Class; and
7 (c) Aeropostale made partial representations which were false and misleading absent the
8 omitted information.

9 169. Aeropostale committed such violations of the False Advertising Law with actual
10 knowledge that its advertising was untrue or misleading, or Aeropostale, in the exercise of
11 reasonable care, should have known that its advertising was untrue or misleading.

12 170. Plaintiffs and the Class reasonably relied on Aeropostale's representations and
13 omissions made in violation of the False Advertising Law.

14 171. As a direct and proximate result of these violations, Plaintiffs and the Class were
15 harmed, suffered injury-in-fact, and lost money.

16 172. First, Plaintiffs and the Class were harmed because they would not have
17 purchased the items at the prices they paid had they known the items had not been regularly
18 offered at the higher list price.

19 173. Second, Plaintiffs and the Class were harmed because they did not enjoy the
20 actual discounts Aeropostale represented and promised to them.

21 174. Third, Plaintiffs and the Class were harmed because the items they purchased
22 were not in fact worth the inflated amount that Aeropostale represented to them. In fact, the
23 items did not normally sell for, and were not actually worth, the fictitious and invented list
24 price that Aeropostale printed on its price tags and listed on its website.

25 175. Fourth, Plaintiffs and the Class were harmed because they were victims of
26 Aeropostale's fraud on the market. Aeropostale's false advertising scheme fraudulently
27 increased demand for Aeropostale's products, thereby shifting the demand curve and enabling
28 Defendants to charge their customers more than they otherwise could have charged.

1 Aeropostale’s fraud on the market enabled Aeropostale to charge everyone more for all of its
2 products, by artificially stimulating demand based on false pretenses and fraud. But for the
3 false advertising scheme, Aeropostale would have had to charge less money for its products in
4 order to enjoy the same level of demand for its products.

5 176. Aeropostale should be ordered to disgorge or make restitution of all monies
6 improperly accepted, received or retained.

7 177. Aeropostale’s conduct has caused substantial injury to Plaintiffs, the Class, and
8 the public. Aeropostale’s conduct is ongoing and is likely to continue and recur absent a
9 permanent injunction. Accordingly, Plaintiffs seek an order enjoining Aeropostale from
10 committing such violations of the FAL. Plaintiffs further seeks an order granting restitution to
11 Plaintiffs and the Class in an amount to be proven at trial. Plaintiffs further seek an award of
12 attorneys’ fees and costs under Cal. Code Civ. Proc. § 1021.5.

13 178. Absent injunctive relief, Aeropostale will continue to injure Plaintiffs and the
14 Class. Aeropostale’s misrepresentations and omissions are ongoing. Even if such conduct were
15 to cease, it is behavior that is capable of repetition or reoccurrence by Aeropostale.

16 179. Plaintiffs individually seek public injunctive relief, under the FAL, to protect the
17 general public from Aeropostale’s false discount price advertising and omissions.

18 **COUNT III**
19 **Violation of California’s Unfair Competition Law**
20 **California Business and Professions Code § 17200 *et seq.***

21 180. Plaintiffs reallege and incorporate by reference all paragraphs alleged
22 hereinbefore.

23 181. Plaintiffs bring this claim in their individual capacities, as private attorneys
24 general seeking the imposition of public injunctive relief, and as representatives of a putative
25 class.

26 182. Defendant Aeropostale’s acts and omissions alleged herein constitute unfair
27 competition and unlawful, unfair, or fraudulent business practices in violation of California
28 Business and Professions Code § 17200 *et seq.* (the “Unfair Competition Law” or “UCL”).

183. Aeropostale’s conduct and omissions alleged herein are immoral, unethical,

1 oppressive, unscrupulous, unconscionable, and substantially injurious to Plaintiffs and the
2 Class. There is no utility to Aeropostale’s conduct, and even if there were any utility, it would
3 be significantly outweighed by the gravity of the harm to consumers caused by Aeropostale’s
4 conduct alleged herein.

5 184. Aeropostale’s conduct and omissions alleged herein also violate California
6 public policy, including as such policy is reflected in Cal. Civ. Code § 1750 *et seq.* and Cal.
7 Civ. Code §§ 1709-1710.

8 185. By its conduct and omissions alleged herein, Aeropostale has violated the
9 “unlawful” prong of the UCL, including by making material misrepresentations and omissions
10 in violation of Cal. Bus. & Prof. Code § 17500 *et seq.* and Cal. Civ. Code § 1750, *et seq.*;
11 engaging in deceit in violation of Cal Civ. Code §§ 1709-1710; and employing deceptive
12 discount price advertisements as identified by 16 C.F.R § 233.1 *et seq.* and 16 C.F.R. § 251.1.

13 186. Aeropostale has violated the “fraudulent” prong of the UCL by advertising its
14 products with a false and inflated reference price, with a false discount, and with a false “free”
15 offer.

16 187. With respect to omissions, Aeropostale at all relevant times had a duty to
17 disclose the information in question because, inter alia: (a) Aeropostale had exclusive
18 knowledge of material information that was not known to Plaintiffs and the Class;
19 (b) Aeropostale concealed material information from Plaintiffs and the Class; and
20 (c) Aeropostale made partial representations which were false and misleading absent the
21 omitted information.

22 188. Aeropostale’s material misrepresentations and nondisclosures were likely to
23 mislead reasonable consumers, existing and potential customers, and the general public.

24 189. Aeropostale’s misrepresentations and nondisclosures deceive and have a
25 tendency to deceive the general public and reasonable consumers.

