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9 *and all others similarly situated*

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
SAN JOSE DIVISION

12 DAVID OH, individually and on behalf of all
13 others similarly situated,

14 *Plaintiff,*

15 v.

16 SUNVALLEYTEK INTERNATIONAL,
17 INC.

18 *Defendant.*

Case No. 5:22-cv-00866

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

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1 **I. Introduction.**

2 1. When shopping online, consumers rely heavily on customer reviews and especially
3 “star” ratings to make purchasing decisions. This is especially true when shopping on websites that
4 offer numerous competing products, such as Amazon.com. Research shows that 93% of U.S. adults
5 read reviews before making online purchases.¹

6 2. The reason consumers rely heavily on reviews is that consumers consider reviews
7 posted by previous customers to be an honest reflection of product quality, as opposed to a
8 statement made directly by the seller who produces a particular product or service. Accordingly,
9 consumers consider reviews to be more trustworthy than statements made directly by the seller.

10 3. Peer-reviewed academic research has shown that when companies pay their
11 customers to write reviews, this artificially inflates both the number and quality of reviews. As a
12 recent Harvard Business Review article explains:

13 [W]hen companies pay customers to write reviews, it changes those reviews in two
14 key ways. First, previous research has shown that providing an incentive increases
15 the number of reviews a company is likely to receive. Second, our recent research
16 suggests that customers who receive an incentive are more likely to write positive
17 reviews, regardless of their experience with the product.²

18 4. These effects are observed whenever consumers are offered a financial incentive to
19 write a review, regardless of whether they are asked to write a positive review, and even if they are
20 expressly told to give their unbiased, honest assessment.³

21 _____
22 ¹ Kaitlin Woolley and Marissa A. Sharif, What Happens When Companies Pay Customers to
23 Write Reviews?, Harvard Business Review, June 25, 2021, <https://hbr.org/2021/06/what-happens-when-companies-pay-customers-to-write-reviews>.

24 ² *Id.*

25 ³ *Id.* (“Importantly, in all our experiments the incentive was offered after customers had
26 completed their experience with the product in question. And we explicitly directed them to provide
27 accurate, honest descriptions. Because there was no reason for incentivized customers to have had a
28 different experience with the products than their non-incentivized counterparts, one might expect
that the incentives would not influence the content of reviews — but our experiments demonstrated
otherwise. Simply knowing you’ll receive a reward for writing a review makes the process more
enjoyable, which makes you more likely to write a positive review.”)

1 5. Because offering customers a financial incentive to review products artificially
2 inflates both the number and the quality of reviews for that product, this practice is unfair and
3 deceptive: it tricks potential customers who read and rely on the reviews in question to believe that
4 the quality of the products in question is higher than it really is. Amazon, one of the largest and
5 savviest online retailers in the world, is aware of this problem. As a result, Amazon’s policies
6 expressly prohibit offering “an incentive in exchange for a review into product packaging or
7 shipping box.”⁴ And given the importance of this issue, “Amazon has a zero-tolerance policy
8 towards any customer reviews violations.”⁵

9 6. Defendant makes, sells, and markets consumer electronics under several brand
10 names, including RAVPower, HooToo, Sable, TaoTronics, VAVA, and Anjou. Defendant’s
11 products are sold online. Until June 2021, a large portion of Defendant’s products were sold on
12 Amazon.com.

13 7. To artificially inflate both its number of reviews and its products’ ratings, Defendant
14 secretly offered financial incentives such as gift cards to prior purchasers of their products to write
15 reviews and post them online. These incentives were placed inside of the product packaging for
16 Defendant’s products. An example of this practice—offering a \$35 gift card in exchange for a
17 review of a RAVPower product—is shown below:



27 ⁴ Customer Product Reviews Policies, Amazon,
28 https://sellercentral.amazon.com/gp/help/external/YRKB5RU3FS5TURN?language=en_US

⁵ *Id.*

1 8. Also, when a payment is disproportionately large, relative to the time it takes to write
2 a review, it is an even stronger incentive to inflate ratings. In the example above, Defendant offered
3 its customers a \$35 gift card for a review that would take just a few minutes to write. And on top of
4 this, Defendant framed the gift card payment as a prize (“LUCKY WINNERS!”) to create
5 artificially positive feelings that would translate into artificially positive reviews.

6 9. Defendant’s practice of offering purchasers a financial incentive to write reviews is
7 unfair and deceptive. By offering a financial reward, Defendant intended to encourage reviewers to
8 give its products more reviews, higher review scores, and more positive reviews—not as a
9 reflection of the products’ true quality, but as a reflection of the fact that Defendant pays reviewers.
10 In this way, Defendant intended to artificially inflate, and did inflate, its products’ perceived
11 quality. Defendant thereby misled Plaintiff and other consumers into believing that Defendant’s
12 products are more highly-regarded, and of a higher quality, than they really are. This was a material
13 misrepresentation that Plaintiff—and other reasonable consumers—relied on when deciding to buy
14 the products.

15 10. In or around June 2021, Amazon delisted Defendant’s products because of
16 Defendant’s unfair and deceptive review practices, which violated its terms of service.

17 11. Had Defendant not engaged in these deceptive and unfair practices, the ratings of
18 Defendant’s products would have been lower, and the written reviews would have been less
19 positive. As a result, Plaintiff and other consumers would not have purchased the products or
20 would have paid less for them.

