

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

MICHAEL HERN,
for himself, as a private attorney general,
and on behalf of all others similarly situated,

Plaintiff,

v.

LOWE’S HOME CENTERS, LLC

Defendant.

Case No.

**CLASS ACTION COMPLAINT FOR
VIOLATION OF THE WASHINGTON
CONSUMER PROTECTION ACT,
RCW 19.86**

JURY TRIAL DEMANDED

Plaintiff Michael Hern, individually, as a private attorney general, and on behalf of all others similarly situated, alleges as follows, on personal knowledge and the investigation of his counsel, against Defendant Lowe’s Home Centers, LLC (“Lowe’s” or “Defendant”):

I. INTRODUCTION AND SUMMARY

1. Lowe’s represents itself as a home improvement retailer. Lowe’s operates Lowe’s retail stores and its website, lowes.com, where it advertises, markets, and sells a wide variety of home-related goods throughout Washington and the United States. This lawsuit concerns only particular products sold by Lowe’s that it advertises with false discounts—specifically (1) Bali

and Levolor branded blinds and shades; and (2) major appliances, e.g., refrigerators, ranges, dishwashers, microwaves, wall ovens, cooktops, freezers, washers, and dryers (collectively, the “Products”).

2. For years, Lowe’s has engaged in a massive and consistent false discount advertising scheme both in its retail stores and on its website by advertising perpetual discounts on the Products. These discounts are taken from Lowe’s’ advertised list prices for the Products. Lowe’s represents these list prices to be Lowe’s’ regular and normal prices of the Products, and the list prices function as “reference prices” from which the advertised discounts are calculated.

3. Lowe’s’ advertised discounts and reference prices are false because Lowe’s advertises perpetual discounts off the Products, and thus rarely if ever offers the Products at their advertised list price.

4. Lowe’s’ deceptive pricing scheme is intended to trick consumers into believing that its Products are worth, and have a market value equal to, the inflated list price, and that the lower advertised sale price represents a special bargain. Lowe’s perpetrates this illegal scheme in order to induce consumers to purchase its Products and to charge more for its Products than it otherwise could have charged.

5. Lowe’s’ false discount advertising harms consumers like Plaintiff by causing them to pay more than they otherwise would have paid and to buy products that they otherwise would not have bought. Customers do not enjoy the actual discounts Lowe’s promises them, and the items are not in fact worth the amount that Lowe’s represents to them. Lowe’s’ deceptive pricing scheme also artificially increases the demand for its Products and causes all customers, including Plaintiff and Class members, to pay price premiums to Lowe’s.

6. Lowe’s’ false discount advertising violates the Washington Consumer Protection Act (the “CPA”), RCW 19.86.

7. Plaintiff brings this lawsuit individually and on behalf of a class of Washington consumers who purchased from Lowe’s one or more Products advertised with a discount. Plaintiff seeks damages (which may be trebled) for himself and for each of the Washington class

members. Additionally, Plaintiff, acting as a private attorney general, seeks public injunctive relief to protect the general public of Washingtonians by enjoining Lowe's from engaging in the unlawful false advertising scheme alleged herein.

II. THE PARTIES

8. Plaintiff Michael Hern is a citizen and resident of the city of Duvall, in King County, Washington.

9. Defendant Lowe's Home Centers, LLC is a limited liability company incorporated in North Carolina with its principal place of business at 1000 Lowes Blvd, Morrisville, North Carolina, 28117. Lowe's Home Centers, LLC owns and operates over 2,000 Lowe's brick-and-mortar retail stores throughout the United States, including 35 in Washington. Lowe's Home Centers, LLC also owns and operates the Lowe's website, lowes.com.

III. JURISDICTION AND VENUE

10. **Subject Matter Jurisdiction.** This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2) because the amount in controversy, exclusive of interest and costs, exceeds \$5,000,000, and this is a proposed class action in which there are members of the proposed Class who are citizens of a state different from Lowe's.

11. **Personal Jurisdiction.** This Court has personal jurisdiction over Lowe's because, without limitation: (1) Lowe's is headquartered in this District; (2) Lowe's is incorporated in North Carolina; and (3) Lowe's is authorized to do business and regularly conducts business in this District.

12. **Venue.** Venue is proper pursuant to 28 U.S.C. §1391 because Lowe's is headquartered in this District, and the claims alleged herein are based on decisions and actions by Lowe's which took place in this District.

IV. LOWE'S' FALSE DISCOUNT ADVERTISING SCHEME

13. Lowe's operates Lowe's retail stores and its website, lowes.com, where it advertises, markets, and sells a wide variety of home-related goods throughout Washington and

the United States. Lowe's sells Products from national brands, as well as exclusive Products that are only available from Lowe's.

14. For years, Lowe's has engaged in a massive and consistent false discount advertising scheme in its retail stores and on its website concerning the Products. Specifically, Lowe's advertises perpetual discounts on its Bali and Levolor branded blinds and shades, as well as on a significant portion of its major appliances (e.g., refrigerators, ranges, dishwashers, microwaves, wall ovens, cooktops, freezers, washers, and dryers) (the "Products"). These discounts are taken from Lowe's' advertised list prices for its Products, which are presented as Lowe's' own regular selling prices for the Products. However, unbeknownst to its customers, Lowe's' discounts are never-ending, and the Products are never or almost never offered at the supposed regular price. Lowe's perpetrates this illegal scheme in order to induce consumers to purchase the Products and to increase the amount it can charge for the Products.

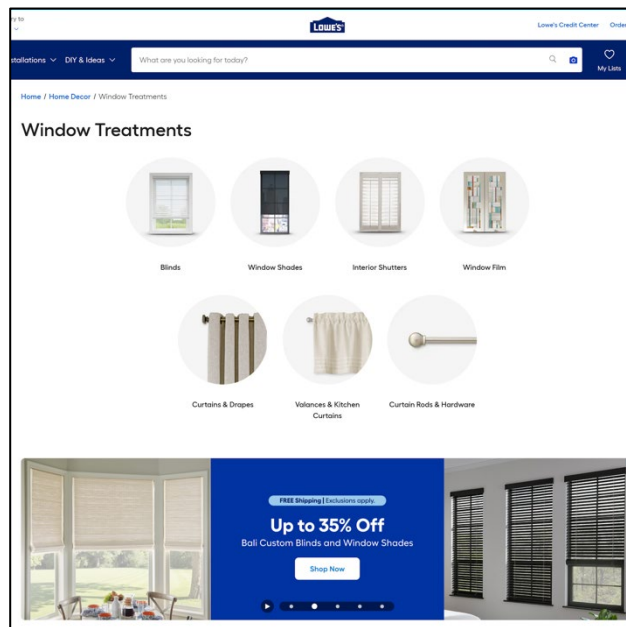
15. **Bali and Levolor Shades and Blinds.** For example, Lowe’s advertised a supposedly limited time sale of 35% off of Bali shades and 20% off Bali blinds for the period September 12, 2024 through October 2, 2024, both in-store and online. See the photo and screenshot below at **Figure 1.**

Figure 1: Limited-Time “Sale” of Bali Shades & Blinds From 9/12/24 – 10/2/24

Lowe’s Retail Store
(Photo taken 9/26/2024)



Lowe’s website
(Screenshot taken 9/26/2024)



16. However, this sale and the advertised discounts were fictitious; in fact Lowe’s nearly always offered the Bali blinds and shades for at least 20% to 35% off, such that the discount was not the advertised “Special Value” at all.

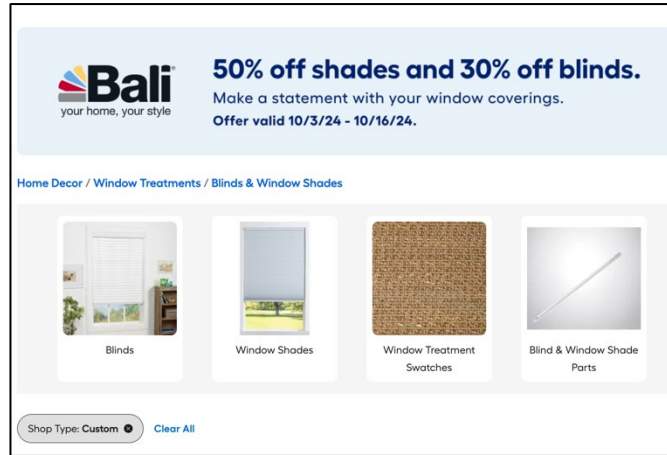
17. For example, as the photo above shows, Lowe’s advertised that the Bali sale ended on October 2, 2024. Yet starting October 3, 2024, Lowe’s replaced the 20% to 35% off Bali “sale” with a new 30% to 50% off Bali “sale.” See the photo and screenshot below at **Figure 2.**

Figure 2: Bali “Sale” Ending 10/2/2024 Replaced With Bigger “Sale” Ending 10/16/2024 (20–35% off sale replaced with 30–50% off sale on 10/3/24)

Lowe’s Seattle Retail Store Signage
(Photo taken 10/9/2024)



Lowe’s Website
(Screenshot taken 10/9/2024)



18. And then, when the 30%–50% off sale on Bali Blinds and Shades expired on October 16, 2024, Lowe’s simply extended the sale, with a new end date of October 30, 2024.

19. Thus, a Lowe’s customer who was induced to purchase Bali custom shades on September 26, 2024 because he or she did not want to miss out on the supposedly limited time 35% off sale, actually paid more than the customer would have paid if he or she had waited until the sale was supposedly over. The customer could have waited a week and gotten 50% off the list price (instead of only 35% off) of the shades if the customer had not been tricked by Lowe’s. Meanwhile, in all instances, the amount of the advertised discount was false because Lowe’s never sold the shades at the advertised list price.

20. Lowe’s advertises perpetual sales for all of its Bali and Levolor branded blinds, typically between 20% to 50% off. Below at **Figure 3** is a table showing how Lowe’s advertised back-to-back sales events for Bali and Levolor blinds and shades for over a month straight, from July 31, 2022, to September 14, 2022. The table is followed by screenshots of Lowe’s website

demonstrating the sales. Consistent with Lowe’s standard practice and policy, when one “sale” expired it was either extended or another similar sale immediately took its place.

