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13  
14 **UNITED STATES DISTRICT COURT**  
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 JENNIFER WILKERSON,  
17 individually and on behalf of all others  
18 similarly situated,

19 *Plaintiff,*

20 v.

21 BROOKLYN BEDDING LLC,

22 *Defendant.*

Case No. 2:24-cv-05262

**CLASS ACTION COMPLAINT**

**DEMAND FOR JURY TRIAL**

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1 **I. Introduction.**

2 1. Advertised “sale” prices are important to consumers. Consumers are more  
3 likely to purchase an item if they know that they are getting a good deal. Further, if  
4 consumers think that a sale will end soon, they are likely to buy now, rather than wait,  
5 comparison 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. Section 17500 of California’s False Advertising Law prohibits businesses  
10 from making statements they know or should know to be untrue or misleading. Cal. Bus.  
11 & Prof. Code § 17500. This includes statements falsely suggesting that a product is on  
12 sale, when it actually is not.

13 4. Moreover, Section 17501 of California’s False Advertising Law provides  
14 that “[n]o price shall be advertised as a former price ... unless the alleged former price  
15 was the prevailing market price ... within three months next immediately preceding” the  
16 advertising. Cal. Bus. & Prof. Code § 17501. So, in addition to generally prohibiting  
17 untrue and misleading fake discounts, it also specifically prohibits this particular flavor of  
18 fake discount (where the advertised former price is not the prevailing price during the  
19 specified timeframe).

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

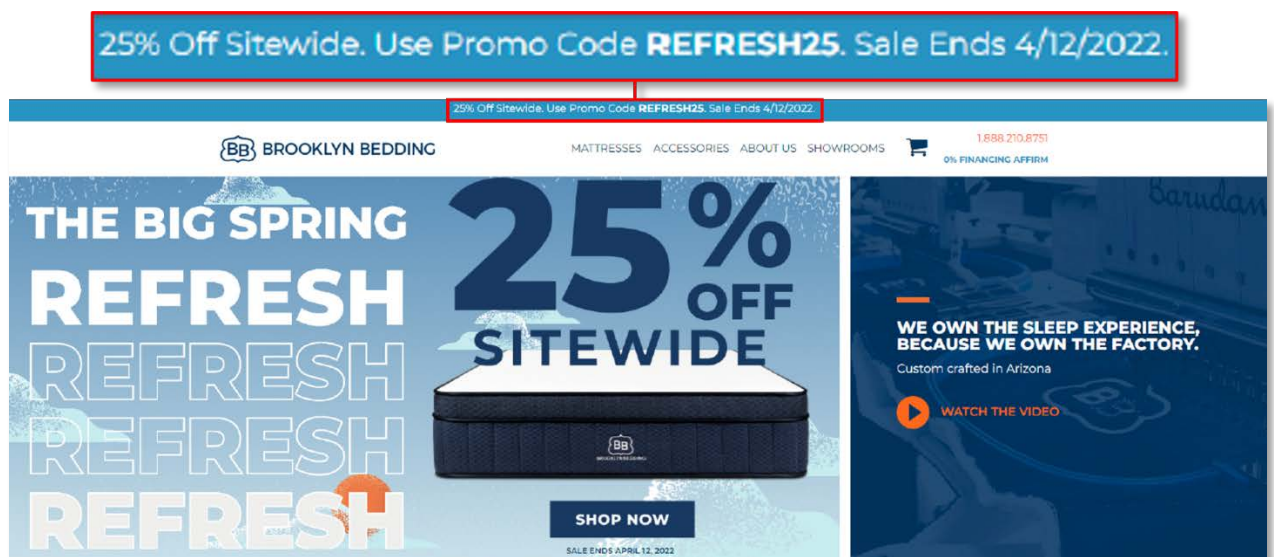
24 6. Moreover, the Federal Trade Commission’s regulations prohibit false or  
25 misleading “former price comparisons,” for example, making up “an artificial, inflated  
26 price ... for the purpose of enabling the subsequent offer of a large reduction” off that  
27 price. 16 C.F.R. § 233.1. They also prohibit false or misleading “retail price  
28 comparisons” and “comparable value comparisons,” for example, ones that falsely

1 suggest that the seller is “offer[ing] goods at prices lower than those being charged by  
2 others for the same merchandise” when this is not the case. 16 C.F.R. § 233.1.

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

6 8. Defendant Brooklyn Bedding LLC (“Defendant” or “Brooklyn Bedding”)   
7 sells and markets mattresses and other bedding products online through the Brooklyn  
8 Bedding brand and website, [www.brooklynbedding.com](http://www.brooklynbedding.com) (“Brooklyn Bedding Products”  
9 or “Products”).

10 9. Defendant lists purported regular prices and advertises purported limited-  
11 time discounts from those regular prices. These include discounts offering “X% off  
12 mattresses” and “X% off sitewide” that allegedly are only valid through a certain date.  
13 These discounts are made available by using a discount code, such as “REFRESH25” or  
14 are automatically applied to the Products sitewide. Defendant also advertises that its  
15 Products have a lower discount price as compared to a higher, regular price shown in  
16 grey and/or strikethrough font. Examples are shown below:



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The screenshot displays the Brooklyn Bedding website's mattress section. At the top, the navigation bar includes the Brooklyn Bedding logo, 'MATTRESSES', and 'ACCESSORIES'. Below this is a breadcrumb trail 'HOME / MATTRESSES' and a main heading 'BROOKLYN BEDDING MATTRESSES'. Two mattresses are featured: the 'SIGNATURE HYBRID' (Best Value) and the 'AURORA LUXE COOLING' (Most Popular). Each product has a 'SHOP NOW' button and a price tag showing a starting price of \$665 (crossed out to \$498.80) and \$1,199 (crossed out to \$899.30) respectively. Below the product images, larger 'SHOP NOW' buttons are shown with the same price information. At the bottom, a 'Review Your Cart' section shows a 'Sedona Elite Queen' mattress for \$1,799.30 (crossed out to \$2,399) with a 'SUMMER25' discount code. An 'Order Summary' table on the right shows a subtotal of \$2,399, total savings of \$599.80, and a final order total of \$1,799.30. A 'PROCEED TO CHECKOUT' button is located at the bottom right of the cart area.

10. Far from being time-limited, however, Defendant’s discounts are routinely available. As a result, everything about Defendant’s price and purported discount advertising is false. The regular prices Defendant advertises are not actually Defendant’s

1 regular prices, because Defendant’s Products are routinely available for less than that.  
2 The purported discounts Defendant advertises are not the true discount the customer is  
3 receiving, and are often not a discount at all. Nor are the purported discounts limited in  
4 time or expiring soon—quite the opposite, they are consistently available.