21 12. Plaintiff brings this case for himself and for millions of other consumers who
22 purchased Defendant’s products.

23 **II. Parties.**

24 13. Plaintiff David Oh is a citizen of California (domiciled in Santa Ana). The proposed
25 class (identified below) includes citizens of every state within the United States.

26 14. Defendant Sunvalleytek International, Inc. is a California corporation with its
27 principal place of business in San Jose, California, and has been doing business in the State of
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1 California during all relevant times. Directly and through its agents, Defendant has substantial
2 contacts with, and receives substantial benefits and income from, the State of California.

3 **III. Jurisdiction and Venue.**

4 15. This Court has subject matter jurisdiction under 28 U.S.C. § 1332(d)(2). The amount
5 in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and the
6 matter is a class action in which one or more members of the proposed class are citizens of a state
7 different from the Defendant.

8 16. The Court has personal jurisdiction over Defendant because Defendant is
9 headquartered in California, it sold its products to consumers in California, including Plaintiff, and
10 because Defendant is a California corporation.

11 17. Venue is proper under 28 U.S.C. § 1391(b)(1) and 28 U.S.C. § 1391(d) because
12 Defendant would be subject to personal jurisdiction in this District if this District were a separate
13 state, given that Defendant resides in this District.

14 **IV. Facts.**

15 **A. Star ratings and customer reviews.**

16 18. When consumer products are sold online, the product listing often includes a star
17 rating out of five stars, as well as written reviews by past purchasers of the product.

18 19. Reasonable consumers understand a star rating to measure the relative quality of a
19 product. Five stars means that, on average, past purchasers thought that the product was very good.
20 One star means that, on average, past purchasers thought that the product was very bad.

21 20. Reasonable consumers believe that the star rating reflects previous purchasers' true,
22 unbiased feelings about the product. They do not expect that purchasers were paid or otherwise
23 incentivized to rate a product highly.⁶

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25 ⁶ Juan Maria Martinez Otero, Fake Reviews on Online Platforms: Perspectives from the US,
26 UK, and EU Legislations, 1 SN Social Sciences 181 (2021) at 3-4,
27 <https://link.springer.com/content/pdf/10.1007/s43545-021-00193-8.pdf> (“Reviews posted by
28 previous customers are considered an honest reflection of product quality, as opposed to a statement
made directly by the trader who produces a particular product or service.”)

1 21. Likewise, reasonable consumers understand a written review to convey the true
2 feelings of purchasers about the quality of the product. They do not expect that purchasers were
3 paid or otherwise incentivized to write positive reviews of a product.⁷

4 22. The overwhelming majority of consumers—93% of U.S. adults—read customer
5 reviews before buying products online.⁸

6 23. Product ratings and reviews have a material impact on reasonable consumers’
7 purchasing decisions. In fact, research has found that “ratings and reviews correlate with sales
8 ranks. Online reviews can make or break businesses.”⁹

9 24. The reason that online ratings and reviews matter to consumers is because consumers
10 believe that they come directly from previous purchasers, not from the company selling the product.
11 Consumers place greater trust “in the opinions and personal experiences of other consumers, which
12 contrasts with a generalized skepticism regarding the information offered by the seller herself in her
13 advertising or institutional communication.”¹⁰

14 25. Paying purchasers to write reviews results in more reviews. It also results in those
15 purchasers giving the product higher review scores, and writing more positive reviews, than they
16 otherwise would have “regardless of their experience with the product.”¹¹ This artificially inflates
17 the product’s rating and makes the product seem better than it really is.

18 26. Paying for reviews artificially inflates product reviews and scores even if the vendor
19 does not specifically require the reviewer to give a *high* review score in order to be compensated.
20 Reviewers naturally write more positive reviews and give higher scores in exchange for

21
22 ⁷ *Id.*

23 ⁸ Kaitlin Woolley and Marissa A. Sharif, What Happens When Companies Pay Customers to
24 Write Reviews?, Harvard Business Review, June 25, 2021, <https://hbr.org/2021/06/what-happens-when-companies-pay-customers-to-write-reviews>

25 ⁹ Juan Maria Martinez Otero, Fake Reviews on Online Platforms: Perspectives from the US,
26 UK, and EU Legislations, 1 SN Social Sciences 181, at 5 (2021),
<https://link.springer.com/content/pdf/10.1007/s43545-021-00193-8.pdf> at 5

27 ¹⁰ *Id.*

28 ¹¹ Kaitlin Woolley and Marissa A. Sharif, What Happens When Companies Pay Customers
to Write Reviews?, Harvard Business Review, June 25, 2021, <https://hbr.org/2021/06/what-happens-when-companies-pay-customers-to-write-reviews>

1 compensation, even without being specifically told to do so, and regardless of their experience with
2 the product. Indeed, peer-reviewed research shows that paying consumers to write reviews results
3 in artificially positive reviews even when consumers are expressly told “to provide accurate, honest
4 descriptions” of the product in question.¹²

5 27. Paying purchasers to write reviews is unfair and deceptive. It results in artificially
6 inflated product reviews and star ratings that do not reflect past purchasers’ experiences with the
7 product. This in turn deceives consumers into purchasing products based on a false belief that the
8 reviews and ratings reflect the true opinions of past purchasers.