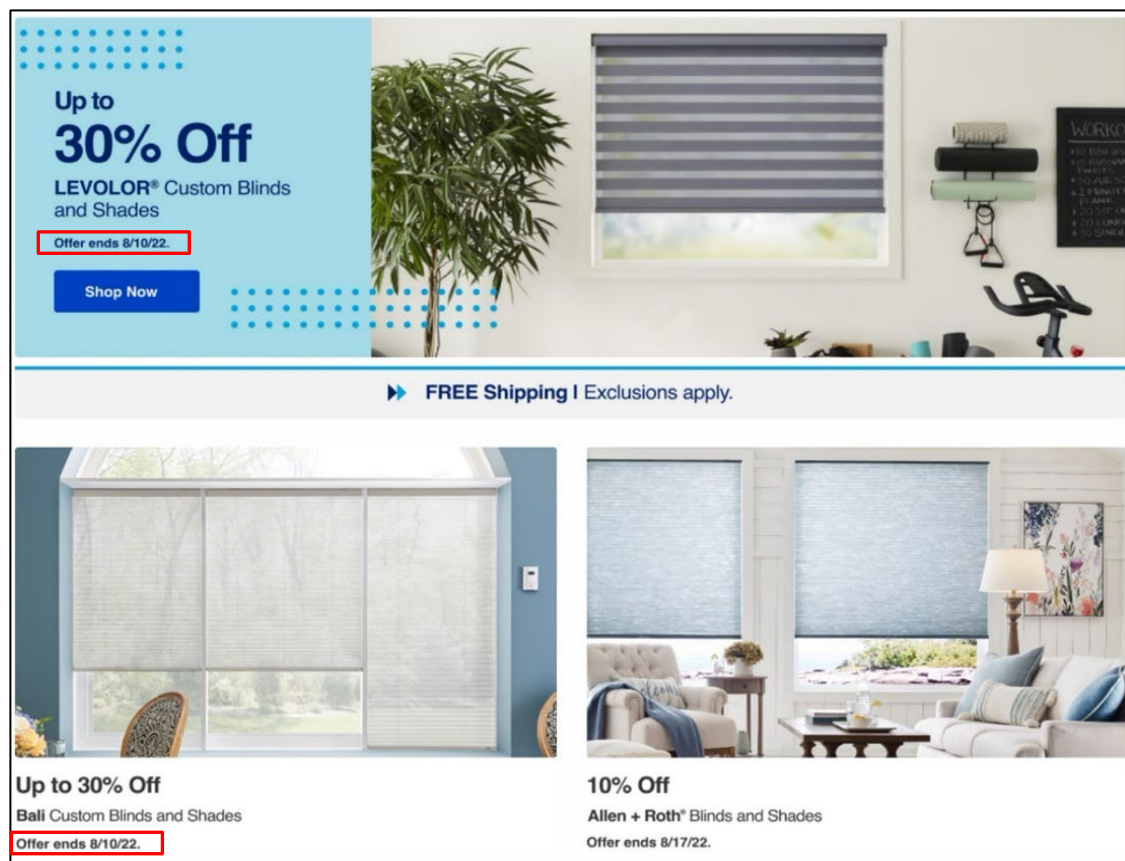
Figure 3: Table Showing Perpetual Sales of Bali and Levolor Blinds

<u>“Limited Time” Sale Period</u>	<u>Advertised Sale Event Discount</u>
7/31/22 – 8/10/22	Up to 30% Off Bali and Levolor blinds and shades
8/11/22 – 8/24/22	Up to 35% Off Bali and Levolor blinds and shades
8/25/22 – 9/7/22	40% Off Levolor blinds and shades
8/25/22 – 9/14/22	Up to 30% Off Bali blinds and shades

21. Below are Lowe’s website screenshots corresponding to the continuous sale events in table above (red boxes added).

Advertised Limited-Time Sale of Bali & Levolor Products Ending 8/10/2022

(Screenshot taken 7/31/2022)



Sale Ending 8/10/2022 Replaced with Bigger "Sale" Ending 8/24/2022

(Screenshot taken 8/11/2022)

Up to 35% Off
LEVOLOR® Custom Blinds and Shades
Offer ends 8/24/22.
Shop Now

▶ **FREE Shipping** | Exclusions apply.

Up to 35% Off
Bali Custom Blinds and Shades
Offer ends 8/24/22.

10% Off
Allen + Roth® Blinds and Shades
Offer ends 8/17/22.

Sale Ending 8/24/2022 Replaced With Sales Ending 9/7/2022 & 9/14/2022

(Screenshot taken 8/25/2022)

40% Off
LEVOLOR® Custom Blinds and Shades
Offer ends 9/14/22.
Shop Now

▶ **FREE Shipping** | Exclusions apply.

Up to 30% Off
Bali Custom Blinds and Shades
Offer ends 9/7/22.

10% Off
LEVOLOR® Shutters
Offer ends 9/21/22.

22. Lowe’s advertises the perpetual discounts and “savings” on the blinds and shades category webpages as shown above, and also on the product list pages and the individual product pages as shown below. On its product list pages and on the individual product pages, Lowe’s advertises the purported regular price with a strikethrough (e.g., ~~\$138.27~~), and displays a specific dollar amount of promised savings in green text (e.g., “Save 41.48”). The “savings” is calculated by applying the advertised percentage off sale (e.g., the 30% off Bali Blinds and Shades shown in the screenshot above) to the strikethrough regular price.

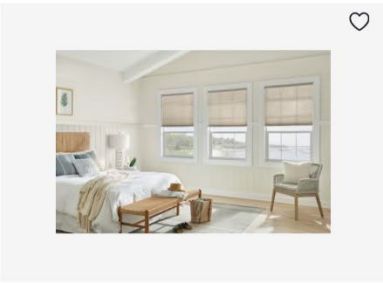
Product List Page Displaying Discounted Bali Blinds & Shades – 9/12/2024

Bali Blinds & Window Shades

27 results

Sort By
Top Sellers

Compare




Custom Options Available

Bali
Custom Cellular Shade

Starting at ~~\$96.79~~
Save \$41.48

Compare




Custom Options Available

Bali
Custom Roller Shade

Starting at ~~\$65.09~~
Save \$27.90

Compare



Custom Options Available

Bali
Custom Natural Woven Natural Shade

Starting at ~~\$103.60~~
Save \$44.40

Product List Page Displaying Discounted Levolor Blinds & Shades – 9/12/2024

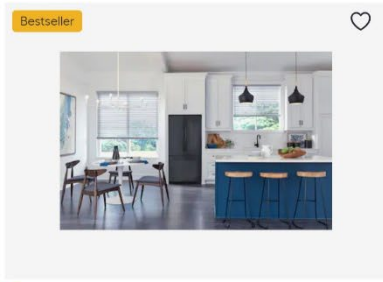
LEVOLOR Blinds & Window Shades

22 results

Sort By
Top Sellers

Compare

Bestseller



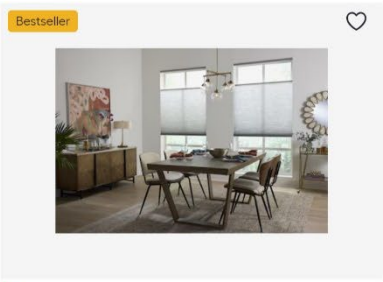
Custom Options Available

LEVOLOR
Custom Classic Value Cordless Faux Wood Blinds

Starting at ~~\$32.80~~
Save \$8.20

Compare

Bestseller




Custom Options Available

LEVOLOR
Custom Cellular Shade

Starting at ~~\$98.70~~
Save \$42.30

Compare



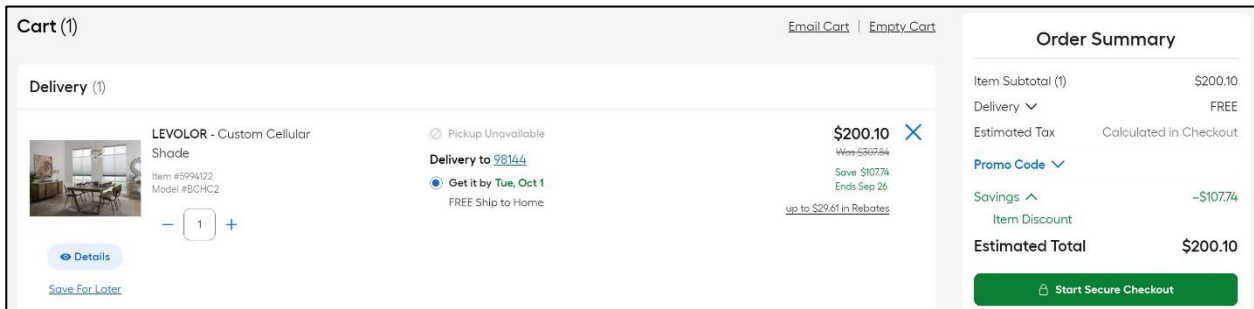
Custom Options Available

LEVOLOR
Custom NuWood Faux Wood Blinds

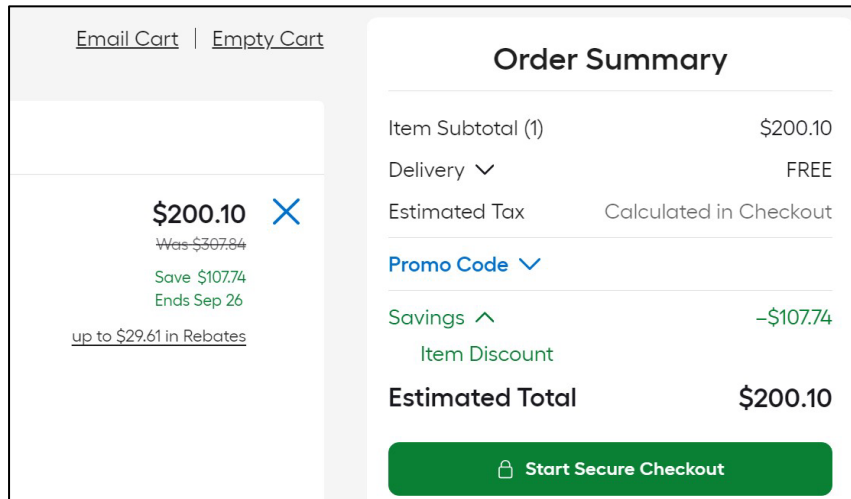
Starting at ~~\$121.60~~
Save \$30.40

23. In the online shopping cart, Lowe’s advertises the strikethrough regular price, the dollar amount “savings,” and the bogus sale “Ends” date. Lowe’s also prefaces the strikethrough price with the word “Was” (e.g., “Was ~~\$307.84~~”), to further indicate that the higher strikethrough price was Lowe’s previous and usual selling price for the Product. See the screenshots below.