5 11. As described in greater detail below, Ms. Wilkerson bought items from  
6 Defendant from its website, [www.brooklynbedding.com](http://www.brooklynbedding.com). When Ms. Wilkerson made her  
7 purchase, Defendant advertised that a sale was going on, and so Defendant represented  
8 that the Products Ms. Wilkerson purchased were being offered at a steep discount from  
9 their purported regular prices that Defendant advertised. And based on Defendant’s  
10 representations, Ms. Wilkerson believed that she was purchasing Products whose regular  
11 price and market value were the purported regular price that Defendant advertised, that  
12 she was receiving a substantial discount, and that the opportunity to get that discount was  
13 time-limited. These reasonable beliefs are what caused Ms. Wilkerson to buy from  
14 Defendant when she did.

15 12. In truth, however, the representations Ms. Wilkerson relied on were not  
16 true. The purported regular prices were not the true regular prices, the purported  
17 “discounts” were not the true discounts, and the discounts were ongoing—not time-  
18 limited. Had Defendant been truthful, Ms. Wilkerson and other consumers like her  
19 would not have purchased the Products, or would have paid less for them.

20 13. Plaintiff brings this case for herself and the other customers who purchased  
21 Brooklyn Bedding Products.

## 22 **II. Parties**

23 14. Plaintiff Jennifer Wilkerson is domiciled in Valencia, California.

24 15. The proposed class includes citizens of every state.

25 16. Defendant Brooklyn Bedding LLC is an Arizona limited liability company  
26 with its principal place of business at 5301 W Bethany Home Road, Phoenix, Arizona  
27 85301.

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 Defendant.

6 18. The Court has personal jurisdiction over Defendant because Defendant  
7 sold Brooklyn Bedding Products to consumers in California, including to Plaintiff.

8 19. Venue is proper under 28 U.S.C. § 1391(b)(1) and 28 U.S.C. § 1391(d)  
9 because Defendant would be subject to personal jurisdiction in this District if this  
10 District were a separate state, given that Defendant sold Brooklyn Bedding Products to  
11 consumers in this District, including Plaintiff. Venue is also proper under 28 U.S.C. §  
12 1391(b)(2) because a substantial part of Defendant’s conduct giving rise to the claims  
13 occurred in this District, including Defendant’s sale to Plaintiff.

14 **IV. Facts.**

15 **A. Defendant’s fake prices and fake discounts.**

16 20. Defendant Brooklyn Bedding manufactures, distributes, markets, and sells  
17 mattresses and bedding products.

18 21. Defendant creates the false impression that its Products’ regular prices are  
19 higher than they truly are.

20 22. On its website, Defendant consistently advertises steep discounts on its  
21 Products. These discounts offer “X%” off the regular prices Defendant advertises.  
22 Even though in truth these discounts run in perpetuity, Defendant claims they are only  
23 valid through a certain date. And it advertises these discounts extensively: on attention-  
24 grabbing banners; on products listing pages, next to images of each Product; on the  
25 individual product pages for each Product, and during checkout. Example screenshots  
26 are provided on the following pages:  
27  
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1 25% Off Sitewide. Use Promo Code **JULY25**. Sale Ends 7/04/2022.

2 25% Off Sitewide. Use Promo Code **JULY25**. Sale Ends 7/04/2022.

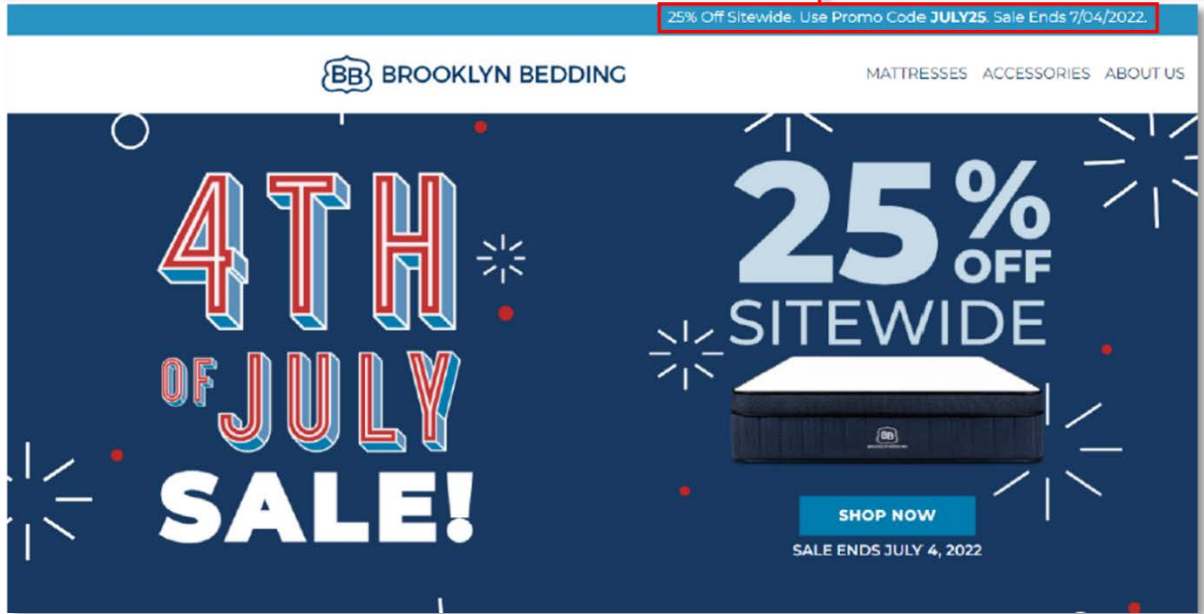
3 **BB** BROOKLYN BEDDING MATTRESSES ACCESSORIES ABOUT US

4 **4TH**  
5 **OF JULY**  
6 **SALE!**

7 **25% OFF**  
8 **SITEWIDE**

9 **SHOP NOW**

10 SALE ENDS JULY 4, 2022



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12  
13 *Captured on June 25, 2022*

14 25% Off Sitewide. Use Promo Code **MLK25**. Sale Ends 1/16/2023.

15 25% Off Sitewide. Use Promo Code **MLK25**. Sale Ends 1/16/2023.

