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11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 Sarkhan Nabiyev, individually  
14 and on behalf of all others similarly  
15 situated,

16 *Plaintiff,*

17 v.

18 Closet World, Inc. and Home  
19 Organizers Inc.,

20 *Defendants.*

Case No. 2:23-cv-2218

**CLASS ACTION COMPLAINT**

**DEMAND FOR JURY TRIAL**

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1 **I. Introduction.**

2 1. Advertised “sales” are important to consumers. Consumers are more likely  
3 to purchase an item if they know that they are getting a good deal. Further, if consumers  
4 think that a sale will end soon, they are likely to buy now, rather than wait, comparison  
5 shop, and buy something else.

6 2. While there is nothing wrong with a legitimate sale, a fake one—that is, one  
7 with made-up regular prices, made-up discounts, and made-up expirations—is deceptive  
8 and illegal.

9 3. California’s False Advertising Law prohibits businesses from making  
10 statements they know or should know to be untrue or misleading. Cal. Bus. & Prof.  
11 Code § 17500. This includes statements falsely suggesting that a product is on sale,  
12 when it actually is not. Moreover, California’s False Advertising Law specifically  
13 provides that “No price shall be advertised as a former price ... unless the alleged  
14 former price was the prevailing market price ... within three months next immediately  
15 preceding” the advertising. Cal. Bus. & Prof. Code § 17501.

16 4. Likewise, California’s Consumer Legal Remedies Act prohibits “advertising  
17 goods or services with the intent not to sell them as advertised” and specifically prohibits  
18 “false or misleading statements of fact concerning reasons for, existence of, or amounts  
19 of price reductions.” Cal. Civ. Code § 1770(a)(9), (13).

20 5. In addition, the Federal Trade Commission’s regulations prohibit false or  
21 misleading “former price comparisons,” for example, making up “an artificial, inflated  
22 price ... for the purpose of enabling the subsequent offer of a large reduction” off that  
23 price. 16 C.F.R. § 233.1. They also prohibit false or misleading “retail price  
24 comparisons” and “comparable value comparisons,” for example ones that falsely  
25 suggest that the seller is “offer[ing] goods at prices lower than those being charged by  
26 others for the same merchandise” when this is not the case. 16 C.F.R. § 233.1.

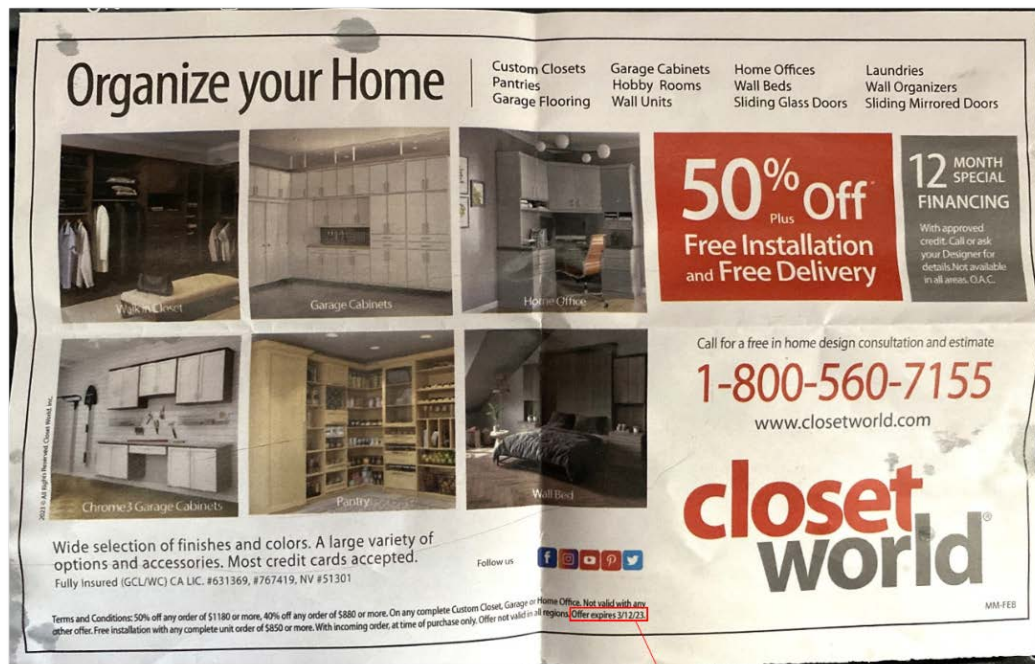
1 6. So, as numerous courts have found, fake sales violate these laws. They also  
2 violate California’s general prohibition on unlawful, unfair and deceptive business  
3 practices. *See* Cal. Bus. & Prof. Code § 17200.

4 7. Defendants Closet World, Inc. and Home Organizers Inc. (“Defendants”)  
5 make, sell, and market home organizing products including, but not limited to, custom  
6 closets, garages, storage solutions, and home offices (the “Products”).

7 8. Defendants prominently advertise purported limited-time sales, through  
8 paper advertisements mailed to consumers, and online. For example:



Expires 2/28/2023.