Lowe’s Online Shopping Cart – 9/17/2024



Zoom In of Pricing and Discount Representations (Including “Was” Price)



24. However, all of these sale advertisements and promises of savings for the Bali and Levolor blinds and shades (the “Products”) were false. Lowe’s never previously offered or sold the Products at the advertised reference price (i.e., the “Was” price). Likewise, Lowe’s’ advertisements that the discounts were for a limited time, and that they would end on a certain

date, were false, because the Products were in fact perpetually on sale and Lowe's never offered the Products at the full price.

25. **Major Appliances.** Lowe's similarly advertises perpetual "sales" on major appliances such as refrigerators, ranges, dishwashers, microwaves, wall ovens, cooktops, freezers, washers, and dryers.

26. Lowe's typically advertises discounts on its major appliances by advertising (on the in-store price placards affixed to the Products, and on its website product pages) a lower discounted price, next to a purported regular price with a strikethrough (the "reference price"). Lowe's also advertises a "SAVE \$xx" dollar amount beside the supposedly discounted selling price. In its retail stores, Lowe's also prefaces the strikethrough price with the word "WAS" (e.g., "WAS \$1499"), to further indicate that the higher strikethrough price was Lowe's previous and usual selling price for the product. Likewise, on its website, Lowe's describes the reference price as the "Was" price in in the online shopping cart.

27. The individual appliance advertisements also typically state or indicate that they are for a limited time. On the price placards that Lowe's affixes to the appliances in its retail stores, Lowe's states the discounted price is "Valid thru mm/dd/yyyy" (e.g., "Valid thru 9/24/2024"). On its website, Lowe's similarly states the discounted price for the appliance "Ends mm dd" (e.g., "Ends Sep 24"). Lowe's advertises that its discounts are for a limited time, with a certain end date, in order to induce its customers to purchase the appliances immediately so that they do not miss out on the supposed "sale."

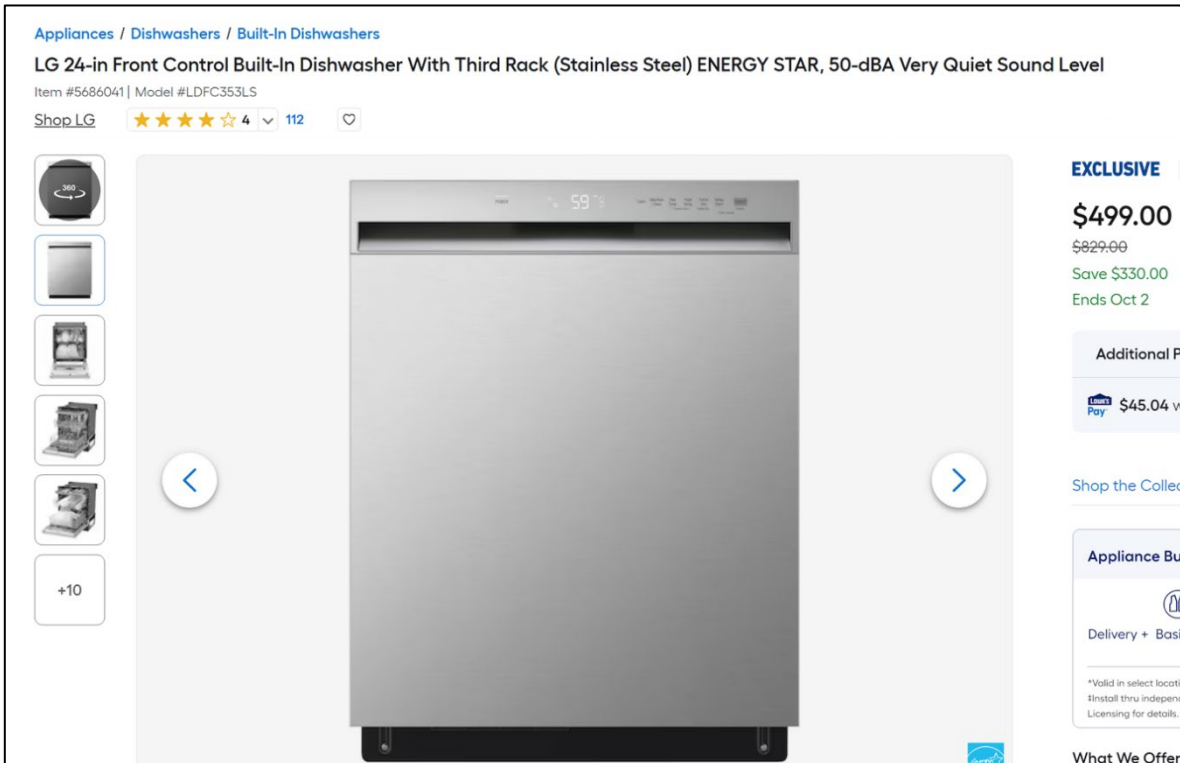
28. Below at **Figure 4** are examples of Lowe's discount advertising for major appliances both in-store and online, which demonstrate Lowe's advertising of reference prices, sale prices, dollar savings, and sale end dates. The top image is a photo taken in a Lowe's store on September 26, 2024, of an in-store price placard for an LG Dishwasher. The bottom image is a screenshot of the Lowe's website product page for that same LG Dishwasher taken on that same day.

Figure 4: Advertisements for LG 24-in Front Control Built-In Dishwasher (Lowe's Item No. 5686041)

Lowe's Retail Store
(9/26/2024)



Lowe's website
(9/26/2024)



29. However, these sale advertisements were false. In fact, Lowe’s never previously sold the LG dishwasher at the advertised “WAS” reference price of \$829.00. Lowe’s always offered and sold the dishwasher at a much lower price, typically between \$449.00 and \$549.00. And Lowe’s statement that the discounted price was for a limited time ending on October 2, 2024 was also false. For example, starting on October 3, 2024 (the day after the sale purportedly ended), Lowe’s continued advertising the LG dishwasher at the same \$499.00 discounted price, but now advertised a sale end date of October 16, 2024.

30. Below at **Figure 5** is a historical price table showing how Lowe’s advertised back-to-back sale periods for this same LG dishwasher (Item No. 5686041) in months prior. Consistent with Lowe’s standard practice and policy, when one “sale” expired it was either extended or another similar sale immediately took its place.



Figure 5: Table Showing Perpetual “Discounts” on LG Dishwasher (Item No. 5686041)

<u>“Sale” Period</u>	<u>Strikethrough “WAS” Price</u>	<u>Sale Price</u>	<u>Advertised Savings</u>
4/18/24 – 4/24/24	\$829.00	\$499.00	“Save \$330.00”
4/25/24 – 5/1/24	\$829.00	\$499.00	“Save \$330.00”
5/2/24 – 5/8/24	\$829.00	\$549.00	“Save \$280.00”
5/9/24 – 5/15/24	\$829.00	\$549.00	“Save \$280.00”
5/16/24 – 5/22/24	\$829.00	\$499.00	“Save \$330.00”
5/23/24 – 5/29/24	\$829.00	\$499.00	“Save \$330.00”
5/30/24 – 6/5/24	\$829.00	\$499.00	“Save \$330.00”
6/6/24 – 6/19/24	\$829.00	\$549.00	“Save \$280.00”
6/20/24 – 6/22/24	\$829.00	\$449.00	“Save \$380.00”
6/23/24 – 7/17/24	\$829.00	\$509.00	“Save \$320.00”

31. Lowe’s advertised sales and discounts for the LG Dishwasher were false. Likewise, the advertised limited-time nature of the sales (e.g., the “Valid thru” dates and sale “Ends” dates) were false. Lowe’s always offered the dishwasher for hundreds of dollars less than the supposed “WAS” strikethrough price.

32. Lowe’s false discount advertising for the LG Dishwasher is typical and representative of the false discount advertising Lowe’s perpetrates for all of its “discounted” major appliances.

33. For example, below at **Figure 6** is an in-store photo taken on September 24, 2024 of the price placard for a Whirlpool Electric Range (Item No. 803967), which was similarly advertised with false discounts and false limited-time sale advertising.

Figure 6: In-Store Advertisement for Whirlpool Electric Double-Oven Range (Item No. 803967)

**Lowe’s Retail Store
(9/24/2024)**



34. However, these discount advertisements were false. In fact, Lowe’s never previously sold the Whirlpool Electric Range at the advertised “WAS” reference price of \$1899.00. Lowe’s always offered and sold the dishwasher at a much lower price, typically between \$1199.00 and \$1599.00. And Lowe’s’ statement that the discounted price was for a limited time ending on October 2, 2024 was also false. Lowe’s has continued to perpetually advertise the electric range at a similar discount with continually extended “Valid thru” dates, through the date of this Complaint in late October 2024.

35. Below at **Figure 7** is a historical price table showing how Lowe’s advertised back-to-back sale periods for this same Whirlpool Electric Range (Item No. 803967) in months prior. Consistent with Lowe’s standard practice and policy, when one “sale” expired it was either extended or another similar sale immediately took its place.



Figure 7: Perpetual “Discounts” on Whirlpool Electric Double-Oven Range (Item No. 803967)

<u>“Sale” Period</u>	<u>Strikethrough “WAS” Price</u>	<u>Sale Price</u>	<u>Advertised Savings</u>
4/18/24 – 4/24/24	\$1,899.00	\$1,299.00	“Save \$600.00”
4/25/24 – 5/1/24	\$1,899.00	\$1,499.00	“Save \$400.00”
5/2/24 – 5/8/24	\$1,899.00	\$1,499.00	“Save \$400.00”
5/9/24 – 5/15/24	\$1,899.00	\$1,499.00	“Save \$400.00”
5/16/24 – 5/22/24	\$1,899.00	\$1,499.00	“Save \$400.00”
5/23/24 – 5/29/24	\$1,899.00	\$1,499.00	“Save \$400.00”
5/30/24 – 6/5/24	\$1,899.00	\$1,499.00	“Save \$400.00”
6/6/24 – 7/10/24	\$1,899.00	\$1,499.00	“Save \$400.00”
7/11/24 – 7/21/24	\$1,899.00	\$1,599.00	“Save \$300.00”

36. Lowe’s false discount advertising for the LG Dishwasher and the Whirlpool Electric Range described above is typical and representative of the false discount advertising Lowe’s perpetrates for all of its “discounted” major appliances. Below at **Figure 8** through **Figure 10** are historical price tables demonstrating similar perpetual false discounting by Lowe’s for other types of major appliances such as refrigerators, washer/dryers, and microwaves.