16 **BB** BROOKLYN BEDDING MATTRESSES ACCESSORIES

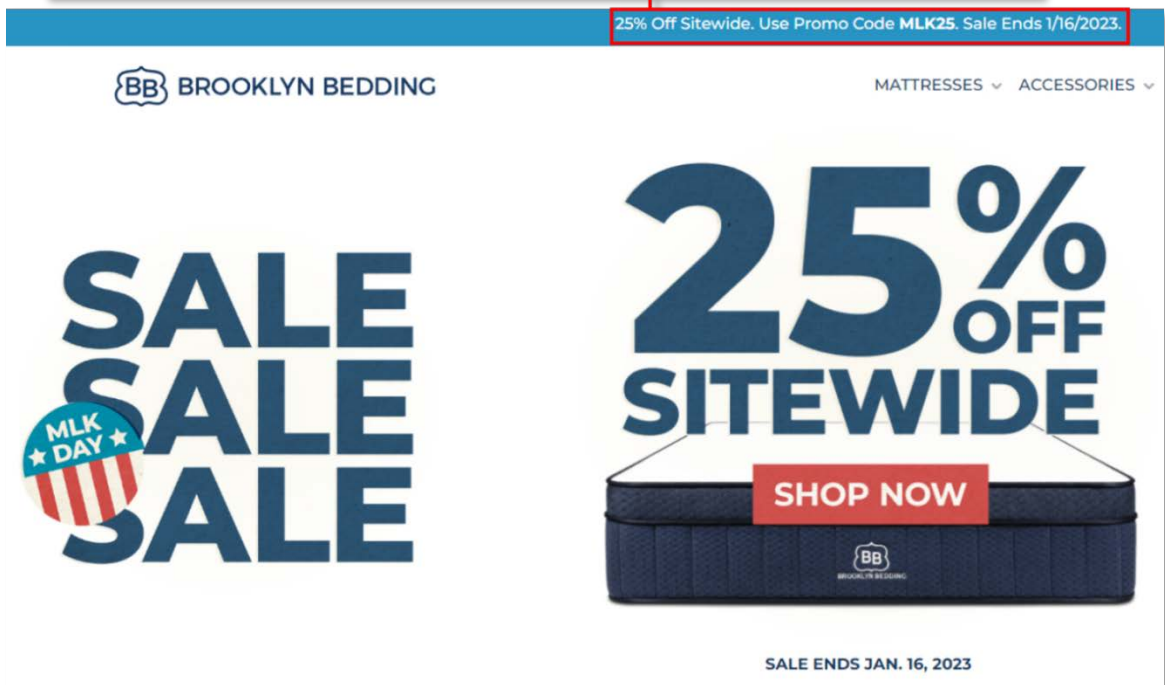
17 **SALE**  
18 **SALE**  
19 **SALE**

20 **25% OFF**  
21 **SITEWIDE**

22 **MLK DAY**

23 **SHOP NOW**

24 SALE ENDS JAN. 16, 2023



25  
26  
27 *Captured January 4, 2023*



25% Off Sitewide. Use Promo Code **MEMORIAL25**. Sale Ends 5/25/2023.

25% Off Sitewide. Use Promo Code **MEMORIAL25**. Sale Ends 5/25/2023.

**BB** BROOKLYN BEDDING

MATTRESSES ▾ ACCESSORIES ▾ ABOUT US ▾



MEMORIAL PREVIEW  
**SALE**

**25% OFF  
SITEWIDE**

**SHOP NOW**

SALE ENDS MAY 25, 2023

The banner features a dark blue background with a stylized American flag motif. On the left, the words 'MEMORIAL PREVIEW' are in white, above a large 'SALE' in bold black and red letters. On the right, a white and black mattress is shown. A red 'SHOP NOW' button is at the bottom right, and the text 'SALE ENDS MAY 25, 2023' is at the bottom center.

*Captured on May 16, 2023*

25% Off Sitewide. Use Promo Code **FALL25**. Sale Ends 9/26/2023.

25% Off Sitewide. Use Promo Code **FALL25**. Sale Ends 9/26/2023.

**BB** BROOKLYN BEDDING

MATTRESSES ▾ ACCESSORIES ▾ ABOUT US ▾



**FALL SALE  
25% OFF  
SITEWIDE**

**SHOP NOW**

SALE ENDS SEPT. 26, 2023

SALE ENDS SEPT. 26, 2023

The banner has a warm, autumnal color palette. It features a large, detailed image of a 'SEDONA' mattress on a bed frame. The text 'FALL SALE 25% OFF SITEWIDE' is in large, bold, orange letters. A red 'SHOP NOW' button is at the bottom right. Two red-bordered boxes highlight the text 'SALE ENDS SEPT. 26, 2023' at the bottom left and bottom right.


*Captured on September 25, 2023*

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25% Off Sitewide. Use Promo Code **GIFT25**. Sale Ends 12/12/2023.

25% Off Sitewide. Use Promo Code **GIFT25**. Sale Ends 12/12/2023.

**BB** BROOKLYN BEDDING MATTRESSES ACCESSORIES ABOUT US



**GIFT OF SLEEP**  
**25% OFF**  
**SITEWIDE**

**SHOP NOW**


SALE ENDS DEC. 12, 2023

*Captured on December 11, 2023*

30% Off Sitewide. Use Promo Code **PRESDAY30**. Sale Ends 2/19/2024.

30% Off Sitewide. Use Promo Code **PRESDAY30**. Sale Ends 2/19/2024.

**BB** BROOKLYN BEDDING MATTRESSES ACCESSORIES ABOUT US



**30% OFF**  
**SITEWIDE**

**PRESIDENTS DAY**  
**SALE**

**SHOP NOW**

SALE ENDS FEB. 19, 2024

*Captured on February 20, 2024*

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25% Off Sitewide. Use Promo Code REFRESH25. Sale Ends 4/23/2024.

25% Off Sitewide. Use Promo Code REFRESH25. Sale Ends 4/23/2024.

BROOKLYN BEDDING MATTRESSES ACCESSORIES ABOUT US

**BIG SPRING REFRESH**  
**25% OFF**  
SITEWIDE

SHOP NOW

SALE ENDS APRIL 23, 2024

Labels on mattresses: BEST VALUE, BEST FOR ATHLETES, MOST POPULAR, MOST LUXURIOUS.

Captured on April 18, 2024

25% Off Sitewide. Use Promo Code JULY25. Sale Ends 7/11/2022.

25% Off Sitewide. Use Promo Code JULY25. Sale Ends 7/11/2022.

BROOKLYN BEDDING MATTRESSES ACCESSORIES ABOUT US SHOWROOMS 1.888.210.8751 0% FINANCING

HOME / BROOKLYN AURORA HYBRID

**25% OFF**  
USE CODE: JULY25

**25% OFF**  
USE CODE: JULY25

**BROOKLYN AURORA HYBRID**  
Advanced cooling technology in a luxury hybrid  
★★★★☆ 2637 Reviews

~~\$1,624.00~~ **\$1,218.00**

~~\$1,624.00~~ **\$1,218.00**

MADE IN ARIZONA 100 NIGHT TRIAL FREE SHIPPING & RETURNS

SIZE: Full  
FIRMNESS: Soft

ADD TO CART

Captured on July 10, 2022

25% Off Sitewide. Use Promo Code **LABORDAY25**. Sale Ends 9/4/2023.

