

**LTL ATTORNEYS LLP**  
Caleb H. Liang (Bar No. 261920)  
*caleb.liang@ltlattorneys.com*  
Kevin B. Kelly (Bar No. 274145)  
*kevin.kelly@ltlattorneys.com*  
Joshua T. Le (Bar No. 329745)  
*joshua.le@ltlattorneys.com*  
300 S Grand Ave, Suite 3950  
Los Angeles, CA 90071  
Telephone: (213) 612-8900  
Facsimile: (213) 612-3773

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Superior Court of California,  
County of Los Angeles  
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David W. Slayton,  
Executive Officer/Clerk of Court,  
By J. Nunez, Deputy Clerk

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

ADAM NAIL, individually and on behalf of  
all others similarly situated,

Plaintiff,

v.

LENS.COM, INC., a Nevada corporation; and  
Does 1 through 10, inclusive,

Defendants.

Case No.: **24STCV05473**

**CLASS ACTION COMPLAINT FOR  
VIOLATIONS OF:**

1. California Consumers Legal Remedies Act, Civil Code section 1750;
2. California Business and Professions Code section 17500; and
3. California Business and Professions Code section 17200.

**DEMAND FOR JURY TRIAL**

1 Plaintiff Adam Nail (“Plaintiff”), individually, and on behalf of all others similarly  
2 situated, brings this consumer Class Action against Defendant Lens.com, Inc. (“Lens.com”), and  
3 Does 1 through 10 inclusive (collectively “Defendants”), for unlawful, unfair, and deceptive  
4 business practices in violation of: (1) California’s Consumer Legal Remedies Act, California  
5 Civil Code sections 1750, *et seq.*; (2) California’s False Advertising Law, California Business  
6 and Professions Code sections 17500, *et seq.*; and (3) California’s Unfair Competition Law,  
7 California Business and Professions Code sections 17200, *et seq.* Plaintiff, by and through his  
8 counsel, complains and alleges upon information and belief based upon, among other things, the  
9 investigation made by Plaintiff and through his attorneys, as follows:

10 **NATURE OF THE CASE**

11 1. This is a proposed consumer class action seeking monetary damages, restitution,  
12 and injunctive and declaratory relief from Defendants arising from their false, misleading, and  
13 deceptive advertising of the prices for the corrective contact lenses they sell through their  
14 website (<https://www.lens.com/>).

15 2. Defendants distribute online advertisements displaying deceptively low prices for  
16 contact lenses to lure consumers to their website. When consumers visit Defendants’ website,  
17 they have to go through several steps to complete their order by providing details of their  
18 prescription, their doctor’s information, and their personal and shipping information, before  
19 finally reaching a page with a final “Order Summary” showing the consumers their net total.  
20 What Defendants do not make clear on this page is that the consumer’s net total includes a  
21 hidden charge for “Taxes & fees” that substantially increases the amount the consumer pays for  
22 contact lenses, far exceeding the prices that Defendants advertise by 50 to 80 percent.

23 3. Defendants do everything they can to hide the extra fees during the purchasing  
24 process in order to mislead consumers. For example, the only time Defendants reveal the “Taxes  
25 & fees” prior to purchase is if a consumer scrolls past a prominently displayed “Continue” button  
26 on the page where consumers input their shipping information. If a consumer does scroll past the  
27 “Continue” button, the only explanation as to what these costs include is provided through a  
28 small “i-link” that consumers must affirmatively click, but even that disclosure itself is

1 misleading because there is no breakdown of the taxes and fees, leaving consumers with the false  
2 impression that it must be some combination of (1) “taxes,” and (2) “fees.” In actuality, the  
3 “Taxes & fees” are 100 percent a “processing fee,” which is only disclosed if a customer service  
4 representative provides a “Full Receipt” upon request by a consumer. Regardless, these charges  
5 are arbitrary, inflated, and untethered to any actual expense incurred by Defendants.

6 4. As a result of Defendants’ false and misleading advertising, Plaintiff and the  
7 proposed class have suffered damages. This practice has been going on for years and has cost  
8 California consumers significant sums in deceptive fees. Defendants should not be allowed to  
9 continue to profit from their deceptive practices.

10 **JURISDICTION AND VENUE**

11 5. This Court has jurisdiction over this action pursuant to Article VI, § 10 of the  
12 California Constitution and California Code of Civil Procedure § 410.10.

13 6. This Court has personal jurisdiction over Defendants because Defendants  
14 intentionally avail themselves of the markets within this County by advertising, selling, and  
15 delivering their products to residents of this County through ecommerce channels. Defendants  
16 have such minimum contacts with this County that, under the circumstances, it would be fair and  
17 reasonable to require Defendants to come to this County and defend this action.