9 28. Consumers are harmed by paid reviews, which deceive them into purchasing
10 products that they would not have otherwise purchased, or paying more for those products, based on
11 an artificially inflated review score and overly positive written reviews that do not reflect past
12 purchasers’ true feelings about the product.

13 29. For this reason, Amazon has a “zero-tolerance policy” toward vendors that offer a
14 financial reward in exchange for a review of its products.¹³

15 30. The Federal Trade Commission prohibits companies from offering an incentive for a
16 review without disclosing the incentive. This is because the practice “may introduce bias or change
17 the weight and credibility that readers give the review.”¹⁴

18 **B. Defendant pays for reviews, without disclosing this to consumers.**

19 31. Defendant manufactures, distributes, markets, and sells consumer electronics. It
20 sells these products under several brand names, including RAVPower, HooToo, Sable, TaoTronics,
21 VAVA, and Anjou.

22 32. Defendant’s products are exclusively sold online, rather than at physical brick-and-
23 mortar locations, including on websites owned by the Defendant, such as ravpower.com,
24

25 ¹² *Id.*

26 ¹³ Customer Product Reviews Policies, Amazon,
27 https://sellercentral.amazon.com/gp/help/external/YRKB5RU3FS5TURN?language=en_US

28 ¹⁴ Soliciting and Paying for Online Reviews: A Guide for Marketers, Federal Trade
Commission, https://www.ftc.gov/system/files/documents/plain-language/1007a_soliciting-and-paying-for-online-reviews-508_0.pdf

1 hootoo.com, taotronics.com, and vava.com. Until June 2021, Defendant also sold a large portion of
2 their products on Amazon.com.

3 33. Product listings on Defendant’s websites include a star rating out of five, as well as
4 written reviews by customers. For example:



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Message Gun, Portable Deep Tissue Percussion
Massager with 20 Adjustable Speeds - Dark Grey

★ ★ ★ ★ ★ (517)
\$129.99 \$49.99



34. Virtually every product (if not every single product) on Defendant’s websites has an average score of five out of five stars:

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-15%

TaoTronics SoundLiberty 97 Bluetooth Earbuds USB-C fast charging - Black
★★★★★ (1,151)
\$46.99 \$39.99



-36%

SoundLiberty 94 Bluetooth 5.0 TWS Earbuds 32H Playtime - Black
★★★★★ (1,151)
\$54.99 \$34.99



-28%

TaoTronics SoundLiberty 95 True Wireless Earbuds with Dual Mic: 8.0 Noise Cancelling Technology - Black
★★★★★ (1,151)
\$29.99



-48%

Bofune Wireless Sports Headphones 001, Bluetooth 5.0 IPX7 Waterproof 16 Hours Playtime - Black
★★★★★ (14)
\$49.99 \$25.99



-37%

Bofune Wireless Headphones 001 Pro, Bluetooth 5.0 aptX HD CVC 8.0 Noise Cancellation - Black Blue
★★★★★ (10)
\$45.99 \$29.99



Bluetooth AUX Adapter, aptX Low Latency Bluetooth Receiver - Black
★★★★★ (277)
\$25.99



-40%

Bofune Wireless Earbuds 020, Bluetooth V5.2 USB-C Quick Charge 40H Playing Time - Black
★★★★★ (22)
\$49.99 \$29.99



-55%

Bofune Super Lightweight Bluetooth Wireless Earbuds - White
★★★★★ (7)
\$39.99 \$15.99



-43%

Bofune Wireless Earbuds 030, Bluetooth V5.2 in Ear Headset with 4 Mics, IPX7 Waterproof - Black
★★★★★ (4)
\$49.99 \$29.99



-43%

Bofune Wireless Earbuds, Bluetooth ANC Headphones with 4 Mics Noise Reduction - Black
★★★★★ (4)
\$49.99 \$29.99



Sold Out

Wireless Audio Adapter Bluetooth 5.0, aptX Low Latency transmitter & Receiver - Black
★★★★★ (3)
\$32.90



Sold Out

True Wireless Earbuds Bluetooth 5.0 TWS In Ear Earphones with Charging Case - White
★★★★★ (101)
\$49.99



Bofune Wireless Earbuds 020, Upgraded Bofune Bluetooth V5.7 in Ear Stereo Wireless Headphones - Khaki
★★★★★ (73)
\$79.99



-22%

SoundLiberty Pro P10 ANC Hybrid Active Noise Cancelling TWS Earbuds
★★★★★ (18)
\$89.99 \$69.99



Sold Out

Wireless Audio Bluetooth Adapter 5.0 aptX - Black
★★★★★ (33)
\$49.99



-40%

SALE

Bluetooth 5.0 Transmitter and Receiver, Wireless 3.5mm Adapter - Black
★★★★★ (547)
\$39.99 \$24.99

1 35. Before June 2021, Defendant's products were also sold on Amazon.com. During
2 this time, a large portion of Defendant's sales came from Amazon.

3 36. Product listings on Amazon similarly include a star rating out of five, as well as
4 written reviews.