25% Off Sitewide. Use Promo Code **LABORDAY25**. Sale Ends 9/4/2023.

BROOKLYN BEDDING MATTRESSES ACCESSORIES ABOUT US CLEARANCE SHOWROOMS +1 623-624-1222 0% APR FINANCING

HOME / BROOKLYN ESSENTIAL

Estimated to Ship in 2-7 Business Days

**BROOKLYN ESSENTIAL**  
Comfort simplified

~~\$532~~ ~~\$399~~ **\$399**

ARIZONA FACTORY 120 NIGHT TRIAL FREE SHIPPING

SIZE  
Twin

ADD TO CART 1

Captured on August 19, 2023

25% Off Sitewide. Use Promo Code **MEMORIAL25**. Sale Ends 5/27/2024.

25% Off Sitewide. Use Promo Code **MEMORIAL25**. Sale Ends 5/27/2024.

BROOKLYN BEDDING MATTRESSES ACCESSORIES ABOUT US CLEARANCE SHOWROOMS +1 623-624-1222 0% APR FINANCING

HOME / YOUR SHOPPING CART

Your Shopping Cart

PRODUCT	ITEM PRICE	QUANTITY	TOTAL
Signature Hybrid Size: Twin Firmness: Medium Add Cooling Pillow Top: No	\$665 \$498.80	1	\$665 \$498.80 <b>MEMORIAL25</b>

Subtotal \$665  
Discount: **MEMORIAL25** -\$166.30  
Shipping Free Shipping within US  
Tax Taxes will be calculated at checkout  
**Total \$498.80**

PROCEED TO CHECKOUT

Captured on May 13, 2024

1           23. Defendant represents that these discounts will only be available for a limited  
2 time, but in reality, they continue indefinitely. For example, as depicted below,  
3 Defendant represents that its sales expire on a particular date, for example: “Sale Ends  
4 4/12/2022.” To reasonable consumers, this means that after the specified date,  
5 Defendant’s Products will no longer be on sale and will retail at their purported regular  
6 price. But immediately after each purportedly time-limited sale ends, Defendant  
7 generates another similar discount, with a new expiration date.

8           24. For example, on April 12, 2022, Defendant advertised a purportedly time-  
9 limited sale that “Ends 4/12/2022.”

10 **25% Off Sitewide. Use Promo Code REFRESH25. Sale Ends 4/12/2022.**

11  
12 *Captured on April 11, 2022*

13           25. However, on April 13, 2022, the day after the time-limited sale was  
14 supposed to have ended, Defendant advertised the exact same sale with a new expiration  
15 date, April 19, 2022.

16 **25% Off Sitewide. Use Promo Code REFRESH25. Sale Ends 4/19/2022.**

17  
18 *Captured on April 13, 2022*

19           26. To confirm that Defendant consistently offers discounts off of purported  
20 regular prices, Plaintiff’s counsel performed an investigation of Defendant’s advertising  
21 practices using the Internet Archive’s Wayback Machine (available at [www.archive.org](http://www.archive.org)).<sup>1</sup>  
22 Defendant’s sales have persisted for years.

23           27. Using these tactics, Defendant leads reasonable consumers to believe that  
24 they will get a discount on the Products they are purchasing if they purchase during the  
25 “limited time” promotion. In other words, it leads reasonable consumers to believe that  
26 if they buy now, they will get a Product worth X at a discounted, lower price Y. This  
27

28 \_\_\_\_\_  
<sup>1</sup> The Internet Archive, available at [archive.org](http://archive.org), is a library that archives web pages.  
<https://archive.org/about/>

1 creates a sense of urgency: buy now, and you will receive something worth more than you  
2 pay for it; wait, and you will pay more for the same thing later.

3 28. Based on Defendant's advertisements, reasonable consumers reasonably  
4 believe that the regular prices Defendant advertises are Defendant's former prices (that is,  
5 the price at which the goods were actually offered for sale before the limited-time offer  
6 went into effect). In other words, reasonable consumers reasonably believe that the  
7 regular prices Defendant advertises represent the amount that consumers formerly had to  
8 pay for Defendant's goods, before the limited-time sale began. Said differently,  
9 reasonable consumers reasonably believe that, prior to the supposedly time-limited sale,  
10 consumers had to pay the regular price to get the item and did not have the opportunity  
11 to get a discount from that regular price.

12 29. Reasonable consumers also reasonably believe that the regular prices  
13 Defendant advertises represent the true market value of the Products, and are the  
14 prevailing prices for those Products; and that they are receiving reductions from those  
15 regular prices in the amounts advertised. In truth, however, Defendant persistently offers  
16 discounts off the purportedly regular prices it advertises. As a result, everything about  
17 Defendant's price and purported discount advertising is false. The regular prices  
18 Defendant advertises are not actually Defendant's regular or former prices, or the  
19 prevailing prices for the Products Defendant sells, and do not represent the true market  
20 value for the Products, because Defendant's Products are consistently available for less  
21 than that, and customers did not have to formerly pay that amount to get those items.  
22 The purported discounts Defendant advertises are not the true discount the customer is  
23 receiving, and are often not a discount at all. Nor are the purported discounts limited in  
24 time or expiring soon—quite the opposite, they are consistently available.

25 **B. Defendant's advertisements are unfair, deceptive, and unlawful.**

26 30. Section 17500 of California's False Advertising Law prohibits businesses  
27 from making statements they know or should know to be untrue or misleading. Cal. Bus.  
28

1 & Prof. Code § 17500. This includes statements falsely suggesting that a product is on  
2 sale, when it actually is not.

3 31. Moreover, section 17501 of California's False Advertising Law specifically  
4 provides that "[n]o price shall be advertised as a former price ... unless the alleged  
5 former price was the prevailing market price ... within three months next immediately  
6 preceding" the advertising. Cal. Bus. & Prof. Code § 17501.

7 32. In addition, California's Consumer Legal Remedies Act prohibits  
8 "advertising goods or services with the intent not to sell them as advertised" and  
9 specifically prohibits "false or misleading statements of fact concerning reasons for,  
10 existence of, or amounts of price reductions." Cal. Civ. Code § 1770(a)(9), (13).

11 33. In addition, the Federal Trade Commission's regulations prohibit false or  
12 misleading "former price comparisons," for example, making up "an artificial, inflated  
13 price ... for the purpose of enabling the subsequent offer of a large reduction" off that  
14 price. 16 C.F.R. § 233.1. They also prohibit false or misleading "retail price  
15 comparisons" and "comparable value comparisons," for example ones that falsely  
16 suggest that the seller is "offer[ing] goods at prices lower than those being charged by  
17 others for the same merchandise" when this is not the case. 16 C.F.R. § 233.1.