Figure 8: Perpetual “Discounts” on Frigidaire 18.3-cu ft Refrigerator
(Item No. 5686031)

<u>“Sale” Period</u>	<u>Strikethrough “WAS” Price</u>	<u>Sale Price</u>	<u>Advertised Savings</u>
4/18/24 – 4/24/24	\$799.00	\$599.00	“Save \$200.00”
4/25/24 – 5/1/24	\$799.00	\$599.00	“Save \$200.00”
5/2/24 – 5/8/24	\$799.00	\$629.00	“Save \$170.00”
5/9/24 – 5/15/24	\$799.00	\$599.00	“Save \$200.00”
5/16/24 – 5/22/24	\$799.00	\$599.00	“Save \$200.00”
5/23/24 – 5/29/24	\$799.00	\$599.00	“Save \$200.00”
5/30/24 – 6/5/24	\$799.00	\$599.00	“Save \$200.00”
6/6/24 – 6/10/24	\$799.00	\$599.00	“Save \$200.00”
6/11/24	\$799.00	\$579.00	“Save \$222.00”
6/12/24 – 7/10/24	\$799.00	\$599.00	“Save \$200.00”
7/11/24	\$799.00	\$629.00	“Save \$170.00”
7/12/24 – 7/21/24	\$799.00	\$629.00	“Save \$170.00”



**Figure 9: Perpetual “Discounts” on Whirlpool Top-Load Washer
(Item No. 782472)**

<u>“Sale” Period</u>	<u>Strikethrough “WAS” Price</u>	<u>Sale Price</u>	<u>Advertised Savings</u>
4/18/24 – 4/24/24	\$699.00	\$498.00	“Save \$201.00”
4/25/24 – 5/1/24	\$699.00	\$518.00	“Save \$181.00”
5/2/24 – 5/8/24	\$699.00	\$518.00	“Save \$181.00”
5/9/24 – 5/15/24	\$699.00	\$518.00	“Save \$181.00”
5/16/24	\$699.00	\$448.00	“Save \$251.00”
5/17/24 – 5/22/24	\$699.00	\$498.00	“Save \$201.00”
5/23/24 – 5/29/24	\$699.00	\$498.00	“Save \$201.00”
5/30/24 – 6/5/24	\$699.00	\$498.00	“Save \$201.00”
6/6/24 – 6/25/24	\$699.00	\$498.00	“Save \$201.00”
6/26/24 – 7/10/24	\$699.00	\$448.00	“Save \$251.00”
7/11/24 – 7/17/24	\$699.00	\$499.00	“Save \$200.00”
7/18/24 – 7/21/24	\$699.00	\$498.00	“Save \$201.00”



**Figure 10: Perpetual “Discounts” on Samsung Microwave
(Item No. 5760681)**

<u>“Sale” Period</u>	<u>Strikethrough “WAS” Price</u>	<u>Sale Price</u>	<u>Advertised Savings</u>
4/18/24 – 4/24/24	\$459.00	\$329.00	“Save \$130.00”
4/25/24 – 5/1/24	\$459.00	\$329.00	“Save \$130.00”
5/2/24 – 5/8/24	\$459.00	\$329.00	“Save \$130.00”
5/9/24 – 5/15/24	\$459.00	\$329.00	“Save \$130.00”
5/16/24 – 5/22/24	\$459.00	\$299.00	“Save \$160.00”
5/23/24 – 5/29/24	\$459.00	\$299.00	“Save \$160.00”
5/30/24 – 6/5/24	\$459.00	\$299.00	“Save \$160.00”
6/6/24 – 7/10/24	\$459.00	\$299.00	“Save \$160.00”
7/11/24 – 7/21/24	\$459.00	\$332.00	“Save \$127.00”

37. Lowe’s also prominently advertises continuous back-to-back “sales events” for its major appliances in its stores and on its website. For example, Lowe’s advertised a limited-time “Up To 35% Off” sale on major appliances for the period September 26, 2024 through October 23, 2024, both in-store and online. See the photo and screenshot below at **Figure 11**.

Figure 11: “Get Up to 35% Off” Sale Event on Major Appliances, 9/26/24 – 10/23/24

Lowe’s Retail Store Signage

(Photo taken 10/9/2024)



Lowe’s Website Homepage

(Screenshot taken 9/26/2024)



38. However, the advertised special sale event was phony; in fact Lowe’s always offered its major appliances for at least 30% to 40% off, such that the advertised discounts were false.

39. Below at **Figure 12** is a table showing how Lowe’s advertised back-to-back appliances sales events for over six months straight, from April 4, 2024, to October 23, 2024. The data was collected as part of counsel’s investigation of Lowe’s website and from visits to

Lowe’s stores. Consistent with Lowe’s standard practice and policy, when one “sale” expired it was either extended or another similar sale immediately took its place.

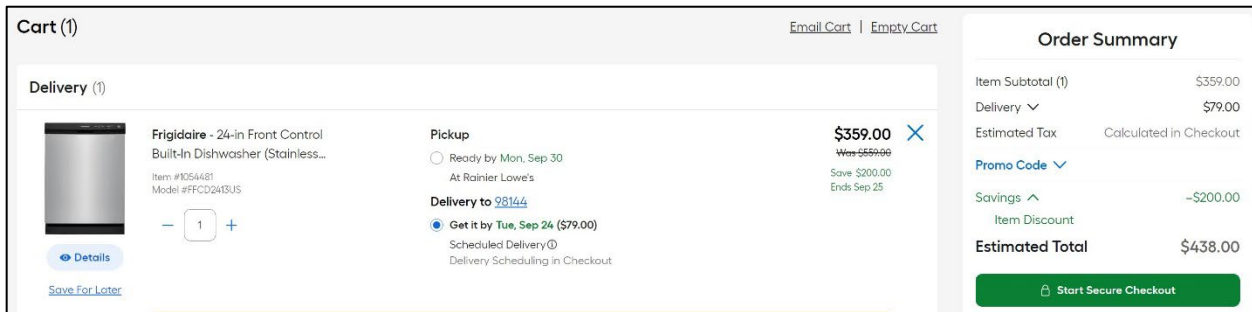
Figure 12: Table Showing Perpetual Major Appliances Sales Events

<u>Sale Period</u>	<u>Advertised Sale Event Discount</u>	<u>Stated Sale End Date</u>
1/04/24 – 1/24/24	Up to 35% Off Select Major Appliances	“Offer ends 1/24/24”
1/25/24 – 2/07/24	Up to 35% Off Select Major Appliances	“Offer ends 2/07/24”
2/08/24 – 2/28/24	Up to 35% Off Select Major Appliances	“Offer ends 2/28/24”
2/29/24 – 3/20/24	Up to 35% Off Select Major Appliances	“Offer ends 3/20/24”
3/21/24 – 4/03/24	Up to 30% Off Select Major Appliances	“Offer ends 4/03/24”
4/04/24 – 5/01/24	Up to 35% Off Select Major Appliances	“Offer ends 5/01/24”
5/02/24 – 5/15/24	Up to 35% Off Select Major Appliances	“Offer ends 5/15/24”
5/16/24 – 6/18/24	Up to 35% Off Select Major Appliances	“Offer ends 6/18/24”
6/19/24 – 7/10/24	Up to 40% Off Select Major Appliances	“Offer ends 7/10/24”
7/11/24 – 8/07/24	Save On Select Major Appliances	“Offer ends 8/07/24”
8/08/24 – 8/21/24	Up to 35% Off Select Major Appliances	“Offer ends 8/21/24”
8/22/24 – 9/11/24	Up to 40% Off Select Major Appliances	“Offer ends 9/22/24”
9/12/24 – 9/25/24	Up to 35% Off Select Major Appliances	“Offer ends 9/25/24”
9/26/24 – 10/23/24	Up to 35% Off Select Major Appliances	“Offer ends 10/23/24”

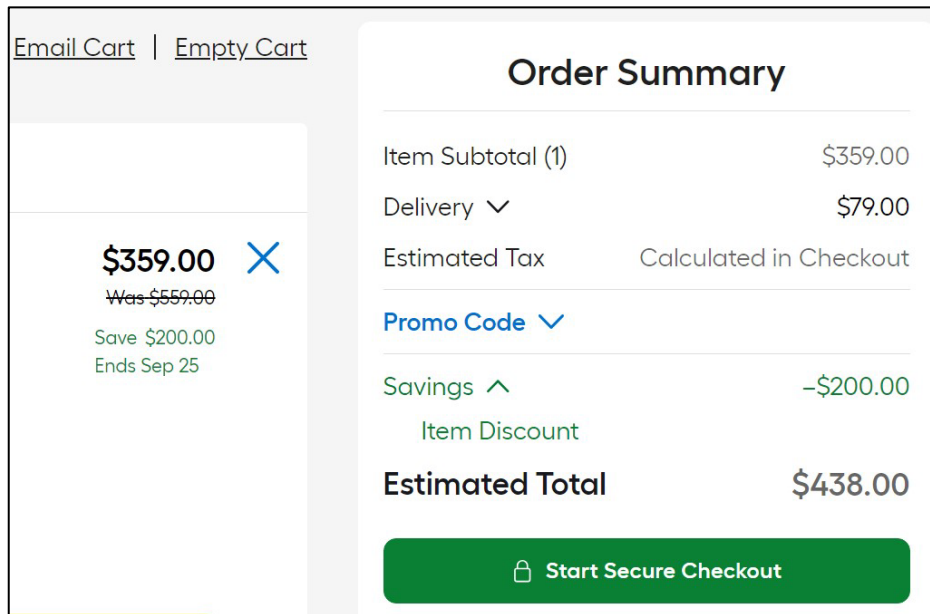
40. Lowe’s advertises the perpetual discounts and sales events on its major appliances in its stores and on its website homepage (see Figure 11 above) and on its major appliances category webpages. And as described above (see Figures 4 and 6), Lowe’s advertises false reference prices (the “WAS” strikethrough price) adjacent to false statements of savings (“SAVE \$xx) and a false sale end date, in order to trick consumers into falsely believing that if they do not act now, they miss out on a special limited-time “deal.” As a result, customers pay more for the Products than they otherwise would have paid.

41. In the online shopping cart, Lowe’s advertises the strikethrough regular price, the dollar amount “savings,” and the bogus sale “Ends” date. Lowe’s also prefaces the strikethrough price with the word “Was” (e.g., “Was ~~\$559.00~~”), to further indicate that the higher strikethrough price was Lowe’s previous and usual selling price for the Product. See the screenshots below.