5 37. When Defendant's products were still listed on Amazon, its products had an
6 unusually high number of five star ratings and positively written reviews.¹⁵ When reviewing
7 customer reviews of Defendant's products on Amazon and on Defendant's website, reasonable
8 consumers, including Plaintiff, believed that the number of reviews Defendants received, and the
9 positive star rating and substance of those reviews, was an honest reflection of the high quality of
10 Defendant's products. Reasonable consumers, including Plaintiff, believed that the reviews in
11 question were not manipulated by Defendant, including by offering incentives for reviews. Indeed,
12 Defendant does not disclose that it offers incentives to pay for reviews. Moreover, offering
13 incentives in exchange for reviews is contrary to Amazon.com's policies. And the FTC has
14 instructed marketers not to offer incentives in exchange for reviews without disclosing this fact,
15 because offering incentives may introduce bias or change the weight and credibility that readers
16 give the review.¹⁶

17 38. The reason for Defendant's unusually high scores and positive reviews is that
18 Defendant pays purchasers to review its products. Defendant does this to artificially inflate the
19 number, star rating, and quality of the reviews its products receive. Defendant intended for
20 consumers to rely on the reviews in deciding whether to purchase its products.

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25 ¹⁵Nicole Nguyen, Fake Reviews and Inflated Ratings are Still a Problem for Amazon, Wall
26 Street Journal, June 13, 2021, <https://www.wsj.com/articles/fake-reviews-and-inflated-ratings-are-still-a-problem-for-amazon-11623587313>

27 ¹⁶ Soliciting and Paying for Online Reviews: A Guide for Marketers, Federal Trade
28 Commission, https://www.ftc.gov/system/files/documents/plain-language/1007a_soliciting-and-paying-for-online-reviews-508_0.pdf

1 39. In June 2021, a Wall Street Journal investigation revealed that Defendant offers
 2 incentives in exchange for reviews.¹⁷ Defendant includes cards in some of its product packaging
 3 that read “CONGRATULATIONS! LUCKY WINNERS!”¹⁸ The back side of the card instructs
 4 purchasers to email the Defendant “A. Your order ID (screenshot) B. Your review URL (or
 5 screenshot).”¹⁹ In exchange, Defendant offers to pay the purchaser in the form of a gift card.²⁰



16 *Example of a card included in Defendant’s products, offering to pay for reviews.*

17 40. Defendant offered disproportionately valuable gift cards, relative to the time it takes
 18 to write a review, to create an even stronger incentive for reviewers to inflate their ratings. In the
 19 example above, Defendant offered its customers a \$35 gift card for a review that would take just a
 20 few minutes to write. And on top of this, Defendant framed the gift card payment as a prize
 21 (“LUCKY WINNERS!”) to create artificially positive feelings that would translate into artificially
 22 positive reviews.

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25 ¹⁷ Nicole Nguyen, Fake Reviews and Inflated Ratings are Still a Problem for Amazon, Wall
 26 Street Journal, June 13, 2021, <https://www.wsj.com/articles/fake-reviews-and-inflated-ratings-are-still-a-problem-for-amazon-11623587313>.

27 ¹⁸ *Id.*

28 ¹⁹ *Id.*

²⁰ *Id.*

1 41. By paying for reviews, Defendant secures more reviews, higher average review
2 scores, and more positive reviews, than Defendant would otherwise have received. This is
3 especially true because Defendant requires reviewers to send Defendant a screenshot or link to the
4 review in question before receiving payment. Because reviewers know that Defendant will review
5 the star rating and content of the review, they feel pressure to give a higher rating—and say more
6 positive things—than they otherwise might. This effect is even more pronounced because
7 Defendant reviews the star rating and content of the review before deciding whether to issue the
8 incentive in question to the reviewer. As a result, the quantity, star rating, and positive nature of the
9 reviews for Defendant’s products are a result of the fact that Defendant pays for reviews—not a
10 reflection of the true quality of Defendant’s products.

11 42. Following the Wall Street Journal exposé, Amazon delisted Defendant’s products
12 from its site. Defendant continues to sell products through its own websites, which still include
13 artificially inflated review scores and written reviews.

14 **C. Defendant’s practice of paying for reviews is unfair and deceptive, and**
15 **misleading to reasonable consumers.**

16 43. As the academic research cited above shows and as the FTC confirms, it is unfair,
17 deceptive, and misleading to offer financial incentives in exchange for product reviews without
18 disclosing this fact to consumers. This is because offering an incentive “may introduce bias or
19 change the weight and credibility that readers give the review.”²¹

20 44. Reasonable consumers believe that the quantity, star rating, and contents of the
21 reviews for Defendant’s products are the product of previous purchasers’ true, unbiased feelings
22 about the products they purchased. They do not expect that the quantity, star rating, and contents of
23 the reviews are inflated because Defendant pays or otherwise incentivizes purchasers in exchange
24 for giving reviews.

27 ²¹ Soliciting and Paying for Online Reviews: A Guide for Marketers, Federal Trade
28 Commission, https://www.ftc.gov/system/files/documents/plain-language/1007a_soliciting-and-paying-for-online-reviews-508_0.pdf

1 45. Reasonable consumers rely on the fact that Defendant's ratings and reviews reflect
2 previous purchasers' true, unbiased feelings—and specifically that Defendant does not pay for
3 reviews—when deciding whether to buy Defendant's products.