18 34. And finally, California's unfair competition law bans unlawful, unfair, and  
19 deceptive business practices. *See* Cal. Bus. & Prof. Code § 17200.

20 35. Here, as described in detail above, Defendant makes untrue and misleading  
21 statements about its prices. Defendant advertises regular prices that are not its true  
22 regular prices, or its former prices, and were not the prevailing market price in the three  
23 months immediately preceding the advertisement. In addition, Defendant advertised  
24 goods or services with the intent not to sell them as advertised, for example, by  
25 advertising goods having certain former prices and/or market values without the intent  
26 to sell goods having those former prices and/or market values. Defendant made false or  
27 misleading statements of fact concerning the reasons for, existence of, and amounts of  
28 price reductions, including the existence of steep discounts, and the amounts of price

1 reductions resulting from those discounts. And Defendant engaged in unlawful, unfair,  
2 and deceptive business practices.

3 **C. Defendant's advertisements harm consumers.**

4 36. Based on Defendant's advertisements, reasonable consumers expect that the  
5 listed regular prices are the regular prices at which Defendant usually sells its Products;  
6 that these are former prices that Defendant sold its Products at before the time-limited  
7 discount was introduced.

8 37. Reasonable consumers also expect that, if they purchase during the sale,  
9 they will receive an item whose regular price and/or market value is the advertised regular  
10 price and that they will receive the advertised discount from the regular purchase price.

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

14 39. Consumers that are presented with discounts are substantially more likely to  
15 make the purchase. "Nearly two-thirds of consumers surveyed admitted that a  
16 promotion or a coupon often closes the deal, if they are wavering or are undecided on  
17 making a purchase."<sup>2</sup> And, "two-thirds of consumers have made a purchase they weren't  
18 originally planning to make solely based on finding a coupon or discount," while "80%  
19 [of consumers] said they feel encouraged to make a first-time purchase with a brand that  
20 is new to them if they found an offer or discount."<sup>3</sup>

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

23  
24 <sup>2</sup> [https://www.invespcro.com/blog/how-discounts-affect-online-consumer-  
25 buying-behavior/](https://www.invespcro.com/blog/how-discounts-affect-online-consumer-buying-behavior/).

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

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



1 41. Thus, Defendant’s advertisements harm consumers by inducing them to  
2 make purchases based on false information. In addition, by this same mechanism,  
3 Defendant’s advertisements artificially increase consumer demand for Defendant’s  
4 Products. This puts upward pressure on the prices that Defendant can charge for its  
5 Products. As a result, Defendant can charge a price premium for its Products, that it  
6 would not be able to charge absent the misrepresentations described above. So, due to  
7 Defendant’s misrepresentations, Plaintiff and the class paid more for the Products they  
8 bought than they otherwise would have.

9 **D. Plaintiff was misled by Defendant’s misrepresentations.**

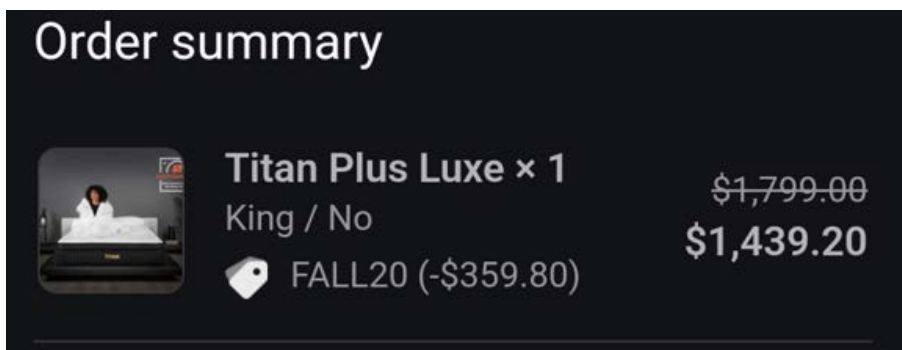
10 42. On September 26, 2022, Ms. Wilkerson purchased a Titan Plus Luxe King  
11 Mattress from Defendant’s website, [www.brooklynbedding.com](http://www.brooklynbedding.com). She made this purchase  
12 while living in Valencia, California.

13 43. On this day, Defendant represented on its website that a time-limited, “20%  
14 Off Mattresses” sale was running, which continued through the date of Ms. Wilkerson’s  
15 purchase until 9/27/2022, and applied to Ms. Wilkerson’s order:

16 **20% Off Mattresses. Use Promo Code FALL20. Sale Ends 9/27/2022.**

17  
18 *Captured on September 26, 2022*

19 44. In the email order confirmation that Defendant sent to Ms. Wilkerson,  
20 Defendant represented that the regular price of the mattress purchased was \$1,799.00  
21 plus tax, and that Ms. Wilkerson was receiving a total discount of \$359.80 for the product  
22 that she purchased:



1           45. Defendant represented that the Product had a certain regular price and that  
2 Ms. Wilkerson was receiving a substantial discount for the item that she purchased.

3           46. Ms. Wilkerson read and relied on Defendant's representations on the  
4 website and email confirmation, specifically that the Product was being offered at a  
5 discount for a limited time and had the regular price listed above. Based on Defendant's  
6 representations described and shown above, Ms. Wilkerson reasonably understood that  
7 the Product she purchased regularly (and before the promotion Defendant was  
8 advertising) retailed at the published regular price, that this regular price was the market  
9 value of the Product that she was buying, that she was receiving the advertised discount  
10 as compared to the regular price, and that advertised discount was only available for a  
11 limited time (during the limited-time promotion). She would not have made the purchase  
12 if she had known that the Products were not discounted as advertised, and that she was  
13 not receiving the advertised discount.

14           47. Plaintiff faces an imminent threat of future harm. Plaintiff would purchase  
15 Products from Defendant again in the future if she could feel sure that Defendant's  
16 regular prices accurately reflected Defendant's former prices and the market value of the  
17 Products, and that its discounts were truthful. But without an injunction, Plaintiff has no  
18 realistic way to know which—if any—of Defendant's regular prices, discounts, and sales  
19 are not false or deceptive. For example, while she could watch a sale until the  
20 countdown ends to see if the sale is permanent, doing so could result in her missing out  
21 on the sale (*e.g.*, if the sale is actually limited in time, and not permanent). Accordingly,  
22 Plaintiff is unable to rely on Defendant's advertising in the future, and so cannot  
23 purchase Products she would like to purchase.