Offer expires 3/12/23.

1           9.     But these advertisements are false. Defendants always offer sitewide  
2 discounts, as well as discounts on certain items, so they never sell any of their products  
3 at the purported regular price. The sales are not limited in time, but instead immediately  
4 reset and continue to be available.

5           10.    Mr. Nabiyev bought custom Products from Defendants. Like Defendants'  
6 other customers, when Mr. Nabiyev bought the Products, Defendants advertised that a  
7 sale was going on, and that the Products were heavily discounted. Mr. Nabiyev believed  
8 that the Products that he purchased usually retailed for the quoted and listed regular  
9 prices. He further believed that he was getting a substantial discount from the regular  
10 price, and that the sale would end soon. These reasonable beliefs are what caused him  
11 to buy from Defendants. If he had known that the Products he purchased were not on  
12 sale, he would not have bought them.

13           11.    But none of that was true. Defendants' regular prices were not the  
14 prevailing regular prices. The sale Defendants advertised was not really limited in time.  
15 Had Defendants been truthful, Plaintiff and other consumers would not have purchased  
16 the Products or would have paid less for them.

17           12.    Plaintiff brings this case for himself and the other customers who  
18 purchased Defendants' Products.

19 **II. Parties.**

20           13.    Plaintiff Sarkhan Nabiyev is domiciled in Los Angeles, California.

21           14.    The proposed class includes citizens of at least 32 states (the states in which  
22 Defendants operate).

23           15.    Defendant Closet World, Inc. is a Delaware corporation with its principal  
24 place of business at 3860 Capitol Avenue, Whittier, California 90601.

25           16.    Defendant Home Organizers Inc. is a California corporation with its  
26 principal place of business at 3860 Capitol Avenue, Whittier, California 90601.

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1 **III. Jurisdiction and Venue.**

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

6 18. The Court has personal jurisdiction over Defendants because Defendants  
7 reside and conduct business in California.

8 19. Venue is proper under 28 U.S.C. § 1391(b)(2) because a substantial part of  
9 Defendants' conduct giving rise to the claims occurred in this District, including  
10 Defendants' sale to Plaintiff.

11 **IV. Facts.**

12 **A. Defendants' fake sales and discounts.**

13 20. Defendants make, sell, and market home organizing products.

14 21. Defendants' website and paper advertisements create an illusion that  
15 customers are receiving a limited-time discount. Defendants do this by advertising fake  
16 limited-time sales. For example, Defendants advertise purported limited-time sales  
17 where everything is 40% or more off:



23 Captured March 18, 2022

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Offer expires 3/12/23.

22. But Defendants’ Products are always on sale, and these sales persist. For example, Defendants have prominently displayed, for over a year, a sitewide sale on their website. These sales are designed to induce consumers to purchase its Products under the mistaken belief they are getting a significant bargain because they are buying while the sale is going on. Example screen captures showing sitewide sales at various points throughout 2022 and 2023 are shown below:



Captured June 20, 2022

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Captured September 30, 2022

Captured December 19, 2022

Captured February 15, 2023

23. These discounts appear to be only for a limited time, but in reality, they are ongoing. For example, as depicted below, as soon as one sale “Expires [on] 2/28/23,” Defendants generate another similar discount, with a new expiration date.

Expires 2/28/2023.

Captured February 15, 2023



closet world® HOME ABOUT US CONTACT US DOWNLOAD CATALOG  
Call To Get Started 1-800-434-6018 Follow us: [Social Media Icons] Like 146

CLOSETS GARAGES HOME OFFICES WALLBEDS PANTRIES LAUNDRIES SLIDING DOORS SCHEDULE A FREE IN-HOME DESIGN CONSULTATION

**50% Off** Plus Free Installation **12 Month** SPECIAL FINANCING  
On Approved Credit - Ask your Designer for details.

50% off any order of \$1180 or more, 40% off any order of \$880 or more. On any Closet, Garage or Office orders and other products. Not valid with any other offer. Offers and prices are subject to change without notice. Free installation and delivery with your order of \$850 or more. Offers valid with incoming order at time of purchase, with complete unit purchase. **Expires 3/11/2023**. Special financing for 12 mo. with minimum payments On approved credit. Call or ask your Designer for details.

**Expires 3/11/2023.**

Captured March 1, 2023

24. Defendants’ sitewide sales have persisted continuously since at least January 6, 2022. Indeed, on 100 percent of the 45 archived snapshots of Defendants’ site on archive.org, between January 6, 2022 and March 23, 2023, Defendants were running a purportedly time-limited, sitewide discount of at least 30% every time that the website was checked.<sup>1</sup>

25. In addition, Defendants’ price quotes and invoices also display fake regular prices (that is, prices reflecting the list price or value of an item) and fake discounts.