4 46. Defendant's deceptive conduct was material, i.e., a reasonable consumer would
5 consider the products' reviews and ratings—and whether the company paid reviewers—when
6 deciding whether to buy Defendant's products. Reasonable consumers rely on ratings and reviews
7 when shopping online because they reflect previous purchasers' true, unbiased opinions and are not
8 paid for by the company.

9 47. Defendant intended that consumers rely on the reviews when making their
10 purchasing decision. Likewise, Defendant intended that consumers believe the reviews reflect
11 previous purchasers' true, unbiased feelings about the product, and that they were not paid for.

12 48. Defendant's practice of paying purchasers to write reviews is unfair and deceptive.
13 It results in artificially inflated product reviews and star ratings that do not reflect past purchasers'
14 experiences with the product. This in turn deceives consumers into purchasing Defendant's
15 products based on a false belief that the reviews and ratings reflect the true opinions of past
16 purchasers.

17 49. Consumers are harmed by Defendant's practice of paying for reviews, which
18 deceives them into purchasing products they would not have otherwise purchased, or to pay more
19 for those products, based on an artificially inflated review score and overly positive written reviews
20 that do not reflect past purchasers' true feelings about the products.

21 50. There is no benefit to competition of Defendant's conduct of paying for reviews, to
22 artificially inflate scores. To the contrary, this hurts healthy competition, as it obscures true product
23 quality and stops the truly superior products from prevailing in the market. It incentivizes
24 competitors to engage in similar misleading tactics and pay for reviews, simply to keep up.

25 **D. Plaintiff was misled by Defendant's unfair and deceptive practices.**

26 51. In 2019, Plaintiff purchased three products sold by Defendant on Amazon: a
27 TaoTronics TV soundbar purchased on April 24, 2019, a TaoTronics computer speaker purchased
28 on May 1, 2019, and a TaoTronics humidifier purchased on December 17, 2019.

1 52. All of these products were highly-rated on Amazon. Despite these positive reviews,
2 however, the products were poorly made and of a low quality. Plaintiff discovered that the products
3 were poorly made and of a low quality after having already purchased all three products. As an
4 example, the TaoTronics humidifier broke a few months after Plaintiff purchased it.

5 53. When deciding whether to purchase the products, Plaintiff read and relied on the
6 products' high review scores, as well as the large number of positive customer reviews in the
7 product listing.

8 54. Plaintiff reasonably believed that the product scores and reviews were an honest,
9 unbiased reflection of past purchasers' opinions of the quality of the product, and that those reviews
10 were left by purchasers who decided to go to Amazon's website and leave a review on their own
11 accord, as opposed to doing so to get a financial incentive. Plaintiff did not know that the
12 Defendant was paying purchasers to leave reviews. He would not have bought the products had he
13 known that Defendant paid for reviews and that, as a result, the product reviews for Defendant's
14 products were inflated.

15 **E. Class Action Allegations.**

16 55. Plaintiff brings certain claims on behalf of the proposed class of: all persons who
17 purchased Defendant's products in the United States during the applicable statute of limitations (the
18 "**Nationwide Class**").

19 56. For other claims, Plaintiff brings those claims on behalf of the proposed class of: all
20 persons living in certain identified states who purchased one of Defendant's products during the
21 applicable statute of limitations (the "**Consumer Protection Subclass**").

22 57. For certain claims, in the alternative, Plaintiff brings those claims on behalf of a
23 subclass of consumers who, like Plaintiff, purchased Defendant's products in California (the
24 "**California Subclass**").

25 58. The following people are excluded from the Class and the Subclasses: (1) any Judge
26 or Magistrate Judge presiding over this action and the members of their family; (2) Defendant,
27 Defendant's subsidiaries, parents, successors, predecessors, and any entity in which the Defendant
28 or its parents have a controlling interest and their current employees, officers and directors; (3)

1 persons who properly execute and file a timely request for exclusion from the Class; (4) persons
2 whose claims in this matter have been finally adjudicated on the merits or otherwise released; (5)
3 Plaintiff's counsel and Defendant's counsel, and their experts and consultants; and (6) the legal
4 representatives, successors, and assigns of any such excluded persons.

5 ***Numerosity***

6 59. The proposed class contains members so numerous that separate joinder of each
7 member of the class is impractical. There are millions of proposed class members.

8 ***Commonality***

9 60. There are questions of law and fact common to the proposed class. Common
10 questions of law and fact include, without limitation:

- 11 • Whether Defendant paid for reviews;
- 12 • Whether the practice of paying for reviews is unfair, misleading, and deceptive;
- 13 • Whether Defendant violated state consumer protection statutes; and,
- 14 • Damages needed to reasonably compensate Plaintiff and the proposed class.

15 ***Typicality***

16 61. Plaintiff's claims are typical of the proposed class. Like the proposed class, Plaintiff
17 purchased products sold by the Defendant.

18 ***Predominance and Superiority***

19 62. The prosecution of separate actions by individual members of the proposed class
20 would create a risk of inconsistent or varying adjudication with respect to individual members,
21 which would establish incompatible standards for the parties opposing the class. For example,
22 individual adjudication would create a risk that violation of a given state's consumer protection
23 statute is found for some proposed class members, but not others.