24           **E. Defendant breached its contract with and warranties to Ms.**  
25           **Wilkerson and the putative class.**

26           48. When Ms. Wilkerson, and other members of the putative class, purchased  
27 and paid for the Brooklyn Bedding Product she bought as described above, they accepted  
28 offers that Defendant made, and thus, a contract was formed each time that they made

1 purchases. Each offer was to provide Products having a particular listed regular price  
2 and market value, and to provide those Products at the discounted price advertised on  
3 the website.

4 49. Defendant's website and email confirmations list the market value of the  
5 items that Defendant promised to provide (which, for Ms. Wilkerson, are shown above).  
6 Defendant agreed to provide a discount equal to the difference between the regular prices  
7 listed by Defendant, and the prices paid by Ms. Wilkerson (also shown above) and  
8 putative class members. For example, Defendant offered to provide the "Titan Plus  
9 Luxe" King Mattress with a market value of \$1,799.00, for a discounted price of  
10 \$1,439.20; and to provide a discount of \$359.80. Defendant also warranted that the  
11 regular price and market value of the Product Ms. Wilkerson purchased was the  
12 advertised list price and warranted that Ms. Wilkerson was receiving a specific discount  
13 on those Product.

14 50. The regular price and market value of the items Ms. Wilkerson and putative  
15 class members would receive, and the amount of the discount they would be provided  
16 off the regular price of those items, were specific and material terms of the contract.  
17 They were also affirmations of fact about the Products and a promise relating to the  
18 goods.

19 51. Ms. Wilkerson and other members of the putative class performed their  
20 obligations under the contract by paying for the items they purchased.

21 52. Defendant breached its contract by failing to provide Ms. Wilkerson and  
22 other members of the putative class with Products that have a regular price and market  
23 value equal to the regular price displayed, and by failing to provide the discount they  
24 promised. Defendant also breached warranties for the same reasons.

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

26 53. Plaintiff seeks damages and, in the alternative, restitution. Plaintiff is  
27 permitted to seek equitable remedies in the alternative because she has no adequate  
28 remedy at law.

1           54. A legal remedy is not adequate if it is not as certain as an equitable  
2 remedy. The elements of Plaintiff's equitable claims are different and do not require the  
3 same showings as Plaintiff's legal claims. For example, Plaintiff's FAL claim under  
4 section 17501 (an equitable claim) is predicated on a specific statutory provision, which  
5 prohibits advertising merchandise using a former price if that price was not the prevailing  
6 market price within the past three months. Cal. Bus. & Prof. Code § 17501. Plaintiff  
7 may be able to prove these more straightforward factual elements, and thus prevail under  
8 the FAL, while not being able to prove one or more elements of her legal claims.

9           55. In addition, the remedies at law available to Plaintiff are not equally prompt  
10 or otherwise efficient. The need to schedule a jury trial may result in delay. And a jury  
11 trial will take longer, and be more expensive, than a bench trial.

## 12 **V. Class action allegations.**

13           56. Plaintiff brings the asserted claims on behalf of the proposed class of:

- 14           • Nationwide Class: all persons who, within the applicable statute of  
15 limitations period, purchased one or more Brooklyn Bedding Products  
16 advertised at a discount.
- 17           • California Subclass: all persons who, while in the state of California and  
18 within the applicable statute of limitations period, purchased one or more  
19 Brooklyn Bedding Products advertised at a discount.

20           57. The following people are excluded from the class: (1) any Judge or  
21 Magistrate Judge presiding over this action and the members of their family; (2)  
22 Defendant, Defendant's subsidiaries, parents, successors, predecessors, and any entity in  
23 which the Defendant or its parents have a controlling interest and their current  
24 employees, officers, and directors; (3) persons who properly execute and file a timely  
25 request for exclusion from the class; (4) persons whose claims in this matter have been  
26 finally adjudicated on the merits or otherwise released; (5) Plaintiff's counsel and  
27 Defendant's counsel, and their experts and consultants; and (6) the legal representatives,  
28 successors, and assigns of any such excluded persons.

1           ***Numerosity & Ascertainability***

2           58.     The proposed class contains members so numerous that separate joinder of  
3 each member of the class is impractical. There are tens of thousands of class members or  
4 more.

5           59.     Class members can be identified through Defendant's sales records and  
6 public notice.

7           ***Predominance of Common Questions***

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

10           (1) whether Defendant made false or misleading statements of fact in its  
11 advertisements;

12           (2) whether Defendant violated California's consumer protection statutes;

13           (3) whether Defendant committed a breach of contract;

14           (4) whether Defendant committed a breach of an express warranty;

15           (5) damages needed to reasonably compensate Plaintiff and the proposed class.

16           ***Typicality & Adequacy***

17           61.     Plaintiff's claims are typical of the proposed class. Like the proposed class,  
18 Plaintiff purchased the Brooklyn Bedding Product advertised at a discount from  
19 Defendant. There are no conflicts of interest between Plaintiff and the class.

20           ***Superiority***

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

1 **VI. Claims.**

2 **First Cause of Action:**

3 **Violation of California’s False Advertising Law Bus. & Prof. Code §§ 17500 &**  
4 **17501 et. seq.**

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

6 63. Plaintiff incorporates each and every factual allegation set forth above.

7 64. Plaintiff brings this cause of action on behalf of herself and members of the  
8 California Subclass.

9 65. Defendant has violated sections 17500 and 17501 of the Business and  
10 Professions Code.

11 66. Defendant has violated, and continues to violate, section 17500 of the  
12 Business and Professions Code by disseminating untrue and misleading advertisements to  
13 Plaintiff and subclass members.

14 67. As alleged more fully above, Defendant advertises former prices along with  
15 discounts. Defendant does this, for example, by crossing out a higher price (*e.g.*, \$1199)  
16 and displaying it next to a lower, discounted price. Reasonable consumers would  
17 understand prices denoted as regular prices from which time-limited discounts are  
18 calculated to denote “former” prices, *i.e.*, the prices that Defendant charged before the  
19 time-limited discount went into effect.

20 68. The prices advertised by Defendant are not Defendant’s regular prices. In  
21 fact, those prices are never Defendant’s regular prices (*i.e.*, the price you usually have to  
22 pay to get the product in question), because there is consistently a heavily-advertised  
23 promotion ongoing entitling consumers to a discount. Moreover, for the same reasons,  
24 those prices were not the former prices of the Products. Accordingly, Defendant’s  
25 statements about the former prices of its Products, and its statements about its discounts  
26 from those former prices, were untrue and misleading. In addition, Defendant’s  
27 statements that its discounts are “limited time” and only “valid” for a certain time period  
28 are false and misleading too.