26. For example, Defendants advertised “50% Off Plus Free Installation” to Mr. Nabiyeu when he made his purchase. Defendants offered their “Prestige Office” for a quoted regular price of \$14,346:

Choose your Prestige Office			
Prestige Office- Includes straight edge panels and shelves, Flat Face doors and drawers.	14,346	50%	7173
Prestige Office- with Deco Includes straight edge panels and shelves, Deco doors and drawers.		}	+573
Prestige Signia Office- Includes ¾" straight edge panels, shelves and half overlay Deco doors and drawers.			+1075
<input type="checkbox"/> Deco - 100, 200, 300, 400 Series			<input type="checkbox"/> Deco - 500 and Shaker 600

<sup>1</sup> The Internet Archive, available at archive.org, is a library that archives web pages. <https://archive.org/about/>

1           27. But the truth is, the Products’ listed regular prices are not their prevailing  
2 price. Instead, the Products are always discounted from their purported regular prices.

3           28. By presenting fake regular prices and fake discounts, Defendants mislead  
4 consumers into believing that they are getting a good deal.

5           **B. Defendants’ advertisements are unfair, deceptive, and unlawful.**

6           29. California’s False Advertising Law prohibits businesses from making  
7 statements they know or should know to be untrue or misleading. Cal. Bus. & Prof.  
8 Code § 17500. This includes statements falsely suggesting that a product is on sale,  
9 when it actually is not. Moreover, California’s False Advertising Law specifically  
10 provides that “no price shall be advertised as a former price ... unless the alleged former  
11 price was the prevailing market price ... within three months next immediately  
12 preceding” the advertising. Cal. Bus. & Prof. Code § 17501.

13           30. In addition, California’s Consumer Legal Remedies Act prohibits  
14 “advertising goods or services with the intent not to sell them as advertised” and  
15 specifically prohibits “false or misleading statements of fact concerning reasons for,  
16 existence of, or amounts of price reductions.” Cal. Civ. Code § 1770(a)(9), (13).

17           31. The Federal Trade Commission’s regulations also prohibit false or  
18 misleading “former price comparisons,” for example, making up “an artificial, inflated  
19 price ... for the purpose of enabling the subsequent offer of a large reduction” off that  
20 price. 16 C.F.R. § 233.1. They further prohibit false or misleading “retail price  
21 comparisons” and “comparable value comparisons,” for example, ones that falsely  
22 suggest that the seller is “offer[ing] goods at prices lower than those being charged by  
23 others for the same merchandise” when this is not the case. 16 C.F.R. § 233.1.

24           32. And finally, California’s Unfair Competition Law bans unlawful, unfair and  
25 deceptive business practices. *See* Cal. Bus. & Prof. Code § 17200.

26           33. Here, as described in detail above, Defendants made untrue and misleading  
27 statements about its prices. Defendants listed former prices that were not true former  
28 prices and were not the prevailing market price in the three months immediately

1 preceding. In addition, Defendants advertised goods or services with the intent not to  
2 sell them as advertised, for example by advertising goods having certain former prices  
3 and/or market values without the intent to sell goods having those former prices and/or  
4 market values. Defendants made false or misleading statements of fact concerning the  
5 reasons for, existence of, and amounts of price reductions, including false statements  
6 regarding the limited-time nature of the sitewide sales (e.g., including purported  
7 expiration dates when in fact the sale is ongoing), the existence of sitewide sales, and the  
8 amounts of price reductions resulting from those sales. And Defendants engaged in  
9 unlawful, unfair, and deceptive business practices.

10 **C. Defendants' advertisements harm consumers.**

11 34. Based on Defendants' advertisements, reasonable consumers would expect  
12 that the listed regular prices are the former prices at which Defendants actually sell their  
13 Products, and are the prevailing prices for the Products.

14 35. Reasonable consumers would also expect that, if they purchase during the  
15 sale, they will receive an item whose regular price and/or market value is the listed  
16 regular price and that they will receive the advertised discount from the regular purchase  
17 price.

18 36. In addition, consumers are more likely to buy the product if they believe  
19 that the product is on sale and that they are getting a product with a higher regular price  
20 and/or market value at a substantial discount.

21 37. Consumers that are presented with discounts are substantially more likely  
22 to make the purchase. "Nearly two-thirds of consumers surveyed admitted that a  
23 promotion or a coupon often closes the deal, if they are wavering or are undecided on  
24 making a purchase."<sup>2</sup> And, "two-thirds of consumers have made a purchase they  
25 weren't originally planning to make solely based on finding a coupon or discount," while  
26

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27  
28 <sup>2</sup> <https://www.invespcro.com/blog/how-discounts-affect-online-consumer-buying-behavior/>.

1 “80% [of consumers] said they feel encouraged to make a first-time purchase with a  
2 brand that is new to them if they found an offer or discount.”<sup>3</sup>

3 38. Similarly, when consumers believe that an offer is expiring soon, the sense  
4 of urgency makes them more likely to buy a product.<sup>4</sup>

5 39. Thus, Defendants’ advertisements harm consumers by inducing them to  
6 make purchases based on false information.

7 **D. Defendants know that their advertisements are misleading.**

8 40. Defendants are aware that publishing fake sales, regular prices, and  
9 discounts mislead consumers. They know this because Defendant Closet World was  
10 previously sued by California District Attorneys for doing the same thing.