18 7. Pursuant to Code of Civil Procedure § 395.5, venue is proper in Los Angeles  
19 County because one or more of the violations alleged in this Complaint arose in this County,  
20 because Defendants intentionally avail themselves of the markets within this County so as to  
21 render the exercise of jurisdiction by this Court just and proper. Plaintiff also viewed  
22 Defendants’ online advertisements complained of herein while present in this County, purchased  
23 the products while present in this County and had them delivered here, so a substantial part of the  
24 events or omissions giving rise to the claims asserted herein occurred in this County.

25 **PARTIES**

26 8. Plaintiff Adam Nail (“Plaintiff”) is, and at all times relevant hereto was, an  
27 individual residing in Los Angeles, California. Plaintiff purchased contact lenses from  
28 Defendants’ website while located in Los Angeles, California and had them delivered to his

1 residence there.

2 9. Defendant, Lens.com, Inc., is a corporation organized and existing under the laws  
3 of the State of Nevada with its headquarters located at 4730 S. Fort Apache Rd Suite 300, Las  
4 Vegas, Nevada 89147-7947. On information and belief, Lens.com created and/or authorized the  
5 false, misleading, and deceptive advertisements complained of herein. On information and belief,  
6 Lens.com, directly and through its agents, has substantial contacts with and receives substantial  
7 benefits and income from and through the State of California.

8 10. The true names and capacities of defendants Does 1 through 10, inclusive,  
9 whether individual, plural, corporate, partnership, associate or otherwise, are not known to  
10 Plaintiff, who therefore sues said defendants by such fictitious names. Plaintiff is informed and  
11 believes and thereon alleges that each of the defendants designated herein as a Doe defendant are  
12 in some manner responsible for the acts and occurrences set forth herein. Plaintiff will ask leave  
13 of court to amend this Complaint to show the true names and capacities of defendants Doe 1  
14 through 10, inclusive, as well as the manner in which each Doe defendant is responsible, when  
15 the same has been ascertained.

16 **FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

17 11. Defendants sell corrective contact lenses online through their website, one of  
18 many retailers that operate in this industry. In order to attract consumers to their website,  
19 Defendants distribute advertisements on Google and other online search engines prominently  
20 advertising their prices for contact lenses.

21 12. Defendants, however, advertise deceptively low prices for their contact lenses that  
22 mislead consumers as to the actual price of the contact lenses, and then, once those  
23 advertisements lure consumers to their website, gouge consumers with hidden fees. Defendants  
24 do not disclose these fees upfront, instead adding these fees surreptitiously at the end of the order  
25 process, raising the actual price Defendants charge for contact lenses by as much as 50 to 80  
26 percent of the advertised price.

27 13. The process starts when a consumer uses a search engine such as Google to search  
28 for websites that sell their preferred corrective contact lenses brand. In the illustrative example

below, the Google search “Acuvue 1 day moist 90 pack” retrieves the following (partial) results:

Sponsored :

Acuvue 1 Day Moist 90 Pack (90 lenses/box)	1-Day Acuvue Moist 90 Pack Contact..	1-Day Acuvue Moist 90 Pack Contact...	1-Day Acuvue Moist 90 Pack Contact Lenses	1 Day Acuvue Moist - Daily 90 pack Contact..	JOHNSON & JOHNSON - 1-day Acuvue Moist 90 Pack	1-Day Acuvue Moist with 90 lenses, a 3-month supply	90 Pack - Acuvue Moist 1-Day Contact Lenses
\$19.89	\$49.95	\$49.95	\$26.95	\$24.88	\$67.99	\$26.79	\$71.99
OptiContact... (9k+)	EZContacts... (9k+)	EZContacts... (9k+)	WebEyeCar... (534)	GlassesUS... (9k+)	Contacts Dir... (557.79 with ...)	Lens.com	1800CONT... Free shipping

14. As is clear, Lens.com advertises one of the lowest prices among these competitors, at \$26.79 per pack. Compare this to the advertisement from one of the more reputable competitors, 1-800 Contacts, which advertises a 90-day pack at \$71.99:

20% OFF

1-Day Acuvue Moist

\$71.99 ~~€96~~

1800CC... 10+ stores

Free shipping

4.7 (9k+)

15. When a consumer clicks on Defendants’ advertisement, the consumer is redirected to a landing page on Defendants’ website specific to the selected product, which displays the same pricing as the advertisement at \$26.79 per 90 pack (assuming the consumer purchases at least eight boxes to qualify for the rebate offered):

lens.com Since 1995

Contact Lenses Brands Online Vision Exam Reorder

Money Back Guarantee Hassle Free Returns Customer Service 24/7 Live Chat

Home > Contact Lenses > Johnson & Johnson > Daily Disposable > 1-Day Acuvue Moist