1           69. In addition, Defendant has violated, and continues to violate, section 17501  
 2 of the Business and Professions Code by advertising former prices that were not the  
 3 prevailing market price within three months next immediately preceding the advertising.  
 4 As explained above, Defendant’s advertised regular prices, which reasonable consumers  
 5 would understand to denote former prices, were not the prevailing market prices for the  
 6 Products within three months preceding publication of the advertisement. And  
 7 Defendant’s former price advertisements do not state clearly, exactly, and conspicuously  
 8 when, if ever, the former prices prevailed. Defendant’s advertisements do not indicate  
 9 whether or when the purported former prices were offered at all.

10           70. Defendant’s misrepresentations were intended to induce reliance, and  
 11 Plaintiff saw, read, and reasonably relied on the statements when purchasing a Brooklyn  
 12 Bedding Product. Defendant’s misrepresentations were a substantial factor in Plaintiff’s  
 13 purchase decision.

14           71. In addition, subclass-wide reliance can be inferred because Defendant’s  
 15 misrepresentations were material, i.e., a reasonable consumer would consider them  
 16 important in deciding whether to buy the Brooklyn Bedding Products.

17           72. Defendant’s misrepresentations were a substantial factor and proximate  
 18 cause in causing damages and losses to Plaintiff and the subclass.

19           73. Plaintiff and the subclass were injured as a direct and proximate result of  
 20 Defendant’s conduct because (a) they would not have purchased Brooklyn Bedding  
 21 Products if they had known the truth, and/or (b) they overpaid for the Products because  
 22 the Brooklyn Bedding Products were sold at a price premium due to the  
 23 misrepresentation.

**Second Cause of Action:**

**Violation of California’s Consumer Legal Remedies Act  
 (by Plaintiff and the California Subclass)**

24  
 25  
 26  
 27           74. Plaintiff incorporates each and every factual allegation set forth above.  
 28

1           75. Plaintiff brings this cause of action on behalf of herself and members of the  
2 California Subclass.

3           76. Plaintiff and the subclass are “consumers,” as the term is defined by  
4 California Civil Code § 1761(d).

5           77. Plaintiff and the subclass have engaged in “transactions” with Defendant as  
6 that term is defined by California Civil Code § 1761(e).

7           78. The conduct alleged in this Complaint constitutes unfair methods of  
8 competition and unfair and deceptive acts and practices for the purpose of the CLRA,  
9 and the conduct was undertaken by Defendant in transactions intended to result in, and  
10 which did result in, the sale of goods to consumers.

11           79. As alleged more fully above, Defendant made and disseminated untrue and  
12 misleading statements of facts in its advertisements to subclass members. Defendant did  
13 this by using fake regular prices, i.e., regular prices that are not the prevailing prices, and  
14 by advertising fake discounts.

15           80. Defendant violated, and continues to violate, section 1770 of the California  
16 Civil Code.

17           81. Defendant violated, and continues to violate, section 1770(a)(5) of the  
18 California Civil Code by representing that Products offered for sale have characteristics  
19 or benefits that they do not have. Defendant represents that the value of its Products is  
20 greater than it actually is by advertising inflated regular prices and fake discounts for  
21 Products.

22           82. Defendant violated, and continues to violate, section 1770(a)(9) of the  
23 California Civil Code. Defendant violates this by advertising its Products as being  
24 offered at a discount, when in fact Defendant does not intend to sell the Products at a  
25 discount.

26           83. And Defendant violated, and continues to violate section 1770(a)(13) by  
27 making false or misleading statements of fact concerning reasons for, existence of, or  
28 amounts of, price reductions, including by (1) misrepresenting the regular price of



1 Products, (2) advertising discounts and savings that are exaggerated or nonexistent, (3)  
2 misrepresenting that the discounts and savings are unusually large, when in fact they are  
3 regularly available (4) misrepresenting the reason for the sale (*e.g.*, “Presidents Day Sale,”  
4 when in fact the sale is ongoing and not limited to Presidents’ Day).

5 84. Defendant’s representations were likely to deceive, and did deceive, Plaintiff  
6 and reasonable consumers. Defendant knew, or should have known through the exercise  
7 of reasonable care, that these statements were inaccurate and misleading.

8 85. Defendant’s misrepresentations were intended to induce reliance, and  
9 Plaintiff saw, read, and reasonably relied on them when purchasing a Brooklyn Bedding  
10 Product. Defendant’s misrepresentations were a substantial factor in Plaintiff’s purchase  
11 decision.

12 86. In addition, subclass-wide reliance can be inferred because Defendant’s  
13 misrepresentations were material, *i.e.*, a reasonable consumer would consider them  
14 important in deciding whether to buy the Brooklyn Bedding Products.

15 87. Defendant’s misrepresentations were a substantial factor and proximate  
16 cause in causing damages and losses to Plaintiff and the subclass.

17 88. Plaintiff and the subclass were injured as a direct and proximate result of  
18 Defendant’s conduct because (a) they would not have purchased Brooklyn Bedding  
19 Products if they had known the discounts and/or regular prices were not real, (b) they  
20 overpaid for the Products because the Products were sold at a price premium due to the  
21 misrepresentation, and/or (c) they received products with market values lower than the  
22 promised market values.

23 89. Accordingly, pursuant to California Civil Code § 1780(a)(2), Ms. Wilkerson,  
24 on behalf of herself and all other members of the subclass, seeks injunctive relief.

25 90. CLRA § 1782 NOTICE. On June 4, 2024, a CLRA demand was sent to  
26 Defendant’s registered agent via certified mail (return receipt requested), that provided  
27 notice of Defendant’s violations of the CLRA and demanded that Defendant correct the  
28 unlawful, unfair, false and/or deceptive practices alleged here. Defendant does not have

1 a California headquarters. If Defendant does not fully correct the problem for Plaintiff  
2 and for each member of the California Subclass within 30 days of receipt, Plaintiff and  
3 the California Subclass will seek all monetary relief allowed under the CLRA.

4 91. A CLRA venue declaration is attached.

5 **Third Cause of Action:**

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

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

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

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

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

14 ***The Unlawful Prong***

15 95. Defendant engaged in unlawful conduct by violating the CLRA and FAL, as  
16 alleged above and incorporated here. In addition, Defendant engaged in unlawful  
17 conduct by violating the FTCA. The FTCA prohibits "unfair or deceptive acts or  
18 practices in or affecting commerce" and prohibits the dissemination of false  
19 advertisements. 15 U.S.C. § 45(a)(1). As the FTC's regulations make clear, Defendant's  
20 false pricing schemes violate the FTCA. 16 C.F.R. § 233.1, § 233.2.

21 ***The Deceptive Prong***

22 96. As alleged in detail above, Defendant's representations that its Products  
23 were on sale, that the sale was limited in time, that the Products had a specific regular  
24 price, and that the customers were receiving discounts were false and misleading.