11 41. In June 2000, Orange County prosecutors alleged that Closet World  
12 offered “so-called continuous sales” that “mislead shoppers who believe they are getting  
13 bargains when none exist.”<sup>5</sup> Closet World paid a fine, and agreed to stop the practice.<sup>6</sup>

14 42. Further, Defendant Home Organizers’ subsidiary, Closets By Design, Inc.  
15 was also sued for the same practices.

16 43. Despite this, Defendants have continued their practice of offering  
17 continuous sales that mislead shoppers into believing that they are getting a bargain,  
18 when none in fact exists.

19 **E. Plaintiff was misled by Defendants’ misrepresentations.**

20 44. On July 17, 2022, Mr. Nabiyev purchased custom closets, sliding doors,  
21 and a home office from Defendants. He purchased the Products from Defendants’ sales  
22 representative, while living in Los Angeles, California. Mr. Nabiyev’s invoice

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23 <sup>3</sup> RetailMeNot Survey: Deals and Promotional Offers Drive Incremental  
24 Purchases Online, Especially Among Millennial Buyers (prnewswire.com).

25 <sup>4</sup> <https://cxl.com/blog/creating-urgency/> (addition of a countdown timer  
26 increased conversion rates from 3.4%-10%); Dynamic email content leads to 400%  
27 increase in conversions for Black Friday email | Adestra (uplandsoftware.com) (400%  
higher conversation rate for ad with countdown timer).

28 <sup>5</sup> <https://www.latimes.com/archives/la-xpm-2000-jul-07-fi-48935-story.html>

<sup>6</sup> *Id.*

1 represented that he was receiving a substantial discount off of the regular prices for the  
2 items that he ordered. For example, the invoice represented that the regular price of the  
3 “Prestige Office” was \$14,346, and that Mr. Nabiyev was receiving a 50% off discount  
4 of \$7,173.

5 45. Mr. Nabiyev read and relied on the representations on the invoice that the  
6 Products had the listed regular price and that this was their market value, and that he was  
7 receiving the advertised discount as compared to the regular price. He would not have  
8 made the purchase if he had known that the Products were not discounted as advertised,  
9 and that he was not receiving the advertised discounts.

10 46. Mr. Nabiyev faces an imminent threat of future harm. He likes the  
11 Products, and would purchase them again if he could feel sure that Defendants would  
12 not illegally deceive him. But without an injunction, he cannot trust that Defendants will  
13 comply with the consumer protection statutes. Accordingly, Plaintiff is unable to rely on  
14 Defendants’ advertising in the future, and so cannot purchase Products that he would  
15 like to.

16 **E. Defendants breached their contract.**

17 47. When Mr. Nabiyev purchased and paid for the Products he bought as  
18 described above, he accepted offers that Defendants made, and thus, a contract was  
19 formed at the time that he made the purchase. At the time that Mr. Nabiyev made the  
20 purchase, the offer was to provide Products having particular listed regular prices and  
21 market value, and to provide those Products at the discounted prices.

22 48. Mr. Nabiyev and Defendants entered a contract.

23 49. The regular price and the market value of the Products Mr. Nabiyev would  
24 receive, and the amount of the discounts that he would be provided off the regular  
25 prices of the items, were specific and material terms of the contract.

26 50. Plaintiff performed his obligation under the contract by paying Defendants  
27 the discounted prices.

28

1 51. Defendants breached their contracts by failing to provide Mr. Nabiyev with  
2 Products with market value equal to the regular prices displayed on their invoice, and by  
3 failing to provide the discounts promised.

4 **F. No adequate remedy at law.**

5 52. Plaintiff seeks damages and, in the alternative, restitution. Plaintiff is  
6 permitted to seek equitable remedies in the alternative because he has no adequate  
7 remedy at law.

8 53. A legal remedy is not adequate if it is not as certain as an equitable  
9 remedy. The elements of Plaintiff's equitable claims are different and do not require the  
10 same showings as Plaintiff's legal claims. For example, to obtain damages under the  
11 CLRA, a plaintiff must show that they complied with the CLRA's notice requirement for  
12 damages. No such requirements exist to obtain restitution. Because a plaintiff must  
13 make this additional showing to obtain damages, rather than restitution, the legal  
14 remedies are more uncertain. In addition, the remedies at law available to Plaintiff are  
15 not equally prompt or otherwise efficient. The need to schedule a jury trial may result in  
16 delay. And a jury trial will take longer, and be more expensive, than a bench trial.

17 **V. Class Action Allegations.**

18 54. Plaintiff brings the asserted claims on behalf of the proposed class of:

- 19 • Nationwide Class: all persons who, within the applicable statute of limitations  
20 period, purchased one or more Products at a purported discount from  
21 Defendants.  
22 • California Subclass: all persons who, while in the state of California and within  
23 the applicable statute of limitations period, purchased one or more Products at  
24 a purported discount from Defendants.