1-Day Acuvue Moist Contact Lenses  
1 box - 90 pack / lenses - 3 month supply

30 Pack 1 month supply \$15.49 LOWEST PRICE /box after rebate

90 Pack 3 month supply \$26.79 LOWEST PRICE /box after rebate

ADD 8 BOXES FOR \$220 REBATE

Right Eye (OD) Qty 0 BOXES Left Eye (OS) Qty 0 BOXES

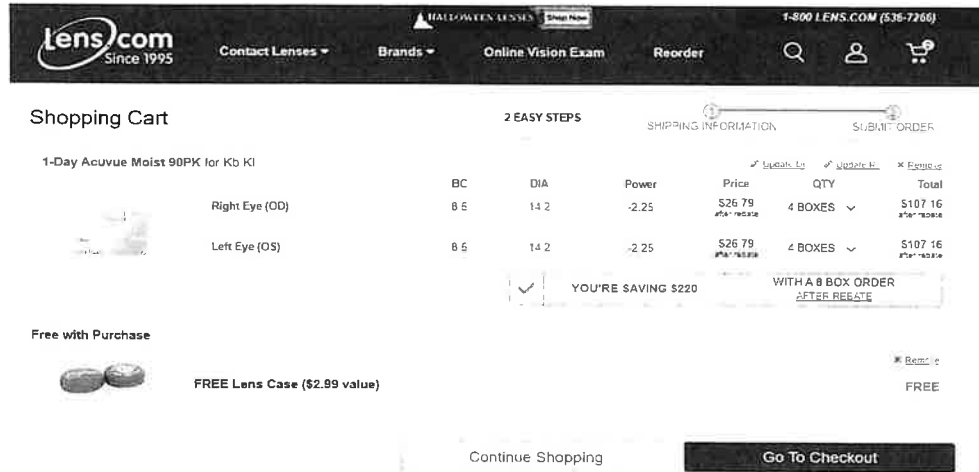
Continue

Use your FSA or HSA Learn More

1 16. A reasonable consumer would understand Defendants’ advertised price to mean  
 2 that they would pay \$26.79 to purchase each ninety-day pack of 1-Day Acuvue Moist contact  
 3 lenses from Defendants. No reasonable consumer would expect that the actual price would be  
 4 increased by anywhere from 50 to 80 percent by surreptitiously added fees.

5 17. After a consumer selects the number of boxes he or she wishes to purchase and  
 6 clicks “Continue” on the screen above, the user is asked either to upload a prescription or enter  
 7 the information manually. If the consumer chooses to enter the prescription information, the  
 8 consumer is then asked to enter his or her doctor’s name and address.

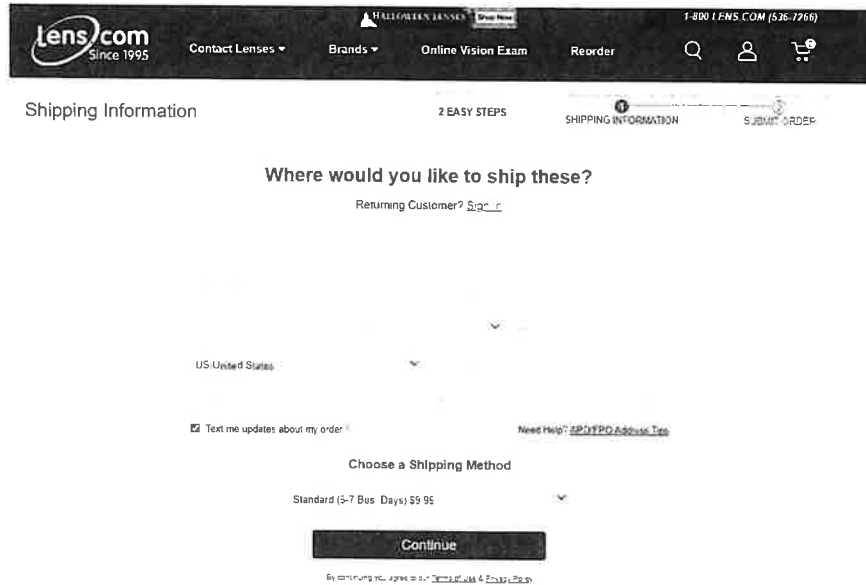
9 18. After the consumer enters the required prescription and doctor information and  
 10 clicks continue, the consumer is presented with a screen showing their “Shopping Cart”:



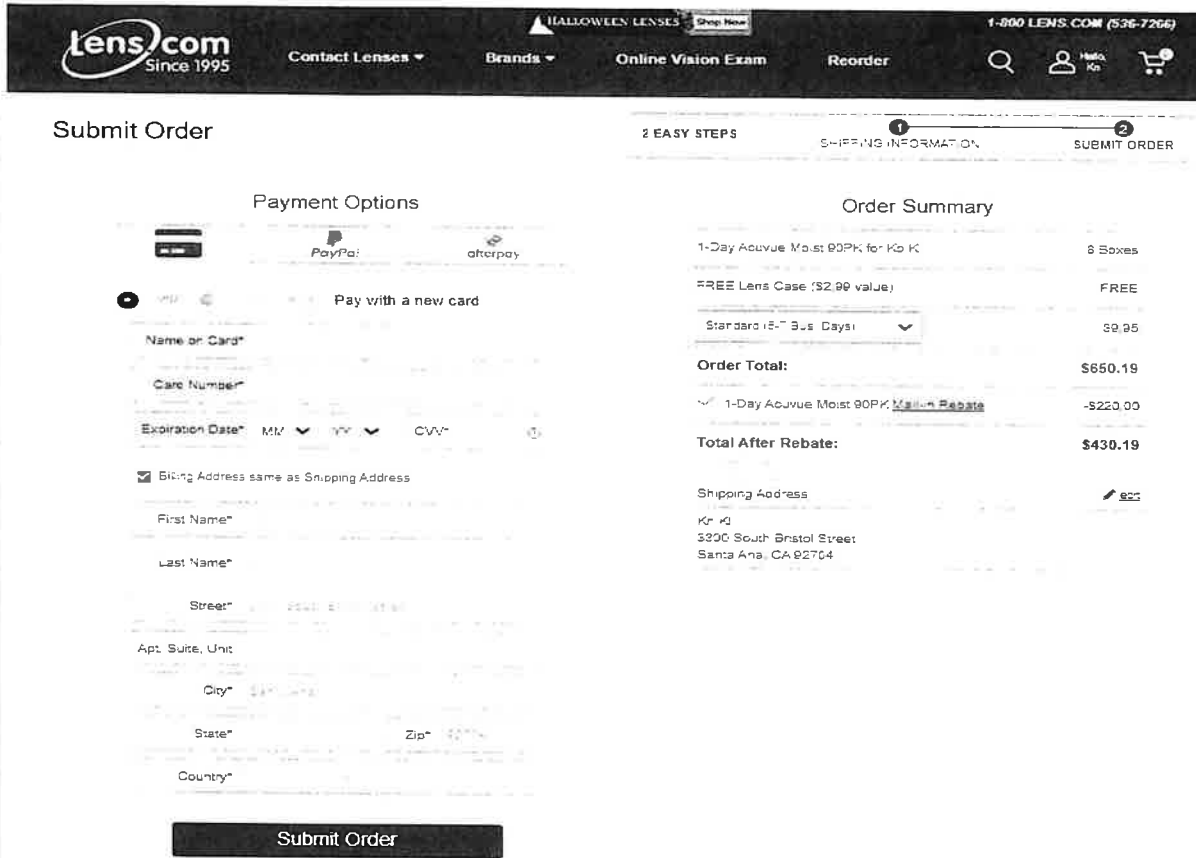
11  
12  
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19  
20 19. This screen again indicates that the consumer will receive the advertised price per  
 21 box of contact lenses (assuming the consumer purchases the requisite number of boxes to trigger  
 22 rebate eligibility and completes the rebate process).



1           20.     When a consumer clicks on the “Go To Checkout” box on this screen, they are  
2 presented with a page prompting them to either sign into their account, or provide their shipping  
3 information. The below picture is a true and accurate representation of what a consumer would  
4 see on a normal computer using a normal web browser when he or she arrives at this web page  
5 (without scrolling down on the page).



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18           21.     If the consumer enters their shipping information and clicks “Continue”, the  
19 consumer will move on to a final page in which they input their payment information and are  
20 provided an “Order Summary” before submitting their order. However, the “Order Summary”  
21 does not reveal that Defendants’ tack on additional “Taxes and fees” and consumers  
22 consequently complete their purchase completely unaware of the hidden fees:  
23  
24  
25  
26  
27  
28



22. The only way consumers can learn of the additional “Taxes & fees” prior to completing their purchase is if they *scroll past* the conspicuously placed “Continue” button on the page where they provide their *shipping information*. If the consumer scrolls past the “Continue” button on the Shipping Information page, the consumer is presented with an “Order Summary” different from the one presented on the final checkout page:



**Order Summary**

Item	BC	DIA	Power	Price	QTY	Total
1-Day Acuvue Moist 90PK for Kb Kl Right Eye (OD)	8.5	14.2	-2.25	\$26.79	4 BOXES	\$107.16
1-Day Acuvue Moist 90PK for Kb Kl Left Eye (OS)	8.5	14.2	-2.25	\$26.79	4 BOXES	\$107.16
<p><b>Free with Purchase</b> <a href="#">Have an Order Code?</a></p> <p><b>FREE Lens Case (\$2.99 value)</b></p>						
<p><b>Congratulations,</b> by shopping at Lens.com you saved <b>\$685.68!</b></p>						
<b>Subtotal</b>						\$434.32
<b>Taxes &amp; fees</b>						\$205.92
Standard 59.95 (5-7 Business Days)						\$9.95
<b>Total:</b>						<b>\$650.19</b>
1-Day Acuvue Moist 90PK <a href="#">Mail-in Rebate</a>						-\$220.00
<b>Total After Rebate:</b>						<b>\$430.19</b>