24 63. Common questions of law and fact predominate over any questions affecting only
25 individual members of the proposed class. These common legal and factual questions arise from
26 certain central issues which do not vary from class member to class member, and which may be
27 determined without reference to the individual circumstances of any particular class member. For
28

1 example, a core liability question is common: whether Defendant paid for customer reviews.

2 64. A class action is superior to all other available methods for the fair and efficient
3 adjudication of this litigation because individual litigation of each claim is impractical. It would be
4 unduly burdensome to have individual litigation of millions of individual claims in separate lawsuits,
5 every one of which would present the issues presented in this lawsuit.

6 **V. Causes of Action**

7 **Count I: Violations of State Consumer Protection Acts**

8 **(on behalf of Plaintiff and the Consumer Protection Subclass)**

9 65. Plaintiff incorporates by reference each and every factual allegation set forth above.

10 66. This count is brought on behalf of Plaintiff and the Consumer Protection Subclass for
11 violations of the following state consumer protection statutes:

State	Statute
Arizona	Ariz. Rev. Stat. §§ 44-1521, and the following.
Arkansas	Ark. Code § 4-88-101, and the following.
California	Cal. Bus. & Prof. Code § 17200, and the following; <i>Id.</i> §17500, and the following Cal. Civ. Code §1750 and the following.
Colorado	Colo. Rev. Stat. Ann. § 6-1-101, and the following.
Connecticut	Conn. Gen Stat. Ann. § 42- 110, and the following.
Delaware	6 Del. Code § 2513, and the following.
Washington, D.C.	D.C. Code § 28-3901, and the following.
Georgia	Ga. Code Ann. § 10-1-390, and the following.
Hawaii	Haw. Rev. Stat. § 480-2, and the following.
Idaho	Idaho Code. Ann. § 48-601, and the following.
Illinois	815 ILCS § 501/1, and the following.
Kansas	Kan. Stat. Ann. § 50-623, and the following.
Louisiana	LSA-R.S. § 51:1401, and the following.

1	Maine	Me. Rev. Stat. Ann. Tit. 5, § 207, and the
2		following.
3	Maryland	Md. Code Ann. Com. Law, § 13-301, and the
4		following.
5	Massachusetts	Mass. Gen Laws Ann. Ch. 93A, and the following.
6	Michigan	Mich. Comp. Laws Ann. § 445.901, and the
7		following.
8	Minnesota	Minn. Stat. § 325F, and the following.
9	Montana	Mont. Code Ann. §§ 30-14-101, and the following.
10	Missouri	Mo. Rev. Stat. § 407, and the following.
11	Nebraska	Neb. Rev. St. § 59-1601, and the following.
12	Nevada	Nev. Rev. Stat. § 41.600, and the following.
13	New Hampshire	N.H. Rev. Stat. § 358-A:1, and the following.
14	New Jersey	N.J. Stat. Ann. § 56:8, and the following.
15	New Mexico	N.M. Stat. Ann. § 57-12-1, and the following.
16	New York	N.Y. Gen. Bus. Law § 349, and the following.
17	North Carolina	N.C. Gen Stat. § 75-1.1, and the following.
18	North Dakota	N.D. Cent. Code § 51-15, and the following.
19	Ohio	Ohio Rev. Code Ann. § 1345.01, and the
20		following.
21	Oklahoma	Okla. Stat. tit. 15 § 751, and the following.
22	Oregon	Or. Rev. Stat. § 646.605, and the following.
23	Pennsylvania	73 P.S. § 201-1, and the following.
24	Rhode Island	R.I. Gen. Laws § 6-13.1- 5.2(B), and the
25		following.
26	South Carolina	S.C. Code Ann. § 39-5-10, and the following.
27	South Dakota	S.D. Codified Laws § 37-24-1, and the following.
28		

1	Tennessee	Tenn. Code Ann. § 47-18-101, and the following.
2	Texas	Tex. Code Ann., Bus. & Con. § 17.41, and the
3		following.
4	Utah	Utah Code. Ann. § 13-11-175, and the following.
5	Vermont	9 V.S.A. § 2451, and the following.
6	Virginia	Va. Code Ann. § 59.1-199, and the following.
7	Washington	Wash. Rev. Code § 19.86.010, and the following.
8	West Virginia	W. Va. Code § 46A, and the following.
9	Wisconsin	Wis. Stat. § 100.18, and the following.
10	Wyoming	Wyo. Stat. Ann. § 40-12-101, and the following.

11 67. Each of these consumer protection statutes prohibits unfair, unconscionable, and/or
12 deceptive acts or practices in the course of trade or commerce or in connection with the sales of
13 goods or services to consumers. Defendant's conduct, including paying for reviews of its products
14 and selling products with artificially inflated reviews and ratings to Plaintiff and Class members,
15 violates each statute's prohibitions.

16 68. Defendant's deceptive conduct was a substantial factor in Plaintiff's purchase
17 decision and the purchase decision of Class members. Defendant's conduct was misleading to a
18 reasonable consumer, and Plaintiff and Class members reasonably relied on Defendant's
19 deceptively high review scores and positive reviews.

20 69. Defendant intended that Plaintiff and the proposed Class members would rely on its
21 deceptively high review scores and positive reviews, which is why it paid past purchasers to review
22 its products.