25 55. The following people are excluded from the proposed class: (1) any Judge  
26 or Magistrate Judge presiding over this action and the members of their family; (2)  
27 Defendants, Defendants' subsidiaries, parents, successors, predecessors, and any entity  
28 in which the Defendants or their parents have a controlling interest and their current

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

6 ***Numerosity & Ascertainability***

7 56. The proposed class contains members so numerous that separate joinder of  
8 each member of the class is impractical. There are tens or hundreds of thousands of  
9 class members.

10 57. Class members can be identified through Defendants' sales records and  
11 public notice.

12 ***Predominance of Common Questions***

13 58. There are questions of law and fact common to the proposed class.  
14 Common questions of law and fact include, without limitation:

- 15 (1) whether Defendants made false or misleading statements of fact in their  
16 advertisements;
- 17 (2) whether Defendants violated California's consumer protection statutes;
- 18 (3) whether Defendants committed a breach of contract;
- 19 (4) whether Defendants committed a breach of an express or implied warranty;
- 20 (5) damages needed to reasonably compensate Plaintiff and the proposed class.

21 ***Typicality & Adequacy***

22 59. Plaintiff's claims are typical of the proposed class. Like the proposed class,  
23 Plaintiff purchased the Products advertised at a discount on Defendants' website and  
24 paper advertisements. There are no conflicts of interest between Plaintiff and the class.

25 ***Superiority***

26 60. A class action is superior to all other available methods for the fair and  
27 efficient adjudication of this litigation because individual litigation of each claim is  
28 impractical. It would be unduly burdensome to have individual litigation of thousands

1 of individual claims in separate lawsuits, every one of which would present the issues  
2 presented in this lawsuit.

3 **VI. Claims.**

4 **First Cause of Action:**

5 **Violation of California’s False Advertising Law, Bus. & Prof. Code**

6 **§§ 17500 et. seq.**

7 **(By Plaintiff and the California Subclass)**

8 61. Plaintiff incorporates each and every factual allegation set forth above.

9 62. Plaintiff brings this cause of action on behalf of himself and members of  
10 the California Subclass.

11 63. Defendants have violated Sections 17500 and 17501 of the Business and  
12 Professions Code.

13 64. As alleged more fully above, Defendants advertise purported list prices  
14 along with purported discounts. Defendants do this, for example, by stating a purported  
15 regular price (e.g., \$14,172), stating that a discount will be provided during the sale (e.g.,  
16 “50%”), and stating a purported discounted price (e.g., \$7,086).

17 65. The prices advertised as former prices by Defendants were not the true  
18 former prices of the Products. Accordingly, Defendants’ statements about the former  
19 prices of their products were untrue and misleading.

20 66. In addition, Defendants’ former prices did not state clearly, exactly, and  
21 conspicuously when, if ever, the former prices prevailed. Defendants do not indicate  
22 whether or when the purported former prices were offered at all.

23 67. As a result, Defendants violated, and continue to violate, Sections 17500  
24 and 17501 to induce Plaintiff and the subclass to make purchases based on the  
25 purported former prices.

26 68. Defendants’ misrepresentations were intended to induce reliance, and  
27 Plaintiff saw, read, and reasonably relied on the statements when purchasing Defendants’  
28



1 Products. Defendants' misrepresentations were a substantial factor in Plaintiff's  
2 purchase decision.

3 69. In addition, subclass-wide reliance can be inferred because Defendants'  
4 misrepresentations were material, i.e., a reasonable consumer would consider them  
5 important in deciding whether to buy the Products.

6 70. Defendants' misrepresentations were a substantial factor and proximate  
7 cause in causing damages and losses to Plaintiff and the subclass.

8 71. Plaintiff and the subclass were injured as a direct and proximate result of  
9 Defendants' conduct because (a) they would not have purchased the Products if they  
10 had known the truth, and/or (b) they overpaid for the Products because the Products  
11 were sold at a price premium due to the misrepresentation.

12 **Second Cause of Action:**

13 **Violation of California's Consumer Legal Remedies Act**

14 **(By Plaintiff and the California Subclass)**

15 72. Plaintiff incorporates each and every factual allegation set forth above.

16 73. Plaintiff brings this cause of action on behalf of himself and members of  
17 the California Subclass.

18 74. Plaintiff and the subclass are "consumers," as the term is defined by  
19 California Civil Code § 1761(d).

20 75. Plaintiff and the subclass have engaged in "transactions" with Defendants  
21 as that term is defined by California Civil Code § 1761(e).

22 76. The conduct alleged in this Complaint constitutes unfair methods of  
23 competition and unfair and deceptive acts and practices for the purpose of the CLRA,  
24 and the conduct was undertaken by Defendants in transactions intended to result in, and  
25 which did result in, the sale of goods to consumers.

26 77. As alleged more fully above, Defendants made and disseminated untrue  
27 and misleading statements of facts in their advertisements to subclass members.  
28 Defendants did this by using fake regular prices and advertising fake discounts.

1           78. Defendants violated, and continue to violate, Section 1770(a) of the  
2 California Civil Code.