**Go To Checkout**

23. In this version of the Order Summary, the consumer is shown an Order Summary listing (1) a “Subtotal” for the purchase without the rebate applied, (2) a vague line item for “Taxes & fees” that dramatically increases the amount the consumer will pay, (3) a “Total” price, (4) a credit for the “Mail-in Rebate” that closely corresponds with the “Taxes and fees” amount, and finally (5) a “Total After Rebate.” This is the only place where the consumer is shown the “Taxes & fees” line item before purchase, and many consumers completely miss this version of the Order Summary because it is surreptitiously hidden below a prominently placed “Continue” button. Moreover, the entire page is designed to give the impression that the Mail-in Rebate offsets the “Taxes & fees” line item as the amounts closely align, when in fact, the Mail-in Rebate offsets the amount included in the “Subtotal” while the “Taxes & fees” remain untouched.

24. A consumer can click on an “i-link” button for additional information as to what the “Taxes & fees” entail. However, all that is revealed is that “Taxes are tax recovery charges for tax obligations where applicable and the fees are compensation for servicing your order,” which itself is misleading because in reality there are no taxes charged. Instead, it is 100 percent a processing fee that is only disclosed if a customer representative provides a “Full Receipt” upon a consumer’s request. Moreover, this fee is deceptive because it does not relate to the actual

1 operational costs associated with processing the order. It is entirely a profit generator.

2 25. By design and placement of the “Continue” button, Defendants mislead  
3 consumers into only viewing the version of the Order Summary screen that does not reveal the  
4 “Taxes & fees” line item separately, and consequently consumers are unaware that any such fees  
5 are added. And even when consumers do discover the version of the “Order Summary” revealing  
6 the additional “Taxes & fees,” the disclosure provided misleads consumers into believing such  
7 “Taxes & fees” are actually related to taxes incurred or the costs of processing Plaintiff’s and the  
8 putative Class Members’ orders when in fact they are purely profit generators meant to mask the  
9 true cost of purchasing Defendants’ products.

10 26. These material facts were not disclosed to Plaintiff or the putative class.

11 27. The “Taxes & fees” Defendants tag on are significant and can increase the  
12 amount a consumer should be paying based on the advertised prices by 50 to 80 percent. These  
13 “Taxes & fees” are nothing but a made-up charge. When they are factored in, the total cost of  
14 buying contacts from Defendants is essentially the same as the total cost of buying contact lenses  
15 from Defendants’ more honest competitors.

16 **PLAINTIFF ADAM NAIL**

17 28. On January 2, 2021, Plaintiff performed an online search for contact lenses and  
18 came across an advertisement from Lens.com offering contacts at a price much lower than other  
19 online retailers and visited Lens.com to purchase contact lenses.

20 29. Plaintiff went through the extensive order process described above, *supra*.  
21 Plaintiff placed Order Number #1381291016 consisting of 2 boxes at a price of \$17.99 per box.  
22 After placing the order, Plaintiff received a receipt showing an un-itemized “Subtotal” of \$64.76,  
23 plus a \$7.95 shipping charge (which was later credited towards a future purchase) for a “Total”  
24 of \$72.71. Plaintiff paid \$28.78 in hidden fees, which does not appear anywhere on his receipt.

25 30. On November 11, 2022, Plaintiff placed order # 1051809498 consisting of 2  
26 boxes at a price of \$51.74 per box. After placing the order, Plaintiff received a receipt showing  
27 an un-itemized “Subtotal” of \$152.95, a \$9.95 shipping charge, and \$7.95 credit, for a “Total” of  
28 \$154.96. Plaintiff paid \$49.47 in hidden fees, which does not appear anywhere on his receipt.

1 **CLASS ACTION ALLEGATIONS**

2 31. Plaintiff brings this action on behalf of himself and a Class of similarly situated  
3 persons defined as follows:

4 All consumers who, within the applicable statute of limitations  
5 preceding the filing of this action to the date of class certification,  
6 purchased products from Defendants and were assessed a higher  
7 price than represented in advertisements and on Defendants’  
8 website.

9 32. Excluded from the Class are Defendants, any entities in which they have a  
10 controlling interest, any of their parents, subsidiaries, affiliates, officers, directors, employees  
11 and members of such persons’ immediate families, and the presiding judge(s) in this case, and  
12 their staff.