23 70. For applicable statutes, Plaintiff mailed Defendant a written notice and demand for
24 correction on February 8, 2022. Upon the expiration of any governing statutory notice period,
25 Plaintiff and the class seek all available injunctive or monetary relief.

26 71. Plaintiff and Subclass members were injured as a direct and proximate result of
27 Defendant's conduct because (a) they would not have purchased Defendant's products if they had
28

1 known that Defendant pays for reviews, and/or (b) they overpaid for the products because they are
 2 sold at a price premium due to Defendant's unfair and deceptive conduct. In this way, Plaintiff and
 3 the proposed Class members have suffered an ascertainable loss, in an amount to be determined at
 4 trial.

5 **Count II: Violation of California's Unfair Competition Law (UCL)**

6 **(on behalf of Plaintiff and the California Subclass)**

7 72. Plaintiff incorporates by reference and re-alleges each and every factual allegation
 8 set forth above as though fully set forth herein.

9 73. As alleged in Count I, state consumer protection laws are sufficiently similar such
 10 that Plaintiff may bring a claim on behalf of the Consumer Protection Subclass. In the alternative,
 11 Plaintiff brings this cause of action on behalf of himself and members of the California Subclass.

12 74. Defendant has violated California's Unfair Competition Law (UCL) by engaging in
 13 unlawful, fraudulent, and unfair conduct (i.e., violating each of the three prongs of the UCL).

14 ***The Unlawful Prong***

15 75. Defendant engaged in unlawful conduct by violating the CLRA, as alleged below
 16 and incorporated here.

17 76. Defendant also engaged in unlawful conduct by violating the FTC Act²² and
 18 accompanying FTC regulations²³ and guidance documents,²⁴ which prohibit companies from
 19 paying for reviews without disclosing that they are doing so.

20 ***The Fraudulent Prong***

21
 22
 23 ²² See 15 U.S.C. § 45 (declaring unfair or deceptive acts or practices to be unlawful.)

24 ²³ See 16 C.F.R. § 255.5 ("When there exists a connection between the endorser and the
 25 seller of the advertised product that might materially affect the weight or credibility of the
 endorsement (i.e., the connection is not reasonably expected by the audience), such connection must
 be fully disclosed.")

26 ²⁴ See FTC Guidance Document ("Note that positive consumer reviews are a type of
 27 endorsement, so such reviews can be unlawful, e.g., when they are fake *or when a material
 connection is not adequately disclosed.*") (emphasis added).

28 https://www.ftc.gov/system/files/attachments/penalty-offenses-concerning-endorsements/npo_endorsement_template_letter.pdf

1 77. As alleged in detail above, Defendant's practice of paying for reviews was deceptive
2 and misleading. Defendant's practice of paying for reviews was likely to deceive, and did deceive,
3 Plaintiff and reasonable consumers into believing that Defendant's products were of a higher quality
4 than they really are.

5 ***The Unfair Prong***

6 78. Defendant's conduct is unfair because, by paying for reviews without disclosing this
7 to purchasers, Defendant tricks consumers into thinking that previous purchasers of its products
8 have a more positive view of the products than they really do. This is unfair because, given the
9 importance of reviews in online purchases, this leads consumers to purchase products they wouldn't
10 otherwise purchase, or pay more for products than they otherwise would. In addition, it is unfair
11 because it gives Defendant's products an unfair advantage over competing products by other sellers
12 who do not engage in this practice. The unfairness of this practice is tethered to statutory and
13 regulatory provisions including the FTC Act and accompanying FTC regulations and guidance
14 documents, which prohibit companies from paying for reviews without disclosing that they are
15 doing so because such a practice is unfair to consumers who rely on the reviews as well as to other
16 sellers who do not engage in this practice. It also violates the policy and spirit of the antitrust laws
17 because it gives Defendant an unfair advantage over other sellers who do not engage in this practice
18 and is therefore injurious to competition.

19 79. Defendant's conduct is also unfair because it is unscrupulous and substantially
20 injurious to consumers, and because it tricks consumers into thinking that prior purchasers of
21 Defendant's products had a better experience with Defendant's products than they really did and
22 causes them to rely on this fact to their detriment.

23 80. Defendant's conduct is also unfair because the harm Defendant's conduct caused to
24 Plaintiff and the Class greatly outweighs the public utility of Defendant's conduct. There is no
25 public utility to paying for product reviews in order to artificially inflate reviews and review scores.
26 This injury was not outweighed by countervailing benefits to consumers or competition. Deceptive
27 trade practices injure healthy competition and harm consumers.

1 81. Plaintiff and the Class could not have reasonably avoided this injury. As alleged
2 above, Defendant's representations were deceptive to reasonable consumers like Plaintiff.

3 * * *

4 82. For all prongs, Defendant's deceptive conduct was intended to induce reliance, and
5 Plaintiff saw, read and reasonably relied on the product's artificially-inflated reviews and review
6 scores when purchasing the products. Defendant's deceptive and unfair conduct was a substantial
7 factor in Plaintiff's purchase decision and the purchase decisions of Subclass members.

8 83. In addition, classwide reliance can be inferred because Defendant's deceptive
9 conduct was material, i.e., a reasonable consumer would consider the products' reviews and review
10 scores important in deciding whether to buy Defendant's products.