3           79. Defendants violated, and continue to violate, Section 1770(a)(5) of the  
4 California Civil Code by representing that Products offered for sale have characteristics  
5 or benefits that they do not have. Defendants represent that the value of their Products  
6 is greater than it actually is by advertising fake discounts for the Products.

7           80. Defendants violated, and continue to violate, Section 1770(a)(9) of the  
8 California Civil Code. Defendants violate this by advertising their Products as being  
9 offered at a discount, when in fact Defendants do not intend to sell the Products at a  
10 discount.

11           81. And Defendants violated, and continues to violate section 1770(a)(13) by  
12 making false or misleading statements of fact concerning reasons for, existence of, or  
13 amounts of, price reductions, including by (1) misrepresenting the regular prices of  
14 Products, (2) advertising discounts and savings that are exaggerated or nonexistent, (3)  
15 misrepresenting that the discounts and savings are unusually large, when in fact they are  
16 regularly available, and (4) misrepresenting the limited-time nature of the sale (e.g., listing  
17 expiration dates for sales when the sales even though the sales do not actually expire).

18           82. Defendants' representations were likely to deceive, and did deceive,  
19 Plaintiff and reasonable consumers. Defendants knew, or should have known through  
20 the exercise of reasonable care, that these statements were inaccurate and misleading.

21           83. Defendants' misrepresentations were intended to induce reliance, and  
22 Plaintiff saw, read, and reasonably relied on them when purchasing the Products.  
23 Defendants' misrepresentations were a substantial factor in Plaintiff's purchase decision.

24           84. In addition, subclass-wide reliance can be inferred because Defendants'  
25 misrepresentations were material, i.e., a reasonable consumer would consider them  
26 important in deciding whether to buy the Products.

27           85. Defendants' misrepresentations were a substantial factor and proximate  
28 cause in causing damages and losses to Plaintiff and the subclass.

1 86. Plaintiff and the subclass were injured as a direct and proximate result of  
2 Defendants' conduct because (a) they would not have purchased Products if they had  
3 known the discounts and/or regular prices were not real, and/or (b) they overpaid for  
4 the Products because the Products were sold at a price premium due to the  
5 misrepresentation.

6 87. Accordingly, pursuant to California Civil Code § 1780(a)(2), Mr. Nabiyeu,  
7 on behalf of himself and all other members of the subclass, seeks injunctive relief.

8 88. CLRA § 1782 NOTICE. On March 16, 2023, a CLRA demand letter was  
9 sent to Defendants' California headquarters via certified mail (return receipt requested),  
10 that provided notice of Defendants' violations of the CLRA and demanded that  
11 Defendants correct the unlawful, unfair, false and/or deceptive practices alleged here. If  
12 Defendants do not fully correct the problem for Plaintiff and for each member of the  
13 California Subclass within 30 days of receipt, Plaintiff and the California Subclass will  
14 seek all monetary relief allowed under the CLRA.

15 89. A CLRA venue declaration is attached.

16 **Third Cause of Action:**

17 **Violation of California's Unfair Competition Law**

18 **(By Plaintiff and the California Subclass)**

19 90. Plaintiff incorporates each and every factual allegation set forth above.

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

22 92. Defendants have violated California's Unfair Competition Law (UCL) by  
23 engaging in unlawful, fraudulent, and unfair conduct (i.e., violating each of the three  
24 prongs of the UCL).

25 93. Defendants engaged in unlawful conduct by violating the CLRA and FAL,  
26 as alleged above and incorporated here. In addition, Defendants engaged in unlawful  
27 conduct by violating the FTCA. The FTCA prohibits "unfair or deceptive acts or  
28 practices in or affecting commerce" and prohibits the dissemination of false

1 advertisements. 15 U.S.C. § 45(a)(1), 15 U.S.C. § 52(a). As the FTC’s regulations make  
2 clear, Defendants’ false pricing schemes violate the FTCA. 16 CFR § 233.1, § 233.2.

3 ***The Unlawful Prong***

4 94. Defendants engaged in unlawful conduct by violating the CLRA and FAL,  
5 as alleged above and incorporated here.

6 ***The Deceptive Prong***

7 95. As alleged in detail above, Defendants’ representations that their Products  
8 were on sale, that the sale was limited in time, that the Products had a specific regular  
9 price, and that the customers were receiving discounts were false and misleading.

10 96. Defendants’ representations were misleading to Plaintiff and other  
11 reasonable consumers.

12 97. Plaintiff relied upon Defendants’ misleading representations and omissions,  
13 as detailed above.

14 ***The Unfair Prong***

15 98. As alleged in detail above, Defendants committed “unfair” acts by falsely  
16 advertising that their Products were on sale, that the sale was limited in time, that the  
17 Products had a specific regular price, and that customers were receiving discounts.

18 99. Defendants violated established public policy by violating the CLRA, the  
19 FAL, and the FTCA, as alleged above and incorporated here. The unfairness of this  
20 practice is tethered to a legislatively declared policy (that of the CLRA and FAL).