Lowe’s Online Shopping Cart – 9/23/2024



Zoom In of Pricing and Discount Representations (Including “Was” Price)



42. However, all of these sale advertisements and promises of savings by Lowe’s for its major appliances, like its advertisements for Bali and Levolor blinds and shades, were false. Lowe's never previously offered or sold the Products at the advertised reference price (i.e., the "Was" price). Likewise, Lowe’s’ advertisements that the discounts were for a limited time, and

that they would end on a certain date, were false, because the Products were in fact perpetually on sale and Lowe's never offered the Products at the full price.

V. PLAINTIFF'S ALLEGATIONS ARE BASED ON HIS COUNSEL'S COMPREHENSIVE INVESTIGATION INTO LOWE'S' PRACTICES

43. Plaintiff's allegations concerning Lowe's' false discount advertising are based in part on Plaintiff's counsel's investigation of the Lowe's website using the Internet Archive's Wayback Machine (available at www.archive.org).¹ Plaintiff's allegations are also based on daily screenshots and pricing data compiled from Plaintiff's counsel's own scraping of the Lowe's website with a proprietary software program.

44. Counsel's investigation confirms that Lowe's' perpetual sales on the Products have persisted on the Lowe's website continuously since at least April 2021 (and likely earlier). Plaintiff's counsel examined screenshots of over a hundred randomly selected days of the Lowe's website from the Internet Archive's Wayback Machine, going back to 2021. On every randomly selected day during this period, the Lowe's website displayed purportedly time-limited discounts for the Products. Likewise, counsel's analysis of the daily screenshots and pricing data compiled with counsel's proprietary software program shows that Lowe's' perpetual "sales" and false discounts continue to this day.

45. Plaintiff's counsel also investigated Lowe's' in-store practices by regularly visiting Lowe's retail stores. Based on the investigation of Plaintiff's counsel, Lowe's offers and advertises its Products with identical list prices and at substantially the same sale prices both on the Lowe's website and in its retail stores. Likewise, Lowe's' advertised "sale events" and sale "end" dates for its major appliances and Bali and Levolor blinds and shades are substantially the same in-store and online.

46. In fact, Lowe's effectively treats its online and in-store sales channels as the same. Customers can make purchases through the Lowe's website and pick up the items in-store.

¹ The Internet Archive is an internet library that archives webpages. For more information: <https://archive.org/about/>.

Lowe's also encourages its customers, while shopping in-store, to view Lowe's website and use Lowe's smartphone app to view and learn more about its Products.

VI. LOWE'S' FALSE DISCOUNT ADVERTISING SCHEME HARMS CONSUMERS AND VIOLATES WASHINGTON LAW

47. Decades of academic research has established that the use of reference prices and discount advertising like that utilized by Lowe's (e.g., the strikethrough "Was" reference price advertised by Lowe's from which the advertised discounts and savings are calculated) materially impacts consumers' behavior. A reference price affects a consumer's perception of the value of the transaction, the consumer's willingness to make the purchase, and the amount of money the consumer is willing to pay for the product.²

48. When a reference price and corresponding discount is bona fide and truthful, it may help consumers in making informed purchasing decisions. In contrast, consumers are

² See, e.g., Richard Staelin, Joel E. Urbany & Donald Ngwe, *Competition and the Regulation of Fictitious Pricing*, 87 J. of Mktg. 826 (2023); Mark Armstrong & Yongmin Chen, *Discount Pricing*, 58 Econ. Inquiry 1614 (2020); Rajesh Chandrashekar & Dhruv Grewal, *Assimilation of Advertised Reference Prices: The Moderating Role of Involvement*, 79 J. Retailing 53 (2003); Pilsik Choi & Keith S. Coulter, *It's Not All Relative: The Effects of Mental and Physical Positioning of Comparative Prices on Absolute Versus Relative Discount Assessment*, 88 J. Retailing 512 (2012); Larry D. Compeau & Dhruv Grewal, *Comparative Price Advertising: An Integrative Review*, 17 J. Pub. Pol'y & Mktg. 257 (1998); Larry D. Compeau, Dhruv Grewal & Rajesh Chandrashekar, *Comparative Price Advertising: Believe It or Not*, 36 J. Consumer Aff. 284 (2002); David Friedman, *Reconsidering Fictitious Pricing*, 100 Minn. L. Rev. 921 (2016); Dhruv Grewal & Larry D. Compeau, *Consumer Responses to Price and its Contextual Information Cues: A Synthesis of Past Research, a Conceptual Framework, and Avenues for Further Research*, in 3 Rev. of Mktg. Res. 109 (Naresh K. Malhotra ed., 2007); Daniel J. Howard & Roger A. Kerin, *Broadening the Scope of Reference Price Advertising Research: A Field Study of Consumer Shopping Involvement*, 70 J. Mktg. 185 (2006); Aradhna Krishna, Richard Briesch, Donald R. Lehmann & Hong Yuan, *A Meta-Analysis of the Impact of Price Presentation on Perceived Savings*, 78 J. Retailing 101 (2002); Balaji C. Krishnan, Sujay Dutta & Subhash Jha, *Effectiveness of Exaggerated Advertised Reference Prices: The Role of Decision Time Pressure*, 89 J. Retailing 105 (2013); Gorkan Ahmetoglu, Adrian Furnham, & Patrick Fagan, *Pricing Practices: A Critical Review of their Effects on Consumer Perceptions and Behavior*, 21 J. of Retailing & Consumer Servs. 696 (2014); Bruce L. Alford & Abhijit Biswas, *The Effects of Discount Level, Price Consciousness and Sale Proneness on Consumers' Price Perception and Behavioral Intention*, 55 J. Bus. Res. 775 (2002); and Tridib Mazumdar, S. P. Raj & Indrahit Sinha, *Reference Price Research: Review and Propositions*, 69 J. Mktg. 84 (2005).

harmful when retailers, such as Lowe's, advertise their products with inflated false reference prices and false discounts. The false reference prices deceive consumers, deprive consumers of a fair opportunity to accurately evaluate the offer, and result in purchasing decisions based on false pretenses.

49. As a direct and proximate result of Lowe's' false reference prices and false discounts, Plaintiff and Class members were harmed and lost money or property.

50. First, Plaintiff and Class members were harmed because they would not have purchased the Products at the prices they paid had they known that the discounts were fake and that the Products had not in fact been regularly offered at the higher listed price. *See Williams v. Lifestyle Lift Holdings, Inc.*, 175 Wash. App. 62, 302 P.3d 523, 528–29 (2013) (holding that the plaintiff stated a claim under the CPA based on her allegations that “she would not have given her money to [defendants] but for their [false] advertising,” with the injury being the money she spent); *see also Fitzgerald v. Shade Store, LLC*, 2024 WL 3540540, at *2 (W.D. Wash. July 25, 2024) (“Inducing a plaintiff into spending money she otherwise would not have spent, based on a misrepresentation, is clearly a cognizable injury under the CPA.”) (internal quotation marks omitted); *Nemykina v. Old Navy, LLC*, 461 F. Supp. 3d 1054, 1061 (W.D. Wash. 2020) (same).

51. Consumers that are presented with discounts are substantially more likely to make the purchase. “Nearly all consumers (94%) search for a deal or offer when shopping online,” “81% of [consumers] say finding a great offer or discount is on their mind throughout the entire purchase journey,” and “two-thirds of consumers have made a purchase they weren't originally planning to make solely based on finding a coupon or discount.” RetailMeNot Survey: Deals and Promotional Offers Drive Incremental Purchases Online, Especially Among Millennial Buyers (prnewswire.com).

52. Additionally, Lowe's' perpetual back-to-back time-limited sales events created a false sense of urgency, which makes consumers more likely to make a purchase.

53. Second, Plaintiff and Class members were harmed because they did not receive the benefits of their bargain. Plaintiff and Class members did not enjoy the actual discounts

Lowe's represented and promised to them. Plaintiff and Class members did not receive Products that were worth the inflated amount that Lowe's represented to them. The Products did not regularly sell for, and did not have a market value of, the fictitious and invented list price advertised by Lowe's.

54. Third, Plaintiff and Class members were harmed because they paid a price premium due to illegitimately inflated demand resulting from Lowe's deceptive pricing scheme. Lowe's false discount advertising scheme artificially increases consumer demand for Lowe's Products, which shifts the demand curve and allows Lowe's to charge more for its Products than it otherwise could have charged (i.e., a price premium) absent the misrepresentations. Lowe's false advertising scheme has enabled Lowe's to charge everyone more for all of its Products by artificially stimulating demand based on false pretenses. *See, e.g.,* Richard Staelin, Joel E. Urbany & Donald Ngwe, *Competition and the Regulation of Fictitious Pricing*, 87 J. of Mktg. 826, 836 (2023) (observing that "numerous empirical studies on the effects of promotions" have shown that promotions cause an "outward shift" in the demand curve (i.e., a price premium), which can be "substantial").

55. In addition to harming consumers, the practice of employing false reference prices and false discounts also negatively affects the integrity of competition in retail markets. A retailer's use of false reference prices constitutes an unfair method of competition and harms honest competitors that sell the same or similar products, or otherwise compete in the same market, using valid and accurate reference prices and true "sales." Businesses who play by the rules—and the investors in those businesses—are penalized if the unlawful advertising practices of their competitors go unchecked.

56. Courts have articulated the abuses that flow from false discount advertising practices. For example, the Ninth Circuit explained: "Most consumers have, at some point, purchased merchandise that was marketed as being 'on sale' because the proffered discount seemed too good to pass up. Retailers, well aware of consumers' susceptibility to a bargain, therefore have an incentive to lie to their customers by falsely claiming that their products have

previously sold at a far higher ‘original’ price in order to induce customers to purchase merchandise at a purportedly marked-down ‘sale’ price.” *Hinojos v. Kohl’s Corp.*, 718 F.3d 1098, 1101 (9th Cir. 2013).

57. Washington law, as well as federal regulations which guide Washington law, prohibit false reference pricing practices such as those perpetrated by Lowe’s.

58. The Washington Consumer Protection Act (the “CPA”), RCW 19.86, is Washington’s principal consumer protection statute.

59. “The consumer protection provisions of the CPA were modeled after Section 5 of the Federal Trade Commission Act, 15 U.S.C.A. § 45.” Washington Pattern Jury Instruction No. 310.00 (Consumer Protection Act — Introduction).

60. The purpose of the CPA “is to complement the body of federal law governing restraints of trade, unfair competition and unfair, deceptive, and fraudulent acts or practices in order to protect the public and foster fair and honest competition.” RCW 19.86.920.

61. The CPA broadly declares unlawful all “[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce.” RCW 19.86.020.

62. Lowe’s’ false discount advertising scheme constitutes unfair methods of competition and/or unfair or deceptive acts or practices which directly affect the people of Washington, and which have injured Plaintiff, the members of the Class, honest competing businesses, the integrity of the retail marketplace, and the general public.