13 33. Plaintiff reserves the right to expand, limit, modify, or amend this class definition,  
14 including the addition of one or more subclasses, in connection with his motion for class  
15 certification, or at any other time, based upon, *inter alia*, changing circumstances and/or new  
16 facts obtained during discovery.

17 34. **Numerosity:** At this time, Plaintiff does not know the exact size of the Class;  
18 however, due to the nature of the trade and commerce involved, Plaintiff believes that the  
19 number of Class members are into the thousands, and thus are so numerous that joinder of all  
20 members is impractical. The number and identities of Class members is administratively feasible  
21 and can be determined through appropriate discovery in the possession of the Defendant.

22 35. **Commonality:** There are questions of law or fact common to the Class, which  
23 include, but are not limited to the following:

- 24 a. Whether during the class period, Defendants deceptively represented the price  
25 of the contact lenses available on their website;
- 26 b. Whether Defendants’ alleged misconduct misled or had the tendency to  
27 mislead consumers;
- 28 c. Whether Defendants’ alleged conduct constitutes violations of the laws  
asserted;
- d. Whether the “Taxes & Fees” charge is deceptive and unfair when Plaintiff and

- 1 the putative class were not charged any taxes on the products they purchased;
- 2 e. Whether the “Taxes & Fees” charge is deceptive and unfair when it was in
- 3 actuality a 100% “Processing” fee;
- 4 f. Whether the “Processing” fee is deceptive and unfair as it was excessive and
- 5 not related to the actual costs of processing the purchase orders;
- 6 g. Whether Plaintiff and members of the Class were harmed by Defendants’
- 7 unfair, unlawful, deceptive, misleading, and/or false advertisements;
- 8 h. Whether Defendants breached their contract with Plaintiff and the putative
- 9 class by charging the deceptive, unfair and fraudulent fee at issue;
- 10 i. Whether Plaintiff and the putative class were harmed by Defendant’s breach
- 11 of contract;
- 12 j. Whether Defendants were unjustly enriched by charging Plaintiff and the
- 13 putative class the deceptive, unfair and fraudulent fee at issue;
- 14 k. Whether Plaintiff and the putative class were harmed by Defendant’s unjust
- 15 enrichment; and
- 16 l. Whether an injunction is necessary to prevent Defendants from continuing to
- 17 deceptively represent the cost of the products they offer for sale on their
- 18 website.

19 **36. Typicality:** Like Plaintiff, many other consumers ordered products from

20 Defendants’ website based on Defendants’ deceptive advertisements. Plaintiff’s claims are

21 typical of the claims of the Class because Plaintiff and each Class member were injured by

22 Defendants’ false and/or misleading advertising. Plaintiff and the Class have suffered the same

23 or similar injury as a result of Defendants’ false, deceptive, and misleading representations.

24 Therefore, Plaintiff’s claims are typical of the claims of the Class and class treatment is

25 appropriate.

26 **37. Adequacy of Representation:** Plaintiff is committed to pursuing this action and

27 has retained counsel competent who is experienced in prosecuting and resolving consumer class

28 actions. Plaintiff will fairly and adequately represent the interests of the Class and does not have

1 any interests adverse to those of the Class.

2       38.     **Acted or Refused to Act on Grounds Generally Applicable to the Class:**  
3 Consistent with Rule 23(b)(2), Defendants have acted or refused to act on grounds generally  
4 applicable to Plaintiff and Class members, making appropriate final injunctive relief and  
5 declaratory relief regarding the Class.

6       39.     **Superiority:** The common questions of law and fact enumerated above  
7 predominate over questions affecting only individual members of the Class, and a class action is  
8 the superior method for fair and efficient adjudication of the controversy. The likelihood that  
9 individual members of the Class will prosecute separate actions is remote because the damages  
10 or other financial detriment suffered by individual Class Members may be relatively small  
11 compared to the burden and expense that would be entailed by individual litigation of the claims  
12 against Defendants. Therefore, a class action is maintainable pursuant to Rule 23(b)(3).

13                                    **CAUSES OF ACTION**

14                                    **FIRST CAUSE OF ACTION**

15                                    **Violations of the California Consumers Legal Remedies Act**

16                                    **(By Plaintiff and on Behalf of the Class Against All Defendants)**

17       40.     Plaintiff repeats and realleges each and every fact, matter, and allegation set forth  
18 above and incorporates them at this point by reference as though set forth in full.

19       41.     California Civil Code Section 1750, *et seq.*, entitled the Consumers Legal  
20 Remedies Act (hereinafter “CLRA”), provides a list of “unfair or deceptive” practices in a  
21 “transaction” relating to the sale of “goods” or “services” to a “consumer.” The Legislature’s  
22 intent in promulgating the CLRA is expressed in Civil Code Section 1760, which provides, *inter*  
23 *alia*, that its terms are to be:

24                    Construed liberally and applied to promote its underlying purposes,  
25                    which are to protect consumers against unfair and deceptive  
26                    business practices and to provide efficient and economical  
27                    procedures to secure such protection.