21 100. The harm to Plaintiff and the subclass greatly outweighs the public utility  
22 of Defendants’ conduct. There is no public utility to misrepresenting the price of a  
23 consumer product. This injury was not outweighed by any countervailing benefits to  
24 consumers or competition. Misleading consumer products only injure healthy  
25 competition and harms consumers.

26 101. Plaintiff and the subclass could not have reasonably avoided this injury. As  
27 alleged above, Defendants’ representations were deceptive to reasonable consumers like  
28 Plaintiff.

1 102. Defendants' conduct, as alleged above, was immoral, unethical, oppressive,  
2 unscrupulous, and substantially injurious to consumers.

3 \* \* \*

4 103. For all prongs, Defendants' representations were intended to induce  
5 reliance, and Plaintiff saw, read, and reasonably relied on them when purchasing the  
6 Products. Defendants' representations were a substantial factor in Plaintiff's purchase  
7 decision.

8 104. In addition, subclass-wide reliance can be inferred because Defendants'  
9 representations were material, i.e., a reasonable consumer would consider them  
10 important in deciding whether to buy the Products.

11 105. Defendants' representations were a substantial factor and proximate cause  
12 in causing damages and losses to Plaintiff and the subclass members.

13 106. Plaintiff and the subclass were injured as a direct and proximate result of  
14 Defendants' conduct because (a) they would not have purchased the Products if they  
15 had known that they were not discounted, and/or (b) they overpaid for the Products  
16 because the Products were sold at the regular price and not at a discount.

17 **Fourth Cause of Action:**

18 **Breach of Contract**

19 **(By Plaintiff and the Nationwide Class)**

20 107. Plaintiff incorporates each and every factual allegation set forth above.

21 108. Plaintiff brings this cause of action on behalf of himself and the  
22 Nationwide Class. In the alternative, Plaintiff brings this cause of action on behalf of  
23 himself and the California Subclass.

24 109. Plaintiff and class members entered into contracts with Defendants when  
25 they placed orders to purchase Defendants' Products.

26 110. The contracts provided that Plaintiff and class members would pay  
27 Defendants for the Products ordered.

28

1 111. The contracts further required that Defendants provide Plaintiff and class  
2 members with Products that have a former price, and a market value equal to the regular  
3 prices stated in their invoices. They also required that Defendants provide Plaintiff and  
4 the class members with the discount advertised, and listed in the invoice. These were  
5 specific and material terms of the contracts.

6 112. The specific discounts were a specific and material term of each contract,  
7 and were displayed to Plaintiff and class members at the time they placed their orders.

8 113. Plaintiff and class members paid Defendants for the Products they ordered,  
9 and satisfied all other conditions of their contracts.

10 114. Defendants breached the contracts with Plaintiff and class members by  
11 failing to provide Products that had a prevailing market value equal to the regular price  
12 displayed on their receipts, and by failing to provide the promised discount. Defendants  
13 did not provide the discount that Defendants had promised.

14 115. As a direct and proximate result of Defendants' breaches, Plaintiff and class  
15 members were deprived of the benefit of their bargained-for exchange, and have  
16 suffered damages in an amount to be established at trial.

17 **Fifth Cause of Action:**

18 **Breach of Express Warranty**

19 **(By Plaintiff and the Nationwide Subclass)**

20 116. Plaintiff incorporates each and every factual allegation set forth above.

21 117. Plaintiff brings this cause of action on behalf of himself and the  
22 Nationwide Class. In the alternative, Plaintiff brings this cause of action on behalf of  
23 himself and the California Subclass.

24 118. Defendants, as the manufacturer, marketer, distributor, supplier, and/or  
25 seller of the Products, issued material, written warranties by representing that the  
26 Products had a prevailing market value equal to the regular price displayed on  
27 Defendants' invoices. This was an affirmation of fact about the Products (i.e., a  
28 representation about the market value) and a promise relating to the goods.

1 119. This warranty was part of the basis of the bargain and Plaintiff and  
2 members of the class relied on this warranty.

3 120. In fact, the Products' stated market value was not the prevailing market  
4 value. Thus, the warranty was breached.

5 121. Plaintiff provided Defendants with notice of this breach of warranty, by  
6 mailing a notice letter to Defendants' headquarters, on March 16, 2023.

7 122. Plaintiff and the class were injured as a direct and proximate result of  
8 Defendants' breach, and this breach was a substantial factor in causing harm, because (a)  
9 they would not have purchased Products if they had known that the warranty was false,  
10 or (b) they overpaid for the Products because the Products were sold at a price premium  
11 due to the warranty.

12 **Sixth Cause of Action:**

13 **Breach of Implied Warranty**

14 **(By Plaintiff and the California Subclass)**

15 123. Plaintiff incorporates each and every factual allegation set forth above.

16 124. Plaintiff brings this cause of action on behalf of himself and members of  
17 the California Subclass.

18 125. As described in greater detail above, Defendants impliedly warranted that  
19 the Products had a market value equal to the regular price displayed on Defendants'  
20 invoices.

21 126. This warranty was part of the basis of the bargain and Plaintiff and  
22 members of the subclass relied on this warranty.