63. There are a number of ways for an act or practice to be unfair or deceptive.

64. An act or practice is deceptive if it is “likely to mislead a reasonable consumer.” *Panag v. Farmers Ins. Co. of Washington*, 166 Wash. 2d 27, 50, 204 P.3d 885, 895 (2009). Further, “[t]he capacity of a marketing technique to deceive is determined with reference to the least sophisticated consumers among us.” *Keithly v. Intelius*, 764 F. Supp. 2d 1257, 1268 (W.D. Wash. 2011); *see also Panag*, 204 P.3d at 895 (same).

65. Acts or practices are unfair under the “substantial injury test,” if they (1) cause substantial injury to consumers (2) which is not reasonably avoidable by consumers themselves

and (3) not outweighed by countervailing benefits to consumers or to competition. *Greenberg v. Amazon.com, Inc.*, 553 P.3d 626, 641 (Wash. 2024).

66. Acts or practices are also unfair if they are “in violation of public interest.” *Greenberg v. Amazon.com, Inc.*, 553 P.3d 626, 641 (Wash. 2024); *see also Klem v. Washington Mut. Bank*, 176 Wash. 2d 771, 787, 295 P.3d 1179, 1187 (2013) (same).

67. Additionally, the CPA states that, in determining whether an act is unlawful under the CPA, courts should look for guidance to how the Federal Trade Commission (“FTC”) has dealt with similar subject matter. “It is the intent of the legislature that, in construing this act, the courts be guided by final decisions of the federal courts and final orders of the federal trade commission interpreting the various federal statutes dealing with the same or similar matters ...” RCW 19.86.920.

68. The FTC’s regulations prohibit false or misleading “former price comparisons.” 16 C.F.R § 233.1. For example, an advertised former price is false when it is “an artificial, inflated price [that] was established for the purpose of enabling the subsequent offer of a large reduction—the ‘bargain’ being advertised is a false one; the purchaser is not receiving the unusual value he expects.” 16 C.F.R § 233.1(a).

69. As alleged in detail above, Lowe’s’ advertised reference prices and discounts violate Washington law because, based on the investigation of Plaintiff’s counsel, Lowe’s’ advertised reference prices are inflated and fictitious, and Lowe’s’ advertised percentage-off and dollars-off discounts are false. Lowe’s’ reference prices and discounts are false because Lowe’s advertises perpetual discounts off the Products, and thus rarely, if ever, offers the Products at their advertised list price.

70. The false reference price and false discount representations by Lowe’s were material to the decisions of consumers to purchase each Product. Because of the false reference price and false discount representations, consumers reasonably believed they would be receiving significant limited-time savings if they purchased these Products, and consumers purchased these Products on the basis of these representations in order to enjoy the purported discounts.

71. Lowe's' false reference price and false discount representations are likely to mislead a reasonable consumer, and in fact did mislead Plaintiff.

72. As detailed above, Lowe's' false reference price and false discount representations caused substantial injury to consumers. Consumers could not reasonably avoid these injuries because Lowe's' false advertising was hidden from consumers. And, Lowe's' false advertising has no countervailing benefits to consumers or to competition—let alone any that would outweigh the harm done.

73. As detailed above, Lowe's' false reference price and false discount representations are in violation of public interest because they deceive consumers, deprive consumers of a fair opportunity to accurately evaluate the offer, and result in purchasing decisions based on false pretenses. In addition to harming consumers, Lowe's' false advertising also negatively affects the integrity of competition in retail markets and harms honest competitors that sell the same or similar products, or otherwise compete in the same market.

74. Lowe's' marketing plan is to deceive its customers into believing that its Products are worth, and have a market value equal to, the inflated list price, and that the lower advertised sale price represents a special bargain.

75. The false or misleading nature of Lowe's' reference prices and discounts was, at all relevant times, masked or concealed such that an ordinary consumer exercising reasonable care under all the circumstances would not have known or discovered their false or misleading nature.

76. As a direct and proximate result of Lowe's' acts and omissions, all Washington consumers who have purchased a Product from Lowe's that was advertised with a reference price or purported discount have been harmed and have lost money or property.

77. Lowe's continues to advertise false reference prices and false discounts on the Products to this day. There is no reason to believe that Lowe's will voluntarily and permanently cease its unlawful practices. Moreover, in the unlikely event that Lowe's were to cease its unlawful practices, Lowe's can and is likely to re-commence these unlawful practices.

78. In acting toward consumers and the general public in the manner alleged herein, Lowe's acted with and was guilty of malice, fraud, and oppression and acted in a manner with a strong and negative impact upon Plaintiff, the Class, and the public.

VII. PLAINTIFF'S FACTUAL ALLEGATIONS

79. Plaintiff Michael Hern is, and at all relevant times has been, a citizen and resident of the city of Duvall, in King County, Washington.

80. Mr. Hern is a victim of Lowe's false discount advertising scheme.

81. As detailed above, Lowe's false discounting practices have been ongoing since at least April 2021. During this time, Mr. Hern has purchased Products from Lowe's which were advertised with false reference prices and false discounts.

82. **Blinds Purchase.** For example, on April 19, 2022, Mr. Hern visited the Lowe's retail store located at 2505 Pacific Avenue, Everett, WA 98201-5302, to shop for blinds.

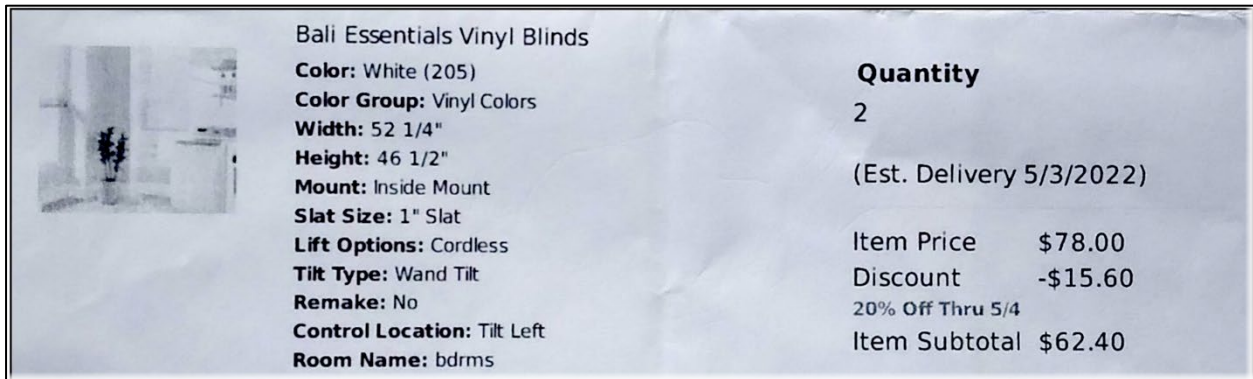
83. While browsing the blinds selection in the Lowe's store, Mr. Hern viewed pricing and discount representations similar to those described in detail above (e.g., see Paragraphs 15, 17-18). For example, Mr. Hern viewed representations that the Bali Essentials Vinyl Blinds (the "Bali Blinds") he was looking at were part of a limited-time sales event and were 20% off through 5/4/2022.

84. Based on Lowe's representations, Mr. Hern believed he needed to act fast and purchase the Bali Blinds now to take advantage of the special sale before they returned to their normal full price on May 5, 2022.

85. After choosing the Bali Blinds, Mr. Hern worked with a Lowe's associate to select the measurements and other options. The Lowe's associate then printed out and gave Mr. Hern a quote showing that each of the Bali Blinds had a regular price, i.e., "Item Price," of \$78.00; that there was a "Discount" of "20% Off Thru 5/4," which resulted in a "\$15.60" discount; and that the selling price after the discount was \$62.40 for each of the Bali Blinds (or \$124.80 for both).

86. Below is a photo of a printed quote that was given to Mr. Hern.

Photo of Printed Quote From 4/19/2022



87. Relying on Lowe’s representations, Mr. Hern reasonably believed that the Bali Blinds were normally offered and sold by Lowe’s for the \$78.00 Item Price. Mr. Hern reasonably believed that the Bali Blinds were thereby worth and had a market value of \$78.00. Mr. Hern reasonably believed that the advertised sale price of \$62.40 represented a special and unusual bargain, where Lowe’s was temporarily offering (“Thru 5/4”) the Bali Blinds at \$15.60 off (20% off) the regular and normal selling price of \$78.00. Relying on Lowe’s representations, Mr. Hern purchased two of the customized Bali Blinds.

88. However, Lowe’s pricing representations and advertised discounts were false and deceptive. In reality, and unbeknownst to Mr. Hern, Lowe’s had never offered the Bali Blinds at their advertised regular price of \$78.00. The Bali Blinds were not in fact worth the \$78.00 price that Lowe’s had led him to believe. Instead, Lowe’s had always advertised the Bali Blinds at a discount from their purported regular price.

89. **Refrigerator Purchase.** A year later on May 27, 2023, Mr. Hern visited the same Lowe’s retail store located at 2505 Pacific Avenue, Everett, WA 98201-5302, to shop for a refrigerator.

90. While browsing the selection of refrigerators in the Lowe’s store, Mr. Hern viewed pricing and discount representations similar to those described in detail above (e.g., see Paragraphs 25–28, 33, 27).

91. For example, Mr. Hern viewed the price placard affixed to a Frigidaire 18.3-cu ft Top-Freezer Refrigerator, Item No. 4882705 (the “Refrigerator”). The placard stated that the Refrigerator was currently on sale at a “SPECIAL VALUE” of \$599; that the Refrigerator “WAS \$799”; and that the customer would “SAVE \$200” by buying the Refrigerator now. The placard also stated that this offer was only valid for a limited time.

92. Relying on Lowe’s representations, Mr. Hern reasonably believed that the Refrigerator was normally offered and sold by Lowe’s for the \$799 “WAS” price. Mr. Hern reasonably believed that the Refrigerator was thereby worth and had a market value of \$799. Mr. Hern reasonably believed that the advertised “SPECIAL VALUE” sale price of \$599 represented a special and unusual bargain, where Lowe’s was temporarily offering the Refrigerator at \$200 off (25% off) the regular and normal selling price of \$799. Relying on Lowe’s representations, Mr. Hern purchased the Refrigerator.