25 97. Defendant's representations were misleading to Plaintiff and other  
26 reasonable consumers.

27 98. Plaintiff relied upon Defendant's misleading representations and omissions,  
28 as detailed above.

*The Unfair Prong*

99. As alleged in detail above, Defendant committed “unfair” acts by falsely advertising that its Products were on sale, that the sale was limited in time, that the Products had a specific regular price, and that the customers were receiving discounts.

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

101. The harm to Plaintiff and the subclass greatly outweighs the public utility of Defendant’s conduct. There is no public utility to misrepresenting the price of a consumer product. This injury was not outweighed by any countervailing benefits to consumers or competition. Misleading consumer products only injure healthy competition and harm consumers.

102. Plaintiff and the subclass could not have reasonably avoided this injury. As alleged above, Defendant’s representations were deceptive to reasonable consumers like Plaintiff.

103. Defendant’s conduct, as alleged above, was immoral, unethical, oppressive, unscrupulous, and substantially injurious to consumers.

\* \* \*

104. For all prongs, Defendant’s representations were intended to induce reliance, and Plaintiff saw, read, and reasonably relied on them when purchasing a Brooklyn Bedding Product. Defendant’s representations were a substantial factor in Plaintiff’s purchase decision.

105. In addition, subclass-wide reliance can be inferred because Defendant’s representations were material, i.e., a reasonable consumer would consider them important in deciding whether to buy Brooklyn Bedding Products.

106. Defendant’s representations were a substantial factor and proximate cause in causing damages and losses to Plaintiff and the subclass members.



1 116. Plaintiff provided Defendant with notice of this breach of contract, by  
2 mailing a notice letter to Defendant's headquarters, on June 4, 2024.

3 117. As a direct and proximate result of Defendant's breaches, Plaintiff and class  
4 members were deprived of the benefit of their bargained-for exchange, and have suffered  
5 damages in an amount to be established at trial.

6 **Fifth Cause of Action:**

7 **Breach of Express Warranty**

8 **(by Plaintiff and the Nationwide Class)**

9 118. Plaintiff incorporates each and every factual allegation set forth above.

10 119. Plaintiff brings this cause of action on behalf of herself and the Nationwide  
11 Class. In the alternative, Plaintiff brings this cause of action on behalf of herself and the  
12 California Subclass.

13 120. Defendant, as the manufacturer, marketer, distributor, supplier, and/or  
14 seller of the Brooklyn Bedding Products, issued material, written warranties by  
15 advertising that the Products had a prevailing market value equal to the regular price  
16 displayed. This was an affirmation of fact about the Products (i.e., a representation about  
17 the market value) and a promise relating to the goods.

18 121. This warranty was part of the basis of the bargain and Plaintiff and  
19 members of the class relied on this warranty.

20 122. In fact, the Brooklyn Bedding Products' stated market value was not the  
21 prevailing market value. Thus, the warranty was breached.

22 123. Plaintiff provided Defendant with notice of this breach of warranty, by  
23 mailing a notice letter to Defendant's headquarters, on June 4, 2024.

24 124. Plaintiff and the class were injured as a direct and proximate result of  
25 Defendant's breach, and this breach was a substantial factor in causing harm, because (a)  
26 they would not have purchased Brooklyn Bedding Products if they had known that the  
27 warranty was false, or (b) they overpaid for the Products because the Products were sold  
28 at a price premium due to the warranty.

1 **Sixth Cause of Action:**

2 **Quasi-Contract**

3 **(by Plaintiff and the Nationwide Class)**

4 125. Plaintiff incorporates each and every factual allegation in paragraphs 1-47,  
5 53-62 above.

6 126. Plaintiff brings this cause of action in the alternative to her Breach of  
7 Contract claim (Claim IV) on behalf of herself and the Nationwide Class. In the  
8 alternative, Plaintiff brings this claim on behalf of herself and the California Subclass.

9 127. As alleged in detail above, Defendant's false and misleading advertising  
10 caused Plaintiff and the class to purchase Brooklyn Bedding Products and to pay a price  
11 premium for these Products.

12 128. In this way, Defendant received a direct and unjust benefit, at Plaintiff's  
13 expense.

14 129. (In the alternative only), due to Defendant's misrepresentations, its  
15 contracts with Plaintiff and other class members are voidable.

16 130. Plaintiff and the class seek restitution, and in the alternative, rescission.

17 **Seventh Cause of Action:**

18 **Negligent Misrepresentation**

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

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

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

23 133. As alleged more fully above, Defendant 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.

26 134. These representations were false.

27 135. When Defendant made these misrepresentations, it knew or should have  
28 known that they were false. Defendant had no reasonable grounds for believing that

1 these representations were true when made.

2 136. Defendant intended that Plaintiff and subclass members rely on these  
3 representations and Plaintiff and subclass members read and reasonably relied on them.

4 137. In addition, subclass-wide reliance can be inferred because Defendant's  
5 misrepresentations were material, i.e., a reasonable consumer would consider them  
6 important in deciding whether to buy the Brooklyn Bedding Products.

7 138. Defendant's misrepresentations were a substantial factor and proximate  
8 cause in causing damages and losses to Plaintiff and subclass members.

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

14 **Eighth Cause of Action:**

15 **Intentional Misrepresentation**

16 **(by Plaintiff and the California Subclass)**

17 140. Plaintiff incorporates each and every factual allegation set forth above.

18 141. Plaintiff brings this cause of action on behalf of herself and members of the  
19 California Subclass.

20 142. As alleged more fully above, Defendant made false representations and  
21 material omissions of fact to Plaintiff and subclass members concerning the existence  
22 and/or nature of the discounts and savings advertised.

23 143. These representations were false.

24 144. When Defendant made these misrepresentations, it knew that they were  
25 false at the time that it made them and/or acted recklessly in making the  
26 misrepresentations.

27 145. Defendant intended that Plaintiff and subclass members rely on these  
28 representations and Plaintiff and subclass members read and reasonably relied on them.

1 146. In addition, subclass-wide reliance can be inferred because Defendant's  
2 misrepresentations were material, i.e., a reasonable consumer would consider them  
3 important in deciding whether to buy the Brooklyn Bedding Products.

4 147. Defendant's misrepresentations were a substantial factor and proximate  
5 cause in causing damages and losses to Plaintiff and subclass members.

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

11 **VII. Relief.**

12 149. Plaintiff seeks the following relief for herself and the proposed class:

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

24 **VIII. Demand for Jury Trial.**

25 150. Plaintiff demands the right to a jury trial on all claims so triable.  
26

27 Dated: June 21, 2024

Respectfully submitted,

28 By: /s/ Christin Cho

Christin Cho (Cal. Bar No. 238173)



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