28       42.     The products sold on Defendant’s website constitute a “good” as defined by Civil  
Code section 1761(a).

1 43. Plaintiff and the Class members are each a “consumer” as defined by Civil Code  
2 section 1761(d) who purchased, or sought to purchase, contact lenses from Defendants’ website.

3 44. Civil Code section 1770(a) provides in relevant part that:

4 The following unfair methods of competition and unfair or  
5 deceptive acts or practices undertaken by any person in a  
6 transaction intended to result or which results in the sale or lease of  
7 goods or services to any consumer are unlawful:

8 (9) [a]dvertising goods or services with intent not to sell them as  
9 advertised;

10 (13) [m]aking false or misleading statements of fact concerning  
11 reasons for, existence of, or amounts of, price reductions;

12 45. Defendants violated Civil Code Section 1770(a)(9) and (a)(13) by advertising  
13 artificially low prices for its contact lenses—advertising that its contact lenses were available for  
14 sale at one price, when in truth they were never available for sale at that deceptively low  
15 advertised price.

16 46. On information and belief, Defendants’ violations of the CLRA, as set forth  
17 herein, were done with awareness of the fact that the conduct alleged was wrongful and was  
18 motivated solely by Defendants’ self-interest, monetary gain, and increased profit. Plaintiff  
19 further alleges that Defendants committed these acts knowing the harm that would result to  
20 Plaintiff and Defendants engaged in such unfair and deceptive conduct notwithstanding such  
21 knowledge.

22 47. Defendants’ advertising of artificially low prices and bait and switch scheme has  
23 misled and unfairly induced Plaintiff and the Class members to enter into transactions and to  
24 overpay for products. Plaintiff and the Class have been misled and unfairly induced to pay  
25 hidden fees above and beyond the product price advertised by Defendants. Therefore, Plaintiff  
26 and the Class members’ money was taken by Defendants as a result of Defendants’ false and  
27 misleading representations made in Defendants’ advertisements, as explained above.

28 48. Attached hereto as Exhibit A is the affidavit of Plaintiff pursuant to California  
Civil Code section 1780(d).



1 49. Pursuant to this complaint, Plaintiff and the putative Class are also entitled to, and  
2 seek, injunctive relief prohibiting such conduct in the future and restitution. Moreover, Plaintiff  
3 has notified Defendants of the above-described violations of the CLRA pursuant to the procedure  
4 set forth in Civil Code section 1782(a) and reserves the right to amend the Complaint to assert  
5 actual damages on behalf of Plaintiff and the Class under the CLRA under Civil Code section  
6 1782(a)-(d).

7 **SECOND CAUSE OF ACTION**

8 **Violations of California Business and Professions Code section 17500**

9 **(By Plaintiff and on Behalf of the Class Against All Defendants)**

10 50. Plaintiff repeats and realleges each and every fact, matter, and allegation set forth  
11 above and incorporates them at this point by reference as though set forth in full.

12 51. California Business and Professions Code section 17500, *et seq.*, prohibits public  
13 dissemination of any untrue or misleading advertising in connection with the disposal of any real  
14 or personal property or performance of services to consumers in the State of California.

15 52. Defendants, by advertising misleadingly low prices for their contact lenses have  
16 made advertising statements that were untrue and/or misleading. Defendants made such  
17 advertisements with the intent of selling the contact lenses listed on their website. Defendants  
18 knew, or by the exercise of reasonable care should have known, that these advertisements were  
19 untrue and/or misleading. Defendants made such advertisements with the intent not to sell the  
20 advertised contact lenses at the price stated or as advertised.

21 53. Defendants' statements were material in that they are likely to influence the  
22 purchasing decision of consumers, and actually deceived, or were likely to deceive, reasonable  
23 consumers.

24 54. Plaintiff and the Class members reasonably relied on the representations and/or  
25 omissions made by Defendants in purchasing products from Defendants' website.

26 55. As a direct and proximate result of Defendants' misleading and false advertising,  
27 Plaintiff and the other Class Members have suffered injury in fact and have lost money or  
28 property, time, and attention. Plaintiff reasonably relied upon Defendants' representations

1 regarding the Class Products. In reasonable reliance on Defendants' false advertisements,  
2 Plaintiff and other Class Members purchased the Class Products. In turn Plaintiff and other Class  
3 Members ended up without the promised benefits and promotions, and therefore Plaintiff and  
4 other Class Members have suffered injury in fact.

5 56. Plaintiff alleges that these false and misleading representations made by  
6 Defendants constitute a "scheme with the intent not to sell that personal property or those  
7 services, professional or otherwise, so advertised at the price stated therein, or as so advertised."