93. However, Lowe’s pricing representations and advertised discounts were false and deceptive. In reality, and unbeknownst to Mr. Hern, Lowe’s had never offered the Refrigerator at its advertised regular price of \$799. The Refrigerator was not in fact worth the \$799 price that Lowe’s had led him to believe. Instead, Lowe’s had always advertised the Refrigerator at a discount from its purported regular price.

94. Lowe’s’ advertised reference prices and discounts were material misrepresentations and inducements to Mr. Hern’s purchases.

95. Mr. Hern reasonably relied on Lowe’s’ material misrepresentations regarding the advertised reference prices and discounts. If Mr. Hern had known the truth, he would not have purchased the Products at the prices he paid.

96. As a direct and proximate result of Lowe’s acts and omissions, Mr. Hern was harmed, suffered an injury-in-fact, and lost money or property.

97. When Mr. Hern shopped at Lowe’s, he had no suspicion that Lowe’s’ advertised reference prices and discounts were false. Lowe’s gave Mr. Hern no reason to be suspicious. Mr. Hern first learned of Lowe’s’ false advertising scheme in September 2024 when his attorneys

told him about Lowe's' unlawful conduct and informed him that he was likely a victim of the scheme. Prior to this, Mr. Hern did not know or suspect that Lowe's was engaging in a false discount advertising scheme or that he had been a victim of the scheme.

98. Mr. Hern has a legal right to rely now, and in the future, on the truthfulness and accuracy of Lowe's representations regarding the advertised reference prices and discounts for its Products.

99. Mr. Hern faces an imminent threat of future harm. Mr. Hern would purchase major appliances or Bali or Levolor blinds and shades from Lowe's again in the future if he could have confidence regarding the truth of Lowe's' price and discount representations. But without an injunction, Mr. Hern has no realistic way of knowing which, if any, of Lowe's list prices, discounts, and sales for the Products are not false or deceptive.

100. Mr. Hern will be harmed if, in the future, he is left to guess as to whether Lowe's is providing a legitimate sale or not, and whether its Products are actually worth the amount that Lowe's is representing.

101. If Mr. Hern were to purchase Products again from Lowe's without Lowe's having changed its unlawful and deceptive conduct alleged herein, Mr. Hern would be harmed on an ongoing basis and/or would be harmed once or more in the future.

102. The deceptive practices and policies alleged herein, and experienced directly by Mr. Hern, are not limited to any single Product. Rather, Lowe's deceptive advertising and sales practices, which advertise and state false reference prices and false percentage-off and dollar-off discounts, were, and continue to be, systematic and pervasive across Lowe's' major appliances and Bali and Levolor blinds and shades.

CLASS ALLEGATIONS

103. Plaintiff brings this lawsuit on behalf of himself and all others similarly situated, pursuant to Federal Rules of Civil Procedure 23(a), (b)(2), and (b)(3).

104. **Class Definition:** Plaintiff seeks to represent the following Class:

All persons who, while in Washington, within the applicable statute of limitations period, purchased from Lowe's one or more Products³ advertised at a discount.

105. Specifically excluded from the Class are Lowe's and any entities in which Lowe's has a controlling interest, Lowe's agents and employees, the bench officers to whom this civil action is assigned, and the members of each bench officer's staff and immediate family.

106. **Application of the Discovery Rule.** This Court should apply the discovery rule to extend any applicable limitations period and corresponding class period to the date on which Lowe's first engaged in its unlawful false discounting practices. (Based on counsel's investigation, Lowe's false discount advertising practices have been ongoing since at least April 2021, and likely began much earlier. However, without discovery, Plaintiff cannot determine what date, earlier than April 2021, that Lowe's first began advertising false discounts for the Products.)

107. "Under the discovery rule, a cause of action does not accrue—and as a result the statute of limitations does not begin to run—until the plaintiff knows, or has reason to know, the factual basis for the cause of action." *Cruson v. A.A.A.A., Inc.*, 140 Wash. App. 1012 (2007) (citation omitted). Plaintiff and the members of the Class did not know, and could not have reasonably known, about Lowe's unlawful conduct.

108. When Plaintiff shopped at Lowe's, he had no suspicion that Lowe's advertised reference prices and discounts were false. Lowe's gave Plaintiff no reason to be suspicious. Plaintiff first learned of Lowe's false discount advertising scheme in September 2024 when his

³ "Products" are defined in this Complaint as Bali and Levolor blinds and shades, and major appliances such as refrigerators, ranges, dishwashers, microwaves, wall ovens, cooktops, freezers, washers, and dryers.

attorneys told him about Lowe's' unlawful conduct and informed him that he was likely a victim of the scheme. Prior to this, Plaintiff did not know or suspect—and had no reason to suspect—that Lowe's was engaging in a false discount advertising scheme or that he had been a victim of the scheme.

109. Likewise, Class members would not know or suspect that Lowe's was engaging in this deceptive pricing scheme. Reasonable consumers presume that retailers are not engaging in unlawful conduct. Reasonable consumers would believe that Lowe's' pricing and discount representations were true. Reasonable consumers would believe that Lowe's' list prices (1) represent the regular and normal prices that consumers had to pay for the Products; (2) represent the recent former prices of the Products (that is, the prices at which the Products were regularly offered for sale before the limited-time offer went into effect); and (3) represent the prices that consumers will have to pay for the Products when the sale ends. Reasonable consumers would believe that Lowe's' advertised discounts represent a reduction from the regular and recent former prices of the Products in the amounts advertised.

110. Moreover, Plaintiff and the Class could not have, with the exercise of reasonable diligence, discovered Lowe's' false advertising scheme because, by design, its very nature is hidden and impossible for a reasonable consumer to discover—especially regarding Products that are purchased infrequently such as appliances and window blinds and shades.

111. Consumers who shopped at Lowe's would have no way of knowing, with the exercise of reasonable diligence, the true daily price histories and past selling prices for the Products they viewed and purchased. Consumers would have no way to know, with the exercise of reasonable diligence, that the advertised list prices were fictitious and inflated and that the advertised percentage-off and dollars-off savings were false.

112. Plaintiff's counsel only found evidence for Lowe's' deceptive pricing scheme by conducting an extensive and expensive investigation that no reasonable person would conduct.

113. **Numerosity.** The number of members of the Class are so numerous that joinder of all members would be impracticable. Plaintiff does not know the exact number of Class

members prior to discovery. However, based on information and belief, the Class comprises thousands of individuals. The exact number and identities of Class members are contained in Lowe's records and can be easily ascertained from those records.

114. **Commonality and Predominance.** This action involves multiple common legal or factual questions which are capable of generating class-wide answers that will drive the resolution of this case. These common questions predominate over any questions affecting individual Class members, if any. These common questions include, but are not limited to, the following:

- a. Whether the alleged conduct of Lowe's violates the Washington Consumer Protection Act (RCW Chapter 19.86);
- b. Whether the alleged conduct of Lowe's violates 16 C.F.R § 233.1 *et seq.*;
- c. Whether Plaintiff and the Class have suffered injury as a result of Lowe's unlawful conduct;
- d. Whether Lowe's should be ordered to pay damages to Plaintiff and to each Class member;
- e. Whether Lowe's should be ordered to pay treble damages to Plaintiff and to each Class member; and
- f. Whether Lowe's should be enjoined from engaging in the unlawful conduct alleged herein.

115. **Typicality.** Plaintiff's claims are typical of Class members' claims. Plaintiff and Class members all sustained injury as a direct result of Lowe's standard practices and schemes, bring the same claims, and face the same potential defenses.

116. **Adequacy.** Plaintiff and his counsel will fairly and adequately protect Class members' interests. Plaintiff has no interests antagonistic to Class members' interests and is committed to representing the best interests of the Class members. Moreover, Plaintiff has retained counsel with considerable experience and success in prosecuting complex class action and consumer protection cases.

117. **Superiority.** A class action is superior to all other available methods for fairly and efficiently adjudicating this controversy. Each Class member's interests are small compared to the burden and expense required to litigate each of his or her claims individually, so it would be impractical and would not make economic sense for Class members to seek individual redress for Lowe's' conduct. Individual litigation would add administrative burden on the courts, increasing the delay and expense to all parties and to the court system. Individual litigation would also create the potential for inconsistent or contradictory judgments regarding the same uniform conduct. A single adjudication would create economies of scale and comprehensive supervision by a single judge. Moreover, Plaintiff does not anticipate any difficulties in managing a class action trial.

118. By its conduct and omissions alleged herein, Lowe's has acted and refused to act on grounds that apply generally to the Class members, such that declaratory relief is appropriate respecting the Class as a whole.

119. Lowe's is primarily engaged in the business of selling goods. Each cause of action brought by Plaintiff against Lowe's in this Complaint arises from and are limited to statements or conduct by Lowe's that consist of representations of fact about Lowe's' business operations or goods that are or were made for the purpose of obtaining approval for, promoting, or securing sales of or commercial transactions in, Lowe's' goods or the statements are or were made in the course of delivering Lowe's' goods. Each cause of action brought by Plaintiff against Lowe's in this Complaint arises from and is limited to statements or conduct by Lowe's for which the intended audience is an actual or potential customer, or a person likely to repeat the statements to, or otherwise influence, an actual or potential customer.

CAUSES OF ACTION

COUNT I

Violation of the Washington Consumer Protection Act RCW Chapter 19.86

120. Plaintiff realleges and incorporates by reference all paragraphs previously alleged herein.

121. Plaintiff brings this claim in his individual capacity, in his capacity as a private attorney general seeking the imposition of public injunctive relief to protect the general public, and as a representative of the Class.

122. The Washington Consumer Protection Act (the “CPA”), RCW 19.86, is Washington’s principal consumer protection statute. The CPA broadly declares unlawful all “[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce.” RCW 19.86.020.

123. The CPA allows any person “who is injured in his or his business or property by a violation of RCW 19.86.020” to bring an action to enjoin further violations and to recover actual damages (which may be trebled), costs, and attorneys’ fees. RCW 19.86.090.

124. Lowe’s engages in the conduct of trade or commerce. For example, and without limitation, Lowe’s engages in the sale of assets (including the tangible personal property that Lowe’s sells) and engages in commerce directly or indirectly affecting the people of Washington.

125. Lowe’s’ acts and omissions alleged herein, including advertising false reference prices and false discounts, constitute unfair or deceptive acts or practices which directly or indirectly affect the people of the State of Washington, and which caused injury to Plaintiff and the Class members’ business or property.