23 127. In fact, the Products did not have a market value equal to the regular price  
24 displayed. Thus, the warranty was breached.

25 128. Plaintiff provided Defendants with notice of this breach of warranty, by  
26 mailing a notice letter to Defendants' headquarters, on March 16, 2023.

27 129. Plaintiff and the subclass were injured as a direct and proximate result of  
28 Defendants' breach, and this breach was a substantial factor in causing harm, because (a)

1 they would not have purchased Products if they had known the truth, or (b) they  
2 overpaid for the Products because the Products were sold at a price premium due to the  
3 warranty.

4 **Seventh Cause of Action:**

5 **Quasi-Contract**

6 **(By Plaintiff and the Nationwide Class)**

7 130. Plaintiff incorporates each and every factual allegation set forth above.

8 131. Plaintiff brings this cause of action on behalf of himself and the  
9 Nationwide Class. In the alternative, Plaintiff brings this claim on behalf of himself and  
10 the California Subclass.

11 132. As alleged in detail above, Defendants' false and misleading advertising  
12 caused Plaintiff and the class to purchase Products and to pay a price premium for these  
13 Products.

14 133. In this way, Defendants received a direct and unjust benefit, at Plaintiff's  
15 expense.

16 134. Plaintiff and the class seek restitution.

17 **Eighth Cause of Action:**

18 **Negligent Misrepresentation**

19 **(By Plaintiff and the California Subclass)**

20 135. Plaintiff incorporates each and every factual allegation set forth above.

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

23 137. As alleged more fully above, Defendants made false representations and  
24 material omissions of fact to Plaintiff and subclass members concerning the existence  
25 and/or nature of the discounts and savings advertised on their website, invoices, and  
26 paper advertisements.

27 138. These representations were false.

28



1 139. When Defendants made these misrepresentations, they knew or should  
2 have known that they were false. Defendants had no reasonable grounds for believing  
3 that these representations were true when made.

4 140. Defendants intended that Plaintiff and subclass members rely on these  
5 representations and Plaintiff and subclass members read and reasonably relied on them.

6 141. In addition, subclass-wide reliance can be inferred because Defendants'  
7 misrepresentations were material, i.e., a reasonable consumer would consider them  
8 important in deciding whether to buy the Products.

9 142. Defendants' misrepresentations were a substantial factor and proximate  
10 cause in causing damages and losses to Plaintiff and California Subclass members.

11 143. Plaintiff and the subclass were injured as a direct and proximate result of  
12 Defendants' conduct because (a) they would not have purchased Products if they had  
13 known that the representations were false, and/or (b) they overpaid for the Products  
14 because the Products were sold at a price premium due to the misrepresentation.

15 **Ninth Cause of Action:**

16 **Intentional Misrepresentation**

17 **(By Plaintiff and the California Subclass)**

18 144. Plaintiff incorporates each and every factual allegation set forth above.

19 145. Plaintiff brings this cause of action on behalf of himself and members of  
20 the California Subclass.

21 146. As alleged more fully above, Defendants made false representations and  
22 material omissions of fact to Plaintiff and subclass members concerning the existence  
23 and/or nature of the discounts and savings advertised on their website, invoices, and  
24 paper advertisements.

25 147. These representations were false.

26 148. When Defendants made these misrepresentations, they knew that they  
27 were false at the time that they made them and/or acted recklessly in making the  
28 misrepresentations.

1 149. Defendants intended that Plaintiff and subclass members rely on these  
2 representations and Plaintiff and subclass members read and reasonably relied on them.

3 150. In addition, subclass-wide reliance can be inferred because Defendants'  
4 misrepresentations were material, i.e., a reasonable consumer would consider them  
5 important in deciding whether to buy the Products.

6 151. Defendants' misrepresentations were a substantial factor and proximate  
7 cause in causing damages and losses to Plaintiff and subclass members.

8 152. Plaintiff and the subclass were injured as a direct and proximate result of  
9 Defendants' conduct because (a) they would not have purchased Products if they had  
10 known that the representations were false, and/or (b) they overpaid for the Products  
11 because the Products were sold at a price premium due to the misrepresentation.

12 **VII. Relief.**

13 153. Plaintiff seeks the following relief for himself and the class and subclass:

- 14 • An order certifying the asserted claims, or issues raised, as a class action;
- 15 • A judgment in favor of Plaintiff and the proposed class and subclass;
- 16 • Damages, treble damages, and punitive damages where applicable;
- 17 • Restitution;
- 18 • Disgorgement, and other just equitable relief;
- 19 • Pre- and post-judgment interest;
- 20 • An injunction prohibiting Defendants' deceptive conduct, as allowed by law;
- 21 • Reasonable attorneys' fees and costs, as allowed by law;
- 22 • Any additional relief that the Court deems reasonable and just.

23 **Demand For Jury Trial**

24 154. Plaintiff demands the right to a jury trial on all claims so triable.

25  
26 Dated: March 24, 2023

Respectfully submitted,

27 By: /s/ Christin Cho  
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