11 84. Defendant's misrepresentations were a substantial factor and proximate cause in
12 causing damages and losses to Plaintiff and Subclass members

13 85. Plaintiff and Subclass members were injured as a direct and proximate result of
14 Defendant's conduct because (a) they would not have purchased Defendant's products if they had
15 known that Defendant pays for reviews, and/or (b) they overpaid for the products because the
16 products are sold at a price premium due to Defendant's deceptive and unfair conduct.

17 **Count III: Violation of California's Consumer Legal Remedies Act (CLRA)**

18 **(on behalf of Plaintiff and the California Subclass)**

19 86. Plaintiff incorporates by reference and re-alleges each and every allegation set forth
20 above as though fully set forth herein.

21 87. Plaintiff brings this cause of action on behalf of himself and members of the
22 California Subclass.

23 88. Plaintiff and the other members of the California Subclass are "consumers," as the
24 term is defined by California Civil Code § 1761(d).

25 89. Plaintiff, the other members of the California Subclass, and Defendant have engaged
26 in "transactions," as that term is defined by California Civil Code § 1761(e).

27 90. The conduct alleged in this Complaint constitutes unfair methods of competition and
28 unfair and deceptive acts and practices for the purpose of the CLRA, and the conduct was

1 undertaken by Defendant in transactions intended to result in, and which did result in, the sale of
2 goods to consumers.

3 91. As alleged more fully above, Defendant has violated the CLRA by paying for
4 reviews in order to artificially inflate its products' review scores and attract more positive reviews
5 than its products would otherwise have received.

6 92. As a result of engaging in such conduct, Defendant has violated California Civil
7 Code §§ 1770(a)(2), (a)(5), (a)(7), and (a)(9).

8 93. Defendant's conduct was likely to deceive, and did deceive, Plaintiff and reasonable
9 consumers. Defendant knew, or should have known through the exercise of reasonable care, that its
10 practice of paying for reviews was deceptive and misleading.

11 94. Defendant's practice of paying for reviews was intended to induce reliance, and
12 Plaintiff saw, read and reasonably relied on the paid reviews when purchasing Defendant's
13 products. Defendant's deceptive conduct was a substantial factor in Plaintiff's purchase decision
14 and the purchase decisions of Subclass members.

15 95. In addition, classwide reliance can be inferred because Defendant's practice of
16 paying for reviews was material, i.e., a reasonable consumer believes that reviews and review
17 scores are important in deciding whether to buy Defendant's products, and believes that the reviews
18 and review scores are true, unbiased reflections of past purchasers' opinions of the products. They
19 do not believe that past purchasers were paid or otherwise incentivized by Defendant to leave
20 reviews.

21 96. Defendant's deceptive conduct was a substantial factor and proximate cause in
22 causing damages and losses to Plaintiff and Subclass members

23 97. Plaintiff and Subclass members were injured as a direct and proximate result of
24 Defendant's conduct because (a) they would not have purchased Defendant's products if they had
25 known that Defendant pays for reviews, and/or (b) they overpaid for the products because they are
26 sold at a price premium due to Defendant's practice of paying for reviews.

27 98. Accordingly, pursuant to California Civil Code § 1780(a)(3), Plaintiff, on behalf of
28 himself and all other members of the California Subclass, seeks injunctive relief.

1 99. CLRA § 1782 NOTICE. On February 8, 2022, a CLRA demand letter was sent to
2 Defendant's headquarters and California registered agent, via certified mail (return receipt
3 requested). This letter provided notice of Defendant's violation of the CLRA and demanded that
4 Defendant correct the unlawful, unfair, false and/or deceptive practices alleged here. If Defendant
5 does not fully correct the problem for Plaintiff and for each member of the California subclass
6 within 30 days of receipt, Plaintiff and the California subclass will seek all monetary relief allowed
7 under the CLRA.

8 **Count IV: Quasi-Contract / Unjust Enrichment**

9 **(on behalf of Plaintiff and the Nationwide Class)**

10 100. Plaintiff incorporates by reference and re-alleges each and every allegation set forth
11 above as though fully set forth herein.

12 101. Plaintiff alleges this claim individually and on behalf of the Nationwide Class.

13 102. As alleged in detail above, Defendant's deceptive practice of paying for reviews
14 caused Plaintiff and the Class to purchase Defendant's products and to pay a price premium for
15 these products.

16 103. In this way, Defendant received a direct and unjust benefit, at Plaintiff's expense.

17 104. Plaintiff and the Nationwide Class seek restitution.

18 **VI. Jury Demand.**

19 105. Plaintiff demands a jury trial on all issues so triable.

20 **VII. Prayer for Relief.**

21 106. Plaintiff seeks the following relief for himself and the proposed class and subclasses:

- 22 • An order certifying the asserted claims, or issues raised, as a class action;
- 23 • A judgment in favor of Plaintiff and the proposed class;
- 24 • Damages, including statutory, treble, and punitive damages where applicable;
- 25 • Restitution;
- 26 • Disgorgement, and other just equitable relief;
- 27 • Pre- and post-judgment interest;
- 28

- An injunction prohibiting Defendant’s deceptive conduct, as allowed by law;
- Reasonable attorneys’ fees and costs, as allowed by law; and
- Any additional relief that the Court deems reasonable and just.

Dated: February 10, 2022

Respectfully submitted,

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