26 190. Aeropostale’s misrepresentations and nondisclosures are material, such that a
27 reasonable person would attach importance to the information and would be induced to act on
28 the information in making purchase decisions.

1 191. Plaintiffs and the Class reasonably relied on Aeropostale’s representations and
2 omissions made in violation of the UCL.

3 192. As a direct and proximate result of these violations, Plaintiffs and the Class were
4 harmed, suffered injury-in-fact, and lost money.

5 193. First, Plaintiffs and the Class were harmed because they would not have
6 purchased the items at the prices they paid had they known the items had not been regularly
7 offered at the higher list price.

8 194. Second, Plaintiffs and the Class were harmed because they did not enjoy the
9 actual discounts Aeropostale represented and promised to them.

10 195. Third, Plaintiffs and the Class were harmed because the items they purchased
11 were not in fact worth the inflated amount that Aeropostale represented to them. In fact, the
12 items did not normally sell for, and were not actually worth, the fictitious and invented list
13 price that Aeropostale printed on its price tags and listed on its website.

14 196. Fourth, Plaintiffs and the Class were harmed because they were victims of
15 Aeropostale’s fraud on the market. Aeropostale’s false advertising scheme fraudulently
16 increased demand for Aeropostale’s products, thereby shifting the demand curve and enabling
17 Defendants to charge their customers more than they otherwise could have charged.
18 Aeropostale’s fraud on the market enabled Aeropostale to charge everyone more for all of its
19 products, by artificially stimulating demand based on false pretenses and fraud. But for the
20 false advertising scheme, Aeropostale would have had to charge less money for its products in
21 order to enjoy the same level of demand for its products.

22 197. By its conduct and omissions alleged herein, Aeropostale received more money
23 from Plaintiffs and the Class than it should have received, and that money is subject to
24 restitution.

25 198. Aeropostale’s conduct has caused substantial injury to Plaintiffs, Class
26 members, and the public. Aeropostale’s conduct is ongoing and is likely to continue and recur
27 absent a permanent injunction. Accordingly, Plaintiffs seek an order enjoining Aeropostale
28 from committing such unlawful, unfair, and fraudulent business practices. Plaintiffs further

1 seek an order granting restitution to Plaintiffs and the Class in an amount to be proven at trial.
2 Plaintiffs further seek an award of attorneys' fees and costs under Cal. Code Civ. Proc. §
3 1021.5.

4 199. Absent injunctive relief, Aeropostale will continue to injure Plaintiffs and the
5 Class. Aeropostale's misrepresentations and omissions are ongoing. Even if such conduct were
6 to cease, it is behavior that is capable of repetition or reoccurrence by Aeropostale.

7 200. Plaintiffs individually seek public injunctive relief, under the UCL, to protect
8 the general public from Aeropostale's false discount advertising and omissions.

9 **PRAYER FOR RELIEF**

10 A. In order to prevent injury to the general public, Plaintiffs Janette Lisner, Jennifer
11 Quiroz Nunez, and James Andrews each individually request that the Court enter a public
12 injunction enjoining Defendants from advertising false reference prices, false discounts, and
13 false "free" offers.

14 B. Further, on behalf of themselves and the proposed Class, Plaintiffs request that
15 the Court order relief and enter judgment against Defendants as follows:

16 1. Declare this action to be a proper class action, certify the Class, and
17 appoint Plaintiffs and their counsel to represent the Class;

18 2. Order disgorgement or restitution, including, without limitation,
19 disgorgement of all revenues, profits and unjust enrichment that each Defendant obtained,
20 directly or indirectly, from Plaintiffs and the members of the Class or otherwise as a result of
21 the unlawful conduct alleged herein;

22 3. Permanently enjoin each Defendant from the unlawful conduct alleged
23 herein;

24 4. Retain jurisdiction to police each Defendant's compliance with the
25 permanent injunctive relief;

26 5. Order each Defendant to pay attorneys' fees, costs, and pre-judgment
27 and post-judgment interest to the extent allowed by law; and

28 6. Provide all other relief to which Plaintiffs and the Class may show

1 themselves justly entitled.

2

JURY DEMAND

3

Plaintiffs Janette Lisner, Jennifer Quiroz Nunez, and James Andrews, on behalf of

4

themselves and on behalf of the Class, demand a trial by jury on all issues so triable.

5

6

DATED this 3rd day of June, 2021.

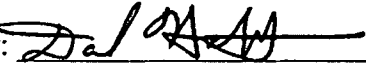
7

Presented by:

8

HATTIS & LUKACS

9

By: 

10

Daniel M. Hattis (SBN 232141)
Paul Karl Lukacs (SBN 197007)
HATTIS & LUKACS
400 108th Avenue NE, Suite 500
Bellevue, WA 98004
Telephone: (425) 233-8650
Facsimile: (425) 412-7171
Email: dan@hattislaw.com
Email: pkl@hattislaw.com

11

12

13

14

15

Stephen P. DeNittis, Esq.*
Shane T. Prince, Esq.*
DENITTIS OSEFCHEN PRINCE, P.C.
5 Greentree Centre, Suite 410
525 Route 73 N.
Marlton, New Jersey 08057
Telephone: (856) 797-9951
Facsimile: (856) 797-9978
Email: sdenittis@denittislaw.com
Email: sprince@denittislaw.com

16

17

18

19

20

21

Attorneys for Plaintiffs and the Proposed Class

22

**Pro hac vice application to be submitted.*

23

24

25

26

27

28