126. Lowe’s’ alleged conduct is deceptive because it “is likely to mislead a reasonable consumer.” *Panag v. Farmers Ins. Co. of Washington*, 166 Wash. 2d 27, 50, 204 P.3d 885, 895 (2009). Further, “[t]he capacity of a marketing technique to deceive is determined with reference to the least sophisticated consumers among us.” *Keithly v. Intelius*, 764 F. Supp. 2d 1257, 1268 (W.D. Wash. 2011); *see also Panag*, 204 P.3d at 895 (same).

127. Additionally, Lowe’s’ acts and practices are directly contrary to the FTC regulations by which the CPA states the Court should be guided, including the FTC regulation on former price comparison advertising (16 C.F.R § 233.1), as described in detail above.

128. Lowe's' alleged conduct also constitutes unfair acts or practices under the "substantial injury test" because Lowe's' acts or practices (1) cause substantial injury to consumers (2) which is not reasonably avoidable by consumers themselves and (3) not outweighed by countervailing benefits to consumers or to competition. *See Greenberg v. Amazon.com, Inc.*, 553 P.3d 626, 641 (Wash. 2024). As detailed above, Lowe's' false reference price and false discount representations caused substantial injury to consumers. Consumers could not reasonably avoid these injuries because Lowe's' false advertising was hidden from consumers. And, Lowe's' false advertising has no countervailing benefits to consumers or to competition—let alone any that would outweigh the harm done.

129. Lowe's' alleged conduct also constitutes unfair acts or practices because Lowe's' conduct "is in violation of public interest." *Greenberg v. Amazon.com, Inc.*, 553 P.3d 626, 641 (Wash. 2024); *see also Klem v. Washington Mut. Bank*, 176 Wash. 2d 771, 787, 295 P.3d 1179, 1187 (2013) (same). As detailed above, Lowe's' false reference price and false discount representations deceive consumers, deprive consumers of a fair opportunity to accurately evaluate the offer, and result in purchasing decisions based on false pretenses. In addition to harming consumers, Lowe's' false advertising also negatively affects the integrity of competition in retail markets and harms honest competitors that sell the same or similar products, or otherwise compete in the same market.

130. With respect to any omissions, Lowe's at all relevant times had a duty to disclose the information in question because, inter alia: (a) Lowe's had exclusive knowledge of material information that was not known to Plaintiff and Class members; (b) Lowe's concealed material information from Plaintiff and Class members; and (c) Lowe's made partial representations which were false and misleading absent the omitted information.

131. Lowe's' unlawful conduct was intended to, or had the capacity to, deceive a substantial portion of the public.

132. Lowe's' misrepresentations are material, in that a reasonable person would attach importance to the information and would be induced to act on the information in making purchase decisions.

133. Lowe's' false reference price and false discount representations are likely to mislead a reasonable consumer, and in fact did mislead Plaintiff.

134. As a direct, substantial, and/or proximate result of Lowe's' unlawful conduct, Plaintiff and Class members suffered injury to their business or property.

135. Plaintiff and Class members reasonably relied on Lowe's' material misrepresentations, and would not have purchased Lowe's' Products at the prices that they paid had they known the truth.

136. Plaintiff and Class members did not receive the benefits of their bargain. Plaintiff and Class members did not enjoy the actual discounts Lowe's represented and promised to them. Plaintiff and Class members did not receive Products that were worth the inflated amount that Lowe's represented to them; the Products did not regularly sell for, and were not actually worth, the fictitious and invented list price advertised by Lowe's.

137. By its conduct and omissions alleged herein, Lowe's caused the demand for its Products to be artificially increased and caused all customers, including Plaintiff and Class members, to pay price premiums to Lowe's. Put differently, as a result of its misrepresentations, Lowe's has been able to charge a price premium for its Products that it would not be able to charge absent the misrepresentations. Without the misrepresentations, Defendant would have had to charge less for its Products in order to enjoy the same level of demand.

138. Treble damages are appropriate under these circumstances because, without limitation, Lowe's' false discount advertising scheme has been "an ongoing course of conduct affecting thousands of consumers" and thus has a "strong public interest impact." *See Matheny v. Unumprovident Corp.*, 594 F. Supp. 2d 1212, 1225 (E.D. Wash. 2009). Lowe's intent in perpetrating the scheme has been to trick consumers into believing that the Products are worth, and have a market value equal to, the inflated list price, and that the lower advertised sale price

represents a special limited-time bargain. Lowe's has perpetrated this illegal scheme in order to induce consumers to purchase the Products and to charge more for its Products than it otherwise could have charged.

139. The acts and omissions of Lowe's pled herein are injurious to the public interest because said acts and omissions: (a) injured other persons in addition to Plaintiff; (b) had the capacity to injure other persons; or (c) has the capacity to injure other persons. *See* RCW 19.86.093(3).

140. The unlawful acts and omissions pled herein were committed in the course of Lowe's' business. The unlawful acts and omissions pled herein were, are and continue to be part of a pattern or generalized course of conduct. The acts and omissions of Lowe's pled herein were and are not reasonable in relation to the development and preservation of business.

141. Lowe's' conduct has caused substantial injury to Plaintiff, Class members, and the general public.

142. **Permanent public injunctive relief.** Plaintiff, acting as a private attorney general, seeks public injunctive relief under the CPA to protect the general public from Lowe's' false advertisements, misrepresentations, and omissions.

143. The Washington Supreme Court treats consumers as "private attorneys general," and has held that consumers' ability to enjoin unlawful business practices is a primary purpose of the CPA:

Private actions by private citizens are ... an integral part of CPA enforcement. **Private citizens act as private attorneys general** in protecting the public's interest against unfair and deceptive acts and practices in trade and commerce. **Consumers bringing actions under the CPA do not merely vindicate their own rights; they represent the public interest and may seek injunctive relief even when the injunction would not directly affect their own private interests."**

Scott v. Cingular Wireless, 160 Wash. 2d 843, 161 P.3d 1000, 1006 (2007) (emphasis added).

144. This type of injunctive relief has been referred to as "public injunctive relief." *See McGill v. Citibank, N.A.*, 2 Cal. 5th 945, 393 P.3d 85, 90 (2017) ("[P]ublic injunctive relief ... is

relief that has ‘the primary purpose and effect of’ prohibiting unlawful acts that threaten future injury to the general public.’’) (quoting *Broughton v. Cigna Healthplans of California*, 21 Cal. 4th 1066, 988 P.2d 67, 74 (1999)). In fact, the *Broughton* court likewise referred to consumers seeking public injunctive relief as “private attorneys general.” See *Broughton*, 21 Cal. 4th at 1077.

145. Lowe’s’ misconduct, which affects and harms the general public, is ongoing in part or in whole and even if such conduct were to cease, it is behavior that is capable of repetition or re-occurrence by Lowe’s absent a permanent public injunction. Accordingly, Plaintiff seeks an order enjoining Lowe’s from committing the unlawful practices alleged herein.

146. The balance of the equities favors the entry of permanent public injunctive relief against Lowe’s. Plaintiff, the members of the Class, honest competing businesses, and the general public will be irreparably harmed from Lowe’s’ ongoing false advertising absent the entry of permanent public injunctive relief against Lowe’s.

147. Plaintiff lacks an adequate remedy at law to prevent Lowe’s from engaging in the unlawful practices alleged herein. Plaintiff would purchase major appliances or Bali or Levolor blinds and shades from Lowe’s again if he could have confidence regarding the truth of Lowe’s’ prices and the value of its Products. Plaintiff will be harmed if, in the future, he is left to guess as to whether Lowe’s is providing a legitimate sale or not, and whether Lowe’s’ Products are actually worth the amount that Lowe’s is representing.

148. Monetary damages are not an adequate remedy at law for future harm. *Clark v. Eddie Bauer LLC*, 2024 WL 177755, at *3 (9th Cir. Jan. 17, 2024). Monetary damages are inadequate for future harm for the following reasons, without limitation: First, damages are not an adequate remedy for future harm because they will not prevent Lowe’s from engaging in its unlawful conduct. Second, damages for future harm cannot be calculated with certainty and thus cannot be awarded. For example, it is impossible to know what Product(s) Plaintiff may want or need in the future. Third, injunctive relief is necessary (and monetary damages do not provide a plain, adequate and complete remedy) because, without forward-looking injunctive relief

enjoining the unlawful practices, the courts would be flooded with future lawsuits by Class members, Plaintiff, and the general public for future violations of the law by Lowe's.

PRAYER FOR RELIEF

Plaintiff Michael Hern, on behalf of himself and the proposed Class, requests that the Court order relief and enter judgment against Lowe's as follows:

1. Declare this action to be a proper class action, certify the proposed Class, and appoint Plaintiff and his counsel to represent the Class;
2. Order that the discovery rule applies to extend any applicable limitations period and the corresponding class period back to the date Lowe's first engaged in the unlawful conduct alleged herein (which based on counsel's investigation, is at least April 2021 and is likely earlier);
3. Declare that Lowe's' conduct alleged herein violates the CPA;
4. Order Lowe's to pay actual damages to Plaintiff and Class members in an amount to be determined at trial but which is more than \$5 million, pursuant to, without limitation, RCW 19.86.090;
5. For an increase in the award of actual damages to Plaintiff and Class members of up to treble the actual damages pursuant to, without limitation, RCW 19.86.090;
6. Permanently enjoin Lowe's from engaging in the unlawful conduct alleged herein;
7. Order that Lowe's maintain the following records for each daily Product⁴ offering in its retail stores and on its website for at least two years from the date of each advertisement and/or offer for sale of the Product, for auditing purposes to ensure compliance with the ordered injunctive relief: (1) the advertised list price for each Product; (2) the offer price and/or net

⁴ "Products" are defined in this Complaint as Bali and Levolor blinds and shades, and major appliances such as refrigerators, ranges, dishwashers, microwaves, wall ovens, cooktops, freezers, washers, and dryers.

selling price of each Product; and (3) any discount percentage and/or any other discount that was advertised and/or applicable to each Product;

8. Retain jurisdiction to monitor Lowe's's compliance with the permanent injunctive relief;
9. Order any other equitable relief the Court deems appropriate;
10. Order Lowe's to pay attorneys' fees, costs, and pre-judgment and post-judgment interest to the extent allowed by law; and
11. Grant such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable.

Respectfully submitted on October 30, 2024, by:

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Michael Hern

(b) County of Residence of First Listed Plaintiff King County, WA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Weaver Bennett & Bland, P.A.
196 North Trade St, Matthews, NC 28106, (704) 844-140

DEFENDANTS

Lowe's Home Centers, LLC

County of Residence of First Listed Defendant Iredell County, NC
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332(d)(2)
Brief description of cause:
Consumer fraud

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 10/29/2024 SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IF _____ JUDGE _____ MADE JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.