8 57. Defendants have unfairly profited from the false advertising alleged herein and  
9 will be unjustly enriched in the future unless and until such conduct is permanently enjoined.

10 58. Plaintiff is entitled to preliminary and permanent injunctive relief ordering  
11 Defendants to cease its false advertising, as well as disgorgement and restitution to Plaintiff and  
12 all Class members. Defendants' revenues associated with their false advertising, or such portion  
13 of those revenues as the Court may find equitable.

14 **THIRD CAUSE OF ACTION**

15 **Violations of California Business and Professions Code section 17200**

16 **(By Plaintiff and on Behalf of the Class Against All Defendants)**

17 59. Plaintiff repeats and realleges each and every fact, matter, and allegation set forth  
18 above and incorporates them at this point by reference as though set forth in full.

19 60. California Business and Professions Code section 17200 prohibits acts of "unfair  
20 competition," including any "unlawful, unfair or fraudulent business act or practice and unfair,  
21 deceptive, untrue or misleading advertising...." A business act or practice is unlawful if it is  
22 forbidden by local, state, or federal statutes, or by regulations or case law. A business act or  
23 practice is "unfair" under the UCL if it offends an established public policy or is immoral,  
24 unethical, oppressive, unscrupulous, or substantially injurious to consumers, and that unfairness  
25 is determined by weighing the reasons, justifications, and motives of the practice against the  
26 gravity of the harm to the alleged victims. A business act or practice is "fraudulent", and  
27 advertising is untrue or misleading, if it is likely to deceive members of the public.

28 61. Here, Defendants' deceptive advertising of their violates each of the statute's

1 “unfair,” “unlawful,” “fraudulent” and “untrue or misleading advertising” prongs.

2 62. Defendants committed unfair, unlawful, and fraudulent business acts and  
3 practices, including misleading or untrue advertising, in violation of Business and Professions  
4 Code section 17200, *et seq.*, by affirmatively and knowingly misrepresenting product prices in its  
5 advertisements. Defendants’ acts and practices offend an established public policy of fee  
6 transparency in the marketplace, and constitute immoral, unethical, oppressive, and unscrupulous  
7 activities that are substantially injurious to consumers.

8 63. Defendants’ conduct also constitutes an “unlawful” act under the UCL because, as  
9 detailed above, it also constitutes a violation of sections 1770(a)(9) and (a)(13) of the California  
10 Consumer Legal Remedies Act (“CLRA”), Cal. Civ. Code § 1750, *et seq.*, *infra*, in that  
11 Defendants deceptively represent prices for their products on its website.

12 64. Defendants’ business practices have misled Plaintiff and the proposed Class and  
13 will continue to mislead them in the future. Plaintiff relied on Defendants’ misrepresentations  
14 about the falsely advertised prices of its products on its website.

15 65. As a result of Defendants’ unfair, fraudulent, and unlawful business practices  
16 alleged herein, Plaintiff and the Class have been injured in amounts not less than the amounts  
17 they overpaid for contact lenses due to Defendants’ hidden fees, which amounts have not yet  
18 been ascertained but which are believed to exceed hundreds of thousands of dollars in the  
19 aggregate. These amounts have been paid to Defendants by Plaintiff and the Class and should be  
20 restored to them.

21 66. As a result of their unfair, fraudulent, and unlawful conduct, Defendants have  
22 been unjustly enriched and should be required to disgorge their unjust profits and make  
23 restitution to Plaintiff and Class members pursuant to California Business and Professions Code  
24 sections 7203 and 17204.

25 **PRAYER FOR RELIEF**

26 67. Plaintiff, on behalf of himself and the Class, requests the following relief:

- 27 (a) An order certifying the Class and appointing Plaintiff as the representative for  
28 the Class;

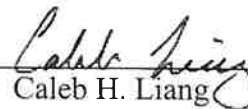
- 1 (b) An order certifying the undersigned counsel as Class counsel;  
2 (c) Restitution for Plaintiff and the Class members;  
3 (d) Judgment for damages, including actual, statutory, treble and punitive, where  
4 applicable;  
5 (e) Pre and post-judgment interest on the amount recovered;  
6 (f) Attorney's fees and costs of this action; and  
7 (g) For such other and further relief as may be just and proper, including but not  
8 limited to a preliminary and/or permanent order enjoining Defendants from  
9 engaging in the unlawful and unfair acts and practices described herein.

10  
11 **JURY DEMAND**

12 Plaintiff requests trial by jury on all issues so triable.

13 **LTL ATTORNEYS LLP**

14  
15 Dated: March 4, 2024

16   
Caleb H. Liang

17 Kevin B. Kelly

18 Joshua T. Le

19 *Attorneys for Plaintiff and the Putative*  
20 *Class*